

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

Case No. 183 of 2023

In the matter of :-

**Athar Ali Higher Secondary School, Vill. Milak Imlak, Block
Munda Pandey, Moradabad, Uttar Pradesh-244001**

..... **Petitioner**

V/s

**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 respondent

ORDER

DATED 22.05.2024

Dr. Shahid Akhter, Member, NCMEI

1. This petition has been received on 17.07.2023 by hand through Mr. Junais P, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to Athar Ali Higher Secondary School, Vill. Milak Imlak, Block Munda Pandey, Moradabad, Uttar Pradesh-244001.
2. Learned counsel for the petitioner filed an affidavit of Mrs. Sheereengul, Manager of Athar Educational Society and the authorized representative of the applicant institution i.e. Athar Ali Higher Secondary School, Vill. Milak Imlak, Block Munda Pandey, Moradabad, Uttar Pradesh-244001 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/2011/0043087 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, photocopy of application dated 13.12.2022 sent to the State Competent Authority i.e. Additional Chief Secretary, Secondary Education

Department, Govt. of Uttar Pradesh alongwith postal receipt and its tracking report, notarized copy of Certificate of Registration of Athar Educational Society, notarized copy of Memorandum of Association alongwith list of founding members of the Society, notarized copy of Amended Memorandum of Association dated 20.02.2021 alongwith list of present members of the Society, notarized copy of recognition Order dated 23.10.2008 issued by the Regional Secretary, Secondary Education Council, Bareilly to the unaided petitioner institution from the year 2010 for the High School Examination and resolution of the General Body of the Society in favour of Mrs. Sheereengul, Manager of Athar Educational Society 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 2020-21, it is mentioned that out of total 261 students, 225 students were from the Muslim minority community and 36 students were Hindus, in the year 2021-22, it is mentioned that out of total 219 students, 184 students were from the Muslim minority community and 35 students were Hindus and in the year 2022-23, it is mentioned that out of total 166 students, 150 students are from the Muslim minority community and 16 students are Hindus. It is relevant to mention here that in the year 2020-21, out of the total 9 teachers, 6 teachers were from Muslim Minority community, in the year 2021-22, out of the total 8 teachers, all teachers were from Muslim Minority community and in the year 2022-23, out of the total 6 teachers, 5 teachers are from Muslim Minority community.
5. It is stated in the petition that on dated 13.12.2022, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 16.12.2022 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 01.08.2023, 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 05.10.2023. After service of letters/emails to the physical inspection committee dated 09.11.2023 and 09.01.2024, Physical Inspection Committee, Moradabad District has sent physical inspection report dated 30.01.2024 which was received in the Commission's Office on dated 06.02.2024 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 Mrs. Sheereengul, Manager of Athar Educational Society.
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 Athar Educational 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 Mrs. Sheereengul, Manager of Athar Educational Society.
10. I have perused the Amended Memorandum of Association of the petitioner institution which was registered before the Assistant Registrar, Firms, Societies and Chits, Moradabad on dated 20.02.2021 which is before the filing of NOC applications U/s 10 of the NCMEI Act, 2004 dated 13.12.2022 and petition for grant of MSC on dated 17.07.2023. 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 20.02.2021 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 Athar Ali Higher Secondary School, Vill. Milak Imlak, Block Munda Pandey, Moradabad, Uttar Pradesh-244001 run by Athar Educational 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, Athar Ali Higher Secondary School, Vill. Milak Imlak, Block Munda Pandey, Moradabad, Uttar Pradesh-244001 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 **Wednesday, 22nd Day of May, 2024.**

**DR. SHAHID AKHTER
MEMBER**

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