

(1) பக்கங்களின் எண்ணிக்கை 24

(2) புதுக்கித் திருப்பிய நாள் 7/88

(3) ஆதாரங்குறிப்பவர் சுருக்கொப்பம் 6/2

தமிழ்நாடு ஆவணக் காப்பகம்.

தமிழ்நாடு அரசு

பி.சு.சுப்பன் துறை

அரசாணை எண்.

மு. கோப்புத் தாள் எண்.

2050 W

அச்சகம்
பலவகை

நாள் :

7. 7. 1888

198

மடிக்கவோ கண்டபடி கையாளவோ கூடாது

ஆவண, கா-1-18,006-15-6-87.

அ. ச. சூத்யன்

1/2050
7TH JULY 1888, No. 2050 W., PUBLIC WORKS.

GOVERNMENT OF MADRAS.
PUBLIC WORKS DEPARTMENT.

General.
Establishment.

READ—again the following:—

G.O., dated 30th May 1888, No. 1580 W., Public Works.

Read—the following letter from Major A. W. SMART, R.E., Executive Engineer, South Arcot Division, to the Superintending Engineer, V Circle, dated Cuddalore, 7th March 1888, No. 114:—

I have the honor to inform you that the Subdivisional officer, Chidambaram, forwarded, with his letter No. 114, dated 24th ultimo, a report received from Rungasawmi, head lascar, Coleroon Rajahvoikal, complaining of assault by Nadamuni Sreenivasa Iyengar and others of Kangankollai village, Chidambaram taluk. The case is this, that while the head lascar and other lascars tried to take to the pound in the Kondayaruppu village about 150 cattle, which were grazing nanal in the Coleroon padugai in the limit of Kangankollai on the evening of 19th February 1888, the above-mentioned individuals (Nadamuni Sreenivasa Iyengar and others) illegally obstructed the lascars from driving the cattle to the pound, and also assaulted them. Notwithstanding this interference, the head lascar succeeded in pounding 9 cattle as per receipt enclosed. I intended to have prosecuted the offenders before the Magistrate, as there appears to be sufficient ground to do so and also sufficient proof to establish the case; but, in the mean time, the Subdivisional officer, Chidambaram, intimated in his letter No. 129, dated 28th February 1888, that the head lascar had been summoned to appear before the Sub-Magistrate of Mannargudi on the 3rd March 1888, on a charge brought against him by Nadamuni Sreenivasa Iyengar for wrongfully impounding cattle, whereupon the Subdivisional officer was asked to request the Sub-Magistrate to postpone the case till the counter-case can be brought. I therefore request that you will obtain the sanction of Government to the case brought against the head lascar being defended at the public expense, as also to the institution of the counter-case against Nadamuni Sreenivasa Iyengar and others.

No. 717.

Forwarded to the Chief Engineer, Public Works Department, with recommendation that sanction be given under Code para. 405, to the defence of the charges brought by the villagers against the lascar, and to the prosecution of the counter-charge by the lascar against the villagers being conducted at the public expense.

BANGALORE,
19th May 1888.

(Signed) H. M. VIBART, Colonel, R.E.,
Superintending Engineer, V Circle.

Order—dated 30th May 1888, No. 1580 W., Public Works.

The defence of the suit brought against head lascar Rungasawmi, and the prosecution of the counter-charge, at the expense of the State, is sanctioned. It does not appear why the papers were delayed by the Superintending Engineer from the 7th March to the 19th May. The result of the cases should be reported.

(Signed) W. L. C. BADDELEY, Captain, R.E.,
Under-Secy. to Govt., P.W.D.

READ—also the following paper:—

From H. SEWELL, Esq., District Magistrate, South Arcot, to the Chief Secretary to Government, dated Cuddalore, 4th June 1888, No. 111/88:—

I have the honor to report the following case for the orders of Government.

2. On the 22nd February 1888 a complaint was lodged by one Nadamuni Sreenivasa Iyengar before the 2nd-class Magistrate of Mannargudi, charging one Rangasami Pillai, head lascar of the Lower Coleroon anicut works under the Public Works Department, and another, with illegal seizure of cattle under Section 22, Act I of 1871.

3. The Sub-Magistrate fixed the hearing of the case for the 3rd March and sent out summonses. On that date the Public Works Department Superintendent of the Rajavolikal and the head lascar (one of the accused) requested the Sub-Magistrate to adjourn the case, as it was intended to bring a counter-complaint against complainant of having resisted the seizure of impounded cattle, and having rescued them while being taken to the pound. It was stated that this matter had been referred to their official superior the Assistant Engineer for orders.

4. The Sub-Magistrate first adjourned the case to the 17th and then to the 24th March 1888, but no complaint was formally laid by the head lascar, and on the matter being brought by the Sub-Magistrate to the notice of the Executive Engineer, through the Assistant Engineer, the former officer requested me in letter No. 246, dated 23rd March 1888, to say whether the case could not be adjourned till the sanction of Government to the institution of the counter-case which had been applied for was received.

5. As the counter-complaint was a simple matter, being an offence under Section 24, Act I of 1871, I asked the Executive Engineer (letter No. 55/88, reference on Engineer received, dated 5th April 1888) why the sanction of Government was required; but as no reply was received till the 26th idem, I reminded him on that date.

6. In his letter No. 383, dated 30th April 1888, the Executive Engineer said that under para. 405 of the Public Works Code, the members of the Public Works Department were prevented from instituting or defending any suits in their official capacity without the formal sanction of Government, and that sanction had, therefore, been applied for.

7. I pointed out to the Executive Engineer, on the 2nd May, that the paragraph of the Public Works Department Code referred to by him related to civil suits and not to criminal proceedings, and asked him whether he had any other objection to the case against the lascar being proceeded with. I again reminded him of the above on the 14th May.

8. The Executive Engineer and Superintending Engineer, whom I also addressed on the subject, are both of opinion that para. 405 of the Public Works Code refers to criminal as well as civil proceedings, and inform me that the sanction of Government has been applied for through the Chief Engineer for the institution of a complaint against Sreenivasa Iyengar referred to above, and for the defence of the complaint brought by him, and therefore ask the case to be allowed to stand over till the sanction is received.

9. I am of opinion that para. 405 of the Public Works Code refers only to civil suits. If sanction has to be applied for in every petty criminal case of the kind, great delay in their disposal will necessarily result. I have, therefore, the honor to request the favor of instructions as to whether it is necessary to obtain the previous sanction of Government in such cases.

Referred to the Public Works Department for the favor of remarks.

(By Order.)

15th June 1888.

(Signed) A. G. CARDEW,
Ag. Under-Secretary.

No. 2489 Ct., Judicial.

Transferred to the Public Works Department accordingly.

(By Order.)

OOTACAMUND,
28th June 1888.

(Signed) A. G. CARDEW,
Ag. Under-Secretary.

ORDER—dated 7th July 1888, No. 2050 W., Public Works.

The rule in para. 405 of the Public Works Code refers to civil proceedings only, and not to criminal cases.

2. When a public officer is prosecuted criminally, he must defend himself, and the only question will be whether he should bear the cost personally, or whether Government should bear it. This is a question which can only be decided after the investigation. The officer must, therefore, in all cases apply to the District Magistrate to appoint a vakil, and unless it is obviously a personal matter, or so simple that legal assistance is not necessary, the District Magistrate should comply with the request, subject to future orders as to payment of the fee.

3. As to prosecutions by officers of the department, Executive Engineers will be authorised, at their discretion, to order such to be instituted in very petty cases, or cases of emergency, but no important prosecution should be instituted without the sanction of Government, except in cases of emergency. In cases of doubt the Executive Engineer will do well to consult the District Magistrate, and no vakil can be retained, except through that officer.

4. These orders will be embodied in the Public Works Code.

(True Extract.)

Captain, R.E.,
Under-Secy. to Govt., P.W.D.

To Superintending Engineers.
To the Consulting Architect to Government.
" Superintending Engineer, Periyar Project.
" Examiner, Public Works Accounts.
" Chief Engineer for Irrigation.
" Consulting Engineer for Railways.
" Judicial Department.

Exd. F. R. Bantleman.
Spare Copies

6-9-34
GENERAL.
ESTABLISHMENT.

Gobt. of (1888) Madras.
PUBLIC WORKS.

Original

Dated July, 7th.

Recd.

Encl.

G.O., 7th July 1888, No. 2050 W.

JULY.

Criminal Suits

Instructions regarding the prosecution and defence of — by officers of the Public Works Department and the modification of Public Works Code para. 405.

PUBLIC WORKS DEPARTMENT.

31/2050
Read the following: —

Letter from the District Magistrate } No. 111 of 14th June 1888.
South Arcot.

Endorsement thereon in judicial } of 15th June 1888.
Dept.

FOR ORDERS.

In the order of 30 May the word suit was wrongly used & it is unclear that I allowed it to pass. I of course did not refer to the 405, accepting the practice & the necessity for sanction as a matter of course.

The rule seems quite right as to civil process, but it clearly does not extend to criminal proceedings. When a public officer is prosecuted criminally he must defend & the only question will be whether he is liable to be personally or for the Government. This is a question which can only be decided after the investigation. The office rule therefore in all cases apply to the Government to appoint a vakildar or magistrate to represent the Government unless it is otherwise a personal matter. The Government is subject to future orders as to the payment of the fee.

As to prosecutions by public officers of the Dept. Secy. or Mag. may be at their discretion to order such to be instituted in cases of emergency, but no important prosecutions without the sanction of Secy. or Mag. in cases of emergency. In cases of doubt the Secy. or Mag. will be well to consult the Government. No vakildar can be retained in the office.

Para 405 of the P. W. Code has hitherto been held to include criminal cases also, and G. O. 1580 of 30th May 1888 was issued under this para. But if this is the intention of the rule, which however is not quite clear from the wording, it would be well to state it specifically in the Code.

31/2050
JULY 21/1888

Shanmugaswami
on the 22nd July in this case

CURRENT NO. 2734

P. W. Department

Notarized 25 June 1888

No. 359 D.

Office Note P. W. Secy
6578/1

To

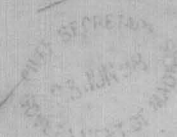
The Chief Secretary.

It is suggested that
the paper be "transferred" to
the Public Works Department
when orders will be issued
in accordance with the Honorable
Members' remarks.

M. M. M. Col. Secy.
for Secretary to Govt. P. W.

2058

2058



MS 95.6
H. 24/6
R. 13.6.88

No. 1580 W. 30.5.88

359 D. 13.6.88

CURRENT No.

2734

[9.]

Judicial

DEPARTMENT.

Office Note

From

The P. W. Secy.

No. 359 D.

Dated 23

Received

Enclosures

R-6: 9.88

SUBJECT

Stating that
the question about Sec.
40 of the P. W. Code
re suits should be
transferred to that
Dept for disposal.

Ct. No 2489.

Transferred to the P. W. Department

(by order)

Res

Sy. Cardew.

Ad. Secy. Under Secy

out 95.6 Chief Secy 27.88
R. 2.7.88
H. 3.7.88

4/15/2050

N^o 114.

5/2050

From

Major A. W. Smart D. C. 5/2050
Cinecutine Engineers
South West Division

To

The Superintending Engineer
5th Circle

Sir,

I have the honor to inform you that the Sub divisional officer Behidambaram forwarded with his letter N^o 116 of 24th ultimo, a report received from Pongasanni, Head Case, Leoloon Poyai, Poikal, Complaining of assault by Nathanna, Streemiasai, Syengas and others of Konyankai village, Behidambaram Taluk. The case is that, while the Head Case and others had tried to take to the pond in the Kondaya village, about 150 cattle, which were grazing near the Coleroon limit of Konyankalai, on the evening of 1st February 1888, the above mentioned

mentioned individuals (Nathamoni Steerina-
 mas a Syengas and others) illegally abstracted
 the Lac-cows from driving the Cattle to the
 pound and also assaulted them. Notwithstand-
 ing this interference, the Head Lac-cow succeeded
 in founding 9 Cattle as per receipt enclosed.
 I intended to have prosecuted the offenders
 before the Magistrate as there appeared to be
 sufficient ground to do so and also sufficient
 proof to establish the case, but in the meantime the
 Sub. divisional officer. Behidam, Baran intimated
 in his letter No 1293 28 Febuary 1888 that the Head
 Lac-cow had been summoned to appear before the
 Sub. Magistrate of Mammargudi, on the 3 March 1888
 on a charge brought against him by Northamoni
 Steerina mas a Syengas for wrongfully impounding
 Cattle, whereupon the Sub. Divisional officer
 was asked to request the Sub-Magistrate to
 postpone the case till the Counter-case can
 be brought. I therefore request that you will
 obtain the sanction of Government to the case
 brought against the Head Lac-cow being defended
 at the public expense as also the institution
 of the Counter-case against Northamoni Steerina-
 mas a

Steerina mas a Syengas and others.

2050

I have the honor to be
 Sir

Yours most obedient servant
 Signed A. W. Smart Major R. E.
 Executive Engineer
 S. A. 52

- Cen. 8. to be returned
- 1 Statement of complaint with translation
 - 1 do do. an oath with translation
 - 1 Copy of summons with translation
 - 1 Copy of proposed defence with translation
 - 1 Translation of petition
 - 1 Copy of Barand receipt
 - 2 Copies of letters.
 - 8.

No 717.

For forwarded to the Chief Engineer R. W.
 Dept. with recommendation that sanction be given under
 Code para 405, to the defence of the charges brought
 by the vill against the Lac-cow, and to the prosecution
 of the Counter-charge by the Lac-cow against the
 vill as being conducted at the public expense

Chief Engineer
 Col. R. E.

Bangalore.
 19 May 1888

Super intending Engineer
 5th Circle.

From P.W.C. No. 4802
The Superintending Engineer
5th Circle.

To The Chief Engineer
P.W. Department.

Dated 19th } May 1888.
Recd. 22

Encls: 8. 12

Pondicherry

Forwarded Copy of letter
No. 114 dated 7th March 1888.
requesting to obtain the
Sanction of Govt. for defen-
ding a - Case against Head
Lascar Coleroon Rajah Voithal

With order

SOUTH ARCOT.

Refon Engr Recd
NO. 111
88

FROM

TO

Collector's Office,
Cuddalore
4th June 1888.
CURRENT NO. 1209
Henry Sewell Esquire
Collector of SOUTH ARCOT.

CHIEF SECRETARY TO
GOVERNMENT,
MADRAS.

SIR,

I have the honor to report the
following case for the orders of
Government
2. On the 22nd February 1888 a Complaint
was lodged by one Madamuni Sreeni-
vasa Ayyengar before the 2nd Class Magis-
trate of Moamangudi charging one Runga-
sami Pillai Head Lascar of the Lowest
Coleroon ancient works under the D.P.W.
and another with illegal seizure of
Cattle under Section 22 Act I of 1871.
3. The Sub. Magistrate fixed the hearing
of the Case for the 3rd March and sent
out summonses. On that date the D.P.W.
Superintendent of the Rajavakkal and
the Head Lascar (one of the accused) -

re

1580 N. 4/30" long

The defence of the
suit brought against
head lascar Rungaswami,
and the prosecution of the
counter-charge, at the
expense of the State, is
sanctioned.
appears why the papers were
allowed by the S. E. from the
7th March to the 19th May.
the result of the cases should be
reported.

225-55

Supy Engineer & circle
with 12 p.c. 60.
Examiner P.W. & 21/5

requested the Sub-Magistrate to adjourn the Case as it was intended to bring a Counter Complaint against Complainant of having resisted the seizure of impounded Cattle and having rescued them while being taken to the pound. It was stated that this matter had been referred to their official Superior the Asst Engineer for orders.

4. The Sub-Magistrate first adjourned the Case to the 17th and then to the 24th March 1888, but no Complaint was formally laid by the Head Lascar and on the matter being brought by the Submagistrate to the notice of the Executive Engineer, through the Assistant Engineer, the former officer requested me in letter No. 246 23-3-88 to say whether the Case could not be adjourned till the Sanction of Government, to the institution of the Counter Case, which had been applied for, was received.

5. As the Counter Complaint was a simple matter being an offence under Section 24 Act I of 1871, I asked the Executive

²⁰⁵ 205 210
Executive Engineer (letter No Reference on Engineer Received 55 88 dated 5th April 1888) why the Sanction of Government was required but as no reply was received till the 26th Idem, I reminded him on that date.

6. In his letter No. 383 30-4-88 the Executive Engineer said that under para 405 of the P. Work Code the members of the D.P.W. were prevented from instituting or defending any Suits in their official Capacity without the formal sanction of Government and that sanction had therefore been applied for.

7. I pointed ^{out} to the Executive Engineer on the 2^d May that the para of the D.P.W. Code referred to by him related to Civil Suits and not to Criminal proceedings and asked him whether he had any other objection to the Case against the Lascar being proceeded with. I again reminded him of the

above

W. L. O. R.

above on the 14th May.

8. The Executive and Superintending Engineer whom I also addressed on the subject are both of opinion that para 405 of the Public Works Code refers to Criminal as well as Civil proceedings and inform me that the sanction of Government has been applied for through the Chief Engineer for the institution of a Complaint against Skenivasa. Syengar referred to above and for the deferral of the Complaint brought by him, and therefore ask the Case to be allowed to stand over till the sanction is received.

9. I am of opinion that para 405 of the P.W. Code refers only to Civil Suits. If sanction has to be applied for in every petty Criminal Case of the kind great delay in their disposal will necessarily result. I have therefore the honor to request the favor of instructions as to whether it is necessary to obtain the previous sanction of Government in such Cases.

I have the honor to be
Sir

Your most obedient Servant

Henry James
District Magistrate
Collector

Witt order

9/25/82

P.W. En 3
6578/88

1480 no 30.5.88

P.W.C. No. 6578/88
1888.



TO BE RETURNED
WITH REPLY.

Judicial Department.

From
The District Magistrate
South Arcot.

The Chief Secretary
to Government,
Madras.

Dated 4th June 1888.
Received DESPATCHED
4- JUN 31

Referenced No. 111/88
ENCLOSURE.
Subject.

Inquiring whether Section
405 of the Public Works Code
refers to Criminal or Civil Suits.

Referred to the P.W.D. for the favour
of remarks.

(by order)
A. G. Cardew,
as Under Secy

5th 95.6.

Genl
Estab

15/200



10/2050

PUBLIC WORKS DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Under date the
again
Read, the following

L. O. No. 1580 W. of 30th May 1888.
Letter from the District Magistrate } A. G. No. 111/88 of 4th June 1888.
South Arcot. }
Endorsement from the Judicial Dept. of 15th June 1888.
Endorsement from the Judicial Dept. No. 2489 of 28th June 1888.

The rule in para 405 of
the P. W. Code refers to civil
proceedings only, and not to
criminal cases.

When a public officer is
prosecuted criminally, he must
defend himself, and the only
question will be whether he
should bear the cost personally
or whether Government should
bear it. This is a question
which

With order

which can only be decided
after investigation. The
officer must, therefore, in all
cases apply to the District
Magistrate to appoint a Fakil,
and unless it is obviously a
personal matter, or so simple
that legal assistance is not
necessary, the District Magistrate
should comply with the
request, subject to future orders
as to payment of the fee.

As to prosecutions by
officers of the Department,
Executive Engineers are authorized
at their discretion to order
such to be instituted in
very petty cases, or cases of
emergency, but no important
prosecution should be instituted
without the sanction of Government,
except in cases of emergency.

In

14
2050

²⁰
In cases of doubt the Executive
Engineers will do well to
consult the District Magistrate,
and no Fakil can be retained,
except through that officer.

These orders will be
embodied in the F. W. Code.

W. H. L.
2/7/80 3/1/80

To
Superintending Engineers. ✓
The Comg. Architect to Govt. ✓
" Supy of ~~Works~~ ^{Engs} Sundry Project. ✓
" Exams of W. Acts. ✓
" Chief Engr. for Ings ✓
" Comg. Engr. for Hqs. ✓
" Judicial Dept. ✓
(To the Chief Secy Judicial
Dept. for favor of counter-initials.)

Recd
2/7

R.S.

12
2050

CHIEF SECRETARY
JUL 25
DEPARTMENT OF MARINE

45
Chief Secy 2-7-88
Rm 3-7-88
Rm 4-7-88
P-9/7

29-9-05 ✓
4-7-08 ✓
2-6-10 ✓
13-X-26 ✓

6/4/34 B U

14-11-05

27-1-09 ✓

Edict. of 1888, J. Torres.

PUBLIC WORKS.

60.7 July 1888, No. 2050

Criminal Suite

Instructions regarding the
prosecution and defense
by officers of the Public
Prosecution Department in
the modification of P.O.
Code para 403.

220
20

9-9-7-508