

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1986	Press
		<u>Mis.</u>
Dated	19-12-1986	

158-159
158-159

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Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
19th December 1866.*

No. 158. Read the following Proceedings of the Board of Revenue, dated 21st November 1866, No. 8408.

Read again the following :—

Proceedings of the Madras Government, dated 13th October 1866, No. 1616, Judicial Department.

ABSTRACT.—Requesting the Board to revise the form of "Vakeel's Fee Voucher" in the shape of a Sunnud, &c., &c.

Proceedings of the Madras Government, dated 25th October 1866, No. 1702, Judicial Department.

ABSTRACT.—Referring the Board to Government Order of 13th instant, No. 1616, Judicial Department, regarding the fees payable to Vakeels appointed to prosecute cases in Session Courts.

Read also the following letters :—

From the Collector of Salem, to the Secretary to the Board of Revenue; dated 25th October 1866, No. 202.

I have the honor to request the instructions of the Board of Revenue with reference to the "Vakeel's Fee Voucher," sent to me with Board's Circular, No. X, dated 16th May 1866.

2. From the latter part of paragraph 15 of the Board's Order under reference, it appears to me that the Board wish Magistrates to substitute this "Vakeel's Fee Voucher" in the room of the Order prescribed by Section 231 of the Criminal Procedure Code; but the High Court have already circulated, with their Proceedings dated 15th October 1862, a form of the Order to the Public Prosecutor, copy of which is enclosed for the Board's information, in which they direct that no deviation from their form will be allowed.

3. Again, from the latter part of paragraph 15 referred to above, I observe that payment of the fee should be made on the sanction of the Session Judge, and, from the foot-note of the form in question, I find that the Session Judge has the power of lessening any amount of fee fixed by the Magistrate. The Board will see that the Government, in their Orders, dated 2nd February 1863, No. 157, and 1st September 1866, No. 1369, give the District Magistrate the power and discretion of fixing the amount of fees not exceeding the maximum of 25 Rupees, and of disbursing such fees at his discretion; I do not, therefore, see under what authority the Session Judge can exercise any supervision in the matter by sanctioning the amount.

4. I request the Board will favor me with an early reply.

ENCLOSURE No. 1.

*Order to Government Pleader, under Section 231.
No. 26.*

The Magistrate of
that he has committed one

hereby instructs the Government Pleader to conduct the prosecution in the said case. The charge against the accused is, that he, &c., (stating the offence as in the charge).

Dated this day of

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(Signature.)

*Proceedings of the Madras Government, Judicial Department,
19th December 1866.*

From the Collector of Madura, to the Secretary to the Board of Revenue; dated 31st October 1866, No. 363.

Having reference to paragraph 15 of the Board's Circular, No. X of 1866, I have the honor to inform them that the Session Judge of this station refuses to sanction the fees due to the Vakeel appointed to attend the Session Court to prosecute the Criminal cases, as he has no order, either from the Government or the High Court, authorizing him to do the same. I, therefore, beg that the Government may be requested to issue the necessary instructions to the Session Judge on the matter.

The Board resolve to submit the foregoing letters to Government, with reference to their Orders in the Judicial Department above quoted, as this subject of Vakeel's Fee Voucher appears to need reconsideration, while it is not within the Board's province to prescribe the form.

2. The Board may observe that Mr. Carmichael is altogether wrong in assuming, in his letter to Government, dated 13th September 1866, that the Board "devised" the form, as he phrases it.

3. The form was prepared in the Accountant General's Department, was submitted by the Accountant General to Government, with his letter dated 17th January 1866, and was approved by Government in paragraph 9 of their Proceedings, in the Financial Department, dated 20th April 1866, No. 149.

4. The Board circulated it to Collectors with the forms of Vouchers which have to be sent to the Board, at the request of the Acting Deputy Accountant General, and merely as a matter of convenience, for they have nothing whatever to do with charges connected with the Magisterial Department, and none of these vouchers reaches them.

5. It now appears that, not only is the form disapproved, but that one Judge has refused to have anything to do with sanctioning the fees, and that another form was prescribed by the High Court, and circulated with their Proceedings, dated 15th October 1862, with instructions that no deviation from it should be permitted.

6. The Board submit to Government that, under these circumstances, it is not advisable that the Board should meddle with the form, but that whatever change is considered necessary, should be determined either by Government or by the Accountant General under orders of Government, and in communication with the High Court.

7. The voucher is, it will be seen, the authority for the Vakeel to conduct the prosecution, and it seems necessary to guard against risk of its being objected to by the Courts.

(True Copies and Extract.)

(Signed) W. HUDLESTON,
Secretary.

To the Secretary to Government, Judicial Department.

*Proceedings of the Madras Government, Judicial Department,
19th December 1866.*

No. 159. ORDER THEREON, 19th December 1866, No. 1936.

As the High Court are empowered by Law to frame forms for every procedure in the Criminal Courts for which they shall consider necessary that a form should be provided, and as it now appears that a form of order to the Public Prosecutor has already been framed and circulated by them to the Magistrates, the Governor in Council observes that that form must be adhered to, in supersession of that framed by the Accountant General, approved in G. O. 20th April last, No. 149, and finally issued with the Revenue Board's Circular, No. X, 16th May 1866. After the conclusion of each case, the order should be presented by the Government Vakeel, or other Public Prosecutor, to the District Magistrate, who should enter on the back thereof the amount of the fee to be paid to him, and return the Order. The Prosecutor will then draw the amount, and the order, duly receipted by the Payee, will form the voucher to be forwarded in support of the contingent bill.

(True Extract).

Chief Secretary.

To the Board of Revenue.

„ Accountant General.

„ Magistrate of

Exd. J. H. Burns.

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following
Proceedings of the Board of
Revenue.

(Consenter 2nd May 1880 No. 8408)

Order thereon 19th Decr. 1880 No. 1980-

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N.
J.P.

W.D.

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To the Board of Revenue }
Accounts Genl } dec 22/12 133
all Magistrates } 6

Judicial 1866. *Department.*

No. 1926

PROCEEDINGS OF GOVERNMENT.

Dated 19 December 1861.

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