M.R.O. 1—77-01-2-5-02.

(1) Number of pages _____

(2) Date of repair _____

(3) Initials of the Reference _____

MADRAS RECORD OFFICE.

Government of Madras.

DEPARTMENT.

| G.O. No. | Press / Mis. |
|---|---|
| Dated | 19 . |

*Not to be folded or roughly handled.*

No. 277. Read the following letter from the Superintending Engineer, 6th Division, to the Secretary to Government, Public Works Department, dated Tanjore, 20th August 1870, No. 405:—

I HAVE the honour to inform you that having observed a Notification in the *Trichinopoly District Gazette*, directing Contractors working for the Public Works Department to apply to the Tahsildar to point out spots from which earth, gravel, or stone might be obtained from Government waste land, I addressed the Collector on the subject, and requested him to withdraw the notice. The Collector in his reply does not attempt to meet my arguments relative to the probable effect of the Notification, but states that the Notification has been published in the spirit of certain Circulars of the Revenue Board, and these he quotes.

Copy of Notification.
No. 330, of 4th August, to Collector.
„ 142, 16th „ from „

No. 330, of 4th August.

No. 142, of 16th August.

2. As I am not furnished with copies of the Board's Circular Orders, I am not aware of their contents, but be they what they may, if the spirit of them is embodied in the Notification to which I take exception, I cannot but regard them as very detrimental to the working of the Department Public Works, and trust therefore that steps may be taken to have them cancelled.

3. As far as I can learn the Collector of no other district has found it necessary to publish a Notification such as that published by the Collector of Trichinopoly in carrying out the spirit of the Board's Orders, and as every day that that Notification remains in force will add to the embarassments of the Department Public Works, and until it is withdrawn no Contractors are likely to undertake work, I beg that early steps may be taken to have the Notification cancelled.

No. 278. ORDER THEREON, 16th September 1870, No. 2,229.

CIVIL WORKS, No. 25.

THE Government observe that the Notification, dated 21st July last, by the Collector of Trichinopoly, to which the Superintending Engineer, 6th Division, has made objection, is one which must directly affect to a very great extent the arrangements of the Public Works Department in Trichinopoly. It lays down a new course of procedure with regard to the excavation of materials on Government waste lands, in lieu of the practice hitherto in force, and it involves a great deal of additional work, the chief part of which must be done by the members of the Public Works Department, but much by the Talook Revenue officials. It appears that this Notification was issued without previous consultation with the Superintending Engineer of the Division, and this course is altogether opposed to the wishes of the Government, who desire that all questions, affecting the interests of either department in connection with the other, should be freely discussed by the local officers of both before any action is taken. In the present case, moreover, the question was one which could not properly be finally disposed of by the local officers of the Revenue and Public Works Departments, even had they been agreed as to the advisability of regulating the use of waste lands, for the Public

Works Establishments are certainly unequal in their present state to the performance of the additional work involved, and it would be necessary to make special provision for the demarcation of waste lands from which it might be desired to take materials. The prescription therefore of the course proposed, without due notice and the sanction of the necessary subsidiary arrangements, could only lead to difficulties and prejudice the progress of public works, even if it did not lead to more serious consequences.

2. His Excellency the Governor in Council resolves therefore to direct the withdrawal of the notice, and the continuance, for the present at least, of the practice hitherto in force with regard to the use of Government waste lands for Government purposes in connection with public works. It will be open to the Collector to show cause for the introduction of the regulation of waste lands which he proposes: and, in consultation with the Superintending Engineer, the detailed arrangements requisite for carrying out this system should be fully considered and reported. It will then be for the Government to consider whether it is worthwhile to incur such expense and trouble as may be shown to be involved, or whether it will be better, while checking any abuse of the liberty hitherto enjoyed, to continue the present practice of making use of Government waste lands at the discretion of those immediately employed in executing public works.

3. His Excellency in Council is also of opinion that much care will be requisite in framing any notice regarding private lands, in order that the fair claims of the Government, as the guardian of the interests of the community generally, may not be prejudiced in the endeavour to prevent any infraction of the rights of individuals. It is of much importance that the long established custom in some districts of executing repairs to river embankments, etc., with soil taken from the adjacent lands, should not be interfered with unnecessarily by officers of the Government, and it is believed that, with proper support and assistance from the Revenue officers, the officers of the Public Works Department will have no difficulty in carrying out such repairs as heretofore without in general inflicting any real injury on the landholders; while on the other hand, where some injury to the lands may be unavoidable, or may have occurred from want of consideration or otherwise, the Revenue officers should do their best to obtain the acceptance by the owners of the land of a reasonable compensation.

4. These papers will be communicated to the Board of Revenue for any observations they may think proper to offer on the subject in communication with the Collector of Trichinopoly, and with any other Collectors whom they may have occasion to consult.

(True Extract.)

Colonel, R.E.,
*Secretary to Government.*

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

Exd. S. T. Augustin.

Trichinopoly Collectorate
16th August 1870.

No. 142.

From
A. M. Cadell Esquire
Acting Collector of Trichinopoly.

To
Captain R. F. Oakes R.E.
Superintending Engineer - 6th Div.

Sir,

I have the honor to acknowledge the receipt of your letter under date the 4th Instant No. 830, regarding the Notification issued by me in the District Gazette on the 21st July last, regarding Contractors:

That Notification was issued

2 in consequence of the numerous instances brought to my notice of Contractors trespassing on lands both public and private and of their taking materials at will whence and where they pleased.

3 As you are aware Government have so long since as the year 1855 directed that in the case of private lands previous arrangements must be made with the parties owning the land, and in that case of public land a similar restriction has now become absolutely necessary.

4 In the Circular marginally noted, the Board of Revenue have directed the attention of Collectors to the importance of preserving from interference both public and Sarcodayam lands, and in a still more recent Circular have ruled that all Durkhasts for lands for quarrying purposes

Circular Order No. XII of 1869, Standing No. 8 dated 6th February 1869.

Circular Standing No. X of 1870, dated 30th May 1870.

purposes must be disposed of by the Board themselves.

5 In the spirit of these Circulars the Notification in question was issued and I fail to see the validity or force of the objections now raised by you; in future Contractors cannot of course be permitted to dig where they will, but by timely application to the Local Officers, I do not see how any difficulty can be experienced; serious notice will of course be taken if any undue interference or obstruction is offered by these Officers and I request such cases may promptly be reported.

6 I have only to observe in conclusion that para 3 of the Notification leaves it open to Contractors in cases of emergency to take action as they may think proper.

I have &c

(Signed) W. M. Cadell
Ag Collector

(True Copy)

[illegible] Captain RE
Supg Engineer 6th Div

Enclosure in a letter from the Supt Engr 6th Dn to the Secy to Govt P.W.D No 405, dated 20th August 1870.

P.W. 3257/70
Rec'd 16th Sept 1870 L. No 277.

Copy of Correspondence between the Supt Engr 6th Dn and the Collector of Trichinopoly, &c

Supt Engineers Office 6th Dn
Tanjore 20th August 1870.

No 405

From

Captain R. F. Oakes R.E.
Superintending Engineer, 6th Division

To

Colonel C. A. Orr R.E.
Secretary to Government P.W.D

Sir,

I have the honor to inform you that having observed a Notification in the Trichinopoly District Gazette directing Contractors working for the P.W.D. to apply to the Tahsildar to point out spots from which earth gravel or stone might be obtained from Government waste land I addressed the Collector on the subject and requested him to withdraw the notice The Collector in his reply does not attempt to meet my arguments relative to the probable effect of the Notification but states that the notification has been published in the spirit of certain Circulars of the Revenue Board & those regarding

As I am not furnished with copies of the Boards' Circular Orders I am not

not aware of their contents, but let
they what they may, if the Spirit of them
is embodied in the notification to
which I take exception I cannot
but regard them as very detrimental
to the working of the D. P. W and trust
therfore that steps may be taken to
have them cancelled.

As far as I can learn the Collector
of no other District has found it
necessary to publish a notification
such as that published by the Collector
of Trichinopoly in carrying out the
Spirit of the Board's orders and as every
day that that notification remains
in force will add to the embarassments
of the D. P. W and until it is withdrawn
no Contractors are likely to undertake work
I beg that early steps may be taken
to have the notification cancelled.

I have the honor to be
Sir
Your most Obed.t servt.

[signature] Captain R.E.
Supg Engineer 6 Division

1870 Sept
From Pro for Secretary
No. 3257
The Supg Engineer
6 Dn
to
The Secy to Govt
P.W.D.

Dated 20 } August 1870
Rec'd 22nd }

No 1,05

Encl: 3 Cs Sept[illegible]
Towards Copy of correspondence with Collector of Trichinopoly relative to a Notification published by him warning Contractors not to dig earth gravel &c without the permission of the Revenue authorities and requesting that steps may be taken for the removal of the restriction

No 211

C. 22nd Aug 1870 Rec'd 25th Do

(1)

Extract from the Trichinopoly District Gazette, dated 23rd July 1870 - Page 575.

Notice to Contractors.

It has been brought to the notice of the Collector that parties styling themselves to be Contractors under the P. W. D. are in the habit of quarrying and removing earth, stones and other materials for Roads and other works both from public as well as from private lands; the undersigned hereby warns all parties so doing that the practice is illegal and unauthorized.

2 In the case of private or puttah lands, Contractors must of course make their own arrangements with the proprietors thereof, and with regard to waste lands and which are the property of Government, they must apply to the Tahsildar of the Taluq in whose Range the lands are situated, and who will point out the places in which Contractors will be at liberty to dig.

3 In cases of urgency and when the necessities of the case do not permit of delay, Contractors must of course act on their own responsibility, but at

at the same time they will be held liable for any damage or injury done by them acts.

/Signed/ W. M. Cadell
Ag Collector

Trichinopoly
21st July 1870.

True Extract

Lt Col
Captain R.E.
Supg Engineer 6th Div.

No 330

Supdg Engr Office 6 Div.
Tanjore 4th August 1870.

From

The Superintending Engineer
6th Division

To

The Collector of
Trichinopoly

Sir,

With reference to the notification published by you in the Trichinopoly Gazette of the 23rd July to the effect that Contractors working for the P.W.D are to apply to the Tahsildars to point out spots from which earth, gravel or Stone may be obtained from Government waste ground I have the honor to observe that the effect of the notification will be to retard the execution of Public Works for it will not be possible for the Tahsildar to point out at the different works scattered over his Taluq from what spots material is to be procured without causing considerable delay and delay in the working Season may frequently involve the non-execution of an important work till the following Season and this may result in further injury to the work the repair of which is necessarily postponed and in an increased

increased outlay in the following year to prevent such delays and the consequences which may result therefrom the Tahsildars must delegate the duty of pointing out the sites to the Village subordinates and thus practically the Village Curnum will have it in his power to delay works and to tyrannise over the Contractors who in their turn will always attribute the non-fulfilment of their engagements to the delay on the part of the Revenue Department in pointing out the site at which materials might be procured and while the commencement of a work will thus depend not upon the Contractors own arrangements but upon the Tahsildars or his subordinates who have other multifarious and important duties to perform and will therefore not be able to attend at once to each individual Contractors requisition it will be most difficult if not impossible to get a Contractor to bind himself down to complete a work within any stipulated period.

2.—— For Earth repairs to River or Road embankments the earth is obtained as you are aware from the most convenient situated plots in the neighbourhood of the banks to be repaired, a certain margin being left between the foot of the embankment and the pit excavated and as the notification refers expressly to Government waste land it appears to me that the selection of the spots at which earth may be excavated may be left to the Contractor or to the subordinates of this Department without troubling the Tahsildar if this is the case with regard to earth repairs it seems even less necessary to place any restriction on the sites to be selected for Gravel or Stone Quarries on waste land with regard to the former especially it is often found necessary to abandon a pit which at first promised well and for a long line of Road 8 or 10 or 12 quarry pits may be opened with advantage these on a new line are carefully selected by the Range Officer or Overseer after perhaps several test pits have failed such selection the Tahsildar could hardly be expected to make and the number of such pits which it might be desirable to open could hardly be left to his judgment and discretion Your notification does not I presume refer to the old pits from which gravel &c have long been procured for the maintenance of the Roads for it would

Public Works Dept
No 1229

Proceedings of the Madras Government
Under date the 16th Sept 1870
Read the following

From the Supdg Engineer
of the 6th Dn (H.E. No 1205 of 20th Augt 70)

The Government
observe that the Notifica
tion dated 21st July
last by the Collector of
Trichinopoly, to which
the Superintendg Engr
has made objection, is
one which must directly
affect to a very great
extent the arrangements
of the Public Works Depts
in Trichinopoly. It lays
down a new concept of

1.
RJS
I discent from
from 3 of Govt
JBS

would be absurd to obtain the consent
of the Talukdars to make use of such pits.
3. — I am not aware of the circumstances
under which you have thought it necessary
to publish the notification adverted to
and I regret that no intimation of your
purpose was made to this Office in order
that an opportunity might have been
afforded me of meeting your objections
to the system of selection of sites for
pits dug on waste ground which has
hitherto prevailed and of which no
complaints have reached me either
through your Office or through that of any
of your subordinates.
4. — As I conceive for the reasons
stated above that the notification
published in the Gazette of the 23rd Inst.
is likely to prove detrimental to the
working of this Department will you be
good enough to cancel that notification
or to direct that it shall not be acted
upon pending a reference on the subject either
on your part or on mine to the Government.

I have the honor to be
Sir
Your most Obedt Servt
(signed) R. F. Oakes Captn RE.
Supt Engineer 6 Divn

(True Copy)

R. F. Oakes Captain RE.
Supt Engineer 6 Division.

of procedure with regard
to the execution of
material on Government
waste lands, in lieu
of the practice hitherto
in force, and it involves
a great deal of additional
work, the chief part of
which I regret has fallen
to the members of the
Public Works Depts, but
much of the Salaries
Revenue Officials appears
that this Notification
was issued without
previous consultation
with the Superintendents of the
Dr; and this course is

altogether opposed to the
wishes of the Govt, which
desire that all questions
affecting the interests
of either Dept in con-
nection with the other,
should be freely dis-
cussed by the Local
Officers of both before
any action is taken.
In the present case
moreover the question
was one which could
not properly be finally
disposed of by the
Local Officers of the Re-
venue and Public Works
Departments, even had
they been agreed as to
the

of procedure with regard
to the excavation of
material on Government
waste lands, in lieu
of the practice hitherto
in force, and involves
a great deal of additional
work, the chief part of
which has yet to be done
by the members of the
Public Works Depts, but
mainly by the Native
Revenue Officials. It appears
that this Notification
was issued without
previous consultation
with the Superintendents of the
Dr; and this course is

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the advisability of re
-lieving the use of waste
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Establishments are
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their present state to the
performance of the
additional work involved,
and it would be necessary
to make special pro
-vision for the demarcation
of waste lands, from
which it might be desired
to take materials. The
prescription thereof
of the course proposed,
without due notice, and
the sanction of the
necessary subsidiary

Govt

change in this could only
lead to difficulties and
complications to the progress
of Public Works, even if
it did not lead to
more serious consequences.

2. His Excellency the
Governor in Council
resolves therefore to
direct the withdrawal
of the notice, and the
continuance, for the
present at least, of the
practice hitherto in
force with regard to the
use of waste lands
for Govt purposes in
connection with Public
Works. It will be open
to the Collector to show

cause for the introduction
of the regulation of roads
lands which he discovers:
and, in consultation
with the Surveyor, the
detailed arrangements
requisite for carrying
into this system should
be fully considered, and
settled. It will then be
for the Govt. to consider
whether it is worth while
to incur such expence
and trouble as may
be shown to be involved,
or whether it will be
better, while checking
any abuse of the liberty
hitherto enjoyed, to continue the





the present practice of
making use of Post
roads lands at the
erection of thirds, im-
mediately employed
in executing Public Works.

3. The Excellency in
Council gives assent to
opinion that much
care will be required
in framing enactments
regarding private lands,
in order that the fair
claims of the Govt.,
as the guardian of the
interests of the Com-
munity generally,
may not be prejudiced
in the endeavour to
prevent

prevent any infraction
of the rights of individuals
or [illegible] of such infringements
that the long established
customs in some Dis-
tricts of executing reports
to prior enactments
vizt with soil taken
from the adjacent lands,
should not be interfered
with unnecessarily
by Officers of the Post,
and it is believed that,
with proper explan-
and declarations from
the Revenue Officers,
the Officers of the Post
Masters depts will
have

have no difficulty in
carrying out such re
ports as heretofore,
without in general
inflicting any real
injury on the land
holders, while in the
other hand where some
injury to the lands
may be unavoidable
or unexpectance occasioned
from want of consider-
ation or otherwise, the
Revenue Officers
should do their best
to obtain the acceptance
by

by the owners of the
Canal & a reasonable
compensation.

4— Those persons will be
Communicated to the Board
of Revenue for any observations
they may think proper to
offer on the subject, in
Communication with the
Collector of Trichinopoly, &
with any other Collectors whom
they may have occasion to
Consult.

W. 9/9/70

46

4

Board of Revenue

Despd 17/9/70

Circulated for orders.

The circumstances brought to notice by the Superintending Engineer Dist. appear to me to be of considerable importance. I think that it will practicable be impossible to do what the Collector of Trichinopoly requires in his Notification to be done, and that

I think that the Canal a different question
must be excepted.
The public works executed
executed directly by the Canal
Agency or by Contractors.
In the case of works executed
by the agency of the Dist. Engr.
I would retain any portion of
labourers employed on the
Canal works, & stop the supply
of materials & implements
for the future. If they take
materials & implements
& refuse to return them
they can complain at the
wrong mill & must be
prosecuted.
In the case of Contractors I
would let them take their
materials as their property
as heretofore, leaving any

of the Public Works
Department be required
to obtain authority
for excavating on
private lands, for the
maintenance of roads,
embankments, bank
lands, &c., it will
be requisite for the
Department to acquire
large tracts of land,
which it would be
altogether unnecessary
to do if the long
established custom
of using such ground
for Government —

since in my particular
case I be separately
dined.
When the materials are
taken on private ground
I would be willing to the
Govt to dispute the
appeal, the full
expenses.
Reasonable that there
should not be a
landlord imputed.
It appears to me to be my
misunderstg a Collector
to stop proceedings of this
nature. I would direct
him to recall the order.
Be advisable to have C.V.
acted with to any
further communication
with the D.W. which
am not indisposed
altogether opposed to the
spirit of concert & co-operation
which the Govt desires to
see exist between the two
Depts

Should justice be
satisfactorily found by
her Castle would have
shown her unwillingness, but
for a injunction; but
upon discovering its
real object I think it may
be as well to call upon
him for a full statement
of the circumstances
which led him to issue
it. This call should
be made through the
Board of Works &
through that Board
with their remarks.

J. P.
1 Oct

purposes in connection
with adjoining Pub.
Lic Works come com:
-bined. The demand;
-ing of such land
would usually cost
far more than it is
worth; and it appears
to me that it would
be unwise to divert
money to such a
purpose when it
could be employed
so much more usefully
in other directions —
The Circular orders
of the Board of Re:
venue, Nos VII of
1869 and X of 1870

appear to refer to circumstances alleged [illegible]

2. The allusion in the Notification to private or Sultan's lands may also lead to difficulties, which it might be well to avoid. The fronts of Chelmi-:ostly and nearly every where in Gujrat river embankments run through lands which are not the property of Govt.; but from time

immemorial, earth for the repair of these embankments has been taken from such lands. Whether the universal custom would suffice to establish a legal right or not I do not know, but it seems to be a pity that an Officer of the Govt. should do any thing to interfere with a practice, which has never, that I am aware of, been objected to by the Landowners where their villages and

and interests have
been duly considered,
sufficient a full con
sideration before
hand of the con
sequences - the passage
of the practice must
result in the acquisition
by purchase of a
very great deal of
land, which would
then be permanently
thrown out of cul
tivation; whereas now,
by removing soil
from high ground,



or clay, taking perhaps
layer of a few inches
in depth, from a con
siderable area, practically
little or no injury is
done to the land holder,
and sometimes he is
rather benefitted than
injured by the arr
rangement. I do
not suppose that the
custom will be con
sidered a grievance
unless the land holders
are prompted so to
regard it, and I can
scarcely my own ex
perience as an Ex
ecutive Officer in
Tangier where, even

in munjah 'lands'
the removal of surface
soil was not objected
to, whereas the acquisition
of such land by
purchase was always
deemed by the owners
to inflict loss upon
him - Theoretically
any interferences with
a ryot's private or pukkah
lands may be in-
defensible, though it is
difficult, I think, to
see how this can be
the case where the
owner when acquiring
them was fully aware
of the existence of a
custom allowing
interferences of certain
kind; all I wish to
point out however is
that theoretically per-
fect arrangements
will be expensive,
and the decision as
to whether they are
necessary must rest
with the Government
Public Works Officers,
when once the trouble
of surveying and
demarcating land to

to be acquired is[sd]
over, would undoubtedly
greatly prefer being
beyond the reach of
interference.

M. 31/8/70

(3)

C/o 325

Govt. of India.

PUBLIC WORKS.

To The Superintending Engineer
6th Division

16 Sept. 2229

Nos. 277-278

Govt. Waste Land. Applications
to be called from the Ryots stating
Rate of Assessing. Notification
Collector on the Trichinopoly
District Gazette directing Con-
tractors working for the Public
Godly to Tahsildars for the
Selection of Govt. Waste Land
from which Earth to be
to be obtained.