

TO BE INTRODUCED IN LOK SABHA

Bill No. 67 of 2009

THE NATIONAL COMMISSION FOR MINORITY EDUCATIONAL
INSTITUTIONS (AMENDMENT) BILL, 2009

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BILL

*further to amend the National Commission for Minority Educational Institutions Act,
2004.*

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

1. This Act may be called the National Commission for Minority Educational Institutions (Amendment) Act, 2009. Short title.

- Amendment of section 2. **2.** In section 2 of the National Commission for Minority Educational Institutions Act, 2004 (hereinafter referred to as the principal Act), for clause (g), the following clause shall be substituted, namely:—
- '(g) "Minority Educational Institution" means a college or an educational institution established and administered by a minority or minorities;'
- Amendment of section 3. **3.** In section 3 of the principal Act, in sub-section (2), for the words "two members", the words "three members" shall be substituted.
- Amendment of section 10. **4.** In section 10 of the principal Act, for sub-section (I), the following sub-section shall be substituted, namely:—
- "(I) Subject to the provisions contained in any other law for the time being in force, 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."
- Amendment of section 12B. **5.** In section 12B of the principal Act, in sub-section (4), the words "and in consultation with the State Government" shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The National Commission for Minority Educational Institutions Act, 2004 (2 of 2005) has been enacted to constitute a National Commission for Minority Educational Institutions and to provide for matters connected therewith or incidental thereto. The functions entrusted to the National Commission for Minority Educational Institutions are (a) to advise the Central Government or any State Government on any question relating to the education of minorities that may be referred to it; (b) to enquire, *suo motu*, or on a petition presented to it by any Minority Educational Institution, or any person on its behalf into complaints regarding deprivation or violation of rights of minorities to establish and administer educational institutions of their choice and any dispute relating to affiliation to a University and report its finding to the appropriate Government for its implementation; (c) to intervene in any proceeding involving any deprivation or violation of the educational rights of the minorities before a court with the leave of such court; (d) to 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 their effective implementation; (e) to specify measures to promote and preserve the minority status and character of institutions of their choice established by minorities; (f) to decide all questions relating to the status of any institution as a Minority Educational Institution and declare its status as such; (g) to make recommendations to the appropriate Government for the effective implementation of programmes and schemes relating to the Minority Educational Institutions; and (h) 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.

2. The Commission which has been in existence for four years, has faced certain practical difficulties in implementing some of the provisions of the aforesaid Act. The Government of India in the Ministry of Human Resource Development has also, from time to time, received several suggestions in regard to the aforesaid Act, from various cross-sections of the minorities, which were referred to the Commission. The Commission has considered views and suggestions expressed by various stake-holders and have recommended certain amendments to the aforesaid Act.

3. The National Commission for Minority Educational Institutions (Amendment) Bill, 2009 was passed by the Lok Sabha but lapsed due to dissolution of the 14th Lok Sabha. It is proposed to introduce the National Commission for Minority Educational Institutions (Amendment) Bill, 2009 on the lines of the earlier aforesaid Bill which lapsed.

4. Clause (g) of section 2 of the National Commission for Minority Educational Institutions Act, 2004 defines the Minority Educational Institution which means a college or institution (other than a University) established or maintained by a person or group of persons from amongst the minorities. It is proposed to substitute the said definition by a new definition so as to omit the words "other than a University" and substitute the words "establish and administer" for the words "established or maintained". The proposed amendment is clarificatory in nature.

5. Sub-section (2) of section 3 of the aforesaid Act provides that the National Commission for Minority Educational Institutions shall consist of a Chairperson and two members to be nominated by the Central Government. It is proposed to increase the number of the said two members to three.

6. Section 10 of the aforesaid Act confers right upon any person to establish a Minority Educational Institution subject to the provisions contained therein. Sub-section (1) of said

section 10 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. It is proposed to amend the said sub-section (1) so as to provide that the provisions of aforesaid sub-section (1) shall be subject to the provisions of any other law for the time being in force.

7. Section 12B of the aforesaid Act confers power upon the National Commission for Minority Educational Institutions to decide on the minority status of an educational institution. Sub-section (4) of said section 12B provides that the Commission may, after giving the parties to the appeal an opportunity of being heard, and in consultation with the State Government, decide on the minority status of the educational institution and shall proceed to give such directions as it may deem fit and, all such directions shall be binding on the parties. It is proposed to do away with the requirement of consultation with the State Government for the purpose of deciding on the status of the Minority Educational Institution, as in certain cases the State Government or its agency may be a party before the commission.

8. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 3rd August, 2009.

KAPIL SIBAL.

FINANCIAL MEMORANDUM

Clause 3 of the National Commission for Minority Educational Institutions (Amendment) Bill, 2009 proposes to amend sub-section (2) of section 3 of the National Commission for Minority Educational Institutions Act, 2004 (2 of 2005) so as to increase the members of the National Commission for Minority Educational Institutions from two to three.

2. The salaries and allowances of the members of the National Commission for Minority Educational Institutions are payable out of grants of sums of money under sub-section (1) of section 14 of the said Act.

3. It is estimated that an amount of Rs. 13,00,000 (Rupees thirteen lakhs only) per annum approximately would be required to meet the expenditure on the additional one member. No non-recurring expenditure is envisaged in the proposal.

ANNEXURE

EXTRACTS FROM THE NATIONAL COMMISSION FOR MINORITY EDUCATIONAL INSTITUTIONS ACT, 2004

(2 OF 2005)

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Definitions.

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

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(g) "Minority Educational Institution" means a college or institution (other than a University) established or maintained by a person or group of persons from amongst the minorities;

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CHAPTER II

THE NATIONAL COMMISSION FOR MINORITY EDUCATIONAL INSTITUTIONS

Constitution of National Commission for Minority Educational Institutions.

3. (1) * * * * *

(2) The Commission shall consist of a Chairperson and two members to be nominated by the Central Government.

CHAPTER III

RIGHTS OF A MINORITY EDUCATIONAL INSTITUTION

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Right to establish a Minority Educational institution.

10. (1) 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.

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Power of Commission to decide on the minority status of an education institution.

12B. (1) * * * * *

(4) On receipt of the appeal under sub-section (3), the Commission may, after giving the parties to the appeal an opportunity of being heard and in consultation with the State Government, decide on the minority status of the educational institution and shall proceed to give such directions as it may deem fit and, all such directions shall be binding on the parties.

Explanation.—For the purposes of this section and section 12C, "authority" means any authority or officer or commission which is established under the any law for the time being in force or under any order of the appropriate Government, for the purpose of granting a certificate of minority status to an educational institution.

LOK SABHA

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BILL
further to amend the National Commission for Minority Educational Institutions Act,
2004.

(Shri Kapil Sibal, Minister of Human Resource Development)