

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

Case No. 186 of 2023

In the matter of :-

**St. Xavier School, Tanakpur Road, Tigri Chauraha, Amaun, Udham
Singh Nagar District, Uttarkhand- 262308.**

..... Petitioner

Vs

**Incharge Secretary, Higher Education, Uttarakhand Government,
Room No. 7, Ground Floor, Late Soban Singh Jeena Bhawan (SBI
Bank Building), Uttarakhand Secretariat, Uttarakhand-248 001.**

..... Respondent

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

ORDER

DATED: 22.01.2025

Dr. Shahid Akhter, Member, NCMEI

1. This petition has been received on 17.07.2023 by hand through Mr. Jose Abraham, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to St. Xavier School, Tanakpur Road, Tigri Chauraha, Amaun, Udham Singh Nagar District, Uttarkhand- 262 308.
2. Learned counsel for the petitioner filed an affidavit of Rt. Rev. Ignatius D' Souza, President of St. Alphonsus Catholic Education Society 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. It is also stated in the affidavit 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.: UP/2018/0193448 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, photocopy of application dated 24.03.2023 sent to the State Competent Authority i.e. Incharge Secretary, Higher

Education, Uttarakhand Government, Room No. 7, Ground Floor, Late Soban Singh Jeena Bhawan (SBI Bank Building), Uttarakhand Secretariat, Uttarakhand-248 001 alongwith postal receipt and its acknowledgement receipt, notarized copy of Certificate of Registration of St. Alphonsus Catholic Education Society, notarized copy of Memorandum of Association, Byelaws, notarized copy of Amended Memorandum of Association dated 22.08.2022 alongwith list of present members of the Society for the year 2022-2024, copy of letter dated 6.6.2022 issued by CBSE granting affiliation to the petitioner institution for the period 1.4.2022 to 31.3.2027 and resolution of the General Body of the Society in favour of Rt. Rev. Ignatius D'Souza, President of St. Alphonsus Catholic Education Society 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 419 students, 06 students were from the Christian minority community, 10 students were from the Muslim minority community, 07 student were from the Sikh minority community and 396 students were Hindu. During the academic year 2021-22, out of the total 443 students, 08 students were from the Christian minority community, 11 students were from the Muslim minority community, 06 student were from the Sikh minority community and 418 students were Hindu. During the academic year 2022-23, out of the total 515 students, 09 students were from the Christian minority community, 14 students were from the Muslim minority community, 06 student were from the Sikh minority community and 486 students were Hindu. It is relevant to mention here that during the academic year 2020-21, out of 21 teachers, 06 teachers were from the Christian Minority community, 01 teacher was from the Muslim minority community and 14 teachers were Hindu. During the academic year 2021-22, out of 23 teachers, 05 teachers were from the Christian minority community, 03 teachers were from the Muslim minority community and 15 teachers were Hindu and during the academic year 2022-23, out of 26 teachers, 05 teachers are from the Christian Minority community, 02 teacher were from the Muslim minority community and 19 teachers were Hindu.

5. It is stated in the petition that on dated 24.03.2023, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 03.04.2023 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. Despite service of registered notice to the respondent dated 4.8.2023, the respondent has failed to apprise the Commission about the status of the said application. 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 11.10.2023. After service of letter/email to the physical inspection committee dated 22.11.2023 and reminder letter dated 09.01.2024, 12.04.2024 and 19.07.2024, District Magistrate, Udham Singh Nagar vide letter dated 12.7.2024 has sent physical inspection report, which was received in the Commission's Office on dated 01.08.2024 wherein they have recommended to grant MSC to the petitioner institution.

7. 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. Alphonsus Catholic Education Society 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 Rt. Rev. Ignatius D' Souza, President of St. Alphonsus Catholic Education Society.

8. 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 Uttarakhand as per the census of 2011 is 0.37%.

9. I have perused the Amended Memorandum of Association of the petitioner Society which was registered before the Assistant Registrar of Societies on 22.08.2022, which is before filing of NOC application U/s 10 of the NCMEI Act, 2004 dated 24.03.2023 and also petition for grant of MSC dated 17.07.2023. 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.

10. The Amended Memorandum of Association dated 22.08.2022 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.

11. Relying on the said unrebutted evidence produced on behalf of the petitioner, we find and hold that St. Xavier School, Tanakpur Road, Tigri Chauraha, Amaun, Udham Singh Nagar District, Uttarkhand-262308 run by St. Alphonsus Catholic Education Society 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.

12. Consequently, St. Xavier School, Tanakpur Road, Tigri Chauraha, Amaun, Udham Singh Nagar District, Uttarkhand- 262308 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.

13. A minority status certificate be issued accordingly.

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

Signed, pronounced and published on **Wednesday, 22nd Day of January, 2025.**

DR. SHAHID AKHTER
MEMBER

MD