[L. & M. 5,000—5-4-98.]

Local & Munl. (1899) Department.

MISCELLANEOUS.

G.O., No. 1350 M

DATED 13-9-99.

188 (d)

INDEXED. DESPATCHED

[Despatch Abstract.]

License fees Declining to comply with the request of the Munl Council of Tellicherry to pass an authoritative ruling as to whether Section 188 (d) of the Mk Municipalities Act IV of 1884 would apply to tanned leather

BACK PAPERS.

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

FURTHER PAPERS.

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

Malabar Joint Magistrate's Office

Local & Munl. (1899) Department.

~~PLAGUE~~ CURRENT No. 2052 m

P 7/91. 8.99.

desp

From

The Chairman
Municipal Council
Tellicherry

~~Order~~ No 852 & 18-8-99

No. 386

Returned to the Chairman for re-submission through the Collector as required in G.O. No 1162 m, dated 6th September 1893.

By order
Adjutant
Ag. Assistant Secretary

Dated 29th July 1899.

Received 31 JUL 1899 30 AUG 1899

Registered ——

Enclosures 6

Spare copies. nil

AR
10-8-99

SUBJECT.

Requesting to pass an authoritative ruling as to whether Section 188(d) of the District Municipalities Act 4 of 1884 as amended by Act 3 of 1897 would apply to named Letter

To the Chairman, Mc. Tellicherry.

Rec'd no 919

BACK PAPERS.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

C.No 2052 and 2290 of 99

Misc order No. 1350 13-7-99

The Government is not prepared to comply with the municipal Council's request.

2 The Council's attention is however drawn to the Collector's remarks in para 2 of his Endorsement

7/7/99

7/7/99

Better omit para 2. It is absurd to require owners of tanned leather to take out licenses. If the A.G. or High Court held that tanned leather fell under hides & skins we should have to alter the law

To The Chairman, Mc Tellicherry

with Enclosure returned

thro the Coll. of Malabar.

Issue as amended

11/7/99

No. 196 m.

Malabar Joint Magistrate's Office
Tellicherry 17th July 1899.

From

J. H. Gwynne Esqre.
Deputy Magistrate in Charge

To

The Chairman,
Municipal Council,
Tellicherry.

Sir,

With reference to your letter No. 332 dated 15th Instant, I have the honor to observe that Section 188 of the Municipal Act IV of 1884 as amended by Act III of 1897 prohibits the exercise of certain trades without license by reason that they are offensive and dangerous.

2. The storage of raw or dry hides and skins in a building in close proximity to inhabited houses may certainly prove offensive and probably dangerous to public health as well, but in my opinion it could hardly be said that the presence of tanned leather would have the effect of rendering the atmosphere offensive or menacing the public health. In these circumstances I consider the Bench Magistrates right in holding that Section 188 Cl (d) did not apply to tanned leather.

3. I must also take this opportunity to remark that the letter which is for all intents and purposes an application for revision should have been properly stamped as also the Copies of Judgments therewith sent which are herewith returned.

I have &c.
(Signed) J. H. Gwynne.
Dy Magistrate in charge

(True Copy)

Chairman
Delegate.

3
2052/Jan/99

Municipal Office
Tellicherry 15th July 99.

No. 332.

To,

The joint Magistrate
Malabar
Tellicherry

Sir,

Being authorized by a resolution of the Council dated 3rd July to address you regarding the decision of the Bench of magistrates of Tellicherry Town in municipal Council versus Kassom Sett No. 852 of 1899 and two cognate cases viz nos 853 and 854 of 1899 dated 20th June which the Council considers erroneous, I have the honor to state the facts which are as follows.

The accused were charged under Section 189 of the municipal Act (IV of 1884) as ammended by Act III of 1897 with failing to take out a license for storing hides and skins as required in clause (d) Section 188 of the said Act. The magistrates delivered the following gudgment.

"The Sanitary Inspector admits that the article stored is tanned leather. Tanned leather is quite different from skin or hide and does not fall within clause (d) of Section 188. The accused is acquitted under Section 245 C. P. C."

2. Now we contend that "tanned leather" does fall under the term hide or skin. Any standard english dictionary if referred to by the magistrate would have taught them that skin is the natural covering of animal whether green, dry or tanned and that leather is but a skin dressed and prepared for use. The Legislature evidently used the more comprehensive words in order to take in all synonym signifying the same thing.

9

I therefore request that steps may be taken to have the decision of the Bench quashed, as it is calculated to seriously effect the income of this municipality.

3. Authenticated copies of the judgments in all the three cases referred to are herewith forwarded.

I have &c.

(Signed) C. K. Krishnan
Chairman

(True copy)

Chairman
Delegate.

2052/M/99.

Extract from the Proceedings of the Municipal Council. Tellicherry. at a meeting held on Thursday the 27th July 1899.

Present.

A. J. Lemerle Esquire, Chairman Delegate.
M. R. Ry. K. Krishna Kurup Aol
" I. C. Narayana Kurup Aol
Dr C. A. Lafrenais
V. B. Pocker Sahib.
M. R. Ry. V. Karunakara Menon Aol
C. Ahmed Kutti Haji Sahib.
Mr E. P. Fernandez.
M. R. Ry. C. Kunhi Kannan Nair
" K. Ramunni Aol
J. Richmond Esquire

Read letter No. 196. M. dated 19th July 1899 from the Joint Magistrate, Malabar, stating that he considers the Bench Magistrates right in holding that section 188 Clause (d) did not apply to tanned leather and that this office letter No. 332 dated 15th July 1899 addressed to him on the subject was an application for revision which should therefore have been stamped as also copies of judgments forwarded therewith.

The matter under consideration being an important one. the Chairman is authorized to address Government with the view of obtaining the Advocate General's opinion on the point

(Signed) A. J. Lemerle.
Chairman Delegate.

(True Extract)

Chairman
Delegate.

that steps may be taken to have

No. 386

MUNICIPAL OFFICE,

Tellicherry, 29th July 1899.

FROM

A. F. Lemerle Esquire

CHAIRMAN, Delegate.

MUNICIPAL COUNCIL,

Tellicherry.

LOCAL & MUNI. DEPT.
2052M

To

The Secretary to Government.

Local and Municipal Department

Fort St George.

Sir,

The Council has authorized me to address you on the following subject by a resolution passed at its meeting dated 27th Instant, Copy of which is herein enclosed.

2. The Council is of opinion that the judgment of the Bench of Magistrates of Tellicherry in Municipal Council Versus Kassom Sett and 2 Cognate Cases (Nos. 852, 853 and 854 of 1899) is erroneous. The accused in these Cases were charged under Section 189 of the Municipal Act (IV of 1884) as amended by Act III of 1897, with failing to take out a license for storing hides and skins as required in Clause (d) Section 188 of the said Act. The Magistrates were of opinion that as the articles stored were tanned leather which is quite different from skin or hide, the Cases did not fall within Clause (d) of Section 188 and accordingly acquitted the accused.

3. Our Contention is that "tanned leather" does fall under the terms hide or skin, for skin is the natural Covering of animal whether green, dry or tanned, and that leather is but skin dried and prepared for use. The Legislature evidently used the more — Comprehensive words in order to take in all synonyms signifying the same thing.

4. On the above grounds we referred the matter to the Joint

Magistrates

Magistrate who agreed with the Bench of Magistrates on the ground that it could hardly be said that the presence of tanned leather would have the effect of rendering the atmosphere offensive or menacing the public health.

5 As there are several shops in this Municipality dealing with tanned leather in making native shoes and sandals, and as the decision of the Bench of Magistrates seriously affects the income of the Municipality, the matter is important and I have therefore the honor to request that the Government will be pleased to take steps to pass an authoritative ruling on the point taking, if necessary, the Advocate General's opinion.

6. Copies of judgments in the 3 Cases and the Chairman's letter of reference and reply of the Joint Magistrate thereto are enclosed.

I have the honor to be
Sir,
Your most obedient servant

Chairman
Delegate.

Local & Munl. (1897) Department.

CURRENT No. 2295 M

From The Collector of Malabar

Order

C No. 341/M 899.

Dated 27th August 99
Received } 30th August 99
Registered }
Enclosures 14 C. no 2052 M of 99 returned
Spare copies Nil

SUBJECT.

Submitting with remarks letter from the Chairman, Munl Council Tellicherry requesting to pass an authoritative ruling as to whether Section 188 d of the Dn. Municipalities Act IV of 1884 as amended by Act III of 1897 would apply to tanned leathers.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Note.

Sir,

As directed in your note this paper has been duly registered in this office and submitted.

The new Act came into force only in May 1897 and the provisions of it were not all at once enforced. This year, only 4 shop keepers were taxed for storing hides or skins as their shops contained the largest quantity of hides and skins. They refused to pay and prosecution was launched which resulted in acquittal. The scale of fees for licenses hitherto in force was one sanctioned under G. O. No. 323. m. Financial dated 27th July 1885, wherein the fee for storing hides is Rs 10/ a year. Under the new Act, the rates of fees were only lately fixed by the Council (after I took Charge) and forwarded to the Government for approval under Section 267. The sanction was received only on the 3rd of this month and yet the Government have asked for explanation on certain items. Under the new sanction also the fee for storing hides is Rs 10/ a year. The fee can be charged not only for storing but otherwise dealing with hides.

Section

Section 188(d). As far as my personal enquiry has gone there are more than 15 shops in which native shoes and sandals are made. If these are to be taxed the income to Municipality will be more than Rs 150/ a year. But I do not know whether the Council will allow all these men to be taxed, because most of the abovementioned men do not store skins or hides but simply buy them from the big traders for the purpose of making shoes and sandals as a profession. In this estimate of mine, I have excluded Chucklers who make European shoes and boots.

Secretary.
22-8-99

LOCAL & MUNICIPAL DEPT.
No. 264
CURRENT No. 2295m

Resubmitted to the Secretary to Govt (Local & Municipal Dept.) through the Sub Collector & Collector of Malabar.

R. Chandu Menon
Chairman
21.8.99

Submitted.

2. An office note is appended showing financial results.

Pr 23/8

Submitted

2. I should have returned these papers to the council with instructions to move the High Court if so advised, had the Govt not ordered

Cur 341 of 99

the resubmission of the papers in Govt endorsement of the 18th inst.

~~3. The matter is not discussed~~

3. I submit that the matter is not one in which the Government can interfere.

Calicut Cutcherry
27th August 1899

COLLECTOR
RECD. 26 AUG 1899 L. DEPT.
OF MALABAR

2295/m/99

When given for copying ____
When copied ____
When examined ____
When signed 1579 } 189

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