

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

Case No. 202 of 2023

In the matter of :-

**Divine Mercy School, Mavi Road, Orai, Jalaun District, Uttar
Pradesh 258001.**

..... Petitioner

V/s

**Additional Chief Secretary, Department of Secondary Education,
Govt. of Uttar Pradesh, Bahu Khandi, Secretariat, Lucknow, Uttar
Pradesh-226001**

..... Respondent

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

ORDER

DATED 18.02.2025

Dr. Shahid Akhter, Member, NCMEI

1. This petition has been received on 04.08.2023 by hand through Mr. Jose Abraham, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to Divine Mercy School, Mavi Road, Orai, Jalaun District, Uttar Pradesh 258001.
2. Learned counsel for the petitioner filed an affidavit of Fr. Denis D' Souza, Secretary of the Catholic Diocese of Jhansi 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 and also stating 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 notarized copy of Unique ID No. : UP/2017/0154117 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, photocopy of application dated 01.04.2023 sent to the State Competent Authority i.e. Additional Chief Secretary, Secondary Education Department, Babu Bhawan, 7th Floor, Lucknow, Uttar Pradesh alongwith postal receipt and its tracking report, notarized copy of Certificate of Registration of Catholic Diocese of Jhansi Education Society, notarized copy of Memorandum of Association alongwith list of founding members of the Society, notarized copy of Amended Memorandum of Association dated 03.11.2015 alongwith list of present members of the Society, downloaded/notarized copy of affiliation order dated 12.07.2021 issued by the Deputy Secretary/Joint Secretary (Aff), CBSE to the unaided petitioner institution from 01.04.2022 to 31.03.2027 for the Senior Secondary Level to the petitioner institution and resolution of the General Body of the Society in favour of Fr. Denis D' Souza, Secretary of the Catholic Diocese of Jhansi Education Society for obtaining MSC from this Commission.

4. As per the information supplied by the petitioner unaided institution with regard to students strength as on Academic Year 2020-21, it is mentioned that out of total 570 students, 42 students were from the Muslim minority community, 7 students were from the Christian minority community, 02 students were from the Sikh minority community and 519 students were Hindus, in the year 2021-22, it is mentioned that out of total 525 students, 46 students were from the Muslim minority community, 07 students were from the Christian minority community, and 472 students were Hindus and in the year 2022-23, it is mentioned that out of total 604 students, 60 students were from the Muslim minority community, 08 students were from the Christian minority community, and 536 students were Hindus. In the academic year 2020-21, out of the total 26 teachers, 01 teacher was from the Muslim minority community, 06 teachers were from the Christian minority community and 19 teachers were Hindus, in the academic year 2021-22, out of the total 29 teachers, 01 teacher was from the Muslim minority community, 09 teachers were from the Christian minority community and 19 teachers were Hindus and in the academic year 2022-23, out of the total 39 teachers, 01 teacher was from the Muslim minority community, 21 teachers were from the Christian minority community and 17 teachers were Hindus.
5. It is stated in the petition that on dated 01.04.2023, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 04.04.2023 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 / email dated 17.08.2023, 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 07.11.2023 After service of letters/emails to the physical inspection committee dated 05.01.2024 and 26.03.2024, Physical Inspection Committee, District Collector has sent physical inspection report which was received in the Commission's Office on dated 07.05.2024 wherein they have not recommended to grant minority status certificate to the petitioner institution. As per census report of 2011 Christian minority community in the state of Uttar Pradesh is 0.18%. it is mentioned in the physical inspection report that in the year 2023-24, out of the total 806 students, 07 students are from the Christian minority community, which is 0.86% the total student which is more than the state census of 2011 i.e. 0.18%.
7. Heard the Learned Counsel for the petitioner, perused the pleading of the petition, the documents filed by the petitioner and affidavit of Fr. Denis D' Souza, Secretary of the Catholic Diocese of Jhansi 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 Uttar Pradesh as per the census of 2011 is 0.18%.

9. 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 Catholic Diocese of Jhansi 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 Fr. Denis D' Souza, Secretary of the Catholic Diocese of Jhansi Education Society.
10. I have perused the Amended Memorandum of Association of the petitioner institution which was registered before the Assistant Registrar of Societies on dated 03.11.2015 which is before the filing of NOC applications U/s 10 of the NCMEI Act, 2004 dated 01.04.2023 and petition for grant of MSC on dated 04.08.2023. 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.
11. The Amended Memorandum of Association dated 03.11.2015 and all the documents produced by the petitioner institution clearly reflects that the beneficiaries of the petitioner institution are primarily the members of the Christian minority community. In addition, the said facts 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.
12. Relying on the said un rebutted evidence produced on behalf of the petitioner, we find and hold that Divine Mercy School, Mavi Road, Orai, Jalaun District, Uttar Pradesh 258001 run by Catholic Diocese of Jhansi 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.
13. Consequently, Divine Mercy School, Mavi Road, Orai, Jalaun District, Uttar Pradesh 258001 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.
14. 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