

Home (1919) Department.
Education

Ordinary SERIES.

G.O. No. 1343

DATED 1-11-19

INDEXED

[Despatch Abstract.]

S u i t.-

Sanctioning the payment of an advance of Rs. 50 to M.R.Ry. C.T. Parthasarathi Mudaliyar Avl., late Headmaster, Board High School, Chittoor in connection with the defence of a suit brought against him by a private person.

PAPERS PUT UP WITH CURRENT No. _____

Papers of the department to which the current belongs.

Number.	Date.	Original (=O) or spare copy (= S.C.).	Remarks. (In this column such of the papers as have been removed for copying, printing, etc., should be marked with a cross.)	Initials of Referencer with date in token of return to Reference department

Papers of other departments.

Department.	Number.	Date.	Original (= O.) or spare copy (= S. C.).	Initials with date of (1) Referencer acknowledging returns of the paper concerned or (2) Despatcher to denote the return of the papers to the department concerned.

LOCAL AND MUNICIPAL DEPARTMENT.

Received



Registered C.No. 1574 191

10.1.19

Law charges relating to a suit against the Head
Master, Board High School, Chittoor.

ENCLOSURE
No. *113A*
16.1.19
Station *Chittoor*, Dated the *10th* December 1918.

R.O.C. No. 1567/D.B. of 17.

Station *Chittoor*, Dated the *10th* December 1918.

From (Name) *A. Galletti Esquire I.C.S.*
(Designation) *President, District Board, Chittoor.*

To The Secretary to the Government of Madras,
Home (Educational) Department,
Fort Saint George.

Sir,
Through THE DIRECTOR OF PUBLIC INSTRUCTION, MADRAS.

Sir,
I have the honour to enclose a copy of the judgment
in O.S.No.406 of 1917 on the file of the District Munsiff's
Court, Chittoor brought against the Head Master of the
Board High School, Chittoor, in connection with action
taken by the Head Master under G.O.No.559 Home (Education)
Department dated 1st May 1917.

2. The District Board has till now spent in connection
with the above suit a sum of Rs.125 for pleader's fees and
Rs.55-7-9 for copy stamps, witness batta etc. Out of these

amounts the Court has ordered a sum of Rs. 64-3-0 to be paid by the Plaintiff. I propose, if there is no objection, to debit the balance to the school accounts and recover it along with - the net cost of the school which is paid by Government.

3. The suit amount was Rs. 550 and the legal fee payable to the pleader is only Rs. 27-8-0. But the proceedings were protracted. There were 20 adjournments and the actual trial occupied 8 days with an average of 4 hours work a day. The District Board decided, after discussion, that Rs. 125 was a suitable fee.

4. The plaintiff is sure to appeal and further expenditure will therefore have to be incurred. I request permission to include such further expenditure also in the net cost statement of the Board High School, Chittoor.

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

For President. 14-12-18

Ref on Cur No. 10392/1918, dated

January 1919.

Submitted.

2. I support the President's proposals.

for Director of Public Instruction.

M. S. S.

In the Court of the District Munsif of Chittoor.

Monday, the 30th day of September 1918.

PRESENT :—M. R. Ry. K. SAMBASIVA RAO NAIDU GARU, B.A., & B.L.,

District Munsif.

Original Suit No. 406 of 1917.

Between

C. R. Parthasarathy Aiyangar Plaintiff.

And

C. T. Parthasarathy Mudaly Defendant.

This suit coming on 11-9-18 for final hearing in the presence of Messrs. C. Doraiswamy Aiyangar and C. Venkatramanaiyer, High Court Vakils for the Plaintiff and of Mr. A. Devaraja Madalyar, pleader for the Defendant, and having stood over to this day for consideration, the Court delivered the following

JUDGMENT:—

Suit to recover Rs. 550 as damages inasmuch as the Defendant published a notice defamatory of the Plaintiff.

2. The plaintiff—The Plaintiff is a Vakil of the Madras High Court and has been practicing as a Vakil at Chittoor for the last 19 years. He was a member of the Chittoor Taluk Board and is a leading and respected citizen of Chittoor.

The Plaintiff has been for the last 3 or 4 years actively working for the benefit of the public, as by organising a Social Service League, by delivering lecture on Social, Political, Moral and religious subjects.

The Defendant is the Headmaster of the Board High School, Chittoor.

The teaching and the management of the said Board High School, became so inefficient that in the year 1915-16 all the students of the School Final Class failed to secure the requisite marks for getting admission in the Junior Intermediate Class of any College. Further owing to his unhappy relation with the teachers, pupils and their parents, the Defendant became very unpopular at Chittoor and in fact some withdrew their children from the said High School.

The Plaintiff as a member of the District Congress Committee, Chittoor, arranged for a meeting of the same on 2-5-1917 for taking steps to remedy the state of affairs in the said Board High School. A Committee consisting of this Plaintiff and two others was appointed to make enquiries about the mismanagement of the Defendant as Headmaster of the school, about his unpopularity and about the causes of inefficient teaching.

The Defendant was appointed a Supervising Headmaster of the Bangari Zamindar Secondary School, Chittoor, from the 18th October 1915 on a salary of Rs. 50 per mensem, which post, the Defendant held, in addition to his other appointment (Headmaster of Board High School). By proceedings dated 27-5-17 the Defendant was removed from the post of the Supervising Headmaster by a unanimous resolution of the Bangari Zamindary School Committee of which this Plaintiff is the Secretary. A copy of the said resolution was communicated to the Defendant on 31-5-17.

The Plaintiff learns that, on receipt of the said copy, the Defendant got the Zamindar of Bangaripallem, who is the President of the Committee to cancel the said resolution on a misrepresentation that the other members of the Committee were also in favour of cancelling it.

Thereon another meeting of the School Committee was called for and it was resolved on 5-7-1917 that the Defendant should be asked to explain why he intermeddled with the affairs of the School contrary to the orders of the Committee and he has not yet submitted his explanation.

For the reasons stated above (paras 6 to 12 in the plaint) the Defendant began to entertain ill-will and malice towards the Plaintiff and he has been vilifying and defaming him in the eyes of the public from May 1917 till this date in various ways.

The Defendant not content with the said unlawful and illegal conduct also published and caused to be published on 14-7-17 a notice prohibiting the pupils of the said Board

High School from "hearing M. R. Ry. C. R. Parthasarathy Aiyangar a local pleader, whatever be the subject on which he may offer to lecture or speak or give instruction". Thereby insinuating that this Plaintiff is not a fit and proper person to associate with.

The Defendant has been systematically vilifying the Plaintiff in every walk of life.

The Plaintiff learns that the Defendant so published the notice maliciously and only with a view to defame the Plaintiff and lower him in the estimation of the public, though he pretended to issue the same under the Government Order 559, dated May 1917.

The Plaintiff further submits that the said Government Order 559 is in itself *ultra vires*, and even if that be legally valid no circumstances existed for the issuing of such an order and the Defendant issued the same maliciously and he cannot pretend to take shelter under the Government Order above mentioned.

The Plaintiff caused a notice to be issued to the Defendant on 19-7-1917 through his Vakils, to withdraw the notice and to apologise for his conduct and the Plaintiff learns, that the Defendant far from apologising for his conduct is using more violent language against the Plaintiff.

The conduct of the Defendant in acting as he did as detailed above is illegal and he is bound to compensate the Plaintiff for the damage done to him and to his reputation.

The Plaintiff estimates that a sum of Rs. 550 as damages would meet the bare ends of justice.

The cause of action for this suit arose on 14-7-1917 when the Defendant issued the said Circular and subsequently at Chittoor.

3. The written statement:-

The Defendant denies that for the reasons stated in paras 6 to 12 of the plaint or for any other reason he entertained any ill-will or malice towards the Plaintiff or has been vilifying or defaming him in the eyes of the public in any way.

The Defendant denies the ill-will and malice alleged in para 13 of the plaint as also the several allegations made in paras 6 to 12, out of which it is alleged the ill-will and malice sprang, and puts the Plaintiff to proof of the same.

It is true that this Defendant in communicating the Government Order 559 (Home, Educational) dated the 1st May 1917 and in explaining it to his assistants and pupils, as was his duty, prohibited his students from attending any lecture delivered by the Plaintiff.

The words quoted in para 14 of the plaint are not in any way defamatory, especially in the context in which they occur. The words used either in themselves or more especially in the context in which they occur, cannot, by any construction however strained, be deemed to contain the insinuation suggested. No insinuation was intended to be made that the Plaintiff is not a fit and proper person to associate with.

The Defendant denies that he ever vilified the Plaintiff in any way, or that he published the notice referred to in para 14 of the plaint, maliciously or with a view to lower him in the estimation of the public. Furthermore the notice is not capable of any construction tending to lower the Plaintiff in the estimation of the public.

The Defendant in issuing the above notice was only acting in the discharge of his duty as Headmaster and was explaining the real scope of Government Order 559 which he had to communicate to his assistants. Further as Headmaster he was perfectly within his rights in deciding whether the boys should attend any lectures delivered out of school hours and outside school premises.

The Defendant submits he had no alternative except to explain Government Order 559 whose legality cannot be questioned as it simply embodies executive instructions issued by Government as tutelary educational authority. The Defendant submits that, if the legality of the action of Government is questioned, a notice of suit should be sent to the Collector.

The allegations in para 18 of the plaint that since receipt of the Plaintiff's notice the Defendant has been using more violent language against Plaintiff is unfounded.

No damage at all has been done to the Plaintiff or his reputation by the publication inside the school and in the interests of the pupils of the circular in question. The Defendant is not bound to pay any damages and the damages claimed are excessive.

4. The issues are:-

I. Whether the notice in question is defamatory?

II. Whether the Defendant is privileged to issue such a notice as per reasons stated in paras 8 and 9 of his written statement?

III. What damages, if any, is Plaintiff entitled to recover?

IV. What relief is Plaintiff entitled to?

5. In May 1917 the Government of Madras issued Government Order No. 559 (Home) Educational Department, with certain directions on the subject of students taking part in political movements. After first mentioning that their attention has been drawn to the attempts which have of late been made to bring students in Schools and Colleges under the influence of a political propaganda and then stating that in their opinion it is unwholesome and undesirable that students shall be involved in such discussions in the interests both of educational advance and of the youths themselves, the Government proceeded to issue certain directions (namely) "The Government therefore direct that no undergraduate student in any College and no pupil in any school shall be permitted to take part in public political discussions, to attend political meetings, to join any political association or to take part in any movement with which it is in the opinion of the educational authorities undesirable that persons still in *Statu pupillari* shall be associated. His Excellency-in-Council directs that heads of colleges and school whether under public management or otherwise shall strictly enforce these directions. In doing so they should have regard not merely to the declared purpose of a meeting but also to the speakers who will address it."

6. From the above quotation it is undeniable that it is the desire of Government that no pupil of any school shall be permitted to attend political meetings and that all care should be taken to see that pupils of any school do not attend any political meetings. As the Government apprehend that though the declared purpose of a meeting may be 'non-political', politics may still be introduced in the speech or speeches, they give the additional caution that regard should also be had to the persons who will address it, meaning clearly thereby that if persons who have a tendency to talk politics whenever they chance to address a meeting, should speak at a meeting, pupils should be excluded from such a meeting. No other interpretation has been suggested or stated by the Plaintiff. So I may also state that the above is the only interpretation that can be placed on the last line of the Government Order when read with the other portions of the Government Order.

7. From the Government Order we find that the Government direct the heads of Colleges and Schools to strictly enforce the directions. In pursuance of this direction the Defendant—who is the Headmaster of the local High School—circulated the Government Order with the following instructions, amongst his Assistant Masters—"Circulated amongst the masters for clear explanation to their forms or classes. The masters should indicate the forms or the classes to which they have explained the Government Order. Each master is expected to explain this to the form or the class for which he is responsible. The last line in the Government Order should be carefully explained, for instance,

'I do not want any pupil of this school to hear M. R. Ry. C. R. Parthasarathy'

Aiyangar, a local Pleader whatever be the subject on which he may offer to lecture or speak or give instructions.'

(The underlined is mine). It is this last instruction that the Plaintiff takes objection to and that is stated to be a libel.

8. So the question for us is, whether that statement (underlined) amounts to a libel. It is admitted by both parties that the intention of the writer is not an element to be taken into consideration, in the determination of that question. What we are to see is how the words would be understood by ordinary persons and whether the words are calculated to convey an injurious imputation. To constitute a libel, "it is necessary not only that the words should be susceptible of a libellous meaning but that in the mind of a reasonable man they should constitute an imputation upon the person complaining. It is not enough to say that by some person or another the words might be understood in a defamatory sense". There is nothing in the statement itself which is injurious to the Plaintiff that is, the words are not 'obviously' defamatory. Then we have to see if any injurious imputation or insinuation is conveyed by the words. The only imputation or insinuation that is conveyed by the words in my opinion is that the Plaintiff is a politician, a person who takes interest in politics or at the most a person who in the opinion of the writer digresses into politics even when talking on other subjects (seeing that the Plaintiff's name is given as an instance of 'the speakers who address a meeting') and in my opinion, the said imputation or insinuation is not defamatory. To prove what imputation the words convey a number of witnesses have been examined on either side and I shall refer to their evidence.

9. The 1st witness for the Plaintiff is the Plaintiff himself. The imputation according to him is as follows "I took it as a gross insult because it casts a slur on my capacity to discriminate what ought and what ought not to be told to the boys and to discriminate between

what is political and what is not. No doubt this was not the insinuation (or innuendo) referred to in the plaint where in para 14 it is alleged that the insinuation amounted to that this Plaintiff is not a fit and proper person to associate with." Leaving aside this discrepancy and granting that the words convey the imputation suggested by the Plaintiff, does the statement in question amount to a libel? All words which expose the Plaintiff to hatred, contempt, ridicule or obliquity which tend to injure him in his profession or trade or causing to be shunned or avoided by his neighbours are libellous (Vide Odgers page 18). The 'incapacity' referred to above by the Plaintiff would not come under any of the above heads. So the insinuation suggested by the Plaintiff himself will not constitute a libel.

10. The 2nd witness is Rao Bahadur Mr. B. C. Raghava Iyer. In the five and a half pages of his deposition he has not told us what imputation or insinuation the statement in question conveys, for us to see whether it amounts to a libel or not. All that he stated was 'that if my name were inserted in the circular now in question I would have considered it as the greatest insult offered to me'. In another portion of his evidence he has stated 'I thought the suit circular was insulting to the Plaintiff.' Mr. B. C. Raghavaiyer is—by virtue of his appointment as Government pleader and Public prosecutor—not permitted to take part in political propaganda and as such it is but legitimate that he should feel aggrieved and insulted if his name were mixed up in any such matter. So, that in Mr. Raghava Iyer's opinion the words have an injurious meaning, will not much help us in determining their effect as against the Plaintiff.

11. The 3rd witness for the Plaintiff is Mr. C. V. Subramanra Iyer, a B.A., L.T., an undermaster in the Defendant's school. This witness even does not say what imputation or insinuation is conveyed by the words in question. The portion of his evidence touching this issue is to this effect.

Question:—Until the name of the Plaintiff was given as an instance, would his name have suggested itself to you as one whose speeches should not be heard?

Answer:—The Plaintiff's name would not have suggested itself to me.

I cannot say why the Plaintiff was chosen as an example &c.

I could not find from the instance given what sort of persons are to be avoided.

&c. &c. &c. &c. &c.

I know nothing of the political activities of the Plaintiff.

From the above quotation we see that the witness in the first place has not understood that any and what imputation is conveyed by the words in question and secondly, he knows nothing about the political activities of the place and so he is not the proper person who can be expected to understand the import of the words in the connection in which they were used.

12. The 4th witness for the Plaintiff is another assistant master in the Defendant's school, Mr. H. Subba Rao, B.A., L.T. The evidence of this witness is to the same effect as that of Mr. Raghava Iyer. What this witness has stated is this 'If my name had been inserted in the footnote instead of that of the Plaintiff my feelings would have been wounded'.

I did not read out to the boys the footnote made by the headmaster, as I thought it not better that personalities should be introduced. I omitted that portion because I thought it unnecessary to exemplify the instances'. As already observed what imputation or insinuation is conveyed by the statement in question we are not told. The witness as a school master, is prohibited to take part in political work and it is but natural that he should get annoyed if his name is dragged in. Besides he wanted to avoid personalities. So his evidence would not help us to determine how, if at all, the words in question are defamatory.

13. The next witness (Plaintiff's witness 5) is Mr. Neelakanta Sastri who is also a teacher in the Defendant's school. His evidence is to this effect 'I would not have liked the notice if my name be inserted instead of that of the Plaintiff. I would not have taken as a compliment. I would have taken it as an insult'. As a school master who cannot take part in political propagandist work, there is nothing strange if the witness should find objection to his name being inserted in the circular. Presumably it is the reason why he would not like his name to be mentioned therein. I say presumably because he gives no other reason. Thus we see that the evidence of these three witnesses—Plaintiff's witnesses 3 to 5—which should have been a best guide to us to come to a conclusion whether the words in question convey any and what imputation has been of no practical use to us (these being some of the persons to whom the words were first published).

14. Then remains the evidence of Mr. Narasimhaayn, a pleader of a long standing. No doubt the evidence of this witness goes a little further but is open to the same defect as that

of the others. His evidence runs thus:—I would have taken it as a serious reflexion on my character if my name had been mentioned in the place where I find the Plaintiff's name mentioned. I would have considered it as a remark tending me to lower in the estimation of others. Why he would have taken it as a reflexion the witness does not expressly tell us and it is that what we want.

15. As against this evidence for the Plaintiff, we have the evidence of the defence witnesses 2 to 4. The 1st of this batch is Mr. B. N. V. Deva (Defence witness 2). According to him if a person is named in that connection (in connection with the last sentence of the Government Order) it means that he is a person who talks of politics or he has something to do with politics. Thus, according to this witness, the imputation conveyed by the circular is that Plaintiff is a person who talks of politics and has something to do with politics, namely, that Plaintiff takes part in political propagandist work. I think the evidence of this witness on this point is entitled to some credit, as being that of one who spent some years in an English University.

16. The next witness (Defence witness 3) is Mr. Harihara Iyer B. A. His evidence as one of those to whom the words were first published is of great importance. His evidence on the point is to this effect "If a person's name is to be inserted in the place where the Plaintiff's name is inserted in the circular, it means that he is a politician of so enthusiastic a type that in the opinion of the Headmaster there is danger of his mixing up politics with any subject proposed to be lectured upon. No insinuation that the person named is not fit to be associated with is implied therein."

17. The other witness (Defence witness 4) is Mr. Galletti, the Collector of the District and the witness states "By the last sentence of the Government Order it is suggested that though the subject of a meeting is different some lectures may drag in politics. If a person's name is mentioned in that connection and if boys are asked not to attend the lectures of that person the only imputation is that the person is one who is likely to drag in politics into the lectures. There can be no other imputation." And it must be admitted that this evidence is entitled to the utmost credit. No doubt some suggestion was thrown that the evidence of this witness should not be given its due worth on the ground that the last statement in his deposition is not true. It is futile to argue that a person of his position would condescend to perjure himself in a matter like this with which he has not the least concern.

18. Thus we see from the evidence of the defence witnesses 2 to 4 that the only imputation that the words can convey and do carry is that Plaintiff is a political worker and a person who is likely to refer to politics and lecture thereon, even when the subject of the meeting is quite non-political. And this imputation it is clear, is not injurious to the reputation of any person who is not, by any law or rule for the time being in force, prevented from taking part in political work. So (vide the closing lines of para 8 supra) I reiterate that no injurious imputation is conveyed by the words in question and that the words in question are not defamatory. The issue 1 is decided against the Plaintiff.

19. The II issue:—This issue does not arise, in fact, in the view taken on issue 1 but I shall proceed to determine it however.

20. The words complained of are not 'obviously or prima facie' defamatory, namely, they are not defamatory without an innuendo. The innuendo suggested by the Plaintiff in his plaint is (Vide para 14) that the Plaintiff is not a fit and proper person to associate with. The words complained of are not capable of this interpretation. So naturally the Plaintiff has changed his case at the trial. Of course strictly speaking, the Plaintiff should not be allowed to so change his case. He cannot during the course of the case adopt a fresh construction. He should have carefully drafted the innuendo at first (Vide Odgers page 119). But we shall not enforce this strict provision of law and shall proceed to decide whether the Defendant was privileged in making the imputation such as that suggested by the Plaintiff in his evidence or that which in the opinion of the Court is the imputation conveyed by the words.

21. To refresh our memory we shall state here the imputation referred to above. According to the Plaintiff it is this 'The statement cast a slur on my capacity to discriminate what ought and what ought not to be told to the boys and to discriminate between what is political and what is not? The imputation which in my opinion is conveyed by the words is that the Plaintiff is a politician and a person who digresses into politics even while talking on other subjects. If we are to construe that these insinuations or imputations are injurious to the Plaintiff and we take it for granted that they are, then the question of privilege will come in.

22. According to the Government Order 559, 'the heads of colleges and schools whether under public management or otherwise, shall strictly enforce these directions.' So the duty was cast by the Government Order on the headmaster (the Defendant is one such headmaster) that they should take care to see that their pupils do not attend political meetings. The way in which the headmaster can do this is to instruct the pupils, either directly or through his assistants, not to attend political meetings and he will not be going out of the way if he names any persons whose meetings the pupils should not attend. There can be no doubt that the occasion availed of by Defendant is privileged.

23. The circumstance that the occasion is privileged can only destroy the presumption that the Defendant acted maliciously. But still the Defendant would be answerable if he had made the statement not in a sense of duty and not in the belief that it is true, provided express malice is shown to exist between him and the Plaintiff and the occasion is shown to have been availed of to give vent to that feeling. This brings us to the question of malice.

24. The Defendant was appointed Supervising Headmaster of the Bangari Zamindar's School at Chittoor in September 1915. The said school is being managed by a Committee consisting of the Plaintiff, the Plaintiff's witness 2 and some others with the Zamindar as its President. We shall not go into the circumstances in which the Defendant was appointed to the said post, for, the less said on the matter the better it is for all parties. Nor are we much concerned with the question whether it was the Zamindar that appointed the Defendant or it was the Committee. But the fact remains that in May 1917 a communication was sent by the Committee to the Defendant that his services would not be required any longer, a month hence. Then there was a tussle between the Defendant and the Committee, the former disputing the latter's right to issue that communication and the latter's asserting that it has every power to so act. The Defendant first succeeded in getting a favourable order from the Zamindar (Vide Exhibit III dated 29-6-17) but the Committee which carried more influence with the Zamindar succeeded in getting that order cancelled by the very Zamindar who issued it (Vide Exhibit L dated 16-8-17). Between these two dates the relations between the Defendant and the Committee were anything but friendly as shown by Exhibit D (dated 5-7-17) &c. Then there were other differences also between the Defendant and the public of Chittoor, one of whom is the Plaintiff. So there can be no doubt that the Defendant and the Plaintiff were on unfriendly terms both before and after the date on which the circular in question has been issued. In Exhibit J the Defendant suggests that Plaintiff and Plaintiff's witness (2) are acting out of personal spite. In view of this statement it is idle to contend that the Defendant has not reciprocated that feeling. He must be a sage not to have entertained any ill-feeling against the Plaintiff and others when he was being so harassed—and harassed according to him without justification and I am sure that the Defendant is not such a sage. Almost the whole documentary evidence is adduced to prove this and I without any hesitation lay down that there has been ill-feeling between the Plaintiff and the Defendant both prior and subsequent to the date of the circular in question.

25. Now, following the argument left behind in para 23 supra, to entitle matters otherwise libellous, to the protection which attaches to communications made in the fulfilment of a duty, bonafides, or to use its equivalent honesty of purpose, is essential; and for this, two things are necessary; (1) that the communication be made not merely in the course of duty namely on an occasion which would justify the making it but also from a sense of duty, (2) that it be made with a belief of its truth (vide Odgers page 318). In the circumstances I am inclined to think that the communication was made in a sense of duty. It is true that there has been ill-feeling between the Plaintiff and the Defendant both before and after the event. This is only some evidence to show that the Defendant must have acted not in a sense of duty but out of spite but still the Plaintiff has to show what was in the Defendant's mind at the time of the publication. And for this we have not any evidence of appreciable value. So I find the item 1 for the Defendant.

26. Next there is the item 2, namely, that the Defendant made the statement with a belief of its truth. The imputation to be considered is that Plaintiff is a politician and is a person to digress into politics when speaking on other subjects. According to the plaintiff (para 5), the Plaintiff has been delivering lectures on social, political, moral and religious subjects and has been actively working for the benefit of the public. He is also one of the Secretaries of the Home Rule League. It is not my purpose here to express any opinion about the aims and methods of the League and I regret that much unnecessary evidence on that point was directly or indirectly admitted into the case. There can be no denying that the League is a political organisation and I refer to it only to show that the Plaintiff is

taking part in politics. So we may affirmatively state that the Plaintiff comes under what is known as a 'politician'. The next point is whether there is a tendency in the Plaintiff to digress into politics when talking on other subjects. The Defendant has not acted wrongly in thinking so. According to Mr. Narasimhayya (Plaintiff's witness 6), he (witness) did hear him (Plaintiff) introduce religion in a non-religious lecture. While the Plaintiff has a tendency to so digress from a non-religious subject into a religious subject there may be a likelihood of his digressing into a political subject as well (when there is no legal impediment to prevent him doing so). Again Mr. Raghava Iyer comes to the rescue of the Defendant on this point, says he, "the Plaintiff delivered some of those lectures (lectures delivered under the auspices of the social service league). I attended some of them. To the best of my recollection there was no very unpopular admixture of politics in the lectures. By 'unpopular' I mean not liked by the members of the League". Thus according to Mr. Raghava Iyer the Plaintiff used to talk politics at social service lectures. The Government Order prohibits pupils from attending any political meeting; it does not make any difference between good or bad politics or popular or unpopular politics. The Plaintiff has, according to the evidence on his own side, some tendency to introduce politics while speaking on non-political subjects. Even according to the evidence of the Plaintiff himself one may say he has a tendency to digress into subjects foreign to the one on hand, because according to his own evidence the Report of the Social Service League work drafted by the Plaintiff was pronounced to smack of religion, by its President. When one who has a tendency to drag in other subjects when writing a report sitting coolly, there is nothing improbable in his digressing so when lecturing to an audience when there will be more or less excitement. Again in the matter of introduction of the Ode, Mr. Thyagarajayyer did not fall in with the views of the Plaintiff. We may presume that Mr. Theagaraja Iyer was not in favour of the introduction of the Ode, because it is something foreign to religion or social service. In all these circumstances as already stated the Defendant is not wrong in believing that the Plaintiff has a tendency to drag in politics in lectures on non-political subjects.

27. To recapitulate, first the Defendant made the statement in the course of a duty imposed upon him, to those who are interested in receiving it. He made the statement in a sense of duty and with an honest belief in its truth. It is not shown that in making the statement he was actuated by an improper motive though it is amply shown that the feelings between the parties have been inimical for sometime both before and after the publication. I am inclined to think that he acted under a sense of duty. So the Defendant even considering that the words used by him conveyed an injurious and libellous imputation or insinuation is protected from this action for damages. The issue II is accordingly decided.

28. The III issue:—In the view taken on issues I and II a determination of this issue is not necessary. If Plaintiff is held to be entitled to any damages, he will be entitled to some nominal damages, because, in fact, he suffered no damage.

29. One word as regards the costs of suit. If the Defendant had succeeded only on the ground of privilege I would have directed each party shall bear his own costs. But as the Plaintiff rushed to Court when no defamatory statement was made against him and when, even according to him the statement conveyed not a very harmful insinuation, I direct him to pay the Defendant's costs.

30. Before proceeding to pass judgment I may make some remarks. I have already observed in para 26 that much unnecessary evidence was allowed to get into the records. Both parties are influential and well to do people and the assiduity with which the case was conducted during the trial on both sides was such that they appeared to me to be bent upon taking the litigation up through all available Courts. So I thought it advisable to allow all the evidence regarding Home Rule, Mrs. Besant, Messrs. Katandikar, Harisarvohama Rao &c. to go in, seeing that it is safe to err on this side instead of shutting it out. That all matter was unnecessarily introduced was clear at the arguments.

31. Next, since the trial was a little protracted many applications have been made by the Plaintiff for the production of documents at many a stage. I have only to deal with one application made on 5-9-18 for the production of certain records from the offices of the President, District Board and the office of the District Medical and Sanitary Officer. The records required related to some communications regarding some magic lantern apparatus, between the District Board Office and the District Medical and Sanitary officer and the Defendant. The President took exception to the production of the file, under Section 124 Indian Evidence Act. The District Medical and Sanitary Officer produced his file but the Plaintiff stated that the required paper was not there. The Defendant also was summoned

to produce the file relating to that. But he has not produced it before the case closed for judgment. The objection of the President, District Board, was upheld and I think the privilege extends to the documents in the hands of the Defendant as well (under section 131 Indian Evidence Act). The Plaintiff at the time of the arguments suggested that action should be taken against the Defendant for the non-production of the document (under Order XI Rule 21). I think no action need be taken under that section inasmuch as the Defendant cannot be compelled under Section 131 (and Section 124) Indian Evidence Act to produce the document, and because he has however produced the document soon afterwards. This document is intended to contradict the evidence of Mr. Galletti (Defence witness 4) and to impeach his veracity on the point what he (Mr. Galletti) thought of the Defendant's conduct in the magic lantern affair and whether he did not censure him. This I may state is irrelevant.

32. In the result I dismiss the Plaintiff's suit and direct him to pay the costs of the Defendant.

Pronounced in open Court this 30th day of September 1918.

(Signed) K. SAMBASIVA RAU,
District Munsif.

Plaintiff's Exhibits:—

- A. 17—5—17. Proceedings of the Bangaripalleam Zamindar School Committee.
 - A1. 27—5—17. Proceedings of the Bangaripalleam Zamindar School Committee.
 - B. 4—6—17. Copy of letter sent by the Inspector of Schools to IIIrd Circle, Bellary to the Zamindar.
 - B1. 18—7—17. Letter of the Inspector of Schools, Bellary to the correspondent, B. Z. School, Chittoor.
 - C. Entries relating to the promotion of pupils of the B. Z. School.
 - D. Committee's resolution regarding the revision of promotion of pupils.
 - E. 14—7—17. Copy of the letter from the Headmaster, Board High School to the Inspector of Schools, Bellary.
 - F, F1 } Syllabus of lectures to be delivered by Mr. C. R. Parthasarathy
 - & F2 } Aiyangar (Plaintiff).
 - G. Corrections in the notes of compositions taken out by pupils at the lectures.
 - H. 23—3—16. Letter from the Headmaster (Defendant) to Mr. C. R. Parthasarathy Aiyangar (Plaintiff).
 - H1. 9—3—17. Notice of lecture to be delivered by Mr. C. T. Parthasarathy Mudaliar (Defendant) by Plaintiff.
 - H2. Letter by Headmaster to the Plaintiff.
 - J. 13—8—17. Letter from the Headmaster to the Director of Public Instructions.
 - K. 12—9—15. Committee's appointment Order of the Headmaster (Defendant), Board High School, as Supervising Headmaster, Bangaripalleam Zamindar's school.
 - L. 16—8—17. Letter from the Zamindar withdrawing the appointment order of the Headmaster.
 - M. 27—5—17. Extract of the Proceedings of the Committee in dispensing with the services of the Defendant.
 - N. Circular issued by Headmaster, Board High School in connection with Government Order 559 to the teachers and pupils of the Board High School.
 - O. 2—8—17. Letter of the Headmaster, Board High School to the President, District Board, for excluding pupils from attending Mr. C. R. Parthasarathy Aiyangar's lecture.
 - P. Prospectus of the Home Rule League.
- Defence Exhibits:—*
- I. Inspection Report of the Board High School, Chittoor for 1915—16.
 - Ia. Inspection Report of the Board High School, Chittoor for 1916—17.
 - II. National song as composed by Mrs. Anne Besant.
 - III. Letter of Zamindar cancelling the Order of the Committee of the B. Z. School.

IV. 18—8—17. Endorsement of the Director of Public Instructions about the High School at Chittoor, on the Mahazar against the Defendant.

Plaintiff's witnesses:—

- (1) Mr. C. R. Parthasarathy Aiyangar (Plaintiff).
- (2) Rao Bahadur Mr. B. C. Raghavayyer.
- (3) Mr. C. V. Subramanya Iyer, B. A. L. T.
- (4) " H. Subba Rao, B. A. L. T.
- (5) " V. Neelakanta Sastry.
- (6) " P. Narasimhayya.

Defence witnesses:—

- (1) Mr. C. T. Parthasarathy Mudaliar, B. A., L. T., (Defendant).
- (2) " B. N. Vijaya Deva, M. A., Bar-at-law.
- (3) " Harihara Iyer.
- (4) " A. Galletti, r. c. s.
- (5) " Ramaswami Pillai.
- (6) " Ramanujachary.

(Signed) K. SAMBASIVA RAU,
District Munsif.

(True copy).

Superintendent.

District Munsif's Court,
Chittoor.

Original Suit No. 406 of 1917

JUDGMENT.

Application made	...	} 191 .
Charges called for	...	
Charges deposited	...	
Copy ready	...	
Copy delivered	...	

Superintendent.

No. of words 6781 Charge is Rs. 9-10-0

Dep.
+ return file
time
82
14/2/19

P. 1 yef.

by a pleader & R.
Parthasarathi
Angangar

80 Sd 14/2

In the P. D. B. Chittoor.
(1st reminder to issue
after 3 weeks)

Home (20th) Sept

CM-113A.

O.H. N^o. 21623 A/18-6
14. 2. 19.

With reference
to his letter, No. C M-1567
S. B. of 17, dated the 10th
December 1918, the
P. D. B., Chittoor, is
requested to report
whether an appeal
has been filed against
the judgment of the
District Munsif,
Chittoor, in the suit
brought against
the headmaster of
the local board
high school.

82x
12. 2. 19.

13. 2. 19.
14/2/19

13. 2. 19.

14/2/19.

Howe (223) 1000

A 211 110
M.O.

With reference
to his letter dated 10.12.1917, dated 10.12.1917, the
District Munsiff, Chittoor, is
requested to report
whether an appeal
has been filed against
the judgment of the
District Munsiff,
Chittoor, in the suit
brought against
the Head Master of
the Board High School,
Chittoor.

22-12-1917
District Munsiff,
Chittoor.

Received



91

Registered

191

Subject.

Appeal in the suit brought against the Head
Master of the Board High School, Chittoor.

ENCLOSURES

No. one

State copies

R.O.C. No. 1567/D.B. of 1/.

Station Chittoor, Dated the 18th February 1919.

From (Name) A. Gallati Esquire, I.C.S.,
(Designation) President, District Board, Chittoor.

Submitted that the main
file on the subject was
circulated H.E. & H.
on the 13.12.17. This
may be over sending
it return.
25.2.19.

To The Secretary to the Government of Madras,
Home (Education) Department,
Fort Saint George.

Sir,

In reply to memorandum No. 2473 A/18-6 dated 14th
February 1919 asking me to report whether an appeal has
been filed against the judgment of the District Munsiff
Chittoor in the suit brought against the Head Master of
the Board High School, Chittoor, I have the honour to
answer in the affirmative. A copy of the appeal memo-
randum is enclosed. The hearing of the appeal stands
adjourned to the 27th instant before the District Judge
North Arcot.

2. I have also to report that the District Board have
resolved to arrange for legal assistance to the Head
Master in the appeal and that Rs. 50 has been fixed as the

pleader's fee.

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

For President.

DESPATCHED

19 FEB. 1919

In the Court of the District Judge of North Arcot.

A.S.No.698 of 1918.

Between,

C.R. Parthasarathi Aiyanger. Appellant.

And

C.T. Parthasarathy Mudaliar. Respondent.

On appeal from the court of the District Munsiff of
Chittoor.

O. S. No.406 of 1917.

Between,

C.R. Parthasarathi Aiyanger. Plaintiff.

And,

C.T. Parthasarathi Mudaliar. Defendant.

Memoandum of appeal.

The appellant above named begs to prefer this appeal against the decree of the District Munsiff of Chittoor in O.S.No.406 of 17 dated the 30th day of September 1918 for the following among other grounds under Section 96 or 41 Rule 1 of C.P.C.

1. C.R. Parthasarathi Aiyanger the appellant is the son of -
Kuppanayyengar, High Court Vakil, residing at Chittoor.

The address for service of all notices and processes to the appellant is as stated above.

2. C.T. Parthasarathi Mudaliar the respondent is the Head -
Master of the Board High School, Chittoor, residing at Chittoor.

3. The decision of the lower court is against law the weight of evidence and the probabilities of the case.

4. That the directions of the Government have not been properly construed. They have no application to the facts of the case.

5. That the observations in paras 6 and 7 of the lower court are misconceived.

6. That the lower court erred in holding that the offending -
passage in the suit circular is in pursuance of the directions of the Government.

7. That the lower court ought to have held that the offending passage in the suit circular amounts to a libel.

8. That the lower court ought to have held that the evidence in the case clearly establishes that the offending passage is defamatory. The observations of the lower court in paras 8 to 18 are wrong.

9. The lower court ought to have found the 2nd issue in the negative.

10. That the lower court ought to have held that the words complained of are prima facie defamatory.

11. That the lower court erred in holding that the occasion was privileged. The observations of the lower court in para 22 of the judgment are wrong.

12. That the lower court ought to have held that the defendant was not moved by honesty of purpose in passing the said circular.

13. That the conditions laid down in para 25 of the Judgment of the lower court are not correct. In any case the evidence in the case is clear that neither of the conditions is satisfied.

14. That the observations of the lower court in para 26 of the judgment are wrong.

15. That the lower court erred in holding that the document -- referred to in para 31 of the Judgment is privileged. Further the letter claiming the privileges is not signed by the President of the District Board and this was pointed out to the lower court.

16. D.W.4 did not claim privilege while he was in the witness box.

17. The defendant himself who was attending the court every day the suit was tried deliberately absented himself on the day when he was summoned to produce the proceedings relating to the magic lantern referred to in para 31 of the Judgment having previously -- evaded receiving summons, as the endorsement of the process server will show.

18. No notice was given to the plaintiff of the production of the document by the defendant after the case was closed.

17 18

19. The lower court erred in holding that no action could be taken against the defendant for the non-production of the document

20. The District Medical and Sanitary Officer who was summoned to produce the same document produced the whole file except the required document.

21. The lower court ought to have drawn an inference against the defendant under the above circumstances.

22. That the lower court ought to have held that the plaintiff was entitled to exemplary damages.

23. The lower court erred in thinking that the evidence on the plaintiff's side favors the defendant.

The lower court entirely misconstrued their evidence and the interpretation of their evidence by the lower court is quite contrary to what they actually deposed if the whole evidence is taken together.

24. The lower court having found that the defendant bore malice against plaintiff ought to have found that it was malice that - actuated ^{him} in issuing circular and ought to have given a decree to the plaintiff.

25. In any view of the case the lower court ought to have given a decree to the plaintiff with costs.

(True Copy)

Frederick
For Production.

Home (202) Dept.

CN 113A. From the P.D.B., Chittoor.
R.O.C No 15-67 2/10-12-18

" 478A. " " 18.2.19

OT. N. 606A-1
11.3.19

With reference to the correspondence ending with his letter No 1567, dated the 18th February 1919, the P.D.B., Chittoor, is informed that orders on the question of the incidence of the cost of the suit brought against the headmaster of the Board high school, Chittoor, will be deferred till the results of the appeal filed against the judgment of the lower court are known.

To the P.D.B., Chittoor.
Copy to the P.D.B.

NY
7/8/19

CR
8/3/19

NY
11/3/19

Home (202) Dept.
CN 113A. From the P.D.B., Chittoor.
R.O.C No 15-67 2/10-12-18
18.2.19

With reference to the correspondence ending with his letter No 1567, dated the 18th February 1919, the P.D.B., Chittoor, is informed that orders on the question of the incidence of the cost of the suit brought against the headmaster of the Board high school, Chittoor, will be deferred till the results of the appeal filed against the judgment of the lower court are known.

1. 

200 Some n
houses
ecology
to com

Cur No. 1724/49 dated 21 Octobg. 1919.

Enclosures. 5
Spare copies.

Soliciting Government for the immediate provisional funds to conduct the Suit for damages brought against M. R. Ry. Co. T. Partasarathi Mudaliar Avergal, late Head Master, Board High School Chittoor

Coimbatore

21st October, 1919

From

M. R. Py

C. T. Parthasarathi Mudaliar

Average, B.A.Z.T

Assistant Inspector of Schools

Coimbatore District

To

The Secretary to Government,

Home (Educational) Department,

Madras.

Sir,

In submitting the enclosed petition I beg to state that a copy of it has been submitted through the Director of Public Instruction also. The enclosed petition is intended to save time and give an opportunity to Government to issue such orders as they may consider necessary before the legal proceedings commence on the 28th instant.

I beg to remain

Sir

Your most obedient servant

C. T. Parthasarathi Mudaliar

Assistant Inspector of Schools
Coimbatore District

Cur No 1724/19

Coimbatore,
21st October 1919.

From

M.R.Ry., C.T. Parthasarathi Mudaliar, Avl., B.A., B.T.,

Late Head Master, Board High

School, CHITTOOR

and now Assistant Inspector of Schools,
Coimbatore District.

To

The Secretary to Government,

Home (Educational) Department,

MADRAS

Through

The Director of Public Instruction,

MADRAS

and

Through

The Inspector of Schools,

EIGHTH CIRCLE,

Sir,

I beg most respectfully to invite your attention
to what, in Chittoor, is known as "the G. O. suit". It is
a suit for damages brought by a Vakil of Chittoor against
me because under G.O. 559 I ordered the students of the
then Board High School not to attend his public lectures,
an act which he considered defamatory.

2. While the suit was still unheard, the Govern-
ment, through Sir John Henry Stone, prevented me from
compromising

22
16
compromising the said suit. In other words the Government have taken upon themselves the full responsibility of the suit, financial or otherwise. (Enclosures 1 and 2).

3. The suit was then allowed to go into Court and the District Board of Chittoor defended the suit at its own expense, without any question of my advancing the money. In the District Munsif's Court, the suit was dismissed with costs. But the plaintiff has filed an appeal in the District ^{Court} of Chittoor and the hearing ~~is~~ is likely to come off almost at once as will be seen from my Vakil's letters (Enc. 3 & Enc. 4)

4. If we win in this appeal, we shall have to pay the Vakil his fee of Rs. 50/-. If we lose we shall have to pay in addition the amount of damages (Rs. 550/-) and costs. If the appellant loses, he is sure to take the suit to the Madras High Court. Or if we lose, we should appeal again in the light of the Government's view as conveyed to me by Sir John Henry Stone's telegram.

5. Again I may have to go to Chittoor or Madras to ~~see~~ ^{see} the Vakil or transact other business in connection with the suit. All this means great expense, and I beg therefore that the Government will be pleased to put me in possession of funds to meet it. The Director

23
of Public Instruction suggests that I might apply apply
(Enc. 5)
to Government for money after decree; but as the decree
will have to be satisfied at once, at any rate as the
Plaintiff will insist upon it, and as there will then be
no time for obtaining funds from Government I request
that the Government will be so pleased as to place some
funds at my disposal for immediate use. I need hardly
add that I am too poor to advance money for these expenses
in these stringent times: nor could Government need any
such accommodation from me, and in a concern which they
have made their own.

6. I would ^{further} request you to obtain for me the
Government's views ^{on one} ~~on one~~ or two other matters: (i) In
case we lose in the present appeal, would the Government
want me to appeal to the Madras High Court? (ii) Or would
the Government want me to compromise at once with the
appellant, of course, ^{at my} on his own terms, if they are not
prepared to finance this suit any further? As these are
obviously urgent matters, I beg that orders of Government
be obtained as early as convenient.

I beg to remain,

Sir,

Your most obedient servant,

C. J. Oastan

Assistant Inspector of
Schools, Coimbatore Dt.

21-10-19

Telegram from Linla 8 ²⁴ 27 Aug. 1917

" 9
C. I. Parthasarathi Mudaliar,
Board High School, Chittoor.
Government declines entertain
any compromise.
Instruction "

(True Copy)

C. I. Parthasarathi Mudaliar
21. 10. 19
Ant Insp^o Jannabare

Director of Public
Instruction, Madras

25

Page 2

Old College

28. viii. 17

Dear Parthasarathi mndr,

As I told you by telegram
Government "would not entertain any
compromise" in the matter of the pro-
ceedings which Mr. C. R. Parthasa-
rathi Ayyangar says he intends to
take against you.

Yours sincerely
J. H. Stone

(I enc. app)

cc. Parthasarathi

21. 10. 17

Post. Insp. Comptroller.

A. Devaraja Mudaliar, B.A.B.L.
First Grade Pleader

Chittoor,
10-10-1917

My Dear Sir,

The appeal filed against you by Mr. C. R. P. A.S. 693/18 has been recently transferred to the file of the additional Sub Judge of Chittoor. It will be posted to some day within this month and as ^{he} has no sessions work at all, he is very likely to insist on its being heard without further delay. Under these circumstances I must remind you that though my fee for the appeal was fixed at Rs 50 long ago, nothing has been paid to me so far. I hope you will take some steps to see that my fee is paid at least within a week.

Yours Sincerely
(Sd.) A. Devaraja Mudaliar

My Dear Sir,

Your appeal is posted to 28.10.19
in the additional sub-court here. It is
very likely to be heard that day, unless
we apply with proper reasons for an ad-
journment. The appeal has been num-
bered as A.S. 135/19 in the new court.
 Hoping this finds you in good health.

Yours sincerely
A. Devarajan

(True copy)

C. S. Pantham
21-10-19
Post Insp. Comptroller.

28
Enc. 5
Proceedings of the Director of Public Instruction.

The Hon'ble Mr. R. Littlehales, M.A.

Dis. No. 6249

Madras

Dated 9-10-1919

Read the following:—

Letters dated 30-8-19 and 6-9-19 from Mr. R. Ry. C. T. Parthasarathi Mudaliar Avargal, Assistant Inspector of Schools, Coimbatore District requesting Government to accept financial responsibility for the law-suit pending against him in the District Court at Chittoor in respect of certain acts done by him as Head Master of the Board High School, Chittoor

Mr. R. Ry. C. T. Parthasarathi Mudaliar Avargal is informed that in the event of the Court mulcting him for costs it is open to him to apply to Government for payment of his costs.

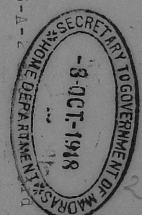
(By order)

(Signed) V. Srinivasachari
Ag. Manager

3) Mr. R. Ry. C. T. Parthasarathi Mudaliar Avargal,
Asst. Inspector of Schools
Coimbatore Dist.
Copy to the Inspector of Schools, VIII Circle
True Copy
C. T. Parthasarathi
21-10-19
Assistant Inspector of Schools
Coimbatore Dist.

D. O. 280

Deputy District Officer,
Chittoor District,
Pondicherry.



R.F. XIII. M. 10-2. Chittoor
Collector's Office,
Camp, Kalasasli.
Recd. 22 OCTOBER 1918

1917/17
The subject of a suit brought against the Headmaster of the --
Board High School, Chittoor, by a local pleader U. R. Parthasarathy
Ayyanar.

The suit (O. S. No. 406 of 1917 on the file of the District
Munsiff's Court, Chittoor) was dismissed with costs on the 30th
ultimo. The District Munsiff ^{held} that the words used were not --
defamatory, ~~that~~ further ^{that} the occasion was privileged and further
that the defendant issued ~~his~~ his memorandum under a sense of
duty and with a bona fide belief that the plaintiff was a person
of the character referred to in G.O. 559 Educational.

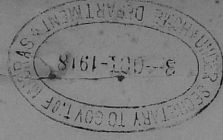
The Government decide to see a copy of the judgment?
I have little doubt that the plaintiff will appeal.
The cost of the suit so far has been borne by the District

082
Board. I should be glad to know whether the Government would see any objection to the District Board requesting them by resolution to share or pay the expenses, since the Headmaster of the Board High School acted in pursuance of an order of the Government.

Yours sincerely,

Kalut.

Dewan Bahadur K. Ramachandra Rao Esq.



Kalut.

1
84

Home (Govt) Department

Please see Mr. Galletti's do. on the previous page. From the notes to

Go. No. 1495 Home (Govt), dated the 26th November, 1917, it would appear that the Govt. ^(which is) have no direct concern with the suit brought

against the headmaster of the Board high school, Chittoor.

The disciplinary rules laid down in Go. No. 559, dated the 1st May 1917,

are binding on the staffs of all recognised schools. If

~~the headmaster~~ a similar suit is ~~was~~ instituted against the

headmaster of an aided school the Govt. may not be prepared

to meet any portion of the cost involved. It is therefore

for consideration whether the Govt. should meet it in the present case. The ^{Public} Dept.

may ~~perhaps~~ be consulted.

2. A copy of the judgment may, it is submitted, be obtained for perusal.

8th 11.10.18
10.10.18
Dr. to Mr. Galletti
for my Mr. Galletti

15/10/18

The following draft D.O. is submitted for approval:-

Dear Mr Galletti,

With reference to your D.O. No. 280 of the 2nd instant, I am to ask you to be so good as to forward for the perusal of Govt. a copy of the judgment in G.S. No. 406 of 1917 on the file of the Dist. Munsifs' Court, Chittoor brought against the Headmaster of the Board High School, Chittoor.

Yours sincerely.

Recd
19.10.18
To
Mr Galletti, Secy to Govt.
(Chittoor)
Home (Ed.) 2473A-1
18.10.18

19/10/18

18.10.18

18/10/18

Mr Galletti has not yet forwarded to post ~~there~~ a copy of the judgment asked for in the above do. He may, it is submitted, be reminded. The following draft D.O. is for approval.

D.O. No 2473A/18-2, 27.1.19

Dear Mr Galletti,

Please refer to ^{Mr Ramakandra Rao's} office do. No 2473A-1, dated the 18th Oct 1918.

The following draft D.O. is submitted for approval:-

Dear Mr Galletti,

With reference to your D.O. No. 280 of the 2nd instant, I am to ask you to be so good as to forward for the perusal of Govt. a copy of the judgment in G.S. No. 406 of 1917 on the file of the Dist. Munsifs' Court, Chittoor brought against the Headmaster of the Board High School, Chittoor.

Recd
19.10.18
To
Mr Galletti, Secy to Govt.
(Chittoor)
Home (Ed.) 2473A-1
18.10.18

Mr Galletti has not yet forwarded to post ~~there~~ a copy of the judgment asked for in the above do. He may, it is submitted, be reminded. The following draft D.O. is for approval.

D.O. No 2473A/18-2, 27.1.19

last. Will you kindly let me know when a copy of the Judgment in the Suit brought against the Headmaster of the Board High School, Chittoor, asked for therein maybe expected.

Yours Sincerely

S.K.
22.12.18
1/4
27/12/18

CA
5/1/19
2

LWS
6-1-19

To
A Gallatti Esq
Chittoor

15/12/18 S.K.
1/1/19

CA
16-1-19

20.1.09

reaching you may be due to my having
sent it through the Director of --
Public Instruction.

Yours sincerely

Malathi

The Honourable Mr. L. D. Swamikannu
Pillai Avl.
Madras.

CM 113A. From the P.D.B., Chittoor, Dec 12/18.
8.10.12.18.

ct. The P.D.B., Chittoor, forwards a copy of the judgment in the suit brought against the headmaster of the local Board high school. The ^{on account of the suit} net cost till now incurred from the funds of the District Board is Rs 116-4-9 and the President ^{+ other fine parties} proposes to include ~~this charge~~ in the school accounts and recover it along with the net cost which is paid by govt. The D.P.B. supports the proposal ~~it is submitted that~~ ^{it is submitted that} in the special circumstances of the case, the proposal may be agreed to. The remarks of the Suit Dept may be invited to.



ct 281
FINANCIAL
Recd 23-1-19.

2524732-3
287.19

11/11/19

11/11/19

CS & Mns may wish to read the judgment

Final

11/11/19

The main question seems to be whether the Govt will bear the cost if the teacher in question ~~was~~ employed in a Govt institution, instead of in the ^{Christian} Board High School, the net cost of which is borne by Govt.

Subd that Home (Educ) may be requested to be so good as to obtain the remarks of Home (Ind) on the point.

26.1.19.

The question of adjustment in the accounts may be taken up later.

Will Home (Educ) please state if they propose that Govt should bear this charge since in what grounds.

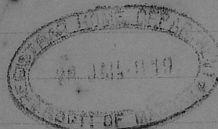
File no 281A-1
27.1.19

Home (E) 40.

27/1/19

Home (Educ) Dept

Submitted that Home (Judicial) may be consulted as suggested by Financial. Attention is solicited to rule 22 of the Govt Servants' Conduct rules.



③ rules. and to page 7 of go no 545 jud 2 11-31.
 2 The cost was proposed to be met from Provincial funds as the suit was brought against the Headmaster for enforcing an order of Govt re school discipline and as the net cost of the school is borne by Govt.
 The case was of the nature of a "test case", and it was expected to determine the scope of the Govt. order. The ~~test case~~ legality by the latter was also called in question in the plaint.

p. 40/9.

It is a clear case where we ought to bear the cost; for an account point of view there can be no doubt if the expense is debited to the school authorities it is admitted in the final statement of the school by the Education Authorities.

28/1/19

Judicial (us)

Home and Dept.

us.

For the present case is to be some within the Department. The question put to this Department.

Home (Est.) us
 No. 2473 A/18-4
 29.1.19

Home (Jud) 342 B

C. F. Financial
 into a separate

C. J. Financial note
on page 7 paper

is whether, if the teacher were a Govt. servant employed in a Government School, he would be entitled to be defunded at state expense in the present case.

This question may be answered in the affirmative with reference to rules of the High Court, dated the 11th March 1915. The case may be returned to Education.

24/30-1-19.

20/30-1-19.

Home (Ed) 20. 342 B-1
30-1-19

Home (Ed) 20.

The case may now be returned to Financial.

Home (Ed) 20. 2423A/18-5

20/30-1-19.

20/30-1-19.

31/11/19



File at 5460
1-2-19

To include in the net cost of the High School, Chittoor (as to meet from Govt. fund) the cost of law charges in defending the Headmaster of the school in the suit Rs. 80.559 (Rs. 1.517)

Subd that Home (Ed) may be requested to give the case to H. H. J. 24/30-1-19.

Financial repl
[Please see from page 6 ante]
Subd that the proposal at M on page 6 ante may be accepted.

2-2-19.

Please put up an appeal memo to H. asking him to state the classification of law charges of H. H. J.

24/30-1-19.

NOTES.

Page 10

Flag G.

Draft telephonic message to the Acct. Genl. is subd for approval.

Vzle.

5219

5/2/29

Flag G.

In reply, the Acct. General states that the charges on account of defending the teacher should be debited to 'Law Charges' under 'General Administration' in the Local Fund account.

^(that the intention seems to be) Submitted that in addition to the net cost of the school, the charges in the present case ~~will~~ ^{should} also be borne by Govt.

From Vzle.
7.219 7.219.

he may agree to the charges being borne by Govt. in this case. It is not likely however they should be included in the school acct. because with the net cost as suggested on p. 6 acct. they may be paid over by means of a grant in aid.

C.S. 7/2/29

I think, with reference to rule 10 at page 7 of G.O. No. 545, dated 11th March 1915, that we had better wait till conclusion of the litigation. It is evident from paragraph 24 of the judgment that there is much ill-feeling between the parties and it is quite possible that another court may hold that the suit was due solely to that ill-feeling. The President, District Board, may be asked whether an appeal has been filed.

2. Meanwhile, I observe that the District Board have altered their original decision as to the pleader's fee, vide page 8 of G.O. No. 1495, dated 26-11-1917, and page 2 C.P. The whole suit seems to have been a most unseemly business, conducted by the District Munsiff without the slightest regard to whether the evidence was relevant or not, and likely to destroy any influence for good the headmaster may have had among his pupils.

3. The file does not appear to have been circulated yet as desired by the Home Secretary in his note on page 6.

File no. 5468-1
10-2-19

Name (Ed.) no.

Home (201) Sept

A draft memo to the P.D.B., Chittoor, is submitted. After ^{the} ~~the~~ file may be circulated to H.E. & H.M.S.

8th
12-2-19
MK
13/2/19

CA
13-2-19

May
14/2/19

With reference to para. 1 of CB's note above

Issued.

Circulated

P
16.2.19.

14/2/19

H2

H3

H4

H5

17.2.19

18/2/19

19/2/19

20/2/19



CN-478A. From the P.D.B., Chittoor.
Rec N-15678/16.2.19.

The P.D.B., Chittoor, reports that an appeal has been filed in this case. This information was obtained at the instance of the Chief Secretary. The file may be sent to Sir.

82
24/2/19.
NK
25/2/19

26.2.19

27/2/19

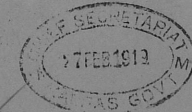
Financial dept

Subd with refce to the C.S.'s note on page 11 ante.

Orders are solicited whether the

p. 13 of c.

para 7 of his note
p. 11 supra



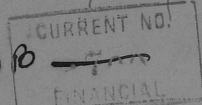
B.C.
C.152
A.24

Home (52) 100.

N-478A-1

27-2-19

1100 B



27-2-19

disposal of the question of the law charges being borne by Govt. may lie over till the results of the appeal are known.

15/6.
2-319.

C.S. in his note in p. 11 rule has suggested that we should wait till conclusion of the litigation.

PD Home llo

11/3/19

Home (20th) Dept.

For orders whether the P.D.B. Chittoor may be ~~ordered to deposit~~ ^(informed that the question will be settled after) the result of the appeal ~~as soon~~ it is known. A draft memo is placed below.

8/11
8/3/19
11/3/19

11/3/19

p. 18 of

11-19-23 of

Memo No 606 A-1 d 11-3-19

Re 2372 A - From Mr. B. T. Parthasarathy the Mudaliyar d 21-10-19

Secretary's remarks on the current

"Advance some money for expenses and accounting to collector."

2 Regarding payment of decree,

Revt. 11-8 (a)

- Respondent to telegraph to us in case
- suit goes against him and apply for copy
- of judgment"

(sd) R. R. 2

The petition now submitted to him
is a copy of that submitted through
the D.P.I. The Director's comments
have not been received. Attention
is solicited to the Director's Proceedings
No 6249 of 9.10.19 informing the peti-
tioner that in the event of the Court
ruling him for costs it is open
to him to ^{apply to} Court for payment of costs.

P. 28 of

(S)

The rules in regard to
the defence of civil suits brought
against Court servants will be found
at p. 7 of G.O. No 545 (Jud) of 11.3.15.
There is no specific provision in
the rules for the payment of
advances to ^{plaintiffs} pleaders' fees in civil cases. But in
the case of criminal ^{cases} proceedings
against Court servants, D. Magis-
trates are authorised to advance money
for the purpose. The Finl. Dept.
has noted that the question of
the incidence of the cost of the
suit should be decided only after
the results of the appeal are known.
That

Rules at p. 6 of
the G.O. at 11.3.15

(S)

Finl. Dept. notes
at pp 11 + 13 ante

that Dept. may be consulted whether, without prejudice to the final decision, an advance may be granted to meet the pleader's fees in the present case which are stated to be Rs 50/- w. C. T. Parthasarathi Muddaliyar may be instructed to account for the ^{advance} ~~amount~~ to the collector of Chittoor.

The later portion of the Secy's note will be embodied in the final orders to be issued.

MK
24/10/19

24.10.19

Without an advance of this nature you cannot expect a person of Parthasarathi Muddaliyar's rank to defend the case and

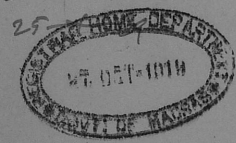
25/10/19

Secy

Secy

Case no 2372 A-1
25.10.19

File 4861B



File no 4861B
27.10.19

Please see the note by H. M., as C. L., on p. 11 ante. I venture to think that we may agree to an advance at once to enable the suit to be conducted efficiently.

27/10/19 27/10/19

H. M. Fin' should see

5x15
29.10.19.
1-10-1001-10-1-1.

NOTES.

Home (29/10/19)

A draft order is subd for approval.
The case may be circulated to H-Mad
H-M. Financial

27.10.19
MK
28/10/19

28.10.19
5

29/10/19

Am

Am/29/10/19

29/10/19

Flag S.

The orders in paragraph 10 of G.O.No. 545, dated 11th March 1915, are that the decision whether the costs incurred in the defence of a Govt. servant for acts done in his official capacity shall be borne by the State or recovered from the officer concerned, will be postponed until the conclusion of the litigation.

2. Recovery of course is easy from a Govt. officer, but in the present case the Headmaster is not our servant and it seems doubtful if it would be possible to recover any advance once made to him by the District Board.

3. I would invite attention to the extract from Mr. Galletti's Fortnightly Report at page 17 of G.O.No.1495, dated 26th November 1917, and to the last paragraph of his D.O. on page 18 of the same. In the latter he says "I rather gathered from what the plaintiff told me that he

Flag E

Mr Galletti's report
in this book himself
in this suit, so far
as I remember
29/10/19

NOTES.

Page 17

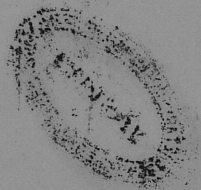
would be likely to withdraw the suit on seeing the written statement if the written statement made it clear that there was no intention of making an attack upon his private character." It seems to me that there distinctly was such an intention and that that intention, which has been persisted in, is at the bottom of the whole of the trouble, and I dislike very much the Headmaster's present attempt to foist the whole responsibility for his personal spite on the Government.

4. The one thing in his favour seems to be Sir Henry Stone's telegram of the 27th August 1917 to the effect that Government decline to entertain any compromise. It seems desirable to know under what circumstances that telegram was issued and I think the D.P.I. should be asked, in reporting on the petition, to explain this point and send the whole file of his correspondence on the subject.



30.10.19

Respectfully resubmitted. Action will be taken on the above orders. Reasonable with reference to para 2. I beg to state



30.10.19

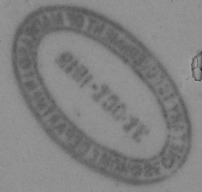
Respectfully resubmitted. Action will be taken on the above orders. Reasonable with reference to para 2. I beg to state

that the man is now in God service
as the school has been taken over
under God management.

11/10/19

11/10/19

to take further action
on the further lines indicated in
the following note



11/10/19

Respectfully recommended, Action will
be taken on the above note. Thanks
with reference to the above

Box 49
31.10.19
Sect 1 (a) 180,001-18-1-17.

para 2 of
Geo. No. 498
Horse (200)
17.4.19
(7)

NOTES.

Page 18

that the man is now in God service
as the school has been taken over
under God management.

11/10/19

Am
Am (2) & 31.10.19

Since Go. take further action
on the further lines indicated in
the following note

30.10.19

Respectfully recommended. Action
be taken on the above note. Thanks
with reference to the above

court for a copy of judgment for sub-
mission to Government.

To

M.R. Ry. C. T. Parthasarathi
Mudaliar Avl.
Asst. Inspector of schools
Coimbatore district

Copy to the D.P.I.
Collector of
Chittoor

" " " L & M Sept

1st reminder to issue after a
month

27-10-19
noted in CB

Financial dept.

Telephonic Message

From

The C.S. Finl dept

To

The Acct^l Genl

A district board is
incurring law charges
for defending a
teacher in its employ
in a suit brought
against him. Will you
kindly let me know
whether the expenditure
should be adjusted in
the Local Fund
Accounts, as a
charge against
Education?

O.S.R.

5219.

5/11/19

Sept 29, 1911

Telephone Message

from

Mr. C. J. Felt

to

Mr. A. C. Felt

A check book is

involving law charges

for defending a

teacher in a suit

brought in a suit

against him. Will you

kindly let me know

whether the expenses

will be against the

local fund.

Account as a

charge against

Switzerland?

(C. J. Felt)

8-29

C.F. 271.

OFFICE OF THE

Dated

191

Hours

Minutes

TELEPHONIC MESSAGE

From

Mr. A. C.

To

The Chief Secy to Govt

Ref your T.M. of yesterday. (Felt)
The charges referred to should be debited
to the head "Law Charge" under General
Administration" in the local fund
account.

CNT

6/2

given for copying

a copied

a examined

a signed

DATE G.O. No.
19

DATE

CURRENT No.

ENCLOSURES TO G. No.

ORDER OF GOVERNMENT

LETTER GOVERNMENT

STATEMENT WITH LITTO.

PLACES NOT FILLED UP, BEING MEANT FOR DISPATCH
IN ORIGINAL.

N.B.—

A = Copy in full.

B = Not to be copied.

P = Copy abstract only.

Q = Copy heading only.