

Revenue (1897) Department.

MISCELLANEOUS SERIES.

G.O., No. 2815

DATED 3 June 1897

[Despatch Abstract.]

Returning ^{in the same order} to the Hon the Advocate
Genl for further consideration
and opinion the papers regard-
ing the choultry founded by
C. Sengamiah Chetti at Beas.

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
CO-468	197		31/12/97				

Revenue
Local & Muni. (1896) Department.

CURRENT No. 9551.

(The right of the Government)

From

*The Chief Secretary to the
 Govt. of N.W. Provinces
 and A. N. O.*

Order

No. 1710 of 1896
III - 865 B.

Dated 24th Decr 1896

Received 28 - 12 - 96

Registered 29 -

Enclosures

Spare copies

SUBJECT.

*Stating that orders have
 been issued for the re-
 sumption of the control of
 the trust of Collab-Singamma
 Chetty's Choultry, by the
 Collector of Benares.*

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.
	C18-1024/96		

No. 1710 of 1896
 III-865-D
 The Chief Secretary to Government
 N. W. Provinces and Oudh
 The Secretary to the Govt of Madras
 Rev. Dept.
 Dated, Allahabad, 24 Dec 1896.

General Admin
 Dept

I am directed to acknowledge the receipt of your letter No. 582 dated, 30 October 1896, forwarding copies of certain correspondence relative to the management of the Choultry in Benares founded by Collah Singanna Chetty, and requesting to be informed of the circumstances under which this Government withdrew its supervision over the management.

In reply, I am to state for the information of His Excellency the Governor in Council, that there was no intention on the part of this Govt. that the control of the trust should be withdrawn. In the letter from this Government, No. 569, dated 26 March 1891, a copy of the communication from the Board of Revenue of these Provinces who have the control of such trusts was forwarded to the

Govt.

Govt. of Madras, in which enquiry was made whether the representative of the founder was willing to join in an application for the vesting of the Benares trust funds in the Treasurer of Charitable Endowments: and it was at the same time suggested by the Board that one vesting order might be issued to cover the four trusts, including the three in Madras. In your letter No 762, dated 22nd February 1894, it was said in reply, that the representative of the founder desired that all the trusts should be vested in one order and the accumulated interest was accordingly transferred to the Govt of Madras. I am therefore to request that with the permission of His Excellency in Council, it may be stated whether it is proposed to issue one vesting order to cover all four trusts. I am also to state for the information of His Excellency that orders have been issued for the resumption of the control of the trust by the Collector of Benares and to add that it is presumed that arrangements will be made by the Govt of Madras for the remittance of the necessary funds to the Collector for payment to the local Agent whose name the Collector has

has been asked to report.

I have the honour to be

Sir

Your most obedient servant

(Sd) B Harrison

Under Secretary,

for Chief Secretary to Govt.
N. W. P. & Oudh.

under No. 2850
2-6-97

4 CP-9551/96

San M. Enas - C.P.R.

(The original in
the
file)

Other property must
be in him
1/24/17

Note for the Secretary.

With reference to the oral instructions given by the Secretary in the matter of Kalla Singanna Chetti's endowments, a Revised draft is submitted herewith.

2. I beg to state that although Sec 4 (3) of Act VI of 1890 specifies what forms of "Securities for money" shall alone be vested in the Treasurers of Charitable endowments there is nothing to show that no other form of property shall be vested in him. On the other hand Sec. 8 (3) of the Act and Art. 177 (2) of the Civil Account Code, Vol. I, clearly contemplate the vesting of property other than Securities for money.

3. In the present case so far as the original endowment of Rs. 40,000 is concerned there seems to be no doubt that there is no longer any property to be vested in the Treasurers of Charitable Endowments; but as regards the sum of Rs 11500, which is the accumulation of the savings out of the monthly interest payable on

C.24/2/17
A 25/2/17

in Account of the Benares Choul-
try, and which is held in Govt
Securities, it does not appear
that there is any objection to
the amount being vested in the
Treasurer of Charitable en-
dowments.

Next as to the objects to which
the amount is to be applied, it is
true that the founder of the trust
has furnished written instructions
indicating the Charitable and
religious objects to which the monthly
interest on the original endow-
ment is to be devoted, ^{but the} provisions
of the Charitable endowments Act
seem to allow of a scheme for the
administration of the property
to be settled in the place of the
original one.

Please see Section 5 of the Act:-
Clause (1) of this Section says
that on application made under
Sec: 6, the Local Govt may settle
a scheme for the administration
of any property which has been
or is to be vested in the Treasurer of
Charitable Endowments; and
Clause (4) says that such a scheme
when

that is the point.
12/2/97

For subject to Act. Sec: 6.
12/2/97

It is the person by whom this
applⁿ is made which
causes the difficulty. I do
not know how any
action can be taken in this
matter till a Local Agent
is appointed by the Local
Committee's representation in

Whereas. It is the person
"acting in administration
of the trust" under Sec
6.
12/2/97

* The Advocate General
has been called upon to
advise the Government on the
subject of the proposed scheme
for the administration of the
trust. 2/2/97

The Advocate General's
advice is awaited. But
what has become of the
claim of the infant and
of the Committee's reference
to the Act. Sec: 6. It may
be that of a Local Agent
has been appointed, it is
very or their provisions who
are appointed.

24/2/97

6
when it comes into operation,
shall supersede any decree or di-
rection relating to the subject-
matter thereof.

Further rule 1 of the rules framed
under Sec: 13 of Act. VI of 1890
specifies two classes of cases with
which the Govt will have to deal
and the second of these classes
is stated to include cases in which
it is proposed to depart in any res-
pect from the ascertained wishes
or presumable intentions of the
founder of an endowment.

Please see notes No. 1569 dt.
24.10.90, a copy of which is

attached.
12/2/97

It will be well to consult
the Advocate Genl. as to the
legal position in regard to
the sum of Rs. 11,500. He
might be asked

1. Whether a scheme can be
legally made for its utilization.
2. Upon whose application under
Sec 6. action should be taken.
The receipt of his reply the receipt

letter can be altered and
revised.

W. J. J.

Q. No. 773
7-12-24

W. J. J. 324
20-9-2016

Revenue Department
L. No. 9551 of 26.

G.O. Dir. No. ...
Communicated to the
Board of Revenue and the Ac-
countant-General.

2. With reference to the enquiry
in para. 2 of the letter read above,
it is observed that as the Promis-
sory notes for Rs. 40,000 origin-
ally deposited by Kolla Sri-
ganina Chetti were cancelled
and there is now only an obliga-
tion on the part of Government
to pay for ever Rs 50/- per mensem
for the maintenance of each of
the four Choultries specified,
there is no longer any property to
be vested in the Treasurer of
Charitable Endowments. Further,
so far as the Benares Choultry
Endowment is concerned, as a
large and substantial part of
the fund is to be expended on
a direct religious purpose, the trust
cannot, under the instructions con-
tained in para. 2 of the letter from
the

in the Home Dept (Muzim)
 the Govt of India No. 8 Judicial,
 1240
 d. 26-8-1890, he accepted by the
 Treasurer of Charitable Endow-
 ments. The case as regards the
 sum of Rs 11,500 seems to be, how-
 ever, different; but if it can be
 expended on the thorough repair
 (including perhaps the improvement)
 of the Choultry at Benares,
 action under Act II of 1890 would
 be unnecessary.

3. As regards the presumption
 in para. 3 of the letter it is ob-
 served that under the arrange-
 ments sanctioned by the Supreme
 Govt in the correspondence noted
 on the margin it is the Collector
 of Benares that should disburse
 from the Benares Treasury the
 sum of Rs 50/- per mensem to the
 agent for the time being appoint-
 ed by the representative of
 Singanna Chetty, to conduct
 the charity at that station.

4. The following letter will
 be despatched to the Govt of the
 North-Western Provinces and Oudh.

It seems to this Govt
 however that no action can
 be taken in regard to this
 sum in question till a ^{an agent-} ~~representative~~
 is appointed in Benares by
 the representative of Collo Singanna
 Chetty.

7. Letter No. 79 d. 1-3-1816 to Sec^y to Govt,
 Fort William,
 - Under encl. $\frac{178}{17-5-16}$ from do-do.
 - No. 325 d. 20-9-16 to do-do.
 - Under Enc. $\frac{418}{11-11-16}$ from do-do.

in G.O. 15318.16
 17-9-90-16/50

10

Letter No. 1710
 To The Chief Secretary to the Govt
 of the N.W.P. and Oudh.

Sir,
 I am directed to ac-
 knowledge the receipt of your
 letter No. 1710 d. 24th Dec. '96 re-
 lative to the management of the
 Choultry at Benares founded by
 Kolla Singanna Chetty and in
 reply to para. 3 thereof, to point
 out that under the orders of His
 Excellency the Governor-General
 in Council contained in the margin-
 ally noted correspondence it is the
 Collector of Benares that has to dis-
 burse from the Benares Treasury
 the sum of Rs 50/- p.m. to the agent
 for the time being appointed by
 the representative of Singanna
 Chetty to conduct the charity at
 that station and that no remittance
 of funds from this Presidency
 appears to be necessary.

2. With reference to the enquiry
 in para. 2 of the letter, I am to
 observe that as the Promissory
 notes for Rs 40,000 originally de-
 posited

7. Letter to the Sec^y to Govt, Fort William, No. 79, d. 1-3-16

- from - - - - - under enc. $\frac{178}{17-5-16}$
 - to - - - - - No. 325 d. 20-9-16.
 - from - - - - - under enc. $\frac{418}{11-11-16}$

created by Kalla Singamma Chetty
were cancelled and there is now
only an obligation on the part of
Govt to pay for ever Rs 50/- per
month for the maintenance of
each of the four Choultries
founded by him, there appears
to be no longer any property
to be vested in the Treasurer of
Charitable Endowments. Fur-
ther, so far as the Benares Choultry
endowment is concerned, it is
clear from the instructions given
by C. Singammah Chetty as to the
manner in which the monthly allow-
ance attached to that Choultry is
to be appropriated, that a large and
substantial part of it is to be
expended on a direct religious pur-
pose and that, ^{therefore}, the Trust cannot,
under the orders contained in para.
2 of the letter from the Govt
of India No. ^{8 Jul} 1240, dt 26-8-90,
be accepted by the Treasurer of
Charitable Endowments.

The Case as regards the sum of
Rs 11,500 which represent the accumu-
lation of savings out of the
monthly allowance appears to be,

Flagg C

P. 20/2/97

be, however, different ^{and} it
is possible that a scheme for
the administration of this fund
may be settled under Sec. 5 of
of Act VI of 1890, should an appli-
cation be made under Sec. 6
of the Act. But if the amount
can be properly utilized in the
thorough repair of the Choultry
which for some years past appears
to have been in a neglected condi-
tion, it would be unnecessary to
take any action under the Act. I
am in this connection to invite at-
tention to Mr. Galton's letter
No. 762 dated 22nd Feb. '94 in
which it was intimated that
the present representative of
the founder of the trust is averse
to any alteration being made
in the administration of the trust
for fear of varying the intention
of the founder and to request
that the matter may be further con-
sidered in the light of the foregoing
remarks.

The Honorable the Advocate General
 is requested to favor
 Govt with his opi-
 nion on the follow-
 ing case:-
 In 1816, one
 Kolla Singaiah
 chetti paid, in Govt
 pro. notes, a sum of
 Rs 10000 absolutely
 to Govt on condition
 of its paying forever
 Rs 50 a month for the
 upkeep of each of
 the four choultries
 established by him
 at Madras, Chittoor,
 Cuddalore and
 Benares. The trust
 was accepted by
 the Govt and a
 couple and muchi-
 lika were executed
 to that effect in 1817.
 Savings to the extent
 of Rs 11,500 have
 accrued from the

4/3/77

Received from Govt
 on 10 April 97

+ Govt

O.M. No 51.
 4-3-97

The Honorable
 the Advocate General
 is requested to favor
 Govt with his opi-
 nion on the follow-
 ing case:-

In 1816, one
 Kolla Singaiah
 chetti paid, in Govt
 pro. notes, a sum of
 Rs 10000 absolutely
 to Govt on condition
 of its paying forever
 Rs 50 a month for the
 upkeep of each of
 the four choultries
 established by him
 at Madras, Chittoor,
 Cuddalore and
 Benares. The trust
 was accepted by
 the Govt and a
 couple and muchi-
 lika were executed
 to that effect in 1817.
 Savings to the extent
 of Rs 11,500 have
 accrued from the

the monthly allowance payable in respect of the Benares choultry and the amount which has been invested by ~~the Govt~~ in Govt prom. notes is now held by the Govt. The questions for opinion are:

(1) whether a scheme can legally be settled under India act VII of 1890 for the utilization of the sum of Rs 11,500 above mentioned and if so, who should make the application under section 6 of the act for action to be taken thereunder by the local Govt.

2. The following documents are forwarded for perusal and return.

- (1) Coule executed by Govt
- (2) Muchilika executed by Kolla Singanah chetti

- (3) memo of services to be performed in the Benares choultry
- (4) Notification of the Govt of India no 1569 dt 24-10-90
- (5) G.O. no 581 dt 30-10-96.

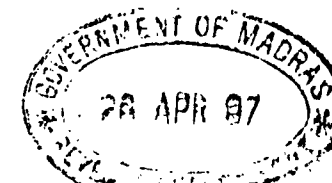
14/3/97.

Fort St. George }
4th March 1897 }
From order
(R. H. Menon)

To the Hon. the Advocate General
through the Govt Solicitor
with copies of the papers
referred in para 2
of the am.

11-3-97

152)
Reminder No 75 of 10-4-97.



Revenue Department.

87-5-1817

A Cowle granted by the Right Honorable Hugh El Elliot, Governor in Council of Fort Saint George on the part of the Honorable East India Company, to Collah Rownapah Chitty otherwise generally called Singanah Chitty, his heirs, and Successors for ever :-

Whereas the Right Honorable the Governor in Council is desirous to encourage the erection and support of buildings for the accommodation of Travellers, Merchants & others on the high roads of the Company's territories, and whereas Collah Singanah Chitty has erected four such buildings Viz: one at Madras, a second near Conjeveram, a third near Chittoor, and a fourth at Benares, and whereas the said Collah Singanah Chitty, with the view of placing these institutions on a fixed and permanent footing, has endowed each of the said choultries with the sum of ten thousand Sicca Rupees, and has for this purpose, deposited in the office of the Accountant-General at Fort Saint George Company's paper to the amount of forty thousand Sicca Rupees, blank endorsed, placing the same entirely at the disposal of the Honorable East India Company - The Right Honorable the Governor in Council in order to define the conditions upon which the said Company's paper has been so deposited, is pleased to grant this Cowle to Collah Singanah Chitty his heirs and successors for ever.

Collah Sinaganah Chitty, on the part of himself

1802
self, his heirs, and successors, having executed a Muchalka or deed declar-
ing the Company's paper before mentioned to the amounting of
forty thousand Sicca Rupees to have been sold, transferred and disposed
of to the Honorable East India Company, and vesting the Governor
in Council of Fort Saint George with full and ample powers to
sell, transfer, and dispose of, or to cancel and destroy, the same,
the Governor in Council, on the part of the East India Company
agrees, in consideration thereof, that the sum of fifty (50) Sicca
rupees per mensem shall be paid for ever on the part of the Com-
pany at the four stations above mentioned, viz., Madras, Conjevaram
Chittore and Benares to such persons at those stations respective-
ly as Collah Singanah Chitty, his heirs and successors for ever
may from time to time appoint to receive and disburse the same
for the benefit of the said choultries. It is hereby further provided
that the said Collectors and officers by whom the said payment
may be made shall use their best endeavours to prevent abuse on the
part of the agents of Collah Singanah Chitty his heirs and suc-
cessors for ever and to cause the money to be appropriated to the
purposes above stated.

It is to be understood that the officers
by whom the said payment may be made or such other persons as
may be duly authorized by Government are at liberty to suspend
or, to dismiss any of the native agents at the Choultries, with
whose conduct they may have reason to be dissatisfied; but the
appointment of new persons to the office of native agent, on a

vacancy

vacancy, is hereby declared to be vested exclusively in C. Sin-
ganah Chitty, his heirs and successors for ever.

(Signed) J. Hanbury,

Secretary.

(True Copy.)

✓
Daniel Davidson

Under Secretary to Government.

J/K.S.

18-3-1817

Memorandum or agreement entered into with the Right Honorable Hugh Elliot, Governor in Council of Fort Saint George on the part of the Honorable East India Company by Collah Rowanpa Chitty otherwise generally called Singanah Chitty on the part of himself his heirs, and successors for ever:-

Whereas the Right Honorable the Governor in Council is desirous to encourage the erection and support of buildings for the accommodation of Travellers and Merchants and others on the high roads of the Company's territories and whereas I (Collah Singanah Chitty) have erected four such buildings. Viz. one at Madras, a second near Conjeveram, a third near Chittoor and a fourth at Benares-and whereas I (the said Collah Singanah Chitty) with the view of placing these institutions on a fixed and permanent footing, have endowed each of the said choultries with the sum of ten thousand Sicca Rupees, and have for this purpose, deposited in the office of the Accountant-General at Fort Saint George Company's paper to the amount of forty thousand Sicca Rupees blank endorsed placing the same entirely at the disposal of the Honorable East India Company-and whereas the Right Honorable the Governor in Council in order to define the conditions upon which the said Company's paper has been deposited has ~~been~~ resolved to grant to me my heirs and successors for ever a certain Cowle defining the same, therefore, I Collah Singanah Chitty on the part of myself my heirs and successors do hereby declare the company's paper before mentioned amounting to forty thousand Sicca Rupees to have been by me sold transferred and disposed of the Hon'ble East India Company and do hereby vest the Governor in Council of Fort Saint George with full and ample powers to sell, transfer and dispose of the same, to any person whatever, or to cancel and destroy the said paper at pleasure provided that the Governor in Council on the part of the East India Company shall agree in consideration thereof that the sum of 200 Sicca Rupees per mensem shall for ever be paid by the Collectors of Madras Chingleput, Northern Division of Arcot and Benares (Viz: 50 Sicca Rupees per mensem by each Collector) to such persons at these respective stations as I, Collah Singanah Chitty, my

heirs

5022

charge of the Record-keeper.
Heirs, and successors for ever may appoint to receive and disburse the same for the benefit of the said choultries.

I Collah Singanah Chitty do also agree to furnish the said Collectors with copies of my instructions to my native agents respecting the disbursement of the money in question in order that the said Collectors may use their best endeavours to prevent abuse on the part of such agents and to cause the money to be appropriated to the purposes directed by me.

It is to be understood that the Collectors before mentioned or other persons duly authorized are at liberty to remove temporarily or to dismiss altogether any of the native agents at the choultries with whose conduct they may ^{have} reason to be dissatisfied but the appointment of new persons to the office of native agent on a vacancy is to be vested exclusively in me, my heirs and successors for ever.

I, the said Collah Singanah Chitty do hereby further specially declare that none of my heirs or successors shall possess any power to alienate the money to be paid monthly by the Collectors in question to any other purpose whatever than the support and repair of the four choultries erected by me to which it is hereby declared exclusively appropriable.

(Signed) J. Hanbury,
Secretary.

(True Copy.)

Donald Davidson

Under Secretary to Government.

2/K.S.

27th
Revenue Department

1st That oblations, illumination and devotions be made in the usual manner, to the Goddesses, Singanah, Goursavaree and Bonnacambah at the Charity Choultry every morning and every evening.

2nd That 12 Brahmins, (viz. worshipping Brahmins, 1 Cook and ten stranger Brahmins) be fed with victuals at the Choultry once in every day.

3rd That on every Friday evening, Sherburt of Jaggery and water mixed together, and also a kind of Gram or lentil, called Wadda-papoo, be offered up to the said Goddesses, and then served to the Brahmins, and also to the Assembly of the Vyasa Caste.

4th That a number of Bilva leaves be served by way of devotion, to Vivaswara and Balatbhayava, the Gods of Benares.

5th That wages and the necessary expenses attending the Choultry be also defrayed.

6th The whole Charity to be conducted under the management of D. Raghopatee Sastry so long as the local agents at Benares shall approve his conduct.

(Signed) J. Hanbury,
Secretary.

(True Copy.)

Donald Davidson

Under Secretary to Government.

2/K.S.

68 Government of India Notifications.

Home Department. 2/10/90

Notifications.

Singla, the 24th October 1890.

No. 1569. — In exercise of the powers conferred by Section 13 of the Charitable Endowments Act, VI of 1890, the Governor-General in Council has been pleased to frame the following forms and make the following rules:

Note. — In these rules, "the Government" means the Local Government, or, when the Governor-General in Council exercises, under Section 7 of the act, the powers conferred by Sections 4 and 5, on the Local Government, the Government of India.

1. It being the wish of the Governor-General, that the Government should not interfere under the Charitable Endowments Act, 1890 (hereinafter referred to as the Act), in cases of doubt or dispute and that

Cases in which there should ordinarily be previous publication of meeting orders and of schemes

the jurisdiction of the Courts in such cases should in practice be left unaffected by the Act, the cases with which the Government will have to deal may be divided into two classes, (1) cases of trusts, whether already established or proposed to be established, out of which it may be confidently predicated that Contention cannot arise, and (2) cases out of which Contention may possibly arise, however remote or unlikely the contingency. To the first class

class will belong. Such cases as those of Lawrence Asylum, Railway Schools, and endowments in Government Securities, in general and of the funds of specified dispensaries or schools. To the second class will belong most cases in which private persons apply for a vesting order or a scheme or a modification of a scheme and all cases in which it is proposed to depart in any respect from the ascertained wishes or presumable intentions of the founder of an endowment. In cases belonging to the first class previous publication of proposed vesting orders and of proposed schemes and modifications of schemes will ordinarily be unnecessary; in cases belonging to the second class there should ordinarily be previous publication of such documents.

2. (1) When the Government, having regard to the last

Mode of previous publication of vesting orders and of schemes.

foregoing rule, is of opinion that a pro-

posed vesting order or a proposed scheme or modification of a scheme, should not be made or settled without previous publication, it shall publish a draft of the proposed order, scheme or modification, or a proper abstract thereof, signed by one of its Secretaries, for the information of persons likely to be affected thereby.

(2) The publication should be made in the Official Gazette and in such other manner as the Government may prescribe.

(3) There shall be published, with the draft or abstract, a notice specifying a date at or after which

which the proposed order, scheme or modification will be taken into further consideration.

(4) The Government shall consider any objection or suggestion which it may receive from any person before such date with respect to the proposed order, scheme, or modification.

3. The cost of the previous publication under the last foregoing rule of any proposed

Incidence of cost of vesting orders and of schemes.

order, scheme or modification of a scheme: and any other costs incurred or to be incurred in the making or settlement of the order or of the scheme or modification, shall be paid by the applicants for the order, scheme, or modification, and if the Government so direct, may be paid by them out of any money in their possession pertaining to the trust to which their application relates.

4. In the case of property vested in a Treasurer of Charitable Endowments other than securities for money, the persons acting in the administration of the trust, and having under Section 8, sub-section (3)

Accounts of trusts consisting of immovable property.

of the Act the possession, management, and control of the property and the application of the income thereof, shall, in books to be kept by them, regularly enter or cause to be entered full and true accounts of all moneys received and paid respectively on account of the trust, and shall, on the demand of the Government, submit annually to such public servant as the Government may from

time

time to time appoint in this behalf, in such form —
and at such time as the Government may from
time to time prescribe, an abstract of those
accounts and such returns as to other matters
relating to the administration of the trust as the
Government may from time to time see fit to
require.

5. The following are prescribed as the fees to
be paid to the Government in respect of any property
vested under the Act in a Treasurer of Charitable
Endowments:

(1) In the case of securities for money —

- (a) For the purchase and sale of securities,
a commission of $\frac{1}{8}$ per cent, in addition
to any actual outlay on brokerage.
- (b) For drawing interest, a commission
of $\frac{1}{4}$ per cent.
- (c) For remitting interest, the actual charges
incurred.

(2) In the case of property other than securi-
ties for money, the actual charges incurred by the
Treasurer in the discharge of his functions in respect
of the property.

The Treasurer may deduct any fees payable
to the Government on account of any endowment
from any money in his hands on account of such
endowment. If he holds no such money, the
amount should be claimed from the administra-
tors.

6. All copies of vesting orders received by the
Treasurer will be filed, together and will be num-
bered in consecutive order of their receipt; when
a sufficient number have been received, they
will be bound in volumes. A note will be
made on each vesting order of any entries in
the registers prescribed below relating to the
property vesting in the Treasurer under the
order.

Accounts of securities for money.

7. On the receipt of any securities for money,
or on their purchase by himself, the Treasurer
will record their receipt in a register in Form
No. 1. He will also keep a separate account
for each endowment in Form No. 2, in which he
will record all receipts, including any amounts
sent for investment, and all disbursements. In
the Cash Account, the Treasurer will record only
his own transactions (such as the payment of the
money to the administrators), not the transactions
of the administrators of the endowment fund.

8. The Treasurer will keep a record in the appro-
priate columns of Form No. 1 of all securities re-
turned by him. The return will also be entered
in Form No. 2, where the amount returned will be
deducted from the Capital of the endowment
concerned.

9. If the securities elsewhere than in Madras
and Bombay consist of Government promissory
notes,

notes, they will be forwarded to the Comptroller General for custody under the general rules laid down in the Civil Account Code; but the securities under the Act must be forwarded separately, and the Treasurer will keep a separate register under those rules for the securities, and will also keep a separate file of the acknowledgements.

The Treasurer will retain in his ^{own} custody all securities for money other than Government promissory notes.

10. The Treasurer, on receipt of any interest on securities, will pass it through his General Trust Interest Account under a special sub-head, "Interest on Charitable Endowments under Act VI of 1890". The interest will then be distributed to the various ledger accounts (Form 2), in which the gross amounts must be shown, any deductions for fees, &c. being shown as a charge, and the payment of the balance to the administrators being also shown as a disbursement. The entries in the ledger of interest received must be taken out and agreed annually with the total amount of interest drawn.

11. The Register in Form No. 1 will show all securities vested in the Treasurer as such whether actually held by him or by the Comptroller ^{General} as his agent. In order to prove the balance actually held by the Treasurer in his own hands, a balance sheet in Form No. 3 will be made out annually and agreed

agreed with the actual securities in the Treasurer's possession; such agreement will be certified on the balance sheet.

12. The Accounts of the interest and the annual agreement of balance will be made at the time which the Local Government may direct under section 9 of the Act for the publication of the list of properties held, and of the abstract of accounts.

Property other than Securities

13. The Treasurer will enter in a register in Form No. 4 any property other than securities which becomes vested in him, and will record in the same register against the original entry a note of any property of which he is divested.

Publication of lists and abstract of accounts.

14. The list of properties vested in the Treasurer to be published annually shall be in Form No. 5. Part I will relate to properties other than securities, Part II will relate to securities, and will also contain the abstract of accounts required by the Act to be published. The Treasurer will demand and receive acknowledgements from the administrators of the correctness of the balances when published.

Audit of accounts.

15. The Treasurer's Accounts will be audited -
(a) when there is an Outside Audit-Section of the Accountant-General's Office, - by such

Section

sections annually; and where there is no such section; - by a Deputy Auditor-General at such periods as the Auditor-General may direct.

Revenue Dept.
(1897) Department
Current Number 3406

From
Ernest Parclay
Government Solicitor
Madras

To
The Secretary to Government
Revenue Department
Ootacamund

N^o 261.

Dated 23rd April 1897
Recd 26-4-97

Enclos: 5

Forwarded with enclosures
with reference to the Offi-
cial Memorandum of
Government N^o 51 dated
4 March 1897. Revenue
Ernest Parclay
Government Solicitor

Snodgrass

Opinion

9th

(Re Kolla Singana Chetty's Endowment Benares Choultry)

1. As regards the first question, there seems no reason to doubt that under India Act VI of 1890, the sum of Rs 11500 which is now in the hands of the Accountant General of Madras can on application made in accordance with section 6 be vested by an order of the Local Government in the Treasurer of Charitable Endowments for the Presidency of Madras. The maintenance of the Benares choultry and the feeding of a certain number of persons daily therein is "a charitable purpose" as defined in section 2 of the Act, notwithstanding that the charitable purpose relates in part to a certain daily religious worship associated with the choultry. The sum of Rs 11500 invested in Government securities - being the unexpended portion of the annuity which forms the trust fund and the interest thereon, is property held in trust for a charitable purpose within the meaning of section 4 of the Act. A scheme can also, on application made in accordance with section 6, be settled by the Local Government under section 5 of the Act, for the administration of the trust fund to be vested in the Treasurer of Charitable Endowments and in such scheme, a person may be appointed to administer the property, regard of course being had in settling such scheme to the wishes of the author of the trust as far as practicable (vide sub section 5 of section 5). In the present case, there is no reasonable ground for any doubt or dispute as to the trust or the wishes of the author of the trust.

2. As regards the 2nd question, I am of opinion that no action can be taken either under section 4 or 5 of the Act without an application being made by the present trustee Rao Bahadur C.V.

C.V. Cunniah Chetty Garu the grandson of the author of the trust. The cowle executed by Government in favour of Kolla Singannah Chetty, the author of the trust, and the corresponding Muchalika executed by the said Kolla Singannah Chetty clearly show that the trusteeship was to be hereditary in the family though by reason of the residence of the family being in Madras a local agent was to be appointed from time to time by the trustee for the time being, such local agent being however subject in the application of the annuity to the purposes of the trust, to the control and supervision of the Collector of Benares and subject to be removed or suspended by the said Collector. The person acting in the administration of the trust within the meaning of clause (a) of sub-section 1 of section 6, is therefore at present Rao Bahadur C.V. Cunniah Chetty Garu, the present trustee. The local agent if any is only an agent or deputy of the trustee and the Collector has only the right of supervision, under the terms of the cowle and the Muchalika, over the administration of the trust. Though the fund in question is in possession of the Accountant General yet being trust fund, it is legally vested in and held by the trustee.

3. As it however appears from the papers accompanying the reference that Rao Bahadur C. V. Cunniah Chetty Garu is claiming the fund from the Accountant General, it may be assumed that he does not want the Government to take any action under the Act. I may add that under the terms of the cowle and the Muchalika already referred to, the Government is perfectly justified in withholding the accumulated fund and the annuity from the present trustee who appears to have practically closed the choultry in 1894. The Government in 1817 undertook to pay in perpetuity an annuity of Rs 600 to Kolla Singannah Chetty and his heirs not simply in consideration of an absolute transfer to Government of Government securities to the value of Rs 10000 but also in consideration of the said

annuity being applied to the up keep and maintenance of a choultry - an institution which was then the policy of the Government to encourage and it was expressly provided that such annuity was payable to the trustee's local agent by the Collector, who was to cause the money to be appropriated by the local agent to the purposes of the trust and to prevent its misappropriation. But for such provisions, which were intended to ensure the maintenance of the choultry and the effectual carrying out of the charity, Government certainly would not have stipulated to pay in perpetuity a liberal annuity of Rs 600. It also appears from the papers that Mr Cunniah Chetty's estate is now under litigation between him and his minor sons, that Mr Firth has been appointed Receiver of the Estate by the High Court pending the suit and that he has requested Government to stay action in the matter of Mr C. V. Cunniah Chetty's claim to the fund until the result of a reference he has made to the High Court as Receiver is known. Such reference the exact nature of which is not stated, appears to have been made before August 1896 and I do not know whether it is still pending or how it has been disposed of. If notice of such reference be given to Government, the whole matter may be laid before the High Court for such order as it may deem fit to pass. If the fund in question is not dealt with by an order of the High Court in the suit now pending it may eventually become necessary for Government to have a suit instituted in the High Court under section 539 of the Code of Civil Procedure for settling a scheme for the management of the charity and for appointing a new trustee if necessary. A part of the subject matter of the trust being now in the hands of the Accountant General of Madras the High Court of Madras will have jurisdiction under section 539 of the Code of Civil

Procedure though the Choultry is situate in Benares.

Madras,
19th April 1897.

V. Bhashyam Iyengar
Acting Advocate General.

(True copy)

Ernest Barclay

Government Solicitor.

The Hon. Mr. G. R. S. C. R.

H. E. The Governor

19th April 1897

Draft referred to Adm. Secy.

Manuscript 1/29/97

Draft submitted accordingly.

1/29/97

20/5/97

CP. 9551 of 1896
AN. 3406 of 1897

Note

Please see letter to the Govt of the M. W. P. and Oudh no 582 d. 30-10-96. In acknowledging the receipt of that letter that Govt enquired (1) whether it was proposed to issue an vesting order under India act II of 1890 covering all the four trusts founded by Singammah chetti and

(2) whether funds would be remitted by the Govt of Madras to the collector of Benares for payment to the local agent at ^{that station} ~~Benares~~.

2. It was decided in the notes under O.M. no 51 d. 4-3-97, that in as much as the pro. notes for Rs 40,000 originally deposited by Singammah chetti had been cancelled, there were no funds

connected with the original trust be vested in the Treasurer of Charitable Endowment. As regards, however, the sum of Rs 11,500 which represented the accumulated savings out of the Benares portion of the trust, a doubt was felt, and the Advocate General was accordingly asked to give his opinion as to whether ~~the~~ a scheme can legally be settled under India Act VI of 1890 for the utilization of the sum of Rs 11,500 and if so, who should make the application under Section 6 of the act for action to be taken thereunder by the Local Government.

3. ~~The~~ C.O. 3406 of 1897, contains the opinion of the Advocate General. This officer answers the first question with the affirmative. As regards the second question, he says that Rao Bahadur Chinniah Chetty is

O.M. No 51 d, 4.3.1897

the present trustee and that no action can be taken either under Sec 4 or 5 of the Act without an application being made by him. The grounds on which the Advocate General arrives at this opinion are given in the following passage:—

"The cowl executed by Govt. in favor of Kolla Singanna Chetty, the author of the trust, and the corresponding muchilka executed by the said Kolla Singanna Chetty clearly show that the trusteeship was to be hereditary in the family though by reason of the residence of the family being in Madras a local agent was to be appointed from time to time by the trustee for the time being, such local agent, however, subject to the application of the Amity to the purposes of the trustee, to the control and supervision of the

"Collector of Benares +
 "Subject to be removed
 "or suspended by the
 "Said collector. The
 "person acting in the
 "administration of the
 "trust within the
 "meaning of clause (a)
 "of sub-section 1 of sec. 6
 "is, therefore, at present
 "Rao Bahadur C. V. Chetty
 "Chetty Gam, the present
 "trustee."

This opinion seems open
 to question. The only
 passages in the Cowle
 and the Muchilka in
 which any power is
 assigned to Singanna
 Chetty's heirs, are the
 following:—

Cowle. x x x x

"that the sum of
 "fifty (50) sicca rupees per
 "mensem shall be paid
 "for ever on the part of the
 "company at the four stations
 "x x x to such persons at
 "those stations x x as Collah
 "Singanna Chetty, his heirs

1/11.
 25/5/87. 3 copies with C. R. 20/5/77

"and successors for ever"
 "may from time to time
 "appoint to receive and
 "disburse x x x."

x x

"the appointment of
 "new persons to the office of
 "native agent, on a vacancy,
 "is hereby declared to be
 "vested exclusively in C.
 "Singanna Chetty, his heirs
 "and successors for ever."
 "Muchilka."

"x x x" the sum of
 "200 sicca Rupees per mensem
 "shall for ever be paid
 "by the Collectors of Madras
 "Chingleput, Northern Division
 "of Arcot and Benares (1/2).
 "50 sicca rupees per mensem
 "by each collector to such
 "persons at these respective
 "stations as I, Collah Sin-
 "ganna Chetty, my heirs and
 "successors may for ever
 "appoint to receive & disburse."

x x -

x x x

"but the appointment
 "of new persons to the office."

40
"of native agent on a
"vacancy is to be vested
"exclusively in me, my
"heirs and successors
"for ever".

It is clear from the
above passages that
what has been reserved
to Singamma Chetty heirs
and successors is only
the power of appointing
local agents.

4. Once these agents are
appointed, the collectors
concerned are to pay
the monthly allowance
to them & to no other;
the agents are to receive
and disburse the same
for the benefit of the
said choultries, according
to instructions left by
Singamma Chetty and
it is for the collectors to
"use their best endeavours
"to prevent abuse on the
"part of such agents and
"to cause the money to be
"appropriated to the purposes
"directed by me" (Singamma Chetty)

Singamma Chetty gave this in my
in trust. His heirs having this
power to appoint have also
the power to dismiss.

23

On other papers duly
authorized

Rightly
12/5/97

I doubt this.

They can remove them and
appoint another. There is
nothing to them that this
power rests in the court.

admission only.

12/5/97

The power of appointment
includes the power of
dismissal unless this is
distinctly disallowed.

23

It is also the collectors
that have been given
power "to remove temporarily
or to dismiss altogether any
of the native agents at the
choultries with whose
conduct they may have
reason to be dissatisfied
xx"

5. Mrs Singamma Chetty
~~and~~ heirs and successors
have no power to receive
the money; they cannot
compel the agents to do
the work properly, nor
~~can~~ have they any power
to punish such agents
when found to be unsatis-
factory in their work or conduct.
If so it is not clear how
such heirs - at present
Cunniak Chetty - can be
said to be acting in the
administration of the trust
within the meaning of
clause (1) (a) of
Sec. 6 of Act VI of 1890. At all
events it seems certain that
Cunniak Chetty is not the
sole person acting in the
administration of the trust.

26

The collector concerned
on the Board of Revenue
under the authority
of which he ~~was~~ acts,
seems to be the person acting
in the administration of
the trust, if not solely,
at least jointly with
Sringanna Chetty's heirs. The
Advocate General
says that the reason for
the provision requiring
the appointment of a
local agent is that the
residence of the family
is in Madras. This reason
is not given either in the
Cowl or ^{the} Muchilika;
it is probably an inference.
It is pointed out
however, that this reason
cannot hold good
in the case of the Madras
Choultry which is situated
in the compound of the
building occupied by
the present representative
of the family - Cunniah
Chetty himself.

6. If the above view

latter appears to be the view
held by the Board of
Revenue, N. W. P. & O. and,
when it enquired
whether the representa-
tive of the grantee would
join with the Board of
Revenue in making
an application under
Sec. 6 of the Act.
(Flas F)

It is my difficulty to be who
is the person acting in the
administration of the trust
but I submit the view that
it is the Cowl's family with
Cunniah Chetty's heirs is
probably right.

25/5/97
The Adv. Gen. is speaking of
the choultry at Benares
29

It seems to me that
Govt. having received the
trust money in the trust,
and in the person acting
in the administration
of the trust. I don't think
this power to appoint
& dismiss the managers
of the choultry who are
the objects of the trust
makes Sringanna's heirs
trustees. Ask the Adv.
Gen. to consider this
point further.
29

43
is concurred, ~~and~~
orders are requested
as to whether a further
reference should be
made to the Advocate
General on this par-
ticular point.

7. In para 3 of
his opinion, the Ad-
vocate General says
that "the Govt. is perfect-
ly justified in with-
holding the accumu-
lated fund and the
annuity from the
present trustee", be-
cause the choultry
(at Benares) is no
longer maintained.
This was, however, not
the position taken up
by Govt. in para 1 of
G.O. No 581 d. 30-10-96. The
view therein held
was, that under the
Cowl and the Muchilika
the monthly allowance
is payable only to the
local agent and that
not to Sringanna Chetty.

have no claim to receive it. If so
~~he is to~~ it cannot
~~be accepted~~ be paid to
~~them latter~~ even if
 the country is being
 maintained properly.

The point ~~is~~, however,
is not of much importa
and nothing need
be said about it.

8. In view of the facts that Cunniah Chetty's estate is now under litigation between him and his minor sons, that Mr Firth has been appointed Receiver in respect thereof and that the latter has requested Govt to stay action in respect of Cunniah Chetty's claim to the fund until the result of a reference he has made to the High Court as Receiver is known, Mr Bashyam Aiyangar advises that the matter should be placed before the

It seems to me of great importance
that the money that alone he
had to this spend ^{is} tight

P.I.
 257571
 That is not a question at all
 Good!

I do not think
any notice has been rec^d yet.

Enclosed in C No 3992 there
is a letter of Mr. Birks to the Ad-
miralty datd on 27.10.95 the
Admiral Court placed the property
of some family emeralds in
his hands, but he had not
seen the order then (one the
4th Jan.). He intended
to see the H.C. for a
decision when it reassembled
after the holidays.

High Court for orders, if notice of the reference has been given to the Govt. If the fund in question is not dealt with by an order of the High Court in the suit now pending, he says it may "eventually become necessary for Govt. to have a suit instituted in the High Court under Section 539 of the Civil Procedure Code for settling a scheme for the management of the charity and appointing a new trustee if necessary."

The result of the reference made by Mr. Firth in respect of the fund above referred to is not known and a detailed report is being called for

14/6
as regards the litigation in connection with Rao Bahadur Cinniah Chetti's estate in so far as it may have any bearing upon the monthly allowance payable by Govt.

9. If the Advocate General's opinion that Cinniah Chetti is the sole trustee be accepted as correct and it is thought that ^{further} no reference to him is needed, the accompanying draft order and letter ^{may} ~~can~~ be submitted, issue.

15/5/97

vide draft on CR 3992/97

I have noted that no further reference need be made to the Adv. Gen.

Jg
26/5/97

Enc 7-12-24

47
Read CR 9551 of 96

- O.M. 851 d. 4-3-97

- CR 3406 of 97

E.P.

Communicated to the Board of Revenue and the Accountant General.

2. With reference to the enquiry in para 2 of the letter from the Govt of M.W.P. ^{read} above, it is observed that as the Pro. notes for Rs 40000 originally deposited by collah Saigamnah Chetti were cancelled and there is now only an obligation on the part of Govt to pay for ever Rs 50 per mensem for the maintenance of each of the four choultries specified, there is no longer any property to be vested in the Treasurer of charitable endowments. ^{As} ~~Therefore~~ regards

however, the sum of Rs 11,500 which represents the accumulated savings out of the Benares portion of the endowment, ~~as it appears from the Honble~~ ~~the advocate General's opinion read above~~

that a scheme for the administration of the fund might be settled under section 5 of act VI of 1890 (India), should an application be made under section 6 of the act ^{by the Rao Bahadur CV. Cunniah Chetty, the present representative of the family - But} owing to the litigation now going on between Rao Bahadur CV. Cunniah Chetty and his ^{minor} sons as to who should control the family charities, no action in this direction is feasible at present.

3. As regards the presumption in para 3 of the letter, it is observed that under the

* Letter No. 79 of 1-3-1816 to Secy to Govt Fort William.

- from - - - under sume $\frac{178}{17.5.16}$
- to - - - no. 325 d 20-9-16
- from - - - under sume $\frac{418}{11.11.16}$

the arrangement sanctioned by the Supreme Govt in the correspondence noted in the margin, it is the Colls of Benares that should disburse from the Benares Treasury the sum of Rs 50 per mensem to the agent for the time being appointed by the representative of Colah Singamiah Chetty to conduct the charity at that station.

4. The following letter will be despatched to the Govt of N.W.P. and Oudh.

To the Board of R.
(A & O)

A.C. (1, 2 and 3 P).

1/11/17

P. T. O.

Letter 10

To

The Chief Secy to ~~the~~ Govt,
~~Govt of N.W.B. and Oudh.~~

Sir,

I am directed to acknowledge the receipt of your letter No 1710 dt 24-12-96 relative to the management of the choultry at Benares founded by Collah Singammah chetti and in reply to para 3 thereof, to point^{out} that under the orders of H.E. the Govt in Council contained in the marginally noted correspondence it is the order of Benares that was to disburse from the Benares Treasury the sum of Rs 50 p.m. to the agent for the time being appointed by the representative of Singammah chetti to conduct the charity at that station and

Letter to Secy to Govt Fort William

No 79 dt 1-3-16.

- from -- under Enc 178
- to -- 325 dt 20-9-16. 175-16
- from -- under Enc 418 11-11-16.

and that no remittance of funds from this Presy appears to be necessary.

2. With reference to the enquiry in para 2 of the letter, I am directed to observe that as the pro-notes for Rs 4000 originally deposited by Collah Singammah chetti were cancelled and there is now only an obligation on the part of the Govt to pay for ever Rs 50 p.m. for the maintenance of each of the four choultries founded by him, there is no longer any property to be vested in the Treasurer of charitable Endowments. As regards, however, the sum of Rs 11,500 which represents the accumulated savings out of the

Bemises portion of the
endowment, the
advocate General to
the Govt of Madras
who was consulted
on the point, is of opinion
that a scheme for
the administration
of this fund might
be settled under
Section 5 of Act VI
of 1890 (India) should
an application be
made under Section
6 of the act by Rao
Bahadur C.V. Cunniah
Chetty
the present repre-
sentative of the
family. But owing
to the litigation now
going on between
Rao Bahadur C.V.
Cunniah Chetty and
his ^{minor} ~~disappointed~~ sons
as to who should
control the family
charities, no action
in this direction
is feasible at present.

3. A copy of the advocate

50
advocate General's
opinion on the subject
is enclosed for infor-
mation.

[Signature]

CP.
22 May 1917

Read C. No. 3406 of 1897.

G.O. His. No. 2815 of 3-6-97

With reference to para 2 of the Hon'ble the Advocate-General's opinion, it is observed that Government having received the trust money, appears to be the trustee, that is the person acting in the administration of the trust, rather than Singama Chetty's heirs. Those ^{heirs} having merely the power to appoint and dismiss the managers of the choultries, which are the objects of the trust, cannot, it appears to Government, be called trustees. ^{with these observations} The papers will ~~be~~ returned to the Hon'ble the Advocate-General for further consideration and ^{of this point} opinion.

List (from orders)

To the Hon'ble the Advocate-General
through the Govt Solicitor with
C No. 3406 and enclosures.

26.10-6.97

1 June 97

sent for copying _____
 filed _____
 examined _____
 signed _____

189

ADJUTANT G.O., No.
 189

DATED

CURRENT No.

REFERS TO O. No.

OFFICE OF GOVERNMENT

A A A A A A A

OFFICE OF GOVERNMENT

DITTO

PASS NOT FILED UP, BEING MEANT FOR DESPATCH
 IN ORIGINAL

in full.
 to be copied.
 = Copy abstract only.
 = Copy heading only