

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

Case No. 205 of 2022

In the matter of :-

Madrasa Makhdoomiya Sirajul Uloom Jajmau, Kanpur, Uttar Pradesh- 208010.

..... Petitioner

Vs

1. Additional Chief Secretary, School Education Department, Government of Uttar Pradesh, Bahu Khandi, Secretariat, Lucknow, Uttar Pradesh- 226 001.

2. Additional Chief Secretary, Minority Welfare and Waqf Department, Government of Uttar Pradesh.

..... Respondents

Present: Mr. Junais P., Advocate for the petitioner.
None for the respondent.

ORDER

DATED: 21.01.2025

Dr. Shahid Akhter, Member, NCMEI

1. This petition has been received on 25.10.2022 by hand through Mr. Junais P., Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to Madrasa Makhdoomiya Sirajul Uloom Jajmau, Kanpur, Uttar Pradesh- 208010.

2. Learned counsel for the petitioner filed an affidavit of Mr. Laiq Ahmad, Secretary of Anjuman Makhdoomiyan Sirajul Uloom 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. It is also stated in the affidavit 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.

3. Learned counsel for the petitioner has filed copy of Unique ID No.: UP/2019/0236718 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, photocopy of application dated 20.10.2021 sent to the State Competent Authority i.e. Additional Chief Secretary,

School Education Department, Government of Uttar Pradesh, Bahu Khandi, Secretariat, Lucknow, Uttar Pradesh- 226 001 alongwith postal receipt and its acknowledgement receipt, notarized copy of Certificate of Registration of Anjuman Makhdoomiyah Sirajul Uloom, notarized copy of Memorandum of Association dated 25.11.97, Rules & Regulations alongwith list of members for the year 2017-18, copy of affiliation certificate dated 8.8.2011 issued by the Uttar Pradesh Madarsa Shiksha Parishad, Lucknow granting affiliation to the petitioner institution and Board Resolution of the Society in favour of Mr. Laiq Ahmad, Secretary, Anjuman Makhdoomiyah Sirajul Uloom 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 488 students, all students were from the Muslim minority community. During the academic year 2021-22, out of the total 523 students, all students were from the Muslim minority community and during the academic year 2022-23, out of the total 679 students, all students were from the Muslim minority community. It is relevant to mention here that during the academic year 2020-21, out of 22 teachers, all teachers were from the Muslim Minority community. During the academic year 2021-22, out of 24 teachers, all the teachers were from the Muslim minority community and during the academic year 2022-23, out of 26 teachers, all the teachers were from the Muslim minority community.

5. It is stated in Col. No. 11 of the Physical Inspection Report that the petitioner institution is an aided institution whereas it is mentioned as 'Unaided' in the application format of minority status certificate filed by the petitioner institution.

5. It is stated in the petition that on dated 20.10.2021, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 05.10.2021 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 respondents dated 22.12.2022, the respondents have 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 22.02.2023. After service of letter/email to the physical inspection committee dated 27.02.2023 and reminder letter dated 27.07.2023, 28.08.2023, 22.11.2023, 28.12.2023, 28.02.2024, 9.4.2024 and 11.07.2024, District Magistrate, Kanpur Nagar vide letter dated 16.7.2024 has sent Physical Inspection Report, which was received in the Commission's Office on dated 24.07.2024 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 Muslim minority community and is being administered by Anjuman Makhdoomiyah Sirajul Uloom 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 Mr. Laiq Ahmad, Secretary of Anjuman Makhdoomiyah Sirajul Uloom.

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 Muslim minority community in the State of Uttar Pradesh as per the census of 2011 is 19.26%.

9. I have perused the 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 20.10.2021 and also petition for grant of MSC dated 25.10.2022. So, it is clear that the Memorandum of Association of the petitioner Society was registered 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 Memorandum of Association 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 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 un rebutted evidence produced on behalf of the petitioner, we find and hold that Madrasa Makhdoomiya Sirajul Uloom Jajmau, Kanpur, Uttar Pradesh- 208010 run by Anjuman Makhdoomiyah Sirajul Uloom 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.

12. Consequently, Madrasa Makhdoomiya Sirajul Uloom Jajmau, Kanpur, Uttar Pradesh- 208010 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 Muslim 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.

13. After compliance of the above order, 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 **Tuesday, 21st Day of January, 2025.**

DR. SHAHID AKHTER
MEMBER

MD