



ROLE OF NATIONAL COMMISSION FOR MINORITY EDUCATIONAL INSTITUTION (NCMEI) IN PROTECTING INTERESTS OF MINORITY EDUCATIONAL INSTITUTIONS

Shahnawaz Ahmed Malik

Research Fellow,

F/o Law Jamia Millia Islamia (Central University), New Delhi.

The National Commission for Minority Educational Institutions (NCMEI) was established in 2004 through an Act of Parliament to support and protect the rights of minority educational institutions. Its main purpose is to provide a platform where such institutions can address grievances and resolve issues. Over the years, under the leadership of Justice M.S.A. Siddiqui, the Commission has made remarkable progress in fulfilling its mission.

A significant number of individuals and organizations have approached the NCMEI, particularly those seeking Minority Status Certificates after encountering hurdles with state education departments. In fact, most of the applications received by the Commission are for these certificates. Other common issues include problems with obtaining No Objection Certificates (NOCs), affiliation, recognition, and grants for minority-run educational institutions. States like Kerala, Uttar Pradesh, and West Bengal are among the top contributors in terms of applications.

When it comes to religion, Christians make up the largest group of applicants receiving certificates, with Muslims coming in second. Despite their constitutional rights, many minority institutions find it difficult to gain recognition from state authorities. Education departments in many states often impose unnecessary delays and obstacles, forcing these institutions to deal with routine harassment under various pretexts. These issues extend beyond certificates, affecting processes like affiliation and registration as well. Without intervention, many state authorities are reluctant to grant minority status to deserving institutions, leaving them with no choice but to turn to the NCMEI for help.

Justice M.S.A. Siddiqui has been instrumental in addressing these challenges. He has taken proactive steps to ensure that the rights of minority institutions are upheld. Under his guidance, the Commission has set up sub-committees to raise awareness about the legal rights of minority educational institutions. Justice Siddiqui himself often visits these institutions to understand their challenges firsthand and advocates directly with state authorities to resolve

issues. He has repeatedly highlighted how minority communities across India face systemic violations of their educational rights.¹

Background-

The Commission is the outcome of successful lobbying by private aided and unaided minority professional colleges, whose managers face problems with respective state governments.

Most of the problems that minority educational institutions including professional colleges have been facing for a long time in securing recognition and affiliation with respective State Universities, and in getting grants and fixing of minority quota of seats, all derive from the fact that Universities and Boards of Education at all levels were never directed to give due consideration to the rights of minorities under Articles 29 & 30 in their Acts, statutes, ordinances and rules and regulations.²

National Commission for Minority Educational Institutions Act, 2004

The government promulgated an Ordinance in November 2004 to establish the National Commission for Minority Educational Institutions (NCMEI). Subsequently, a Bill was introduced in Parliament in December 2004 and was passed by both Houses. The NCMEI Act was officially notified in January 2005. This legislation enables the direct affiliation of minority educational institutions with central universities and was enacted to enhance the quality of education provided by these institutions. The NCMEI operates as a quasi-judicial body endowed with the authority of a Civil Court. It is chaired by a former judge of the Delhi High Court and comprises two additional members appointed by the Central Government. The Commission is tasked with three primary functions: adjudicatory, advisory, and recommendatory. The empowerment of the Commission has created a crucial platform for minority educational institutions to articulate grievances and obtain prompt redressal. Petitions and complaints submitted to the Commission often pertain to issues such as the non-issuance or delay of No Objection Certificates (NOCs) by State Governments, denial or delay in granting minority status to educational institutions, and refusal to permit the establishment of new schools or colleges by minority groups.³

Other grievances include the denial of permission to introduce additional courses, delays in releasing grants or financial assistance, and inequities in pay scales for minority school teachers compared to government school teachers. Additionally, minority educational institutions frequently face challenges such as a lack of teaching aids, inadequate facilities like libraries and laboratories, insufficient availability of Urdu books for Urdu-medium schools, and the inadequate appointment of Urdu-speaking teachers. Complaints also extend to issues like

¹ The National Commission for Minority Educational Institutions” By Iqbal A. Ansari 16th 31st March Published in the 16-31 March 2005 print edition of Milli Gazette

² Dr. Malik, Asad, Assistant Professor, Class lecture on Minority Rights, F/o Law JMI, New Delhi 2009

³ Official website of NCMEI-About Us <http://ncmei.gov.in/index.aspx?clt=1> accessed on 15th May 2013

underpayment of Madrasa staff, non-payment of retirement benefits, and the denial of Sarva Shiksha Abhiyan benefits to minority institutions, particularly in rural and underserved areas. The NCMEI Ordinance and Act affirm the right of minority colleges to seek affiliation with any listed central university of their choice.

The list currently includes six universities: the University of Delhi, Pondicherry University, North Eastern Hill University, Assam University, Nagaland University, and Mizoram University. The Central Government retains the authority to expand this list by including additional universities. If a listed university refuses affiliation, the matter is referred to a three-member committee chaired by a High Court judge. This committee is empowered with executive and judicial authority to issue binding decisions. The Commission is specifically mandated to address complaints concerning the deprivation or violation of minority rights to establish and manage educational institutions. It also resolves disputes regarding affiliation with Scheduled Universities and submits its findings to the Central Government for enforcement. In doing so, the NCMEI ensures the protection and promotion of the educational rights of minority communities in accordance with constitutional provisions⁴

Rights of Minority Educational Institutions under the Act:-

The National Commission for Minority Educational Institutions Act 2004 (2 of 2005) as amended by the NCMEI (Amendment Act 2006 and 2010) lays down rights of Minority Educational Institutions as under: -

Minority Educational Institutions can approach NCMEI: -

As per the official website of NCMEI, Minority run educational institutes, schools, Colleges, and Universities can approach the commission for the following grounds.⁵

For obtaining Minority Status Certificate (MSC).

In cases where an application for a No Objection Certificate (NOC) has been rejected by the State/UT (under Section 12A) or where minority status certification has been denied (under Section 12B).

For resolving disputes related to affiliation, deprivation, or violation of minority rights concerning the establishment and administration of institutions of their choice.

Right to establish a Minority Educational Institution: -

"1. Any person who desires to establish a Minority Institution may apply to the Competent authority for the grant of no objection certificate for the said purpose.

2. The Competent authority shall:-

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

(b) after giving an opportunity of being heard to the applicant, decide every application filed

⁴ Ibid

⁵ Official website of NCMEI ,About Us <https://ncmei.gov.in/about-department/about-us-2/>

under sub-section (1) as expeditiously as possible and grant or reject the application, as the case may be:

Provided that where an application is rejected, the Competent authority shall communicate the same to the applicant.

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

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

(b) where an application has been rejected and the same has not been communicated to the person who has applied for the grant of such certificate,

it shall be deemed that the Competent authority has granted a no objection certificate to the applicant."

Section 10A of the Act confers a legal right on a minority educational institution to seek affiliation to any university of its choice.⁶

Section 10A of the Act is as under: -

"10A. Right of a Minority Educational Institution to seek affiliation - (1) A Minority Educational Institution may seek affiliation to any University of its choice subject to such affiliation being permissible within the Act under which the said University is established.

(2) Any person who is authorized in this behalf by the Minority Educational Institution, may file an application for affiliation under sub-section (1) to a University in the manner prescribed by the Statute, Ordinance, rules or regulations, of the University."

11. Functions of Commission⁷.— *"Notwithstanding anything contained in any other law for the time being in force, the Commission shall— (a) advise the Central Government or any State Government on any question relating to the education of minorities that may be referred to it; (b) look into specific complaints regarding deprivation or violation of rights of minorities to establish and administer educational institutions of their choice and any dispute relating affiliation to a Scheduled University and report its findings to the Central Government for its implementation; and*

(c) to do such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the Commission" (w.e.f. 23.1.2006).

(d) review the safeguards provided by or under the Constitution, or any law for the time being in force, for the protection of educational rights of the minorities and recommend measures for

NCMEI Act 2004 (No 2 of 2005) as Amended by NCMEI (Amendment) Act, 2006 and NCMEI (Amendment) Act, 2010

<https://cdnbbsr.s3waas.gov.in/s33de568f8597b94bda53149c7d7f5958c/uploads/2023/05/2023050941.pdf>

⁷ Ibid

their effective implementation; (e) specify measures to promote and preserve the minority status and character of institutions of their choice established by minorities; (f) decide all questions relating to the status of any institution as a Minority Educational Institution and declare its status as such; (g) make recommendations to the appropriate Government for the effective, implementation of programmes and schemes relating to the Minority Educational Institutions; and (h) do such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the Commission.”

Section 12 of the Act confers power on this Commission to decide any dispute relating to affiliation to such university. Section 12 read as under: -

“12. Powers of Commission . –

(1) If any dispute arises between a minority educational institution and a university relating to its affiliation to such University, the decision of the Commission thereon shall be final.

(2) The Commission shall, for the purposes of discharging its functions under this Act, have all the powers of a civil court trying a suit and in particular, in respect of the following matter, namely:-

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), requisitioning any public record or document or copy of such record or document from any office;

(e) issuing commissions for the examination of witnesses or documents; and

(f) any other matter which may be prescribed.

[(3) Every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code (45 of 1860) and the Commission shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974)]” 8

Granting of Minority Status Certificate:- Following is the data of state wise Minority certificates issued by the commission.⁹

⁸ Ibid

⁹ **State wise and Year wise details of Minority status certificate issued at official website of NCMEI- Index** <http://ncmei.gov.in/index.aspx?clt=84> accessed on 15th May 2013. Annual reports of NCMEI available at <https://ncmei.gov.in/annual-reports/page/2/>

Table 1: State-Wise Minority Status Certificates Issued (2005–2012)

State	2005	2006	2007	2008	2009	2010	2011	2012	Total
Andaman	0	3	2	0	0	0	1	0	6
Andhra Pradesh	4	9	24	6	30	2	17	35	127
Arunachal Pradesh	0	0	2	0	6	0	0	12	20
Assam	0	2	0	17	2	13	111	32	177
Bihar	1	2	20	17	3	3	27	6	79
Chandigarh	0	2	3	1	1	1	3	1	12
Chhattisgarh	0	1	4	5	7	55	91	3	166
D&N Haveli	0	2	2	0	0	0	0	0	4
Daman	0	1	0	0	0	0	0	0	1
Delhi	2	36	8	15	10	14	33	37	155
Goa	0	9	31	28	81	4	3	3	159
Gujarat	0	3	3	5	8	5	5	0	29
Haryana	0	20	12	3	4	0	24	23	86
Himachal Pradesh	0	9	3	4	0	1	3	3	23
Jharkhand	0	2	15	13	3	1	4	15	53
Karnataka	0	4	26	15	11	9	12	43	120
Kerala	0	9	78	97	524	822	852	843	3225
Lakshadweep	0	0	0	0	0	0	0	0	0
Madhya Pradesh	0	15	19	12	23	23	58	73	223
Maharashtra	11	22	28	21	7	3	2	17	111
Manipur	0	1	0	1	0	0	32	0	34
Meghalaya	0	1	4	0	0	1	0	0	6
Mizoram	0	0	0	0	0	0	0	0	0
Nagaland	0	0	0	0	0	0	0	0	0
Orissa	0	14	16	23	6	12	6	2	79
Pondicherry	0	2	13	0	3	0	0	1	19
Punjab	0	11	39	4	0	9	5	7	75
Rajasthan	0	2	22	37	20	4	2	0	87
Sikkim	0	3	13	0	1	0	0	0	17
Tamil Nadu	1	9	19	13	14	16	12	23	107
Tripura	0	0	0	1	6	0	0	4	11
Uttar Pradesh	1	107	99	48	59	114	253	692	1373
Uttarakhand	0	36	17	8	4	3	11	4	83
West Bengal	1	85	215	113	15	7	89	86	611
Total	21	422	737	507	848	1122	1656	1965	7278

States like **Kerala** and **Uttar Pradesh** issued the highest number of certificates in this period (3225 and 1373, respectively). Several smaller states/UTs like **Lakshadweep** and **Mizoram** issued no certificates during this time. **Andaman** and **Daman** issued only a handful (6 and 1, respectively).

Table 2: Community-Wise Minority Status Certificates Issued (2005–2012)¹⁰

Community	2005	2006	2007	2008	2009	2010	2011	2012	Total
Buddhist	0	0	1	5	0	1	17	29	53
Christian	3	384	636	388	726	910	1101	784	4932
Jain	0	0	1	4	4	13	33	69	124
Muslim	17	34	96	106	106	185	471	1044	2059
Parsi	0	0	0	0	0	1	2	0	3
Sikh	1	4	3	4	12	12	32	39	107
Total	21	422	737	507	848	1122	1656	1965	7278

Christians received the highest number of certificates (4932), followed by Muslims (2059). Buddhists, Jains, Parsis, and Sikhs received significantly fewer certificates compared to Christians and Muslims. The issuance of certificates for Parsis was minimal, with only three certificates issued in the entire period.

Land Mark Judgment in case of Jamia Millia Islamia University.

In a landmark judgment in 2011, the National Commission for Minority Educational Institutions (NCMEI) granted minority status to Jamia Millia Islamia. Prior to this, Jamia allocated 22.5% of its seats to Scheduled Castes (SCs) and Scheduled Tribes (STs), 25% to students from Jamia schools, and 3% to physically handicapped individuals. The push for minority status gained traction when the university was directed to implement reservations for Other Backward Classes (OBCs). The Jamia Teachers' Association, Jamia Students Union, and Jamia Old Boys' Association collectively filed the petition with NCMEI to secure this status.

The 51-page judgment, given by Justice M S A Siddiqui, Mohinder Singh and Cyriac Thomas, said, "We have no hesitation in holding that Jamia was founded by Muslims for the benefit of Muslims and it never lost its identity as a Muslim minority educational institution."

"We find and hold that Jamia Millia Islamia is a minority educational institution covered under Article 30(1) of the Constitution with section 2 (G) of the NCMEI Act," the order said. The institute was founded even before the Constitution was in place, it said.

The NCMEI distinguished Jamia Millia Islamia's case from that of Aligarh Muslim University (AMU), asserting that the Supreme Court's 1967 ruling in the Aziz Basha case, which denied minority status to AMU, was irrelevant to Jamia's situation.

¹⁰ Ibid

The NCMEI order said,

"Jamia did not owe its very existence to a statute. Since its founding in 1920 till the enactment of the Jamia Millia Islamia Act in 1988, Jamia never lost its identity. Even prior to the enactment of the Act, Jamia had legal existence of its own." ¹¹

The Vice Chancellor of Jamia Millia Islamia Mr. **Najeeb Jung** said, "The judgment does not in any way change the essential character of Jamia. The University has always had a commitment to national goals of social justice and secular ideals. The University will continue to uphold these in the future too." ¹²

CONCLUSION:-

The NCMEI has been instrumental in protecting the rights of minority educational institutions since it was established in 2004. Under the leadership of Justice M.S.A. Siddiqui, the Commission has worked tirelessly to address the challenges faced by these institutions, particularly in navigating the complexities of state education departments.

However, it's concerning that the Muslim community, which makes up the largest minority group in India, has not taken full advantage of the benefits the Commission offers. While Christians have made significant use of these opportunities, many in the Muslim community appear to lag behind, likely due to a lack of awareness or initiative. To truly fulfill its purpose, the Commission and the government must ensure that all minority communities, especially those falling behind, can access and benefit from these rights. Only then can we achieve the goal of empowering every minority group equally and fairly.

¹¹ Central Univ Jamia Millia Islamia given minority tag by panel Times News Network Feb 23, 2011, 02.06am IST34 http://articles.timesofindia.indiatimes.com/2011-02-23/delhi/28626346_1_minority-status-aligarh-muslim-university-jamia-case accessed on 10th may 2013

¹² Jamia to study 'minority institution' status for implementation at <http://www.siasat.com/english/news/jamia-study-minority-institution-status-implementation> accessed on 9th May 2013
