

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

CASE NO. 327 OF 2023

In the matter of:

**Jatiya Vidyalaya H.S. School, Town Hospital Colony, PO & PS –
Kharupetia, Darrang District, Assam – 784115.**

... Petitioner

Versus

**Joint Secretary, Department of Higher Education, Assam Secretariat,
Block C, Secretariat Complex, Dispur, Guwahati.**

... Respondent

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

ORDER

Date: 18.02.2025

Dr. Shahid Akhter, Member, NCMEI

1. This petition has been received on 16.11.2023 by hand through Mr. Junais P., Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to Jatiya Vidyalaya H.S. School, Town Hospital Colony, PO & PS – Kharupetia, Darrang District, Assam – 784115.

2. Learned counsel for the petitioner filed affidavit of Dr. Monjur Ahmed, Chairman, National Educational and Social Development Trust and authorized representative of petitioner institution 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. Learned counsel for the petitioner has filed a notarized copy of Unique ID No.: AS/2022/0314727 of the petitioner's Trust as given by the Niti Aayog Portal NGO Darpan, copy of the application dated 28.04.2023 submitted before the State Competent authority for NOC alongwith postal receipt and its tracking report, notarized copies of Trust Deed and Supplementary Trust Deed of National Educational and Social Development Trust. He has also filed notarized copy of The Certificate of Recognition issued by Office of the Assam Higher Secondary Education Council, Bamunimaidam Guwahati - 21 dated 21.02.2022 to the petitioner institution. He has filed original Resolution of the General Body of the Trust

in favour of Dr. Monjur Ahmed, Chairman, "National Educational and Social Development Trust" for obtaining MSC from this Commission.

4. As per the information supplied by the unaided petitioner institution with regard to students' strength during the academic year 2020-21, it is mentioned that out of the total 438 students, 426 students were from the Muslim minority community, 02 students were from the Christian minority community and 10 students were Hindu. In the year 2021-22, it is mentioned that out of the total 429 students, 415 students were from the Muslim minority community, 01 student was from the Christian minority community and 13 students were Hindu. In the year 2022-23, it is mentioned that out of the total 414 students, 400 students were from the Muslim minority community, 02 students were from the Christian minority community and 12 students were Hindu. It is relevant to mention here that during the academic year 2020-21, out of the total 20 teachers, 15 teachers were from Muslim minority community, 01 teacher was from Christian minority community 04 teachers were Hindu. In the year 2021-22, out of the total 21 teachers, 15 teachers were from Muslim minority community, 01 teacher was from Christian minority community 05 teachers were Hindu. In the year 2022-23, out of the total 19 teachers, 14 teachers were from Muslim minority community, 01 teacher was from Christian minority community 04 teachers were Hindu.

5. It is stated in the petition that on dated 28.04.2023, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 06.05.2023 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 09.01.2024 and 04.04.2024 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 21.05.2024, after service of letter/ email to the physical inspection committee dated 08.07.2024 and 20.09.2024, the District Commissioner, Darrang, Mangaldai, has sent physical inspection report dated 17.09.2024, which was received in the Commission's Office on dated 01.10.2024 wherein they have recommended to grant minority status certificate to the petitioner institution.

7. Heard learned counsel for the petitioner, perused the pleadings, the documents filed by the petitioner and affidavit of Dr. Monjur Ahmed, Chairman, National Educational and Social Development Trust and authorized representative of petitioner institution.

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 National Educational and Social Development Trust, 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 Dr. Monjur Ahmed, Chairman, National Educational and Social Development Trust and authorized representative of petitioner institution.

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 Assam as per the census of 2011 is 34.22%.

10. I have perused the Supplementary Trust Deed of the petitioner institution, which was registered before the Senior Sub-Registrar, Firms, Trust, Chits, Mangaldai, Darang, Assam, on dated 17.03.2023 which is before the filing of NOC application U/s 10 of the NCMEI Act, 2004 dated 28.04.2023 and petition for grant of MSC on dated 16.11.2023.

11. The Supplementary Trust Deed dated 17.03.2023 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 Jatiya Vidyalaya H.S. School, Town Hospital Colony, PO & PS – Kharupetia, Darrang District, Assam – 784115, run by the National Educational and Social Development Trust, 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, Jatiya Vidyalaya H.S. School, Town Hospital Colony, PO & PS – Kharupetia, Darrang District, Assam – 784115, is declared as 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 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 **Tuesday, 18th day of February, 2025.**

**DR. SHAHID AKHTER
MEMBER**

DSS