

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

**Case No. 142 of 2021**

**In the matter of :-**

**H.L. Memorial Institute, Narkata Phonk, Balrampur, Jaunpur,  
Uttar Pradesh-222129**

**..... Petitioner**

**V/s**

**1. Additional Chief Secretary, Department of School  
Education, Govt. of Uttar Pradesh**

**2. Additional Chief Secretary, Secondary Education  
Department, Govt. of Uttar Pradesh, Bahu Khandi,  
Secretariat, Lucknow, Uttar Pradesh-226001**

**..... Respondents**

**Present: Mr. Junais P, Advocate for the petitioner  
None for the respondents**

**ORDER**

**DATED 02.05.2024**

**Dr. Shahid Akhter, Member, NCMEI**

1. This petition has been received on 13.04.2021 by hand through Mr. Junais P, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to H.L. Memorial Institute, Narkata Phonk, Balrampur, Jaunpur, Uttar Pradesh-222129.
2. Learned counsel for the petitioner filed an affidavit of Mr. Abdul Wais Khan, Secretary of the Sarvjan Kalyan Samiti and the authorized representative of the applicant institution i.e. H.L. Memorial Institute, Narkata Phonk, Balrampur, Jaunpur, Uttar Pradesh-222129 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. : UP/2017/0153634 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, photocopy of application dated 14.09.2019 sent to the State Competent Authority i.e. Additional Chief Secretary, Department of School

Education, Govt. of Uttar Pradesh alongwith postal receipt and its tracking report, notarized copy of Certificate of Registration of Sarvjan Kalyan Samiti, notarized copy of the renewed Certificate of Registration dated 11.05.2023 of the said Society, notarized copy of Memorandum of Association alongwith list of founding members of the Society, notarized copy of Amended Memorandum of Association dated 15.06.2019 alongwith list of present members of the Society, notarized copy of Recognition Order dated 12.07.2019 issued by the Upper Secretary, Secondary Education Council, Varanasi to the unaided petitioner institution for the High School (9-10) from the Year 2021 and resolution of the General Body of the Society in favour of Mr. Abdul Wais Khan, Secretary of the Sarvjan Kalyan Samiti for obtaining MSC from this Commission.

4. As per the information supplied by the petitioner unaided institution with regard to students strength as on Academic Year 2018-19, it is mentioned that out of total 295 students, 205 students were from the Muslim minority community and 90 students were Hindus, in the year 2019-20, it is mentioned that out of total 313 students, 198 students were from the Muslim minority community and 115 students were Hindus, in the year 2020-21, it is mentioned that out of total 362 students, 227 students are from the Muslim minority community and 135 students are Hindus. It is relevant to mention here that in the year 2018-19, out of the total 9 teachers, 6 teachers were from Muslim Minority community, in the year 2019-20, out of the total 10 teachers, 6 teachers were from Muslim Minority community and in the year 2020-21, out of the total 10 teachers, 7 teachers are from Muslim Minority community.
5. It is stated in the petition that on dated 14.09.2019, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 18.09.2019 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 / email dated 15.09.2022, 07.11.2022, 12.05.2023 and 03.11.2023, 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 01.08.2023. After service of letters/emails to the physical inspection committee dated 08.08.2023, 26.10.2023 and 27.12.2023, Physical Inspection Committee, Jaunpur District has sent physical inspection report dated 08.01.2024 which was received in the Commission's Office on dated 05.02.2024 wherein they have recommended to grant MSC to the petitioner institution.
7. Heard the Learned Counsel for the petitioner, perused the pleading of the petition, the documents filed by the petitioner and affidavit of Mr. Abdul Wais Khan, Secretary of the Sarvjan Kalyan Samiti.
8. 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 Uttar Pradesh as per the census of 2011 is 19.26%.

9. 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 Sarvjan Kalyan Samiti 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 Mr. Abdul Wais Khan, Secretary of the Sarvjan Kalyan Samiti.
10. I have perused the Amended Memorandum of Association of the petitioner institution which was registered before the Registrar of Societies, Varanasi on dated 15.06.2019 which is before the filing of NOC applications U/s 10 of the NCMEI Act, 2004 dated 14.09.2019 and petition for grant of MSC on dated 13.04.2021. 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 15.06.2019 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 un rebutted evidence produced on behalf of the petitioner, we find and hold that H.L. Memorial Institute, Narkata Phonk, Balrampur, Jaunpur, Uttar Pradesh-222129 run by Sarvjan Kalyan Samiti 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, H.L. Memorial Institute, Narkata Phonk, Balrampur, Jaunpur, Uttar Pradesh-222129 is declared as an unaided 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 **Thursday, 2<sup>nd</sup> Day of May, 2024.**

**DR. SHAHID AKHTER  
MEMBER**

VB