

Local & Munl. (1898) Department.

MISCELLANEOUS.

G.O., No. 1066 M

DATED 11-6-98.

INDEXED. CR

DESPATCHED

[Despatch Abstract.]

Sanitation of the foreshore within Municipal limits

*Transferring to the Marine Departt. with remarks,
papers regarding the _____*

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
Cuo 2637/98							

Sanitation of the foreshore within municipal limits
LOCAL AND MUNICIPAL DEPARTMENT.

[L. & M.]
-16-2-98.

Papers to be read in Proceedings:—

Again G.O., No. dated 189 ,
Again G.O., No. dated 189 ,
Current No. of 189 , dated , from
" " " 189 , " " "
" " " 189 , " " "

N Reference 611 of 98-4-98
ORDER.

The Advocate General
is requested to be good enough to
state whether, in his opinion, the funds
raised under the Indian Ports Act
can be legally spent on the sanitation
of the foreshore within port
limits at Madras and the other
principal ports.

(From Secretary's Order.)

V.B.
26/4/98
27.4.98

copy telegraph
and keep file
any

To The Government Solicitor
dys. 27/4/98

10
Local & Munl. (1898) Department.

CURRENT No. 1537M

From The Government Solicitor
Madras.

Order

No. 221

Dated 3rd May 1898

Received 4th May 1898

Registered

Enclosures

Spare copies.

SUBJECT.

Forwarding opinion of the
Advocate-General, Madras
on the question whether
the Funds raised under
the Indian Ports Act can
be legally spent on the
Sanitation of the foreshore
within port limits in Madras
& other principal ports

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Section 36 - Ports Act

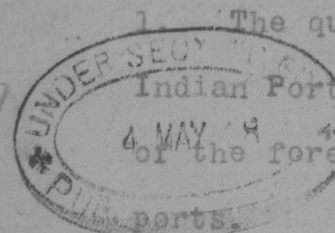
No 1066m

11-6-98

LOCAL & MUNICIPAL

O P I N I O N CURRENT

1537



1. The question in this case is whether the funds raised under the Indian Ports Act (Act X of 1889) can be legally spent on the sanitation of the foreshore within port limits in Madras and the other principal ports.

2. This question turns upon the construction of the words "all expenses incurred for the sake of any such port" in Section 36 (5) of the Act of 1889.

3. The general scheme of Section 36 of the Act is to provide for the appointment of "some officer or body of persons" whose duty it is to administer the port fund, subject to the control of the Government. This authority is empowered, subject to the control of Government, to expend the moneys which constitute the port fund on any of the objects authorized by the Act. The "objects authorized by the Act" are not in terms specified either in Section 36, or in any other Section of the Act. But apparently "all expenses incurred for the sake of any such port", in general, and the items of expenses enumerated in Sub-Section (5) paragraphs (a) (b), (c) (d) & (e) of Section 36, in particular, are "the objects authorised by this Act" referred to in Section 36(1).

4. The generality of the words "all expenses incurred for the sake of any such port" is, of course, limited by the reference to the various items of expenditure enumerated in paragraphs (a), (b) (c) (d) and (e) of Sub-Section 5, but the enumeration of these items of expenditure is not intended to be exhaustive, and it seems to me that money expended on the sanitation of the fore-shore within port limits is an expense incurred for the sake of the port, and is also an expense eiusdem generis with the items of expenditure enumerated in the paragraphs above referred to. The point is not altogether clear, but this appears to me to be a reasonable construction to place upon the Section.

5. In my opinion, therefore, the funds raised under the Indian Ports Act can legally be spent on the sanitation of the foreshore within port limits at Madras and the other ports to which the Act applies.

6. It must, of course, be borne in mind that the Government have no

12

power of their own initiative to make use of the funds raised under the Act. The power to expend such funds is, subject to the control of the Government, vested in the "officer or body of persons" appointed under Section 36 (1).

Madras)
2nd May 1898)

C. Arnold White
Advocate General.

(True Copy)

Ernst Baer
Government Solicitor

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Ernest Barclay,
Government Solicitor
Madras.

The Secretary to Government
Local and Municipal
Department
Madras.

to 3rd May 1898.
No. 221.
forwarded with reference to the
Memorandum of Government
to 28th April 1898. No. 511.
Local and Municipal.

Ernest Barclay

Government Solicitor

13

[L. & M.]
200-16-2-98.

Papers to be read in Proceedings:—

Again G.O., No. 1692.m dated 30th July 1897,
Again G.O., No. dated 189,
Current No: 794, 3134 of 189, dated 3190, 3501, from 3626, 3674, 3676, 3686,
3768, 4116, 4250 & 4362.m. , ,
" " " 189 , " , ,
" " " 189 , " , ,

Misc. ORDER. No. 1066 M. No. 11-6-98.

The papers read above
will be transferred to the Marine
Department, with the remark that
it will be a convenient and eco-
nomical arrangement to leave the
Sanitation of the foreshore within
municipal limits entirely in the
hands of the municipal councils
concerned, and that the Port fund
should bear the whole or part of
the cost according to the circum-
stances of each case
(From orders)

18
2/6/98

S. B. 11/6/98

To The Public Works (marine) Deptt. c
(with papers in original and
extract from H. C. 3 notes)
page 14/6/98

Again go. n^o. 1692. 2nd 30. July 1897.

[G.]
250-7-4-97.

LOCAL AND MUNICIPAL DEPARTMENT.

C. No. 794. 3134, 3190, 3676, 3676, 3676, 3678, 3686, 4250. + 4362. 2.

SUBJECT. Sanitation of the foreshore within municipal limits

FOR ORDERS.

go. n^o. 1692. 2nd 30. 7. 97. A.

Before sending this to H. M., we must consult Adv. Gen^l whether it is legal to spend Port funds on these purposes. From the Act, I much doubt it.

H. T.
22. 4. 98

Please see the Advocate General's opinion paper (Flag 2)

VK
16/5/98

This may be transferred to Marine - I don't see any legal objection for the Port authorities want their premises clean like other people. But the question of funds will be a serious one, the Port funds being very low at present

MS
2875798

In his letter disposed of in the Government order read above, the Presidency Port Officer - Madras forwarded for the consideration of Government a statement showing the existing arrangements for maintaining in a sanitary condition the foreshore within port limits at Madras and the other principal ports and requested the issue of definite instructions as to the respective responsibilities of the Port, Municipal and Police authorities in this respect. He also raised the question whether or not the sanitary arrangements should be entirely in the hands of the Municipality and whether the Port-funds should bear any part of their cost. The

President

2.
3

Presidency Port officer's letter above referred to, with the accompanying statement, was referred to the Municipal Commissioners of Madras and to the Municipal Councils of the towns in which these are ports for report, through the Collectors concerned, as to how far at present they undertake the responsibility of carrying out sanitary measures within port limits and where such responsibility is not undertaken, under what arrangements they would accept the performance of the service. The Collectors concerned were also requested to forward the replies of the Municipal Councils with a full expression of their own opinion. The letters read above are the replies received.

2. The President of the Municipal Commission Madras states that five latrines have been provided along the revetment at intervals of about 200 or 250 yards which are conserved by the Municipality. This, he considers, to be ample provision and points out

Cut 3134.2. B

Vide his letter disposed of in No. 16522
30.7.97
A

4 out that the nuisance complained of by the Presidency Port officer should be dealt with by the police. As regards the unsatisfactory disposal of the drainage from certain Paracheries which sinks into the sand near the protecting revetment at Cassimode, which is referred to by the Port officer, the President states that the sewage along the Culamuntapam Road is received in a cess-pit, that every endeavour is being made to keep it from overflowing, but that as this is practically impossible, the overflow is absorbed in the sand and that this cannot be prevented until the drainage of that part of Madras is carried out. In Cochin, Mangalore, Cuddalore, Tellicherry and Calicut, the Municipal Councils look after the sanitation of the port within Municipal limits. In Masulipatam and Cannanore no special arrangements are now made for the conveyance of the port, except a general supervision by the Municipal Sanitary staff in the ordinary course.

of their duties, while in Bimlipatam, Vizagapatam, Cocanada, Negapatam and Tuticorin, nothing is now done by the Municipal Councils for this purpose. The Municipal Council of Calicut considers that the existing arrangements which are paid for out of municipal funds are sufficient; but all the other Councils express their willingness to undertake the responsibility of carrying out sanitary measures within port-limits on condition that a contribution is made from Port-funds towards the extra expenditure which they will have to incur for the purpose. The Municipal Councils of Masulipatam & Negapatam demand that the total cost of the conservancy of the port should be paid to them, while those of Bimlipatam, Cochin and Cannanore ask for a moiety. An annual contribution of Rs. 500 is demanded by the Municipal Councils of Cocanada & Tuticorin and one of Rs. 300 by Mangalore, while the Vizagapatam Municipal Council does not specify any fixed amount. The

Cur. 3501. m. 7.

Municipalities of Cuddalore and Tellicherry are willing to undertake the conservancy of the portions of the port which lie beyond municipal limits, if a small grant in the former case and a contribution of Rs. 20 a month in the latter, are paid from Port-funds.

3. Except in the case of Tuticorin where the Collector considers the demand of the Municipal Council to be excessive, the Collectors in all other cases agree with the Municipal Councils and consider their demands reasonable. The Collector of Malabar suggests that the existing arrangements in Cannanore may be allowed to continue as in his opinion the sanitation of the Municipality is not likely to be much improved by driving the people from the beach to the lanes or private compounds. But this proposal is hardly entitled to any weight.

4. From the above, it is evident that at present no satisfactory arrangements have been made

Cur. 3190. M

7
for the conservancy of the foreshore within municipal limits and that the Municipal Councils are willing to undertake the work on condition that they are paid a grant from Port funds. As the Municipal Councils have conservancy establishments of their own, it is submitted that it will be very convenient and economical to leave the sanitation of the foreshore also entirely in their hands, paying them a reasonable contribution in consideration of the additional expenditure which they will have to incur on this account. The amount of such contribution will, however, depend upon the circumstances of each case.

5. In these circumstances, it is submitted that the papers may be transferred to the Public Works Department in original, with the remarks that it will be a convenient and economical arrangement to leave the sanitation of the foreshore within municipal limits entirely in the

the hands of the Municipal Councils concerned, and that the Port funds should bear the whole or part of its cost, according to the circumstances of each case.

P.R.
20/4/1901 H.M. I doubted whether the course proposed was legal, but since the A.G. recommends it, it may perhaps be approved.

H.T.
20 5 98

Issue the draft

S.P. 6/78

[Faint, mostly illegible handwritten text, likely bleed-through from the reverse side of the page.]

[Handwritten notes in the top right margin, including "189" and some illegible scribbles.]

When given for copying
 When copied 13/6
 When examined 13/6
 When signed 13/6

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

RENT No.

ENCLOSURES TO G. 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.
 B = Not to be copied.
 P = Copy abstract only.
 Q = Copy heading only.