

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 733	Press His
48-49	
Dated 5.5.1862	49

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Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
5th May 1862.*

No. 48. Read the following Proceedings of Government in the Revenue Department, dated 30th April 1862, No. 928.

Read letter from R. A. DAIYELL, Esq., Sub-Secretary to the Board of Revenue; to T. PYCROFT, Esq., Chief Secretary to Government, Revenue Department, Fort Saint George, dated Madras, 27th February 1862, No. 1,367.

SIR,

1. I am directed by the Board of Revenue to request the Orders of Government as to the reception on their files by Collectors of suits for the possession of, or succession to, hereditary village offices in the Police Department, or for the enjoyment of any of the emoluments annexed to such offices.

2. Such suits are brought under Clause IV, Regulation VI of 1831, which is unrepealed by the new Police Act,* though so much of Clause VII of the same Regulation as relates to village Watchers or other persons holding village offices in the Police Department, is included in the Schedule of Regulations superseded by that Act.

* Act XXIV of 1859.

3. The present state of the Law would seem therefore to leave the investigation into a claim to any such office, or its emolument, in the hands of the Collector, but to make it optional with the Police Superintendent to carry out the Collector's decree, as the control, supervision and dismissal of village Police Officers is taken out of the hands of the latter Officer by the repeal of a portion of Clause VII of Regulation VI of 1831, and further by Section IV of the Police Act, "no person, Officer, or Court (other than those mentioned in the Act) shall be empowered to appoint, supersede or control any Police functionary, any Regulation, Act or usage to the contrary notwithstanding."

4. The latter Section may perhaps be considered virtually to repeal Section IV of Regulation VI of 1831, so far as it relates to Police Officers, but the Board cannot think that it was the intention of the Legislature to ignore the hereditary right to all such offices and their emoluments, though such an interpretation of the Law would apparently involve this.

1. The Board appear to have overlooked the repealing Section (No. 2) of Act XXIV of 1859, which contains the proviso that nothing in it "shall be construed to affect any Judicial function or jurisdiction original or appellate which by any existing law may be exercised by any of the Officers mentioned in the enactment above repealed." A Collector's functions under Regulation VI of 1831, are clearly Judicial, and they are therefore saved by this Section.

2. So long as Section IV of Regulation VI of 1831 remains unrepealed, a Collector cannot refuse to take cognizance of a claim preferred under it. His decision, however, is only declaratory of right. It will still rest with the Inspector General of Police to decline to give practical effect to it, when the party is unfit for the post to which, subject to that condition, he has the best legal claim. This at first sight may seem anomalous, but it must be remembered that efficiency for service is a necessary condition to drawing the emoluments of an office.

(True Extract.)

(Signed) C. G. MASTER,
Deputy Secretary to Government.

No. 49.

ORDER THEREON, 5th May 1862, No. 733.
Communicated to the Inspector General of Police.

(Signed) A. J. ARBUTHNOT,
Acting Chief Secretary.

Exd. F. Cartledge.

N^o 733- 5th May 1862. 2
Communicated to the
Inspector General of Police.

W/R

The Inspector Genl.
of Police. 3
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