

Government of Madras
LAW (EDUCATION) DEPARTMENT

G.O. No. 106, 25th January 1926

Elementary Education Fund—Advocate-General's opinion—Incurring of expenditure on establishments, Medical inspection, Scouting, etc.—Orders passed.

23

(2)

Government of Madras

LAW (EDUCATION) DEPARTMENT

G.O. No. 106, 25th January 1926

Elementary Education Fund—Advocate-General's opinion—Incurring of expenditure on establishments, Medical inspection, Scouting, etc.—Orders passed.

READ—the following paper :—

G.O. No. 953, Law (Education), dated 8th June 1925

Order—No. 106, Law (Education), dated 25th January 1926.

The Advocate-General has re-examined the question dealt with in G.O. No. 953, Law (Education), dated 8th June 1925, in the light of the representations made by local bodies, and of the provisions relating to educational expenditure in the Madras City Municipal Act, 1919, the Madras District Municipalities Act, 1920, and the Madras Local Boards Act, 1920. He is of the opinion that items of expenditure connected with the course of instruction which the Government have declared to be "elementary education" may be debited to the elementary education fund. In accordance with this opinion, the Government are pleased to authorize local bodies to incur, with their *previous* approval, expenditure on the undermentioned objects from the elementary education funds under the control of local bodies :—

(1) Pay of establishment employed on the maintenance of accounts relating to the elementary education fund.

(2) Employment of supervisors of Schools.

(3) Medical inspection.

(4) Scouting.

2. Local bodies proposing to incur expenditure on the items mentioned above should incorporate their proposals in the budget estimates of the elementary education funds under their control and apply for the specific sanction of Government to the incurring of such expenditure explaining fully the need for it. Proposals for incurring expenditure in a particular year received after the issue of orders on the budget estimates of the funds for that year will not be entertained.

3. Expenditure on the feeding and clothing of pupils in elementary schools and on the purchase of umbrellas for them should not be debited to the elementary education fund.

(By order of the Government, Ministry of Education)

V. T. KRISHNAMA ACHARIYAR,
Secretary to Government.

To all Presidents of Taluk Boards.
„ all Presidents of District Boards.
„ all Presidents of District Educational Councils.
„ all Chairmen of Municipal Councils.
„ the President, Corporation of Madras.
„ the Director of Public Instruction.
„ the Examiner of Local Fund Accounts.
„ the Inspector of Municipal Councils.
„ the Local Self-Government Department.
Copy to the Law (Drafting) Department.

3

LAW (EDUCATION) DEPARTMENT.

NOTES CONNECTED WITH G.O. No. 106, LAW (EDUCATION),
DATED 25TH JANUARY 1926.

[SUBJECT.—*Elementary Education fund—Expenditure on medical inspection, etc.—
Elementary Education Act to be amended.*]

I

*From the President, District Educational Council, Trichinopoly, No. 168,
dated 27th June 1925.*

II

From the President, Taluk Board, Tiruvallur, No. 378, dated 18th June 1925.

III

*From the Chairman, Municipal Council, Coimbatore, No. 716,
dated 9th July 1925.*

According to the Advocate-General's opinion recorded in G.O. No. 953, Law (Education), dated 8th June 1925, (i) the pay of clerks employed for the maintenance of accounts relating to the Elementary Education fund, (ii) expenditure on medical inspection, and (iii) such other expenditure incurred *in connection with* elementary education cannot be debited to the Elementary Education fund. The President, District Educational Council, Trichinopoly, the President, Taluk Board, Tiruvallur, and the Chairman, Municipal Council, Coimbatore, suggest that the Act should be amended so as to enable local bodies to debit such expenditure to the Elementary Education fund.

2. In G.O. No. 19, Law (Education), dated 8th January 1925, the Government refused to allow local bodies to debit to the Elementary Education fund the pay of clerks attending to work connected with elementary education, on the ground that under the Local Boards Act, the maintenance of elementary schools is one of the principal functions of taluk boards. Expansion of elementary education is being accelerated by the levy of education tax and by the grant of large subsidies for the opening of new schools in villages with a population of 500 and over. A large number of local bodies are too poor to bear from their *general* revenues the cost of additional establishment required to cope with the rapid expansion of elementary education. In the circumstances it seems desirable that Government *should have power* to permit such of the local bodies as are found, after a careful scrutiny of their financial position, to be too poor to bear the expenditure in question from their general revenues, to debit such expenditure to the Elementary Education fund. Besides expenditure on medical inspection of pupils in elementary schools, feeding of poor pupils of depressed classes when such a course is found to be necessary to secure the attendance of pupils and expenditure on other objects such as scouting seem to be a legitimate charge on the Elementary Education fund. In the circumstances it is for orders whether steps may be taken to amend the Act as suggested in the current file.

A.S.—18-7-25.

3. Section 33 (2) of the Act may be amended as shown below :—

“All expenses incurred on elementary education by the local authority concerned and other expenses connected with elementary education incurred with the approval of the Government shall be paid out of the fund.”

N.K.—21-7-25.

C. RAMANUJA ACHARIYAR—22-7-25.

I shall discuss this with the Advocate-General.

V. T. KRISHNAMA ACHARIYAR—23-7-25.

Demi-official from M.R.Ry. Rao Bahadur V. T. KRISHNAMA ACHARIYAR Avargal, Secretary to Government, Law (Education) Department, to M.R.Ry. T. R. VENKATARAMA SASTRIYAR, Avargal, Advocate-General, dated 14th September 1925, No. 2321-A-1.

I shall be obliged if you will see me the next time you happen to come round to the Secretariat, as I wish to discuss with you the question of the admissibility of the following kinds of expenditure under the Elementary Education Act :—

- (1) Pay of the establishment employed to look after the accounts, etc., relating to the Elementary Education fund.
- (2) Medical inspection.
- (3) Scouting.
- (4) Clothing of pupils.
- (5) Feeding of pupils.
- (6) Purchase of cadjan umbrellas for pupils.

OFFICE OF THE ADVOCATE-GENERAL.

OPINION No. 15.

[Ref. D.O. No. 2321-A-1, Law (Education), dated 14th September 1925.]

I have re-examined this matter at the desire of Mr. V. T. Krishnama Achariyar, the Law Secretary, and I shall presently state the result of such re-examination. Before doing so I must state that all the matters that have hitherto come under my consideration cannot be satisfactorily solved without resort to legislation. Section 33 of the Elementary Education Act, VIII of 1920 (Madras), says that all expenses on elementary education by the local authority concerned shall be paid out of the elementary education fund. Elementary education is defined as instruction in such subjects and up to such standard as may be prescribed. Section 33 may be expressed in other words in the light of this definition thus: All expenditure on (the course of) instruction prescribed by the Government shall be paid out of the elementary education fund. Though the section does not say that no other expense shall be paid out of the fund it obviously means that, because no other expense is authorized by the Act to be paid out of the fund.

What then is the expenditure thus authorised to be met out of the fund?

The view I took in the opinions so far given was that the expense incurred on elementary education, not expense in some manner or other connected with elementary education, might be paid out of the fund. On this view I ruled out—

- (1) expenses of medical inspection,
- (2) pay of clerks employed on the maintenance of accounts relating to the fund or otherwise connected with its administration,
- (3) pay of clerks employed to collect the tax under section 34 of the Elementary Education Act, and
- (4) expenses of providing lunch for pupils belonging to depressed classes.

The inconveniences of such a strict and narrow view of the language of the Act have been urged by the local authorities and pressed on me and I promised to examine the matter again and I have now done so. The questions that have apparently been raised by the local authorities in connexion with the expenditure of the elementary education fund are given in the file.

Can the fund be expended on—

- (1) pay of the establishment, keeping the accounts relating to elementary education,
- (2) Medical inspection,
- (3) Scouting,
- (4) clothing for pupils,
- (5) feeding of pupils,
- (6) purchase of umbrellas,
- (7) Can collection charges be debited to the amount collected under section 34 of the Act.

It may be difficult to justify on the broadest view of the scope of expenses on elementary education to bring items 4, 5 and 6 within it. The collection charges might be made payable not as expenditure on elementary education but as being a deduction antecedent to the amounts collected becoming elementary education fund. The other cases depend on the result of my re-examination.

I have seen reason to alter the view that I took that the Elementary Education Act provided a fund for paying for the instruction of pupils leaving other items of expenditure connected with elementary education to be met out of the general funds of the local authorities.

The Elementary Education Act provides—

- (1) that an elementary education fund should be constituted for each local authority to which will be credited the proceeds of a tax under the Act, the amount of grant by the Governor in Council, fines and penalties levied under the Act, income of endowments for elementary education, school fees and other funds received for the purposes of the Act (section 32);
- (2) that all expenses incurred on elementary education should be paid out of the fund (section 33);
- (3) that the Governor in Council should contribute to the fund not less than the tax raised under the Act in addition to the amount of recurring expenditure contributed from provincial funds during the year preceding the coming into force of the Act (section 37).

The Act also provides that nothing in the Acts applicable to the local authority shall affect the provisions of the Act except in so far as the Act itself so provides (section 40).

Turning now to the three Acts relating to the local authorities concerned :

The City Municipal Act IV of 1919, section 139, says that all moneys received by the Corporation shall constitute ‘the Municipal Fund’ and shall be applied and disposed of in accordance with the Act. Section 141 prescribes expenditure of the municipal fund in accordance with the rules in schedule V of the Act. Rule 1 of the schedule includes among the objects on which the municipal fund may be expended all matters necessary for or conducive to the education of the citizens of Madras. Rule 4 expands the objects of expenditure connected with education as including the provision and maintenance of public libraries and reading rooms, museums, art galleries, gymnasia or any other institution connected with the diffusion of mental or physical culture, the construction and maintenance of school houses, primary education, technical and industrial education, the training of teachers and possibly the provision and maintenance of zoological and horticultural gardens, the provision of music for the people and the organization and maintenance of associations for the prevention of juvenile smoking and cruelty to children.

The District Municipalities Act V of 1920 provides that all moneys received by the municipal council should constitute ‘the Municipal Fund’ to be applied and disposed of subject to the provisions of that Act or other laws and schedule IV of the Act contains provisions as to authorized objects of expenditure. The purposes to which the fund might be applied include the education of the inhabitants which is expanded as in the City Municipal Act and is expressed to include the establishment and maintenance of schools, the construction and maintenance of school houses, public libraries and reading rooms, museums, art galleries, gymnasia or any other

institutions connected with the diffusion of mental or physical culture or technical instruction or the training of teachers, and the holding of industrial exhibition and fairs, the provision and maintenance of zoological and horticultural gardens and the holding of exhibitions, provision of music for the people and the organization and maintenance of associations for the prevention of juvenile smoking and cruelty to children.

Educational expenditure is further classified into obligatory and discretionary expenditure and dealt with under different rules. Provision for the instruction of all children of school going age resident within the municipality for whom provision for instruction has not been otherwise made is one of the obligatory items of expenditure. Such provision may be made in schools maintained wholly from a municipal fund or by grants-in-aid to private schools or by contributing towards the cost. Elementary schools, admission to which may be wholly or partly free for any class of poor inhabitants, may be maintained or aided from the municipal fund. The Governor in Council may direct the municipality to make grants to any school so maintained. The proceeds of all fees levied by the council should be expended on the provision of instruction by means of schools.

Among discretionary items of expenditure are the inspection of schools, the training of teachers, the instruction and training of persons for the practice of medicine or vaccination or technical or industrial calling and maintenance of public libraries, reading rooms, gymnasia, or other institutions for the diffusion of education.

Local Boards Act XIV of 1920, section 114, provides for the constitution of a 'Taluk Fund'; section 115 says that the rules regarding the receipts and disbursements in schedule V should be part of the chapter. Section 112 says that the purposes to which the moneys received under this Act may be applied are everything necessary for or conducive to the education of the inhabitants and include in particular the diffusion of education and with this view the construction and repair of school houses, establishment and maintenance of schools, the inspection of schools and the establishment and maintenance of libraries and reading rooms subject to the rules in schedule V and any further rules which might be prescribed. In schedule V the Taluk Fund is made to include the receipts of schools maintained by the Taluk Board including grants-in-aid for such schools and contributions from Government, other local boards, municipalities, other local authorities and private persons in aid of any institution or services maintained or financed by the Taluk Fund. Among the items of expenditure authorized to be met out of Taluk fund are the opening and maintenance of elementary schools and contributions to other bodies for similar purposes.

The portions I have underlined show that the elementary education fund is included in the 'Municipal Fund' and the 'Taluk Fund,' though it is kept apart and is used for educational purposes. Such special use is not specifically enjoined on the Madras Corporation by Act IV of 1919 but is the result of Act VIII of 1920. It is enjoined on the district municipalities both by Act V of 1920 and VIII of 1920. It is enjoined on local boards by Act VIII of 1920. The result is that each of the three Acts relating to the local bodies has to be read as if some of the provisions of the Elementary Education Act were worked into and became part of it. The object of a separate enactment like VIII of 1920 is apparently the convenience of dealing with the topic of elementary education in which all the bodies are equally interested in one place, to introduce the element of compulsion where it is feasible and to provide for the District Educational Councils, and not the separation of the fund and user of it for more limited purposes than those permitted to the local authorities under their respective Acts. Particularly the provisions of the Local Boards Act, 1920, which was passed after the Elementary Education Act, indicate this to be the correct view, because the Taluk Fund which includes items of elementary education fund is made available for the opening and maintenance of schools, a purpose for which the elementary education fund cannot be used on a restrictive construction of Act VIII of 1920. The user of this portion of the Taluk Fund for purposes unconnected with elementary education is prevented by Act VIII of 1920, sections 33 and 40 read together.

The difficulties on the language of the Act VIII of 1920 still remain to be dealt with. It is on the language of the Act that I based my previous opinions and I arrived at those opinions not without a struggle because the opinions shut out desirable expenditure out of the funds. I am glad to think that they are not insuperable in the light of the above analysis of the provisions of the Acts of 1919 and 1920.

The word 'on' need not be an insuperable difficulty as it has also the meaning 'in relation to' or 'connected with.' As to the definition of elementary education it may be said that too much stress should not be laid on the word 'instruction' as the object of the definition is evidently to enable the Government to fix what 'course of instruction' should be included in elementary education. And when section 33 speaks of expenditure 'on elementary education,' it is not thinking of expenditure on instruction only but of the whole of the expenditure connected with the course of instruction which the Government have declared to be elementary education.

If the elementary education fund cannot be used for any other purpose than that of paying the teachers who give instruction, I am told that most of the local authorities will have no funds out of which to meet other expenses connected with education. If that is the fact, it must be a fair conclusion that the legislature could not have intended to place a narrow construction on section 33.

While the restriction on the use of the elementary education fund may be relaxed in accordance with this view, it would be more satisfactory and serve a fuller purpose if the Act was amended so as to make expenditure on elementary education include even the expenses of providing lunch, clothing, umbrella, medical aid, etc., to pupils. Or a separate Act must be passed for such purposes as I think it has been done in England.

T. R. V. SASTRI—14-12-25.

LAW (EDUCATION) DEPARTMENT.

The Advocate-General has re-examined the question as suggested. He is now of the opinion that expenditure on 'pay of establishment', 'medical inspection' and 'scouting' may be debited to the elementary education fund. It appears desirable that local bodies should obtain the previous sanction of Government to the incurring of such expenditure, in order that the funds available for the expansion of elementary education may not be frittered away. When submitting the budget estimates of the elementary education funds under their control, local bodies may be asked to obtain the specific approval of the Government to proposals for the incurring of expenditure on the items mentioned above. Among the items requiring the sanction of Government, may also be included the employment of supervisors by local bodies for the inspection of elementary schools under their control.

2. The Advocate-General states that collection charges may be deducted from the gross proceeds of the education tax, the net proceeds alone being credited to the elementary education fund. As the education tax is collected along with other taxes levied by local bodies, it will be necessary to incur special charges for the collection of the education tax only in rare cases. Local bodies may be asked to obtain the specific approval of the Government to the incurring of such charges and to their deduction from the total proceeds of the education tax.

3. The Advocate-General suggests that the Act should be amended so as to make its intention clear. Submitted that this question may be taken up when the general revision of the Act again comes under consideration.

4. A draft order is submitted for approval.

N.K.—19-1-26.

C. RAMANUJA ACHARIYAR—20-1-26.

V. T. KRISHNAMA ACHARIYAR—22-1-26.

Paragraph 2 of the draft be omitted. The collection is made by the Revenue Department as part of the revenue collections. Few local bodies collect the cess directly.

* Not printed.

NOTES TO G.O. No. 106 LAW (EDUCATION), 25TH JANUARY 1926

Again, item 1 is difficult to define. There should be some means of ascertaining whether a whole-time clerk is required for this purpose. I do not think separate establishment is needed for the purpose. If a relaxation is shown the boards will take advantage and employ one clerk under that head who will have no full work to do. But as each case is to come before Government there may not be much difficulty.

A. P. P[ATRO]—22-1-26.

The draft has been amended in accordance with M-2's orders. It may now issue.

N.K.—23-1-26.

Issue.

C. R.—25-1-26.

V. T. K.—25-1-26.

[G.O. No. 106, Law (Education), dated 25th January 1926.]

Proceedings of the District Educational Council, Trichinopoly

passed at a meeting held on 27-6-1925.

Name:— M.R. Ry. M.R. Setu Ratnam Ayyar Avl, M. L.C., President.

R. C. No. 168 of 1925. Station:—TRICHINOPOLY Dated: 27-6-25.

Read the following:— Government order No. 953 Law (Education) dated 8th. June 1925-- Elementary Education Fund--expenditure on medical inspection and establishment to main accounts of the fund--inadmissibility--Advocate General's opinion.. communicated.

Resolution No. 641.

In recording the Government order this Council considers that it is not desirable to restrict the application of the Elementary Education Fund in the manner stated in the Government Order and requests Government to take early steps to amend the Act so as to admit of the Elementary Education Fund being diverted to all purposes connected with Elementary Education.

Sd. M.R. Setu Ratnam,
President.

True Copy/

Forwarded to the Secretary to Government, Law (Education) department, Madras.

2. The Director of Public Instruction, Madras.
3. The District Educational Officer, Trichinopoly.
4. The Inspectress of schools, Southern Circle, Trichinopoly.
5. The Presidents of all Taluk Boards in the District.
6. The Chairmen of all Municipal Councils in the District.

M. R. Setu Ratnam
2.7.25
President.

Ref
Dis

No 375

of 1925.

19th June

1925.



M. R. Ry, RAI SAHIB C. ARULIAH NAIDU GARU

18042

President Taluk Board, 29/6/25

Tiruvallur.



Law (Edn) no.

The Secretary to the Government of Madras,

Law (Education) Department.

Sir,

Reference:- Government Order No.953 dated 18-6-1925.

I have the honour to submit that the number of schools maintained by the Taluk Board is increasing day by day with it, the amount of work to be done by the existing establishment. So I request that section 33 of the Madras Act V111 of 1920 may be made a little elastic to include the pay of those employed to keep the accounts also.

I have the honour to be,

Sir,

Your most obedient servant.

President, Taluk Board.

M.V.R.

Received

192

Registered



Subject.

Elementary Education Fund.

ENCLOSURES.

No.

pare copies

No. 716 Jul 25

Station Coimbatore Dated the 9th July 1925

M.R.Ry.

From (Name) Rao Sahib C.S. Ratnasabapathy Mudaliar Avl.,

(Designation) Chairman, Municipal Council, Coimbatore.

To The Secretary to the Government of Madras,

Law (Education)

Department.

Madras.

Sir,

Ref: G.O.No.953 dated 8-6-1925.

I have the honour to forward herewith a copy of the council's Resolution No.145 (h) dated 8-7-1925 and to state as follows:-

Expenditure on medical inspection and establishment to maintain accounts of Elementary Education Fund and such other expenses are regular charges to be paid out of Elementary Education Fund, and if, as per the opinion of the Advocate General, these expenses cannot be debited to the Fund under section 33 of the Act as it now stands, the Act may be so

ing debited
ended as to include the Government may be pleased to
Fund. I therefore
introduce necessary amendment as suggested by the Municipal
Council.

I have the honour to be,

Sir,

Your most obedient servant,



[Signature]
Chairman.

J.V/10-7

man
6/7/25

1788—E. P. W. 500 2-25.

Extract from Proceedings of a meeting of the Municipal
Council, Coimbatore, held on 8-7-1925

READ:—

G.O.No:953 dated 8-6-1925 - Elementary Education Fund -
Debit of expenditure on medical inspection and establish-
ment to maintain accounts of the fund - inadmissibility
- Advocate General's opinion.

RESOLUTION No. 145 (h) DATED 8-7-1925.

In view of the opinion of the Advocate General, Govern-
ment may be moved to get the section 33 of the Madras Act
VIII of 1920 amended so as to include all expenses con-
nected with Elementary Education in the Elementary Educa-
tion Fund.

(Sd).C.S.Ratnasabapathy,
Chairman.

(True copy)

[Signature]
Chairman, C.M.C.

c 3983/25

5B

R.O.No. 877/T.B./25 1925

Tanjore Taluk Board's Office...

Dated 30th August, 1925.

1. Cu 3475 A

From



T.V. Unamaheswaram Pillai Avl., B.A., B.L.

President, Taluk Board,

Tanjore.

To

The Secretary to Government, Law Education Department,
M. A. D. R. A. S.

Through

The President, District Board,
TANJORE.

Sir,

Ref:- Pay of the Education Clerk -- debited to the
Education Funds.

I have the honour to inform you that the District Inspec-
tor of Local Fund Accounts, Tanjore, objects to the debit of the
pay of the Education Clerk under the Elementary Education Funds
on the strength of G.O. No. 953 Law Education dated 8-6-25.

This Taluk Board has levied the Education Cess on land
cess and Education Cess on house tax in Union areas and on pro-
fession and companies taxes in Union and Non Union areas from
the 2nd half of 1921-22. Ever since the imposition of the said
taxes, means had to be found for looking after the following
items of work.

- (1) Maintaining Demand Registers of Education & tax on
house tax in three Unions.
- (2) Maintaining Demand Registers of Education tax on
profession and Companies taxes in Union and Non Union areas.
- (3) Watching the Collection of the said taxes.
- (4) Issuing of distrains, filing of suits, and prose-
cutions with a view to realizing the arrears.
- (5) Maintaining arrear demand registers.
- (6) Maintaining necessary accounts for remunerating the
collection agencies.
- (7) Maintaining separate accounts for Elementary Education
Funds.



14/3/25
The clerk that was looking after the Education work before these taxes were introduced was found unequal to all this work. The need for an ~~extra~~ additional clerk was most keenly felt. The Board sanctioned the entertainment of an additional clerk in June 1923 and resolved that his pay should be debited to the Elementary Education Fund. Neither the Government nor the audit department took exception to this procedure.

The Government raises the objection this year basing its conclusion on the opinion of the Advocate General. I would make bold to point out that the real question that arises for consideration has not been referred to the Advocate General and that he has confined his attention to a mere construction of the ~~works~~ words "incurred on Elementary Education." I would submit that the question involved in this reference has to be ~~also~~ answered by the scope and intendment of Section 32 Viz.

"There shall be constituted an elementary Education Fund to which shall be credited (a) the proceeds of any tax levied within the jurisdiction of such authority under the provisions of this act."

Do these words mean that the gross proceeds of a tax shall form the Elementary Education Fund? What is the warrant for importing the word "gross" into the section? Is it the opinion of the Advocate General that no expenses should be incurred for the employment of collection agency? It appears to me an unreasonable and impossible position. Bill collectors have to be employed or a percentage of the collections has to be paid to the Union agency employed for doing the collection work, and a clerk of the kind now in question who writes the demand, watches the collection and supervises their work is a necessary link in the chain of collection agency and I dare say he has to be paid his salary for the work done by him. Registers, bill books and distraint forms, cheque books have to be maintained and expenditure has to be incurred in purchase of these. The charges incurred for all these purposes have to be debited against the gross proceeds and the net proceeds will alone constitute the Elementary Education Fund.

I therefore request that you would be pleased to revise your

15
your opinion in the light of the above and issue final orders.

(11)
I have the honour to be,

Sir,

Your most obedient servant,

W. V. S. S.
President.

28.5

V.K.A./1-9-25.

Re 3983/25-
53
For warded for favour
of orders.

Ramiah Krishnan
9. 9. 25

for President

28/5
28/5

DEPARTMENT

Received

19

Registered

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Subject.

ELEMENTARY EDUCATION FUND

Requesting orders of Government to meet
expenditure from --- of the Education Clerk.

ENCLOSURES.

No.

One.

Spare copies

R.C. No. 418/G1 of 25.

Station Masulipatam. Dated the 12th October 25.

From (Name) M.R. Ry. S. Jagannatha Row Naidu Garu,
M.A., Bar-at-law,
(Designation) Chairman, Municipal Council.

To The Secretary to the Government of Madras,
Law (Education) Department.

Sir,

M A D R A S.

Reference:- G.O. No. 953 Law (Education)
dated 8th June 1925 - Elementary Education Fund -
Expenditure on Medical inspection and establishment
to maintain account of the fund - opinions of the
Advocate general - Inadmissible.

In forwarding herewith a copy of the -
Council's Resolution No. 5, dated 30th September 25,
I have the honour to state that the Advocate General
is contemplating mainly a case of a fund where there

is no compulsory education. In the case of your municipality there is already a large contribution to the Educational fund from the General fund and to ask that the necessary expenditure incurred in paying the Education clerk to be also met from the General Funds is not at all justifiable. In introducing compulsory education scheme to this Municipality - there is lot of extra work connected therewith Viz, filing of complaints and preparing prosecutions against the defaulting parents and such other things required for the enforcement of the scheme. It may be said that a clerk is not necessary for ordinary education but it cannot be said that he is not necessary for compulsory education scheme.

Under the circumstances explained above I request that Government may be pleased to reconsider over the matter and to permit the expenditure to be met from the Elementary Education fund only.

I have the honour to be,
Sir,

Your most obedient servant,

A. V. Krishnaswami
For Chairman. MC.

13/10/25

MASULIPATAM MUNICIPALITY.

Proceedings of the Municipal Council, Masulipatam, passed at a meeting held on 30th September 25.

E E E

Read G.O. informing that the pay of the Education Clerk should be met from General Funds but not from Education funds together with the further correspondence thereon.

Resolution No. 5.-

Address the Government again.

E E E

(Sd) S. J. R. W.,
Chairman. MC.

Municipal Office
Masulipatam
12th October '25

A. V. Krishnaswami
For Chairman. MC.

NOTES

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Law (Education) Department.

(C.No. 3475)

D.O. 3475 A-1
21925

My dear Mr. Sastriyar,

In continuation of my D.O. No. 2321 A-1 ~~11/11/25~~, dated 14th ~~November~~ ^{instant}, I ~~am~~ ^{send herewith} for your consideration a copy of the letter from the President, Taluk Board, Tanjore, No. 877 T.B/25, dated 30th August 1925, regarding the admissi-
bility of expenditure under the Madras Elementary Education Act of the ^{pay of the} staff employed on the collection of the education tax.

A.S.
15-9-25.8/9
18.9.25CR
18.9V.T.
21.9

DESPATCHED

14 SEP 1925

To T.R.Venkatarama Sastriar Esq;

Advocate General, Madras

(with a copy of the P.T.B.'s letter)

MADRAS MUNICIPALITY

Proceedings of the Municipal Council, Masulipatam, passed at a meeting held on 30th September, 25.

Read G.O. informing that the pay of the Education

Clerk should be met from General Funds but not from -

Education funds together with the former correspondence

thereon.

Resolution No. 5.

Address the Government again.

(24) S. J. P.W.

Chairman, M.C.

Municipal Office

Masulipatam

Chairman, M.C.

When received for Fair-
copying.

When copied

When examined

When signed

When despatched

Ely. Education Fund.-

Advocate General's ^{opinion -} Incurring of expenditure on establishments, medical inspection, scouting etc--orders passed.

READ AGAIN G.O. No. 95-3 28; dated 8.6.28 192

" " " " "

192

READ ALSO :-

C. No. From the, No., dated 192

” ” ” ” ” ” ” 192

" " " "

192

ORDER.

No. 106, dated 25-1- 1926

The Advocate-General has re-ex-
~~re-examined~~ ^{re-examined} the question dealt with
~~sidered~~ ⁱⁿ his opinions embodied in

G.O.No.953 L.E, dated 8th June 1925
in the light of the representations
made by local bodies and of the provi-
sions relating to educational expendi-
- ture in the Madras City Municipal Act
1919, the Mad.D.F.M.Act, 1920 and the
Mad.L.B.Act, 1920. He is of the -
opinion that ~~certain~~ ^{all} items of expendi-

ture connected with elementary educa-
tion may ~~also~~ be debited to the ~~ely.~~
~~can. fund.~~ In accordance with the
~~revised~~ opinion ~~now given~~, the Govt
are pleased to authorise ~~the~~ local
bodies to incur, with their previous
approval, expenditure on the under-
mentioned objects from the elementary

The course of
instruction which
the Court have
declared to be

education funds under the ~~the~~ control of local bodies:—

(1) Pay of establishment employed on the maintenance of accounts relating to the ~~ely. edn. fund.~~

(2) Employment of supervisors of schools.

(3) Medical Inspection.

(4) Scouting.

2. Special charges for the collection of ~~the~~ education tax ~~may~~ be incurred by local bodies ~~only~~ with the previous approval of Government. Such charges, when approved, may be deducted from the total proceeds of the tax, ~~and the net proceeds alone~~ ^{being credited} to the ~~ely. edn. fund.~~

3. Local bodies proposing to incur expenditure on the items mentioned in the above paragraphs ~~(1) to (4) above~~ should ~~incorporate~~ ^{incorporate} their proposals in ~~the budget estimates~~ of the ~~ely. edn. funds~~ under their control and apply for the specific sanction of Govt to the incurring of such expenditure. ~~Proposals received after the issue of orders on the B.E. of the~~ ^{Explaining fully the need for incurring expenditure in a particular year} ~~fund will not be entertained except in special cases.~~ ^{budget estimates}

3. 4. Expenditure on the feeding and clothing of pupils in elementary schools and on the purchase of umbrellas for them ~~cannot~~ ^{should} be debited to the ~~ely. edn. fund.~~

All Presidents of Tk. Bd.
All P.D.Bs.
All P.D.E.Cs.
All C.M.Cs.
The President, Corpn. of

Not approved
1/2/26

Law (Educ) Dept

G.O. No. 106, 25th January 1926

Elementary Education Fund—Advocate-General's opinion—Incurring of expenditure on establishments, Medical inspection, Scouting, etc.—Orders passed.

READ—the following paper:—

G.O. No. 953, Law (Education), dated 8th June 1925.

Order—No. 106, Law (Education), dated 25th January 1926.

The Advocate-General has re-examined the question dealt with in G.O. No. 953, Law (Education), dated 8th June 1925, in the light of the representations made by local bodies, and of the provisions relating to educational expenditure in the Madras City Municipal Act, 1919, the Madras District Municipalities Act, 1920, and the Madras Local Boards Act, 1920. He is of the opinion that items of expenditure connected with the course of instruction which the Government have declared to be "elementary education" may be debited to the elementary education fund. In accordance with this opinion, the Government are pleased to authorize local bodies to incur, with their ~~previous~~ approval, expenditure on the undermentioned objects from the elementary education funds under the control of local bodies:—

(1) Pay of establishment employed on the maintenance of accounts relating to the elementary education fund.

(2) Employment of supervisors of Schools.

(3) Medical inspection.

(4) Scouting.

2. Local bodies proposing to incur expenditure on the items mentioned above should incorporate their proposals in the budget estimates of the elementary education funds under their control and apply for the specific sanction of Government to the incurring of such expenditure explaining fully the need for it. Proposals for incurring expenditure in a particular year received after the issue of orders on the budget estimates of the funds for that year will not be entertained.

3. Expenditure on the feeding and clothing of pupils in elementary schools and on the purchase of umbrellas for them should not be debited to the elementary education fund.

(By order of the Government, Ministry of Education)

V. T. KRISHNAMA ACHARIYAR,
Secretary to Government.

To all Presidents of Taluk Boards.
" all Presidents of District Boards.
" all Presidents of District Educational Councils.
" all Chairmen of Municipal Councils.
" the President, Corporation of Madras.
" the Director of Public Instruction.
" the Examiner of Local Fund Accounts.
" the Inspector of Municipal Councils.
" the Local Self-Government Department.
Copy to the Law (Drafting) Department.

DESPATCHED in print
19 FEB 1926

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LAW (EDUCATION) DEPARTMENT.
 NOTES CONNECTED WITH G.O. No. 106, LAW (EDUCATION),
 DATED 25TH JANUARY 1926.

[SUBJECT.-- *Elementary Education fund—Expenditure on medical inspection, etc.—
 Elementary Education Act to be amended.*]

I
 From the President, District Educational Council, Trichinopoly, No. 168,
 dated 27th June 1925.

II
 From the President, Taluk Board, Tiruvallur, No. 378, dated 18th June 1925.

III
 From the Chairman, Municipal Council, Coimbatore, No. 716,
 dated 9th July 1925.

According to the Advocate-General's opinion recorded in G.O. No. 953, Law (Education), dated 8th June 1925, (i) the pay of clerks employed for the maintenance of accounts relating to the Elementary Education fund, (ii) expenditure on medical inspection, and (iii) such other expenditure incurred in connection with elementary education cannot be debited to the Elementary Education fund. The President, District Educational Council, Trichinopoly, the President, Taluk Board, Tiruvallur, and the Chairman, Municipal Council, Coimbatore, suggest that the Act should be amended so as to enable local bodies to debit such expenditure to the Elementary Education fund.

2. In G.O. No. 19, Law (Education), dated 8th January 1925, the Government refused to allow local bodies to debit to the Elementary Education fund the pay of clerks attending to work connected with elementary education, on the ground that under the Local Boards Act, the maintenance of elementary schools is one of the principal functions of taluk boards. Expansion of elementary education is being accelerated by the levy of education tax and by the grant of large subsidies for the opening of new schools in villages with a population of 500 and over. A large number of local bodies are too poor to bear from their general revenues the cost of additional establishment required to cope with the rapid expansion of elementary education. In the circumstances it seems desirable that Government should have power to permit such of the local bodies as are found, after a careful scrutiny of their financial position, to be too poor to bear the expenditure in question from their general revenues, to debit such expenditure to the Elementary Education fund. Besides expenditure on medical inspection of pupils in elementary schools, feeding of poor pupils of depressed classes when such a course is found to be necessary to secure the attendance of pupils and expenditure on other objects such as scouting seem to be a legitimate charge on the Elementary Education fund. In the circumstances it is for orders whether steps may be taken to amend the Act as suggested in the current file.

A.S.—18-7-25.

3. Section 33 (2) of the Act may be amended as shown below :—
 "All expenses incurred on elementary education by the local authority concerned and other expenses connected with elementary education incurred with the approval of the Government shall be paid out of the fund."

N.K.—21-7-25.

C. RAMANUJA ACHARIYAR—22-7-25.
 I shall discuss this with the Advocate-General.

V. T. KRISHNAMA ACHARIYAR—23-7-25.

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R.

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Demi-official from M.R.Ry. Rao Bahadur V. T. KRISHNAMA ACHARIYAR Avargal, Secretary to Government, Law (Education) Department, to T. R. VENKATARAMA SASTRIYAR, Esq., Advocate-General, dated 14th September 1925, No. 2321-A-1.

I shall be obliged if you will see me the next time you happen to come round to the Secretariat, as I wish to discuss with you the question of the admissibility of the following kinds of expenditure under the Elementary Education Act :-

- (1) Pay of the establishment employed to look after the accounts, etc., relating to the Elementary Education fund.
- (2) Medical inspection.
- (3) Scouting.
- (4) Clothing of pupils.
- (5) Feeding of pupils.
- (6) Purchase of cadjan umbrellas for pupils.

OFFICE OF THE ACCOUNTANT-GENERAL.
OPINION No. 15.

[Ref. D.O. No. 2321-A-1, Law (Education), dated 14th September 1925.]

I have re-examined this matter at the desire of Mr. V. T. Krishnama Achariyar, the Law Secretary, and I shall presently state the result of such re-examination. Before doing so I must state that all the matters that have hitherto come under my consideration cannot be satisfactorily solved without resort to legislation. Section 33 of the Elementary Education Act, VIII of 1920 (Madras), says that all expenses on elementary education by the local authority concerned shall be paid out of the elementary education fund. Elementary education is defined as instruction in such subjects and up to such standard as may be prescribed. Section 33 may be expressed in other words in the light of this definition thus: All expenditure on (the course of) instruction prescribed by the Government shall be paid out of the elementary education fund. Though the section does not say that no other expense shall be paid out of the fund it obviously means that, because no other expense is authorized by the Act to be paid out of the fund.

What then is the expenditure thus authorised to be met out of the fund?

The view I took in the opinions so far given was that the expense incurred on elementary education, not expense in some manner or other connected with elementary education, might be paid out of the fund. On this view I ruled out -

- (1) expenses of medical inspection,
- (2) pay of clerks employed on the maintenance of accounts relating to the fund or otherwise connected with its administration,
- (3) pay of clerks employed to collect the tax under section 34 of the Elementary Education Act, and
- (4) expenses of providing lunch for pupils belonging to depressed classes.

The inconveniences of such a strict and narrow view of the language of the Act have been urged by the local authorities and pressed on me and I promised to examine the matter again and I have now done so. The questions that have apparently been raised by the local authorities in connexion with the expenditure of the elementary education fund are given in the file.

Can the fund be expended on -

- (1) pay of the establishment, keeping the accounts relating to elementary education,
- (2) Medical inspection,
- (3) Scouting,
- (4) clothing for pupils,
- (5) feeding of pupils,
- (6) purchase of umbrellas,

Education tax is always collected as an integral part of the main taxes.

- (7) Can collection charges be debited to the amount collected under section 34 of the Act.

It may be difficult to justify on the broadest view of the scope of expenses on elementary education to bring items 4, 5 and 6 within it. The collection charges

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NOTES to G.O. No. 106, LAW (EDUCATION), 25TH JANUARY 1926
might be made payable not as expenditure on elementary education but as being a deduction antecedent to the amounts collected becoming elementary education fund. The other cases depend on the result of my re-examination.

I have seen reason to alter the view that I took that the Elementary Education Act provided a fund for paying for the instruction of pupils leaving other items of expenditure connected with elementary education to be met out of the general funds of the local authorities.

The Elementary Education Act provides—

(1) that an elementary education fund should be constituted for each local authority to which will be credited the proceeds of a tax under the Act, the amount of grant by the Governor in Council, fines and penalties levied under the Act, income of endowments for elementary education, school fees and other funds received for the purposes of the Act (section 32);

(2) that all expenses incurred on elementary education should be paid out of the fund (section 33);

(3) that the Governor in Council should contribute to the fund not less than the tax raised under the Act in addition to the amount of recurring expenditure contributed from provincial funds during the year preceding the coming into force of this Act (section 37).

The Act also provides that nothing in the Acts applicable to the local authority shall affect the provisions of the Act except in so far as the Act itself so provides (section 40).

Turning now to the three Acts relating to the local authorities concerned:

The City Municipal Act IV of 1919, section 139, says that all moneys received by the Corporation shall constitute 'the Municipal Fund' and shall be applied and disposed of in accordance with the Act. Section 141 prescribes expenditure of the municipal fund in accordance with the rules in schedule V of the Act. Rule 1 of the schedule includes among the objects on which the municipal fund may be expended all matters necessary for or conducive to the education of the citizens of Madras. Rule 4 expands the objects of expenditure connected with education as including the provision and maintenance of public libraries and reading rooms, museums, art galleries, gymnasia or any other institution connected with the diffusion of mental or physical culture, the construction and maintenance of school houses, primary education, technical and industrial education, the training of teachers and possibly the provision and maintenance of zoological and horticultural gardens, the provision of music for the people and the organization and maintenance of associations for the prevention of juvenile smoking and cruelty to children.

The District Municipalities Act V of 1920 provides that all moneys received by the municipal council should constitute 'the Municipal Fund' to be applied and disposed of subject to the provisions of that Act or other laws and schedule IV of the Act contains provisions as to authorized objects of expenditure. The purposes to which the fund might be applied include the education of the inhabitants which is expanded as in the City Municipal Act and is expressed to include the establishment and maintenance of schools, the construction and maintenance of school houses, public libraries and reading rooms, museums, art galleries, gymnasia or any other institutions connected with the diffusion of mental or physical culture or technical instruction or the training of teachers, and the holding of industrial exhibition and fairs, the provision and maintenance of zoological and horticultural gardens and the holding of exhibitions, provision of music for the people and the organization and maintenance of associations for the prevention of juvenile smoking and cruelty to children.

Educational expenditure is further classified into obligatory and discretionary expenditure and dealt with under different rules. Provision for the instruction of all children of school going age resident within the municipality for whom provision for instruction has not been otherwise made is one of the obligatory items of expenditure. Such provision may be made in schools maintained wholly from a municipal fund or by grants-in aid to private schools or by contributing towards the cost. Elementary schools, admission to which may be wholly or partly free for any class of poor inhabitants, may be maintained or aided from the municipal fund. The

4 NOTES TO G.O. No. 106, LAW (EDUCATION), 25TH JANUARY 1923

Governor in Council may direct the municipality to make grants to any school so maintained. The proceeds of all fees levied by the council should be expended on the provision of instruction by means of schools.

Among discretionary items of expenditure are the inspection of schools, the training of teachers, the instruction and training of persons for the practice of medicine or vaccination or technical or industrial calling and maintenance of public libraries, reading rooms, gymnasia, or other institutions for the diffusion of education.

Local Boards Act XIV of 1920, section 114, provides for the constitution of a 'Taluk Fund'; section 115 says that the rules regarding the receipts and disbursements in the schedule V should be part of the chapter. Section 112 says that the purposes to which the moneys received under this Act may be applied are everything necessary for or conducive to the education of the inhabitants and include in particular the diffusion of education and with this view the construction and repair of school houses, establishment and maintenance of schools, the inspection of schools and the establishment and maintenance of libraries and reading rooms subject to the rules in schedule V and any further rules which might be prescribed. In schedule V the Taluk Fund is made to include the receipts of schools maintained by the Taluk Board including grants-in-aid for such schools and contributions from Government, other local boards, municipalities, other local authorities and private persons in aid of any institution or services maintained or financed by the Taluk Fund. Among the items of expenditure authorized to be met out of Taluk fund are the opening and maintenance of elementary schools and contributions to other bodies for similar purposes.

The portions I have underlined show that the elementary education fund is included in the 'Municipal Fund' and the 'Taluk Fund,' though it is kept apart and is used for educational purposes. Such special use is not specifically enjoined on the Madras Corporation by Act IV of 1919 but is the result of Act VIII of 1920. It is enjoined on the district municipalities both by the Act V of 1920 and VIII of 1920. It is enjoined on local boards by Act VIII of 1920. The result is that each of the three Acts relating to the local bodies has to be read as if some of the provisions of the Elementary Education Act were worked into and became part of it. The object of a separate enactment like VIII of 1920 is apparently the convenience of dealing with the topic of elementary education in which all the bodies are equally interested in one place to introduce the element of compulsion where it is feasible and to provide for the District Educational Councils and not the separation of the fund and user of it for more limited purposes than those permitted to the local authorities under their respective Acts. Particularly the provisions of the Local Boards Act, 1920, which was passed after the Elementary Education Act, indicate this to be the correct view, because the Taluk Fund which includes items of elementary education fund is made available for the opening and maintenance of schools, a purpose for which the elementary education fund cannot be used on a restrictive construction of Act VIII of 1920. The user of this portion of the Taluk Fund for purposes unconnected with elementary education is prevented by Act VIII of 1920, sections 33 and 40 read together.

The difficulties on the language of the Act VIII of 1920 still remain to be dealt with. It is on the language of the Act that I based my previous opinions and I arrived at those opinions not without a struggle because the opinions shut out desirable expenditure out of the funds. I am glad to think that they are not insuperable in the light of the above analysis of the provisions of the Acts of 1919 and 1920.

The word 'on' need not be an insuperable difficulty as it has also the meaning 'in relation to' or 'connected with.' As to the definition of elementary education it may be said that too much stress should not be laid on the word 'instruction' as the object of the definition is evidently to enable the Government to fix what 'course of instruction' should be included in elementary education. And when section 33

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NOTES TO G.O. No. 106, LAW (EDUCATION), 25TH JANUARY 1926

speaks of expenditure 'on elementary education,' it is not thinking of expenditure on instruction only but of the whole of the expenditure connected with the course of instruction which the Government have declared to be elementary education.

If the elementary education fund cannot be used for any other purpose than that of paying the teachers who give instruction, I am told that most of the local authorities will have no funds out of which to meet other expenses connected with education. If that is the fact, it must be a fair conclusion that the legislature could not have intended to place a narrow construction on section 33.

While the restriction on the use of the elementary education fund may be relaxed in accordance with this view, it would be more satisfactory and serve a fuller purpose if the Act was amended so as to make expenditure on elementary education include even the expenses of providing lunch, clothing, umbrella, medical aid, etc., to pupils. Or a separate Act must be passed for such purposes as I think it has been done in England.

T. R. V. SASTRI—14-12-25.

LAW (EDUCATION) DEPARTMENT.

The Advocate-General has re-examined the question as suggested. He is now of the opinion that expenditure on 'pay of establishment', 'medical inspection' and 'scouting' may be debited to the elementary education fund. It appears desirable that local bodies should obtain the previous sanction of Government to the incurring of such expenditure, in order that the funds available for the expansion of elementary education may not be frittered away. When submitting the budget estimates of the elementary education funds under their control, local bodies may be asked to obtain the specific approval of the Government to proposals for the incurring of expenditure on the items mentioned above. Among the items requiring the sanction of Government, may also be included the employment of supervisors by local bodies for the inspection of elementary schools under their control.

2. The Advocate-General states that collection charges may be deducted from the gross proceeds of the education tax, the net proceeds alone being credited to the elementary education fund. As the education tax is collected along with other taxes levied by local bodies, it will be necessary to incur special charges for the collection of the education tax only in rare cases. Local bodies may be asked to obtain the specific approval of the Government to the incurring of such charges and to their deduction from the total proceeds of the education tax.

3. The Advocate-General suggests that the Act should be amended so as to make its intention clear. Submitted that this question may be taken up when the general revision of the Act again comes under consideration.

4. A draft order is submitted for approval.

N.K.—19-1-26.

C. RAMANUJA ACHARIYAR—20-1-26.

V. T. KRISHNAMA ACHARIYAR—22-1-26.

Paragraph 2 of the draft be omitted. The collection is made by the Revenue Department as part of the revenue collections. Few local bodies collect the cess directly.

Again, item 1 is difficult to define. There should be some means of ascertaining whether a whole-time clerk is required for this purpose. I do not think separate establishment is needed for the purpose. If a relaxation is shown the boards will take advantage and employ one clerk under that head who will have no full work to do. But each case is to come before Government there may not be much difficulty.

A. P. P[ATRO]—22-1-26.

The draft has been amended in accordance with M-2's orders. It may now issue.

N.K.—23-1-26.

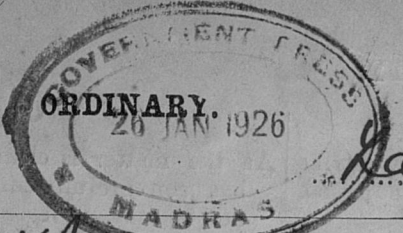
C. R.—25-1-26.

Issue.

V. T. K.—25-1-26.

[G.O. No. 106, Law (Education), dated 25th January 1926.]

Law Editor



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