

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

WEDNESDAY, THE 17<sup>TH</sup> DAY OF AUGUST 2022 / 26TH SRAVANA, 1944

WP(C) NO. 28612 OF 2020

PETITIONER/S:

- 1 MANAGEMENT ASSOCIATION OF CHRISTIAN MINORITY SCHOOLS  
REPRESENTED BY ITS PRESIDENT, REV. FR. VARGHESE  
MANICKANAMPARAMBIL, CMI HAVING REGISTERED OFFICE AT  
ST.ARNOLD'S NORTH ADUVASSERY, S. ADUVASSERY P.O,  
ERNAKULAM, PIN-683 578.
- 2 DARUL QURAN RESIDENTIAL SCHOOL ALATHIYOOR,  
TIRUR, MALAPPURAM, PIN-676 102,  
REPRESENTED BY ITS MANAGER, MOHAMMED NOORUL AMEEN C.P.
- 3 PEACE INTERNATIONAL SCHOOL,  
TRIKARIPURAM, KASARGOD, PIN-671 310,  
REPRESENTED BY ITS MANAGER, SHAHEED A.G.C.
- 4 MP INTERNATIONAL SCHOOL,  
MP CAMPUS PERIYADKA, SIRIBAGILU, KASARGOD-671 310,  
REPRESENTED BY ITS MANAGER, PALLIKKAL MAHMOOD SHAMSUDDIN.
- 5 LATHEEFA BEEVI MEMORIAL CBSE CENTRAL SCHOOL FOR GIRLS,  
HUJJAJ PALLI ROAD, AYALATHIL, KOLLAM-691 004,  
REPRESENTED BY ITS MANAGER, MUHAMMED SALMAN A.

BY ADVS.  
JOSE ABRAHAM  
SRI.E.ADITHYAN

RESPONDENT/S:

- 1 STATE OF KERALA  
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT,  
GENERAL EDUCATION DEPARTMENT, THIRUVANANTHAPURAM-695 001.
- 2 DIRECTOR,  
DIRECTORATE OF MINORITY WELFARE, GOVT. OF KERALA,  
4TH FLOOR, VIKAS BHAVAN, THIRUVANANTHAPURAM DT.  
KERALA-695 033.  
SRI.PREMCHAND R. NAIR, SR. GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
17.08.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

## **JUDGMENT**

The 1st petitioner is an Association by name "Management Association of Christian Minority Schools" of Unaided Minority Educational Institutions registered as per Ext.P1 deed. The grievance of the petitioners is that the Directorate of Minority Welfare, Kerala, is insisting upon the production of a Recognition Certificate from the State Government under Section 18 of the RTE Act, 2009 as a pre-requisite for the grant of No Objection Certificate.

2. When the matter was taken up for consideration, Sri. Adithyan, the learned counsel appearing for the petitioners, submits that the petitioners would limit their prayer in this writ petition for a declaration that the Director, Directorate of Minority Welfare, is powerless to insist upon the production of the Recognition Certificate from the State Government under Section 18 of the RTE Act, 2009 as a pre-requisite for the grant of Minority Status Certificate and the said practice is unconstitutional. In order to substantiate the contentions, the learned counsel relies on the law laid down by the Apex Court in **Pramati Educational & Cultural Trust v. Union of India** [2014 (8) SCC 1].

3. In the counter affidavit filed by the 2nd respondent, it is stated as follows in paragraph no.4:-

It is respectfully submitted that, this respondent considered the application of the petitioners and after hearing the application, it was found that the applications are incomplete and dismissed those applications by giving permission to submit new applications by attaching all these mandatory documents as per NCMEI check list. This respondent, who is the competent authority under the statute is only exercising the statutory powers as required under the law. This respondent has every power to issue No Objection Certificate for Minority Status only if the application is submitted with all mandatory documents. As per the rules the following are the eligibility criteria defined by NCMEI Act, 2004 for obtaining Minority Status.

1) The educational institution is established by a member /members of the religious minority community.

2) The educational institution is established primarily for the benefit of the minority community.

3) The educational institutions is being administered by the minority community.

4) If the Minority Educational Institution 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.

4. It is also stated that the Minority Status Certificate can be issued only if the above criteria are satisfied under the Act.

5. The learned Government Pleader submitted that a Division Bench of this Court in W.A.No.173 of 2019 and connected cases, had occasion to hold that though the RTE Act is not applicable to the minority institutions, such institutions are required to be affiliated under recognised Boards of Examinations even if such institutions impart only elementary education.

In that view of the matter, in tune with what is stated in paragraph 4 of the counter affidavit, No Objection Certificate can be issued on condition that the above criteria mentioned in paragraph 4 of the counter are satisfied and by holding that, in view of **Pramati Educational & Cultural Trust v. Union of India** [2014 (8) SCC 1], Minority Institutions are not required to obtain recognition under Section 18(1) of the RTE Act, 2009.

sd/ -

**RAJA VIJAYARAGHAVAN V  
JUDGE**

sru

APPENDIX OF WP(C) 28612/2020

## PETITIONER EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE COPY OF THE REGISTRATION CERTIFICATE OF MANAGEMENT ASSOCIATION OF CHRISTIAN MINORITY SCHOOLS, FIRST PETITIONER HEREIN.
- EXHIBIT P2 TRUE COPY OF THE RELEVANT PAGES OF THE GOVERNMENT ORDER G.O(MS) NO. 22/2019/G.EDN DATED 01.03.2019 ISSUED BY THE GENERAL EDUCATION DEPARTMENT OF STATE OF KERALA.
- EXHIBIT P3 THE TRUE COPY OF THE RELEVANT PAGES OF THE GOVERNMENT ORDER G.O(MS) NO. 45/2019/G.DN. DATED 22.05.2019 ISSUED BY THE GENERAL EDUCATION DEPARTMENT OF STATE OF KERALA.
- EXHIBIT P4 TRUE COPY OF THE ORDER ISSUED BY THE GOVERNMENT OF KERALA DATED 9.1.2020 APPOINTING THE SECOND RESPONDENT AS COMPETENT AUTHORITY UNDER SECTION 10 AND 12B OF THE COMPETENT AUTHORITY UNDER SECTION 10 AND 12B OF THE NATIONAL COMMISSION FOR MINORITY EDUCATIONAL INSTITUTIONS ACT 2004.
- EXHIBIT P5 THE TRUE COPY OF THE GUIDELINES FOR ISSUING NO OBJECTIONS CERTIFICATE AND RELATED MATTERS ISSUED BY THE SECOND RESPONDENT DATED 9.1.2020 IN RESPECT OF MINORITY EDUCATIONAL INSTITUTION.
- EXHIBIT P6 THE TRUE COPY OF THE PRESCRIBED APPLICATION FORM FOR THE GRANT OF NO OBJECTION CERTIFICATE DATED 9.1.2020 ISSUED BY THE SECOND RESPONDENT.
- EXHIBIT P7 TRUE COPY OF THE NATIONAL COMMISSION FOR MINORITY EDUCATIONAL INSTITUTIONS ACT 2004.
- EXHIBIT P8 TRUE COPY OF THE REPRESENTATION FORWARDED BY THE FIRST PETITIONER TO THE FIRST RESPONDENT DATED 1ST DECEMBER 2020.

## RESPONDENTS EXHIBITS :

EXHIBIT R2 (A) TRUE COPY OF THE RELEVANT PAGE OF THE PROCEDURE  
IN THE NCMEI ACT.

EXHIBIT R2 (B) TRUE COPY OF THE RELEVANT PAGE OF THE PROCEDURE  
FOR MINORITY STATUS CERTIFICATE AND APPEAL  
UNDER SECTION 12 (A) AND (B) OF THE ACT.