

- (1) பக்கங்களின் எண்ணிக்கை 24
 (2) புதுக்கித் திருப்பிய நாள் நவம்பர் 1985
 (3) ஆதாரங் குறிப்பவர் சுருக்கொப்பம்

தமிழ்நாடு ஆவணக் காப்பகம்.

தமிழ்நாடு அரசு

Judicial துறை

அரசாணை எண். மு. கோப்புத் தாள் எண்.	152. (101-102)	அச்சகம் பலவகை
நாள் :	25.1.1881	199

சுயந்
மடிக்கவோ கண்டபடி கையாளவோ கூடாது.

செப்பிபவற் பெயர் K.யு.க
செப்பிபவற்கு எடுத்த
கொண்டிட்ட நாள் 1898
செப்பிபவற் முத்த நாள் 1898
சுப்பார்க்கும் சூராய்ச்சி
மு. பா. எ. உதவியாளர்
கையொப்பம் கையொப்பம்

செப்பிபவற் பெயர் K.யு.க

GOVERNMENT OF MADRAS.
JUDICIAL DEPARTMENT.

25th January 1881, No. 152.

Magisterial Powers.

Read the following paper:—

No. 101. *Proceedings of the Board of Revenue, dated 8th October 1880, No. 1474.*
Read letter from the Collector of Bellary, to the Secretary to the Board of Revenue,
dated 17th August 1880, No. 3245.

Para. 3. The Board take this opportunity of requesting the instructions of Government as to whether in cases in which a Taluk Sheristadar is reduced to an appointment in which the exercise of Magisterial powers is not required for reasons unconnected with the performance of his Magisterial duties, or in cases where a Revenue Officer exercising Magisterial powers is transferred or promoted to such an appointment (e.g., a Tahsildar appointed as Sub-division or Huzur Sheristadar), the sanction of Government is necessary for divesting him of his Magisterial powers. Paragraph 6 of G.O., dated 24th July 1874, No. 920, Revenue Department, is clear as regards a Taluk Sheristadar dismissed from his office, but the orders noted in the margin, referring to cases of officers acting in a higher grade and reverting to a lower one, appear to be conflicting. G.O., dated 24th September 1874, No. 1794, Judicial Department, ruled that when a Taluk Magistrate, who has been temporarily appointed as Acting Deputy Magistrate in charge of a Division of a District, is divested of the charge of such division, he is also divested of his first-class powers; but in G.O., dated 14th June 1880, No. 1407, Judicial Department, passed in the case of a Taluk Sheristadar, who had been invested with second-class powers while acting as a Tahsildar and who reverted to his appointment, the Government remarked that as the officer in question had never ceased to be a Magistrate his powers are those with which he was last formally invested and that when it is thought desirable that an officer invested with second-class powers should revert to third-class powers on his reverting to a less responsible post, application should be made for a fresh notification. The Board are of opinion that a reference to Government should be made whenever a Revenue Officer forfeits his position as Magistrate by dismissal, reduction, transfer or promotion.

(A true Copy and Extract.)

(Signed) C. GALTON,
Secretary.

Transferred to the Judicial Department.

FORT ST. GEORGE,
11th November 1880.

(Signed) C. G. MASTER,
Secretary to Government.

No. 102. ORDER THEREON, 25th January 1881, No. 152.

The Government are advised by the Advocate-General that it will be the safest course to adopt the Board's suggestion in paragraph 3 of their Proceedings, 8th October last, No. 1474. This will accordingly be done.

(True Extract.)

R. DAVIDSON,
Chief Secretary.

To the Board of Revenue.
„ Revenue Department.

Exd. T. O'Connor.

Govt. of 1881 Madras.
JUDICIAL.

To
THE BOARD OF REVENUE.
&c., &c., &c.

Dated January, 25th.

Issued

Recd.

Ed.

G.O., 25th January 1881, No. 152.

JANUARY.
Nos. 101-102.

Magisterial Powers.—A reference directed to be made to Government whenever a Revenue Officer forfeits his position as Magistrate by dismissal, resignation, transfer or promotion.

37/152
No. 1,474.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 8th October 1880.

Read the following letter from H. P. GORDON, Esq., Collector of Bellary, to C. A. GALTON, Esq., Secretary to the Board of Revenue, dated 17th August 1880, No. 3,245:—

I HAVE the honor to report that the Acting Sub-Collector has degraded P. Narrain Row, Taluk Sheristadar of Anantapur in this district, to the post of Head Gumastah of a taluk, and to request that the Board may be pleased to move Government to cancel the powers of a Third-Class Magistrate exercised by him.

2. The enclosed copy of the Sub-Collector's Proceedings will explain the cause of his degradation.

3. I concur in the propriety of the action taken by the Sub-Collector and should have myself removed him had not the Division in which the taluk lies in the meantime reverted to the Sub-division.

ENCLOSURE No. 1.—Copy of Proceedings of Sub-Collector.

SUBMITTED for the orders of Government with the Board's recommendation that the Sub-Collector's order reducing P. Narrain Row, the Taluk Sheristadar and Magistrate of Anantapur, to the post of a Taluk Head Gumastah be confirmed and his Magisterial powers cancelled by a notification in the *Fort St. George Gazette*.

2. The Taluk Sheristadar's misconduct having related to certain proceedings in his capacity as a Magistrate, the case should have been submitted for the orders of Government through the Board of Revenue and should not have been disposed of by the Sub-Collector.

3. The Board take this opportunity of requesting the instructions of Government as to whether in cases in which a Taluk Sheristadar is reduced to an appointment in which the exercise of Magisterial powers is not required for reasons unconnected with the performance of his Magisterial duties or in cases where a Revenue Officer exercising Magisterial powers is transferred or promoted to such an appointment (e.g., a Tahsildar appointed as Sub-division or Huzur Sheristadar), the sanction of Government is necessary for divesting him of his Magisterial powers. Paragraph 6 of G.O., dated 24th July 1874, No. 920, Revenue Department, is clear as regards a Taluk Sheristadar dismissed from his office, but

G.O., dated 24th September 1874, No. 1,794, Judicial Department.

G.O., dated 14th June 1880, No. 1,407, Judicial Department.

the orders noted in the margin, referring to cases of officers acting in a higher grade and reverting to a lower one, appear to be conflicting. G.O., dated 24th September 1874, No. 1,794, Judicial Department, ruled that when a Taluk Magistrate, who has been temporarily appointed as Acting Deputy Magistrate in charge of a Division of a District, is divested of the charge of such Division he is also divested of his first-class powers; but in G.O., dated 14th June 1880, No. 1,407, Judicial Department, passed in the case of a Taluk Sheristadar, who had been invested with second-class powers while acting as a Tahsildar and who reverted to his appointment, the Government remarked that as the officer in question had never ceased to be a Magistrate his powers are those with which he was last formally invested and that when it is thought desirable that an officer invested with second-class powers should revert to third-class powers on his reverting to a less responsible post, application should be made for a fresh notification. The Board are of opinion that a reference to Government should be made whenever a Revenue Officer forfeits his position as Magistrate by dismissal, reduction, transfer or promotion.

(A true Copy and Extract.)


Secretary.

To the Secretary to Government, Revenue Department, - do -
with one original enclosure to be returned.

Copy to the Collector of Bellary.

Erd. A. Grubert.

45 Copies & true off

49150

I think the sanction of Government might be obtained in all cases in which persons have been invested with the powers of Magistrates and it is desired that they should no longer exercise such powers, whether owing to misconduct, change of appointment, or otherwise - ^{such} persons, having been formally invested with certain powers, ~~they~~ are prima facie entitled to exercise them until the powers have been taken away by competent authority - that is, the authority that conferred them. It seems to be advisable that this should be done generally with the same formality that the powers are conferred - otherwise the powers of Magistrates in

Madras
1880
1880.11.17 (Bury)

Board of Revenue

MADRAS.

TO THE SECRETARY TO GOVT,
REVENUE DEPARTMENT.

Dated October 8th.

Printed in.

Received - *[Signature]*

PROCEEDING, 8TH OCTOBER 1880, No. 1,474.

Copy 36/10/80
OCTOBER
No. 1,474.

10152

P. Narain Rao, Taluk Sheristadar and Magistrate of Anantapur, Bellary District. - Respecting to Government that the Sub-Collector's order reducing - to the post of Taluk Head Gunstah be confirmed, and his Magisterial powers be cancelled; and inquiring whether the sanction of Government is necessary when a Taluk Sheristadar is reduced to an appointment in which the exercise of Magisterial duties is not required for reasons unconnected with the performance of his Magisterial duties, &c.

Transferred to the Judicial Department
[Signature]
11 Nov/80

Certain cases may be very difficult
of ascertainment with certainty.

P. W. Sullivan

Advocate General

Madras 15th January 1881.

My dear Mr. Forbes

I return the papers which
you sent me with your letter
and enclose my views upon
the questions raised by the Board
of Revenue

Yours sincerely
P. W. Sullivan

15th Jan. 81

2/15/87

From

The Advertiser

8/15 Jan 1877

Despatch Papers
14/1/81

Fort St. George

13 January 1881.

Dear Mr. O'Sullivan

In reference to B's Order
of 8 Oct 1880 No 1474, I am
desirous to obtain your advice
as to the safest course you
would recommend in
reference to para 3.

In both the cases put
by the Board at the head
of the para in question, the
powers would perhaps
necessarily lapse. It appears
not to have been customary
hitherto in the second of
them to make any formal
divestment of powers, but
in regard to the first, in-
stances are on record where
from

from reports of misconduct, the powers of a Magistrate have been cancelled under Sec 54 C.P.C.

The Board next refer to the G.O.s marginally noted which dealt with cases where officers prevented from appointments with enhanced powers to their substantive appointments where smaller powers were exercised and consider them conflicting. By Sec 56 C.P.C. officers invested with powers in any District transferred to an equal or higher office of same nature

in

24 Sept. 1874 No 1794

14 June 1880 No 1407

9/152
in another District continue to exercise former powers. This is the only section in the Code that at all relates to the matter.

I am enclosing the Board's Proceedings and the two Procs of Govt. therein referred to and shall feel obliged by you returning them with your reply

Yours very truly
J. S. Forbes

Copy of the

12-1-80

LC post 152/81.

10/19
Judicial DEPARTMENT.

No 3750 & 3975

From

Proc of the Board of Revenue 28 Oct. 1880
No 1474. para 3, transferred by
the Revenue Dept under Endt.
of 11 November 1880.

Do Do 24 Nov. 1880 No 1793
transferred under Endowment
in the Revenue Department
of 29 November 1880.

FOR ORDERS.

The orders requested
in para 3 of the Board's former
Proceedings were, whether the
sanction of Government is
necessary to direct an officer
of his Magisterial powers
in the following cases.

- (a) Where the reduction is to an
appointment in which the
exercise of Magisterial powers
is not required.
- (b) Where the Revenue Officer
exercising

Particulars of the
services of the
Revenue Officer
under the
Board of Revenue

This order in 6/12/80
is sent for perusal &
advise -
7/1/81.

exercising Magisterial
powers is transferred or
promoted to a non-Magis-
terial charge. e.g. a Tahildar
appointed as Sub Division
or Angur Sarichitadar.

In both cases sent by
the Board, the powers would
necessarily lapse, and it
appears not to have been
customary hitherto in the
second of them to make
any formal reference for
a formal disinvestment, but
in regard to (a) instances
are on record where reports
of misconduct have been
made and the powers of
a Magistrate cancelled
under the provisions of
Section 54 C.P.C.

The

11/13
The Board further
refer to G.O. 24 Sept. 1874
No 1794 and 14 June 1880 No 1407,
which dealt with the cases
of officers reverting from
appointments with enhanced
powers to substantive appoint-
ments where smaller
powers were exercised, and
consider them conflicting

Orders are requested.

P.T. 16/10/74
16/10/74

By Sec 56 C.P.C. Officers
invested with powers
in any district of trans-
ferred to an equal or higher
office of same nature in
another district, continue
to exercise former powers.
This is the only ^{with} sec. at
all related to the matter
P.T. 16/10/74

the meeting

FOR ORDERS.

Read nos: 3750 & 3975
25th Jan 1881, No 152

Say/ The Govt are advised
by the adms. Genl. that it
will be the safest course
to adopt the Bd's suggestion
in para 3 of their Prop
for Oct 1880, No 1474
This will accordingly be
done. # 19/1-1.

Unld: of Res: 11 } Secy 14/1
a Res: Opt: 11 }

Trans 3 of 2-0-45

1/1/1881

1/1/1881

1/1/1881

1/1/1881

1/1/1881

217-12-80

When received

70-22-2-11
Govt. of 1881 33 adms.

12/5 Just

to
G.O. 25 Jan 1881, No. 152
Nos. 101-102

Major H. Powers. A
reference directed to be made
to fact whenever a Res.
offr proposes his position
as length by dismissal,
reduction, transfer or
promotion.

1-7-1881 ✓

✓

James

5 +

1/1

217-12-80