

Local & Munl. (1895) Department.

MISCELLANEOUS.

G.O., No. 654 m

DATED 10th April 1895

[Despatch Abstract.]

Vaccination.

Stating that the Government does not consider that any further action is necessary in regard to the neglect of the Bench of Magistrates, Srirangan, to deal promptly with certain cases of disregard of the law relating to compulsory-----.

copy.
2. G.
and
for
the
in,
of
their
they
of
the

BACK PAPERS.

FURTHER PAPERS.

Paper taken out of the Records from the charge of the Referencer.

Press
Miscellaneous
Routine

No. 656 dated 10/4/95

Date taken out.	FOR WHAT PURPOSE.			Initials of clerk taking the paper or of attender.	Date returned.	Initials of attender.
	Department.	C. No.	Year.			
9/7/06	M	2269/06			24-7-06	
17-12-06	M	4465/06			8/2/07	24

Beuch Magistrate's office

Srirangam

21st February 1895

U. S. Ananthathirunam aiyar,
Honorary Magistrate,
Srirangam Beuch,

and the Acting Chairman during the
period under review from October 1893
to August 1894.

To

The District Magistrate of
Trichinopoly,
through the Deputy Magistrate, Trichinopoly.

Respected Sir,

With reference to para 4 of G. O.
dated 19th October 1894. no 1502. M. L. and
M, communicated in G. O dated 8th November
94. no 2702 Judicial, calling upon the
Sub-Magistrate of Srirangam to explain,

(1) Why he allowed 33 out of the 46 defendants to
further time, in which to have their
children vaccinated, although they
produced no medical certificates of
their unfitness, to undergo the
operation.

Yours

(2) Why he took no notice of the disobedience of 23 of these persons of his order to appear again, before him at the end of the time allowed.

¶ (3) Whether he finally tried, any of the 14 persons, who up to the 4th of July, had not obeyed his order, and, if he did not, his reasons for omitting to do so.

I humbly beg to submit the following explanation:—

3

The procedure adopted in such cases, ever since the introduction of Compulsory vaccination in the Municipality of Srirangam, has to be borne in mind, in sifting the causes of the delay in the operation, on children. As soon as the list of defaulters is sent by the Municipal Chairman, the Magistrate's only clerk, who has to do every business in the Bench Magistrate's office, prepares the summonses to be issued to the alleged defendants (accused) calling on them to appear on a certain day

W. S.

to explain their default. If at the time specified they do not appear, an order is passed by the Bench, and a notice in duplicate ordering them to have their children vaccinated within a stated period is issued. If they do appear and offer satisfactory explanation for their children being kept without vaccination, time is allowed to them, and if their explanation be not satisfactory, order is given to vaccinate their children within a certain time. If those who did not appear at the first summons, do not vaccinate their children within the stated period of the notice, they are at the instance of the vaccinator summoned again. If they do not comply with this summons, or appear and do not offer a satisfactory explanation, they are fined or otherwise dealt with according to Law. If on the 2nd summons, a satisfactory explanation is offered and time is prayed for, time is granted. On default again, they are punished. This has been the procedure obtaining in regard to vaccination cases and the

list

Honorary Magistrates have in every instance tried to follow the usual procedure.

3. A list of 46 defaulters was submitted to the Magistrates by the Municipal Chairman on the 11th April 1894. Summonses were prepared and issued on the 20th April 1894. Prior to that date, 5 cases had been withdrawn as 4 of the children concerned had within that time been successfully vaccinated and one of them died.
4. So summons was issued only in 41 cases returnable on the 27th April 94. Of these only 18 appeared and not all as stated by the Sanitary Commissioner. Thereupon the prescribed notices ordering them to have their children vaccinated within the 18th May, were issued to the remaining 23 who did not appear.
5. Of the 18 who appeared as aforesaid, one represented that his child was ill, and another that his child was both ill and absent from the jurisdiction. ^{facts} ^{not has been} admitted by the vaccinator who ~~has~~ been conducting the prosecution of the vaccination cases. To both of these therefore, one month's time was granted. For similar

reasons, the three weeks' time referred to by the Sanitary Commissioner, to two more of the defaulters was granted. Of the remaining 14, five pleaded illness of their children, 2 pleaded measles, one offered to have his child vaccinated in 10 days. One had his child vaccinated on that day, but time was necessary to see if the operation proved successful. The statements of the parents or guardians in these cases were all admitted by the vaccinator and in most instances, the magistrates themselves inspected the children brought before them and were satisfied as to the truth of the pleas urged and therefore time was granted. Thus it will be seen that in only 8 out of ten cases, two weeks' time was granted.

- b. Section 135 (1) of Act IV of 1884 gives the vaccinator power to deliver to the parent or guardian, of a child, a certificate to the effect that the child is in a state unfit for vaccination. There is no section in the Act prescribing the production of a medical certificate of any other description, as a condition precedent to the magistrates' being satisfied with the truth of the plea of illness pleaded.

End

6
by parties. As the vaccinator, who was
the person authorized to certify as to
the fitness of the child for operation, had
himself, in every one of the above cases,
admitted the statements of the parties,
the respective periods of time had been
granted to the parties. In this connection,
it might not be amiss to mention that
the Srirangam Hospital Assistant seems
to have claimed the privilege of grant-
ing certificates of unfitness and retained
the printed forms with him, which pre-
vented the vaccinator himself, from
issuing the necessary certificates (vide
translation of his report herewith attached).
Else, many of the persons cited as defaulters
need not have at all appeared as such,
as in the usual course of things, the
vaccinator who reported the unfitness of
the ^{children} subject in court, might have under
the Act, legally given them certificates
at their own ^{respective} houses. Under these circum-
stances, it is respectfully submitted
that the Bench Magistrates exercised
their discretion according to Law in
acting on the reports, Oral and written,
of the vaccinator himself who had ~~been~~^{been}
the conduct of the cases in question.

7. Of the 18 who appeared as aforesaid, the cases of 14 have been explained. The four others also pleaded illness, but as the vaccinator would not confirm their statements, time was given on their application, to produce a certificate from a Competent Medical officer with regard to the state of the health of their children.

8. Of these 18 cases, 10 cases proved successful, 5 defaulters who resisted till the 4th July, were all fined; one had been fined even prior to this, on the 29th May; one had left the station and the child of another defaulter died.

9. In this connection, it is submitted that 33 people were not granted time at the first summons, but time was granted only to the 18 that appeared, out of the 41 who were summoned. To the remaining 23, an order was issued as already said, for the vaccination of their children within a ^{specified} ~~stated~~ period. Clauses 2 and 3 of section 138 do not require medical certificates but only satisfactory explanations.

10. Coming to the 2nd point upon which explanation has been called for, I beg to state that no recognizance bonds are taken from those who appear and

to whom orders are given to vaccinate their children within a specified time) for their reappearance, because if they obey the order, their appearance again is not necessary as the vaccinator himself withdraws the cases, and because clause 3 section 138 requires that a summons should be issued to them. Hence they were not punished for their disobedience to appear again. Referring to the 23 cases in respect of which notices were issued as stated in paras 4 and 9, as already stated, time till the 18th May was given to the defaulters within which to have their children vaccinated. Within the said date, 7 persons had their children vaccinated, one had left the jurisdiction, two of the children ^{had} died and one of the defaulters had also died, and in another case time was granted on vaccinator's reports and eventually the child was successfully vaccinated, and so their cases were withdrawn on or about the 18th May.

- 11 Fresh summonses was applied for and issued to the remaining twelve out of the 23 defaulters, returnable on the 29th May. This summons was served upon only ten, the whereabouts of one of the 12 not having been known till the 24th ^{inst} ~~inst~~ August 94. One of the persons who had been served had his child vaccinated within the date ^{inst}

fixed for the return of the ^{first} summonses;
two others obeyed the summonses and
were granted time and as their children
had been successfully vaccinated their
cases were withdrawn; at about the same
time, two of the children died and one
was fined for default on the 29th May.

12. So on the 29th May, there were only left
six of these 11 cases for disposal. In one
case no order for arrest was made; but
before the process was issued, the child
was vaccinated and the vaccinator with-
drew the case. In another case the defaulter
was arrested and fined, of the remaining
four, one related to a person that had
his child ^{first} vaccinated within the 18th May 94,
but the operation on whose child proved
unsuccessful. Fresh summons was issued
in his case on his not having his child
vaccinated a second time; though served
with the summons, he did not appear, whereupon
his arrest was ordered; before he was arrested,
the vaccinator vaccinated the child and
the case was withdrawn. Another did not
appear for the 2nd summons and the summons
had been returned with the endorsement
that his whereabouts were not known. The
vaccinator upon this wanted time to
ascertain the ^{first} correct whereabouts, and

Subsequently on his motion, a third summons was issued. This too was not personally served. As there was a doubt as to its having been actually served on the defaulter, a bail warrant was issued. This time he did appear, but it was found that he had not at all been served till then and his explanation appeared to be satisfactory. So time was granted to him, and within that time he had his child vaccinated. Of the two that remained, one on being arrested pleaded illness and it appeared to be a fact and was besides admitted by the vaccinator himself, so time had to be given; but as he did not have his child vaccinated within the allowed time, and as his explanation for not having done so proved unsatisfactory he was fined five Rupees. In the one other case still to be explained, the defaulter that had appeared on 2nd summons produced a medical certificate, the vaccinator pronounced the child unfit for vaccination. So time was allowed and the case was withdrawn eventually.

13. Lastly coming to the third point upon which explanation has been called for, I humbly beg to state that the cases pending on the 4th July, were disposed of long ago,
and

and to submit that upon a careful examination of ^{just the facts} figures, there remained 22 cases for disposal on the 4th July and not 14 cases as the Government in its order, says, and only 12 cases on the 22nd July, but not 14 as stated by the Sanitary Commissioner in para 5. of his letter.

14. Out of these 22 which were left for disposal on the 4th July 10 cases had been disposed of before the 22nd July and only 12 remained on the 22nd July for disposal in the hands of the Magistrates.

15. The above detailed statements of facts will, it is hoped explain the 2 points in the Government order. In every case the Honorary Magistrates have tried their best to enforce the law and follow the usual procedure.

16. To sum up, out of the 46 cases, the children in 28 cases had been successfully vaccinated; the accused in 9 cases were fined, the fine ranging from 4 as to 5 Rs; 6 children in 6 cases had died; two persons had left the jurisdiction, and one accused died, and so all the 46 cases have been disposed of.

17. A copy of the order of the then District Magistrate of Trichinopoly dated 21-12-89 is herewith annexed which

will clearly show that the appearance of the parent or guardian need not be insisted upon except upon rare occasions such as when the accused does not give ^{just} satisfactory explanation as to his non-appearance according to the summons. We had been rather very strict in issuing bail warrants and warrants of arrest, the former in those cases in which notices were not personally served and the latter in cases in which the summonses and the notices had been personally served. A copy of the true translation of the report of the vaccinator is herewith annexed which will show that on no occasion time was granted to the defaulters without the knowledge and consent of the vaccinator.

18. It has to be noted that 35 out of the 46 cases reported to the magistrates, were those of children under 8 months. Fever, dysentery, and even measles were prevalent during the months in question and the infants' mortality from these causes ^{was} ~~was~~ ^{just so much as 35 percent and even more of the average mortality} was great. In this state of the public health, the magistrates could not but have exercised with caution this function of visiting the defaulters with punishment.

19. One other point that has to be noted ^{was}

is the fact that prior to the 46 cases being reported to the magistrates as those of defaulters, the municipal chairman did not as usual act strictly in accordance with the provisions of Act IV of 1884 Section 138 (1). The practice evidently obtaining in the Sircana Municipality has been to issue notices to all persons found to be the parents or guardians of children within the municipal limits, from a reference to the birth registers. In many of these cases, the notices are affixed to places which might or might not have been given as the correct places of residence of the parents in those registers. If the notices so served were not complied with, the chairman at once forwards a list to the magistrates, instead of first ascertaining for himself as required by the Act, whether as a matter of fact such cases demanded the intervention of the magistracy or in other words, whether all the children were actually fit for vaccination at the time, so that after prosecution the Bench finds that most of the children are sick or are absent from the station and it has therefore to allow time till their recovery or return to station before passing orders for their

ms

vaccination and much time is also spent uselessly in the magistrates groping in the dark to ^{discovering} ~~find~~ their way as to the actual residence of the alleged defaulters and they have often, to issue bail warrants instead of warrants of arrest for fear that the persons arrested, of ten respectable people, might not have been served with the summons at all or know of their having been posted on their houses.

20.

With reference to clauses (c) and (d) of para 8 of the Sanitary Commissioner's report, I humbly beg to state that the issue of a first notice ^{first formal notice} on the birth of a child is, however ^{first} ~~formal~~ ^{first} ~~formal~~, ^{first} ~~are not~~ prescribed by the Act, and as regards the 2nd notice, I beg to state that such notices issued without first ascertaining whether the children are, at the time, fit for vaccination, or are present at the station, or are alive or dead, are inconsistent with law; because section 138 clause 1 requires that the person authorized by the chairman, who in this municipality is the vaccinator himself, should go to the house of each person and there make enquiry, and then issue notices to the parent or guardian, if the child be fit for vaccination. If the child be not fit, he may issue a certificate under section 135 clause 1. If this procedure be not adopted strictly, the municipal chairman will be ignorantly sending notices to all persons according to the birth register, and forward a list

of all the defaulters (whether the children be fit or unfit for vaccination) to the magistrates and great delay would occur in the disposal of cases by the magistracy owing to the illness or absence of the children.

21/ Lastly, I beg to add that this Bench ever since its establishment from July 1887 has been presided over by Mr. R. Ry G. Venkata Rao, Avogal, B.A., an Honorary Magistrate and the Sub-Registrar of Srirangapatna and the period under ~~which~~ review relates to the time in which I myself, another Honorary Magistrate, had been acting as Chairman during the absence of the permanent incumbent, the above said gentleman, (the acting term lasting for eleven months).

22/ I beg to be excused for the delay in the submission of this explanation, owing to much pressure of work.

I beg to remain,
Honored Sir,

Your honor's most obedient and
humble servant,

M. S. N. Arathuram Ayar

(the then Acting Chairman)

now, an Honorary Magistrate,
Srirangapatna Bench.

Copy of the Proceedings of the District
Magistrate of Trichinopoly.

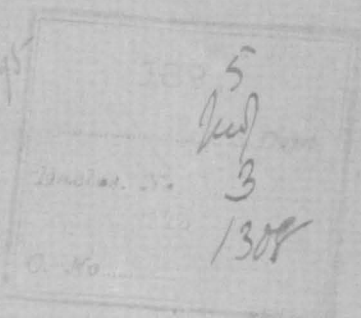
Dated the 21st day of December 1889.

Read letter no 449
18-12-89 from the Chairman, Municipal
Council, Srirangam requesting instructions
as to the payment of warrant fees by the
Municipality in a case laid by it before the
Magistrate for disobeying the summons issued
under cl 2 of sec 138 of act IV of 1884.

Order

Section 138 of the District Municipalities act
contains no provision for the issue of a warrant,
either with or without payment of process.

Clause (2) authorizes the issue of summons
to the parent or guardian to give explanation;
and directs the issue of a certain order if the
explanation of the parent or guardian is not
satisfactory. The appearance of the parent
or guardian is not absolutely necessary. A
person disobeying the summons - the case
in point - is in the position of one
that has given no satisfactory explanation,
and the court should, of its own



motion, issue the order directing him to
comply with the municipal notice speci-
fied in clause (1) by a specified date, with
the penalties specified in clause (3),
following as a matter of course in default.

(2) No fee is leviable from the
Council for the further summons ordered
in clause (3).

(Signed) G.W. Lawcett.

of Dy Magistrate

/True copy/

Communicated to the Dy Magistrate
Trichinopoly Taluk for his information
and communication to the Bench
Magistrates in his Division.

(Signed) G.W. Lawcett
of Dy Magistrate.

/True copy/

Communicated to the Chairman, Irrangur
Bench for information and guidance.

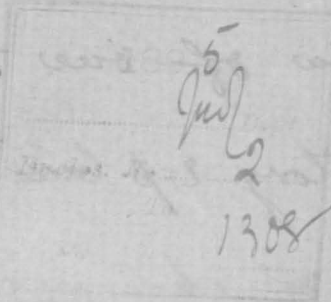
(Signed) C.K. Chinna Kesavalu Iyer
Dy Magistrate.

A true translation of the vaccinator's
tamil report given to the Bench
Magistrates on the 1st December 1894.

As the medical officer has been
retaining the forms of medical certificates
with him saying that he will give them
after seeing the children personally, I
have been making reports to the Bench then and
there about the sickness of the children whom
I had personally seen on account of the
non-supply of the forms to me. The Chairman
of the Bench has been granting appointments
only with my consent to those who
produce their children in the Court.

1-12-94

(Signed) Vijayaraghavelu naides
1st class vaccinator,
Irrangur.



CURRENT No 1308

Treskinopol District Magistrate's Office,

No. 1660 of 1894
in

104 March 1895.

Dep? 13-8-95

FROM

J. Andrew ESQUIRE,

29. DISTRICT MAGISTRATE OF

District Magistrate of
Trichinopoly

To

THE CHIEF SECRETARY TO GOVERNMENT,

Judicial DEPARTMENT,

MADRAS.

SIR,

SIR,
As directed in G.O. dated 8th
November 1894, No. 2702, Judicial, I have
the honor to submit the explanation
of the then acting Chairman of the Spiranagan
 Bench for his neglect to deal promptly
and firmly with certain cases of disregard
of the law relating to Compulsory vacci-
-nation.

2. The delays appear to have been mainly the result of a somewhat tardy mode of procedure that has been followed, and another method of disposal has since been suggested to the Bench which should have the effect of considerably lessening the delays. I have the honor to be,

I have the honor to be,

Sir
Your most obed^t servant,

H. F. Linnemann
 Mag. District Master

July

examined by

1895. NOV 1308

From J. Andrew Esq.

LOCAL & MUNICIPAL DEPT.
CURRENT No. 984 M

The Chief Secretary
to Government, Judicial
Department, Madras.

R.C. No. 1660
in 984.

Dated 10th

Desp. 13th } March 1895.

Recd. 15th

Desp. 16th

CHIEF SECRETARY
15.3.1895

Submitting explanation
from the Chairman, Srirangam
Bench for his neglect to
deal promptly and firmly
with certain cases of disregard
of the law relating to
Compulsory vaccination
LOCAL & MUNICIPAL DEPT.

Endorsement No. 984 M

Transferred to the Local and Muni-
cipal Department.

Local Davidson

18.3

As Under Secretary

Forth St George
18th March 1895
To the Local & Muni. Dept.

So 2702 8 Nov. 94

Logged 10409/95

2. The Secy.
Comm. Letter in
Go. Dtd 19. Oct. 94
No. 1502 M. speaks
of "the Bench of
Magistrates" who
disposed of the
cases. It was
afternoon that it was
the Bench of Honorary
Magistrates that dealt with
the cases. MC 8. 4. 95

Under the circumstances
stated by the District Magistrate in
para 2 of his letter, the Government
does not consider that any further
action is necessary in the matter;
but the District Magistrate should see
that the provisions of the law relating
to compulsory vaccination are strictly
enforced by the Bench of Magistrates
in future.

1.9
29/3/95

MC 8. 5. 95

5/4/95

Note.

Dr. King's letter spoke of "the
Magistrate" but it now appears that it
was the Bench of Honorary Magistrates
that dealt with the cases.

point out the inaccuracy
BS

To the District Magistrate
thru the Judicial Dept.

" Sanitary Commissioner
" Chairman M.C. Srirangam

Desp. 10/4/95

READ AGAIN ORDER OF GOVERNMENT, DATED
1/11/94, No. , MISCELLANEOUS.

189

3d PAPER, No.

OF 189

3d PAPER, No.

OF 189

ENCLOSURES.

CURRENT No.

STATEMENT WITH DITTO.

ORDER OF GOVERNMENT

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL (not paged).

N.B. -

A = Copy in full.
B = Not to be copied.
P = Copy abstract only.
Q = Copy heading only.

Copied by
Examined by

[7]

INDEXED.

Miscellaneous.

LOCAL AND MUNICIPAL DEPT.

G.O., DATED 10-4-95

No.

654/m

When given for copying.

[Despatch Abstract.]

Vaccination.

Stating that the Government does not consider that any further action is necessary in regard to the neglect of the Bench of Magistrates in dealing with certain cases of default in regard of the law relating to compulsory vaccination.

but in
that
to comply

enfr
infr

1/75