

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. *2281*

Press
MIS.

228-231

Dated *24-12-* 18*63.*

49

Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
24th December 1863.*

Read the following papers :—

No. 228. From G. A. BALLARD, Esq., Magistrate of Malabar; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George, dated Calicut, 30th October 1863, No. 122.

I regret to state that I have had occasion lately to be dissatisfied with the conduct of several of the Sub-Magistrates in this district.

2. By Government Order dated 24th February 1863, No. 296, the Board of Revenue have no jurisdiction with regard to Tahsildars or other Revenue Officers in their Magisterial capacity.

3. That Order empowers the Honorable the Judges of the High Court to punish Sub-Magistrates. But I presume the action of the High Court is contemplated rather when irregularity in the disposal of specific cases is observed; than as a check to general inefficiency, much of which might exist without necessarily attracting the notice of the Judges.

4. I have the honor, therefore, to request I may be informed whether, as Magistrate of the District, I am empowered to dismiss or remove a Sub-Magistrate of the second Class not being a Covenanted Officer, duly recording my reasons for so doing.

5. Recent Legislation has tended to strengthen the Magistracy in some things; but it has much weakened the power and position of a District Magistrate in others, and I venture respectfully to express my opinion that the possession of the power of removing, suspending, or dismissing his Sub-Magistrates without previous reference to any higher authority would materially assist a District Magistrate's administration, and should be entrusted to an Officer holding that position.

No. 229. PROCEEDINGS OF THE BOARD OF REVENUE, DATED 9TH NOVEMBER 1863, No. 7124.
Read Proceedings of the Board of Revenue, dated 2nd September 1863, No. 5500.

From the Honorable R. S. ELLIS, C. B., Collector of Madras; to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Saidapet, 15th August 1863, No. 326.

1. I have the honor to submit for the Board's consideration the reasons which make it in my opinion advisable that Perumal Naik, at present Tahsildar and Sub-Magistrate of Saidapet should not remain in so responsible a situation.

2. I may be allowed to preface my observations on the recent conduct of Perumal Naik by expressing my regret that he should ever have been appointed to the situation of Tahsildar, for which his education, previous official employment, and ability, in no respect qualified him.

3. I find from the records of the office that Perumal Naik commenced his official career in 1821 as a Huzur Peon. In 1830, he was made a Dufterbund on the same salary as a Peon, namely, Rupees 5-4-0, his pay being at the end of three years raised to Rupees 7. In that situation, Perumal Naik remained for nearly eighteen years or until 1850, when he became a temporary Devasthanam Gumastah. During the years between 1850 and 1857, Perumal Naik obtained successively the appointments of Assistant Munshi, Sampratti, Gumastah, and Vernacular Record-keeper, with salaries varying from 14 to 28 Rupees per mensem. In October 1857, Perumal Naik was promoted to the Tahsildarship of the Tiruporur Taluk on a salary of 70 Rupees per mensem. In March 1858, he was promoted to the Tahsildarship of the Nayer Taluk on a salary of 85 Rupees per mensem, which was afterwards increased to Rupees 100. On the 1st January 1861, he was appointed as Tahsildar of the Ponneri Taluk on a salary of 150 Rupees, and in April 1862, he was again promoted by being appointed to the Tiruvallur Taluk on a salary of Rupees 175 per mensem. It will thus be seen that during the last five years Perumal Naik's promotion has been as remarkably rapid, as it was slow during the first thirty-six years of his service.

4. I have entered into the detail of Perumal Naik's service from the singular circumstance that during thirty-six years he was employed in very subordinate posts, and because I cannot from my records trace any reason for Perumal Naik's rapid subsequent advancement, which is not justified by any recorded meritorious service, or in my opinion by any personal qualities.

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5. In justice to Perumal Naik, I should state that Mr. Shubrick has left on record, that he considered Perumal Naik "a very good public Officer, attentive to his duties, always affording satisfaction," and that to my surprise, Mr. Cunliffe, the late Collector, has endorsed Mr. Shubrick's opinion.

6. After taking charge of this District in March last, my attention was directed to Perumal Naik by the slovenly manner in which he conducted his Magisterial duties, by the complaints made by his subordinates of the manner in which he treated them, and by the numerous complaints made to me by other than public servants of the rudeness with which Perumal Naik treated persons attending his Kacheri on business. Many of the more respectable natives of the Tiruvallur Taluk assured me that they would never, except on compulsion, attend in person the Tahsildar's Kacheri, in consequence of his insolent manner towards them. I believed these complaints, because Perumal Naik's insubordinate behaviour and his rude manner had been commented on by the late Sub-Collector Mr. Elliott, by the District Engineer Captain Moberly, and by the Superintendent of Police.

7. Under these circumstances, I thought it advisable to remove Perumal Naik to Saidapet, where he would be under my own immediate superintendence, and therefore less likely to act oppressively towards the people in the Taluk.

8. Soon after Perumal Naik left Tiruvallur, several charges of corruption were brought against him. Three of these charges were selected for inquiry; one case has been inquired into by myself and two by the Joint Magistrate Mr. Banbury. Although in none of these cases has the evidence adduced been held sufficient for the establishment of the charges, and the infliction of punishment under the Penal Code, yet sufficient has, I submit, been established to affect Perumal Naik's character so seriously as to render it very undesirable that he should continue to hold the situation of Tahsildar. The Memoranda and the sentence passed by the Joint Magistrate are enclosed* for the Board's perusal.

* Enclosure A, to be returned.

9. The charge of attempting to obtain a bribe of 200 Rupees from one Munisami Mudali, which is the case inquired into by me, arose as follows.

10. Two brothers Adimula Mudali and Munisami Mudali held a joint Puttah No. 20, in the village of Kannigaper in the Tiruvallur Taluk. During the Jamabandi of Fasli 1271 (1861-62), Munisami Mudali presented a Razinamah for this Puttah land, purporting to be executed by both himself and his brother Adimula Mudali, and requested that the Puttah might be transferred to the name of one Nainiappah Mudali. As the Razinamah was attested by the village Munsiff and Kurnum, who also gave before the then Tahsildar, Nazmuddin, a Kaifeat stating that there was no objection to the transfer, the Puttah was recorded in the name of Nainiappah Mudali.

11. When Adimula Mudali heard of this transfer of the Puttah, he complained, in July 1862, to the Tahsildar, who was at this time Perumal Naik, protesting that he had not executed the Razinamah presented by his brother, and stating that his signature was forged. This complaint was transferred very improperly by the Tahsildar to the village Munsiff for inquiry. Upon this, Adimula Mudali on the 23rd July 1862, complained to the Collector, Mr. Cunliffe, of the manner in which the Tahsildar had disposed of so serious a case. The Collector called upon the Tahsildar for a report on this Arzi.

12. This report is furnished by the Tahsildar (Arzi No. 501, dated 14th August 1862) in his capacity as a Revenue Officer. The Tahsildar states that Munisami Mudali, who presented the Razinamah in the joint names of himself and his brother, was at the time of his report absent, as well as Govindah Pillay, the Kurnum of Kannigaper, one of the attesting witnesses; but that he had examined Nainiappah Mudali in whose favor the Razinamah containing the alleged forgery of Adimula Mudali's name was filed, and Ragava Mudali, the village Munsiff of Kannigaper, who was the other attesting witness. The Tahsildar further reports that Nainiappah Mudali stated that he had originally been the purchaser of the Puttah land in question, which had temporarily been allowed to stand in the names of the brothers Adimula Mudali and Munisami Mudali. Both Nainiappah Mudali and Ragava Mudali pleaded that they thought the Razinamah filed by

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Munisami Mudali had been executed by both brothers, and Ragava Mudali thought there was no harm, after the explanation given by Munisami of his brother's absence in Madras, in his (Ragava's) attesting the Razinamah.

13. The Prosecutor Adimula Mudali, according to the Tahsildar's account, offered proof that his signature was a forgery, and showed that Nainiappah's statement regarding the transfer of the Puttah land and its original purchase, by Nainiappah Mudali, was incorrect. The Tahsildar gives in this report a fair account of the whole case, offering his opinion that the transfer of the joint Puttah in the absence of one of the holders, was irregular, and concludes by asking if the case should be regularly inquired into with a view to its being committed, as a case of forgery to the Sessions Court.

14. In answer to this, Mr. Cunliffe, by a Takid No. 413, dated August 22nd, 1862, desires the Tahsildar to inquire into the case, and commit the same to the Court, reporting the committal when made.

15. Before the receipt of this order of Mr. Cunliffe's, and after despatching his report, No. 501, dated 14th August 1862, the Tahsildar had taken, in his capacity as a Revenue Officer, a deposition, not on oath, from Govindah Pillai, the Kurnum of Kannigaper, who was absent when he sent in his report, and was the other attesting witness to the Razinamah, in which it was alleged that Adimula's name was forged. This evidence fully bore out Adimula's statement regarding his being the real purchaser of the Puttah land in question. Govindah further stated that he had attested the Razinamah on the faith of what Munisami Mudali had told him regarding Adimula's absence in Madras and of Adimula having signed the Razinamah; he stated also that he thought there was no risk, as he saw the Munsiff's, Ragava Mudali's name, as an attesting witness, and that it was in the full confidence that all was right, that he had given a Kaifeat to the Tahsildar Nazmuddin at the Jamabandi of 1271, saying that the transfer of Puttah could be made.

16. On the 29th August 1862, the Tahsildar, Perumal Naik, commenced his inquiry, as a Sub-Magistrate, into the charge of forgery preferred by Adimula Mudali. In this case, the Tahsildar makes Munisami Mudali sole defendant, although the complaint preferred to the Huzur was against Munisami Mudali, Nainiappah Mudali, and the Kurnum Govindah Pillai.

17. In his deposition, the Prosecutor stated that his brother had acknowledged filing the Razinamah before certain persons named Venkatasami Naik, Rungiah Naik, and Rutnavelu Mudali. The Sub-Magistrate again examines Prosecutor on September 9th, and informs him that he (the Sub-Magistrate) has received a letter from the above Rutnavelu Mudali, saying he knows nothing, and on this the Prosecutor declines calling this witness.

18. The Defendant denied the forgery, and declared that the Prosecutor had come to Tiruvallur to present the Razinamah, but says he cannot prove this fact, that his brother signed the Razinamah in Madras in the presence of Subbraya Chetty and Mogali Ramasami Chetty: he added that the papers, which showed that Nainiappah Mudali, in whose favor the Razinamah was executed, was the real purchaser of the Puttah land, were lost and could not be produced.

19. The Tahsildar only examines two witnesses for the prosecution, namely, Perumal Naik and Rungiah Naik. The former testified to the Defendant having acknowledged before arbitrators at Madras, when questioned by the prosecutor, that he had, without his brother's knowledge, presented the Razinamah regarding the Puttah land, but that he (witness) had not heard Defendant acknowledge to having signed his brother the Prosecutor's name. The other witness Rungiah Naik supported the evidence of the first witness as regards the acknowledgment by the Defendant Munisami Mudali, that he had presented the Razinamah without his brother's knowledge, and added that when Adimula complained before the arbitrators that this Razinamah which he (Adimula) had never signed was presented, the brother Munisami, the accused, remained silent.

20. With the meagre evidence of these two witnesses, the Tahsildar closed the inquiry and dismissed the case as not having been proved. Nainiappah Mudali and the Kurnum Govindah Pillai are not made Defendants in the case, although they had been charged with forgery, nor is any evidence taken from these men or from Ragava Mudali, although from the inquiry held by the Tahsildar on the Revenue side, he was well aware how much they were implicated, and how

well acquainted they were with the transaction in which the forgery was committed. It was for the benefit of Nainiappah Mudali that the forged Razinamah was filed, and Govindah Pillai and Ragava Mudali, Kurnum and Munsiff of the village, were the attesting witnesses to the forged document. It is out of this dismissal of the case that the charge of endeavouring to extort a bribe has its origin.

21. The charge is preferred by Ragava Mudali, through whom the alleged extortion of money from Munisami Mudali was made. Munisami Mudali is at present a convict in the Chingleput Jail. Ragava Mudali, who is related to Munisami Mudali, and who is the Munsiff of the village of Kannigaper, states that the attempt was made on the evening of the 20th September 1862, the day on which the Tahsildar had dismissed the charge of forgery against Munisami Mudali. It would appear that pending the inquiry, the Tahsildar had told him that Munisami off; that he (Ragava Mudali) had said that there was nothing in the case, but that hereafter of the 20th, the Tahsildar sent for him to his house (it would seem from the statement of another witness that Munisami Mudali had declined to go there); that he went there accompanied by Nainiappah Mudali (concerned in the Razinamah case), and Muttukarupannah Mudali; that when they had seated themselves on the pials, Ragava Mudali and the Tahsildar on the western pial, and the two others on the eastern pial; the Tahsildar said he had greatly assisted Munisami Mudali; and that he (Ragava Mudali) should get 200 Rupees from Munisami Mudali. He replied that Munisami Mudali would give nothing; upon which the Tahsildar sent them angrily away. This statement is corroborated by the witnesses Muttukarupannah Mudali and Nainiappah Mudali.

22. The witness Muttukarupannah Mudali further said he had that night communicated the particulars of the interview with the Tahsildar to two of his friends, Velu Mudali and Vem. annasami Mudali, who were at Tiruvallur at the time, but upon being questioned, these two persons deny ever having been told any thing about the matter.

23. Ragava Mudali further states that out of revenge towards them for not getting the money from Muni-ami Mudali, the Tahsildar got back the record of his preliminary inquiry resulting in the dismissal of the charge of forgery against Munisami Mudali, and which had already been sent to the Tappal Office for despatch to the Magistrate and Sessions Judge, and that the Tahsildar referred by Arzi the circumstances of the case to the Magistrate, but without telling that Officer that he had already dismissed

No. 637, dated 22nd September 1862.

the case. The result was that acting under the instructions of the Magistrate the Tahsildar committed, not only Munisami Mudali, but also Ragava Mudali and Govindah Pillai to the Sessions Court, and they were convicted and sentenced by that Court; Munisami Mudali to seven years' rigorous imprisonment for forgery, and Ragava Mudali and Govindah Pillai for abetting in the forgery to three years' rigorous imprisonment. On appeal to the High Court the conviction of the two latter was annulled.

24. On inquiry, I find that the portion of the above statement relating to the release of Munisami from the charge of forgery is true, also that the Tahsildar, after drawing out in the usual form the registers of preliminary inquiry, despatched them to the Tappal Gumastah, and recalled them a few hours afterwards before they had been actually sent to the Magistrate and Sessions Judge by the post. Indeed, the Tahsildar acknowledges this, but states that his reason for doing this was that, after making over to the Tappal Gumastah the preliminary register of inquiry, he thought he had made a too brief statement of so important a case, and that he thought it better to write an Arzi to the Magistrate detailing the case, and recommending the release of the accused. He, therefore, got back the papers from the Tappal Gumastah. The Tahsildar can give no satisfactory explanation for so extraordinary a proceeding on his part, nor can he explain away the fact that in the Arzi, which he sent to the Magistrate, he omitted mentioning that he had terminated his Magisterial inquiry into the case by dismissing the accused on the ground of the evidence offered in support of the charge being insufficient, whereby he had

taken it out of his power to resume an inquiry "de novo" into the case without the direction of the Session Judge under Section 435 of the Criminal Procedure Code. He defends himself, or rather seeks to do so, by alleging that he has followed a similar course in other cases, but he has given no instance of having practised a similar irregularity, nor could he have done so with the knowledge of the Magistrate.

25. The Arzi which the Tahsildar did send on the 22nd September 1862, No. 637, to Mr. Cunliffe is written in his capacity as a Revenue and not as a Magisterial Officer, and there is nothing whatever which could have led Mr. Cunliffe to suppose that the Tahsildar at the time of writing this Arzi had actually inquired into the charge of forgery preferred by Adimula Mudali, and had dismissed it for want of proof.

26. Mr. Cunliffe as Magistrate, in his Takid No. 141, 25th September 1862, reviews the whole case and points out the insufficiency of the examination held by the Tahsildar, inasmuch as the evidence of the witnesses for the Defendant had not been called. Mr. Cunliffe is evidently under the impression that the evidence of Govindah Pillai and Ragava Mudali had been taken by the Tahsildar in his Magisterial capacity, whereas he had only examined them as a Revenue Officer and not on oath. Mr. Cunliffe comments on the insufficiency of the examination of these witnesses, and remarks on the Tahsildar's failure to obtain proof whether Adimula's signature to the Razinamah was a forgery or otherwise. Mr. Cunliffe expresses a decided opinion that the case was one of wilful forgery, and that the Munsiff and Kurnum Ragava Mudali and Govindah Pillai had abetted in the forgery. He directs the case to be committed to the Sessions Court.

* In Arzi, No. 177 of the 28th September 1862.
† In Takid, No. 146 of the 2nd October 1862.

27. The Tahsildar again makes* reference regarding the examination of witnesses and for instructions; and is told† not to make further

reference, but to commit the case. The Tahsildar makes one other final effort to delay the case in an Arzi, No. 195, dated 12th October 1862, in which he states that the parties have become friends, and that Adimula Mudali is willing to withdraw the charge. The Tahsildar recommends that the parties may be allowed to file a Razinamah, and ends by telling the Magistrate that his order to commit the case has had a most beneficial effect in getting Adimula's claims adjusted.

28. On the 15th October 1862, Mr. Cunliffe issues a Takid No. 156, refusing to allow a Razinamah to be filed, and again directing the committal of the case. The case was accordingly completed by the Tahsildar's taking further evidence, and committed to the Sessions Court, and sentence passed on the 4th November 1862. In taking the further evidence, the Tahsildar simply continues the depositions as taken in his former inquiry, so that there was nothing to lead the Sessions Court to the knowledge that the case had been already tried and dismissed by the Sub-Magistrate.

29. The Tahsildar seeks before me to justify himself from corrupt or vindictive motives by showing that he had, throughout his frequent references to Mr. Cunliffe, and after that Officer's positive orders for the committal of the case, endeavoured to save the accused parties. But I do not hold this to be any justification. Once committed to the Sessions Court, the accused were out of the Tahsildar's hands, and could not serve his purpose of extorting money; whereas, while they were under the terror of committal, and before the committal was completed, they would be willing to pay anything for their release, and it is not I think putting a forced construction on the Tahsildar's delays and attempts to secure the release of the accused, to suppose that he was anxious to succeed in hushing up the case and to receive the price, which they may have promised for their liberty.

30. I am the more inclined to take this view of Perumal Naik's conduct from something of the same system having been observed by him, and to all appearance with a similar object, in the cases which have come under the inquiry of the Joint Magistrate.

31. In concluding the history of this case, I feel it my duty to state that after very careful inquiry and consideration of the whole of the circumstances, I am morally convinced that Perumal

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Naik attempted to extort money and that, although the evidence is not in my opinion such as to warrant a conviction, and punishment under the provisions of the Penal Code, Permal Naik has shown himself unworthy to hold the office of a Sub-Magistrate and Tahsildar. In this opinion the Joint Magistrate concurs as will be seen from his letter to me dated 12th instant, No. 147, copy of which is enclosed.

32. I feel so strongly that it will be injurious to the interests of Government and to the people under his jurisdiction that Perumal Naik should remain in his present office; that I wish to bring also prominently forward my opinion of Perumal Naik's *incapacity* and his entire ignorance both of the Law of Evidence, the Law of Procedure and of the Criminal Code which he has to administer. Although less deficient as a Revenue Officer, he is arbitrary and harsh, and, as above shown, untrustworthy.

33. I would therefore request that, should the Board not concur with me in my opinion of Perumal Naik's dishonesty, they will direct that he should be required as a special case to pass the examination prescribed for Sub-Magistrates with a view to testing his fitness for the duties of his Magisterial office.

ENCLOSURE No. 1.

From G. BANBURY, Esq., Sub-Collector of the Madras District; to the Honorable R. S. ELLIS, C. B., Collector of the Madras District, dated Saidapet, 12th August 1863, No. 147.

1. Agreeably to your request, I have investigated the charges brought against Perumal Naidu, late Tahsildar of Tiruvallur, and now removed to Saidapet; the records I beg to forward herewith.

2. The case in which he is accused of having taken an illegal gratification in order to secure unfair benefits to certain Durkhasidars is not substantiated; but regarding the charges brought by Chellapah Reddy, Monigar of Atrambakam, I am induced to believe that there is much truth in the accusations he urges against Perumal Naik. Although the charge of actually receiving the bribe is not susceptible of strictly legal proof, still the attendant circumstances weigh so strongly against the Tahsildar, that I entertain no doubt as to his moral guilt.

3. Chellapah Reddy was a Monigar in tolerable circumstances, and for some reason which does not appear, seems to have been selected as an object to be pursued and impoverished by the Taluk authorities: five charges were brought against him, and there seems reason to believe that in order to avoid annoyance, and subsequent punishment, he had to pay money to Perumal Naidu.

4. It is always a most difficult matter to bring home a charge of bribery so completely that the provisions of Section 161 of the Indian Penal Code may be brought into force, as the recipient of the illegal gratification will naturally be careful to avoid taking the money in the presence of witnesses.

5. In the present case the connecting circumstances, and almost systematic oppression of Chellapah Reddy lead me to conclude that Perumal Naik is scarcely a fit person to be entrusted with the important duties of a Tahsildar and Sub-Magistrate. I must say that I should feel a want of trust in him, and fear that he is not looked up to by the people of his Taluk with the respect and confidence, which an Officer in his position should always endeavour to obtain.

(True Copy.)

(Signed) R. S. ELLIS,
Collector.

ENCLOSURES NOS. 2, 3 PETITIONS.

Read also Petition from Perumal Naidu, Tahsildar of Sydapet, dated 25th August 1863.

1. In the above letter Mr. Ellis brings to notice the conduct of Perumal Naik, Tahsildar of the Saidapet Taluk. He reports that Perumal Naik is deficient in education and ability, and

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is altogether wanting in temper and tact necessary in an Officer in his position. Mr. Ellis further reports that, after conducting an inquiry into a charge of bribery which has been brought against Perumal Naik "he is morally convinced that Perumal Naik" attempted "to extort money," and "that it will be injurious to the interests of the Government and the people under his jurisdiction that Perumal Naik should remain in his present office."

2. It appears that immediately on Perumal Naik's removal from the Trivellore Taluk, several charges of corruption were brought against him, and that of those, three were selected for investigation, one of them being the case before alluded as having been inquired into by Mr. Ellis. The other two were disposed of by Mr. Banbury. In reporting on the result of his inquiry to Mr. Ellis, Mr. Banbury states that in neither case is the charge of actually receiving a bribe susceptible of strictly legal proof, yet that in the one case "the attendant circumstances weigh so strongly against the Tahsildar, that no doubt is entertained as to his moral guilt;" and in the other "the connecting circumstances, and the systematic oppression of Chellama Reddi, lead him to conclude that Perumal Naik is scarcely a fit person to be entrusted with the important duties of a Tahsildar and Sub-Magistrate."

3. With regard to Perumal Naik's incapacity and dishonesty in his Magisterial capacity, the High Court is the authority to whom the Collector should apply in view to Perumal Naik's removal from the office of Sub-Magistrate. The Collector is therefore requested to address the Court on this part of the case.

4. The Board authorize the Collector to suspend Perumal Naik from office until the pleasure of the High Court shall be known in regard to his conduct as a Magisterial Officer, and on the receipt of the Court's orders, the Board will give the Collector such final instructions with reference to the other points in his report as may appear necessary.

5. The appeal petition received from Perumal Naik will with its enclosures be returned to him, with an intimation that until the decision of the High Court on his Magisterial conduct is known, the Board have authorized his suspension from office, and will refrain from passing further orders respecting him.

(True Copies and Extract.)

(Signed) R. A. DALYELL,
Sub-Secretary.

To the Honorable R. S. Ellis, C. B., Collector of Madras,
with two Memorandums of Evidence.

From G. BANBURY, Esq., Acting Collector of Madras; to W. HUDLESTON, Esq., Secretary to the Board of Revenue, Madras, dated 2nd November 1863, No. 462.

As requested in paragraph 4 of the Board's Proceedings, dated 2nd September 1863, No. 5500, I have the honor to forward a copy of the reply received from the High Court, in answer to the letter I addressed to the Judges in compliance with the Board's instructions to Mr. Ellis.

2. It would appear that the High Court will, in future, only take cognizance of delinquencies on the part of the Sub-Magistracy which come to their knowledge in connection with "trials before the Criminal Courts." I request therefore to be informed whether I am to address the Board in cases not coming under this distinction.

3. Should the Board wish to see a copy of the letter I addressed to the High Court, and to which the Judges refer in the latter part of paragraph 2 of their proceedings, I shall be happy to forward it.

Proceedings of the High Court of Judicature at Madras, dated 31st October 1863.
Read letter dated the 21st instant, from the Acting Magistrate of the Madras District, bringing to the notice of the High Court, the misconduct and inefficiency of Perumal Naik, 2nd Class Subordinate Magistrate of Saidapett, and recommending his dismissal.

1. Under the Orders of Government, dated 24th February last, it is not within the province of the High Court to direct the dismissal of a Subordinate Magistrate of the 2nd Class on the

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ground of general inefficiency or neglect of duty. It is only in particular instances of "misconduct, ignorance, or inefficiency in the discharge of Magisterial duties shown in trials before the Criminal Courts," that they possess this power.

2. Without pronouncing any opinion therefore on questions foreign to the jurisdiction of the High Court, the Judges observe that no such grounds for the course recommended, appear in the present cases. On the charges of corruption instituted against the Subordinate Magistrate, a formal preliminary inquiry has been held; but the Acting Magistrate allows that they are not susceptible of legal proof; and however reprehensible the conduct of the Subordinate Magistrate may have been with reference to the petty cases enumerated in paragraph 5 of the letter of the Acting Magistrate, it is manifest that it is not such as calls for the penalty of dismissal.

3. The Judges are therefore of opinion that nothing has been adduced in this case, which would justify the High Court in directing the dismissal of the Subordinate Magistrate, Perumal Naidoo.

(True Extract.)

(Signed) C. F. CHAMIER,

Registrar.

To the Acting Magistrate, Madras District.

(True Copy.)

(Signed) G. BANBURY,

Acting Collector.

(True Copy.)

(Signed) R. A. DALYELL,

Sub-Secretary.

1. Resolved that the above papers be submitted for the consideration and orders of His Excellency the Governor in Council.

2. In the 1st letter above recorded, Mr. Ellis brought to notice that Perumal Naik, Tahsildar of Sydapett, had been charged with bribery in three cases, and that though none of the charges had been proved, his conduct had been placed in such a suspicious light, that, in Mr. Ellis's opinion, he ought no longer to be retained in the Office of Tahsildar. Mr. Ellis further brought prominently forward Perumal Naik's general incapacity and entire ignorance of the duties of a Sub-Magistrate.

3. As paragraph 6 of the Government Order, dated 24th February 1863, No. 296, restricted the powers of the Board in regard to the dismissal of Officers of this class to cases of misconduct or inefficiency shown by them in the discharge of their Revenue duties, the Board directed the Collector to address the High Court on the subject of Perumal Naik's incompetency as a Sub-Magistrate, but it now appears from the Registrar's letter, which forms an enclosure of Mr. Banbury's letter above recorded, that the Government Order above noticed did not give the Court the power of dismissing Subordinate Magistrates of the 2nd Class for general inefficiency; so that this power apparently rests, for the present, in Government alone.

4. The Board still continue to revise the Returns of fines and suspensions from office inflicted on Magisterial Officers, and they are of opinion that the general powers of superintendence which, under the Orders of Government, dated 1st June 1850, No. 346, the Board formerly exercised in regard to these Officers, though under Act VII of 1843, the late Sadder Court was competent in certain cases to dismiss them from office, ought either to be restored to the Board, or to be transferred to the High Court. They therefore solicit the orders of Government on this point, as well as on the particular case under notice.

(A true Copy and Extract.)

(Signed) R. A. DALYELL,

Sub-Secretary.

To J. D. Sim, Esq., Secretary to Government, Revenue Department,
with copy of enclosure.

*Proceedings of the Madras Government, Judicial Department,
24th December 1863.*

Transferred to the Judicial Department.

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

12th November 1863.

No. 230. From PERUMAL NAIDOO, late Tahsildar of Sydapett, Madras; to the Chief Secretary to Government, &c., &c., dated Madras, 14th November 1863.

In the month of August last, the Madras Collector, the Honorable Mr. Ellis, submitted a report to the Board of Revenue with reference to three charges of bribery brought against me before him by three individuals bearing a bad character. In this report, he states that although the charges were not proved on the institution of an inquiry held at the Hoozoor, suspicion in his opinion still attaches to me, and that I had committed many Magisterial irregularities in the proceedings I had held in a case to which one of the individuals above alluded to was a party, and which came on for trial before me as Tahsildar and Taluq Magistrate of Trivallur in the Madras District. On these grounds, vague and trivial as they are in their nature, Mr. Ellis recommended to the Board my dismissal from office. Shortly after the despatch of his report, I submitted my defence to the Board on the subject, in reply to which they were pleased to favor me with the following endorsement: "Petitioner is informed that unless the decision of the High Court on his Magisterial conduct is known, the Board have authorized his suspension from office and will refrain from passing further orders respecting him."

From the *prima facie* of this endorsement, it will be observed that onus of the question lay with the High Court of the Madras Judicature, yet my immediate suspension was thought necessary by the Board, and a kind look by Government into the defence I submitted to the Board (herein enclosed) will show whether the circumstances under which my suspension was made justify the Board's order. Too late as it had been made on Mr. Ellis' attack against me, a general attack, but not a pointed one, a reference was not made to the High Court by the Madras Collector till the middle of October last, the Court being until then under adjournment. I mention this circumstance simply to show that the term of my suspension has been unnecessarily prolonged by a cause that could not be avoided. Mr. Banbury, the Acting Collector having taken up the question mooted by Mr. Ellis and referred it to the High Court in due course, they were pleased to sift into the details of the matter as reported by Mr. Banbury and also into the arguments and facts I showed not only in my petition to the Board, but also in another addressed to the Honorable Judges of the High Court on the same subject, and to express their decided opinion that they saw no ground for my dismissal under the circumstances stated. On visiting Mr. Banbury, I was informed by that gentleman of the decision of the High Court and of my restoration to office on the receipt of the Board's order, to whom he had again referred the matter. It is now more than a week and a half since this occurred and evidently there appears no reason why the Board should have still refrained from passing further orders respecting me after the question had been decided by the High Court with whom, as the Board had already stated, the onus of the matter had lain.

I would also beg to observe that my defence to the Board and to the High Court was not made after copies of the Collector's reports to them had been put into my possession. I requested both these authorities to favor me with such copies, but the former refused to do so, and the latter thought it unnecessary. I would still state that if called for, I shall cheerfully offer explanation on any points noticed in the Collector's report.

I beg to append herewith the Board's endorsement refusing to grant me a transcript of Mr. Ellis' report to them, and copy of my defence to the High Court of the Madras Judicature.

Under the above circumstances I humbly and respectfully request that the Government will be pleased to inquire into the circumstances which necessitated the Board to order my suspension which is now unnecessarily being prolonged and to render simple justice to me, taking into consideration the full nature of the appointment I hold, and the trivial character of the vague

*Proceedings of the Madras Government, Judicial Department,
24th December 1863.*

complaint brought against me. An Officer as I am of long standing in the service and possessed of high testimonials (herein enclosed) from public Officers, in particular from the far famed Revenue Administrator Mr. Cunliffe, who also on one occasion expressed with great freedom his opinion on my character, qualification, and so forth, while corresponding to the Board and to Government in the case of Mootadar of Paudianullur, alluded to in paragraph 2 of my defence to the Board here-with accompanying.

No. 231.

ORDER THEREON, 24th December 1863, No. 2021.

The Governor in Council resolves to restore to the Board of Revenue the power of dismissing a Sub-Magistrate on the ground of *general* misconduct and inefficiency not being of a nature cognizable by the High Court under the authority vested in the Honorable the Judges by the Order of Government of the 24th February last; that authority it is observed, applied only to the dismissal of Sub-Magistrates by the High Court for gross misconduct, ignorance or inefficiency in the discharge of Magisterial duties *shown in trials before the Criminal Courts*. The Board will dispose of the case of Perumal Naidoo, Tahsildar and Sub-Magistrate of Sydapet.

2. The Government are not prepared to vest this power in the District Magistrates as suggested by Mr. Ballard.

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

Exd. T. O'Connor.

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Recd. following papers

from the Magistrate of Malabar - 30th Decr 1863, N^o 122.

Letters of Board of Revenue.

9th Nov.

*Muhal Nayudu
Sydapet.*

11th " "

Order thereon 24th December 1863 N^o 2021.

The Governor in Council resolves to restore to the Board of Revenue the power of dismissing a Sub-Magistrate on the ground of general misconduct and inefficiency not being of a nature cognizable by the High Court under the

author

authority vested in the
Honorable the Judges by
the Order of Government of
the 2nd Dec 1871

Board will dispose of the
case of Perumal Naicker
Tahsildar and Sub Magistrate
of Sydapet.

2. The Government
are not disposed to vest
this power in the District
Magistrates as suggested by
Mr Ballard.

by R.

That authority is
reserved appraised
only of the dismissal
of Sub Magistrate
by the High Court
properly constituted
if necessary or in person
in an emergency of
Magistrate duties
shown in trials before
the Criminal Court

To the Magistrate of Malabar. Secy
— 13th of Revenue.
— Res. Dep. Secy
— Under the Secy. of the High Court

R. H. R.

Luckia 1863. Department.

No. 2021.

PROCEEDINGS of GOVERNMENT.

Dated 24 December 1863

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