

INDEXED.

Local & Munl. (1896-) Department.

MISCELLANEOUS.

G.O., No. 2073 M

DATED 5-12-96-

39(m)

[Despatch Abstract.]

Interpellation

Requesting the Advocate General to advise whether — of the munl. executive is a matter falling within the purview of Sec. 38 (iii) of Act IV of 1884 for which a munl. Council can make rules.

64011
42

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

Enclosures

1897.

Spare copies

G.O., No. ^{129A-M}~~222~~ L., 30th January 1897.

JANUARY.

Stating that, as there is no express provision in the District Municipalities Act conferring on Municipal Councils the privilege of —, such a right cannot be created by means of rules framed under section 38 (iii) of the Act, and cancelling the resolution of the Palghat Municipal Council, No. 24, dated 7th October 1896, as being *ultra vires*.

129-A-M

2

No. 222-L., 30TH JANUARY 1897.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—again the following paper :—

G.O., Mis. No. 2073 M., dated 5th December 1896.

Read—the following paper :—

From M.R.Ry. P. I. CHINNASAMY PILLAI Avargal, Rao Bahadur, Chairman, Municipal Council, Palghat, to the Chief Secretary to Government, dated 12th October 1896, No. 3447.

I have the honour to subjoin a resolution of the municipal council, dated 7th instant, No. 24.

"24. Read letter from M.R.Ry. P. K. SUBRAMANIA AIYAR Avargal, stating that he intends moving the following proposition at the meeting :—

"That the necessary rules be framed by the Council for interpellating the executive of the municipality in all matters appertaining to the same."

"Proposed by M.R.Ry. P. K. Subramania Aiyar Avargal, seconded by M.R.Ry. V. Raman Nayar Avargal, and carried by a majority. M.R.Ry. L. A. Subbarama Aiyar Avargal and M.R.Ry. V. Rama Nayar Avargal do form the committee to frame the rules."

2. In submitting the above resolution, I beg respectfully to point out that, for the reasons given below, the resolution is in excess of the powers conferred by law, and is therefore liable to be cancelled under section 35 (1) of Act IV of 1884.

3. The provision, under which rules for interpellating the municipal executive are proposed to be adopted, is section 38 (iii) of the District Municipalities Act, 1884. I beg to state that this sub-section, which enables the municipal council to frame rules in regard to "the conduct of proceedings at meetings," does not confer any right upon the municipal council for interpellating the municipal executive. This is identical with section 38 of Act IV of 1884, had not conferred any right other than that of framing rules for the conduct of business at the Legislative Council the Indian Councils Act, 1861, was modified by section 2 of the Amendment Act of 1892, by which "the asking of questions" was authorized. It is said that some municipal councils exercise the right of interpellation, but such exercise is not, in my humble opinion, authorized by any of the provisions of the District Municipalities Act.

I beg to solicit the early orders of Government.

Order—Mis No. 2073 M., dated 5th December 1896.

The Chairman's letter will be forwarded to the Advocate-General, who will be asked to be good enough to advise whether "interpellation" of the municipal executive is a matter falling within the purview of section 38 (iii) of the Madras District Municipalities Act (IV of 1884) for which a municipal council can make rules.

(True Extract.)

(Signed) G. S. FORBES,
Secretary to Government.

To the Government Solicitor.

129A-M

No. 222-L., 30TH JANUARY 1897.

3

READ—also the following paper :—

From the Government Solicitor, Madras, dated 11th December 1896, No. 648.

129A-M

ORDER—No. 222-L., dated 30th January 1897.

The Government considers that, as there is no express provision in the District Municipalities Act conferring on municipal councils the privilege of interpellation, such a right cannot be created by means of rules framed under section 38 (iii) of the Act. The resolution of the Palghat Municipal Council, No. 24, dated 7th October 1896, is therefore *ultra vires*, and will be cancelled under section 35 (1).

(True Extract.)

Secretary to Government.

To the Chairman, Municipal Council, Palghat.

"all other Chairmen of Municipal Councils
"all Collectors.
"all Presidents of District Boards.
Editors Table. Government Solicitor ?

Exd. T. K. Narayana Iyengar.

[5]
808-27-5-95.

Papers to be read in Proceedings:—

Again G.O., dated

189 , No.

Current No. of 189 , dated

from the

Current No. 276511 of 1896, dated 12th Oct: 1896 from the Chairman M.C. Palghat.

No. 2073 dated 15/12/96

The Chairman's letter will be forwarded to the Ad-Genl. who will be asked to advise the question as to whether

"interpellation" is a matter falling within the purview of

Under Section 38(iii) of the Madras District Municipalities Act IV of 1884 for which a Municipal Council can make rules for the interpretation of the Municipal Executive, will be referred to the Advocate General for his opinion.

(From Orders.)

V.R.
4/12/96

J.K. 571

To.

The Government Solicitor.

Dated 8/12/96

To Secy
J + m
At
4.11.96

Local & Munl. (1896) Department.

CURRENT No. 2765

From

The Chairman,
Municipal Council,
Palghat

No. 3447

Dated 12th October 1896.

Received 14 Oct. 96

Registered

Enclosures

Spare copies.

SUBJECT.

Soliciting favour of early orders
of Government on the subject of
exercising right of interpellation.

H.M.

For Orders

There is nothing in the Act about
"interpellation", but it does not seem
to be inconsistent with the provisions
of the Act. Under sec. 38 the Munl.
Council is really responsible for the
due administration of munl. affairs.
+ as such should be allowed to
question the executive as to the
performance of these duties. In these
circumstances it is submitted that
rules under sec. 38 (iii) & (vii) would be
perfectly legal, as being consistent
with the Act. The power of interpellation
might often be used to harass an obnoxious
chairman, but if the rules allowing
it would have to be approved by Govt.,
+ might be so framed as to obviate this
as far as possible

W.D.
1/10/96

P.T.O.

(1) Please refer to 28/10/96
p. 2-2.

Executive Order of 18/10/96
No. 3447
Also refer to Section 38

BACK PAPERS.

G.O.	No.	Department.	Date.
50	278	hkh	17-2-96

FURTHER PAPERS.

G.O.	No.	Department.	Date.

He is.
The resolution referred to by the Chairman appears strictly to be ultra vires. The Council may make rules, under § 38 of the Act (10 of 184), in regard inter alia to (iii) the conduct of proceedings at meetings. But as there is no obligation imposed by the Act on the Chairman to answer questions, it seems clear that rules regulate interpellation w^h it come within the scope of the clause & that such rules w^h be ultra vires.

For does there appear to be any need, ^{on the part of the} to recognize or foster the idea of interpellation in Mun. Councils.

The admission of the right, exercised ~~with~~ by the classes of persons who furnish Councilors, w^h inevitably result in great waste of time, in embittering personal feelings, & in rendering the position of Chairman such that few reputable native gentlemen w^h care to hold it.

Moreover anything of advantage that might follow from the privilege can be equally well secured under existing

NOTE FOR THE

arrangements.

If a Councillor desires to bring any municipal matter before the Council it is open to him to do so by placing the matter on the agenda paper (vide G.O. 17.2.96 no 278/1) & then himself introducing the subject & making a substantive motion thereon. In this manner he can ~~bring forward~~, if he secures the necessary support for his motion, ~~except~~ bring under review any error, or have information supplied. Nothing more is necessary.

Interpellation in the Rep. C. is quite a different thing ~~from~~ The Council has no control over the Executive.

Think this will be the safest thing to do. The presence of the habit of interpellation might turn a Council into a mere mob. But

Circ 17/11/96 22/11/96
Would it not be well to take the opinion of the Advocate Genl. before giving this order? A.S.H. 25.11.96

It is submitted then that the prop^s of the Balghat M.C. be cancelled as ultra vires

S.H. 16/11/96

I don't object, though I don't have thought it necessary to do so. 2/12/96

Read again the following paper
No 20732 of 5/12/96

18
municipal office.

Palghat. 12th October 1897.

No 3447

27/10/97

From,

M. R. Ry.

P. S. Chinmasawmy Pillay Avargal Rao Bahadur
Chairman, municipal Council,
Palghat.

To
The Honorable A. J. Arundel,

Ag. Chief Secretary to Government,
Local and municipal Department,
Fort St. George.

Sir,

I have the honor to subjoin a resolution
of the municipal council, dated 7th Instant, No 24

Present.

M. R. Ry. P. S. Chinmasawmy Pillay Avargal, Rao Bahadur,
Chairman.

A. L. Vibert, Esqre.

J. B. M. Cardozo, Esqre.

C. M. Barrow, Esqre.

M. R. Ry. K. P. Achuta menon Avargal

A. N. Anantaramayana Aiyar Avargal.

" P. Ananta Aiyar "

" V. Raman Nayar "

" V. Krishna Aiyar "

" J. K. Mahadeva Aiyar "

" P. K. Subrahmaniam Aiyar "

" C. S. Swaminadha Pattar Karisshkar "

" M. A. Parameswara Aiyar "

" J. H. Govind Singh "

" L. A. Subbarama Aiyar "

" A. Chaman Pattar "

" A. Krishnan Nayar "

nb

24. Read letter from m. R. Ry. P. K. Subrahmaniam
Aiyar Avargal stating that he intends moving
the following proposition at the meeting.

"That the necessary rules be framed
by the Council for interpellating the exe-
cutive of the municipality in all matters
appertaining to the same."

Proposed by m. R. Ry. P. K. Subrahmaniam
Aiyar Avargal and seconded by m. R. Ry.

V. Raman Nayar Avargal and carried by a
majority. m. R. Ry. L. A. Subbarama Aiyar
Avargal and m. R. Ry. V. Raman Nayar
Avargal do form the Committee to frame
the rules."

2. In submitting the above resolu-
tion, I beg respectfully to point out that,
for the reasons given below the resolution is
in excess of the powers conferred by law and
is therefore liable to be cancelled under Section
35 (1) of Act IV of 1884.

3. The provision under which rules

for interpellating the municipal Executive are
proposed to be adopted, is Section 38(III) of the
District Municipalities Act 1884. I beg to state
that this Sub-Section which enables the municipal
Council to frame rules in regard to "the conduct
of proceedings at meetings" does not confer any
right upon the municipal Council for inter-
pellating the municipal Executive. This will
be evident from the facts that Section 37 of the
Indian Councils Act 1861, which is identical
with Section 38 of Act IV of 1884, had not conferred
any right other than that of framing rules
for the conduct of business at the Legislative
Council meetings and that the right of inter-
pellation was allowed to be exercised only
when the Indian Councils Act 1861 was modified
by Section 2 of the Amendment Act of 1892, by
which "the asking of questions" was authorized.
It is said that some municipal Councils exercise
the right of interpellation, but such exercise

I beg to solicit the early orders of Government.

Your most obedient servant,

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

READ AGAIN G.O., No.
189

DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAP^{AS} NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL.

A = Copy in full.
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