

**PARLIAMENT OF INDIA**  
**RAJYA SABHA**

**DEPARTMENT-RELATED PARLIAMENTARY STANDING  
COMMITTEE ON HUMAN RESOURCE DEVELOPMENT**

**HUNDRED SIXTY - SEVENTH REPORT  
ON  
THE NATIONAL COMMISSION FOR MINORITY EDUCATIONAL INSTITUTIONS (AMENDMENT)  
BILL, 2005**

(PRESENTED TO THE RAJYA SABHA ON 6<sup>TH</sup> DECEMBER, 2005)  
(LAID ON THE TABLE OF LOK SABHA ON 6<sup>TH</sup> DECEMBER, 2005)

RAJYA SABHA SECRETARIAT  
NEW DELHI  
DECEMBER, 2005/ AGRAHAYANA, 1927 (SAKA)

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**COMPOSITION OF THE COMMITTEE  
(2005-2006)**

**RAJYA SABHA**

Shri Vayalar Ravi                    ¾     *Chairman*  
Shri Dwijendra Nath Sharmah  
\*Shri Shantaram Laxman Naik  
Shri Ravi Shankar Prasad  
\*\*Shrimati Chandra Kala Pandey  
^ Shrimati Brinda Karat  
Shri S. Anbalagan  
Shri Uday Pratap Singh  
Shri M.P. Abdussamad Samadani  
Prof. Ram Deo Bhandary  
Shri Anil Dhirubhai Ambani

**LOK SABHA**

Shri Basudeb Barman  
Shri Hari Sinh Chavda  
Shri G.V. Harsha Kumar  
Shri R. L. Jalappa  
Shri Ramswarup Koli  
Shri Manjunath Kunnur

Shri Y.G. Mahajan  
Shri Manoj Kumar  
Shri Babu Lal Marandi  
Dr. Thokchom Meinya  
**Shri Krishna Murari Moghe**  
Mohd. Mukim  
Shri Tukaram Ganpatrao Rengepatil  
Prof. Rasa Singh Rawat  
Shri M. Rajamohan Reddy  
Shri Tufani Saroj  
Smt. P. Satheedevi  
Shri A.R. Shaheen  
Smt. Jyotirmoyee Sikdar  
Shri K. Virupaxappa  
Shri Devendra Singh Yadav  
\*nominated *w.e.f.* 23.8.2005

\*\* Ceased to be a member of the Committee on expiry of her term in Rajya Sabha *w.e.f.* 18<sup>th</sup> August, , 2005

^nominated *w.e.f.* 25.9.2005

### **SECRETARIAT**

Shri N.C. Joshi, Additional Secretary  
Smt. Vandana Garg, Joint Secretary  
Shri N.K. Singh, Director  
Shri J. Sundriyal, Under Secretary  
Shri Swarabji B., Committee Officer  
Smt. Meena Kandwal, Research Officer

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### **INTRODUCTION**

I, the Chairman of the Department-related Parliamentary Standing Committee on Human Resource Development, having been authorised by the Committee, present this Hundred Sixty-Seventh Report of the Committee on the National Commission for Minority Educational Institutions (Amendment) Bill, 2005<sup>1</sup>.

2. In pursuance of Rule 270 relating to the Department-related Parliamentary Standing Committees, the Chairman, Rajya Sabha, referred the National Commission for Minority Educational Institutions (Amendment) Bill, 2005 (Annexure) as introduced in the Rajya Sabha on the 13<sup>th</sup> August 2005, to the Committee on the 24<sup>th</sup> August 2005, for examination and report<sup>2</sup>.

3. The Committee considered the Bill in two sittings held on the 13<sup>th</sup> September and 27<sup>th</sup> September 2005.

4. In its sitting held on the 13<sup>th</sup> September 2005, the Committee heard the Secretary, Department of Secondary and Higher Education on the Bill. The Committee also took up 'clause-by-clause consideration' of the Bill in the same meeting.

5. The Committee in its sitting held on 27<sup>th</sup> September 2005, considered the draft report and adopted the same with amendments in Clauses 1, 3,4 and 6.

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1. Published in Gazette of Indian Extraordinary part II Section 2, dated 13<sup>th</sup> August 2005.

2. Rajya Sabha Parliamentary Bulletin Part II, No. 42464 dated 24<sup>th</sup> August, 2005.

6. The Committee has relied on the following in finalizing the Report:

Background Note on the Bill received from the Department of Secondary and Higher Education;

Note on the clauses of the Bill received from the Department of Secondary & Higher Education;

Verbatim record of the Oral evidence taken on the Bill; and

Presentation and clarification by Secretary of the Department of Secondary and Higher Education.

7. On behalf of the Committee, I would like to thank the officials of the Department of Secondary and Higher Education for providing necessary inputs and clarifications during the consideration of the Bill.

8. For facility of reference, observations and recommendations of the Committee have been printed in bold letters in the body of the report.

NEW DELHI;  
September 27, 2005  
Asvina 5, 1927, (Saka)

VAYALAR RAVI,  
Chairman,  
Department-related Parliamentary  
Standing Committee on  
Human Resource

Development

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## REPORT

The National Commission for Minority Educational Institutions (Amendment) Bill, 2005 seeks to amend the National Commission for Minority Educational Institutions Act, 2004, which provided to set up a Commission to advise the Central Government or any State Government on any question relating to the education of minorities that may be referred to it; to look into specific complaints regarding deprivation or violation of rights of minorities to establish and administer educational institutions; to decide on any dispute relating to affiliation to a Scheduled University; and to report its findings to the Central Government for its implementation. The said Act also provided right to a Minority Educational Institution (MEI) to seek affiliation to any of six Universities listed in its schedule. The Commission was also given power to determine disputes regarding affiliation between Minority Educational Institutions and the Universities.

2. The Committee was informed that based on the experience of the functioning of the Commission, it was felt that by limiting the scope of affiliation only to six Universities given in the Schedule to the Act, the applicability of the Act had been severely restricted. The Commission as well as the Government received several representations and suggestions for making the Commission more effective in deciding on matters of deprivation or violation of the educational rights of the minorities guaranteed under Article 30 of the Constitution. The majority of the representations received by the Commission related to the problems faced by minority communities in obtaining 'No Objection Certificate' (NOC) for establishing an Educational Institution and also in obtaining the status of a Minority Institution.

3. The Amending Bill, accordingly, seeks to empower the Commission to be more effective and proactive in protecting the educational rights of minorities in respect of seeking affiliation to universities; seeking NOC for setting up MEIs; and in obtaining minority status without any harassment.

4. The salient features of the Bill are as follows:-

It provides for the right to establish a Minority Educational Institution and also provides that wherever 'No Objection Certificate' for establishing a Minority Educational Institution is either not granted within a period of sixty days or where a decision in this regard is not communicated within such period, the Minority Educational Institution would proceed with the establishment of the institution as if the No Objection Certificate has been granted to it.

It provides for the right of Minority Educational Institutions to seek affiliation to any University of their choice subject to the Acts, Statutes, Ordinances, Rules and Regulations of the concerned University. It proposes to do away with the Schedule.

It also proposes to give appellate jurisdiction to the Commission in the matters of refusal to grant 'No Objection Certificate' for establishing a Minority Educational Institution.

It enables the National Commission for Minority Educational Institutions to enquire into and investigate complaints regarding deprivation or violation of rights of minorities to establish and administer Educational Institutions of their choice and, also to decide on disputes relating to affiliation of Minority Educational Institutions to a University.

It also enables the Commission to decide on all questions relating to the status of any institution as a Minority Educational Institution.

It empowers the Commission to cancel recognition as a Minority Educational Institution, where it is found by the Commission that the purpose or character on which a Minority Educational Institution status was granted and also in admitting students belonging to the minority community as per rules and prescribed percentage, has failed.

It provides that every proceeding before the Commission shall be deemed to be a judicial proceeding and, the orders made by the Commission shall be executable by it as a decree of a civil court.

It empowers the Commission to utilize the services of any officer of the Central Government or any State Government, with the concurrence of such Government, for the purpose of conducting investigation pertaining to complaints received by the Commission.

It bars the jurisdiction of Courts (except the Supreme Court and the High Courts) to entertain any suit, application or other proceedings in respect of orders made by the Commission.

5. The Committee, heard the Secretary, Department of Secondary and Higher Education and took up 'clause-by-clause' consideration of the Bill. It suggested the following amendments/additions to various clauses of the Bill.

Clause 1

6.1 The Committee notes that the present Bill does not contain the commencement clause.

**6.2 The Committee, therefore, recommends that the date of commencement of the Amendment Bill may be included in the corpus of the Bill.**

Clause 3

7.1 The Committee notes that clause 3 of the Bill seeks to substitute section 10 in chapter III of the principal Act with new clauses 10 and 10 A. Under the proposed clause 10, any person desiring to establish a Minority Educational Institution may apply for a 'No Objection Certificate' from the competent authority, who shall decide every application expeditiously. In order to prevent delays on the part of the competent authority in granting the required NOC, a provision in clause 10(3) is being made enabling the applicant to proceed with establishing an institution under the relevant law, if the competent authority does not grant the certificate or fails to communicate the refusal, to the applicant. It would then be deemed, as if the NOC has been granted.

**7.2 The Committee feels that the deeming provision contained in clause 10(3) regarding the grant of NOC after a period of 60 days, would allow enough scope for its frequent misuse. Chances of delaying the communication from the office of the competent authority to the applicant either in his office or in transit cannot be ruled out. The Committee is concerned about the possibility of a situation where communication about a rejected application is so delayed and the applicant goes ahead with establishing an MEI after 60 days. Therefore, adequate safeguards against possible abuses of this provision, need to be provided in the Bill itself. One such measure, the Committee recommends, could be to extend the period of 60 days to 90 days.**

7.3 The Committee also recommends that the person making an application for NOC may approach the competent authority after a period of 60 days of submitting the application, to know about the status of his application. A provision for this should be made in the Bill.

7.4 The Committee notes that Section 10A of clause 3 provides that a Minority Educational Institution may seek affiliation to any affiliating University of its choice, thereby removing the limitation for seeking affiliation to only a Scheduled University. The applicant would be expected to seek affiliation in terms of the procedures prescribed by the relevant Statutes, Ordinances or rules of the University.

7.5 The Committee has a strong apprehension about allowing MEIs to seek affiliation to a university of their choice, irrespective of distance or geographical contiguity which is an important consideration for the convenience of both, the universities as well as MEIs. Secondly, the Committee feels that the good and reputed universities may face problems because all the MEIs would generally prefer to be affiliated to the best ones. Although this choice of MEIs, the Committee notes, would be limited by the provisions in the Acts, Statutes/rules of the universities, the Committee nevertheless emphasizes that some kind of restriction regarding geographical contiguity or State boundary must be provided in the Bill itself.

Clause 4

**8.1 Clause 4 proposes to amend Section 11 of the principal Act. Clause 4(c) of the proposed amendment empowers the Commission to intervene in any judicial proceedings, with the leave of the Court, in matters involving deprivation of educational rights of minorities.**

8.2 With regard to the question of the overall authority of the Commission to intervene in the Court, the Secretary, Department of Secondary and Higher Education submitted before the Committee that it is an area in which a lot of frivolous litigations come in and there are a lot of things which come in to hurt the interests of Minority Institutions. In such a case, the Government, felt that the Commission should have some authority to intervene. It is therefore, an enabling provision.

**8.3 The Committee, as regards clause 4 (c), feels that the power of the Commission to intervene in Court cases involving deprivation of minority educational rights before a Court, may push the whole thing under litigation. If *suo motu*, the Court calls the Commission, there is no problem. Otherwise, the Committee, feels that the Commission would become a frontrunner in a variety of considerations. The Committee, therefore, recommends that the intervention of the Commission in Court proceeding might be restricted to those cases only where the Courts demand it.**

Clause 6

9.1 Under clause six new sections (12A to 12F) are proposed to be inserted in Section 12 of the Principal Act. In order to prevent the misuse of minority status by institutions, it is being provided under section 12C that the Commission shall cancel recognition as a Minority Educational Institution, in case the Commission finds that the purpose or character for which an Educational Institution was granted a minority status has been amended or the institution has failed in admitting students belonging to the minority community as per rules and prescribed percentage

governing admissions during any academic year.

9.2 The Committee recommends that on cancellation of the Minority Status of the institution, the provisions of this Act shall cease to apply to such institution.

9.3 The Committee feels that the Bill must provide adequate safeguards for preventing the misuse of the 'Minority Status' by an institution.

10. The Committee adopts the remaining clauses of the Bill without any amendments.

11. The enacting formula and the title are adopted with consequential changes.

12. The Committee recommends that the Bill may be passed after incorporating the amendment /additions suggested by it.

13. The Committee would like the Department to submit a note with reasons on the recommendations/suggestions made by the Committee, which could not be incorporated in the Bill.

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**NOTE OF DISSENT**

**RAVI SHANKAR PRASAD**  
*Senior Advocate*  
**M.P., RAJYA SABHA**

**NOTE OF DISSENT**

**ON THE NATIONAL COMMISSION FOR MINORITY EDUCATIONAL INSTITUTIONS (AMENDMENT) BILL 2005**

The above Bill seeks to comprehensively amend the "National Commission for Minority Educational Institutions Act 2005 (Act 2 of 2005)". It is indeed surprising that the Act, which come into force only on 7<sup>th</sup> of January 2005 is sought to be amended by the Bill, which was introduced in the Rajya Sabha on 23<sup>rd</sup> of August 2005. What were the compelling circumstances, which required such a comprehensive amendment only after seven month, still remains unclear?

All of us agree with the proposition that minorities must be given opportunity to establish institution of their choice but there is no empirical evidence available that the original Act, which only came into force on 7<sup>th</sup> of January 2005, was posing so much difficulty in the fulfillment of the said objective that required such far reaching change. Obviously it can not be because seven month is too short a period to examine the results of the working of any particular legislation. Though, one acknowledges the right of the executive to bring the Bill but the hurried manner in which such far reaching amendments are being introduced raises disturbing questions.

Of particular concern is the complete denial of any role of the State Government in the amendment Bill. Under the original Act 2 of 2005 under Section 10 (ii) it was the obligatory on the part of the schedule University to consult the Government of the State concerned and consider its view before granting affiliation. This provision has been given a complete go by the amended Bill besides impinging upon the federal character of the Constitution. Besides the power of the States it raises serious question of security. Only the State Government through its various organizations has the capacity to discover the source of funding and the background of the people who have promoted the institutions in question. The University granting affiliation does not have the infrastructure or the ability to inquire into these circumstances.

It is again reiterated that minority should be encouraged to pursue their right to establish and administer their own institutions. However, the troubled times in which we all live in India, issues of security concerned can not be brushed aside altogether. Terrorist violence in most of the cases being sponsored by forces from across the border has become the order of the day. Even the national capital is not spared. Terrorists are using different fronts as we see day after day. Therefore, some suitable provision need be there to ensure that any particular institutions seeking protection and affiliation under the Act may not become a front of some terrorist operations i.e. it's sponsored and financiers have links with the terrorist network. Obviously, the State Government only has the ability and capacity to know these things. Therefore, it is eminently desirable and in abiding public and national interest the view of the State Government must be sought as originally enshrined in the main Act 2 of 2005. I have a very serious view on this issue, which I had highlighted during the course of meeting of H.R.D. Standing Committee, hence this note of dissent.

It is equally important that geographical contiguity of the University with the affiliating minority institutions must be duly kept in mind.

**Sd/-(Ravi Shankar Prasad)**

## FOURTH MEETING

The Committee on Human Resource Development met at 3.00 p.m. on Tuesday, the 27th September 2005 in Committee Room 'D', Ground Floor, Parliament House Annexe, New Delhi.

### MEMBERS PRESENT

Shri Vayalar Ravi                      ¾      Chairman

### RAJYA SABHA

Shri Dwijendra Nath Sharmah

Shri Shantaram Laxman Naik

Shri Ravi Shankar Prasad

Shri S. Anbalagan

### LOK SABHA

Shri Basudeb Barman

Shri Hari Sinh Chavda

Shri Ramswarup Koli

Shri Manjunath Kunnur

Shri Y.G. Mahajan

Dr. Thokchom Meinya

Shri Krishna Murari Moghe

Shri Mohd. Mukim

Prof. Rasa Singh Rawat

Smt. P. Satheedevi

Shri A.R. Shaheen

Smt. Jyotirmoyee Sikdar

Shri Devendra Singh Yadav

SECRETARIAT

Smt Vandana Garg, Joint Secretary

Shri N.K. Singh, Director

Shri J. Sundriyal, Under Secretary

Shri Swarabji, B., Committee Officer

Smt Meena Kandwal, Research Officer

2. The Committee took up for consideration the draft report on “The National Commission for Minority Educational Institutions (Amendment) Bill, 2005”. The Committee suggested amendments/deletion in the clauses 1, 3, 4 and 6 of the Bill. The Committee adopted the same with some modifications.

3. The Committee decided that the Notes of Dissent, if any, may be sent at the earliest to the Rajya Sabha Secretariat to be incorporated in the report.

4. The Committee authorized the Chairman to fix a suitable date to present/lay the Report in the winter session of Parliament and also nominate members from both the houses to present/lay the report.

5.     x                                     x                                     x

6.     x                                     x                                     x

7. The Committee, then, adjourned at 4.15 p.m. to meet again at 10.30 a.m. on Thursday, the 6th October 2005.

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xxx relates to other matter.  
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