

Legislative (1899) Department.

G.O., No. 58

DATED 9-5-99

INDEXED.

[Despatch Abstract.]

Informing Mr. R. R. S. Mr. Nair that he does not possess the Residential qualification required of Candidates for selection by the Municipalities or S^d Boards of the Southern Group for nomination as an additional member of the Legislative Council.

T. 9-8-88

[illegible]

BACK PAPERS.

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

FURTHER PAPERS.

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

E. & L. Dept.
1,030-11-2-99.

NOTE FOR THE A.S.

There are no precedents besides the Honble Sankaran Nair's case after the Govt of India ruling in G.O. 29. 25. Sept 1893.

The Honble Sankaran Nair's case is the only other case on the subject, but that was previous to the ruling referred to above, & in fact was the cause of the ruling.

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13/4/99

13/4/99

Legislative (1897) Department.

CURRENT No. 51

P.H. Any this known
ab. India ruling?
Please see G.O. no 99 dated 25. Sept 1893-Flag C.
ab 4/3/99
From J. M. Nair M.D.
2/3/99
Ennore. Madras.

Order

Endorsement

Referred to the Collector of Malabar for early report. His attention will be invited to the interpretation of the phrase "ordinarily resident" given in G.O. no. 29 Legislative dated 25 September 1893, a copy of which accompanies this reference.

No.

Dated 14. 2. 99

Received 16. 2. 99

Registered 20. 2. 99

Enclosures

Spare copies

SUBJECT.

Requesting to (at least know whether) he is qualified, under the circumstances stated, to stand as a Candidate for a seat in the Local Legislative Council according to rule VI of the draft modifications under sec. 1 of the Indian Councils Act 1892.

ab 4/3/99
Flag C.
12/4/99

The Collector of Malabar with copy of G.O. 29 Sept 1893.

10/3/99

12/4/99

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

By CURRENT No. 51

Poonamallee Road
Egmore.
Madras.
14th February '99

To
The Chief Secretary
to the Government of Madras.

Sir,
I find that no vi of the
draft regulations under section
1 of the Indian Councils act,
1892, for Madras requires that
"it shall be a condition in the
case of any person to be re-
commended by a Municipality
Corporation

(2)

Corporation or group of Municipal Corporations that he shall be a person ordinarily resident within the Municipality or the District in which it is situated or in some one of the Municipalities constituting the group or of the district in which they are situated.

As I mean to stand as a candidate for election to the local legislative council by the group of Municipalities or District Boards in the Southern division

(3)

I wish to know whether I
am qualified to do so. I am
a native of Palghat in the
Malabar District and hold
property in that District, and
am in touch with my native
place where I go whenever domestic
or professional business call me.

The terms 'ordinary resident'
used in the VI draft Resolution for
Madras I understand are defined
by the Madras Government to mean
that the person elected should have

(4)

resided in the district at least for six months previous to his election. But ~~and~~ ^{the} Govt. of India, I understand, have ruled that it would be sufficient if the candidate had a fairly practical & real connection with the locality, provided such connection were of a residential character.

I have a fairly practical & real connection with Paltahat. Though for the practice of my

(5)

profession I have to reside
in Madras, my houses, my
people and my property are all
in the Malabar District and
I constantly visit that District
and stay there for some time.

Under these circumstances I
feel that I am enabled to
stand as a candidate. However
I should like to have the opinion
of the Madras Government on the
point before I put myself
forward as a candidate.

(88)

(6)

I shall therefore be highly
obliged to you if ^{you} can kindly
let me know the opinion of
the Madras Government on the point.

I have the honour to be
Sir

Your obedient servant.

J. M. Nair M.D (Edin)

GOVERNMENT OF MADRAS.

LEGISLATIVE DEPARTMENT.

READ—again the following papers:—

G.O., dated 12th April 1893, No. 32, Legislative.

ABSTRACT.—Directing that the Regulations framed under section 1 (4) of the Indian Councils Act, 1892, be published in English and the vernaculars, and stating the manner in which certain non-official seats should be filled up in the Legislative Council.

G.O., dated 19th May 1893, No. 48, Legislative.

ABSTRACT.—Ruling, with reference to No. 6 of the Regulations framed under section 1 (4) of the Indian Councils Act, 1892, that a person cannot be said to be a resident in a locality unless he lives there at least six months in the year.

READ—also the following paper:—

From C. J. LYALL, Esq., C.S.I., C.I.E., Secretary to the Government of India, Home Department (Public), to the Chief Secretary to the Government of Madras, dated Simla, 21st August 1893, No. 1163.

I am directed to say that the attention of the Government of India has been drawn to an order* of the Madras Government, No. 48, Legislative, dated the 19th May 1893, in which it is laid down that a person cannot be held to be "ordinarily resident" in a locality, within

the meaning of Rule VI of the Regulations sanctioned for the nomination of additional members for the Madras Legislative Council, unless he lives there at least six months in the year.

2. I am to suggest, for the consideration of His Excellency the Governor in Council, that this rule appears to be too rigid and arbitrary. The Government of India are inclined to the opinion that it would be sufficient if the candidate had a fairly practical and real connection with the locality, provided such connection were of a residential character; in other words, he should be regarded as possessing the necessary qualification if he were ordinarily accustomed to visit the locality and to stop there for some reasonably long period at least once a year on an average. They are, however, averse from laying down, even to this extent, any hard-and-fast definition of the meaning of the words "ordinarily resident," and consider that it would be preferable to deal with each case in which the question arises on its own merits. I am to enquire whether, in view of these remarks, His Excellency the Governor of Madras in Council would have any objection to modifying the order of the 16th May last so as to remove the rigid limit of time therein fixed.

ORDER—dated 25th September 1893, No. 99, Legislative.

In deference to the opinion expressed by the Government of India, G.O., dated 19th May 1893, No. 48, Legislative, will be cancelled and the phrase "ordinarily resident" used in Rule VI of the Regulations framed under section 1 (4) of the

Indian Councils Act, 1892, will in future be interpreted in the manner suggested in Mr. Lyall's letter; that is to say, a candidate will be considered to fulfil the requirements of the law if he has a fairly practical and real connection with the locality in question, provided that such connection is of a residential character; in other words, he will be regarded as possessing the necessary qualification if he is ordinarily accustomed to visit the locality and to remain there for some reasonably long period at least once a year on the average; each case in which the question arises will, however, be dealt with on its merits and without reference to any hard-and-fast interpretation.

2. The above decision will be communicated, in the Local and Municipal Department, to all District Boards and Municipal Councils and to the Madras Municipal Commission.

3. The following letter will be despatched to the Government of India:—

[Here enter Mis. No. 100, dated 25th September 1893.]

(True Extract.)

A. BUTTERWORTH,
Under Secretary.

To the Local and Municipal Department.
Editors' Table.

Gobt. of {1893} Madras.
LEGISLATIVE.

COLLECTOR
IL MAREIRO
MALABAR

Issued

Recd.

Encl.

G.O., 25th Sept. 1893, No. 99.

SEPTEMBER.

Indian Councils Act, 1892.

Passing orders regarding the interpretation of the phrase "ordinarily resident" used in Rule VI of the Regulations framed under section 1 (4) of the —.

Legislative
Local & Munl. (189 9) Department.

CURRENT No. 100



From

*The Collector
of Malabar*

No. *D 4599*

Dated *30th March 1899*

Received

Registered

Enclosures

Spare copies.

SUBJECT.

*Reporting regarding the
interest that D. J. M
Vair has at Palghat.*

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

CURRENT No. 100

Collector's Office
Malabar District Board's Office

CALCUTTA 30th March 1899.

No. 845 899

FROM

G. W. Davies Esq.

PRESIDENT, DISTRICT BOARD,

Collector of Malabar.

TO

The Secretary to Govt.

Legislative Department

Madras.

Sir,

I have the honor to reply to official memo.
random from Government no 115 dated the
8th inst.

2 The Petitioner is a native of Palghat, -
where he has his house and family and -
also holds property. Since his return from
England he has however been permanently
residing in Madras where he practises
as a physician. He is in the habit of com-
ing to Palghat occasionally and stopping
with his mother, sometimes for a week and
sometimes more. It appears that -
Petitioner visited Palghat twice during
last year stopping at st time for a
week or so. All his interests except
his professional interest lie there and
his connection with the locality may
be said to be real and practical.

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

P. H. M. A. S.

C. No. 2 51+100

SUBJECT.

MRRy. T. M. Nair's reference to Gov
re his residential qualification
H. E. & Co

office
as there are other cases besides
Subbasing in which the
question has been decided.
J. S. P. 12/11/99

FOR ORDERS.

MRRy T. M. Nair enquires whether
he is eligible for selection by the
Municipalities or District Boards
of the Southern group for nomination
as an additional member of the
Madras Legislative Council. He is a
native of Palghat in Malabar &
included in the Southern group but
has set himself up as a medical
practitioner in Madras which is
outside the above group.

2. Under No. VI of the Regulations
for Madras framed under Section
114 of the Indian Councils Act-
1892, a person to be recommended
for nomination by a municipal cor-
-poration or group of Municipal
corporations shall be ordinarily
resident within the Municipality
or the District in which the Municipa-
-lity is situated or in some one
of the Municipalities constituting
the group or of the district

Page 40 of the Council
rules.

B
5

30/4

in which they are situated, and a similar condition applies to persons to be recommended by District Board?

3. In its letter printed in G.O. No. 99 Legislative Dated 25th September 1893, the Government of India gave it as its opinion that a person should be regarded as possessing the necessary qualification as to residence in a certain place if he were ordinarily accustomed to visit the locality and to stop there for some reasonably long period at least once a year on an average.

4. In the case of M.Ry. T.M. Nair, the Collector of Malabar reports that all his interests except his professional interest lie in Malabar and that his connection with the locality may be said to be real and practical. It is also stated that he visits his native place now & then. It is submitted however that he does not seem to stay there for any reasonably long period;

Orders are solicited as to whether he should be declared eligible or not.

Strictly speaking it would seem that Mr. Nair is not ordinarily resident in Palghat, but as the Collector says his connection with the place may be regarded as real & practical a resident.

He visited Palghat 3 times in 1898 - staying each time for a "week or so" - This hardly seems to be a connection of a residential character

He does not possess the necessary qualification as to residence. But the Govt. of India does not lay any hard & fast definition of words ordinarily resident.

I agree
22.11.99

H.W.

Papers to be read in Proceedings:—

Again G.O., No.

dated

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Again G.O., No.

dated

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Current No. 51 Legl. of 1899, dated 14th Feb'y, from M.Ry. T.M. Nair Ad.
" " 100 Legl. 1899, " 30th March. " the Collector of Malabar.
" " " 189 " "

ORDER.

No. 58 d/9.5.99

M.Ry. T.M. Nair is informed that, in the opinion of Government, he does not possess the necessary qualification as to residence, and is not therefore eligible for selection by the Municipalities or District Boards of the Southern group for nomination as an additional member of the Legislative Council.

(From order)

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To M.Ry. T.M. Nair Ad. M.Ry. The Collector of Malabar.

22.11.99

When ed
When examined
When signed

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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.

N.B.—
A = Copy in full.
B = Not to be copied.
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