L. & M.
2,000—28-10-97.

Local & Munl. (1898) Department.

MISCELLANEOUS.

G.O., No. 377 M.

DATED 14-2-98.

INDEXED. Id.

DESPATCHED

[Despatch Abstract.]

Munl. Council

Ordering with remarks that the election of certain gentlemen as Members of the Madura ——— 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.

Election of one Muthuswami [illegible] municipality

L. & M.
300—2-12-97.

LOCAL AND MUNICIPAL DEPARTMENT.

Papers to be read in Proceedings:—

Again GO., No. , dated 189 .

Again G.O., No. , dated 189 .

Current No. 4218·M of 1897, dated 5th October 1897, from the Chairman M.C. Madura
" " 4237·M " 1897, " 4th December 1897, " the Collector of Madura
" " 4240·M " 1897, " 8th December 1897, " G. Subbarayulu Nayudu, Madura
" " 4251·M " 1897, " 7th December 1897, " the Chairman M.C. Madura
" " 4334·M " 1897, " 13th December 1897, " G. Subbarayulu Nayudu, Madura.

Mis. **ORDER.** No. 377 M mis d 14·2·98

The Government agrees with the Deputy Collector and the Collector in considering that the objections raised by the petitioner against the election of MRRy Muthuswami Aiyar have not been proved. The petition of objection is accordingly rejected and the names of the successful candidates will be published in the Fort Saint George Gazette.

~~2. The Collector is requested to furnish the chairman with copies of the depositions and the Deputy Collector's report regarding the elections to assist him in his enquiry into the alleged fraud in connection with the nomination paper. The result of the enquiry~~

Ht 10 2 98

2. As requested by the Chairman, the Collr. may furnish him with ——

BACK PAPERS.

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

FURTHER PAPERS.

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

Election of one Muthuswami [illegible]
municipality

[L. & M. / 300—2-12-97.]

LOCAL AND MUNICIPAL DEPARTMENT.

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2. As requested by the Chairman, the Collr may furnish him with ——

should be reported to Government
(Form Orders)

V.R.
9/2/98

To
The Collector of Madura, [illegible]
(with papers returned)
" Chairman M.C. Madura.
Gazetted 15.2.98

14/2/98

Desp. 16/2/98

+ [illegible]

LOCAL AND MUNICIPAL DEPARTMENT.

NOTIFICATION.

UNDER Section 10 of the Madras District Municipalities Act, 1884, the undermentioned gentlemen have been duly elected Municipal Councillors of the Municipality of Madura :—

M.R.Ry. T. Jambu Chettiyar Avargal.
& M.R.Ry. P.N. Muthuswami Aiyar Avargal

Cl. 4218. L

G.O. 377. L

Gazette Part I. A.

G. / 25
250—7-4-97.

LOCAL AND MUNICIPAL DEPARTMENT.

C. Nos. 4218, 4237, 4240, & 4334. L/97.

SUBJECT. Election of one Muthuswami aiyar. Madura municipality.

4.2.98

H.M.

FOR ORDERS.

At an election held on the 4th October 1897, to fill up two vacancies on the municipal Council of Madura, M.R.Ry. T. Jambu Chettiyar and P.N. Muthuswami aiyar were elected. The election of M.R.Ry T. Jambu Chettiyar, regarding which no objection has been received, may be notified in the Fort St. George Gazette.

2. The validity of the election of M.R.Ry. P.N. Muthuswami aiyar has, however been questioned by Subbarayalu Nayadu, one of the defeated candidates, on the grounds:—

(1) that his nomination was invalid.

(2) that persons who had come to vote for him were fed and kept under guard by the Counter petitioner and

(3) that a constable interfered with the voters for the petitioner.

The Divisional Officer who enquire

enquired into these allegations reports that the second and third objections have not been proved. As regards the first objection, it is alleged that one of the electors who nominated Muthuswami aiyar died sometime before the nomination and that the insertion of the deceased voter's name in the nomination paper was therefore fraudulent. The point has however been raised as to whether the validity of an election can be questioned under Rule 36 of the Election Rules on the ground that fraud was committed in the nomination of the candidate. With regard to this, it is observed, that No 18 of the Rules for the conduct of elections by Wards issued in G.O. No 1876 M. 8th December 1890, says that "every candidate shall be nominated by at least two electors" at least 16 days before the day of election. Rule 19. requires that a list of such nominations should be published and Rule 20. provides that objections may be made to the list of candidates by any registered voter in writing, that the Chairman's decision thereon shall be final and that if an appeal is preferred against it, the Collector's decision shall be final. No objections were taken under rule 20

to

Clearly so.
A.T.

Vide the rule in G.O. No 1876. M. 8.12.90
Flag A.

I dont think it is necessary to go into this legal point, as the allegation of fraud
A breaks down. Please see below
A.T.

D.O. 3557 dated 11th December 1897.

Vide para 3. of the Dy. Collr's letter, dated 4.2.97.
& para 2. of the Collr's letter.

B

A.

C

to the validity of the nomination of M.R.Ry. Muthuswami aiyar; but the defeated candidate now questions the validity of the election on the ground that the nomination of M.R.Ry. Muthuswami aiyar was fraudulent. Both the deputy Collector and the Collector are of opinion that the validity of a nomination cannot be called in question at this stage and that Rule 36. cannot apply. But under clause (a) of this Rule the validity of an election can be questioned on the ground that "fraud, intimidation or bribery was practised at the election." The expression "at the election" in this rule does not seem to restrict the scope of the objection only to fraud etc. committed at the polling, but seems to cover fraud, intimidation etc, committed at whatever stage of the election, whether in the nomination, polling, the opening of the ballot box or counting votes etc. Moreover, the object of Rule 36. appears to be to provide a remedy in cases, where it has not been sought for under Rule 20. Vide the Advocate General's opinion in G.O. No 2641. M. dated 3rd December 1897.
[illegible] instances [illegible]

enquired into these allegations reports

in the scope of Rule 36.

On the merits of the case, it is evidence that of the two signatories to the nomination paper of M.R.Ry. Muthuswami Aiyar, one was dead about a year before the date of the nomination, while the other who voted at the election in favor of the Petitioner, denies that the signature is his – a statement which is borne out by a comparison of his signature in the nomination paper with his other signatures. As observed by the Deputy Collector, therefore, the nomination paper in question seems to be a spurious one. On the other hand, the counterpetitioner, while he disclaims the nomination in question, states that he was nominated by two other voters of the Ward viz:– Nannuswami Bhagavathar and Thoppai Baluswami. These two voters who were examined in the matter admit having signed the nomination paper of M.R.Ry. Muthuswami Aiyar and (having) presented it to the Chairman-delegate; but this nomination is not in the records of the Municipal Office. M.R.Ry. P. R. Venka-
[illegible] Nayadu, the [illegible]

Supposed nomination paper.
U.T.

Vide para. 6. of the Dy. Collr's letter [illegible] – D.

D.

Vide para. 6. of the Dy. Collr's letter.

Vide para. 8. of the same.

No admission. "Declare that they" U.T.

Vide para. 9. "

D.O. 3557 dated 1st December 1897.

LOCAL & MUNICIPAL

he does not know whether a no
paper signed by Nannuswami Bhag
was received by him, but says that different nomination papers were received by him in the case of
swami Aiyar. It is, however, in
evidence that the nomination
was signed by the two voters above ref
to ~~and another~~, and that it w
presented to the Chairman-delegate. In this connection it is worthy of notice that subsequent to the nomination of the counterpetitioner, Nanuswami Bhagavathar who was assessed to a profession-tax of Rs 12. for the year 1897-98 and had already paid the tax due for the first half of the year, was served with a notice by the Chairman-delegate raising his tax to Rs. 25. per annum and calling on him to pay the balance of Rs $6\frac{1}{2}$ for the first half of the year which was accordingly paid. This circumstance, added to the fact that the petitioner Subbarayalu Nayadu is the Chairman-[illegible] man and that the counterpetitioner is not friendly [illegible] shows that Muthuswami [illegible]

Proved, I think.
U.T.

Vide para. 8 of the Dy. Collector's letter D & the depositions of Nannuswami Bhagavathar, Baluswami, Subramania Aiyar, [illegible] witnesses for the Counterpetitioner.

Vide para. 10. of the Dy. Collector's letter D

The Chairman-delegate [illegible]

4.

6

ession-tax on the voter, apparently because he ~~to~~ nominated Muthuswami Aiyar.
Collector considers that "it is absurd
uppose that the counterpetitioner
h, as the event showed, 125 sup-
ers ready ~~to come~~ to come to poll,
uld have gone out of his way to
t in a nomination form forged
the name of one deceased
lector and one supporter of his
ponent, that it is difficult to
nderstand how any one can have
hought it worthwhile to suggest
such an idea. It is clear, however,
that the genuine nomination form
must have been suppressed and a
"false form substituted for it by
"some one connected with the
"Municipal office, with the serious
"intention of providing a pretext
"for disputing the election, if counter-
"petitioner should be successful." For
the purposes of the present election,
however, it would be sufficient if
the nomination of M.R.Ry. Muthuswami
Aiyar is proved to have [illegible]
[illegible] to have [illegible]

I cannot endorse
this. H.T.

Vide para-4 of the Collector's letter

E

On the top of the
[illegible] this ~~is~~ seems con-
-clusive
H.T.

Vide para 4-

Peter's was a
boomerang charge
of fraud! H.T.

Dal. 3557. [illegible] dated 11th December 1897.

Please see this letter c.f. 6251.2. F

I dont see why the Coll^r. need enquire. It is rather the business of the Chmn. — If the latter likes to have the depositions & the Dy. Coll^r's report to assist him in his enquiries, I dont see why he shouldn't have them.

H.S.
3/2/98

If anything has to
be done, this is the
right course, but
it will give the
Coll^r. no end of
trouble & all I fear
in vain.
H.T.

7.

of the successful candidate published
in the Fort. St. George Gazette.

4. As regards the tampering with the nomination paper by the Municipal Office, there is no direct evidence. The Chairman, ~~however~~, requests that as the allegations made against the Municipal office, which are of so serious a nature, require to be thoroughly enquired into, a copy of the Deputy Collector's report together with the necessary depositions may be sent to him and that orders on the matter may be postponed pending his report. It seems, however, better to ask the Collector to enquire into the matter after obtaining the Chairman's remarks and report the result to Government. There seems to be no necessity whatever to postpone passing orders on the election, as requested by the Chairman.

I.P.
1/2/98 H.M.

Please see note above
H.T.
2.2.98

enquired into these allegations reports

2.

[illegible]

4. The remarks [illegible]

[illegible] Chairman [illegible]

allegations made against the [illegible]

[illegible] by the Chairman

Rol: 3557 dated 11th December 1897

3557
Genl

Local & Munl. (1897) Department.

CURRENT No. 4218M

SECRETARY TO GOVERNMENT
7- DEC.-1897
LOCAL & MUNICIPAL DEPARTMENT

From The Chairman Delegate,
Municipal Council,
Madura

Order

No. 52

Dated 5th October 1897

Received 7-12-1897

Registered 7-12-1897

Enclosures 1

Spare copies

COLLECTOR'S OFFICE
6-OCT-1897
MADURA

SUBJECT.

Reporting the result of election held in the 2nd Ward on the 4th October 1897

2

enquired into the all

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Rol: $\frac{3557}{\text{Genl}}$ of 97 dated 4th December 1897.

LOCAL & MUNICIPAL DE
CURRENT No. 4218 M

Submitted to the Secretary to Government, Local and Municipal Department, Madras.

2. Two candidates, namely, M.R.Ry T. Jambu Chettiyar avergal and M.R.Ry P. N. Muthuswami Iyer avergal were elected for the 2nd ward. The validity of the election of the latter was objected to under Rule 35 of the Election Rules and a report of Enquiry into the objection held under Rule 36 is separately submitted (vide Ref on Cur. No. $\frac{2063}{\text{M.P.}}$ of 1897 dated the 4th December 1897).

C.S. 4237 M

3. It is requested that the name of M.R.Ry. T. Jambu Chettiyar avergal, whose election has not been objected to, may be caused to be published in the Fort Saint George Gazette.

4. The dates on which the seats occupied by M.R.Ry. T. Jambu Chettiyar avergal and M.R.Ry G. Subbarayalu Naidu Garu fell vacant was 4th September 1897.

Madura Collector's Office
4th December 1897

Collector
4.12.97

1/11218 M of 1892

Local & Munl. (1897) Department.

CURRENT No. 4237/M

Order

From

The Collector of
Madura

Rol. No. 2063/M.P. of 1897

Dated 4th December 1897

Received 8-12-97

Registered 8-12-1897

Enclosures 12 [illegible]

Spare copies

SECRETARY TO GOVERNMENT
8- DEC.-1897
LOCAL & MUNICIPAL DEPARTMENT

SUBJECT.

Submitting report on the petition of objection put in by M.R.Ry. G. Subbarayalu Naidu Garu against the election of M.R.Ry. P. N. Muthusami Iyer Avergal as Councillor for the 2nd ward of the Madura Municipality and requesting that, in the circumstances stated, the election of M.R.Ry. P. N. Muthusami Iyer avl may be declared valid and his name gazetted.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

1/

Copy of Communication Dis No: 2216/Genl of 1897 dated 26th November 1897 from the Deputy Collector Madura Division to the Collector of Madura

I have the honor to submit my report on the result of my enquiries regarding the objection of G. Subbarayalu Naidu to the election of P. R. Muttusami Iyer as a councillor for the 2d ward of the Municipality referred to me with your R.Dis No: 2063/M.P. dated 18th October 1897.

2. The grounds of objection are (1) that one of the electors who nominated the said Muttusami Aiyar died some time before nomination and that the insertion of the deceased voter's name in the nomination paper was therefore fraudulent.

(2) That the voters were secured under safe custody in the Vakeel's rooms, fed and kept under close watch.

(3) That a Brahmin Constable interfered with the voters.

3. As regards the [illegible] objection [illegible] was contended by the counter petitioner that [illegible] list of valid vo[illegible] additions [illegible] been publish

former appears to be disingenuous. I also observe that in Ex. F a list of deceased and absent voters furnished by the counter-petitioner to the polling officer — a list purporting to have been prepared after careful and searching enquiry. Voter No: 29 Odu Muniperumal is shown as dead. There is therefore no doubt that voter No: 29, Odu Muniperumal was dead at the time of election.

6. Then arises the question whether this nomination Ex. E is a genuine nomination. The court witness Nagulu Naidu voter No: 317 of the Second Ward affirms that he voted for the petitioner at the election, that he put his signature in the printed list Ex Q in token of his promise to vote for petitioner, and that he did not either nominate or vote for counter-petitioner whom he did not know. He also states that the signature in the nomination Ex. E is not his and this statement is borne out by comparison of that signature with those in Exs P and Q and in the acknowledgment of the summons. In these circumstances I hold that the nomination Ex. E was a spurious one

7/

one put in by some enemies of counter-petitioner, as hinted in a pseudonymous registered letter received by the petitioner which is said to have set him about making enquiries.

7. No fraud is attempted to be proved in regard to the above nomination.

8. The Counterpetitioner disclaims the nomination in question and states that he was nominated by Gendai Nammusami Bhagavathar and Thoppai Balusami. The evidence of his witnesses shows that one morning in the middle of September Tholasi Ramayyar Ba Probationary Sub Registrar, at the request of L. Ramasami Aiyar B.A. B.L. First Grade Pleader, introduced to the latter one Mr Seshayya Secretary of the Sourashtra Upanyasa Sabha with the object of securing the cooperation of the Sourashtra Community in the election of the Counterpetitioner. The latter made an engagement to meet that afternoon at the office room of P.S. Subramaniya Iyer, First grade Plead

They accordingly met, ~~ob~~ obtained from Subramania Aiyar and filled up a nomination form in favor of counterpetitioner. It was taken to the house of voter Gundai Ramusami Bhagavathar where the other voter Moppai Balusami was sent for and they both signed the nomination. The nomination was taken to Subramania Aiyar's office again and from there it is said to have been taken by Moppai Balusami and Sesha Aiyar accompanied by Ramasamy Aiyar and presented to the delegate chairman that evening. The probationary Sub Registrar also says that he saw these three persons near the entrance to the Municipal office.

So the counterpetitioner had a second nomination

9. Such a nomination is not on record. P.R. Venkatesalu Naidu, the delegate Chairman, states that he does not know if G. Ramusami Bhagavathar nominated Counterpetitioner and that he did not get 2 nominations in the case of Counterpetitioner. It will be seen from [illegible]

feelings towards Counterpetitioner in connection with the Union Club and other matters must be certainly unfriendly. It also appears from his evidence that when more than one nomination is received in favor of a candidate, and if one of them is all right, the others are not specially considered but simply put up with the nomination. He believes that all are registered. In the case of another candidate in the same ward 2 nominations are said to have been received at the same time but only one was registered, no note being made of the receipt of a duplicate copy. The Receive Register shows that the nos: of voters are noted in some cases and not in others.

10. It appears that G. Ramusami Bhagavathar was first assessed to a professional tax of Rs 12 for 1897–98 in July 1897, that he paid Rs 6 for the half year ending 30th September 1897, and that a supplemental notice was served on him, subsequent to the nomination raising the tax to Rs 25 and calling on him to pay Rs 6½ extra for the same half year

which was paid. The witness states that the Municipal servant who served the notice informed him that it was the result of his nomination of counterpetitioner.

11. The witnesses on behalf of Counterpetitioner are all respectable witnesses and there is no reason why they should perjure themselves. The counterpetitioner has secured 125 votes and it is very ~~likely~~ unlikely that he would have failed to take the initial step of securing a nomination. Judging from these circumstances, the attitude of the Chairman delegate and of Municipal servants, and the existence of a spurious nomination evidently put in to defeat the candidature of counterpetitioner, I must conclude that there was a valid nomination of counterpetitioner by G. Ramasami Bhagavathar and Koppai Bahirami and that its nonexistence in the records or the omission of the voters' No: in the same nomination will not vitiate the election.

12 - There is no proof of the [illegible] Inspector

3/ Inspector Abdul Subhan states that the petitioner did not complain against a Brahmin Constable interfering with voters. There is also little or no evidence in regard to the 2d objection and this and the 3d objections were not pressed in the course of the argument. 9th witness Alagappa Chetti a native physician states that some voters were dragged by some Brahmins one way and by others in another ~~one~~ way. He heard that refreshments were served. It appears that each candidate collected his votes in a particular place. 10th witness Subramaniya Asari a petty sub contractor under a Municipal Contractor states that one Murugesam Pillai Gumastah of petitioner asked him to bring one Punnamia Pillai, whom he did not know before, to vote for petitioner that, as he was bringing him one Tholasi-Ram Chetty, witness did not know

to

of which party he belonged, took him away somewhere to the Municipal Office saying that he would pay half a rupee or one rupee. This evidence is useless. 6th witness states that one Ottuer Pillai who had come to vote for petitioner was taken away by Parasuraman-chetty and another to a vakil's office for what purpose witness does not know. There is not the slightest evidence of intimidation or bribery.

13. I submit the records of enquiry and also return the papers received with the reference under reply.

Chakramany N
For Mentor

I

1/4237 No of 1897

Enc: XII. to Madura Collector's letter Roc. No. 2063/M.P. 1897 dt 4-12-97

with enclosures I to XI.

List of material records forming Enclosures to letter No. Roc. 2063/M.P. of 1897 dated 4th ~~February~~ December 1897 from the Collector of Madura to the Secretary to Government, Local and Municipal Department, Madras.

	No. of papers
1. Copy of the report from the Deputy Collector Madura Dn. Dis No. 2216/Genl of 1897 dated 24.11.97	1
2. Petition of objection put in by M.R.Ry. G. Subbarayalu Naidu under Rule 35 of the Election Rules.	1
3. Printed form of nomination of M.R.Ry. P. N. Muthusami Iyer by electors No. 317 and 29 (Filed as Exhibit E by the Deputy Collector) - - - - -	1
4. Letter dated 4th October 1897 from M.R.Ry. P. N. Muthusami Iyer to the polling officer with a list of dead persons (Filed as Exhibit F by the Deputy Collector)	2
5. Printed list of voters for the 2nd ward (Filed as Exhibit G by the Deputy Collector) - - -	1 list
6. Notes of evidence of the witnesses for M.R.Ry. G. Subbarayalu Naidu, consisting of 26 pages (17.11.97)	1 file
7. Notes of evidence of the witnesses of M.R.Ry. P. N. Muthusami Iyer, consisting of 17 pages (23.11.97) - - -	Do
8. Specimen signature of Nagulu Naik, voter No. 317, dated 23.11.97 (Filed as Exhibit P by the Deputy Collector -	1

9. Printed list of voters of the 2nd ward filed by M.R.Ry. G. Subbarayalu Naidu Garu dated 20th November 1897 (Filed as Exhibit Q by the Deputy Collector) . . — 1 list

10. Summons served on Nagulu Naick — — — 1

11. Pseudonymous registered letter produced by M.R.Ry. G. Subbarayalu Naidu (Filed as Exhibit N by the Deputy Collector 1

For Collector
6.12.97

Madura
6.12.97

Enc: VII - In a letter

From

12/4237

Madura Collector's office
~~Dated 4th December 1897~~
Despatched 6th

LOCAL & MUNICIPAL DEPT.
SUBMITTED
4237/M

Rol: No: 2063/M.D. of 1897

From

J. Twigg Esquire
Collector of
Madura

To

The Secretary to Government
Local and Municipal Department
Madras

Sir,

Under rule 37 of the Election Rules I have the honor to report as follows on ~~the~~ petition of objection put in by Mr.Ry G. Subbarangalu Naidu Garu against the election of Mr.Ry P. L. Muthusami Aiyaravargal ~~C.~~ as a councillor for the 2d ward of the Madura Municipality.

2. The enquiry was conducted by the Revenue officer in charge of the Division for whose report, copy of which is en-[illegible] it will be seen that the validity of the election was questioned on ~~these~~ three grounds:—

nomination & counter petition

was invalid.

(b) that opposition voters were fed and kept under guard.

(c) that a constable interfered with his own voters.

As the Deputy Collector says, there was practically no evidence of charges (b) and (c) and these were not pressed.

As to (a) on which the petitioner relies, it does not appear to me that the validity of a nomination can be called in question at this stage. Fraud however in connection with a nomination may be a subject of enquiry.

3. Of the two electors who purport to have signed the Counter-petitioner's nomination form under rule 18, one had been dead some time, and the other was a supporter of the petitioner, and denies that the signature on the nomination form is his. The Counter-petitioner disowns this nomination form, and brings evidence to show that a proper form signed by two of his supporters was put in, which is now not forthcoming.

4. It is so absurd to [illegible]

petitioner with, as the event showed, 125 supporters ready to come to the poll, would have gone out of his way to put in a nomination form forged in the names of one deceased elector and one supporter of his opponent, that it is difficult to understand how any one can have thought it worth while to suggest such an idea. It is clear, however, that the genuine nomination form must have been suppressed and a false form substituted for it by some one connected with the Municipal office, with the serious intention of providing a pretext for disputing the election of Counterpetitioner should he be successful. Information was given to the petitioner about the matter by a pseudonymous registered letter, and he has taken it up and pressed the objection. The objection is not valid, but the incident is instructive.

5. I beg to recommend that the objection petition be dismissed, and the election of

of M.R.Ry P. I. Muttusami aiyar avargal, be declared valid and gazetted.

6. Enclosures with a list are herewith submitted.

I have the honor to be
Sir
Your most obedient servant
Vaire.
Collector

Local & Munl. (1897) Department.

CURRENT No. 4240M

Telegram

From

G. Subbarayalu Naydu
Madura

Order

No.

Dated 8-12-1897

Received 8-12-1897

Registered 8-12-1897

Enclosures

Spare copies.

SUBJECT.

Praying that orders may be deferre on the election of the second ward Madura municipality pending receip of his petition.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

LOCAL & MUNICIPAL DEPT
CURRENT No. 4240 M

Code Class } DP

INDIAN TELEGRAPHS.

Monthly Number. } 02826

To (Office) Madras
From (Office) Madura

Words 29
Day 8
Hour 12
Minute 50
Official Instructions. Dfd

To (Person) Secretary to Govt Municipal and Local Department

From (Person) G subbarayala Naidu

8 DEC. 1897

Pray defer orders regarding madura second ward election pending receipt of my petition now in press

64 Word Form.

F.C.2.

Kh 1/12

MADRAS 8-12-97

from I.N.
At Hrs. Mts by

Sent to I.N.
At Hrs. Mts by

Telegraph Master.

cal & Munl. (1897) Department.

CURRENT No. 4251 M

Order

From The Chairman,
Municipal Council,
Madura

9-DEC-1897
No. 57

Dated 7th December 1897.
Received 9-12-1897
Registered 9-12-1897
Enclosures Nil.
Spare copies

SUBJECT.

Requesting to postpone passing orders on the nomination of M.R.Ry. P.N. Muthusawmi Ayer as Councillor for ward no: 2 and to forward a copy of the Depu Collector's report on the same together with copies of the necess depositions.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Municipal Office,

No. 59

MADURA 7th December 1897.

Enclosures. nil.

4251/M

From,

R. FISCHER, Esquire,

Chairman, Municipal Council,

Madura.

To,

The Secretary to Government,

Local and Municipal Department,

Madras.

Sir,

I am informed that during the enquiry made by the Acting Dy: Collector, Madura Division, into the objection petition presented by MRRy G. Subbarayalu Nayadu, to the election of MRRy P. N. Muthusawmi Iyer as a Municip Councillor to the 2nd Ward of the Madura Municipality, evidence was let in on behalf of the latter gentleman to shew that a valid nomination had been presented in his favour and that that nomination had been suppress and an invalid one substituted by the Municipal Office.

2. I am not aware of the nature of the report which the Deputy Collector has made in the matter, but I venture to submit

that the allegations made against the Municipal Office are of so serious a nature, that they require to be thoroughly enquired into.

3. With this object in view, I beg that Government will be pleased to favour me with a copy of the Deputy Collector's report together with copies of the necessary depositions and postpone passing orders on the matter pending receipt of my report.

I have the honour to be,
Sir,
Your most obedient Servant,

Chairman

eu
7.12.97

Local & Munl. (1897) Department.

CURRENT No. 4834 M

From G. Subbarayalu Naydu
Madura.

Order

No.

Dated 13-12-1897
Received 16-12-1897
Registered 16-12-1897
Enclosures
Spare copies.

SUBJECT.

Praying that in the circumstances stated he may be declared as duly elected councillor of the Madura Municipality.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

LOCAL & MUNICIPAL DEPT.
4334 M

TO

The Secretary,
Local and Municipal Department,
Government of Madras.

The humble petition of G. Subbarayalu Naidu,
residing in North Chittrai Street, Madura.

Respectfully Sheweth that :—

1. Petitioner was an elected Councillor of the Madura Municipality for 12 years in all. For the latter half of this period, he was a Councillor elected by the voters of the 2nd Ward

2. His term expired in September last and he offered himself for re-election. A pleader named Mr. P. N. Muthusami Iyer competed with him and obtained a majority of 17 votes

3. Petitioner put in a petition to the Collector on 15th October 1897 impeaching the election of the pleader on the grounds that fraud, intimidation and improper inducements had been practised at the election.

4. The allegation of fraud was so well-founded that Petitioner did not really care to press the other grounds of objection.

5. The fraud relied on by Petitioner lies in the fact that no valid nomination was ever made of Mr. P. N. Muthusamy Iyer as required by Rule 18; and the invalidity of the nomination consists in the fact that one of the 2 electors, whose signatures appear in the form, had died about a year before the date of the alleged nomination.

6. In G O. dated 11th October 1894, No. 1432 M, Mis., it was ruled that the nomination of a person, who was elected was void since it had been presented out of time. In G. O. dated 7th September 1894, No 1226 M, Mis., referred to in the above order, it was decided that even a day's delay in the publication of the schedule of valid nominations would vitiate them. Petitioner also relies on the rulings *Northcote V. Pulsford* 10 C. P. 476 and *Harmon V. Park,* Q B D 369—reported in pages 3852[1] and 3855[2] of Mr. A. P. Stone's Digest of cases decided by the House of Lords, Privy Council &c., Vol. III, and extracted below.

Municipal Corporation—Election

1 *Page 3852.* 14.—Nomination—*Municipal Election Petition*—Defectin Nomination–Ballot Act, 1872 (35 and 36 Vict. C. 33.) A Candidate at a Municipal election was twice nominated one nomination being good, but the other being bad—*Held,* that the defect of the bad nomination was not cured by the 12th and 13th rules of the 1st schedule of the Ballot Act, in-as-much as those rules do not apply to the nomination at a Municipal Election.

2 *Page 3855.* 21—Nomination—*Nomination Paper*—Substitution of different Proposer without priority of assenting Burgesses—Municipal Election Act 1875 (38 and 39 Vict. C. 40) (S. 1, Sub S. 2). At an election of a ward councillor a burgess was nominated in a paper signed by B and H as proposer and seconder and by eight other

burgesses as assenting to the nomination. After the nomination paper had been delivered to the town clerk it was altered in the absence of the seconder and assenting burgesses by striking out the name of B as proposer and substituting that of G another duly enrolled burgess:—Held that the nomination was invalid.

7. Petitioner urges that the orders and rulings quoted above are authorities for the position that if a candidate's nomination is shown to be invalid, his election becomes void. If Petitioner can show that Mr. Muthusami Iyer's nomination form contains a dead man's signature, he shows that there was no valid nomination, because there are only 2 signatures in the nomination form. He also shows that the election based on that nomination is invalid.

8. Petitioner's objection was referred by the Collector to the Acting Deputy Collector, Madura Division for enquiry and report. When this officer first took up the case, the sole contention made for Mr. Muthusami Iyer was that since the Chairman had without noticing any defect in the nomination accepted it and published Mr. Muthusami Iyer's name in the schedule of valid nominations, it was not open to the Court, after the election had taken place, to go into the question of the validity or otherwise of that nomination Petitioner presses it that it was not then urged or suggested—as it was subsequently sought to be proved—that any nomination paper other than the one on record (Ex. E.) had been presented in the Municipal office on behalf of the pleader. If the story sworn to subsequently were in the least true, surely Mr. P. N. Muthusami Iyer must have known it and would and should have represented to the court at the outset. His omission to do so is explicable only on the hypothesis that that story had not been planned at the time. Very significant is the fact that Mr. Muthusami Iyer studiously avoided the witness box. Himself a High Court Vakil of about 8 years' standing, he very likely felt that he could not satisfactorily explain his omission.

9. The acting Deputy Collector expressed the opinion that the contention of Mr. Muthusami Iyer about the petitioner's objection was sound. Thereupon Petitioner presented a petition to the Collector praying him to direct the Deputy Collector to go into the question of the validity or otherwise of the nomination. Subsequently the Deputy Collector did enquire into the matter. What the nature of the report made by that officer is, petitioner does not, of course, know, but he hears that the pleader's election has been recommended to Government for approval and humbly begs that Government will be pleased to peruse the records in the light of the allegations made in this petition before passing orders on the matter.

10. A perusal of the evidence adduced by the petitioner will show that the line of cross-examination adopted by his lawyer—opponent was directed not towards showing that a valid nomination had been presented on his behalf but towards discrediting the Petitioner's witnesses, who swore to the death of one of the signatories to Exhibit E. Surely, the Deputy Collector would not have allowed so much evidence to be let in by petitioner as to the fact of the demise if the counter-petitioner had conceded that fact. This again proves that the story told by the counter-petitioner's witnesses is an after-thought. Having failed in his attempt to shake the petitioner's witnesses, the counter-petitioner vaguely suggested in the cross-examination of petitioner's last witness but one viz. Mr. P. R Venkatesalu Naidu that a valid nomination in his favour had been made but had been suppressed or withheld. Petitioner advisedly says 'vaguely,' because the question was not put point blank to Mr. Venkatesalu

Naidu whether he had not received a nomination signed by the counter-petitioner's 2nd and 6th witnesses. It is also noteworthy that although Mr. Venkatesalu Naidu was examined and cross-examined as petitioner's witness, he was summoned afterwards as a witness for counter-petitioner, but was not examined. Possibly, the lawyers felt that if they called and examined Mr. Venkatesalu Naidu again with reference to the nomination relied on by the counter-petitioner, he (Mr. Venkatesalu Naidu) would be able to show the falsity of the insinuations made against the Municipality in order to cure the defect in the counter-petitioner's election.

11. The evidence let in by the counter-petitioner is to the effect that a valid nomination was actually presented to the Chairman Delegate Mr. P. R. Venkatesalu Naidu. The counter-petitioner's 3rd witness Mr. N. Ramasami Iyer, a pleader, who is a native of the Coimbatore District and has been here only for a year or so, says he went to arrange for getting 2 voters to nominate Mr. P. N Muthusami Iyer. The 5th witness Mr. P. S. Subramania Iyer, also a pleader, says he supplied to the 3rd witness in his own office room a nomination form, which the latter filled up. The 2nd and 6th witnesses swear they signed the form, and the 1st witness says he not only got them to sign it but also saw them sign it. Then the 1st, 2nd and 3rd witnesses swear they went to the Municipal office and presented the nomination to the Chairman Delegate. The 4th and 5th witnesses support them on the point. With regard to the above evidence, petitioner submits, in the first place, that the counter-petitioner is a native of the Madura District and has been a vakil in Madura for about 8 years, that the 6th witness is his client, and that therefore there is no reason why the 3rd witness, a stranger to the District, who did not know the voters of the ward, should have been deputed for the purpose of arranging for counter-petitioner's nomination. The two elector-witnesses (Nos. 2 and 6) are silk-weavers, with whom the 3rd witness was admittedly not previously acquainted, and it is inconceivable why pleader-voters of the 2nd ward were not asked to nominate the counter-petitioner. The 5th witness who swears he gave the nomination form is, as might be seen from the voter's list, himself a voter (No. 25). His relation Mr. T. R. Seshiar, also a pleader holding office in the same building, is also a voter (No. 24). That these two pleader-voters and voter No. 18, also a pleader, did vote for counter-petitioner will be evident from the voting papers, while the offices of the three gentlemen are close to each other and to the Municipal office. A careful perusal of the depositions of the pleader-witnesses Nos. 3 and 5 will show that their evidence is designedly vague, and that they make themselves responsible for next to nothing. In this connection, it is important to note that although one pleader gave the nomination form and another filled it up, while 2 other persons signed it at the request of a fifth person and although it was considered necessary that three men including a pleader should go to present the paper to the Chairman-delegate in the sight of a sixth person, none of the six persons concerned in the transaction is able to give the date of the alleged nomination, which was also the date of its alleged presentation. This careful avoidance of date deprived the petitioner of the power of rebutting the testimony of the counter-petitioner's witnesses. Probably, the counter-petitioner's advisers felt that if they fixed themselves to a particular date the petitioner might be able to prove an *alibi* for any of the six witnesses concerned in the alleged transaction or for the Chairman-Delegate. In the second place, Petitioner urges

that the 5th witness Pleader Mr. P. S. Subramani Iyer does not explain how he came to be in possession of nomination forms or why he did not himself sign the form which he supplied in his friend's interests, although he was himself a voter and did vote for his friend at the election, Mr. P. S. Subramania Iyer, it should be noted, was a candidate for the 7th ward where he was defeated at the election held on the 20th October 1897—*i.e.* about six weeks later,— while the 3rd witness Mr. Ramasami Iyer is, as admitted by Mr. P. S. Subramania Iyer, a witness for him in the objection he has presented in regard to the 7th ward election. The 3rd witness Ramasami Iyer's animus against the Chairman Delegate will also be evident from his admissions that he is a witness against him in a criminal complaint of assault alleged to have been committed on the 19th October during the 8th ward election and that he complained to the Deputy Magistrate orally and to the Sub Magistrate in writing "on his own account" under Section 107 C. P. C. of breach of peace against the Chairman Delegate in regard to the same election, although he himself had no concern in it. Then the 3rd witness who took so much interest in getting counter-petitioner nominated did not satisfy himself at the time that the 2nd and 6th witnesses were really voters. The 1st witness Seshayya admits he canvassed votes for counter-petitioner and may be disposed of with the remark that he is an interested witness. The sixth witness, one of the signatories to the alleged nomination, is, it will be recollected, the counter-petitioner's client and is therefore under his influence. Further, he was an unsuccessful candidate for one of the vacancies in the 3rd ward and has objected to the election therein on the ground among others that the Chairman Delegate—who, he states, "is against him"—worked against him. He has obviously availed himself of the opportunity to serve the interests of his vakil as well as to satisfy his own grudge against the Chairman Delegate. As to his assertion that his tax was increased because he nominated counter-petitioner, it is sufficient to observe that this is a pure after-thought because it was not suggested in the cross-examination of petitioner's 3rd witness Soondram Pillay, the ward bill collector who [illegible] according to the 6th witness told him so. The 2nd witness is a dayadi of the interested 1st witness and lives in a street different from that in which the 6th witness lives. The nomination form is said to have been signed in the latter's house to which the 2nd witness was fetched and it is remarkable that none of the 30 voters or so living in the 6th witness' street was available to sign the form. Further, the 2nd witness knows English and yet he did not write the form himself. A pleader is said to have written it, presumably to pave the way for adducing corroborative evidence. That pleader in his turn feels too nervous and wants another pleader to support him. The evidence of the other witness—the 4th—is valueless by itself since he cannot say definitely what paper was taken to the Municipal office by the 1st, 2nd and 3rd witnesses. His presence at the time and place named by him is an extraordinary coincidence. Further, the help he rendered to the 3rd witness, his presence in the pleader's office throughout the election and his statement that the election was fairly conducted show his deep interest in the counter-petitioner.

12. Having shown the interested and unreliable character of counter-petitioner's witnesses, petitioner will now proceed to discuss the motive alleged by counter-petitioner for the Municipality to withhold and suppress a valid nomination presented on his behalf and to substitute and put forward a spurious nomination. Of the Municipal officers connected in any way with nominations, the only one on the part of whom animus is alleged to exist against counter petitioner, is the Chairman Delegate Mr. Venkatesalu Naidu. The reason for the ill-will is stated to be that the Chairman Delegate in his capacity as a member of the Madura Union Club called upon the counter-petitioner who has been Secretary of the Club since January last to explain why he stopped a certain newspaper, which the Club as a body had resolved to subscribe, and had paid, for the whole year. Petitioner ventures to submit that this could hardly be said to be a reason for the existence of any enmity, for, a difference of opinion in matters connected with a social club does not usually engender personal animosity. Petitioner does not consider it necessary to refer to the Club's refusing to admit Mr. Venkatesalu Naidu as a member or to his filing a suit thereupon since those events happened so far back as 1889 when the counter-petitioner was not even a member of the Club, and since Mr. Venkatesalu Naidu is admittedly now a member. As regards the criminal complaint presented against Mr. Venkatesalu Naidu by Mr. K. Ramasami Iyer, who is said to be a relation of counter-petitioner, and is a pleader of one or two years' standing, it is enough to observe that that complaint was presented in regard to an act done at an election held on the 19th October *i e*, 4 days after petitioner had presented his objection petition to the Collector. Further, in September 1897 when the valid nomination is said to have been presented to Mr. Venkatesalu Naidu, he could not have foreseen that counter-petitioner's relation was going to complain against him a month later. The counter-petitioner's action in setting up these grounds of animosity in order to further his own interests is that of a drowning man clutching straws. On the contrary, Petitioner's deposition as 13th witness for himself will show that he and the Chairman Mr Fischer had recently suits between them and are not on friendly terms. Surely, Mr. Fischer's delegate would not have helped petitioner who is Mr. Fischer's opponent. Further, in a claim petition No. 62 of 1894 on the file of the Madura East Sub Court, petitioner gave evidence on the 6th July 1894 against the interests of Mr. Venkatesalu Naidu, for which he cannot be considered to be grateful to petitioner. It should be noted that it was 3 days after petitioner's witnesses had been examined and his case had been closed that counter-petitioner opened the story of the alleged valid nomination. Petitioner had therefore no opportunity to elicit the above and other facts showing that there is no friendliness at all between him and Mr. Venkatesalu Naidu.

13. Then, the evidence shows that the nominations are received by the Chairman, and then sent over to the office where they are registered in the usual course of business, and subsequently checked and initialled by the Head Clerk and the Record Keeper. The only nomination for the counter-petitioner for this ward, which has gone through all these formalities and is entered in the office register, is the defective nomination Exhibit E. The rules require that every nomination should be presented at least 16 days before the date of election. Hence the counter-petitioner's story that a valid nomination was presented to Mr. Venkatesalu Naidu but was not sent by him into the office begs the question that at least 16 days before the election Mr. Venkatesalu Naidu was aware that counter-petitioner, who has never been a Municipal Councillor before, would defeat petitioner in a ward which had returned him twice.

Again, if Mr. Venkatesalu Naidu had spite against counter-petitioner and wanted to injure him, the easier and safer course for him to adopt was merely to have suppressed the valid nomination. This course he did not adopt even in the case of his admitted enemy Sriraman Chetty who was Councillor for 6 years for the 8th ward where he was defeated in October last, and who has impeached the election therein, besides making a criminal complaint against Mr. Venkatesalu Naidu. The theory that Mr. Venkatesalu Naidu not only suppressed the valid nomination on behalf of counter-petitioner but also substituted a spurious nomination is, petitioner ventures to submit, too wild and improbable to be accepted.

14. Petitioner's own theory is this: The counter-petitioner took a leading part in the agitation made by pleaders against private or uncertificated pleaders. A petition was presented to the District Magistrate, who ordered that private vakils should not be allowed to appear in Magisterial courts. The counter-petitioner thus created many enemies. Probably some of them have been annoying him by nominating him to several vacancies in the Municipal Council. It is a fact that he was nominated once for the 2nd, 4th, 7th and 10th wards and twice for the 9th ward this year, almost without his knowledge. After counter-petitioner's nomination for the 2nd ward was published, he began to canvass votes with the help of his witnesses and others but without bestowing a thought as to the nomination By practising intimidation, by offering improper inducements and byplaying many ruses, the counter-petitioner managed to secure a majority of 17 votes. After the election, petitioner received an anonymous communication (Exhibit N),—presumably from the persons who were the authors of Exhibit E—stating that Exhibit E was a spurious nomination. On enquiry, petitioner found that this was so, and therefore he took his stand in his objection to the election mainly on the ground of fraud.

15. Having succeeded in proving that the only nomination on record in favour of counter-petitioner is invalid and having shown that counter-petitioner's witnesses' evidence as to the presentation of a valid nomination is interested, improbable and untrustworthy, petitioner submits he is entitled to ask, on the authorities quoted in para 6, that counter-petitioner's election should be declared null and void.

Petitioner accordingly prays that Government will be pleased to set aside the counter-petitioner's election and to declare that petitioner, who has secured the next larger number of votes has been duly elected. If the latter prayer cannot be granted, petitioner prays, in the alternative, that a re-election be ordered.

For which act of kindness, Petitioner shall, as in duty bound, ever pray.

Madura,
December 13, 1897

G. Soobbaraylo Naidoo

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