

Local & Munl. (1898) Department.

MISCELLANEOUS.

G.O., No. 1954 M.

DATED 22-11-98

UNRECORDED

INDEXED.

[Despatch Abstract.]

Municipal Council

Informing the - of Mangalore that Mr. B. Vittal Rao who obtained a larger number of votes should be located as having been elected for the longer vacancy and that Mr. E. J. Mascarenhas will therefore be considered to have vacated his seat on the Council on the 10th September 1898.

BACK PAPERS.

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

FURTHER PAPERS.

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

Local & Munl. (189) Department.

CURRENT No. 3176

Again G.O. no. 1624 of 19th September
1898 and CRO 3176 of 1898

From The Govt. Solicitor
Madras

Misc

Order No. 1954 of 22/11/98
The Government Consider

that Mr. K. Vittal Rao, who obtained
the larger number of votes should be
treated as having been elected for the
longer vacancy. Mr. F. J. Mascaren-
has will therefore be considered to have
vacated his Seat on the Council on the
10th September 1898.

No. 456.

Dated 14-12-98

Received 14-12-98

Registered

Enclosures

Spare copies.

Return this to me after
despatch, for the purpose of
making the amendment
with the draft Bill.

SUBJECT.

This may be a convenient way of disposing
of the present case and is perhaps the only way
of disposing of it, but a consideration of this case
discloses the fact that S. 20(2) is nonsense
as it stands. A successor is to hold office for
the "unexpired remainder" of his predecessor's term
of office. Now suppose the predecessor served out
his full term of 3 years under S. 17(1) there is
no "unexpired period", or if the predecessor
vacated under S. 18(2) there is no "unexpired
period" the
Forwarding with reference
to the order of Govt. no. 1624 of 19th September 1898 the
Opinion of the Advocate-
General on the question therein
referred to.

The Chairman, The Bangalore

Thos. The Coll. of S. Canara

23/11/98

21/10

duration of which is capable of being determined. What is to be done in either such case? I recollect the Section (2) in Select Committee, & that the intention was that it Sub Section (2) should apply only to casual vacancies, & that is, to vacancies occurring otherwise than by effluxion of time under S. 17(1), the object being that elections should be held for all wards simultaneously once in three years. I think that after the word "becomes vacant" in S. 20(1) we should insert the words "otherwise than by effluxion of time under S. 17(1)", and that opportunity should be taken to make this small amendment which is necessary in order to make the election system work at all, by an addition to the bill which has already been drafted to amend S. 191.

And the bill to amend the Municipal Municipality Act slipped through without any one detecting this error in it, I can't think.

28/10/98

Circ:

BACK PAPERS.

G.O.	No.	Department.	Date.
	1624	Sub	19-9-98

FURTHER PAPERS.

G.O.	No.	Department.	Date.

LOCAL & MUNICIPAL DEPT.
CURRENT 31.7.96

O P I N I O N.

1. In this case two of the Councillors for one of the Wards of the Mangalore Municipality, one of whom was elected on September 10th 1895, and the other on January 14th 1896, resigned their seats on November 8th 1897, and two new Councillors were elected in their stead. Section 20 of Madras Act IV of 1884, as amended by Madras Act III of 1897, provides that when the office of Municipal Councillor becomes vacant a new Municipal Councillor shall be appointed in the same manner in which his predecessor was appointed, and the person so appointed shall "hold his seat for the unexpired remainder of the term for which his predecessor would otherwise have continued in Office." Under Section 17 of the Act as amended, the term of office of the outgoing Councillor who was elected on September 10th, 1895, would, in the ordinary course, have expired on September 9th, 1898, whilst that of the outgoing Councillor who was elected on January 14th 1896 would, in the ordinary course, have expired on January 13th, 1899. In the present case the two new Councillors were elected at the same time to the two vacant seats, and there is nothing to indicate that either of the outgoing Councillors was the "predecessor" of one of the new candidates rather than of the other.

2. Neither the Act nor the Rules made under Section 250 of the Act appear to throw much light on the question as to the proper course to be adopted in this state of things. Rule 15, however, of the Rules for the conduct of elections by Wards, provides that elections shall be held as vacancies in elective seats occur, the choice of the particular ward where they should begin being left to the Collector in case the vacancy does not occur in any particular ward. This Rule does not of course apply to the state of things which has arisen in the present case, but the Rule is, to a certain extent, in pari materia with Rule 32 provides that in cases when the votes are equal the candidates shall, in the presence of the Chairman, cast lots as to who shall fill the vacancy. If the two new Councillors will agree to submit to the same arbitrament which they would have had to have submitted to, if there had been only one vacancy and their votes had been equal, and

cast lots for choice of "predecessor", I think this would be the most convenient solution of the difficulty. If the two new Councillors do not agree to settle the question in this way, I think the best solution of the difficulty is to consider the person who obtained the larger number of votes as being the Councillor with the longer term of Office. I cannot see anything illegal in deciding the matter in this way.

Madras

13th October 1898

C. Arnold White

Advocate General.

(True copy)

Ernest Barker

Government Solicitor.

(1898) Department

Now.

Ernest Barclay
Government Solicitor
Madras

The Secretary to Government
Local & Municipal Department
Madras

No 456

Dated. 14th October 1898 }
Recd 14 OCT. 1898 }

Enclos. 4

Forwarded with enclosures
with reference to the Order of
Government No 1624 M. No.
dated, 19th September 1898
Local & Municipal.
Ernest Barclay
Government Solicitor

[L. & M.
200-17-6-97.]

Amendment of Section 20(2) of the D.M. Act.

NOTE FOR THE Honourable Member.

In his minute of 28th
October 1898, on Current No. 3176 M, the
Honourable Member observes that the
intention of the Legislature was that
Subsection (2) of Section 20 of the Dis-
trict Municipalities Act should apply
only to casual vacancies, that is, to
vacancies occurring otherwise than by
effluxion of time under Section 17(1),
the object being that elections should
be held for all wards simultaneous-
ly once in three years, and suggests
that opportunity should be taken
to provide in the Bill, which has
already been drafted to amend
Section 19, for an amendment of
Section 20(2) by the insertion of the
words "otherwise than by effluxion
of time under Section 17(1)" after
the words "becomes vacant".

2. Subsection (2) of Section
20 is one of those provisions which
were inserted by the amending
Act III of 1897, apparently with
a view to introduce into this Presi-
dency the system of general
elections.

3. In

33. In para 13 of the note for orders on the revised election rules, however, it was pointed out that the system of general elections would be not only impracticable, but that there might even be political objections to it, and the Honourable Member has thereupon directed that the rule should be altered. If therefore the idea of introducing the system of general elections is to be abandoned and the existing practice of holding elections as vacancies occur in elective seats is to be continued, it is submitted that Section 20(2) will be quite unnecessary and that this Subsection and the proviso to Subsection(1) of Section 17 should be omitted.

P.D.
4/11/98

H.M. with limited file.

HT
8 11 98.

I agree.

17.11.98
I have passed the draft on C. to 3/76 m
25 November 1898
Go to 199.1 m

Vice pages 14 & 15 of the note -

When given for copying
When examined
When signed

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

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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