

Law (1926) Department.
(Education)

Ordinary SERIES.

G.O. No. 144

DATED 29-1-1926

[Despatch Abstract.]

Elementary Education Act.

Proposed alteration of the definition of "elementary education" so as to permit the levy of fees in higher elementary classes--notes recorded.

BACK PAPERS.

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Law (Education) Department.

[Cm. 3235A]

Subject :-- Working of the compulsory education scheme in Madras City.

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The questions raised in this file should be re-examined as, apart from the case of Madras City, we are proposing to introduce compulsion over a large area (the Saidapet taluk) at an early date. I shall take them in the order in which the Commissioner of the Corporation has stated them.

2. Higher elementary schools :- The result we wish to arrive at is this :- (i) The expenditure of the elementary education funds of local bodies on such schools should be legal, till we decide the general question of the future of these schools and (ii) where compulsion is introduced, it ought not to be legally obligatory to remit school fees beyond the 5th standard in such schools.

We have defined "elementary education" as meaning "education up to and including standard VIII" and the expenditure of elementary education funds on classes VI to VIII is legal.

Under section 47, "no fees shall be charged at any elementary school in any area affected by a notification under section 46". "Elementary School" is defined to be a school or department of a school recognised as an elementary school under section 41. Under section 41, a rule has been issued which says that "every standard or class above the fourth shall be separately recognised". If classes 1 to 5 alone are recognised as "elementary schools" and classes 6 to 8 are recognised under a separate category as "higher elementary classes", I think the second result aimed at will be secured. This of course is as a temporary expedient till a decision is reached on the general question. School fees need not then be

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remitted in these classes. The rules under 41 (2) may be amended on these lines immediately. - Section 56 (2) (b) of the Act.

3. The second question raised in regard to children who have completed their education up to the 5th standard (inclusive) before the completion of the school age would be solved by the adoption of the proposal contained in the second paragraph of my note above.

* * * * *

5. The D.P.I. has probably examined the question at Kumbakonam by now. The whole file may go to him for remarks on this note and also for advice on the Hon'ble the Minister's minute on page 9. In the meantime, an extract of paragraphs 1 to 3 of this note should go to U.S. (drafting) for remarks and for preparing a draft notification if he agrees with the view I have taken of the law.

Law (drafting) U.O.

V.T.K.
8-10-25.

Law (Drafting) Department

The object in view is that where compulsion is introduced, remission of school fees should not be obligatory beyond the fifth standard. In the opinion of the Secretary, this object can be secured if classes 1 to 5 alone are recognised as 'Elementary schools' and classes 6 to 8 as 'higher elementary classes' by a proper amendment of the rules.

"Elementary Education" is defined in the Act as education in such subjects--(vide s.3(v)) and up to such standard as may be prescribed by rules framed by the Government and an -



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"Elementary school" as a school or department of a school recognised as an Elementary school under section 41 by the District Educational Council, on application made by the Manager of any school and subject to rules as may be prescribed.

Under the rules framed under the Act, Elementary Education means education up to and including standard VIII. The Secretary proposes to leave this rule unaffected (vide sub-para 2 of para 2 of his notes. - P.1.)

Now what are the implications of this rule? One of the duties of a District Educational Council is to disburse all sanctioned grants-in-aid to elementary schools under private management from funds placed at the disposal of the Council in this behalf by the Governor in Council--section 24(g). The Governor in Council makes this grant for the payment of grants-in-aid of Elementary education--s.28(i)-i.e., of education up to and including the VIIIth standard. Section 42 provides for the admission of an elementary school to aid. If a distinction is drawn between an elementary school and higher elementary school and if the rule defining elementary education is retained as it is, the sums received from the Governor in Council by the District Educational Council for expenditure on elementary education up to the VIIIth standard, need not be spent by way of grants in aid, for elementary education beyond the 5th standard. Is it intended to ^{deprive} ~~define~~ higher elementary schools of the benefit of grants in aid? - This result partly defeats the object of the grant of the Governor in Council. The only way of reconciling these sections and the rule -

referred to above is to understand the expression 'Elementary school' as a school which imparts elementary education as defined by the rule i.e., education up to and including 8th standard. Again in an area where 'elementary education' is made compulsory under s.44 for all children of school-age, a child should receive education up to 8th standard so long the child continues to be of school age. But if an elementary school is understood as a recognised school teaching up to the 5th standard, the responsibility of the guardian will have to be limited as far as the 5th standard under s.49. How is the compulsion to be enforced beyond that standard? This question can ^{not} ~~only~~ be answered by drawing a distinction between an elementary school and a higher elementary school.

The scheme of the Act is that every school that imparts elementary education and is recognised under s.41 is an elementary school under the Act whatever definition may be prescribed by rules framed under the Act for the expression 'Elementary education'. That also becomes clear by a reference to s.50(iv) which says that ~~at~~ attendance at school is not compulsory, if the child of school-age has already received instruction in an elementary school or otherwise, up to the standard prescribed by rules framed by the Local Government for elementary education. The same inference can be drawn by reading sections 24(g) and 28(i) together.

If the rule is amended prescribing the 5th standard as the highest standard for elementary education, fees can be charged for education in Standards VI to VIII and section 47 does not stand

in the way. But then it would not be competent to a 'local authority' to expend money out of Elementary Education Fund on education in -- standards VI to VIII under s.33 or to the Dt. Edl. Council to do so out of the funds placed at its disposal by the Govr. in Council under s.24. The schools which teach standards VI to VIII i.e., higher elementary schools, as the Secretary would call them, cannot be brought under the scope of the Act.

If the operation of section 47 is to be limited to standards I to V and if, at the same time, the expenditure of the Elementary education funds by a local authority on standards VI to VIII or of the grant in aid sanctioned by the Dt. Edl. Council is to be competent, the proper course is to amend the Act and perhaps the rules also.

S. ⁴/_{24/40}

Will the Adv Gen^l kindly offer his remarks?

V.T.K.
24.10

Adv Gen^l u.o.



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No. 369

OPINION.

Ref:- U. O. 1534 - 1 dated 22nd October 1925
Law (Drafting) Department.

I agree with the criticism of the Under Secretary
Law (Drafting) on the proposals.

Without an alteration of section 47 the result de-
sired cannot be achieved without bringing about other
results which are not desired.

What is desired amounts to this that standard V
should be the topmost standard of elementary education
for some purposes and standard VIII for other purposes.
You can't have both on any definition of "elementary
education".

If all the eight standards constitute elementary
education, the grant under the Act is for all the standards;
when compulsion is applied it is applied to all the ~~st~~
standards; fees then should not be charged in any one
of all those standards. If you want to confine the
remission of fees to five standards only, the definition
of elementary education may be altered so as to limit it
to those standards. Then no grant under the Act can be
given to standards VI to VIII. No compulsion to continue
education after the V upto the VIII can be imposed.

If a proviso is added to section 47 conferring on
some officer power to release institutions from the
restrictions of section 47 wholly or partially, the desired
result may be achieved.

Madras,
1st December 1925

W. S. S. S.
Advocate General.

32358

U.S.

Please see the opinion of the Adv. Com. in the previous page. The Adv. Com. agrees with U.S. on the question of law raised

The file may be returned to Law (Ed^o)

KVR
1/XII/25

Law (Ed^o)

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Law (Ed^o), Dep^o

The Advocate-General considers that the Act should be amended to achieve the ~~best~~ result desired. Perhaps the paper may be recorded for the present

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Order 144 Recorded
MS 29-1-26

V.T.K.
29.1.26

E.E. Act
Proposed alteration of the definition of "elementary education" so as to permit the levy of fees in higher elementary classes - notes recorded

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