

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

Case No. 270 of 2023

In the matter of :-

**St. Joseph's Public School, Mazgaon, Pingaleswar P.O.,
Baihata Chariali, District Kamrup (R), Assam-781381**

..... **Petitioner**

V/s

**Joint Secretary, Higher Education Department, Govt. of Assam,
Assam Secretariat, Block C, Secretariat Complex, Dispur,
Guwahati, Assam-781006**

..... **Respondent**

Present : Mr. Jose Abraham, Advocate for the petitioner
None for the respondent

ORDER

DATED 15.05.2024

Dr. Shahid Akhter, Member, NCMEI

1. This petition has been received on 29.09.2023 by hand through Mr. Jose Abraham, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to St. Joseph's Public School, Mazgaon, Pingaleswar P.O., Baihata Chariali, District Kamrup (R), Assam-781381.
2. Learned counsel for the petitioner filed an affidavit of Mr. Francis Edwin Simethy, Trustee of the St. Joseph Seva Trust in support of the averments made in the petition and also to prove that the beneficiaries of the petitioner institution are members of the Christian minority community and also stating that the petitioner institution shall not deny admission of eligible candidate of the Christian minority community subject to the eligibility of the students and availability of the accommodation in the petitioner institution.
3. Learned counsel for the petitioner has filed copy of Unique ID No. : AS/2018/0195738 of the petitioner's Trust as given by the Niti Aayog Portal NGO Darpan, photocopy of application dated 23.11.2022 sent to the State Competent Authority i.e. Joint Secretary, Higher Education Department, Govt. of Assam, alongwith postal receipt and its tracking report, notarized copy of the Trust Deed dated

09.11.2016 of St. Joseph Seva Trust alongwith list of trustees of the trust, notarized copy of the recognition order dated 22.02.2024 issued by the District Elementary Education Officer, Kamrup (R), Assam to the unaided petitioner institution for a period of three years w.e.f. 07.01.2024 for Class 1st to 8th and resolution of the General Body of the Trust in favour of Mr. Francis Edwin Simethy, Trustee of the St. Joseph Seva Trust for obtaining MSC from this Commission. Learned Counsel for the petitioner has also filed an affidavit of Mr. Francis Edwin Simethy, Trustee of the St. Joseph Seva Trust stated that he is the trustee of the petitioner's trust and also serving as the Secretary of the petitioner's trust.

4. As per the information supplied by the petitioner unaided institution with regard to students strength in Academic Year 2021-22, it is mentioned that out of total 760 students, 132 students were from the Christian minority community, 263 students were from the Muslim minority community and 395 students were Hindus, in Academic Year 2022-23, it is mentioned that out of total 840 students, 147 students were from the Christian minority community, 275 students were from the Muslim minority community and 418 students were Hindus and in Academic Year 2023-24, it is mentioned that out of total 920 students, 154 students are from the Christian minority community, 296 students are from the Muslim minority community and 470 students are Hindus. It is relevant to mention here that in Academic Year 2021-22, out of 30 teachers, 18 teachers were from the Christian Minority community, in Academic Year 2022-23, out of 33 teachers, 17 teachers are from the Christian Minority community and in Academic Year 2023-24, out of 38 teachers, 20 teachers are from the Christian Minority community
5. It is stated in the petition that on dated 23.11.2022, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 08.12.2022 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 to the respondent dated 28.11.2023, 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 10.01.2024. After service of letter/email to the physical inspection committee dated 11.01.2024, Physical Inspection Committee, Chennai District has sent physical inspection report dated 27.02.2024 which was received in the Commission's Office on dated 04.03.2024 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. Francis Edwin Simethy, Trustee of the St. Joseph Seva Trust.
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 Christian minority community and is being administered by St. Joseph Seva Trust which is managed and run by the members of the Christian 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. Francis Edwin Simethy, Trustee of the St. Joseph Seva Trust.
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 Christian minority community in the State of Assam as per the census of 2011 is 3.74%.

10. I have perused the Trust Deed of the petitioner institution which was registered before the office of the Deputy Registrar, Guwahati, Kamrup (R) on dated 09.11.2016 which is before the filing of NOC applications U/s 10 of the NCMEI Act, 2004 dated 23.11.2022 and petition for grant of MSC on dated 29.09.2023. 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 Trust Deed dated 09.11.2016 and all the documents produced by the petitioner institution clearly reflects that the beneficiaries of the petitioner institution are primarily the members of the Christian 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 St. Joseph's Public School, Mazgaon, Pingaleswar P.O., Baihata Chariali, District Kamrup (R), Assam-781381 run by St. Joseph Seva Trust 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 Christian minority community.
13. Consequently, St. Joseph's Public School, Mazgaon, Pingaleswar P.O., Baihata Chariali, District Kamrup (R), Assam-781381 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.

14. 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, 15th Day of May, 2024.**

**DR. SHAHID AKHTER
MEMBER**

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