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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Judicial DEPARTMENT

G.O. No.	2526	Press
B.P. No.		Mis.
Dated	30 ¹⁵ September 1879	197

Not to be folded or roughly handled

MNG

GOVERNMENT OF MADRAS.
JUDICIAL DEPARTMENT.

30th September 1879, No. 2526.

Suits.

Read the following paper:—

✓ No. 228. From J. GROSE, Esq., Collector of Nellore, to the Acting Chief Secretary to Government, dated 16th September 1879, No. 3161.

With reference to G.O., dated 18th August 1879, No. 2955, I have the honor to request orders as to what action Government wish Collectors to take under Section 402 of the Civil Procedure Code, and as to what expenditure they will authorise.

2. When the notice under Section 408 is issued the opposite party to the pauper and Government are both interested in opposing the application. As regards Government the Collector and Divisional Officers order Tahsildars to make inquiry as to the status of the alleged pauper. Hitherto there has been no case in which cause has been seen by them to dispute the application, but if cause is seen witnesses will have to be produced before the Court, possibly in ten days from the notice, and a Vakil must be employed. After all, the Court may decide in favor of the pauper, so that the expense incurred will be lost. Are Collectors authorized to incur the necessary expenditure, and what sum should be allowed as the Vakil's fee?

3. But even if the Collector fails to get evidence the opposite party to the pauper, being more immediately interested, may get evidence and oppose the application under Section 409. Should the Collector engage a Vakil to watch the proceedings on behalf of Government?

✓ No. 229. ORDER THEREON, 30th September 1879, No. 2526.

Prior to the passing of Act X of 1877, no notice to the Government Pleader, calling on him to show cause why an applicant to carry on any litigation in *forma pauperis* should not be permitted to sue as a pauper, was by law required to be given. The present code of Civil Procedure has in Section 408 provided for such notice being given, to protect the interest of the State as regards Stamp revenue, in order that such revenue may not suffer owing to persons not entitled to sue as paupers being allowed so to do, or to prosecute groundless claims which ultimately result in loss to the State.

2. It will be the duty of all Collectors receiving notices under Section 408 of the Code of Civil Procedure to institute the necessary inquiries as to the real status of the applicant claiming to sue as a pauper, and, should they feel satisfied that he is a real pauper and has a *bona fide* claim, they will not dispute such application.

3. But if on such inquiry there appears to be circumstances in the applicant's case which *prima facie* disentitle him to sue as a pauper, the Collector should place himself in communication with the defendant or respondent in the case, and if such defendant or respondent is disposed to dispute the application the Collector by co-operating with him and employing the same Vakil may effectually oppose the application without any expense to the state.

4. When a defendant or respondent is not inclined to oppose the application and when the Collector is of opinion that the application should be opposed, he will employ a Vakil and cite witnesses. Such cases will naturally be rare, and the regulation fee for the Vakil and other costs incurred will on application be sanctioned by Government.

5. Where a person is permitted to sue as a pauper, His Grace the Governor in Council does not consider it necessary that any Vakil should be employed to watch the further proceedings in the case; but should circumstances subsequently come to light which show that the indulgence granted to the plaintiff or appellant was one to which he was not entitled, the Collector will act in co-operation with the defendant or respondent in the manner directed in paragraph 3, or independently as laid down in paragraph 4 of these Proceedings.

(True Extract.)

C. G. MASTER,
Acting Chief Secretary.

To All Collectors.
„ the Revenue Department.

No. 3/61
ENCLOSURE

NELLORE.

Collector's Office.

16th September 1879

FROM

THE

J. G. G. Esquire
COLLECTOR OF NELLORE.

TO

C. G. Master Esquire
Chief Secretary to Govt.
Judicial Department.
Madras.

SIR,

With reference to G. O.
dated 18th August 1879, No. 2055,
I have the honor to request orders
as to what action Government
wish Collectors to take in execution
409 of the Civil Procedure Code,
& as to what compensation they will
authorize.

2. When the notice under Section
408 is issued the opposite party
& the pauper & Government are

Govt. of 1879
JUDICIAL.

TO

ALL COLLECTORS,

&c,

&c,

&c.

Dated September, 30th.

Issued

Recd.

End.

G. O., 30th September 1879, No. 2526.

SEPTEMBER.
Nos. 228-229.

Notes. — Instructions issued to Collectors of
Districts as to the action to be taken by them in
receiving notices under Section 408 of the Code
of Civil Procedure in the case of persons suing
as paupers.



both interested in opposing the appli-
cation. As regards Government
the Collector & Divisional Officers
order ²⁰ ~~the~~ ^{to} make enquiry
as to the status of the alleged pauper.
Hitherto there has been no case in
which Cause has been seen by
them to dispute the application,
but if Cause is seen witnesses
will have to be produced before
the Court, possibly in 10 days
from the notice, and a vakil must
be employed. After all, the
Court may decide in favour
of the pauper, so that the expense
incurred will be lost. Are Collectors
authorized to incur the necessary
expediture & what sum should
be allowed as the vakil's fee?
3 But even if the Collector fails

to set aside the opposite party to the
pauper, being more immediately inter-
ested, may set aside & oppose
the application under Section 409.
Should the Collector engage a vakil
to watch the proceedings on behalf
of Government?

Yours truly
Sir
Your most obedt. servt.

J. G. G. G.
Collector

J. G. G. G.

No. 2735-

From the collector of Melloni dated 16th
Sept 79 Rs 315.

FOR ORDERS.

L. C. dated 31st July 79 No 1838
Authorized all Collectors to
receive the office which is
given by the Court under
S. 400 of the Code of Civil
Procedure.

The collector of Hallowe
states that hitherto on
the receipt of such notices
the practice has been
collector to make enquiry
as to the status of the alleged
pauper and that there
has been no case
in which cause has
been seen by them

1892-1893
From
The Collector of

Nellors.

To

The

Paul Ockler

6

Dated

Disrupted

Received, 7

No. 57

Enclosures

ABSTRACT.

Richard B. B.

1005598226

Refused to order a

Washed and dried

Charles Collier

like a bird
of the air

405
M. a. m. m. m.

to dispute the application.
If cause is seen witnesses
will have to be produced
before the Court - possibly
within 10 days after notice
a Vakul must be em-
ployed. Even then the
Court may have to decide
in favor of the pauper,
the expense incurred will
be lost.

The Collector of Bellary should
instructions as to whether
Collectors are authorized
to incur the necessary
expenditure & what
sum should be allowed
as the Vakul's fee, and
whether the collector
should employ a Vakul
to watch a pauper once
though he may not leave

opposed the original ap-
plication.
S. 408 of the Code of Civil
Procedure empowers the Court
to reject such an application
if the appl. can be shown to be
fraudulent, or that he has been
guilty of fraudulent
transactions with reference
to any property in his
possession within 2 months
before application, or
if he has no right to sue
in such Court, or if he
has been party to any
Chambers proceedings
with reference to the
suit.

S. 408 provides for notice
to the collector & the opposite
party.

If the collector sees no
reason to oppose the
application nothing
need be done, but if
there is cause for

action he must employ
a Vakil and P. L. witness.

The fee for the Vakil will
be $\frac{1}{4}$ of the Regulation
fee on the subject
matter of the suit—

See Sec 7 Act 1 of 1876.

The High Court allows
Rs 50 as the maximum
in this class of cases.

When a Collector opposes
an application to receive
as a pauper, after due
weighing the chances
of success so far as the
pauper application
is concerned are very
few.

Such costs when lost will
be very small indeed
when compared with the

FOR ORDERS.

From

the large sums that have
now to be written off as
^{No.} irreconcilable & which
will decrease if Collector
take proper steps to have
the question of pauperism
duly determined.

The party opposed
to the pauper in the suit
about the fees will also
FOR ORDERS.
be aggrieved by the action
of the Collector.

Such party will employ
a Vakil and as it will
be to his interest to have
the cooperation of the
Collector, the same
Vakil will do for the
Collector and the
Collector's witness
may be useful to him
if so he will pay
them.

When after due inquiry
the Collector has seen
to think that his inter-
ference is necessary
he may by Communi-
cating with the
party save the
State unnecessary
expense and protect
the party against
wasteful litigation.

It is only in cases where
parties may not Co-
operate with the
Collector that the
State will have to
bear the expense.

When once a pauper
application is made

the Collector need not
interfere unless the
~~circumstances~~ ^{direction} of S. 414
become applicable to
the case and then he may
take action in Con-
junction with the
defendant.

If the Court protects
the interests of the ^{poor} ~~the~~
action of the Collector
will be needless.

As they have not
taken sufficient
care of such interests
the Collector has to
interfere.

Indraiah Dey

Panpuri

FOR ORDERS.

Collector

Go. 30 Sept 1879. No 2526

225/9

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter :-

From the collector of Bellary, dated 16th Sept
79, No 3161.

Order thereon of 30 Sept 79 No 2526

Prior to the passing
of Act X of 1847, no notice
to the Government Pleader,
calling on him to show cause
why an applicant to carry
on any litigation in forma
pauperis should not be
permitted to sue as a
pauper, was by law
required to be given.
The present Code of Civil
Procedure has in S. 400
provided for such
notice being given, to
protect the interests
of the State as regards
stamp revenue, in order
that

if man not suffer owing to
persons not entitled to
see as paupers being
allowed to do, or to
prosecute groundless
claims which ~~and ultimately~~
~~would~~ be a loss to the State.

2. ^{For the purpose of} ~~the~~ ~~place~~ ~~the~~ ~~foreman~~
~~information is the~~ ~~fore~~
~~of~~ ~~direct~~ ~~information~~ that all
Collectors receiving notice
under S. 408 of the Code
of Civil Procedure should
take the necessary
enquiries ^{and} ~~from the~~ ~~collectors~~
regarding the real status of
the ~~real~~ applicant
~~as a~~ ~~pauper~~ ~~not~~
Should they feel satis-
fied that ^{he} ~~the~~ ~~man~~ is
a real pauper and

has a bona fide claim,
~~therefore~~ ~~they~~ ~~need~~ ~~not~~
dispute such ~~application~~
3. But if on such enquiry
there appears to be cir-
cumstances in the ap-
-plicant's case which
don't prima facie en-
-title him to be a pauper
the collector should place
himself in communication
with the defendant or
Respondent in the case,
and if the such defendant
or Respondent is disposed
to dispute the application
the collector by cooperating
with him and ~~improving~~
the same ~~value~~ ~~as~~ ~~the~~
does may effectually
oppose the application
without any expense to
the State.
4. Where a deft or Resp-
~~not disposed~~ ^{wishes to dispute}
oppose the application
and where the collector

is of opinion that the application should be rejected, he will employ a Vakul & Cike witnesses. ~~for doing~~ Such Cases will be rare, and the regulations for the Vakul & ^{other} ~~the~~ ^{on application} ~~Costs~~ incurred will be sanctioned by Government, ~~in each~~ ^{187. No.} Case.

5. Where a person is permitted to come as a pauper but is subsequently found to be the Sir, then the Governor in Council does not consider it necessary that any Vakul should be employed to watch the further proceedings in the case; but

Dated
Recd
187. No.

Boht. of 1187 & 1188

Should Circumstances subsequently come to light which show that the indulgence granted to the Plaintiff or appellant was one that he was not entitled to, the Collectors will act in co-operation with the Dept. or Respt in the manner directed in para 3, or in default as laid down in para 4 of these Proceedings.

Atk
98/9
Collectors
10/11
1876/17

Parcels Dept

Collection for

September

14.1.19

7
411

227/9
229/9

13-7-46E✓

Govt. of 1879- Madras.

Just



G. O., 30 *Sept* 1879, No. 2526

Nos. 228-229

Notice. *Letters issued to
Colles of 05 as to the action
to be taken by them on re-
ceiving notices under Section
408 of the Code of Civil Pro-
cedure in the case of persons
serving as paupers.*