

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	413	Press
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79-80		
Dated	17. 3. 1863	19 .

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Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
17th March 1863.

No. 79. Read the following letter from E. C. BAYLEY, Esq., Secretary to the Government of India; to the Honorable Sir BARNES PEACOCK, Kt., Chief Justice of the High Court of Judicature at Fort William in Bengal, dated Fort William, the 3rd February 1863, No. 1,048.

Home Department.
Judicial.

I am directed to acknowledge the receipt of Mr. Peacock's letter, dated the 20th November, relative to the control which the Government should exercise over the proceedings of the High Court in respect of its Ministerial Officers, and to forward, for the information of the Court, and for promulgation among its Ministerial Officers, the accompanying copy of a Resolution recorded by His Excellency the Governor General of India in Council, in accordance with the opinion expressed by you, and the views entertained by Her Majesty's Government on the subject.

2. His Excellency in Council does not see any thing in the concluding portion of the letter under acknowledgment which should prevent the introduction of such a Rule. With regard to the two cases mentioned therein, His Excellency in Council does not believe that there would have been any difficulty in disposing of them upon their merits, had any appeal been preferred from the orders passed in them.

No. 1,049.

Copy of the above letter, and of the Resolution referred to, together with a copy of Mr. Peacock's letter, dated the 20th November, forwarded to the Government of Fort Saint George for information.

Copy of ditto ditto to the Government of Bombay, with reference to the letter thence No. 3,483, dated the 8th November.

(Signed) E. C. BAYLEY,
Secy. to the Govt. of India.

Extract from the Proceedings of the Right Honorable the Governor General of India in Council, in the Home Department, (Judicial), under date the 3rd February 1863.

Read again paragraph 10 of the Secretary of State's Judicial Despatch, No. 24 of 1862, dated the 14th of May, as follows:—"The Supreme Court exercises an authority entirely independent of the Government in regard to its Ministerial Officers. The Government, however, has always considered itself at liberty to receive representations from any of the Officers of the Sudder or Subordinate Courts who felt themselves aggrieved by the orders of the Judicial Authorities, and to express its opinion on the propriety or otherwise of the proceedings of the Courts in such cases. It will be expedient for you to take the question into your consideration, and, after communication with the Court, to adopt some Rule in regard to it, which, of course, must be uniformly applicable to all the Officers of the Court. Constituted as the High Court will be, it will merit all the confidence you can repose in it; but, as a question of policy, the extension of the liberty of application to the Government to those who have not hitherto enjoyed it appears to me preferable to taking it away from those who have heretofore been permitted to avail themselves of it, as a mode of obtaining redress against proceedings alleged by the applicants to be unjust and oppressive."

Read again letter to the Chief Justice, No. 3,946, dated the 4th August 1862, requesting the opinion of the Court "as to the manner in which, and the extent to which, the Government should exercise the control referred to by the Secretary of State."

Read reply to the above, dated the 20th November, from the Clerk to the Chief Justice stating that the Chief Justice "sees no objection to the Government's receiving representations from any of the Ministerial Officers of the High Court who may feel themselves aggrieved by the orders of the Chief Justice, or of any of the Judicial Authorities, and expressing its opinion on the propriety or otherwise of the proceedings in such cases."

Proceedings of the Madras Government, Judicial Department,
17th March 1863.

RESOLUTION.—The Governor General in Council is pleased to determine that any Ministerial Officer of the High Court at Calcutta who may feel himself aggrieved by an order of the Court, affecting him as such Ministerial Officer, will be at liberty to appeal from the same to the Government, and the Governor General in Council after calling for the papers in the case or otherwise, as may appear necessary, will pass such orders on the appeal as he may deem proper.

Ordered, that a copy of the above Resolution be forwarded for the information of the High Court.

(True Extract.)

(Signed) E. C. BAYLEY,
Secy. to the Govt. of India.

From E. B. PEACOCK, Esq., Clerk to the Chief Justice of the High Court of Judicature at Fort William in Bengal; to E. C. BAYLEY, Esq., Secretary to the Government of India, dated the 20th November 1862.

By the direction of the Chief Justice I have the honor to acknowledge the receipt of your letter, No. 6,546, dated the 17th November 1862, requesting him to favor Government as soon as practicable with the opinion called for in paragraph 4 of your letter, No. 3,946, dated the 4th August 1862.

With reference to the above paragraph and the 10th paragraph of the Despatch from the Secretary of State, I am requested by the Chief Justice to state that he sees no objection to the Government receiving representations from any of the Ministerial Officers of the High Court who may feel themselves aggrieved by the orders of the Chief Justice or of any of the Judicial Authorities, and expressing its opinion on the propriety or otherwise of the proceedings in such cases.

There are very few instances in which a question can arise as regards the Ministerial Officers employed with reference to the original jurisdiction of the Court.

A case lately occurred in which the Chief Justice felt himself obliged to dismiss an Officer for drunkenness. The offence was denied, but proved to the satisfaction of the Chief Justice.

If in such cases a question should arise as to the propriety of the order, the Government might feel themselves in a difficulty in deciding without hearing the evidence.

In the case of the dismissal of Mr. William P. Grant, the matter was heard by the Judicial Committee of the Privy Council, and the argument occupied several days. The judgment is reported in 7 Moore's Privy Council Cases, page 141.

Whether the hearing of such a case would be consistent with the other duties of Government is entirely a question for their consideration.

No. 80. ORDER THEREON, 17th March 1863, No. 413.

His Excellency the Governor in Council directs that a copy of the foregoing Resolution and of the correspondence to which it relates be furnished to the Honorable the Judges of the High Court, and that they be informed that the course resolved on by the Governor General in Council with reference to the reception of appeals from Ministerial Officers of the High Court who may consider themselves aggrieved by any orders passed by the Court affecting them in their capacity as Ministerial Officers, will be adopted in this Presidency.

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

Exd. T. McMootry.

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

*Read the following
letter from the Secretary
to the Government of India
Home Department.*

(Received 3rd February 1863)

Order thereon 17th March 1863. No. 413.

*His Excellency the
Governor in Council
directs that a copy of
the foregoing Resolution
and of the correspondence
to which it relates be
furnished to the Honorable
the Judges of the High
Court and that they
be informed that
the course resolved*

on by the Governor General
in Council with reference
to the reception of appeals
from Ministerial Officers
of the High Court who
may consider themselves
aggrieved by any orders
passed by the Court
affecting them in their
capacity as Ministerial
Officers, will be adopted
in this Presidency.

[Signature]

To the Honble the Judges of the High Court at Calcutta

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Spec. Res.
Indian C 1863. Department.

No. 443.

PROCEEDINGS OF GOVERNMENT,

Dated 17th June 1873.

St. M. 1532

Whereas the Right Court
that the same followed by
the Supreme Court with the
reference to the receipt of
appeals from civil service
Officers against orders
passed by the Court appointing
them as such Officers & it
be adopted with the same.