

P.C.  
GL 12 G 2

Judgment  
1966

No. 15 OF 1965

Supreme Court of Ceylon,  
No. 573 of 1961.

Application for a mandate in the nature  
of a Writ of Certiorari under Section  
42 of the Courts Ordinance.

IN HER MAJESTY'S PRIVY COUNCIL  
ON AN APPEAL FROM  
THE SUPREME COURT OF CEYLON.

BETWEEN

THE BOARD OF TRUSTEES OF THE MARADANA MOSQUE,  
Maradana, Colombo.

Petitioner - Appellant.

AND

1. THE HONOURABLE BADI-UD-DIN MAHMUD,  
Minister of Education, Slave Island, Colombo.

2. S. F. DE SILVA,  
Director of Education, Malay Street, Colombo.

Respondents.

---

---

RECORD OF PROCEEDINGS

---

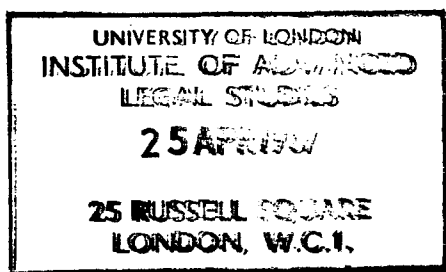
---

P.C.  
GLV.6-2  
87125

i

## INDEX — PART I

Serial No.	Description of Document	Date	Page
1	Petition of the Board of Trustees of the Maradana Mosque	14-12-61	1
2	Affidavit of A. H. M. Ismail, President of the Executive Committee of the Maradana Mosque ... ..	14-12-61	6
3	Affidavit of S. F. de Silva (2nd Respondent) ... ..	16-2-62	11
4	Affidavit of A. M. A. Azeez ... ..	16-2-62	14
5	Judgment of the Supreme Court ... ..	9-3-62	17
6	Judgment of the Supreme Court ... ..	3-9-63	18
7	Decree of the Supreme Court ... ..	3-9-63	21
8	Application for Conditional Leave to Appeal to the Privy Council ... ..	27-9-63	22
9	Minute of Order granting Conditional Leave to Appeal to the Privy Council ... ..	19-2-64	24
10	Application for Final Leave to Appeal to the Privy Council ...	13-3-64	25
11	Minute of Order granting Final Leave to Appeal to the Privy Council ... ..	8-5-64	26



## INDEX — PART II

## EXHIBITS

## Petitioner's Documents

(Documents Annexed to the Petition of the Board of Trustees of the Maradana Mosque, Dated 14-12-61).

Exhibit Mark	Description of Document	Date	Page
P 1	Letter to the President of the Executive Committee of the Maradana Mosque from the Director of Education ...	11-8-61	61
P 2	Reply to P 1 from the President of the Executive Committee of the Maradana Mosque ...	15-8-61	63
P 3	Telegram sent to the president of the Executive Committee of the Maradana Mosque by Action Committee, Zahira Teachers ...	15-8-61	64
P 4	Letter to the Principal, Zahira College, from Action Committee, Zahira Teachers ...	18-8-61	67
P 5	Letter to the Director of Education from the Manager, Zahira College ...	21-8-61	68
P 6	Letter to the President of the Executive Committee of the Maradana Mosque and Manager, Zahira College, from the Director of Education intimating the Minister's Order ...	21-8-61	69
P 7	Gazette Notification ...	21-8-61	70
P 8	Education Minister's (1st Respondent's) statement published by the Department of Information ...	—	71
P 9	Ceylon Government Gazette ...	2-12-61	76

## Respondents' Documents

(Documents Annexed to the Affidavit of S. F. de Silva, 2nd Respondent, Dated 16-2-62).

2 R 1	Letter to the Director of Education from some of the Teachers of Zahira College ...	11-8-61	58
2 R 2	Letter to the Director of Education from some of the Teachers of Zahira College ...	11-8-61	59
2 R 3	Letter to the Director of Education from some of the Teachers of Zahira College ...	14-8-61	62

## INDEX—PART II—(Contd.)

## Respondents' Documents

(Documents Annexed to the Affidavit of S. F. de Silva, 2nd Respondent,  
Dated 16-2-62)

Exhibit Mark	Description of Document	Date	Page
2 R 4	Letter to the President of the Executive Committee of the Maradana Mosque from the Director of Education ...	1-9-61	74
2 R 5	Letter to the Director of Education from the President of the Executive Committee of the Maradana Mosque ...	5-9-61	75

(Documents Annexed to the Affidavit of A. M. A. Azeez,  
Dated, 16-2-62)

X	Letter to the Manager, Zahira College, from A. M. A. Azeez with two annexes marked Xa and Xb ...	2-6-61	28
X 1	Letter to the Manager, Zahira College, from A. M. A. Azeez ...	5-6-61	37
X 2	Letter to the Chairman, Special Sub-Committee of the Executive Committee of the Maradana Mosque from A. M. A. Azeez ...	7-7-61	39
X 3	Letter to the Manager, Zahira College, from A. M. A. Azeez with annex marked X 3a ...	10-7-61	42
X 4 X 4a	Minutes of the Meeting of the Contributors to the Benefactors of Zahira Fund ...	16-7-61	43
X 5	Letter to the Manager, Zahira College, from A. M. A. Azeez ...	19-7-61	46
X 6	Letter to the Manager, Zahira College, from A. M. A. Azeez with annexes marked X 6a and X 6b ...	27-7-61	48
X 7	Letter to the Manager, Zahira College, from A. M. A. Azeez ...	3-8-61	55
X 8	Letter to the Manager, Zahira College, from A. M. A. Azeez with annexes marked X 8a and X 8b ...	6-8-61	56
X 9	Letter to the Principal, Zahira College, from the Manager, Zahira College, with annexes marked X 9a and X 9b ...	17-8-61	65

UNIVERSITY OF LONDON  
INSTITUTE OF ADVANCED  
LEGAL STUDIES

25 APR 1967

25 RUSSELL SQUARE  
LONDON, W.C.1.

87125

## INDEX—PART II—(Contd.)

## Respondents' Documents

(Documents Annexed to the Affidavit of A. M. A. Azeez,

Dated 16-2-62)

Exhibit Mark	Description of Document	Date	Page
X 10	Letter to the Editor of the "Ceylon Daily News" from the Executive Committee of the Maradana Mosque ...	9-12-61	77
X 11	Letter to the Editor of the "Ceylon Daily News" from A. M. A. Azeez ...	15-12-61	80

No. 15 OF 1965

Application for a mandate in the nature  
of a Writ of Certiorari under Section  
42 of the Courts Ordinance.

IN HER MAJESTY'S PRIVY COUNCIL  
ON AN APPEAL FROM  
THE SUPREME COURT OF CEYLON.

BETWEEN

THE BOARD OF TRUSTEES OF THE MARADANA MOSQUE,  
Maradana, Colombo.

Petitioner - Appellant.

AND

1. THE HONOURABLE BADI-UD-DIN MAHMUD,  
Minister of Education, Slave Island, Colombo.

2. S. F. DE SILVA,  
Director of Education, Malay Street, Colombo.

Respondents.

---

---

RECORD OF PROCEEDINGS

---

---

## No. 1

**Petition of the Board of Trustees of the Maradana Mosque**  
**IN THE SUPREME COURT OF THE ISLAND OF CEYLON**

No. 1  
 Petition of the  
 Board of Trustees  
 of the Maradana  
 Mosque —  
 14-12-61.

In the matter of an application for a Mandate  
 in the nature of a Writ of Certiorari under  
 Section 42 of the Courts Ordinance.

The Board of Trustees of the Maradana Mosque,  
 Maradana, Colombo.

*Petitioner.*

10

*Vs.*

1. HON'BLE BADI-UD-DIN MAHAMUD, Minister of  
 Education, Slave Island, Colombo.
2. S. F. DE SILVA, Director of Education, Malay  
 Street, Colombo.

*Respondents.*

To :

THE HONOURABLE THE CHIEF JUSTICE AND THE OTHER JUDGES  
 OF THE SUPREME COURT OF THE ISLAND OF CEYLON.

This 14th day of December, 1961.

The petition of the petitioner abovenamed appearing by Vernon  
 20 Bertrand Stanislaus Abraham, Charles Joseph Oorloff and Mahinda Abhaya  
 Ellepola, practising in partnership under the name style and firm of  
 " ABRAHAMS " its Proctors, states as follows.

1. The Petitioner is a Corporation constituted by the Maradana  
 Mosque Ordinance No. 22 of 1924 and is the Proprietor of Zahira College,  
 Colombo 10, and the general government and direction of the said College  
 is vested in the Petitioner corporation by section 7 of the aforesaid  
 Ordinance.

2. In terms of Section 5 of the Assisted Schools and Training Colleges  
 (Special provisions) Act No. 5 of 1960, the Petitioner, prior to the date (1st  
 30 December 1960), specified in the 1st Respondent's order made and published  
 under Section 3 of the said Act, elected to administer the said school which  
 was a Grade 1 Assisted School as an unaided school.

3. The 1st Respondent and the 2nd Respondent have at all material  
 times been and are the Minister and the Director of Education respectively  
 within the meaning of the Assisted Schools and Training Colleges (Special  
 Provisions) Act No. 5 of 1960.

No. 1  
Petition of the  
Board of Trustees  
of the Maradana  
Mosque —  
14-12-61.  
—(continued)

4. The Petitioner in terms of the aforesaid Section 5, served a written notice on the 2nd Respondent to the effect that it has made such an election and specifying the date of such an election as 30th November, 1960.

5. Thus from 30th November 1960 Zahira College, Colombo, came to be administered as an unaided school.

6. The Principal of Zahira College had on behalf of the Petitioner duly paid all the staff employed in connection with Zahira College, all their salaries and allowances up to the end of June 1961 from funds available to him. Later when the Principal informed Petitioner's Executive Committee that the funds in his possession were getting insufficient he was asked to continue the collections from the donors of the Zahira Benefactors Fund and also to utilize the profits from the Zahira College Hostel and in the event of any deficiency to apply to the said Executive Committee. 10

7. On or about the 8th August, 1961 at the instance of Mr. Ismail, the Manager of Zahira College and President of the Petitioners Executive Committee the Principal undertook to pay the salaries of the staff for the month of July and the President trusted the Principal to pay the said salaries in due time.

8. The Principal paid some of the Members of the staff their salaries before 10th August, 1961, but failed to pay their salaries to the rest of the staff and also neglected to inform in time the said Mr. Ismail of his failure to make the said payment. 20

9. By letter dated 11th August, 1961 marked P1 and filed herewith, the 2nd Respondent asked the President of the Petitioner's Executive Committee to show cause why steps should not be taken under Section 11 of Act No. 5 of 1960 for failure to pay the July salaries in time.

10. The aforesaid President on behalf of the Petitioner, by his reply " P2 " filed herewith dated 15th August, 1961 addressed to the 2nd Respondent stated that on account of some misunderstanding, the July salaries had not been paid to some members of the staff and that these salaries would be paid by 18th August 1961 and further assured that salaries for subsequent months would be paid on the due dates. 30

11. The misunderstanding, referred to above was that the President *bona fide* assumed that when the Principal undertook on 8th August 1961 to pay the salaries of the staff, the funds available to the Principal from the aforesaid collections made by him would be adequate for the purpose and had the Principal informed him that the funds were not sufficient, he would have furnished him with all the money required for the payment of the salaries of the rest of the staff.

12. On 15th August, 1961 the telegram marked " P3 " filed herewith, was received by the President from the Teachers. 40



18. The President on 17th August 1961 provided the necessary funds for the payment of the Teachers' salaries and the Principal offered to make the said payment on 18th August, 1961 but the teachers refused to accept such payment and sent letter dated 18th August, 1961 under registered cover, copy filed herewith marked " P4 ".

No. 1  
Petition of the  
Board of Trustees  
of the Maradana  
Mosque —  
14-12-61.  
—(continued)

14. The President by his letter dated 21st August, 1961, copy filed herewith marked " P5 ", informed the 2nd Respondent of his offer of payment through the Principal and annexed therewith original of letter " P4 ".

15. On 21st August, 1961, at about 5 p.m. the President received letter marked " P6 " filed herewith, from the 2nd Respondent stating that the 1st Respondent has ordered that Zahira College, Colombo, should be taken over for Director Management, as Section 6 (i) of Act No. 5 of 1960 was violated.

16. The Petitioner files herewith the Order made by the 1st Respondent, published in the Gazette, marked " P7 " and further files herewith a statement made by the 1st Respondent in regard to the take-over of Zahira College, marked " P8 ".

17. The Respondents have as from 21st August, 1961 taken over the management and administration of Zahira College, Colombo.

18. The Petitioner states that the 1st Respondent in purporting to make the above order under Section 11 of the Act No. 5 of 1960 has, in the circumstances of this case, exceeded his powers and acted *ultra vires*.

19. The conditions and/or facts necessary for the invocation and/or exercise of the powers under the aforesaid Section 11 were not present.

20. The Respondents have misdirected themselves in concluding that circumstances existed which justified an order under the aforesaid Section 11.

21. The Respondents have misconceived the extent and nature of their powers under Act No. 5 of 1960 and have failed to address their mind to the issues essential to a decision under Section 11.

22. The Respondents have misdirected themselves in taking the view that on any breach of the letter of Section 6 of Act No. 5 of 1960 read with Act No. 8 of 1961, however trivial and unintentional it be they have no alternative but to make an order under Section 11 of No. 5 of 1960 taking over the school. The 1st Respondent so states in his statement " P8 ".

" The law further provided that a school should be taken over for Director-management if any of these twelve conditions was violated. The procedure was also laid down. According to it, the Minister in consultation with the Director of Education, has to publish an order declaring the school to be Director-managed. The law does not give the Minister any discretion to excuse the violation of any of the abovementioned conditions or to adopt any course of action other than Director-management."

23. The circumstance referred to in "P1" does not justify the conclusion that Zahira College, Colombo, "is being so administered in contravention of any of the provisions" of Act No. 5 of 1960 as amended by Act No. 8 of 1961. One isolated default does not satisfy the description of "being so administered in contravention of any of the provisions" of the aforesaid Acts, especially as the default was soon cured when attention was drawn to it.

24. In any event, when the 1st Respondent made the impugned Order the alleged default had been cured and there was no justification for the order under Section 11. 10

25. The Respondents in coming to a decision adverse to the Petitioner under the said Section 11, were under a duty to act judicially and were bound to observe the principals of natural justice before making an order under Section 11 prejudicial to the Petitioner. The Respondents have failed so to do in this instance and have not held a proper inquiry before making the said Order.

26. The 1st Respondent in his statement "P8" states that there was :—

"clear indication that the Executive Committee of the Maradana Mosque had not only violated Section 6 (i) but had been dis- 20  
regarding Section 6 (k) which required the Committee to have available with it the necessary funds to conduct and maintain the School... Under these circumstances there was no alternative for me, but to issue the inevitable Order under Section 11 to take over Zahira College for Director-management. This step was rendered compulsory by the failure of the Executive Committee of the Maradana Mosque to comply with the unambiguous Provisions of the law".

The Petitioner states that it had no notice of any such charge nor any opportunity to disprove any such charge as contravention of Section 6 (k). 30  
The Petitioner further states that the Respondents in arriving at a decision to make an order under Section 11 have thus been influenced by irrelevant considerations.

27. Under Section 7 of the Maradana Mosque Ordinance No. 22 of 1924 the general government and direction of Zahira College which is an educational institution established in connection with the Maradana Mosque is vested in the Petitioner Corporation which is a religious body incorporated by that Ordinance. The Order contained in "P7" seeks to divest the Petitioner of the management of Zahira College and to that extent alters the constitution of the Petitioner corporation. This alteration is not made at 40  
the request of nor with the consent of the Petitioner's Executive Committee which is the governing authority of the Petitioner corporation. Since the Assisted Schools and Training Colleges (Special Provisions) Act No. 5 of 1960 and the Assisted Schools and Training Colleges (Supplementary Provisions) Act No. 8 of 1961 do not amend or repeal Section 29 of the Ceylon (Constitution) Order in Council 1946 such Acts cannot, in contravention of

sub-section 2 of Section 29 of the said Order in Council empower the Respondents to make an order under Section 11 of Act No. 5 of 1960, substituting the 2nd Respondent as the Manager of Zahira College Colombo and divesting the Petitioner of the management of the said school. In the circumstances the Respondents have exceeded their powers in making an Order under the said Section 11 with reference to Zahira College and such Order is thus void.

No. 1  
Petition of the  
Board of Trustees  
of the Maradana  
Mosque —  
14-12-61.  
—(continued)

28. By Order published in the Gazette of 2nd December, 1961 the 1st Respondent has made a Vesting Order in terms of Section 4 of Act No. 8 of 1961, declaring that the premises in which Zahira College, Colombo has been  
10 conducted and maintained on July 21st 1960 shall vest in the Crown as from 20th December, 1961. The Petitioner files herewith the said Gazette marked " P9 ".

29. Zahira College, Colombo is a leading Muslim Educational institution built on property belonging to the Maradana Mosque and established by Muslim founders for the propagation and practise of the Muslim religion in a Muslim environment. It is a cardinal tenet of that religion that educational institutions for the propagation and promotion of that religion should be established. In so far as any Orders made by the 1st Respondent by virtue of powers conferred on him by the aforesaid Acts No. 5 of 1960 and  
20 No. 8 of 1961 have the effect of restricting the free exercise of the Muslim religion as far as Zahira College, Colombo is concerned such order offends Section 29 (2) of the Ceylon Constitution Order-in-Council 1946 and is void. The Order of the 1st Respondent contained in " P7 " has led to the Order in P9 and the latter Order has the effect of prohibiting and/or restricting the free exercise of Muslim religion and is thus void under the said Section 29.

30. Protests have been made against the aforesaid Order and action of the Respondents in taking over Zahira College, Colombo and the Petitioner was hoping that the said Order would be rescinded and/or superseded  
30 and as Zahira College, Colombo is a leading Muslim institution, the Petitioner felt that it owned a moral duty to consult the Muslims in the Country before making this application. The Petitioner had at no time acquiesced in the Respondents' action and/or Order contained in " P7 ".

WHEREFORE the Petitioner prays :—

(a) that Your Lordships' Court be pleased to issue a Mandate in the nature of a Writ of Certiorari quashing the order of the Respondents contained in " P7 " dated 21st August, 1961.

(b) for costs, and

(c) for such other and further relief as to Your Lordships' Court shall seem meet.

40

(Sgd.) ABRAHAMS.

*Proctors for Petitioner.*

No. 1  
Petition of the  
Board of Trustees  
of the Maradana  
Mosque—  
14-12-61.  
—(continued)

**Documents filed herewith :—**

- “ P1 ” Letter dated 11th August, 1961 from Director of Education.
- “ P2 ” Reply dated 15th August, 1961 from the President to “ P1 ”.
- “ P3 ” Telegram dated 15th August, 1961 from Action Committee, Zahira Teachers.
- “ P4 ” Letter dated 18th August, 1961 from Action Committee, Zahira Teachers.
- “ P5 ” President’s letter dated 21st August, 1961 to Director of Education enclosing “ P4 ”.
- “ P6 ” Letter from Director of Education dated 21st August, 1961 in intimation the Minister’s Order.
- “ P7 ” Gazette Notification dated 21st August, 1961.
- “ P8 ” 1st Respondent’s Statement issued by the Department of Information.
- “ P9 ” Gazette dated 2nd December, 1961.

(Sgd.) ABRAHAMS.  
*Proctors for Petitioner.*

Settled by :

BALA NADARAJA ESQ.,  
IZZADEEN MOHAMED ESQ.,  
S. SHARVANANDA ESQ.,  
H. V. PERERA ESQ., Q.C.,  
*Advocates.*

20

---

**No. 2**

**Affidavit of A. H. M. Ismail, President of the Executive  
Committee of the Maradana Mosque**

**IN THE SUPREME COURT OF THE ISLAND OF CEYLON**

In the matter of an application for a Mandate in the nature of a Writ of Certiorari under Section 42 of the Courts Ordinance.

30

The Board of Trustees of the Maradana Mosque, Maradana,  
Colombo.

*Petitioner.*

No. 2  
Affidavit of  
A. H. M. Ismail,  
President of the  
Executive Com-  
mittee of the  
Maradana  
Mosque —  
14-12-61.

No.

Vs.

No. 2  
Affidavit of  
A. H. M. Ismail,  
President of the  
Executive Com-  
of the Maradana  
Mosque —  
14-12-61.  
—(continued)

1. HON'BLE BADI-UD-DIN MAHMUD, Minister of Education, Slave Island, Colombo.
2. S. F. DE SILVA, Director of Education, Malay Street, Colombo.

*Respondents.*

I, ABDÚL HAMEED MOHAMED ISMAIL of "Ryhan" Kynsey Road, Colombo, in the Island of Ceylon, do hereby solemnly, sincerely and truly declare and affirm as follows :—

10 1. I am the President of the Executive Committee of the Board of Trustees of the Maradana Mosque and the Manager of Zahira College, Colombo. I am also an Advocate of this Honourable Court.

2. The Petitioner is a Corporation constituted by the Maradana Mosque Ordinance No. 22 of 1924 and is the Proprietor of Zahira College, Colombo 10 and the general government and direction of the said College is vested in the Petitioner Corporation by Section 7 of the aforesaid Ordinance.

3. In terms of Section 5 of the Assisted Schools and Training Colleges (Special Provisions) Act No. 5 of 1960, the Petitioner, prior to the date  
20 (1st December, 1960) specified in the 1st Respondent's order made and published under Section 3 of the said Act, elected to administer the said school which was a Grade 1 Assisted School as an unaided School.

4. The 1st Respondent and the 2nd Respondent have at all material times been and are the Minister and the Director of Education respectively within the meaning of the Assisted Schools and Training Colleges (Special Provisions) Act No. 5 of 1960.

5. The Petitioner in terms of the aforesaid Section 5, served a written notice on the 2nd Respondent to the effect that it has made such an election and specifying the date of such an election as 30th November, 1960.

30 6. Thus from 30th November 1960 Zahira College, Colombo, came to be administered as an unaided school.

7. The Principal of Zahira College had on behalf of the Petitioner duly paid all the staff employed in connection with Zahira College, all their salaries and allowances up to the end of June, 1961 from funds available to him. Later when the Principal informed Petitioner's Executive Committee that the funds in his possession were insufficient he was asked to continue the collections from the Donors of the Zahira Benefactors Fund and also to utilize the profits from the Zahira College Hostel and in the event of any deficiency to apply to the said Executive Committee.

No. 2  
 Affidavit of  
 A. H. M. Ismail,  
 President of the  
 Executive Com-  
 mittee of the  
 Maradana  
 Mosque —  
 14-12-61.  
 —(continued)

8. On or about the 8th August, 1961 at my instance the Principal undertook to pay the salaries of the staff for the month of July and I trusted the Principal to pay the said salaries in due time.

9. The Principal paid some of the members of the staff their salaries before 10th August, 1961, but failed to pay their salaries to the rest of the staff and also neglected to inform me in time of his failure to make the said payment.

10. By letter dated 11th August, 1961 marked "P1" and filed herewith, the 2nd Respondent asked me to show cause why steps should not be taken under Section 11 of Act No. 5 of 1960 for failure to pay the July 10 salaries in time.

11. I, on behalf of the Petitioner, by my reply "P2" filed herewith dated 15th August, 1961 addressed to the 2nd Respondent stated that on account of some misunderstanding, the July salaries had not been paid to some members of the staff and that these salaries would be paid by 18th August, 1961 and further assured that salaries for subsequent months would be paid on the due dates.

12. The misunderstanding, referred to above was that I *bona fide* assumed that when the Principal undertook on 8th August, 1961 to pay the salaries of the staff, the funds available to the Principal from the afore- 20 said collections made by him would be adequate for the purpose and had the Principal informed me that the funds were not sufficient, I would have furnished him with all the money required for the payment of the salaries of the rest of the staff.

13. On 15th August, 1961 the telegram, marked "P3" filed herewith, was received by me from the Teachers.

14. On the 17th August, 1961 I provided the necessary funds for the payment of the teachers' salaries and the Principal offered to make the said payment on 18th August, 1961 but the teachers refused to accept such pay- 30 ment and sent letter dated 18th August, 1961 under registered cover, copy filed herewith marked "P4".

15. By my letter dated 21st August, 1961, a copy of which is filed herewith marked "P5", I informed the 2nd Respondent of my offer of payment through the Principal and annexed therewith original of letter "P4".

16. On 21st August 1961, at about 5 p.m., I received letter marked "P6" filed herewith, from the 2nd Respondent stating that the 1st Res- pondent has ordered that Zahira College, Colombo, should be taken over for Director Management, as Section 6 (d) of Act No. 5 of 1960 was violated.

17. I file herewith the Order made by the 1st Respondent, published 40 in the Gazette, marked "P7" and I further file herewith a statement made by the 1st Respondent in regard to the take-over of Zahira College, marked "P8".

18. The Respondents have as from 21st August, 1961 taken over the management and administration of Zahira College, Colombo.

No. 2  
Affidavit of  
A. H. M. Ismail,  
President of the  
Executive Com-  
mittee of the  
Maradana  
Mosque —  
14-12-61.  
—(continued)

19. I state that the 1st Respondent in purporting to make the above order under Section 11 of the Act No. 5 of 1960 has, in the circumstances of this case, exceeded his powers and acted *ultra vires*.

20. The conditions and/or facts necessary for the invocation and/or exercise of the powers under the aforesaid Section 11 were not present.

21. The Respondents have misdirected themselves in concluding that circumstances existed which justified an order under the aforesaid Section 11.

10 22. The Respondents have misconceived the extent and nature of their powers under Act No. 5 of 1960 and have failed to address their mind to the issues essential to a decision under Section 11.

23. The Respondents have misdirected themselves in taking the view that on any breach of the letter of Section 6 of Act No. 5 of 1960 read with Act No. 8 of 1961, however trivial and unintentional it be they have no alternative but to make an order under Section 11 of No. 5 of 1960 taking over the school. The 1st Respondent so states in his statement " P8 ".

20 " The law further provided that a school should be taken over for Director-management if any of these twelve conditions was violated. The procedure was also laid down. According to it, the Minister in consultation with the Director of Education, has to publish an Order declaring the school to be Director-managed. The law does not give the Minister any discretion to excuse the violation of any of the abovementioned conditions or to adopt any course of action other than Director-management ".

24. The circumstance referred to in P1 does not justify the conclusion that Zahira College, Colombo, " is being so administered in contravention of any of the provisions " of Act No. 5 of 1960 as amended by Act No. 8 of 1961. One isolated default does not satisfy the description of " being so administered in contravention of any of the provisions " of the aforesaid Acts, especially as the default was soon cured when attention was drawn to it.

25. In any event, when the 1st Respondent made the impugned Order the alleged default had been cured and there was no justification for the order under Section 11.

26. The Respondents in coming to a decision adverse to the Petitioner under the said Section 11, were under a duty to act judicially and were bound to observe the principals of natural justice before making an Order under Section 11 prejudicial to the Petitioner. The Respondents have failed so to do in this instance and have not held a proper inquiry before making the said Order.

N.o 2  
Affidavit of  
A. H. M. Ismail,  
President of the  
Executive Com-  
mittee of the  
Maradana  
Mosque —  
14-12-61.  
—(continued)

27. The 1st Respondent in his statement P8, states that there was :

“ clear indication that the Executive Committee of the Maradana Mosque had not only violated Section 6 (i) but had been disregarding Section 6 (k) which required the Committee to have available with it the necessary funds to conduct and maintain the School..... Under these circumstances there was no alternative for me but to issue the inevitable Order under Section 11 to take over Zahira College for Director-management. This step was rendered compulsory by the failure of the Executive Committee of the Maradana Mosque to comply with the unambiguous provisions of the law ”.

I state that the Petitioner Corporation had no notice of any such charge nor any opportunity to disprove any such charge as contravention of Section 6 (k). I further state that the Respondents in arriving at a decision to make an order under Section 11 have thus been influenced by irrelevant considerations.

28. Under Section 7 of the Maradana Mosque Ordinance No. 22 of 1924 the general government and direction of Zahira College which is an educational institution established in connection with the Maradana Mosque is vested in the Petitioner corporation, which is a religious body incorporated by that Ordinance. The Order contained in P7 purports to divest the Petitioner of the management of Zahira College and to that extent alters the constitution of the Petitioner corporation. This alteration is not made at the request of nor with the consent of the Petitioner's Executive Committee which is the governing authority of the Petitioner corporation. Since the Assisted Schools and Training Colleges (Special Provisions) Act No. 5 of 1960 and the Assisted Schools and Training Colleges (Supplementary Provisions) Act No. 8 of 1961 do not amend or repeal Section 29 of the Ceylon (Constitution) Order-in-Council 1946 such Acts cannot, in contravention of sub-section 2 of Section 29 of the said Order-in-Council empower the Respondents to make an order under Section 11 of Act No. 5 of 1960, substituting the 2nd Respondent as the Manager of Zahira College, Colombo and divesting the Petitioner of the management of the said School. In the circumstances the Respondents have exceeded their powers in making an Order under the said Section 11 with reference to Zahira College and such Order is thus void.

29. By Order published in the Gazette of 2nd December 1961 the 1st Respondent has made a Vesting Order in terms of Section 4 of Act No. 8 of 1961, declaring that the premises in which Zahira College, Colombo, has been conducted and maintained on July 21st, 1960, shall vest in the Crown as from 20th December 1961. I file herewith the said Gazette marked P9.

30. Zahira College, Colombo, is a leading Muslim Educational Institution built on property belonging to the Maradana Mosque and established by Muslim founders for the propagation and practise of the Muslim Religion in a Muslim environment. It is a cardinal tenet of our religion that educational institutions for the propagation and promotion of that religion.



should be established. In so far as any Order made by the 1st Respondent by virtue of powers conferred on him by the aforesaid Acts No. 5 of 1960 and No. 8 of 1961 have the effect of restricting the free exercise of the Muslim Religion as far as Zahira College, Colombo, is concerned such order offends Section 29 (2) of the Ceylon Constitution Order-in-Council 1946 and is void. The Order of the 1st Respondent contained in P7 has led to the Order in P9 and the latter Order has "the effect of prohibiting and/or restricting the free exercise of Muslim Religion and is thus void under the said Section 29.

No. 2  
Affidavit of  
A. H. M. Ismail,  
President of the  
Executive Com-  
mittee of the  
Maradana  
Mosque —  
14-12-61.  
—(continued)

10 31. Protests have been made against the aforesaid Order and action of the Respondents in taking over Zahira College, Colombo, and I was hoping that the said Order would be rescinded and/or superseded and as Zahira College, Colombo, is a leading Muslim institution, the Petitioner felt that it owed a moral duty to consult the Muslims in the Country before making this application. The Petitioner had at no time acquiesced in the Respondent's action and/or Order contained in P7.

Signed and affirmed to at  
Colombo on this 14th day  
of December 1961..... }

Sgd. A. H. M. ISMAIL.

20

Before Me,

Sgd. C. R. DE ALWIS.

*A Justice of the Peace.*

---

No. 3

**Affidavit of S. F. de Silva (2nd Respondent)**

No. 3  
Affidavit of  
S. F. de Silva,  
(2nd Respondent)  
— 16-2-62.

**IN THE SUPREME COURT OF THE ISLAND OF CEYLON**

In the matter of an application for a Mandate in the nature of a Writ of Certiorari under Section 42 of the Courts Ordinance.

30

The Board of Trustees of the Maradana Mosque, Maradana, Colombo.

*Petitioner.*

S.C. Application  
No. 573 of 1961.

*Vs.*

1. HON'BLE BADI-UD-DIN MAHMUD, Minister of Education, Slave Island, Colombo.
2. S. F. DE SILVA, Director of Education, Malay Street, Colombo.

*Respondents.*

No. 3  
Affidavit of  
S. F. de Silva,  
(2nd Respondent)  
— 16-2-62.  
—(continued)

I, STEPHEN FREDERICK DE SILVA of Colombo being a Buddhist do hereby solemnly sincerely and truly declare and affirm as follows :—

1. I am the second respondent abovenamed and the Director of Education.

2. On the 11th of August, 1961, I was informed by certain teachers who were members of the Staff of Zahira College, Colombo, that their salaries for the month of July, 1961, had not been paid to them. I produce a copy of a letter dated 11th August, 1961, marked " 2R1 ".

3. On the 11th August, 1961, I wrote the letter marked " P1 " which has been produced by the petitioner. 10

4. Representations were made to me by some of the teachers aforesaid that the delay in payment of their salaries had brought about grave hardships to their families and dependents. I produce copies of letters dated 11th August, 1961, and 14th August, 1961, marked " 2R2 " and " 2R3 " respectively.

5. Of the sixty-four teachers on the Staff of the said school, fifty-two teachers had not been paid their salaries for July, 1961.

6. Among the said unpaid teachers an Action Committee had been formed to fight for their rights. The said teachers as a body had refused to accept the late offer of payment of salary and had requested me to redress their grievances. I had credible information that the said teachers contemplated strike action and I considered that such action would cause serious damage to the educational interests of 1,846 students of this school. 20

7. On the 16th August, 1961, I received the letter dated 15th August, 1961, a copy of which has been produced by the petitioner marked " P2 ".

8. The first respondent, after consultation with me, being satisfied that Zahira College was being administered as an unaided school in contravention of Section 6 (i) of Act No. 5 of 1960 (as amended by Act No. 8 of 1961) made the order dated 19th August, 1961, a copy of which has been produced by the petitioner marked " P7 ". 30

9. No protests or representations of any kind have been made by the petitioner to the first respondent or to me against the said Order marked " P7 ".

10. In reply to my letter to the President of the Executive Committee of the petitioner Corporation dated 1st September, 1961, a copy of which I produce marked " 2R4 ", I received his letter dated 5th September, 1961, a copy of which I produce marked " 2R5 ".

11. I took the steps, hereinafter mentioned to reorganize the school in accordance with the established policy of the Government.

- (a) There was an insufficient number of qualified teachers on the Staff of the School. After 30th November, 1960, sixteen qualified teachers had ceased to be employed in the School. Accordingly they have been replaced by qualified teachers. No. 3  
Affidavit of  
S. F. de Silva,  
(2nd Respondent)  
16-2-62.  
—(continued)
- 10 (b) During the period 1st December, 1960 to 21st August, 1961, there had been employed on the School Staff sixteen temporary teachers of whom thirteen were employed on a daily-pay basis including four who did not possess even the minimum qualification for employment as teachers. Of these eight have now been employed by me on a permanent basis and have become monthly paid employees.
- (c) Sixty-six teachers on the staff of Zahira College have obtained employment in Government Service and have become eligible for the payment of rent allowances and holiday warrants.
- 20 (d) The Private School which was run as a fee-levying institution on the premises of Zahira College by the Principal of Zahira College ceased to exist and became merged with Zahira College with the consequent transfer of the pupils and the staff to the latter institution. The aforesaid private-school cannot in law be re-established.
- (e) A new scheme of admissions on an area basis was introduced in November, 1961, and 164 pupils were consequently admitted to the Lower Kindergarten of the School.
- 30 (f) Consequent on the changes referred to in sub-paragraphs (d) and (e), Zahira College which on 21st August, 1961, had 1,846 pupils has now 2,621 pupils on the roll. If Zahira College is handed back to the petitioner it would not be possible to provide satisfactory education facilities for these 775 students unless the petitioner undertakes to provide them with education at Zahira College.
- (g) It was found that Hostel fees charged by this School were excessive and that a profit of approximately Rs. 3,000/- was realised from Hostel fees paid by 188 students. The Hostel fees have accordingly been reduced from Rs. 70/- a month to Rs. 50/- a month.
- (h) Eighteen members of the clerical and minor staff of the School have obtained employment in Government Service.

40 Read over, signed and affirmed }  
to at Colombo, on this 16th day }  
of February, 1962. }

(Sgd.) S. F. DE SILVA.

Before Me

(Sgd.) SIVA PASUPATHI.

*Justice of the Peace for the  
Island of Ceylon.*

## Affidavit of A. M. A. Azeez

## IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application for a Mandate  
in the nature of a Writ of Certiorari under Sec-  
tion 42 of the Courts Ordinance.

The Board of Trustees of the Maradana  
Mosque, Maradana, Colombo.

*Petitioner.*

S.C. Application  
No. 573 of 1961.

*Vs.*

10

1. HON'BLE BADI-UD-DIN MAHMUD, Minister  
of Education, Slave Island, Colombo.
2. S. F. DE SILVA, Director of Education,  
Malay Street, Colombo.

*Respondents.*

I, ABOOBUCKER MOHAMED ABDUL AZEEZ, being a Muslim do hereby  
solemnly sincerely and truly declare and affirm as follows :—

1. At all times material to this application I was the Principal of  
Zahira College, Colombo, having assumed duties as such in August, 1948.

2. Subsequent to the decision made by the petitioner to run the  
aforesaid School as an unaided School at a meeting of the Executive Com-  
mittee of the petitioner held on 22nd November, 1960, at which I was  
present, the said Committee authorised me to collect money from bene-  
factors of the School to enable the petitioner to run it as an unaided school.  
At the said meeting I was further authorised to pay such collections to the  
credit of a special bank account that was to be opened for the purpose. A  
special Sub-Committee of the said Executive Committee consisting of  
Messrs. Falil A. Gaffoor, Nilar and Rahaman A. Hathy was also appointed  
to go through the accounts relating to such collections on behalf of the said  
Executive Committee.

30

3. Accordingly collections were made by me and such collections came  
to be known as the Benefactors of Zahira Fund. The collections were used  
from time to time for the payment of the salaries of teachers of the said  
school from the month of December, 1960, onwards.

4. On the 2nd June, 1961, I sent a letter to Mr. A. H. M. Ismail the  
Manager of Zahira College who is also the President of the said Executive  
Committee, to which was annexed, a statement of the income and expen-  
diture of the Benefactors of Zahira Fund and a list of donations. I produce  
a copy of the said letter marked " X " and the annexures marked " Xa "  
and " Xb ".

40

5. I sent the said Manager my detailed observations on the financial position of the said Fund in my letter dated 5th June, 1961, (a copy of which I produce, marked "X1") and therein expressed the view that the anticipated support for the Fund was not forthcoming.

No. 4  
Affidavit of  
A. M. A. Azeez —  
16-2-62.  
—(continued)

6. The special Sub-Committee aforesaid met me in the house of the Chairman Mr. Falil A. Caffoor on the 5th July, 1961, and discussed my letters of the 2nd June, 1961, and 5th June, 1961 and I informed the said Sub-Committee of the position of the finances of the College including the Benefactors of Zahira Fund.

10 7. This was followed by a letter from me dated 7th July, 1961, (a copy of which I produce marked "X2") addressed to the Chairman of the "Special Sub-Committee with a copy to the Manager.

8. At a meeting of the said Executive Committee held on 9th July, 1961, it was decided that I should meet the contributors to the Benefactors of Zahira Fund as soon as possible and induce them to contribute more to the Fund and also induce the parents of the pupils of the school to contribute.

9. On the 10th July, 1961, I sent the Manager a letter in which I informed him of the arrangements made for the contributors of the Benefactors of Zahira Fund to meet. I produce, marked "X3", a copy of the said letter and a copy of the notices referred to therein, marked "X3a".

10. I produce true copies of the minutes of the meeting of the contributors to the Benefactors of Zahira Fund held on 16th July, 1961, at 9.30 a.m., marked "X4", and the minutes of the meeting held at 11.15 a.m., marked "X4a".

11. I sent the said Manager a letter dated 19th July, 1961, in which I drew attention to the legal obligations of the proprietor of the said School to pay the salaries of the teachers on or before the due date. Furthermore, in this letter, I urged the proprietor of the School to make a decision as to its future. I produce a copy of the said letter, marked "X5".

12. The said letter of 19th July, 1961, was discussed at a meeting of the said Executive Committee held on 26th July, 1961. The said Executive Committee decided that Zahira College should continue to be run as an unaided School. Dr. Waffarn and Mr. A. J. M. Nameel were appointed to Special Sub-Committee aforesaid and I was requested to utilise the profits of the Zahira College Hostel that would accrue thereafter for the payment of the teachers' salaries till the financial position improved. On the 27th July, 1961, I sent the Manager a list of the contributors of the Fund together with their addresses and a statement of the income and expenditure of the Zahira College Hostel. I produce a copy of this letter marked "X6" with annexures marked "X6a" and "X6b".

13. At the request of the Manager, by my letter dated 3rd August, 1961, I sent further details in regard to Zahira College Hostel. I produce a copy of this letter marked "X7".

No. 4  
Affidavit of  
A. M. A. Azeez —  
16-2-62.  
—(continued)

14. Since I was ill at the time and medically advised not to get about I sent the letter dated 6th August, 1961, to the Manager through the Vice-Principal of the School (Mr. M. F. M. H. Fakhir) in which I stated that a sum of Rs. 12,535/- was urgently needed for payment of the teachers' salaries for July, 1961, payable not later than the 10th August, 1961. I produce marked "X8" a copy of the said letter together with the annexures attached thereto, marked "X8a" and "X8b".

15. On the 8th August, 1961, the Manager met me in my house and suggested that the profits of the hostel should be increased. When I reminded him about my letter of the 6th August, 1961, with regard to the balance amount necessary to pay the teachers' salaries for July, he told me that Mr. Falil A. Cafoor and the Special Sub-Committee were collecting the money with the assistance of certain members of the Old Boys' Association of Zahira College and asked me in the mean while to pay the salaries of as many teachers as possible with the money available. <sup>10</sup>

16. On the 17th August, 1961, I received a letter from the Manager enclosing a cheque for Rs. 8,500/-. I produce a copy of the said letter marked "X9". I also produce copies of the letters referred to therein marked "X9a" and "X9b".

17. On the 18th August, 1961, I offered to pay the salaries of the teachers who had not been paid. This offer was declined by Mr. Roy de Mel, the Chairman of the Action Committee on behalf of the said teachers. <sup>20</sup>

18. I have read the affidavit affirmed to by the President of the said Executive Committee which has been filed in these proceedings and specifically deny that on or about 8th August, 1961, I undertook to pay the salaries of the Staff for the month of July. The President of the said Executive Committee was at all material times and particularly on 8th August, 1961 and thereafter fully aware of the fact that the money in my hands was insufficient to pay the salaries of all the unpaid teachers by the 10th August, 1961. Consequently I deny that, after representations were made by me that the funds to pay the teachers were insufficient I was asked to apply to the said Executive Committee "in the event of any deficiency" after collecting from donors of the Zahira Benefactors Fund and utilising profits from the Zahira College Hostel. I specifically deny that there was any misunderstanding in consequence of any undertaking given by me to pay the teachers' salaries. <sup>30</sup>

19. At no time after the 10th August, 1961, till a letter to the Editor of the Ceylon "Daily News" appeared in an issue of that paper on the 9th December, 1961, did the Manager either by letter or orally accused me of a breach of an undertaking to pay the teachers' salaries for July by the 10th of August. I produce a copy of the said letter, marked "X10". I replied to the said letter by my letter to the Editor of the Ceylon "Daily News" which appeared in the issue of that paper on the 15th December, 1961, a copy of which I produce, marked "X11". <sup>40</sup>

Read over and affirmed to }  
 at Colombo on this 16th }  
 day of February, 1962. }

Sgd. A. M. A. AZEEZ.

No. 4  
 Affidavit of  
 A. M. A. Azeez —  
 16-2-62.  
 —(continued)

Before me,

Sgd. P. COLIN-THOME,  
*Justice of the Peace*  
*for the Island of Ceylon.*

---

No. 5

**Judgment of the Supreme Court**

No. 5  
 Judgment of the  
 Supreme Court —  
 9-3-62.

10 Application for a Mandate in the nature of a Writ of Certiorari on the Hon. Badi-ud-din Mohamed, Minister of Education and S. F. de Silva, Director of Education, Colombo. (S.C. 573/1961).

*Present* : HERAT, J.

*Counsel* : H. V. PERERA, Q.C., with S. SHARVANANDA, IZADEEN MOHAMED and BALA NADARAJAH for the petitioner.

A. C. ALLES, D.S.G., with H. L. DE SILVA, C.C., and R. I. OBEYSEKERA, C.C., for the 1st and 2nd respondents.

*Date* : 9th March, 1962.

20 *Herat, J.*

In this case, the petitioners asked for a Writ of Certiorari to quash an order of the Honourable the Minister of Education by which a certain private school, namely Zahira College, Colombo, was declared to be director managed.

The learned Deputy Solicitor-General has taken a preliminary objection to the hearing of this application. The objection is raised on a three-fold basis, namely, (a) That there was acquiescence on the part of the petitioners in the act of the Honourable the Minister, (b) That there were laches on the part of the petitioners in seeking this remedy, and (c) That as a result of the school being declared director managed there has been a complete reorga-  
 30 nization of the administration of the institution and it would be against

No. 5  
Judgment of the  
Supreme Court —  
9-8-62.  
—(continued)

public policy, in the event of the writ being granted, to alter this new organization in any way. I have considered all these three points carefully. The order complained of was made on the 21st August, 1961, and this application was filed on the 14th December, 1961. It appears that some representations have been made although it may not be clear that these representations were made by the petitioners themselves. In all the circumstances of the case, I am inclined to think that there was no acquiescence on the part of the petitioners. Even the question of laches depends upon the circumstances of each case and I am of opinion that there has been no laches, in this case. 10

Moreover, the order of the Honourable the Minister is being attacked, as Mr. H. V. Perera states, on the ground of a want of absolute jurisdiction or total want of jurisdiction as distinct from a mere contingent want of jurisdiction. If there is so, the petitioners it appears, would have a right to the remedy. I do not think that the mere reorganization of the administration of the school is a factor which would deter me from hearing the application on its merits.

I overrule the objection and direct that the application be heard on its merits.

(Sgd.) KINGSLEY HERAT, 20  
*Puisne Justice.*

No. 6  
Judgment of the  
Supreme Court —  
3-9-63.

## No. 6

### Judgment of the Supreme Court

Application for a Mandate in the nature of a Writ of Certiorari on the Hon. Badi-ud-din Mohamed, Minister of Education and S. F. de Silva, Director of Education, Colombo.

S. C. Application. No. 573/61

*Present :* HERAT, J.

*Counsel :* H. V. PERERA, Q.C., with S. SHARVANANDA, IZADEEN MOHAMED and BALA NADARAJAH, for the petitioner. 30

A. C. ALLES, D.S.G., and V. TENNEKOON, D.S.G., with H. L. de SILVA and R. I. OBEYESEKERA, Crown Counsel, for the 1st and 2nd respondents.

*Argued on :* 22nd March, 1962.

*Decided on :* 3rd September, 1963.



HERAT, J.

No. 6  
 Judgment of the  
 Supreme Court —  
 3-9-63.  
 —(continued)

Section 6 (1) of Act No. 5 of 1960 as amended by Act No. 8 of 1961 (the Assisted Schools and Training Colleges Special Provisions Acts) provides that in the case of all unaided schools the salaries of teachers should be paid on or before the 10th day of every succeeding month. A breach of that provision is a breach of a provision of the Act.

Section 11 of the said Act No. 5 as amended by Act No. 8 aforesaid provides that “ where the Minister is satisfied . . . after consultation with the Director, that the unaided school is being so administered in contraven-  
 10 tion of any of the provisions of this Act . . . the Minister may by order published in the Gazette declare that with effect from such date as shall be specified in the order (a) that such school shall cease to be an unaided school, (2) such school shall be deemed for all purposes to be an assisted school and (3) the Director shall be the Manager of such school.”

At all relevant times Zahira College, Maradana, was an unaided school within the meaning of the said Act No. 5 of 1960 as amended by Act No. 8 of 1961. The petitioner which is the Board of Trustees of the Maradana Mosque is an incorporated body under Section 7 of the Maradana Mosque Ordinance No. 22 of 1924. The Petitioner at all relevant times was the  
 20 Manager of the said Zahira College. It is an admitted fact and established on the affidavits filed in these proceedings that the salary for July, 1961, of 52 teachers out of a total of 64 teachers belonging to the Staff of Zahira College was not paid to them by or before the 10th of August, 1961, which date according to the provisions of Section 6 of Act No. 5 of 1960 as amended by Act No. 8 of 1961 was the latest date for the payment of their salaries. There was clearly a contravention of Section 6 of the Act and if the Minister was satisfied in consultation with the Director of Education that the School in question was being administered in contravention of the provisions of the Act, the Minister was entitled to make an order under Section 11 declaring  
 30 that the School was now an assisted school and that the Director was the Manager. And after this was done a vesting order vesting the school premises in the Crown could be made under Section 4 (1) of Act No. 8 of 1961. This was also done.

The Minister in consultation with the Director acted under Section 11 and published an order in the Government Gazette declaring that he was satisfied in consultation with the Director that there had been a contravention of the provisions of Section 6, and declaring Zahira College an assisted school and that it was director-managed. Subsequently a vesting order vesting school premises in the Crown was duly made and published in the  
 40 Government Gazette.

The petitioner in this application seeks a writ of certiorari to quash these orders.

In my opinion this application must fail for two reasons. The first reason is that a writ of certiorari does not lie in the circumstances of this case. It is trite law that remedy by way of certiorari only lies to question and quash a judicial act. It does not lie to question or quash a ministerial or executive act, even if done illegally. Such an act, even if illegal or *ultra vires*, must be canvassed by a different procedure. Are the acts of the

Minister in making the declaratory order under Section 11 and the consequential vesting order under Section 4 “judicial” acts or “executive” “administrative” acts? One must look at the relevant provisions of the statute before one answers this question. Section 11 requires the Minister to be satisfied in consultation with the Director that the Act is being contravened. Giving these words their plain grammatical meanings, all that the statute requires the Minister to do is to consult the Director and satisfy himself of contravention. There is no requirement for an inquiry of any sort, far less for a judicial inquiry. I am not in the habit of burdening my judgments by copious quotations from other men’s minds, but I am humble enough to spend much time in reading and meditating upon the opinions of other judges and legal writers on the difference between a “judicial” act and an “executive” act. The result of what I have read makes me come to the conclusion that the essence of a “judicial act” is where the law predicates an inquiry by the judicial process before the reaching of the conclusion which results in the act. On the other hand an executive act is done by a process where the law predicates no prior judicial process before the arrival of a mental decision preceding the act. The exercise of judgment is not the test. For instance an administrator has to decide on which of two plots of land, A or B, a housing scheme is to be erected. Before he decides to build on plot A rather than on plot B, he will consider many factors and undoubtedly exercise his powers of judgment — but his decision in favour of plot A and not in favour of plot B is not a judicial act. The law does not require him to go through the judicial process. The essence of the judicial process is inquiry, the taking and consideration of evidence and the hearing of both sides interested in the matter. Very often, even where purely ministerial or executive acts are concerned, the value of the judicial process is such that the person called upon to decide adopts the judicial process by holding some sort of inquiry and hearing both sides, but the act still remains a ministerial act. In the case of the statute under consideration, there is no requirement of any inquiry. The Minister can consult the Director and can satisfy himself by perusing the file forwarded by the Director. If the Minister is then personally satisfied that there has been a contravention of a provision of the Act, it is open for him to act under Section 11. It may be that the act of the Minister is unjustified but as his act is a purely ministerial one it cannot be questioned by way of certiorari but has to be tested in our Courts in other ways. The great Writ of Certiorari must be jealously guarded and upheld no doubt, but it must be confined to its proper scope and not allowed to hamper the administration in its legitimate sphere.

The second reason why in my opinion the present application fails is the following. The act of the Minister was *intra vires* and not *ultra vires*. The words of Section 11 are “being administered in contravention of the provisions”. In my view one flagrant act of contravention satisfies the condition of “being administered in contravention”. As stated earlier, 52 teachers out of a total of 64 were not paid their salaries for July, 1961, by 10th August, 1961, and they had brought their grievances to the notice of the Director. The Director and the Minister acted in consultation with each other and the order under Section 11 was legally valid. I uphold the validity of the Minister’s act and I hold that in the circumstances of the case it was a perfectly honourable and legal action for the Minister to do.

I also hold that the vesting order under Section 4 of Act 8 of 1961 was a ministerial act and cannot be questioned by way of Certiorari. In fact it is a purely consequential order flowing from the order made under Section 11. I also hold that this order was *intra vires*.

No. 6  
Judgment of the  
Supreme Court —  
3-9-63.  
—(continued)

In the result, I hold that the application of the petitioner fails and is dismissed with costs payable to both the respondents.

(Sgd.) KINGSLEY HERAT,  
*Puisne Justice.*

---

No. 7

10

**Decree of the Supreme Court**

No. 7  
Decree of the  
Supreme Court —  
3-9-63.

ELIZABETH THE SECOND, QUEEN OF CEYLON AND OF HER OTHER  
REALMS AND TERRITORIES, HEAD OF THE COMMONWEALTH

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application for a mandate in the nature of a Writ of Certiorari under Section 42 of the Courts Ordinance.

The Board of Trustees of the Maradana Mosque,  
Maradana, Colombo.

*Petitioner.*

20 S. C. Application  
No. 573 of 1961.

*Vs.*

1. HON'BLE BADI-UD-DIN MAHMUD, Minister of Education, Slave Island, Colombo.
2. S. F. DE SILVA, Director of Education, Malay Street, Colombo.

*Respondents.*

This matter in which the Petitioner prays for a mandate in the nature of a Writ of Certiorari quashing the order of the Respondents contained in the Government Gazette No. 12,612 dated 21st August, 1961, declaring that C/Zahira College, Colombo 10, shall cease to be an Un-aided School and shall be deemed for all purposes to be an Assisted School and that the Director of Education shall be its Manager with effect from 21st August, 1961, having come up before the Honourable Kingsley Herat, Puisne Justice, on the 22nd day of March, 1962, in the presence of H. V. Perera Esquire, q.c. with S. Sharvananda Esquire, Izadeen Mohamed Esquire and Bala Nadarajah Esquire, Advocates, for the Petitioner, and A. C. Alles Esquire,

No. 7  
Decree of the  
Supreme Court —  
3-9-68.  
—(continued)

Deputy-Solicitor-General and V. Tennekoon Esquire, Deputy Solicitor-General with H. L. de Silva Esquire and R. I. Obeysekera Esquire, Crown Counsel for the Respondents.

It is considered and adjudged by the order of this Court delivered on 3rd September, 1968, that this application be and it is dismissed with costs payable to both the Respondents.

Witness the Honourable Hema Henry Basnayake, q.c., Chief Justice, at Colombo, this 19th day of September in the year One thousand Nine hundred and Sixty three and of our Reign the Twelfth.

(Sgd.) LAURIE WICKRAMASINHA, <sup>10</sup>  
*Deputy Registrar of the Supreme Court.*

No. 8  
Application for  
Conditional Leave  
to Appeal to the  
Privy Council —  
27-9-68.

**No. 8**

**Application for Conditional Leave to Appeal to the Privy Council  
IN THE SUPREME COURT OF CEYLON**

In the matter of an application for Conditional Leave to Appeal to Her Majesty the Queen in Council under the Appeals (Privy Council) Ordinance.

In the matter of an application for a Mandate in the nature of a Writ of Certiorari under Section 42 of the Courts Ordinance. <sup>20</sup>

The Board of Trustees of the Maradana Mosque, Maradana, Colombo.

*Petitioner.*

S. C. Application  
No. 573/61

*Vs.*

S. C. Application  
No. 439/63

1. HON'BLE BADI-UD-DIN MAHMUD, Minister of Education, Slave Island, Colombo. <sup>30</sup>
2. S. F. DE SILVA, Director of Education Malay Street, Colombo.

*Respondents.*

This 27th day of September, 1968.

To :

HIS LORDSHIP THE HON'BLE THE CHIEF JUSTICE AND THE OTHER  
JUDGES OF THE SUPREME COURT OF CEYLON.

The Petition of the Petitioner abovenamed appearing by Vernon Bertrand Stanislaus Abraham, Charles Joseph Oorloff and Mahinda Abhaya Ellepola, Proctors of the Hon'ble the Supreme Court of the Island of Ceylon, practising in partnership under the name and style of "Abrahams" and their assistant Thomas Rhomer Pullenayagam, its Proctors states as follows :—

No. 8  
Application for  
Conditional Leave  
to Appeal to the  
Privy Council —  
27-9-68.  
—(continued)

1. Feeling aggrieved by the judgment and decree of the Supreme Court pronounced in the above application on the 3rd day of September, 1963, the Petitioner is desirous of appealing therefrom to Her Majesty the Queen in Council.

2. The said judgment is a final judgment in a civil suit or action and the matter in dispute amounts to or is of the value of Rs. 5,000/- or upwards and the appeal involves directly or indirectly some claim or question to or respecting property amounting to or of the value of five thousand rupees (Rs. 5,000/-) or upwards and further, the questions involved in the appeal are such which, by reason of their great general or public importance or otherwise, ought to be submitted to Her Majesty in Council for decision.

3. The Petitioner, in terms of Rule 2 of the Schedule to the Appeals (Privy Councils) Ordinance, has within fourteen days from the date of the above judgment duly given to the Respondents notice of its intended application to this Court for leave to appeal to Her Majesty in Council. The petitioner has also duly given to Hon. Mr. P. B. G. Kalugalle, the present Minister of Education, the above notice.

4. The said notice has been sent to the Respondents and to their agent *viz.*, the Crown Proctor by the Petitioner and by its Proctors Messrs. Abrahams, by registered post out by delivering to their respective addresses on 11th September, 1963. The Petitioner files herewith receipts of posting, marked A1 to A4 and B1 to B4. The notices have not been returned by the Post Office.

WHEREFORE the Petitioner prays :—

(a) for conditional leave to appeal against the said judgment of this Court dated 3rd September, 1963, to Her Majesty the Queen in Council.

(b) for costs

and (c) for such other and further relief as to this Court shall seem meet.

Sgd. ABRAHAMS,  
Proctors for Petitioner.

**Minute of Order granting Conditional Leave to Appeal to the  
Privy Council**

**IN THE SUPREME COURT OF THE ISLAND OF CEYLON**

In the matter of an application for Conditional Leave to Appeal to the Privy Council under the Rules set out in the Schedule to the Appeals (Privy Council) Ordinance.

The Board of Trustees of the Maradana Mosque,  
Maradana, Colombo. 10

*Petitioner.*

S. C. Application  
No. 573/61

*Vs.*

1. HON'BLE BADI-UD-DIN MAHMUD, Minister of Education, Slave Island, Colombo.

S. C. Application  
No. 439/1963.

2. S. F. DE SILVA, Director of Education, Malay Street, Colombo. 20

*Respondents.*

The application of the above-mentioned Petitioner for Conditional Leave to Appeal to Her Majesty the Queen in Council from the judgment and decree of the Supreme Court of the Island of Ceylon pronounced on the 3rd day of September, 1963, in S.C. Application No. 573 of 1961, having been listed for hearing and determination before the Honourable Thusew Samuel Fernando, q.c., Puisne Justice and the Honourable Ponnudurai-samy Sri Skanda Rajah, Puisne Justice in the presence of S. Sharvananda Esquire, with Bala Nadarajah Esquire, Advocates for the Petitioner and G. P. S. de Silva Esquire, Crown Counsel for the Respondents, order has 30  
been made by their Lordships on the 19th day of February, 1964, allowing the aforementioned application for Conditional Leave to Appeal to Her Majesty the Queen in Council.

Sgd. N. NAVARATNAM,  
*Registrar of the Supreme Court,*  
(Acting).

## Application for Final Leave to Appeal to the Privy Council

No. 10  
Application for  
Final Leave to  
Appeal to the  
Privy Council—  
18-8-64.

## IN THE SUPREME COURT OF CEYLON

In the matter of an application for Final Leave under the provisions of the Appeals (Privy Council) Ordinance (Cap. 100).

The Board of Trustees of the Maradana Mosque, Maradanā, Colombo 10.

S. C. Application  
10 No. 573 of 1961.

*Petitioner-Appellant.*

S. C. Application  
No. 439 of 1963.

*Vs.*

S. C. Application  
No. 89 of 1964.

1. HON'BLE BADI-UD-DIN MAHMUD, Minister of Education Slave Island, Colombo.
2. S. F. DE SILVA, Director of Education, Malay Street, Colombo.

*Respondents.*

To :

20 THE HONOURABLE THE CHIEF JUSTICE AND THE OTHER JUDGES OF THE HONOURABLE THE SUPREME COURT OF THE ISLAND OF CEYLON.

This 13th day of March, 1964.

The Humble Petition of the Petitioner-Appellant abovenamed appearing by Vernon Bertrand Stanislaus Abraham, Charles Joseph Oorloff and Mahinda Abhaya Ellepola practising in partnership under the name style and firm of "Abrahams" and their assistant Thomas Rhomer Pullenayagam his Proctors states as follows :—

1. That the Petitioner-Appellant on the 19th day of February, 1964, obtained Conditional Leave from this Honourable Court to appeal to Her  
30 Majesty the Queen in Council against the judgment of this Court pronounced on the 13th day of September, 1963.

2. That the Order granting Conditional Leave to Appeal was given subject to the usual conditions and no conditions were imposed under Rule 3 (b) of the Schedule Rules of the Appeals (Privy Council) Ordinance (Cap. 100).

No. 10  
Application for  
Final Leave to  
Appeal to the  
Privy Council —  
18-3-64.  
—(continued)

3. That the Petitioner-Appellant has in compliance with the said conditions :—

- (a) On the 12th day of March, 1964, deposited with the Registrar of this Court the sum of Rs. 3,000/- being security for costs of appeal under Rule 3 (a) of the Schedule Rules and hypothecated the said sum of Rs. 3,000/- by Bond dated the 13th day of March, 1964, for the due prosecution of the appeal and the payment of all costs that may become payable to the Respondent in the event of the Petitioner-Appellant not obtaining an order granting him Final Leave to appeal or of the Appeal being dismissed for non-prosecution or of Her Majesty the Queen in Council Ordering the Petitioner-Appellant to pay the Respondents' costs of appeal and,
- (b) On the 12th day of March, 1964, deposited the sum of Rs. 300/- with the Registrar of this Court in respect of the amounts and fees required by paragraph 8 (a) of the Appellate Procedure (Privy Council) Order 1921 made under Section 4 (1) of the aforesaid Ordinance.

WHEREFORE the Petitioner-Appellant prays that it be granted Final Leave to Appeal against the said judgment of this Court dated the 13th day of September, 1963, to Her Majesty the Queen in Council.

Sgd. ABRAHAMS,  
*Proctors for Petitioner-Appellant.*

---

No. 11

Minute of Order granting Final Leave to Appeal to the  
Privy Council

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application for Final Leave to Appeal to the Privy Council under the Rules set out in the Schedule to the Appeals (Privy Council) Ordinance.

The Board of Trustees of the Maradana Mosque,  
Maradana, Colombo.

S. C. Application  
No. 573/61

*Petitioner-Appellant.*

S. C. Application  
No. 89 of 1964.

*Vs.*

1. HON'BLE BADI-UD-DIN MAHMUD, Minister of Education, Slave Island, Colombo.
2. S. F. DE SILVA, Director of Education, Malay Street, Colombo.

*Respondents.*

No. 11  
Minute of Order  
granting Final  
Leave to Appeal  
to the Privy  
Council —  
8-5-64.



The application of the above-mentioned Petitioner for Final Leave to Appeal to Her Majesty the Queen-in-Council from the judgment and decree of the Supreme Court of the Island of Ceylon pronounced on the 3rd day of September, 1963, in S. C. Application No. 573 of 1961, having been listed for hearing and determination before the Honourable Hema Henry Basnayake, q.c., Chief Justice and the Honourable Albert Lionel Stanly Sirimane, Puisne Justice, in the presence of S. Sharvananda Esquire, Advocate for the Petitioner and S. Sivarasa Esquire, Crown Counsel for the Respondents, order has been made by Their Lordships on the 8th day of <sup>10</sup> May, 1964, allowing the aforementioned application for Final Leave to Appeal to Her Majesty the Queen-in-Council.

No. 11  
Minute of Order  
granting Final  
Leave to Appeal  
to the Privy  
Council —  
8-5-64.  
—(continued)

(Sgd.) N. NAVARATNAM,  
*Registrar of the Supreme Court,*  
(Acting.)

X  
 Letter to the  
 Manager, Zahira  
 College, from  
 A. M. A. Azeez —  
 2-6-61

## PART II

### EXHIBITS

X

Letter to the Manager, Zahira College, from A. M. A. Azeez,  
 with two annexures marked Xa and Xb.

2nd June, 1961.

Copy to : AL-HAJJ M. FALIL A. CAFFOOR.

The Manager,  
 Zahira College,  
 COLOMBO.

10

Dear Brother-in-Islam,

Assalamu-Alaikum. I am herewith forwarding a statement per month of Income and Expenditure of the Benefactors of Zahira Fund, brought up-to-date together with (a) a list of donation by way of Bank Orders per month, (b) monthly donations promised and/or given of Rs. 100/- per month and (c) adhoc donations, (d) loans.

I shall be sending my analysis of these figures together with my observations thereon, on Monday, failing definitely on Tuesday. I hope to complete this work during the week-end.

Yours fraternally,

20

(Sgd.) A. M. A. AZEEZ,

*Principal Z. C. C.*

X  
Letter to the Manager, Zahira College, from  
A. M. A. Azeez—2-6-61. (Continued)  
Annexure marked Xa.

Months	I N C O M E						E X P E N D I T U R E				Total Balance
	Bank Order	Monthly Collections of Rs. 100 p.m.	Ad hoc	Loan	Total Income (2 to 5)	Salaries of Teaching Staff	Other Expenses	Total Expenditure (7 + 8)	Balance for the month (6 — 9)		
1	2	3	4	5	6 (2 to 5)	7	8	9 (7 + 8)	10 (6 — 9)		
Nov. 1960	Nil	1100/-	100/-	Nil	1200/-	Nil	30/-	30/-	1170.00	1170.00	
Dec. 1960	1100/-	8751/-	1800/-	12500/-	24151/-	21664.68	Nil	21664.68	2486.32	3656.32	
Jan. 1961	2750/-	15400/-	425/-	5000/-	23575/-	13800.28	Nil	13800.28	9774.72	13431.04	
Feb. 1961	3100/-	4300/-	5400/-	Nil -	2800/-	16037.25	Nil	16037.25	—3237.25	10193.79	
March 1961	4000/-	4600/-	Nil	Nil	8600/-	13214.13	30/-	13244.13	—4644.13	5549.66	
April 1961	2000/-	12300/-	400/-	Nil	14700/-	15585.00	Nil	15585.00	—885.00	4664.66	
May 1961	5000/-	6350/-	1150/-	Nil	12500/-	15195.65	65/-	15260.65	—2760.65	1904.01	

True Copy  
(Sgd.) A. M. A. AZEEZ

X  
BENEFACTORS OF ZAHIRA FUND  
Bank Orders per month in rupees

Letter to the Manager, Zahira  
College, from A. M. A. Azeez—  
2-6-61 (continued)

Annexure marked Xb.

(A)	S. No.	Name	Address	Nov. '60	Dec. '60	Jan. '61	Feb. '61	March '61	April '61	May '61	Total
	1	K. A. M. A. Azeez	... Colombo	—	—	—	—	200	100	100	400
	2	M. M. Razick	... Wellawatta	—	—	—	—	100	—	100	200
	3	S. M. M. Mohideen	... Jaffna	—	—	—	—	100	100	200	400
	4	Negombo Jewellers	... Negombo	—	—	—	—	100	100	200	400
	5	M. C. M. Marikar	... Negombo	—	—	—	—	200	—	100	300
	6	Abdul Hathy	... Colombo	—	—	100	100	100	100	100	500
	7	Dr. Abdulla	... Negombo	—	—	—	—	100	100	200	400
	8	M. S. M. Aboobucker	... Colombo	—	—	100	—	200	—	—	300
	9	A. M. M. Abdul Cader	... Colombo	—	—	—	150	150	150	150	600
	10	Grandpass Nursing Home	... Colombo	—	100	100	100	100	100	100	600
	11	Moulana	... Colombo	—	250	250	250	250	250	250	1500
	12	M. H. M. Naina Marikar	... Wellawatte	—	100	100	100	100	100	100	600
	13	K. M. A. Raheem	... Colombo	—	100	100	100	100	100	100	600
	14	Dr. Refai	... Colombo	—	100	100	100	100	—	200	600
	15	Colombo Picture Palace	... Colombo	—	100	100	100	100	—	200	600
	16	M. A. Meera Mohideen	... Colombo	—	100	100	100	100	—	200	600
	17	C. P. Mohamed	... Anuradhapura	—	—	200	200	200	200	200	1000
	18	Ceylon Entertainments	... Colombo	—	—	125	125	125	125	125	625
	19	Liberty Cinema	... Colpetty	—	—	125	125	125	125	125	625
	20	Taylor & Mackay	... Colombo	—	100	100	100	100	—	200	600

(Contd.)

**BENEFACTORS OF ZAHIRA FUND**  
**Banks Orders per month in rupees**

S. C. No.	Name	Address	Nov. '60	Dec. '60	Jan. '61	Feb. '61	March '61	April '61	May '61	Total	X Letter to the Manager, Zahira College, from A. M. A. Azeez — 2-6-61 (continued)
21	S. Abdul Cader	... Colombo	—	—	100	100	100	—	200	500	
22	A. L. M. Hashim	... Ambampitiya	—	—	100	100	100	—	100	400	
23	B. P. Mohamed & Sons	... Negombo	—	—	—	100	100	—	200	400	
24	Abraham Industries	... Colombo	—	—	—	100	100	—	200	400	
25	M. M. Sallih Marikkar	... Puttalam	—	—	200	200	200	—	400	1000	
26	S. M. Hassen Kluddos	... Puttalam	—	—	100	100	100	—	100	400	
27	A. M. Ali Marikar	... Puttalam	—	—	—	100	100	—	200	400	
28	S. A. M. Samsudeen Lebbe	Mawanalle	—	—	100	100	100	—	200	500	
29	Salcem Stores	... Colombo	—	—	—	100	100	—	—	200	
30	G. H. Reimo	... Colombo	—	—	—	100	100	—	—	200	
31	M. H. Isnail	... Colombo	—	150	150	150	150	150	150	900	
32	M. A. M. Saibo	... Colombo	—	—	—	—	100	—	300	400	
33	A. R. Jalardeen	... Colombo	—	—	100	100	—	200	—	400	
34	A. S. M. Ismail	... Colombo	—	—	300	100	—	—	—	400	
		Nil	—	1100	2750	3100	4000	2000	5000	17950	

X  
Letter to the Manager, Zahira College, from  
A. M. A. Azeez — 2-6-61 (continued)

BENEFACTORS OF ZAHIRA FUND

Monthly Collections of Rs. 100/- per month

(B) Annexure marked Xb. (continued)

S. No.	Name	Address	Nov. '60	Dec. '60	Jan. '61	Feb. '61	March '61	April '61	May '61	Total
1	M. A. Fatha Hadjiar	... Colombo	—	—	600	—	—	—	—	600
2	M. L. M. Mackeen	... Colombo	—	100	100	—	—	—	—	200
3	O. L. A. Caffoor	... Beruwela	—	—	700	—	—	—	—	700
4	Mansoor A. Cader	... Colombo	—	—	150	—	—	—	—	150
5	S. Meera Sahib	... Jaffna	—	—	100	100	—	100	100	400
6	E. I. Abdul Rahuman	... Colombo	—	—	100	100	100	100	100	500
7	Ebramsa Hadjiar	... Colombo	—	—	200	—	—	—	300	500
8	Bacheha & Co.	... Colombo	—	—	300	—	—	—	—	300
9	A. M. M. Ariff	... Wellawatte	—	—	150	—	—	—	—	150
10	M. K. A. Mohamed Lebbe	... Ibbagamuwa	—	100	100	100	—	200	100	600
11	U. L. M. Mohideen	... Bambalapitiya	—	—	1000	—	—	—	—	1000
12	A. H. M. Cassim	... Colpetty	—	—	1200	—	—	—	—	1200
13	S. T. A. Jabbar	... Colombo	—	—	800	—	—	—	—	800
14	M. M. Thahir	... Wellawatte	—	—	600	—	—	—	—	600
15	S. Sulaiman	... Colombo	—	—	600	100	—	—	—	700
16	Gnapala Trust	... Colpetty	—	—	1000	1000	1000	1000	1000	5000
17	P. T. M. Haniffa	... Puttalam	—	—	100	100	—	—	—	200
18	P. T. Mohamed	... Puttalam	—	—	100	—	200	—	200	500
19	P. T. M. Ibrahim	... Puttalam	—	—	100	—	—	—	—	100
20	S. T. R. Saleh Mohamed	... Colombo	—	—	100	—	—	1000	—	1100
21	Mohamed Rauf	... Colombo	—	—	100	—	—	—	—	100

(Contd.)

**BENEFACTORS OF ZAHIRA FUND**  
**Monthly Collections of Rs. 100/- per month**

X  
 Letter to the  
 Manager, Zahira  
 College, from  
 A. M. A. Azeez —  
 2-6-61 (continued)

Annexure marked Xb.  
 (continued)

S. No.	Name	Address	Nov. '60	Dec. '60	Jan. '61	Feb. '61	March '61	April '61	May '61	Total
22	Dr. M. A. Saheed	... Avissawella	—	—	100	—	—	—	—	100
23	Mansoor Zainudeen	... Colombo	—	—	200	—	200	200	200	800
24	M. S. Marikar Bawa	... Wellawatte	—	—	250	—	—	—	—	250
25	Habib Thayyib	... Colombo	—	100	200	—	100	100	100	600
26	A. R. M. Thassim	... Galle	—	—	100	100	100	100	100	500
27	Shums & Co.,	... Colombo	—	—	5000	—	—	—	—	5000
28	Al Hajj Mirza	... Nindavur	—	—	100	—	—	—	100	200
29	S. M. Ibrahim Bros.	... Colombo	—	—	500	100	—	—	—	600
30	E. S. M. Cassim Marikkar	... Puttalam	—	—	200	—	—	—	—	200
31	L. M. M. Uvais	... Colombo	—	—	100	—	—	—	200	300
32	A. A. Marikar, J.P.	... Puttalam	—	—	200	—	—	100	—	300
33	M. S. Abdul Rahman	... Colombo	—	—	100	—	—	—	—	100
34	A. L. M. Farook	... Delioya	—	100	100	—	200	100	—	500
35	A. K. M. Mohideen	... Colombo	—	—	50	—	—	—	—	50
36	A. S. M. Nazimudeen	... Wellawatte	—	—	—	600	—	—	—	600
37	K. M. A. Meerasahib	... Jaffna	—	—	—	100	—	—	—	100
38	Ibrahim Abba & Co.	... Colombo	—	—	—	100	—	300	—	400
39	S. S. Shahul Hameed	... Negombo	—	—	—	100	—	100	—	200
40	A. R. A. Jalaldeen	... Kahawatte	100	—	—	100	—	200	—	400
41	Ceylon Textiles	... Colombo	—	—	—	1200	—	—	—	1200
42	Meezan Estate	... Matale	—	—	—	300	—	—	—	300

(Contd.)

X  
Letter to the Manager, Zahira College, from  
A. M. A. Azeez 2-6-61 (continued)  
Annexure marked Xb. (continued)

**BENEFACTORS OF ZAHIRA FUND**  
Monthly collections of Rs. 100/- per month

S. No.	Name	Address	Nov. '60	Dec. '60	Jan. '61	Feb. '61	March '61	April '61	May '61	Total
43	T. P. Parikutty	... Colombo	—	—	—	—	100	—	—	100
44	M. Z. Abdeen.	... Colombo	—	100	—	—	1200	—	—	1300
45	A. L. M. Zarook	... Wellawatte	—	—	—	—	300	—	—	300
46	A. H. L. A. Saleem	... Wellawatte	—	—	—	—	1000	—	—	1000
47	M. H. A. Jameel	... Colombo	—	—	—	—	—	1000	—	1000
48	S. Ibrahim	... Colombo	—	—	—	—	—	50	50	100
49	Al Hajj Aboas	... Colombo	—	—	—	—	—	50	—	50
50	Commissioner of Wakfs	... Colombo	—	—	—	—	—	2100	—	2100
51	A. K. Mohamed	... Weligama	—	200	—	—	—	300	—	500
52	P. S. Pallak Lebbe	... Colombo	—	—	—	—	—	1200	—	1200
53	A. C. A. Udda & Co.	... Colombo	—	—	—	—	—	500	—	500
54	K. A. M. Sheriff	... Colombo	—	—	—	—	—	500	—	500
55	English Paint Co.	... Colombe	—	—	—	—	—	500	—	500
56	M. S. M. Mohamed Saibo	... Colombo	—	—	—	—	—	600	—	600
57	K. M. Mohideen & Co.	... Colombo	—	—	—	—	—	1200	—	1200
58	M.K.O.M. Meera Sahib & Sons	Colombo	—	—	—	—	—	600	—	600
59	Colombo Commercial Agency	Colombo	—	1200	—	—	—	—	—	1200
60	M. J. M. Ariff	... Colombo	—	150	—	—	—	—	—	150
61	F. A. M. S. Marikar	... Colombo	—	600	—	—	—	—	—	600
62	Hameed Bros.	... Colombo	—	600	—	—	—	—	—	600
63	Anjuman Saif	... Colombo	—	3000	—	—	—	—	1000	4000
64	V. N. Cader Meera Sahib	... Colombo	—	100	—	—	—	—	—	100
65	K. N. S. Dawood	... Gampola	—	500	—	—	—	—	—	500

(Contd.)



X  
Letter to the  
Manager, Zahira  
College, from  
A. M. A. Azeez —  
2-6-61 (continued)

**BENEFACTORS OF ZAHIRA FUND**  
Monthly collections of Rs. 100/- per month

S. No.	Name	Address	Nov. '60	Dec. '60	Jan. '61	Feb. '61	March '61	April '61	May '61	Total
66	K. M. Pichchai Rawther	Veyangoda	—	1200	—	—	—	—	—	1200
67	M. A. M. Saibo	... Colombo	—	100	—	—	—	—	—	100
68	K. T. M. S. Abdul Cader	... Colombo	—	601	—	—	—	—	—	601
69	A. M. A. Azeez	... Colombo	1000	—	—	—	—	—	—	1000
70	V. C. Mamoothy	... Colombo	—	—	—	—	—	—	50	50
71	Mohamed A. Cader	... Puttalam	—	—	—	100	—	—	200	300
72	Mohammedia Stores	... Colombo	—	—	—	—	—	—	1000	1000
73	C. H. M. Salih & Sons	... Colombo	—	—	—	—	—	—	1200	1200
74	S. M. A. Rahman	... Negombo	—	—	—	—	100	100	100	300
75	M. M. M. Abdul Cader	... Colombo	—	—	—	—	—	—	250	250
			1100	8751	15400	4300	4600	12300	6850	52801

Annexure marked Xb.  
(continued)

X  
Letter to the Manager, Zahira College, from  
A. M. A. Azeez—2-6-61 (continued)

## BENEFACTORS OF ZAHIRA FUND

### Adhoc Donation

(C)	S. No.	Name	Address	Nov. '60	Dec. '60	Jan. '61	Feb. '61	March '61	April '61	May '61	Total	
	1	M. L. A. Thassin	... Colombo	100	—	—	—	—	—	—	100	
	2	M. T. M. Mahroof	... Colombo	—	600	—	—	—	—	—	600	
	3	M. K. M. A. M. Thamby	... Colombo	—	300	—	—	—	—	—	300	
	4	S. T. A. Jaboar	... Colombo	—	500	—	—	—	—	—	500	
	5	J. M. M. Raji	... Colombo	—	400	—	—	—	—	—	400	
	6	L. M. S. Sijaudeen	... Colombo	—	—	300	—	—	—	—	300	
	7	S. M. Muhideen	... Colombo	—	—	50	—	—	—	—	50	
	8	A. M. M. Nazim	... Colombo	—	—	25	—	—	—	—	25	
	9	M. A. Hassen	... Colombo	—	—	50	—	—	—	—	50	
	10	M. S. Sadique	... Colombo	—	—	—	1200	—	—	—	1200	
	11	M. L. M. Mackeen	... Colombo	—	—	—	1200	—	—	—	1200	
	12	A. S. Ismail and 6 others	... Puttalam	—	—	—	2000	—	—	—	2000	
	13	Mathany Ismail	... Colombo	—	—	—	1000	—	—	—	1000	
	14	Colombo Lucky Stores	... Colombo	—	—	—	—	—	400	—	400	
	15	A. K. M. Abdul Cader	... Colombo	—	—	—	—	—	—	500	500	
	16	M. S. Abdul Raheem & Bros.	Colombo	—	—	—	—	—	—	200	200	
	17	Sameem Stores	... Colombo	—	—	—	—	—	—	200	200	
	18	Jayah Mem. Fund Transfer	Colombc	—	—	—	—	—	—	250	250	
				<u>100</u>	<u>1800</u>	<u>425</u>	<u>5400</u>	<u>Nil</u>	<u>400</u>	<u>1150</u>	<u>9275</u>	
(D)				I. O. A. N. S.								
	1	Maradana Mosque	... Colombo	—	<u>12500</u>	<u>5000</u>	—	—	—	—	<u>17500</u>	

True Copy  
(Sgd). A. M. A. AZEEZ.

Letter to the Manager, Zahira College, from A. M. A. Azeez

XI  
Letter to the  
Manager, Zahira  
College, from  
A. M. A. Azeez —  
5-6-61.

5th June, 1961.

Copy to : AL-HAJJ : M. FALIL A. CAFFOOR.

The Manager,  
Zahira College,  
COLOMBO.

Dear Brother-in-Islam,

Assalamu-Alaikum. Hereunder are my observations etc., referred to in my letter BZF dated 2nd June, 1961, enclosing therein a statement of  
<sup>10</sup> Income and Expenditure of the Benefactors of Zahira Fund as on 31st May, 1961, together with lists of (a) donations by way of Bank Orders (b) monthly donations promised and/or given (c) adhoc donations and (d) loan from the Maradana Mosque Committee.

#### (I) Monthly Donations via Bank Orders

To be reasonably certain of sustaining Zahira as an unaided institution within the frame work of the 2 Acts recently passed, namely Assisted Schools and Training Colleges (Special Provisions) Act No. 5 of 1960 and (Supplementary Provisions) Act No. 8 of 1961 and to satisfy the Director in terms of Section 2 (k) of the Schedule of the latter Act that necessary funds are  
<sup>20</sup> available, it is necessary as explained to you at the time of the inauguration of the Benefactors of Zahira Fund, to have 200 donors — at least 170 with the drastic economy that has since been effected thereby even risking the deterioration of standards in a few of the classes. But so far as against this 170, the peak figure is only 34, some of the donors not having committed themselves beyond 31st December, 1961. Of this 34, one firm (Moulanas, Item 11 of list A) has given Bank Order for Rs. 250/- p.m., two others (C. P. Mohamed, Item 17 and Salih Marikar, Item 27) for Rs. 200/- each, two other firms (M. H. Ismail, Item 31 and A. M. M. Abdul Cader, Item 9) for Rs. 150/- each and two companies (of Jabir A. Cader, Items  
<sup>30</sup> 18 and 19) for Rs. 250/-. Thus the regular Bank Order donation may be computed at Rs. 3,900/- per month. This is the only steady contribution, namely Rupees Three Thousand and Nine Hundred only, which it will be appreciated is by no means satisfactory on account of the minimum requirement of Rs. 17,000/- per month.

#### (II) Monthly Donations other than Bank Orders

By way of monthly donations (other than Bank Orders) the figure ranges between Rs. 3,500/- and Rs. 4,500/- per month — *vide* list of B of my letter dated 2nd June referred to. This figure is explained by the several amounts having been paid in advance covering in many instances the whole

XI  
Letter to the  
Manager, Zahira  
College, from  
A. M. A. Azeez —  
5-6-61.  
—(continued)

year. It is due to these lump-sum advances that Zahira has been able to pay the teaching staff so far without a break-down. It is specifically required by Act, No. 8 of 1961 in Section 2 (1) of the Schedule that payments of salary and allowances should be paid not later than the tenth day of the subsequent month. So far Zahira has been paying them during the first week itself. The balance of Rs. 1,904/01 on 1st June itself is not very encouraging, but of this a sum of Rs. 1,116/- has to be set apart for pension and W. and O. P. fund contribution to the Department which is collected once in six months or at the end of the school year.

### (III) Position envisaged on 1st July, 1961

10

Balance on 1st June	...	...	Rs.	1,904·00
Contribution to Pensions and W. and O. P. Fund	...	...	,,	1,116·00
		Nett Balance	Rs.	<u>788·00</u>

This balance of Rs. 788/- should in normal circumstances be a recurring figure for the purpose of these estimates.

Total required per month	...	...	...	Rs.	17,000·00
Monthly donations estimated by way of Bank Orders Rs. 3,900/- say	...	Rs. 4,000/-			
Monthly donations estimated by way of direct payments, approximately	...	Rs. 4,000/-			
		Rs. 8,000/-	Rs.	<u>8,000·00</u>	
		Deficit	Rs.	<u>9,000·00</u>	

20

It will thus be seen that hereafter a sum of nearly Rs. 9,000/- will be required every month and in June Rs. 9,000/- Rs. 788/- = Rs. 8,212/-.

### (IV) Supplementary to the lists forwarded

Item 50 in list B. This represents the adhoc contribution made by the Wakfs Board from the Muslim Charities Fund in response to my specific appeal on behalf of Zahira as the only surviving Muslim Institution in Ceylon, imparting general education. It is not likely from the information<sup>80</sup> that I have gathered that the Wakfs Board will favourably consider another appeal, greatly due to the limited funds at its disposal and the several application for charitable grants pending final orders.

Item 18 in list C should read donation from Dr. Said Ramadan, Geneva *via* : Jayah Memorial Fund.

It is not likely, judging by lists A and B and the many potential donors both in Colombo and outstations who have been already contacted, that the number of regular monthly donations could be appreciably increased. It is now clear therefore that, rightly or wrongly but very unfortunately, we

do not have the support of the Muslim community to the extent expected to sustain Zahira College as an unaided institution. However, in the present special circumstances, it is essential that Zahira is continued as unaided as long as possible. I am endeavouring to the best of my ability to achieve this with your co-operation.

XI  
Letter to the  
Manager, Zahira  
College, from  
A. M. A. Azeez —  
5-6-61.  
—(continued)

May Almighty Allah help us not lose the self-respect of the Community.

Yours faithfully,

Sgd. A. M. A. AZEEZ,  
*Principal Z. C. C.*

10

X 2

**Letter to the Chairman, Special Sub-Committee of the  
Executive Committee of the Maradana Mosque  
from A. M. A. Azeez**

X 2  
Letter to the  
Chairman, Special  
Sub-Committee  
of the Executive  
Committee of the  
Maradana Mosque  
from A. M. A.  
Azeez — 7-7-61

Copy to : The Manager,  
Zahira College,  
Colombo.

7th July, 1961.

The Chairman, Special Sub-Committee of the  
Executive Committee of the Maradana Mosque,  
36, Pendennis Avenue,  
20 Colombo 3.

Dear Brother-in-Islam,

Assalamu-Alaikum. May I refer to the meeting of the Special Sub-Committee that was held at 36, Pendennis Avenue last Wednesday, 5th July, 1961, at which were discussed my letter addressed to the Manager (with copy to you) dated 2nd June, 1961, enclosing therein a statement per month of Income and Expenditure of the Benefactors of Zahira Fund and my letter dated 5th June, to the Manager (with copy to you) containing my observations on the statement referred to above.

I handed to you at that meeting a further statement setting out the  
30 position of the Benefactors of Zahira Fund as on 5th July, 1961, a copy of  
which is annexed — marked A — for favour of your easy reference.

I confirm the following figures given that day with regard to profits from Zahira Hostel and the Zahira Evening School.

X 2  
 Letter to the  
 Chairman, Special  
 Sub-Committee  
 of the Executive  
 Committee of the  
 Maradana Mosque  
 from A. M. A.  
 Azeez —  
 7-7-61.  
 —(continued)

### Zahira Hostel

- From 1930 to 1947. Average Rs. 120/- per month.  
 From 1948 to 1960. Average Rs. 1,778/- per month.  
 From December 1960 to June 1961. Average Rs. 3,000/- per month.

### Zahira Evening School

- From 1946 to 1948. Average Rs. 292/- per month.  
 From 1948 to 1960. Average Rs. 1,130/- per month.  
 From December 1960 to June 1961. Average Rs. 450/- per month.

The following are the expenditure figures you wanted in relation to income. 10

1. Hostel profits Rs. 3,000/- per month devoted to the completion of the 2nd Storey (or the first floor) of the New Hostel Building.

2. Donation from the Maradana Mosque Rs. 1,000/- per month. This is utilized for the payment of the salary of the Principal (that is myself) leaving a balance of Rs. 250/- as the Principal has reached the maximum of his scale after 10 years service *viz.*, Rs. 1,250/- per month.

3. Evening School profits Rs. 450/- per month. Rs. 250/- goes for the payment of the balance salary of Rs. 250/- referred to above and the balance of Rs. 200/- is utilized in connection with telephone, stationery, postage, printing, etc. 20

4. Facilities Fees. Rs. 6,000/- per month which goes to meet the expenses of the College, roughly as follows :—

Upkeep, etc. of buildings and equipment	...	Rs.	500
Sports	...	,,	1,200
Salaries and allowances of officers and employees	...	,,	3,000
Library	...	,,	500
Equipment, Co-curricular activities and other items	...	,,	800

My statement of 2nd June, 1961 referred to only the Benefactors of Zahira Fund inaugurated as you will kindly remember for the payment of teachers to salaries (at one time nearly Rs. 26,000) which were paid by the Government before the Schools Take Over Bill came into operation. 20

Yours fraternally,

Sgd. A. M. A. AZEEZ,  
 Principal, Z. C. C.

Continued from the previous statement furnished on 2nd June, 1961.  
Figures are all in rupees.

	<i>Position as on 31st May, 1961</i> *	<i>Position as on 30th June, 1961</i>	<i>Position as on 30th June, inclusive of Liabilities</i>	<i>Position as on 5th July inclusive of Liabilities</i>
2. Bank Order during the month. ...	5,000	3,850	3,850	4,150
3. Monthly Collections do ...	6,350	4,600	4,600	6,350
4. Adhoc " do ...	1,150	2,500	2,500	2,500
5. Loan " do ...	—	—	—	—
6. Total income (2 to 5) ...	12,500	10,950	10,950	13,000
7. Salaries of Teaching Staff paid during the month ...	15,196	12,027	16,779	16,779
8. Other expenses ...	65	15	15	15
9. Total expenses (7 + 8) ...	15,261	12,042	16,794	16,794
10. Balance for the month (6 - 9) ...	— 2,761	— 1,092	— 5,844	— 3,794
11. Total balance ...	1,904	812	— 3,940	— 1,890

\* All figures along this vertical column are being reproduced from the statement referred to on top.

X 3  
Letter to the  
Manager, Zahira  
College, from  
A. M. A. Azeez —  
10-7-61.

X 3

**Letter to the Manager, Zahira College, from A. M. A. Azeez,  
with annexure marked X 3a**

10th July, 1961.

Copy to : The Chairman of the Special Sub-Committee  
of the Executive Committee of the Maradana  
Mosque.

The Manager,  
Zahira College,  
Colombo.

10

Dear Sir,

In pursuance of one of the decisions made at the meeting of the Maradana Mosque Committee held on last Sunday, I am making arrangements for the contributors of Benefactors of Zahira Fund to meet.

Hereto is annexed a copy of the relevant notice.

Yours faithfully,

Sgd. A. M. A. AZEEZ,  
*Principal Z. C. C.*

---

 X 3a

X 3  
Letter to the  
Manager, Zahira  
College, from  
A. M. A. Azeez —  
10-7-61 (*contd.*)

Zahira College, Colombo.  
10th July, 1961.

20

Dear Brother-in-Islam,

Assalamu-Alaikum. Some contributors to the Benefactors of Zahira Fund have been expressing the desire that all contributors do meet and discuss matters affecting this Fund and its future. For this purpose, I should be grateful if we could meet at the New Ghafoor Hall, Zahira College, on Sunday the 16th Inst., at 9 a.m./11 a.m.

In view of the importance of Zahira College, Colombo, in the sphere of Muslim Education, your presence is essential and is solicited on Sunday next as above.

Yours fraternally,

30

Sgd. A. M. A. AZEEZ,  
*Principal Z. C. C.*

Annexure marked  
X 3a.



## X 4 and X 4a

**Minutes of the Meeting of the Contributors to the  
Benefactors of Zahira Fund**

X 4  
Minutes of the  
Meeting of the  
Contributors to  
the Benefactors  
of Zahira Fund —  
16-7-61.

**Meeting of the Contributors to the Benefactors of  
Zahira Fund held on Sunday, 16th July, 1961,  
at 9-30 a.m. at Ghaffoor Hall.**

Present : The Principal, Dr. A. C. M. Sulaiman, Dr. M. S. M. Refai, Messrs. S. Sulaiman, M. H. M. Naina Marikar, M. Mathany Ismail, Seyed Mohamed (Moulanas) M. Hadi, S. M. M. Hussain, M. T. M. Mahroof and a  
10 Representative of the Negombo Jewellers and Mr. M. F. M. H. Fakhir (present by invitation).

The Principal gave a clear and complete picture of the financial position of the College since it opted to become a non-fee levying school about 7 months ago. He said that although the payments due by way of teachers' salaries amounted to about Rs. 17,000/- a month, it was with a great deal of difficulty that this amount has been paid up-to-date. In fact during the very first month of Zahira becoming a private school he was faced with the problem of paying Teachers' December salaries, a sum amounting to about Rs. 22,000/- which he was able to pay, thanks to the timely loan of  
20 Rs. 17,500/- from the Maradana Mosque and making up the balance from voluntary donations. He also told those present that he started the Benefactors of Zahira Fund with the hope of getting about 200 benefactors who could contribute Rs. 100/- a month ; but as things stand at present there are 34 donors who contribute by monthly Bank Orders and about 38 others who make monthly contributions. Even these numbers keep on decreasing and while he was sure of monthly donations amounting to about Rs. 8,000/- the balance of Rs. 9,000/- required to meet the Teachers' salaries was never stable. How he managed to pay the salaries during the last 7 months was  
30 by pooling all the contributions made during the month to meet this payment, leaving nothing for a Reserve Fund. This was a very unsatisfactory state of affairs because one of the conditions for being a private school is the absolute necessity to have a substantial Reserve Fund.

At this stage a question was raised whether it was desirable to hand the College to Government after running it so long, it was answered that the main idea in opting to go private was to preserve the sanctity of the Mosque premises. Mr. Naina Marikar asked the Principal about the proposed University at Zahira and the Principal replied him saying that although now the Government is committed to give a Cultural University to the Muslims he did not expect the necessary funds to be provided in the  
40 next financial year. At this stage Mr. Naina Marikar left to attend another meeting.

Both Mr. S. Sulaiman and others present felt that it was not desirable to let matters drift and insisted that some definite decision be taken on the future of Zahira as Private or director-managed. Explaining the situation the Principal said the answer would depend on the measure of financial support received from the community at large although he felt with sorrow

X 4  
Minutes of the  
Meeting of the  
Contributors to  
the Benefactors  
of Zahira Fund —  
16-7-61.  
—(continued)

that the community was not helpful to the extent expected or required. He said he would be only too happy to continue Zahira as an unaided school if the necessary funds were forthcoming. With this in view, he said that he even approached the parents but they were not co-operative, as a very large majority of the parents were too poor even to pay the Facilities Fees, Zahira College having joined the Free Scheme in 1945 with 50 cts. per month as the upper limit. He also said that owing to insurmountable difficulties if the school were to be handed over to the Department by the proprietors, the position would be altered with the establishment of the University at a later stage. He further added that whatever decision they proposed to take, should be taken soon as the end of the month is drawing near and if the Teachers' salaries were not paid by the 10th of August, there was the danger of the Education Department taking over the school for contravening one of the important conditions of Act No. 5 of 1960. 10

Mr. Sulaiman then said that it is much better to hand over the school in an honourable way and save the self-respect of the community rather than allow the Education Department to take over the school and he proposed to move the following resolution. At this stage the meeting felt that a Chairman *pro tem* and a Secretary *pro tem* should be selected and Mr. Mathany Ismail was elected Chairman *pro tem* with Mr. M. F. M. H. Fakhir as Secretary *pro tem*. 20

Mr. Sulaiman then moved the resolution that "In view of the present financial situation of the country and the difficulties experienced by private individuals to balance their own budgets and in view of the promise by the Government of the conversion of Zahira College into a Muslim Cultural University, this meeting of the contributors consider that in the best interests of the community and the College, the Benefactors of Zahira Fund, be wound up immediately and the College be handed over to Government till such time as the University functions." Mr. Hadi seconded the resolution. 30

Dr. Sulaiman suggested that the Old Boys should be consulted in a grave decision as this but the Chairman pointed out that neither the Old Boys nor the Benefactors had the right to decide this question of handing over, but the decision was vested in the proprietors of the College, namely the Executive Committee of the Maradana Mosque and as such he proposed that the words "the College be handed to Government till such time as the University functions" and the word "immediately" be deleted. This was seconded by Mr. Seyed Mohamed (Moulanas).

The amended resolution which read as follows. "In view of the present financial situation of the country and the difficulties experienced by private individuals to balance their own budgets and in view of the promise by the Government of the conversion of Zahira College into a Muslim University, this meeting of the Contributors consider that in the best interests of the Community and the College, the Benefactors of the Zahira College Fund be wound up," was put to the vote and was passed by the House by all voting for except Dr. Sulaiman who opposed the resolution and Mr. Azeez, the Principal, who declined to vote. 40

It was decided to request the Secretary *pro tem* to forward this resolution to the Executive Committee of the Maradana Mosque.

The Chairman then adjourned the meeting at 10-30 a.m. 50

**Minutes of the Meeting of the Contributors to the  
Benefactors of Zahira Fund held on Sunday, 16th July, 1961,  
at 11-15 a.m. at Ghaffoor Hall**

X 4a  
Minutes of the  
Meeting of the  
Contributors to  
the Benefactors  
of Zahira Fund —  
16-7-61.  
—(continued)

Present : The Principal, Messrs. M. Z. Abdeen. E. L. M. Saleem, V. C. Mammoothy, M. H. A. Jameel, M. Jeevanjee, M. S. A. Razak and S. Ibrahim, and Mr. M. F. M. H. Fakhir (present by invitation).

The Principal, explained the reasons for Zahira going private and also gave a brief history of the Benefactors of Zahira Fund since it was started  
10 7 months ago. He said that all he was now sure of getting was about Rs. 8,000/- of which Rs. 2,000/- was also uncertain although the monthly commitments by way of Teachers' salaries amounted to about Rs. 17,000/-. He further said, of this Rs. 8,000/-, Rs. 2,000/- came from 2 sources, who contributed Rs. 1,000/- each, namely the Gunapala Trust represented by Mr. E. L. M. Saleem and the Borah Association represented by Mr. M. Jeevanjee. The crux of the problem which faces Zahira as a private, unaided school was the shortage of funds. The Principal also explained the position when the Muslim University is created.

The text of the resolution passed at the earlier meeting was read and  
20 discussed. At this stage Mr. E. L. M. Saleem was elected Chairman *pro tem* with Mr. M. F. M. H. Fakhir as Secretary *pro tem*. After further discussion, Mr. E. L. M. Saleem moved that " In view of the present financial situation of the community and the difficulties experienced by private individuals to balance their own budgets, and in view of the promise by the Government of the conversion of Zahira College into a Muslim University, this meeting of the contributors consider that in the best interests of the Community and the College, the Benefactors of Zahira Fund be wound up ". Mr. Jeevanjee seconded the resolution. The resolution was put to the House and was carried unanimously with only Mr. Azeez, the Principal, declining to vote.

30 It was decided that a copy of this resolution should be forwarded to the Executive Committee of the Maradana Mosque by the Secretary *pro tem*.

The Meeting also agreed to the suggestion of Mr. E. L. M. Saleem that the accounts of Benefactors of Zahira Fund be audited shortly by Messrs. Srinivasam & Co.

Meeting was then adjourned.

Sgd. M. F. M. H. FAKHIR,  
*Secretary, pro tem.*

17th July, 1961.

X 5  
Letter to the  
Manager, Zahira  
College, from  
A. M. A. Azeez —  
19-7-61.

**Letter to the Manager, Zahira College, from A. M. A. Azeez**

19th July, 1961.

The Manager,  
Zahira College,  
Colombo.

Dear Brother-in-Islam,

Assalamu-Alaikum. I would refer to my letter No. BZF dated 10th July, 1961, enclosing therein copy of notice relevant to the arrangements for the contributors to the "Benefactors of Zahira Fund" to meet last Sunday. They accordingly met and reached decisions which demand of us an agonising re-appraisal. I find the Minutes of the Proceedings of Sunday last have already been forwarded to you by the Secretary *pro tem* Mr. M. F. M. H. Fakhir by his letter dated 17th July, 1961.

2. As will be seen from these proceedings, the purpose for which the contributors were specifically invited have not only been not fulfilled but completely defeated. While we were trying to bridge the gulf of Rs. 9,000/- (estimated) per month (*vide* my letter addressed to you dated 5th June, 1961, containing my observations on the financial statement forwarded to you with my letter dated 2nd June, 1961); we are, now confronted with the most unfortunate situation of having to find an additional sum of nearly Rs. 8,000/- *i.e.*, Rs. 17,000/- per month in all with no promise of co-operation either from the parents or from any other sources so far. I would add that the parents who have been met, whether by me or by the Vice-Principal on my behalf, have proved most unresponsive, and some of them surprisingly vituperative.

3. A crisis has thus developed most unexpectedly and urgent solution has to be found because of the obligation to pay the teachers their current month's salary by the end of the month, and in the event of default the legal liability of the proprietors of Zahira College, Colombo to pay the salaries of teachers throughout their period of service at Zahira in its present non-fee-levying and unaided status, and possibly one month in lieu of notice.

4. I quote below the relevant Sections from the two Acts dealing with the Schools Take Over (*viz.* 5 of 1960 amended by Act 8 of 1961) :—

- 5 (3) A proprietor of an Assisted School who has elected in terms of sub-Section (1) of this Section to administer his school as an unaided school may at any time serve notice on the Director that he has revoked such election and from the date on which such notice is received by the Director such school shall be administered in the same manner as if the Director had become the Manager of such school in terms of Section 4 of this Act.

- 6 (b) shall continue to maintain all such facilities and services as were maintained by such school on the day immediately preceding the twenty-first day of July, 1960.
- (e) shall make no reduction in the accommodation provided in such school for pupils.
- (h) shall not, except with the prior approval of the Director terminate the services of any teacher or employee who is on the staff of such school on or after the twenty-first day of July, 1960.
- 10 (i) shall pay to every teacher and employee who is on the staff of such school the salary and allowances due to such teacher or employee in respect of any month *not later than the tenth day of the subsequent month*.
- (k) shall satisfy the Director that *necessary funds to conduct and maintain* the school will be available and shall conduct such school to the satisfaction of the Director.

X 5  
Letter to the  
Manager, Zahira  
College, from  
A. M. A. Azeez —  
19-7-61.  
—(continued)

5. I need hardly add that these above will have to be read with the Sections preceding and following them. I have made unofficial inquiries with regard to the financial implications involved of the possible decisions that may be reached by the Executive Committee of the Maradana Mosque.

20 I would make the following observations in this connection :—

- (a) If the Executive Committee were to decide to continue Zahira as unaided (and non-fee-levying) a sum of Rs. 10,000/- is needed for the current month and thereafter Rs. 17,000/- each month for every month Zahira is continued as unaided.
- (b) If action is taken under Section 5 (3) and the revocation is made effective on 31st July, 1961, a sum of Rs. 10,000/- will have to be found.
- 80 (c) If as a result of default, action is taken under Section 6 (i) then the effective date would be 15th August, 1961, or even 1st September, in which case an additional sum of nearly Rs. 8,500/- or Rs. 17,000/- will have to be found *i.e.*, Rs. 27,000/- including Rs. 10,000/- of July. I would, therefore, request that an early decision be made by the proprietors.

In these heartrending circumstances I feel somewhat consoled by the thought that we, with His Grace and with the help of the contributors to the Benefactors of Zahira Fund were able to sustain Zahira during its most critical period and against the bitterest opposition from quarters least expected. On my part I shall, to the best of my ability, carry out loyally whatever decision that may be made in regard to this matter. In conclusion I would urge that the decision of the Proprietors be communicated to me early so that there may be no delay in any action required in view of the financial implications involved.

40

Yours fraternally,

Sgd. A. M. A. AZEEZ,  
Principal Z. C. C.

X 6

X 6  
Letter to the  
Manager, Zahira  
College, from  
A. M. A. Azeez --  
27-7-61.

**Letter to the Manager, Zahira College, from A. M. A. Azeez,  
with annexures marked X 6a and X 6b**

27th July, 1961.

Copy to : The Chairman, Special Sub-Committee of the  
Executive Committee of the Maradana Mosque,  
36, Pendennis Avenue.

The Manager,

Zahira College,  
COLOMBO.

10

Dear Brother-in-Islam,

Assalamu-Alaikum. Herewith I am forwarding a list containing the addresses of the contributors of the Benefactors of Zahira Fund and Revenue and Expenditure Statement in respect of Zahira Hostel, (A) 1959-60, (B) 1st June, 1960 to 30th November, 1960, (C) 1st December, 1960 to 30th June, 1961. These may kindly be passed on to Al-Hajj : M. Falil A. Caffoor.

Yours fraternally,

Sgd. A. M. A. AZEEZ,  
*Principal.*

---

X 6a

20

X 6  
Letter to the  
Manager, Zahira  
College, from  
A. M. A. Azeez --  
27-7-61

Annexure marked  
X 6a.

- |    |                                     |        |  |
|----|-------------------------------------|--------|--|
| 1. | Senator A. M. A. Azeez              | ...    | "Meadow Sweet", 81, Barnes Place, Colombo 7. |
| 2. | Mr. A. R. A. Jamaldeen              | ...    | "Jezima Building" Kahawatte.                 |
| 3. | Mr. M. M. A. Raheem                 | ...    | 254, Hulsdorf Street, Colombo.               |
| 4. | Dr. M. S. M. Refai                  | ...    | "Alcazar" 116, Horton Place, Colombo 7.      |
| 5. | Al-Hajj : M. H. M. Naina<br>Marikar | ... .. | 53, Nelson Place, Colombo 6.                 |
| 6. | Messrs. Taylor & Mackay Ltd.        | ...    | 5, Mackinnons Building,<br>Colombo 1.        |

30

7. Messrs. Moulana (Ceylon) Ltd. ... 184-188, 2nd Cross Street,  
Colombo 11.
8. Messrs. M. A. Meera Mohideen  
& Co. (Ceylon) Ltd. ... 462, Darley Road, Colombo 10.
9. Messrs. Habib Taiyab ... 228, Main Street, Colombo 11.
10. Messrs. Colombo Commercial  
Agencies ... 1st Floor, State Bank Buildings,  
Colombo 1.
11. Messrs. Colombo Picture Palace 104, Prince Street Colombo 11.
- 10 12. Mr. A. J. M. Ariff ... 10, Station Road, Colombo 6.
13. Messrs. E. A. M. S. Marikar ... 136, Prince Street, Colombo 11.
14. Grandpass Maternity and  
Nursing Home Ltd. ... 36, Grandpass Road, Colombo 14.
15. Mr. A. R. Jalaldeen ... 220, Keyzer Street Colombo 11.
16. Mr. A. S. M. Ismail ... 51, 1st Cross Street, Colombo 11.
17. Mr. A. M. Abdul Hadhi ... 203, 2nd Cross Street Colombo 11.
18. Messrs. M. S. M. Aboobucker  
and Brothers ... 199, Old Moor Street, Colombo 12.
- 20 19. Mr. M. L. M. Mackeen ... 57/5, Yalta, Flower Road,  
Colombo 7.
20. Messrs. Hameed & Brothers ... 6/1, Old Vaidya Road, Zintha  
Place, Dehiwela.
21. Mr. M. M. Thahir ... Bank of Ceylon, City Office,  
Colombo.
22. Mr. M. K. A. Mohamed Lebbe,  
J.P. ... "Rahuman Manzil", Pannala,  
Ibbagamuwa.
23. Hadji A. A. Hassen Lebbe and  
Sons ... Main Street, Geli-Oya.
- 20 24. Messrs. M. H. Ismail & Co. ... 164, 2nd Cross Street, Colombo 11.
25. Anjuman-e-Saifi ... C/o. Jeevanjee Esq., P. O. Box  
683, Colombo.
26. Messrs. V. M. Cader Meera  
Saibo & Co. ... 177, Old Moor Street, Colombo 12.

X 6  
Letter to the  
Manager, Zahira  
College, from  
A. M. A. Azeez —  
27-7-61  
—  
Annexure marked  
X 6a. (contd.)

X 6  
Letter to the  
Manager, Zahira  
College, from  
A. M. A. Azeez —  
27-7-61

Annexure marked  
X 6a. (contd.)

27. Mr. K. N. S. Dawood ... Hill Street, Gampola.
28. Messrs. K. M. Pitchay Rawther Veyangoda.
29. Mr. M. Z. Abdeen ... C/o. A. Meera Mohideen & Sons,  
190, Vauxhall Street, Colombo.
30. Mr. M. A. M. Saibo ... C/o. A. Meera Mohideen & Sons,  
190, Vauxhall Street, Colombo.
31. Mr. A. L. M. Hashim ... Ambanpitiya Estate, Ambanpitiya
32. Mr. K. I. M. S. Abdul Cader ... 13, 15, Prince Street; Colombo 11.
33. Mr. A. R. Mohamed ... Mohamed Lane, Weligama.
34. M. A. Fatha Hadjiar ... College Road, Hettiwatte, Dharga <sup>10</sup>  
Town.
35. Al-Hajj: A. R. M. Thassim, J.P. " Anver Villa ", Katugoda, Galle.
36. O. L. M. A. Caffoor ... 43, Katukurunda Road, China  
Fort, Beruwela.
37. Al-Hajj: M. Munsoor A. Cader ... C/o. A. M. M. Abdul Cader 114  
3rd Cross Street Colombo.
38. Mr. S. M. Meeran Saibo ... 177, 5th Junction, Manipay Road,  
Jaffna.
39. Messrs. T. P. Abdul Rahuman &  
Co. ... 350, Sri Sangaraja Mawatte,  
Colombo 10. <sup>20</sup>
40. Ibramsa Hadjiar, S. B. M. ... 343, 349, Old Moor Street,  
Colombo 12.
41. Messrs. Batcha & Co. ... 320, Old Moor Street, Colombo 12.
42. Al-Hajj : U. L. M. Mohideen ... " Myreside " Bagatalle Road,  
Colombo 3.
43. Mr. A. H. M. Cassim ... 15, Carlwil Place, Colombo 3.
44. Liberty Cinemas Ltd. ... 35, Dharmapala Mawatta,  
Colombo 3.
45. Ceylon Entertainments Ltd. ... 35, Dharmapala Mawatta,  
Colombo 3. <sup>30</sup>
46. Mr. S. Abdul Cader ... C/o. Seyadu Beedi Depot, 192, Old  
Moor Street, Colombo 12.



47. Mr. S. T. A. Jabbar ... 29, Hultsdorf Street, Colombo 12. X 6  
Letter to the  
Manager, Zahira  
College, from  
A. M. A. Azeez —  
27-7-61
48. Mr. Sheik Sulaiman ... 270/4, Railway Bungalow, Maradana.
49. The Ganapalla Trusts ... Delhena Estates, 34, Queen Road, Colpetty, Colombo 3. Annexure marked X 6a. (contd.)
50. Messrs. C. P. Mohamed & Bros. Anuradhapura, Ceylon.
51. Mr. S. M. M. Assen Kudhoos ... " Rasidale " Puttalam.
52. Mr. H. M. Salih Marikar ... " Salma Villa ", Puttalam.
53. Mr. P. T. Mohamed ... Main Street, Puttalam.
- 10 54. Messrs. Mohamed Rauff & Co. ... 241, Grandpass Road, Colombo 14.
55. Dr. N. A. Saheed ... Talduwa, Avissawella.
56. Mr. M. S. Amsudeen Lebbe ... Mawanella.
57. Mr. M. Munsoor Zainudeen ... 42, Kuruppu Road, Colombo 8.
58. Al-Hajj. M. S. Marikar Bawa ... 6, Station Avenue, Colombo 6.
59. Messrs. Shums & Co., Ltd. ... 22, Baillie Street, Colombo 1.
60. Al-Hajj : M. M. Mirza ... Nintavur.
61. Messrs. S. M. Ibrahim & Brother 64, Hultsdorf Street, Colombo 12.
62. Mr. E. S. M. Cassim Marikar ... Crescent Lodge, Puttalam.
- 20 63. Al-Hajj : L. M. M. Uvais ... 265, Main Street, Colombo.
64. Syston Estate A/c. ... C/o. I. S. Hameed, Alawatugoda.
65. Noor Mohamed Estates Ltd. ... Werellagama.
66. Hajji A. A. Marikkar, J.P. ... Quazi of Kegalle, Dippitiya, Aranayake.
67. Mr. M. S. Abdul Rahuman ... 66, Vivekananda Hill, Colombo 13.
68. Mr. A. M. Ali Marikar ... Main Street, Puttalam.
69. Abraham Industries ... 64, Hultsdorf Street, Colombo 12.
70. M. R. A. S. H. M. Najimudeen ... 1, Alexander Terrace, Colombo.

X 6  
Letter to the  
Manager, Zahira  
College, from  
A. M. A. Azeez —  
27-7-61

Annexure marked  
X 6b (contd.)

- |     |   |     |  |    |
|-----|---|-----|--|----|
| 71. | Mr. K. N. M. Meeran Sahib                 | ... | 52, 53, Karnathiddy, Jaffna.                                       |    |
| 72. | Messrs. Ibrahim Abba & Co.                | ... | 104, 3rd Cross Street, Colombo 11.                                 |    |
| 73. | Hajji A. B. Seeni Mohamed                 | ... | 207, Main Street, Kalumunai.                                       |    |
| 74. | Mr. S. M. Mohamed Mohideen                | ... | 112, Hospital Road, Jaffna.  |    |
| 75. | M. T. M. Haniffa Hadjar                   | ... | 17, Zeleski Place, Maradana,<br>Colombo.                           |    |
| 76. | B. P. Mohamed & Bros.                     | ... | 242, Main Street, Negombo.   |    |
| 77. | Mr. M. C. M. Marikar                      | ... | 193, Main Street, Negombo.   |    |
| 78. | Negombo Jewellers                         | ... | 159, Main Street, Negombo.   |    |
| 79. | Messrs. Saleem Stores                     | ... | 27, 4th Cross Street, Colombo 11.                                  | 10 |
| 80. | Dr. M. T. Abdulla                         | ... | 186, Chilaw Road, Negombo.   |    |
| 81. | Messrs. Meesan Estates Ltd.               | ... | 8, Harrison Jones Road, Matale.                                    |    |
| 82. | Messrs. Ceylon Textiles Ltd.              | ... | 117 and 119, 2nd Cross Street,<br>Colombo 11.                      |    |
| 83. | Mr. K. A. M. A. Azeez                     | ... | 116/19, Narahenpitiya Road,<br>Colombo 8.                          |    |
| 84. | Mr. S. M. A. Raheeman                     | ... | 334, Main Street, Negombo.   |    |
| 85. | Messrs. G. H. Reimoo & Sons               | ... | 13, Layards Road, off Dickman's<br>Road, Colombo 5.                |    |
| 86. | Mr. Mohamed A. Cader                      | ... | Puttalam.  | 20 |
| 87. | T. Pareekutty                             | ... | 186, 1/5, Bankshall Street,<br>Colombo 11.                         |    |
| 88. | Mr. A. H. L. A. Saleem                    | ... | 7, Gower Street, Colombo 5.  |    |
| 89. | M. H. A. Jameel                           | ... | 16, Pendennis Avenue, Colombo 3.                                   |    |
| 90. | Messrs. P. S. K. V. Pallak Lebbe<br>& Co. | ... | 163, 2nd Cross Street, Colombo 11.                                 |    |
| 91. | Messrs. M. C. A. Hudha & Co.              | ... | C/o, Al Hajj : K. A. Mohamed Ali,<br>19, China Street, Colombo 11. |    |
| 92. | Mr. K. A. M. Sheriff                      | ... | C/o. Al Hajj : K. A. Mohamed Ali,<br>19, China Street, Colombo 11. |    |

93. Messrs. English Paint Co. ... C/o. Al Hajj : K. A. Mohamed Ali, X 6  
19, China Street, Colombo 11. Letter to the  
Manager, Zahira  
College, from  
A. M. A. Azeez —  
27-7-61
94. Mr. M. S. S. Naina Mohamed Sahibo ... 182, 2nd Cross Street, Colombo 11. —  
Annexure marked  
X 6a. (contd.)
95. Mr. K. M. Mohideen & Co. ... 65, 4th Cross Street, Colombo 11.
96. Messrs. M. K. O. M. Meera Sahib & Sons ... 11, Prince Street, Colombo 11.
97. Messrs. Mohamedia Stores ... 46, 2nd Cross Street, Colombo 11.
- 10 98. Messrs. C. M. H. M. Sally & Sons... 137 1/1 2nd Cross Street, Colombo  
11.
99. A. K. M. Mohideen, Esq. ... Division 1, Nintavur, E.P.
100. Mr. M. M. Razick ... 31, 32nd Lane, Wellawatte,  
Colombo 6.
101. P. T. M. Haniffa Marikar, Esq. ... Puttalam.
102. P. T. Mohamed, Esq. ... Puttalam.
103. Mr. N. M. M. Abdul Cader ... 177, Layards Broadway, Colombo  
14.
104. S. S. O. Sahul Hamid & Co. ... 182, Main Street, Negombo.
105. Mr. P. T. M. Ibrahim ... Puttalam.
- 20 106. Mr. S. Ibrahim ... 84, Bandaranayake Mawatta,  
Colombo.
107. Al Hajj : A. L. M. Zarook ... 4, 16th Lane, Colpetty,  
Colombo 3.
108. Al Hajj : S. M. Abbas ... 34, Ketawelamulla Lane, Dema-  
tagoda, Colombo.
109. Mr. V. C. Mamoothy ... 183, 5th Cross Street, Colombo 11.

X 6b

## ZAHIRA HOSTEL

X 6  
Letter to the Manager, Zahira College,  
from A. M. A. Azeez — 27-7-61.

Annexure marked X 6b.

1959/60

1st June '60 to 30th Nov. '60

1-12-60 to 30th June, 61 (7 months)

Admission Fees	...	7,300.00	Admission fees	...	550.00	Admission Fees	...	5,000.00
Hostel Fees	...	141,903.98	Hostel Fees	...	77,785.88	Hostel Fees	...	72,558.00
		<u>149,203.98</u>			<u>78,335.88</u>			<u>77,558.00</u>
Salaries and Allowances Administrative Staff	...	7,785.00	Salaries and Allowances Administrative Staff	...	5,525.00	Salaries and Allowances Administrative Staff	...	4,385
Tutorial Staff	...	2,619.69	Tutorial Staff	...	1,388.31	Tutorial Staff	...	1,382.97
Servants' wages including dhoby — about 600/- p.m. (at the rate 3/- per boy)	...	10,201.13	Servants' wages	...	5,988.14	Servants' wages	...	6,417.49
Provisions	...	91,886.34	Provisions	...	49,598.30	Provisions	...	42,919.28
Equipment including Telephone Rent of — (Rs. 250/- per year)	...	1,241.34	Equipment	...	560.39	Equipment	...	2,032.32
Up-keep and maintenance of buildings (C.W.E. rent 150/- p.m., Electricity 250/- p.m.)	...	6,724.48	Upkeep and maintenance of buildings	...	2,323.01	Upkeep and maintenance of building	...	2,726.39
Contributions to Zahira College	...	28,746.00	Contributions to Zahira College	...	12,957.68	Contributions to Zahira College	...	17,694.55
		<u>149,203.98</u>			<u>78,335.88</u>			<u>77,558.00</u>

Letter to the Manager, Zahira College, from A. M. A. Azeez

X 7  
Letter to the  
Manager, Zahira  
College, from  
A. M. A. Azeez —  
3-8-61.

3rd August, 1961.

The Manager,  
Zahira College,  
Colombo.

Dear Brother-in-Islam,

Reference your telephone conversation today.

Hereunder are the figures :—

<sup>10</sup> In respect of the Financial Year 1959/60 the number of boarders ranged from 165 in the month of July, 1959 to 203 in the month of May, 1960. On the basis of the average of 180 hostellers and on the basis of 279 working days and with the addition of 20 for non-boarder consumers, the cost is estimated at Rs. 1.64 per head per day. In respect of the period 1st June, 1960 to 30th November, 1960, the number of boarders ranged from 197 in June, 1960 to 179 in October, 1960. On the basis of the average of 187 hostellers and on the basis of 154 working days and with the addition of 20 for non-boarder consumers, the cost is estimated at 1.55 per head per day and in respect of the period 1st December, 1960 to 30th June, 61, the number <sup>20</sup> of boarders ranged from 163 in February, 1961 to 177 in June. On the basis of the average of 169 hostellers and on the basis of 142 working days and with the addition of 20 for non-boarder consumers, the cost is estimated at 1.60 per head per day.

The fees charged is Rs. 60/- per month from June, 1959 to December 1960. This includes the dhoby charges, tutorial assistance *via* resident tutors but excludes facilities fees. From January, 1961, the fees charged is Rs. 70/- per month.

Earlier till 1957 the fees charged was Rs. 55/- per month.

<sup>30</sup> Money spent (roughly calculated) per boarder, per day on tutorial and administrative staff is Rs. 6.21, 0.24, 0.24 per day in respect of the periods 1959/60, 1st June, 1960 to 30th November, 1960 and 1st December, 1960 to 30th June, 1961, respectively.

Yours fraternally,

Sgd. A. M. A. AZEEZ,  
*Principal Z. C. C.*

X 8

**Letter to the Manager, Zahira College, from A. M. A. Azeez  
with Annexures marked X 8a and X 8b**

“Meadow Sweet”  
81, Barnes Place,  
Colombo 7.  
6th August, 1961.

X 8  
Letter to the  
Manager, Zahira  
College, from  
A. M. A. Azeez —  
6-8-61.

The Manager,  
Zahira College,  
Colombo.

10

Dear Brother-in-Islam,

Assalamu-Alaikum. I have requested Mr. M. F. M. H. Fakhir, Vice-Principal, to hand to you personally this letter with the annexes. Annex marked (1) contains the estimate of income and expenditure in continuation of previous statements, brought up-to-date. Annex marked (2) the exact position as regards the amount of money urgently required to avoid action under Section 6 (i) referring to payment of salaries not later than the 10th.

Thus it will be seen a sum of Rs. 12,535/- (Twelve thousand five hundred and thirty-five) is immediately needed.

Yours fraternally,

20

(Sgd.) A. M. A. AZEEZ,  
*Principal Z. C. C.*

X 8  
Letter to the  
Manager, Zahira  
College, from  
A. M. A. Azeez —  
6-8-61

Annexure marked  
X 8a

X 8a

**Annex (1)**

		Position as on 31st May, 1961	Position as on 30th June, 1961	Position as on 6th August, 1961	
1.	Bank Orders during the month	5,000	3,850	3,450	30
2.	Monthly Collections during the month	6,350	4,600	2,250	
3.	Adhoc Collections during the month	1,150	2,500	—	
4.	Loan Collections during the month	—	—	—	
5.	Total income (1 to 4)	12,500	10,950	5,700	
6.	Salaries of Teaching Staff paid during the month	15,196	16,779	2,056	
7.	Other expenses	65	15	20	
8.	Total expenses (6 plus 7)	15,261	16,794	2,076	
9.	Balance for the month (5-8)	—2,761	—5,844	—3,624	
10.	Total balance including liabilities	1,904	—3,940	—14,757	40

## X 8b

X 8  
Letter to the  
Manager, Zahir  
College, from  
A. M. A. Azeez —  
6-8-61.

Annexure marked  
X 8b.

## Annex (2)

Liabilities as on 30th June originally estimated 3,940 plus an additional teacher 188/- = Rs. 4,128/- this is made up of:—

Temporary teachers paid for June during the first week of July	Rs.	1,209
Permanent teachers paid for June during the first week of July	„	2,227
Pensions and W. & O. P. Fund contributors from March to end of June	„	1,504
	Rs.	<u>4,940</u>
<sup>10</sup> In Bank on 30th June	„	812
	Rs.	<u>4,128</u>
Salaries for July Permanent Staff including Pension of 465/- for July	„	14,096
Temporary Staff for July	„	1,500
Arrears of salaries Mr. Rahaman 460/- and Mrs. Rajan 253/-	„	713
Stamps	„	20
	Rs.	<u>20,457</u>
Amount collected in July Bank Order 3,450		
monthly collection 2,250	„	5,700
	Rs.	<u>14,757</u>

<sup>20</sup> Of this sum the pension etc., amount of Rs. 1,504 plus 465 = Rs. 1,969 and Mrs. Rajan's arrears of Rs. 253/- about which the Department has not made a final order could wait for sometime. This amounts to Rs. 2,222/-.

Therefore the amount required is	Rs.	14,757
	„	2,222
	Rs.	<u>12,535</u>

2 R 1

**Letter to the Director of Education, from some of the  
Teachers of Zahira College**

2 R 1  
Letter to the  
Director of  
Education from  
some of the  
Teachers of  
Zahira College —  
11-8-61.

Zahira College,

Colombo 10.

11th August, 1961.

The Director of Education,

Department of Education,

Colombo.

Dear Sir,

10

We the undersigned Teachers who are members of the staff of Zahira College, Colombo, which became an unaided school on 1st December, 1960, are compelled to bring to your kind notice the fact that our salaries for the month of July, 1961 have not been paid to us so far by the management.

We seek redress from you.

We are,

Your obedient servants,

M. S. M. HUSSAIN

(Sgd.) M. S. M. HUSSAIN

A. F. MUSAFER

(Sgd.) A. F. MUSAFER

A. A. HAMID

(Sgd.) A. A. HAMID

20

S. SELVANAYAGAM

(Sgd.) S. SELVANAYAGAM

M. S. M. NALIM

(Sgd.) M. S. M. NALIM

P. BALASINGHAM

(Sgd.) P. BALASINGHAM

D. P. TAMPOE

(Sgd.) D. P. TAMPOE

S. M. JIFFREY

(Sgd.) S. M. JIFFREY

K. P. NADARAJAH

(Sgd.) K. P. NADARAJAH

H. W. GUNAPALA

(Sgd.) H. W. GUNAPALA

M. A. C. A. RAHUMAN

(Sgd.) M. A. C. A. RAHUMAN



MRS. L. CHELLIAH	(Sgd.)	(MRS.) L. CHELLIAH
M. N. O. MIHILAR	(Sgd.)	M. N. O. MIHILAR
M. BALASUBRAMANIAM	(Sgd.)	M. BALASUBRAMANIAM
A. CARTHIGESAN	(Sgd.)	A. CARTHIGESAN
K. KRISHNAN	(Sgd.)	K. KRISHNAN
S. SIVASAMY	(Sgd.)	S. SIVASAMY
M. RATNAM	(Sgd.)	M. RATNAM

2 R 1  
Letter to the  
Director of  
Education from  
some of the  
Teachers of  
Zahira College —  
11-8-61.  
—continued

---

2 R 2

10 Letter to the Director of Education, from some of the  
Teachers of Zahira College

2 R 2  
Letter to the  
Director of  
Education from  
some of the  
Teachers of  
Zahira College —  
11-8-61.

Zahira College,

Colombo.

11th August, 1961.

The Director of Education,

Colombo.

Sir,

We regret to bring to your notice that the Management of Zahira College, Colombo, has failed so far to pay our Salaries for the month of July, 1961, and thereby contravened Section 6 (*i*) of the Assisted Schools and Training Colleges (Special Provisions) Act, No. 5 of 1960 as amended by the Assisted Schools and Training Colleges (Supplementary Provisions) Act No. 8 of 1961.

From the time Zahira became unaided on 1st December, 1960, we have been receiving our Salaries regularly on or about the last day of each month. This failure on the part of the Management reveals that the Management

2 R 2  
Letter to the  
Director of  
Education from  
some of the  
Teachers of  
Zahira College —  
11-8-61.  
—(continued)

does not have the necessary funds to manage the Institution properly. This delay has brought about grave hardship to our families and dependents. We, therefore, request you to save us from this plight.

Yours obediently,

(Sgd.) A. H. PEIRIS,

A. H. PEIRIS — *Headmaster, Z. C. C.*  
*166, Attidiya Road, Ratmalana.*

P. W. Fernando, 24/1C, Fredrica Road, Wellawatta.

A. S. M. Farook, Zahira College, Colombo.

(Sgd.) A. S. M. FAROOK. 10

M. S. M. Hussain, Zahira College, Colombo.

(Sgd.) M. S. M. HUSSAIN.

A. R. M. Sanoon, Zahira College, Colombo 10.

(Sgd.) A. R. M. SANOON.

S. P. Perera, Zahira College, Colombo 10.  
(460, Union Place, Colombo 2).

(Sgd.) STEPHEN P. PERERA.

G. A. de Silva, Zahira College, Colombo 10.  
(192, Temple Road, Colombo 10).

(Sgd.) G. A. DE SILVA. 20

A. E. de Zylva, 104, Wall Street, Colombo 13.

(Sgd.) A. D. E. ZILVA.

**Letter to the President of the Executive Committee of the  
Maradana Mosque from the Director of Education**

My No. NSB. 112  
Education Department,  
Malay Street,

P 1  
Letter to the  
President of the  
Executive Com-  
mittee of the  
Maradana Mosque  
from the Director  
of Education —  
11-8-61.

Colombo 2, 11th August, 1961.

Mr. A. H. M. Ismail,

President of the Executive Committee  
<sup>10</sup> of the Maradana Mosque, Maradana and  
Manager, C/Zahira College, Colombo 10.  
139/141, Kynsey Road, Colombo 8.

Sir,

**C/Zahira College, Colombo 10.**

It has been brought to my notice that you as the Proprietor and  
Manager of C/Zahira College, Colombo 10, have failed so far to pay the  
salaries of the Teachers for the month of July, 1961. You have thereby  
contravened Section 6 (i) of the Assisted Schools and Training Colleges  
(Special Provisions) Act No. 5 of 1960 as amended by the Assisted Schools  
<sup>20</sup> and Training Colleges (Supplementary Provisions) Act No. 8 of 1961, which  
is as follows :—

“ (i) shall pay to every Teacher and employee who is on the staff of such  
school the salaries and allowances due to such teacher or employee  
in respect of any month not later than the 10th day of the sub-  
sequent month ”.

I shall be thankful if you will show cause on or before the 18th of  
August, 1961, why I should not recommend that C/Zahira College, Colombo  
10, be taken over for Director Management in terms of Section (11) of the  
(Special Provisions) Act No. 5 of 1960.

30

I am, Sir,

Your obedient servant,

Sgd. S. F. DE SILVA.

*Director of Education.*

2 R 3

**Letter to the Director of Education from some of the  
Teachers of Zahira College**

2 R 3  
Letter to the  
Director of  
Education from  
some of the  
Teachers of  
Zahira College —  
14-8-61.

**Express Registered Post.**

Zahira College,

Colombo.

14th August, 1961.

The Director of Education,

Colombo.

Sir,

10

We, the undersigned, who are members of the staff of Zahira College, Colombo — 10, beg to bring to your immediate attention the grave situation that has arisen at Zahira College, Colombo — 10, which became an unaided school on 1-12-60 much against the desire of many of our colleagues who are no longer with us at Zahira but who wished this school to go Director managed towards the end of last year and who left the staff on the eve of Zahira going private to enjoy the security of teaching posts under Director-management. We were told by the Principal, on behalf of the management that the entire Muslim community was interested in maintaining this institution — being the premier Muslim Collegiate School in the Island —<sup>20</sup> and that there will be absolutely no danger either to the security of our jobs or to the payment of our salaries regularly, we were paid our salaries regularly on or about the end of each month till the end of June, 1961. When some of us asked the Principal for our salaries at the end of July 1961, he said that he was in communication with the management. We waited and waited patiently hoping every day that our salaries will be paid, since on or about the 2nd of August 1961. The callous manner in which the Principal and the management have treated us from the 1st of August 1961 to the 10th of August 1961 have completely shaken our confidence in them. The management have not honoured the statutory obligation to pay us even<sup>30</sup> by the 10th of the ensuing month and we are shocked to find that the management which has the reputation of being rich, has no money. The tragic aspect of the situation is that 38 permanent teachers and 14 temporary daily paid teachers out of a total of 64 have not been paid their salaries. Further, to add to the irony of the situation, some members of the Maradana Mosque Committee who met some of us individually have asked us “to hold on” thoroughly unmindful of the plight of poor teachers with wives, children and dependents to support. We have lost our entire faith in the management ever to pay our salaries regularly. Many of us were teachers when Zahira was an Assisted School and foolishly remained at<sup>40</sup>

Zahira when it became unaided. Sir, the entire teaching staff of Zahira College, Colombo, look up to you to come to our rescue and grant us immediately redress by taking over the school and paying us our salaries immediately so that neither us, the teachers of Zahira, nor the students of Zahira will suffer.

2 R 3  
Letter to the  
Director of  
Education from  
some of the  
Teachers of  
Zahira College —  
14-8-61.  
—continued.

We remain,

Your obedient servants,

M. F. M. H. FAKHIR	Sgd. M. F. M. H. FAKHIR
M. BALASUBRAMANIAM	Sgd. M. BALASUBRAMANIAM
V. NATESAN	Sgd. V. NATESAN
J. M. CASSIM	Sgd. J. M. CASSIM
A. S. M. ISMAIL	Sgd. A. S. M. ISMAIL
P. BALASINGHAM	Sgd. P. BALASINGHAM

10

---

P 2

**Reply to P 1 from the President of the Executive  
Committee of the Maradana Mosque**

15th August, 1961.

The Director of Education,  
Education Department,  
20 Malay Street, Colombo 2.

Sir,

**Subject : C/Zahira College, Colombo 10.**

With reference to your letter No. NSB. 112 of the 11th instant, I write to inform you that owing to a certain misunderstanding the salaries of all the teachers of the College were not paid by the 10th instant. I am making arrangements to pay the salaries of the remainder of the teachers by the 18th instant.

P 2  
Reply to P 1  
from the  
President of the  
Executive Com-  
mittee of the  
Maradana Mosque  
— 15-8-61.

P 2  
Reply to P 1  
from the  
President of the  
Executive Com-  
mittee of the  
Maradana Mosque  
15-8-61.  
—(continued)

The salaries of the teachers for August 1961 and the subsequent months will be paid by the 10th of the subsequent month in terms of the Provisions of the Assisted Schools and Training Colleges (Special Provisions) Act No. 5 of 1960 as amended by the Assisted Schools and Training Colleges (Supplementary Provisions) Act No. 8 of 1961.

I am, Sir,

Your obedient Servant,

Sgd. A. H. M. ISMAIL.

(A. H. M. ISMAIL),

*Manager Z. C. C.*

10

---

P 3

**Telegram sent to the President of the Executive Committee  
of the Maradana Mosque by Action Committee, Zahira Teachers**

P 3  
Telegram sent to  
the President of  
the Executive  
Committee of the  
Maradana Mosque  
by Action Com-  
mittee Zahira  
Teachers —  
15-8-61.

**Telegram**

Scal

Colombo C. T. O.

15th August 1961.

Manager Ismail

Gem Museum

Fort,

Colombo.

(Office of origin - Panchikawatta)

**TEACHERS NOT PREPARED ACCEPT SALARIES FROM YOU <sup>20</sup>  
ON PRINCIPLE EXPECTING REDRESS FROM DIRECTOR  
EDUCATION. JOINT-SECRETARIES ACTION COMMITTEE  
ZAHIRA TEACHERS.**

M. Y. MOHAMED

A. S. M. FAROOK

X 9

**Letter to the Principal, Zahira College, from the Manager,  
Zahira College, with annexures marked X 9a and X 9b**

A. H. M. Ismail

" RHYAN "

139/141, Kynsey Road,

Colombo 8.

17th August, 1961.

X 9  
Letter to the  
Principal Zahira  
College from  
the Manager  
Zahira College —  
17-8-61.

The Principal,  
10 Zahira College,  
Colombo 10.

**Zahira College, Colombo 10.**

Dear Sir,

With reference to the telephone conversation I had with you this morning in which you intimated to me that :—

	(a) Donations received in terms of your letters dated 15th and 16th August 1961 amounted to ... ..	Rs. 832.17
20	(b) Donations received from Moulanas on 17th August 1961 ... ..	„ 250.00
	(c) Hostel profits in hand ... ..	„ 3,000.00
	(d) Amount required to meet full payment of July salaries of the College Teachers in terms of your letter of 6th August 1961, is approximately ... ..	„ 8,500.00

I am forwarding herewith a cheque in favour of Zahira College, No 2. Account for Rs. 8,500/- as a loan from the Maradana Mosque to meet the full payment of July salaries of the Teachers of the College.

Kindly acknowledge receipt.

30

Yours faithfully,

Sgd. A. H. M. ISMAIL,  
*Manager,*  
Zahira College, Colombo.

X 9  
Letter to the  
Principal, Zahira  
College, from  
the Manager,  
Zahira College —  
17-8-61.

X 9a

15th August, 1961.

Annexure marked  
X 9a.

The Manager,  
Zahira College,  
Colombo.

Herewith the letter typed.

The cash balance as on 15th August, 1961, to the credit of the Benefactors of Zahira Fund is Rs. 232/- inclusive of two cheques received yesterday and today, one from T. P. Abdul Rahaman and one from Proctor S. M. A. Raheeman. 10

Sgd. A. M. A. AZEEZ,  
*Principal Z. C. C.*

X 9  
Letter to the  
Principal, Zahira  
College, from  
the Manager,  
Zahira College —  
17-8-61.

X 9b

16th August, 1961.

Annexure marked  
X 9b.

The Manager,  
Zahira College,  
Colombo.

Reference my letter dated 15th August, 1961, showing a balance of Rs. 232/- as on 15th August, 1961.

The cash balance as on today to the credit of the Benefactors of Zahira <sup>20</sup> Fund is Rs. 832/17 inclusive of the Bank Advices received today in respect of (1) M. M. A. Raheem — 100, (2) Taylor & Mackay Ltd. — 100, (3) Colombo Picture Palace — 100, (4) M. A. Meera Mohideen & Co. — 100, (5) Grandpass Maternity and Nursing Home — 100, (6) Al-Hajj: M. H. M. Naina Marikar — 100.

Sgd. A. M. A. AZEEZ,  
*Principal Z. C. C.*



**Letter to the Principal, Zahira College, from Action  
Committee, Zahira Teachers**

P 4  
Letter to the  
Principal, Zahira  
College, from  
Action Committee,  
Zahira Teachers --  
18-8-61.

Copy

**Per Registered Post**

The Principal,  
Zahira College,  
Colombo — 10.

<sup>10</sup> Dear Sir,

With reference to your offer made only a few hours back today on behalf of the management to pay today itself the full salaries for the month of July 1961 of the teachers who were not paid on or before the 10th of August their salaries for July, I am authorised by the entire staff of Zahira College, Colombo, both permanent and temporary to inform you that we were not prepared to accept your offer as the payment is made, *inter alia* to prejudice our claims against the management, the management having flagrantly violated Section 6 (i) of the Assisted Schools and Training Colleges, (Special Provisions) Act No. 5 of 1960 as amended by the <sup>20</sup> Assisted Schools and Training Colleges (Supplementary Provisions) Act No. 8 of 1961.

Yours truly,

Sgd. ROY DE MEL,

*Chairman.*

Sgd.

Sgd.

A. S. M. FAROOK                      AND                      M. Y. MOHAMED

*Joint-Secretaries.*

Action Committee,

Zahira Teachers.

<sup>30</sup> For and on behalf of the entire staff both permanent and Temporary of Zahira College, Colombo.

P 5

**Letter to the Director of Education from the Manager,  
Zahira College**

P 5  
Letter to the  
Director of  
Education from  
the Manager,  
Zahira College —  
21-8-64.

“ RYHAN ”

139/141 Kynsey Road,

Colombo 8.

21st August, 1961.

The Director of Education,

Education Department,

Malay Street,

Colombo 2.

Sir,

10

**Subject : C/Zahira College, Colombo 10**

In continuation of my letter dated 15th August 1961 in reply to your letter No. NSB 112 of the 11th instant, I write to inform you that on the morning of the 18th instant the Principal of Zahira College, Colombo, Mr. A. M. A. Azeez offered payment, on my behalf in the presence of Mr. M. F. M. H. Fakhir, Vice-Principal and Mr. A. H. Peiris, Head Master, to all the unpaid teachers of the College their salaries for July 1961, through Mr. Roy de Mel, the most senior member of the staff and the Chairman of the Action<sup>20</sup> Committee, Zahira Teachers.

In reply the letter annexed was received by the Principal on the 19th instant by registered post.

I am, Sir,

Your obedient servant,

Sgd. A. H. M. ISMAIL.

(A. H. M. ISMAIL)  
*Manager Z. C. C.*

**Letter to the President of the Executive Committee of the Maradana Mosque and Manager, Zahira College, from the Director of Education intimating the Minister's Order**

My No. NSB. 112  
Education Department,  
Malay Street,  
Colombo 2, 21st August, 1961.

P 6  
Letter to the  
President of the  
Executive Com-  
mittee of the  
Maradana Mosque  
and Manager,  
Zahira College,  
from the Director  
of Education  
intimating the  
Minister's Order —  
21-8-61.

Mr. A. H. M. Ismail,

<sup>10</sup> President of the Executive Committee of the Maradana Mosque, Maradana and Manager, C/Zahira College, Colombo 10, 139/141, Kynsey Road, Colombo 8.

Sir,

**Order under Section 11 of the Assisted Schools and Training Colleges (Special Provisions) Act No. 5 of 1960.**

With reference to your letter of 15th August, 1961, I have the honour to inform you that the Hon'ble Minister of Education and Broadcasting has ordered that C/Zahira College, Colombo 10 should be taken over <sup>20</sup> for Director-management with effect from 21st August, 1961, as Section 6 (i) of the aforesaid act was violated. The Principal and staff who were in the school have been re-employed to the school with effect from 21st August, 1961.

You are hereby requested to provide the requisite facilities for the Principal and the staff to resume duties under my management and to conduct classes.

You are also requested to hand over all school property including school records, attendance registers, admission registers etc., to Senator A. M. A. Azeez who has been appointed the Honorary Principal of the <sup>30</sup> School.

I shall be glad if you will please pay the arrears of salaries due to the staff for the month of July and the salaries for the period 1st August to 20th August, 1961.

I am, Sir,

Your obedient servant,

Sgd. S. F. DE SILVA.  
*Director of Education*

<sup>40</sup> Copies to :—E.O., Colombo,  
Hony. Principal, C/Zahira College,  
Colombo.

## Gazette Notification

P 7  
Gazette  
Notification —  
21-8-61.

## THE CEYLON GOVERNMENT GAZETTE

## Extraordinary

No. 12,612 — MONDAY, AUGUST 21, 1961

(Published by Authority)

## PART I: SECTION (I) — GENERAL

## Government Notifications

## ASSISTED SCHOOLS AND TRAINING COLLEGES

(SPECIAL PROVISIONS) ACT, No. 5 OF 1960

10

## Order under Section II

C/ZAHIRA COLLEGE, COLOMBO 10

By virtue of the powers vested in me by Section II of the Assisted Schools and Training Colleges (Special Provisions) Act, No. 5 of 1960, I Badiudin Mahmud, Minister of Education and Broadcasting, declare that, with effect from the 21st day of August, 1961, C/Zahira College, Colombo 10, shall cease to be an Un-aided School and shall be deemed for all purposes to be an Assisted School and that the Director of Education shall be its Manager.

BADIUDIN MAHMUD, <sup>20</sup>  
*Minister of Education and Broadcasting.*

Ministry of Education and Broadcasting,  
“ Sirimathipaya ”,  
Colombo 3, August 19, 1961.

**Education Minister's (1st Respondent's) Statement Published  
by the Department of Information**

**ZAHIRA COLLEGE**

**EDUCATION MINISTER'S STATEMENT**

(PUBLISHED BY THE DEPARTMENT OF INFORMATION)

(Printed at the Government Press Ceylon)

*The following is the text of a broadcast made over Radio Ceylon by the Hon. Minister of Education and Broadcasting, Mr. Badiuddin Mahmud, giving the reasons for the take-over of Zahira College, Colombo.*

P 8  
Education  
Minister's  
(1st Respondent's)  
statement  
published by the  
Department of  
Information.

Representations have been made to me during the last two months<sup>10</sup> about the take-over of Zahira College, Maradana, Colombo 10. From these representations it is evident that the facts leading to the take-over are not fully known to the Muslim Community and as a result certain sections have given a mischievous interpretation to the steps taken by the Government in this connection, Lest the propaganda of these interested sections should mislead the public, particularly the Muslim public. I consider it my duty, as the Minister of Education, to place before the public the salient facts relating to the take-over of Zahira College.

On the 12th of August, 1960, the Government announced its policy regarding a national system of education and indicated that action would<sup>20</sup> be taken to take-over all Assisted Schools other than Grade I and II Schools which were to be given the option to become private and unaided. Accordingly provision was made in the Assisted Schools and Training Colleges (Special Provisions) Act, No. 5 of 1960, for any proprietor of a Grade I or Grade II School to elect to become unaided and private. As a new type of school was being created by this concession, great care had to be taken to ensure that these schools conformed to the national education policy. Conditions which were envisaged at the time of presenting this Bill were laid down by Section 6 of the Act. But a number of schools which became<sup>30</sup> private and unaided under this Act did not function satisfactorily. Hence further conditions were imposed by amending Section 6 of this Act by Act No. 8 of 1961. Some of the twelve conditions to be satisfied by the proprietor were as follows :—

The proprietor—

- (a) shall continue to maintain all such facilities and services as were maintained on the 20th July, 1960,
- (b) shall not levy any fees other than Facilities Fees,
- (c) shall pay to all teachers and employees the salaries and allowances due to them in respect of any month not later than the 10th day of the subsequent month, and
- <sup>40</sup> (d) shall satisfy the Director that necessary funds to conduct and maintain the School will be available.

P 8  
 Education  
 Minister's  
 (1st Respondent's)  
 statement  
 published by the  
 Department of  
 Information.  
 ---*(continued)*

The law further provided that a school should be taken over for Director-management if any of these twelve conditions was violated. The procedure was also laid down. According to it, the Minister, in consultation with the Director of Education, has to publish an Order declaring the School to be Director-managed. The law does not give the Minister any discretion to excuse the violation of any of the above-mentioned conditions or to adopt any course of action other than Director-management.

Any proprietor, who elected to make his School private and unaided, is presumed to have known all these provisions of the law. It is his obligation to acquaint himself fully with the legal requirements and to conduct his school accordingly. <sup>10</sup>

### Non-payment of Teachers

The Executive Committee of the Maradana Mosque, as the proprietor of Zahira College, Colombo 10, elected to make it private, unaided and non-fee-levying. Its election was accepted by the Director of Education and since 1st of December, 1960, it had been conducted as an unaided school. On the 11th of August, 1961, the Director of Education received several complaints from the teachers of Zahira College regarding the non-payment of their July salaries. According to the Act, the July salaries of all the teachers and other employees should have been paid not later than the 10th of August. The non-payment of their July salaries on the above date was a flagrant violation of Section 6 (i). The proprietor which in this case is the Executive Committee of the Maradana Mosque was given a chance to explain why these salaries were not paid in time. The Mosque Committee was also given a week's time to offer its explanation. It did offer no explanation. It was stated that the non-payment of July salaries was due to "a certain misunderstanding". But what the misunderstanding was or how it arose was not stated. <sup>20</sup>

Further it did not proceed to pay immediately the salaries. Instead it was stated that the Executive Committee of the Maradana Mosque was making arrangements to pay the salaries by the 18th of August. These statements were a clear indication that the Executive Committee of the Maradana Mosque had not only violated Section 6 (i), but had been disregarding Section 6 (k) which required the Committee to have available with it the necessary funds to conduct and maintain the School. All these very poignantly pointed to the fact that the Executive Committee of the Maradana Mosque did not have the necessary funds to pay even a month's salary to its teachers. Under these circumstances there was no alternative for me, but to issue the inevitable Order under Section II to take-over Zahira College for Director-Management. This step was rendered compulsory by the failure of the Executive Committee of the Maradana Mosque to comply with the unambiguous provisions of the law. <sup>40</sup>

How the Maradana Mosque Committee failed to collect the funds or whether it was misled by any party are not questions for me to consider. I am entrusted with the implementation of an Act of Parliament which I

have done with neither fear nor favour. The Committee as the Proprietor and that Committee alone is responsible for having failed in their duty. I can only express my regret that the Executive Committee of the Maradana Mosque has let down the Muslim Community by shirking the sacred responsibility which had been entrusted to it. If any party is to be blamed for this sad plight of the premier Muslim Seat of Learning, they are the Office-bearers and members of the Maradana Mosque Executive Committee.

P 8  
Education  
Minister's  
(1st Respondent's)  
statement  
published by the  
Department of  
Information.  
—(continued)

It is not within my purview to probe into any matters which are alleged to have taken place before the take-over. Besides, such a probe will not lead to any result, as a School once taken over cannot be given back under any circumstances.

### Political mischief

In the agitation carried on by a section of the Old Boys and other interested parties, I could see only political mischief and nothing else. If these gentlemen were genuinely interested in Muslim Education or in Zahira College — as they claim to be, they should have kept a close watch on the activities of the Mosque Committee and prevented the situation which the Committee created.

Fears have been expressed that the take-over of Zahira College is a severe blow to the educational and cultural progress and well-being of the Muslim Community. I should like to state categorically that these fears are unfounded. If the Government did not step in on the 21st of August and thereby avert an impending strike of the teachers and the pupils, a very serious situation would have arisen, which would have severely retarded the educational advancement and seriously undermined the discipline of the Muslim youth. Such a situation would have sullied the reputation of an institution cherished by the entire Muslim Community and brought to nought the selfless services rendered by its leaders for several decades. Having saved Zahira College from this plight, I wish to state in definite terms that Zahira will continue to be the “radiating centre of Islamic thought, learning, culture and activity,” as the Sirimavo Bandaranaike Government has already decided to confer on it University Status, thereby establishing the “Zahira University of Ceylon,” promised in the Throne Speech of 13th July, 1961, for the promotion of the Arabic Language and Muslim Culture.

I request most earnestly the Muslim Community not to fall into the trap of these political mischief-makers and to have the fullest faith in the Government and in its good intentions — a Government that has done so much for the educational and social progress of the Muslim Community besides crowning it with the steps taken towards the establishment of a Muslim Cultural University to promote their language, philosophy and culture.

2 R 4

**Letter to the President of the Executive Committee of the  
Maradana Mosque from the Director of Education**

2 R 4  
Letter to the  
President of the  
Executive Com-  
mittee of the  
Maradana Mosque  
from the Director  
of Education —  
1-9-61.

My No. NSBD. 24  
Education Department,  
Malay Street,  
Colombo 2,

1st September, 1961.

Mr. A. H. M. Ismail,  
“ Ryhan ”,  
138/141 Kynsey Road,  
Colombo 8.

10

Dear Sir,

Your kind attention is invited to the last paragraph of my letter of 21st August, 1961, whereby you were requested to pay the arrears of salaries due to the staff for the month of July and the salaries for the period 1st August to 20th August, 1961.

I am informed by the Teachers that they have not received their salaries still. From your letter of 21st August, 1961, I find that funds for the payment of July salaries were made available to the Principal on the 18th<sup>20</sup> of August, 1961. Accordingly I have directed the Principal to pay the salaries for the month of July, 1961.

I shall be glad if you will please see that the salaries for the balance 20 days are paid before the 7th instant. If no payment is made by this date I will utilise whatever funds due by way of grants to your school for the payment of these salaries.

Yours faithfully,

Sgd. D. G. KULATUNGE,  
*for Director of Education.*



2 R 5

**Letter to the Director of Education from the President of the  
Executive Committee of the Maradana Mosque**

A. H. M. ISMAIL

2 R 5  
Letter to the  
Director of  
Education from the  
President of the  
Executive Com-  
mittee of the  
Maradana Mosque  
5-9-61.

“ Ryhan ”,  
139/141, Kynsey Road,  
Colombo — 8.

5th September, 1961.

The Director of Education,  
10 Education Department,  
Malay Street,  
Colombo — 2.

Dear Sir,

C/Zahira College, Colombo

I am in receipt of your letter No. NSBD. 24 dated the 1st instant.

I would like to inform you that there should be funds with the Principle to meet the salaries due to the teachers for the period 1st — 20th August 1961, as he is in receipt of donations from the Old Boys and well-wishers, profits from the College Hostel and Evening School Etc.

20 I also have to bring to your notice that a sum of Rs. 26,000/- has been loaned to the Principal Zahira College by the Maradana Mosque on the understanding that this sum will be repaid to the Mosque on receipt of the grants due to this College from your Department.

Yours faithfully,

Sgd. A. H. M. ISMAIL.

## CEYLON GOVERNMENT GAZETTE

## The Ceylon Government Gazette

## Extraordinary

No. 12,792 — SATURDAY, DECEMBER 2, 1961

(Published by Authority)

## PART I: SECTION (I) — GENERAL

## Government Notifications

ASSISTED SCHOOLS AND TRAINING COLLEGES  
(SUPPLEMENTARY PROVISIONS)  
ACT No. 8 OF 1961

10

## Vesting Order No. 360

## C/ZAHIRA COLLEGE, MARADANA

By virtue of the powers vested in me by Section 4 of the Assisted Schools and Training Colleges (Supplementary Provisions) Act, No. 8 of 1961, I, Badi-ud-din Mahmud, Minister of Education and Broadcasting, do hereby declare that, with effect from the 20th day of December, 1961, all property specified in the Schedule appended hereto, being property liable to vesting, shall vest in the Crown.

## SCHEDULE

20

1. The premises in which C/Zahira College, Maradana, was conducted and maintained on July 21, 1960 *viz.*, (a) All that land bearing Municipal Assessment No. 406, Maradana Road, situated within the Municipality and District of Colombo, Western Province and bounded on the North by premises bearing Municipal Assessment Nos. 77, 75, 73, 71, 69, 67, 59, G.57 G.49, 43, 39, 35, 33, 29, 27, 25, 23, Darley Road, and Maradana Mosque premises bearing Municipal Assessment No. 390, Maradana Road, on the East by Maradana Road, premises bearing Municipal Assessment Nos. 414, 416, 418, 424, Maradana Road, and premises bearing Municipal Assessment No. 6, Symonds Road and the wall of Maradana Small Mosque premises and land depicted as Lot B in Plan No. 1409 of 10th October, 1959, made by G. A. H. Philipiah, Licensed Surveyor and Leveller, on the South by Lot A in aforesaid Plan No. 1409 of 10th October, 1959, made by G. A. H. Philipiah and property belonging to the Colombo Municipality, and on the West by Darley Road and premises bearing Municipal Assessment No. 95, Darley Road. *Excluding* from and out of the aforesaid land bearing Municipal Assessment No. 406 that triangular portion of land bounded on the North-East and East by the Maradana Road, on the South by the road leading to C/Zahira College Office and West and North-West by the road leading to the said Maradana Road from the said road to the C/Zahira College Office.

(b) All that land depicted as Lot A in aforesaid Plan No. 1409 of 10th October, 1959, made by G. A. H. Philipiah, Licensed Surveyor and Leveller, situated within the Municipality and District of Colombo, Western Province, and bounded on the North by premises described in paragraph 1 (a) of this Schedule, on the East by wall of the Maradana Small Mosque premises and Lot B in aforesaid Plan No. 1409 of 10th October, 1959, made by G. A. H. Philipiah, Licensed Surveyor and Leveller, South by properties of Obeidu Hadjar bearing Municipal Assessment No. 26 and of M. M. Mansoon and others bearing Municipal Assessment Nos. 28/24 and 23/30 and of M. H. A. Ismail Hadjar bearing Municipal Assessment Nos. 28/11 and 28/23 and property belonging to the Colombo Municipality, and on the West by premises described in paragraph 1 (a) of this Schedule.

P 9  
Ceylon  
Government  
Gazette —  
2-12-61.  
—(continued)

2. All the buildings and structures in or on the lands specified in paragraph 1 of this Schedule.

3. All movable property used for the conduct and maintenance of the said School as declared in the National Educational Survey Forms and the inventories and records maintained in and on behalf of the said School.

4. All moneys lying to the credit of the said School due to it by way of grants from the Director of Education and all other grants, fees, donations and endowments held for and on behalf of such school by the Proprietor or by any other person or persons.

BADI-UD-DIN MAHMUD,  
*Minister of Education and Broadcasting.*

NSAD 1255.

Ministry of Education and Broadcasting,  
Sir Earnest de Silva Mawatha,  
Colombo 3, December 14, 1961.

---

X 10

Letter to the Editor of the Ceylon "Daily News" from the Executive Committee of the Maradana Mosque

(*The Ceylon "Daily News", Saturday, December 9, 1961*)

Z A H I R A

It is not clear whether in his letter to the Ceylon "Daily News" appearing in the issue of December 4, Mr. Maruzook Burhan has expressed his personal views, or whether he claims to speak for the entire Board of Trustees of the Maradana Mosque which consists of 75 members, or whether he has expressed anyone else's view. The view expressed by him is certainly not the view of the Executive Committee of the Maradana Mosque on which alone was vested the management of the affairs of Zahira College, and its connected Institutions.

X 10  
Letter to the  
Editor of the  
"Ceylon Daily  
News" from  
the Executive  
Committee of  
the Maradana  
Mosque —  
9-12-61.

X 10  
 Letter to the  
 Editor of the  
 "Ceylon Daily  
 News" from  
 the Executive  
 Committee of  
 the Maradana  
 Mosque —  
 9-12-61.  
 —(continued)

In view of the reason given for the take-over of the College, namely, an alleged failure on the part of the management to pay the salaries of teachers for the month of July, and also as stated by the Minister of Education subsequently over the radio, non-availability of funds to pay the teachers even a month's salary, the management wishes to take this opportunity to inform the Muslim public a fact which is already well-known, namely that it was the Principal who "single-handed" undertook the full responsibility for the collection of all the funds required for the maintenance of the College as private and non-fee-levying, and payment of teachers without, at his insistence, any control or interference by the management. <sup>10</sup>

In point of fact, when the management sought to obtain control and periodical check of the funds in the Principal's hands even after the decision to run the College private and non-fee-levying, with a view to making it a success in the new set up, the Principal insisted, in writing, on a "guarantee" that he will continue to possess an unfettered and uncontrolled discretion in all matters relating to the College, including the finances, and this he was allowed, only because he claimed that without such discretion "it will be impossible" for him to attract, *inter alia*, the necessary staff under the present altered and hard conditions, and also satisfy the donors (including potential donors) of the "Benefactors of Zahira Fund" <sup>20</sup> who "had to be satisfied all the time that the College is being maintained at a high standard in all respects".

In the light of the collections made from various sources, and profits available to the Principal from the two income-producing concerns like the College Hostel and the evening School, and in the light of the sincerity claimed by letter requesting the "guarantee" for uncontrolled and unfettered discretion, the Executive Committee had every reason to believe that funds were available in the hands of the Principal to pay the salaries of teachers not only for the month of July, but even thereafter, and this notwithstanding the winding up, on 16 July with effect from that date, of <sup>30</sup> the benefactors of the Zahira Fund, without any warning or intimation to the management.

On 8 August when the Manager requested the Principal to pay the teachers their salaries by 10 August with the monies available to him he undertook to do so, and at no time up to 12 August did he even inform the manager, or the management, that he had not done so, or that he had no funds available for the purpose, which if he had done in time, all the money required would have been provided with the funds readily available in the hands of the Executive Committee.

The Executive Committee is deeply concerned, and are at present <sup>40</sup> engaged in looking into the question of the finances of the College generally, as well as into the question as to how a situation such as the failure to pay the teachers their July salaries could possibly have arisen, which in the absence of books of accounts which are in the possession of the Principal and which he has so far failed to submit though requested to do so, is not an easy task. The finances of the College and its connected institutions such as the Hostel, and the evening School have remained in the

hands of the Principal, unaccounted for a number of years. The action available against the Principal for an accounting is under consideration and is being pursued.

X 10  
Letter to the  
Editor of the  
"Ceylon Daily  
News" from  
the Executive  
Committee of  
the Maradana  
Mosque —  
9-12-61.  
—(continued)

In the meantime we would like to assure the Muslim community that it was our hope and intention to maintain, in the interest of the community, Zahira College, as a private and non-fee-levying institution under the Act, and we could and we would have done so, if those in whom we placed so much trust had not betrayed such trust. Even after the surprise and unexpected winding up of the Benefactors' of Zahira Fund on 16 July with immediate effect, in which the Principal had a hand, we still could have maintained the school with the funds in our hands. Further we also had the help and support of the old boys who offered us additional funds, which offer we gratefully accepted, and communicated to the Principal. The Principal did not avail himself of this offer despite his assurance that he would do so.

At no stage, however, did we have any reason to think that Zahira College could not have been sustained as a private non-fee-levying school far less did we think that we could not do it well or that the College should be handed over to the Government to be done better as Mr. Burhan claims. Once more we wish to assure all concerned that we, at all times had and still continue to have sufficient resources to efficiently maintain the school as a private and non-fee-levying institution under the Act.

#### A. K. M. ISMAIL

President, Executive Committee, Maradana Mosque, Colombo  
and Chairman of Board of Trustees, Maradana Mosque, Colombo  
and Ex-Manager, Zahira College, Colombo.

#### Members of the Executive Committee :

M. FALIL A. CAFFOOR  
MOHIDEEN CASSIM  
A. RAHEMAN M. HATHY  
DR. A. R. M. WAFFARN  
U. L. M. MOHIDEEN  
A. H. M. SULAIMAN  
A. J. M. JAMEEL  
A. J. M. WALID  
M. L. M. REYAL  
DR. M. I. M. NILAR  
DR. A. C. M. SULAIMAN  
L. M. HASHEEM  
M. R. P. BAWA  
M. H. M. THAHA

X 11  
 Letter to the  
 Editor of the  
 "Ceylon Daily  
 News" from  
 A. M. A. Azeez —  
 15-12-61.

X 11

**Letter to the Editor of the "Ceylon Daily News" from A. M. A. Azeez**

*The Ceylon "Daily News" Friday, December 16, 1961.*

**ZAHIRA COLLEGE TAKE OVER**

It is with poignant disappointment that I have to refer to the Press statement, appearing in last Saturday's Ceylon "Daily News", of Zahira's ex-manager Al-Hajj. A. H. M. Ismail, M.A., (Cantab), LL.B., (Lond.), J.P., U.M. In view of the serious allegations contained therein against me as Principal, Zahira College, Colombo, I crave your indulgence for just sufficient space to reply to him. 10

While the Zahira take-over — take-back controversy was raging fast and furious, accusation after accusation were heaped on me with venom and vigour and unkind epithets hurled at me unwarrantedly, as if I had been the sole owner of the College, by persons not well acquainted with the full facts of the case. My friends then urged me, from time to time, to issue a statement in vindication. I could not make this statement; for apart from the restraints and reticences inseparably associated with the office of Zahira's Principal, no satisfactory statement could have been made by me without citations from my correspondence with the Manager, Mr. Ismail which was official, having been written by me in my capacity as Principal. 20

Such citations by revealing inevitably the part played by the manager during the most critical period of Zahira's history would have been ungentlemanly on my part when the manager himself had made no accusations or allegations against me and when I had no reason to even suspect that he harboured such feelings towards me. His press statement, however, has completely altered the situation and consequently has enabled me to use my correspondence with him freely and frankly and without any inhibitions. For this I am grateful to him for I need no longer keep back from the public the relevant details relating to my conduct which some have already condemned without knowledge. 30

Now after a silence of four months, the manager has felt it necessary to play the role of an innocent victim. For this purpose he has utilized some portions of my correspondence, tearing them out of their context and omitting other portion unfavourable and prejudicial to him. In my letter to him dated 16 December 1960, the guarantee I wanted was that "the discretion given to me and my predecessor in the administration of Zahira for the last 40 years will continue undiminished. The manager has endeavoured to give a different construction to it. Again, I am supposed by the manager to have undertaken at his request on the 8th of August 1961 to pay the teachers their salaries by the 10th when I had informed him on the 6th of August, through a letter carried by the Vice-Principal personally to him as I was ill, of the immediate need for Rs. 12,535. 40

It is being quoted as an Appendix below. To this the manager should have pointedly referred in fairness to me; for in that letter I had specifically stated that "Thus it will be seen a sum of Rs. 12,535 is immediately needed." I should like to state categorically that no such undertaking of payment by

the 10th was given by me, nor did he make any such request. His letter sent to me dated the 17th of August, 1961 is revealing in this respect. It reads :-

X 11  
Letter to the  
Editor of the  
"Ceylon Daily  
News" from  
A. M. A. Azeez  
15-12-61.  
- (continued)

"With reference to the telephone conversation I had with you this morning in which you intimated to me that :—

(a) Donations received in terms of your letters dated 15th and 16th August 1961 amounted to Rs. 832·17.

(b) Donations received from Moulanas on 17th August 1961 Rs. 250.

(c) Hostel profits in hand Rs. 3,000.

<sup>10</sup> (d) Amount required to meet full payment of July salaries to the College teachers in terms of your letter of 6th August 1961 is approximately Rs. 8,500.

I am forwarding herewith a cheque in favour of Zahira College No. 2 Account for Rs. 8,500 as a loan from the Maradana Mosque to meet the full payment of July salaries of the teachers of the College."

The manager has also been silent on some more important letters of mine. For example by my letter dated June 2, 1961, I forwarded to the manager a comprehensive statement of income and expenditure of all the monies received of the Benefactors of Zahira Fund month by month covering <sup>20</sup> the period November 60 to May 61. This was followed two days later with another letter in which I pointed out to the Manager that "it is now clear therefore that rightly or wrongly, but very unfortunately, we do not have the support of the Muslim community to the extent expected to sustain Zahira College as an unaided institution. However, in the present special circumstances, it is essential that Zahira is continued as unaided as long possible. I am endeavouring to the best of my ability to achieve this with your co-operation." The measure of co-operation extended to me could be better guessed than stated.

<sup>30</sup> Very strangely the manager has once again not made any reference whatsoever to my letter of July 19, 1961 to him where I had clearly pointed out that the Mosque Committee had in the circumstances then obtaining three alternatives open *viz.*, (a) to decide to continue Zahira as unaided, (b) to revoke the option under Section 5 (3) (c) to expose Zahira to action under Section 6 (i) of take-over. I concluded that letter to the Manager thus :—"On my part I shall, to the best of my ability, carry out loyally whatever decision that may be made in regard to this matter." The Manager chose the first alternative and he had a full knowledge of how poor Zahira was in respect of funds. The Manager's cavalier treatment of my S.O.S. message (reproduced below in the Appendix) is the proximate <sup>40</sup> cause of the take-over of Zahira. Additional proof is furnished in this regard by his letter sent to me on the 17th of August 1961.

There are other similar serious omissions on his part with which I am unable to deal categorically in this letter for reasons of space. The corres-

X 11  
 Letter to the  
 Editor of the  
 "Ceylon Daily  
 News" from  
 A. M. A. Azeez --  
 15-12-61.  
 --(continued)

pondence I have had with the Manager will clearly indicate the true situation which led to the take-over of Zahira for director-management.

I regret to observe that in dealing with the question of the take-over, the Manager has thought it fit to make some unwarranted statements with regard to my management of the finances of the College and its connected institutions. I shall deal with them suitably and on the appropriate occasion.

(Sgd.) A. M. A. AZEEZ,

*ex-Principal Z. C. C.*

## APPENDIX

10

The Manager,

Zahira College, Colombo.

I have requested Mr. M. F. M. H. Fakhir, Vice-Principal, to hand to you personally this letter with the annexures (not reproduced for reasons of space). Annex marked (1) contains the estimate of income and expenditure in continuation of previous statements, brought up-to-date. Annex marked (2) the exact position as regard the amount of money urgently required to avoid action under Section 6 (i) referring to payment of salaries not later than the 10th. Thus it will be seen a sum of Rs. 12,535 (twelve thousand five hundred and thirty-five) is immediately needed.

20

(Sgd.) A. M. A. AZEEZ,

*Principal Z. C. C.*



Supreme Court of Ceylon,  
No. 573 of 1961.

Application for a mandate in the  
nature of a Writ of Certiorari  
under Section 42 of the Courts  
Ordinance.

*In Her Majesty's Privy Council*  
*on an Appeal from*  
*The Supreme Court of Ceylon.*

BETWEEN

THE BOARD OF TRUSTEES OF THE MARADANA  
MOSQUE, Maradana, Colombo.

*Petitioner - Appellant.*

AND

1. THE HONOURABLE BADI - UD - DIN MAHMUD,  
Minister of Education, Slave Island, Colombo.
2. S. F. DE SILVA,  
Director of Education, Malay Street, Colombo.

*Respondents.*

---

---

**RECORD OF PROCEEDINGS**

---

---