L. & M.
9,000-2-1-95.

Local & Munl. (1895) Department.

MISCELLANEOUS.

G.O., No. 1445 Dm.

DATED 6th September 1895

[Despatch Abstract.]

Municipal Council.

Ordering, with remarks, that the election of certain gentlemen as members of the Mangalore------be notified.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

NOTIFICATION.

UNDER Section 10 of the Madras District Municipalities Act, 1884, the undermentioned gentlemen have been duly elected Municipal Councillors of the Municipality of Mangalore :—

M.R.Ry. N. Srinivasa Rao Avargal.
A. Sankappa Panja Avargal.

Mr. Casimir S. Brito.
" J. S. Albuquerque

MRRy. K Ramna Setti Avargal.

Sarkle Part I-A

C/10 2500 m/95

Local & Municipal Dept. 01418

INDIAN TELEGRAPHS. Monthly Number.

CURRENT No. 1/8/95

Cor. Class. DD

To (Office) Madras.

From (Office) Mangalore

dpd Krna

Words.	Day.	Hour.	Minute.	Official Instructions.
47	3	18	2	

To (Person) Chief Secretary to govt local and municipal dept

From (Person) Krishna Shetty

I elected Candidate to Kodialboil ward mangalore municipality submitting my representation by post against Collectors report recommending cancellation of said election humbly solicit therefore postponement of final orders pending receipt of said representation

84 Word Form. F.C.2.

Recd. from LN. At Hrs. Mts. by

Sent to LN. At Hrs. Mts. by

MADRAS 3-8-95

Telegraph Master

C. G. P.—No. 220 T—18-9-94—20,00,000.

[9].

LOCAL AND MUNICIPAL DEPARTMENT.

Local & Municipal Dept.
CURRENT No. 2480/M

Telegram
From

K. Narna Chetti,
Mangalore

No.

Dated 3-8-95

Received 6-8-95

Enclosures

SUBJECT.

Praying that final orders on Collector's report recommending cancellation of his election as councillor of the Mangalore municipality may be postponed pending receipt of his representation.

List of Enclosures.

A. Copies of two petitions presented by M. K. Ry. Marthu Bhandary, the unsuccessful Candidate of Codialbail Ward, under Rule 35 of the Election Rules.

B Copy of statement of Dr. Donovan, District Medical and Sanitary Officer and Superintendent of the District Jail, Mangalore as a voter in the said Ward dated 18th July 1895

C. Copy of statement of G. Ramakrishnaya as a voter in the said Ward dated do

D. Do — Shivappachari — do. — do.

E Do — Ali Khan — do. — do.

F Do — Abdul Khadir — do. — do.

G Do — Police Hd Constable No. 128 — do.

H. Do — Abdul Hussein — do.

I Do Mahdava Pai — do.

J Copy of petition presented by M. K. Ry K. Narna Shetti being reply to the Objection Petition.

K. Copy of statement of Mr. A. P. Lobo (Polling Officer) examined by Commis-

-petitioner dated 20th July 1895.

I. Do - of Wm. A. E. Aarons, Municipal Inspector do - do -

M Copy of Certificate of the Polling Officer under Rule 30 of the Election Rules.

N Sketch of the Polling booth.

O to T. Voting papers Nos 116, 118, 119, 16, 89 and 129.

L. Welsh.

Collector

Enclosure A

To

W. H. Welsh Esquire,
Collector of South Canara.

Humble petition of Martha Bhandary,
Head accountant, Collectors Office, Mangalore,
dated 11th July 1895.

Respectfully Showeth:-

1. That Your Honors Petitioner was a Municipal Councillor of the Town of Mangalore from June 1892 to June 1895 having been elected by the electors of the Codialbail ward in June 1892.

2. That the constituency which elected Petitioner pressed him to stand for reelection, and as petitioner was one of the two Candidates for election in the Codialbail ward at the election held on the 29th Ultimo.

3. That the procedure adopted in the said election was illegal and irregular, opposed to the rules in that behalf

4. That the said election is further invalid, as having violated the prohibitions laid down by rule 36

5. The grounds on which Petitioner

disputes the validity of the election are:-

(i) The state of the health of the Polling officer and his predisposition in favour of Petitioners rival Candidate, deprived Petitioner of the advantage of a fair and free election to which he was entitled

(ii) That the Polling officer failed to maintain secrecy in the voting at the election, though the rules require that "It shall be the duty of the Polling officer to see that the votes are recorded with <u>absolute</u> secrecy"

(iii) That the provisions of Rule No 29 were not complied with, as the ballot papers were not put in the box by the electors <u>themselves</u>

(iv) The ballot papers should have been checked in the presence of two independant Councillors other than the Polling officer. But in this case the ballot papers were checked by the Chairman's delegate, Councillor Mundi Manjunath Kamathy, and by the Polling officer himself, although the services of another Councillor was available at the time in the Municipal office. It may be stated here that the relation of Petitioner and of Councillor, Munjunath Kamathy are far from friendly.

(v) Fraud and intimidation were practised on the electors both before and at the time of the election.

(vi) Strong official influence was brought to bear upon the electors by partisans and relatives of the rival candidate Mr Narna Shetty. One of such relations and partisans, Viz; Mr Krishna Hegade, the Mangalore Division Police Inspector, not content with his exertions in influencing voters before the election day, went and remained on the polling premises throughout the polling time, and thence went with the ballot-box to the Municipal office and stayed there till the declaration was made in that office. Respectable as well as poor and ignorant voters were subjected to official pressure, so constantly exerted by one who showed, by his words and acts, that he had almost identified himself with the cause of the rival candidate.

6. The election of Narna Shetty is not valid, his success having been secured by unfairness, fraud, intimidation and by violating the most important of the Election Rules - Rule 36 (c)

7. The Petitioner prays that under the circumstances, Your Honor may be pleased

to institute an enquiry into these election proceedings, and he humbly hopes that such enquiry will satisfy your Honor that the Petitioner has been a victim of a conspiracy to keep out of the Council, thus defeating the very object our benevolent Government had in view in vouchsafing to us the elective system

/Signed/ Murthoo Bhaudary

/True copy/

Collector

Copy sent 29/7

Collector's order

The date of the Election was 29th June. This question is raised by a Candidate within time.

The validity of the election will have to be enquired into. It is questioned on grounds (a) that intimidation was practised by Krishna Hegade & (c) that the Election was not duly carried out because the voting papers were not folded as required by Rule 29 because secrecy was not preserved and because the Polling Officer interfered with the discretion of the voters - It is also suggested that Mr. Loho Stuckod some names wrong by inadvertence in the case of illiterate voters, because a canvass of the voters shows that there were more voters for the unsuccessful candidate.

—

Forwarded for very Early Enquiry to the Divisional Officer.

(Signed) W. H. Walsh
Collector.

11. 7. 95.

(True Copy)

Collector.

Enclosure A.

S. No 1262/95

To

W. H. Welsh Esquire,
Collector of South Canara.

Humble Petition of Murthoo Bhandary
Head Accountant Collector's Office,
Mangalore dated 12th July 1895.

Respectfully sheweth -

1. That an election of a Councillor for the Codiyalbail ward was held on 29th June 1896.

2. That at that election Mr Narna Shetti has been declared by the Chairman to be duly elected.

3. That your Honor's humble Petitioner was also a Candidate at the said Election.

4. That at the said Election Rule No 23 was disregarded, and the votes were not recorded with absolute Secrecy. The room in which the Polling officer Sat and where the votes were recorded had two big windows on the North, which were left open, and Municipal Subordinates were Stationed near both the windows on the adjoining Verandah and could observe the recording of votes.

5. That the procedure at the Election was also opposed to Rule No 29 which directs that the Elector shall give his vote by placing his ballot-paper

paper folded in the ballot-box." The voters in this case were not desired to place their ballot papers folded into ballot box, and thus the prime object of safety intended by the rule was defeated.

6. That the uncalled for presence of the Taluk Division Police Inspector Mr. Krishna Hegde near the Polling office and throughout the polling-time and his openly espousing the cause of Narna Shetti had the desired effect of intimidating many voters from voting in favour of the Petitioner - That although Petitioner is in possession of evidence to shew that the said Police officer actively in an objectionable manner used his official influence in favour of Mr Narna Shetti against the Petitioner, Yet the Petitioner does not intend producing that evidence, as a prolonged inquiry in the matter may interfere with his heavy duties.

7. The Petitioner therefore begs to state that he would confine himself to two grounds in questioning the validity of the election —

(a) That the presence of Krishna Hegde had the effect of intimidating the voters (Rule 36).

(b) That Mr Narna Shetti was not duly elected (Rule 36-c)

8. That Your Honor's Petitioner therefore humbly prays that Your Honor may be pleased to hold a personal inquiry into the matter and set aside the Election.

/Signed/ Martha Bhandary.

True Copy.

Collector.

Compd
W.S.
29/7

Collector's order

In supersession of the order referring the inquiry to the Divisional Officer it is ordered that inquiry be held by the Collector, & notice will be accordingly given to the Chairman, Polling Officer and successful Candidate that the unsuccessful candidate has questioned the validity of the Election on the Ground (a) that the presence of Krishna Hegade had the effect of intimidating the voters & (c) that Mr Narna Shetti was not duly elected by a majority of votes, on payment of proofs 4 Annas +2 +2 and for witnesses of whom a list must be deposited by noon tomorrow

with all documents which Petitioner desires to file.-

12th July 1895. (Signed) M. H. Walsh.
Collector.

(True Copy)

Collector.

Exc. B

Petitioner 1st witness Surgeon Captain Donovan deposes on oath administered by the Collector himself on the 18th day of July 1895.

My name Charles Donovan.
" Age 31
" Caste or Race European
" Occupation District Medical & Sanitary Officer, South Canara & Superintendent, District Jail, Mangalore.
" Residence Mangalore.

I am Superintendent of the District Jail, and as such my name is on voting list as voter for the Kodial bail Ward. I went to the polling office to vote. I suppose it was on 29th June last. I voted for Mr. Martin Bhandari. I scored out the name of the Candidate I did not vote for. I knew Mr. Lobo. When I wrote the name I handed the paper to him and asked "Is that right Mr. Lobo?" He said it is right, and was folding the paper when I left. I did not see it put in the ballot box. I cannot definitely say so. I did not myself put it in the ballot box. I did not fold the ballot paper. I think the polling officer said "do you know me Dr. Donovan" I said "yes." I asked "Do you Score out the name of the Candidate you are not voting for?" I did not ask him to do anything. After I wrote in the paper, I did not ask him to do anything. The ballot-box was there. Before I went, there was another person there, but I did not see him

Cross Examination:-

fill

fill up a paper or do anything. I did not ask where it was to be put in, nor ask him to put it in the proper place. I did not know anything about the practice at all. I did not notice any other voters. There might have been a policeman or somebody in the room when I wrote "those papers", but I could not be positive. (In the question the Vakil said "those papers", hence the expression is used in recording the answer.) I don't recollect that Mr Lobo pointed out the ballot-box to me. It was in front of him and I was standing on one side. He had sufficient time to have put the paper in the box before I left. I signed name, rank and office as superintendent of Jail. I was told by Mr Murthy Bhandari to put my designation as superintendent of Jail.

/Signed/ C. Donovan
Surgeon Captain
& Medical & Sanitary Officer,
Kanara,
and Superintendent, & Jail
Mangalore.

Taken down by me and read over to the deponent in English and acknowledged by him to be correct.

/Signed/ W. H. Welsh.
Collector.

/True copy/

Collector.

Compd with 27/1

Enclosure C

Petitioner's 2nd witness G. Ramakrishnaya deposes on affirmation as interpreted by V. F. Fernandez, English Head Clerk, Collector's Office, on the 18th day of July 1895.

My name G. Ramakrishnaya.
" Father's name. Ramappaya.
" Age 34 years.
" Caste Shivalli Brahmin.
" occupation. Ag Ver: Hd clerk of the Collectors Office.
" Residence Mangalore Town.

I am No 118 Voter of Kodialbail Ward. I went on 29th June to vote at the Office. I voted for Mr Bhandari. I signed the paper containing Mr Bhandari's name. It was taken by the polling officer. I did not fold it. I don't know what became of it after it was taken by Mr Lobo. I did not put it into the ballot-box. As far as I know the place, sketch A is correct; a is where the polling officer sat; b & b are windows, c the door I came in by. Near the north-western window I saw Municipal Inspector Aroms and a Municipal Sub. inspector or other Servant - a dark man. Near the north eastern window in the verandah sat a Sub. inspector - a fair man. The windows were open and those seated outside could see people scoring out

out papers. on the ballot paper the names were printed one above and one below If one knew the position of names on the ballot paper, he could guess fairly which name was being scored out by looking through the windows. I know Nº 119 Panambur Seenappaya and 116 Invalli Venkatrao, my caste people and neighbours, and Mr Krishna Hegde Inspector of Mangalore Taluq. Nº 116 and 119 have lands in Mangalore Taluq.

Cross examination

This is the second time I voted. I voted last year when Subba Rau and Xavier Saldanha were candidates. I don't remember how Mr Graham conducted the voting. I don't know the rules. I know that I had the right of voting without anybody's knowledge. I am not acquainted with the rules. I never read the rules. I had other work and no interest in it. I have worked for 12 years. I only know of one occasion of a dispute. I do not know what the point of dispute was: it was some other irregularities that were in question between Messrs Shiva Rau and Rama Rau. Mr Bhandari is here ever since I was in the office. He never told me how to vote and I never asked. I did not care. I did not ask Mr Lobo. Mr B. Shri never said how the paper

paper should be put in the box. I don't remember seeing the ballot box. I saw papers on the table. I was in a hurry. I stayed less than 3 minutes. I did not notice what went on. My intention was to come quickly to count. Q. When you handed the paper to Mr Lobo what did you tell him to do? A. It was taken by Mr Lobo who put the number on the paper and then said "good morning". I did not say what should be done with it. I don't remember a ballot box first time I voted. I know that there is a box and that papers should be put in. I did not know the voter must put them in. Now I have read the rules after Bhandari spoke to me a week or two ago. Mr Bhandari asked in what manner I voted. I said I did so and so. I did not myself care to see that the paper was put in the ballot box. I sat east of the table which was before the officer. I struck out a name and handed paper to Mr Lobo who wrote Nº 119, I think. I faced west when I wrote. I did not observe any body looking at what I was scoring. I did not notice if the box was on the table. I sat 2 or 3 yards from the window; 3 or 4 yards from the nearest and 4 or 5 ~~yards~~ from the more distant at which the Sub-Inspector sat. The Inspector had a list in his hand and the sub Inspector a paper. A

fair

fair man Sat doing nothing that I Saw nothing at the other window. I don't recollect if he had anything in his hand. Rama Shanboque went in before me. When he came out I walked in. I only heard that Seenappa and Venkatrao have property in the Village. I am in charge of Revenue work, Head Clerk for nearly a year and passed Revenue Higher.

Re-examination.

I did not look to see whether people were observing me or not when I was scoring out the name. After I gave my vote I read the rules. Mr Bhandari is in a different department with which I have nothing. I was 2nd Vernacular Clerk before I was Head Clerk. I pay about Rs 500 assessment.

By Court.

I stood about a minute in the Verandah before I went in.

Cross-examination

My lands are within Krishna Negoc's jurisdiction.

Vakil for Counter petitioner wishes to See the voting papers. Four have been taken out.

Cross-examination

Besides the two names there are 3 lines above the candidate's name and 2 or 3 below. This is the paper I gave that day. No alteration since. By looking at ballots papers

118 and 119 I See that the name of Mr Marthu Bhandari appears to have been struck out in them.

/Signed/ G. Ramakrishnaya

Taken down by me and read over to the deponent in English and admitted by him to be correct.

/Signed/ W. H. Welsh.
Collector.

/True Copy/

Collector

Compd
pub
27/1

Enclosure D

Petitioner's 3rd witness Shivappachari deposes on solemn affirmation administered by N. C. Fernandez, English Head Clerk, Collector's Office, on the 28th day of July 1885.

—

Dm/name - Shivappachari.
" Father's name. Timmanna chari
. Age ..... About 40 years
. Caste or Race - Goldsmiths.
. Occupation. Goldsmiths.
" Residence. Bolar in Mangalore Town.

I am Voter 129. I went to vote on 29 June last. I am not acquainted with Krishna Hegade. I voted for Mr Martha Bhandari. A Christian was polling officer. I don't know his name. He asked for whom I voted. I said "for Martha Bhandari". He said "are you not going to vote for Nanna Shetti?" I gave no reply. He gave me a paper and told me to sign. I signed the paper. I did nothing else. That paper remained with him. I never peeped into any name I merely signed the paper

Beyond

Beyond signing I did nothing. I did not fold nor put it in box. I did not see any one fold the paper and put it in the box. I signed and the paper remained with him upon which I walked out.

Cross Examination.

I only know a little Canarese to read. I dont remember at what hour I went, for I was in great anxiety as my wife had miscarried. I dont remember whether I went alone or in company. I dont remember which part of the school I went into. There was a table in front of the office. I dont remember seeing a ballot box: nor what all there was upon the table, for many days have passed. I cannot enumerate all that I did from that day to this. Mr Bhandari asked me to give my vote; so did Rama Shetti. I came to no decision till I arrived at the spot whom to vote for.

I dont remember whether Bhandari or Rama Shetty spoke to me afterwards. I stayed a quarter of an Indian hour at the office and did nothing but sign my name. Dont remember whether Bhandari was at the office. Rama Shetti requested me at the office to vote for him. I pay three rupees assessment or patter professional tax.

Re-Examination

Qestn. Is this your signature in the ballot paper taken out of the bundle at the request of Mr. Rama Shetti's pleader under Sec: 163 Ev. Act this question is objected to.

Signature of Shivappachari.

Taken down by me and read over to the deponent in Canarese and admitted by him to be correct.

(Signed) W.H. Welsh
Collector.

(True Copy)

Collector.

Compd
Lucky
27/1/07

Enclosure E.

Case No

Petitioner's 4th witness, Alli Khan, deposes on oath administered by A. P. Fernandez, English Head Clerk, Collector's office, South Canara, on the 18th day of July 1895

My name .. Alli Khan

" Father's name - Hussein Khan

" Age — 48 years

" Caste or race - Muosalman

" Occupation - Timber merchant

" Residence - Kudroli

I am voter 14. Mr Lobo was polling officer on 29th. I voted for Bhandari. The officer asked for whom I voted. I said, — "Bhandari". He gave me a paper and said "sign it". I said "is it not necessary to score out a name on the paper?" He said he would himself score it out. I then scored a name at myself. He took the paper from my hands and I went away. I did not see it folded or put in the box. I did not fold it or put it in the ballot box. I know Police Inspector Krishna Hegade. I saw him there that

day in a small house close by: he was going in and out and talking to ~~to~~ people going to and fro; to some that passed. I went at half past 11 A.M; but I was unable to vote then on account of the press of other people; so I went again at 2 P.M. On both occassions I saw Krishna Hegade in the yard in front of that house and also coming to the road.

By Court - He was not in uniform. There were 2 policemen at the gate through which voters passed. He was in favour of Karna Shetti's side and not of Bhandari. All the voters of my neighbourhood congregated beside him.

Cross examination - The polling office is 8 fathoms from the road. The house where Krishna Hegade was, is 5 or 6 fathoms from the polling office. I was waiting for ½ hour or so first time; the second time I was there ¼ hour or less. I cannot name the persons with whom Krishna Hegade talked, nor do I know the particulars of the talk. I did not see the ballot box. I do not remember where it was kept. The officer sat on a chair on the South with papers on the table. I do not know whether a box was there. On 4 or 5 previous occasions I have voted I don't remember whether on previous occasions I gave the paper to the officer's hand or put it in box. My brother Moidin was with me and voted. There were — people present in the window: but inside, there were 3 that is the polling officer, the Moslem peon, my brother and myself. He is a municipal peon; he was standing there. I do not know his name. My brother is in the Collector's office. I do not know under whom he works, nor whether in the Account Department. I did not ask the polling officer where the ballot box was. People in the verandah could see whether there was a ballot box or not,

but those out in the yard could not. About 10 or 12 were present when I first came there and returned. I don't remember how many were present the second time. I may have seen ballot boxes on previous occasions but I cannot remember their size. I stood on the north or right side

Re Exam^{n}. Ayath Khan. my brother and I are not divided yet, as father died only the other day; but we have lived separate for 5 or 6 years.

Signature of Alli khan

Taken down by me and read over to the deponent in Hindustani and admitted by him to be correct

(Sd) W. H. Welsh
Collector

/True copy/

Collector

Compared by me
Copied 4
Ent 147

Enclosure F

Case No

Petitioner's 5th witness Abdul Khadir deposes on affirmation administered by N. P. Fernandez, English Head Clerk, Collector's office, on the 18th day of July 1895

My name - Abdul Khadir
" Caste or race - Navayat (Mahomedan)
" Occupation - Cloth merchant
" Residence - Mangalore Town.

I am Kodiyalbail voter No 16. I went to vote for Bhandari on 29th. The polling officer asked for whom I came to vote. I said for Mr. Bhandari. He told me to sign the paper. There was no further conversation between me and that Christian officer. I told him that he could himself affix my mark, because I cannot write. Then he told me to go away. I did not see any name being scored. I did not fold the paper and put it in the box. I did not see any body fold my voting paper and put it in the box.

cross examination - I went about half

past

past 11. I saw a table and on it box half a hand in size and black. I do not remember seeing a hole in the top of it. I did not go near it. He was on the opposite side of it to me when I went in. A chair was on the right. I stood as near as I am to this table. I don't recollect seeing any one else there.

Question. "Is that the paper which you signed?" (Filed for counter petitioner)

Question objected to, but allowed.

Answer — This may be the paper.

Re-examination. The officer never put that paper in my hands

Taken down by me and read over to the deponent in Konkani and admitted by him to be correct.

(Signed) W. H. Welsh.
Collector.

Deponent sworned away when the deposition was being handed to him for signing, so his signature could not be taken.

(Signed) W. H. Welsh
Collector.

copies
25/7
27/7

(True Copy)
Asst.
Collector.

Enclosure G

Petitioner's 6th witness Kencha deposes on solemn affirmation administered by N. P. Fernandez, Head English Clerk, Collector's Office on the 10th day of July 1895.

My Name — Kenchappa
" Father's name — Shinnaya
" Age — 35 years.
" Caste or race — Heggade Caste.
" Occupation — Police Head Constable No. 128.
" Residence — Mangalore Town.

I went to keep order on polling day about half past nine in the morning. Inspector Krishna Hegde was there and stayed till 4 P.M. He was standing on the road but I don't know what he was doing there.

Cross Examination.

I was near the gate, which is near the road to keep order. The Town Inspector came too to keep order. Krishna Hegde was there at 12. I saw him then and again at 4 P.M. I can't say for how long I saw him on the road. I did not see him there before or after. He was not in uniform.

Re-Examination

I did not see him present at half

past

past 9. I cannot say whether it was possible for him to have been there without my seeing him. There is another building in the yard besides the office which I think is a school. I did not go to that building.

By Court

The Town Inspector came at 9½ a.m. and stayed till 4 like me. He was in police uniform. I did not talk to voters nor did I see the Town Inspector talk to Voters. I saw him talking to people but I don't know what about. I did not see whether the Taluk Inspector talked to anyone nor whether he had any duty there or not.

(Signed) Renchappa
H.C. Constable
in Canarese

Taken down by me and read over to the deponent in Canarese and admitted by him to be correct.

(Signed) W. H. Welsh
Collector.

(True Copy)

Collector.

Compd. MK

Enclosure H

Petitioner's 7th witness Abdul Hussein deposes on Solemn affirmation administered by N.P. Fernandez, English Head Clerk, Collector's Office, South Canara, on the 18th day of July 1895.

My Name - Abdul Hussein
" Father's Name - Muhammad Saddakh.
" Age. 35 years.
" Caste or Race. Mussalman.
" Occupation. Petty contractor.
" Residence. - Bokkapalan in Mangalore Town.

I live 6 fathoms from the polling office. Inspector Krishna Hegde was there from 10 to 12 and from 2 to 4. He was in a house at about 8 fathoms from the office. People were going to that house, that is, the people who were come to vote. He received them there; he went to their conveyances and led them in. Mr Narna Shetti also came to that house.

Cross Examination.

I live in Kudroli Ward. I have no vote. My house and yard is my only property. I do not pay profession or income tax. For house tax I pay jointly with my 2 other brothers. Mother is the registered owner. I did not go into the polling office. I had to pass to and fro going to the Mohorrom Pandal. My house is 100 fathoms north of the polling office. The pandal is also

100 fathoms south of the office. I cannot state exactly how many times I had to go to supervise the work; it might be 10 times. I had no business that day at home. I had to fetch materials from my house. The polling was on the Mohorrom fifth day. Once or twice, as I passed, I stood there for a while as there was a congregation of people. I cannot name those whom Krishna Hegde took into the house. He went to 7 or 8 conveyances to receive the occupants. I don't know if there was any great friendship between him and them. I am not acquainted with them. Krishna Hegde asked them to vote in favour of his son-in-law. Krishna Hegde speaking to these people used the Canarese word "aliya". Krishna Hegde had on a white waist cloth and Khaki coat. I am not related to Ayath Khan.

Signature of Abdul Hussein

Taken down by me and read over to the deponent in Hindustani and acknowledged by him to be correct.

(Signed) W. H. Welsh
Collector.

(True copy)

Collector

Compd
pt 4
32/2

Enclosure I

Petitioner's 8th witness Madava Pai deposes on solemn affirmation administered by N. P. Fernandez English Head Clerk Collector's office, on the 18th day of July 1895.

My Name — D. Madhava Pai
" Father's name - Ramachendra Pai
" Age 25 years
" Caste or Race Konkani Brahmin
" Occupation Assistant-Draughtsman, L. F. Engineer's office.
" Residence Mangalore Town.

I made this sketch of the polling office. So far as I know it is correct. I measured distances. b b are windows; c is door. The window west of c has no shutters. The breadth of the room is 7 feet 9 inches, length 23 feet 9 inches. The windows are 3 feet 10 by 4' 10'

By Court

There is another building in the compound

Cross Examined

I went because Bhandari asked me this morning. He paid me nothing. I went as a friend at his call. He is not my kinsman. I did not see the place before on polling day. I did not mark out the places where he

told.
me except the place where he said the officer sat which cannot now be measured. I don't personally know that that building was utilized for polling. That is the veranda in front of the School. There is nothing but a very narrow veranda behind. There is a large compound I did not measure it. The other building is on the north-west. I don't know if it is occupied.

(Signed) D. Madhava Pai

Taken down by me and read over to the deponent in English and admitted by him to be correct.

(Signed) W. H. Welsh
Collector.

/True copy/

Collector

Encl. to Comptr's Letter 27/7

Enclosure J

To,

W. H. Welsh Esquire,
Collector of South Canara.

Petition of K. Karna Shetty Municipal Candidate at the late election of the Kodialbail Ward, dated 20th July 1895.

In reply to Mr. Martha Bhandary's Petition No. 1262/95 the Petitioner begs to state:

1. That it is not true as stated in para 4 of Mr. Bhandary's Petition that Rule No. 23 was disregarded and that Municipal Servants were stationed in a position from which they could observe the recording of votes. Even if this were true it is not a ground on which the election could be questioned (vide Rule 36 and G.O., dated 17th January 1887, No. 46 Mis: Local and Municipal, embodied in G.O., dated 26th May 1887, No. 489 M.)

2. That the irregularity pointed out in para 5, even if true, is not a ground on which the election can be questioned.

It is not shown nor alleged that by the alleged irregularity any papers on which votes were recorded were lost. Only 109 electors appeared at the Poll and the same number of ballot papers were found in the ballot box at the time of counting under rule 31.

3. That the aspersions made against Police Inspector Krishna Negade are not true. As, however, it is not alleged that he intimidated any of the voters, the aspersions are useless and only intended to harm the officer, if possible.

That the allegation that the presence of Mr. Krishna Negade near the polling offic had the effect of intimidating the voters is not a ground on which the election can be questioned under Rule 36, which requires proof that intimidation was practised at the election. A similar objection was held by the above quoted Government orders to be not sufficient to invalidate an election.

That it is not alleged in the Petition of Mr. Bhandary that any fraud was practised at the election and the 2 grounds on which it is based fail for the above reasons.

This Petitioner, therefore, prays that as he has obtained 58 votes while Mr. Marthu Bhandary has secured only 57, a report upholding the declared result of the election may be made to Government.

(Signed) K. Narna Shetty

(True copy)

Collector

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Enclosure K

Counter petitioner 1st Witness A.P. Lobo deposes on oath affirmation administered by N.P. Fernandez, Head Clerk, Collector's Office, on the 20th day of July 1895.

My name A.P. Lobo
" Father's name Lawrence Rabka.
" Age 54
" caste or Race. Roman Catholic Native Christian.
" occupation Central Nazir, district Court Kanara.
" Residence Mangalore.

I am a Councillor and have been so about 6 years. I was elected. I am Central Nazir of the district Court. I pay 600 Rs in Mysore, and 1000 in South Canara as assessment, as income tax Rs 40 or 42 and municipal tax about 100 inclusive of house tax. I was appointed polling officer for 29th June for the election at Bokkapatna. Mission School from 10 to 12 and from 2 to 4. The procedure adopted by me in recording votes or taking papers was according to the rules. I had to ascertain whether the voter was a voter in that ward or not. I had to observe perfect secrecy after they came in until they left the place. When any voter entered I asked his name, I referred to the register to see if his name was entered, and

and made a mark in red pencil against his name in the list. When I gave the voting paper, and told them to score out the name they did not like to elect. There were 2 names I told them to sign their names and point out Sometimes the proper place, afterwards to put down the number in the list. After it was blotted I asked them to fold it and put it in the ballot box. Then I told them to leave to make room for fresh voters. I came to know them were coy. The chairman counted papers and I was counting the list and another councillor marking. My list quite tallied with the numbers stated by chairman. All the voters were not literate. In the case of the illiterate voters I showed them the two numbers and asked for whom they voted. After they told me, I scored the name of the candidate for whom they did not like to vote. Then I showed them the scoring and asked them to put their signatures or marks. I wrote whose mark it was. At one time only one voter entered the room. No one was in the room besides me and the voter for the time being. During the whole time there was no one except once when a Mussalman peon brought in a lame man and took him out. When two or more had a single vote they were admitted together according to the register. When I questioned illiterates there were no persons about who could hear my talk. I spoke very low and they answered in the

Same

Same style. I sat close to the eastern wall facing west. This box was on the table by my left side. At first for about five minutes before polling commenced, the town Police Inspector sat in the verandah near the door facing me. After polling began he left the place. The Municipal Inspector sat in a corner in the verandah out of sight in the southern end of the verandah about a yard from the southern of the two windows facing me. The breadth of the verandah is 6 or 7 feet. The Inspector sat about 12 feet, about 15 feet from my table. He sat there all alone for identifying the voter and to call out "number so and so" that I might mark the list. He could not overhear my talk with electors as we were speaking low. He could not see the scoring by a voter or by myself. Another sub Inspector stood in front of the other window 2 or 3 feet from it. He was there because sometimes I used to ask him the number, for calling the number given me by the Inspector. He was about 14 feet from me. He could not overhear because we talked in a low tone, nor see scoring. He could see people writing, holding the pen but not the particular persons scoring. The Inspector never looked in. The sub Inspector occasionally looked in. At the time of answering he looked at me or he may

look

look at the voter. I did not particularly notice if he looked in at the time of the scoring; if he wished he could see what was done by the voter. I did not take particular notice whether he looked at the voter when he scored the name. When he answered he was looking at me when the voting was closed. I do not know under whose orders they were there. I asked the Chairman. There was no one else in the verandah besides the Sub Inspector, the Inspector and voters who came in one after the other. I gave Mr Donovan the paper; he wrote it down and showed me if it was properly written. I clothed the paper and folded it and I think I must have put it into the box. I know as per rule I gave the paper into Ramakrishnaya's hands to score and sign. I remember that the paper was put in before he left the place; but whether by him or by me I cannot recollect. I don't know Shivaprachar those who could read and write did the scoring themselves. I do not suggest to any for whom they should vote. When electors mentions any particular candidate for whom he wanted to vote I do not refer to the other name. The candidates came to vote. Neither of them complained to me of irregularity, or municipal servants looking in at the windows. At the close of the Poll I declare that the Poll was conducted according to the rules. One candidate was present I sent for Mr Bhandari and told him I sent for him, because I certified according to the rules and neither of them objected.

Exhibit II

I signed at 4 P.M. then and there. When the votes were being counted I do not see the candidates. Their partisans were present. No objection was raised.

(Examination in chief about the voting papers, postponed)

I and B proposed till after cross-examination.)

The signing took place at one table. In the case of illiterate persons I signed the very name suggested by them and no other name.

Cross-examination.

Plan A looks correct. I don't know about the measurements. The windows marked b are windows. Those on the south were closed as I was a little weak for draught. The windows west of C had shutters, but they were not closed. That East of C was open. The west windows were open. I did not ever measure the room. When each voter came to vote, I did not take particular notice whether municipal servants were looking through the windows or not. I did not tell any one not to look through the windows. I did not observe them looking at them. They could not possibly see from such a distance, but they might have seen the process of scoring. I was just opposite door C. The voters were opposite to the window East of C. I did not make an experiment whether I could have been overheard, as I was personally satisfied. There was no stool. There were two chairs right and left of me. At no time from 10 to 12 or 2 to 4 was the ballot box on the chair except when I took it out, for the sick man Ghulam Haidar came in a carriage and I took it to the verandah. The coachman was

was there and the Inspector and sub Inspector no one else. I gave him the paper. He scored and signed. I did the handling of paper through the peon because he was a sick man. I think the paper was already folded. I don't recollect whether the peon folded it. I read the rules three days before. (Rule 26 was also 30) I had distinct recollection of rules 26 and 30. The reason why I did not observe rule 30 is that I tried some of the voters and they were taking so long. Dr. Donovan came about 3 P.M. I did not think he would not be able to fold the paper and put it in the box. Ramakrishnaya came before 11. I don't think him incapable of folding a paper and putting it in the box. The sub Inspector was often at the veranda. I don't know if he was continually. I did not go on the veranda to experiment whether he could see the scoring. I did not invariably ask the sub Inspector for the number before putting it down. Some of the voters did not bring a slip of paper which the Inspector had given. When they brought such a slip I had no occasion to refer to the sub Inspector. I remember no instance when the sub Inspector was not at readiness to answer at any stage of polling. Thirty or twenty five voters had no slips of paper. The people generally signed in black or mixed; there were two inkstands there or there were mistakes in dipping or in the pen itself. I was not checking with red ink. I also committed mistakes with dipping the pen. I remember an instance where a voter changed pens. I do not remember any such instance. I used to tell them not to dip. I told them not to dip in the wrong inkstand after they had dipped. I do not remember any such instance. In voting paper 129 the name was

Scored

Scored in pure red ink not mixed, and I put the name in red ink and the voter Shivapachar signs in black ink. Bhandari came after I signed certificate II. No one came and said he was Bhandari's agent before I signed. Question When you knew there was a violation of the rules, did it not strike you that you were signing a wrong certificate? Answer No, it did not strike me. I did give illiterate people the pen and told them to score out names themselves. I told to several and they asked me to score it. There was a woman and I did not ask her; there were some who were perfectly incapable of handling paper. I did not ask them, those who were a little illiterate I did ask. Some who came were not capable of striking out a name; they were such blockheads as to strike the whole paper. There was no instance where a paper was spoilt. I merely thought they would. I put in Dr. Donovan's paper when he was present in the hall, but whether he took notice of it or not I cannot say. I don't know when Bhandari came; it might be afternoon and in the distance in the veranda when the doctor came. He sat as far as the veranda, but many others did not during the whole time of polling: Third persons never came near the veranda. Except Bhandari I saw no other person. I saw Bhandari come near the Inspector. I did not object to his coming there. M Manjunath who assisted the chairman was the only one present besides me and the chairman when the lists were being checked Mr Manjunath said about a voter he has been already marked. The

papers

papers were not again checked; but after some discussion we proceeded on. Bhandari was not at the Municipal Office to my knowledge. Mr. Krishna Hegde was. Before I left the polling I did not ask if any one had complaint to make. I was on sick leave. I had lately had influenza. I was not on sick leave then but was only coming to court for a short time; the after effects of influenza not having passed. I did my duty mostly at home. I have financed 20, or 25000 which I owe on my Mysore Estate.

Re-examination.

The sub Inspector could observe from a distance whether a man was writing. It was impossible for him to observe what name a man was scoring. Ghulam Haidar had a severe attack of leprosy. I was five or six feet from him and 6 from his carriage. The peon dropped the papers in. I scored names for about 20 voters. I thought they would not be able to score properly. I folded papers and put them in the box in 20 or 25 cases. With their consent and knowledge and their special request I can say in some cases I did it so. I say I broke no rule. 129 was scored in red; there were two inkstands; I don't recollect how it happened in that particular case. I do not know who supplied slips to the voters. I did not know Bhandari was a voter when he accompanied the doctor. I thought perhaps he came to guide the Stranger gentleman. Mr. Manjunath at last said "By mistake I must have marked that". I saw Krishna Hegde in the Municipal Council room not in uniform. Narna Shetti was there. I saw him after he was declared successful. The Chairman had a list of numbers comparing it with the numbers of the voting papers. My weak health did not interfere with my duties but I was not so active. Rs 6000 or 7000 is due to me. The annual income for the Mysore estate is 9 or 10,000. That of my lands here is 3 or 4000. The loan of 25000 is for the upkeep of the estate.

Chief.

I did was marked in the polling office. I gave the pen to be held by the voter and then I marked the paper. In the case of I a the signature is partly in red and part in black for No 116. In the case of Exhibit-B I don't recollect who scored the name of Murthy Bhandari.

/Signed/ A.P. Lobo.

Taken down by me and read over to the deponent in English and acknowledged by him to be correct.

/Signed/ W. H. Welsh.
Collector.

/True copy/

Collector

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Enclosure 4

Contd. p[ar]t[icu]l[a]rs 2. Witness A. C. Aarons deposes on oath or affirmation administered by N. P. Fernandez, English Head Clerk, Collector's Office, South Canara, on the 20th day of July 1895.

My Name. A. C. Aarons
" Father's Name. C. Aarons.
" Age. 53
" Caste or Race. Protestant Christian.
" Occupation. Municipal Inspector.
" Residence. Mangalore.

I have been Inspector more than 26 years. I was at the booth from before 10 till after 4 under the orders of the Chairman to identify voters and send in one at a time and the next to be admitted only after the first came out. I sat at the north-west corner of the veranda, 6 or 7 yards from the Officer. I could not see him. I saw no voter scoring. I overheard no conversation between voter and Officer. Sub. Inspector Subba Hood beside me. No one else was there but voters. I do not know if he was looking in at the window and watching voters scoring. We were close together, so if I could not overhear conversation, he could not. When two voters came at once we had to keep one back till the other came out and we gave him a seat close to us. I don't know whether he looked in: he was not "allowed by us to look." From where he sat he could not see or hear. Bhandari was there occasionally; he voted in the afternoon. Nama Shetti was there.

No one complained of our looking in. Once before there was polling in that house with similar arrangements when Mr. Graham was officer.

Cross Examination.

The plan is about correct. It is correct. I do not know the measurements. The Veranda is 6 or 7 feet, Six feet. There was a bench outside the window east of C. There was only one chair near the window west of C besides my chair, but there was a space of 4 or 5 feet between the window and the end of the wall. I did not suspect at any time that any one would see the scoring through the window. I did not try the experiment whether one who knew the position of the names could judge of the scoring. I never had occasion to tell any voter not to peep through. It did not strike me to see that they did not. I am sure no voter saw scoring through the window. The reason they should not peep is that the rules prescribe secrecy, and if they had peeped through they would have violated the rule of secrecy. Sometimes a Sub-Inspector came to the veranda to the east of door C: Sometimes he came to speak to me. He had come to that veranda and I called him to me and asked him why he had come there. He said it was near the time for his meals near 12 o'clock. He was not present there the whole time. I did not put any Sub-Inspector there. I am not certain whether any Sub-Inspector was not in the veranda to the east of door C during the time the voters were scoring. I was looking towards the road and had turned my chair that way. Some of the voters who were waiting stood up and some sat. Never more than 2 were waiting in the veranda. I placed 2 tables and 3 chairs for the polling officer; and I did not see a stool. There was a big table for the officer, a small table for the ballot box. The big table was a little east of door C. The position of table is correct but it should be a little closer to the wall. The table for the box was on the east d. I cannot say if it was level with the polling officer's table or lower or higher. The voters came to the east of the officer; there was a chair on the east for the voter and one on the west for decency's sake. I don't know if the voters went to the east or to the west. Sub-Inspector M. Manjanalaya came on to the Veranda besides myself and Kadri Subba, Sub-Inspector. Manjanalaya is of Central Ward. Annu, Sub-Inspector of Kodialbail Ward was there. I cannot say whether both the planks of the window shutters were open. I don't remember whether the shutters of the window west of C were closed or not: it has shutters. Sub-Inspector Kadri Subba of Golikatta was with me. No Sub-Inspector gave

the names of voters that went inside nor their numbers to the officer. I was in the veranda Except when I went out to the road to call for fresh voters: I was in the veranda all the time of the voting. I don't think any of the Sub-Inspectors gave the name or number of any of those 109 voters to the polling officer. In Mr. Graham's time I was allowed in the veranda and a Sub-Inspector also. I saw Krishna Hegde 35 or ten 40 feet from the polling office. Now and anon I went out in the road when there were no voters. I saw him twice about 11 o'clock, no once at 11 o'clock and again in the evening. I cannot say whether he was there or not between 11 and 4. He was not a voter of the Ward. I saw him again in the Municipal Office. I don't know if he accompanied the officer for the polling office there.

Re-Examination.

The veranda benches were school benches. I don't know who put them there and I did not see them occupied.

(Signed) A. E. Aarons

Taken down by me and read over to the deponent in English and admitted by him to be correct.

(Signed) W. H. Welsh
Collector.

(True Copy)

Collector

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Enclosure N

Certified that the election for the Codiyalbail ward was held this 29th day of June at Bokkapatna Kudroli School in my presence and was conducted in accordance with the rules.

(Signed) A. P. Lobo
Polling Officer.

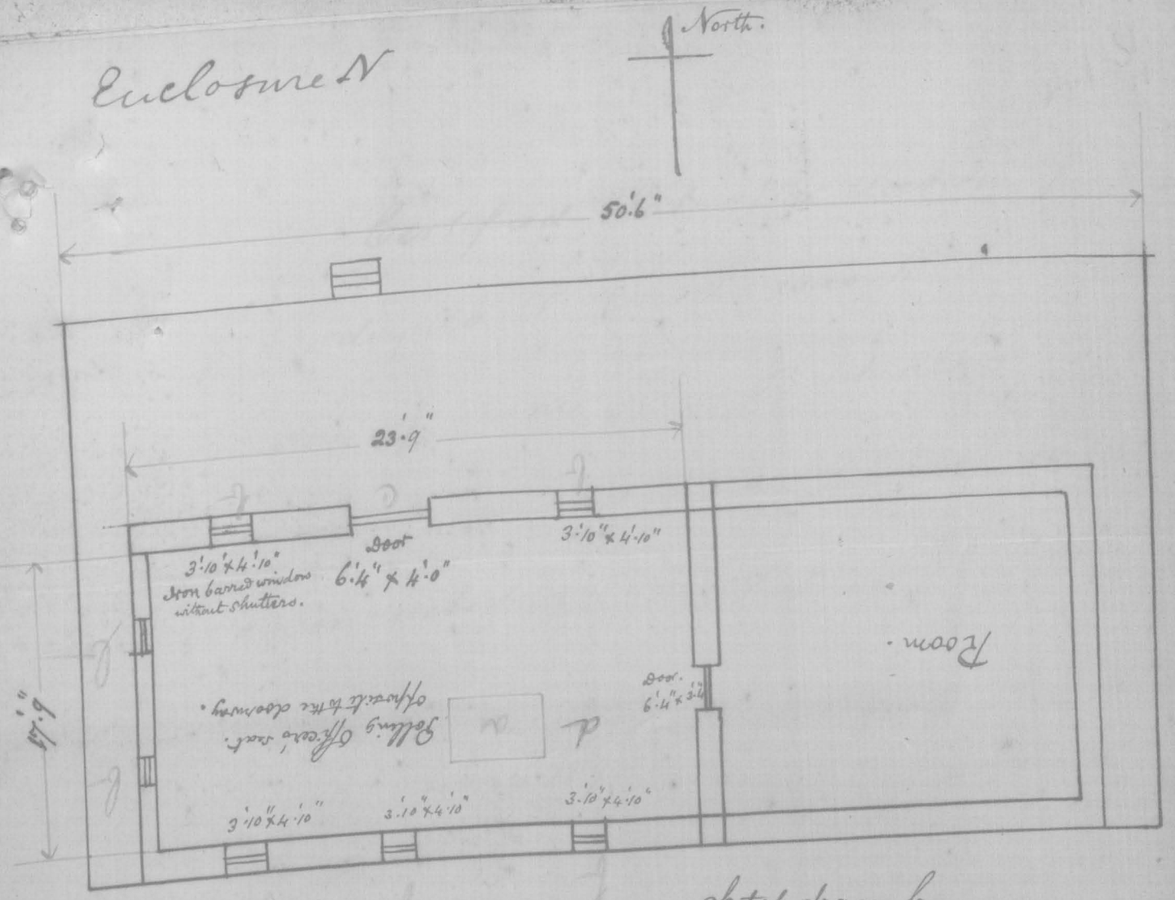
29th June 1895.

(True Copy)

Collector

Comp
with
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Enclosure N



Sketch drawn by
D. Madhavadas.

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Enclosure.

Extract
In ~~a letter~~ from the ~~Ag.~~ Collector of South Canara to the Secretary to ~~the Commissioner of Land Revenue~~, Madras, dated 29th July 1895
No. 1659 of 95.
Encl.

Current no. 1659 of 95.
Encl.

Mangalore Municipality

Under No. 34 of the Rules for Election of Municipal Councillors, by Wards.

Statement showing the particulars of elections held during the month of June, 1895, for publication in the Fort Saint George Gazette, of the names of the candidates duly elected.

Name of the Municipality	Name of ward.	Date of vacancy	Cause of vacancy.	Date fixed for election.	Number of registered voters	Number of voters who exercised the privilege	Names of candidates.	Number of votes obtained.	Names of candidates duly elected.
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
Mangalore	No. II-Golikatte	29th May 95	Death of M.R. Ry. N. Gundu Rao Avl.	27th June 1895.	230.	No poll taken under Rule 22 (b).	1. M.R. Ry. N. Shrinivas Rao Avl.	No poll taken under Rule 22 (b).	M. R. Ry. N. Shrinivas Rao Avargal
							2. Muhammad Usman Sahib.		
	" V- Court	21st June 1895.	Expiry of three years term of office.	28th Do	110.	69.	1. Mr. D. Vaz	27	Mr. Casimir S. Brito.
							2. " C. S. Brito	40	
	" I- Codialbail	"		29th Do	135.	109.	1. M.R. Ry. M. Marthoo Bhandary Avl.	51	M. R. Ry. K. Narna Shetty Avargal
							2. " K. Narna Shetty	58.	
	" VII- Cantonment	"		1st July 1895.	71.	No poll taken under Rule 22 (b).	1. Mr. A. E. C. Vas.	No poll taken under Rule 22 (b).	Mr. J. S. Albuquerque.
							2. " J. S. Albuquerque		
	" VIII- Jeppoo	"		6th Do	75.		1. M.R. Ry. A. Sankappa Punja.		M. R. Ry. A. Sankappa Punja Avargal

Municipal Office,
Mangalore, 19th July, 1895.

No.

To

The Chief Secretary to Government,
Local and Municipal Department, Madras.

Chairman
Municip

Local and Municipal Department.

Municipal Department.

From

The Chairman,
Municipal Council,
Mangalore.

To

The Chief Secretary to Government,
Local and Municipal Department,
Madras.
(thro the Collector of S. Canara).

Dated 19th } July, 1895.
Despatched 22d }

No. 448 of

Subject:-

Municipal Elections. - Submitting, for publication in the Fort St. George Gazette, the names of the candidates duly elected as Councillors at the - held in June, 1895.

Reference on Current No. 1659 of 95.

Judgment No

Local & Municipal Dep
CURRENT No. 1484/95.

Forwarded with the papers shewn in the appended list marked A to T.

2. In the case of the Golikatte, Cantonment and Jeppoo Wards Messrs. N. Shrinivas Rao, J. S. Albuquerque and A. Sankappa Pinja were unopposed, and having been duly nominated are to be deemed to have been elected under Rule 22 (b).

3. In the case of the Court Ward the out-going Councillor Mr. D. Das who sought re-election was opposed by Mr. Casmir S. Brito, and the result of the ballot was declared by the Chairman under Rule 31 to be:

Mr. D. Das ... 27 votes.
" C. S. Brito 40 "

4. No objection was raised after the election to any of the above returns, but M. R. Ry. Martha Shandary, the unsuccessful candidate for the Codiabail Ward, presented a petition to me on the 11th July

(Enclo: A) under Rule 35 appealing against the return of M. K. Ry. K. Nanna Shetti on the following grounds:-

(a) that the presence of Krishna Hegade, Police Inspector, near the Polling Office throughout the polling time had the effect of intimidating the voters

(c) that the said M. K. Ry. Nanna Shetti was not duly elected by a majority of votes.

5. With regard to the first ground, it has to be noted, that the election was not held with absolute secrecy. As admitted by Counter-petitioner's own witnesses, the voting papers were filled in at a table within five yards of an open window. The electors had their backs to the door and windows. Two Sub Inspectors were at times near the windows (a Municipal peon seems also to have been near); and when some of the electors were voting, Sub Inspector Manjunatha stood at the Easternmost of the windows and spoke to the Polling Officer giving him the number of the voter. This Sub Inspector's presence seems to have been unauthorized and superfluous, since the Municipal Inspector saw to the correct number of the voter being called out, and Sub Inspector Annu was on duty to admit voters in a continuous file, while there were Police — stationed to keep order.

6. I think Sub Inspector Manjunatha could have seen whether an elector struck out the upper or the lower of the two names of candidates, or could have overheard instructions given by illiterate persons. It appears from the evidence for petitioner, and it is not disputed, that Mr. Krishna Hegade was present on the road within a few yards of the polling room during part of the polling time in the forenoon and also in the afternoon receiving voters. On the

supposition that he was in league with Munici-
-cipal servants to intimidate those who would
support Petitioner, his mere presence could
not effect anything if secrecy were observed,
unless indeed oppositon electors were afraid
even to go in. There is no evidence that any
elector was really intimidated. So it can-
-not be said to be proved that his
presence had that effect; but the non-
-observance of secrecy, the fact that
people in the verandah might look at
the voting or over-hear instructions to
the Polling Officer, would undoubtedly
make it possible that intimidation
should be practised. Mr. Krishna Hegade
had no official duty to perform at the spot,
a separate Police Inspector and Constable
being present to keep order. It is not denied
that he is a relative of counter-petitioner.

7. Petitioner says that the
election was not duly conducted because
rules 25 and 29 for disposal of ballot

papers were not observed. The numbers o
each side were nearly equal and the transp
of four votes to his side would have given
Petitioner the seat. Petitioner's 3rd witness
Shivappachari says that the Polling Offic
"asked for whom I voted. I said 'for
"Marthu Bhandary'. He said, 'Are you not
"going to vote for Nanna Shetti'? I gave
"no reply. He gave me a paper and told
"me to sign. I signed the paper. I did
"nothing else. The paper remained with him
"I never scored out any name. I merely
"signed the paper. Beyond signing I did
"nothing. I did not fold nor put it in
"box. I did not see anybody fold and
"put it in the box. I signed and the paper
"remained with him." This testimony was
afterwards corroborated when the voting
papers were opened at the request of the
counter-petitioner and four taken out. Peti-t

-tioner asked for Shivappachari's paper. It is singular that voting paper - 129 - is signed by this witness in black ink, but that the name of Petitioner is struck out in red ink, the ink used by the Polling Officer. Witness says he voted for Petitioner yet the paper votes for the successful candidate.

8. The 4th witness Ali Khan says that the Polling Officer "gave me a paper and said "sign it". I said "Is it not necessary to score out a name on the paper"? He said he would himself score it out. I then scored a name out myself." From what other witnesses who are not illiterate say and from the evidence of the Polling Officer himself, it appears that the voters were not encouraged to put the papers in the box themselves. These violations of rules seem to be such as should invalid-ate an election. If papers are signed and left in the hands of a Polling Officer without a name being scored out he may have an opportunity of fraudulen-tly scoring out whichever name he chooses, and dropping the paper in the box, and in the present election where four votes would have decided the election the other way, there certainly was an opportunity.

9. Counter-petitioner relies on G.O. 17th January 1887, Mis. No. 46 M. Local and Municipal, in support of his contention that secrecy was not essential to the validity of an election. But that order was passed in 1887 when the rules in force did not enjoin absolute secrecy in voting (vide the Rules sanctioned in G.O. dated 29th January 1886, No. 78 M.) But Government observed that secrecy was desirable in the conduct of elections, and in 1890, when the rules were revised, enacted Rule 23 as it stands at present.

"It shall be the duty of the Polling Officer
"to see that the votes are recorded with
"absolute secrecy - that only electors are
"admitted to the Polling booths and that
"persons who have recorded their votes
"leave immediately."

10. I think that the election of M. K. Ry. K. Narna Shetti may be declared invalid.

11. I venture to suggest that instead of using ink it would be better to use blue or red chalk pencils or indelible ink pencils. The time for polling is rather short; in the election now re-ported upon there was only (~~there was only~~) about two minutes for each elector of the Ward, if all had come, and in a continuous string. The rules do not appear to prescribe ink. It might be easier for partially illiterate voters to handle pencils and fold papers without having to use blotting paper or sand. Voters might be given the choice of ink or blue pencil, and the Polling Officer use red pencil only.

South Canara Collector's office
Mangalor 29th July 1895

Collector

Compd. M.K.
29/7/95

I.—P. No. 153—91.

Local & Municipal.

Local & Municipal Dept.
CURRENT No. 1482/M

1895.

From,
The — Collector of
South Canara.

To,
The Chief Secretary to Government,
Local & Mun.l Department,
Fort St. George.

Dated 29th July 1895.
Despd 30/
Received 6 AUG. 95

Reference No. 1659 of 95.
Sig.e

ENCLOSURE. 2 (one file as per list).

Subject.

Election in Mangalore Municipality held in June 1895. Forwd statement sent under Rule 34 by the Chairman Enclosed with the result of the enquiry held with reference to objections raised to the validity of the election in the Kodialbail ward.

To

His Excellency the Right Honorable

Sir Beilby Lawley, Baron Wenlock, G. C. I. E.,

Governor of Fort Saint George,

MADRAS.

Humble Petition of K. Narna Shetty, residing at Kodialboil, Mangalore Town, South Canara District. Dated 6th August 1895.

Most Respectfully Sheweth,

That Your Excellency's Memorialist begs to submit as follows:—

2. That Memorialist and one Marthu Bhandari were both candidates at the recent election of a Councillor for the Kodialboil Ward of Mangalore Municipality held on the 29th June last, and Memorialist was elected by a majority of 7 votes.

3. That thereupon the said Marthu Bhandari submitted a petition to the Collector of South Canara complaining against the validity of the said election.

4. That the Collector in hearing this petition called for evidence from both the said petitioner Marthu Bhandari and Memorialist, the counter-petitioner, which evidence the Collector must have submitted to Government with a report.

5. That Memorialist applied for a copy of the said report, which was refused, and consequently Memorialist has no means of answering any grounds touched upon therein, and he will therefore here confine himself to the points raised in the Petition, which are (i) "the votes were not recorded with absolute secrecy" as required by Rule 23, (ii) Non-observance of Rule 29 "that the elector shall give his vote by placing the ballot paper folded in the ballot-box"; (iii) "the presence of Krishna Heggade had the effect of intimidating the voters", Rule 36 *(a)*; (iv) "Mr. Narna Shetty was not *duly* elected", Rule 36 *(c)*.

6. That as regards the first point, that there was want of secrecy in recording votes, the petitioner says in para. 4 of his petition "the room in which the polling officer sat and where the votes were recorded had two big windows on the north, which were left open, and Municipal Subordinates were stationed near both the windows on the adjoining verandah, and could observe the recording of votes". There can possibly be no objection to the existence of windows for this room, or to their being left open, or either to the Municipal Subordinates being stationed on the verandah. That they were stationed near the windows is false and is denied by the polling officer and the Municipal Inspector, the former deposing that "the Municipal Inspector sat in a corner in the verandah out of sight, in the southern end of the verandah about a yard from the southern of the two windows", and the latter that he "sat at the north-west corner of the verandah, 6 or 7 yards from the officer". Without this Municipal Subordinate it was practically impossible for the polling officer to get on with his work. Rule 28 requires that "when a person presents himself to vote, the polling officer shall satisfy himself that he has a right to vote in the Ward in question, and has not already voted". The polling officer can have no personal knowledge of all the voters in the Ward. The Ward Sub-Inspector and the Inspector are the persons possessing the necessary information about voters, and it is therefore customary at such elections to station these Subordinates outside the polling office to identify the voters and send each in. The presence of these Subordinates without was therefore a *sine qua non*. Whether from where they were stationed they could observe the recording of votes, or did observe, if they cared to observe, is only a matter

of evidence. The polling officer and the Municipal Inspector have both sworn that they could not. None of the witnesses has deposed that there was a case of actual observation. Nor is any account given of what was overheard; what secret was out or how is not shown. The whole of this objection therefore is simply frivolous.

7. That it appears from evidence that in the very same hall an election was held on a former occasion when Mr. Graham, the then Assistant Collector, was the polling officer. The Municipal Inspector, a Municipal servant as old as this Municipality, swears that the arrangements then made were just the same as now and that he occupied the very same place as he now did. On that occasion there was no complaint of any kind. But now that a native was the polling officer, every little incident, however remotely connected or totally unconnected, in fact, the very existence of windows and shutters for the room or of a person sitting outside or standing on the road is made a ground of complaint.

8. That as regards the 2nd point relating to non-adherence to Rule 29, the petition in para. 5 says "the voters in this case were not desired to place their ballot papers folded into the ballot-box, and thus the prime object of safety intended by the rule was defeated". But it is not alleged or proved that any ballot papers of those electors who had voted were missing or abstracted nor that the ballot-box contained any ballot papers of voters who had not attended; there were 109 electors who voted, and therefore 109 ballot papers, and these have been found and verified to be correct. Whatever may be the object of Rule 29 recommending the voters to place their ballot papers in the ballot-box, it cannot be contended that the polling officer in any way infringed it by receiving from a few their ballot papers, which, after being examined under Rule 26 to see that they showed in a legible manner the name and number of the elector or other description sufficient to show his identity, he dropped into the ballot-box himself, the voters in the meanwhile leaving the polling office immediately after recording their votes as required by Rule 23. And within the short space of 4 hours (10—12 A. M. and 2—4 P. M.), during some intervals of which the attendance of voters was high, though at others nil, it was impossible to allow each of so many as 109 voters enough time to do all that was needed of him; the 2nd witness says he was in a hurry, but yet it took him nearly 3 minutes to merely record his vote. At this rate 109 voters would require more than 5 hours. There is no rule which imposes on the polling officer the duty of directing the electors to place their ballot papers in the ballot-box. So far as the polling officer is concerned, he is within his rights under Rule 23 defining his duties, if, in cases of persons ignorant of the ballot-box, he should happen to receive their ballot papers to enable those who have recorded their votes to "leave immediately". The first and second witnesses for the petitioner have deposed that they left immediately after recording their votes and giving their papers to the polling officer, who evidently took them relying on his implied authority under Rule 23 and for purposes of examination under Rule 26; and as he was not bound by any of the rules to direct the voters to put the papers in the ballot-box he naturally thought it not worth his while to refer them to the box. These witnesses have themselves admitted that they were not aware of any rules regarding the box; the former in his deposition says "I did not know anything about the practice at all", and the latter "I don't know the rules, I am not acquainted with the rules, I never read the rules, I had other work and no interest in it". When a European gentleman like the 1st witness and an educated native like the 2nd admit they know nothing about the rules, the ignorant public can hardly be expected to have any proper idea of the rules regarding the ballot-box, and it cannot be laid down that the polling officer ought to have found time to instruct such voters about the use and object of the ballot-box and their duties with regard to it. There appears to be no rule prohibiting the polling officer from receiving the ballot papers handed over to him, nor do the votes so received come under the classes of invalid votes defined in Rule 27. Objection is also taken that the polling officer had in some cases done the scoring of names himself; but it has been explained by him that it was only in a few cases, where the voters were illiterate, or could not handle the pen, or there was no time to lose, that he did so, and that the wishes of such voters were always obeyed. Under Rule 26 requiring the polling officer to examine the ballot papers the voters could not have made with him a secret of the person for whom or against whom they voted, and consequently it is difficult to understand how the polling officer's action affected the unsuccessful candidate or the electors who voted for him.

9. That Your Excellency's Memorialist begs to submit, however, that the above points 1 and 2 do not come under any of the grounds mentioned in Rule 36 on which alone the validity of an election can be questioned.

10. That as regards the third point, the petition says "the presence of Krishna Heggade had the effect of intimidating the voters". It is a fact, and it appears from the evidence of Kenchappa, Head Constable, petitioner's 6th witness, that the said Krishna Heggade, Police Inspector of Mangalore Taluq, did make his appearance "on the road", once "at 12, and again at 4 P. M.", but witness "did not see whether the Taluq Inspector talked to any one". Quite contrary to this, petitioner's 7th witness, Abdul Hussein, who, from his own evidence, appears to be a vagabond, to have had no vote, but to have passed to and fro, going to the Mohorum pandal ten times that day, and who, according to his statement in the examination-in-chief, lives "6 fathoms from the polling office", but when cross-examined "100 fathoms north of the polling office", says that the said Krishna Heggade was in a house about 8 fathoms from the polling office and that he there received people who were come to vote by going to their conveyances which were 7 or 8 and leading them in; but witness is "not acquainted with them", nor can he "name those whom Krishna Heggade took into the house", and yet he is definite that they were the persons who had come to vote and that Krishna Heggade "asked them to vote in favour of his son-in-law", ignorant, of course, of the fact that Krishna Heggade's brother having married Memorialist's sister, the relation between Krishna Heggade and Memorialist, if relation it may be called, is that of brothers-in-law; and again, petitioner's 4th witness, Alli Khan, says he saw Krishna Heggade at 11. 30 and at 2 in a small house close by the polling office "going in and out and talking to people going to and fro, to some that passed" and the voters of witness's neighbourhood "had congregated beside Krishna Heggade", but witness could "not name the persons with whom Krishna Heggade talked", nor does he know the particulars of the talk. The evidence of these two witnesses, 7th and 4th, even if credited, proves nothing. A feeble attempt has been made to prove the possibility of exercise of influence by Krishna Heggade with voters owning lands within his jurisdiction, and for this purpose it is elicited in the examination of petitioner's 2nd witness that he, the witness (voter No. 118), as well as his castemen (voters Nos. 116 and 119) have lands within the Mangalore Taluq, the jurisdiction of this Inspector; beyond this nothing has been proved. The mere existence of lands in the Police Inspector's Taluq without more cannot be held sufficient to render the owners thereof subservient to his will and control. A Police Inspector is not a Revenue officer, nor has he any Revenue duties like those of the petitioner, and is therefore of little consequence to the landholders. No. 118 has, in spite of his possessing lands within the Inspector's jurisdiction, admittedly voted for the petitioner. Memorialist is not aware for whom Nos. 116 and 119 have voted; granting that they voted for Memorialist and granting also that they did so from a desire to please or from fear to offend the Inspector, the latter cannot on that account be considered guilty of having intimidated. It is not denied that Krishna Heggade had gone near the polling office twice, as stated by petitioner's 6th witness, but how his presence affected the giving of votes or what pressure, influence, or threat was brought to bear upon the voters is not proved. The word intimidation is apparently used by petitioner either with total disregard to its meaning and force or purposely to attempt cancellation of the election by casting an unmerited slur on the said Inspector for the mere accident of his having gone near the polling office. The petitioner's statement in the petition, para. 6, that "although petitioner is in possession of evidence to shew that the said Police officer actively in an objectionable manner used his official influence in favour of Mr. Narna Shetti against the petitioner, yet the petitioner does not intend producing that evidence, as a prolonged enquiry in the matter may interfere with his heavy duties" is a mere imputation intended to prejudice the Collector in his favour. That the petitioner should have withheld such evidence as he had for fear of a prolonged enquiry is hardly to be credited and is opposed to his conduct in the case in which he has tried to bring all possible evidence against Krishna Heggade, though none to the point. Krishna Heggade being a Taluq Inspector can possess no influence in the town which is beyond his jurisdiction. It is admitted that he was not in his uniform, and this he would certainly have put on if he had any intention that electors should recognize his position and out of regard for him vote for his relative, and even then it would not have amounted to intimidation. The whole of this plea therefore is a ruse resorted to for the purpose of prejudicing the Collector.

11. That what appears strange is that, while the said petitioner seemed so reluctant to bring forward the evidence he said he possessed to prove Krishna Heggade's using his official influence against him for fear of interference with "his heavy duties", he should have found enough leisure from those heavy duties to bring evidence of fraud, a ground neither touched upon nor referred to in his petition. The petitioner's 3rd witness Shivappachari, a person apparently of very little

credit, who could not remember whether he went alone to vote or in company, or at what hour or into what part of the polling office, or where the ballot-box was, or whether petitioner or counter-petitioner asked him last for his vote, and who appears to have been all this time in great anxiety for his wife's miscarriage, has yet sufficient powers of memory left to say that petitioner was not present at the polling office, but that counter-petitioner was and solicited his vote, that he had not decided for whom to vote till he had arrived at the spot, that he however told the polling officer that he had voted for the petitioner, but that the polling officer asked him why he did not vote for counter-petitioner, took his signature and sent him away, implying by this latter statement that the polling officer fraudulently scored out petitioner's name, which the witness wanted to retain, but the truth whereof is denied by the polling officer in his deposition. What adds to this improbability is that the witness, who, according to his own statement, knew "to read a little Canarese", should have been duped in the manner represented by him, and that the polling officer, a gentleman of high birth, reputed honesty, and vast wealth, should have condescended to single out this witness alone from among the whole lot to practise his trickery on. This witness's evidence is not entitled to any weight, and no case of fraud has been made out.

12. That as regards the 4th point, that Memorialist was not duly elected by a majority of votes, there is nothing in the petition or in the evidence to show that there was in Memorialist's favour any vote invalid under any of the classes defined in Rule 27, or that there was any mistake in the counting of votes under Rule 31. Memorialist's election was therefore duly made, and is valid.

13. That if the whole evidence be carefully weighed, there will be found in it nothing to support the cancellation of the election on any of the grounds mentioned in the petition, but enough to prove that the whole proceedings were brought about by the petitioner in a spirit of vengeance for his failure and out of total disrespect for the character of others. The polling officer is a Roman Catholic Christian and therefore of a different caste from that of either the petitioner, who is a Konkani, or of Memorialist, who is a Bant; consequently he could not have had any motive in siding with either party, and it is therefore the more regrettable that he should have been in any way implicated in an unjustifiable charge.

14. That it is worthy of note that the 2nd witness is, like the petitioner, a clerk in the Collector's Office; the 4th witness is the elder brother of a clerk employed in the petitioner's department and under the petitioner; the 6th witness is the brother-in-law of another clerk in the Huzur; the 3rd and 7th are admittedly men of no means; the 5th literally dropped down in the witness-box in the course of the examination, and hence even his signature to his evidence could not be obtained.

15. That Memorialist begs to refer Your Excellency's Government to G. O. dated 17th January 1887, Mis. No. 46, M., Local and Municipal, where, in an actual case of want of strict regard to secrecy and a certain amount of influence brought to bear upon the voters, the election was upheld by Government on the recommendation of the then Collector Mr. E. Gibson, the present Secretary to Government, that the election should not be set aside as there was no proof of fraud, intimidation or bribery. The evidence in this case will shew that none of these was practised in the present instance also.

16. That an election on the lines contemplated by the petitioner, that is, an election free from all defects is only possible when the voters understand their rights and the use and object of the ballot-box better and are all literate. But as circumstances now stand in this Municipality, any slight irregularities as may have been proved are but incidental to the application of the ballot system to a place where illiterate persons have to be dealt with and where the educated also seem ignorant of its details or even of its bare principles, and they cannot therefore vitiate an election, which is otherwise valid.

17. That Memorialist humbly begs therefore that Your Excellency's Government may, on a kind and favourable consideration of the above circumstances, be pleased to give Memorialist's case the careful attention it deserves, and that, after perusing the evidence and other records in the case, the duly made election of Memorialist may be declared valid.

And Your Excellency's Memorialist shall, as in duty bound, ever pray.

K. Narna Shetty

To

His Excellency the Right Honorable

Sir Beilby Lawley, Baron Wenlock, G. C. I. E.,

Governor of Fort Saint George,

MADRAS.

Humble Petition of K. Narna Shetty, residing at Kodialboil, Mangalore Town, South Canara District. Dated 6th August 1895.

Most Respectfully Sheweth,

That Your Excellency's Memorialist begs to submit as follows:—

2. That Memorialist and one Marthu Bhandari were both candidates at the recent election of a Councillor for the Kodialboil Ward of Mangalore Municipality held on the 29th June last, and Memorialist was elected by a majority of 7 votes.

3. That thereupon the said Marthu Bhandari submitted a petition to the Collector of South Canara complaining against the validity of the said election.

4. That the Collector in hearing this petition called for evidence from both the said petitioner Marthu Bhandari and Memorialist, the counter-petitioner, which evidence the Collector must have submitted to Government with a report.

5. That Memorialist applied for a copy of the said report, which was refused, and consequently Memorialist has no means of answering any grounds touched upon therein, and he will therefore here confine himself to the points raised in the Petition, which are (i) "the votes were not recorded with absolute secrecy" as required by Rule 23, (ii) Non-observance of Rule 29 "that the elector shall give his vote by placing the ballot paper folded in the ballot-box"; (iii) "the presence of Krishna Heggade had the effect of intimidating the voters", Rule 36 *(a)*; (iv) "Mr. Narna Shetty was not *duly* elected", Rule 36 *(c)*.

6. That as regards the first point, that there was want of secrecy in recording votes, the petitioner says in para. 4 of his petition "the room in which the polling officer sat and where the votes were recorded had two big windows on the north, which were left open, and Municipal Subordinates were stationed near both the windows on the adjoining verandah, and could observe the recording of votes". There can possibly be no objection to the existence of windows for this room, or to their being left open, or either to the Municipal Subordinates being stationed on the verandah. That they were stationed near the windows is false and is denied by the polling officer and the Municipal Inspector, the former deposing that "the Municipal Inspector sat in a corner in the verandah out of sight, in the southern end of the verandah about a yard from the southern of the two windows", and the latter that he "sat at the north-west corner of the verandah, 6 or 7 yards from the officer". Without this Municipal Subordinate it was practically impossible for the polling officer to get on with his work. Rule 28 requires that "when a person presents himself to vote, the polling officer shall satisfy himself that he has a right to vote in the Ward in question, and has not already voted". The polling officer can have no personal knowledge of all the voters in the Ward. The Ward Sub-Inspector and the Inspector are the persons possessing the necessary information about voters, and it is therefore customary at such elections to station these Subordinates outside the polling office to identify the voters and send each in. The presence of these Subordinates without was therefore a *sine qua non*. Whether from where they were stationed they could observe the recording of votes, or did observe, if they cared to observe, is only a matter

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4. That the Collector in hearing this petition called for evidence from both the said petitioner Marthu Bhandari and Memorialist, the counter-petitioner, which evidence the Collector must have submitted to Government with a report.

5. That Memorialist applied for a copy of the said report, which was refused, and consequently Memorialist has no means of answering any grounds touched upon therein, and he will therefore here confine himself to the points raised in the Petition, which are (i) "the votes were not recorded with absolute secrecy" as required by Rule 23, (ii) Non-observance of Rule 29 "that the elector shall give his vote by placing the ballot paper folded in the ballot-box"; (iii) "the presence of Krishna Heggade had the effect of intimidating the voters", Rule 36 *(a)*; (iv) "Mr. Narna Shetty was not *duly* elected", Rule 36 *(c)*.

6. That as regards the first point, that there was want of secrecy in recording votes, the petitioner says in para. 4 of his petition "the room in which the polling officer sat and where the votes were recorded had two big windows on the north, which were left open, and Municipal Subordinates were stationed near both the windows on the adjoining verandah, and could observe the recording of votes". There can possibly be no objection to the existence of windows for this room, or to their being left open, or either to the Municipal Subordinates being stationed on the verandah. That they were stationed near the windows is false and is denied by the polling officer and the Municipal Inspector, the former deposing that "the Municipal Inspector sat in a corner in the verandah out of sight, in the southern end of the verandah about a yard from the southern of the two windows", and the latter that he "sat at the north-west corner of the verandah, 6 or 7 yards from the officer". Without this Municipal Subordinate it was practically impossible for the polling officer to get on with his work. Rule 28 requires that "when a person presents himself to vote, the polling officer shall satisfy himself that he has a right to vote in the Ward in question, and has not already voted". The polling officer can have no personal knowledge of all the voters in the Ward. The Ward Sub-Inspector and the Inspector are the persons possessing the necessary information about voters, and it is therefore customary at such elections to station these Subordinates outside the polling office to identify the voters and send each in. The presence of these Subordinates without was therefore a *sine qua non*. Whether from where they were stationed they could observe the recording of votes, or did observe, if they cared to observe, is only a matter

of evidence. The polling officer and the Municipal Inspector have both sworn that they could not. None of the witnesses has deposed that there was a case of actual observation. Nor is any account given of what was overheard; what secret was out or how is not shown. The whole of this objection therefore is simply frivolous.

7. That it appears from evidence that in the very same hall an election was held on a former occasion when Mr. Graham, the then Assistant Collector, was the polling officer. The Municipal Inspector, a Municipal servant as old as this Municipality, swears that the arrangements then made were just the same as now and that he occupied the very same place as he now did. On that occasion there was no complaint of any kind. But now that a native was the polling officer, every little incident, however remotely connected or totally unconnected, in fact, the very existence of windows and shutters for the room or of a person sitting outside or standing on the road is made a ground of complaint.

8. That as regards the 2nd point relating to non-adherence to Rule 29, the petition in para. 5 says "the voters in this case were not desired to place their ballot papers folded into the ballot-box, and thus the prime object of safety intended by the rule was defeated". But it is not alleged or proved that any ballot papers of those electors who had voted were missing or abstracted nor that the ballot-box contained any ballot papers of voters who had not attended; there were 109 electors who voted, and therefore 109 ballot papers, and these have been found and verified to be correct. Whatever may be the object of Rule 29 recommending the voters to place their ballot papers in the ballot-box, it cannot be contended that the polling officer in any way infringed it by receiving from a few their ballot papers, which, after being examined under Rule 26 to see that they showed in a legible manner the name and number of the elector or other description sufficient to show his identity, he dropped into the ballot-box himself, the voters in the meanwhile leaving the polling office immediately after recording their votes as required by Rule 23. And within the short space of 4 hours (10—12 A. M. and 2—4 P. M.), during some intervals of which the attendance of voters was high, though at others nil, it was impossible to allow each of so many as 109 voters enough time to do all that was needed of him; the 2nd witness says he was in a hurry, but yet it took him nearly 3 minutes to merely record his vote. At this rate 109 voters would require more than 5 hours. There is no rule which imposes on the polling officer the duty of directing the electors to place their ballot papers in the ballot-box. So far as the polling officer is concerned, he is within his rights under Rule 23 defining his duties, if, in cases of persons ignorant of the ballot-box, he should happen to receive their ballot papers to enable those who have recorded their votes to "leave immediately". The first and second witnesses for the petitioner have deposed that they left immediately after recording their votes and giving their papers to the polling officer, who evidently took them relying on his implied authority under Rule 23 and for purposes of examination under Rule 26; and as he was not bound by any of the rules to direct the voters to put the papers in the ballot-box he naturally thought it not worth his while to refer them to the box. These witnesses have themselves admitted that they were not aware of any rules regarding the box; the former in his deposition says "I did not know anything about the practice at all", and the latter "I don't know the rules, I am not acquainted with the rules, I never read the rules, I had other work and no interest in it". When a European gentleman like the 1st witness and an educated native like the 2nd admit they know nothing about the rules, the ignorant public can hardly be expected to have any proper idea of the rules regarding the ballot-box, and it cannot be laid down that the polling officer ought to have found time to instruct such voters about the use and object of the ballot-box and their duties with regard to it. There appears to be no rule prohibiting the polling officer from receiving the ballot papers handed over to him, nor do the votes so received come under the classes of invalid votes defined in Rule 27. Objection is also taken that the polling officer had in some cases done the scoring of names himself; but it has been explained by him that it was only in a few cases, where the voters were illiterate, or could not handle the pen, or there was no time to lose, that he did so, and that the wishes of such voters were always obeyed. Under Rule 26 requiring the polling officer to examine the ballot papers the voters could not have made with him a secret of the person for whom or against whom they voted, and consequently it is difficult to understand how the polling officer's action affected the unsuccessful candidate or the electors who voted for him.

9. That Your Excellency's Memorialist begs to submit, however, that the above points 1 and 2 do not come under any of the grounds mentioned in Rule 36 on which alone the validity of an election can be questioned.

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11. That what appears strange is that, while the said petitioner seemed so reluctant to bring forward the evidence he said he possessed to prove Krishna Heggade's using his official influence against him for fear of interference with "his heavy duties", he should have found enough leisure from those heavy duties to bring evidence of fraud, a ground neither touched upon nor referred to in his petition. The petitioner's 3rd witness Shivappachari, a person apparently of very little

credit, who could not remember whether he went alone to vote or in company, or at what hour or into what part of the polling office, or where the ballot-box was, or whether petitioner or counter-petitioner asked him last for his vote, and who appears to have been all this time in great anxiety for his wife's miscarriage, has yet sufficient powers of memory left to say that petitioner was not present at the polling office, but that counter-petitioner was and solicited his vote, that he had not decided for whom to vote till he had arrived at the spot, that he however told the polling officer that he had voted for the petitioner, but that the polling officer asked him why he did not vote for counter-petitioner, took his signature and sent him away, implying by this latter statement that the polling officer fraudulently scored out petitioner's name, which the witness wanted to retain, but the truth whereof is denied by the polling officer in his deposition. What adds to this improbability is that the witness, who, according to his own statement, knew "to read a little Canarese", should have been duped in the manner represented by him, and that the polling officer, a gentleman of high birth, reputed honesty, and vast wealth, should have condescended to single out this witness alone from among the whole lot to practise his trickery on. This witness's evidence is not entitled to any weight, and no case of fraud has been made out.

12. That as regards the 4th point, that Memorialist was not duly elected by a majority of votes, there is nothing in the petition or in the evidence to show that there was in Memorialist's favour any vote invalid under any of the classes defined in Rule 27, or that there was any mistake in the counting of votes under Rule 31. Memorialist's election was therefore duly made, and is valid.

13. That if the whole evidence be carefully weighed, there will be found in it nothing to support the cancellation of the election on any of the grounds mentioned in the petition, but enough to prove that the whole proceedings were brought about by the petitioner in a spirit of vengeance for his failure and out of total disrespect for the character of others. The polling officer is a Roman Catholic Christian and therefore of a different caste from that of either the petitioner, who is a Konkani, or of Memorialist, who is a Bant; consequently he could not have had any motive in siding with either party, and it is therefore the more regrettable that he should have been in any way implicated in an unjustifiable charge.

14. That it is worthy of note that the 2nd witness is, like the petitioner, a clerk in the Collector's Office; the 4th witness is the elder brother of a clerk employed in the petitioner's department and under the petitioner; the 6th witness is the brother-in-law of another clerk in the Huzur; the 3rd and 7th are admittedly men of no means; the 5th literally dropped down in the witness-box in the course of the examination, and hence even his signature to his evidence could not be obtained.

15. That Memorialist begs to refer Your Excellency's Government to G. O. dated 17th January 1887, Mis. No. 46, M., Local and Municipal, where, in an actual case of want of strict regard to secrecy and a certain amount of influence brought to bear upon the voters, the election was upheld by Government on the recommendation of the then Collector Mr. E. Gibson, the present Secretary to Government, that the election should not be set aside as there was no proof of fraud, intimidation or bribery. The evidence in this case will shew that none of these was practised in the present instance also.

16. That an election on the lines contemplated by the petitioner, that is, an election free from all defects is only possible when the voters understand their rights and the use and object of the ballot-box better and are all literate. But as circumstances now stand in this Municipality, any slight irregularities as may have been proved are but incidental to the application of the ballot system to a place where illiterate persons have to be dealt with and where the educated also seem ignorant of its details or even of its bare principles, and they cannot therefore vitiate an election, which is otherwise valid.

17. That Memorialist humbly begs therefore that Your Excellency's Government may, on a kind and favourable consideration of the above circumstances, be pleased to give Memorialist's case the careful attention it deserves, and that, after perusing the evidence and other records in the case, the duly made election of Memorialist may be declared valid.

And Your Excellency's Memorialist shall, as in duty bound, ever pray.

K. Narna Shetty

To

His Excellency the Right Honorable

Sir Beilby Lawley, Baron Wenlock, G. C. I. E.,

Governor of Fort Saint George,

MADRAS.

Humble Petition of K. Narna Shetty, residing at Kodialboil, Mangalore Town, South Canara District. Dated 6th August 1895.

Most Respectfully Sheweth,

That Your Excellency's Memorialist begs to submit as follows:—

2. That Memorialist and one Marthu Bhandari were both candidates at the recent election of a Councillor for the Kodialboil Ward of Mangalore Municipality held on the 29th June last, and Memorialist was elected by a majority of 7 votes.

3. That thereupon the said Marthu Bhandari submitted a petition to the Collector of South Canara complaining against the validity of the said election.

4. That the Collector in hearing this petition called for evidence from both the said petitioner Marthu Bhandari and Memorialist, the counter-petitioner, which evidence the Collector must have submitted to Government with a report.

5. That Memorialist applied for a copy of the said report, which was refused, and consequently Memorialist has no means of answering any grounds touched upon therein, and he will therefore here confine himself to the points raised in the Petition, which are (i) "the votes were not recorded with absolute secrecy" as required by Rule 23, (ii) Non-observance of Rule 29 "that the elector shall give his vote by placing the ballot paper folded in the ballot-box"; (iii) "the presence of Krishna Heggade had the effect of intimidating the voters", Rule 36 *(a)*; (iv) "Mr. Narna Shetty was not *duly* elected", Rule 36 *(c)*.

6. That as regards the first point, that there was want of secrecy in recording votes, the petitioner says in para. 4 of his petition "the room in which the polling officer sat and where the votes were recorded had two big windows on the north, which were left open, and Municipal Subordinates were stationed near both the windows on the adjoining verandah, and could observe the recording of votes". There can possibly be no objection to the existence of windows for this room, or to their being left open, or either to the Municipal Subordinates being stationed on the verandah. That they were stationed near the windows is false and is denied by the polling officer and the Municipal Inspector, the former deposing that "the Municipal Inspector sat in a corner in the verandah out of sight, in the southern end of the verandah about a yard from the southern of the two windows", and the latter that he "sat at the north-west corner of the verandah, 6 or 7 yards from the officer". Without this Municipal Subordinate it was practically impossible for the polling officer to get on with his work. Rule 28 requires that "when a person presents himself to vote, the polling officer shall satisfy himself that he has a right to vote in the Ward in question, and has not already voted". The polling officer can have no personal knowledge of all the voters in the Ward. The Ward Sub-Inspector and the Inspector are the persons possessing the necessary information about voters, and it is therefore customary at such elections to station these Subordinates outside the polling office to identify the voters and send each in. The presence of these Subordinates without was therefore a *sine qua non*. Whether from where they were stationed they could observe the recording of votes, or did observe, if they cared to observe, is only a matter

of evidence. The polling officer and the Municipal Inspector have both sworn that they could not. None of the witnesses has deposed that there was a case of actual observation. Nor is any account given of what was overheard; what secret was out or how is not shown. The whole of this objection therefore is simply frivolous.

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And Your Excellency's Memorialist shall, as in duty bound, ever pray.

K. Srama Shetty

Kodialbail, Mangalore,
6th August 1895.

Local & Municipal Dept.
CURRENT No. 1582

To

The Chief Secretary to Government,
Madras.

Sir,

I beg to submit herewith my Memorial to His Excellency the Governor of Madras with copies for Members of the Governor's Council and humbly request that you may be pleased to place the same before them for Kind and favourable consideration.

I beg to remain,
Sir,
Your most obedient Servant

K. Srama Shetty

Local & Municipal Dept.
CURRENT No. 2582 M

From

K. Narna Chetti
Mangalore

No.

Dated 6-8-95

Received 14-8-95

Enclosures 4 spare copies of memorial

SUBJECT.

Submitting memorial praying that his election as a councillor of the Mangalore Municipality may be declared valid under the circumstances stated

16/8

Again G.O., dated 189 , No.

Current No. 2480-M of 1895, dated 3? August from ~~the~~ K. Narna Shetti.

Current No. 2482 M. of 1895, dated 29? July ~~1895~~ from the Collector of S. Cana
— — 2582. M. 6? August ——— K. Narna Shetti

FOR ORDERS.

The facts of the case are fully and clearly stated in the Col- lector's ~~endorsement~~. The validity of the election of K. Narna Shetty in the Cocoanut ward was questioned by his rival Candidate Mathu Bhanda on the grounds that the presence of a Police Inspector near the Polling offic throughout the polling had the effe of intimidating the voters, and th Narna Shetty was not duly elected by a majority of votes. There is no evidence that any voter was read intimidated, but the Collector say that the non-observance of secrecy the fact that the people in the ward might look at the voting or receive instructions to the Polling office the presence of the Police Inspector was not on duty there would un- doubtedly make it possible that intimidation should be practised.

[9]

there is no evidence that any intimidation was practised, the election cannot be set aside on the first ground. As regards the second ground, it appears that in the case of illiterate voters, the names in the voting papers were scored out by the Polling officer himself and that these papers were not put into the box by the voters themselves, but delivered into the hands of the Polling officer, who might have dealt with them in any manner he pleased. These violations of the rules, are, in the opinion of the Collector, such as should invalidate the election, because if papers are signed and left in the hands of the Polling officer without scoring out the names, he may have an opportunity of fraudulently scoring out any name he chooses. Orders are solicited as to whether the election of Nanna Shetty may be set aside on this ground. In this connection please see the petition of Nagna Shetty (C.No. 2582 M)

2. The Collector's Suggestions

para. 11 of his endorsement may be recommended to the Municipal Council for consideration.

It is submitted that the election

A
13/7/95

16/

may be confirmed. Little violation of the rather complex rules must nearly always occur, & if elections are to be invalidated on account of them, there would be very many fresh elections ordered. There is absolutely no proof of any "personal intimidation or bribery".

VR 20.8.95

The appellant candidate is Head Asst in the Collr's Office; his witnesses are the Ap. Ver. Mr Clerk of the same office; a goldsmith; a timber merchant whose brother is in the Collr's office & may be in the acct dept for all the witness knows; & a cloth merchant, the giving of whose evidence so affected him that he swooned away & was unable to sign his deposition; a police Mr Constable; a pensioned who has no vote; & the Dr Surgeon who proves that he left the polling officer to put his voting paper in the ballot box.

I cannot see that the evidence proves anything more than there was irregularity in some of the voters not putting their votes in the ballot box but handing them instead to the polling officer to do so for them. There is nothing in the shape of per-

Mangalore Municipality

FOR ORDERS.

of "fraud, intimidation or bribery."
Nor is there any proof that the
candidate was not duly elected
a majority of votes. It is only on
one or other of these grounds
that under Rule 36 the validity
of the election can be questioned
or set aside. Mere irregularity
is not sufficient, unless it proves
either one or other of these two
issues. The legal presumption is
in favour of the election being
duly & honestly carried out,
& the presumption can be set
aside only on clear & distinct
proof.

The evidence of Mr. Dales the polling
officer seems very straightforward.
He is a highly respectable man,
& not the sort of person who
would commit perjury crime, & the
witness' evidence virtually accuses
him of.

Mr. Welsh's report deals largely in
probabilities & possibilities. He
admits however there is no proof
of fraud or intimidation
& Govt. will not interfere.

S.R. 27/8

16/8

[G. 24.] 23-7-95.

DEPARTMENT.

Papers to be read in proceedings :—

Again G.O., dated 189 , No.

Again G.O., dated 189 , No.

Current No. 2480.M of 1895, dated , from

" " 2482.M " 1895, " , "

" " 2582.M " 1895, " , "

ORDER. 5-9-95. No 1445 Munic

The Govt. does not consider that any sufficient evidence has been adduced to show either that fraud, intimidation, or bribery was practised at the election in question or that the successful candidate was not duly elected by a majority of votes. (2) The petition of objection will accordingly be rejected & the names of the candidates reported to have been elected mentioned in the list enclosed with the Chairman's letter of the 19th Inst. will be published in the Fort St. George Gazette.

W.R. 29.8.95 S.R. (from orders).

To C.R.C. Mangalore (thro' Collr. of S. Canara). P.C.

Gazetted 1/9/95 Dispd 9/9/95

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Election of Municipal Councillors, Bangalore.

2480-2482. 2582 M

(from orders).

Sy. S. Forbes Esqre I.C.S.

1445 M

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.