

National Commission for Minority Educational Institutions
Department of Higher Education, MHRD
Gate No.4, First Floor, Jeevan Tara Building,
5, Sansad Marg, New Delhi-110001

Guidelines for determination of Minority Status and related matters in respect of Minority Educational Institutions

Introduction

Article 30(1) of the Constitution of India gives linguistic and religious minorities a fundamental right to establish and administer educational institutions of their choice. These rights are protected by a prohibition against their violation. The prohibition is contained in Article 13 of the Constitution which declares that any law, in breach of the fundamental rights would be void to the extent of such violation. It is well-settled that Article 30(1) cannot be read in a narrow and pedantic sense and being a fundamental right, it should be given its widest amplitude. The width of Article 30(1) cannot be cut down by introducing in it considerations which are destructive to the substance of the right enshrined therein.

The National Commission for Minority Educational Institutions (NCMEI) Act has been enacted to safeguard the educational rights of the minorities enshrined in Article 30(1) of the Constitution. The NCMEI has been constituted under the Act. The Commission is a quasi judicial body and has been endowed with the powers of a Civil Court for the purpose of discharging its functions under the Act.

Powers of the Commission includes deciding all questions relating to the status of any institution as a Minority Educational Institution (MEI). It also serves as an appellate authority in respect of disputes pertaining to minority status. Educational institutions aggrieved by the order of refusal to grant minority status certificate by the competent authority, can appeal to the Commission against such orders. The Commission also has the power to cancel the minority status of an educational institution on grounds laid down in the Act.

The Commission also has powers to call for information while enquiring into the complaints of violation or deprivation of the educational rights of the minorities. Where an enquiry establishes violation or deprivation of educational rights of the minorities, the Commission may recommend to the concerned Government or

authority to initiate disciplinary proceedings or such other action against the concerned person or persons as it may deem fit.

As per the judgment of Hon'ble Apex Court in the matter of Sisters of St. Joseph of Cluny v/s The State of West Bengal and Ors. (2018) 6 SCC 772, this Commission has both original as well as appellate jurisdiction.

Parliamentary paramountcy has been provided for by Articles 246 and 254 of the Constitution. In view of the mandate of these Articles of the Constitution, the National Commission for Minority Educational Institutions Act, 2004, being a Central law shall prevail over the State law. The State Government cannot add, alter or amend any provision of the Act by issuing executive instructions.

No court (except the Supreme Court and a High Court exercising jurisdiction under articles 226 and 227 of the Constitution) shall entertain any suit, application or other proceedings in respect of any order made by the Commission.

No suit, prosecution or other legal proceeding shall lie against the Central Government, Commission, Chairperson, Members, Secretary or any officer or other employee of the Commission for anything which is done in good faith or intended to be done under the NCMEI Act.

The provisions of NCMEI Act 2004 shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than the NCMEI Act 2004.

Definitions

- i) Minority:** For the purpose of this Act, means a community notified as such by the Central Government. The Central Government has notified six religious minority communities viz. Muslim, Christian, Sikh, Buddhist, Parsi and Jain.
- ii) Minority Educational Institutions:** College or an educational institution established and administered by a minority or minorities.
- iii) Competent authority:** The authority appointed by the appropriate Government to grant no objection certificate for the establishment of any educational institution of their choice by the minorities.

Minority Educational Institutions can approach NCMEI

- For obtaining Minority Status Certificate.
- For appeal against State authorities on being aggrieved by the order of rejection of NOC application by the State/UT (Section 12A) or refusal to grant minority status certificate (Section 12 B).
- Resolving disputes regarding affiliation/deprivation and violation of rights of minorities to establish and administer the institutions of their choice¹.

Minority Status Certificate: Recognition that the institution was established and is being administered by a religious minority or minorities and was established primarily for the benefit of the minority community.

Eligibility for grant of Minority Status Certificate

- (i) the educational institution is established by a member/ members of the religious minority community.
- (ii) the educational institution is established primarily for the benefit of the minority community.
- (iii) the educational institution is being administered by the minority community.
- (iv) If the Minority Educational Institution concerned is being run by a trust or a registered society, the majority of the trustees of the trust or members of the society, as the case may be, must be from the minority community and the trust deed/ Articles of Association must reflect the objective of sub-serving the interest of the minority community.

Authorities which can grant Minority Status Certificate

- (i) The State Government as per 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
or
- (ii) The National Commission for Minority Educational Institutions (NCMEI), prior to which the Educational Institution/school has to apply before the State

¹ This commission does not entertain any request of Minority Educational Institutions regarding budgetary grants.

Competent Authority for grant of No Objection Certificate under section 10 of the NCMEI Act 2004.

In case, the State Competent Authority does not take any action within 90 days then it is deemed that the State Competent Authority has granted No Objection Certificate to the applicant Institution.

Procedure to apply for fresh Minority Status Certificate

- (i) Application for **Minority Status Certificate** can be made to the Commission online at URL <http://ncmei.gov.in/admnis/applicant/login.aspx> or offline in the prescribed format (**Annexure-1**).
- (ii) Documents required along with the application.
 - NOC/ Copy of application for NOC and proof of its delivery to Competent authority in case of deemed NOC
 - Affidavit
 - Certificate of Registration of Society/Trust
 - In case of institution run by individual from minority community, in that case permission letter of the concerned government.
 - NITI Aayog Unique ID in case of registered Society/Trust
 - MOA of Society/Trust Deed and Amended MOA of Society/Trust Deed if any
 - List of founding members/trustees and present members/trustees
 - Copy of Affiliation/ Recognition letter issued by affiliating Board/University/ UGC. In case of professional institutions, recognition certificate by the regulatory body (Copy of Affiliation/ Recognition letter should clearly indicate the Validity period of Affiliation/ Recognition).

Incomplete applications will not be entertained.

Procedure for filing an appeal against the competent authority (12-A)

- Any person aggrieved by the order of refusal to grant NOC under sub-section (2) of section 10 of NCMEI Act by the Competent Authority for establishing a

MEI, may prefer an appeal against such order to the Commission within thirty days from the date of the order communicated to the applicant.

- 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.
- An appeal is to be made to the Commission in prescribed format (Annexure-2) alongwith the certified copy of the order against which the appeal has been filed.
- The Commission, after hearing the parties, pass an order 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.

Incomplete applications will not be entertained.

Procedure for filing an appeal against the order of Authority of the State/UT Governments under Section 12 B of NCMEI Act, 2004

- 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 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 thirty days, if it is satisfied that there was sufficient cause for not filing it within that period.
- An appeal to the Commission shall be made in prescribed format (**Annexure-2**) alongwith the certified copy of the order against which the appeal has been filed.
- On receipt of the appeal under Section 12B (3) of the NCMEI Act, 2004, 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 proceed to give such direction as it may deem fit and, all such directions shall be binding on the parties.

Incomplete applications will not be entertained.

Procedure for Cancellation of Minority Status

Under Section-12C of the NCMEI Act 2004, the Commission may, after giving a reasonable opportunity of being heard to a Minority Educational Institution to which minority status has been granted by an authority or Commission, as the case may be, cancel such status under the following circumstances, namely:

- (a) if the constitution, aims and objects of the educational institution, which has enabled it to obtain minority status has subsequently been amended in such a way that it no longer reflects the purpose or character of a MEI.
- (b) if, on verification of the records during the inspection or investigation, it is found that the MEI has failed to admit students belonging to the minority community in the institution as per rules and prescribed percentage* governing admissions during any academic year.
- (c) If a minority status certificate has been obtained by practicing fraud or if there is any suppression of any material fact or any fundamental change of circumstances warranting cancellation of the earlier order, the authority concerned would be within its powers to cancel the MSC after affording an opportunity of being heard to the institution, in conformity with the principal of natural justice.

* The State Government can prescribe percentage of the minority community to be admitted in a minority educational institution taking into account the population and educational needs of the area in which the institution is located and also maintain balance between two objectives – preserving the right of the minorities to admit students of their own community and that of admitting “sprinkling of outsiders” in their institutions subject to the condition that the manner and number of such admissions should not be violative of the minority character of the institution.

Landmark Judgments

The following judgments can be referred by the concerned Minority Educational Institution for guidance:

- (i) T.M.A. Pai Foundation vs. State of Karnataka (2002) 8 SCC 481, 2005 (6) SCC 537
- (ii) P.A. Inamdar vs. State of Maharashtra (2005) 6 SCC 537
- (iii) Azeez Basha vs. Union of India [AIR 1968 SC 662]
- (iv) D.A.V. College vs. State of Punjab [AIR 1971 SC 1731]
- (v) Pramati Educational & Cultural Trust & Others Vs. Union of India WP (C) No. 416 of 2012 reported in “2014 AIR SCW 2859”.
- (vi) Kerala Education Bill AIR 1958 SC 956
- (vii) Sisters of St. Joseph of Cluny vs. The State of West Bengal and Ors. CIVIL APPEAL NO. 3945 OF 2018 (Arising out of SLP C) NO.35786 OF 2016)

Where the provisions of the NCMEI Act, 2004 is silent or where there is no judgement of the Hon’ble Supreme Court / High Courts on issues pertaining to the minority character of the educational institution, in that scenario the wisdom of the Court of the Commission would prevail.

Frequently asked questions

1. Where to apply for Minority Status Certificate?

The applicant institution can apply for minority status certificate to:

- (i) The State Government as per 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

or
- (ii) The National Commission for Minority Educational Institutions (NCMEI), prior to which the Educational Institution/school has to apply before the State Competent Authority for grant of No Objection Certificate under section 10 of the NCMEI Act 2004.

2. Whom to apply for grant of NOC under Section 10 in the States/ UTs?

The applicant must apply to the Competent Authority nominated by the State/ UT for the purpose of grant of NOC under Section 10 of the NCMEI Act, 2004. The list of competent authorities nominated by the State/ UT Government is available on NCMEI website i.e. <http://www.ncmei.gov.in/WriteReadData/LINKS/competent%20903734ed-0968-4e97-8b83-642f78819a17.pdf>

3. What is the pre-requisite mandatory condition before applying to NCMEI for Minority Status Certificate?

Before applying for Minority Status Certificate to the Commission, the application institution must apply to the State Competent Authority for grant of No Objection Certificate under Section 10 of the NCMEI Act 2004.

4. What is deemed NOC?

In case, the State Competent Authority does not take any action on the application for grant of No Objection Certificate within 90 days then it is deemed that

the State Competent Authority has granted No Objection Certificate to the applicant Institution.

5. How to apply for Minority Status Certificate?

The applicant institution can apply for Minority Status Certificate in the prescribed format either offline or online (URL <http://ncmei.gov.in/admnis/applicant/login.aspx>). For applying online, please refer to “NCMEI MSC Application Applicants User Manual” available on (<http://www.ncmei.gov.in/WriteReadData/ncmei%20Applicant%20Manual.pdf>).

6. What are the documents required to be attached with the application for Minority Status Certificate?

The applicant must attach the following documents:

- NOC/ Copy of application for NOC and proof of its delivery to Competent authority in case of deemed NOC
- Affidavit
- Certificate of Registration of Society/Trust
- In case of institution run by individual from minority community, in that case permission letter of the concerned government.
- NITI Aayog Unique ID in case of registered Society/Trust
- MOA of Society/Trust Deed and Amended MOA of Society/Trust Deed if any
- List of founding members/trustees and present members/trustees
- Copy of Affiliation/ Recognition letter issued by affiliating Board/University/UGC. In case of professional institutions, recognition certificate by the regulatory body (Copy of Affiliation/ Recognition letter should clearly indicate the Validity period of Affiliation/ Recognition).

7. How many sets of the application are required to be submitted?

The applicant must submit five sets of the application along with relevant document mentioned above.

8. Whether envelopes and postage stamps are required to be submitted along with the application.

The applicant is required to submit stamped envelopes for sending communications to the respondents.

9. Does NCMEI give grant-in-aid/ financial assistance to minority educational institutions?

No, the NCMEI does not give grant-in-aid/ financial assistance aid to any institution.

APPLICABLE FROM APPLICABLE SINCE 06.12.2018**NATIONAL COMMISSION FOR MINORITY EDUCATIONAL INSTITUTIONS****Ministry of Human Resource Development****(Govt. of India)****APPLICATION FOR MINORITY STATUS CERTIFICATE (TO BE SUBMITTED IN 5 SETS)**

1.(a) Is the institution run by an individual or by a trust/society:

(i) If it is run by a trust/society, indicate unique ID of trust/society as given by the NITI Aayog portal NGO Darpan (It is not needed only in the case of institutions run by individuals). Further, the details given in the form should match with corresponding detail as available on the ngo darpan web site (<http://ngo.india.gov.in>)

(b) Name and address of the institution

(c) Name and address(with PIN Code)of the President/ Secretary of the Trust/ Society or of individual

(d) Contact No

(e) e mail ID of the society (individual if the institution is run by individual):

2. Whether the applicant institution had ever applied to NCMEI for grant of minority status certificate? If so, furnish reference number and date along with orders of the Commission.

3. Whether the applicant **INSTITUTION'S** claim is based on religious or linguistic minority?

4. Whether the applicant institution has been established or administered by:- (a)Religious minority(Tick on appropriate)

Muslim		Christian		Sikh		Jain		Buddhist		Parsee	
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or

(b) Linguistic minority (pl note that the Commission does not entertain application from linguistic minority).

5. Whether any authority has granted minority status to the institution?

6. Whether an application for No Objection Certificate under Section-10 of National Commission for Minority Educational Institutions Act, 2004 was applied to the state competent authority. If yes, attach a copy of your application with the following information :

(a)Date of application

(b)Acknowledgement / Proof of Service

(c) The application:

(i) Is rejected

(ii) Is still pending.

(iii) NOC granted by State Government

(d) In case of rejection, the reason therefore.(Attach a copy of the order or rejection letter)

(e) The date on which the order of rejection has been communicated to you.

7.If your application is still pending, what is the current status of your application.

8.Date(s) of reminder(s) sent by you to the competent authority and replies received, if any, in this regard.

9. Details pertaining to the Society/ Trust

(a)Name and Address(with PIN Code)of the Society/ Trust (This should match the details provided by the Trust / Society on <http://ngo.india.gov.in>)

(b) Whether it is registered (attach a copy of the certificate of registration)

- (c) Attach a copy of the MOA of Society/ Trust deed
 (d) Name and addresses of the founding Members/ Mutwallis/ Trustees and their religion.
 (e) Whether the MoA of the Society/ Trust Deed has been amended at any time and, if yes, attach a copy of the amended MOA of Society / Trust Deed.

10. Details pertaining to the Institution

- (a) The year in which the institution has been established.
 (b) Who established the institution.
 (c) Details of existing students and teachers / faculties from minority communities may be furnished in the table given below :

NUMBER AS ON -----								TOTAL
	Muslim (A)	Christian (B)	Sikh (C)	Jain (D)	Budhist (E)	Parsee (F)	Hindu + Other (G)	A+B+C+ D+E+ F+G
Student								
Teacher / Faculty								

- (d) Names and Addresses of the present Trustees/ Mutwallis/ Members of the Governing Body and their religion.
 (e) Whether the Trust/ Society of the applicant institution has been recognised by any court or competent authority as Religious/? If yes, provide details.
 (f) Whether the minority status of the applicant institution has been withdrawn/ cancelled by the competent authority at any time. If yes, on what grounds.
 (g) Whether the name of the institution or its ownership has changed since its inception and if so the details thereof.
 (h) Have you ever approached any judicial forum including Supreme Court or High Court for grant of minority status to the applicant institution? If so, furnish details and give present status.
 (i) Is the applicant institution affiliated to the State Board or Central Board or University. Furnish details including copy of order/ letter of affiliation.
 (j) Whether the institution was recognised/ de-recognised by any competent authority?

11. Whether the institution is aided / un-aided

DECLARATION

I _____ Chairman/ President/ Secretary on behalf of the _____ Society, hereby declare that the particulars furnished above are true to the best of my knowledge and belief, and that if any detail is found on verification/ inspection to be false, the Commission shall cancel the minority status certificate awarded to the institution. The decision of the Commission in this regard shall be final.

Chairman/ President/ Secretary
 (for and on behalf of the institution)

Place:

Date:

FORM NO.1

[See rule 4]

**MEMORANDUM OF APPEAL UNDER SECTION 12A(1) AND 12B(1) OF THE
NATIONAL COMMISSION FOR MINORITY EDUCATIONAL INSTITUTIONS ACT, 2004**

For use of Commission's office

Date of filing

Date of receipt by post

Registration No.....

Signature
Secretary

IN THE NATIONAL COMMISSION FOR MINORITY EDUCATIONAL INSTITUTIONS

..... Appellant

..... Respondent (s)

Details of appeals:

- 1 (a) Name and address of the Institution
(b) Name and address of the President/Secretary of the Trust/Society
2. Whether the appellant institution's claim is based on religious or linguistic minority?
3. Whether the appellant institution has been established or administered by :-
(a) Religious minority, or
(b) Linguistic minority
4. Particulars of the respondent(s) including address for service of notice
5. Particulars of the order under appeal:-
 - (i) Order Number
 - (ii) Date of the order
 - (iii) Name of the authority, whose order has been challenged in the appeal.

6. *Limitation.* – The appellant further declares that the appeal is within the limitation prescribed under the Act.

7. *Facts of the case and orders passed by the competent authority* - The facts of the case are given below:

(Give herein a concise statement of facts and grounds of appeal against the order passed by the competent authority.)

8. *Matter not pending with any other Commission, etc.* - The appellant further declares that the matter regarding which this appeal has been made is not pending before any commission of law or any other authority or any other Tribunal.

9. *Relief sought.* - In view of the facts mentioned in paragraph eight above, the appellant prays for the following reliefs; (specify below the reliefs sought by the appellant).

10. *Details of indeed.* – An index in duplicate containing the details of the documents to be relied upon is enclosed.

12. List of enclosures:

VERIFICATION

I,(name in full in block letters) son / daughter / wife of Shri Do hereby verify that the contents of paras 1 to 12 are true to personal knowledge and belief and that I have not suppressed any material facts.

Signature of the Appellant

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