MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT

G.O. No. 1150 Press

No 21

Dated 5 — 9 — 45 1857

Not to be folded or roughly handled

No. 30. Read the following Petition from Mahomed Hoossain, late Officiating Town Cauzee of Guntoor.

To the Right Honorable the Governor in Council, Fort St. George.

Your petitioner, under dates the 16th May, 22nd June last, prayed that Government would be pleased to authorize him to collect the fees and knoonoms pertaining to the office of Cazy of Guntoor, and due to your petitioner up to the date on which he was removed from that office by order of Government; but the Government declined to comply with his request, and were pleased to intimate to him by endorsement that the Courts were open to all. In his address of the 21st Ultimo, your petitioner stated that the remedy suggested by Government had been tried by him without avail, and prayed for a special order to the Court, directing the admission of his plaint; but this address was returned to your petitioner.

Your petitioner now begs leave to impress on your Lordship's consideration, that his claim is restricted purely to the recovery of the fees due to him up to the date he actually held the important and onerous office of Cazy. Your petitioner believes that those Ryots who have refused to pay him those fees have been induced to do so in consequence of the Poollery tax having been abolished by Government, and he therefore humbly submits that he has a just claim on the State who abolished the tax (if not on the Ryots) for the reimbursement to him, out of its own treasury, of what he is fully and legally entitled to, your petitioner humbly prays that your Lordship in Council will be graciously pleased to take this point into consideration, and grant him a favourable endorsement. For which act of charity, your petitioner, as in duty bound.

محمد حسین ثبت

العبد آنشکت ذاسی سرکار مراضی دگر

Madras, 6th August 1857.

No. 31. Order thereon, No. 1150; dated 5th September 1857.

Petitioner was appointed in 1842 to officiate as *Cauzee of Guntoor during the minority of the sons of the late Cauzee. A Sunnud* was granted to him by the *Judge of* the Auxiliary Court *Mr. H. Wood*, in which, *inter alia*, he was authorized to collect as emolument of his office "according to long usage" a certain tax from the *cotton cleaner caste of* the vicinity.

2. On his proceeding to levy this tax, the exaction of which, though proved to be of long standing, had been *pretermitted by his predecessor*, the cotton cleaners resisted the demand. He accordingly sued them in the Courts and obtained five or six decrees against them, the Courts declaring the authorized tax to be *Five Anbs* (Rs. 1-4) per *candy* or less.

3. In 1852, the cotton cleaners wrote a petition to Government, complaining that they paid the *Mokturpha*, and could not be expected to pay this tax to their *Cauzee* also. This petition having been referred to the Commissioner, Northern Circars, was reported on by the *Honorable W. Elliot, 3rd July* 1852, who, after stating the facts of the case as above set forth, observed, that it is clear that the right claimed by the *Cauzee* was coeval with British supremacy in the *Circars*, and that it was probably *given to the Mokturpha*, though this had never been admitted in practice, the cotton cleaners being compelled to pay so much a loss to the Government as well as to the *Cauzee*.

4. On this report a Minute was penned by the Right Honorable *Sir H. Pottinger*, and another by the Honorable *Mr. Thomas*, and an Extract Minutes of Consultation was prepared from these Minutes. The right claimed by the *Cauzee* was disallowed, the cotton cleaners were instructed to resist the demand, and the Collector was ordered to plead their defence before the Courts, should the *Cauzee* deem it proper to sue them before such tribunals. It was however to be understood "*that the disallowance is not to have retrospective effect*" and a suggestion occurs in the Honorable *Mr. Thomas'* Minute, which however finds no place in the draft, that some *compensation* should be *given* to the *Cauzee*. "As it would seem that these payments have been made for

Records Department No. 805. dated 17th August 1857.

– some time, though not regularly, I should see no objection to the Cazee's being permitted to – receive a small sum from Government, once for all, if, instead of litigating the matter, he or – the family renounced all claims upon the cotton cleaners, by a formal document, and so to – preclude all future disputes."

5. The Cazee never has litigated any claims for any period subsequent to the disallowing order of Government above quoted, but he rightly contends that that order does not affect the sums due to him from the cotton cleaners at the date of its publication. The cotton cleaners however take a different view of the case. The Cazee attempted to sue them in the Moonsiff's Court, but that Court held that his claim was *stopped* by the order of Government, and on appeal the Sessions Judge concurred.

6. These decisions are doubtless erroneous, and might probably have been reversed had the Cazee appealed to the Sudder, the time for doing which has now elapsed. He is weary however of the tedious processes of the law, and humbly prays that the Government, who have been pleased to prohibit the tax, though of long standing, will make him some compensation in consideration of what was owing to him at the date of their order.

7. The Government are of opinion that the Cazee is clearly entitled to receive from them the compensation he seeks. The Collector of Guntoor will be requested through the Revenue Department to make the necessary enquiries as to the sum claimed, viz., the amount of fees outstanding to the Cazee's debit from the cotton cleaners at the date of the disallowing order above referred to, reporting the result at an early date.

(Signed) E. MALTBY,
Acting Chief Secretary.

Bird, P. Cartledge.

Petition No 1693 of 57

From Mohamed Hoosain.

Late Off[g] Town Cauzy
& Guntoor

Petitioner was appointed in 1842
an Officiating Cauzee & Guntoor during
the minority of the sons of the
late Cauzee. A summud was
granted to him by the Judge of
the Auxiliary Court, Mr H. Wood
in which, inter alia, he was au-
thorized to collect as emolument
of his office "according to Cauzy
usage" a certain tax from the
Cotton cleaners exclusive of the regular
Fees
& on his proceeding to levy this
tax, the sanction of which, though
proved to be of long standing, had
since been prohibited by his predecessor
in the Cotton cleaners refus-
ed the demands. He accordingly
sued them in the Courts and obtai-
ned decrees against
Appeals; the Courts declaring the an-

-formed true to be fair duty
(B. 1 - 4.) pass accordingly
true.

3. Nov 1852. the Colon claimant
made a petition Queste, complaining
that they paid the Northumpton,
and ought not to be expected to pay
this Duty to their Cargoes also.
This Petn being been referred
to the Commissioners, Mr Evans,
was reported on by the Surveyor Mr
Elliott. 3 Dec 1852. who after
stating the facts of the case as they
set forth, observed that it appeared
that the right claimed by the Cargoes
was exercised with British vessels
many in the Coast, and that
it was partially given on the
Northumpton, though this had never
been admitted in practice, the
Colon claimant being compelled to
pay the whole Duties to the
Govt as well as to the Cargoes.
4. On his report a Minute was
framed by the R. Hon. Sir H. Labouchere

a Decision by the Lords the Mrs
Treasury, and on 2 Dec. Govt
Notification from them thereof.
The right claimed by the Cargoes
was disallowed, the Colon Claimants
were instructed to insist the de-
mand, and the Collectors were
directed to plead their Defence
before the Courts, should the Cargoes
decline it proper to sue them before
such Tribunals. It was however
to be understood "that the decision
"Cargoes is not to have retrospective
"give effect", and a difference
appears in the Minute Mr Thomas'
Minute, which however finds no
place in the Draft, but some
Confirmation of it is given to the
Cargoes." As it will seem that they
Instructions have been made from
time to time, but not reported
"for it is see no objection to the Cargoes
"being permitted to receive a small
"sum from Govt, once for all, in
"instead of litigating the matter,
"he or the family can make all
"charges upon the Colon claimants,

"by formal document, and to
"to foreclose all future disputes"

So the Company never has objected
any claims for any private
settlement to be disallowing when
the Govt above quoted, but he rightly
considered that he alone does not
effect the sums due to him from
the Crown claimants at the date of the
publication. The Crown claimant
however take a different view of the
case. The Company attempted to come
here in the Admiralty Court, but
that Court did not try this claim
established by the order of Govt, and
we applied the Supreme Judge com-
manded.

P. Tho decisions are doubtless erroneous,
& might probably have been reversed
had the Company appealed to the Judicial
Committee for doing which has now
elapsed. He is many thousands of the
Indians pounds a "glorious uncertainty"
of the law, and humbly prays that
the Govt, who have been pleased to
publish to be true, benefit of long stand-
ing, will make him some compen-
sation in consideration of the wrongful
detention of his property. If the Govt of
Tho Govt of Tho Govt, it is presumed, of
but nevertheless he pleases amount of his claim
Dec 21 1848

4

For Orders.

The circumstances of this case are to be stated in the Commissioners Report.

The Agent who brings his petition to request that Govt will grant him compensation for the loss which he has been in means, when there was prohibiting the sale was forced upon him by him was attempted to extract him from the Govt.

Is the Collector to be ordered to deposit the amount?

Yes.

There may have been no actual right but there appears a strong presumptive claim on the part of the Company - & Govt be disposed to put him in a train for the trial of pecuniary claim

Jas clearly entitled to Jas.
Compensation Govt Off

No 1150 Frederick Co for

No

Md. C. & J. 5th September 1857

Read Petition No 1150 of 1857
From Mahlon D Moore
late Sheriff Town County
of Frederick

Petitioner prays for the
reasons & facts therein set forth
Power of Frederick County
the Insolvency of the late
of the late Charles A
Thomas was granted
to him by the Judge
of the Orphans Court
Mr Ry Wood, in which
Proceedings, he was duly
directed to collect a
Commission of his office
according to Law, a
certain tax from the
Collateral Kindred
the deceased

2. On the proceeding
to levy this tax, the
Question of which
Thought proper to be

of

No 1150

Mahlon D Moore
late Sheriff Frederick County
Petition

Filed 15th September 1857

Frederick County Court

Mahlon D Moore late Sheriff of Frederick County

Petition

Filed 15th September 1857

12402

of long standing, had been
permitted by his pre-
decessor the Attorney-General
to do so accordingly and that on
the Courts ordering
four or six Planters appointed
them, the Courts ordering
the authorised tax to be
paid (Vol. 4.) for
examination or leave.

3 In 1862, the Attorney
General wrote a letter
to Government,
complaining that they
paid the Attorneys the
and could not pay them
to pay this tax to the
Courts who therefore
refusing to comply
to the Commissioners of
Circuit, was responded to
by the Auditor M. Phil
3rd July 1862. who, after
stating the facts of the

case

can as above set forth,
observed, that it was clear
that the right claimed
by the Courts was vested
with British supremacy
in the Circuit, and
that it was probably
given on the establishment
though this had never
been admitted in
practice, the Attorney
General being compelled
to pay so much a
year to the Government
as well as to the Courts
4. On this report
a Minute was passed
by the Right Honorable
Sir W. Gallinger and
another by the Auditor
Mr Thomas, and on
Specimens of form were
prepared from these
Minutes the right
claimed by the Courts

to as

was duly sworn, the Cotton
Cleaners were instructed
to resist the demand,
and the Collector was
ordered to shew their
cause before the Court,
should the Cause appear
it proper to have them
before such Tribunals
It was however to be
understood that the
"direct Revenue is not to
"be affected" and a suggestion
came from the Honorable
Mr Thomas "Commissioner"
which however finds
no place in the draft,
that some compensation
should be given to the
Cause — "Cost would
"allow that these payments
"have been made for
"some time, tho' not
"regularly, should the

"no obligation to the
"Cause" being permitted
"to receive a donation
"from Government, once
"for all, of, in satisfaction of
"obligating the matter
"to or the family remain
"a Weaboom upon the
"Cotton Cleaners, by a
"formal Document, also
"so to preclude all
"future disputes".

The Cause
has obliged to compensate
for any forced subscription
given to the above Mentioned
Order of Government
above quoted, but he
rightly considered that
that Order does not
affect the same due
to him from the Cotton
Cleaners at the date of the
publication. The Cotton

Cleaners

shewn at the date of the Order.

7 The Government are of opinion that the Cause is not fairly entitled to recover from them the Compensation he seeks. The Collector of Jamaica will be requested to make the necessary Enquiries & the amount of Loss arising to the Claimant from the Alteration at the date of the Award, & prepared to report the result at an early date.

D.T. 5-9-57.

To the Revenue Department &c &c &c

Returned