L. & M.
9,000-8-8-96.

# Local & Munl. (1895) Department.

## MISCELLANEOUS.

**G.O., No.** 117 L.

**DATED** 19th January 1895.

[Despatch Abstract.]

Land.

Recording G.O.,Revenue Department, recording Board's Proceedings passing orders on a proposal from the Collector of Kurnool to acquire ----- under the Land Acquisition Act for the provision of a new village site for Malapeta in Nandyal.

## BACK PAPERS.

| G.O. | No. | Department. | Date. | G.O. | No. | Department. | Date. |
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## FURTHER PAPERS.

| G.O. | No. | Department. | Date. | G.O. | No. | Department. | Date. |
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LOCAL AND MUNICIPAL DEPARTMENT.

Current No. 3709 L.

From The Revenue Deptt. d/ 5 December 1894.

FOR ORDERS.

Please see remarks of H. M. in the office note in G.O. $\frac{4771}{5-12-94}$ (Revenue).

The repeated refusals of L. & M. Deptt. to allow Local Boards to acquire land for the provision & extension of village site appear to have been based upon two considerations. Sir H. E. Stokes in his note in G.O. $\frac{2580}{4-11-89}$ L. (which dealt with a proposal by the Repalle Taluk Board to acquire certain land for the provision of a more extensive village site for some Madigas in Kistna Distt. said that he did not consider that "the application of the Act in these ca was justifiable merely to remedy incon- venience to definite individuals and t assist them in getting on forced terms what they could not otherwise get". H distinguished the case from those of

Bezwad

Bezwada & Guntur in which "from extraneous causes an immediate large accession of population was about to accrue and there was a strong necessity in the interests of the whole of the existing population that facilities should be provided for accommodation" and sanitarily arranged accommodation. Hon. Mr. Garstin concurred.

In a later G.O. (No. $\frac{2875}{10\text{-}12\text{-}89}$ L.) Sir H. E. Stokes went further and said that he did not "think that the provision of new village site in circumstances such as the present was a function of Local Boards." That was on a case where the Kistna Collector proposed to provide new village site for a village that was being rapidly eroded by the Kistna river.

In a still later case (G.O. $\frac{\text{No. 974 L}}{28\text{-}4\text{-}90}$) which is one of the two referred to in the Note in the Revenue Deptt. & in which Dr. King had moved the Kurnool Dt. Bd. to provide a less insanitary site for a village (and which is therefore a parallel to the case dealt with in Rev. Deptt.), Sir H. E. Stokes said that he did not think it incumbent on the Dt. Bd. to provide the land required; that the Collector should apply to the Board of Revenue who might be able to get the land

by

by a grant of waste land; & that local Boards should not in his opinion be encouraged to take upon themselves the duty of extending village sites.

L. & M. Deptt's policy appears therefore to have been based upon the considerations that it was doubtful whether the application of the Land Acquisition Act for such purposes was justifiable, & that even if it was, Local Boards should not be encouraged to spend funds upon such purposes.

If a change of policy has now to be ordered these two points have to be considered.

The first of them, the legal point, has now a different aspect as the new Acquisition Act (I of 1894) specially refers to acquisition for village sites.

Reading sec. 3(f) and sec. 6 of the new Act together it seems to be clear that even where the compensation is to be paid out of Local Funds the Act cannot be put in force to acquire land for the provision (and "provision" apparently includes extension) of village sites except "in distts. in which the local Govt. shall have declared by notification in the official Gazette that it is customary for the Govt. to make such provision." It appears to be a matter for the Revenue Deptt. & the Board of Revenue to decide whether the Govt. has made sufficient grants for this purpose in any or all of the Distts. in the Presidency to warrant a notification that the provision is customary.

The second point is as it always was. Local Boards have more calls upon them already than their funds can any how meet, and though it seems clear that expenditure upon village site is a legitimate charge upon their funds under the wide terms of section 95 (vi) of Act V of 1884, it would also appear that it would be advisable to check expenditure in this direction very strictly. For hundreds of villages are in insanitary sites, & they will many of them clamour to be provided with better ones if the money therefore can be looked for from public funds.

Govt. in L. & M. would, however, have to pass each case of proposed acquisition, and so would keep the control of the expenditure in their own hands.

Govt. in the Revenue Deptt. would no doubt be ready to make free grants, as at present, of land in their possession, or of waste land in exchange for the land required, to aid Local Bds. in the matter.

(Initialled) W. F.
21-12-94.

Assuming the required notification to have been issued, there would seem to be no legal difficulty in the way of Local Bds. acquiring sites under the Act. It has been said that they should not be encouraged to spend money for this purpose, but I submit that in certain cases (e.g. Cumbum, as it was), it would be impossible to conceive a better use to which Local Funds could be applied.

(Initialled) E. G. 28/12

I don't think there can be any doubt that it is customary for Govt. to provide village sites in most districts.

(Initialled) H. W. B.

Of course we cannot allow frequent or general expenditure of Local Funds on village sites, for the reason given, viz. that funds are short. But I don't see why we should not allow the expenditure of money by Local Bds. on this object in exceptional cases. The rule should of course, wherever possible, be that lands acquired by Local Bds. should be sold to the persons who want to build. I would sanction the expenditure by the Local Bd. if it proposes it, which it has not yet done.

In this case, by the way, it is not a case of resort to the Act for the owner is willing to sell. The only question is whether the Local Bd. may buy.

(Initialled) H. W. B.
10/1/95.

Expenditure of L. F. money may be allowed in exceptional cases & I think it is allowable in this. If the land is taken up it had rather be taken under the Act so that we may get an indefeasible title. The Board should be asked about issuing the notification.

(Initialled) J. G. 16/1.

Note for C. S.

The case which gave rise to this discussion has been disposed of in G. O. $\frac{4771}{5\text{-}12\text{-}94}$ Revenue, & requires no orders now. Apparently the notes & orders now passed require that a notification under sec. 3(f) declaring it customary for Govt. to provide village site in this Presidency should now issue, and this will permit future acquisitions of this kind to be carried out for L. F. Boards. As the Hon. Mr. Grose appears to have some doubt whether such a notification can issue it is submitted that the papers may go to him now.

(Initialled) W. F. 12.1.95.

Yes
(Initialled)

**FOR ORDERS.**

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200—31-1-94.

L. & M. Dept.

CHIEF SECRETARIAT,

Madras, 17th Jan. 95

OFFICE NOTE. d/ 19 January 1895

From

THE CHIEF SECRETARY, (L. & M.)

To The ~~under~~ Sec. to Govt.
Rev. Dept.

In returning herewith the notes of Hon. Members received with G.O. dated 5th Dec. 94. No. 4771, the undersigned has the honor to forward addit. notes & orders upon the matter passed by H.M.'s in the L. & M. Dept., & to request that effect may be given in the Revenue Dept. to the instructions which they contained ~~in~~ ~~them~~

W.H. 17.1.95

E.G. 18/1.

Please issue this office note and keep copy of all the notes & orders.

Despd 21/1

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C. No. 8328.

G.O. (Mis.) No. 4771 d/ 5 December 1894.

Recorded.

(Initialled) E.G. 30/11.

Note. The Board's Proceedings may be
acquiesced in, being merely submitted for
the information of Govt. but the questi
who is to provide village site when t
provision is necessary on sanitary gro
and the villagers (take the Malas for
example) are too poor to pay for it, h
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Government has in the L. & M. De
repeatedly declined to let Local Boar
pay for such sites out of their fun
and has pointed to 'Land Revenue'
the source whence the charge should
met. Where the additional village
can be found on land already at
disposal of Govt. or on land which
only to be compensated for with t
grant of Govt waste land. Land

the Copied & prior [illegible] 24/1

(Initialled) J. G. 2/12.

To

Board of Revenue (L. R.)
(with 2 enclos. returned).

Copy to L. & M. Deptt. (with H. Ms.
Notes in original to be retd.)

The Board is right. Special circumstances are required to justify spending "hard cash" on such an object

(Initialled) J. G.

Let us see what the L. & M. Deptt. has to say. I don't myself see why under the circumstances the Local Bds. should not provide village sites. The 2 orders below noted don't seems to deal with precisely parallel cases.

(Initialled) H. W. B.
3/12/94.

× e.g. G. O. 2875 L. Mis. d/ 10th Decem. 89.
" 974 L. Mis. d/ 28th April 90.

I understand Govt. to have declared local boards not liable only in certain circumstances.

(Initialled) J. G.

C. No. 8328.

G. O. (Mis.) No. 4771 d/ 5th December 1894.

Recorded.

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an easily bear the charge for the benefit
the local Sanitary service. But where
lard cash has to be paid down, as the
Board puts it, Land Revenue may well
bject; and if Local Boards are not permitted to pay the sum from their funds, village sanitation is bound to
uffer. The Nandyal Town Malapetta
Parcherry) whose sanitary condition is
pparent from Dr. King's inspection notes,[×]
a case in point. If the rule in the
the Deptt. which disables Local Boards
om spending their funds upon such
cts could be relaxed, the difficulty of
Local Govt. having to declare by
fication in the Local Gazette "that
is customary for the Govt. to make
h provision" could probably be got over,
the clause in question (section 3(f)
d acquisition Act 1894) is evidently
meant to apply to any but cases
hich Govt. (i.e. Provincial or Imperial
) have to make the provision. So far as the Local Boards are concerned
the provision of new village site, render
necessary on sanitary grounds, is a "mea
of local public utility, calculated to prom
the safety, health, comfort and convenie
of the people" (sec. 95 VI Madras Loca
Boards Act V of 1884) and is therefore
public purpose; and as under sec. 95(
of the Local Boards Act Local Fun
may lawfully be expended upon such
purpose, the conditions[×] required in t
2 paragraphs of sec. 6(1) of the Land
Acquisition Act appear to be fulfilled
and no notification of the Govt. rega
custom (under sec. 3.f.) would be necess
in order to justify the acquisition of v
sites for and at the cost of Local Bo
On any other construction it would b
necessary to hold that no village sit
can be acquired except at the cost
Govt. — a conclusion not justified b
general tenor of the Act.

2. The clause (3.f.) regardin

× with the current.

Sec. 3(f) Land Acquisition Act, 1894.

Yes.
(Initialled) J.G.

× (1) the existence of a public purpose.
(2) liability of local funds to meet the charge.

The clause was put in to meet the case of ryotwari villages in Madras & Bombay. I suppose in this Presidency Govt. would usually be ready to issue the notification.
(Initialled) E.G. 30/11.

te appears to have been inserted in
ler to meet the objection that it is a
an's own business to find his own house
nd not to take his neighbour's house,
less his neighbour is willing to sell it_
t where the finding of house sites for
lagers is elevated from a private con-
n to a public purpose on independent
f sanitary) considerations, the aid of
e Act can, it seems, be invoked —
thout reference to the particular clause
nding village site.

The necessity for and the sufficiency
lause (f) of sec. 3 were fully discussed
the meeting of the Viceregal Legislative
ncil d/ 1st. Feb. 1894. (Gazette of India
eb. 1894) but the particular aspect
he question now raised, viz. whether
s permissible for Local Boards to
e the aid of the Act in order to
de village site at their own cost
not then brought under discussion.
ady observed, this point will have

to be looked into, if it is resolved in the L. and M. Deptt. to relax the rule which now debars Local Boards from providing the cost of village site.

(Initialled) E. G.

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I am not sure that it the custom in Malabar, S. Canara, and Nilgiris. I remember no applications from them. The Board might be asked if it recommends the issue of the notification in the case of any district. Show to H. M. Mr. Bliss.

(Initialled) J. G.

Debates in Legislative Council.
(1894) — page 27

I doubt it since the acquisition of land for village sites is expressly mentioned in the Act.

(Initialled) J. G.

BOARD OF REVENUE (LAND REVENUE), 30TH OCTOBER 1894, No. 462.

## PROCEEDINGS OF THE BOARD OF REVENUE

### (LAND REVENUE).

READ—the following letter from C. M. MULLALY, Esq., Acting Collector of Kurnool, to the Secretary to the Commissioners of Land Revenue, dated Kurnool, 22nd October 1894, Current No. 3059-Eng.:—

Dr. King in his letter, No. 693, dated 24th October 1888, recommended the removal of the Malapeta in the Nandyal village to another site as the original one was on a low level and consequently very unhealthy. Three acres of land were acquired for the purpose in 1889, and the Board in its Proceedings, Mis. No. 4657, sanctioned its transfer to poramboke as village-site. The Malas removed to the new site and it is now found to be too small for them.

2. The Sanitary Commissioner in his inspection notes contained in Government Order, dated 10th February 1894, No. 257 L., has remarked that this site ought to be added to (extract enclosed). I therefore propose to acquire 2·37 acres more. The owners of the 11 cents. required for the road have agreed to give up the land gratis. The remaining 2·26 is selected from survey No. 706, which is on a higher level and well suited for the purpose. The owner of this land demands Rs. 50 an acre, at which rate the three acres already acquired were purchased. I have therefore the honour to request that the Board may be pleased to sanction Rs. 114, the cost of land to be acquired, from Land Revenue, Miscellaneous, as Government in their order, No. 974 L., dated 28th April 1890, have ruled that the cost of extending village-site should not be met from Local funds. I herewith submit a draft declaration to be sent to Government for being notified in the *Fort St. George Gazette*.

RESOLUTION—dated 30th October 1894, No. 462.

The Collector will be furnished with a copy of Board's Proceedings, dated 22nd August 1894, Mis. No. 4695, on a similar application from the Collector of Kistna.

(True Copy and Extract.)

(Signed) L. M. WYNCH,
Secretary.

To the Collector of Kurnool.
Copy to other Collectors.
" to the Secretary to Government, Revenue Department, with two enclosures, in original (to be returned).

## APPENDIX.

PROCEEDINGS of the Board of Revenue (Land Revenue), dated 22nd August 1894, Mis. No. 4695.

Read—the following letter from L. E. BUCKLEY, Esq., Acting Collector of the Kistna District, to the Secretary to the Commissioners of Land Revenue, dated Masulipatam, 2nd August 1894, B. Ref. on C. Nos. 446 and 565-Ver.:—

Adverting to paragraph 2 of Board's Proceedings, Mis. No. 2644, of 12th May 1894, I have the honour to report that the President, Taluk Board, Masulipatam, states that the owner of the land required for the Kondiparru village-site extension is very stubborn and not willing to take up either money compensation or any waste land in exchange.

2. No provision has been made in the budget of 1894–95 for the cost of acquisition. It is requested that the Board may be pleased to sanction the charge from the reserve at its disposal.

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Resolution—dated 22nd August 1894, Mis. No. 4695.

The Board observes that under the new Land Acquisition Act the expression "public purpose" does not include the provision of village-sites except in districts in which the Local Government shall have declared by notification in the official Gazette that it is customary for the Government to make such provision—*vide* section 3 (*f*) of Act I of 1894.

No such notification has been published in respect of any district in this Presidency, and though in a few isolated instances Government has allotted funds for the purchase of land required for village-site, it is not customary to provide village-site *gratis* when the compensation for the land has to be paid in hard cash.

2. Apart from the legal difficulty above noticed, the Board would not be prepared to recommend to Government the acquisition of the land at the cost of the State, unless such particulars were given as to show that exceptional circumstances rendered the expenditure justifiable.

(True Copy and Extract.)

(Signed) L. M. WYNCH,
Secretary.

To the Collector of Kistna.

Exd. W. J. Lewis.

REVENUE DEPARTMENT.

# 1894.
# Board of Revenue
(Land Revenue),

MADRAS.

*Printed November th.*

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*Proceedings*, 30*th October* 1894, *No.* 462.

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Passing orders on a proposal from the Collector of Kurnool to acquire land under the Land Acquisition Act for the extension of village-site of Malapeta in Nandyal.

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REVENUE DEPARTMENT.

# PROCEEDINGS OF THE MADRAS GOVERNMENT.

+Copy attached *Read*—~~Letter from~~ Pros.+ of the Board of Revenue (Land Reve)
dated 30th Octr 1894, No. 462.

*Subject:*—

*Order thereon,* 5th Decr 1894, *No.* 4771.

RECORDED.

(True Extract.)

R. Ellis

Under Secretary to Government.

To the Board of Reve (LR)
with 2 Encls. retd.

Copy to the Local & Munl. Dept. - 1
(with H.M's orders in orig. to be returned)

Wd
6.12.94

Govt. of (1894) Madras.

~~Local & Municipal Dept.~~ REVENUE.

PR CURRENT No. 3709 L

To

The Local & Municipal Dept

Dated
Recd.

Encl. 2

Mis. G.O., 5th Decr 1894, No. 4771

CHIEF SECRETARY -7 DEC 1894

SUBJECT.

Recording B.P. passing orders on a proposal from the Collector of Kurnool to acquire land under the Land Acquisition Act for the ~~extension of~~ provision of village site ~~of~~ for Malapeta in Nandyal.

order 19-1-95 re [illegible]

Recorded

W. 18.1.95

Note.

The notes & orders passed upon this & the notes recd with it from R.D. were sent to R.D. for issue of necessary orders with office note dated 19th Jan 95.

W.

14/12 A 17/12

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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.

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