

1. Number 20
2. Date 5-1-8
3. Initials
M.R.O. 1-22,000-15-11-82

MADRAS RECORD OFFICE.

Government of Madras.

JUDL. DEPARTMENT.

G.O. No.	958	Press Mis.
Dated	5-6-1990.	

Not to be folded or roughly handled

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No. 522

Kistna District Magistrate's
Office, Masulipatam
5th May 1890.

FROM,

F. D. C. Wolfe-Murray Esquire,
Acting District Magistrate

Kistna District

TO,

THE CHIEF SECRETARY

to Government.

Judicial Department,

SIR,

With reference to G.O. dated 27th March 1890 No. 586 Judicial Department I have the honor to submit the following observations, and I trust that Government after perusing them will be able at least to modify, if not withdraw, the very stringent remarks it has been pleased to pass on my proceedings as Joint Magistrate.

2. I feel confident that had the Government been in possession of all the facts of the case instead of only the facts represented,

or rather misrepresented by the petitioning party, those remarks would never have taken the shape in which they now stand recorded in the order of Government.

I have not of course the petition to Government before me and I do not know exactly what the Petitioner may have said, but it appears to me that he gave the Government to understand that I, as Joint Magistrate, had entirely refused to admit or consider certain public records tendered to me by Petitioner or his Agent, those records showing that it had been customary, under some restrictions, to permit certain processions with music in Guntur during 30 years past. I see at all events that such is the statement made by the Petitioner in his appeal to the District Magistrate, who however did not forward this particular petition to me for remark or report.

3 He, the District Magistrate, had only known me for six months,

but he probably knew me incapable of such an unjust and arbitrary refusal.

4 (I should have thought, I hope I may be allowed to say without disrespect, I have a right to demand, that after nearly 13 years' service under the Government of Madras, during the whole of which time I cannot recollect that I have ever been officially censured, though no doubt like other men I occasionally make mistakes, the Government might have refused to believe such a malevolent falsehood concerning my action in this matter, at all events that it might not have believed it without first convincing itself that these records had been really tendered to and really refused by me.

5 No doubt the Government was not aware, nor was I myself at that time aware, that the Petitioner is a vindictive and unscrupulous man quite capable of representing falsities

as truth in order to gain his purpose.

6 I can only say that had the orders which were put before Government as enclosures to the petition alluded to, been specifically brought to my notice, I should undoubtedly never have passed the Proceedings, which Government has considered so objectionable.

7 I now most solemnly declare that not one single order or copy of an order made by any Magistrate whatever permitting the possession to be held was ever tendered to me either by the Petitioner or by his Vakil, nor was the existence of any such orders on the subject hinted at either verbally by the Vakil on his appearance before me, ^{or} specifically in writing in the body of the Petition.

8 On the contrary the petition to the District Magistrate, which is a copy of the one put in before me as Joint Magistrate, expressly states,

"none of his predecessors since the establishment of the Sub-collectorate do seem to have interfered with these matters."

9 It was no doubt stated in the petition that the practice of procession was in accordance with "immemorial custom," but one does not usually consider every word written in a petition to be absolute truth, unless at least supported by some tangible evidence; neither was there the smallest hint in the petition that any written evidence was available in support of its request.

10 I confess I am not surprised that Government under the misrepresentation of Petitioner and the supposition that I had all these previous orders before me wrote my action down as injudicious and arbitrary, but I am grieved that it should be thought possible, that I, who

am always most willing to hear both sides of a question, and endeavour always to act as impartially as an occasionally impulsive disposition will allow me, should have acted in such a very injudicious and unjudicial manner. Although it was Petitioner's business to quote the authorities under which the application was made, and although they did not do so, yet, as I was anxious to give the matter as full a consideration as possible, I passed no immediate order on the petition, but detained it in order that the records might be searched both in mine and the Municipal office. Owing to the rapidly advancing date of the procession and ^{my} necessary absence for Jambasade, only a day or two was available for this purpose.

|| I also made verbal inquiries from an old resident and the

result of these was embodied in my dictum about Mr. Rice and Mr. Thoug; this evidence was of course only oral, but it came from a satisfactory source and I see no reason to doubt it now; it is in truth a fact that the former gentleman used to pass prescriptive orders, though not in the case of this identical procession. It is not to be supposed however that Petitioner would care to retain or produce for the inspection of Government any orders except ^{those} favorable to his case. The result of the search of the records, owing possibly to the short time available, was that no orders bearing on the subject were found, neither in the Joint Magistrates' nor in the Municipal office. A subsequent and more extended search shows that only four orders out of the 17

sent to Government by Petitioner
are now on record in the Joint
Magistrates' office.

13 The Government is further pleased
to remark that "the nuisance caused
by music at night to a fraction
of the community is insignificant
compared with that produced to
the bulk of the inhabitants by the
prohibitory order passed".

This is no doubt true, but the Quarter
of today is not the Quarter of
31 years or even of five years back.

The Railway has increased the British
and American Community considerably.
Although they are no doubt only a
fraction of the community, (as is
indeed the whole British population
of India when compared with the
native peoples), yet they are decidedly
a very influential fraction. The

British mercantile and American
Mission interests spend annually
many thousands of rupees in Quarter,
the latter section with no other object
than pure benevolence. They are now
building a college which is to cost Rs 80,000.
In its train the railway has brought
besides its own staff, contractors,
plate layers - fitters et hoc genus omne.
The whole of this population is entirely non-
official, and some portion of it is quite
capable of taking the law into its own
hands on occasion.

14 Before passing any prohibitory order,
which as I have said above I would
never have passed in its present shape
had the true facts of the case been
properly brought to my notice, I
had become aware that if I did
not pass it these various sections
of this non-official community

were ready to come forward and indict the would-be processionists for nuisance.

15 It may be noted also that many of the better classes of natives themselves now-a-days object to noisy nocturnal music.

16 It was therefore the above facts that led me to pass my prohibitory order; viz; my ignorance of what orders had been passed by my predecessors in this matter, and ignorance which the petitioner was certainly bound to remedy as he had all the orders and entirely failed to call my attention to them, and also the strong representations put forward by this non-official but influential community, whose position demanded that their views must have at least some consideration.

17 I must of course bow to the

decision of Government, but I think that if the wording of my order be looked at from the above points of view, it can hardly be thought with justice to be couched in other than moderate language.

18 I now know of course what I did not know then, that this procession was in accordance with that custom and precedent which in this country is often as strong as the law. Had I known it then, the Government would not have had occasion to administer that scathing rebuke, which I trust it will now find itself able to modify or withdraw.

19 Mr Apundel has directed me to retain the enclosures to the petition until his return, as he wishes also to make some

remarks on this matter.

20 I need hardly say that I have
written the above remarks in
my capacity only of late Acting
Joint Magistrate.

I have the honor to be,

Sir,

Your Most Obedient Servant,

Acting District Magistrate

12
op more

Pl. 506-27-2-90
in 644-31-2-90
731-25-8-90

justified

1880 Department.

From, *Dist. Magistrate*
The Collector
Kistna.

To,
The Chief Secretary to
Government Judicial
Department

Dated *5 May* 1880
Despatched *7/8*
Received *12*

No. *522*

Enclosure *nil*

Subject. *13 MAY 80*

Explaining his conduct
in connection with the
subject of stopping a
certain procession at Guntur
and requesting that Government
may be pleased to modify
the remarks passed by
it.

Judicial Current No 1902

Hm.

For advice.

In the foregoing letter which
with many objects to the
"important remarks" of section
where "ch. for in f.d."
March 27th 1880 No. 506
has made use of in regard
this order about the Hindu
procession in Guntur.
In para 2. he says that he
is convinced that Patons in that
represented to for that he
the T. Magistrate had refused to
admit a considerable number of
people having their cars, and
having ^{set} up the
during he proceeds in subsequent
paras with great earnestness
exhortation to accomplish it.
In para 7. he says
From the language of para 7. it
will almost be imagined that
the T. Magistrate was on his
trial and was tendering a sworn
deposition. As a matter of
fact the Patons nowhere
alleged that

them before him &.

The wording of the f.o. further
does not guarantee the
inference drawn by the
I.C.M.C.

3. From para 11 it appears that the mis statement, made at the Committee of the T. M. C. C. in regard to the procedure adopted by the T. M. C. C. was due to the erroneous recall of a conversation with an RD resident, name not given, that though a check was made for precedents in his office none, in the short time available, were forthcoming.

I am so very sure it becomes
the duty of government to remove an
officer - and I entertain a powerful
impression of Mr Wolfe Murray, as an
energetic & distinct officer; that he is
himself to blame for ~~losing~~ incurring
the censure - he could be safe if he
had known of the previous records he
and not have passed this order,
and the reason he gives for not knowing
there is no excuse.

I think Mr.
Hlo
20 May
26/5/20

I think not.

MS
26/5/20

e

5. The gist of the whole letter is that had Mr. Wolfe Murray been aware of the previous orders on the subject he would have allowed the procession to be carried on all night, and as he was not aware of these orders he hopes that Govt. will withdraw or mitigate the censure passed upon him.

6. It is submitted that on the facts laid before it there is no need for Govt. to modify in any form the views already expressed.

H.V.C.
16 May

R₂⁵
d I. 6/6.

The following are copies:

7/10/1919

Hon. Mr. Fursten
H.E. the Sec.

The President of the C.O. ✓
H.R. the Governor

Order 5 June 1900 No 958.
The fr^t ^{to handle} ~~is to be~~ reason to
alter a motif, the view is
already expressed in the
view of which 27th / 90 No 586.
H.V.C. (from above)
27 May
4 June.

Lm. R. 10

h. 17-5 | m. 28-5 | m. 28-6
 20-5 | 12-5 | 20-6

OF 18

FURTHER PAPER, No. 2942 OF 1890
D.C. 334 + 10

READ AGAIN ORDER OF GOVERNMENT, DATED
18 , No. , MISCELLANEOUS.

ENCLOSURE.

CURRENT No. 1902

STATEMENT WITH DITTO.

A A

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BRING MEANT FOR DISPATCH
IN ORIGINAL (not pagged).

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ORDINARY, MS.

<i>Journal</i> DEPARTMENT. G.O., DATED 5-6-90 No. 958

When given for copying

[Despatch Abstract.]

*Informing Mr. Wolf - Sunday
 that the Govt is unable to
 alter or modify the views
 already expressed in its order
 of March 27, 1890 no 586, in re-
 gard to his proceedings as far as
 he agitates about the Hindu
 provision in Section*