

MADRAS RECORD OFFICE.

Government of Madras.

Political DEPARTMENT.

G.O. No. 511

Press
~~Mis.~~

Dated 27-8-1857.

Not to be folded or roughly handled

1 E

*Proceedings of the Madras Government, Political Department,
from 27th August to 2nd September 1859.*

No. 2. Read the following letter from GUNSHAM DOSS, Soucar of Madras; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 16th August 1859.

I have the honor to forward herewith my Petition to His Excellency in Council, and hope, that it may be placed, at your earliest convenience, before His Excellency in Council; and an answer furnished to me in due course.

To His Excellency the Governor in Council of Fort Saint George, dated Madras, 21st July 1859.

The humble Petition of GUNSHAM
DOSS of Madras, Sowcar, claiming to be a
creditor of the late Nabob of the Carnatic, under
Act XXX of 1858 and II and XVI of 1859.

HUMBLY SHEWETH,

That your Petitioner is a creditor of the late Nabob of the Carnatic, and bases his claim on certain Thunkey Cutcherry bonds and one Treasury bond issued during the Regency of His Highness Prince Azeem Jah.

2. That his claim was preferred and ready for hearing during the sittings in May last, when the further hearing of all claims, your Petitioners amongst others, were, on the application of the Law Officers of Government indefinitely postponed.

3. That Act XVI of 1859, which was passed after your Petitioner's claim was ready for hearing and after it would in fact have been heard and disposed of in the Supreme Court (had not the postponement of the hearing of all claims, obtained on the representation of the Law Officers of Government, been ordered) materially altered your Petitioner's position for the worse by casting on him the necessity of proving that monies *bona fide* lent by Petitioner's father and his Executors after his death more than twenty years ago when your Petitioner was an infant, were necessarily and properly borrowed by the then Regent and was in fact applied for the late Nabob's use.

4. That the passing of this Act (so materially altering your Petitioner's position for the worse after he had, on the faith of the first two Acts remaining unaltered, preferred his claim and at great expense to himself got it ripe for hearing) during a postponement procured by the Law Officers of Government, but for which this claim would have been disposed of under Acts XXX of 1858, and II of 1859, is a great injury and loss to this claimant.

That under the provisions of Act XVI of 1859. Your Excellency in Council has full power to dispense in such cases, as to you may seem proper, with the further evidence cast on the claimants in all Regency claims under that Act.

That your Petitioner under the circumstances humbly solicits the exercise of that power in this case and that the burthen of proving that the monies claimed by your Petitioner as against the Nabob's Estate were necessarily and properly borrowed for his use by the Naib-i-Mooktar may be dispensed with.

Your Petitioner therefore humbly prays that this his petition may be received and that your Excellency in Council will be pleased to order and direct by virtue of the power vested in you under Act XVI of 1859, that on the investigation of your Petitioner's claim the further proofs cast on your petitioner by the provisions of that Act may be dispensed with, and your Petitioner as in duty bound will ever pray, &c.

Ordered, that the Petition be forwarded to the Government Solicitor for report.

FORT SAINT GEORGE, }
19th August 1859. }

(Signed) T. PYCROFT,
Chief Secretary.

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*Proceedings of the Madras Government, Political Department,
from 27th August to 2nd September 1859.*

No. 3. From J. R. BOYSON, Esq., Government Solicitor, Madras; to the Chief Secretary to Government, dated Madras, 22nd August 1859, No. 1470.

1. I have the honor
Order of Government, dated 19th August 1859, on Petition from to acknowledge the Order of
Gunsham Doss to Government, dated 21st July 1859. Government noted in the
margin.

2. I submitted same for the consideration of the Advocate General, and I have since conferred with him thereon.

3. I now forward a copy of his opinion and return the order above noted.

(COPY OPINION.)

The Petitioner's Statements are not correct in point of fact. It is *not* the fact that his claim would, but for the postponement to which he alludes, have been heard before the passing of Act XXI of 1859. If no such postponement had been granted, the only difference would have been, that the period between the application for the postponement, and the passing of Act XVI of 1859, instead of being employed, as it actually was, in settling some forty of these claims out of Court, by means of offers which the claimants accepted, would have been employed in Court in contesting six heavy claims which all had precedence, in the cause List, of this Petitioner's claim and which I should have insisted on the Court's trying in the order in which they stood in the cause List.

2. Petitioner's interests therefore have been in *no way whatever* affected by the postponement of which he complains, and which he untruly pretends was the sole cause why his claim was not tried before the passing of Act XVI of 1859.

3. It is not true moreover, as asserted in paragraph 3 of this Petition, that Act XVI of 1859, casts upon Petitioner the necessity of proving that the monies said to have been lent by Petitioner's father and his Executors were "in fact *applied for the late Nabob's use.*" The Act requires no proof respecting the application of the money.

4. The dispensing power vested in the Governor in Council by Section I of Act XVI of 1859, and which the Petitioner prays may be exercised in his favor was never intended to apply to cases like the Petitioner's, but solely to those cases which are included in what is known as the 5½ Lakh list, which are claims that the late Nabob, at the special request of Prince Azeem Jah, consented, after much hesitation and long consideration (about 10 years), to recognize merely to save his Uncle's, the Prince's, credit—for the Nabob even when recognizing them protested against his recognition being considered as any admission that the claimants had any legal moral or just claim upon him for any part of this 5½ Lakh debt.

5. He did however recognize them for his Uncle's credit, and began to pay them (but without interest which he always refused) by annual instalments, and would have paid them in full had he lived.

6. On this ground and this only, I submitted to Government that these claimants belonging to the 5½ Lakh list might be considered to have some moral claim upon Government, as Government had taken possession of the Fund from which these claimants would have been paid had the Nabob lived.

7. The Government upon this representation authorized me to pay all claims included in that 5½ Lakh list for which I should find value to have been given; and, these facts being before the Legislative Council when Act XVI of 1859, was under consideration, it was to meet the case of these 5½ Lakh claims, and only these, that the dispensing power in question was vested in the Governor in Council.

8. The Petitioner's claim (with the exception of the one Treasury bond hereinafter noticed in paragraph 12) is not included in the 5½ Lakh. His Tunkhy Cutcherry bonds, Prince Azeem declares on oath, to be his own personal debts, which he is ready and willing to pay when able. The monies for which these Tunkhy Cutcherry bonds were issued were lent to Prince Azeem

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Jah, at a time when he was under a solemn and formal engagement to Government not to contract any fresh debt without the knowledge and sanction of Government (a promise which he violated in contracting this debt, if it be considered as a Sirkar or Durbar debt) and at a time when Government had formally announced that no fresh debt then or there after contracted by the Prince, or by any of the young Nabob's family, would be considered as binding on the Nabob or would be liquidated from the Nabob's revenues. The Government moreover ordered Prince Azeem Jah to make this announcement known to all persons who were in the habit of lending money to the family, and the Prince officially informed Government that he had done so.

9. Either therefore, this Claimant's father did know these facts, or if he did not, his ignorance of them (if not wilful ignorance) arose from his not choosing to make proper inquiries upon the subject. The facts were known to so many that they might easily have been learned by any one about the Palace who wished to do so.

10. The claimant's father was tempted by the offer of a high rate of interest, which he long received and he took his chance of the young Nabob's choosing or not choosing, to recognize debts of his Uncle's contracting.

11. I see no reason to advise that the Governor in Council should exercise his dispensing power in favor of this claimant.

12. The one Treasury bond included in Petitioner's claim is in the 5½ Lakh list and I have made him an offer accordingly to pay its amount, but he has not accepted it.

(Signed) THOMAS SYDNEY SMYTH,
Advocate General.

12th August 1859.

(True Copy.)
(Signed) J. R. BOYSON,
Government Solicitor.

No. 4. ORDER THEREON, 27th August 1859, No. 511.

Resolved, that the Petitioner be informed that Government having referred to their Law Officers on the subject, see no grounds for acceding to his application.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. A. P. W. Begbie.

Political Department.

Proceedings of the Madras Government.

Read the following letters.

From Gunsham Doft. Madras. (Here enter 16th Aug. 1859.)

From the Government Solicitor. — (" — " — 22^d — " — " — 1470.)

Order thereon, 27th August 1859, No. 511.

Resolved, that the
Petitioner be informed
that Government having
referred to their Law
officers on the subject,
see no grounds for ac-
ceding to his appli-
cation. —

W. L.

J. P.

To Gunsham Doft, Solicitor,
Madras. } Sep. 30th

Provs. of Govt 2 Sept
Political. 1859 Dept 6

Tom Lusham Esq.
Boucau, Madras.

9/10.
4/7 Aug 59.

Proby.
H. Encls.

Shwards a Petition to the
Governor in Council pray-
ing that on the hearing of
his claim against the
Nabob's Estate, the further
proofs cast on him by
the provisions of Act
of 1859 may be dis-
posed with.

With an Order.

Pol. L. to Govt 12th October
No 28 of 1859
Replied to by the Sec of
State for India 12th Jan 1860
113 of 160

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Recd of Govt 2 Sept 1859
Political 1859 depts

No 571

Proceedings of Govt

of 1859

Pol. L. to Govt 12th October
No 28 of 1859
Replied to by the Sec of
State for India 12th Jan 1860
113 of 160

Referring to the
Governor, that Govt having referred
to the Law Officer on the subject
of the petition praying that the
disputing power under in 1859
the Governor by Act 117 of 1859
may be received in his favor
the no provision according
to his application.

025-4-5

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Order thereon.

Ordered, that the Petition be forwarded to the Genl Solicitor for report.

Fort St. George,
19 Aug 1859

J. P.
Chief Secretary

Received on the 22 Aug 1859 J. P.
Entered & returned on the

Fort St.

To the Genl Solicitor, Disp. 19
with an Encl. }