Scott. II-48—22,303—17-1-18.

Home. (1919) Department.
(Miscellaneous)

SERIES.

G.O. No. 1338

DATED 25-9-19.

INDEXED

(12) Sheets.

[Despatch Abstract.]

Remarriage Of Native Converts

Communicating the reply of the Govt. of India, Educ. Dept., No.335 dated 5-8-19 regarding -------- to the Marriage Registrar, Madras and the Catholic Indian Association of the Southern India.

BA

G.O.	No.	Department.	Date

FURT

G.O.	No.	Department.	Date

செப்பனிடுபவர் பெயர் D. Kalidass

செப்பனிடுவதற்காக எடுத்துக் கொள்ளப்பட்ட நாள் 1996.

செப்பனிட்டு முடித்த நாள் Feb. 199

சரிபார்க்கும் முதன்மை எழுத்தர் கையொப்பம்

ஆராய்ச்சி உதவியாளர் கையொப்பம்

MADRAS HOME DEPARTMENT
11 AUG 1919
SECRETARIAT

No. 335

Government of India,
DEPARTMENT OF EDUCATION.
(Eccl.)

Simla, the 5th August 1919

From

The Hon'ble Mr. H. Sharp, C.S.I., C.I.E.,
Secretary to the Government of India,

To

The Secretary to the Government of Madras,
Home (Miscellaneous) Department.

Sir,

I am directed to refer to your letter No.969 dated the 4th June 1919 in which you submit for the consideration of the Government of India the question of the re-marriage of Native converts to Roman Catholicism who have been deserted or repudiated by their wives or husbands on religious grounds and ask for an expression of their opinion as to the interpretation or object of section 34 of the Native Converts Marriage Dissolution Act XXI of 1866.

2. In reply I am to invite your attention to the previous decisions of the Government of India and the Secretary of State on the subject, which were conveyed to the Government of Madras in the communications noted on the margin. The question as to how section 34 of the Act should be interpreted as it stands, is one for the legal advisers of the Roman Catholic ministers.

01. Home Department letter No.1528, dated the 28th October 1889.	
02. Home Department letter No.448, dated the 28th March 1890.	
03. Home Department letter No.1834, dated the 17th December 1890.	
04. Home Department endorsement No. 1404, dated the 9th November 1892.	

G.O. 114 Eccl. dt 18/11/89 (S)
G.O. 18 Eccl. dt 11/4/90 (T)
G.O. 2 Eccl. dt 10/1/91 (U)
G.O. 87 Eccl. dt 28/11/92 (V)

I have the honour to be,

Sir,

Your most obedient servant,

Secretary to the Government of India.

D Edu. 5.

1338
3

O.F.—18.

NOTES.

Scott. 13—8 (a)—160,001—16-1-17.

NOTES.

1338/4

Home (mis) Dept.

[C. No. 5425]

Subject: Remarriage of Native Converts.

From the Govt. of India, Dept. of Educn.,

No. 335, dt. 5-8-19

Regd.:

Submitted

The communications of the Govt. of India referred to in their letter were the replies to the memorials already submitted by the Catholic communities of the presidency in the years from 1889 to 1892 with reference to the decision of the High Court at Madras on the same case of "Millard versus Another" reported in X Madras 218, referred to in G.O. 969 Home (mis), dt. 4-6-19.

*1. G.O. 67-8, Eccl. dt. 15/7/89 (J)
2. ... 8 Eccl., dt. 26/2/90 (K)
3. ... 67-8 ", dt. 29/10/90 (L)
4. ... 45-6 ", dt. 21/6/92 (M)
all put up

para 2 of Ms. (IV)

Ms. (IV)

vide G.O. 1114 Eccl. dt. 15/11/19 (S)
D/Q 5.0.

"Home Dept. Letter No. 1528, dt. 28-10-89" was the reply to the memorial — No. 1 in the margin — in that letter ~~[illegible]~~ "the memorialists were informed that the decision "of the High Court was, in the opinion "of the Govt. of India, strictly in "accordance with the Law, That Sect. "34 of the Act, 1866, has not, as the "memorialists contended, the effect "of exempting the Roman Catholic "Converts from the procedure prescribed

para 2 of (S)

para 29 (3)

"prescribed by the Act", that the
Govt. of India were "unable to accept
"the view that it was ever the intention
"of the legislature by that section
"or anyway to make it lawful
"for a Roman Catholic priest to
"solemnize a marriage between
"a man and a woman who, by
"the law of the land, was still the
"wife of another man," and
that His Excellency the Viceroy
was not prepared to make any
change in the existing law with the
object of recognizing the rules of
the Canon law in regard to
Roman Catholic converts. But
India, in that communication,
had also mentioned that they "would
"be prepared to consider, if the
"memorialists wished, whether, in view
"of the poverty of the parties, who ordi-
"narily make use of its provisions,
"the Act XXI of 1866, might be
"amended so as to confer jurisdiction
"on ~~courts~~ subordinate courts, on appeal
"from their ~~court~~ decision to the District courts
"being provided."

para 29 (5)

A

para 29 (5)

Govt. of India letter No. 1 of 1869 (1)

The second communication
to

was the reply to memorial — no. 2 in the margin on p. 1 ante — submitted by the Canadian Baptist Mission requesting the Govt. of India to take action with reference to their last para in their first communication — i.e. A ~~[illegible]~~ p. 2 ante — ~~[illegible]~~ ~~[illegible]~~ The Secretary to the Mission was told that the matter would be further considered when a sufficient time had elapsed to enable the members of other Christian ~~[illegible]~~ bodies to make any representation which they might desire to make.

Plas (K)

Paras of the orig. (I)

The next Memorial — no. 3 on the margin of p. 1 ante — was forwarded by the Catholics for a reconsideration of the former decision of the Govt. of India, who replied that their ~~[illegible]~~ Memorial contained no argument which would justify a modification of the previous orders. ~~[illegible]~~ When the Memorialists carried the matter to the Secretary of State for India — memorial no. 4 in the margin on p. 1 ante — he also ~~[illegible]~~ concurred in the conclusions formed by the Govt. of India — vide G.O. 87 Ecc. dt. 2-11-92.

Plas (L)

G.O. no. 2 Ecc. 1891, Plas (W)

G.O. no. 6 Ecc. 1892, Plas (M)

G.O. 87 Ecc. 1892, Plas (V)

P.T.O.

1338

Regarding the interpretation of the Sect. 34 of the Act, the Govt. of India say that it is one for the legal advisers of the Roman Catholic minister.

It is submitted that the letter of the Govt. of India may be communicated to the Marriage Registrar with copies of the letter mentioned in the ~~[illegible]~~ c.f. Copy of the letter may also go to the R. Genl. of B. D. & M.

The draft order submitted below is for approval.

L.P.M. 22/8/19

22/8/19

22/8/19

Please refer the matter to Mr. L. D. Swamikannu Pillai for any remarks he may wish to offer

22/8/19

L.D. Swamikannu Pillai I.S.O.

(L.S.)

The Govt. refer to previous decisions all of which rest fundamentally on the Govt. of I's letter printed in Gt. O. No. 114 Eccl. d. 18 Nov. 1889 If no new consideration has been submitted

(S)

Judl. (M) No. 5425-1 27.8.19

Mr. Lewis Chelladurai

27/8/19

[illegible]

had been submitted to the L.of I since the date when that order was passed, it should certainly have to be accepted as a final disposal. But it has been shown beyond doubt, both in Mr. D'Cruz's letters and by the practice in all the other Provinces that, contrary to what was supposed by the L.of I in 1889, the legislature did intend, in 1866 to exempt Roman Catholic Indians from the procedure prescribed in Act XXI of 1866, provided they conform to the procedure prescribed by canon law; that further the ~~legislature~~ Act originally contained a provision which in explicit terms enacted that "no clergyman of such Church (i.e. the Rom. Cath. Church) shall be liable to any suit or penalty ... for solemnizing any such marriage", i.e. a marriage of a convert celebrated in accordance with the rules, rites ceremonies and customs of the Rom. Cath. Church. This indemnity clause was subsequently repealed not on a question of policy but because it referred to two obsolete enactments (Acts XXV of 1864 and V of 1865). Finally, in the conviction of the Rev. M. Mullard, which may be repeated any day should a Rom. Cath. minister be advised to take advantage of sec. 34 of Act XXI of 1866, Catholics have an undoubted grievance which does not exist in any other province which apparently only the L.of I. can remedy.

In a word the question is not any longer regarding the interpretation of sec 34 of the Act

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In a word the question is not any longer regarding the interpretation of sec 34 of the Act

but regarding the indemnifying of Rom. Cath. ministers against the consequences of an unjust judicial decision. I would suggest that if Govt. are not inclined to move the Govt of I again in the matter, they may at least communicate the decision not only to the Marriage Registrar, as proposed by the office, but also to the Catholic Indian Assocn of S. India or to its President, the Most Revd Archbp. Aelen, so that legal advice may be taken, as the Govt. suggest, by those concerned.

Lt. S
4.9.19

To the Secy to Govt. Home Dept. Ootacamund with file returned u.o.

SECRETARY TO GOVERNMENT OF MADRAS
12-SEP-1919.
HOME DEPARTMENT

P.T.O.

Scott—8 (a)—160,001—16-1-17.

NOTES.

1338/9

Home (Mere.) Dept

Regt

In view of Dewan Bahadur L. D. Swamikannu Pillai's w.o. remarks at pp. 6 to 6 ante, it is submitted for orders whether the Govt. of India should again be addressed in the matter. It seems desirable ~~[illegible]~~ to accept his alternative ~~the~~ suggestion ~~of Dr. Swamikannu Pillai~~ to communicate the G.O. decision to the Catholic Indian Association of South India ~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~ in addition to the Marriage Registrar, so that legal advice may be taken by those concerned as suggested in India's letter.

The draft order submitted below is for approval.

CR
11.9.19

1 C.P.R.
16/9/19.

Issue & follow up a Dr. Dr. Swamikannu Pillai that this has been done

[illegible]

Scott...—8 (a)—160,001—16-1-17.

The G.O. has issued.

2. The following D.O. to Mr Swami Kannu Pillai is for approval:—

D.O.

Dear Swamikannu Pillai

I am to inform you that in accordance with the suggestion in your D.O. note of the 4th September on the subject of the recognition of the Paulene dispensation in regard to the dissolution of marriages of native converts, the recent decision of the Govt. of India together with their previous letters has been communicated to the Catholic Indian Association of Southern India.

Yours sincerely

To MRRy Diwan Bahadur
L.D. Swami Kannu Pillai avl.
B.A., M.A., B.L., LL.B.

2/10/29.

5/10/29

1338/11

Sect. II-10 (a)—5,002 13-1-19 (6)

Home (mis) DEPARTMENT.

Remarriage of Native Converts

Communication

replies to the G. of I., Educ. Dept., no. 335 of 5-8-19 re: ..... to the Marriage Registrar, Madras, and to the ~~Archbishop of Madras~~ Catholic Indian Association of S. India.

(iv)	READ AGAIN G.O. No. 969 Home (mis)	dated	4 — 6 —	1919.	I
(v)	" " " " 87 Educ	"	28 — 11 —	191	II
(ii)	" " " 2 "	"	10 — 1 —	1891	III
(i)	" " " 18 "	"	11 — 4 —	1890	IV
(3)	" " " 114 "	"	18 — 11 —	1889	V

READ ALSO:—

C. No. 5425, From the G. of I. Educ, No. 335, dated 5 — 8 — 191 VI

" " " " " " 191

" " " " " " 191

ORDER.

mis

No. 1338, dated 25 - 9 - 1919

The letter of the Govt of India, Dept of Education, No. 335, of 5-8-19, will be communicated to the Marriage Registrar, Madras, and the Catholic Indian Association of S. India.

To

The Marriage Registrar, Madras (a copy all r.o)

" ~~Archbishop of Madras~~

The ~~Secy~~, President of the Catholic Indian Association of S. India (a copy all r.o)

" Regr. Genl. of B. D. & M. (a copy all r.o)

C.P.J. 16/9/19.

25/9.19

18.9.19

21-9-19

S.

M/Genl