

13-3-12

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 1003

Dated 13 May 1895

INDEXED.

[Despatch Abstract.]

PROCESSIONS IN THE TOWN OF MADURA.

Communicating to the District Magistrate of Madura, with an expression of concurrence, the Advocate-General's opinion regarding--- and in regard to the notice issued by the Acting Collector, dated 1st November ¹⁸⁹⁴ 1894.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

From

The District Magistrate
of Madurai



Dated 31 March 1895
Despatch No. 172 of 1895

Reference: No. 172 of 1895
Enclosure 3
Subject

Procession in the Madurai Town

Submitting a notice under
Section 424 Civil Procedure Code
with copies of the notice and
license form therein deposited to
and stating that legislation
is desirable.

54
12/2/94

Recent correspondence of
93/94 re
procession license
also 94/95
procession license

P. 2371: 16. 11. 93 mis
2493: 28. 11. 93 (ab)
1185: 7. 6. 93
1202/84 up + paper
+ JLR

Endorsement No. 933

Referred to the Honble the
Advocate General for opinion.

26/4/95 (By order)

Asst. Under Secretary

Notocameud
29 April 1895
The Govt. Solicitor.

11/25.4.95

Notice

The following rules have been framed by the Superintendent of Police to regulate the procuring of licenses to go in procession within the Madwa Municipal limits.

" Any person intending to organise a procession or go about in procession will present to the Town Inspector a written application, requesting that officer to grant him a license, permitting the procession to take place.

" The application should shew clearly the route, ^{the} processionists intend following, the number of persons ~~who~~ who intend taking part in it, the hour at which it is proposed to start, and whether it is proposed to use music or not. In the event of the Inspector being of opinion that the procession is not likely to cause annoyance to the public, he will grant a license to the applicant. Should the Inspector anticipate the procession is likely to cause annoyance to anyone, or that a breach of the peace is likely to occur, should the procession take place, the application will be sent to the Superintendent

"Superintendent of Police for orders. To avoid
"disappointment to would be processionists,
"this application should reach the Inspector
of Police not later than 24 hours prior to the time
at which the procession is timed to start. The
"license will be valid for 24 hours."

The license is given free of all charge and
the Application does not require any stamp.
Note. The rules do not apply to bona fide
funeral processions, which may be conducted
as usual without license. It will rest with the
Police to decide what is a procession and what
is not and the Superintendent will issue such
orders as may be necessary to ensure that
citizens are not unduly harassed by these
rules.

(Signed) L. C. Miller
Acting Collector
11/11/94.

(True copy)

Enclom 3 in letter For Acting Collector
from the District
Madras dated

31 March 1895 to 17

Order for taking
license in process

CURRENT No.
No. 172

Madras District Magistrate's Office
1687 31 March 1895

From

J. Lugg Esquire,
Acting District Magistrate,
Madras.

To.

The Chief Secretary to Government,
Judicial Department,
Madras.

Sir

I have the honor to forward a notice
under Section 424 Civil Procedure Code -
together with copies of the notice and license -
form objected to. I am advised by the Government
Pleader that the notice is ultra vires and indeed
the Advocate General has given an opinion to
the same effect, vide Government order no.
1202 judicial dated 15 May 1884. I have
therefore no alternative but to instruct the
Superintendent of Police that his orders cannot
be enforced and must be withdrawn.

2. My object in forwarding the papers, however,
is to enquire whether the time has not come when
legislation may be resorted to. In the Government
order

Order above quoted, the Government decided that there was then no present necessity for legislation. I venture, however, to suggest that the decision of the High Court in Indian Law Reports, Madras, ~~VII~~ Page 37, has altered the position and made it necessary to legislate to give the Police wider powers than are contained in Section 49 of the Police Act as interpreted in that judgment.

3. As regards the immediate question of the licensing of processions, I would submit that there would be little hardship in putting large towns like Madras under a law similar to that which obtains in Madras and that it is extremely desirable that the Police should have notice of all processions and regulate them by license.

I have the honor to be,
Sir,

Your most obedient servant,

W. W. W.

Acting District Magistrate.

CURRENT NO. 2251
To: (1895) Department

From: Ernest Barclay
Government Solicitor
Madras

To: The Chief Secretary
to Government
Datacamund
CHIEF SECRETARY
GOVERNMENT
-4 MAY 1895
MADRAS
No 273.

Dated - 3rd May 1895
Recd 4th do
Regd 6th do
Enc: CNO 1687 intdus: retd.

Enclosed

Forwarded with Enclosures
with reference to the Order
of Government dated 29th
May 1895 No 933. J. W. W.

Ernest Barclay
Government Solicitor

10/5
10/5

So. 4. 16-11-93 No 2371
28-11-93 No 2493
12-8-93 No 891R
25-3-93 358R
20-3-93 592
+ connected papers.

HM

CNO 1687 + 2251/95.

Order 13 May 1895
Mis No 1003.

The Advocate General's opinion will
be communicated to the S. M. of Madras,
an expression of concurrence therein.
8-5-95.

To the S. M. Madras.
DESPATCHED
9th May 1895
42 MAY 95
with B. B. W. W.
IN M.S.
Cope 16/5.

Re Processions in the Town of Madura -
and the notice issued by the Acting Collector dated the
1st November 1894.

OPINION.

1. The notice issued by the Acting Collector and dated the
1st November, 1894 is clearly ultra vires. Section 49 of Act XXIV of
1859 does not empower the officers therein named to frame "general
rules . . . to regulate the procuring of licenses to go in procession".

2. The Acting District Magistrate, Madura, suggests that the
construction put upon Section 49 of the Madras Police Act by the High
Court in Ranganayakulu v. Prendergast^(a) makes legislation necessary in
order to extend the powers conferred by that Section.

3. The real question raised by Mr. Twigg is one rather one of
expediency than of law. I do not see how the High Court's decision
in the above case makes legislation necessary. The large powers -
conferred upon the Police by Section 49 seem to be sufficient, if they
are employed with discretion. Section 49 of the Madras Police Act is
similar to Section 41 of the Madras City Police Act, 1888, but the -
Commissioner of police in Madras has a power of prohibition which is
not conferred on Superintendents and Superior Officers of Police in
the Mofussil. I entertain grave doubts as to the expediency of con-
-ferring such a power on those officers.

(Signed) J. H. Spring Branson,
Advocate General.

Madras ,
2nd May - }
1895

(True Copy)

Must Bada
Government Solicitor.

When given for copying _____
 When copied _____
 When examined _____
 When signed _____

189

READ AGAIN G.O., No.
 189

DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT A A A A A A A

LETTER OF GOVERNMENT

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
 IN ORIGINAL.

N.B.—

- A = Copy in full.
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