

Local & Munl. (1897) Department.

INDEXED.

PRINTED.

G.O., No. ^{129A. M.} ~~222~~ ^L

DATED 30-1-97

DESPATCHED

[Despatch Abstract.]

Interpellation

Stating that as there is no express provision in the District Municipalities Act conferring on Munl. 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 Munl. Council No. 24, dated 7th October 1896, as being ultra vires.

BACK PAPERS.

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

FURTHER PAPERS.

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

Government {1897} of Madras. LOCAL AND MUNICIPAL.

Recd.

Regd.

1897.

Enclosures

Spare copies

G.O., No. 129-A M., 30th January 1897.

JANUARY.

Interpellation.

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*.

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. CHINNASWAMI 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. Raman 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 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 interpellation 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 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.

READ—also the following paper:—

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

ORDER—No. 129-A M., 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.)

G. S. FORBES,
Secretary to Government.

To the Chairman, Municipal Council, Palghat.

" all other Chairmen of Municipal Councils.

" all Collectors.

" all Presidents of District Boards.

" the Government Solicitor.

Editors' Table.

Exd. T. K. Narayana Iyengar.

Local & Munl. (1896) Department.

CURRENT No. 3310 M.

Order

From

The Government Solicitor,
Madras.

No. 648.

Dated 11 — 12 — 96.

Received " — 12. 96.

Registered " — 12 — 96.

Enclosures

Spare copies

SUBJECT.

Forwarding opinion of the Advoca-
te General, regarding the
question of compulsion of the
Municipal Executive.

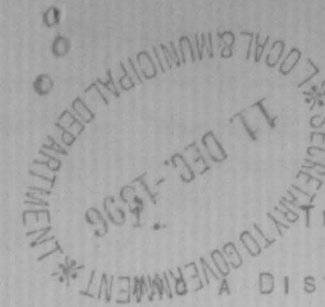
19/12 A 17/12

BACK PAPERS.

G.O.	No.	Department.	Date.
40	2073	m	5-12-26
"	278	m	17-2-26

FURTHER PAPERS.

G.O.	No.	Department.	Date.



Read - also the following papers

to be done only

LOCAL & MUNICIPAL DEPT.

OPINION. CURRENT No. 3310 M

THERE IS NO ANALOGY BETWEEN THE LEGISLATIVE COUNCIL
A DISTRICT MUNICIPAL COMMISSION.

(a)
THE INDIAN COUNCIL'S ACT 1861, SECTION 29, CLEARLY POINTS
OUT THAT THERE ARE TWO CLASSES OF MEMBERS OF COUNCIL, VIZ:- THE
"ORDINARY" MEMBERS WHO FORM THE EXECUTIVE COUNCIL; AND THE
"ADDITIONAL" MEMBERS APPOINTED UNDER THE POWERS THEREBY CON-
FERRED "FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS ONLY".
THE SECTION DECLARES THAT THESE ADDITIONAL MEMBERS "SHALL NOT
BE ENTITLED TO SIT OR VOTE AT ANY MEETING OF COUNCIL, EXCEPT AT
MEETINGS HELD FOR SUCH PURPOSE". I.E. FOR MAKING LAWS AND REGU-
-LATIONS. THEY WERE NO MORE ENTITLED TO INTERPELLATE THE ORDI-
-NARY OR EXECUTIVE COUNCIL THAN ANY OF THEIR FELLOW CITIZENS.
THE INDIAN COUNCIL'S ACT 1892^(b) SECTION 2, CONFERRED UPON THE
ENLARGED LEGISLATIVE COUNCIL THEREBY CREATED, A LIMITED RIGHT OF
INTERPELLATION.

A DISTRICT MUNICIPAL COUNCIL IS A BODY CORPORATE
CREATED FOR THE EXPRESS PURPOSE OF CARRYING OUT THE PROVISIONS
OF MADRAS ACT IV OF 1834. IT IS PART OF THEIR DUTY TO KEEP THEM-
-SELVES WELL INFORMED WITH REGARD TO ALL MATTERS CONNECTED WITH
THEIR MUNICIPALITY. TO OBTAIN THE INFORMATION, INTERPELLATION
MAY BE NECESSARY, AND WHEN RESORTED TO, THE QUESTIONS AND
ANSWERS FORM PART OF THE PROCEEDINGS AT THE MEETING AT WHICH
THEY ARE PUT AND GIVEN.

2. I THINK THAT INTERPELLATION OF THE MUNICIPAL EXECUTIVE
MAY WELL FORM PART OF THE PROCEEDINGS AT A MUNICIPAL MEETING,
AND THAT IT FALLS WITHIN THE PURVIEW OF SECTION 38 (iii) OF THE
DISTRICT MUNICIPALITIES ACT IV OF 1834 FOR WHICH A MUNICIPAL
COUNCIL CAN MAKE RULES.

MADRAS
10TH DECEMBER 1896

J. H. SPRING BRANSON
ADVOCATE GENERAL

(A TRUE COPY)

Ernest Sanders
GOVERNMENT SOLICITOR

*(a) 24 & 25 Viet
C. 67.*

*(b) 55 & 56 Viet.
C. 14.*

(1896) Department

From

Ernest Barclay
Government Solicitor
Madras

To

The Secretary to Government
Local & Municipal Departt
Madras

N^o 648

Dated 11th December 1896
Recd

Forwarded with reference to
the Order of Government
N^o 2073. M. Mis. dated 5
December 1896. Local &
Municipal Department.

Ernest Barclay
Government Solicitor

Again G.O., dated

189 , No.

Current No. 3310 M of 1896, dated

Current No. of 189 , dated

from the

from the

FOR ORDERS. H.M.

I agree with the Sec. that
the Adv. Genl. is wrong in his
law. Interpellation ^{would be}
part of the proceedings at
meetings, no doubt, but
it cannot possibly be part
of "the conduct of proceedings
at meetings" - That it is
highly inexpedient to
allow interpellation is to
be argued entirely.

AS

12/1/97

I would not if it be usual, or indeed wise, to reject
the opinion of the Advocate Genl. Even if Sec 38 (iii)
does not give the power of permitting and regulating
interpellation, surely Sec 38 (vii) does; it is
wide enough for anything. If the M.C. is able to
make rules permitting and regulating inter-
pellation, those rules could be framed so as to
require the Chairman to answer questions.

The Adv. Genl. on the reference
before him expresses the opinion
that "interpellation" is a matter
within the purview of Sec 38 (iii)
of Act IV of 1884, for which a
Council may ^{legally} make rules.

He puts his opinion on
the ground that it is part of
the duty of the Council as a
body corporate created for
the purpose of admin^g municipal
affairs to keep themselves
informed of all matters
connected with the City, &
that to obtain this information
interpellation may be
necessary.

I venture to think
that the soundness of this
opinion is open to question.
What sec. 38 (iii) empowers is
the making of rules in regard to

Fr

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2

a conclusion

D. 5 H

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20/1/97

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If it is, the Act shall be amended so as to disallow the right.

87.29.1.97

FOR ORDERS.

Right of Interpellation of the Municipal Executive.

[5]
400-27-5-95.

LOCAL AND MUNICIPAL DEPARTMENT.

Papers to be read in Proceedings:—

Again G.O., dated No. 2073 m. 189 , No. dated 5-12-96. 58

Current No. 2310 of 1896 , dated 11-12-96 from the Government. Solicitor
Current No. of 189 , dated from the Madras

G.S.
Order. No. 129A-M
~~222~~ 7. 30-1-97

The Government Considers
that as there is no express power
in the District Municipalities Act
confering 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).

(From Orders.)

1/2
24/1/97

27-1-97

To.

The Chairman M.C. Palghat.

All other Chairmen.

All Collectors.

Presidents of Dist. Boards

Governmental Solicitor 3
Editors Table.

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