

& Munl. (1896) Department.

MISCELLANEOUS.

G.O., No. 1635/n

DATED 23-9-96.

INDEXED.

[Despatch Abstract.]

Establishment

Adhering to the view expressed in G.O. No. 823/n dated 13th May 1896 that it is beyond the functions of the Muzl. Commissioners Madras to make recommendations in personal questions the disposal of which vests solely in His Excellency the Govt.

MADRAS RECORD OFFICE.

Block No. 111

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

Dept. Admin Press No. 1635, dated 23-5-96 Rack No. 191, Range,

Date taken out.	FOR WHAT PURPOSE.			Initials of Referencer.	Date returned.	Initials of attender.
	Department	C. No.	Year.			
<u>2/12/10</u>	<u>MR</u>	<u>2560/10</u>		<u>MR</u>	<u>15/3/11</u>	
	<u>LRM</u>	<u>4446/10</u>				
<u>24/9/15</u>	<u>Lrm</u>	<u>5396 m/15</u>		<u>MR</u>	<u>27-11-15</u>	
	<u>MR</u>	<u>3311</u>				

Genl. Deptt.
18

1896.

Madras Municipality.

From

The President,

Municipal Commission,
MADRAS.

To

The Chief Secretary
to Government
Fort St. George

G. No. 171

Dated. 30 June 1896
Despd. 1 July 1896
Recd. 1 JUL. 96

Enc. 2

SUBJECT.

Forwarding extract from the proceedings of a General Meeting of the Commissioners held on 29th June 1896 together with the remarks made by Mr. Prayaga under agenda on G. O. No. 823 in this dt. 13th May '96

H. & C. C.

For orders.

Please see the

Notes and orders in Nos. 823 in dt. 13.5.96 and 1104 in dt. 3.7.96.

V.R. 10.7.96
W.S.D.

In 1888 Col. Moore (vide his letter in G.O. No. 436 dated 20th April 1888) recommended that Mr. J. S. S. should act for him in the Comm. but he did not have anything to say in the matter. In 1890 Col. Moore when again acting for leave recommended that Ramasamy Chettiar should act for him - the Comm. did have something to say in this matter. (vide G.O. No. 1044 in date 28th April 1890).

In 1892 when Ramasamy Chettiar took leave Col. Moore recommended J. Kucakapali Sankar to act for him. The Comm. did not have anything to say in this (vide G.O. No. 1075 dated June 22nd 1892).

In 1893 when Col. Moore took leave Mr. Sankar Ramasamy Chettiar & Mr. Kucakapali Sankar were on Col. Moore's recommendation appointed to act as President & Revenue Officer (vide G.O. No. 1011 dated 4th Aug. 1893) in this case too the Comm. had no say.

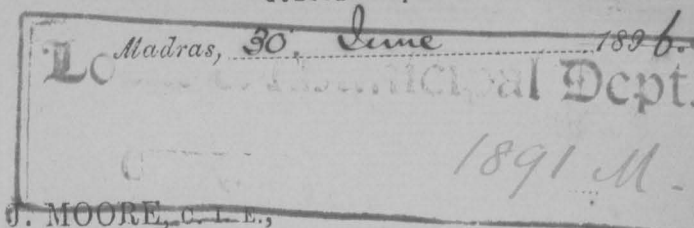
In May 1894 when Mr. Sankar was acting as President & Revenue Officer the Comm. had no say.

For orders

G. No. 171

MUNICIPALITY OF MADRAS.

General Department.



From

LIEUT.-COL. G. M. J. MOORE, C.I.E.,

President, Municipal Commission.

To

The Chief Secretary to Government,
Fort Saint George.

SIR,

Enclosures
2

With reference to G.O.No.823 M.Mis, dated 13" May

1896, I have the honor to forward herewith an extract from
the Proceedings of a General Meeting of the Commissioners
held on 29" June 1896, together with the remarks, made by
M.R.Ry.Pragasa Mudaliar Avargal during the discussion of
the subject, as reported in this mornings' issue of the ----
Madras Times.

I have the honor to be,

Sir,

Your most obedient servant,

G. M. Moore

Lt.Col.

President, Munl. Commn.

Extract referred to.

G.O.No.823 M.Mis, dated 13" May 1896, sanctioning with -- remarks, the retention of the services of Dewan Bahadur P.Ramasawmy Chettiar as Revenue Officer of the Madras Municipality, till 31" March 1897.

Proposed by M.R.Ry.R.N.Pragasa Mudaliar Avargal and second-
ed by Haji Mahomed Abdul Hadi Badsha Sahib.-

"That the Commissioners respectfully request the Government to consider G.O.No.823 M.Mis, dated 13" May 1896, as they are of opinion that the privilege of making recommendations which the said G.O. denies to them is of great importance to efficient administration of the Municipality, is not opposed to the ---- spirit of the City of Madras Municipal Act of 1884 and has been in effect conceded by the previous administrations"

Carried.

M.R.Ry.P.Theagaroya Chetty Garu called for a poll which was supported by M.R.Ry.W.S.Venkataramanujulu Nayudu Garu.

The poll was taken with the following result:-

Pro

M.R.Ry.Rao Bahadur C.Kalyanasundaram Chettiar Avargal.

The Hon'ble V.Mahomed Sheriff Khan Bahadur.

M.R.Ry.W.S.Venkataramanujulu Nayudu Garu.

" R.N.Pragasa Mudaliar Avargal.

Haji Mahomed Abdul Hadi Badsha Sahib.

M.R.Ry.G.Subramania Iyer Avargal.

" M.Ramakistnaiya Pantulu Garu.

" G.Subbarayalu Chetty Garu.

B.Lovary Esq.

M.R.Ry.P.V.Kistnasawmy Chetty Garu.

" P.Theagaroya Chetty Garu.

" P.Subramania Iyer Avargal.

M.R.Ry.

M.R.Ry.P.M.Sivangnana Mudaliar Avargal

H.Ormerod Esq.

E.H. Elliot Esq.

Con

M.R.Ry.M.O.Parthasarathy Aiyangar Avargal.

Not voting

M.R.Ry.V.Varadappa Nayudu Garu

Cowasjee Eduljee Esq.

MUNICIPALITY OF MADRAS.

A GENERAL MEETING of the Municipality of Madras was held in the Municipal Office, yesterday evening, at 5 o'clock. Besides Col. G. M. J. Moore, C. I. E. (the President), there were present 18 Commissioners.

QUESTIONS AND ANSWERS.

The PRESIDENT, in opening the proceedings, said that he had to answer some questions put by Mr. P. Theagaroya Chetty and Dr. Varadappa Naidu.

The following are the questions and answers:—

By Mr. P. THEAGAROYA CHETTY GARU.

Q—How many indigo dyeing yards are there in the 1st Division and in what localities are they?

A—36. 16 in West Ward and 20 in Centre Ward.

Q—For how many yards were notices given to remove?

A—17.

Q—What are the grounds on which yards are allowed to remain in these old places?

A—Absence of complaints from inhabitants in the locality and distance from the road side.

Q—Is there any yard in the 1st Division round which no other dwelling exist except those occupied by coolies that are engaged in that industry?

A—There are some.

Q—If so, will you mention those yards whose surroundings are entirely occupied by people engaged in that industry?

A—9 in Solayappen-street and 4 in Streerungammal-street.

Q—Who are the Municipal officials that made enquiries as to the surroundings and from whom they got the information?

A—Health Officer, Sanitary Inspector and Ward Overseers. Information was obtained from neighbouring inhabitants.

By Dr. V. VARDAPPA NAIDU:—

THE NECESSITY FOR CONSTRUCTING A WOODEN OVERBRIDGE AT THE ELEPHANT GATE RAILWAY CROSSING.

Q—Did any correspondence take place in 1892 between the Madras Municipality and the Madras Railway Company in regard to the desirability of constructing a wooden overbridge at the Elephant Gate railway crossing? What was the outcome of such correspondence? Is the Municipality prepared to contribute a moiety of the cost of construction of this intended bridge, if the Railway Company undertake to do so? Will the President be pleased to place on the table all the correspondence regarding this matter.

A—Yes, the project was under consideration in 1893.

That as the Municipality did not feel disposed to contribute towards the cost of the proposed overbridge at the Elephant Gate crossing, and as the bridge is only required for the convenience of the public, the Agent and Manager was no longer in a position to consider the project.

That is for the Commissioners to decide. The papers are here.

THE TRIPPLICANE PARTHASARATHY COVIL TANK

Q—What action has been taken by the President to enforce on the Dharmakurthas of the Parthasarathy Covil, the construction of an iron fence in 4 feet of water of the Triplicane Tank in order to prevent accidental drowning cases, which, of late, have become very frequent?

A—That has been abandoned.

Q—What will be the cost of such an iron fencing? Are the Dharmakurthas prepared to undertake it?

A—The estimate for that fencing was Rs. 3,590. The Dharmakurthas were not prepared to undertake it, but I am glad to say that I have received a letter to-day agreeing to a fence being constructed all round the tank. This should not exceed Rs. 2,500.

EXEMPTION FROM TOLLS.

The PRESIDENT said that the first business before the meeting was the consideration of the G. O. No. 477 L, dated 11th March, 1896, referring for remarks the Draft Bill regarding the exemption from tolls of persons and property belonging to the army. The Government was going to pass a new Act for the whole of India which would exempt what was at present exempted in Sec. 174 of the Municipal Act.

It was proposed by Mr. W. S. VENCATARAMANJULU NAIDU, and seconded by Mr. Soobramaniya Iyer, and carried "That the Commissioners see no objection to that portion of Section 174 which refers to the Military and the Government being embodied in one Act for the whole of India."

POWERS OF THE COMMISSIONERS.

The PRESIDENT said that the next business was the G. O. No. 823, M. Misc., dated 13th May, 1896, sanctioning, with remarks, the retention of the services of Dewan Bahadur P. Ramasawmy Chettiar as Revenue Officer of the Madras Municipality, till 31st March, 1897.

This G. O., it will be noticed contains certain remarks by Government as to the Commissioners not being entitled to make recommendations unless they were asked to do so. The G. O. has already been published by us.

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Government," it is said, "at its discretion to remove the Revenue Officer, and, therefore, the question whether he having attained 55 years of age, is mentally and physically fit for the duties of his office, and should be retained therein, is one entirely for the consideration and decision of His Excellency the Governor-in-Council." In other words, as the law does not expressly authorise the Commissioners to make recommendation in such a case, the action of the Commissioners was irregular. To be a little more plain, the argument comes to this. The law confers certain powers and duties on the Commissioners, and among them to make recommendations in certain cases. It nowhere expressly provides that they shall make a recommendation in a case like the one in question. Therefore their making a recommendation in such a case was beyond their functions, that is, inasmuch as to say, that the express mention of certain powers, duties, rights, and privileges in the Act as belonging to the Commissioners, is the exclusion of every other power, duty, right or privilege. The fallacy of such an argument is plain when we consider that the Act does not exhaustively define the powers and duties of the Commissioners. Section 61 says "the following are among the powers and duties of the Commissioners." After the use of such an expression in this section, can any one conceive that besides the powers and duties expressly mentioned in the Act the Commissioners dare not exercise any other powers or duties, however conducive they may be to Municipal administration with which they are charged. In passing, I would ask you to consider and note that whilst the legislature thought it expedient to vest the Commissioners with the major power of recommending the summary removal from office of the President or officers appointed under Section 37—a recommendation which shall be binding on Government, if supported by 25 Commissioners, whether the framers of the Code could have intended to withhold from the Commissioners the minor power of making simple and ordinary recommendations in matters affecting Municipal interests. Lastly Government observes that the Revenue Officer, having attained 55 years of age, the question whether he is "mentally and physically fit for the duties of his office and should be retained therein, is one entirely for the consideration and decision of His Excellency the Governor-in-Council." No one ever attempted to question this right of the Governor-in-Council. But what I would ask is, has the Governor-in-Council the data on which he is to consider and decide whether the Revenue Officer is fit or not for the duties of his office. The Revenue Officer does not discharge his daily duties under the direct supervision of Government, nor has the Government the means of knowing or seeing personally whether, in the discharge of his duties, the Revenue Officer is efficient or not. Government can have no knowledge or can form no opinion, except on hearsay. Who then are the fit and proper persons to give this information to Government? Surely nobody can be more competent than the President and the Commissioners. If that is so, can it be said that in giving this information to Government the President or the Commissioners misapprehend their position? I think not. In my humble opinion the principle laid down in this G.O. does not appear to be in harmony with the general scope and intentions of the Act. Referring once more to Section 61, which is very comprehensive, I think it would be devoid of any meaning were such recommendations as are conducive to the interests of this Municipality and not contrary to the intentions of the legislature, supposed to be prohibitory because they are not specially mentioned in some section or other of the Act. I need hardly say that we have hitherto been acting on such an understanding of the Act, and I have at the last special meeting adduced several instances to show that our views and actions have always been so interpreted and accepted by Government. The question, in my opinion, is a very serious one as involving an important principle. If we, as a body entrusted with and responsible for the proper administration of Municipal affairs, are precluded from expressing our view in matters affecting Municipal interests, if our hands are to be tied down, if we are simply to assemble in this hall as so many ornamental figures, only to nod our heads occasionally, the sooner we are out of this Corporation the better. In conclusion, judging the question from a common-sense point of view, I am at a loss to understand what harm could be caused or what danger would arise by a recommendation such as the one in question; whilst such recommendation would be no trespass on the rights of Government, for they are nothing more than suggestions, they must be calculated from the facts furnished to help Government in arriving at a satisfactory decision. I am, therefore, decidedly of opinion that in making the recommendation on behalf of the Revenue Officer, the Commissioners have not misapprehended their position nor gone beyond their province.

Mr. BADSHA SAHIB seconded the resolution, which was put to the vote and carried.

Mr. P. THEAGARAYA CHETTY, supported by Mr. Venkatramanjulu Naidu, demanded a poll which was taken with the following result:—

For:—Dewan Bahadur C. Kalyanasundaram Chetty, the Hon'ble Mr. Mahomed Sheriff Khan Bahadur, Mr. W. S. Venkataramanjulu Naidu, Mr. R. N. Pragasa

FOR ORDERS.

I should say that the Govt. could not admit that the Comrs had the right to make recommendations in personal questions the disposal of which vests solely in H.E.

27/7/96

In G.O. 13.5.96 Govt. said 823

that the question whether a certain officer was mentally or physically fit for his duties was one for the decision of Govt., not of the Commissioners & in this they were right; but they went on to say that a recommendation on the subject from the Commissioners was "beyond their functions": this apparently meant that it was illegal & wrong; if so, I think, on reconsideration the order went too far. As to its being illegal it seems to me to be clear that R. N. Pragasu Mudr. makes out his case that it is not contrary to law. As to its being wrong

when he was over 55. Came before Govt. Col. Moore was consulted D.O. The Commrs. were told and made no reply (vide G.O. No. 899 dated 4th June 1894.)

In 1895 the same was again the case (vide G.O. No. 893 dated 2nd June 1895).

In 1895 the Health Officer applied for one years leave. The Commrs. in recommending it made no suggestion as to a successor. Govt. called upon the President to in consultation with the S.G. recommend some one to act. (vide G.O. No. 106 A dated 5th Aug. 1895). The Commrs. were consulted and did not dissent that they should be: a Mr Marshall was on the recommendation of Col. Moore appointed (vide G.O. No. 1188 dated 24th Aug 1896).

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In 1895 Col. Moore applied for
leave leave & Sunday Commⁿ when
asking upon the ^{application} the opinion
that Gov. should be requested to
appoint Ramasamy Chettiar to act.

Gov. took no notice of this but called
on Col. Moore for a recommendation
as to his Commⁿ duties. (Order G.O.
No. 1119 dated 15th ^{July} 1895.)
The Commⁿ apparently on word of what
was coming and ten of them having
called for a special meeting one took
place on the 24th ^{July} and at this
a resolution was passed requesting Gov.
to appoint R. Chettiar. The President
upon this cancelled the leave
granted to him (Order G.O. No. 1235
dated 1st Aug. 1895.).

This is the history of matters up
to the date when the action
of the Commⁿ ^{took the action} which led to G.O.
No. 823 dated 13th May 1896.
I can recall to mind but one case
in which the Commⁿ ^{before this} made a recommendation
with regard to an appointment
and that was as regards Mr
Lorimer acting for Mr. Ellis. The
Office has not kept up the papers
so it is not worth while searching

I think the status & knowledge
facts presented by the Commⁿ make
it right for them to hold an opinion
on such a subject as this, & whether it
is before Gov. when deciding
to consider it. I would say but
although Gov. retain their opinion
FOR ORDERS.

that the Commⁿ have no right to
recommend and any particular decision
is a matter of their own.
H. M. any opinion regarding it
they may happen to express & it
is known to Gov. at the time of
decision will receive attention.

JG
29/7/96

I concur generally with Hon. Members. The Hon. Mr.
Grove more fully expresses my view in the
matter than the Hon. Mr. Bliss.

A. S. H.
4.8.96

For

X

DEPARTMENT

C. No.

FOR ORDERS.

to get this up. I recollect
asking at the time that the
Commⁿ had no right to make
recommendations when Gov. asked
but that a Gov. had not
difficulties about taking his ill. to
ask for Mr. Jones as Sanitary Eng.
and had to settle matters amicably
with the Commⁿ? it was not
advisable to say anything on
the subject and the appl. was as
it had also the approval of Col. Moore
made.

This as far as I can recollect occurred
in 1894 and was the first instance
in which the Commⁿ ventured upon
suggesting putting forward any recommendations
as regards an appointment and the
intention of Municipal Officer who
had exceeded 55 years of age. The
instance of their doing this which

Mem. Commr. right of way
Recommendation to Govt.

(4)

FOR ORDERS.

~~H. E. THE GOVERNOR. (2)~~

~~THE HON'BLE MR. H. W. BLISS, C.I.E.~~

THE HON'BLE MR. J. GROSE, C.I.E. (2)

Hon W Bliss C.I.E. (1)

Council

29/9
18/9/96

[G.]
[25 A.]
1,000-1-3-96.

21/9/96

Letm DEPARTMENT

C. No.

FOR ORDERS.

I omitted to initial,
but have done so
now.

29
18/9/96

This file is resubmitted to the
Hon. Mr. Grose, as he has since
omitted to initial the draft, or did
not see the file when previously
submitted.

WHD
17-9-96

Am signed
m
29/9

FOR ORDERS.

H. M.

R 16/9

Order. No 1635 Mmis D 23.9.96

H.E. the G. in C. ^{has} ~~regret~~
^{in compliance with} that he is ~~is~~ unable to com-
^{ply} with the request ~~at~~ con-
 tained in the Resolution
 forwarded by the President
 of the Madras Municipal
^{re-considered the} Commission. ~~He~~ adheres
 to the view ~~that~~ expressed
 in G.O., No 823 M. Mis., dated
 13th May 1896, ⁺ that it is be-
 yond the functions of the
 Commissioners to make
 recommendations of the
 kind referred to therein. ^{the G. in C.}
 and he is further of opinion
 that recommendations on
 such personal matters are
 likely to produce serious
 inconvenience and to ham-
 per H.E. in C. in the exercise

2.5.96
9.9.96

19/9/96

18/9/96

+ Having done so, he is obliged
 to adhere to the view therein
 expressed

of the functions which are
 specially reserved to him
 by the provisions of the
~~Act~~ Municipal Act. On
 matters which are not of a
 personal nature, however,
 the Govt. will always
 be glad to receive an ex-
 pression of the views of
 the Commissioners.

Circulated to

1. Hon. Mr. Bliss C. C. S.
2. Hon. Mr. Jose C. S.

11/19/96

To,
 The President, U. C., Madras.
 Recd
 Dec 25/96

on given for copying *V. D. 21/9*
 on copied _____
 on examined *N. S. 21/9*
 on signed *21/9*

ASAIN G.O., No.
 189 ,

DATED

ARENT 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
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