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MADRAS RECORD OFFICE.

Government of Madras.

Public Works DEPARTMENT.

G.O. No.	11167	Press
		Mis.
Dated	2-1-18	18

Not to be folded or roughly handled

*Proceedings of the Madras Government, Public Works Department,
18th June 1864.*

No. 365. Read the following Proceedings of the Board of Revenue, dated 2nd June 1864,
No. 3,344:—

Read the following letter from the Collector of Tanjore, dated Mayaveram, 20th May 1864,
No. 165.

1. I have the honor to submit for the information of the Board copy of a correspondence*

* From the Officiating Superintending Engineer, 9th April 1864, No. 2,374.
To do. 28th April 1864, No. 119.
From do. 10th May " " 66.

which has passed between myself and the Officiating Superintending Engineer, on the question of holding the villagers residing near the banks of rivers liable for the repair of river breaches.

2. The Board will observe that the views of that Officer on the subject are at variance with mine, as also with the recognized usage of the District, and as it is of importance that the question should be definitely and authoritatively set at rest, in order to avoid all future doubts and difficulties, I beg to request that the Board will be pleased to refer the same for the orders of Government.

3. As my views of the question, as also the points of difference between them and those of Captain Bean are set forth at length in my letters to that gentleman, I consider a recapitulation of the same here unnecessary.

ENCLOSURE No. 1.

From Captain J. BEAN, R. E., Officiating Superintending Engineer, 6th Division, to W. M. CADELL, Esq., Collector of Tanjore, dated 9th April 1864, No. 2,374.

SIR,

1. In reply to your letters as per margin, I have the honor to inform you that I have requested Captain Mullins and Mr. Bateman to pay into your Treasuries the amounts disbursed by the Tahsildars on repairs with the exception mentioned below. As I do not consider that item,† Nos. 3, 4 and 5 are debitable to our Department under the Circulars‡ as per margin, I beg that you will either have the work accounted for in Kudi Maramut, or obtain the sanction of Government for the outlay.

No. 266, dated 18th November 1863.
" 308 " 26th December "
" 86 " 29th March 1864.

Rupees 198 2 9
" 3,566 1 7

† Closing breach in the north bank of Vennar at the side of Allur head sluice in Vinnarmangalum limits ... 3 9 0
Do. do. at the wings of Rettay Vaikal, head sluice of Vellamberambur, &c., on the north bank of Vennar in the limits of Perasannpettai ... 13 5 6
Do. do. in the north bank of Vennar limits of Ammengudi ... 6 13 0
‡ Chief Engineer's Circular, No. LXII, of the 27th July 1859.
Do. do. " CXXI, 20th December 1860.

ENCLOSURE No. 2.

From W. M. CADELL, Esq., Collector of Tanjore, to the Superintending Engineer, 6th Division, dated 28th April 1864, No. 119.

1. I have the honor to acknowledge the receipt of your letter of the 9th instant, No. 2,374, and with reference to paragraph 2, I beg to observe that, as already pointed out in my letter of the 26th December last, No. 308, the works in question are not of that description which can be charged to the Mirassidars. The Chief Engineer's Circulars now quoted by you evidently refer to works of a local nature intended for the benefit of individual villages, and certainly cannot be held applicable to those of general importance as the closing of river breaches.

2. The practice of calling upon the villagers to execute these works in Kudi Maramut is altogether unknown in Tanjore, and in my experience extending over twelve years (during more than half of which I was myself in charge of the Maramut executive); they have invariably been

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18th June 1864.*

carried out at the expense of Government without any reference whatever to the amount of cost. Further I am not aware of any law which permits of the cost of such works being recovered by compulsory process, and Act I of 1858 which renders legal the compulsory employment of labor and materials for works, and on occasions of the nature in question does not in any way authorize the same being done without payment. Neither am I aware of the existence of any rules or orders of Government which require that works of this description when falling below a certain limit as to cost should be paid for upon the special sanction of Government, as suggested in your letter under acknowledgment.

3. I beg therefore to request that you will be so good as to inform me whether notwithstanding the reasons I have now again urged, you are still inclined to think that the cost of the works above alluded to, should be recovered from the Mirassidars. Should you still think so, I shall consider it my duty to refer the matter for the orders of Government. The amount of the retrenchment made by you is indeed very small; but the principle involved is one of considerable importance, and to avoid all future doubts and difficulties, it is desirable that the matter should be definitely set at rest.

(Signed) W. M. CADELL, *Collector.*

ENCLOSURE No. 3.

From Captain J. BEAN, R. E., Officiating Superintending Engineer, 6th Division, to W. M. CADELL, Esq., Collector of Tanjore, dated 10th May 1864, No. 66.

SIR,

1. In reply to your letter No. 119 of the 28th ultimo, I have the honor to observe, with reference to the first clause, that the works which you state are not of the nature to be carried out in Kudi Maramat may possibly, I think, be considered by Government contrary to your opinion, as of a class with those which are of a petty and local nature, to be carried out by the Mirassidars themselves of the villages concerned.

2. My views on this subject which I ought to explain are as follows, and I have already stated them in correspondence with Captain Mullins who held a different opinion of the matter to yourself, and was supported by the late Superintending Engineer. The question appears to me to hinge on the position of the breaches and the circumstances under which they occurred. If a river flows contiguous to a village, so that the latter is situated on its banks, and so that any small breach occurring without its being promptly repaired, would endanger the safety of such village and its lands, I think it the duty of the Mirassidars to repair them at their own cost, equally as in the case of any breach occurring to their channel banks. If these breaches however occur at spots in rivers distant from villages, where the conservancy cannot be so strictly upheld or defined, and where any accident occurring would have a more general than local effect, I do not consider the Mirassidars can be called upon to repair the damages at their own expense.

3. In this instance I was under the impression that the repairs required were such as I have shown above; but Captain Mullins had not time to visit the spot, and now that he has left the District, I have no one to depute for the purpose. To avoid further delay in the matter as the correspondence has been protracted, I will give directions for the amount being paid into your Treasury.

(True Copy.)

(Signed) W. M. CADELL, *Collector.*

1. Ordered to be submitted for the decision of Government as requested. The question appears to be whether villagers can be required to bear the cost of petty repairs to river banks within their village limits.

Item No. 3, Rupees	3	0	9
Do. " 4, "	13	15	6
Do. " 5, "	6	13	0
Total "	23	3	3

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18th June 1864.*

2. The Board may briefly state that there is no law authorizing such charges, and that if in any case the villagers are equitably liable to bear the cost of such works, that liability can only be enforced by Civil suit. The work is not of that local character contemplated by Section 6, Act I of 1858.

(True Copies and Extract.)

(Signed) W. HUDLESTON, *Secretary.*

Transferred to the Department of Public Works.

(Signed) J. D. SIM,

Secretary to Government.

8th June 1864.

No. 366.

ORDER THEREON, 18th June 1864, No. 1,767.

Under the circumstances, the Government approve of the payment by the Public Works Department of the charges referred to in the papers recorded in the foregoing Proceedings, but they do not place so narrow a construction on the provisions of the Act as the Collector of Tanjore and the Board of Revenue have put on them.

(True Extract.)

(Signed) CHARLES A. ORR, Colonel, R. E.,
Secretary to Government.

To the Superintending Engineer, 6th Division.
" Board of Revenue.

Exd. S. T. Augustin.

*Transferred to the
Dept. of Public
Works.*

S. D. S.

3 June 84 Secy. to Govt.

Rev. 1864. Department

No. 1481.
PROCEEDINGS OF THE BOARD OF REVENUE

Dated 2nd June 1864.
Depy. Secy. to Govt.
Recd. 8th.

No. 3,344.

Submitting for decision with remarks letter from the Collector of Tanjore forwarding copy of correspondence between himself and the Officiating Superintending Engineer on the question of holding the villagers residing near the banks of rivers liable for the repair of river breaches.

Forwarded

*See
of
Dept.
in
the
last
copy
of
ct
have
with
2/64*

Let

No 1767

Under the circumstances,
the Government approve of
the payment by the P W Dept.
of the charges referred to in
the papers recorded in the
prison's Proceedings, but
they are not ~~disputed~~ ^{disputed}
place so narrow a ~~limitation~~ ^{limitation}
on the ~~meaning~~ ^{provisions} of the Act
as the Coll. of Tainne and
the Board of Revenue have
ins. on them +

W.B.

To Supy Engrs & Co.
To the Bd of Rev.

Chepman
18th June/64

Recd 21st June

10/18/64 Depo
Pro. of foot of line
No. 2568

From the Secy to Gov.
Revenue Depto

Dated 8 June
Received 9 June

Further No. 8/23 June 1865

etc. 17/6/65 - 18th June/65

Transferring Pro.
of the B^d of Rev forwarding
with their remarks, copy
of a correspondence which
has passed between the Coll.
of Tanjore & the Sup. Genl.,
on the question as to whether
villagers can be required to
bear the cost of petty re-
pairs to river banks within
their village limits -

No. 365. 366