



असा. क्र. ७२

रजिस्टर्ड नं. एमएच/एमआर/साऊथ-२२९/२००६-०८



सत्यमेव जयते

महाराष्ट्र शासन राजपत्र

असाधारण
प्राधिकृत प्रकाशन

मंगळवार, ऑगस्ट १, २००६/श्रावण १०, शके १९२८

स्वतंत्र संकलन म्हणून फाईल करण्यासाठी या भागाला वेगळे पृष्ठ क्रमांक दिले आहेत.

भाग आठ

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Private Professional Educational Institutions [Reservation of seats for admission for Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes and Other Backward Classes] Act, 2006 (Mah. XXX of 2006), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

A. M. SHINDEKAR,
Secretary to Government,
Law and Judiciary Department.

MAHARASHTRA ACT No. XXX OF 2006.

(First published, after having received the assent of the Governor in the "Maharashtra Government Gazette", on the 1st August 2006).

An Act to make special provisions for reservation of seats for admission for Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes and Other Backward Classes in Private Professional Educational Institutions; and for matters connected therewith or incidental thereto.


WHEREAS the Supreme Court, in the case of P. A. Inamdar and Others versus State of Maharashtra (reported in (2005) 6 SCC 537), has held that neither can the policy of reservation be enforced by the State nor can any quota or percentage of admission be carved out to be appropriated by the State in Private Professional Educational Institutions;

AND WHEREAS in order to protect the interests of any socially and educationally backward classes of citizens or the Scheduled Castes or the Scheduled Tribes, article 15 of the Constitution of India has

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been amended by the Constitution (Ninety-third Amendment) Act, 2005, by adding clause (5) thereto, which empowers the State to make, by law, a special provision for the advancement of those classes, castes and tribes, in so far as such special provisions relate to their admission to educational institutions, including private educational institutions, whether aided by the State or not, other than the minority educational institutions referred to in clause (1) of article 30 of the Constitution ;

AND WHEREAS both Houses of the State Legislature were not in session ;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to make, by law, special provisions for reservation of seats for admission for Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes and Other Backward Classes in Private Professional Educational Institutions ; and for matters connected therewith or incidental thereto ; and, therefore, promulgated the Maharashtra Private Professional Educational Institutions (Reservation of seats for admission for Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes and Other Backward Classes) Ordinance, 2006, on the 16th June 2006 ;

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AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature ; it is hereby enacted in the Fifty-seventh Year of the Republic of India as follows :—

Short title, extent and commencement. 1. (1) This Act may be called the Maharashtra Private Professional Educational Institutions (Reservation of seats for admission for Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes and Other Backward Classes) Act, 2006.

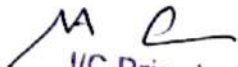
(2) It shall extend to the whole of the State of Maharashtra.

(3) It shall be deemed to have come into force on the 16th June 2006.

Definitions. 2. In this Act, unless the context otherwise requires,—

(a) "Aided Private Professional Educational Institution " means a Private Professional Educational Institution, excluding a Minority Educational Institution referred to in clause (1) of article 30 of the Constitution, receiving recurring financial aid or assistance in whole or in part from the Government, or from any body under the control of the Government ;

(b) "Appropriate Authority" means, the Medical Council of India, the Dental Council of India, the Central Council of Indian Medicine, the All India Council of Technical Education, and includes any other authority established by law that governs or controls the conduct of a particular professional course or educational discipline ;


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(c) "Creamy Layer" means the category of 'Creamy Layer' as declared by the Social Justice, Cultural Affairs and Special Assistance Department of the Government, on the basis of income, by general or special orders, issued from time to time;

(d) "De-notified Tribes (*Vimukta Jatis*)" means the Tribes declared as such by the Government, from time to time;

(e) "Government" means the Government of Maharashtra;

(f) "Minority Educational Institution" means a Private Professional Educational Institution administered, managed and controlled by a minority, and shall include any such educational institution declared by the Government to be an institution entitled to enjoy the protection granted under clause (1) of article 30 of the Constitution;

(g) "Nomadic Tribes" means the Tribes wandering from place to place in search of their livelihood, as declared by the Government, from time to time;

(h) "Other Backward Classes" means any socially and educationally backward classes of citizens as declared by the Government and includes Other Backward Classes declared by the Government of India in relation to the State of Maharashtra;

(i) "Private Professional Educational Institution" means any College, School, Institute, Institution or other body, by whatever name called, conducting any professional course or courses approved or recognized by the Appropriate Authority and affiliated to any University, but shall not include any such institution established, maintained or administered by the Central Government, any State Government, any local authority or institution declared to be Deemed University under section 3 of the University Grants Commission Act, 1956;

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1956.

(j) "Professional Course" means any educational course of study notified as such, from time to time, by the Government in the *Official Gazette*;

(k) "prescribed" means prescribed by the rules framed by the Government under this Act;

(l) "Reserved Category" means the category of candidates belonging to—

(i) the Scheduled Castes and the Scheduled Tribes;

(ii) the De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes, and Other Backward Classes and who are not falling in Creamy Layer;


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(m) "Sanctioned Intake."—means the total number of seats sanctioned or approved by the Appropriate Authority for admitting candidates in a single academic year in each Professional Course of study or discipline in a Private Professional Educational Institution ;

(n) "Scheduled Castes" and "Scheduled Tribes" shall have the meanings respectively assigned to them in clauses (24) and (25) of article 366 of the Constitution ;

(o) "Unaided Private Professional Educational Institution" means a Private Professional Educational Institution, not being an Aided Private Professional Educational Institution ;

(p) "University" means the Maharashtra University of Health Sciences constituted under the Maharashtra University of Health Sciences Act, 1998, or any other University constituted or deemed to have been constituted under the Maharashtra Universities Act, 1994, but does not include any institution declared to be Deemed University under section 3 of the University Grants Commission Act, 1956.

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Applicability. 3. This Act shall apply to all Private Professional Educational Institutions in the State, excluding the Minority Educational Institutions.

Reservation in Aided Private Professional Educational Institutions. 4. (1) In every Aided Private Professional Educational Institution, seats equal to fifty per cent. of the Sanctioned Intake of each Professional Course shall be reserved for candidates belonging to the Reserved Category.

(2) The seats reserved for candidates belonging to the Reserved Category under sub-section (1) shall be filled in by admitting candidates belonging to the Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes and Other Backward Classes, respectively, in the proportion specified in the Table below :—

TABLE

Description of Caste/Tribe/Category/ Class of Reserved Category	Percentage of reservation
(1) Scheduled Castes and Scheduled Castes converts to Buddhism	13 %
(2) Scheduled Tribes	7 %
(3) De-notified Tribes (A)	3 %
(4) Nomadic Tribes (B)	2.5 %
(5) Nomadic Tribes (C)	3.5 %
(6) Nomadic Tribes (D)	2 %
(7) Other Backward Classes	19 %
Total . .	50 %


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Note.—The candidates belonging to the Special Backward Category shall be considered from and out of their respective original/parent Reserved Category such as Other Backward Classes :

Provided that, if candidates belonging to the Scheduled Castes, Scheduled Tribes, De-notified Tribes (A), Nomadic Tribes (B), Nomadic Tribes (C), Nomadic Tribes (D) or Other Backward Classes are not available to fill in the seats reserved for the said Castes, Tribes or Classes, in the same academic year, the seats shall be filled in, in such manner as may be specified, by Government by issuing an Order in the *Official Gazette*, from time to time.

Explanation.—For the purposes of this section,—

(i) “De-notified Tribes (A)”, “Nomadic Tribes (B)”, “Nomadic Tribes (C)” and “Nomadic Tribes (D)” shall mean such Tribes or sub-Tribes, declared by Government, by general or special orders issued in this behalf, from time to time, to be “the De-notified Tribes (A)”, “Nomadic Tribes (B)”, “Nomadic Tribes (C)” and “Nomadic Tribes (D)”;

(ii) “Special Backward Category” means socially and educationally backward classes of citizens declared as “Special Backward Category” by the Government.

5. (1) In every Unaided Private Professional Educational Institutions, the seats to be reserved for candidates belonging to the Reserved Category shall be such as may be notified by the Government from time to time in the *Official Gazette*, but shall not exceed fifty per cent. of the Sanctioned Intake of any particular Professional Course.

Reservation
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Institutions.


(2) Out of the seats reserved under sub-section (1) for the candidates belonging to the Reserved Category, the seats to be filled in by admitting candidates belonging to the Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes and Other Backward Classes, respectively, shall be in the same *inter se* proportion, and in the manner, specified in sub-section (2) of section 4.

6. Any admission made in contravention of the provisions of this Act shall be void.

Irregular
admissions
void.

7. Whoever contravenes the provisions of this Act or the rules made thereunder shall, on conviction, be punished with an imprisonment which may extend to three years and with a fine which shall not be less than twenty lakh rupees but which may extend to one crore rupees.

Penalty.


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Protection of action taken in good faith. 8. No suit, prosecution or other legal proceedings shall lie against any authority or person for anything done or purported to have been done in good faith in pursuance of the provisions of this Act or the rules made thereunder.

Power to make rules. 9. (1) The Government may, by notification in the *Official Gazette*, make rules to carry out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be, after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the sessions immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify their decision to that effect in the *Official Gazette*, the rule shall, from the date of publication of such decision in the *Official Gazette*, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

Provisions of the Act to be in addition to any other law. 10. The provisions of this Act shall be in addition to and not in derogation of the provisions contained in any other law for the time being in force.

Provisions not to prohibit Minority Educational Institutions from making reservations. 11. Notwithstanding anything contained in any other provisions of this Act, any Minority Educational Institution, whether aided or not, may provide for reservation in admissions to Professional Courses for candidates belonging to the Reserved Category.

Power to remove difficulty. 12. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion arises, by an order published in the *Official Gazette*, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for removing the difficulty :

Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of the State Legislature.


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Mah. 13. (1) The Maharashtra Private Professional Educational Repeal of
Ord. Institutions (Reservation of seats for admission for Scheduled Castes, Mah. Ord.
V of Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes V of 2006
2006. and Other Backward Classes) Ordinance, 2006, is hereby repealed. and
saving.

(2) Notwithstanding such repeal anything done or any action taken
(including any notification or order issued), under the said Ordinance,
shall be deemed to have been done, taken or issued, as the case may be,
under the corresponding provisions of this Act.


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Procedure, Terms and Conditions for
Prescribing the Status of Educational Institutions run by
Minorities in the State of Maharashtra as Religious / Linguistic Minority
Institutions

GOVERNMENT OF MAHARASHTRA
Minority Development Department
Government Resolution/Ruling: 2008/133/2008/1
Ministry, Mumbai - 400 032
Dated on 04th July 2008

References:

- 1) National Minority Educational Institutions Commission Act 2004
- 2) General/Public Administration Department
- 3) General/Public Administration Department
- 4) Government Notification, General/Public Administration Department
- 5) Government Notification, Minority Development Department

Government Resolution/Ruling:

The matter of simplification of the existing procedure for granting status as a religious / linguistic minority institution to educational institutions run by minorities in the State had been under consideration of the State Government for some time. Accordingly, in consultation with the knowledgeable stakeholders in the field and considering the directions given by the Hon'ble Supreme Court from time to time in this regard, the Government of Maharashtra, in compliance to the regulating conditions laid by the Department of Public Administration in its G.R. 2006/634/63/2006/35, prescribes the following procedures, terms and conditions for granting religious / linguistic minority status to educational institutions run by minorities in the State.

1) Authority authorized to grant Minority Status Recognition:

The Government of Maharashtra, in accordance with the Government Notification 2008/149/08/1, has declared the Principal Secretary, Minority Development Department, Ministry, Mumbai, as the Competent Authority to grant religious / linguistic minority status to educational institutions run by minorities in the State.

2) Eligibility Criteria for Recognition of Religious / Linguistic Minority Status:

- i) Educational Institutions which have been recognized as Minority Educational Institutions by a special order or letter


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before June 11, 2007 or by Government Resolution 2006/634/63/2006/35, are not required to re-apply for Minority Status Recognition. However, the conditions laid down in the following paragraph 5 shall apply to all such organizations.

- ii) The applicant minority organization must be registered under 'Institution Registration Act 1860' or 'Mumbai Public Trust Act 1950' or other relevant statutes. The by-laws or rules should indicate that the concerned minority organization is a religious / linguistic minority community established to protect the interests of the minority community.
- iii) Institutions of all religions notified as minorities by the Central Government and the Government of Maharashtra will be eligible to apply for recognition of their educational institutions as religious minority educational institutions.
- iv) Educational Institutions of speakers whose mother tongue is an(y) Indian language other than Marathi will be eligible to apply for recognition as a Linguistic Minority Educational Institution.
- v) At least two-thirds of the trustees / members on the Management Committee of the Applicant Organization must belong to the respective minority community.

3) Procedure(s) for Recognition of Religious/Linguistic Minority Educational Institutions:

- i) The competent authority, clearly stating in the application form prescribed in Form-A that the institution is interested in obtaining the status of linguistic or religious minority, must submit the photocopies of the relevant documents shown in paragraph 4 to the Competent Authority.
- ii) An unjust court fee-stamp of Rs.500 (Five Hundred Rupees Only) or the amount as may be prescribed from time to time should be applied on the application.
- iii) Non-refundable fee of Rs.5000 / - (Five Thousand Rupees only) or any amount which may be prescribed from time to time along with each application must be paid in the name of Under Secretary, Department of General Administration, Ministry, Mumbai.


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- iv) In the form of affidavit prescribed in Form-B attached with this G.R., the applicant organization will be required to file notarized affidavit along with the application on unjust stamp paper of Rs.100 / -.
- v) During the preliminary scrutiny of the application, if the application is not in the prescribed format or has incomplete information or the court fee stamp of the prescribed amount has not been affixed or the non-refundable fee has not been paid and the required documents are not attached with the application, such application will be rejected and the applicant organization will be informed accordingly.
- vi) After this all, the completed application will be considered as per the provisions prescribed by this GR and the applicant organization will be informed about it within 90 days from the receipt of the application. If no decision is taken within this period, the applicant organization will be deemed to have been granted Minority Status.
- vii) Before deciding on the application, the Competent Authority through its Authorized Representative will give at least 10 day-prior-notice to the concerned organization and hold a hearing with the applicant organization. The applicant organization will be required to submit the original copy of the documents attached with the application at the time of hearing of the application, as shown in paragraph 4 below.
- viii) After hearing with the office-bearers of the Institute, if the Competent Authority grants recognition to the concerned applicant educational institution as a Minority Educational Institution, then the Certificate of Recognition of Minority Status will be issued to the applicant institution accordingly.
- ix) If the application of the applicant organization is rejected, then the government orders will be issued to that effect on behalf of the Competent Authority.


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4) Copies of the documents to be attached with the application by the minority educational institution for obtaining religious / linguistic minority status:

- i) A Copy of the Deed of Trust or Certificate of Registration of the Institution
- ii) Copy of Schedule-1 provided by the Charity Commissioner showing the names of the existing Trustees / Members of the Management Committee of the Society.
- iii) A Copy of The Change Report provided to the organization by the Charity Commissioner in case of change in the names of the Trustees / Members of the Management Committee of the Organization.
- iv) Evidence of religious affiliation or background of Trustees / Members of the Management Committee of the Organization (for example: Baptism Certificate, School Leaving Certificate, etc.)
- v) Evidence that the Institute is running educational courses

5) Terms and Conditions of Recognition as a Religious / Linguistic Minority Organization:

- i) Recognition of status as a Minority Educational Institution shall apply only to the State of Maharashtra as well as to all the Departments of Government dealing with educational matters.
- ii) Minority status accreditation will be granted to the original trust, institution or association and this minority status will be applicable to all educational institutions running or starting in the parent institution.
- iii) The applicant organization must consistently meet all the criteria mentioned above in paragraph 2. In case of any change in the composition of the Management Committee of the Trustee or Organization, the Competent Authority must be notified within 15 days from the date of such change.
- iv) Except for the Minority Educational Institutes which run higher, technical or vocational courses, all the Minority



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Educational Institutes which have been granted minority status under the provisions of this GR -

- a) In the case of non-granted institutions and non-granted and granted linguistic minority organizations whose medium is recognized minority language, they must, within the prescribed time and through fair and transparent admission process, admit all eligible minority students who have applied for admission. The Institution should not reject the application of any eligible minority students. Such institutions may also admit non-minority students as per local requirements.
- b) In the case of granted-institutions (excluding granted-linguistic minority institutions which have a recognized minority language as its medium of instruction), such institutions must admit all eligible minority students who have applied for admission within the prescribed time and through a fair and transparent admission process, and the application of any eligible minority students should not be rejected by the institution. Such institutions should also admit a reasonable number of non-minority students according to local needs.
- v) **Minority educational institutions conducting higher, technical or vocational courses, which have been granted minority status under the provisions of this Govt. -**
 - a) **50% of sanctioned admission capacity in case of granted institutions**
 - b) **51% of sanctioned admission capacity in case of non-granted institutions**

Eligible candidates from the minority community for which recognition has been granted should be admitted following the following procedure.

- i. In the case of granted minority educational institutions, through a common entrance test conducted by the state government for vocational and technical courses, or through a shared admission process, and through merit-based selection for other courses, including a diploma course in education.
- ii. In the case of non-granted minority educational institutions, either for the vocational and technical courses, either through a common entrance test conducted by such institutions


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themselves or through a common entrance test conducted by the state government or through a shared admission process and merit-based selection process for other courses including education diploma courses.

- vi) In case of not getting 50% / 51% students from the minority category by the procedure prescribed in the above 5, Institutions that have conducted their own Common Entrance Test, students from minority communities who have been recognized as an institution of the Minority Community, will advertise to get it from the students who have passed the Common Entrance Test of the Government and such minority students will be selected on merit-basis.
- vii) The remaining seats will be filled as follows:
- i. Through a Common Entrance Test conducted by the State Government for granted minority educational institutions or through a common admission process - in the absence of either - through a merit-based admission process. While filling these vacancies among the non-minority students in the open category, the seats reserved for the weaker sections of the society, such as the Scheduled Castes, Scheduled Tribes, Nomadic Castes, Deprived Castes, Special Backward Classes and Other Backward Classes, etc., should be taken into consideration by the concerned educational departments of the State Government; and
 - ii. In the case of non-granted minority educational institutions, either through a common entrance test conducted by them or through a merit-based process or through a common entrance test conducted by the state government or through a state government admission process. Non-granted Minority Educational Institutions running vocational courses may voluntarily admit students from Scheduled Castes, Scheduled Tribes, Deprived Castes, Special Backward Classes, Nomadic Tribes and Other


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Backward Classes, along with Open Class students.

But,

If 50% / 51% of the students are not available from the minority quota, then the concerned institution is required to obtain the specified permission of the Minority Development Department to fill these vacancies from non-minority candidates through a merit-based process.

Similarly, the names of all the students selected through this open merit-based admission process should be displayed on the notice boards of the institute along with the marks obtained by them.

6) Statement to be submitted by Minority Educational Institutions: -

All educational institutions which have been accorded minority status under the provisions of this GR, should submit the details of student-admissions to Director of Education, School Education; Director of Education Technical Education; Director of Education, Director of Medical Education and Education, Ayurveda Education, within 15 days after completion of the admission process as per the syllabus run by the educational institution. Also, the details of the admitted students along with the marks obtained by the students in the admission process should be published. The concerned Director of Education should then submit to the Competent Authority within two months the details of admission, including the division / categorization of boys and girls and minority and non-minority students in these minority educational institutions.

7) Right to inspect, verify records, conduct inquiries and pass orders: -

If the competent authority receives a complaint regarding the veracity of the minority status of the educational institution which has been granted minority status under the provisions of this ruling, or if any unjust or unfair treatment to any minority student is observed in the admission process or any such irregularity is observed by the competent authority, then the competent authority can hold a hearing and start an inquiry into the matter or depending on the nature of the curriculum being run by the minority educational institutions, the matter may be investigated by the concerned Director of Education (School Education, Technical Education, Medical Education, Ayurveda Education). And for this purpose, the government may issue orders in such cases by examining the records of the concerned



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institution, giving instructions to all the concerned parties, hearing the side of the minority educational institutions, taking evidence from the affected party, completing the inquiry etc.

8) The basis for withdrawing recognition of Minority Status: -

Recognition of religious or linguistic minority status granted to a minority educational institution may be revoked on the following grounds:

- i) If the organization has gained religious / linguistic minority status by submitting false / misleading information to the competent authorities,
- ii) If any provision mentioned in paragraphs 4 and 5 of this ruling has been violated,
- iii) If the Government has received a complaint regarding the veracity of the minority educational institution or the admissions process by the institution which is detrimental to the educational interests of the students belonging to the concerned minority community and, such a complaint is proved true post-inquiry.

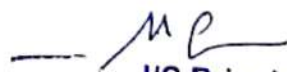
However, before passing any order to revoke the recognition of minority status, the competent authority will need to hear the side of the concerned organization.

9) Appeal against the order of Competent Authority: -

An appeal can be lodged with the National Commission for Minority Educational Institutions, New Delhi, against the order issued by the Competent Authority regarding denial of minority status to educational institutions in Maharashtra or withdrawal of recognition of minority status of educational institutions.

10) This ruling/GR will come into effect from the academic year 2008-2009. Paragraphs under the provisions of this ruling in lieu of their previous certificates by handing over the certificates submitted by the competent authority to all the minority educational institutions in the state which have been granted minority status as per Government Resolution, General Administration Department of General Administration, 2006/634/63/ 2006/35 dated 11th June, 2007.

11) This Government Resolution is being issued with the concurrence of the Department of School Education, Department of Higher and Technical Education and Department of Medical Education and Medicine, Government of Maharashtra.


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