[L. & M. 2,000—17-96.]

Local & Munl. (1899) Department.

MISCELLANEOUS.

G.O., No. 315 M

DATED 7-3-99

INDEXED.

[Despatch Abstract.]

District municipalities act - stating with remarks that the amendment of Section 15(2) of the proposed by the Electors of that Division with regard to the grant of leave to paid chairmen of municipal councils is unnecessary.

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. (1898) Department.

CURRENT No. 3 52

From The Asst Collector of the Nilgiris

Order Gl Cur No. 1838 of 1898

Dated 21st December 1898

Received

Registered

Enclosures /

Spare copies

SUBJECT.

Leave to the Chairman Municipal Council Ootacamund

Submitting copy of a letter from the Chairman Municipal Council Ootacamund for orders.

5/1

BACK PAPERS.

G.O.	No.	Department.	Date.
Ro	2052	M	6-12-95
–	2236	L	1-11-94
Ro	1722	M	21-10-95
"	971	L	31-8-88
"	737	L	2-7-88

FURTHER PAPERS.

G.O.	No.	Department.	Date.

No. 4636 3

COLLECTOR 14 DEC. 1898 NILGIRI DIST.

Ootacamund Municipal Office,
14th December 1898.

FROM

THE CHAIRMAN,
MUNICIPAL COUNCIL,
OOTACAMUND.

To A Butterworth Esqre
Collector of the
Nilgiris

Enclosures Nil

Sir,

I have the honor to inform you that on the 4th January 1899, I shall have served as Chairman of this Municipality for Seven years without obtaining any prefelige, Sick or private affairs leave.

2 There is an order of the Government No. 2052. M. dated 6th December 1895. which authorizes Chairmen "to grant themselves casual "leave, previously intimating their intention of "doing so, & omit officially to Government". I availed myself of this leave only on one occasion for (5) five days, in 1896.

3. There are no orders under which the Chairmen can take other descriptions of leave under the Civil Service Regulations.

4. Sec: 15 (2) of the District Municipalities Act III of 1871 provides:-

"In the temporary absence from a Municipality of the Chairman, his duties and powers

Gl. Cur. Regr. No. 1838 of 98

4

"powers shall devolve upon the Vice Chairmen
of Comps"

In reference to this I beg to know whether I may avail myself of any description of leave, other than Casual, in communication with you. If I may, whether, under the section quoted above, I am not relieved of "any responsibility imposed upon me by the Act" when "my duties and powers" devolve upon the Vice Chairman. See: 32. proviso (11).

I have the honour to be,
Sir,
Your most obedt St.,

W. Hamnett
Chairman.

1/3/M/99

5

Gl Cur No. 1838 of 1898

COLLECTOR'S OFFICE,

Dated, 21st December 1898.

FROM

A. Bullwork Hynes I.C.S.
Collector of
the Nilgiris,

To

LC ... IL
INT No. 3 M

THE SECRETARY TO GOVERNMENT,
Local & Municipal DEPARTMENT.
Madras.

SIR,

I have the honour to submit for orders a letter from the Chairman of the Ootacamund Municipal Council in which he asks for information (1) whether he is at liberty to take leave & if so, (2) whether his responsibilities will devolve upon the Vice Chairman.

2. I am not aware whether Government has issued any orders regarding the grant of leave to Chairmen & if there were no Vice-Chairman at Ootacamund, the Chairman could, under sec 32 (4) delegate his powers for three months to a Councillor and so arrange to get leave when necessary

As there is a Vice Chairman the Chairman can authorize him to act on his behalf & this Act does not impose any limitation as to the period during which such authorizations can continue to be in force. But I am doubtful sub-section (8) of section 32 contemplates delegation to the Vice-Chairman of all the Chairman's powers as would be necessary when the Chairman proceeded on leave.

3. The proper section to apply to such a case seems to be that quoted by the Chairman, viz section 15(2). If so, it seems to me to be pretty clear that the Chairman remains responsible when the Vice Chairman is acting for him, for if it had been intended to relieve the Chairman of responsibility when section 15(2) comes into operation, the fact would have been stated. The word 'duty' does not include 'responsibility' as is seen from section 32.

4. If a paid Chairman continues to draw full salary when on leave, it is not unreasonable to require that he shall remain responsible. If however he were permitted to arrange for a division of pay between himself & the Vice Chairman the latter might properly be held responsible and, when the Chairman's absence is due to an unavoidable cause, it appears reasonable in every case to shift responsibility on to the Vice Chairman

This comes up from Para 16 of the Note

5. As the District Municipalities Act is about to be amended, the opportunity might be taken to make matters clear as to the question of responsibility & rules seem to be required

to

to regulate the taking of
leave by Chairmen.

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

[illegible]
for Secretary

(1)

Cuo 3 m

9

Handy Book to para

For orders.

The Chairman of the Municipal Council of Ootacamund raises the following questions:-

(1) whether he can avail himself of any description of leave other than casual leave and (2) if he can, whether he is not relieved of the responsibility imposed upon him by the Act, when his duties and powers devolve upon the Vice-Chairman under Section 15(2).

Grs.
SKA

It therefore becomes necessary to answer this question.

SKA
1.3.95.

2. As observed by the Collector there are now no rules to regulate the grant of leave to paid Chairmen. No. 1 of the Rules issued in G.O. No. 1475 m dated 7th October 1890 says that "leave and acting allowances may "be granted to Municipal "Employés within the limits "prescribed in the Civil Service "Regulations or other similar "rules for the time being in "force as regards Government "Service". A paid Chairman

J.

although he draws pay from the Municipal funds, cannot be said to be a servant of the Municipality - Vide the Notes and orders in Fo. No 423 M dated 13th March 1890, and the rule above referred to cannot therefore apply to the grant of leave to him. Moreover, there does not appear to be any reason why a Chairman, who is paid by the Municipality, should be treated more leniently than an honorary Chairman. The Act does not contemplate the grant of leave to Chairmen or Councillors, but merely says that if a Councillor fails, without sufficient excuse, to attend the Meetings of the Municipal Council for three consecutive months, he shall be liable to removal, while in the case of official members, absence from the Division or District for more than three months involves the loss of their seat on the Council. Nor does

does it appear to be necessa
to provide either in the Act
by means of rules for the gra
of leave to paid Chairmen.
Cotacammund and Coonoor a
the only two Municipalities
the Presidency, which have p
Chairmen and the provision
in the Amended Act authori
the appointment of Secretar
will render the extension of the
system unnecessary. Moreover a
the appointment of Chairma
is tenable only for a term of
two or three years, the questi
of granting leave to Chairme
will not at all arise. The
case of the Cotacammund Chai
-man is, however, peculiar.
Mr Hammett has been holdin
the Chairmanship continuous
for the past seven years, havin
been re-elected to the place
each time his term expired.
If he wants to be absent from
Cotacammund for any long
period, he will have to resign
his office and on his return
~~should~~ stand for re-election
if the office is kept vacant.

Vide proviso (ii) to section 14(1)(b) and section 17(1)

Vide Sec 19(1)(iii)

Vide sec 18(2)

till then.

3. As regards the Chairman's second question, viz:- whether under section 15(2) of the act he is not relieved of the responsibility imposed upon him by the act when his duties and powers devolve upon the Vice Chairman, the Collector considers that under that section the Chairman remains responsible when the Vice Chairman acts for him; for had it been intended to relieve the Chairman of the responsibility when section 15(2) came into operation, the fact would have been expressly stated, and that the word "duty" does not include responsibility as is seen from section 32. He therefore recommends that as the District Municipalities Act is about to be amended opportunity may be taken to make matters clear as to the question of responsibility. If however, the suggestion made in para 2 supra that it is unnecessary to provide

Para 3. of his letter.

for the grant of leave to Chairmen, is approved, there will be no necessity to amend section 15(2) as proposed by the Collector.

V.R
7/12/99

27/12/99

[L. & M.]
250—19-12-98.

14

LOCAL AND MUNICIPAL DEPARTMENT.

Papers to be read in proceedmgs:—

Again G.O., No. dated 189 .

Again G.O , No. dated 189 .

Current No. 317 of 1899, dated 21st December 99, from the Collector of the Nilgiris

" " " 189 , " , "

" " " 189 , " , "

Misc

ORDER. No 315 Issued 3/7/3

The first of the questions raised by Mr Hammett viz. whether he Can avail himself of any leave other than Casual leave, will be answered in the negative; and the Government does not Consider it necessary to provide, as Suggested by the Collector, in the Dt Municipalities Act or in the rules framed thereunder, for the grant of leave to paid Chairmen.

2. The proposed Amendment of Section 15(2) of the Act, will thus be unnecessary.

(From orders)

V.R
4/3/99

H 1/6399.

To The Collector of the Nilgiris
" Chairman, Mc Dobaramund
Dupl 9/3/99

When given for copying
When copied 7-3-99 189 .
When examined
When signed 8/3

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

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.										

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