

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	167	Press
	56-57	<u>Mis.</u>
Dated	8-2-1915	

Not to be folded or roughly handled

Fort St. George, Judicial Consultation, 8th February 1859.

No. 56. Read the following letter from J. R. BOYSON, Esq., Government Solicitor; to the Chief Secretary to Government, dated 26th January 1859, No. 87.

SIR,

Extract Minutes Consultation, dated 3rd November 1858,
No 1537, Judicial Department.

With reference to the Extract from Minutes of Consultation noted in the margin, I have the honor to forward for the information of Government, a copy of the Advocate General's further remarks and opinion on the matter therein adverted to.

COPY OPINION.

1. My reasons were shortly as follows, and will most of them be found in greater detail in the correspondence between Mr. Cunliffe, Collector of Madras, Dr. Balfour, Government Agent at Chepauk and the Dewan, submitted to me when I advised on the 28th June 1858, on the prosecution of the parties charged with frauds on the Yeomiah Department.

2. Early in 1856, Mr. Cunliffe applied to the Board of Revenue for leave to modify the Yeomiah Rules in favor of certain Gosha females, pensioners; the Board in reply 13th May 1856, wished to be assured if it were certain that these females were really Gosha; this led to a reference to Dr. Balfour to whom Mr. Cunliffe sent a list of all his Gosha pensioners, with a request that he would enquire into the matter. On the 30th September 1856, Dr. Balfour reported 16 cases as "suspicious." Mr. Cunliffe requested him to complete the enquiry, he pleaded various difficulties and at last 15th January 1857, gave Mr. Cunliffe to understand that he was not inclined to move further in the matter, whereon as no fraud was proved against any one, Mr. Cunliffe informed the parties that for the present he would pay them their pensions upon their obtaining certificates of existence from the Dewan as a guarantee for their identity. These certificates the Dewan at once gave.

3. On the 2nd February 1858, Mr. Cunliffe received information shewing that one of these pensioners was no relation of the Satampauk family in whose name she drew her pension. Inquiry was forthwith made of the Dewan as to how he had come to grant her the certificate that enabled her to draw her pension, and then for the first time, (as if alarmed at finding that the Collector had at last struck the trail and obtained positive information that must lead to an inquiry, in the course of which other frauds would probably be exposed also,) he tells Dr. Balfour that he knows of three other cases of similar frauds and begs to decline the responsibility of inquiring into the other cases Dr. Balfour had referred to him as he wished to be "free from blame" and had no means of ascertaining the truth. If this were so, which I am unable altogether to credit, I consider that it was the Dewan's duty to have said so at first when applied to for certificates, and to have then declined to furnish any such certificates. His excuse that he believed the statements of the parties when they told him that the Collector and Government knew they were not related to the families in whose names they drew pensions and had continued the pensions with knowledge of the fact, seems to be obviously untrue and unsatisfactory.

4. In addition to this, at the time I wrote my letter of the 12th October, reporting the conviction of the parties engaged in these Yeomiah frauds, I had strongly impressed on my mind various facts that had recently transpired in the course of the litigation concerning the Estate of the late Shah Savar Jung, with which the Dewan was mixed up in a manner that I consider much to his discredit.

5. Shah Savar Jung had left a widow Mehroon nissa Begum and one Mahomed Bauker Hoos-sain Khan Bahadoor, who claimed to be his brother and has long received a pension as such, though it appeared that the Sircar records contained evidence which satisfied the Court that he was not really his brother. This evidence I felt satisfied the Dewan must have known and I considered he ought to have brought it to the notice of the Government. Moreover the way in which it transpired he had dealt with Shah Savar Jung's property in the absence of the two gentlemen appointed to act with him, appeared to me very suspicious, as did also, more especially his transactions with the widow. In a few hours that intervened between the grant of Letters of Administration to her and the issue of an Injunction preventing her from dealing with the Estate, the Dewan (with full knowledge as it appeared to me, that the Injunction had been granted though not formally drawn up and served) paid over to the widow Rupees 37,000 or rather said he had done so, and showed her receipt for that sum, but she I understand declares that though she gave the

Fort St. George, Judicial Consultation, 8th February 1859.

receipt for that sum, she really received only a very trifling sum; while the Dewan himself assured the Government Agent at Chepauk that he had only paid the widow a few thousand Rupees for funeral and other expenses, while I understood that in the Master's office he was claiming credit, on her receipt for Rupees 37,000 as paid to her, and for an unusually large sum for the funeral expenses of the deceased.

6. These matters certainly strengthened the unfavorable view I took of the Dewan's conduct in the Yeomiah cases, but the facts of those cases *per-se* appear to me sufficient to bear out the conclusion to which I came and which I felt it my duty to submit to the notice of Government.

(Signed) THOS. SYDNEY SMYTH,
Advocate General.

January 22nd, 1859.

(True Copy.)

(Signed) J. R. BOYSON,
Government Solicitor.

No. 57.

ORDER THEREON, No. 167; dated 8th February 1859.

1. The Government resolve to communicate to the Chepauk Agent, paras. 2 and 3 of the Advocate General's report,* of the result of the trial of the parties concerned in the frauds committed in connection with the pensions granted to the family of the Jaghiredar of Satampaukum.

2. In consequence of the opinion expressed by the Advocate General in the concluding sentence of the last para. now communicated, the Government requested him to acquaint them with the grounds on which he supposed that the Dewan had some cognizance of the Yeomiah frauds.

3. From Mr. Smyth's reply it seems that after some correspondence with the Government Agent at Chepauk, respecting certain Gosha female pensioners, the Collector of Madras informed the parties in January 1857, that for the present, he would pay them their pensions upon their obtaining Certificates of existence from the Dewan as a guarantee for their identity. These Certificates the Dewan at once gave. On the 2nd February 1858, Mr. Cunliffe received information showing that one of these pensioners was no relation of the Satampauk family, in whose name she drew her pension. Inquiry was forthwith made of the Dewan as to how he had come to grant her the Certificate that enabled her to draw her pension. The Dewan then for the first time informed Dr. Balfour, that he knew of three other cases of similar frauds, and begged to decline the responsibility of enquiring into the other cases Dr. Balfour had referred to him, as he wished to be "free from blame," and had no means of ascertaining the truth.

4. If this was so, the Advocate General considers that it was the Dewan's duty to have said so at first when applied to for Certificates, and to have then declined to furnish any such Certificates. His excuse that he believed the statements of the parties when they told him that the Collector and Government knew they were not related to the families, in whose names they drew pensions and had continued the pensions with the knowledge of the fact, seems to Mr. Smyth obviously untrue and unsatisfactory.

5. The Governor in Council desires that the Chepauk Agent will call upon the Dewan for an explanation of his conduct in this transaction, and submit it with the results of the enquiries ordered in Extract Minutes of Consultation, dated 20th December 1858, No. 820.

6. In a further part of his opinion the Advocate General, referring to the conduct of the Dewan in connection with the Estate of the late Shah Sawar Jung, a matter on which it is not now necessary to enter, observes that one Mahomed Banker Hoossain Khan Bahadoor, claimed to be brother of Shah Sawar Jung, and has long received a pension as such, although it appeared that the Sircar Records contained evidence, which satisfied the Supreme Court, that he was not really his brother. It is remarked that in the Agent's letter, dated 26th August 1857, No. 224, paras. 2 and 3, Mahomed Banker Hoossain Khan Bahadoor is stated to be the half brother of the late Shah Sawar Jung and in receipt of Rupees 10,000 per annum as the nickah son of Nawab Oomdut Ool Oomrah. The Government resolve to call upon the Agent to report on this point separately.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

Judicial Department

No. 167

Extract from the Minutes of Consultation

Under date 8th February 1859.

Read the following
letter from the Govt. Solicitor

(Dated 26th January 1859 N. 57)

The Government
resolve to communicate to
the Chepauk Agent paras 2
and 3 of the Advocate General's
report of the result of the trial
of the parties concerned in
the frauds committed in con-
nection with the pensions
granted to the family of
the Jaghiredar of Satampau-
kum.

In consequence of
the opinion expressed by the
Advocate General in the
concluding sentence of the
last para now communicated,
the

Dated 12th October 1858 in Judicial
Consultation No. 820.

the Govt. requested him to acquaint them with the grounds on which he supposed that the Dewan had some cognizance of the Geomiah frauds. 3. From Mr. Smyth's reply, it seems that, after some correspondence with the Govt. Agent at Chepauk respecting certain Geomiah female Pensioners, the Collector of Madras informed the parties in January 1854 that for the present, he would pay them their pensions upon their obtaining certificates of existence from the Dewan as a guarantee for their identity. - These certificates the Dewan at once gave. On the 3rd February 1858 Mr. Canliffe received information showing that one of

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of these Pensioners was no relation of the Satampauk Family, in whose name she drew her pension. Enquiry was forthwith made of the Dewan as to how he had come to grant her the certificate that enabled her to draw her pension. The Dewan then for the first time informed Dr. Balfour that he knew of three other cases of similar frauds, and begged to decline the responsibility of enquiring into the other cases. Dr. Balfour had referred to him, as he wished to be "free from blame", and had no means of ascertaining the truth.

4 If this was so, the Advocate General considers that it was the Dewan's duty to have said so at first when applied to for certificates, and

and to have then declined to furnish any such certificates. His excuse that he believed the statements of the parties when they told him that the Collector and Govt knew they were not related to the families in whose names they drew pensions and had continued the pensions with ^{the} knowledge of the fact, seems to Mr. Smyth obviously untrue and unsatisfactory.

5. The Governor in Council desires that the Chepauk Agent will call upon the Dewan for an explanation of his conduct in this transaction, and submit it with the results of the enquiries ordered in Co. Min. of Gov. dated 20th December 1858. N^o 820.

In

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6 In a further part of his opinion the Advocate General, referring to the conduct of the Dewan in connection with the Estate of the late Shah Sawar Jung, a matter on which it is not now necessary to enter, observes that one Mahomed Banker Hoossain Khan Bahadoor claimed to be brother of Shah Sawar Jung, and has long received a pension as such, although it appeared that the Sircar records contained evidence, ^{Supreme} which satisfied the Court that he was not really his brother. It is remarked that in the Agent's letter dated 26th August 1857, N^o 221, paras 2 & 3. Mahomed Banker Hoossain Khan Bahadoor is stated to be the

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Shah Sower Shung and in
receipt of Rs 10,000 per annum
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want Comdnt Col Comrah.

The Govt resolve to call upon
the Agent to report on this
point separately.

J.P.

To the Govt Agent at Chepauk.
with 2 photographs of the letter
above marked in Manuscript. } (Sis/d. 12th)

to Com: 8 February
Judicial 1859 Depts 24

Feb 16/59

Charles W. Smith

28/2 February 1859

Wm L. Long 21st March
1859 Depts 15876
Depts 16476
March 1859
Depts 2041559

4/19/60

For P. 6. R. 1. F. 1. 112

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