

[L. & M.]
[5,000-5-4-90.]

Local & Munl. (1897) Department.

MISCELLANEOUS.

G.O., No. 729 A. M.

DATED 19-5-99.

INDEXED.

DISPATCHED

[Despatch Abstract.]

Election.

Informing the Munl. Council of
Bellary that a person who is not a
Councillor may be elected Chairman.

BACK PAPERS.

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

FURTHER PAPERS.

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

Very Urgent

Local & Munl. (1897) Department.

CURRENT No.



From

M. H. Runga Rao
Vice Chairman, Municipal Council
Bellary

Ref. No. 579
13.5.99

Dated 13 May 1899

Received

Registered

Enclosures

Spare copies

SUBJECT.

*Election of gentlemen who are not
commissioned, as Chairman Municipal
Councils. — Admitting copy of
minutes of Mr. D. K. Srinamaiah
Municipal Council, Bellary objecting
to the — for favor of orders by*

Muni

Order

No. 729 - Am. muni 8 19/5/99

*The following telegram
will be despatched to the Chair-
man, Municipal Council, Bellary
" A person who is not
a councillor may be elected
chairman."*

Note

orders in this case are solicited by the 20th inst.

To

The C. M. C Bellary

Colls. of Bellary

Dep. 30/5/99

13/5/99

13/5/99

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Private.

I beg to place on record my objection with reference to the nomination of 2 of the four candidates for the Chairmanship.

2. - Section 14, clause b of Act III of 1897 lays down that the Council shall appoint their Chairman by election in accordance with such rules and conditions as the Governor in Council may prescribe.

3. - Section 200 authorizes the Governor in Council to frame forms and make rules with respect to the appointment by election of Chairman and provides in clause (3) that such rules and forms shall have the force of law.

4. - Rules for the election of Chairman are to be found in G.O. M. 21. M. dated 7th March 1888 passed under the previous act but modified by G.O. M. 1121. M. dated 15th August 1896 passed subsequent to the new Act III of 1897.

5. - Rule 3 lays down that every candidate shall be nominated by at least two Councillors in the following form viz.

etc

The two undersigned nominate
a councillor as a candidate.

— This form precludes the nomination
of any person who is not a councillor.
It is argued that the Act itself does
not impose such restriction. No doubt
the Act (Section 14) does not say that
the Chairman should be a councillor.
By implication the latter part of the
Section shows that a non-councillor
can be appointed Chairman. But it
is doubtful whether a non-councillor
could only be appointed by Government
or could also be elected by the Council.
It seems to me that a Council, the majority
of whose members are elected by voters
should appoint only a councillor as
the Chairman. Otherwise people who
could not succeed in getting into the
Council by the open door of election
could become Chairman of those very
Councils by a course of vigorous canvassing
with the small number of councillors. As a
matter

matter of fact with reference to the two
gentlemen whose nominations I object to
one of them contested for a councillorship
a few months ago and failed and the
other just recently withdrew from the
field of election of councillor. In spite
of his having been Chairman till recently
I do not think that the Legislature
could have intended to uphold such
a course. I therefore believe that the
words "a councillor" have been retained
in the form advisedly to shut out persons
not councillors from being elected. Hence
the nominations of Messrs. P. Rama Rao
and G. V. Subrahmanya Iyer are invalid
inasmuch as they are not councillors
and consequently cannot be nominated
according to the rules.

— If it should be argued that the
retention of the words "a councillor"
in rule 3 is an oversight and as Section
14 allows non-councillors to be Chairmen
these nominations are valid, I beg
to suggest that as long as that form
remains

remain unaltered, even though it is
an oversight. There can be no valid
nominations. If the mistake is discovered
and rectified, it will then be time
for these nominations to be valid.

8. — Another question presenting itself
is whether such invalid nominations
could or could not be decided by
the Council before election, or whether
the election should be allowed to
proceed and objection taken under
rule 8. It seems to me that the
Council or the Chairman has the
right to decide the question. The
defect is incurable and the election
need not be proceeded with. If it
is not so, any kind of invalid
nomination can go unchallenged.

Supposing a nomination is sent three
days before the election instead of
six days or a nomination is signed
by only one councillor instead of two,
can it be said that the Council

or its Chairman has no right to reject
such nominations? Should the
election be proceeded with and
the votes scattered and wasted
on such nominees? — I believe not.

(By S. Kristanna Charles
Councillor.

(True copy)

Bellary Municipal
Councillors' office. Dated
13th May 1898. —

(Sd/-)
Vice Chairman

13.5.98

Very urgent.

Yorace 579
13. 4. 99

Municipal Councilors' Office
Bellary. Dated 13 May 1899.

Enc. 1

From

M. K. Ranga Rao Secy
Chairman, Municipal
Council, Bellary.

LOCAL & MUNICIPAL DEPT.
CURRENT NO. 1371-A

The Secretary to Government
Local and Municipal Department
Fort Saint George
Through the Revenue Officer
in charge of Division
Bellary.

Sir,

I have the honor to forward herewith
a minute from councilors M. K. Ranga Rao
and Charles Law asking for a reference
to Government and obtain a ruling
whether any person, not being a councilor,
can be nominated for the office of chairman.
In this District the Government have given to
the Council the privilege of appointing
their chairman by election in accordance
with the rules prescribed under section 250
clause b. Under sub section 3 section 250
of the Act, the said rules and forms have
the force of law.

Rule 3 of the Election rules embodied in
G.O. No. 214, dated 9th March 1888
gives a form for nominating candidates
for the office of Chairman. In accordance
with the forms, no person other than a
Councillor, can be nominated. -

Under Section 4, clause b, the Councillors
are directed to appoint their Chairman
by election and in accordance with the
rules and conditions prescribed. -

Therefore, I think, under section 4, clause
b, and in accordance with the rules
now in force, the Municipal Council
can only appoint a councillor as their
Chairman by election, as long as the
present rule 3 and the form under
it are in force. -

The meeting for the election of Chairman
for this Municipality stands adjourned
to 20th instant. -

I solicit orders by wire on the above
reference for guidance. -

I have the honour to be
your most obedient servant
M. Ravi Varma
Vice Chairman

13th May 1888

No. Serial A

Bellary Dy Collector's Office
Dated 14th May 1888

Recd: 2

From.

Subd.

M. Ravi Varma Raju A.S.M.A.
Head Quarter Dy Collector
Bellary.

To.

The Collector of
Bellary.

Sir

I have the honour to forward
herewith a letter from the Vice Chairman
Municipal Council Bellary, dated 13.5.88.

1. The Councillor whose memorandum
is forwarded with the vice Chairman's
letter, and the Vice Chairman, argue that
a person who is not a Municipal Councillor
cannot be validly nominated for election
as Chairman on the ground that the
form prescribed by Government under the
Repealed District Municipalities Act, requires

the

the nominee to be a Councillor. So far
as the present Act is concerned, there
can be no doubt that such a nomination
is valid. Clause (bii) Sec. 14, makes
special provision for it. The word
'appoint' is applied in the earlier
clauses, both to appointment by
election and appointment by nomi-
-nation. But the Councillor and Vice
Chairman argue that the form prescribed
under the repealed Act, though in-
consistent with the present Act,
must have greater force than the
latter. Such a contention is quite
opposed to all ordinary rules of
construction and interpretation. It
is moreover directly opposed to Sec. 18
of the Madras General Clauses Act
I of 1891. Under that Section "if
forms have been prescribed under
the provisions repealed, the same shall
be

be deemed, so far as the same are
consistent with the provisions remaining

This seems to me unambiguous and
conclusive.

I have the honour to be
Sir,

your most obedient Servant.

M. L. S. S. S.
Dr. Collector

14/5/99

From

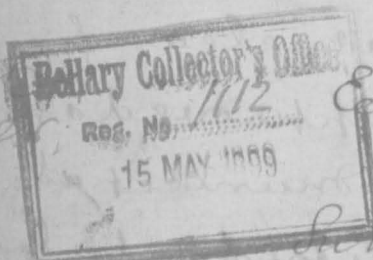
The Head Quarter Dy
Collector
Bellary

To

The Collector of
Bellary

Dated 14th
Sept 14th } May 1898
Recd

Serial No. A



Encl: 2

Subject

Reporting about the
nomination of Chairman
to the Municipal Council

Bellary by election.

When
When
When
When

READ AG

CURR

ENCL

ORD

LET

STA

PA

Ref: on Cur. No. 1142 of '98
16.5.98

Submitted to Government for
favour of early order

2. In the minutes of the Legis-
lative Council published in the
St. George Gazette of 21.4.96, contain-
disensions on the draft Municipal
bill, it is stated that the amendm-
of Section 14 of the old Act was
proposed with a view to enable a
Municipal Council "to appoint
a Chairman either from the Council
or outside the Council." Though the
wording of the Clause was subse-
quently recast, it appears clear from
the section as finally approved and
passed into law that a Municipal
Council can elect an outsider to be
its Chairman, for while in clause
3 it is laid down that the Council
shall elect one of its members to be
Vice Chairman. No such restriction
is imposed in the case of the election
of a chairman.

3. As to the contention that
under the form prescribed in rule 3
of the rules framed by Government
for the election of chairmen, only
Municipal Councillors can be no-
minated it appears to me that the

is inconsistent with the
Act cannot override the clear pro-
visions of the latter (vide Section 250
clause 1 of the Act). The rule more-
over was framed under the old act
and can therefore under Section 18 of
the Madras General clauses Act I of 1891,
have force only if consistent with the
provisions of the Act reenacted.

[Signature]

Secy. to Govt.

16.5.
16/5

When given for copying _____
When copied _____ 189
When examined _____
When signed _____ 29/6

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

CURRENT No.

ENCLOSURES TO G. No.

ORDER OF GOVERNMENT A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DETAIL.

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.