

Educational (1900) Department.

Printed

ORDINARY MS.

G.O., No.

90

DATED

20. 2. 01

INDEXED.

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from this file*

[Despatch Abstract.]

*Approving the proposal of the S.P.
to draw the fixed grant part
the Hindu middle school, Reddun.*

BACK PAPERS.

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

FURTHER PAPERS.

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

Government of Madras.

EDUCATIONAL DEPARTMENT.

MISCELLANEOUS.

Recd.

Regd.

} 1901

Enclosures

Spare copies

G.O., No. 90, 20th February 1901.

Grant
February

Approving the proposal of the Director of Public Instruction to withdraw the fixed grant paid to the Hindu Middle school, Peddunaickspet.

GOVERNMENT OF MADRAS.
EDUCATIONAL DEPARTMENT.

READ—the following paper :—

Letter—from the Hon'ble Mr. G. H. STUART, M.A., *Bar.-at-Law*, Director of Public Instruction.

To—the Secretary to Government, Educational Department.

Dated—Madras, the 11th February 1901.

No.—Ref on C. 15921.

A fixed grant of Rs. 560 per annum, with effect from 1st March 1899, was sanctioned for the Hindu Middle school, Peddunaickspet, Madras, and the first two instalments of the grant were paid in 1899–1900. The third instalment (Rs. 280), however, which became due after the 1st September 1900, was attached under rule 228 of the Small Cause Court rules at the instance of the creditors of M. Venkata-ramayya, the manager of the school.

2. The Advocate-General, whom I consulted on the matter, is of opinion that grants to schools are not subject to attachment in suits against the managers and that the grant under reference may be withdrawn under the provisions of article 1, chapter I, of the Grant-in-Aid Code. A copy of this office, Ref. on C. No. 15921/00, dated 17th January 1901, and of his opinion thereon, dated 21st January 1901, are submitted herewith. The manager says that the money was borrowed for the purposes of the school, but this statement cannot be accepted. The same grant was attached at the instance of three other parties subsequent to the date of the first attachment and it is not known how many more creditors the manager may yet have.

3. In the circumstances stated above, I have the honour to recommend that the fixed grant to the school in question be withdrawn with effect from 1st March 1900, this being the date from which the third half-yearly instalment is to be reckoned.

4. As the case is not one of those mentioned in article 20, chapter IV (article 64 of the revised Code), of the Grant-in-Aid Code, I am doubtful whether I have power to withdraw the grant without the sanction of Government.

ENCLOSURES.

Letter—from the Hon'ble Mr. G. H. STUART, M.A., *Bar.-at-Law*, Director of Public Instruction.

To—the Advocate-General, Madras.

Dated—Madras, the 17th January 1901.

No.—Ref. on C. 15921/00.

I have the honour to request the favour of your opinion on the following question.

2. A fixed grant of Rs. 560 per annum, with effect from 1st March 1899, was sanctioned for the Hindu Middle school, Peddunaickspet, Madras, under the provisions of chapter IV of the Grant-in-Aid Code. The grant is tenable for three years and is payable in two equal half-yearly instalments in each year, the half-year being reckoned from the date of admission of the school to aid on the fixed grant system—*vide* article 19 (ii) of chapter IV quoted above. The first two instalments were paid in 1899–1900 and the third instalment (Rs. 280), which became due after 1st September 1900, was attached under rule 228 of the Small Cause Court rules at the instance of the creditors of M. Venkataramayya, the manager of the school.

3. Grants-in-aid are paid for the use of schools, and it is expressly provided in article 7, chapter II of the Code that no aided school shall be allowed to spend any portion of its income for other than educational purposes. It seems to me therefore that grants cannot be made use of for discharging the personal liabilities of the managers of the schools concerned. Moreover, in article 1, chapter I of the Code, Government reserves to itself, the rules in the Code notwithstanding, the right to withdraw or refuse any grant-in-aid at its discretion. The grant under reference may therefore be withdrawn by Government under the above article, and so cannot be said to belong to the defendant manager until it has been paid. I request that you will be good enough to inform me, at your earliest convenience, whether in your opinion the grant referred to is liable to attachment and, if so, whether there is any legal objection to Government withdrawing it under article 1, chapter I of the Code.

4. It is my wish that educational grants shall, if possible, be free from liability to attachment by courts of law, and I shall be glad to have your suggestions as to how this may best be done.

Opinion.

I am of opinion that fixed grants to school managers under chapter IV of the Grant-in-Aid Code are not subject to attachment in suits against the managers, because such grants are not debts due by Government to the manager, payment of which could be enforced by suit. In chapter I, rule 1, the Government expressly reserves to itself, the rules in the Code notwithstanding, the right to withdraw or refuse any grant-in-aid at its discretion. It is therefore at liberty to refuse payment of the grant, and under such circumstances there can be no attachment (6 All., 634). Further, the manager in regard to payments made to him under such grants is in the position of a trustee, and trust funds in his hands are not liable to be taken in execution of decrees obtained against him, as here, in his personal capacity, and not in his capacity of trustee.

MADRAS,
21st January 1901.

J. P. WALLIS,
Advocate-General.

Order—No. 90, Educational, dated 20th February 1901.

The grant may be withdrawn as proposed by the Director of Public Instruction.

(True Extract.)

M. HAMMICK,
Ag. Secretary to Government.

To the Director of Public Instruction.

NOTES CONNECTED WITH G.O., MIS. No. 90, EDUCATIONAL,
DATED 20TH FEBRUARY 1901.

[SUBJECT.—*Proposal to withdraw the fixed grant paid to the Hindu Middle School, Pedanaickpet.*]

The Director does not say whether the school has suffered in efficiency because the manager has got into debt, or whether the grant has been a source of profit to the manager. If the school has not suffered, there seems to be no ground for withdrawing the aid. If the grant has been a source of profit, it should never have been sanctioned—*vide* article 12 of chapter IV, if it has not been, the manager's statement that he had to incur debt on account of the school does not seem to be altogether false.

2. The Director has no power to withdraw the grant, but under article 1 of chapter I, Government has it. This power however, it is submitted, should be * exercised only on extraordinary and very rare occasions.

3. If, on the other hand, it is decided to withdraw the grant, it is submitted that retrospective effect should not be given to the withdrawal.

A. T. PRINGLE.

4. The Advocate-General says that the grant is trust money and cannot be attached for the manager's personal debts.

P. T. THARYAN—15-2-01.

Government have simply facts to deal with here. An instalment (the first-half of the annual grant) has been attached under the Small Cause Court rules. The Advocate-General advises that a fixed grant of this kind cannot legally be attached, as it could at any time at the option of Government be withdrawn and as under such circumstances there could not be attachment.

2. Mr. Stuart recommends the withdrawal of the fixed grant with effect from 1st March 1900, when the half-year on account of which the attached instalment was payable commenced. The attachment was, it is understood, against the instalment as set down on paper, and the withdrawal may, I think, properly be declared retrospective.

3. The note above by Mr. Tharyan appears to me to raise questions which there is no need to discuss. No doubt, legal steps might be taken by which the attachment could be cancelled; and it is conceivable that the manager might, notwithstanding his embarrassed circumstances, carry on the school efficiently. But it is simpler to cancel the grant and thus to render the attachment inoperative than to take measures for cancelling the order of attachment, and it is wiser to conclude that the money of the tax-payer may be better spent than in aiding a school the management of which is in pecuniary difficulties.

4. I venture to think that the recommendation in Mr. Stuart's third paragraph should be accepted.

A. T. PRINGLE—16-2-01.

It certainly appears to be the simplest thing to withdraw the grant. It will be an example to other school managers.

M. HAMMICK—16-2-01.

I agree.

A. T. A[RUNDEL]—19-2-01.

[G.O., MIS. No. 90, Educational, dated 20th February 1901.]

C. No. 197

SUBJECT.

*Proposal to withdraw the ^{paid} fixed grant to the
Hindu middle school, Peddunaickpet.*

FOR ORDERS

The Director does not say whether the school has suffered in efficiency because the manager has got into debt, or whether the grant has been a source of profit to the manager. If the school has not suffered, there seems to be no ground for withdrawing the aid. If the grant has been a source of profit, it should never have been sanctioned - vide article 12 of Chapter IV. if it has not been, the manager's statement that he had to incur debt on account of the school does not seem to be altogether false.

2. The Director has no power to withdraw the grant, but under article 1 of Chapter I, he has it. This power however, it is submitted, should be exercised only on extraordinary and very rare occasions.

3. If on the other hand it is decided to withdraw the grant, it is submitted that

*It should be exercised just as often as there are sound reasons for exercising it; there might be twenty cases in a year in which it should be exercised, or only one case in twenty years. Every case will be "extraordinary" but it does not follow that cases need be "rare".

Page 16 of the Code.

retrospective effect should not be given to the withdrawal.

4. The Advocate general says that the grant is trust money and cannot be attached for the manager's personal debts.

15/2/11 ^{simply} Govt. have facts to deal with here. The instalment (the first half of the annual grant) has been attached under the Small Cause Court rules. The Advocate Genl. advises that a fixed part of this kind cannot legally be attached, as it could ^{at any time} be withdrawn & ^{as} under such circumstances there could not be attachment.

2. Mr Stuart recommends the withdrawal of the fixed part with effect from 1st March 1900, when the half year on account of which the attached instalment was payable commenced. The attachment was, it is understood, ~~as per~~ against the instalment as set down on paper, & the withdrawal may, I think, properly be declared retrospective.

The note by Mr Stuart appears

2P
to me to raise questions which there is no need to discuss. No doubt legal steps might be taken by which the attachment could be cancelled; & it is conceivable that the manager might, notwithstanding his ~~un-~~ ^{un-}happened circumstances, carry on the school efficiently. But it is simpler to cancel the grant & thus to render the attachment inoperative than to take measures for cancelling the order of attachment, & it is wiser to conclude that the money of the taxpayer may be better spent than in aiding a school the management of which is in pecuniary difficulties. I venture to think that the recommendation in Mr Stuart's third paragraph should be accepted.

Secy

M.P.

16.2.11

It certainly appears to be the simplest thing to ~~withdraw~~ the grant - It will be an example

to other school managers.

M
15/01

I agree.

MA 19.2.07.

order

The grant may be with drawn
as proposed by the D.P.I.

M
19/01

This has been copied separately & placed below.

Ph
25/2/01

1,000-16-11-00.

80 No 90851
20-2-01.
Educational (190/) Department.

CURRENT No. 197

13-FEB. 1901

From

[Name] The Honble Mr G. H. Stuart, M.A. Bar-at-Law

[Designation] Director of Public Instruction,

[Station] Madras.



No. 15921 of- 01

Dated 16th February 1901.

Enclosures 3

Received _____ 190 .

Registered _____ 190 .

SUBJECT.

Reminding the withdrawal of payment
of fixed grant due to the Hindu Middle
School, Poddunaitkpet, Madras.

BACK PAPERS.

FURTHER PAPERS.

M

To

The Secretary to Government,

Educational Department.

Sir,

A fixed grant of Rs.560 per annum with effect from 1st March 1899 was sanctioned for the Hindu Middle School, Peddunaickspet, Madras, and the first two instalments of the grant were paid in 1899-1900. The third instalment (Rs.280), however, which became due after the 1st September 1900, was attached under rule 228 of the Small Cause Court rules at the instance of the creditors of M.Venkataramayya, the manager of the school.

2. The Advocate General, whom I consulted on the matter, is of opinion that grants to schools are not subject to attachment in suits against the managers and that the grant under reference may be withdrawn under the provisions of Article I, Chapter I of the Grant-in-Aid Code. A copy of this office Ref.on C.No 15921/00, dated 17th January 1901, and of his opinion thereon, dated 21st January 1901 are submitted herewith. The manager says that the money was borrowed for the purposes of the school, but this statement cannot be accepted. The same grant was attached at the instance of three other parties subsequent to the date of the first attachment and it is not known how many more creditors the manager may yet have.

3. In the circumstances stated above, I have the honour to recommend that the fixed grant to the school in question be withdrawn with effect from 1st March 1900, this being the date from which the third half yearly instalment is to be reckoned.

4. As the case is not one of those mentioned in article 20 Chapter IV (Article 64 of the revised code) of the Grant-in-Aid Code, I am doubtful whether I have power to withdraw the grant without the sanction of Government.

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

G.H.Stuart
Director of Public Instruction.

The revised Code has not been issued in pamphlet form as yet. The references in the note are therefore to the existing Code. P.H. 15921

Ref.on C.No 15921/00.

17th January 1901.

To

The Advocate General,

Madras.

Sir,

I have the honour to request the favour of your opinion on the following question.

2. A fixed grant of Rs.560 per annum with effect from 1st March 1899 was sanctioned for the Hindu Middle school, Peddunaickspet, Madras, under the provisions of Chapter IV of the Grant-in-Aid Code. The grant is tenable for three years and is payable in two equal half yearly instalments in each year, the half year being reckoned from the date of admission of the school to aid on the fixed grant system, (vide Article 19 (ii) of Chapter IV quoted above). The first two instalments were paid in 1899-1900 and the third instalment (Rs.280) which became due after 1st September 1900 was attached under rule 228 of the Small Cause Court rules at the instance of the creditors of M.Venkataramayya, the manager of the school.

3. Grants-in-Aid are paid for the use of schools, and it is expressly provided in Article 7, Chapter II of the Code that no aided school shall be allowed to spend any portion of its income for other than educational purposes. It seems to me therefore that grants cannot be made use of for discharging the personal liabilities of the managers of the schools concerned. Moreover, in Article 1, Chapter I of the Code, Government reserves to itself, the rules in the Code notwithstanding, the right to withdraw or refuse any grant-in-aid at its discretion. The grant under reference may therefore be withdrawn by Government under the above article, and so cannot be said to belong to the defendant manager until it has been paid. I request that you will be good enough to inform me, at your earliest convenience, whether in your opinion the grant referred to is liable to attachment and if so, whether there is any legal objection to Government withdrawing it under Article I, Chapter I of the Code.

4. It is my wish that educational grants shall, if possible, be free from liability to attachment by courts of law, and I shall be glad to have your suggestions as to how this may best be done.

I have &c &c
(Signed) G.H.Stuart,
Director of Public Instruction.

/True Copy/

G.H.Stuart
Director of Public Instruction.

4 9 38.8
Opinion.

I am of opinion that fixed grants to school managers under Chapter IV of the Grant-in-Aid Code are not subject to attachment in suits against the managers, because such grants are not debts due by Government to the manager, payment of which could be enforced by suit. In Chapter I, Rule I, the Government expressly reserves to itself, the rules in the Code notwithstanding, the right to withdraw or refuse any grant-in-aid at its discretion. It is therefore at liberty to refuse payment of the grant, and under such circumstances there can be no attachment (6 All. 634). Further, the manager in regard to payments made to him under such grants is in the position of a trustee, and trust funds in his hands are not liable to be taken in execution of decrees obtained against him, as here, in his personal capacity, and not in his capacity of trustee.

Madras,

21st January 1901.

(Signed) J.P. Wallis,

Advocate General.

/True Copy/

G.H. Stuart

Director of Public Instruction.

End

C. No. 199, From the S.P.I., Ref. c., No. 15921, dated 11th February 1901.

ORDER No. 90, dated 20. 2. 1901

Miss.

The grant may be with-
drawn as proposed by the D.P.S.

18.2.1

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The D.P.J

22/2

When given for copying _____
 When copied _____
 When examined _____
 When signed _____

190 .

READ AGAIN G.O., No. _____, DATED
 190 .

CURRENT No.

REFERENCES TO G. No.

ORDER OF GOVERNMENT A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILLED UP, BEING MEANT FOR DESPATCH
 IN ORIGINAL.

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 2
 4-1-01