

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

**APPEAL NO. 03 OF 2023**

**In the matter of :-**

**Acharya Vidyasagar Public School, G – Pothyai, Gaushala, New Pichhore Road, Khaniyadhana, District – Shivpuri, Madhya Pradesh – 473 990.**

**..... Petitioner**

**Vs.**

**Secretary, Backward Classes and Minority Welfare Department,  
Government of Madhya Pradesh, Mantralaya, Bhopal, Madhya Pradesh**

**..... Respondent**

**Appeal U/s 12(a) of the NCMEI Act, 2004 against  
the impugned order no. K-09-Reg/2022-23/3952 dated  
29.08.2022**

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

**Dated: 03<sup>rd</sup> December, 2025**

**Dr. Shahid Akhter, Member, NCMEI**

1. In this appeal filed by the appellant on dated 29.09.2023 U/s 12A of the National Commission for Minority Educational Institutions Act, 2004 (in short 'NCMEI'). The appellant has challenged the impugned order dated 29.08.2022 passed by the Competent Authority of the State of Madhya Pradesh. The impugned order read as follows :-

*Subject : Application U/s 10 of the NCMEI Act for grant of No Objection Certificate (NOC) in favor of Acharya Vidyasagar Public School, G – Pothyai, Gaushala, New Pichhore Road, Khaniyadhana, District – Shivpuri, Madhya Pradesh – 473 990.*

Sir,

*I am directed to refer to your letter no. 701 dated 09.05.2022 on the subject cited above and to inform that if the institution is already in operation, it is not possible to issue a NOC for a minority education institution, as per rules. This is because NOCs are only granted to new institutions.*

2. The background facts of this case that the appellant filed an application under Section 10 of the NCMEI Act, 2004 to the respondent on dated 09.05.2022 for grant of No Objection Certificate (in short 'NOC') which was disposed of vide impugned order dated 29.08.2022. In these circumstances, this appeal has been filed by the appellant against the above impugned order.
3. As per the information supplied by the District Collector, Shivpuri to the unaided petitioner institution with regard to students' strength, it is mentioned that during the academic year 2022-23, out of the total 356 students, 21 students were from

the Muslim minority community, 110 students were from the Jain minority community and 225 students were Hindu. During the academic year 2023-24, out of the total 396 students, 17 students were from the Muslim minority community, 01 student was from the Sikh minority community, 117 students were from the Jain minority community and 261 students were Hindu and during the academic year 2024-25, out of the total 376 students, 12 students were from the Muslim minority community, 04 students were from the Sikh minority community, 94 students were from the Jain minority community and 266 students were Hindu. It is relevant to mention here that during the academic year 2022-23, out of 25 teachers, 01 teacher was from the Jain Minority community and 24 teachers were Hindu, During the academic year 2023-24, out of 29 teachers, 01 teacher was from the Jain Minority community and 28 teachers were Hindu and during the academic year 2024-25, out of 25 teachers, 01 teacher was from the Christian Minority community and 25 teachers were Hindu.

4. After service of registered notice / email dated 28.11.2023, 01.04.2024 and 20.05.2024. An email has been received from dated 4.1.2024 has already been received through email from Commissioner, Backward Classes & Minority Welfare, Madhya Pradesh along with copy of letter dated 4.1.2024 and another email dated 22.5.2024 has been received from Nodal Officer, OBC & Minority Welfare, Government of Madhya Pradesh enclosing therewith copy of the letter dated 20.5.2023 of Deputy Director, Backward Classes & Minority Welfare, Madhya Pradesh, which was taken on record on 4.9.2024. It is stated in both the letters that NOC cannot be granted to the institutions which have been established and there is provision to grant NOC only to the newly established institutions. The reply received from the State Government does not hold much water. Hence, this is the fit case for intervention by this Commission.
5. 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 13.11.2024. After service of letter/emails to the physical inspection committee dated 22.11.2024 and reminder dated and 17.02.2025, Physical Inspection Committee, has sent letter dated 21.04.2025 which was received by post in the Commission's Office on dated 28.04.2025 which was duly signed by members of the physical Inspection Committee wherein they have recommended to grant minority status certificate to the petitioner institution.
6. It is argued by the learned counsel for the appellant on merits of the appeal that the concerned authority of the State of Madhya Pradesh has failed to appreciate the provisions of NCMEI Act, 2004 and wrongly disposed of the application with the said observations given in the impugned order. Learned counsel for the appellant submitted that the appellant institution i.e. Acharya Vidyasagar Public School, G – Pothyai, Gaushala, New Pichhore Road, Khaniyadhana, District – Shivpuri, Madhya Pradesh – 473 990 is established and administered by the Shri. Digambar Jain Shraman Sanskriti Sansthan a Registered Society vide registration no. 320/Jaipur/1996). All the founding and present members of the said society are belonging to Jain minority community. It is worthwhile that the said society was formed by the members of the Jain minority community.
7. Learned Counsel for the appellant further submitted that the appellant institution is being established by the members of the Jain minority community under Society "Acharya Vidyasagar Public School, G – Pothyai, Gaushala, New Pichhore Road, Khaniyadhana, District – Shivpuri, Madhya Pradesh – 473990", the appellant institution has approached by way of application dated 09.05.2022 to the competent authority of the State Government of Madhya Pradesh for grant of NOC to the appellant institution as per Section 10 of the NCMEI Act, 2004 to establish the appellant institution as a minority educational institution. The respondent without considering the facts that the appellant institution fulfilled all the indica for grant of NOC to establish the appellant institution as a minority

educational institution dismissed / rejected the application under section 10 of the NCMEI Act, 2004 of appellant institution by way of impugned order dated 29.08.2022.

8. Learned counsel for the appellant further submitted that the stand taken by respondent to deny NOC to the appellant institution on the ground that since the appellant institution has already been established and is in operation, is nothing but it is clearly against the verdict of Hon'ble Apex Court in the matter of Sisters of St. Joseph of Cluny V/s The State of West Bengal & Others (Civil Appeal No. 3945/2018) judgement dated 18.04.2018. Establishment of an institution and establishment of such institution as a minority institution are entirely different and, therefore, only the appellant institution approached the respondent to grant NOC to the appellant institution to establish the appellant institution as a minority educational institution as per Section 10 of NCMEI Act, 2004. But the respondent without considering the facts and law settled by the Hon'ble Apex Court dismissed / rejected the said application of the appellant by simply stating that the appellant institution is already been established and is in operation.
9. Impugned order was passed by the respondent on 29.08.2022 but the appellant was received copy of the said order on November 2022. Appellant was underwent for medical treatment and he was unable to sign the necessary document for filing appeal before this Hon'ble Commission. Delay in filing appeal has been has been occurred and separate application for condonation of delay is filed. After preparing the appeal sent the same to the appellant for necessary signature and attestation but the signing authority of the appellant institution was out of station, the appellant institution was unable to file the appeal before this Commission within the stipulated time. There is no malefide on the part of the appellant for not preferring an appeal before this Commission within the limitation. The delay caused in filing appeal is not deliberate and intentional but because of the facts and above reasons. So learned counsel for the appellant prayed to condone the delay of 335 days in filing the appeal.
10. Learned counsel for the appellant submitted that the appellant institution is fulfilling all the criteria for grant of MSC as per NCMEI Act, 2004. The appellant institution is established and administered by the members of the Jain minority community under Shri. Digambar Jain Shraman Sanskriti Sansthan and the Memorandum of Association of said society clearly reflects that the appellant institution has been established primarily for the benefits of Jain minority community. All the founding and present members of the petitioner society belong to Jain minority community and the institution is properly recognized by CBSE. So he prayed to grant MSC to the appellant institution.
11. Appellant has filed affidavit of Mr. Suresh Kumar Jain, Secretary and the authorized representative of the Shri. Digambar Jain Shraman Sanskriti Sansthan, impugned order dated 29.08.2022, copy of application dated 09.08.2022, Certificate of Registration, Certificate, Memorandum of Association, Rules and Regulations alongwith amendments and list of founding member, Recognition Certificate, Unique ID of the petitioner's society as given by the Niti Aayog Portal NGO Darpan. Appellant has not filed the list of present members of the society.
12. After hearing the Learned Counsel for the appellant we have perused the above mentioned records.
13. We have gone through the cause stated in the application Under Section 5 of Limitation Act and in our considered opinion it constitutes a sufficient cause for the purpose of condonation of delay. The condonation of delay advances cause of justice rather than to defeat. According to the appellant, the delay is 335 days in filing this appeal. There is no deliberate delay on the part of the appellant in filing the present appeal. Looking to the facts and circumstances of the case and the impugned order passed by the respondent, the delay caused in filing appeal

by the appellant deserves to be condoned on the ground stated in the application. Accordingly and in view of the aforesaid discussion, the application for condonation of delay is allowed. The delay in filing the present appeal, in the interest of justice, is hereby condoned.

14. By the impugned order respondent has disposed of the application under section 10 of the NCMEI Act, 2004 and stated that this department issues NOC only for establishment of minority educational institutions in Madhya Pradesh under section 2(a) of the NCMEI Act, 2004. However your institution already been established and is in operation.
15. The NCMEI Act, 2004 was amended twice in order to further broad based and expand the functions as well as the quasi judicial powers of the NCMEI. The sections relevant for just decision of this case are set out here below:

***“Section 10 :- Right to establish a Minority Educational Institution :-***

*(1) Subject to the provisions contained in any other law for the time being in force, any person, who desires to establish a Minority Educational Institution may apply to the competent authority for the grant of no objection certificate for the said purpose.”*

*(2) The Competent authority shall,—*

*(a) on perusal of documents, affidavits or other evidence, if any; and*

*(b) after giving an opportunity of being heard to the applicant, decide every application filed under sub-section (1) as expeditiously as possible and grant or reject the application, as the case may be: Provided that where an application is rejected, the Competent authority shall communicate the same to the applicant.*

*(3) Where within a period of ninety days from the receipt of the application under sub-section (1) for the grant of no objection certificate,—*

*(a) the Competent authority does not grant such certificate; or*

*(b) where an application has been rejected and the same has not been communicated to the person who has applied for the grant of such certificate, it shall be deemed that the Competent authority has granted a no objection certificate to the applicant.*

*(4) The applicant shall, on the grant of a no objection certificate or where the Competent authority has deemed to have granted the no objection certificate, be entitled to commence and proceed with the establishment of a Minority Educational Institution in accordance with the rules and regulations, as the case may be, laid down by or under any law for the time being in force.*

*Explanation —*

*For the purposes of this section —*

*(a) “applicant” means any person who makes an application under sub-section (1) for establishment of a Minority Educational Institution;*

*(b) "no objection certificate" means a certificate stating therein, that the Competent authority has no objection for the establishment of a Minority Educational Institution".*

**Section 12 A:-**

- (1) Any person aggrieved by the order of refusal to grant no objection certificate under sub-section (2) of section 10 by the Competent Authority for establishing a Minority Educational Institution, may prefer an appeal against such order to the Commission.*
- (2) An appeal under sub-section (1) shall be filed within thirty days from the date of the order referred to in sub-section (1) communicated to the applicant: Provided that the Commission may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that there was sufficient cause for not filing it within that period.*
- (3) An appeal to the Commission shall be made in such form as may be prescribed and shall be accompanied by a copy of the order against which the appeal has been filed.*
- (4) The Commission, after hearing the parties, shall pass an order as soon as may be practicable, and give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice.*
- (5) An order made by the Commission under sub- section (4) shall be executable by the Commission as a decree of a civil court and the provisions of the Code of Civil Procedure, 1908 (5 of 1908), so far as may be, shall apply as they apply in respect of a decree of a civil court.*

**Section 12B:- Power of Commission to decide on the minority status of an educational institution.**

- (1) Without prejudice to the provisions contained in the National Commission for Minorities Act, 1992 (19 of 1992), where an authority established by the Central Government or any State Government, as the case may be, for grant of minority status to any educational institution rejects the application for the grant of such status, the aggrieved person may appeal against such order of the authority to the Commission.*
- (2) An appeal under sub-section (1) shall be preferred within thirty days from the date of the order communicated to the applicant: Provided that the Commission may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that there was sufficient cause for not filing it within that period.*
- (3) An appeal to the Commission shall be made in such form as may be prescribed and shall be accompanied by a copy of the order against which the appeal has been filed.*
- (4) On receipt of the appeal under sub-section (3), the Commission may, after giving the parties to the appeal an opportunity of being heard, decide on the minority status of the educational institution and shall proceed to give such direction as it may deem fit and, all such directions shall be binding on the parties."*

16. As per the above provisions, the person who desires to establish minority institution is to apply to the competent authority of the State Government for grant

of NOC for the said purpose under section 10 of the NCMEI Act, 2004. The Act of 2004 also conferred powers of appeal against orders of the competent authority of State to the NCMEI under section 12A as well as over authorities that were established by the Central Government or State Government who rejected application for grant of MSC to an educational institution under section 12B of the NCMEI Act, 2004.

17. The Hon'ble Supreme Court in Civil Appeal No. 3945 of 2018 in the matter of Sisters of St. Joseph of Cluny V/s. The State of West Bengal and Ors. (2018) 6 SCC 772 vide order dated 18.4.2018 has also held that:-

*“However, Section 10(1), which was introduced at the same time as Section 11(f) by the Amendment Act of 2006, carves out one facet of the aforesaid power contained in Section 11(f), namely the grant of a no objection certificate to a minority educational institution at its inception. Thus, any person who desires to establish a minority educational institution after the Amendment Act of 2006 came into force, must apply only to the competent authority for the grant of a no objection certificate for the said purpose. It is a little difficult to subscribe to Shri Hedge's argument that the said powers are concurrent. Harmoniously read, all applications, for the establishment of a minority educational institution after the Amendment Act of 2006 must go only to the competent authority set up under the statute. On the other hand, for the declaration of its status a minority educational institution at any state post establishment, the NCMEI would have the power to decide the question and declare such institution's minority status.”*

18. Looking to the provisions of NCMEI Act, 2004 and the judgement of Hon'ble Apex Court in the matter of Sisters of St. Joseph of Cluny (Supra), this Commission has both jurisdiction original as well as appellate, any educational institution who desires to establish minority educational institution has two options. Firstly, he can apply before an authority established by the Central Government or any State Government, Union Territory as the case may be for grant of MSC to any educational institution and if above authority rejected the application for grant of MSC, the aggrieved person may appeal against such order of the authority to this Commission under section 12B of NCMEI Act, 2004. Secondly, under section 10 of NCMEI Act, 2004 whosoever desires to establish an minority educational institution has to apply the Competent Authority of the State Government for grant of NOC within a period of 90 days from the receipt of the application, if competent authority does not grant NOC or application has been rejected but not communicated to the appellant it shall be deemed that NOC has granted and the appellant can file application for grant of NOC straightaway to this Commission. Any person aggrieved by the order of refusal to grant NOC by the competent authority may prefer an appeal to this Commission under section 12A of NCMEI Act, 2004.
19. In our considered opinion educational institution can opt one course either to file application for grant of MSC before the State Competent Authority or to file grant of NOC. In the present case appellant has applied for grant of NOC to the State Competent Authority but instead of deciding the NOC application competent authority of the State has passed impugned order which is under challenged in this appeal.
20. 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 Jain minority community in the State of Madhya Pradesh as per the census of 2011 is 0.78%.

21. Relying on the said un rebutted evidence produced on behalf of the petitioner, we find and hold that Acharya Vidyasagar Public School, G – Pothyai, Gaushala, New Pichhore Road, Khaniyadhana, District – Shivpuri, Madhya Pradesh – 473990 run by Shri. Digambar Jain Shraman Sanskriti Sansthan 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 Jain minority community.
22. Consequently, Acharya Vidyasagar Public School, G – Pothyai, Gaushala, New Pichhore Road, Khaniyadhana, District – Shivpuri, Madhya Pradesh – 473 990 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 certified copies of Certificate of Registration, Memorandum of Association alongwith its amendments and list of founding members of the Society and Rules & Regulations. an affidavit or undertaking to the fact that the petitioner institution shall not deny admission of eligible candidate of the Jain 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.
23. After compliance of the above order, a minority status certificate be issued accordingly.
24. In view of the above, the present appeal is disposed of in accordance with this order.

Signed, pronounced and published on **Wednesday, 03<sup>rd</sup> day of December, 2025.**

**DR. SHAHID AKHTER  
MEMBER**