M.R.O. 1—77,006—8-6-37.

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(3) Initials of the Referencer_____

4

# MADRAS RECORD OFFICE.

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## Government of Madras.

Financial **DEPARTMENT.**

| | | |
|---|---|---|
| G.O. No. | 1875 | Press Mis.- |
| 155-156 | | |
| Dated | 23-9- | 1875. |

15/16

***Not to be folded or roughly handled***

**Municipal Cmmissioners.**

No. 155. Read the following letter from J. H. MASTER, Esq., Collector, and President of the Municipal Commission, Bellary, to the Hon. D. F. CARMICHAEL, Officiating Chief Secretary to Government, Fort St. George, dated Bellary, 7th September 1875, No. 82:—

In forwarding copy of Calendar No. 69 of 1875, on the file of the Joint Magistrate of Gooty, I have the honor to state that a man named Ramakristniah appears to have laid a complaint against Narayanappa, a Municipal Commissioner of that town, of having committed criminal breach of trust in respect of a collection of certain sweepings, the property of the Municipality, and which he sold by auction at an unduly low rate.

2. The Joint Magistrate appears to have entertained the complaint, made an inquiry, and to have discharged the accused under Section 147 of the Code of Criminal Procedure.

3. He then, as Magistrate, sent the record to the Vice-President of the Municipality (himself), stating that he did not recommend a prosecution, but expressing an opinion that the facts were highly suspicious as regards the accused.

4. When called upon for an explanation of his having entertained the case at all without the sanction required under Section 466 of the Code of Criminal Procedure, he states that he made the inquiry to enable the Government to judge whether or not prosecution should be sanctioned.

5. I have told him that he was altogether wrong in his procedure and that any inquiry necessary before reporting upon the case should have been carried out departmentally.

6. In the present instance I have to report the matter as regards Narayanappa for any orders the Government may wish to pass in the matter. This man has been on the Commission for a very long period, and was reappointed for a further period of three years only on the 1st June last (*vide Fort St. George Gazette* of that date). He has always been most zealous in furthering the interests of the Municipality, and has been one of the real working members. I would therefore submit, not only because of the absence of any proof of dishonest intent in the matter of the sale of the sweepings, but because this intent is actually pronounced negatived, that Narayanappa be retained in his position as Municipal Commissioner.

7. I enclose copies of the correspondence which has passed on the subject.

---

No. 156. ORDER THEREON, 23rd September 1875, No. 1875.

It is observed that Municipal Commissioners are "public servants" not removable without the sanction of Government and they are consequently entitled to the protection of Section 466 of the Criminal Procedure Code, which Mr. Crosthwaite by his proceedings violated. The Governor in Council sees no reason to sanction the prosecution in the present instance.

(True Extract.)

*Officiating Chief Secretary.*

To the President of the Municipal Commission, Gooty.

Exd. A. S. Rodgers.

Govt. of {1875} Madras.

FINANCIAL.

To

THE PRESIDENT OF THE
MUNICIPAL COMMISSION,
*Gooty.*

*Dated September, 23rd.*

*Issued*

*Recd.*

*Encl.*

*G.O., 23rd September 1875, No. 1875.*

**SEPTEMBER.**
**Nos. 155-156.**

*Municipal Commissioners.*—Observed that Municipal Commissioners are "public servants" and entitled to the protection of Section 466 of the Criminal Procedure Code, and that Government see no reason to sanction the prosecution of Narayanappa, Municipal Commissioner of Gooty.

2 Copies

*Proceedings of the Madras Government, Financial Department, 23rd September 1875.*

**Municipal Commissioners.**

No. 155. Read the following letter from J. H. MASTER, Esq., Collector, and President of the Municipal Commission, Bellary, to the Hon. D. F. CARMICHAEL, Officiating Chief Secretary to Government, Fort St. George, dated Bellary, 7th September 1875, No. 82:—

In forwarding copy of Calendar No. 69 of 1875, on the file of the Joint Magistrate of Gooty, I have the honor to state that a man named Ramakristniah appears to have laid a complaint against Narayanappa, a Municipal Commissioner of that town, of having committed criminal breach of trust in respect of a collection of certain sweepings, the property of the Municipality, and which he sold by auction at an unduly low rate.

2. The Joint Magistrate appears to have entertained the complaint, made an inquiry, and to have discharged the accused under Section 147 of the Code of Criminal Procedure.

3. He then, as Magistrate, sent the record to the Vice-President of the Municipality (himself), stating that he did not recommend a prosecution, but expressing an opinion that the facts were highly suspicious as regards the accused.

4. When called upon for an explanation of his having entertained the case at all without the sanction required under Section 466 of the Code of Criminal Procedure, he states that he made the inquiry to enable the Government to judge whether or not prosecution should be sanctioned.

5. I have told him that he was altogether wrong in his procedure and that any inquiry necessary before reporting upon the case should have been carried out departmentally.

6. In the present instance I have to report the matter as regards Narayanappa for any orders the Government may wish to pass in the matter. This man has been on the Commission for a very long period, and was reappointed for a further period of three years only on the 1st June last (*vide Fort St. George Gazette* of that date). He has always been most zealous in furthering the interests of the Municipality, and has been one of the real working members. I would therefore submit, not only because of the absence of any proof of dishonest intent in the matter of the sale of the sweepings, but because this intent is actually pronounced negatived, that Narayanappa be retained in his position as Municipal Commissioner.

7. I enclose copies of the correspondence which has passed on the subject.

---

No. 156. ORDER THEREON, 23rd September 1875, No. 1875.

not removable without the sanction of Govt

It is observed that Municipal Commissioners are "public servants" and they are consequently entitled to the protection of Section 466 of the Criminal Procedure Code, which Mr. Crosthwaite by his proceedings violated. The Governor in Council sees no reason to sanction the prosecution in the present instance.

(True Extract.)

*Officiating Chief Secretary.*

To the President of the Municipal Commission, Gooty.

Exd. A. S. Rodgers.

Collector -

BELLARY ~~MAGISTRATE'S~~ OFFICE.

No. 82 Dated 7th September 1875.

From Collector & President Municipal Commission
THE ~~MAGISTRATE~~ OF
BELLARY.

To, The Chief Secretary to Government,
Madras.

Sir,

I enclosing copy of Calendar No 69 of 1875 on the file of the Joint Magistrate of Gooty, I have the honor to state that a man named Ramakrishna has appeared to have laid a complaint against Narayanappa, a Municipal Commissioner of that town of having committed Criminal Breach of trust in respect of a collection of certain sweepings, the property of the Municipality and which he sold by auction at an unduly low rate.

2 The Joint Magistrate appears to have entertained the Complaint, made an enquiry and to have discharged the accused under section 147 of the Code of Criminal Procedure.

3. If he then as Magistrate sent the record to the

Govt. of Madras.

FINANCIAL.

To

THE PRESIDENT OF THE MUNICIPAL COMMISSION, Gooty.

Dated September, 23rd.

Issued

Recd. Encl.

G.O., 23rd September 1875, No 1875.

SEPTEMBER.
Nos. 155-156.

*Municipal Commissioners.*—Observed that Municipal Commissioners are "public servants" and entitled to the protection of Section 466 of the Criminal Procedure Code, and that Government see no reason to sanction the prosecution of Narayappa, Municipal Commissioner of Gooty.

the Vice President of the Municipality, (himself)
stating that he did not recommend a prosecution,
but expressing an opinion that the facts were
highly suspicious as regards the accused.

4. When called upon for an explanation of his
having entertained the case at all without the
sanction required under section 466 of the
Code of Criminal Procedure, he states that
he made the enquiry to enable the Government
to judge whether or not prosecution should
be sanctioned.

5. I have told him that he was altogether
wrong in his procedure, and that any enquiry
necessary before reporting upon the case should
have been carried out departmentally.

6. In the present instance I have to report
the matter as regards Sarazawappa for any
orders the Government may wish to pass in
the matter. This man has been on the Commission
for a very long period, and was reappointed
for a further period of three years only on the
1st June last: Vide Port Saint George Gazette
of that date. He has always been most
zealous in furthering the interests of the Municipality and has been one of the real working members. I would therefore submit not only because of the absence of any proof of dishonest intent in the matter of the sale of the sweepings, but because the intent is actually pronounced negatived that Sarayanappa be retained in his position as Municipal Commissioner.

7. I enclose copies of the Correspondence which has passed on the subject.

I have the honor to be,
Sir,
Your most Obedient Servant
W Wadia
Collector & President.

Encl. 11 Nos.

Order in Calendar Case No 69 of 1875 on the file of the Joint Magistrate of Bellary.

Complainant. Ramakrishnaiah. — Defendant. Narayanaspa Municipal Commissioner of Gooty

One Ramakrishnayah of Gooty accuses one Narayanaspa a Municipal Commissioner of Gooty of having committed criminal Breach of Trust in respect of Municipal sweepings which had been accumulating for 28 days and which he estimates must have amounted to some 230 hand-loads, by selling them, on the 17th of June last, to one Bara Sahib, a Relative of one of the Municipal Commissioners for Rs 1-4-4, which he considers far below their value without making the sale public, and afterwards using part of the said sweepings for his own land, and selling part for his own benefit.

I have examined several witnesses in regard to the last 2 facts, but I cannot rely upon them, as most of them are either manifestly biassed against the accused, or

Received 1875 DEPARTMENT.

BELLARY MAGISTRATE'S OFFICE.

Dated 7th September 1875 - No. 822

To,

The Chief Secretary to Government Madras

Qs. 2089

Enclosures (2) 2 S

Received 9/-.

Submits Copies of Papers connected with the Joint Magistrate's Proceedings exercising executive powers as Municipal Commissioner as per Rule 2 accompanied by Petition of Ramakrishnaiah Praying for Sanction

or are men of a low type, and as it is highly improbable that the accused would have sold Municipal property in the public way described for his own benefit.

He admits that he used the sweepings as alleged without due publication, but says he did so as the quantity was small, and as the Municipal writer (1st witness) told him he might do so, and he pleads that the sale was conducted openly, and the sweepings knocked down to the highest bidder. This the evidence of the 1st witness shows to be true, but it also shows that the number of bidders was very small, owing doubtless to the absence of previous publication.

It is difficult to judge what the quantity of sweepings was which was sold for Rs 1-4-0, but the Municipal accounts show that on no previous occasion was so small a sum realized by the sale of 28 days sweepings.

The facts are highly suspicious as against the accused but there is a want of evidence to establish that the sale was conducted with fraudulent or dishonest intent, and considered such intent would seem to be negatived by the fact, proved by the 1st witness, that he was invited by the accused to be present at it.

I do consider the Complaint incapable of proof, and dismiss it under section 147 Criminal Procedure Code.

(Signed) H. J. Grothwaite
Esq. Joint Magistrate.

True Copy
W. Wastie
Collector &
Pundit Mg.

4th M. 18/17.

No 66 From The Vice President, Municipal Commission, Gooty.

To The President Municipal Commission Bellary.

Dated the 10th August 1875.

The Vice President has the honor to forward in original for perusal and return letter No 66 dated the 31st ultimo with its enclosures from the acting Joint Magistrate, and to observe that the record of enquiry which forms the subject of the enclosures implicates another Municipal Commissioner namely Dhadhi Peera Sahib, in the transaction which formed the subject of the complaint against Commissioner Narayanappa Garu. The former is not however likely to have been as well aware of his duties and responsibilities as the latter, who has been on the commission since its establishment, and whose motives in regard to the sale in question I strongly suspect.

He is however now being recommended for removal from the Commission upon other grounds (Vide my letter No 64 dated the 9th Instant.)

(signed) C. J. Crosthwaite
Vice President M. C. Gooty.

No 66. Bellary Joint Magistrate's Office
Dated 8th July 1875. Gooty.

To The Vice President Municipal Commission
Gooty.

Sir,

I have the honor to forward for your information the record of evidence taken by me upon Complaint made by one Ramakristya of Gooty against Narayanappa one of the Municipal Commissioners of this Town.

2 You will observe that the fact admitted by the accused and which he has been called upon to explain is that he sold on the 17th of June last, by auction, but without due publication, Town sweepings, the property of the Municipality which had accumulated during a period of 28 days, and which the Complainant estimates at about 230 handcloads @ Rs 1-4-a, to one Bara Sahib who is related to one of the Municipal Commissioners. His explanation of this fact you will find among the papers herewith forwarded. The evidence adduced upon the [illegible] points alleged is not in my opinion reliable

reliable in as much as the witnesses seem also to be either biassed against the accused, or of a low type.

3. I do not recommend the prosecution of the accused because I think it possible that the fact admitted by him may have been nothing more than an act of irregularity, especially, as the evidence of the Municipal writer shews that he was desired by the accused to be present at the sale – at the same time feeling, as I do, grave suspicions in the matter, and looking at the position held by the accused in this Town, I think it right to transfer the matter to you.

4. That the Municipality has suffered loss by the mode in which the sweepings in question were sold, is clear; as I find on reference to past sales that 28 days sweepings have never before been sold for so small a sum, the lowest sum realized since the year 1870 for sweepings sold in the month of June, being Rs 7-4-a, for sweepings accumulated during a period of one month and seventeen days and as much as Rs 18 having been realized for 28 days sweepings on the 16th of June 1871

(I have &c.)
(Signed) E. J. Crosthwaite
Mg. Joint Magistrate.

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No 578. Bellary Magistrate's Office
Dated 20th August 1875

To The Joint Magistrate, Bellary.

Sir, I have the honor to request you will inform me of the reason of your entertaining a Complaint against a Municipal Commissioner Narayanappa for an offence committed in that capacity without the sanction of the Local Government. Vide Your Calendar No 69 of 1875.

I have. &c.
(Signed) J. D. Master.
Magistrate

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No 161 Joint Magistrate's Office
Dated 20th August 1875 Govt.

To The District Magistrate, Bellary.

Sir,

In reply to your letter No 578 dated the 20th instant I have the honor to inform you that I entertained the Complaint in question with a view to recording evidence to enable the Government to judge whether or not prosecution should be sanctioned. My reason for dismissing the Complaint under section 147 was that there seemed to be no sufficient grounds for prosecution.

I have &c.
(Signed) E. J. Crosthwaite
Mg. Joint Magistrate.

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No 546. Bellary Magistrate's office.
Dated 4th September 1875.

To The Joint Magistrate Bellary.

Sir,

I have the honor to acknowledge your letter No 161 dated the 20th instant, and to observe that you as Magistrate had no power even to entertain a Complaint against a Municipal Commissioner for an offence alleged to have been committed by him in his capacity as such without the sanction of superior authority. Any preliminary enquiry you thought necessary before submitting the papers for orders should have been made departmentally. Copy of your Calendar No 69 of 1875 will now be laid before the Government for any orders they may see fit to issue in the matter in which Narayanappa was implicated.

I have &c.
(Signed) J. D. Master.
Magistrate.

(True copies)
D. Master
Collector & President

E. A. L. Mg.

Financial Rs 1875

If this has not already
gone in Mss. alter 4
adding after "public servants"
the words "not removable
without the sanction of Govt"
Send in Mss:—
the print being returned

Oct 5/5

1

My dear Fernandez.

You will see that Mr Ch. Selly has added some words to the draft.-

I have sent Mr Coll.r a MSS. copy.- Send him also printed spare copies.

Attach MrS's slip to original draft order.

Yours truly.

G Fitzmaurice

6/10.

Financial Department.

No. 2089.

From ~~The~~ Collector and President, Bench Court, Bellary.

Dated 7 September 1875.

FOR ORDERS.

~~Issue Notwarrant~~ ~~to~~ ~~Municipal Commrs to Levy~~ ~~Duty~~ ~~document~~ ~~to~~ ~~Public~~

Inform that the Municipal Commrs are entitled to the protection of Sec. 466. of the C.P.C. & Dist. Superintendent of Police to give protection to this proceeding & prevent violation - Steps to be taken

With care

Sum to Commissioner

Ord'd 23 Sept. 1875. No 1875.

C-03

Acknowledged

Issue Warrant Dist Mgr Bellary

Exam & instruct the
prosecutors in the
present instances.

E B

The Pres: & Com: Ghosts—6 Desp
12/11

21 200.

Final proceedings agst
a Municipal Commissioner

FOR ORDERS.

Govt. of Madras.
14

Genl

Confl

G.O. 22nd Septr 1875. No. 1875.

Nos. 155 & 156.

Municipal Commissioners

Observed that Municipal Commissioners are "Public Servants" and entitled to the protection of Section 466 of the I.P. Code and that Govt. decline to sanction the prosecution of Narayanappa, Municipal Commissioner of Gooty.