

**NATIONAL COMMISSION FOR MINORITY  
EDUCATIONAL INSTITUTIONS (NCMEI)**

**Case No. 07 of 2018**

**In the matter of :-**

Bara Intercollege, Vill. & Post Bara, Ghazipur, UP  
through its Manager Mr. Shahbuddin

..... Petitioner

V/s

Deputy Director, Minorities Welfare Department, Govt. of UP

..... Non Petitioner / Respondents

1. Mr. Mohd. Matloob Khan, R/o Bara, District Ghazipur (UP)

2. Mr. Mohd. Aslam Khan, R/o Bara, District Ghazipur (UP)

.....Interveners

Present :

1. Mr. Junais P., Learned Counsel for the petitioner

2. Mr. Tamin Qadri, Learned Counsel for the  
Interveners

3. None present on behalf of the non petitioner /  
respondent

**ORDER**

**DATED 28.11.2018**

**Justice Narendra Kumar Jain, Chairman**

Mr. Shahbuddin S/o Mr. Nizamuddin, Manager of the Muslim Welfare Association, Age 55 Years, Resident of Bara, District Ghazipur (UP) has filed this petition on 04.12.2017 for grant of Minority Status Certificate (MSC) to the Bara Intercollege, Bara, District Ghazipur (UP).

2. The brief fact of the case are that the petitioner has submitted the petition in the prescribed format and contended that vide order dated 13.11.2017 in SLP (C) 29994-29995 of 2017, the Hon'ble Apex Court granted liberty to approach this Commission and then Commission will decide the matter afresh based on relevant material as well as the two judgements that has not examined. The Commission declared the petitioner as a minority institution vide its order dated 08.12.2014. The said order dated 08.12.2014 of the Commission was challenged before the Hon'ble High Court of Allahabad by filing writ. The Learned single judge of the High Court vide its order dated 30.11.2016 in Writ Petition No. 23297 and 36710 of 2016 was pleased to remand the matter back to the Commission to re-enquire into the matter keeping in mind the previous order of the High Court dated 04.05.1999, Writ Petition No. 7827 of 1998 and dated 11.09.2012 Special Appeal No. 401 of 1999.

3. The petitioner further submitted that State Govt. of UP conferred linguistic minority status to the Bara Intercollege vide order dated 13.03.1995. The petitioner Bara Intercollege uses urdu as a medium of institution, since its inception, which is a language used by muslim minority. Its use as a medium of instruction at the Intercollege goes a long way in establishing the intention component and the founder(s). Before the start of the classes a prayer in urdu is recited and that on all Fridays the Intercollege is run between 6.00 am to 11.30am in order to enable the students to offer "Namaz". Urdu is the special subject which is taught in X<sup>th</sup> and XII<sup>th</sup> standards, the proceedings of the meetings of the committee are in Urdu, the annual functions are all in urdu and the Intercollege is governed by the Intermediate Education Act 1921 with the benefit of Section 16FF. Hon'ble High Court of Allahabad vide its order dated 05.04.1999 and 11.09.2012 was quashed the Minority Status Certificate conferred by the State Govt. and held that State Govt. has no power to grant Minority Status Certificate to any institutions. The society passed resolution to change the name as to Muslim Welfare Association, place restrictions on matters of enrollments of new members, change its objects in its Memorandum of Association and purpose change its rules and regulations as well as ensuring all members of the governing body were muslims. These amendments were only declaratory in nature thus negating any idea to the contrary. The division bench of Hon'ble High Court of Allahabad vide its order dated 01.08.2017 dismissed the appeals to the extent they sought minority status while allowing them to the extent that learned single judge had remanded the case to the Commission. The Court ruled that the learned single judge was not justified in remanding the matter back to the Commission as no Commission can sit in appeal on the finding of a constitutional court as is the writ court under Article 226 of the constitution of India.

4. The petitioner also submitted that the Court additionally touched the merits of the case besides the remanding back issue and erroneously concluded that the instant case does not fall within the true meaning of a minority institution as is encapsulated by Article 30 and the law laid down by this Hon'ble High Court. Then the petitioner filed the SLP (C) before the Hon'ble Apex Court and vide its order dated 13.11.2017 Hon'ble Court granted liberty to the petitioner to approach National Commission. In the year 1948 one widow Nabihan Bibi W/o Late Raja Khan, a muslim women donated her land for the establishment of a Junior High School. The same lady had an implied wish that the institution should impart Islamic culture and knowledge. On dated 26.02.1952 National Association Bara Society was formed and got registered under the Societies Registration Act, 1860. The signatories of the Memorandum of Association consisted of 21 members, out of 14 members belonging to the minority community. Currently, in other categories of members out of 4500 life members, 4200 belong to the minority community. Whole and sole control existed with the minority community, thus solidifying its minority status. The institution was administered by a muslim for the last 5 years. Approx of its establishment fulfilling

requirements of Article 30 at inception itself. Well settled law laid down by the Hon'ble Apex Court was not followed in both the judgments. It finds elaboration in T. Varghese George V/s Kora K George and other (2012) 1 SCC, 369, the Hon'ble Supreme Court has laid down two tests deciding the minority character of the institution. The negative test is that a contribution from other communities to a minority institution and conferring benefits of the institution to the majority community are not the factors which matter in deciding the minority character of the institution. The positive test of that the intention in founding the institution must be to found an institution for the benefit of a minority community. Cultural educational referred in the Aims necessarily refers to the North India Muslim Culture. Reliance on "Ajeez Basha" case by the first writ court and the subsequent courts is flawed, as in Basha the institution came to be established by an act of central legislature viz. the Aligarh Muslim University Act 1920, hence making administration by an enactment of Parliament, post independence justified as per Article 30, while in the instant case it was a member of the minority community who established and administered the school. Mr. Tajammul Khan, which was made on the property donated by one Nabihan Bibi a muslim woman till the society was formed. Thus the institution had attained its minority status as was established and then administered by a member of the minority community.

5. The petitioner further submitted that a Junior High School was established on the said land by Mr. Tajammul Khan S/o Late Shareef Khan called the Junior High School, Bara, the name of Mr. Tajammul Khan the Chief Caretaker, is embossed in stone as the founder of the school. He administered the institution till the National Association Bara Society started administering it. As per law there is no requirement that the full membership of a body administering a minority institution be composed of exclusively minority community members. The minority institution still remains its minority character even if these are "sprinkling" of members of other communities as was expounded in 2005 (6) SCC 537 (P.A. Inamdar V/s State of Maharashtra)". Para 98 in the above judgement their lordship have relied upon In-Re Kerala Education Bill (AIR 1958 SC 956) Para 40. So the first writ court finding and the subsequent concurrence is untenable in law as it is preliminary based on the membership composition of the society managing the Inter College. The judgement of the first writ court is erroneous. It is not essential that all members belong from the minority community to establish a minority institution. Interpretation of the writ court is erroneous as to ignore the whole factual matrix whereby minority status can easily justified, most notably donation of land, institution established for Muslim by a muslim, rather instead picked and chose immaterial aspects to arrive at the conclusion that it is not a minority institution. Thus commission has given minority status on 08.12.2014 to the petitioner based on evidence. Therefore, petitioner prayed to upheld the previous order of this Commission dated 08.12.2014.

6. By filing written memorandum of arguments the petitioner further submitted that Mr. Mohd. Matloob Khan and Mr. Mohd. Aslam Khan, Interveners had failed to file reply. On the basis of judgements rendered by the Hon'ble Supreme Court, it is submitted that the uncontroverted evidence on record proves that petitioner institution before its upgradation was established by Mrs. Nabihan Bibi for the benefit of muslim community and it was also administered by the muslim community. Unrebutted statements of Mr. Shahbuddin read alongwith revenue record clearly proves that the petitioner college, which originated in School was established by a muslim widow namely Mrs. Nabihan Bibi on the land owned and possessed by her much before the registration of the National Association Bara, Ghazipur (UP) in 1948. In view of the decision (1998) 6 SCC 674 [“N. Ammad V/s Emjoy High School”], the said school be treated as a minority educational institution from that of its establishment by Mrs. Nabihan Bibi. Forgoing reasons the petitioner college is an minority institution within the meaning of Section 2(g) of the National Commission for Minority Educational Institutions (NCMEI) Act. Accordingly, petitioner is entitled to be declared as such by this National Commission.

7. Despite service of notice, none appeared on behalf of the State Govt. of UP. As a result whereof, the case proceeded ex-parte against the respondent.

8. On the other hand, Mr. Mohd. Matloob Khan and Mr. Mohd. Aslam Khan, Interveners (claiming to be life members, elected office bearers and executive members of the committee of management of National Association Bara at present name, Muslim Welfare Association Bara) filed objections on the petition of Bara Inter College, Bara, District Ghazipur, UP. Both interveners have contested the petition filed by the Bara Inter College, Bara, District Ghazipur (UP) with the facts that National Association, Bara is a registered society established in the year 1948 by all the villagers of Bara, District Ghazipur, UP (Hindus and Muslims). Institution was upgraded to the level of Higher Secondary School and after that as an intermediate College. The institution is known as Bara Inter College, Bara, District Ghazipur (UP). Present manager of the society has filed an application for minority status without the resolution of general body which is against the by-laws of the society. The institution was granted minority status certificate for the first time by the State of UP on 13.03.1995. It was challenged before the Hon'ble High Court of Allahabad by filing Writ Petition No. 7827 of 1998. The writ petition was allowed. The grant of minority status by the State Govt. was quashed. This judgement was challenged by the committee of management of the petitioner institution by filing Special Appeal No. 401 of 1999 which also came to be dismissed by a Division Bench of Allahabad High Court on 11.09.2012. As a consequence, the disapproval to grant of minority status to the institution attained finality. It is admitted that the judgement passed by the Hon'ble High Court as affirmed in Special Appeal, has attained

finality and has not been set aside or interfered with by the Hon'ble Apex Court.

9. Thereafter Manager of the institution Bara Inter College, Bara, District Ghazipur (UP) filed a petition before this National Commission on 03.03.2014 which is registered as Case No. 965 of 2014. This National Commission has granted minority status certificate to the petitioner institution on 08.12.2014. The order of the National Commission neither refers to the order passed by the learned single judge or the division bench nor the findings returned therein have been met. The State Govt. also passed some orders in view of the declaration granted by the statutory body. Then Writ Petition No. 23297 of 2016 has been filed by life members of the institution, whereas the other Writ Petition No. 36710 of 2016 has been filed by the office bearers and executive members of the committee of management. Both writ petitions are allowed and order dated 08.12.2014 passed by the National Commission was quashed and liberty is granted to the management of the institute to make fresh application for grant of minority status before this National Commission.

10. In the objections, it is also stated by the interveners that the institution has never been established as a minority institution and any subsequent attempt on its part to claim minority status has already been rejected by the Hon'ble High Court. It is also submitted that the orders passed by the Hon'ble High Court of Allahabad since have attained finality no contrary opinion could have been expressed in the present matter, without setting aside these orders. It is also stated that the Manager apparently has concealed the factum of orders passed by the Hon'ble High Court of Allahabad, and the declaration of minority status has been obtained by the National Commission on account of suppression and concealment of material facts.

11. The said society was established an institution in the name of Junior High School, Bara in the year 1948. The name of the institution was changed and now reads as Bara Inter College, Bara, District Ghazipur, UP, There was no issue with regard to the status of the institution between 1948 to 1995. The institution had not been established by the minority community. The membership of the society was open to all categories of persons irrespective of the community to which they belong. The findings recorded by the Writ Court with regard qua the establishment of the institution have not been so done by a minority community cannot in any way be revised by this National Commission under the Act of 2004. So intervener persons prayed that do not grant minority status to the petitioner and the petition filed by a Manager of Bara Inter College, Bara should be dismissed.

Both the parties, petitioners as well as the interveners have filed and relied upon the following documents :-

**(A) Petitioner's Documents**

- (i) Copy of order of Hon'ble Supreme Court dated 13.11.2017 passed in SLP No. 29994-29995 of 2017.
- (ii) Letter of National Commission dated 13.01.2015
- (iii) Copy of Minority Status Certificate issued by the National Commission
- (iv) Copy of order dated 08.12.2014 of National Commission
- (v) Society Renewal Certificate dated 11.02.2016
- (vi) Memorandum of Association
- (vii) Amended Memorandum of Association of Muslim Welfare Association, Bara, District Ghazipur, UP
- (viii) List of members of the managing committee of Muslim Welfare Association, Bara
- (ix) Letter of Secondary Education Council, UP dated 24.05.1972
- (x) Letter of Upper Secretary, UP dated 28.12.1992
- (xi) Photocopy of Revenue Record
- (xii) Photocopy of NGO Darpan Unique ID (Inactive)
- (xiii) Certified copy of Certificate of Registration of Societies
- (xiv) Certified copy of Memorandum of Association
- (xv) Certified copy of change name of Registered Society
- (xvi) Certified copy of amended Memorandum of Association
- (xvii) Certified copies of list of members during the year 2017-18 of the Muslim Welfare Society
- (xviii) Affidavit of Mr. Shahbuddin, Manager of Bara Inter College, Bara, District Ghazipur.
- (xix) Typed copy of Khatauni (revenue record)
- (xx) Photocopy of renewal of certificate of registration
- (xxi) Copy of order sheet dated 24.04.2018 of this Commission
- (xxii) Copy of order dated 30.04.2018 in Writ Petition No. 15572 of 2018
- (xxiii) Copy of Special Leave Petition filed before the Hon'ble Supreme Court of India with all annexures
- (xxiv) Photocopy of order dated 04.05.1999 in the case of Yogendra Nath Singh and Others Vs. State of UP and Ors. With annexures
- (xxv) Unique ID provided by Niti Aayog
- (xxvi) Affidavit of Mr. Shahbuddin dated 24.05.2018 with photocopy of documents already filed.

**(B) Interveners' Documents**

- (i) Order of Hon'ble Supreme Court dated 13.11.2017
- (ii) Photocopy of application form applicable w.e.f. 01.07.2017

- (iii) Photocopy of change of name of Registration of Society
- (iv) Bye-laws of National Association, Bara
- (v) Photocopy of form of application of this Commission
- (vi) Copy of order dated 30.11.2016 of Hon'ble High Court of Allahabad
- (vii) List of managing committee members of Muslim Welfare Association, Bara
- (viii) Copy of order of Division Bench of Allahabad High Court dated 01.08.2017
- (ix) Photocopy of Ruling of Yogendra Nath Singh Vs. State of UP (1999) 2 UPLBEC 1318
- (x) Photocopy of order of Special appeal of Allahabad High Court dated 11.09.2012
- (xi) Affidavit of Mr. Yogendra Singh
- (xii) Copy of order of Allahabad High Court dated 18.04.2018
- (xiii) Photocopy of Lease Deed of National Association, Bara
- (xiv) Certificate of Registration
- (xv) Copy of Revenue Record
- (xvi) Affidavit of Mr. Mohd. Jamal Khan, Mr. Mohd. Gufran Khan, Mr. Mohd. Imtiyaj Khan, Mr. Mohd. Matloob Khan, Mr. Mohd. Aurangzeb Khan, Mr. Mohd. Shamshed Khan

12. We have heard the arguments and submissions made by the Learned Counsel for both the parties, perused the written submission filed by the Learned Counsel for the petitioner, considered the petition, objections, affidavits and have perused the oral and documentary evidence, the judgements of writ and appellate Court placed before us and taking the totality of circumstances into consideration, our decision is as follows :-

It is admitted fact that earlier the petitioner institution was granted minority status certificate by this National Commission vide order dated 08.12.2014 in Case No. 695 of 2014. The order of this Commission in its entirety is reproduced :-

*“Mr. Shabuddin filed an application for taking up the case today on the ground that he has brought certified copies of the relevant documents. For the reasons stated therein the petition is taken up today and the date of 21.01.2015 fixed in the matter is hereby cancelled.*

*“Mr. Shabuddin filed the certified copies of the Certificate of Registration, Memorandum of Association and Rules and Regulations of the National Commission.*

*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 certificates on the ground that the same has been established by the National Association and is being administered by the Muslim Welfare Association. Initially the name of the "Muslim Welfare Association" was "National Association", which was subsequently changed into "Muslim Welfare Association". The said change of name was duly approved by the Registrar of Societies. Initially the National Association was constituted by majority members of the Muslim community. Out of 21, only 7 members were Non-Muslim. Subsequently, name of the "National Association" was changed into "Muslim Welfare Association", which is a registered society, constituted by members of the Muslim community. All the members of the said society are also Muslim. 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. Shahbuddin.*

*The amended Memorandum of Association of the Muslim Welfare Association 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. Shahbuddin. 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 the Bara Inter College, Village + Post Bara, Gazipur, U.P., run by the Muslim Welfare Association, is eligible for grant of minority status on religious basis. The evidence also proves that the said educational institution was established within the main objective of sub-serving the interests of the Muslim Community. Consequently, Bara Inter College, Village + Post Bara, Gazipur, U.P. 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."*

13. The above order of National Commission was challenged by Mr. Mohd. Aslam Khan and 13 others and Mr. Mohd. Matloob Khan and 6 others before Hon'ble High Court of Allahabad in writ jurisdiction. Learned single judge of the High Court of Allahabad vide its order dated 30.11.2016 in Writ Petition No. 23297 of 2016 and Writ Petition No. 36710 of 2016 observed as under :-

*“15. A perusal of the aforesaid order of the Commission leaves no room of doubt that neither facts with regard to establishment of the institution have been noticed, nor it has been examined as to whether the institution had been set up by a religious minority. This is particularly so, as the institution was set up in 1948, and till 1995, it was never granted a minority declaration. The subsequent grant of declaration in 1995 has already been quashed. The Commission has either not been apprised of the orders passed in the matter by this Court by the manager, and in case such orders were before the Commission, then also it has not been referred to, or dealt with. In either of the situations, the order of Commission cannot be sustained.*

*16. Although, learned counsel for the respondents has strenuously urged that the writ petition be not entertained, as an alternative remedy exists, but in the facts of the present case, this Court will not allow an order to exist on record, which is in teeth of a declaration granted by this Court. Even otherwise, alternative remedy is not an absolute bar in entertainment of writ petition, and those are well known exceptions to it, which have been recorded by the Apex Court in Whirlpool Corporation v. Registrar of Trade Marks, Mumbai and others (1998) 8 SCC 1. Although Section 11(f) of the Act confers jurisdiction upon the Commission to determine minority status to educational institution, but while doing so, it cannot discard a previous adjudication already made by the High Court on the subject matter in issue.*

*17. In the facts of the present case, once a binding adjudication of this Court existed on record, the Commission had no jurisdiction to grant a contrary declaration without having examined such orders or examining the binding effect of it upon the Commission. In such view of the matter, this Court is of the opinion that the order passed by the Commission on 08.12.2014 as well as consequential certificate as well as communication of the State Government, under challenge in the present writ petition, cannot be sustained, and are hereby quashed.*

18. *Liberty, however, is reserved to the Manager of the Institution to make a fresh application for such purposes before the Commission. The Commission shall examine the orders passed by this Court, and it shall be open for it to take a fresh decision, in accordance with law. It is further clarified that any action undertaken by the institution, including any appointment made treating it to be a minority status also must fail, in the facts and circumstances of the present case, particularly as such appointments were made subject to the determination of the present writ petitions. It goes without saying that in case such a application is made, petitioners shall also be heard in the matter.*

19. *The writ petition nos. 23297 of 2016 and 36710 of 2016 are, accordingly allowed.”*

14. The above Writ Court order dated 30.11.2016 was challenged by filing 6 intra court appeals against the common judgement of learned single judge. The Division Bench of Hon'ble High Court of Allahabad vide its order dated 01.08.2017 in Special Appeal Nos. : 82, 83, 84, 85, 16 & 17 of 2017 observed as follows :-

*“We may also record, that the learned counsel for the petitioner-appellant had emphasized before us that by means of the resolution dated 16.06.2012 a decision was taken to alter the name of the society as well as its aim and objects. Now the amended reads as Muslim Welfare Association and now restrictions have been placed in the matter of enrollment of new members and that all the members of the governing body are Muslims.*

*In our opinion, any change of memorandum of association of bye-laws of the society after 64 years of the establishment of the institution has no legal consequence on the issue of establishment of the Society/Institution by persons belonging to different community i.e. not only by minority community. No such subsequent developments.*

*For the reasons recorded above and keeping in mind the findings returned by the writ Court in its judgement passed in Writ Petition No. 7827 of 1998 which stands affirmed with the dismissal of Special Appeal No. 401 of 1999 vide order 11.09.2012, the question of any fresh application being made by the Committee of Management / Institution Bara Inter College, Bara for declaration of minority status before the Commission cannot be legally sustained as it will have the effect of over reaching the judgement of the writ Court which has become finally between the parties. The direction issued in the judgement in appeal dated 11.09.2012 in that regard has to be set aside, it is ordered accordingly.*

*Once we reach the conclusion that the institution was not established by a Minority Community it could not have been granted any benefits applicable to minority institutions as envisaged under the Intermediate Education Act, and regulation framed thereunder. All appointments made treating the institution to be a minority institution must fall automatically. The order of the learned Single Judge warrants no interference in that respect.*

*Special Appeal (Defective) No. 84 of 2017 and Special Appeal (Defective) No. 85 of 2017 are allowed to the extent indicated above. Special Appeal No. 82 of 2017, Special Appeal No. 83 of 2017, Special Appeal (Defective) No. 16 of 2017 and Special Appeal (Defective) No. 17 are dismissed.*

15. Feeling aggrieved by the above intra court Appellate order dated 01.08.2017 committee of management of Bara Inter College, Bara, District Ghazipur (UP) and others filed special leave to appeal before Hon'ble Supreme Court of India bearing No. 29994 and 29995 of 2017 and Hon'ble Supreme Court of India has passed the following order dated 13.11.2017 :-

*"The impugned judgement only records that ultimately the National Commission for Minority Educational Institutions should have taken into account the judgements passed by the Allahabad High Court before coming to the conclusion that the petitioners is a minority institution. This it did not do. Therefore, there is nothing wrong with the approach of the Division Bench.*

*We only make it clear, as has been stated by the learned single Judge earlier, that liberty is reserved to approach the National Commission for Minority Educational Institutions afresh with whatever evidence is in possession of the petitioners. The National Commission for Minority Educational Institutions will then decide the matter afresh based on relevant material provided to it by the petitioners as well as the two judgements that it has not examined.*

*The Special Leave Petitions are disposed of in the aforesaid terms. Pending applications filed the matters also stand disposed of."*

16. It is true fact that Bara Inter College, Bara, District Ghazipur (UP) was granted minority status for the first time by the State Govt. of UP on 13.03.1995. The grant of minority status to the petitioner institution came to be challenged by certain teachers of the institution before Hon'ble High Court of Allahabad by filing Writ Petition No. 7827 of 1998 vide its order dated 05.04.1999, Hon'ble Single bench of High Court of Allahabad in the Case of Mr. Yogendra Nath Singh and others V/s State of UP and others reported in 1999 (2) UPLBC 1318 following observation have been made :-

- “16. The words “establish and administer” used in Article 30(1) are to be read conjunctively. Right claimed by a minority community to administer the educational institution depends upon the proof of establishment of the institution. The proof of the fact of establishment of the institution is thus a condition precedent for claiming the right to administer the institution. For the proper determination of the character of the institution, it is necessary to examine the antecedent history of the institution right from its inception in the light of the principles of law enunciated by several decisions of the Apex Court and the High Courts. Before an institution can be granted the status of minority institution, it has got to be established, as a matter of fact, that the institution has been established and has all through been administered by the minority community alone. Accidentally, in the instant case, parties have been able to bring on record quite a fair bit of material hearing on the point from which certain conclusions may easily be drawn. The first question that falls for consideration is whether the institution was established as a minority institution. Obviously for the decisions of this question, we have to go back to the original of the institution and ascertain whether the institution was established by the Muslim minority community for imparting education to the members of that community, the expression ‘established’ occurring in Article 30(1) implies and means ‘to bring into existence’. The enquiry, therefore, is to be confined to the question as to who brought the institution into existence and with what aims and objects in view.
17. The institution for the first time came to be established in the year 1948 by a Society which was known as National Association, Bara, Ghazipur. The first document which has been brought on records in Annexure 1 Memorandum of Association of the Society by which the origin of the Society / Institution, may be traced. It is dated 27.08.1951. As many as 21 persons claiming themselves to be members of the governing body and to whom, by the Rules of the Society, the management of the affairs was entrusted, joined to form a Society and sought registration under the Societies Registration Act (Act No. XXI of 1860). Out of 21, 7 members are non-Muslims. Kailash Nath Srivastava, a retired Deputy Director of Education, was the first signatory to the Memorandum of Association. He was made the Chairman of the Society. The Articles of Memorandum of Association have a direct bearing on the aims and objects, which the Association was to

fulfill. The relevant clauses may profitably be reproduced for a better understanding of the controversy. They run as follows :-

*"1. The name of the Society will be National Association, Bara (Ghazipur).*

*2. The objects of the Association are as follows :-*

*(a) To start and maintain Schools and Colleges for imparting moral, intellectual and physical education.*

*(b) To start and maintain Schools and Colleges for imparting cultural education to the students.*

*(c) To impart technical and agricultural education to the students of the institutions in order to enable them to start a successful career.*

*(d) To construct buildings of the schools and open and maintain hostels and other residential quarters for the scholars reading in the institution opened by the Association.*

*(e) To found and establish reading rooms, frequent Classes, libraries and other such institutions for the cultural advancement of the public.*

*(f) To acquire, hold and manage funds and properties for one or more of the above objects.*

*(g) To establish and acquire by lease, exchange, sale, gift or otherwise any movable or immovable property for the benefit of the above objects.*

*(h) To sell, manage, improve or give in lease any of the properties of the Association.*

*(i) To make necessary arrangement for games and to pay special attention to the physical development and military training of the students.*

*(j) To render pecuniary help to intelligent and poor students of the institutions and to award merit scholarship to deserving students and to help them in their studies if funds permit.*

*3. The name and addresses and occupations of the members of the governing body to whom by Rules of the Society the management of the affairs is entrusted is given below :-*

.....”

18. *The Rules and Regulations of the Association are contained in Annexure-2 to the writ petition. They deal with the membership of the Association, cessation of membership, management, office bearers, duties and powers of the various office bearers, their term and the procedure for holding of the meetings, funds, amendment of the Constitution and dissolution of the Association. Any person paying Rs. 500 or more as donation to the Association may become life member of it and shall be known as Patron of the Association. Similarly, any person paying Rs. 100 or more but less than Rs. 500 is to be life member and any person paying Rs. 12 only shall be eligible for the membership of the Association. Under the aegis of the Society, Junior High School, Bara was established which ultimately came to be up-graded stage after stage as Intermediate College in the year 1972 and came to be known as Bara Inter College, Bara. The said School came to be governed under the provisions of the Act. The original scheme of Administration of Junior High School, Bara is Annexure-3 to the writ petition and the list of the office bearers of the committee or management is appended thereto. Besides ex officio members, there were 12 members / office bearers of the committee, out of whom 4 are non-Muslims. Kailash Nath who was the Chairman of the Society is also shown to be the President of the Committee of Management. After the amendment of the Act in the year 1980, amended Scheme of Administration of the Bara Intermediate College was approved by the DDE. The amended Scheme of Administration is annexed with the letter of the DDE dated 15.02.1985, a copy of which is Annexure-4 to the writ petition. The amended Scheme of Administration contemplates then any person who is the well wisher of the Society / Institution regardless of his caste, creed, and religion may become the member of the General Body. The clause dealing with the Constitution of the committee of management contemplates that the selection / election of the office bearers and the members of the committee shall be in such a manner that there shall be no monopoly or domination of any particular caste, religion, community or family in the management of the affairs of the institution. The amended Scheme of Administration is clearly in keeping with the amended provisions of the Act and the Regulation framed the reunder.*

19. *The contesting respondent Nos. 5 and 6, though have asserted that the Society/institution was established by the Muslim minority community, have not brought on record any document of the establishment of the society/institution. They have, however, filed a list of the members of the General Body of the Association, a copy of which is Annexure 6 to the Writ Petition to indicate that all the 21 members belonged to the Muslim community and that the office bearers and members of the governing body of the National Association, Bara, Ghazipur, Calcutta Branch as listed from serial numbers 1 to 45 in Annexure 9 to the writ UPLBEC (2)-167 petition, are Muslims. Both these documents do not bear any date and, therefore, cannot be treated to be documents connected with the origin of the Association / Institution. It was also urged that all the members and office bearers of the committee of management, and the Manager of the committee of management as well as the Principal who is ex-officio members of the committee, have been Muslims for a number of years. These documents relates to the recent past and have no connection with the original of the Society/institution. The documents Annexures 1 to 4 filled by the petitioners, therefore, have to be taken into consideration to determine as to by whom and for whose benefit the society / institution was established. The provisions of the Memorandum of Association and the Bye laws are explicit in terms. They make it clear that the institution was established by certain reputed persons of the locality which included not only Muslims but also a number of Hindus. The Association / institution was established for the spread and promotion of education in general and not merely for the benefit of any particular community. The aims and objects of the Society, which brought the institution into existence, indicate that the basic object was to impart general and technical education to all and sundry and it was provided that the institution shall be run on the lines prescribed by the Education Department of Uttar Pradesh. This fact cannot also be lost sight of that the members of the Society was open to all and not confined to any particular community. It is further significant to note that the scheme of Administration of the institution does not indicate that it is a closed house confined to any particular community. It is further significant to note that the scheme of Administration of the institution does not indicate that it is a closed house confined only to any particular section of the Society. To put differently, the institution was established by an Association which was brought into existence by prominent citizens of District Ghazipur for the*

*dissemination of education in general and the education, which was to be imparted in the institution, was also of a general character. There is nothing in the documents, referred to above, that the institution has been established for the benefit of a particular linguistic or religious minority community. A reference was made to the decision of this Court in Civil Misc. Writ No. 2265 of 1977 decided on 06.02.1997 Bengauli Education Society and another Vs. State of U.P. and others, in which minority status was not granted to the institution which was established by the Bengauli minority community in Uttar Pradesh for a distinct script, language, and culture of its own on the ground that the object of the society was to impart general scientific, technical and physical education to promote the advancement of learning generally with special reference to the needs of the Bengauli children in upper India and to facilitate the study of Bengauli language and literature's keeping in view the fact that any person paying to the society a lump sum donation of Rs. 500 may become a life member of the society or of the Managing Committee contemplated under the Rules. There was also a provision for admitting as Honorary members the persons distinguished for special attainment, literary, scientific or otherwise or who took an active interest in the educational advancement of the welfare of the Society. The State Government took the view that since the Rules and Regulations of the society, aforesaid provided for unrestricted admission as a member of the Society to any person and the membership was not confined to the persons whose mother tongue was Bengauli, the requisite conditions, contemplated under Article 30(1) of the Constitution could not be deemed to have been satisfied. It was held in the aforesaid case that merely on the basis that the Rules and Regulations of the Society without confining the same to only those persons who have Bengauli language as their mother tongue and that the general education is to be imparted to the students of all the communities without any restriction, would not be sufficient to deny the minority status. The matter was directed to be reconsidered by the Director of Education, U.P., Lucknow in the light of the various observations made in the body of judgment. The learned Single Judge in the said case appears to have based his findings on the decision of the Apex Court in Re-Kerala Education Bill, 1957, AIR 1958 SC 956, wherein it was observed that the real import of Articles 29(2) and 30(1) is that they clearly contemplate a minority institution with a sprinkling of outsiders admitted into it. By admitted a non-member into it, the*

*minority institution does not shed its character and cease to be a minority institution. The Apex Court took the view that, indeed, the object of conservation of distinct language, script and culture of a minority may be better served by propagate amongst non-members of a particular community. Similarly in State of Kerala v. Very Rev. Mother Provincial AIR 1970 SC 2079, the Apex Court had taken the view that it is irrelevant that in addition to the minority community others from other minority communities or even from the majority community can take advantage of these institutions. This observation was made with reference to the initial right of the minority community to establish institutions. It was further observed that the management must be free of control so that founders or their nominees can mould the institution as they think fit and in accordance with their ideals of how the interest of community in general and the institution in particular will be best served.*

20. *The members of the minority community, though have been given a right to establish the institution of their own choose and to conserve their distinct language, script or culture, they continue to be the part of the society in general. Their rights cannot be worked out in isolation. Of necessity, they have to inter-act and compete with the members of other minority or majority communities. It was in this context that the Hon'ble Supreme Court in the case of St. Xaviers College (supra), observed that the object of Article 30 is to enable children of minorities to go out in the would fully equipped. All persons whether in the majority or in the minority have the right under Article 25 freely to profess, practice and propagate religion. Any section of the citizen which includes the majority, as well, as minority shall have under Article 29, the right to conserve their distinct language, script or culture. That is why the minorities are given a specific right in respect of the educational institutions under Article 30. Article 30(1) gives the right to linguistic minorities as well where no question of religion arise. It is, therefore, not at all possible to exclude secular education from Article 30.*
21. *It is well-embedded proposition of law that the establishment of the minority educational institutions solely for their own benefit is not permissible. Such an institution cannot draw a line to keep at by the students of other minority and majority communities. There has to be a proper mix of students of different communities even in an institution which has been granted minority*

*status. As a matter of fact, a complete answer to the various submissions made by the learned Counsel for the petitioners in the present case is to be found in the decision of the Constitution Bench of the Supreme Court in the case of St. Stephen's College, University of Delhi AIR 1992 SC 1630. It was ruled that the choice of institution provided in Article 30(1) does not mean that the minorities could established educational institutions for the benefit of their own community people. Indeed they cannot. It is legally impermissible to construe Article 30(1) as conferring the right on the minorities to establish educational institution only for their own benefit. The minorities are not entitled to establish and administer educational institution for their exclusive benefit. The observation of the Constitution bench contained in paragraph 82 are of grant significance and may profitably be extracted as below :-*

*“Even in practice such claims are likely to be met with considerable hostility. It may not be conducive to have relatively a homogenous society. It may lead to religious bigotry which is the bane of man kind. In the nation, building with secular character sectarian schools or colleges; segregated faculties or Universities for imparting general secular education are undesirable and they may undermine secular democracy. They would be inconsistent with the central concept of secularism and equality embedded in the constitution. Every educational institution irrespective of community to which it belongs is a ‘meltinpot’ in our national life. The students and teachers are the critical ingredients. It is there they develop respect for, and tolerance of, the cultures and beliefs of others. It is essential, therefore, that there should be proper mix of students of different communities in all educational institutions.”*

22. *It would not be out of place to mention that in the case of Bengauli Educational Society (supra), the Bye laws made a specific provision that the society was established with a special reference to the needs of the Bengauli children in Upper India and to facilitate the study of Bengauli language and literature. The rules further indicated that the Bengauli minority community had retained the domination and control over the institution even though some non-Bengauli persons could be inducted as members. In the instant case there is not even a faint suggestion through out the length and breadth of the Memorandum of Association, Rules and Regulations, or the Scheme of Administration that the Society or the institution was established for the benefit of the Muslim community. It*

*is true that in the light of St. Stephen's College case (supra), no minority institution can be established solely for its now benefit and there should be proper mix of students of different communities in all educational institutions, including the institution established by the minority community but the fact remains that the minority community in order to claim the benefit of Article 30 of the Constitution of India must establish the institution of its choice with a view to conserve its language, script and culture. There is no even a faint suggestion throughout the aims and objects, Rules and the Bye Laws of the society and the various clauses of the Scheme of Administration of the institution that the institution was established even remotely for the benefit of one minority community. If a Society is not established for the benefit of religious or linguistic minority and if the institution run by the Society is also not established for the benefit of a minority community, such an institution cannot be conferred the status of a minority institution.*

X X X X

24. *From the various averments and documents brought on record by the contesting respondents, it is established that the Society and the institution are presently in the control of Muslim minority community and that the community is managing the affairs of the institution. This by itself was not sufficient to declare the institution is a minority institution. As pointed out above, the various documents pertaining to the origin of the society and the institution would make clear that the institution was not established solely by the minority community. With a view to conserve its language, script and culture. To sum up, it may be mentioned that the Society/institution came to be established by certain prominent citizens which included not only members of the Muslim community but several Hindus; it was established for the spread and promotion of the education in general, there was no provisions specially with reference to the Muslim minority community, the basic object of the establishment of the institution was to impart general and technical education to all and sundry, institution was not established for the benefit of the minority community, institution was to be run on the line prescribed by the Education Department of Uttar Pradesh, membership of the Society was open to all and not confined to any particular community; any person of any caste, creed or community can become a member of the General Body or the Society by depositing the requisite amount, and the Scheme of*

*Administration as approved by the DDE after the amendment of the Act also reflects the same characteristic and totally negates the contention raised by the respondent regarding minority character of the institution. Not only this, the Scheme of Administration of the institution makes positive unambiguous provision that the management of the institution shall not be allowed to pass in the hands of their members of a particular caste, creed, religion, community and family with a view to avoid monopoly, total domination and control. From the above facts, there can be no escape from the conclusion that the institution was not established as a minority institution by the members of any particular community for its own benefit or for the promotion of any religious thought and ideals. Even though, at present the institution is being managed by a minority community, the institution cannot be granted the status of a minority institution as the minority community which is managing it had not established the institution. As said above, the requirements of establishment and management, as occurring in Article 30(1) of the Constitution, have to be read conjunctively. The twin requirements are required to be established and in the absence of either of them on institution cannot be granted minority status. In view of the finding that the respondent institution was not established by any minority community, it could not be granted minority status even though presently it is being managed by a minority community.*

X X X X

26. *In the light of the above observations of this Court, Government Order dated 06.10.1994 was supplanted with further directions that only that institution which has been established by the minority community and is being managed by it should be recognized as a minority institution. In the instant case, the impugned order, granting the minority status appears to have been passed on the basis of the unamended or un-supplanted Government Order dated 06.10.1994 and it was for this reason that the State Government failed to make an enquiry about the origin of the establishment of the institution. The information given in proforma appended to the Government Order, a copy of which is Annexure CA 2 to the counter affidavit, Indicates that most of the information given in it was not correct. In column 5 of the proforma it was mentioned that the institution was established by the Muslim community with a view to impart education to the members of the Muslim minority community and with a view to conserve Urdu language, its script and Muslim*

*culture. This information was not based on any document in pursuance of which the Association or the institution was brought into existence. The procedure governing the grant of recognition has been laid down in Government Order dated 18.04.1994, a copy of which is Annexure RA 1 to the Rejoinder Affidavit. A bare perusal of the Government order, aforesaid, would indicate that screening has to be done by a Committee consisting of DDE (Secondary), Additional Director of Education (Basic) and Joint Director of Education (Women) in case of High School and Intermediate Colleges. The report received by the Government has to be submitted for decision by a committee consisting Principal Secretary (Education), Secondary (Law) and Secretary to the Chief Minister or the Secretary to the Governor. There is nothing on record to indicate that the procedure prescribed under the aforesaid Government order has been adopted in the present case. In view of the finding that the institution, in question was not established by the Muslim minority community, the State Government was not justified in conferring the minority status on the respondent institution. The impugned Government order dated 13.03.1995, Annexure 9 to the writ petition with regard to the institution Bara Inter College, Bara, District Ghazipur appearing at Sl. No. 8 thereto, was passed in a mechanical, causal and perfunctory manner without realizing its implications. The Apex Court has cautioned the concerned authorities in the matter. The object of the institution should be genuine and not devices dubious. There should be nexus between the means employed and the ends desired. There must exist some positive index to enable the educational institution to be identified with religious or linguistic minorities. Article 30(1) is a protective measure only for the benefit of religious and linguistic minorities and it is essential to make it absolutely clear that no ill-fit or camouflaged institution should get away with the Constitutional protection. These are the observations made by the Apex Court in St. Stephen's College case (supra). In an earlier case A P Christian Medical Education Society v. State of AP and another (1986) 2 SCC 667, the Apex Court has been highly critical of the fraudulent minority status claimed by some groups is exploit students, teachers and staff. It was observed that the object of Article 30(1) is not to allow bogies to be raised by pretenders. Sometimes, the persons who had formed the minority society merely seek to reap unfair advantage over other similar educational institutions by claiming fraudulently the status of a minority educational institution. It was clarified that the institution*

*must be educational institution of minority in truth and reality and not mere masked phantoms. The question as to what constitutes a minority educational institution is of great significance because the character of a minority educational institution carries with it a good amount of privileges and protections which are not available to a non-minority educational institution. The Court has tried to restrict the misuse of the benefits granted to the minorities. In spite of the fact that the authorities were cautioned and fore warned in the matter by the Apex Court the State Government has passed the impugned order in a casual manner. The impugned order, therefore, cannot be sustained for the obvious reasons that it is in teeth of the various decisions of the Apex Court as well as this Court which have been cited above. The effect of the impugned order is that the institution which was never established by the Muslim minority community has been granted minority status perhaps only on the ground that the said institution is being managed by the minority community. The impugned order is illegal, infirm and rests on weak and feeble footing. Therefore, it has to be quashed.”*

17. The above judgment of Hon'ble Writ Court was challenged by the committee of the management of the petitioner institution Bara Inter College, Bara, District Ghazipur (UP) by filing special appeal no. 401 of 1999 and the said appeal was also dismissed vide order dated 11.09.2012. The extract of the said judgement is as under :-

*“The submissions of the learned counsel for both the parties have been noted in detail including the submissions raised by the Committee of Management and the Society that the institution fulfills the test laid down for declaring the institution as a minority institution within the meaning of Article 30 of the Constitution of India.*

*After noticing the submissions of the learned counsel for the parties, the Court proceeded to examine as to whether the institution was established and administered by the minority within the meaning of Article 30 and that aspect has been elaborately considered after looking into the relevant materials on record and findings have been recorded.*

*The present is the case where writ of certiorari has been issued by the learned Single Judge quashing the order of the State Government dated 13<sup>th</sup> March, 1995.*

*There is no challenge in the appeal to order of the learned Single Judge quashing the order of the State Government nor any submissions challenging the judgement of the learned Single Judge or merits have been addressed before us. The judgement of **Surya Dev Rai (supra)** does not help the appellants in the present case. No such submission*

*has been made that the learned Single Judge has committed error in issuing the writ of certiorari quashing the order of the State Government dated 13<sup>th</sup> March, 1995.*

*The submission which has been much pressed by the learned counsel for the appellants is that the learned Single Judge after quashing the order of the State Government ought to have remitted the matter to the State Government to consider it afresh and the learned Single Judge ought not to have been considered the issues as to whether the institutions are entitled to be granted declaration under Article 30 of the Constitution of India or not.*

*A perusal of the judgement of the learned Single Judge makes it clear that both the parties raised submissions on merits of the entitlement of the institutions to be treated as minority institutions within the meaning of Article 30 of the Constitution of India. In the elaborate judgement of the learned Single Judge the submissions of both the parties have been noted. As noticed above, writ of mandamus is also sought for by the petitioners and for considering the said prayer it was necessary to go into the facts before the learned Single Judge on merits of the case.*

*Thus, we do not find any substance in the submissions of the learned counsel for the appellants that the learned Single Judge ought not to have entered into the merits of the case. When before the learned Single Judge submissions were raised by the learned counsel for the parties on merits based on the pleadings of the parties and the Court was invited to decide the issues, no error was committed by the learned Single Judge in proceeding to consider the case on merit and decide the writ petition on merits.*

*No error was committed by the learned Single Judge in allowing the writ petition by the impugned judgement. No other submission has been pressed before us by the learned counsel for the appellants.*

*We do not find any merit in this appeal. It is accordingly, dismissed.”*

18. It is admitted to the parties that the judgement passed by the Learned Single Judge in case of Yogendra Nath Singh and others as affirmed in Special Appeal No. 401 of 1999, has attained finality and has not been set aside or interfered with by the Hon'ble Apex Court. We have gone through the file of case no. 695 of 2014 of this Commission, by which the petitioner was granted minority status certificate by the National Commission vide order dated 08.12.2014. It is very much clear from the above order that the petitioner had mislead the Commission giving wrong information against column no. 9(h) of the application for grant of minority status certificate that he has not approach any judicial forum regarding minority status. The

Manager of the petitioner institution apparently has concealed the factum of orders passed by the Hon'ble High Court of Allahabad and declaration has been obtained on account of the suppression and concealment of material facts. This is a classic example of hankering for grant of minority status by an institution, despite such request having been turned down in the past by the Hon'ble High Court. It is not in dispute that institution was established in the year 1948 and continued till 1995, without grant of any minority status. Article 30 of the Constitution of India, as well as provisions of the Act of 2004, clearly refer to the minority institution as being one, which has been set up by a minority, at the first instance. It was only on 13.03.1995 that such declaration was granted by the state and upon a challenge hon'ble High Court has clearly held that minority status cannot be granted to the petitioner institution. The contention of the petitioner that the finding of the Writ Court is erroneous, in our opinion not acceptable, because finding is based on the well considered facts and material available on record. It is also not possible for us to accept the contention of the learned Counsel for the petitioner that there is "implied wish" of Mrs. Nabihan Bibi that the institution should impart Islamic culture and knowledge.

19. Now the issue before us whether the Bara Inter College, Bara, District Ghazipur (UP) is a minority educational institution covered under Article 30(1) of the Constitution of India ?

20. At the outset we must make it clear that this Commission has been created under an act of Parliament to facilitate exercise of the educational rights of the minorities enshrined in Article 30(1) of the constitution. This Commission is a quasi judicial tribunal and it has been vested with the jurisdiction, power and authority to adjudicate upon disputes to grant of affiliation to the institutions covered under Article 30(1) of the Constitution, to determine the minority status of the educational institutions. Section 11(f) of the National Commission for Minority Educational Institutions Act confers jurisdiction on the Commission to decide all questions relating to the status of any institution as a minority educational institution and declare its status as such. Bearing in mind the mandate of Article 30(1) of the constitution as interpreted by various authoritative pronouncements of the Hon'ble Supreme Court and Section 2(g) of the National Commission for Minority Educational Institutions Act, following facts are required to be proved for grant of minority status certificate to minority educational institution on religious basis :-

- (i) That the educational institution was established by a member / members of the religious minority community,
- (ii) That the educational institution was established for the benefit of the minority community, and
- (iii) that the educational institution is being administered by the minority community.

21. It has been held by the Hon'ble Supreme Court in Ajeez Basha Vs. Union of India AIR 1968 SC 662 that the word "educational institutions" are of very wide import. Article 30(1) of the

constitution gives linguistic and religious minorities as a fundamental right to establish and administer educational institutions of their own choice. Article 30 is a special right conferred on religious and linguistic minorities because of their numerical handicap and to instill in them a sense of security and confidence, even though the minorities cannot be Per Se regarded as weaker sections or under privileged segments of the society. A stream of the Supreme Court decision commencing with the Kerala Education Bill case AIR 1958 SC 956 and climaxed by T.M.A. Pai Foundation Vs. State of Kerala (2002) 8 SCC 481 has settled law for the present. In S.P. Mittal Vs. Union of India AIR 1983 SC 1 the Hon'ble Supreme Court held that in order to claim the benefit of Article 30(1) the community must show that it is a religious / linguistic minority and that the institution was established by it. Without specifying these two conditions, it cannot claim the guaranteed right to administer it. The word "establish" indicates the right to bring into the existence, while the right to administer an institution means a right to effectively manage and conduct the affairs of the institution.

22. Society was registered under the Societies Registration Act, 1860 and the membership of the society was not restricted to the minority community only. From the readings of the aims and objects of the society it was clear that there was no intention to establish any minority institution for protecting or promoting the language or religion of any particular minority community. On the contrary, the institution was to impart education general and technical to the students belonging to the different communities. It is true that we cannot sit in appeal over the findings returned by the competent Writ Court which stands affirmed with the dismissal of special appeals as noticed above. The documents filed by the petitioner did not help the petitioner in the facts and circumstances of the present case. The proof of the fact of establishment of the institution is a condition precedent for claiming the right to administer the institution. The onus lies on the one who asserts that an institution is a minority institution. In the present case, petitioner has failed to prove that at the first instance institution was established by the muslim for the muslims.

23. In view of the observations made by the learned Writ Court and affirmed by Special Appellate Court and after taking into consideration all the documents, affidavits, we are of the considered opinion that the petitioner institution Bara Inter College, Bara, District Ghazipur, UP is not a minority educational institution covered under Article 30 of the Constitution of India.

24. After taking into consideration of the judgements of Hon'ble Writ Courts as well as Appellate Courts, the documents filed by both the parties, in the facts and circumstances of the present case, we are of the considered opinion that the petitioner institution was at the first instance not established by only the members of the religious minority community and not established for the benefit of the minority community only and also not being administered by only the members of the minority community.

25. Hence, the petition filed by the Bara Inter College, Bara, District Ghazipur, UP, deserve to be dismissed.

Accordingly, the petition is dismissed.

Signed, pronounced and published on **Wednesday, 28<sup>th</sup> Day of November, 2018**

**JUSTICE NARENDRA KUMAR JAIN  
CHAIRMAN**

**DR. BALTEJ SINGH MANN  
MEMBER**

**DR. NAHEED ABIDI  
MEMBER**

**DR. JASPAL SINGH  
MEMBER**