

Local & Munl. (1895) Department.

MISCELLANEOUS.

G.O., No. 19482

DATED 19 Oct 1895

[Despatch Abstract.]

Tax.

Recording letter from the President, District Board, Malabar, stating that the lessees of certain toll-gates in the district were justified in collecting tolls on carts belonging to the Cannanore Jail.

BACK PAPERS.

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

FURTHER PAPERS.

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

[7]

Miscellaneous.

LOCAL AND MUNICIPAL DEPT.	
G.O., DATED	19-10-95
No.	1948 L.

INDEXED.

When given for copying.

[Despatch Abstract.]

Case

Recording letter from the Princi-
 Distt. Bd. Malabar stating that
 the lessees of certain toll gates in
 the Distt. were justified in collecting
 tolls on carts belonging to the
 Cannanore Jail.

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

SACK PAPER, No.

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FURTHER PAPER, No.

OF 160

ENCLOSURE

CURRENT No.

STATEMENT WITH DITO.

ORDER OF GOVERNMENT

STATEMENT WITH DITO.

PAPERS NOT FILED UP, BEING READY FOR DISPATCH
IN ORIGINAL (not paged).

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Examined by *Rn*

n^o. 297. L7

Di

malabar source - boards off
Calicut 10th April 1895.

From

H. Moberly Esq

President District Board
malabar

To,

The Superintendent, Central Jail
bannanore.

Sir,

In reply to your letter dated
18th February 1895 n^o. 112 complaining that
the Edakkad, and Koodakadaoru toll
Contractors collected tolls on jail carts
carrying government stores, I have the honor
to observe (1) that in f.o dated 1st August
1891, n^o. 1852.L. it was held that vehicles
conveying government timber or salt are not
exempt from the payment of tolls to local
boards, (2) that in f.o dated 10th March 1892
n^o. 613.L. it was held that carts conveying
government tents and records are also
liable to the payment of tolls and (3) that

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OF 169

G.O.

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

ENCLOSURE

CURRENT No

STATEMENT WITH DITTO.

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n^o. 297. L7
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malabar source - goods office
Calicut 10th april 1895.

From

H. Moberly Esq

President District Board
malabar

To,

The Superintendent, Central Jail,
bannanore.

Sir,

In reply to your letter dated
18th February 1895 n^o. 112 complaining that
the Edakkad and Koodakadavu toll
Contractors collected tolls on jail carts
carrying government stores, I have the honor
to observe (1) that in f.o dated 1st august
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government tents and records are
liable to the payment of tolls

les
Articles

9. Read letter no. 3662 dated 25th June 95
from the Inspector General of Prisons
enclosing a copy of G.O no 1024 L. and
dated 17th June 95 ruling that carts and
other equipages of the jail department
are not liable to the payment of tolls
and requesting therefore that the tolls
already levied on the above articles

belonging to the Cannanore jail
may be ordered to be refunded.

The Board must decline to
order a refund of the tolls already
levied on jail carts. The term
"equipage" in Section 87(3) of Act V of
1884 does not apparently ^{include} ~~include~~ a
bullock bandy; and the Board is un-
able to find any Section in the
Madras Local Boards Act which
exempts Government vehicles and
stores, other than those belonging to
the military, ordnance or Commissariat
departments from the payment of
tolls. The President is requested to
address Government on the subject.

H. Moberly
President
(In Extract)

Prin
Do President

Malabar District Board Office
Ref on C. No. 177/75
17
Calicut 4th September 1895.

Local & Municipal Dept.
CURRENT No. 2595

From,

H. Moberly Esq
President, District Board
Malabar

To,

The Chief Secretary to Government
Local and Municipal Dept
Madras

Sir,

In forwarding herewith Copy of a
resolution of the District Board passed at its
meeting held on the 3rd ^{alt} instant, I have the
honor to report for the information of Govern-
ment that the Superintendent Central Jail
Cannanore in his letter dated 18th February 1895
No. 112 Complained to me that the Edakkad and
Koodakadavu toll Contractors collected tolls
on jail carts carrying Government stores (such
as Police sandals, Jail and Police cumbles
and folding-chairs etc made in the Central Jail).
In reply I informed him that the term "Gover-
ment stores" as used in Section 87(3)

of 1884 referred to Commissariat, medical
ordnance or similar government stores and
did not apply to departmental or government
supplies made from the jail and that the contractors
were therefore justified in collecting the tolls.

A copy of my letter to him is enclosed for
the information of government. Mr. Gardner,
the Inspector General of Jails in his letter
n^o. 581 dated 9th April 1895 then addressed
me on the same subject. I replied to him
that carts belonging to the Central jail
and carrying (government) stores were not
exempt from payment of local fund tolls.
A copy of my letter to the Superintendent,
Central Jail, Bangalore, was also forwarded
to him for his information. Mr. Gardner
then in his letter n^o. 3662 dated 25th June
last wrote to me that government had in
G.O. n^o. 1024 L. mis dated 17th idem ruled
that carts and other equipages of the
jail department were not liable to the
payment of tolls and requested therefore
that the tolls already levied by the contractors
on the carts belonging to the Bangalore
Central

Central Jail and carrying Jail supplies
might be refunded. This letter was placed
before the District Board at its meeting held on
the 3rd ultimo and a copy of the Board's
resolution on the subject is herewith submitted
for the information of government.

2 In 1889 the Advocate General gave, an
opinion as to the interpretation of Section 91
(3) of act IV of 1884 (Madras). He pointed
out that no toll is leviable at Municipal
toll gates on government vehicles, or animals
or government stores and that the words
"any other government property" in the section
are not to be construed as meaning all-
government property of every description (vide
G.O. dated 8th July 1889 n^o. 863 M). In its
order dated 1st August 1891 n^o. 1832 L. govern-
ment pointed out that the wording of Section
87 (3) of act V of 1884 is even less comprehensive
than that of Section 91 (3) of act IV of 1884.
I invite special attention to the wording of
Section 87 (3) of act V of 1884 "no tolls shall
be paid (1) for the passage of troops on their
march; (2) for the passage of military and
government

Government stores and Equipages; (3) for
the passage of military and Police officers
on duty or of any person or property in
their custody; (4) for the passage of vehicles
and animals licensed by the District Board.

A bullock Cart Cannot be called an equipage;
and I submit that the phrase "military
and government stores and Equipages"
Cannot be held to include Jail bullock
Carts or articles manufactured in a Jail
and sold to other departments or to private
persons.

3. I most respectfully submit that it is
the duty not of government but of the Courts
to interpret the law. If the Jail Superintendent
thinks that toll is illegally collected on
Jail Carts he can prosecute the toll gate
keepers under section 165 of the act. If
this be done the matter can eventually be
referred to the High Court for orders.

I have the honor to be
Sir,

Your most obedient servant

J. Karadadas

Secy.

For President.

CUR. No. 2595L

From

The President
Dist Board
Malabar

To

The Chief Secretary
to Govt
Madras

Dated 4-9-95.

Recd 6-9-95

Recd - 9 SEP 95

Encl. 2

Forwarding a copy of District
resolution of 3 August 1895
and stating that the toll
lessees of Edakoda & Kooda-
kadaon toll gates were justified
in collecting tolls ^{on} for the rail
carts belonging to the Cannanore
Central rail.

14/9

Again G.O., dated

189 , No.

Current No. 2595L.

of 1895, dated 4th Sept. 1895 from the President, Dist Board,
Malabar.

Current No.

of 189 , dated from the

FOR ORDERS.

The contention of the Inspector-General
of Prisons was that the word "equipages"
in section 87(3) of the Local Board Act is
used as the equivalent of "vehicles and
animals" in section 91(3) of the District
Municipalities Act, and in G.O. dated
17th June 1895, No. 1024 L. the Government
merely expressed its opinion that
Mr. Cardew's view was correct.

This opinion is of course not binding
on local boards and as the District Board
of Malabar has not accepted it, the
Superintendent of the Rail may be
directed to ^{file a civil suit against} ~~prosecute the toll-gate~~
^{for recovery of the toll paid, and an} ~~Keepers under Section 165 of the Local~~
^{injunction restraining them from} ~~Board Act, as suggested by the President~~
^{collecting tolls hereafter.} ~~of the District Board in para. 3 of his~~
~~letter.~~

1/9
26/9/95
It does not seem likely that the
of the toll gate men
prosecution, under sec. 165. of
the Act, suggested by the President in
para. 3. of his letter, would result

In the matter being taken to the High Court for an authoritative ruling, as the toll-collectors would at once plead absence of dishonest intention. It would be fairly clear that they had no dishonest intention, the issue being decided the case would collapse. Courts of appeal or revision would then only consider the question of intent and the issue which the President wants to be decided would not arise. Sec. 165. uses the word "unlawfully" instead of the Penal Code word "dishonesty", but apparently the former is meant to have the meaning of the latter, as it can hardly have been the intention of the framers of the Act that an 'unlawful' collection of tolls - that is a collection merely unauthorized by law & not intentionally dishonest - should be punishable as a criminal offence.

It is a question whether it is worth while fighting this question in the Courts. The matter whichever way it goes will cost more than it is worth. The L. & B. Act is intended to put a stop to this kind of thing & take this point into consideration.

upon which alone the court of first instance would have ruled

Quite so

MS

57/10/95

4/10/95

Papers to be read in proceedings:—

Again G.O., dated

189 , No.

Again G.O., dated

189 , No.

Current No. 25752

of 1895, dated 4-9-95, from the President, D. Board, Malabar

" "

" 189 , " , "

" "

" 189 , " , "

ORDER. No 1948 Lmis. 19-10-95

Recorded.

2. The wording of the section in the draft Bill to amend Act V of 1854 is such that after the Bill becomes law there will remain no uncertainty upon the question

W. S. 10/95 16/10/95 (per order)

To Pres. D. B. Malabar P.O.

23/10/95

Note.

Please see sec. 65 of the draft Bill

MS

Levs of title on
Jail bandies

Es

(from orders)

19482

When given, copying _____
When copied _____ } 189
When examined _____
When signed _____

READ AT

DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

A A A A A A A

LETTER OF GOVERNMENT.

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