

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	544	Press Mis.
Dated	1-5-	1968

Not to be folded or roughly handled

15.11.35

No. 24

Malabar Magistrate's Court

Calicut 3rd March 1868

From

J. A. Ballard Esq.

Magistrate & President of the Calicut
Municipal Commission

To

The Honble R. S. Ellis Esq.

Chief Secretary to Government

Fort St. George

Sir

In G.O. dated 18th July 1867 No. 853 Govern-
ment were pleased to observe "Bye-law No. 8, of the
Draft By-Laws of
the Calicut
Municipality, relating to the ordering of public roads & conveyances
provides that vehicles kept without the municipal
limits, but plying for hire, or seen within the limits
for a certain number of consecutive days, within certain
periods, shall be liable to be treated in the same manner
as vehicles kept within the Municipality. The Govern-
ment are of opinion that it is not possible even if
it were desirable, to supply what may appear to be a
deficiency in the provisions of the Act by resorting to
a bye-law which is in effect a legislative enactment,
and not a rule for any of the purposes specified in
Section 143."

I respectfully request consideration of the following
remarks.

2. Section 38 of the Towns Improvement Act empowers
Municipal Commissioners with the sanction of the
Governor in Council to levy, inter alia, "fees on the
registration of carts."

Sections 65 to 68 direct the manner in which such fees are to be levied.

In no part of the Act is it said that the carts, which the Act requires to be registered are to be kept within Municipal limits, or even to belong to persons actually residing within such limits.

In the absence of express verbal provision to the contrary I respectfully submit that it may fairly be assumed that the carts required to be registered by the Law in question are those not only which are kept in the Municipality but which ply in it - those in fact which use the Municipal roads, and which should consequently contribute to their maintenance.

Now the Commissioners when proposing draft Bye Law No. 3, had no intention of withdrawing the legislative enactment by a bye stroke as it were, but simply of defining to some degree on what appear very natural grounds, a point which the law had left somewhat vague & undetermined.

As far as the Act expressly goes there would seem no reason why any unregistered cart seen in Municipal limits after the necessity of registration had been declared, no matter where its owner resided or where the cart was usually kept, should not be seized & detained under Sec. 68.

4. In Calicut where the suburbs as has been often pointed out are interminable it often happens that the owners of carts which constantly ply in the town live just outside the Municipal limits, and probably as a rule keep their carts at their

houses tho' they may be and often actually be at a time in the Municipality with loads at the Coffee stores, beach warehouses, & such like.

It is evidently both hard on the rate payers, and anomalous, that such carts should not pay any thing to the Municipal rates.

5. Against tolls I have already expressed my opinion. The main entries to the municipal limits are on roads already tolled to the Imperial & District Road Fund. Surely Municipal tolls at the other entries would hardly be worth establishing -

Unless therefore tolls can be legally established within the Municipalities at or near points where main Municipal roads or streets leave the Imperial lines in the heart of the municipality, which the wording of the Act does not at all appear to justify I must strongly object to tolling in the Coast Municipalities.

6. But I trust Government will allow on reconsideration the Bye law before objected to to be passed as it is just in principle, and does not seem in any way contrary to Law, or that some other provision may be made to meet the case I have above endeavoured to describe.

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

Garracalle
Magistrate and President.

CPJ
C. J. J.

Re 18- July / by Reg 174-175

Frederic 1868 July 18th

From

Brooklyn 1868

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Proceedings of the Madras Government, Public Department,
1st May 1868.

No. 3. Read the following letter from the Magistrate and President of the Calicut Municipal Commission, to the Chief Secretary to Government, Fort Saint George; dated Calicut, 3rd March 1868, No. 24.

In Government Order, dated 18th July 1867, No. 853, Government were pleased to observe, "Bye-law No. 8, of those relating to the ordering of public roads and conveyances, provides

Draft Bye-laws of the Calicut Municipality.

"that vehicles kept without the municipal limits, but plying for hire, or seen within the limits for a certain number of consecutive days, within certain periods, shall be liable to be treated in the same manner as vehicles kept within the municipality. The Government are of opinion that it is not possible, even if it were desirable, to supply what may appear to be a deficiency in the provisions of the Act, by resorting to a Bye-law which is in effect a legislative enactment, and not a rule for any of the purposes specified in Section 143."

I respectfully request consideration of the following remarks:—

2. Section 36 of the Towns' Improvement Act empowers Municipal Commissioners, with the sanction of the Governor in Council, to levy, *inter alia*, "fees on the registration of carts."

Sections 65 to 68 direct the manner in which such fees are to be levied.

In no part of the Act is it said that the carts which the Act requires to be registered are to be kept within municipal limits, or even to belong to persons actually residing within such limits.

In the absence of express verbal provision to the contrary, I respectfully submit that it may fairly be assumed that the carts required to be registered by the law in question are those not only which are *kept* in the municipality but which *ply* in it; those in fact which use the municipal roads, and which should consequently contribute to their maintenance.

3. Now the Commissioners, when proposing draft Bye-law No. 8, had no intention of widening the legislative enactment by a bye-stroke as it were, but simply of defining to some degree, on what appear very natural grounds, a point which the law had left somewhat vague and undetermined.

As far as the Act expressly goes there would seem no reason why any unregistered cart, seen in municipal limits after the necessity of registration had been declared, no matter where its owner resided or where the cart was usually kept, should not be seized and detained under Section 68.

4. In Calicut where the suburbs, as has been often pointed out, are interminable it often happens that the owners of carts which constantly, I might say daily, ply in the town live just outside the municipal limits, and probably as a rule keep their carts at their houses, though they may be, and often actually are, left for a time in the municipality with loads at the Coffee stores, beach ware-houses, and such like.

It is evidently both hard on the rate-payers, and anomalous, that such carts should not pay anything to the municipal rates.

5. Against tolls I have already expressed my objections. The main entries to the municipal limits are on roads already tolled to the Imperial and District Road Fund. Purely municipal tolls at the other entries would hardly be worth establishing.

Proceedings of the Madras Government, Public Department,
1st May 1868.

Unless, therefore, tolls can be legally established within the municipalities, at or near points where main municipal roads or streets leave the imperial lines in the heart of the municipality, which the wording of the Act does not at all appear to justify, I must strongly object to tolling in the coast municipalities.

6. But I trust Government will allow on re-consideration the Bye-law before objected to to be passed, as it is just in principle, and does not seem in any way contrary to law, or that some other provision may be made to meet the case I have above endeavoured to describe.

No. 4. ORDER THEREON, 1st May 1868, No. 544.
The Governor in Council is prepared to sanction a Bye-law worded as follows, in substitution of Bye-law 8, submitted for approval in the letter from the President of the Calicut Municipal Commission, dated 6th July 1867:—

"Every cart or carriage habitually plying for hire within municipal limits, shall be taxed in the same manner as if such cart or carriage were kept within the defined limits."

(True Extract).

Chief Secretary.

To the President of the Municipal Commissions in Malabar.

Exd. J. Tallooh.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the
President of the Municipal Com.
mission - Calicut
(The letter is dated 6th July 1867)

Order thereon No. 544.

The Governor in Council
is unable to comply with the
request contained in the letter
above recorded to reconsider
of the decision regarding the
proposed Bye-law 8 which
was communicated to
the President of the Calicut
Municipality in G.O. No. 553
dated 18th July 1867.

Wm
G. G.

The words originally used in the proposed
Bye Law were "plying for hire or seen" & it occurs to me
that the last word "seen" has been the cause of the objection
of the President's proposition. It would be manifestly impossible
without gross injustice to tax carts "seen" & only seen, within
municipal limits, but on further consideration, I think we
might pass the Bye-law as carts
known to be plying
for hire on roads make the
Municipality
Calicut.
I agree with the proposition.

The Governor in Council
is prepared to sanction
a Bye Law ^{worded as follows} in substitution
of ~~that~~ ^{Bye Law 8.} submitted for
approval in the
letter from the President
of the Patent Municipal
Commission d/6th
July 1867.

"Every cart or carriage habitually
plying for hire within Municipal
limits, shall be taxed in
the same manner as if
such cart or carriage were
kept within the defined
limits." - Res.

To the President of the M. Com. in
Kolkata. } despatch

Calcutta, 1868

3.4.

Feb 1868. Department.

No. 524.

PROCEEDINGS OF GOVERNMENT.

Dated *May* 1868.

1868

22 Apr 1870