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PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

GOVERNMENT OF WEST BENGAL
MINORITY AFFAIRS AND MADRASAH EDUCATION DEPARTMENT

**Sub : GUIDELINES FOR GRANT OF NO OBJECTION CERTIFICATE
AND MINORITY EDUCATIONAL INSTITUTION STATUS CERTIFICATE
TO A MINORITY EDUCATIONAL INSTITUTION.**

NOTIFICATION

No. 378MD(V)-13M(V)-33/09.—5th April 2012.—Whereas, article 30 of the Constitution of India provides the right to all minorities, whether based on religion or language, to establish and administer educational institutions of their choice;

And whereas, section 10 of the National Commission for Minority Educational Institutions Act, 2004 provides that any person who desires to establish a Minority Educational Institution may apply to the Competent Authority for the grant of no objection certificate for the said purpose;

And whereas, sub-section (1) of section 18 of the Right of Children to Free and Compulsory Education Act, 2009 provides that no school, other than a school established, owned or controlled by the appropriate Government or the local authority, shall, after the commencement of this Act, be established or function, without obtaining a certificate of recognition from the concerned authority by making an application in such form and manner, as may be prescribed;

And whereas, the earlier Guidelines issued vide GO No.942-MD dated 30.6.2008 had the provisions for granting Minority Educational Institution Status Certificate to the existing minority educational institutions only but no provisions for granting of no objection certificate to establish a new minority educational Institution;

And whereas, after due consideration of the matters and in consultation with the School Education Department, Technical Education & Training Department and Higher Education Department, the State Government in Minority Affairs and Madrasah Education Department has decided to modify the said Guidelines with the approval of the Cabinet;

Now, therefore, the Governor is pleased hereby to make the following modified guidelines to replace the earlier Guidelines issued vide GO No.942-MD dated 30.6.2008 for granting of "no objection certificate" to establish a minority educational institution as well as for granting Minority Educational Institution Status Certificate to the minority educational institutions which have decided to conduct or are conducting, as the case may be, its programmes of studies under the relevant State Acts:—

Part-I**No Objection Certificate for establishing a new Minority Educational Institution.**

1. (1) An application for "no objection certificate" to establish a minority educational institution shall be made in the proforma given in Annexure-I and shall be dealt with in accordance with the provisions of section 10 of the National Commission for Minority Educational Institutions Act, 2004 by the Competent Authority in the State of West Bengal.
- (2) The "no objection certificate" so granted, shall remain valid for a period of two years unless such certificate is revoked earlier by the Competent Authority on reasonable ground after giving an opportunity of hearing.
- (3) The validity of "no objection certificate" may be extended for a period not exceeding one year by the Competent Authority on reasonable ground.

Part-II**Minority Institution Status Certificate for existing educational institution.****2. Criteria to be fulfilled by a recognised educational institution for receiving Minority Educational Institution Status Certificate :**

- (a) The educational institution must have been established and administered by the minorities to serve the interests of the concerned minority community.
- (b) An educational institution which a minority community has established but has subsequently relinquished responsibility of management to other minority or non-minority, cannot acquire such status. The institution must have been established by and always be administered by the minority community.
- (c) If an organization sponsors the educational institution, such organisation shall get registered as a Society/Trust/Committee/Association comprising 100% members belonging to that minority community to which they claim to belong.
- (d) The aims and objects of the educational organisation incorporated in its memorandum/by-laws etc. shall clearly specify that it is meant primarily to serve the educational interests of the minority community to which they claim to belong, in letter and spirit.
- (e) While admitting students in the Educational Institution, priority shall be given to the eligible students of the concerned minority community administering the institution maintaining transparency in admission and the right of admission of a student of the concerned minority community shall not be curtailed for admitting a general category student.
- (f) The institution, having classes between class-I to class-VIII, has already obtained a certificate of recognition from the concerned authority under sub-section (1) of section 18 of the Right of Children to Free and Compulsory Education Act, 2009.
- (g) The institution having classes between class-I to class-VIII shall have to fulfil the conditions given under sections 19 and 25 of the Right of Children to Free and Compulsory Education Act, 2009.
- (h) In the case of an aided educational institution, such institution has already obtained a "no objection certificate" from the Competent Authority empowered by the respective Department and also has fulfilled conditions, if any, as may be specified in such certificate.

3. Application for receiving Minority Educational Institution Status Certificate :

- (a) A person/organization desirous of obtaining Minority Educational Institution Status Certificate for an existing institution shall make an application in the proforma given in Annexure-II along with necessary documentary evidence, affidavits of undertakings etc. in support of their claim to the Competent Authority in the Department to which the subject matter of the institution belongs. An unrecognized educational institution shall not be eligible to apply for Minority Educational Institution Status Certificate.
- (b) The application shall be examined and disposed of after giving an opportunity of hearing by the Competent Authority within 90 days of the receipt of application complete in all respect.
- (c) An institution established on the basis of "no objection certificate" so granted by the Competent Authority may also apply for Minority Educational Institution Status Certificate in the proforma given in Annexure-II on recognition and such application will be given priority and also be disposed of within 60 days by the Competent Authority in the department concerned.

- (d) If an application is rejected, the Competent Authority shall inform the applicant about such rejection and reasons thereof.

4. Validity of Minority Educational Institution status Certificate :

- (a) The Minority Educational Institution status certificate so granted shall remain valid until such is revoked by the Competent Authority on reasonable grounds.
- (b) The educational institution which has been granted Minority Educational Institution Status Certificate shall give details of members of the managing committee/organization, students studying and teaching and non-teaching staff working therein every year before the expiry of each academic year to the Competent Authority or to his direction to any other authority. If such details are not provided within that period, the Competent Authority shall issue notice to such institution asking to provide such details within one month from the date of receipt of the notice and in spite of such notice if such details are not provided within the said period or sufficient details are not provided, the minority educational institution status certificate of such institution may be revoked by the Competent Authority after giving an opportunity of hearing.
- (c) The competent authority may also make necessary review of the affairs and status of the institution and revoke the certificate after giving an opportunity of being heard if an institution violates any provision of these guidelines or Acts, rules, regulations, orders, etc. as applicable from time to time.

5. Condition under which Minority Educational Institution Status Certificate shall be revoked :

The Competent Authority shall revoke the minority institution status certificate, under the following circumstances:-

- (a) If the constitution, aims and objects of the educational organisation which has enabled it to obtain minority educational institution status certificate to its educational institution has subsequently been modified/revised/amended in such a way that it no more reflects the spirit of minority institution;
- (b) If the institution fails to follow the norms and conditions pertaining to the fee structure, admission procedure, and pattern and various other conditions laid down by an appropriate authority from time to time to maintain academic standard and excellence of education, so far as they are not repugnant to the provisions of the constitution of India;
- (c) On verification of the records etc. if it is found that the educational institution has failed to admit students belonging to the concerned minority community in the institution, as per these guidelines;
- (d) If the institution, after getting the minority educational institution status certificate, violates any provision of these guidelines or Acts, rules, regulations, orders, etc. as applicable from time to time;
- (e) If the institution violates the provisions of the Right of Children to Free and Compulsory Education Act, 2009 or rules and notifications made thereunder where applicable.

6. Procedure for revoking Minority Educational Institution Status :

If the Competent Authority is of the opinion that any educational institution which has been accorded minority educational institution status, no longer deserves the status of minority educational institution for violating condition for such status, he may revoke such status after adopting the following procedure:-

- (a) The Competent Authority or the officer authorized by him shall issue a show cause notice giving 30 days time to explain why the recognition as minority educational institution accorded to the institution shall not be revoked ;
- (b) If the educational institution fails to comply with the notice or the explanation, if any, submitted is not satisfactory, the Competent Authority may proceed to revoke the status of the educational institution as minority educational institution after given an opportunity of being heard ;
- (c) If the educational organization which has been served with the show cause notice as stated in clause (a) rectifies the deficiencies pointed out in the notice, the Competent Authority may not revoke the status of the educational institution subject to fulfilment of such other conditions which the authority may prescribe as deemed fit.

7. General effects after receiving Minority Educational Institution Status Certificate :

- (a) Reservation policy for Scheduled Castes and Scheduled Tribes and Other Backward Classes shall not apply in recruitment of Teachers and Staff in Minority Educational Institutions.

- (b) That grant of Minority Educational Institution Status Certificate will not *ipso facto* make an unaided educational institution eligible for receipt of Government aid/grants which will be guided by the general norms concerning such aid/grants.

However, there shall be no bar for the State Government to provide financial assistance to such Institution for the purpose of educational enlightenment and uplift of the Minority community which will be guided by the general norms concerning such financial assistance.

- (c) Stipend/Scholarship and other such benefits may be allowed to students of such Institution as per Government norms.
- (d) There shall be no discrimination for such minority educational institution for providing other aids by the Government in consonance with the spirit of article 30(2) of the Constitution of India.
- (e) The Minority Educational Institution after getting such status from the Competent Authority shall have all rights as granted under section 10A of the National Commission for Minority Educational Institutions Act 2004.
- (f) Grant of Minority Educational Institution Status Certificate will not *ipso facto* make an unaided educational institution eligible for claiming affiliation, from any University, which will be guided as per the rules and eligibility criteria concerning such affiliation of the concerned University.

Part-III

General provisions applicable to both Part-I and Part-II

8. Other general criteria to be fulfilled :

- (a) The word 'Minority' shall be taken as defined under the West Bengal Minorities Commission Act 1996. Any community which may be a declared minority community in other States but not in West Bengal shall not be covered under these guidelines.
- (b) The applicant/organization must always maintain their minority character to enjoy such certificate.
- (c) The institution or its administering authority shall always follow the Acts, rules, regulations, orders, guidelines etc. as applicable from time to time.
- (d) The institution already established or to be established applying for relevant certificate shall maintain the following standard and facilities: -
- (i) All-weather building consisting of-
- (A) at least one class room for each class;
 - (B) separate toilets for boys, girls and staff;
 - (C) safe and adequate drinking water facilities;
 - (D) play ground with play material;
 - (E) at least fencing on the boundary of the institution;
 - (F) separate staff room with first-aid facility;
 - (G) library;
 - (H) fire-fighting facility with trained staff.

- (ii) Suitable students-teachers ratio with full time qualified teachers.

(iii) The applicant/organization shall specifically follow and maintain the requirement of the provisions of the Right of Children to Free and Compulsory Education Act, 2009 or rules and notifications made there under where applicable.

9. Authority to grant no objection certificate or Minority Educational Institution**Status Certificate :**

The Additional Chief Secretary / Principal Secretary / Secretary to the Government of West Bengal of the respective department to which the subject matter of the institution belongs or an officer duly authorized by him shall be the **Competent Authority** to grant no objection certificate or Minority Educational Institution Status Certificate for the educational institutions falling under his jurisdiction.

10. General instructions :

- (a) The Minority Educational Institutions shall follow the criteria for establishment, recognition, affiliation, admission, fee structure, appointment of teaching and non-teaching staff and salaries etc. as prescribed by the Government/ concerned University/Affiliating Authority / Council / Board/ Authority under the relevant Acts, rules, regulations, guidelines, orders, etc. unless some specific exemptions have been granted to that respect.
- (b) No Educational Institution shall be entitled for the privilege which is allowed to a recognized Minority Educational Institution unless it is recognized as minority Educational Institutions by the Competent Authority.
- (c) The State Government, through the Departmental machinery, is empowered to enforce the rules, regulations orders etc. of the Department so far as they are not repugnant to the provisions of the Constitution of India aiming at the furtherance of educational standards and excellence of education and to check mal-administration in the minority educational institutions.
- (d) Government or any other authority on their behalf are competent to bring to the notice of the affiliating authority /appropriate authority, after necessary inquiry, if an institution is found to be indulging in any mismanagement and to see that the academic standards and excellence of education are maintained.
- (e) Every educational institution shall follow the instructions issued by the Competent Authority from time to time which are meant to strengthen and streamline the educational standards and discipline and the welfare of the concerned minority students.
- (f) All the rules, regulations, orders, scheme, guidelines etc prescribed for the establishment, registration, recognition, administration and control of other private educational institutions shall also be applicable to the corresponding categories of minority educational institution so far as they are not repugnant to the relevant provisions of the Constitution of India.
- (g) Government/ University/ Council/Affiliating Board concerned are empowered to issue instructions or prescribe rules and regulations as deemed necessary for various categories of educational institutions separately and shall be applicable to all the educational institutions including those administered by the Minority Communities, unless otherwise repugnant to the provisions of the Constitution.
- (h) The Competent Authority may take *suo motu* action for suspension or revocation of Minority Educational Institution Status Certificate issued by him either on permanent or temporary basis, in case the educational institution fails to comply with the above instructions.

Annexure – I
(See Part-I)

To

The Competent Authority,

_____ Deptt.,

Government of West Bengal,

RE : APPLICATION FOR NO OBJECTION CERTIFICATE TO ESTABLISH A MINORITY EDUCATIONAL INSTITUTION

1. (a) Name and address of the applicant/Organization /Society/Trust :
- (b) Name & Address of the institution to be established :
- (c) Purpose for which the institution to be established – relevant extract of the memorandum :
2. Whether the application is based on religious or linguistic Minority (give details) :
3. Applicant's financial ability to establish such institution (give details) :
4. Details pertaining to the Person/Organization/Society /Trust which have intended to establish and administer such institution\ :
 - (a) Name and Address of the Persons/Organization/Society / Trust :
 - (b) If Organisation/Society/Trust, Whether it is registered (attach a copy of the certificate of registration) :
 - (c) Name & Address of the Founding Members/ Trustees and their religion :

SL. No.	Name	Office Status	Occupation	Address	Religion
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2					
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4					
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7					

(d) Whether the Memorandum of Association of the society/ trust has been amended at any time and if yes, attach the amendments :

5. Details pertaining to the Institution :

- (a) Name of the existing educational institutions within the radius of 3 kilometers of the institution to be established :
- (b) How the fund is to be arranged to establish such institution (give details) :
- (c) Name & Address of the present Trustee/Members of the Governing Body and their religion :
- (d) Whether certificate of recognition has been obtained from the concerned authority by making an application under sub-section (1) of section 18 of the Right of Children to Free and Compulsory Education Act, 2009 (give details) :

DECLARATION

I,

.....
.....herby aver that the particulars furnished above are true to the best of my knowledge and that if any detail is found on verification / inspection to be otherwise, the institution shall forfeit the minority certificate awarded to it. The decision of the Competent Authority in this regard shall be final.

Date:

(Signature of the applicant)

Annexure - II
(See Part-II)

To
The Competent Authority,
_____ Deptt.,
Government of West Bengal,

RE : APPLICATION FOR MINORITY EDUCATIONAL INSTITUTION STATUS CERTIFICATE

1. (a) Name and address of the Institution/Society/Trust :
- (b) Details of the staff working therein:
- (c) Name & Address of the President / Secretary of the Trust / Society :
- (d) The year of establishment of the Trust / Society :
- (e) Name of the Trust / Society / Charitable Organisation / Others who has established the institution :
- (f) Purpose for which the institution was established – relevant extract of the memorandum :
- (g) Students from which community the institution started for :

2. Whether the application is based on religious or linguistic Minority (give details):

3. Details pertaining to the person/Organization/Society / Trust which is administering the institution:

- (e) Name and Address of the Society / Trust :
- (f) Whether it is registered (attach a copy of the certificate of registration) :
- (g) Name & Address of the Founding Members / Mutwallis / Trustees and their religion :

SL. No.	Name	Office Status	Occupation	Address	Religion
1					
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- (h) Whether the Memorandum of Association of the person/Organization/Society/Trust has been amended at any time and if yes, attach the amendments :

4. Details pertaining to the Institution :

- (a) The year in which the institution has been established :
- (b) Percentage of the students from the minority community presently studying in the Institution :
- (c) Total No. of students belonging to minority community for which the Institution was initially founded : (Example – a Christian school will specify

- (d) Number of needy students belonging to minority communities (percent) receiving— :
- a) Scholarship :
- b) Annual Book Grant :
- c) Annual Uniform Grant :
- (e) Name & Address of the present trustee /members of the Governing Body and their religion :
- (f) If the institution is recognised / affiliated to any recognised University / Council / Board etc. provide details :
- (i) Whether the recognition / affiliation of institution has been withdrawn by the Competent authority at any time. If yes, on what grounds ?
- (ii) Whether the name of the institution or its administration has changed since its inception and if so the details there of :
- (g) If the institution is not affiliated to any recognised University then provide the name of the University whose programme of studies is followed therein :
- (h) If no objection certificate was granted earlier by the Competent Authority, give details :
- (i) Details of conditions fulfilled as required under sub-para (d) of para 9 :
- (j) Whether certificate of recognition has been obtained from the concerned authority by making an application under sub-section (1) of section 18 of the Right of Children to Free and Compulsory Education Act, 2009 (give details) :
- (k) Whether "no objection certificate" has been obtained from the appropriate authority under sub-para (h) of para 2 (give details) :

DECLARATION

I,

.....hereby aver that the particulars furnished above are true to the best of my knowledge and that if any detail is found on verification / inspection to be otherwise, the institution shall forfeit the minority certificate awarded to it. The decision of the Competent Authority in this regard shall be final.

Date:

(Signature of the applicant)

11. These guidelines shall come into force on the date of its publication in *The Official Gazette*.

By order of the Governor,

[ILLEGIBLE],

Chief Secretary to the Govt. of West Bengal.