



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

MAHAPOLA HIGHER EDUCATION
SCHOLARSHIP TRUST FUND
ACT, No. 66 OF 1981

[Certified on 29th October, 1981]

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*Mahapola Higher Education Scholarship
Trust Fund Act No. 66 of 1981*

[Certified on 29th October, 1981]

L.D.—O. 34/81

AN ACT TO INCORPORATE THE MAHAPOLA HIGHER EDUCATION
SCHOLARSHIP TRUST FUND.

WHEREAS a Fund called and known as the “Mahapola Higher Education Trust Fund” has heretofore been established for the purpose of the advancement of the cause of education in Sri Lanka, by Deed of Trust No. 2773 (hereinafter referred to as “the Deed”), attested by Mallawaratchige Herman Patrick Perera of Colombo, Notary Public, and set out in the Schedule hereto :

AND WHEREAS sufficient funds have been successfully collected by means of public and private endowments for the carrying out of the aims and objects of the said Trust Fund and the Trustees have made an application for the said Trust Fund to be incorporated in accordance with the provisions hereinafter set out, and it will be for the public advantage to grant the application :

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :—

1. This Act may be cited as the Mahapola Higher Education Scholarship Trust Fund Act, No. 66 of 1981.

Short title

2. (1) From and after the date of commencement of this Act, the Mahapola Higher Education Trust Fund shall be a body corporate with perpetual succession under the name and style of “The Mahapola Higher Education Scholarship Trust Fund” (hereinafter referred to as “the Fund”) and by that name may sue and be sued in all courts, with full power and authority to have and to use a common seal.

Incorporation
of the
Mahapola
Higher
Education
Trust Fund.

3. (1) The administration, management and control of the Fund shall be vested in a Board of Trustees constituted as hereinafter provided.

Board of
Trustees
of the Fund.

(2) The Board of Trustees of the Fund (hereinafter referred to as “the Board”) shall consist of the following members :—

(a) the founder ;

(b) the persons for the time being holding office as—

(i) the Chief Justice of the Supreme Court ;

(ii) the Secretary to the Ministry of the Minister in charge of the subject of Higher Education ;

(iii) the Secretary to the Ministry of the Minister in charge of the subject of Education ; and

(iv) the Secretary to the Ministry of the Minister in charge of the subject of Trade ; and

(c) two persons appointed by the founder (hereinafter referred to as "appointed members"), for a period of five years :

Provided, however, that the two present Trustees other than those referred to in paragraph 11 of the Deed shall be deemed to be the first appointed members under this Act.

(3) The members present at the first meeting of the Board shall elect one from their number to be the Chairman of the Board.

(4) An appointed member of the Board may at any time resign his office by written communication addressed to the Chairman.

(5) A person shall be disqualified from being appointed or continuing in office as a member of the Board if he is—

(a) a person who, having been declared an insolvent or bankrupt under any law in force in Sri Lanka or in any other country, is an undischarged insolvent or bankrupt ; or

(b) convicted of an offence involving moral turpitude and punishable with imprisonment for a term not less than six months ; or

(c) under any law in force in Sri Lanka, found or declared to be of unsound mind or mentally deficient.

(6) Where an appointed member of the Board vacates his office by death, resignation or otherwise before the expiry of his term of office, his successor shall hold office for the unexpired portion of the term of office of his predecessor.

(7) The Chairman of the Board shall preside at all meetings of the Board. In the absence of the Chairman from any meeting, the members present at such meeting shall elect from among themselves a Chairman for that meeting.

(8) In the event of any difference of opinion between the members of the Board, the decision of the majority shall be binding and effectual.

(9) No act or proceeding of the Board shall be deemed to be invalid by reason only of the existence of any vacancy amongst its members.

(10) The quorum for any meeting of the Board shall be four members.

(11) Subject to the provisions of subsection (10), the Board may make rules to regulate the procedure in regard to its meetings and the transaction of business at such meetings.

4. The seal of the Fund—

The seal
of the
Fund.

- (a) shall be in the custody of such person as the Board may from time to time determine ;
- (b) may be altered in such manner as may be determined by the Board ; and
- (c) shall not be affixed to any document except with the sanction of the Board and in the presence of two members of the Board who shall sign the document in token of their presence.

5. The aims and objects of the Fund shall be—

Aims and
objects of
the Fund.

- (a) to provide higher educational facilities to youth ;
- (b) to provide assistance to deserving youth who have completed their secondary education satisfactorily, so as to enable them to complete their academic, industrial or technical education at a University or technical or higher educational institute, as the case may be ;
- (c) to set up and assist in the setting up and management of vocational training institutes for enabling youth to develop their vocational skills and competence ;
- (d) to set up and assist in the management and conduct of schools, institutes, foundations and similar institutions engaged in the furtherance of education ; and
- (e) to provide assistance for the development and improvement of the skills and competence of lecturers, teachers and such persons engaged in the furtherance of education.

Powers and
functions
of the
Board.

6. (1) The Board shall, in the name of the Fund, have the power to do all things necessary for, or conducive or incidental to, the carrying out of the objects of the Fund.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Board shall have the following powers and functions:—

(a) to raise funds and to receive grants, gifts, or donations in cash or kind, whether from local or foreign sources ;

(b) to take or hold any property, movable or immovable, which may become vested in it by this Act or by virtue of any purchase, grant, gift, testamentary disposition or otherwise, and to sell, mortgage, lease, grant, convey, devise, assign, exchange or otherwise dispose of, any property to which the Fund may become entitled ;

(c) to give grants, endowments or scholarships locally and abroad, for the furtherance of the objects of the Fund ;

(d) to conduct lotteries with the approval of the Government to collect moneys for the furtherance of the objects of the Fund ;

(e) to enter into and perform, either directly or through officers and servants or agents authorized in writing in that behalf by the Board, all such contracts and agreements as may be necessary for the exercise, performance and discharge of the powers, duties and functions, and for carrying out the objects, of the Fund ;

(f) subject to the provisions of this Act, to appoint, employ and remunerate officers and servants of the Fund and to make rules regarding the appointment, promotion, remuneration and disciplinary control of its employees and the grant of leave and other benefits to them ;

(g) to erect or cause to be erected any building or structure on any land belonging to or held by the Fund ;

(h) to invest moneys belonging to the Fund at the discretion of the Board in any such investments as are authorized by law for the investment of money including trust money and to recall, re-invest and vary such investments at the discretion of the Board and to collect income accruing from such investments ;

- (i) to open, operate and close bank accounts and to borrow or raise money with the property of the Fund as security, or without such security, for the purposes of the Fund; and
- (j) to do all such other acts and things as are incidental or conducive to the carrying out of the objects of the Fund.

7. There shall be paid into the Fund—

Payments
into
the Fund.

- (a) any funds raised or grants, gifts or donations received locally or from abroad or moneys realized or collected;
- (b) any grant received from the Government from time to time for the purpose of carrying out the aims and objects of the Fund; and
- (c) any income from investments or other receipts due to the Fund.

8. There shall be paid out of the Fund—

Payments
out
of the
Fund.

- (a) expenses necessary for the working, establishment and maintenance of the Fund;
- (b) the payment of salaries to officers, servants and other employees; and
- (c) all such other payments as are approved by the Board as being necessary for the purpose of carrying out the objects of the Fund.

9. All contracts, agreements, debts and liabilities of the said Trust Fund existing at the time of coming into operation of this Act shall be deemed to be the contracts, agreements, debts and liabilities of the Corporation hereby constituted.

Contracts, &c.
of the Trust
Fund
deemed
to be
those of
Corporation.

10. (1) The Board shall cause proper books of accounts to be kept of the income and expenditure, assets and liabilities and all other transactions of the Fund.

Accounts
and audit.

(2) The Board shall cause its books to be balanced as on the thirty-first day of December in each year and shall, before the thirty-first day of March next, cause to be prepared, an income and expenditure account and a balance sheet containing a summary of the assets and liabilities of the Fund made up to the first-mentioned date.

(3) The income and expenditure account and the balance sheet shall be signed by two members of the Board authorized to do so by a resolution passed by the Board.

(4) The Auditor-General shall audit the accounts of the Fund every year in accordance with Article 154 of the Constitution.

Financial
year of
the Fund.

11. The financial year of the Fund shall be the calendar year.

Exemption
of Fund
from
certain
duties and
taxes.

12. (1) The Fund shall be exempt from the payment of customs and import duty on any goods imported for the purposes of achieving the aims and objects of the Fund.

(2) The Fund shall be exempt from any income tax or wealth tax payable under the Inland Revenue Act, No. 28 of 1979.

(3) Where any person makes a gift to the Fund, he shall be exempt from the payment of gifts tax under the Inland Revenue Act, No. 28 of 1979, to the extent of the total value of the gift.

(4) Where any person makes a donation to the Fund during any year of assessment commencing on or after April 01, 1980, such donation shall be deemed to be an approved expenditure for the purposes of the Inland Revenue Act, No. 28 of 1979, and the donor shall be entitled to relief under that Act in respect of the total value of such donation.

(5) The Fund shall be exempt from the payment of any rates and taxes under the Development Councils Act, No. 35 of 1980, the Municipal Councils Ordinance or the Urban Councils Ordinance, as the case may be.

(6) The provisions of this section shall have effect notwithstanding anything to the contrary in the Inland Revenue Act, No. 28 of 1979, the Customs Ordinance, the Development Councils Act, No. 35 of 1980, the Municipal Councils Ordinance, or the Urban Councils Ordinance, as the case may be.

Protec-
tion of
members of
the Board
and officers,
&c. of the
Fund for
action under
this Act.

13. (1) No suit or prosecution shall be instituted against any member of the Board or any officer, servant or agent of the Fund appointed for the purposes of this Act, for any act which is in good faith done or purported to be done by such member, officer, servant or agent under this Act, or on the direction of the Board.

(2) Any expense incurred by the Fund in any suit or prosecution brought by or against the Fund before any court shall be paid out of the Fund, and any costs paid to, or recovered by, the Fund in any such suit or prosecution shall be credited to the Fund.

(3) Any expense incurred by any such person as is referred to in subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or is purported to be done by him under this Act or on the direction of the Board shall, if the court holds that such act was done in good faith, be paid out of the Fund unless such expense is recovered by him in such suit or prosecution.

14. No writ against person or property shall be issued against any member of the Board or any officer, servant or agent of the Fund in any action brought against the Fund.

No writ to issue against person or property of a member of the Board or officer &c. of the Fund.

15. All officers and servants of the Fund shall be deemed to be public servants within the meaning, and for the purposes, of the Penal Code.

Officers and servants of the Fund deemed to be public servants under the Penal Code.

16. The Fund shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall accordingly apply.

Fund deemed to be a scheduled institution within the meaning of the Bribery Act.

17. The provisions of this Act shall have effect notwithstanding anything contained in the Deed, and accordingly in the event of any conflict between the provisions of this Act and the provisions of the Deed, the provisions of this Act shall prevail.

Provisions of this Act to prevail over provisions of the Deed.

Saving of
the rights of
the Republic
and others.

18. Nothing in this Act contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Act, and those claiming by, from or under them.

Interpreta-
tion.

19. In this Act "founder" means the person referred to as such in the first-mentioned paragraph of the Preamble to the Deed, and after his death, shall mean the Minister in charge of the subject of Trade.

Schedule

No. 2773.

This Trust Deed made on this 23rd day of February One Thousand Nine Hundred and Eighty One between the Honourable Lalith William Athulathmudali (hereinafter called and referred to as the founder of the one part, and (1) Neville Dunbar Mirahawatte Samarakoon, (2) Veeravagu Siva Supramaniam, (3) Felix Stanley Christopher Perera Kalpage, (4) Eric Jackson de Silva, (5) Widanilage Lakshman Prasad de Mel and (6) Jezima Ismail (hereinafter called and referred to as the present Trustees) of the other part.

WHEREAS the founder is a Member of Parliament elected by the people of the Democratic Socialist Republic of Sri Lanka and is presently holding the Portfolio of Minister of Trade and Shipping.

AND WHEREAS the founder through his personal knowledge and experience is specially aware of the need to advance education in Sri Lanka and sees the promotion of education as way out of the present problems of poverty.

AND WHEREAS the founder being conscious of the great human resources available in the said Republic of Sri Lanka and perceiving the need to develop these resources for the greater advantage and benefit of the said Republic of Sri Lanka and its people.

AND WHEREAS the founder is deeply conscious of the need to help each individual to develop his full potential for his benefit and that of the country.

AND WHEREAS the founder being convinced that there cannot be true and meaningful development without the way being made for the people to find strength in the dignity of their individuality and without the opportunities being provided for the better realisation of an improved life style and quality of living.

AND WHEREAS the founder had in the year 1980 commenced in the rural areas of Sri Lanka a programme known as the Mahapola programme in order to benefit the underprivileged of the country.

*Mahapola Higher Education Scholarship
Trust Fund Act No. 66 of 1981*

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AND WHEREAS to advance the cause of education the founder has raised public and private funds and obtained the necessary authority to establish a fund to be called and known as the MAHAPOLA HIGHER EDUCATION TRUST FUND for realisation of the objective herein set out.

AND WHEREAS the founder being desirous of providing scholarships and other educational facilities to deserving students to develop and further University education and/or higher education and/or industrial and/or technical and/or vocational skills and competence and whereas the present Trustees have agreed to act as Trustees for the Management of the said endowment in the manner hereinafter provided.

NOW THIS TRUST DEED WITNESSETH AS FOLLOWS:

1. The objects for which the trust is established are:—

- (a) For the purpose of endowing scholarships annually to deserving students who have satisfactorily completed their secondary education and who intend developing and furthering their University education and/or higher education and/or industrial and/or technical and/or vocational skills and competence.
- (b) For the purpose of setting up of and/or assisting in the setting up of and/or in the assisting in the management and the conduct of educational institutes, schools, foundations and the like.
- (c) For the purpose of developing and/or furthering the skills and competence of teachers, lecturers and other persons engaged in furthering education in Sri Lanka.
- (d) For the purpose of doing all other acts and things as may be necessary or conducive to the attainment of the objects.

2. The founder hereby delivers to the Trustees the fund as consisting of Rupees Ten Thousand (Rs. 10,000) in cash to hold the same unto and to the use of the Trustees upon trust and with, under and subject to the powers and provisions hereinafter contained.

3. The Trustees shall make rules and by-laws prescribing the manner and method of the conduct of these presents and the grant or award of any scholarship or facility as set out herein.

4. If the income of the trust fund be sufficient the Trustees may award as many scholarships and grant such facilities as they may think fit and may prescribe such period and provide such amount as they in their discretion think fit and assign such name to such award or grant.

5. The Trustees may invest the trust fund in such securities as they in their discretion think fit and to acquire and hold lands as the Trustees may think fit.

6. Out of the income of the trust fund the Trustees shall manage this endowment to the best advantage.

7. The Trustees may invite any body or person or organisation to contribute to the trust fund and to receive such donations, endowments, gifts and the like.

8. The Trustees shall have the power to borrow money on the security of the trust property for purposes of carrying on this Trust.

9. The founder shall also be a Trustee under these presents as long as he lives and on his death or demise his assign or heir nominated by him shall be substituted in his place.

10. If any Trustee becomes bankrupt or is found guilty by court of an offence involving moral turpitude or becomes insolvent or remains absent from the said Republic of Sri Lanka for a period of six months continuously or is incapacitated physically the remaining Trustees with the consent of the founder so long as he continues to be a Trustee shall appoint a substitute.

11. The following present Trustees shall continue to be the Trustees under these presents, unless otherwise earlier determined as aforesaid as long as they hold the posts and/or designations indicated against their names, namely :

- (a) Neville Dunbar Mirahawatte Samarakoon as long as he holds the post and/or designation of Chief Justice of the Democratic Socialist Republic of Sri Lanka ;
- (b) Eric Jackson de Silva as long as he holds the post and/or designation of Secretary to the Minister of Higher Education ;
- (c) Felix Stanley Christopher Perera Kalpage as long as he holds the post and/or designation of Chairman of the University Grants Commission ;
- (d) Widanalage Lakshman Prasad de Mel as long as he holds the post and/or designation of Secretary to the Minister of Trade and Shipping,

and where such person shall cease to hold the post and/or designation aforesaid such person shall cease to be a Trustee under these presents.

12. The following present Trustees shall continue under these presents, unless otherwise earlier determined as aforesaid as long as they live and cease to be Trustees under these presents on their death or demise.

Sgd. N. D. M. Samarakoon,
Sgd. V. Siva Supramaniam,
Sgd. F. C. S. P. Kalpage,
Sgd. Eric Jackson de Silva,
Sgd. Lalith W. Athulathmudali,
Sgd. W. Lakshman P. de Mel,
Sgd. Jezima Ismail.

13. Where the present Trustees or any one of them ceases to be a Trustee under these presents the founder as long as he lives shall appoint a substitute for such Trustee. The founder may by Last Will assign his right of appointment of a Trustee, but where no such assignment has been made the right of appointment of a substitute trustee shall be exercised by the remaining Trustees.

14. The management and control of the Trust property shall vest in the Trustees.

15. In case there is a difference of opinion between the Trustees, the decision of the majority of the Trustees relating to the Trust shall be binding and be effectual and shall be carried out.

16. Where there is a failure of the Trust for want of its objects or the Trust having become impossible of performance, the Trustees shall move a competent Court of Law for applying the remaining Trust fund for similar objects.

17. The Trust shall in no event be liable for any loss to the Trust estate unless the Trustees are guilty of fraud.

18. This being a public charitable Trust, the property of the Trust shall in no event revert to the founder or his successors or assigns or to any other person.

19. No part of the Trust fund either the corpus or the income there from shall be utilised for any other purpose than that of the Trust hereby created.

IN WITNESS WHEREOF the parties hereto have set their hands hereunto and to two others of the same tenor on this Twenty Third day of February One Thousand Nine Hundred and Eighty One (1981).

Signed in the presence of us
and we declare that we are
well acquainted with the
executants hereof know
their proper names occu-
pations and residences.

- (1) Sgd. J. R. Jayewardene
- (2) Sgd. R. Premadasa

Sgd. N. D. M. Samarakoon,
Sgd. V. Siva Supramaniam,
Sgd. F. C. S. P. Kalpage,
Sgd. Eric Jackson de Silva,
Sgd. Lalith W. Athulath-
mudali,
Sgd. W. Lakshman P. de Mel,
Sgd. Jezima Ismail.

Sgd. M. H. P. Perera,
Notary Public.

I, MALLAWARATCHIGE HERMAN PATRICK PERERA of Colombo in the Democratic Socialist Republic of Sri Lanka, Notary Public do hereby certify and attest that the foregoing Instrument having been duly read over by the withinnamed Executants Neville Dunbar Mirahawatte Samarakoon, (2) Veeravagu Siva Supramaniam, (3) Felix Stanley Christopher Perera Kalpage, (4) Eric Jackson de Silva and (5) Lalith William Athulathmudali who signed as (1) "N. D. M. Samarakoon", (2) "V. Siva Supramaniam", (3) "S. C. P. Kalpage", (4) in Sinhala and (5) in

Sinhala respectively in the presence of Hon'ble Junius Richard Jayawardene and Hon'ble Ranasinghe Premadasa who signed as "J. R. Jayawardene" and in Sinhala respectively the subscribing witnesses thereto all of whom are known to me the same was signed by the Executants by the said witnesses and by me the said Notary in my presence and in the presence of one another all being present together at the same time at Colombo on this Twenty Third (23rd) day of February One Thousand Nine Hundred and Eighty One (1981).

And I further certify and attest that in both the original and the duplicate in line 4 of page 5 the letter "y" of the word "by", in line 26 the letter "r" of the word "or" and in line 30 the word "two" were typed over erasure before the foregoing Instrument was so read over and signed as aforesaid.

And I lastly certify and attest that the Duplicate of this Instrument bears a stamp of the value of Rs. 10 and the original bears a stamp of the value of Re. 1 which said stamps were supplied by me.

Date of Attestation
23rd February, 1981.

WHICH I ATTEST,
Sgd. M. H. P. Perera,
NOTARY PUBLIC.

WITNESSES:

Sgd. D. N. Maddumage
Sgd. K. Dharmasena

Sgd. W. Lakshman P. de Mel
Sgd. Jezima Ismail

Sgd. M. H. P. Perera,
Notary Public.

I, MALLAWARATCHIGE HERMAN PATRICK PERERA of Colombo in the Democratic Socialist Republic of S i Lanka, Notary Public do hereby certify and attest that the foregoing Instrument having been duly read over by the withinnamed Executants (5) Widanalage Lakshman Prasad de Mel who signed Illegibly and (6) Jezima Ismail who signed as "Jezima Ismail" respectively in the presence of Don Norris Maddumage of Madoluwawa Padukka and Kudagodage Dharmasena of No. 78, Obeysekere Town, Rajagiriya who signed as "D. N. Maddumage" and "K. Dharmasena" respectively the subscribing witnesses thereto all of whom are known to me the same was signed by the said Executants by the said witnesses and by me the said Notary in my presence and in the presence of one another all being present together at the same time at Colombo on this Twenty Ninth (29th) day of June, One Thousand Nine Hundred and Eighty One (1981).

WHICH I ATTEST,
Sgd. M. H. P. Perera,
NOTARY PUBLIC.

Date of Attestation
29th June, 1981.



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