

**GOVERNMENT OF INDIA
NATIONAL COMMISSION FOR MINORITY
EDUCATIONAL INSTITUTIONS (NCMEI)**

Case No. 357 of 2023

In the matter of :-

**Shafiq Memorial Sr. Sec. School, Bara Hindu Rao,
Delhi-110006**

..... Petitioner

V/s

**Assistant Director of Education (Act), Directorate of
Education, Govt. of NCT of Delhi, Room No. 214-A, Old
Secretariat, Delhi-110054**

..... Respondent

**Present : Mr. Junais P, Advocate for the petitioner
Mr. Mukesh Kumar, Advocate for the
respondent**

ORDER

DATED 01.05.2024

Dr. Shahid Akhter, Member, NCMEI

1. This petition has been received on 11.12.2023 by hand through Mr. Junais P., Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to Shafiq Memorial Sr. Sec. School, Bara Hindu Rao, Delhi-110006.
2. Learned counsel for the petitioner filed an affidavit of Prof. Kahkashan Y. Danyal, Secretary of the Delhi Education Society and the authorized representative of the applicant institution i.e. Shafiq Memorial Sr. Sec. School, Bara Hindu Rao, Delhi-110006 in support of the averments made in the petition and also to prove that the beneficiaries of the petitioner institution are members of the Muslim minority community.

3. Learned Counsel for the petitioner has filed notarized copy of Unique ID No. : DL/2017/0181149 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, photocopy of application dated 28.03.2023 sent to the State Competent Authority i.e. The Assistant Director, Education (Act), Directorate of Education, notarized copy of Certificate of Registration of Delhi Education Society, notarized copy of Memorandum of Association alongwith list of founding members of the Society, notarized copy of Amended Memorandum of Association dated 11.11.2016 alongwith list of present members of the Society, notarized copy of affiliation order dated 24.04.2019 issued by the Deputy Secretary (Aff), CBSE to the aided petitioner institution from 01.04.2020 to 31.03.2025 for the Senior Secondary Level and resolution of the General Body of the Society in favour of Prof. Kahkashan Y. Danyal, Secretary of the Delhi Education Society for obtaining MSC from this Commission.
4. As per the information supplied by the petitioner aided institution with regard to students strength as on 2020-21, it is mentioned that out of total 775 students, 764 students were from the Muslim minority community and 11 students were Hindus, as on 2021-22, it is mentioned that out of total 825 students, 816 students were from the Muslim minority community and 9 students were Hindus and as on 2022-23, it is mentioned that out of total 893 students, 886 students are from the Muslim minority community and 7 students are Hindus. It is relevant to mention here that as on 2020-21, out of the total 31 teachers, 25 teachers were from the Muslim Minority community, as on 2021-22, out of the total 30 teachers, 25 teachers were from the Muslim Minority

community and as on 2022-23, out of the total 28 teachers, 23 teachers are from the Muslim Minority community.

5. It is stated in the petition that on dated 28.03.2023, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 03.04.2023 and the said application is still pending before the State Competent Authority. The State Competent Authority has not granted NOC in favour of the petitioner institution till now and also not rejected the said application and not communicated the same to the petitioner. After 90 days from the receipt of the application for grant of NOC, the petitioner has filed this petition for grant of MSC to this Commission straightway as per the provisions of Section 10 and 11(f) of National Commission for Minority Educational Institutions (in short 'NCMEI') Act, 2004.
6. Despite service of registered notice dated 05.01.2024, no reply/response has been received from the respondent. Thereafter in the facts and circumstances of the case, Commission deemed fit and proper that physical inspection report alongwith recommendation may be obtained from the Committee constituted by this Commission for issuance of MSC to the petitioner institution vide order dated 14.02.2024. After service of letter/email to the physical inspection committee dated 15.02.2024, Physical Inspection Committee, Delhi has sent physical inspection report dated 18.03.2024 which was received in the Commission's Office on dated 19.03.2024 wherein they have recommended to grant MSC to the petitioner institution subject to fulfillment of terms and conditions of Government / DoE regarding recognition. As per the PIC report, the petitioner institution is affiliated to CBSE

and also enclosed a letter bearing no. F.32(2)((21) Gen/79 wherein it is mentioned that “in view of the above cited High Court Judgement and above quoted pronouncement of the prescribed authority Lt. Governor, recognition of above school shall lapse as specified under Rule (54)2. Recognition once granted shall be absolute. As the petitioner institution has submitted the notarized copy of affiliation order dated 24.04.2019 issued by the Deputy Secretary (Aff), CBSE to the aided petitioner institution from 01.04.2020 to 31.03.2025 for the Senior Secondary Level.

7. Heard the Learned Counsel for the petitioner, perused the pleading of the petition, the documents filed by the petitioner and affidavit of Prof. Kahkashan Y. Danyal, Secretary of the Delhi Education Society.
8. The petitioner institution has applied for grant of minority status certificate on the ground that the same has been established primarily for the benefit of the members of the Muslim minority community and is being administered by Delhi Education Society which is managed and run by the members of the Muslim minority community. The aforesaid averments made in the petition find ample corroboration from the documentary evidence produced on behalf of the petitioner institution and the affidavit of Prof. Kahkashan Y. Danyal, Secretary of the Delhi Education Society.
9. Hon’ble Apex Court, various High Courts as well as this Commission in case of Buckley Primary School, Cuttack, Orissa Vs. Government of Orissa (order passed by the Commission in Case No. 1320 of 2009 dated 6.7.2010) have categorically held that the percentage of admission of students from notified minority community in a minority educational institution is not an indicia for determining the

minority status of such institution. This Commission has also decided that there must be reasonable strength of students of particular minority community in a minority educational institution. The percentage could be determined based on the actual proportion of specific minority community in the State population as per prevailing census. Population of Muslim minority community in the State of Delhi as per the census of 2011 is 12.86%.

10. I have perused the Amended Memorandum of Association of the petitioner institution which was registered before the Registrar of Societies, Govt, of NCT of Delhi on dated 11.11.2016 which is before the filing of NOC application U/s 10 of the NCMEI Act, 2004 dated 28.03.2023 and petition for grant of MSC on dated 11.12.2023. So it is clear that the amendment has been done before the application filed before the State Competent Authority U/s 10 of the NCMEI Act, 2004 and also petition for grant of MSC before this Commission.
11. The Amended Memorandum of Association dated 11.11.2016 and all the documents produced by the petitioner institution clearly reflects that the beneficiaries of the petitioner institution are primarily the members of the Muslim minority community. In addition, the said facts also stands proved from the documents and affidavit filed by the petitioner. There is no document on record to rebut the documentary evidence produced on behalf of the petitioner institution.
12. Relying on the said unrebutted evidence produced on behalf of the petitioner, we find and hold that Shafiq Memorial Sr. Sec. School, Bara Hindu Rao, Delhi-110006 run by Delhi Education Society is eligible for grant of

minority status on religious basis. The evidence also proves that the said educational institution was established with the main objective of sub-serving the interests of the Muslim minority community.

13. Consequently, Shafiq Memorial Sr. Sec. School, Bara Hindu Rao, Delhi-110006 is declared as an aided minority educational institution covered under Article 30 of the Constitution of India within the meaning of Section 2(g) of the National Commission for Minority Educational Institutions Act, 2004 subject to the condition that the petitioner would file an affidavit or undertaking to the fact that the petitioner institution shall not deny admission of eligible candidate of the Muslim minority community subject to the eligibility of the students and availability of the accommodation in the petitioner institution. If the petitioner institution failed to comply the above order of this Commission within a period of three months from the date of order passed by this Commission then the petition filed by the petitioner for grant of MSC will be automatically deemed to be dismissed.
14. After compliance of the above order, a minority status certificate be issued accordingly.
15. In view of the above, the present petition is disposed of in accordance with this order.

Signed, pronounced and published on **Wednesday, 1st Day of May, 2024.**

**DR. SHAHID AKHTER
MEMBER**

VB