

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

Case No. 212 of 2023

In the matter of :-

**Auxilium English Medium High School, Gavaravaram,
Koyyalagudem Mandal, West Godavari District, Andhra Pradesh –
534 312.**

..... Petitioner

Vs

**Secretary to Government, Government of Andhra Pradesh,
Minorities Welfare Department, 3rd Floor, Andhra Pradesh
Secretariat, Velagapudi, Amravati, Andhra Pradesh- 522 503.**

..... Respondent

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

ORDER

DATED: 26.9.2024

Dr. Shahid Akhter, Member, NCMEI

1. This petition has been received on 11.8.2023 by hand through Mr. Jose Abraham, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to Auxilium English Medium High School, Gavaravaram, Koyyalagudem Mandal, West Godavari District, Andhra Pradesh– 534 312.

2. Learned counsel for the petitioner filed an affidavit of Sr. Sagaya Jacqueline Selvi, Secretary of the Auxilium Seva Nilaya 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.

3. Learned counsel for the petitioner has filed copy of Unique ID No.: AP/2018/0216446 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, photocopy of application dated 13.4.2023 sent to the State Competent Authority i.e. Secretary to Government, Government of Andhra Pradesh, Minorities Welfare Department, 3rd Floor, Andhra Pradesh Secretariat, Velagapudi, Amravati, Andhra Pradesh- 522 503 alongwith postal receipt and its acknowledgement

receipt, notarized copy of Certificate of Registration of Auxilium Seva Nilaya, notarized copy of Memorandum of Association, Rules & Regulations, list of founding members of the Society, notarized copy of Amended Memorandum of Association dated 4.9.2019 alongwith list of Governing Body Members for the year 2023-24, notarized copy of the order dated 17.4.2018 issued by the Regional Joint Director of School Education, Kakinada granting recognition to the unaided petitioner institution from 2018-19 to 2027-28 and resolution of the General Body of the Society in favour of Sr. Sagaya Jacqueline Selvi, Secretary Auxilium Seva Nilaya for obtaining MSC from this Commission.

4. As per the information supplied by the petitioner unaided institution. With regard to students' strength, it is mentioned that during the academic year 2020-21, out of the total 372 students, 95 students were from the Christian minority community, 10 students were from the Muslim minority community and 267 students were Hindu. In the year 2021-22, out of total 212 students, 75 students were from the Christian minority community, 06 students were from the Muslim minority community and 131 students were Hindu. In the year 2022-23, out of total 412 students, 152 students were from the Christian minority community, 06 students were from the Muslim minority community and 254 students were Hindu. It is relevant to mention here that during the academic year 2020-21, out of total 18 teachers, 13 were from the Christian minority community and 05 were Hindu. During the academic year 2021-22 out of total 18 teachers, 12 were from the Christian minority community and 6 were Hindu and during the academic year 2022-23, out of total 18 teachers, 14 were from the Christian minority community and 4 were Hindu.

5. It is stated in the petition that on dated 13.4.2023, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 17.4.2023 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. After service of registered notice dated 25.9.2023, respondent has sent reply dated 21.11.2023 by post which was received by the Commission on 29.11.2023. In the reply filed by the respondent, it is stated that the petitioner has submitted letter dated 13.4.2023 for grant of No Objection Certificate under Section 10 of the NCMEI Act, 2004. Petitioner has not submitted necessary information/ documents as called for by the Government as per Govt. letter No. MNW01-CHSTOMSC (MSC)/2/2023-SDM, MW (SDM) Dept. dated 15.05.2023 and the Commission has been requested to dismiss the case.

7. Learned Counsel for the petitioner filed subsequent pleadings and contended that the petitioner institution is a religious minority institution and run by Auxilium Seva Nilaya, which is a registered Society constituted by the members of the Christian minority community primarily for the benefit of Christian minority community. On dated 13.4.2023, the petitioner institution had submitted an application for grant of NOC under Section 10 of the NCMEI Act, 2004 before the respondent. After the completion of 90 days from the date of receipt of the said application the petitioner institution applied for MSC before this Commission and this case is a fit case of intervention by this Commission. This Commission is functioning as per the NCMEI Act, 2004 read with the judicial pronouncements of the Apex Court for the purpose of declaration of MSC.

8. Petitioner institution had applied for grant of NOC whereas the reply filed by the respondent does not even murmured a single word with regard to the receipt and further process of the said application for NOC, which is duly received by the respondent. In its reply, respondent has referred G.O. Ms. No. 1, M.W. (Genl.) Department, dated 16.01.2004 with regard to the issuance of NOC by the State of Andhra Pradesh. The same Govt. order is dealing with the issuance of MSC and not on NOC under section 10 of the NCMEI Act, 2004, so instant case is a fit case for interference by this Commission. Hon'ble Supreme Court in Sisters of St. Joseph of Cluny Vs. The State of West

Bengal (Civil Appeal No. 3945 of 2018) decision dated 18.04.2018 in which Hon'ble Supreme Court has settled the law with regard to the applicability of Section 10 and 11 of the NCMEI Act, 2004 and in view of the said pronouncement of the Hon'ble Supreme Court the stand taken by the respondent will not survive in the eye of law and, therefore, prayed that this Commission may issue MSC to the petitioner institution in the interest of justice and equity.

9. Physical Inspection Committee, Eluru has sent physical inspection report dated 3.11.2023 in tagged Case No. 650 of 2019 which was received in the Commission's Office on dated 14.11.2022 wherein they have recommended to grant MSC to the petitioner institution.

10. Heard the Learned Counsel for the petitioner, perused the pleading of the parties, the documents filed by the petitioner and affidavit of Sr. Sagaya Jacqueline Selvi, Secretary of Auxilium Seva Nilaya.

11. 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 Auxilium Seva Nilaya 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 Sr. Sagaya Jacqueline Selvi, Secretary of Auxilium Seva Nilaya.

12. 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 Andhra Pradesh as per the census of 2011 is 1.34%.

13. I have perused the Amended Memorandum of Association of the petitioner Society which was registered before the District Registrar of Societies, Eluru, W.G. Dist. on 4.9.2019 which is before the filing of NOC application U/s 10 of the NCMEI Act, 2004 dated 13.4.2023 and petition for grant of MSC on dated 11.8.2023. 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.

14. The Amended Memorandum of Association dated 4.9.2019 and all the documents produced by the petitioner institution clearly reflect that the beneficiaries of the petitioner institution are primarily the members of the Christian minority community. In addition, the said facts also stand 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.

15. Relying on the said unrebutted evidence produced on behalf of the petitioner, we find and hold that Auxilium English Medium High School, Gavaravaram, Koyyalagudem Mandal, West Godavari District, Andhra Pradesh – 534 312 run by Auxilium Seva Nilaya 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.

16. Consequently, Auxilium English Medium High School, Gavaravaram, Koyyalagudem Mandal, West Godavari District, Andhra Pradesh– 534 312 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 Christian minority community subject to the eligibility of the students and availability of the accommodation in the petitioner institution. If the petitioner institution fails 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.

17. After compliance of the above order, a minority status certificate be issued accordingly.

18. In view of the above, the present petition is disposed of in accordance with this order.

Signed, pronounced and published on **Thursday, 26th Day of September, 2024.**

**DR. SHAHID AKHTER
MEMBER**

MD