

800-12-4-85.
Educational (1905) Department.

ORDINARY PRINTED.

G.O., No. 13/

DATED 6-3-05

N. P.

ORIGINAL

[Despatch Abstract.]

Building Grants:—

Directing the S. P. I to reject any further application,
— made by the United Free Church Mission Pan-
puriam & the Scottish Ladies' Association Hindu Girls
School, Panasapattanam unless & until they accept
execute ^{the} deeds ^{from them} as required by the ^{the} Govt in certain ca-
se of grants sanctioned for the U. F. C. Mission Girls' School with Black Town & the
S. L. A. Girls' School, Panasapattanam.

FURTHER PAPER				
No.	Department.	Date.	G.O.	No.

செப்பனிலுபவர் பெயர்
 செப்பனிலுத்தற்காசு எடுத்துக்
 கொள்ளப்பட்ட நாள்
 செப்பனிலு முடிக்க நாள்
 சர்ப்பாளரும்
 உ.நி.பா.சு
 கையொப்பம்

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Government {1905} of Madras. EDUCATIONAL.

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 Repl. } Spare copies

ORIGINAL

G.O., No. 131, 6th March 1905.

N. P.

MARCH.

Building Grants.

Directing the Director of Public Instruction to reject any further application for — made by the United Free Church Mission and the Scottish Ladies' Association unless and until they accept and execute the deeds required from them in the cases of the building grants sanctioned for the United Free Church Mission Girls' school, North Black Town, and the Scottish Ladies' Association Girls' school, Purasawakkam.

GOVERNMENT OF MADRAS.
EDUCATIONAL DEPARTMENT.

READ—the following paper:—

From the Hon'ble Mr. A. G. BOURNE, D.Sc., F.R.S., Director of Public Instruction, Madras, to the Secretary to Government, Educational Department, dated 7th February 1905, Ref. on Cur. No. 5694 of 1901.

In G.O., No. 130, dated 24th February 1904, I was authorized to sanction the payment of certain building grants before the end of the last official year, on the managers to whom these grants were due, promising to execute the deeds required by Government within a reasonable time. This special permission was granted with a view to prevent a large portion of the allotment for building grants lapsing during the year. In my letter Ref. on C. No. 577 of 1905, dated 3rd February 1905, I said that, with the exception of the Secretaries of the United Free Church of Scotland and the Wesleyan Mission and the Manager of the Scottish Ladies' Association Girls' school, Purasawakkam, all the others who had drawn grants under the special permission referred to, had either executed the deeds or are on the point of doing so. The Rev. James Cooling, Secretary, Wesleyan Mission, has, however, just written to say that he is prepared to execute the mortgage deeds and deeds of acceptance required by Government. His case therefore need not be taken into consideration. The Manager, Scottish Ladies' Association Hindu Girls' school, Purasawakkam, to whom a grant of Rs. 1,833 was sanctioned in G.O., No. 666, Educational, dated 29th October 1902, and which was paid on 2nd July 1903, has written refusing to execute the deed required by Government. She says:—

"I have the honour to inform you that, while the Trustees of the property are willing to sign any reasonable agreement that may safeguard the interests of Government, they do not see their way to sign the agreement in its present form which seems to them in several points to unduly sacrifice the interests of the Association which they represent. I understand that the Mission Council on Aided Education is approaching the department with regard to certain points, and I crave your permission to defer signing the agreement until these points are settled and the ultimate form of agreement decided upon."

I beg to enquire whether the manager may be asked to refund the grant in case she is unable to execute the mortgage deed as finally approved by Government in G.O., No. 634, Educational, dated 20th October 1904.

The case of the Secretary of the United Free Church of Scotland was dealt with exceptionally in G.O., No. 166, Educational, dated 10th March 1904, but as in this order I was authorized to pay the grant "on the understanding that the manager will execute any reasonable agreement that may be required to safeguard the interests of Government or in the contrary event refund the grant" and as he has postponed taking any definite steps he was asked to state what his intentions were in the matter. A copy of his reply is herewith submitted and I request the favour of the orders of Government on it as well.

ENCLOSURES.

From the Secretary, United Free Church Mission, Ráyapuram, to the Director of Public Instruction, dated 23rd January 1905.

With reference to Proceedings Ref. on Cur. No. 5694 of 1901, dated 21st January 1905, I have the honour to point out that the orders of Government requiring the execution of a mortgage deed and the handing over of the title-deeds of the property cannot apply to the grant in question inasmuch as Government have already issued a special order with reference to this particular case under date 10th March 1904 received by me on 16th idem. In the Government order referred to, payment of the grant was sanctioned on the understanding that a reasonable agreement safeguarding the interests of Government would be executed. In reply to your letter of 21st April 1904 asking me to submit a specimen copy of the form of agreement we were prepared to sign, I pointed out in my letter dated 2nd May 1904 that as the matter was under consideration by the Council on Aided Education, I would be glad if it could stand over for a

little in the hope that some form of agreement approved by all parties might be arrived at but that failing that I was prepared to send the form asked for. The matter is still under consideration by the Council on Aided Education, but as you press it I have pleasure in sending you herewith a specimen copy of the form we are prepared to sign. In it the interests of Government are thoroughly safeguarded and it therefore fully meets the condition on which the grant was paid. I shall be glad to hear from you as to whether I may proceed with its execution in the form now submitted.

I may point out that it was made perfectly clear to the Secretary to Government before the Government order referred to was issued that under no circumstances were we prepared to sign the indenture in the form in which it was then drawn out and the second paragraph of the Government order refers directly to the title-deeds. I may also remind you that in the case under consideration the grant was applied for, promised and the building actually purchased long before anything had been heard of any such indenture as is now demanded. I am unwilling to believe that the Government will now insist on the repayment of money actually expended on the strength of a definite promise that the grant applied for would be given, we on our part being quite prepared to comply with the conditions in force at the time when the promise was given. I shall be obliged if you will in these circumstances kindly obtain the sanction of Government for the execution of the agreement required in the form now submitted.

Deed of Acceptance.

THIS INDENTURE is made the _____ day of _____ one thousand nine hundred and _____ BETWEEN us whose names are entered in the margin and whose signatures appear at the foot hereof (hereinafter called "The Committee of Management") of the one part, and THE RIGHT HONOURABLE THE SECRETARY OF STATE FOR INDIA IN COUNCIL (hereinafter called the Secretary of State) of the other part: WHEREAS the said Committee have purchased for the purpose of a school the piece or parcel of land particularly described in the schedule hereunder written with the buildings thereon at the price of Rs. _____

AND WHEREAS the Committee in accordance with the provisions of the Grant-in-Aid Code of the Madras Educational Department in force at the time of purchase applied to the Secretary of State for a grant-in-aid of the sum of Rs. _____ being part of the said purchase money of Rs. _____ and has since submitted to the Government of Madras the certificate referred to in Rule _____ of the said Grant-in-Aid Code as to the value of the said buildings; AND WHEREAS the Secretary of State consented and agreed to make the said grant in the manner provided in Chapter _____ of the said Grant-in-Aid Code upon the Committee duly acquiring the said premises and entering into the covenants on its part and giving the security hereinafter contained AND WHEREAS the said piece or parcel of land together with the buildings thereon is now vested in the Committee and the Secretary of State has paid to the Committee the said grant-in-aid of Rs. _____

NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration of the said payment receipt whereof the Committee does hereby acknowledge the Committee does for itself its successors and assigns covenant with the Secretary of State his successors and assigns that the Committee will from time to time and for the period of twenty years from the date of payment of the said grant-in-aid conduct and manage the school in accordance with the rules and regulations for the time being in force in the Madras Educational Department so far as the same respectively are applicable to the said school AND will not prior to the lapse of the said period of twenty years divert or allow to be diverted the said buildings to other than educational purposes approved by the Government of Madras but under reservation always of the right of the said Committee of Management to use the said buildings out of school hours for other purposes approved by the Committee AND will during such period keep the said buildings in good and substantial order and repair so that the same may be always efficient for use for the purposes of the said school AND will in the event of the said buildings at any time prior to the lapse of the said period ceasing to be required for the purposes of the said school or being diverted to other than educational purposes approved by the said Government of Madras but under reservation as aforesaid forthwith repay to the Secretary of State his successors or assigns the said sum of Rs. _____ or so much thereof as shall be determined by arbitrators to be appointed as provided by Rule _____ of the said Grant-in-Aid Code but the amount to be so paid to Government shall not exceed the amount of the said grant originally received decreased by one-twentieth thereof for each complete year that may have elapsed from the time of the receipt of the said grant AND will further in the event of such repayment not being made within one month from the determination of the amount of same if so required to do by the Secretary of State his successors or assigns sell to the Secretary of State his successors or assigns the said piece or parcel of land with the buildings thereon at a valuation to be determined by the said arbitrators who in making their award shall deduct from the price thereof the amount payable to Government as aforesaid; PROVIDED ALWAYS that in the event of neither of these courses being followed the Secretary of State his successors or assigns may recover from the Committee by such means as may seem fit the amount determined as aforesaid IN WITNESS WHEREOF the said members of the Committee of Management and the Director of Public Instruction for the Presidency of Madras by the order and direction of the Governor in Council of Fort St. George acting for and on behalf of the said Secretary of State have hereunto set their respective hands and seals the day and year first above written.

No. 131, EDUCATIONAL, 6TH MARCH 1905.

ORDER—No. 131, Educational, dated 6th March 1905.

The deed of acceptance proposed by the Secretary of the United Free Church of Scotland cannot be accepted in lieu of the deed prescribed by Government.

2. The Director of Public Instruction should reject any further application for building grant made by the United Free Church Mission and the Scottish Ladies' Association unless and until they accept and execute the deeds required from them by Government in the cases referred to in the letter read above.

(True Extract.)

H. D. TAYLOR,
Ag. Secretary to Government.

To the Director of Public Instruction.

EDUCATIONAL DEPARTMENT.

NOTES CONNECTED WITH G.O., No. 131, EDUCATIONAL, DATED
6TH MARCH 1905.

[SUBJECT.—Execution of Building Grant Agreements.]

From the Director of Public Instruction, dated 7th February 1905, No. 5694.

In G.O., No. 130, Educational, dated 24th February 1904, the Government sanctioned the payment of certain building grants before the 31st March 1904 on the Managers to whom the grants were to be paid promising to execute the deeds required by Government within a reasonable time. The Director now reports that all except two of the Managers to whom the grants were thus specially paid have either executed the deeds or are on the point of doing so. The two exceptions are the Secretary to the United Free Church Mission and the Manager of the Scottish Ladies' Association Girls' School, Purasawakkam.

2. A grant of Rs. 2,333 was sanctioned for the United Free Church Mission Girls' school, North Black Town, in G.O., No. 331, Educational, dated 10th July 1903; and in G.O., No. 166, Educational, dated 10th March 1904, the Director was authorised to make payment of the grant before the 31st March 1904 on the understanding that the Secretary of the Mission should execute any reasonable agreement which might be required to safeguard the interests of Government.

3. The Secretary objects to execute the mortgage deed drawn up by the Government Solicitor and to hand over the title-deeds of the property. He says that his case was specially dealt with in G.O., No. 166, Educational, dated 10th March 1904, under which he is required only to execute a reasonable agreement and he forwards a draft deed which he is prepared to execute. This deed differs from the deed drawn up by the Government Solicitor in that it is no trust deed and does not convey the building to the Secretary of State in trust. It undertakes to maintain the school in accordance with the rules in force from time to time; to keep the building in repair; not to divert the building for other than educational purposes for twenty years, and to repay the grant received or so much of it as might be determined by arbitrators if the building is diverted for other uses or ceases to be used as a school. It also provides that the amount to be repaid to Government shall not exceed the amount of grant originally received decreased by one-twentieth thereof for each complete year that may have elapsed from the time of the receipt of the grant. This provision does not exist in the deed drawn up by the Government Solicitor.

4. In the case of the Scottish Ladies' Association Girls' school (to which a grant of Rs. 1,833 was sanctioned in G.O., No. 666, Educational, dated 29th October 1902, and paid in July 1903), the Manager objects to execute the deed drawn up by the Government Solicitor as it in several points unduly sacrifices the interests of the Association she represents and offers to execute a reasonable agreement that may safeguard the interests of Government. The Manager's objection seems to be precisely the same as that of the Secretary, United Free Church Mission.

5. In this case the Director enquires whether he may ask the Manager to refund the grant if she is unable to execute the mortgage deed finally approved in G.O., No. 634, Educational, dated 20th October 1904. On this the Secretary has noted: "The payment was made conditional on a promise to execute the deed required by Government. If the Manager now withdraws, she should refund the money."

With reference to this note it is submitted that this grant was paid on the 2nd July 1903, nearly eight months before the issue of G.O., No. 130, Educational, dated 24th February 1904, and before G.O., No. 305, Educational, dated 23rd June 1903, ruling that no building grant should be paid before the grantee executes a formal agreement was communicated to the Director of Public Instruction. This order was communicated to the Director of Public Instruction only on the 9th July 1903. In these circumstances it cannot be said that the grant was paid on the Manager promising to execute a formal deed.

6. It may also be noted that this grant was paid* before the other grant referred to in paragraph 2 of this note was sanctioned† and that therefore the Manager of this girls' school has a greater claim than the Secretary of the United Free Church Mission for a relaxation of the rule regarding the execution of a deed.

* 2nd July 1903.

† 10th July 1903.

7. It may also be noted that both the Manager of the girls' school and the Secretary of the United Free Church Mission say that the Mission Council on Aided Education is to memorialize Government on the subject of the building grant agreement, and that they desire to defer executing any agreement until orders are passed on the Mission Council's memorial.

T. KANAKASUNDRAM PILLAI—24-2-05.

The grant to the Scottish Ladies' Association Girls' school was sanctioned on the 29th October 1902. The Grant-in-Aid Code then in force said: "The Manager shall also, if required, execute a deed of agreement in such form as may be prescribed from time to time"—*vide* rule 114 of the Code for 1902-1903. Managers of schools were not, however, then required to execute any deeds nor had any form of deed been prescribed—Mr. Stuart's note, dated 5th June 1903, on page 2 of the notes in G.O., No. 305, dated 23rd June 1903.

2. The grant was paid on 2nd July 1903. The Code had by this time been altered and Managers required to execute deeds; but the order making the alteration had not then been communicated to the Director, nor had the necessary notification been published in the gazette. The order (No. 305 of the 23rd June 1903) was communicated on the 9th July 1903 and the notification published on the 14th *idem*—*vide* despatch entries in the original of the order.

3. It does not appear, therefore, that the execution of the deed should be insisted upon in this case.

4. In regard to the grant to the United Free Church Mission Girls' school, however, although the alteration in the Code requiring the execution of deeds of agreement had not been published when the grant was sanctioned (G.O., No. 331, dated 10th July 1903), it came into force before the grant could be drawn. The execution of the deed is necessary in this case, and in view of the orders in G.O., No. 166, dated 10th March 1904, the question for consideration is whether the form of deed submitted by the Secretary of the United Free Church Mission can be accepted. It is not known what legal status the Committee has, but in any case under the proposed deed Government have no hold on the property and have therefore no sure means of recovering the money if it ever becomes necessary to recover it.

5. It does not appear, therefore, that the deed can be accepted, and if the Committee of the United Free Church Mission is not prepared to execute a deed in the form prescribed by Government, it should, if it is submitted, be called upon to refund the grant. The demand if not complied with should also be enforced.

6. The representation from the Council of Aided Education referred to has not yet been received and it is by no means sure whether Government will yield to the Council, but, however that may be, it is submitted that the decision on the present case should be arrived at on its merits and need not await that on the representation.

P. T. THARYAN—25-2-05.

Submitted that we had better fortify ourselves with the Government Solicitor's opinion of the deed proposed by the United Free Church and ask him what he thinks

of Government's chances of recovering the grant by suit if the United Free Church refuse to return it.

A. GALLETTI—27-2-05.

These conscientious objectors are in possession of the money and apparently regard the grant as made by way of right and obligation instead of as a matter of grace. The Government cannot accept deeds sought to be foisted on them by these religious associations.

2. The deed should be that prescribed from time to time by Government. I think that they should be directed to refund the monies paid, though if repayment is refused, the Government could not decently go to law to recover the same. An easy remedy which the associations would feel would be to decline to recognise them for any building grants in future. I think that if there was any chance of their being pilloried and placed on a "black list" they would soon come to terms.

J. T[HO]MSON.

H. D. TAYLOR—1-3-05.

The Ladies' Association Girls' school is outside control, I think, now on the facts of the case and of the time.

2. As for the United Free Church Mission Girls' school the execution of the deed could perhaps be enforced or the money made to be refunded, but this could be obtained only with fuss and outcry. And I am not to agree to any modified sort of agreement after a form has been prescribed by Government. Granted to one it could not be withheld from others.

3. The simplest way of dealing with such cattle is to give them a wide berth in future. Instruct the Director of Public Instruction to reject any further applications for building grants by these parties unless and until the documents, etc., ordered by Government are accepted and completed.

4. We cannot pillory them when our own procedure has been lax.

J. T[HO]MSON—1-3-05.

Draft please as at A. A.

H. D. TAYLOR—3-3-05.

A draft is placed below for approval.

T. KANAKASUNDRAM PILLAI—3-3-05.

P. T. THARYAN—3-3-05.

A. GALLETTI—4-3-05.

Issue.

H. D. TAYLOR—6-3-05.

[G.O., No. 131, Educational, dated 6th March 1905.]

• Educational (1905) Department.

CURRENT No. 227. *CC*

From

[Name]

The Hon'ble Mr. A.C. Bourne, D.Sc., F.R.S.,

[Designation]

Director of Public Instruction,

[Station]

Madras.



No. on Cur No. 5694 of 01

Received

1905

Dated 7th February 1905

Enclosures 2

Registered

8-2-1905

SUBJECT.

Submitting for orders communications from the Managers of certain aided institutions regarding building grant indentures required by Government.

BACK PAPERS.

gov. no. 13062/24-204 *Mr. A.C. Bourne*
gov. no. 13062/24-204 *Mr. A.C. Bourne*
gov. no. 13062/24-204 *Mr. A.C. Bourne*
gov. no. 13062/24-204 *Mr. A.C. Bourne*
gov. no. 13062/24-204 *Mr. A.C. Bourne*
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gov. no. 13062/24-204 *Mr. A.C. Bourne*
gov. no. 13062/24-204 *Mr. A.C. Bourne*

FURTHER PAPERS.

To

The Secretary to Government,
Educational Department.

From

In G.O. No. 130, dated 24th February 1904, I was authorized to sanction the payment of certain building grants before the end of the last official year, on the Managers to whom these grants were due, promising to execute the deeds required by Government within a reasonable time. This special permission was granted with a view to prevent a large portion of the allotment for building grants lapsing during the year. In my letter No. Ref. on C. No. 577 of 05 dated 3rd February 1905 I said that with the exception of the Secretaries of the United Free Church of Scotland and the Wesleyan Mission and the Manager of the Scottish Ladies' Association Girls' School, Purnapakkam, all the others who had drawn grants under the special permission referred to, had either executed the deeds or are on the point of doing so. The Rev. James C. Velling, Secretary, Wesleyan Mission has, however, just written to say that he is prepared to execute the mortgage deeds and deeds of acceptance required by Government. His case therefore need not be taken into consideration. The Manager, Scottish Ladies' Association Hindu Girls' School, Purnapakkam to whom a grant of Rs 1833/ was sanctioned in G.O. No. 666 Educational dated 29th October 1902 and which was paid on 2nd July 1903, has written refusing to execute the deed required by Government. She says:-

"I have the honour to inform you that while the trustees of the property are willing

[12]

1000-24-3-04.

EDUCATIONAL DEPARTMENT.

READ AGAIN G.O., No.

dated

190

" " " "

190

READ ALSO:-

C. No. 227, From the D.P.I.

No 5674, dated 7-2-1905.

" " " "

190

" " " "

190

ORDER

PS

No. 131, dated 6-3-1905.

ess
5/3/5

The deed of acceptance proposed by the Secretary of the United Free Church of Scotland cannot be accepted in lieu of the deed prescribed by Govt.

2. The D.P.I. should reject any further application for building made by the U.F.C.M. and grant by the two managers referred to in his letter (unless and until they accept and execute the deeds required by Govt in the cases referred to in the letter).

7K
2305/12

read above.

To the D.P.I. 20/3/5

3/3/5

M. 3.5

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