

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	169	Press
		~~Mis.~~
29-30		
Dated	27-1-	19-1859

Not to be folded or roughly handled

No. 29. Read the following MINUTE by the Honorable WALTER ELLIOT, Esq., dated 26th January 1859.

I desire to say a few words on the subject of the reconstitution of the Courts of Law in this Presidency, I passed on the papers, in the first instance, to Mr. Morehead, and they were returned to the office without coming back to me again.

I think all Officers who have a large experience of the Mofussil must admit that the working of the judicial system in the settled or regulation Provinces, is unpopular with all classes of our subjects and that the Courts are generally viewed with dread and dislike by the respectable portion of the community. The dissatisfaction arising from this cause formed a prominent theme in the list of grievances put forth during the two past years of rebellion and discord, and many able Officers in all parts of India have not hesitated to express their conviction of the necessity for a change.

The reforms proposed in the papers received from Bengal effect no change in the principle of the existing system of judicature and consequently cannot be expected materially to remove the objections entertained by the Natives of the country.

The object to be kept in view is, I conceive, a system which shall secure a prompt and final adjudication of suits more in conformity with the procedure of the non-regulation Districts. The improvements suggested by Mr. Morehead in the plan proposed by the Judges of the Foujdaree Udalt, approach more nearly to this end than any other scheme I have seen.

If I had any thing to suggest in addition to what he has laid down, it would be that the range of original and final jurisdiction should be extended both in the Moonsiffs and the Zillah Courts.

In the former I would extend the power of deciding original suits to those of the value of Rupees 1,000 and their final jurisdiction to those of Rupees 100.

I concur with Mr. Morehead in his view of the constitution of the Zillah Courts of three Judges. But I would give them jurisdiction in all original suits without limit, and I think their judgments should be final up to 5,000 Rupees and their appeals should be admitted only in the cases, under the circumstances prescribed by the Sudr.

I also fully concur with Mr. Morehead, that such Courts should be stationary at the capital of the Zillah, and that the Provincial Courts proposed by the Sudr, would be supererogatory.

I can add my testimony with the greatest confidence to Mr. Morehead's opinion of the general character of the Moonsiffs in this Presidency.

It has been my lot to be brought in contact with some of the most corrupt and disorganized portions of this Presidency, and I have almost invariably found that the character of the Moonsiffs formed an honorable exception to the unfavorable impression produced by the dishonest practices of the Revenue servants.

I have also found that the Moonsiffs were held in the same estimation by the people generally.

I consider therefore that they may safely and advantageously be entrusted with the larger powers I have recommended.

I would farther suggest that the scale of Moonsiffs' salaries should be proportionately increased.

I have had considerable experience in the working of Panchayats during 12 years that I served in a non-regulation Province, I found the institution worked admirably. But no sooner were the regulations introduced than their usefulness ceased.

The explanation is simple.

In the Cutcherry of an Officer in a non-regulation District vested both with Revenue and Judicial powers, there are always individuals present who are ready to undertake the settlement of an ordinary dispute and to draw up a simple judgment free from technicalities and forms. But bring the same case into a regular Court where those only are in attendance who expect their suits to come on for hearing, there is no longer the same choice of assessors, and parties required to name them, are led to select persons out of Court.

Fort St. George, Judicial Consultation, 1st February 1859.

To summon persons from their own homes and to withdraw them from their regular avocations is felt to be a hardship and a grievance for which the proposed fee, will, under ordinary circumstances, prove a very inadequate compensation, and when such persons find themselves hampered and pressed by formalities and rules to which they are unaccustomed, the duty becomes intolerable.

Punchayats are only suited to the state of society in which they originally sprang up. When transplanted into the atmosphere of a regular Court and brought under the control of a regular form of procedure, they have invariably failed, and the like fate will attend similar experiments if tried again.

I beg to express my general concurrence in Mr. Morehead's views of the administration of Criminal Justice.

(Signed) WALTER ELLIOT.

Ordered that the following letter be despatched.

No. 30. To H. FORBES, Esq., Member for Madras of the Legislative Council of India, dated Fort Saint George, 27th January 1859, No. 119.

SIR,

In reference to my letter under date the 22nd Instant, No. 91, I have the honor to forward a Minute recorded by the Honorable Walter Elliot, on the subject of the constitution of the Courts of this Presidency.

(Signed) T. PYCROFT,
Chief Secretary.

Disptd 27th Ms.
with Enclos.

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No. 119.

H Forbes Esq

Min. Secy: Council of India

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J.P.

Fort St. George
27 January 1859

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No 119.

To, The members for
Madras, of the
Legislative Council
for India.

Dated 27 January 1859.

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