~~20/11/91~~ OA/56

7756/RH-95

350/RD/7-2-20

Public Works (1898) Department.

G.O., No. 350 I

DATED 28 April 1898

[Despatch Abstract.]

Puliyur: Periacolam tank and Channel:

Authorising the completion of improvements to the — in Tinnevelly Dt, in anticipation of the recovery of the whole contribution due by the Pullivasal Manakers

110/G

Jr 28.4.98

Indexed 28/4

[P. W. 35 1,600–12-2-98.]

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

IRRIGATION.

Government {1898} of Madras.

PUBLIC WORKS.

Recd. } 1898. *Enclosures*
Regd. *Spare copies*

G.O., No. 350 I., 28th April 1898.

APRIL.

Puliyur-Periyakolam Tank and Channel

Authorising the completion of improvements to the —, in Tinnevelly district, in anticipation of the recovery of the whole contribution due by the Pallivasal managers.

GOVERNMENT OF MADRAS.

PUBLIC WORKS DEPARTMENT.

Irrigation.

Read—the following papers:—

From Lieutenant-Colonel O. V. BODDY, R.E., Superintending Engineer, VI Circle, to the Chief Engineer for Irrigation, dated Trichinopoly, 8th July 1897, No. 573 T.N.

In paragraph 3 of G.O., No. 660 I., dated 11th September 1894, it has been ordered that the execution of the work (improving Puliyur-Periyakolam tank and channel, estimate Rs. 5,160) should be held in abeyance until the contribution Rs. 2,608 has been paid by the Pallivasal managers.

2. The execution of the work was however ordered by Mr. Mildred, late Executive Engineer, Tinnevelly Division, at the request of the Collector who has recovered a portion of the contribution, viz., Rs. 1,423–11–1, and has recommended to the Board of Revenue that the balance be collected in two instalments in the months of November 1897 and 1898, as will be seen from copies of correspondence from the Executive Engineer herewith sent.

3. The work is reported to be in full progress and it cannot be stopped at the present stage. Under the circumstances, I have the honour to request that sanction may be accorded for the completion of the work from Irrigation funds in anticipation of the collection of the balance of contribution.

Enclosures.

From M.R.Ry. S. GOPALAKRISHNA AIYAR, Executive Engineer, Tinnevelly Division, to the Superintending Engineer, VI Circle, dated 12th June 1897, No. 2087.

I have the honour to bring to your notice that in G.O., No. 660 I., dated 11th September 1894, sanctioning an estimate of Rs. 5,160 for the improvements of Puliyur-Periyakolam tank and channel, it was ordered that the execution of work must be held in abeyance pending the collection of the contribution amount of Rs. 2,608 from the Pallivasal managers. The Collector having been written to for the collection of the contribution money, he communicated to this office with his No. 1521 of 1895, dated 7th August 1895, copy of his endorsement on the petition of the President, Muhammadan Committee, Tinnevelly (a copy is herein enclosed for perusal) and asked for the execution of the work as Rs. 1,412 of the contribution money had already been collected. The work was accordingly put on hand and the expenditure on it, to end of last month, is about Rs. 3,575 or Rs. 510 in excess of the Government portion of the estimate amount. The Collector having been again written regarding the contribution money he has replied in his letter No. 1150 of 1897, dated 29th May 1897 (copy herein enclosed for information) that Rupees 1,423–11–1 has already been collected and that he is recommending to the Board that the balance may be collected in two instalments—one in November 1897 and the other in the same month of next year. I have now asked him to place at the disposal of this department Rupees 1,423–11–1 already collected so that payment may be made for work done up to that amount without objection.

2. The work is now in full progress and is approaching completion. It cannot be stopped at the present stage and the contractor doing it cannot be kept waiting for money for work done very long. I therefore request that sanction may be accorded for the completion of the work and paying it in full in anticipation of the collection of the balance of contribution money in instalments as recommended by the Collector.

No. 515 T.N.

The circumstances under which this work was put in hand before the full contribution of Rs. 2,608 was paid, and contrary to the orders conveyed in this office No. 563 T.N., dated 2nd October 1894, should be reported for communication to the Chief Engineer for Irrigation.

(Signed) O. V. BODDY, Lt.-Col., R.E.,
Suptg. Engr., VI Circle.

17th June 1897.

From M.R.Ry. S. GOPALAKRISHNA AIYAR, Executive Engineer, Tinnevelly Division, to the Superintending Engineer, VI Circle, No. 2291, dated 30th June 1897.

With reference to your No. 515 T.N., dated 17th June 1897, herewith returned, I have the honour to inform you that order for the execution of the work has been issued on the 28th March 1896 by the then Executive Engineer Mr. Mildred on the strength, I consider as I have already presumed, of the Collector's endorsement on the petition of the President, Muhammadan Committee, Tinnevelly, and of his request to proceed with the work conveyed in his No. 1521 of 1895, dated 7th August 1895, copy of which is one of the enclosures to my letter No. 2087, dated 12th June 1897, herewith returned and on the strength of an allotment of Rs. 3,000 for expenditure during 1896–97. I am unable to trace out further circumstances which may have led to the starting of the work.

Endorsement on the petition of the President, Muhammadan Committee, Tinnevelly, dated 10th October and 14th December 1894 and 6th March 1895, objecting to the payment of contribution towards the improvements to Puliyur-Periyakolam tank and channel in Tenkási taluk.

Petitioner is informed that the Collector sees no reason to exempt the inam from payment of contribution towards the repairs. Such contribution was collected from the manager of the mosque even prior to the assignment of the lands in 1852, when there was a division of produce and also subsequently. The manager appointed by the Board of Revenue in 1844 with the consent of other hukdars bound himself by a muchilika to contribute towards the repairs, failing which the contribution was to be collected from the ryots. The control of the institution which vested in the Board of Revenue under Regulation VII of 1817 and which passed on to Muhammadan Committee under Act XX of 1863 was subject to the conditions which existed prior to the transfer. The dismissal of the manager who executed the muchilika does not affect the validity of the muchilika. The Tahsildar was therefore right in collecting the contribution from the tenants under the terms of the muchilika. Out of Rs. 2,608 the sum of Rs. 1,412 already collected will be retained and the balance of Rs. 1,196 should be paid by the committee by the 1st April 1896, failing which it also will be collected by the Tahsildar from the tenants. In the meanwhile, the Executive Engineer will be asked to proceed with the work.

(Signed) A. W. B. HIGGENS,
Collector.

7th August 1895.

Dis. No. 1521 Gl. of 1895.

To the Executive Engineer, Tinnevelly, in continuation of this office disposal No. 1183 of 1895, dated 1st June 1895. It is requested that the work may be proceeded with.

(Signed) V. SUBBIER,
for Collector.

7th August 1895.

Copy of Collector's letter Ref. on P. C. No. 1150/97, dated 29th May 1897, to the Executive Engineer, Tinnevelly Division.

With reference to your letter No. 1826, dated 19th May 1897, regarding the collection of contribution of Rs. 2,608 from the managers of Syed Sulaiman Purshotta Pallivasal for improvements to Puliyur-Periyakolam tank, I have the honour to inform you that Rs. 1,423–11–1 has hitherto been collected from the tenants. The Board of Revenue has, on a petition from the President of the Muhammadan Committee, observed that it would be prepared to recommend to Government the recovery of the balance in two or three annual instalments, if the managers so wish. They now request that the money be recovered in four annual instalments and I am recommending to the Board that the balance be collected in two instalments in November 1897 and 1898.

(Signed) D. WALLER,
for Collector.

To the Board of Revenue (Revenue Settlement, Land Records and Agriculture), No. 232 M., dated 14th July 1897.
To the Board of Revenue (Revenue Settlement, Land Records and Agriculture), No. 16 M., dated 20th January 1898.
To the Board of Revenue (Revenue Settlement, Land Records and Agriculture), No. 107 M., dated 29th March 1898.

Proceedings of the Board of Revenue (Revenue Settlement, Land Records and Agriculture), Mis. No. 2191, dated 30th March 1898.

Read—again the following Proceedings of the Board of Revenue (Revenue Settlement, Land Records and Agriculture), Mis. No. 5373, dated 31st October 1896:—

Read—Petition from Muhammad Hussain Sahib, President, Muhammadan Committee, Tinnevelly, received in the Land Revenue Department of the Board of Revenue, on 6th November 1895, submitting his petition rejected in Board's Proceedings (Land Revenue), No. 2369 R., dated 17th September 1895, duly stamped, regarding the payment of contribution towards the upkeep of a certain channel by the inamdars.

Read—also Board's (Land Revenue) Reference, dated 12th November 1895, referring the above petition to the Collector of Tinnevelly for report.

Read—also the following letter from the Collector of Tinnevelly, Disposal No. 1122-Gen. Rev. of 1896, dated 26th June 1896:—

Adverting to Board's Reference, dated 12th November 1895, on petition register No. 3851 of 1895, I have the honour to report as follows.

	K.	M.	P.
Wet, one crop	189	3	1¾
Third vaguppu on special poramboke	11	0	2¼
	S.	V.	
Dry	156	11	1
Third vaguppu, poramboke ...	32	3	2
	RS.	A.	P.
Tope, 452 trees, assessment ...	95	14	2
Fish tax	2	0	0

2. The village of Kila Puliyur, in the Tenkási taluk, referred to by the Board's petitioner, was originally granted on tax-free tenure by Minakshiammal, Pattamahishe of Vijiaranga Chockanada Nayanagaru in 1734 to one Syed Suleman Sahib for the support of a mosque called Syed Suleman Pirjathu Pallivasal at Tenkási. In 1772 it was converted into Ardhamanyam tenure and a moiety of the beriz of the village was granted annually for the support of the mosque until 1852. In 1852 the village was divided between Government and the inam and the share of the Pallivasal consisting of the marginally-noted lands. Besides these certain poramboke lands (122 kottas, 6 marakkals and 6½ padis of wet poramboke and 42s. 13v. 1 of dry poramboke) were also held in common between Government and the mosque.

3. It appears from paragraph 4 of the Collector's letter No. 105, dated 10th April 1854, to the Board of Revenue that the surplus proceeds of the endowment were enjoyed by the servants of the founder of the institution in 16½ shares. It also appears from the above letter and its enclosure that Syed Muhammad Abzul Sahib, one of the shareholders, was appointed manager of the mosque in 1844 under the sanction of the Board, apparently with reference to Regulation VII of 1817, as the control of all religious endowments vested in it. The said manager executed a muchilika in 1844 with the consent of the other coparceners. This muchilika is not forthcoming. The same manager executed another muchilika in 1852, when the beriz deduction was converted into an assignment of land, by which he bound himself, among other conditions, to pay a proportionate contribution towards the repair of the common irrigation works, failing which such contribution was to be collected by Government out of the rent due to the mosque by the tenants.

4. A suit was filed by the other hukdars against the above-named manager and in appeal suit No. 23 of 1850 on the file of the Civil Court, Tinnevelly, the manager was declared unfit for the duty of managing the trust. The Collector, in his letter above referred to, recommended the removal of the manager and the appointment of two other persons in his stead. This was approved by the Board in its Proceedings, dated 4th May 1854.

	RS.
Works	2,095
Establishment	482
Tools and plant	31
Total ...	2,608

5. The area of irrigation under the Periyakolam tank and channel of the village is 655 acres, of which 369 acres are ayan lands; 265·73 acres belong to the Pallivasal referred to and 20·27 acres are minor inam. In 1894, an estimate for Rs. 5,160 was sanctioned in G.O., No. 660 I., dated 11th September 1894, communicated with Board's Proceedings, Mis. No. 6345, dated 18th October 1894, Revenue Settlement, for improving the tank and the channel, of which Rs. 2,608 was to be contributed by the mosque as shown in the margin. The manager for the time being, who agreed to pay the contribution in three instalments, was subsequently dismissed by the Muhammadan Committee, of which the petitioner is the President and the amount of contribution was therefore not paid. The tenants put in a petition for the early execution of the maramut works, and offered to pay the amount under condition 6 of the muchilika referred to above. The President of the Committee was addressed with a view to ascertain whether he would pay the amount promised by the late manager, but as he did not reply to the reference, the Tahsildar began to collect the amount from the tenants who offered to pay.

6. The petitioner presented a petition objecting to the course adopted by the Tahsildar and on hearing his Vakil, I saw no reason to interfere with the Tahsildar's action. The petitioner also represented that the amount of estimate was large and that it should be reduced. This, I found, unnecessary, as the Public Works Department had prepared the estimate on a careful consideration of the condition of the tank, and as the original estimate for Rs. 7,020 had been reduced to Rs. 5,400 by the Superintending Engineer and to Rs. 5,160 by the Chief Engineer. The petitioner also requested that the amount already collected from the tenants should be refunded to him, and any smaller contribution that may be eventually decided on should be collected from him in instalments. I, however, ordered in August 1895 that the sum of Rs. 1,412 already collected from the tenants should be retained and that the balance should be paid by the committee in April 1896, failing which it was to be collected from the tenants.

7. The petitioner appeals against this order on the following grounds:—

(1) That the muchilika executed in 1852 by the then manager is not valid, as he was found to be incompetent to hold the trust property by the civil court and dismissed by the Board of Revenue.

(2) That the original muchilika is not forthcoming and that a copy produced in court was not believed to be genuine by the Sub-judge.

(3) That no contribution was hitherto paid by the committee and that the small amount of contribution paid by the hukdars was merely with the intent to establish their right to the management.

(4) That the large amount estimated for is not required for the repair and that the conduct of charity will be interfered with by the demand for such large contribution.

(5) That the tenants enjoy the entire fishery and pay only Rs. 6 to the mosque.

(6) That faslijasti assessment being imposed on the inam, it is not fair to collect contribution.

8. As regards the first ground of objection, I beg to state that the manager, who executed the muchilika, was appointed by the Board of Revenue, apparently under the authority vested in it under Regulation VII of 1817 and with the consent of other hukdars. Under Act XX of 1863, the control which vested in the Board of Revenue was transferred to the Muhammadan Committee and the transfer of control must be assumed to be subject to the same conditions and restrictions which existed prior to the transfer. Further, the executant of the muchilika was the manager in office at

the time of the execution and his dismissal which took place subsequently would not affect the validity of the muchilika. Any succeeding trustee has no right to repudiate the obligations undertaken by a former trustee. Apart from the obligation under the muchilika of 1852, the trustees of the mosque, who are holders of an entire inam, are bound to contribute towards the repair of common irrigation works (*vide* Board's Proceedings, No. 70, dated 18th March 1895, Revenue Settlement).

9. As to the second ground of objection, it is true that the original muchilika is not forthcoming, but a copy duly authenticated by the Collector Mr. Bird is available in the records. The petitioner stated at the original enquiry that a muchilika was executed by the trustees appointed in 1854, but no such muchilika is forthcoming.

10. With respect to the third ground of objection, I beg to state that the petitioner's allegation that no contribution was hitherto paid is opposed to facts. From the Civil Engineer's diary for the month of August 1843, it appears that a contribution of Rs. 287 was levied on the mosque lands. Again, a sum of Rs. 856–14–6 was collected in 1881 and 1882 although similar objections were made by the President of the Committee and the managers.

11. The fourth objection is groundless. The necessity for the estimate has been explained in the enclosure to Superintending Engineer's letter to the Chief Engineer, dated 13th April 1894, No. 43 T.N., printed in G.O., No. 660 I., Public Works, referred to above.

12. As regards the fifth ground of objection, it is observed that the fishery rent for the village was permanently fixed at the Revenue Settlement at Rs. 4 per annum and that the patta for it stands in the name of the village deity. Half the fixed rent is due to the inamdar and this amount is also shown in the inam register. It is not understood how the inamdar receives Rs. 6 from this source.

13. The last ground of objection relates to the collection of faslijasti. This question was not raised before by the petitioner and has not been considered. It appears from the inam register that the question of faslijasti on single crop land was raised at the time of inam settlement and the Inam Commissioner decided that the inamdar was entitled to raise second crop on an extent of 138·50 acres, and that the question of the right of Government to half faslijasti assessment on single crop land, when more than this extent is cultivated, can be left for decision to the Revenue authorities, should it arise. The petitioner should be informed that if he has any grievance on this point, he should present a separate petition on the subject. The fact that an irrigation work is maintained at the cost of Government and the inamdar does not affect the right of Government to charge water-rate for water used in excess of the inamdar's rights (*vide* paragraphs 6 to 8 of the opinion of the Government Pleader embodied in Board's Proceedings, No. 719, L.R., dated 29th December 1893).

14. The Board's petition and its enclosure are returned herewith. I may note that pending the disposal of this appeal, further collection of money from the ryots towards the cost of the repair of the tank has been stopped. The repair being somewhat urgent, I have the honour to request the favour of early orders.

15. No further hearing has been given to the petitioner since 8th May 1895, as a hearing did not seem to be necessary.

Read—also petition from Mohideen Hussain Sahib, President of the Muhammadan Mosque Committee, Tinnevelly district, dated 30th July 1896, submitting a supplemental petition regarding the cost of repairing certain tank.

Resolution—Mis. No. 5373, dated 31st October 1896.

The Board has received a full report from the Collector on the subject of the petitioner's appeal and sees no reason to interfere.

2. The muchilika executed in 1852 by the then manager is undoubtedly binding on the present managing committee. The document was executed, not, as stated in the petition, long after the dismissal of the said manager, but some time prior to it. Under the terms of the muchilika, the committee is bound to contribute a proportionate share of the cost of repairs to the tank, and there is evidence to show that such contribution was paid on previous occasions. Even apart from the obligation under the muchilika of 1852, the trustees of the mosque are, as pointed out by the Collector, bound to contribute towards the repair of irrigation works in which they are jointly interested with Government. It is a different question whether the petitioners are properly charged faslijasti assessment. If they have any grievance on this point, they should present a separate petition on the subject.

3. There is no reason to suppose that the estimate of repairs framed by the Public Works Department is excessive. The original estimate has, after careful examination, been reduced by the Superintending Engineer and the Chief Engineer for Irrigation, and there does not seem to be room for any further reduction. If, however, the petitioners consider that their resources do not admit of the whole amount of contribution (Rs. 2,608) being paid at once, the Board will be prepared to recommend to Government the recovery of the balance due in two or three annual instalments.

(True Copy and Extract.)

(Signed) R. V. SRINIVASIAR,
Secretary.

Read—also the following letter from the Collector of Tinnevelly, dated 29th May 1897, Reference on C. No. 803/G.B. of 1896:—

With reference to paragraph 3 of Board's Proceedings, Mis. No. 5373, dated 31st October 1896, the President, Mahomedan Committee, requests that the balance of Rs. 1,184–4–11 still remaining to be collected from the managers of Syed Sulaiman, Purshatta Pallivasal, Tenkasi, out of the contribution of Rs. 2,608 due towards the improvement of the Puliyur Periakolam tank, be recovered from them in four annual instalments. In view of the fact that such a large sum of money (viz. Rs. 1,423–11–1) has already been collected, I consider that it will suffice to collect the balance in two instalments of Rs. 600 and Rs 584–4–11 in November 1897 and 1898, respectively. The work is in progress and already Rs. 3,015 has been spent on it by the Public Works Department. I have the honour to request the Board's early orders in the matter.

Read—also endorsement from the Chief Engineer for Irrigation, No. 232 M., dated 14th July 1897.

Resolution—Mis. No. 2191, dated 30th March 1898.

The Collector's proposal is approved and sanctioned.

(True Copy and Extract.)

(Signed) R. V. SRINIVASIAR,
Secretary.

No. 146 I.

Note by the Chief Engineer for Irrigation.

In G.O., No. 660 I., dated 11th September 1894, an estimate of Rs. 5,160 was sanctioned for improving the Puliyur-Periyakolam tank and channel, the execution of the work being ordered to be held in abeyance until the contribution of Rs. 2,608 due by the Pallivasal managers has been paid.

2. At the request of the Collector of Tinnevelly, the work was put in hand, Rs. 1,423-11-1 of the contribution having already been paid. The Board of Revenue in its Proceedings marginally noted has sanctioned the Collector's proposal to collect the balance, Rs. 1,184-4-11, in two instalments in November 1897 and 1898.

Mis. No. 2191, dated 30th March 1898.

3. In anticipation of the recovery of the whole contribution, the Superintending Engineer, VI Circle, requests sanction to the completion of the work, which may be accorded.

(Signed) W. HUGHES,
Chief Engineer for Irrigation.

18th April 1898.

Order—No. 350 I., dated 28th April 1898.

The completion of the work referred to is authorized in anticipation of the recovery of the whole contribution due by the Pallivasal managers.

(True Extract.)

(Signed) W. HUGHES,
Joint Secy. to Government,
Irrigation Branch.

To the Chief Engineer for Irrigation.
„ Superintending Engineer, VI Circle.
„ Examiner, Public Works Accounts.
„ Revenue Department.

Exd. Shaik Karim.

Public Works (1898) Department.

CURRENT No. 3680

350 I

From the Chief-Engr for Irrgn

Order

No. 146 I

Dated 18-4-98

Received
Registered } 27-4-98

Enclosures 9

Spare copies

SUBJECT.

Puliyur - Periacolam tank and Channel improvements - Note recommending to accord sanction to the completion of the work of — in anticipation of the recovery of the whole contributions due by the Pullivasal Managers.

BACK PAPERS.

No.	Date.

FURTHER PAPERS.

No.	Date.

PUBLIC WORKS DEPARTMENT,
IRRIGATION BRANCH.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Authorizing the Completion of the work of Puliyur - Periakulam Tank improvements in anticipation of the recovery of the whole contribution due by the Pullivasal Managers. Tinnevelly Dt.

UNDER date the

READ the following

From Supg Eng., VI Circle, No. 573 T. N. d/ 8. 7. 97

To Bd. of Rev, Rev Sett. Land Records & Agril. No. 232 M. d/ 14. 7. 97

To do - 16 M, d/ 20. 1. 98

To do - 107 M, d/ 29. 3. 98

Procs of do - 291 Mis, d/ 30. 3. 98

No. 146 I d/ 18-4-98

29p

+ Fly P.

Issue

11. 4. 98

Note by the Chief Eng for Irrigation.

In G.O. No. 6603, d/ 11th Sept /94, an estimate of Rs 5160 was sanctioned for improving the Puliyur - Periacolam tank & channel, the execution of the work being ordered to be held in abeyance until the contribution of Rs 2608 due by the Pullivasal managers has been paid.

2. At the request of the Collector of Tinnevelly

BAC

No.

the work was put in hand; Rs 1423.11.1 of the contribution having already been paid. The Bd. of Rev. in its Procs: marginally noted has sanctioned the Collector's proposal to collect the balance Rs 1184. 4.11, in two instalments in Nov/97 & /98.

No. 2191 Mis dd 30 March 98

Flagged N.

3. In anticipation of the recovery of the whole contribution, the Supg Engr, VI Circle requests sanction to the completion of the work, which may be accorded.

A.S.H

Order thereon. No: 350 d 28-4-98

The completion of the work referred to is authorized in anticipation of the recovery of the whole contribution due by the Pullivasal managers.

A.S.H

A.S.H 20.4.98

16/4 98

JM 18.4.98

6/5/98

To

The Chief Engr for Irrigation
Supg Engr VI Circle.
Exe. E. T.W.Z.
Rev Dept.

ACS 14/4/98

No.

E. I. Form No. 1 (a)—350—1-11-97.

107

Public Works (1898) Department.

CURRENT No. 145-M.

From the Board of Revenue Settlement

Order

No. 2191 Mis

Dated 30—3—98

Received 5—4—98

Registered

Enclosures 5

Spare copies

SUBJECT.

Recovery of a certain contribution from the managing Committee of a mosque in Tenkasi taluq for the repairs done to certain irrigation work—approving & sanctg the proposal of the Collector of Tinnevelly taken regarding it

7/4

Ias 5/4/98

MR 11/4/98

BACK PAPERS.

No.	Date.
9332 M.g.	14-7-97
I107 M	29-3-98
I16 Mg	20-1-98
K694 W	11-9-94

FURTHER PAPERS.

No.	Date.

(Sett. 10—2,000—29-10-97).

1898.

Board of Revenue

(Revenue Settlement, Land Records and Agriculture),

MADRAS.

To

The Chief Engineer for Irrigation

No. of Enclosures.

Proceedings, dated 30 March 1898,

No. 2191 Miscellaneous.

Subject.

Approving and sanctioning the proposal of the Collector of Tinnevelly regarding the recovery of a certain contribution from the managing committee of a mosque in Tenkasi Taluk, for the repairs done to certain irrigation works.

by the Board's petitioner, was

Proceedings of the Board of Revenue

(Revenue Settlement, Land Records and Agriculture),

Dated 31st October 1896.

No. 5373 Miscellaneous

Read.......... petition from Mahomed Hussain Sait, President, Mahomedan Committee, Tinnevelly, received in the Land Revenue Department of the Board of Revenue, on 6th November 1895, submitting his petition rejected in Board's Proceedings, Land Revenue, No 2369 L dated 17th September 1895, duly stamped, regarding the payment of contribution towards the upkeep of a certain channel

channel by the Inamdars.

Read also Board's (Land Revenue) Reference, dated 12th November 1895, referring the above petition to the Collector of Tinnevelly for report.

Read also the following letter from the Collector of Tinnevelly, Disposal No. 1122/General of 1896 dated 26th June 1896:—

Adverting to Board's reference dated 12th November 1895 on petition register No 3851 of 1895, I have the honour to report as follows:—

2. The village of Kila Puliyur in the Tenkasi Taluk, referred to

by the Board's petitioner, was originally granted on taxfree tenure by Minakshiammal, Pattamahis of Vijaya Ranga Chokkanada — Nayanagam in 1734 to one Syed Suleman Sahib for the support a mosque called Syed Sulema Poijathu Pallivasal at Tenkasi. In 1772 it was converted into Ardhamanyam tenure and a moiety of the Beriz of the villag was granted annually for the support of the mosque until In 1852 the village was divided between Government and the Inam & the share of the

Pallivasal

Pallivasal consisting of the *arginally noted lands. Besides ese, certain porami-oke lands (12 2 Kottas, marakkals and 6½ padis wet poramboke nd 4$\overset{S}{2}$ — 13V — 1 of ry poramboke) were also held in mmon between Government and e mosque.

*	Kottai.	M.	P.
Wet one crop	189	3	1¾
3rd Vaguppu on special poramboke	11	0	2¼
	S.	V.	
Dry	156	11	1
3rd Vaguppu Poramboke	32	3	2
	Rs	as	p
Tope - 452 trees assessment	95	14	2
Fish tax	2	0	0

It appears from para 4 f the Collector's letter No 105 dated April 1854 to the Board of Revenue that the surplus proceeds of endowment were enjoyed by the ervants of the founder of the nstitution in 16½ shares. It also appears from the above letter and its enclosure that Syed Mahomed Abzul Sahib one of the shareholders was appointed manager of the mosque in 1844 under the sanction of the Board, apparently with reference to Regulation VII of 1817, as the control of all religious endowments vested in it. The said manager executed a Muchilika in 1844 with the consent of the other coparceners. This Muchilika is not forthcoming. The same manager executed another Muchilika in 1854, when the beriz deduction was converted into an assignment of lands, by which he bound himself, among other

other conditions, to pay a proportionate contribution towards the repair of the common irrigation works, failing which such contribution was to be collected by Government out of the rent due to the mosque by the tenants.

4. A suit was filed by the other hukdars against the above named manager and in appeal suit No. 23 of 1850 on the file of the Civil Court, Tinnevelly, the manager was declared unfit for the duty of managing the trust. The collector, in his letter above referred to, recommended the removal of the manager and the appointment of 2 other persons in his stead. This was approved by the Board in its Proceedings dated 4th May 1854.

5. The area of irrigation under the Periyarkulam tank and channel of the village is 655 acres, of which 369 acres are ayan lands. 265.73 acres belong to the Palliwasal referred to and 20.27 acres are minor inam. In 1894, an estimate for Rs 5160 was sanctioned in G.O. No 660 I dated 11th September 1894, communicated with Board's Proceedings No 6345 Misc. dated 18th October 1894, Revenue Settlement, for improving the tank and the channel, of which Rs 2608 was to be contributed by the mosque

as shown in the margin. The Manager for the time being, who agreed to pay the contribution in 3 instalments, was subsequently dismissed by the Mahomedan Committee, of which the petitioner is the President and the amount of contribution was therefore not paid. The tenants put in a petition for the early execution of the maramut works, and offered to pay the amount under condition 6 of the Muchilika referred to above. The president of the ~~above~~ Committee was addressed with a view to ascertain whether he [illegible] pay the amount promised

Works	Rs	2095
Establishment	"	482
Tools & plant	"	31
		2608

by the late manager, but as he did not reply to the reference the Tahsildar, began to collect the amount from the tenants who offered to pay.

6. The petitioner presented a petition objecting to the course adopted by the Tahsildar, and on hearing his vakil, I saw no reason to interfere with the Tahsildar's action. The petitioner also represented that the amount of estimate was large and that it should be reduced. This, I found, unnecessary, as the P. W. Department had prepared the estimate on a careful consideration of the condition of the tank, and as

the original estimate for Rs 7,020 had been reduced to Rs 5,400 by the Superintending Engineer and to Rs 5,160 by the Chief Engineer. The petitioner also requested that the amount already collected from the tenants should be refunded to him, and any smaller contribution that may be eventually decided on should be collected from him in instalments. I, however, ordered in August 1895 that the sum of Rs 1412 already collected from the tenants should be retained and that the balance should be paid by the Committee in April 1896, failing which it was to be

be

be collected from the tenants.

7. The petitioner appeals against this order on the following grounds:-

(1) That the muchilika executed in 1852 by the then manager is no valid as he was found to be incompetent to hold the trust property by the Civil Court and dismissed by the Board of Revenue.

(2) That the original muchilika is not forthcoming and that a copy produced in court was not believed to be genuine by the sub-judge.

(3) That no contribution was

itherto paid by the Committee and
hd the small amount of contribution
id by the Hukdars was merely
t the intent to establish their
ight to the management.

That the large amount
stimated for is not required for
repair and that the conduct
f charity will be interfered with
by the demand for such
large contribution

5) That the tenants enjoy the
ntire fishery and pay only Rs 6 to
the mosque.

6) That faslijasti assessment
being imposed on the inam, it is
collect contribution

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8. As regards the first groun
of objection, I beg to state that the
manager who executed the Muchilik
was appointed by the Board of
Revenue, apparently under the
authority vested in it under
Regulation VII of 1817 and with
the consent of other Hukdars. Under
Act XX of 1863 the control which
vested in the Board of Revenue
was transferred to the Mahomedan
Committee and the transfer of
control must be assumed to be
subject to the same conditions
and restrictions which existed
prior to the transfer. Further the

execu

ecutant of the muchilika was the anager in office at the time of the ecution and his dismissal which took place subsequently would not affect the validity of the muchilika. Any succeeding trustee has no right to repudiate the obligations undertaken by a former trustee. Apart from the obligation under the muchilika of 1852, the trustees of the mosque, who are holders of an entire inam, are bound to contribute towards the repair of common irrigation works (vide Boards Proceedings No 70 dated 18th March 1895, Revenue Settlement).

9. As to the second ground jection, it is true that the original

original muchilika is not forthcomi, but a copy duly authenticated by the Collector, Mr. Bird, is available in the records. The petitioner stated at the original enquiry that a muchilika was executed by the trustees appointed in 1854 but no such muchilika is forthcoming.

10. With respect to the third ground of objection, I beg to state that the petitioners' allegation that no contribution was hitherto paid is opposed to facts. From the Civil Engineer's diary for the month of August 1843, it appears that a contribution of Rs 287 was levied on the mosque lands. Again a sum of Rs 856-14-6 was col-

1881 and 1882 although similar objections were made by the President of the Committee and the Managers.

The 4th objection is groundless. The necessity for the estimate has been explained in the enclosure to Superintending Engineer's letter to the Chief Engineer dated 13th April 1894 No. 43 I. A. printed in Government order No. 660 I. P.W. referred to above.

12 As regards the fifth ground of objection, it is observed that the fishery rent for the village was permanently fixed at the Revenue Settlement at Rs 4 per annum and that the patta for it stands in the being in [illegible] of the village deity. Half the

the fixed rent is due to the inamdar and this amount is also shown in the inam register. It is not understood how the inamdar receive Rs 6 from this source.

13. The last ground of objection relates to the collection of fasljasti. This question was not raised before by the petitioner and has not been considered. It appears from the inam register that the question of fasljasti on single crop land was raised at the time of inam settlement and the Inam Commissioner decided that the Inamdar was entitled to raise second crop on an extent of 1

Palli

and that the question of the right Government to half pashjasti assessment on single crop land when more than this extent is cultivated, can be left for decision to the Revenue Authorities, should it arise. The petitioner should be informed that if he has any grievance on this point, he should present a separate petition on the subject. The fact that an irrigation work is maintained at the cost of Government and the Inamdar does not affect the right of Government to charge waterrate for waterused in excess of the Inamdar's rights (vide paras 6 to 8 being [illegible] inion of the Government Pleader embodied in B.P. 719 R. dated 29th December 1893 &c.

14. The Board's petition and enclosure are returned herewith. I may note that pending the disposal of this appeal, further collection of money from the ryots towards the cost of the repair of the tank has been stopped. The repair being somewhat urgent, I have the honour to request the favour of early orders.

15. No further hearing has been given to the petitioner since 8th May 1895, as a hearing did not seem to be necessary.

Read also petition from Mohideen Huseain sahib, President of the Mahomedan Mosque Com ion

I

Palli

innevelly District, dated 30th July 1896, ubmitting a supplemental petition regarding the cost of repairing certain tank.

Resolution The Board has received a full report from the Collector on the subject of the petitioner's appeal and sees no reason to interfere.

2. The Muchilka executed in 1852 by the then manager, is undoubtedly binding on the present managing committee. The document was executed not, as stated in the petition, long after the dismissal of the said manager, but some time prior to it. Under the terms of the Muchilka, the Committee is being to contribute a proportionate share

reader

19.80

share of the cost of repairs to the tank, and there is evidence to show that such contribution was paid on previous occasions. Even apart from the obligation under the Muchilka of 1852, the trustees of the mosque are, as pointed out by the Collector, bound to contribute towards the repair of irrigation works in which they are jointly interested with Government. It is a different question whether the petitioners are properly charged fasljasti assessment. If they have any grievance on this point, they should present a separate petition on the subject.

There is no reason to suppose that the estimate of repairs framed by the Public works Department is excessive. The original estimate has, after careful examination, been reduced by the Superintending Engineer and the Chief Engineer for Irrigation and there does not seem to be room for any further reduction. If, however, the petitioners consider that their resources do not admit of the whole amount of contribution (Rs 2608) being paid at once, the Board will be prepared to recommend to Government the recovery of the balance being re in two or three annual instalments.

180

(True Copy and Extract)

(signed) R. V. Srinivasian
Secretary

To
The Collector of Tinnevelly
Copy to the Petitioner.

(True copy)

R. V. Srinivasan
Secretary

Exd
2/4/18

CHIEF ENGINEER
FOR IRRIGATION.
5-APR. 1898
No. 145 M

3500

(Sett. 12—2,000—15-2-98.)

CHIEF ENGINEER
FOR IRRIGATION.
5-APR. 1898
No. 145 M

Proceedings of the Board of Revenue

(Revenue Settlement, Land Records and Agriculture),

Dated 30th March 1898.

No. 2191 Miscellaneous.

READ again Board's Proceedings — No 5373 dated 31st October 1896

*copy attached.

Read also the following letter from the Collector of Tinnevelly Reference on Current No. $\frac{803}{G.B}$ of 1896 dated 29th May 1897:-

With reference to para 3 of Board's Proceedings No 5373 Miscellaneous dated 31st October 1896, Tinnevelly Zemindari —

Palli

Tinn

mmittee requests that the balance
f Rs 1184-4-11 still remaining to
be collected from the managers of
Syed Sulaiman Purshaha Pallivasal
Tenkasi, out of the contribution of
Rs 2608 due towards the improvement
of the Puliyur Periakolam tank,
be recovered from them in four
annual instalments. In view of
the fact that such a large sum
of money (viz Rs 1423-11-1) has
already been collected, I consider
that it will suffice to collect the
balance in two instalments of
Rs600 and Rs 584-4-11 in
-November 1897 and 1898 respectively

Public Works (189~~7~~8) Department.

IRRIGATION BRANCH.

ISSUE No. 107 M

To

The Secy to the Commr
of Rev. Settt L Rec Agri

(Reply to letter No. , dated).

Dated 29. 3. 98

Despatched 30. 3. 98

Enclosures *

* Particulars of Enclosures.

SUBJECT

Puliyur Periyakulam Tank
and Channel - Requests
to be favoured with an early
reply to this office No 232 Mar. of 97
regarding the collection of the
balance of contribution still due
for impts to — as the outlay
incurred on the work is reported
monthly report by the Examiner of Roads

Endorsed

E. I. Form No. 13—2,000—1-11-97

BACK PAPERS.

No.	Date.
No 16M	20-1-98

Sent to Government with No. I.,
dated 1897.
Printed with G.O., No. I.,
dated 189 .

REMINDERS ISSUED.

No. 1, dated 189
" 2 "
" 3 "
" 4 "
" 5 "

KEEP-WITHS.

FURTHER PAPERS.

No.	Date.
R145 M	30-3-98

With [illegible] for
Dr 97 expenditure
LCG 23/3/98

No 107 M d/25-3-98

To.

The Secy, Board of Revᵉ
Revᵘ Settt, L R & A.
Chepak.

Sir,

In continuation of this Office letter No 16-M, d/20th Jany 1898, I have the honour to request that I may be favoured with an early reply to my Endorsement No 232-M, dated 14th July 1897, as the outlay incurred on the work is reported monthly to Govt by the Exd P.W. in his statement of Objectional Expenditure.

25/3/98

LCG 23/3/98

To

The Secy, Board of Rev
Rev. Settlement
[illegible]

Sir,

In continuation of this office letter No 16 M, dated 20th Jany 1898, I have the honour to request that I may be furnished with an early reply to my [illegible] [illegible]

as to the balance [illegible] [illegible] still due by the [illegible] [illegible] [illegible] [illegible]

Ocs. 2
3680 (8)

Public Works (189~~7~~8) Department.

IRRIGATION BRANCH.

ISSUE No. 16 M

To

The Secy to the Commr of Reve Settt & Agricultur

(Reply to letter No. , dated)

Dated 20-1-98

Despatched 21-1-98

Enclosures *

* Particulars of Enclosures.

SUBJECT

Puliyur Periyakulam Tank and Channel — Requests early reply to this office No $\frac{232 M}{14.7.97}$ regarding the balance of ~~the~~ "Contribution still due by the Pulli-vasal Managers on account of improvements carried out" to the —

Indexed

E. I. Form No. 13—2,000—1-11-97.

BACK PAPERS.

No.	Date.

FURTHER PAPERS.

No.	Date.
R 145-M	30-3-98

Sent to Government with No. L., dated 1897.

Printed with G.O., No. L., dated 189 .

REMINDERS ISSUED.

No. 1, dated 189

" 2 "

" 3 "

" 4 "

" 5 "

KEEP-WITHS.

No 16 M dt 20.1

Covt.— DSS operation

ACW 20/1/98

To

The Secretary, Board of Rev.
Rev. Settt. L.R. & A

Sir,

I have the honour to request the favour of an early reply to my Endorsement, No. 232-M, dt 14th July 1897, regarding the balance of the Contribution still due by the Pullivasal Managers on account of improvements carried out to the Puliyur Periyakulam Tank & Channel.

20/1/98

ACW 19/1/98

18/1/98

2

Public Works (189) Department.

Receipt
~~CURRENT~~ No. 38 T.N.

Order No. 232 M. Enclos 3.

From The Superintending Engineer 6th Circle

No. 573 T.N.

Dated 8th July 1897

Received 10th July 1897

Enclosures 3

Spare copies

Forwarded in original to the Secy to the Board of Revenue Revenue Settlement Land Records and Agriculture with a request that he will be so good as to state what orders have been passed on the Collector's proposal that the balance still due by the Managers should be collected in two instalments

(Sd) W. Hughes

E. I.

Coly
14-7-97

To be returned.

SUBJECT.

Puliyur Periyakulam Tank and Channel - Requests for reasons stated that sanction may be accorded for the completion of the Work of improving the from Irrigation funds in anticipation of the Collection of the balance of contribution

RSE. 9
3680/22

1253
5654

BACK PAPERS.

No.	Date.

FURTHER PAPERS.

No.	Date.
I 232m	14-7-97
R145-M	30-3-98

From S. Gopalakrishna Aiya
Esq. Executive Engineer, Tinnevelly D.
to the Superintending Engineer, N. Circle
No. 2087 dated 12th June 1897.

I have the honor to bring to your notice that in G. O. No. 660. I dated 11th September 1894 Sanctioning an estimate of Rs 5160 for the Improvements of Puliyar Periacolam tank and channel, it was ordered that the execution of work must be held in abeyance pending the Collection of the Contribution amount of Rs 2608 from the Pullivassal Managers. The Collector having been written to for the Collection of the Contribution money, he Communicated to his Office with his No. 1521 of 95 dated 7th August 1895 Copy of his endorsement on the Petition of the President Mahomadan Committee, Tinnevelly (a Copy is herein enclosed for perusal) and asked for the Execution of the work as Rs 1412 of the Contribution money had already been Collected. The work was accordingly put on hand and the expenditure on it to end of last month is about Rs 3575 or Rs 510 in excess of the Government portion of the estimate amount. The Collector having been again written regarding the contribution money he has replied in his letter No. 1150 of 97 dated 29th May 1897 (Copy herein enclosed for information) that Rs 1423-11-1 has already been collected and that he is recommending to the Board that the balance may be collected in two instalments one in November 1897 and the other in the same month of next year. I have now asked him to place at the disposal of this Department Rs 1423-11-1 already collected so that payment may be made for work done up to that amount without objection.

2. The work is now in full progress and is approaching completion. It cannot be stopped at the present stage and the contractor doing it cannot be kept waiting for money for work done very long. I therefore request that sanction may be accorded for the completion of the work and paying it in full in anticipation of the collection of the balance of contribution money in instalments as recommended by the Collector.

No. 515. T.N. / 17-6-97 A. 18.

The circumstances under which this work was put in hand before the full contribution of Rs 2608 was paid, and contrary to the orders conveyed in this Office No. 563. T.N / 2-10-94 should be reported for communication to the Chief Engineer for Irrigation

(Signed) O. V. Boddy Lt Col RE
Supg Engr. VI. Circle

(True Copy)

P. 8/7/97 O. V. Boddy Lieut Col. RE
Supg Engr. VI. Circle

CHIEF ENGINEER FOR IRRIGATION.
10 JUL. 1897
No. 38 TN

CHIEF ENGINEER FOR IRRIGATION.
5-APR. 1898
No. 145 M

Enc. No. 1 to Bd's ~~General~~ Govern't Reg. No. 5652 ~~1429~~ of 1897.

4 pr

From S. Gopalakrishna Aiyar Esq. Executive Engineer, Tinnevelly Dn. to the Superintending Engineer VI. Circle, No. 2291. dated 30th June 1897

With reference to your No. 515. T.N. dated 17th June 1897 herewith returned, I have the honor to inform you that order for the Execution of the work has been issued on the 28th March 1896, by the then Executive Engineer, Mr. Mildred on the Strength, I consider as I have already presumed, of the Collector's endorsement on the Petition of the President Mahomadan Committee, Tinnevelly, and of his request to proceed with the work conveyed in his No. 1521 of 95 dated 7-8-'95 Copy of which is one of the enclosures to my letter No. 2087 dated 12.6.'97 herewith returned and on the Strength of an allotment of Rs 3000 for Expenditure during 1896-97. I am unable to trace out further circumstances which may have led to the Starting of the work.

(True Copy)

P.V.

J. V. Bradley
8/7/97

L.H.L.R.C.
Supg. Engr. VI. Circle

CHIEF ENGINEER FOR IRRIGATION.
JUL 1897
1877

CHIEF ENGINEER FOR IRRIGATION.
5-APR. 1898
No. 145

Enc. No. 2 to Bd's Govt. Reg. No. 5642 of 1897

Endorsement on the Petition of the President, Mahomedan Committee Tinnevelly, dated 10th October and 14th December 1894, and 6th March 1895, objecting to the payment of contribution towards the improvements to Puliyur Periacolam Tank and channel in Tenkasi Taluq.

Petitioner is informed that the Collector sees no reason to exempt the inam from payment of contribution towards the repairs. Such contribution was collected from the manager of the mosque even prior to the assignment of the lands in 1862, when there was a division of produce and also subsequently. The manager appointed by the Board of Revenue in 1844 with the consent of other hukdars bound himself by a muchilika to contribute towards the repairs, failing which the contribution was to be collected from the ryots. The control of the institution which vested in the Board of Revenue under Regulation VII of 1817 and which passed on to Mahomedan Committee under Act 20 of 1863 was subject to the conditions which existed prior to the transfer. The dismissal of the Manager who executed the Muchilika does not affect the validity of the Muchilika. The Tahsildar was therefore right in collecting the contribution from the tenants under the terms of the Muchilika. Out of Rs 2608 the sum of Rs 1412 already collected will be retained and the balance of Rs 1196 should be paid by the Committee by the 1st April 1896; failing which it also will be collected by the Tahsildar from the tenants. In the meanwhile the Executive Engineer will be asked to proceed with the work.

|Signed| A. W. B. Higgens
7. 8. 1895.
Collector.

|True Copy|

Dis No 1521/Gl of 95.

To the Executive Engr. Tinnevelly in continuation of this disposal No 1183 of 1895 dated 7. 6. 95. It is requested that the work may be proceeded with.

|Signed| V. Subbier
7. 8. 95.
for Collector.

Copy of Collector's letter Ref. on R. C. No 1150/97 dated 29th May 1897 to the Executive Engineer Tinnevelly Dn.

With reference to your letter No 1826 dated 19th May 1897, regarding the collection of contribution of Rs 2608 from the Managers of Syed Sulaiman Pursahatta Pallivassal for improvements to Puliyur Periacolam Tank, I have the honor to inform you that Rs 1423-11-1 has hitherto been collected from the tenants. The Board of Revenue has on a petition from the President of the Mahomedan Committee observed that it would be prepared to recommend to Government the recovery of the balance in two or three annual instalments, if the managers so wish. They now request that the money be recovered in four annual instalments and I am recommending to the Board that the balance be collected in two instalments in November 1897 and 1898.

(Signed) D. Waller.
for Collector.

(True Copies)

(Signed) S. Gopalakrishnier
12. 6. 97. Exe. Engr.

(True Copy)

CHIEF ENGINEER
FOR IRRIGATION.
10 JUL 1897
No. 38 T.N.

CHIEF ENGINEER
FOR IRRIGATION.
5-APR 1898
No. 145 M

O. V. Boddy Lieut Col. R.E.
8/7/97 Supdg Engineer
VI. Circle

Enc. No. 3 to Bd's ~~General~~ ~~Governt.~~ Reg. No. ~~1429~~ 5654 of 1897.

No. 573 T.N.

OFFICE OF THE SUPERINTENDING ENGINEER,
6TH CIRCLE,

Trichinopoly, 8th July 1897.

6/9

From

Lieut Col. O. V. Boddy R.E.
Superintending Engineer,
6th Circle.

To

The Chief Engineer, for Irrigation

SIR,

ENCLOSURES. 3.

1. Copy of letter from Exe: Engr. No. 2087 of 12. 6. 97 with 1 enclosure bearing Supg Engr's No. 515. T.N. of 17. 6. 97.
1 Copy of letter from Exe. Engr. No. 2291 of 30. 6. 97.

In para 3 of G. O. No. 660. I. dated 11th September 1894, it has been ordered that the execution of the work (Improv Puliyur Periacolam tank and Channe Este Rs 5160) should be held in abeyan until the contribution Rs 2608 has been paid by the Pullivassal managers.

2. The execution of the work was however ordered by Mr. Mildred, late Executive Engineer, Tinnevelly Dn., at the request of the Collector who has recovered a portion of the Contribution Viz. Rs 1423. 11-1 and has recommended to the Board of Revenue that the balance be collected in two instalments in the months of November 1897 and 1898, as will be seen from copies of correspondence from

the

the Executive Engineer, herewith sent.

3. The work is reported to be in full progress and it cannot be stopped at the present stage. Under the circumstances I have the honor to request that sanction may be accorded for the completion of the work from irrigation funds in anticipation of the collection of the balance of contribution.

This may be authorised under para 81 App 17, Vol I, PWD Code

I have the honor to be
Sir,
Your most obedient Servant.

C. T. Bodley Lieut Col R.E.
Supg Engineer
VI. Circle

CHIEF ENGINEER
FOR IRRIGATION.
5 - APR. 1898
No. 165 m