

Government of Madras

EDUCATION AND PUBLIC HEALTH DEPARTMENT

(Public Health)

G.O. No. 361, 31st January 1940

Rules—Madras Public Health Act, 1939—Section 136—Appeal against the orders of Health Officers—Confirmed.

READ—the following papers :—

I

G.O. No. 4120, P.H., dated 7th November 1939.

II

Letter from Sri S. KUPPUSWAMI MUDALIYAR, Commissioner, Srirangam Municipality, to the Secretary to Government, Education and Public Health Department (through the Chairman, Municipal Council, Srirangam), dated 30th November 1939, L. Dis. No. 7418/39.

[Act—Public Health Act—Provision for appeals—Draft Rules—Suggestions.]

Adverting to G.O. No. 4120, P.H., dated 7th November 1939, I am to submit herewith an extract from the Council's Resolution No. 473, dated 28th November 1939.

Forwarded.

K. VASUDEVAN,
Chairman.

ENCLOSURE.

Extract from the proceedings of the Municipal Council, Srirangam, dated 28th November 1939.

Read.—G.O. No. 4120, P.H., dated 7th November 1939, issuing draft rules to provide for appeals against the orders or notices issued or other action taken or proposed to be taken by the Health Officer, etc., under the Public Health Act.

Resolution No. 473 (J).—The Council requests that provision may also be made for preferring appeals against the action taken or proposed to be taken under sections 33 and 101.

III

Letter from Lieut.-Col. C. M. GANAPATHY, M.C., I.M.S., Director of Public Health, to the Secretary to Government, Education and Public Health Department, dated 7th December 1939, No. 40613-1-Hyg.

[Rule—Madras Public Health Act, 1939—Section 136—Appeal against the orders of Health Officers—Draft publication—Suggestions submitted. *Reference.*—G.O. No. 4120, P.H., dated 7th November 1939.]

I have the honour to submit the following suggestions :—

Rule 1 (1) (a)—Section 24 (1).—In view of the delays and other administrative difficulties that are likely to arise if the local authority is the appellate authority, I am of opinion that excepting with reference to the orders for permanent closure of water-supplies under sub-clause (f), the executive authority should be the appellate authority with respect to the rest of the other clauses of the sub-section.

Section 28.—If with reference to notices issued under the section, funds of the local authority are to be spent on the construction of a drain, an appeal may lie to the local authority. As regards the rest of the section, appellate authority may be the executive authority.

Section 29.—The local authority should be appellate authority.

Sections 30 and 31.—For the reasons stated under 24 (1) the executive authority should be the appellate authority in the present case also.

Section 32.—In view of the fact that the exercise of the powers under the section involves professional opinion, there should be no appeal either to the executive authority or to the local authority.

Section 40 (2).—The executive authority may be the appellate authority.

Section 77 (2) (a).—As the provisions of the section have to be resorted to when a locality is affected by or threatened with plague there should be no appeal against the action taken by the Health Officer; an exception to this may be made in the case of action taken by him under sub-section (2) (a), the local authority being made the appellate authority.

Section 95 (2).—There should be no appeal under this section as the work that has to be done is of minor nature and at the same time has to be urgently carried out.

Section 97.—The appellate authority for this section may be the Director of Public Health.

Section 99.—As the notice issued under this section will be only in accordance with the statutory rules under section 100, no appeal should be provided for.

Section 111.—As the provisions in this section involve the exercise of executive powers, viz., prohibition of entry of foods from unlicensed place and the seizure of articles brought in contravention of sub-section (1), there is no necessity for any appeal.

Rule 1 (1) (b).—*Section 113.*—Departmental instructions will suffice for the exercise of the provisions of this section by the Health Officer. No appellate authority is necessary.

Order—No. 361, P.H., dated 31st January 1940.

In G.O. No. 4120, P.H., dated 7th November 1939, the Government published for general information and criticism the draft of the rules which they proposed to issue in regard to appeals against the orders of Health Officers. Suggestions have been received in respect of the draft rules and have been considered by the Government. The draft rules as now revised by the Government are confirmed and appended to this order.

2. The appended notification will be published in the *Fort St. George Gazette* in English and in the District Gazettes in English and in the language or languages of the districts concerned.

3. The Senior Translator to Government is requested to forward to the Superintendent, Government Press, translations of the notification in Tamil, Telugu, Kannada, Malayalam and Hindustani languages.

(By order of His Excellency the Governor)

G. H. COOKE,
Secretary to Government.

To the Superintendent, Government Press, for publication in Gazettes.
" Senior Translator to Government.
" Executive Authorities of all Municipalities (through Chairmen of Municipal Councils).
" Presidents of District Boards (with copies for Presidents of Panchayat Boards).
" Commissioner, Corporation of Madras (through the Mayor).
" Director of Public Health.
" Surgeon-General.
" Examiner of Local Fund Accounts.
" Inspector of Municipal Councils and Local Boards.
" Local Administration Department.
" Legal Department.

APPENDIX.

NOTIFICATION.

In exercise of the powers conferred by sections 128 and 136 of the Madras Public Health Act, 1939 (Madras Act III of 1939), His Excellency the Governor of Madras is hereby pleased to make the following rules:—

RULES.

1. (1) An appeal shall lie—
(a) to the local authority from any notice or order issued or other action taken or proposed to be taken by the Health Officer under sections 24, 28, 29, 30, 31, 38, 39, 40, (2) or 77 (2) (a) of the Madras Public Health Act, 1939;

(b) to the Director of Public Health from any order issued by the Health Officer under section 97 or 113 of the said Act; and

(c) to the Health Officer from any order issued by any officer of the Public Health Department below the rank of Health Officer under section 26 of the said Act.

(2) Such appeal shall be preferred within fifteen days after the date of the receipt of the notice, order or proceeding against which the appeal is preferred.

2. The Government may at any time, either *suo motu* or on application, call for and examine the record of any order passed by, or any proceedings recorded by, a local authority, the Director of Public Health or a Health Officer under rule 1 for the purpose of satisfying themselves as to the legality or propriety of such order, or as to the regularity of such proceedings, and may pass such order in reference thereto as they think fit.