M.R.O. 1—77,006—8-6-37.

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(3) Initials of the Referencer

MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No. 1639 Press Mis.

222-224.

Dated 2-8-9 1876.

511

Not to be folded or roughly handled

No. 223. Read the following letter from A. MACGREGOR, Esq., President of the Municipal Commission, Calicut, to the Hon. D. F. CARMICHAEL, Acting Chief Secretary to Government, Fort St. George, dated Cannanore, 12th September 1874, No. 7:—

I have the honor to inform you, with reference to G.O., 27th August 1874, No. 1443, that the Commissioners of Calicut, at a meeting at which I was absent, being on circuit, passed the following resolution:—

"The Commissioners resolve to exempt the following Officers from payment of all municipal taxes:—The Civil Judge of South Malabar, the Subordinate Judge of South Malabar, District Munsif of Calicut, the District Magistrate of Malabar, the Magistrate in charge of Calicut Division, and the 2nd-Class Magistrate in charge of Calicut Town."

2. A suit was brought against the Municipality some time ago in the Munsif's Court, and carried on appeal to the Civil Judge. The latter was of opinion that, as a tax-payer, he was an interested party and could not hear the appeal, and, on reference to the High Court, they, I understand, concurred, and the case was transferred to the Civil Judge of North Malabar.

3. So far as appeals went, this did not much signify; but the same argument applied to the Court of first instance, and it was anticipated that considerable loss would be incurred by the Municipality if they had to carry on their litigation at some distant Court. It appears also that they were under the impression that the same principle held in regard to criminal cases, and, as there was an immense arrear, a considerable portion of which will probably necessitate prosecutions, the exemption was resolved on.

4. No difficulty has as yet been raised in respect to criminal prosecutions, and even in civil cases I do not think that such inconvenience has been encountered as would justify an exemption so certain to elicit unfavorable comment.

5. The Commissioners, I think, overlooked the fact that, under Section 38 of Act III. of 1871, their power of exemption is limited to persons unable to pay by reason of poverty, and it can scarcely be argued that the officials sought to be exempted come within that category.

6. To exempt a class of persons, the sanction of Government is necessary, and it seems desirable that the resolution, if not in itself null and void, should be formally negatived by Government.

No. 224. ORDER THEREON, 30th September 1874, No. 1639.

The President will point out to the Commissioners that the resolution in question must be inoperative until sanctioned by Government, and will also inform them that the Government would not be prepared to sanction it.

3. It is presumed that it was some peculiarity in the nature of the suit which rendered the transfer to North Malabar expedient.

(True Extract.)

D. F. CARMICHAEL,
Acting Chief Secretary.

To the President of the Municipal Commission, Calicut.

Exd. J. H. Burns.

Municipal President's Office
on Circuit,
Cannanore, 12th September 1874.

D. 7.

From

A. Maclgregor Esqr.

President, Municipal Commission,
Calicut

To

The Honorable D. F. Charmichael

Actg. Chief Secretary to Government,
Ootacamund.

Sir,

I have the honor to inform you with reference to G. O. 27th August 1874 No. 1643, that the Commissioners of Calicut at a meeting at which I was absent, being on circuit, passed the following resolution:-

"The Commissioners resolve to exempt the following officers from payment of all municipal taxes. The Civil Judge of South Malabar, the Subordinate Judge of South Malabar, District Munsiff of Calicut, the District Magistrate of Malabar, the Magistrate in charge of Calicut Division, and the 2d Class Magistrate in charge of Calicut Town."

2 A suit

Govt. of {1874 SEPTEMBER. Nos. 223-224.

FINANCIAL.

To

THE PRESIDENT OF THE
MUNICIPAL COMMISSION,
Calicut.

Dated September, 30th.

Recd.

G.O., 30th September 1874, No. 1690.

Read.

Calicut Municipality.—The President directed to point out to the Commissioners that their resolution exempting certain district officials from payment of all municipal taxes must be inoperative until sanctioned by Government, and also to inform the Commissioners that the Government would not be prepared to sanction it.

2. A suit was brought against the Municipality some time ago in the Munsiff's Court, and carried on appeal to the Civil Judge. The latter was of opinion that as a tax-payer he was an interested party and could not hear the appeal, and on reference to the High Court, they, I understand, concurred, and the case was transferred to the Civil Judge of Northe- Malabar.

3. So far as appeals went, this did not much signify; but the same argument applied to the Court of first instance, and it was anticipated that considerable loss would be incurred by the Municipality if they had to carry on their litigation at some distant Court. It appears also that they were under the impression that the same principle held in regard to Criminal cases, and as there was an immense arrear of a considerable portion of which will probably necessitate prosecutions, the exemption was resolved on.

4. No difficulty has as yet been raised in respect to criminal prosecutions, and even in civil cases I do not think that such inconvenience has been encountered as would justify an assumption so certain to elicit unfavorable comment.

5. The Commissioners I think overlooked the fact that under section 38, act III of 1871, their power of exemption is limited to persons unable to pay by reason of poverty, and it can scarcely be argued that the officials ought to be exempted come within that category.

6. To exempt a class of persons, the sanction of Government is necessary; and it seems desirable that the resolution, if not in itself null and void, should be formally negatived by Government.

I have the honor to be,
Sir,
Your most obt. Servant

A Harper
President

C 19/9. R 28/9

1639 1874.

Financial Deptt.

From

The President
Municipal Commission,
Calcutta.

To

The Asst. Chief Secretary
to Government.

No. 1928

Dated 12th September 1874.

Recd. 18. —— ——

No. 7

Enc. none.

Requesting with reference to G.O. 27th August 1874 No. 1643 that the resolution passed by the Commissioners of Calcutt Municipality to exempt certain officers from payment of all municipal taxes be negatived.

Ordered 30 Sept 1874 No. 1639.

The Presdt will point out to the Commissioners that the resolution in question cannot be inoperative until sanctioned by Govt and will also ~~[illegible]~~ inform them that the Govt would not be prepared to ~~sanction~~ ~~[illegible] [illegible]~~

It is presumed that it was owing to inadvertence in the framing of the rule which rendered the transfer ... [illegible]

Govt. of 1874 Madras.

Financial

To
The Presdt. Mund. Commrs. Calicut

G. O. Septr. 30, 1874, No. 1639.

Nos. 223. 24.

Calicut Municipality. The Presdt. directed to point out the Commrs that their resolution exempting certain district officials from payment of all Mund. taxes must be inoperative until sanctioned by Govt. & also to inform them that the Govt would not be prepared to sanction it.

Spare copy given to correction.