

MADRAS RECORD OFFICE.

Government of Madras.

Political **DEPARTMENT.**

G.O. No.	492	Press ~~Mis.~~
Dated	4-8-	1838

Not to be folded or roughly handled

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Fort Saint George, Political Consultation, 10th August 1858.

No. 1. From Surgeon E. G. BALFOUR, Government Agent at Chepauk ; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 8th July 1858, No. 1193 of G. A.

SIR,

I had the honor of receiving in an order of Government, No. 1016 of 1858, the following commands.

“ No. 1016 of 1858.”

“ It appears from the enclosures that the Agent at Chepauk has made enquiries in the matter and has not found that anything is owing to the Petitioner.”

“ The Agent should, however, refer the matter to a Punchayet and inform the Begum, that if she will not submit to its adjudication, Ukber Ali will be permitted to sue her before a Civil Court.”

“ FORT SAINT GEORGE, }
18th May 1858. }

“ By Order,
(Signed) D. F. CARMICHAEL,
Deputy Secretary to Government.

2. This being the first occasion, during the 53 years of this Office's existence, that any order has been issued to assemble a Punchayet, as the orders to do so did not prescribe the form of procedure, and as other rules for settling differences have been laid down by the Madras Government, the Council of India, and the Honorable Court, there were difficulties in seeing the way of carrying out the order alluded to, and I had the honor, therefore, to pass the Petition on to Petitioner, with the following endorsement.

“ No. 1016 of 1858.”

“ Petitioner is referred to the endorsements and copies of letters already furnished to him. but is at liberty to submit in person any Documents proving his debt claim.”

GOVERNMENT AGENT'S OFFICE, }
13th May 1858. }

(Signed) EDWARD BALFOUR,
Government Agent.

3. The very reasonable course pointed out to Petitioner of submitting “ any Documents proving his debt claim ” Petitioner never made even an offer to comply with ; but writes direct to Government complaining that the Government Agent at Chepauk had not summoned a Punchayet. But it does not seem to have been intended that this should have been done by the Agency, as on this Petition, the Right Honorable the Governor in Council issued the following order, No. 1681 of 1858, directing the Plaintiff and the Defendant themselves to nominate the Members of the Committee :

“ No. 1681 of 1858.”

“ The Agent will forthwith appoint a Punchayet to assemble and adjudicate on the point at “ issue.”

“ Two Members thereof will be nominated by Petitioner, two by the alleged creditor Ah-mudy Begum, and one jointly by those parties.”

“ If they cannot agree about the 5th Member, the Agent will nominate a proper person.”

FORT SAINT GEORGE, }
18th June 1858. }

(By order.)
(Signed) D. F. CARMICHAEL,
Deputy Secretary to Government.

4. I have the honor to report that immediately on receipt of the above Order, I commanded the two parties to form the Punchayet in the manner above directed.

5. Having thus carried out the Orders of Government, I have the honor to submit that it has been my opinion, during my whole residence in this Country, that, even where there was no Rule preventing it, it was our duty to refer all cases which we thought required it to the established tribunals of the country, rather than submit them for the occasion to the untrained intellects of any five men assembled in Punchayet, and even if there had not been any Rules for such

Fort Saint George, Political Consultation, 10th August 1858.

a case, as the one which has led to the present Orders, I would not have advised a reference to a Panchayet, but, with good laws providing for the course to be followed, the assembling of a Panchayet would not, for the following reasons, seem to me to be advisable.

6. In my opinion the persons exempted by Act I of 1844 are and will continue exempt till the Right Honorable the Governor in Council shall declare them otherwise. I have the honor to submit that Carnatic Stipendiary, No. 1314, Ahmedy Begum, is the daughter of His Highness the late Nabob Azem Ood Dowlah Bahadoor, and is one of those Members of the

* *Extract Minutes of Consultation, No. 246, dated 24th June 1843.*

Communicating Copy of a Despatch from the Honorable the Court of Directors, with its enclosure, regarding the Jurisdiction of Courts of Justice over His Highness the Nabob of the Carnatic, his family and Retinue.

2. *Letter from the Chief Secretary, to the Secretary to the Government of India, No. 38, dated 29th September 1843, requesting that authority be granted for publishing the three subjoined Lists.*

3. *Letter from the Chief Secretary to Government, to the Government Agent at Chepauk, No. 51, dated 6th February 1844, forwarding a Khurceetah to His Highness the Nabob enclosing Copy of an Act, passed by the Legislative Council of India, securing immunities and privileges to His Highness the Nabob and his family, &c., with Lists of persons entitled to the benefit of that Act.*

4. *Extract Minutes of Consultation, No. 135, dated 22nd March 1847.*

5. *Extract Minutes of Consultation, No. 212, dated 15th May 1847.*

6. *Honorable Court's letter, dated 19th January, No. 1 of 1848.*

7. *Government Agent's letter to Government, No. 31, dated 22nd June 1848.*

8. *Order of Government, No. 335, dated 1st August 1848, approving the revised Rules for the Mahakamah, and authorizing their adoption with the alterations in red ink.*

9. *Extract Minutes of Consultation, No. 230, dated 19th March 1857, Paras: 26.*

immediate family of the Nabobs, who are exempted under Act I of 1844, from the Civil and Criminal Jurisdiction of British Courts. Like all others of this Class of people, the existing Regulations* command that the claims against them shall be reported on to Government by the Government Agent at Chepauk, and the Orders of Government carried out or the permission of Government accorded by the claimant to sue in British Courts and so long as their exemption exists, I would offer for the approval of the Right Honorable the Governor in Council, that the Rules laid down for investigating the complaints against them be followed out until altered by an order of Government, not issued on any individual case, but after a review of the whole subject. And, in the possibility that this may be undertaken, I would wish to express to Government as my opinion, that the assembling of Panchayets for the decision of cases against those of the immediate Family of the Nabobs of the Carnatic, who are exempted from Civil and Criminal process in British Courts of Judicature, is not necessary nor expedient.

No. 2.

ORDER THEREON, No. 492; dated 4th August 1858.

The Governor in Council does not appreciate the force of the objections urged by the Agent at Chepauk in the above letter. The observance of the course described in para: 6 for the investigation of claims preferred against Members of the Carnatic Family who are exempted by Act I of 1844, recently extended by Act XXIV of 1858, does not militate against recourse being had to a Panchayet, when in the opinion of the Government such arbitration may be desirable, the party against whom the claim is made having the option either of subjecting the matter to the judgment of such Panchayet or of being sued in respect of it in the Established Courts of Law.

2. The Agent will see that the course prescribed by the orders of the 18th June last is duly carried out, and, if any opposition be made by Ahmedy Begum, will report to Government accordingly.

(Signed) T. PYCROFT,

Chief Secretary.

Exd. J. A. Wilson.

Mahakamah Court

In para 6 of their Despatch dated 22nd July 1848 the Honble the Court of Directors made the following observation: "After the privilege of exemption from all other legal jurisdiction has been accorded to these persons of the family, household and Retinue of the Nabob of the Carnatic, it is absolutely necessary to maintain the authority of the only tribunal to which they are amenable, and their obedience must be enforced, if necessary, even by the abrogation of their privilege." With the view of ascertaining how far these instructions had been attended to in regard to the sub. request enforcement of the Decrees of the Mahakamah Court the Govt Agent at Chepauk is requested to ascertain the result of which he

Reported

reported in his letter of
the 20th February 1847, p. 15.
Submitting at the same
time Draft of elementary
Rules which he considered
it desirable should be
adopted in the Kakaka
Mag. Court. These Rules,
it appeared, were already
in force; but he added
there, the Agent stated,
there were others laid
down in Kaboro deo
Law, connected with the
settlement of cases to
which the K. L. needed.
Cases should pay his at-
tention, but which were
not enforced in conse-
quence of the Kaboro deo
Officers not being fur-
nished with authority
to enforce their decisions.
2. "The Kaboro deo," was
the Agent remarked, was
established for the adju-
dication of claims against
exempted parties and also
from

for people attached to the
K. L. & Society, and to have
common cases. But he
added there, many families
disputes between husbands
and wife, which are,
brought before Police,
Magistrates, are referred
to the Kaboro deo for
adjustment."

3. In conclusion the
Agent stated, as his opinion,
that the only remedy,
under existing circum-
stances, for the correction
of the evil pointed out
by the Cases viz. the neg-
lect and evasion and
contempt of the authority
of the Kaboro deo, main-
tained by certain of the
exempted parties, would
be the infliction of the
penalty pointed out by
the Kaboro deo. viz. the
debarment of such parties
names from the Lists of
exempted persons.

The

4. The Govd were of
opinion that in regard
to drawing relief to par-
ties applying to the ha-
shakamah, for redress, &
remedying the evil com-
plained of by the Cape
bodies of the court, these
objects could be sub-
stantially effected in
accordance to Govd. Depend-
ence if the Kazea were
authorized to direct by
his share the payment
monthly into his hands
of a portion of the pension
of each Canalia. Depend-
ence in the exempted
as requested conform
within a given & limited
period to his judgment.
Such order being con-
sidered for the conside-
ration and instruction
of Govd with the Agents
of opinion previously
to being enforced.
Chapman Agent was
concord.

accordingly requested
to report his views upon
this point and to sub-
mit for the considera-
tion of Govd a definite
proposal to this effect.
5. In the case of ex-
empted persons who
draw their allowances
from the Sineer Treasury,
and not from Govd, the
Govd observed that it
must be left to the ha-
shakamah to issue any in-
structions he might see
fit, and that the Govd
Agent should not inter-
fere in such cases in
the proceedings before
the hashakamah, un-
less at the desire of
His Highness.
6. In his letter of the
1st April 1844 the Che-
pman Agent, for matters
therein stated, proposed
that in cases where af-
ter an official ratifica-
tion from the Cape ex-
empted.

exempted parties con-
tinued after a period of
8 months to neglect ob-
edience, or who should en-
deavour to evade either
his citations or awards,
the Kawank, after sub-
mitting such case, for
the orders of J. D. & P. O.
receiving its sanction,
should be authorized
to deduct from such
party's receipt, a moiety
of his stipend - that in
the event of this resist-
ance to the Court's au-
thority being extended
to any period beyond
six months the arrears
so due should be de-
clared to be forfeited
by the Stipendiary.
The Agent at the
same time stated that
there appeared to be no
difficulty whatever in
the Kawank in the ex-
ercise of his ordinary
authority.

authority as the Head
of the Thepink family,
enforcing the authority,
of the Caze of his Courts
(each being the principal
object of the institution)
in all cases where ex-
empted parties were par-
takers of his bounty &
were in any default. (Mem.
book of the Kallajah
family. - But as regards
the greater proportion of
the exempted parties,
enumerated in the last
page of his letter, the
Agent observed that
the creature of their power
from the exempted List
was the only remedy
to which recourse could
be had for the correc-
tion of the evil to which
the Order of God refer-
red to. ^{the} contempt
evinced by them for the
authority of the Kallajah
nah. Before passing fi-
nal

This could not be so
now - as by the intro
the 11th of 1858 the
last part published
it has been and there
is no provision for
recovering any money
having from it -
Permission only
can be granted
to see any of the
exempt parties
in respect of any
particular claim

final orders on this mat-
ter, the Gov. resolved
to request the insti-
tutions of the Honble Court
with reference to para 19
of their Resolution of 22nd July
1840 - quoted at the
commencement of this
Memorandum. They observed
that the Honble Court
seemed there to con-
sider only one course
of action on the part
of the Gov. - but in order
to make the Resolu-
tion effective for the
object for which it was
created, it was expedi-
ent that its Decree,
so far as regards the
rights of creditors over
Private Suspenders,
should be enforced
by the Gov. in the man-
ner proposed in the
Resolution of the 22nd
March 1847 to 1848 where
the Agent upon a re-
view of the proceedings
(might

might be clearly of
opinion that the debt
was justly due by a
Spendary. The only
cases in which the Gov.
would propose to
authorize the interference
of the Agent, were cases
of proved and
acknowledged debt
of which the party under
payment and in which
it is established by the
deed that full consid-
eration had been received
by the Spendary and
the debt was therefore
equitably as well as
legally due.
In respect to this pro-
vision and to a previous
review of the proceedings
by the Gov. Agent, the
Honble Court were of
opinion that the Resolu-
tion ought to pro-
vide the power which
the Gov. proposed to
confer

Excluded from the
the Court of Directors
19 Jan 4th 1848 p. 186

confer upon it, and they
accordingly sanctioned
and this recommendation
two.

10. In conformity with
the foregoing views,
revised Rules ~~submitted~~
for the Mahakamah
were submitted by the
Chaplain Agent, and
approved and sanc-
tioned by Govt with
some slight modifica-
tions under date the
1st August 1848.

E. D. H.
23rd July 1848.

The above state of things
has clashed with the
Mahakamah which
has been inoperative
in consequence of
the Kabot's death.

The course now
ordered is - E. H. L. 19
March 1857 P 26 -
that the Govt will not

draw out against
any of the party
to the first report & if
it seems from his report
that there is a prima
facie case give the
alleged delinquent the
option of satisfying the claim
or having permission
given to his creditors
to sue him as a Court
of Law -

But I don't know
that this proceeds
as yet to a Purchased
under the alternative
above stated.

J. P.

There can be no possible
objection to the orders
being passed. The parties
were referred to the Agent
he reported that he could
make nothing of them -
he was then ordered
under sentence

Memorandum regarding the
Case of the Kachakmah.

No 492 Political Department
 August
 Extract Wins of Cons. dated 4 July 1858.
 To - Fort Ajunt Chepaul 3 July 1858

The 5th does not
appreciate the force
of the objections urged
by the respondent (the same
in the above letter) - The
obscureness of the counsel
described in para 6
~~appears~~ for the in-
-vestigation of claims
preferred against
members of the American
Family, who are exempt-
-ted by Act of 1846
recently extended by
Act XXIV of 1858; does
not militate against
recourse being had

W. H. Hall

1842 to Aug 22 28 to 26 of 1842
Dec 22

1842 to Aug 22 28 to 26 of 1842
of 1842 for 1842 of 1842
Dec 22 1842 of 1842

1842 to Aug 22 28 to 26 of 1842
Dec 22 1842 of 1842

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