L. & M.
9,000—8-8-96.

Local & Munl. (1896) Department.

MISCELLANEOUS.

G.O., No. 864 M.

DATED 21st May 1896.

[Despatch Abstract.]

Municipal Council.

Ordering, with remark, that the elction of M.R. Ry. Sivaswami Odayar Avargal as Chairman of the Kumbakonam --- 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.

His Excellency ~~The Right Honourable~~ the Governor in Council approves, under Section 14 of the Madras District Municipalities Act, 1884, of the appointment by election of the undermentioned gentleman to be the Chairman of the Municipal Council of the Municipality of Kumbakonam.

M.R.Ry. T. S. Sivaswami Odayar Avargal.

Gazette Part I-A.

C No. 1299 M/96.

R.S.
4/5/96.

H. MOBERLY
22 APR 96

From

T. S. Sivasawmi Odayar
Chairman Elect of the
Municipal Council
Kumbakonam

To

The Collector of
Tanjore

Sir

I understand that an objection petition has been put in impeaching the validity of my election held on the 10th instant as chairman of the Municipal Council of Kumbakonam on two grounds (1) that the declaration is invalid & (2) that the required majority has not been secured under rule 2.

1. The election rules do not provide for the presiding officer making any declaration after the closing of the poll. Hence any trivial mistake that may have arisen in this respect, cannot vitiate the validity of the election

2. Rule 2 runs thus:— No election

under these rules will be recognized as valid unless the successful candidate obtains the votes of more than half the total number of members then on the Council

3. The total number of members on the Council, on the date of the election, was 23, one seat being vacant. More than half of 23 is 12. In my case 12 is the required majority which I have obtained.

4. The contention of the objectors seems to be apparently that half of 23 is not $11\frac{1}{2}$ but 12 & that more than half in the present case is 13. This contention is more ingenious than sound. The question to be considered under rule 2 is what is more than half and not what is half. There can be no doubt of this that 12 is more than half of 23. In this view of the case it is unnecessary to consider whether half of 23 gives us an integer or any proper fraction.

5. In construing a rule regard should be had to the object thereof. In G. O. No 1966 Local & Municipal, dated 17th December, 1894 para 2, it is observed that "the Government, however, considers that the principle that the Chairman elected should possess the confidence of a majority of the other members of the Council should be maintained". The underlining is mine. In my case the Other members of the Council (excluding myself) are 22 in number, & more than half of 22 is 12.

6. As I am not at present informed of the other objections put forth by the objectors, who are mostly brahmin Vakils & School-masters & who therefore cannot be expected to sympathise with the interests of the other classes, I am not in a position to meet them.

7. I beg to request that in disposing of the objection petition you will be pleased to take into consideration the points noted herein.

I beg to remain,
Sir,
20. 4. 1896. }
Kumbakonam }
Your most obedt servt
T. Sivasawmy Aiyar
Chairman elect

ENCLOSURE No. 3

In a letter

FROM

THE COLLECTOR OF Tanjore

TO

THE Chief Secretary
to Government
Local & Municipal Dept
Madras

Dated 23rd April 1896.

No. 713

Subject.

Letter by M.R.Ry. T. S. Siva-Swami Odaiyar meeting the objections to his election as Chairman

PETITION REGISTER No 920/Rev of 1896

A/12/4

VE.

Reg^d Rest

14.iv.96

Rec^d AC 15/4 10 m

For orders

The Sub Collector's report on the election & the election rules are put up.

To

The Collector of the District of
Tanjore, Vallam.

The petition of V. Krishna aiyar, B.A. B.L., N. Vaithianatha aiyar M.A. and Rao Bahadur S. Appu Sastriar B.A. — members of the Municipal Council, Kumbakonam — respectfully sheweth.

1. That at the election held on Friday the 10th inst. for the office of Chairman to the Kumbakonam Municipal Council there were 22 Councillors present including the Sub Collector.

2. That there were 4 Candidates for the said office, ie Messrs. A.C. Narayanasami aiyar, N. Vaithianatha aiyar M.A, A.L. Thiruvengadam Pillai and T.S. Sivaswami Odayar.

3. That on a ballot being taken, the votes were as follows:

Mr. T.S. Sivaswami Odayar, 11
" A.C. Narayanasamiayar, 8
" N. Vaithianatha aiyar, 1
" A.L. Thiruvengadam Pillai - 0,

two Councillors, one of whom was the Sub-Collector and the other presumably Mr. T.S. Sivaswami Odayar, not voting.

4. That as the said ballot failed to secure the required majority in favor of any one candidate, a second ballot became necessary.

5. That before proceeding to take a second ballot a discussion ensued as to what was the absolute majority. Messrs. K. Ranganatha Row, V. Krishna aiyar, N. Krishnasami aiyangar, N. Vaithunatha aiyar, Rao Bahadur S. Seshayya and Rao Bahadur S. Appusastriar being of opinion that 13 was the number representing the absolute majority, there being then on the Council 23 Councillors (one seat being vacant), the reason for so holding being that there being no half a councillor, 12 represented one half and under Rule II, 13 only can be more than one half. The Sub-Collector who presided seemed to hold the contrary view, and said he would report the matter to Government. The Council then proceeded to take a second ballot.

6 That in the second ballot, the result of the poll as declared by the Sub Collector was as follows: Mr. T. S. Sivasami Udayar 13, Mr. A. C. Narayanasami aiyar 8, Mr. A. L. Thiruvengadam Pillai 1, and Mr. N. Vaithunatha aiyar 0; all the 22 Councillors having thus voted. The Sub Collector thereupon declared that Mr. T. S. Sivasami Udayar having secured 13 votes was elected.

7. That the petitioners have reasons to believe that Mr. T. S. Swaswami Adayar has not secured 13 votes as declared at the meeting by the Sub Collector. If he has secured 13, he must have voted for himself in which case the petitioners beg to refer to G. O. No. 1122 M. dated 21st August 1894, and submit he has not been therefore validly elected. If he has not voted for himself and has secured only 12 votes, the petitioners beg to state that he has not secured an absolute majority, and that the Sub Collector having declared that he had secured 13 votes, when only he had 12, the declaration is illegal and he has not been validly elected.

8. That the petitioners have reasons to believe that if the said Mr. T. S. Swaswami Adayar has not voted for any one, his writing in his voting paper at the second ballot seems to have misled the presiding officer to reckon his vote in his favor. When the SubCollector counted the votes in his favor as 13, the total number of votes as 22 and that no Councillor had recorded a nil vote,

Mr. T.S. Swaswami Odayar, if he had voted for no body ought to have corrected him, and said in the meeting that he had not voted for anyone at all. Mr. Swaswami Odayar after the meeting dispersed said, before a large number of persons that in the second ballot he voted for mr. A.C. Narayanasami ayar.

9. That mr. Swaswami Odayar who is a member of the Temple Committee of Kumbakonam and has a party in it, has procured votes from some of the Councillors upon a promise to get them appointed as trustees of temples, and vote in the Committee for their appointment, which the petitioners submit amounts to corruption.

10. The petitioners further submit that they have reasons to believe that mr. T.S. Swaswami Odayar has unduly influenced a large number of Councillors who are trustees of temples under his management to vote for him.

The petitioners therefore pray that the election may be declared void, and a fresh election held.

Kumbakonam
13th April 1896.

N. Vaithianathan
Ml. Councillor.

V. Krishnaiyer
Mul. Councillor.

Rao Bahadur S. Appu Sastri
Mul Councillor.

Enclosure No. 2

In a letter

From

The Collector of

Tanjore

To

The Chief Secretary
to Government
Local & Municipal Dept
Madras

Dated 23rd April 1896.

No. 713

Subject.

Objection put in by Messrs V. Krishna Aiyar B.A. B.L. & Vaithinatha Aiyar M.A. & Rao Bahadur S. Appu Sastrie B.A. Municipal Councillors to the election of M.R.Ry T. S. Sivaswami Odayar

2/Tr99 [illegible]

No 19. Municipal Councillor's Office
Kumbakonam 10th April 1896.

From

W. B. Ayling Esq: I.C.S
Sub Collector in Charge of the
office of Chairman Municipal Council
Kumbakonam

To the Collector of
Tanjore.

Sir,

With reference to your letter dated 19th March last No 151/English, I have the honor to forward herewith a copy of the Proceedings of the Municipal Council dated this day and to state that the election was conducted in strict accordance with the rules.

2. By an unfortunate error however in counting the votes, the result was in one particular announced wrongly. Mr Swaswami Odaiyar was declared

to have received 13 votes, whereas he had really received 12 only. This error was subsequently discovered. The figures given in the enclosed Copy of Proceedings are correct.

3. The error for which I am personally responsible is much regretted, but is of the less consequence as twelve votes form a sufficient majority to satisfy the requirements of Rule 2, the present number of members being 23.

4. The voting papers have been preserved in sealed covers for reference if necessary.

I have Etc.

(Signed) W. B. Ayling

Sub Collector in Charge

(True Copy)

For Ag Collector

FM

RS/

Enclosure No 1

In a letter

From The Collector of
Tanjore

To The Chief Secretary
to Government
Local & Municipal Dept.
Madras

Dated 23rd April 1896

No 713

Subject.

Sub Collector's letter No 19
dated 10.4.96 reporting
the election of a chairman
to the Municipal Council
Kumbakonam

3/1299 M of 96

No. 713.

TANJORE, COLLECTOR'S OFFICE,
Camp Tiruturaipundi 23rd April 1896

1299 M

FROM

H. Moberly ESQUIRE,
Ag COLLECTOR,
Tanjore,

To

The Chief SECRETARY TO GOVERNMENT,
Local & Municipal DEPARTMENT,
Madras.

SIR,

The Chairmanship of the Municipal Council, Kumbhakonam, having become Vacant by the resignation of M.R.Ry P. Tambisami Mudaliyar Avergal, which was accepted in this office Proceedings dated 19th March 1896 Reference on Current No. 151/English, a meeting was ordered to be called for, the 10th Instant for the special purpose of electing a

Chairman. Accordingly at the meeting held on that date, the SubCollector in the chair declared that MRRy Siwaswami Odaiyar was duly elected as Chairman - Vide SubCollector's letter dated 10th April 96 No 19. (Copy enclosed).

2. Against this election, 3 of the Councillors - one of them being a defeated Candidate - sent in a ×petition under para 8 of the election rules objecting to the legality of the election on the following grounds:—

1) That MRRy T. Siwaswami Odaiyar having secured only 12 votes cannot be said to have obtained an absolute majority as laid down in para 2 of the rules.

2) That MRRy Siwaswami Odaiyar gained

gained the votes of a few Councillors by promising to get them appointed as trustees of certain temples which amounts to corruption;

and 3) that he also used other undue influences with a large number of Councillors who are trustees of temples under his management to vote for him.

3. Of the three objections, No1 is the most important. With regard to this, I beg to submit that the present number of Councillors on the roll is 23; and only 22 of them attended the meeting. Rule 2 of the election rules requires that the successful Candidate shall obtain the votes of more than half the total number of members then on the Council. MRRy Siwaswami Odaiyar has obtained 12 votes out of 23. The half

half of 23 is 11½; but if there are 23 members on a Council, should not 12 rather than 11½ be taken as half the total number? It is a physical impossibility to have 11½ members. A person obtaining 11 votes out of 23 obtains less than half the total No of votes; but then 11½ votes is an impossibility; consequently 12 should be regarded as the half of 23. This is the argument of the objectors and I am inclined to think they are right.

4. On the other hand, as M.R.Ry Siwaswami odaiyar points out in his letter of the 20th april 1896 (Enclosed), there are only 22 members on the Council if we exclude him, and 12 is more than half of 22. The objectors do not allege that M.R.Ry Siwaswami odaiyar voted for himself. As he obtained 12 votes he certainly obtained the votes of more than half the number of his fellow Councillors, but then the rule requires that the successful Candidate shall obtain an absolute majority of votes from all the members on the Council.

5. The other objections need not I think be considered, for no specific instance of a Councillor having been bribed by a promise has been adduced, and I doubt if a promise can be called a bribe.

I have the honor to be.
Sir
Your most obedient Servant.

For Ag Collector

JM

RV

Loc al Dep
CURRENT No. 1299 M

Local and Municipal Department

From
The Collector of
Tanjore
To the Chief Secretary to
Government
Local and Municipal
Department
Madras.

Dated 23 } April 96
Received } 29 APR. 96
No 713.

Enclosures 3.
Reporting on the election of a chairman to the Kumbakonum Municipal Council and the objections thereto

S.A. 2914

1/5

voted

Again G.O., dated 189 , No.
Current No. 1299 M of 1896, dated 23rd April from the Collector of Tanjore.
Current No. of 189 , dated from the

FOR ORDERS.

The facts are clearly set forth in the Collector's letter. The only point for consideration seems to be whether 12 votes out of a total of 23 constitute a majority. The contention of the petitioners, to whom the Collector is inclined to agree on this point, is that 12, and not 11½, must be taken to be half of 23 votes, seeing that it would be absurd to speak of 11½ votes, and that therefore the successful candidate should, to satisfy the condition laid down in rule no. 4, secure 13 votes. It is however submitted that it is immaterial whether the exact half of 23 votes is a possible or an impossible quantity, and that the essential question is whether the 12 votes secured by M.R.Ry. Swigaswami Odayar are not more than half (the words used in rule no. 4) of 23 votes, i.e., more than the 11

votes

recorded against him. If this view is correct, he would seem to have been duly elected. It is also submitted that if regard be had to the spirit of the addition recently made to Rule No. 4 (See G.O. No. 1966 Mu d/ 17.12.94) M.R.Ry Sivasami Odayar has a clear majority in his favor, 12 against 10, himself being left out of account.

S.A.
4/5/96.

The object of the rule being that the elected candidate shall obtain an absolute majority, it is clear that 12 votes out of 23 should be considered as "more than half" as it gives this absolute majority - It seems absurd that 12 votes should be taken as half of 23 - It would be equally reasonable to say that 11 is half of 23 -

WWD
6.5.96

I agree with the A S. and submit that the election should be confirmed and the objection ~~[illegible]~~ rejected.

9/5/96

11/5/96

Order No. 864 Misc. d/ 21-5-96

The Govt. does not consider that the objections taken are valid; ~~otherwise~~ the election of M.R.Ry. Sivaswami Odayar as chairman therefore will be confirmed. [& the usual notification published in the Fort St. George Gazette.]

(from orders)

WWD
13.5.96

18/5/96

Office

Is this election published in the Gazette? If not strike out the portion between brackets.

To
The Collector of Tanjore

P. & O.

Gazetted 21/5/96.

Desp. 28/5/96

voted

Election of Chairman [illegible]
[illegible]

From Cus. 1299

FOR ORDERS.

~~H~~[illegible],

C8

86th

11/5
R12/5

When given for copying ______
When copied ______
When examined ______
When signed ______
189 .

READ AGAIN G.O., No. DATED
189 ,

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.
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Q = Copy heading only.

Cus. 731/96