

**GOVERNMENT OF INDIA
NATIONAL COMMISSION FOR MINORITY
EDUCATIONAL INSTITUTIONS**

CASE NO. 34 OF 2023

In the matter of:

Shibli Public School, Village and Post Raja Ka Tajpur, Tehseel Chandpur, District Bijnor, Uttar Pradesh.

... Petitioner

Versus

Additional Chief Secretary, Department of Basic Education, Government of Uttar Pradesh.

... Respondent

Present: Mr. Faiyyaz Ahmad Ansari for the petitioner.
None for the respondent.

ORDER

Date: 05.09.2024

Dr. Shahid Akhter, Member, NCMEI

1. This petition has been received on 16.01.2023 by hand Ms. Tabassum of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to Shibli Public School, Village and Post Raja Ka Tajpur, Tehseel Chandpur, District Bijnor, Uttar Pradesh.

2. Ms. Tabassum, Manager of the Millat Academy has filed her affidavit, 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. Ms. Tabassum has filed a notarized copy of Unique ID No.: UP/2022/0305120 of the petitioner's society as given by the Niti Aayog Portal NGO Darpan, copy of the application dated 14.11.2022 submitted before the State Competent authority for NOC alongwith postal receipt and its tracking report, notarized copies of Certificate of Registration, Trust Deed and General Body Resolution of the Millat Academy. He has also filed notarized

copy of Certificate of Recognition order dated 02.01.2024 of petitioner institution, issued by the District Basic Education Officer, Bijnor, U.P.

4. As per the information supplied by the unaided petitioner institution with regard to students' strength during the academic year 2022-23, it is mentioned that out of the total 326 students, out of 269 students were from the Muslim minority community and 57 students were Hindu. It is relevant to mention here that during the academic year 2022-23, out of the total 13 teachers, 09 teachers were from the Muslim minority community and 04 teachers were Hindu.

5. It is stated in the petition that on dated 21.09.2022, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 27.09.2022 and the same 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 application 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 31.01.2023, 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 02.05.2023, after service of letter/ email to the physical inspection committee dated 16.05.2023, 09.08.2023, 19.12.2023 and 12.02.2024, District Magistrate, Bijnor, has sent physical inspection report dated 01.04.2024, which was received in the Commission's Office on dated 09.04.2024 wherein they have recommended for grant of msc to the petitioner institution.

7. Heard learned counsel for the petitioner, perused the pleadings, the documents filed by the petitioner and affidavit of Ms. Tabassum, Manager of the Millat Academy.

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 Muslim minority community and is being administered by the Millat Academy, 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 Ms. Tabassum, Manager of the Millat Academy.

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 this Commission in Case No. 1320 of 2009 dated 06.07.2010) 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%.

10. I have perused the Trust Deed of the petitioner institution, which was registered before the Sub-Registrar, Dhampur, Bijnor on dated 27.12.2005 which is before the filing of NOC application U/s 10 of the NCMEI Act, 2004 dated 21.09.2022 and petition for grant of MSC on dated 16.01.2023.

11. The Trust Deed dated 27.12.2005 of the said trust and all the documents produced by the petitioner institution clearly reflect that the beneficiaries of the petitioner institution are primarily the members of the Muslim minority community. In addition, the said fact 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 before this Commission.

12. Relying on the said un rebutted evidence produced on behalf of the petitioner, we find and hold that the Shibli Public School, Village and Post

Raja Ka Tajpur, Tehseel Chandpur, District Bijnor, Uttar Pradesh, run by the Millat Academy, 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, Shibli Public School, Village and Post Raja Ka Tajpur, Tehseel Chandpur, District Bijnor, Uttar Pradesh, 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 for 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 **Thursday, 05th day of September, 2024.**

**DR. SHAHID AKHTER
MEMBER**