

E.
INDEXED. *NMS*
cal & Munl. (1897) Department.

MISCELLANEOUS.

G.O., No. 509 M.

DATED 12. 3. 97

DESPATCHED

[Despatch Abstract.]

License fees

Passing orders on the proposal of the Mnl.
Commil Pahlvi, to levy fees for licenses to be issued
at the time of important festivals in the town.

✓

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

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

LOCAL AND MUNICIPAL DEPARTMENT

Papers to be read in proceedings :—

189

" " 189 "

Dk today to Council
Mm
12/3
received
at 6 P.M.
per
12/3
OR

ORDER. No 509 min. 12-3-97

The municipal Council of
Palni requests the sanction of Govern-
ment under Section 267 (2) of the
District Municipalities Act for levy-
ing the following fees for licences
to be issued at the time of im-
portant festivals in the town:—

- (1) Right annas for every trashed temporary house newly put up.

- (2) One aune for every temporary
Shall or hearse with no roof, held
on road verges.

- (3) Four annas for every cast stationed as a stall for the sale of Coconuts ^{fruits & the like} ~~the~~ on road pavements and tank margins.

2. In the first case, the ~~permission of the municipal council~~
~~is required under section 179 of the~~
~~Act. The fee proposed to be levied~~
~~for~~

for granting such license is same.
- licensed.

3. In the second and third cases, however, no permission on the part of the Council is necessary and no fees can be levied unless the lands on which the stalls are put up ^{or} the carts are stationed form part of a 'street', as defined in the Act. The proposed fees are therefore approved only in respect of the occupation of sites which are within ~~the~~ ^{that} definition of street.

The question whether ^{all} the plots ~~now~~ which are utilized for the ~~purpose~~ ^{purposes} mentioned by the Municipal Council as 'streets' really rest in the City as 'street'

such or belong to Government, - ^{is a question to} ~~be decided~~ ^{be settled} between the Municipal ~~Chairman~~ and the Revenue Auths.

riches ~~after joint inspection of~~ ^{with} the localities concerned. The Govern- ment, as at present advised, is not prepared to hand over to the Council the control of ~~the right~~ ^{and with and} to collect rents in respect of, - public land ^{within municipal limits} not now resting in the City.

It is, ^{of course} ~~however~~, open to the Council to levy fees for any collection of stalls that may ~~be required~~ ^{require}

The suggestion that Govt ^{with} may hand over the control with the permission of Govt as owner of such lands, the City may collect the fees mentioned is not tenable: nor is

require a license as a 'private market' under Section 196 of the Act.

/ From orders /
W
M/D

P.R.
12/13/97

Do the Chairman, M.C. Palani
Collector of Madurai.
Pg the Govt
Lg 1887 and current's
order.
P.D.
Oct 13/3/97

Local & Munl. (1896) Department.

CURRENT No. 342b.m.

From

The Collector of
Madras

Recd No. 5670 of 96

Order.

Dated

Received 27-DEC-1896

Registered

Enclosures 1

Spare copies

SUBJECT.

Submitting with remarks Palni
Municipal Chairman's letter No. 13
dated 16th December 1896 requesting
approval for the levy of certain rates
of fees in temporary bazaars.

21/1 923/1

BACK PAPERS.

G.O.	No.	Department.	Date.
10	1965	h	16-11-96
10	751	h	3-5-95

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Recd to 5670 of 96 Madura Collector's Office
Dated 21 December 1896

LOCAL & MUNICIPAL DEPT.
Form CURR No. 3426/96

J. Twigg Esquire
Collector of
Madura

To
The Secretary to Government
Local and Municipal Department
Madras.

Sir,

I have the honor to forward letter no 13 dated
16th December 1896, from the Chairman Municipal
Council, Palni, with the following remarks.

2. The Council desires to tax the persons who sell
fruits etc at the fair in temporary stalls or from carts.

As the Chairman points out, a fee can be levied
for permission to erect a thatched bazaar whether
the site belongs to the Municipality or not. In the
case of carts I cannot find any authority for
charging a fee unless by way of charge for occu-
pation of land belonging to the Municipality.

3. The report called for from the Sub Collector
on para 2 of G.O. no 1965 M. no dated 16th November
1896, has not yet been received, but from personal
knowledge I can say that some at least of the
lands claimed by the Municipality as "road
margins" are not such as fall under the definition
of

of "street". The Chairman himself does not appear to lay claim to the tank bunds.

4. Though not vesting in the municipality these lands are open, and will be occupied by the public, and will have to be kept clean. It is desirable that the municipality should have the control of their occupation and be empowered to levy fees on the moveable bazaars (carts) which may take up their stand thereon, if this can legally be done.

An authority from Government - the owner of the land - would, I believe, be sufficient.

5. The Chairman asks for early orders approving the rate of fees proposed - section 267(2).

I have the honor to be,

Sir,

Your most obed^t Serv^t.

Wm.
Collector

Wm.
5/25/14

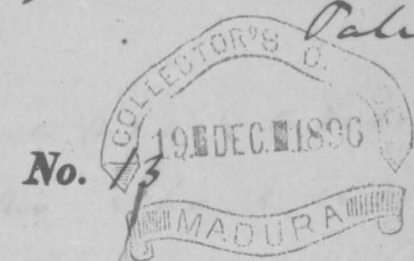
Current No. 5670
Date 19-12-96

Local & Munl. (1896) Department.

CURRENT No.

Order.

From The Chairman
Municipal Council
Palni



Dated 16. December 96

Received

Registered

Enclosures

Spare copies

SUBJECT.

Requesting the approval
of Government for the levy
of certain rates of fees
in temporary bazaar.

5670-1896

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

No 13

Municipal Office. Palni
16 December 1896

Done

G. S. Ponnam Swami Pillai B.A.

Chairman, Municipal Council
Palni

To The Chief Secretary to Government
Madras
Local & Municipal Department
Through the Collector of Madurai

Sir,

In reference to Para (2) of G.O. dated
16 November 1896 No 1966-M. Mis, I have the honor
to state that the sides of streets vest in the
Council under Sec: 23 of the Municipal Act.

2. As for the levy of fees for thatty bazaars
in other places, the Council has got power
under Sec: 267, as the Council's sanction
is necessary for the erection of that ched shed
irrespective of any right to the place where
they are erected.

3. As the Dai festival is to take place
here early in the next month, I request that
the approval of Government applied for
in my letter No 10 dated the 22nd October
may be given at an early date, as other-
wise the Council will be put to a loss.

I have the honor to be

Sir

Your most obedient servant
G. S. Ponnam Swami
Chairman

Local and Municipal
Financial (1897) Department.

CURRENT No. **730 M**

Order

From

The Collector of
Madura.

Revenue No. **528** off 6.

Dated 17th February 97.

Received 19-2-1897

Registered 19-2-1897

Enclosures

Spare copies

SUBJECT.

Submitting report called for
in Government Order No. 1968 M. 1906
dated 16-11-96 on the title of the
Palui Municipality to road-
-margins.

Enc: I to Madura Collector

Revenue No. **567** off 6

Dated 21st December 96

Palui m. p. Chairman's letter
No. 13 of 16 December 96.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Madura Collector's office
 Rec no: 5218
 17. February 1897
 730M

From

J. Zwiggers
 Collector
 Madura

To
 The Secretary to Government
 Local and Municipal Department
 Madras

Sir, With reference to Government order
 no: 1965 in this dated 16th November 1896.
 I regret that the report just received from
 the Subcollector, does not advance matters
 at all.

2. The Municipality does not claim
 tank bunds - It claims, and rightly,
 road margins, but the difficulty is to
 define what is, or rather, what is not,
 road margin. The Tahsildar and the
 Chairman differ on the subject: the
 views of the former are more or less
 in accordance with my own, but no
 attempt has been made to say what particular
 plots

plots in Palani Town are claimed by the Municipality, but must be considered to remain the property of Government.

3. Section 3.VII of Act IV of 1884 includes as "street" the land (not being private property) which lies between the roadway and the main wall of any house adjacent thereto. This can only apply, when the house is really adjacent to the roadway and cannot operate to vest in the Municipality strips of land, yards deep, merely because the nearest house lies so far back from the road. - When the adjacent land is open, it appears to me, that the Municipality cannot claim the whole of what may have been classed as "road foramboke" in the Settlement Accounts, but only so much as may reasonably be said to be necessary for the road purposes.

4. So much depends on the circumstances of each case, that it is impossible to lay down any hard and fast definition -
The

The best plan would seem to be for the Divisional Officer and Chairman to settle once for all on a common sense ^{what plots} interpretation of the definition, now claimed as "street" are to be considered as belonging to Government. There is no need for great strictness and the cases in which Government should assert its rights would be well marked, and comparatively few. It would have been well if this had been done at the time of Survey, but it may still be done without much difficulty.

I have the honor to be
Sir

Your most obedient servant

Wm
Collector

By

168

16.2.97

Levy of License fees - Palni Municipality

LOCAL AND MUNICIPAL DEPARTMENT.

Read again G.O.M. 1965 M. 8/16.11.96.

Current No. 3426.m. of 96.

d 730 m of 97.

Early

From

The Collector of Madurai.

H.M.

See note at the end

of the office note.

S.P.A.

Temporary

FOR ORDERS.

Under section 267 (2) of the District Municipalities Act, the Chairman, Municipal Council, Palni, request the sanction of Government for levying the following fees for licenses issued at the time of the important festivals in the town:-

(1) Eight annas for every thatched temporary bazaar newly put up.

(2) One anna for every sundry bazaar with no roof, held on the sides of the public streets.

(3) Four annas for every cart stationed on road margins and tank bunds, from which cocoanuts, plantains &c., are offered for sale.

2. For erecting the structures referred to in the first case, the permission of the council is required under section 179 and for according such

such permission it can under section 267

(1) levy fees at rates approved by Government.

3. The temporary stalls &c., put up on the sides of public streets mentioned in the second case being an obstruction, under section 167, will require the permission of the council which can as in the first case levy fees under section 267 (1) with the approval of Government.

4. If the carts referred to in the third case are allowed to stand on the sides of the public roads which vest in the Municipal Council, the levy of the proposed fees would be legal as in second case. It however appears from the Collector's letter read above that some of the lands which are considered by the council to be vested in it as "road margins" do not come within the definition of "street" and that the tank bunds on which the carts are allowed to stand are not Municipal property. The Collector however

says that though not vesting in the Council, these lands which are open will be occupied by the public and will have to be kept clean, and that it is desirable that the council should have control over their occupation and be empowered by Government - the ^{owner} of the lands - to levy the proposed fees. It is submitted that the Collector may be asked to report the extent of the road poramboke and tank bund lands, over which the council should exercise control, as also the amount hitherto realized by the council from them, in the shape of fees during

But only if these temporary stalls are on "public street" otherwise not under this section. But sec. 170 seems more applicable because the stalls are meant to be temporary & for the festival ^{license} however is req^d only if "public street"

I doubt this ^{can} a cart be said to be an "obstruction or encroachment" "erected" in a public street? I can find no other section to cover the case & it might therefore be held illegal because it is against the Penal Code?

Govt may of course permit the Mty. to do this.

Consent would give no authority to levy fees in the cases in question so far as I can see. The license is req^d only if street is used: if street is not used, a license is not required; & if a license is not needed, a fee cannot be demanded under Sec. 267 & sec 167-170.

It is submitted that the fee in this case is not

to be levied under the Act but a rent for the occupation of land.

It may possibly be collected as a rent but if so it must be so designated & collected as such & not as a fee demandable under the Act.

during festivals. On receipt of this report, it will be a question for consideration in the Revenue Department, whether the rights of Government over the lands should be alienated to the Municipality, which apparently derives a profit therefrom. In the mean time the Government may, it is thought, approve of the proposed rates of fees in the first and second cases and as a temporary measure the fee levied in the third case.

CR
7/1/97

See above.

If the land were vested in the Mty they ^{could} lease it - sec. 177 - on such conditions as they deem fit.

But sec 196 requires a municipal license for a private market for the sale or exposure for sale of articles of human food. Has private market been construed to include a ^{temporary} shop run up on ~~vacant~~ vacant ~~land~~ or other land?

8/21/97

Please see para. 2 of G.O. No 999 M. & S. 10-87 the ^{General's} opinion in page 2 of G.O. No 198 M. & S. 28-2-88 and also para. 4 of the latter order. It has been held that under Act IV of 1884,

the municipal Council has no power to declare a 'single shop' to be a 'market'. Even under the Act as recently amended, the Council is not competent to declare (vide. Section 193. A.) any single shop or any group of shops not being more than three in number, to be a 'market'.

As regards the delimitation of the lands which vest in the municipal Council under the Act, as 'streets', a further communication has since been received from the Collector (C. No. 730. M. of 1897) in which he says that 'the best plan would be for the Divisional officer and the chairman to settle once for all on a common sense interpretation of the definition what plots now claimed as 'streets' are to be considered as belonging to Government'.

V.R.
23/4/97

FOR ORDERS.

* Flay. C.

* Flay. D.

H.H.

This case is rather involved and each proposal for sanction to levy fees will best be dealt with separately.

(I) Application to levy a fee of 8 as. for every thatched temporary bazaar newly put up.

Under S. 179 of the Act the permission of the M.C. is required to erect or renew roofs or walls or made of grass leaves, mats or

And for such permission a fee can under Sec 267 be fixed with the approval of the Govt.

The fee proposed may be sanctioned

(II) Application to levy one anna for every temporary sundry stalls or bazaar with no roof held on the road margins

Under Sec. 170 the M.C. may license temporary erections; or, if there is no erection but mere occupation of a space, it can under

167 license a temporary obstruction
of the public street. In either
case the ground occupied must
be "street". Consequently if the
road margin is not street &
no road margin is street unless
there is a right of thoroughfare
over it or land over which the
public have a right of way —
then no permission on the part
of the City is required for its
occupation & therefore no fee
can be levied in respect of such
occupation or obstruction.

The proper reply to the
City in this case is therefore
that the Port sanctions the fee
in respect of such temporary
stalls laid out or erected on
road margins &c which are
within the definition of street
as defined in the Act.

But apparently as appears
from the Mayor's letter many of
the sites from which these stalls
are erected are not strictly
"street" but govt. land; & ~~therefore~~
accordingly, ~~on grounds of~~
having regard to the ^{assented} desirability

vide defn of "Street".

of the Council's having ^a the control
over ~~such~~ ^{the} occupation of such sites
wh. will have to be kept
clean, it is suggested by the
Port that Govt. as owner of
the land ^{is able to} ~~may~~ give sufficient
authority to the Council to
levy the fees proposed. But
this view is untenable; the
consent of the Port ^{as owner} ~~to~~ not
legalize the levy of fees raised
under the Act. If anything were
collected for the occupation of
govt. lands it shd be as a
rent & ex nomine. But
it wd cause considerable
complication to transfer to
the M.C. the right of Port to
collect rents for such oc-
cupation. If anything of the
sort were approved, the
better course wd be for the
Trib. to assess the rents
for occupation & ^{pay} ~~hand~~ over
to the City. the cost incurred
by it in keeping the place
clean. There is no reason
why the M.C. shd. make any
profit out of govt. lands.

If port land is occupied, port or the port tenants are primarily bound to keep the premises in sanitary condition & observe municipal regulations.

The reply therefore in respect of ~~III~~ must be, while sanctioning the fee proposed, & limit it to ~~stalls~~ stalls placed on "street" vesting in the Mty. As to what is "street" or what is not, that point should be settled between the Chairman & the Rev. Auth^{ties}. ~~If so~~ This will not of course affect the right of the Mty. to ~~collect~~ ^{pay} fees ~~proportionate~~ for any collection of stalls that may be held to ~~be~~ require a license as a "private market" (S. 196). We may add that Govt. ~~has~~ is not ^{as} at present advised prepared to hand over the control of or the right to collect rents in respect of public land in the Mty., not now vesting in it. ~~Any application to that effect~~

(III) Application to levy a fee of 4 as. for every cart stationed as a stall for the sale of coconuts &c on road ~~near~~ ^{near}

The same limitation as to situation must apply here. But there is the further point whether a cart so stationed on a "street" can be held to be an "obstruction... erected" within the meaning of sec. 167 or ~~see~~ "a temporary erection" within sec. 170. One does not usually speak of a cart being erected; but the language of sec. 170 is pretty wide & we need not raise the objection.

S.P. 29.2.57

HA
11/3/57

When given for copying
When filed *PMB 13-3*
When examined *13/3*
When signed *13/3* 189

READ AGAIN G.O., No. 189 DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

A A A A A A A

LETTERS 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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