

F. NO. 05 OF 2017
NATIONAL COMMISSION FOR MINORITY
EDUCATIONAL INSTITUTIONS

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

Despite service of notice, there is no appearance on behalf of the respondent. Hence, the case is proceeded ex-parte.

Learned counsel for the petitioner has filed his Vakalatnama.

He has produced the original Certificate of Registration of The Muslim Educational Welfare Society, which after due verification was returned to him.

He has filed the certified copies of the Memorandum of Association, Rules & Regulations, amended Memorandum of Association and amended Rules & Regulations of the said society.

He has filed the affidavit of Mr. Zakir Hussain 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 community.

He has produced the original order dated 16.1.2014 issued by the Joint Secretary, Ayush Department, Uttar Pradesh granting NOC to the petitioner institution and the original order dated 21.12.201 issued by the Ministry of Ayurveda, Yoga & Naturopathy, Unani, Siddha and Homoeopathy (AYUSH) granting permission to the petitioner institution, which after due verifications were returned to him.

This case emanates from U.P. The Division Bench of the Allahabad High Court has rendered a decision in Special Appeal No. 903 of 2006 decided on 24.08.2006 declaring that the State Government does not have power to issue minority status certificate to a minority institution. In this view of the matter, it is a fit case for intervention by this Commission.

The petitioner institution has applied for grant of minority status certificate on the ground that the same has been established and administered by The Muslim Educational Welfare Society, which is a registered society, constituted by the members of the Muslim community. All the founding and present members of the said society are also Muslims. 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. Zakir Hussain.

The amended Memorandum of Association of the said Society clearly reflects that the beneficiaries of the petitioner institution are members of the Muslim community. In addition, the said fact also stands proved from the affidavit of Mr. Zakir Hussain. There is no document on record to rebut the documentary evidence produced on behalf of the petitioner institution.

We have already held in the Case No. 1320 of 2009 (Buckley Primary School vs. The Principal Secretary to Government, School & Mass Education

Department, Government of Orissa) decided on 06.07.2010 that the identifying criteria of fixation of the percentage by the State Government governing admission of a minority community in a minority education institution cannot be included in the indicia for determining the minority status of such an institution.

Relying on the said unrebutted evidence produced on behalf of the petitioner, we find and hold that R.B. Ayurvedic Medical College & Hospital, Jalesar Road, Agra, Uttar Pradesh run by The Muslim Educational Welfare 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 Muslim community. Consequently, R.B. Ayurvedic Medical College & Hospital, Jalesar Road, Agra, Uttar Pradesh is declared as a minority educational institution within the meaning of Section 2(g) of the National Commission for Minority Educational Institutions Act. A minority status certificate be issued accordingly. The minority status certificate be given Dasti.

ZAFAR AGHA
MEMBER

DR. BALTEJ SINGH MANN
MEMBER

DR. NAHEED ABIDI
MEMBER

9.2.2017
MD

Recd
on 15/1/17
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