

Edinburgh

LIAM (1916) Department.

MISS SERIES.

G.O. No. 696 - Ed

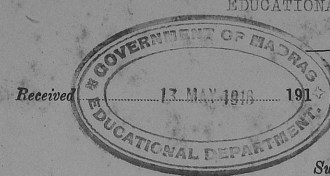
DATED 26 - 6 - 16

[Despatch Abstract.]

Fees. Communicating to the L.P.D. & O
1507-Inst 5 12-6-16, passing orders on
the question of payment to the Government
Solicitor for the scrutiny of applications for
repealing of substitutions under the Indian
Companies Act

CA 1707 &c 2
G.F.—20.

EDUCATIONAL DEPARTMENT.



Registered 1575 1916.

Subject.

Recommending to Government the desirability of permitting the Government Solicitor to charge fees for his advice on documents in connection with the registration of managing bodies of educational institutions.

ENCLOSURES	
No.	
Spare copies	

C. No. 3738/16

Station M A D R A S , Dated the 9 MAY 1916.

From (Name) The Hon. Mr. J. T. Stone, M.A., F.R.H.S., C.I.E.,
(Designation) Director of Public Instruction,
Madras.

To The Secretary to the Government of Madras,
Educational Department.

Sir,

In consultation with the Government Solicitor, Madras, and with reference to rule 22 (d) of the Madras Educational Rules the Director has ruled that ordinarily he will not in future be satisfied with the constitution of the managing bodies of educational institutions when applying for recognition for the first time under the Madras Educational Rules unless they are registered under the Indian Companies Act of 1913. Again in the case of institutions which have already been recognised but whose managing bodies have proved unsatisfactory registration under this act has been demanded.

2. With reference to this ruling I have the honour to state that applications from the managing bodies of schools are being submitted to me with the request that Government may be moved to grant them a license to register under section 26 of the Indian Companies Act. ^(14.4.1913) These applications have on receipt been forwarded to the Government Solicitor for favour of his opinion as to whether the Memorandum and Articles of Association accompanying the applications are in order and comply with the provisions of the Act, so as to enable me to submit them to Government with my recommendation.

*This is dealt with
by Govt in the first
Sept.*

3. The Government Solicitor has up till now been supplying the Director with his remarks on the documents sent to him but he now states in para 3 of his letter No. 455 dated 1st April 1916 (an extract of which is herewith submitted) that it is not one of his duties to advise on such documents and requests that he may be permitted to charge against such managing bodies a reasonable fee.

*He was required to
do so by the rules.*

page 3 infra

4. I consider that the Government Solicitor may reasonably have a fee for his advice in the matter. In this connection I beg to point out that this officer was permitted by ^(F) Government in G. O. No. 1128 Educational dated 21st December 1912 to charge fees, subject to the condition that they --- should in no case exceed one per cent of the grant, for his examination of titles and the settlement of mortgages in connection with building grants sanctioned for educational institutions. Should Government be pleased to permit the Government Solicitor to charge a fee for his advice in connection with the registration of the managing bodies of schools it is requested that the fee to be charged by him may also be prescribed.

*Apparently not
since it is the Govt
Solicitor's duty to
advise the D.P.*

I have the honour to be,
Sir,
Your most obedient servant,

B. S. Khushwani
For Director of Public Instruction

K.V.

14/6.5.16

Letter from the Government Solicitor, Madras, No. 455
dated 1st April 1916.

x

x

x

3. With reference to this and similar applications which of late you have been sending me to advise whether the same are in order, and comply with the requirements of the Companies Act so that the Government may decide whether they will grant a license under section 26 of that Act, I have the honour to invite your attention to the following extract from Palmers Company Precedents (Eleventh Edition 1912 page 499) which relates to a similar license under the English Companies Act.

This does not seem to afford a parallel.

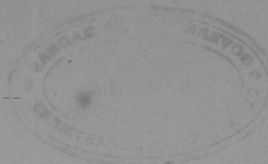
"The Board of Trade will require to have the Memorandum and Articles of Association settled on their behalf by their Counsel, at the expense of the applicants, for which purpose a fee of five guineas must accompany the applications. A cheque for the amount should be made payable to an Assistant Secretary of the Board of Trade. The Board of Trade will not be responsible for the Memorandum and Articles being properly framed as regards the interests of the Association."

I beg to point out that it is not one of the duties of the Government Solicitor to advise on documents submitted by Societies who wish to obtain licenses under section 26 of the Indian Companies Act, and I have the honour to request that I may be permitted to charge against such Societies a fee equivalent in each case to 25-5-0 or other reasonable sum.

(True Extract)

W. H. Harrison
For Director of Public Instruction,

K.V.



CN. 2092 &c +
le-17072d. 5

Received.....1916. Registered...17...6.....1916.
Abstract.

INDIAN COMPANIES ACT.

Passing orders on the claim of the Government Solicitor, Madras, for fees for examining Memoranda and articles of association forwarded to the Government with applications for the grant of licenses under section 26 of the -----.

Judicial Department.

G.O. No. 1507, dated 12th June 1913.

Read the following:-

G.O. No. 751, dated 20th May 1901.
Madras,
From the Government Solicitor, No. 501, dated 13th April 1913.

ORDER:-

With reference to paragraph 5 of his letter No. 501, dated the 13th April 1913, regarding the payment of fees to him for examining Memoranda and Articles of Association forwarded with applications to Government for licenses under section 26 of the Indian Companies Act, 1913, the attention of the Government Solicitor will be drawn to the orders issued on this subject in paragraph 2 of G.O. No. 751, Judicial, dated the 20th May 1901.

(True Extract)

P. Raja Gopala Achariyar,
Secretary.

To the Government Solicitor, Madras,
Copy to the Educational Department,

Forwarded to the Educational Department.
(By Order),

Whitaker Aiyar
Superintendent in charge,
Chief Secretariat.
RS



Received.....1916. Registered.....1916.

Abstract.

Judicial Department.

G.C. No. 751, dated 20th May 1901.

Read the following :-

From S. A. Walker, Esquire, Solicitor, Ootacamund, dated
23rd April 1901.

From the Government Solicitor, Madras, No. No. 234, dated
4th May 1901:-

x x x x.

4. I see that, in England, the Board of Trade will
require to have the Memorandum and Articles of Association
settled on their behalf by their counsel, at the expense of
the applicants for which purpose a fee of five guineas must
accompany the application for a license. I would submit
that a similar rule might be made by Government the fee being
say Rs.75 or Rs.100.

x x x x.

ORDER:-

x x x x.

2. With reference to paragraph 4 of his letter read
above, the Government Solicitor will be informed that in
these cases it is not necessary for him to make any comments
upon the Memorandum of Association except in so far as they
are pertinent to the question referred to him by Govern-
ment whether a license may properly be granted. As the
advice which he is required to give is thus solely for the

6 7
information of Government, the request that a fee should
be granted in such cases cannot be complied with.

(True Extract)

G. Stokes,
Chief Secretary.

To

S.A.Walker, Esquire, Solicitor, Ootacamund,
The Registrar of Joint Stock Companies, Madras.
,, Government Solicitor, Madras.

OFFICE NOTE.

6

SUBJECT. Fee to the Govt. Solicitor.

From the D.P.D. No. 3738/16 to the 9th May 1916.

tinguished by the fact that the Govt. Solicitor
 investigating titles and settling mortgages
 gives the period Register No. 1707. the advantage
 advice indirectly and for which they would
 judiciously pay. No similar advice

the question whether the Govt. Solicitor might
 be granted a fee for the scrutiny of applications
 for registry of institutions under the Indian Com-
 -panies Act appears to have been considered before
 by the Judicial Department and decided in the
 (E) negative - please see G.O. No. 751 Jndld, the 20th
 (B) May 1901 and No. 249 Jndld, the 16th Feb. 1905. The
 question raised in the current letter is identical
 with that already ^{disposed of} ~~disposed of~~ and it may be
 remitted to the Judicial Department for con-
 sideration.

2. Attention is solicited to pages 7 & 8 of G.O. No. 34
 (E) Jndld, the 7th March 1910, especially to ^{rules} ~~provisions~~
 (D) and (E) on page 7 of the G.O. Prima facie The
 proposal appears to be inadmissible. The managers
 of Schools, in all probability, get the memorandums
 and articles of association prepared by lawyers on
 payment. To make them pay again for the
 advice

- advice which the S.P.D. gets ^(in order to satisfy himself) whether the Memorandum and the School Association are in order, does not appear to be justifiable. Nor is
- ⑥ the precedent in Go. No. 1128 of 1914, of the 21st Decem. 1914, quoted by the S.P.D. as an apt one. It may be distinguished by the fact that the Govt. Solicitor ^{was} investigating titles and settling mortgages ~~and~~ giving the persons concerned the advantages of his advice indirectly and for which they would ungrudgingly pay. No similar advantage is gained by the school managers from the scrutiny of their applications by the Govt. Solicitor.
3. The file may be transferred to the Judicial Dept. u.o. for disposal.

PP
4.5.16

Ed
20.5.16 The first person is Can. the Govt. Solicitor. I am a bit of a trouble. This work is outside his duties. If this person is decided in the affirmative, the next person is, what the person should be? Mr. Govt. Clerk advise on this two points?

SAP
m.d.



Ed no 1707-1



22.5.16

Jul 16

22/5/16

U.S.

Attention is invited to the orders which it is proposed to issue in the linked case on a similar request for fees made by the govt solicitor to this Department. Those orders will apply to ~~this~~ this case also. The Edl Dept may be ~~told~~ ~~that~~ asked to refer the govt solicitor to the orders in the linked case a copy of which will be furnished to ~~the~~ that dept when they are issued.

[Ex. issue] A

(See 1000)

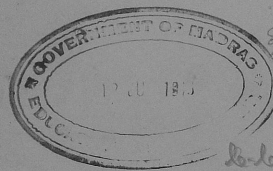
M.L.V.
30.5-16

Est 11
2.6.16

Notion CO
12.6.16

Est us.

Just & Co. 1474 C-1
12.6.16



Since
may be awarded.

Est
12.6.16

Educational Dept

Submitted Head Hrs. G.B.

promised by Judicial at A above may be awarded.

12.6.16

Ex. no 2092 toll, from the gudd. dept, no 1507,
dated the 12th June 1916.

A draft order communicating to the
S. P. J., the judicial G. O. on page 4 of the
current file, is submitted for approval.

On
21/6/16

J. L.
W. 6/16

23. 6/16

READ AGAIN G.O. No. _____, dated _____ 191 .

" " " " _____, " _____ 191 .

READ ALSO:-

C. No. 1707, From the D. P. I., No. 3738, dated 9-5-1916.

" " 2092, " " Judicial Dept., No. 1507, " 12-6-1916.

" " _____, " " _____, " _____ 191 .

ORDER.
Mis.

No. 696 Edl. Mis., dated 26-6-1916.

The D.P.I. is referred to
L. G. C. No. 1507 Judd,
dated the 12th June 1916, ^(which)
he communicated to ^(him) ~~the D.P.I.~~
For with reference to his letter
read above.

On
21/6/16
Edl. Mis.
21-6-16

23

20/6/16

To the D. P. I. (Q of I, & of II pages
4 to 6 of cf) and 6)

20/6/16

for no copy sent from the Dept. dated the 12th June 1916

A draft order communicating to the D. P. I. the result of the investigation is being prepared for approval

I
27/6/16
II
20/6/16

The D.P.I. is referred to
L. G. C. No. 1507 Judd,
dated the 12th June 1916,
he communicated to ~~the D.P.I.~~

21/6/16
20/6/16

20/6/16

When given for copying

When copied

When examined

When signed

191

READ AGAIN G.O. No.
191

DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DETS.

PAYERS NOT FILED UP, BEING WANT FOR DISPATCH
IN ORIGINAL.

N.B.—

A = Copy in full.

B = Not to be copied.

P = Copy abstract only.

Q = Copy heading only.