

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

Case No. 40 of 2023

In the matter of :-

H.K.G.N. International School, Purdil Nagar, Hathras Dist., Uttar Pradesh.

..... **Petitioner**

V/s

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

..... **Respondents**

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

ORDER

DATED 26.03.2025

Dr. Shahid Akhter, Member, NCMEI

1. This petition has been received on 24.01.2023 by hand through Mr. Junais P., Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to H.K.G.N. International School, Purdil Nagar, Hathras Dist., Uttar Pradesh - 204214.
2. Learned counsel for the petitioner filed an affidavit of Mr. Afzal Ali, Managing Trustee of Haji Akhtar Husain Marhuma Hajjan Shamim Bano Memorial Trust, 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 copy of Unique ID No. : UP/2022/0328057 of the petitioner's Trust as given by the Niti Aayog Portal NGO Darpan, photocopy of application dated 07.10.2021 sent to the State Competent Authority alongwith postal receipt and its tracking report, notarized copy of Trust Deed alongwith members of the trust, notarized copy of Supplementary Trust Deed alongwith present members of the trust, notarized copy of the Certificate of recognition dated 06.10.2023 issued by District Basic Education Officer, Hathras for the period valid from 06.10.2023 to 06.10.2024, upto Upper Primary & Junior School Level to the petitioner institution and resolution of the General Body of the Trust in favour of Mr. Afzal Ali, Managing Trustee of Haji Akhtar Husain Marhuma Hajjan Shamim Bano Memorial Trust, 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 2019-20, it is mentioned that out of total 99 students, 43 students were from the Muslim minority community, and 56 students were Hindu, In the year 2020-21, it is mentioned

that out of total 67 students, 28 students were from the Muslim minority community and 39 students were Hindu and in the year 2022-23, it is mentioned that out of total 245 students, 116 students were from the Muslim minority community and 129 students were Hindu. It is relevant to mention here in the academic year 2019-20, out of the total 14 teachers, 03 teachers were from the Muslim minority community and 11 teacher was Hindu, In the academic year 2020-21, out of the total 14 teachers, 04 teachers were from the Muslim minority community and 10 teacher was Hindu and in the academic year 2022-23, out of the total 16 teachers, 12 teachers were from the Muslim minority community, and 04 teachers were Hindu.

5. It is stated in the petition that on dated 07.10.2021, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 12.10.2021 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 / email dated 28.11.2023, 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 07.02.2024. After service of letters/emails to the physical inspection committee dated 04.03.2024, 26.06.2024, 02.09.2024, and 22.10.2024, Physical Inspection Committee, Chief Development Officer, Hathras has sent a letter dated 25.11.2024 physical inspection report which was received in the Commission's Office on dated 03.12.2024 wherein they have recommended to grant minority status certificate to the petitioner institution.
7. Heard the learned counsel for the petitioner, perused the pleading of the petition, the documents filed by the petitioner and affidavit of Mr. Afzal Ali, Managing Trustee of Haji Akhtar Husain Marhuma Hajjan Shamim Bano Memorial Trust.
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. 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 Trust of Haji Akhtar Husain Marhuma Hajjan Shamim Bano Memorial 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 Mr. Afzal Ali, Managing Trustee of Haji Akhtar Husain Marhuma Hajjan Shamim Bano Memorial Trust.

10. I have perused the Supplementary Trust Deed of the petitioner institution which was registered before the Deputy Registrar, Hathras on dated copy of which was obtained on 04.10.2021 which is before the filing of NOC applications U/s 10 of the NCMEI Act, 2004 dated 07.10.2021 and petition for grant of MSC on dated 24.01.2023. 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 Supplementary Trust Deed dated 04.10.2021 and all the documents produced by the petitioner institution clearly reflects that the beneficiaries of the petitioner institution are primarily the members of the Muslim 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 unrebutted evidence produced on behalf of the petitioner, we find and hold that H.K.G.N. International School, Purdil Nagar, Hathras Dist., Uttar Pradesh - 204214 run by Haji Akhtar Husain Marhuma Hajjan Shamim Bano Memorial 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, H.K.G.N. International School, Purdil Nagar, Hathras Dist., Uttar Pradesh - 204214, 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 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 **Wednesday, 26th Day of March, 2025.**

**DR. SHAHID AKHTER
MEMBER**

DSS