

Law (1921) Department.
Education

Ordinary SERIES.

G.O. No. 1161

DATED 11th August 1921

[Despatch Abstract.]

Lawrence Memorial school, Cotaamund. Transfer to Government school funds after provincialisation- Advocate General's opinion--Papers recorded.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

CURRENT FILE.

Please register & return
on
26/7/21
3-30/21

memorandum for the Committee of the
Law (201) Sept
memorandum for the Committee of the

memo: 2219-26/7/21

in the: The ~~Committee~~

Advocate General is requested

to be as good as to advise

on a question

which has arisen

in connection with the

provincialisation of the

Lawrence Memorial School,

Madras.

2. The institution

was founded during 1858

in honour of the memory

of Sir Henry Lawrence

K.C.B., by whom the

establishment at some hill

station within the Madras

Presidency, of an institution

providing for the orphan

and other children of British

officers and soldiers, serving

or who have served in

India, ^(had been suggested) the School at

Outacumund was managed

by

(The short history is that
given in the Preface to
the Annual Report of the
School).

by a committee of gentlemen residing at that place, and was supported by donations and subscriptions from the general public; but in accordance with the wish of Sir Henry Lawrence, in which he commended his school to the fostering care of the Honourable the Board of Directors, it was adopted by Govt. in 1859 by despatch from the Secy. of State. The Madras Military Male and Female Orphan Asylums were amalgamated with the Ootacamund Asylum, the former on the 1st Sept. 1871 and the latter on the 1st Oct. 1904. The united asylums being designated the Ootacamund Lawrence Asylum. The name of this institution was changed to the "Lawrence Memorial School" in 1913.

3. The present funded capital of the school amounts to Rs. 13, 01, 119 which is invested in Govt. securities as shown below:—

Rs. 277 notes
to Rs. 927 (T)
29.7.19

para 3 on p. 2 of letter
No. 928 (T)
29.7.19

* Vide rule 15 of draft rules in p. 12 of letter id. (T)

Seott. II 8 (d).

Item.	Amount. Rs.	Particulars of securities.
[East St. George's Gazette, dated 21st January 1919, Part II, page 186.]		
In the custody of the Accountant-General, Madras, deposited under articles 164 and 171, Civil Account Code:—		
(i) Government promissory notes and treasury notes transferred by the Military Male Orphan Asylum, Madras, on its amalgamation with the Lawrence Asylum at Ootacamund	5,10,100	Rs. (a) 3½ per cent of 1865 ... 4,59,900 (b) Miscellaneous securities ... 41,400 (c) 3½ per cent of 1865 Bre- nen's Legacy ... 6,100 (d) 3½ per cent of 1865 Sir Hope Grant's bequest ... 2,700 5,10,100
[East St. George's Gazette, dated 1st July 1918, Part II, page 189, 93.]		
Held by the Treasurer of Charitable Endowments, Madras, under Act VI of 1890:—		
(ii) Sale-proceeds of the Lawrence Asylum Press, the property of the late Military Orphan Asylum	5,08,700	Rs. 4 per cent Rangoon Port Trust debentures of 1906 (1950). ... 80,000 4 per cent Rangoon Municipal debentures of 1912 ... 1,70,000 4 per cent Rangoon Port Trust debentures of 1906 (1936). ... 1,00,000 4 per cent Karachi Port Trust debentures of 1906 ... 1,50,000 4 per cent Calcutta Port Trust debentures of 1913 ... 8,700 5,08,700
[East St. George's Gazette, dated 1st July 1918, Part II, page 189, 75.]		
Held by the Treasurer of Charitable Endowments, Madras, under Act VI of 1890:—		
(iii) Government promissory notes, treasury notes, etc., transferred by the Military Female Orphan Asylum on its being incorporated with the Ootacamund Asylum	2,82,319	Rs. Stocks 3½ per cent of 1st May 1865 86,000 Non-transferable treasury notes 4 per cent of 1863-64 ... 20,218½ Non-transferable treasury notes 4 per cent of 1873-74 ... 10,000 Trichinopoly Municipal debentures 5 per cent of 1899 1,28,000 Ootacamund Municipal debentures 5 per cent of 1899 ... 37,500 Total ... 2,82,318½
Total ...	13,01,119	

The main conditions attached to the transfer to the Lawrence Asylum of the funds of the military male and female orphan asylums are set out in the rules regarding religious instruction laid down by

4
 Sir Henry Lawrence should be adopted, that the Principal of the school should invariably be a clergyman of the Church of England and that at least 200 boys and 100 girls of the classes eligible for admission to the respective asylums should be maintained at the Lawrence Memorial School. The first of these endowments is ^{in the custody} held by the Accountant-General, Madras, deposited under articles 164 and 171 of the Civil Account Code; while the other two are held by him in his capacity as Treasurer of Charitable Endowments in virtue of the notices issued with G. 212 Est of 5th April 1904 and G. 1456 Public of 26.11.13 (copies enclosed).

(B)

(A)

4. The main source of income of the school, besides the interest on these endowments, consists of grants which is paid to from the Govt. of India. The management of the school is vested in a committee which is directly responsible to the Local Govt. for the administration of the school.

para 11 of letter No. 12/1904

$$\frac{928}{29.7.19} \quad (+)$$

but its functions are to be merely advisory, the management of the school, like that of any other Govt. institution, resting with the D.P.J. subject to the orders of the Local Govt. The whole scheme is now awaiting the approval of the

the Secretary of State.

5. As soon as the school is provincialised, it is proposed to transfer to the local Govt. the funds of the school enumerated in para 3 above, so that the interest on them will hereafter be paid to the Govt. instead of to the school committee. At the same time the conditions, under which the transfer of the Military Orphan Asylum funds was made, should continue to be satisfied. The points, on which the A.G.'s advice is desired, are what steps should be taken to transfer of the several funds to the local Govt. and what modifications should be made in the scheme of management of the funds which are vested in the Treasurer of Charitable Endowments.

6. A copy of the pamphlet containing the correspondence which relates

relates to the establishment of the institution and its amalgamation with the Military Male Orphan Asylum, and a copy of the report of the school for 1919, which contains the present rules for its working, and a copy of the draft rules proposed for adoption after provincialisation are enclosed for reference and return.

26/7

DESPATCHED
28 JUL 1921

* pp. 10-12 of Ltr. 928 (T)
29.7.19

To

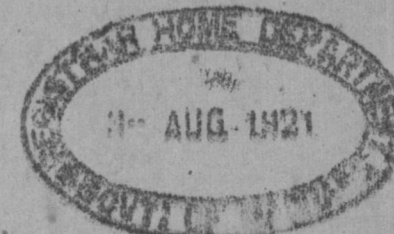
- The Govt. Solicitor
(with copy of Ltr. 21252 (T)
5.4.04 (A))
- (2) Ltr. 1456 Pub
26.11.12
 - (3) Pamphlet at (G)
 - (4) Report for 1919
 - + (5) copy of rules on
pp. 10-12 of Ltr. 928 (T)
29.7.19

are enclosed for reference and return.

15.7.21

15/7/21

Encls. placed before
Please
Call Book
Noted



P I N I O N.

Em 2289 B

3-8-21

MEMORANDUM No.2219-1 dated 26th July 1921.

pp. 1-7 ante

Law (Education) Department.

---:0:---

In the above matter, the points on which my advice is desired are the following :-

- (1). What steps should be taken to procure the transfer of the several funds to the local government.
- (2). What modification should be made in the scheme of management of the funds vested in the Treasurer of Charitable Endowments.

2. I take it that the underlying idea of the scheme is that the local government is henceforth to be ultimately responsible -- for the management both administratively and financially the Committee thus assuming a merely advisory character. So far as the transfer of the funds now with the Treasurer of Charitable Endowments is concerned, such transfer and the payment of the interest to the local government may be provided for under sections 5 and 6 of the Charitable Endowments Act VI of 1890, the application -- specified in section 6 being made by the persons now acting in the administration and the local government with their concurrence -- settling a scheme for the administration of the fund.

3. As to the securities in the custody of the Accountant General, Madras, deposited under Articles 164 and 171, the -- Accountant General in this matter is the Agent of the Government and can be directed to endorse the security to such person as may be designated for the purpose or the procedure indicated in Art. 166 may be utilised.

4. The scheme will provide for adherence to the rules laid down at the time of the transfer of the Orphan Asylum Fund. This is perfectly feasible because it is quite open to the local -- government with the consent of the applicants to lay down conditions

Ante.

(ii) (iii) on p. 3 ante

X The copy from the

(i) on p. 3 ante

X Selling or otherwise disposing of the securities, notes etc

C.V.V.

in respect of the application of the property or the income
(Vide, sections 4 and 5).

5. I note that the code of rules printed at page 45 of
the 1919 Report does not purport to lay down any scheme of
management of the funds nor is there any such scheme embodied
in the draft rules appended to the Memorandum. These draft
rules seem to be in order so far as they go but additional
rules will have to be made under section 5 of the Charitable
Endowments Act laying down regulations for the administration
of the Fund.

C. P. Ramaswami Aiyar

Advocate General.

Madras, }
August 1, 21. }

(True Copy)

H. Brightwell

Government Solicitor.

10

9

NOTES.

Previous papers.

- 8. 74 ER. of 29.1.04
- .. 212 .. of 5.4.04
- .. 213 .. of 5.4.04
- .. 376 Public of 11.4.11
- .. 521 ER of 31.7.11
- .. 1456 Public of 26.11.13
- .. 816 .. of 27.4.16
- .. 927 ER of 29.7.19
- .. 1394 .. of 29.11.20

PS

From

Henry Brightwell,
Government Solicitor,
M a d r a s.

To

The Secretary to Government,
Law (Education) Department,
M a d r a s.

Dated 2nd August 1921

Received

No. 956.

Forwarded with enclosures with
reference to the Memorandum of
Government No. 2219-1 dated --
26th July 1921 Law (Education)
Department.

H. Brightwell

Government Solicitor.

Extract from notes on Control of expenditure on buildings of the Reserved Depts.

As regards the Lawrence School, it would be well to consult the Law Department at once as to what they would like done in the matter. I have suggested to Mr. Padfield that the most satisfactory arrangement, if it is possible to carry it out, would be that the endowment funds and the grant from the Government of India should practically be placed at the disposal of the school committee, which could, if necessary, be strengthened. The ideal would be if these funds could be kept out of our budget altogether. I do not know whether we really have any right to include the endowment funds in our budget. I am not sure in whom the Government paper, etc. is vested: if in the committee I am very doubtful as to the power which Government has to appropriate it. Sir Lionel Davidson, I believe, is inclined to favour such an arrangement as this if it can be managed, but anticipates financial difficulties.

A.R.K[napb].
A.K. 25-6-21.

The foregoing extract may be sent to the Law Education Deptt for action.

Yours

ms
28.6.21.

Law (E) 14/0.0.

28.6.21.

Law (E) 14/0.0.

Law camp N. 144
29.6.21

The question raised in the above extract would appear to depend upon the decision on the following two points:-
(i) whether and, if so, what modifications should be made in the scheme of management of the school properties after provincialisation; and
(ii) what changes should be made in the

for the management and working of the school and what should be the status of the school committee after provincialisation.

2. Management of the school property after provincialisation.

The main sources of income of the Lawrence Memorial School, Coimbatore are (i) interest on the endowment funds, (ii) Fees from paying students and (iii) grants.

3. The present funded capital of the school consists of :-

para 3 of Letter No. 92822
29.7.19

Items.	Amount Rs.	Particulars of securities
(1) Govt. Promissory notes and treasury notes transferred by the Military Male Orphan Asylum, Madras, on its amalgamation with the L. M. School	5,10,000	In the custody of the Accountant-General Madras, deposits under articles 164 and 171 Civil Account code
(2) Sale proceeds of the Lawrence Asylum, Press, the property of the late Military Orphan Asylum	5,08,700	Held by the Treasury of Charitable Endowment under the Charitable Endowments Act (VI of 1890)
(3) Govt. Promissory notes, treasury notes etc., transferred by the Military Female Orphan Asylum on its being incorporated with the L. M. School	2,82,319	do. do.
Total	13,01,119	

for the furnishing of

The endowments are now held by the Accountant-general either in his capacity as such or as Treasurer of Charitable Endowments and full details of them will be found given on p. 27 of ^{notes to} No. 927 Ed. of 29.7.1919. The question as to what modification should be made in the scheme of ^{after provincialisation} management of these properties has been considered and decided in connection with our letter to India No. 928 Ed. of 29.7.1919 — please see para 8 on p. 17, ^{para 5 on} p. 28, of the notes thereto and also para 3 of the letter. It has been decided that, after the school is provincialised, steps should be taken in consultation with the Advocate-general to transfer the funds in question to the local Govt. to whom the interest on them will then be paid instead of to the School committee. It is anticipated that no legal difficulties are likely to arise in the matter.

In the same way, the ~~existing~~ Imperial grants which are

(T)

(T)

C.f. para 6 of letter No. 928 (T) 29.7.19

for the furnishing of

are now paid by the Govt. of India direct to the school funds and after provincialisation be paid to the local Govt.

4. Management of the school after provincialisation.

The question as to what modifications should be made in the management of the school and in the rules regarding its constitution and working has also been considered in detail in connection with our letter to India No. 928 dated 29.7.19 — please see para 10 of the D.P.'s letter on p. 4 thereof, ^{and} ^{of notes} para 6 on p. 16, para 15 on p. 34, and the Proceedings of the Committee of 26th June 1919 ^{on} and p. 38, of the notes connected with that letter. The views of this Govt. on the point are contained in para 11 of that letter and a set of rules suitable for adoption after provincialisation is given in Annexure C thereto. It is proposed to continue the school committee, but its actual

Control over the institution will be limited to questions of a military or religious character, and in other matters, its functions should be merely advisory. The management of the school, like that of any other Govt. institution, would rest with the D.P.S. subject to the ~~orders~~ ^{control} of the local Govt.

5. In view of the above decisions (which have also been reported to India), viz, that the funded capital of the school should be legally transferred to the local Govt., that the school committee should be a purely Advisory committee of visitors and that the institution should, like other Govt. institutions, be under the management of the D.P.S. subject to the orders of the local Govt., it is submitted that the committee ~~should~~ ^{should} not have any direct concern with the finance of the institution and that it would be necessary to show the ~~income~~ ^{income} ~~total~~ from the endowments and the imperial grants ^{etc} in the C.B.

X (Income from endowments are being shown in the C.B. under the appropriate heads - e.g., vide under XXI-E-252 and XXII-Med. in the C.B. for 1921-22)

Recharge 6. orders are requested.

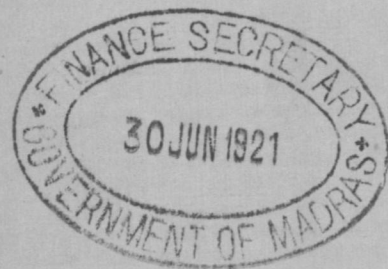
CVV
29.6.21

2nd
30/6/21
Secy.

After the school is Provincialised, the School Committee ceases to be a 'corporation' and cannot hold funds, further as it becomes a folk school the funds must vest in Govt. The endowments will however be kept intact, as in similar cases elsewhere, in case in the future there be a subsequent change of management.

Re A, mpt, it is opposed to account mls. For remarks to

2nd Jun 30/6/21



Law camp no. 1244-1
30.6.21

Ct-872 in 8306 M.

Finance Deptt
It is submitted that when the school is provincialised, all the property including endowments and Govt. of didia grants, should vest in the Govt. and not in the Committee. This can be settled by drawing up a scheme of management & notifying it as in the case of the Rayapuram

45 13
7/17

(E)

Hospital - vide Scheme II on pp 35-36
of G.O. No. 816 Pub D 27.4.16.

No part of the Govt. receipts and
expenditure can be excluded from the
Govt. accounts.

7/17 872-184-7-2

After the School is approved
M 37.21

Law (ES) 0.0.
C₁ and C₄ should be please.

Law (ES) sept

secy.

The file may now be
circulated to C₁ and C₄.

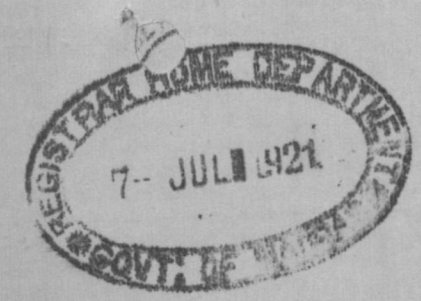
ccv
4-7-21

C₁

4/7/21

I am afraid the conclusion
C₄ is correct and cannot be
challenged. But this certainly my intent
in practice to abrogate the "advisory" com-
mittee in the future more or less as in
the past & to make it the rule, so far as
may be, to follow its advice.

L.D.
8.7.21



When we first considered the details of the provincialisation I doubted whether we fully realised what the position would be under the Reforms, namely ^{that} any money required for the school would have to be submitted to the vote of the Legislative Council.

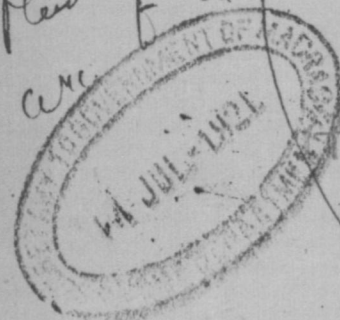
2. The notes above point out rightly that ~~we~~ if we adhere in detail to the scheme of provincialisation already put forward we are committed to abolishing the committee except in its purely advisory capacity.

The question which I intended to raise was whether it would not be desirable to reconsider the details of the provincialisation scheme. This is of course outside my immediate province but the part which I took last year as a member of the Committee in the negotiations with the Govt. of India is my excuse if not my justification.

3. There is one matter the discussion of which might lead to having to reconsider the position in regard to the transfer to Government of the endowments. It was suggested in the notes to G.O 927 Home dated 29-7-1919 that the formal transfer of these funds to Govt. should be arranged in consultation with the Advocate-General. I ~~will~~ would suggest that the Advocate General should now be consulted as to how the transfer can be effected. If his reply shows that there are ~~no~~ legal difficulties it may be that this itself will necessitate a reconsideration of the provincialisation arrangements as now contemplated.

I am quite ready to reconsider any details of my Honble Colleague's plan to particularize.

Please refer to reference + are to C. + myself.



Lo 11/7/21

C1

11.7.21

Submitted 13/7/21

4847
1917

18

9

Secy

Draft referred to the Advocate-General submitted which may be circulated to C, and C4. It is proposed to give in the memo: a short history of the institution and to send the following paper to the Adv. General for reference:-

- (a) copies of G.O. 212 of 5.4.04 and 1456 Public of 26.11.13 (containing Endowment notices)
- (b) ^{copy of a} précis of the correspondence regarding the school
- (c) Annual report of the school for 1919 which contains ^{its} present rules
- + (d) copy of the draft rules proposed for adoption after provincialisation.

11-10-17 - 7 Dec 928 (T)
29.7.17

cur
15.7.21

Draft for consideration.

2. Attention is also invited to C1's marginal remark on the prems page

C1
C4

15/7/21



The draft seems all right but I
shall be grateful for C's concurrence
& also for his remarks with reference
to A on p 8 infra

LD
20-7-21

The Draft meets the case I think.

I will bear in mind his point as to A-1
& will write to Dept. if I can evolve a
scheme which would save the school
from the entanglements which simple
"provisional" may involve.

Atk

21/7

11-1-7 CF [Memo: No. 2219^B-1 of 26.7.21]

11-8-11 CF [C-2289 B] From the Govt. Solicitor, No. 956 of 2-8-21

A.S.

Please see the Advocate-
General's opinion on pages 8-9 of
which shows that there will be no
legal difficulty in the matter of
the transfer of the funds of the D.M.
School, Ottacamund, to the Local
Govt., after the school is ^{provincially} ~~provisionally~~
~~continued~~ 2. A part of these is in
the custody of the Accountant-General
Madras, deposited under sections 164
and

(1) on p. 3 CF

and 171 of the civil Account code, and the Advocate-General considers that the Acct. Genl. may be directed to endorse the securities etc. to such person as may be designated, or that the securities etc. may be sold or otherwise disposed of under art. 166 of the code. After the school is provincialised, the Acct. General may ^{be} directed by an executive order to endorse the securities etc. in favour of the local Govt. so that interest will be paid to the latter. This may be done in consultation with the Accountant-General.

2. The rest of the funds has been vested in the Treasurer of charitable endowments. The Adv. General states that the transfer of these and the payment of interest thereon to the local Govt. may be provided for under sections 5 and 6 of the Charitable Endowments Act, 1890, the application under section 6 being made by the School committee, and the

A

(ii) and (iii) on p. 3 of



and 171 of the civil Account code, and the Advocate-General considers that the Acct. Genl. may be directed to endorse the securities etc. to such person as may be designated, or that the securities etc. may be sold or otherwise disposed of under art. 166 of the code. After the school is provincialised, the Acct. General may be directed by an executive order to endorse the securities etc. in favour of the local Govt. so that interest will be paid to the latter. This may be done in consultation with the Accountant-General.

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the local Govt., with the former's concurrence, settling a scheme for the administration of the fund. The scheme can be so framed as to provide for the conditions under which the committee hold the funds.

3. ~~On 10.11.1913~~ ^(the Adv. Gault) Please see para 5 of opinion on p. 9 of the present scheme for the management of the funds is embodied not in the rules of the school, but in the notification vesting the funds in the Treasurer of Charitable Endowments (No. 212 Ed. of 5.4.1904 and 1456 Public of 26.11.1913).

The scheme to be in force after provincialisation will likewise have to be embodied in the revised notification that will be issued with reference to para 2 above - compare Scheme II

(Rajapuram Hospital) on pp. 35-36

No. 816 Public of 27.4.1916.

After the provincialisation has been

(B)

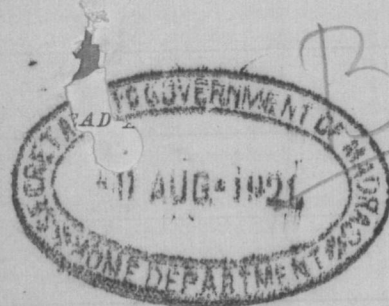
(A)

(E)

6/8

NOTES.

① [Recently intimation was received from India that they have addressed the Secy. of State in the matter on 21-7-21 - Submt. Separately]



been definitely settled, the D.P.O. may be requested to obtain and forward the necessary application under section 6 of the Act from the committee for transfer of the funds to the local Govt. and for necessary amendments to the scheme; and the Govt. Solicitor asked to prepare, in consultation with the D.P.O. and the School committee, a revised notice and scheme for the administration

of the funds. (Compare paras 3 & 4 of S. 376 Public Act 11-4-1911)

②

4. The file may be submitted to C₁ and C₄ for perusal and for orders whether these notes may be recorded as ~~not~~ ^{not} ~~any further action~~ ^{appears at present to be necessary.}

CVV
4.8.21

Td.
5.8.21

Secy.

C₁

C₄

RVK

5/8/21

6824

LD
7-8-21

18.

A draft order regarding the papers is submitted. The dispatch instructions will be for the furnishing of

(Let the Committee have a copy of the file)

Transfer to ~~the~~ Local Govt. ~~of the~~ -
school funds after provincialisation
Advocate-General's opinion - Papers
recorded.

” ” ” ” ” ” 191

READ ALSO:-

C. No., Memo: I From the to the Govt., No. 2219, dated 26-7- 1921

" " " " " " " " 191

No. 1167, dated 4/8 1921

Recorded

Rai
138.

curv
9.8.21

RVK
1078

copy to the committee, L.M.
School, Oostacumund
(ato)

to the D.P. (a to)

(Take 2 extra copies of the
order with enclsured)

~~copies~~
~~1/1~~
~~4/8~~

A = Copy in full.
B = Not to be copied.
P = Copy abstract only.
Q = Copy heading only.