

Minutes of the meeting with the Competent Authorities of State of Telangana and Tamil Nadu held on 05.08.2024 under the Chairmanship of Prof. Dr. Shahid Akhter, Hon'ble Member in the Conference Hall of the Commission.

Present:

1. Prof. Dr. Shahid Akhter, Hon'ble Member, NCMEI (National Commission for Minority Educational Institutions)
2. Shri Manoj Kumar Kejrewal, Secretary, NCMEI
3. Mohd. Chand Pasha, Assistant Commissioner, Minority Welfare, Telangana, Dr. B.R. Ambedkar Secretariat, Hyderabad, Telangana.
4. Mr. S. Suresh Kumar, Additional Secretary, Backward Classes, Most Backward Classes & Minority Welfare Department, Government of Tamil Nadu, 2nd Floor, Secretariat, Chennai.
5. Dr. M. Palanisamy, Director, Directorate of Private School, Government of Tamil Nadu, DPI Campus, Chennai.
6. Mr. R. Boopathi, Joint Director of School Education, Directorate of School Education, DPI Campus, Chennai.

A meeting with the Competent Authorities of the State of Telangana and Tamil Nadu was held under the Chairmanship of Prof. Dr. Shahid Akhter, Hon'ble Member, NCMEI on 5.8.2024 at the Conference Hall of the Commission. The agenda of the meeting was regarding the challenges being faced by the NCMEI and the State in grant of MSC/ NOC and the rights of Minority Educational Institutions.

2. Shri Manoj Kumar Kejrewal, Secretary of the Commission in his opening remarks welcomed all the participants and apprised them of the provisions of Section 10 of the National Commission for Minorities Educational Institutions, 2004.

3. He elaborated that as per the provisions of Section 10, Section 12A and Section 12B of the NCMEI Act, 2004, the person who desires to establish minority institution has to apply to the State Competent Authority for grant of NOC for the said purpose under Section 10 of the NCMEI Act, 2004. The Act of 2004 also conferred powers of appeal against the orders of the competent authority of the State to the NCMEI under Section 12A as well as over the authorities that were established by the Central Government or State Government which reject the application for grant of MSC to an education institution under Section 12B of the NCMEI Act, 2004. The educational institution can opt one course either

to file an application for grant of MSC before the State Competent Authority or to file an application for grant of NOC.

4. Prof. Dr. Shahid Akhter, Hon'ble Member, NCMEI elaborated about the provision of Section 10 of the NCMEI Act, 2004 and elucidated about the Judgment of the Hon'ble Apex Court in the matter of SISTERS OF ST. JOSEPH OF CLUNY V/S THE STATE OF WEST BENGAL & ORS (Civil Appeal No. 3945/2018, Judgement dated 18/04/2018), which reads as follows:-

“However, Section 10(1), which was introduced at the same time as Section 11(f) by the Amendment Act of 2006, carves out one facet of the aforesaid power contained in Section 11(f), namely the grant of a no objection certificate to a minority educational institution at its inception. Thus, any person who desires to establish a minority educational institution after the Amendment Act of 2006 came into force, must apply only to the competent authority for the grant of a no objection certificate for the said purpose. It is a little difficult to subscribe to Shri Hedge's argument that the said powers are concurrent. Harmoniously read, all applications, for the establishment of a minority educational institution after the Amendment Act of 2006 must go only to the competent authority set up under the statute. On the other hand, for the declaration of its status a minority educational institution at any state post establishment, the NCMEI would have the power to decide the question and declare such institution's minority status.”

5. He stated that on receipt of the application for grant of NOC from the petitioner institutions, the competent authority has to take action on the application. State has to either grant NOC, or reject the NOC application and communicate the petitioner in this regard within 90 days. Where within a period 90 days from the receipt of the application under sub-Section (1) of Section 10 of the NCMEI Act, 2004 for grant of no objection certificate, the Competent authority does not grant such certificate; or where an application has been rejected and the same has not been communicated to the person who has applied for the grant of such certificate, it shall be deemed that the Competent authority has granted a no objection certificate to the applicant.

6. In response to the notice issued by the Commission to the competent authority of Tamil Nadu, the State Government send letters stating therein that the petitioner has not filed application for grant of MSC, however in the counter affidavit it is stated that “the petitioner has filed application for grant of Minority status certificate and not submitted the

requisite documents in terms of G.O. (MS) No. 375 dated 12.10.1998 and G.O. (MS) No. 214 dated 3.11.2008 of the School Education Department, Tamil Nadu for grant of minority status certificate to private schools. The institutions may be directed to file application for grant of MSC in the State. In some of the cases, no proper reply from the State competent authorities is received due to which the Commission has to constitute Physical Inspection Committee to obtain Physical Inspection Report for deciding the case.

7. The Hon'ble Member raised query regarding guidelines of Government of Tamil Nadu for granting No Objection Certificates to the educational institutions. In response to the query, Dr. M. Palanisamy, Director, Directorate of Private School, Government of Tamil Nadu mentioned about the G.O. (Ms) No. 109 dated 29.12.2022 issued by Backward Classes, Most Backward Classes and Minorities Welfare (MW1) Department, Tamil Nadu which reads as under:

- (1) The object of the Educational Institutions should be for promoting the interests of the minority concerned and it should sub serve the interest of the minority community concerned;
- (2) Such educational institutions should have been established by the minority and should be continuously administered only by the member of that minority;
- (3) All the trustees or members of the Governing Body of the minority educational institution shall belong only to the concerned minority.
- (4) In the case of self-financing educational institutions, imparting professional courses of education established and administered by an minority, they shall admit students of that minority alone, not exceeding 50% of the sanctioned strength. If there is any vacancy not filled as above, such vacancy in that 50% shall be filled up only on the basis of merit and from common merit list prepared by the competent authority.

8. Hon'ble members apprised that as per the Guideline issued by NCMEI, if the Minority educational institution concerned 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 reflect the objective of 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 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 the census of India 2011.

9. Hon'ble Member, NCMEI apprised the representatives of State competent authorities about the guidelines devised by the State of Kerala for grant of No Objection Certificate and suggested to take initiative to devise guidelines for granting NOC in their respective State also.

10. Hon'ble Member, NCMEI directed the representatives of State Governments to convene meeting and organize workshop/ seminar with 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 for obtaining MSC/ NOC.

11. Hon'ble Member mentioned that instead of sending response with respect to the application filed by the MEIs for grant of NOC, State of Telangana send reply stating therein that NOC application is not received by them and the petitioner may apply before the State for grant of religious MSC in accordance with the guidelines issued in G.O. Ms. No. 1, M.W. (M&R) Deptt., dated 16.1.2024.

12. Mohd. Chand Pasha, Assistant Commissioner, Minority Welfare, Telangana stated that petitioner institutions does not apply to them for grant of NOC and directly send application for grant of MSC before the NCMEI. Hon'ble Member mentioned that the petitioner institutions also submit proof of delivery of NOC application before the Commission and directed the State to file proper replies in the cases.

13. Mr. Pasha raised query as to whether the State can inspect the minority educational institutions to ensure whether the institution is sub-serving the interest of that particular minority community or not. In reply, Secretary of the Commission has informed that the state can inspect the petitioner institution as per State policy without interfering in their management as MEIs are covered under Article 30 of Constitution which confers them right to establish and administer educational institutions of their choice.

14. Hon'ble Member, NCMEI directed the representatives of State competent authorities that for any clarification, they may feel free to approach Secretary of the Commission.

The meeting ended with a vote of thanks to the Chair.