

Marine (1896) Department.

G.O., No. 369 Marine

DATED 23rd May 1896

[Despatch Abstract.]

Boat rules: The opinion of the Advocate
General on the action of the Port Officer,
Mangalore, in withdrawing a boat-
license for a breach of rule¹⁶ of the —
Com^d to the P.P. Officer

Gobt. of {1896} Madras.
MARINE.

Dated May, 23rd.

Recd.

Encl.

G.O. No. 369, 23rd May 1896.

MAY.

Boat Rules

The opinion of the Advocate-General on the action of the Port officer, Mangalore, in withdrawing a boat license for a breach of rule 16 of the —, communicated to the Presidency Port Officer.

Re G. O. No. 222, Marine, dated 31st March, 1896.

Opinion.

1. The revised rules do not contain any provision for the suspension of a license. The action of the Port Officer, Mangalore in suspending the license because of the breach of Rule 16 was ultra vires and therefore illegal.

2. Act X of 1889, section 8 empowers the Conservator to "give directions for carrying into effect any rule for the time being in force"; provides for the punishment by fine of any person who "wilfully and without lawful excuse refuses or neglects to obey"; and empowers the Conservator "in case of such refusal or neglect" to "do, or cause to be done, all acts necessary for the purpose of carrying the direction into execution", and "for that purpose" to "hire and employ persons" at the cost of the person neglecting or refusing to obey.

3. Section 3 sub-section 3 refers to Acts which, if not performed by the person legally bound to perform them, can be performed by others. What is the Act which on breach of a direction given under Rule 16 can be performed under the provisions of the section? The Collector appears to think that the Conservator can employ force to prevent a breach of any direction given by him, but the Act does not empower him to employ force to compel obedience.

4. Suspension of a license is not an act necessary for the purpose of carrying into execution a direction given under Rule 16, and obviously does not come within the above Sub-section. The Collector's view is, I think, erroneous.

Ootacamund.

(s) J. H. Spring Branson.

14th May, 1896.

Advocate General.

(True Copy)

For Encl. Barclay
Government Solicitor.

Lutterland M

(1896) Department

From

Ernest I Barclay
Government Solicitor
Madras

To

The Joint Secretary
to Government
Marine Department
Cotacamund

N^o 251

Dated 18 May 1896
Recd

Forwarded with reference
to the Order of Government
N^o 222 dated 31st March
1896. Marine Department

Ernest Barclay
Government Solicitor
Sutherland M

with order

568
No 310 Mar 8 5-5 96
" 222 Mar 8 31-3-96
" 223 " 31-3-96
" 50 " 9 16-2-94
" 503-4 " 8 16-11-91
" 456-7 " 8 18-12-90

Recd 21-5-96

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A. H.

22.5.96

No 369 Marine 8 23rd May 1896
Communicated to
the Presidency Sol. officer
with reference to L^o 222,
Marine, dated 31 March 1896.

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The P. S. O.

R. S.

