

Marine (1897) Department.

G.O., No. 641-1117

DATED 19 July 1917

[Despatch Abstract.]

Evasion of the provisions of the Native Passenger
Ships Act; sneaking with remarks that the
Port Officer Melabalan be called on for full details
of his calculations as to the number of passengers which
the S.S. "Picciola" should have carried & that these
be checked by the P. P. Officer, before submission
to Govt, and stating that ~~his~~ orders will be
passed on the — by the master of the vessel
on receipt of this information.

$$\left[\frac{M. A.}{2,000 - 23 - 16 - 06.} \right]$$

24/7/47

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
1076	897						

864

Proceedings of the Madras Government

Read the following:—

Read the following:—
From the Presidency Port Office, Madras, No. 460/224 G. d/14 June 1897
From the Presidency Port Office Madras No. 460/235 G. d/28 June 1897.

His Excellency the Governor
in Council does not see how
either Certificate A or B can
be withdrawn. Reading Sections
6-12 of Act X of 1887 together
it is clear that the Certifi-
cate cannot be refused if
the requisite conditions are
complied with, merely
because the ship has on
a former voyage evaded the
law.

The Port officer, Negapa-
tam, will be called on for
full details of his calcula-
tions as to the number of
passengers which the S. S.
"Sicilia" should have
carried. These will be for
submission to Govt., be
checked by the Presidency
Port officer. Further orders
will be passed on receipt
of this information.

The P.F.O. ✓ 23/7/97

K.S.

18/7/97

Marine Department

OFFICE NOTE No. 1471

Dated 14th July 1897.

Current No 971

Recd 14-7-97

From

THE CHIEF SECRETARY,

To

THE SECRETARY, MARINE DEPARTMENT.

The Hon Sir Henry Bliss K.C.J.E.

For orders
with the draft order to which
the note relates -

15/7/97
u

Before counterinitialling the accompanying Marine Department draft order on Marine Currents 364 and 908 the undersigned has the honour to suggest the following considerations with regard to it:-

(1) Paragraph 2. The Straits Settlements Passenger Ships Ordinance 1890 is a copy of our Native Passenger Ships Act X of 1887, and it is fairly certain that the rules framed under the former very closely correspond with those promulgated under the latter, and that therefore the number of passengers which any given ship would be licensed to carry under the two sets of rules would be almost identical. The wording of section 30 of the Straits Ordinance seems to confirm this supposition, for it almost treats as equivalent the number of passengers allowed for a ship under the Ordinance, and that allowed under the Certificate granted at the port of departure, (a port

[G.]
73
107-13-3 99

Common to Native
Passenger Ships
Act

A.M. 15-7-97 R. 16-7-97

port in British India in most cases.)

It would therefore, ceteris paribus, be as simple to obtain a conviction under the Indian Act as under the Straits Ordinance, and in the present case it would be easier to get one in India as it is not likely that the Straits authorities noticed the number of passengers on the S.S. "Picciola", so that, to get a conviction there under section 50 of the Ordinance, evidence on this point would have to be sent over from India. The steamer is moreover on her way back to India, and there is no information to show that she will ever go to the Straits again, even though her owners live at Singapore.

It is accordingly suggested that before reporting the case to the Straits Government, this Government should first make certain that a conviction cannot be obtained in India, for it is not desirable to prosecute in both places for the same offence.

(II) Paragraph 3 lays it down that A and B certificates must be renewed for each voyage.

It is suggested that it is by no means clear that A certificates have to be renewed for each voyage. Section 15 (b), indeed, says that if the Master produces a certificate similar to an A certificate not more than a year old and applicable to the voyage and service proposed,

no

no new A certificate is necessary. Vide also ~~the~~ the wording of clause (e) of the B certificate on page 15 of G.O. No. 318, Marine, dated 17th July 1889, which seems to assume that an A certificate may be granted at a place other than the place of departure. The grant of an A certificate necessitates elaborate measurements, and in some cases a survey by a competent Surveyor and unless it is at present actually the practice that A certificates are renewed for each voyage, the paragraph in the draft G.O. would probably originate ~~and~~ a new practice which would cause much additional labour to all officers appointed under section 7 to grant certificates.

It is accordingly suggested that either the words "have to be renewed for ^{each} ~~such~~ voyage and" should be cut out of paragraph 3 of the draft, or that the Honourable Member should be moved to direct that before any positive pronouncement is made the present practice may be first ascertained.

(III) Paragraph 4. Karikal is not a port appointed under section 6 (1) by the local Government Vide Notification in G.O. No. 383, Marine, dated 3rd November 1890.

But even so, it is not clear that as assumed in the draft order, a prosecution will lie against the master under

under

sections 31 and 6 (2). The Act only extends to British India (section 2) and it can hardly have been meant that sections 31 and 6 (2) should render, as the draft would make them render, any master of a ship liable to prosecution who set out from a British India port and picked up a passenger at a French port. Such a reading of the Act would very greatly hamper emigration. The form of statement of passengers printed on the top of page 14 of G.O.No.318, Marine, dated 17th July 1889, seems to show that ships under the Act are permitted to carry French passengers from French ports.

It is suggested that if any prosecution lies it is rather under section 37 (1). This says that "if a ship carrying passengers from any port in British India has on board a number of passengers which is greater than the number allowed for the ship by or under this Act" the Master and owner shall be liable to certain penalties.

The S.S. "Picciola" was certainly carrying passengers from a port in British India, and she is said to have had on board (when she left Karikal) a number of passengers greater than the number allowed by the Act.

It is accordingly suggested that the first part of paragraph 4 of the draft should be recast.

(IV) The latter part of paragraph 4 of the draft says that the Government

Solicitor

+ The Govt
Solicitor thinks
it would be by 1149
25 Aug 97
I don't see why not
BS

I don't want this to be at all
play L BS

But when she started from Karikal
she was not sailing from a port in
British India - She was carrying
passengers from Karikal
BS

A memo will probably be
made of the prosecution
is not submitted
BS

Solicitor should be consulted. It is suggested that this is unnecessary. The main questions which would arise at the prosecution would be as to the number of passengers on board the boat when she left Karikal and as to the number which, under the elaborate rules under the Act, she was allowed to carry. A license is said to have been granted by the Karikal authorities to carry the number shipped there, but no Karikal license could apparently oust the provisions of an Indian Act.

(V) The last part of paragraph 4 of the draft must go out if the prosecution is not instituted under section 31, as in the case of prosecution under other sections for the less serious classes of offences such a strong measure as the seizing of a ship is not allowed, and Government would be liable to be sued for ordering it.

(VI) In paragraph 5 of the draft it is presumed that the voyage was a "short voyage". Under section 5 (4) a "short voyage" is one which will ordinarily keep a ship out of port, continuously, for 120 hours.

This ship apparently went direct from Karikal to Penang. The distance between these two places, as the crow flies, and without allowing for deviations among or round, the Nicobars is about 1270 knots. If the Steamer could do this distance in 120 hours she would have to steam

steam over 10½ knots night and day, which it is not likely that she could do.

Moreover, according to table B, on page 17 of G.O., 318, Marine, dated 17th July 1889, the probable number of days for a steamer travelling direct between ports on the Coromandel coast to Penang in foul weather is given as 8 days or 192 hours, and this steamer started in "foul weather" for she left on 1st June from Negapatam, and on the Coromandel coast it is "foul weather" from 16th April to 31st July. (Schedule on page 10 of G.O. No. 318, Marine, dated 17th July 1889).

So the voyage was almost certainly a "long voyage".

It is, moreover, suggested that there is not much object in only calling attention to the difference in the number of passengers allowed on long and short voyages. For the number varies not only with the length of the voyage but with the nature of the propelling power of the ship, and, in short voyages with the condition of the weather.

It is accordingly suggested that it would be better to tell the Presidency Port Officer to call on the Port Officer, Negapatam for full details of his calculations as to the number of passengers which the S.S. "Picciola" should have carried and to check these in the office to see if he was right before any prosecution is ordered.

On

On the whole, therefore, it is suggested that only paragraph 3 of the draft, as amended above, should go to the Presidency Port Officer, that the rest should be cut out, that the Negapatam Port Officer should be asked for the details of his measurements as above, and that if he seems to be right in holding that the boat was overcrowded when she left Karikal a prosecution should be instituted against the Master (we can't get hold of the owner) under section ^{no} 37 (1) as soon as he ventures into any port in the Presidency. If he does not seem to be likely to come back to Negapatam other Port officers can be warned to be on the look out for him under section 47.

Hedrick

Chief Secretary.

*Payroll
to this further
presented
16/7/89*

*This may become
BS*

*M
12/7/89*

*A
urgent*

Eviction of Native Passenger Ships Act
661 mar
15-7-97
MARINE DEPARTMENT.
PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following

From the Presy. Port Officer, Madras, No. 460/224 G. dated 14th June 1897.
- do - No. 460/235 G. dated 28th - do -

*The Hon. Mr. Henry (Mr. A.C. J.E.)
with a note in the Judicial
Dept.*

*The Chief Secretary, Judicial
Dept. for favour of counter
initials.*

Superseded

In the first of the letters ~~of~~
~~the letters~~ recorded above, the Pre-
sidency Port Officer recommends that
Certificate A granted to the German
Steamer "Picciola" under the Native
Passenger Ships Act, 1887, be cancel-
led as a punitive measure; the vessel
having evaded the law as to the num-
ber of passengers to be carried.
2. The full complement of passengers
was 358. The ship embarked 249 at
Negapatam, and then proceeded to the
French port of Karikal where she
took on 131 more; thus making a total
of 380, or 22 in excess of the number
authorised under her Certificate A,
with which number she proceeded to
the Straits Settlements. Should this
number be in excess of that allowed
by Section 30 of Ordinance No. VII of
1890 enacted by the Governor of the
Straits Settlements, the master of
the ship will render himself liable
to the penalty therein provided. The
case

case will be brought to the notice of the Government of the Straits Settlements for such action as may be considered necessary. X

3. His Excellency the Governor in Council does not see how either Certificate A or B can be withdrawn. Reading Sections 6-12 of Act X of 1887 together, it is clear that the certificates ~~have to be renewed for each voyage and~~ cannot be refused if the requisite conditions are complied with, merely because the ship has on former voyage evaded the law. X

4. Under Section 6(2) of the Act it is unlawful for a ship having departed from an appointed port with some passengers to take any more on board except at some other place or port so appointed, i.e., appointed by the Local Government. The question thus arises whether Karikal is a port or place so appointed: if not a prosecution would seem to ^{lie} under Section 31 and should be instituted by the Presidency Port Officer on the return of the ship to Negapatam or other British Indian port, if, in the opinion of the Govt. Solicitor, who should be consulted, there are reasonable grounds for believing that a conviction can be secured. The District

Magistrate

Magistrate will thereupon be instructed to entrust the conduct of the case to the Govt. Prosecutor, and as Collector, (Chief Customs Officer) he will see the ship attached in accordance with ^{the last mentioned} ~~that~~ Section of the Act. X

5. It is presumed that the voyage was a "short voyage", and that it was the number of passengers ^{allowed} for a voyage of this class that was exceeded. This point should not be overlooked. X

To

The P.P.O.

,, Judicial Dept.

H.E.No. Marine dated.

To

The Honourable

The Colonial Secretary,
Straits Settlements.

Sir,

I am directed by His Excellency the Governor in Council to bring the following circumstances to the notice of His Excellency the Governor of the Straits Settlements.

On the 1st June last, the master of the German Steamer "Picciola", having obtained Certificates A and B under the Indian Native Passenger Ships Act X of 1887, embarked 249 passengers at the British port of Negapatam for Penang and Singapore.

The

The ship then proceeded to the French port of Karikal where she took up 131 additional passengers, making 380 in all - the full complement according to the certificate issued by the ^{British} authorities being only 358. The master has thus by an evasion of the Native Passenger Ships Act succeeded in taking up at a foreign port and conveying to the Straits Settlements 22 passengers in excess of the number which he would have been allowed to embark from British ports.

It is possible that the master has thus rendered himself liable to prosecution and conviction under Section 30 of Ordinance No. VII of 1890 enacted by the Government of the Straits Settlements. I am accordingly directed to bring the matter to your notice for such action as may be deemed necessary.

I have &c.

9/7/97
M.

From the Presy. Port Officer, Madras, No. 460/224 G. dated 14th June 1897.

- do -

No. 460/235 G. dated 28th June 1897.

The Hon. Mr. Henry Phillips C.S. 2.

FOR ORDERS.

I don't see how either certificate can be withdrawn - Reading No. 6-12 of 1887 together, it is clear that the certificates have to be renewed for each voyage & can't be refused, if the facts assigned in the ships are as stated in the certificates, merely because the ship has on a former voyage violated the law. In this case, the ship took some passengers on board at ^{Madras} & others at Karikal - But under S. 6(2) it is unlawful for a ship, having departed from an app'd. port with some other passengers, to take any more on board except at some other place or port so app'd. i.e., app'd. by the local Govt. - Is Karikal a port or place so app'd.? I suppose not. If not, a prosecution will lie under S. 31 & should be instituted on the return of the ship to any ^{British} Indian port.

The attention of the Straits Govt. may be drawn to the case. It may be presumed that the total no. of passengers did not exceed the number allowed by their Ordinance, though it did exceed that allowed by our rules. Nothing can be done therefore under S. 30 of the Ordinance, unless by her port of departure "is meant her original port or place of departure" - It is for the Govt. in the Straits to interpret the words.

The P.O. should be cautioned not to prosecute unless sure of proving his case, as to which he had better consult the Govt. Secy. - The D.M. should be told.
H.M. 3.7.97 R 637

In the first letter quoted above, the Presidency Port Officer recommends that the Certificate A granted to the German Steamer "Picciola" be cancelled as a punitive measure; the Steamer having evaded the law as to the number of passengers carried to the Straits Settlements.

2. In the second letter it is explained that the effect of this withdrawal of Certificate A will be that the vessel will not be ^{at} liberty to embark more than 60 native passengers at a port in British India.

The punishment in this case would, if it is submitted, be very slight. The agents can always arrange, as they did on the last occasion, to embark as many passengers at French ports as they and the French authorities may

may be pleased to allow.

FOR ORDERS.

3. It would perhaps be well to ask the Government of the Straits Settlements whether this evasion of the Indian Native Passenger Ships Act cannot be dealt with in the Settlements under their local ordinance No. VII of 1890. Vide Section 30.

9/7/97
M.

RS

Send the Public Prosecutor on to the conduct of the case, if on the advice of the Port Officer the P.P.O. decides to prosecute; and as Chief (Chief Customs Officer) he is in the ship attached.

As

577/97

I presume that the voyage in question was "a short voyage" & that the short voyage n^o of passengers was exceeded. Attention sh^d. be drawn to this point.

Marine (1897) Department.

CURRENT No.

864

*Imperial
Shaharidany
Lash-offin*

From

The Presidency Port Officer,
Madras

Order

No. 460 of
224

Dated 14th June 1897.

Received

Registered

Enclosures

Spare copies

SUBJECT.

Submitting for consideration and orders of Government the proposal to cancel the A certificate granted by the Port Officer at Nagapatam to the German steamer "Picciola" for taking in excess number of passengers she is entitled to carry under certificate A.

BACK PAPERS.

No.	Date.
375	16-4-97 ✓
226	27-3-97 ✓
196	4-3-97 ✓
177	2-3-97 ✓
135	16-2-97 ✓
87	2-2-97 ✓
31	11-1-97 ✓
804	5-2-97 ✓
530	2-11-96 ✓
658	28-9-96 ✓
168	13-3-96 ✓
147	7-3-96 ✓
77	5-3-94 ✓
197	17-9-92 ✓
191	17-6-92 ✓
251	8-7-90 ✓
300	12-8-90 ✓
318	17-7-89 ✓
454	20-9-88 ✓
107	11-3-84 ✓
5	4-1-76 ✓
272	4-8-75 ✓

FURTHER PAPERS.

No.	Date.
4908	9-6-97 ✓
no. 5528	31-8-97

No. 460/ 224

Presidency Port Office,
Madras, 14 June, 1897.

From

Commander H. A. Street, R.I.M.,

Presidency Port Officer,

MADRAS,

To

The Secretary to Government,

Marine Department,

CHENNAI.

Sir,

In connection with the correspondence ending with G.O., Marine, No. 87, dated 2nd February 1897, I have the honor to acquaint you, for the information of Government, that the Port Officer, Negapatam, reports that on the 1st Instant he granted Certificates A & B to the German Steamer "Piccolola". The vessel there embarked 249 passengers - her full complement being 358 - and proceeded to Karikal where 131 additional passengers were embarked, thus making a total of 380 or 22 in excess of the number she is entitled to carry under Certificate A. The Port Officer now enquires whether he can be permitted to cancel the certificate A granted by him as the vessel is expected to return shortly to Negapatam and probably will again ship passengers at that Port and Karikal.

2. The offence against the Native Passenger Ships Act not having been committed at a British Port, & the additional passengers having been permitted to embark by the French Authorities at Karikal, no proceedings apparently can be taken against the Master of the vessel, but it seems to me that it is open to Government under the

the circumstances to direct the Certificate A to be cancelled and I submit this proposal for consideration and orders.

3. Foreign Vessels are permitted to carry passengers under the Native Passenger Act in accordance with the view of the Advocate General-See Proceedings of Government No. 107, M, 11th March 1894, but if these vessels take advantage of the privilege extended to them, I submit, it should be taken away.

I have the honor to be,

Sir,

Your Obedient Servant,

H. A. Street

Commander, R.I.M.,
Presidency Port Officer.

From the Presy. Port Officer, Madras, No. 460 G.
dated 14th June 1897.

No. 419 28/19 June 1897
Memo

The undersigned is directed to report that the Presidency Port Officer will be so good as to mention the port for which the German Steamer "Riccola" embarked the passengers in question. If for any port in British India, action can be taken under Section 38 of the Native Passenger Ships Act. There is a corresponding Section in force in the Straits Settlements - vide Ordinance No. VII of 1890 Sec 30. So far as these places are concerned, therefore, there is a remedy at law. As regards places beyond these limits, it is not clear what effect would follow the cancelling of Certificate A. Further information on this point is also requested.

W.H.
For M

It seems a point of law, in which legal opinion is desirable, as to whether Certificate A can be cancelled or withheld if the vessel fulfills the conditions prescribed by the Act, vide Section 10.

So the Presy. Port Officer

Marine (1897) Department.

CURRENT No. 908

Order

From

The Presidency Port Office,
Madras

No. $\frac{460}{235}$ G.

Dated 28 June 1897.

Received 30-6-97

Enclosures "

Spare copies -

SUBJECT.

Submitting further report
in connection with the
German steamer "Picciola"
which carried more
number of passengers
than she is entitled to
carry under certificate
A.

Presidency Port Office,
Madras, 28th June, 1897.

Commander H. A. Street, R.I.M.,
Presidency Port Officer,
M A D

The Secretary to Government,
Marine Department,

In reply to Marine Department, Memorandum, No. 419 E, dated 19th June 1897, I have the honour to state, for the information of Government, that the Steamer therein specified embarked passengers for Penang & Singapore both at Negapatam and Karikal. At the latter port they were embarked under the sanction of the French Authorities, and as the Port Officer of Negapatam states that a license was granted to the vessel at Karikal by those Authorities to cover the additional number embarked, Section 38 of the Native Passenger Ships Act would not apply.

2. The effect of cancelling Certificate A would be, that the vessel could not embark more than 60 ^{native} passengers at a port in British India.

3. I submit that the attention of the Straits Settlement Government should be drawn to the manner in which these so called German Steamers have managed to embark more passengers than they are entitled to do under the Native Passenger Ships Act. I have been informed that the vessels belong to a firm of Chinese Merchants residing at Singapore and that their Manager is a German.

I have the honor to be, Sir.

Your Obedient Servant,

W. H. Mitchell

Commander, R. I. M.

Presidency Port Officer.