

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 463

DATED 4th March 1895

INDEXED.

[Despatch Abstract.]

TRANSFER OF CERTAIN MOPLA PRISONERS.

Informing the Inspector-General of Prisons that no separate warrant is necessary in regard to the -- to the jails in Bengal, and stating that he should act upon the letter from the Government of India as being sufficient authority for the transfer, also specifying what papers should be sent with each prisoner.

Encl

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	183		28-1-95				

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
80	953		8-5-95				

FORM No. 1-A-1,000-25-10-93.

No. 730

566 Ootacamund.
OFFICE OF INSPECTOR-GENERAL OF JAILS,
Dated 4th February 1895.

From

A. G. CARDEW, Esq., M.A.,

INSPECTOR-GENERAL OF JAILS, Prisons

To

THE CHIEF SECRETARY TO GOVERNMENT.

SIR,

16 Enclosures.

In acknowledging the receipt of G.O. 22nd Jan 1895. No 183. Misc J.D., I have the honour to enquire, with reference to the provisions of Rule 910 of the Jail Code whether the transfer of the State Prisoners in question to the several Bengal Jails named, is to be carried out at once under the authority of Foreign Department Letter No 4453. J. dated 27th December 1894. or whether fresh warrants addressed to the officers in charge of those Jails will be issued by Government. It will be observed that the Jail Code Rule above named appears to assume that a fresh warrant will be issued whenever a State Prisoner is transferred, and that under Section 3 of Act III of 1858 read with Section 1 Act XXXIV of 1850, His Excellency the Governor in Council has apparently power to issue warrants addressed to the officer in charge of any Jail in British India.

I have the honor to be,

Sir,

Your most obedient Servant,

A. G. Cardew
Inspector-General

JUDICIAL.

JAIL (1895) DEPARTMENT.

From

THE INSPECTOR-GENERAL OF JAILS, Prisons

To

THE CHIEF SECRETARY TO GOVERNMENT.

[G]
98
100-21-8-94

CHIEF SECRETARIAT.

List showing papers in the Judicial, Financial and Public Departments issued without being circulated to the Honorable Member during the week ending 2 Feb. 1895.

SUBMITTED for perusal of

The Honorable Mr. H. W. BLISS, C.I.E.

CHIEF SECRETARY
7 FEB. 1895
GOVERNMENT OF MADRAS

Dated 24
Despatched
Received 7

February 1895.

No. 732

ENCLOSURES.

Subject.

Enquiring whether the State Prisoners, referred to in G.O. No. 183 Mis. J.D. 4/28.1.95 under reply, are to be transferred to the Jails in Bengal named therein at once, or whether fresh warrants addressed to the Officers in charge of the Jails will be issued by Government.

See in Ind. 1/1/95
RA
Ind. 1/1/95
Ind. 1/1/95

The papers marked with an asterisk are those which were not circulated to the Honorable Member.

503-20-6-94.

Jud. DEPARTMENT.

No. 566

From

J. J. Prisons

Dated 4 Feb

1895,

FOR ORDERS.

Should say the proper course would be to send with Prisons (1) the warrant originally issued by this Govt for his detention under Reg. II of 1819 & (2) a copy of the order of India for his transfer
RA
26/2/95

- H.W. has noted on the weekly list of Orders issued that he wished to see India's letter about the transfer to Bengal of certain Mophlah prisoners; it will be found in G.O. of 25/1/95 No. 153, Ind.
- In C. No. 566, the J.J. of Prisons asks if he is to treat India's letter as sufficient authority to transfer or whether this Govt. intends to issue formal warrants for the transfer of the men to Bengal.
 - Under sec. 6 of Act XX of 1859, the provisions of Madras Reg. II of 1819 are applicable to persons dealt with under the Mophlah Act.
 - (1) Under the third clause of sec. 2 of Madras Reg. II of 1819, the warrant of the Govt. in Council holds good for the Presidency of Fort St. George alone.
 - (2) Under sec. 2 of Bengal Reg.

III of 1818, the power of issuing warrants in the Presidency of Fort William is vested in the G. G. in C.

~~By Act XXXIV of 1850 the powers of the G. G. in C. were extended so as to enable him to commit persons to any jail or fortress in any part of the territories under the Government of the East India Company.~~

~~Later, Act III of 1858 was passed. Sec. 3 thereof gives the Govts of Madras & Bombay all the powers "which, by virtue of Act XXXIV of 1850, are vested in the G. G. in C.", so far as relates to persons arrested in the Madras & Bombay Presidency, respectively. Sec. 5 of the Act also gives the G. G. in C. power to transfer a State prisoner from the Madras and Bombay Presidencies to any other part of India.~~

(4) By Act XXXIV of 1850 the powers of the G. G. in C. were extended so as to enable him to commit persons to any jail or fortress in any part of the territories under the Government of the East India Company.

(5) Later, Act III of 1858 was passed. Sec. 3 thereof gives the Govts of Madras & Bombay all the powers "which, by virtue of Act XXXIV of 1850, are vested in the G. G. in C.", so far as relates to persons arrested in the Madras & Bombay Presidency, respectively. Sec. 5 of the Act also gives the G. G. in C. power to transfer a State prisoner from the Madras and Bombay Presidencies to any other part of India.

(6) It would seem then that this Govt. has power to issue warrants for the confinement of these prisoners in Bengal; but, when the Adv. Gen. was consulted on a similar point in 1874, he declined to commit himself to a positive assertion that Govt. possesses this power [see Opinion in paper C].

(7) This Opinion of the Adv. Gen. was brought to notice in the note for Orders on which G. O. of 8 Sept 1894, No. 2106, Ind. L., was passed; & the Hon. members decided to move India to exercise the powers conferred on the G. G. in C. by sec. 5 of Act III of 1858.

(8) It seems perfectly clear that there is no necessity for this Govt. to support, by the issue of a warrant, the order of transfer made by the G. of I. It is submitted that the I. G. may be told to act on that order as sufficient authority for the transfer.

22 Feb
23/2/95

*Transfer of
Mophid P...*

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.
 B = Not to be copied
 P = Copy abstract only.
 Q = Copy heading only

C.I.

*order 4 March 1951 No 463
 mise*

No separate warrant is
 necessary. The I.G. should
 act upon the letter from
 the G. of I., as being sufficient
 authority for the transfer
 & detention in, Bengal.
 With each prisoner
 should be sent the
 warrant originally issued
 by this Govt. under Reg II
 of 1819 & (2) a copy of the
 Govt. of India order of
 transfer.

(From order)

*2/3/55 to
 2/3/55*

Letter I.G. of Prisons (Q40)

12/3

12/3

*Wm
 (2. order)*

12/3/55

12/3/55