

MINUTES OF THE MEETING WITH THE COMPETENT AUTHORITIES OF U.P., JHARKHAND AND GUJARAT ON 12.08.2024 UNDER THE CHAIRMANSHIP OF PROF. DR. SHAHID AKHTER, HON'BLE MEMBER

Venue – Conference Hall of the NCMEI

The following members were present:-

1. Sh. Manvendra Singh, D.G. Ayush.
2. Sh. Nand Kishore Lal (J.AS) Department of School Education & Literacy Dist-Ranchi, Jharkhand.
3. Sh. Mahesh J. Aghara, Commissionerate of Technical Education, Gandhinagar, Gujarat.
4. Sh. Vadansinh C. Bodana, Additional Director, Commissionerate of Higher Education, Gandhinagar, Gujarat.
5. Dr. M. N. Pats, Govt.of Gujarat.
6. Dr. Sanjay B. Patel, Commissionerate of School, Gandhinagar, Gujarat.
7. Dr. Raj Bahadur Singh, Principal for Director, Technical Education, U.P.
8. Dr. Dharendra Kumar, Registrar, CCS University. Meerut.
9. Prof. Monika Singh, RHEO, Higher Education Dept., Meerut, U.P.
10. Prof. Dr. B.D. Singh, Joint Director Medical Education, U.P.
11. Sh. Man Pal Singh, Additional Director, Directorate of Training & Emp Vocational Education, U.P.
12. Onkar Shukla, Joint Director, Education, Secondary Education, U.P.
13. Sh. Sipu Giri, Special Secretary Higher Education Dept., U.P.
14. Sh. Ram Pratap Vimal, Special Secretary (Minority), Secondary Education, U.P.
15. Sh. S.P. Tiwari, Deputy Director, Minority Welfare, Govt. of U.P.

A meeting with the Competent Authorities of the State of Uttar Pradesh, Jharkhand and Gujarat was held under the Chairmanship of Prof. Dr. Shahid Akhter, Hon'ble Member, NCMEI on 12.8.2024 in the

Commission. The agenda of the meeting was to sensitize the Competent Authorities about Section 10 of the NCMEI Act, 2004 , to discuss issues with regards to disposal of NOC application and the reason as to why no response is given to the Commission's Notice by the Competent Authorities .

2. Secretary welcomed all the participants and gave a brief about the NCMEI Act, 2004 and explained in detail the provisions of Section 10. He also highlighted State specific issues and difficulty faced by the Commission in disposing the petitions. Thereafter he requested Prof. (Dr.) Shahid Akhter, Hon'ble Member, NCMEI to initiate the proceedings of the meeting.

3. The Hon'ble Member, NCMEI while welcoming the representatives of the State Government explained about the educational rights of the minorities guaranteed under Article 30 (1) the Constitution of India and explained about Section 10, Section 12A and Section 12B of the NCMEI Act, 2004. Any person who desires to establish a minority educational institution has to apply to the State Competent Authority for grant of NOC under Section 10 of the NCMEI Act, 2004. The Act of 2004 also conferred powers of appeal to the NCMEI, under Section 12A and 12B against the orders of refusal to grant NOC and MSC respectively by the competent authority.

4. Hon'ble Member, NCMEI referred to the judgement of Hon'ble Apex Court in the matter of Sisters of St. Joseph of Cluny v/s The State of West Bengal and Ors. (2018) 6 SCC 772 wherein it has been decided that this Commission has both original as well as appellate jurisdiction. He also referred to other landmark judgements such as T.M.A. Pai Foundation vs. State of Karnataka (2002) 8 SCC 481, P.A Inamdar Vs State of Maharashtra etc. He also stated that initially five religious communities, viz., Muslims,

Christians, Sikhs, Buddhists and Zoroastrians (Parsis) were notified as minority communities by the Union Government. Further vide notification dated 27th January 2014, Jains were also notified as another minority community.

5. Hon'ble Member, NCMEI also highlighted that the Commission is receiving applications for grant of MSC based on deemed NOC. Copy of the NOC application alongwith its tracking report is attached with the MSC application. The Commission sends notice alongwith complete set of the petition, to the Competent Authority for seeking their inputs. He showed his concern and stressed on the fact that State is not responding and if they are responding, the reply is not satisfactory. As, there is no response or improper response, the Commission is forced to constitute Physical Inspection Committee for obtaining Physical Inspection Report, before taking any decision on the MSC petition.

6. Secretary requested the States to dispose the NOC application within 90 days and send response to the Notice to avoid ex-parte judgment. The State should encourage the institution to apply for MSC from the State. He further stated that the State Governments should issue specific instructions/orders with respect to disposal of NOC application.

7. Sh. Sipu Giri, Special Secretary, Govt. of Uttar Pradesh enquired about the ongoing cases. In response, Secretary informed that 63, 30 and 34 MSC petitions from U.P., Gujarat and Jharkhand respectively are ongoing in the Commission.

8. Representative of Gujarat enquired as to whether an institution to be considered a minority educational institution should have all members from the minority community. In response, Hon'ble Member apprised that as per the guidelines, if the concerned Minority Educational Institution is being run by trust or a registered society, the majority of the trustees of the trust or members of the society, as the case may be, must be from the minority community and the trust deed/ Articles of Association must have the beneficiary clause mentioning sub-serving the interest of the minority community. He further stated that 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 a particular minority community in a minority educational institution. The percentage could be determined based on the actual percentage of the specific minority community in the State, as per the Census of India, 2011.

9. Hon'ble Member specifically mentioned that Government of U.P., instead of sending response to the Commission's notice, is sending physical inspection report, without it being called for and in Jharkhand the Government has notified, Director, Primary Education, Department of School Education & Literacy as nodal officer under Section 10 of the NCMEI Act. When the Commission sends notices to the State, for cases pertaining to Higher Education (Medical & Technical), the reply of the Primary Education

Department, Ranchi, is that the matter pertains to higher education and is outside their purview. When the Government of Jharkhand has notified Director, Primary Education Department of School Education & Literacy, as a nodal officer under Section 10 of the NCMEI Act then the Director is bound to reply to the notice irrespective of institute's level of education.

10. Secretary, NCMEI pointed out that, in response to the Commission's notice, Government of Gujarat states that NOC application attached with the petition has not been received by them. The petitioner may apply for MSC in the State. As the applicant annexes tracking report with the application as a proof of delivery of NOC application to the competent authority, the reply of the Competent Authority does not hold good. The State Government should either accept or reject the NOC application and communicate their decision within 90 days.

11. Hon'ble Member, NCMEI stated that there are instances where States are pro active. He also apprised the representatives of State competent authorities about the guidelines framed by Kerala and Madhya Pradesh for grant of No Objection Certificate and suggested to take initiative to frame guidelines for granting NOC in their respective State also.

12. Hon'ble Member, NCMEI directed the representatives of State Governments to convene meetings and organize workshop/ seminar with the concerned district officials to sensitize them about the provisions of the NCMEI Act, 2004, educational rights of minorities enshrined in Article 30 (1) of the Constitution and challenges faced by the MEIs in obtaining MSC/ NOC. He further conveyed that these meetings will be helpful in deciding the

cases that are before this Commission. He concluded the meeting by saying that the representatives of State competent authorities may feel free to approach the Secretary for any clarification.

13. The following action points emerged from the meeting:

- State should frame **guidelines and format** for receiving NOC /MSC application.
- States to explore the option of receiving NOC/MSC application **online**, for easy monitoring.
- Action to be taken on the NOC application **within 90 days** and decision communicated.
- States to give **prompt and proper response** to the Commission's notice to avoid ex parte judgment.
- State to check and inform whether NOC application along with enclosures have been received in the office of competent authorities and why no response was send to the institution .
- Organize workshop/ seminar with the concerned district officials to sensitize them about the provisions of the NCMEI Act, 2004, educational rights of minorities enshrined in Article 30 (1) of the Constitution

14. Meeting ended with vote of thanks.