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MADRAS RECORD OFFICE.

Government of Madras.

Police DEPARTMENT

G.O. No. 1152	Press Mis.
Dated 2-2-37	10/37

Not to be folded or roughly handled

*Proceedings of the Madras Government, Public Department,
22nd October 1869.*

No. 92. Read the following letter from the Acting President of the Cochin Municipal Commission, to the Chief Secretary to Government, Fort Saint George, dated Calicut, 28th September 1869, No. 31.

At the request of the Vice-President and Municipal Commissioners of Cochin,
From Vice-President, 18th Aug. 1869, No. 53, with two enclosures. I have the honour to forward, for the Orders of Govern-
From Vice-President, 10th Sept. 1869, with one enclosure. ment, the papers marginally noted. The facts of the case seem to be as follow :—

2. In accordance with the Government Order, dated the 22nd August 1867, No. 1039, certain buildings formerly used by the Military Detachment stationed at Cochin were made over to the Municipal Commissioners in order that they might be converted into Police Offices. These buildings were situated on an open space formerly used as a parade-ground. At the back of the buildings were a line of Portia trees, under whose shade the sepoys used to clean their arms.

3. Some emergent work to prevent the encroachment of the sea being necessary, Mr. O'Shaughnessy, the Executive Engineer, applied to the Tahsildar for permission to cut the trees for the work. Leave was granted and the trees were felled. The Vice-President having apparently heard that the trees were to be cut down, informed the Executive Engineer that, as they were Municipal property, he would not allow them to be felled. Mr. O'Shaughnessy appears to have considered that the trees being Government property, and the permission of the Tahsildar obtained, the Municipal Commissioners had no authority to interfere, and accordingly went on with the work. The Municipal Commissioners then applied to the Police, who refused to act except under the orders of the Magistrate.

4. The Municipal Commissioners request the Orders of Government on two points :—

1st.—The right of the Municipality to these Portia trees, and to the parade-ground on which they were growing.

2nd.—The position of the Police in relation to the Commissioners.

5. With regard to the first point, I have the honour to observe that Government in their Order, dated the 5th April 1869, No. 432, made over to the Municipal Commissioners all avenue trees on district roads within the Municipality. The Commissioners in their first Proceedings argue that as the parade-ground is a public thoroughfare, and that as Government have surrendered to the Municipality all open ground through which the public have a right of way, the trees are clearly the property of the Municipality. I am unable to concur in the arguments of the Commissioners. If their view of the case be maintained, it follows that, as the public have a right of way through all open Government ground, all such ground in the Cochin Municipal limits has been vested in the Municipality. I cannot think that this was the intention of Government when making over to the Commissioners avenue trees on district roads, and, as this parade-ground does not appear to have been specially made over to the Commissioners, it appears to me that it is still the property of Government. The Commissioners contend that the ground was necessarily made over to them when the buildings were transferred, but as nothing was said about the ground at the time, I think the Commissioners' argument cannot be upheld.

*Proceedings of the Madras Government, Public Department,
22nd October 1869.*

6. In their Proceedings, dated the 9th September 1869, the Municipal Commissioners put forward an additional reason for claiming the land. They state that the old parade-ground is virtually a square, and that, therefore, by Section 11 it was made over to the Municipality on the introduction of the Act. I cannot agree with the Commissioners that the definition is applicable, and do not, therefore, consider that they have a claim to it under that Section. Government, however, in their Proceedings, dated the 30th January 1860, No. 132, allowed the inhabitants to use the parade-ground for the purpose of recreation when not required by the troops, and, therefore, if, on public grounds, its transfer to the Municipality is advisable, an application should be submitted, and if good cause is shown Government will doubtless make over the land.

7. At the same time I am not at all prepared to support the action of the Tahsildar. Cochin is not, I am informed, so well-wooded that the loss of these trees would be scarcely felt, and as they were growing on an open green such as the parade-ground must be, I think the Tahsildar would have evinced more judgment had he declined to grant permission for the trees to be cut down.

8. As regards the second point no remarks of mine seem necessary. The Police being under the orders of the Magistrate, can only be put in motion through him.

No. 93.

ORDER THEREON, 22nd October 1869, No. 1452.

With the foregoing letter the Acting President of the Cochin Municipality submits certain papers relative to the felling of some Portia trees within the limits of the Cochin Municipality by the Executive Engineer, without reference to the Municipal Commissioners.

2. It appears from the papers that some timber was urgently required by the Executive Engineer, Mr. O'Shaughnessy, in connexion with the groynes under construction at Cochin, and that, with the permission of the Tahsildar, he cut down the Portia trees on the parade-ground in rear of the Police Station-house. The Vice-President endeavoured, both by written and verbal messages to the Tahsildar, and through the Police, to prevent the cutting down of the trees, but failed in doing so.

3. The Acting President, therefore, solicits the decision of Government on two points:—

1st.—The right of the Municipality to the Portia trees, and to the parade-ground on which they were growing; and

2nd.—The position of the Police in relation to the Commissioners.

4. Referring to the first point the Governor in Council is of opinion that the parade-ground and the Portia trees growing on it should be regarded as having been transferred to the Cochin Municipality on the introduction into that town of Act No. X. of 1865, and that the Tahsildar of Cochin had no right whatever to pass an order for felling any of the trees on the parade-ground, without obtaining the consent of the Municipal Commissioners for so doing.

*Proceedings of the Madras Government, Public Department,
22nd October 1869.*

5. With reference to the second point the Municipal Commissioners will be informed that the Police are under the orders of their own Officers and the Magistracy.

6. The Governor in Council considers the Tahsildar of Cochin, Mr. M. A. Platel, is much to blame in having, in opposition to the appeals of the Vice-President, permitted the felling of the trees; and Mr. O'Shaughnessy, the Executive Engineer, is also to blame for not having desisted from cutting down the trees pending a reference to Government.

(True Extract.)

R. A. DALYELL,
Actg. Secy. to Govt.

To the Acting President of the Cochin Municipal Commission,
with enclosures returned.

„ Public Works Department.
„ Inspector-General of Police.

Exd. J. Wright.

Public Department.

Memorandum on a letter from
the Acting President of the Cochin
Municipal Commission, dated 28 Sept/69, No. 31.

At the request of
the Vice President of the
Cochin Municipality, the
Acting President submits
for the orders of Government
certain papers having re-
ference to the felling of
some Portia trees within
Municipal limits without
reference to the Commission-
ers.

2 It appears that the
Executive Engineer, Mr.
H. S. S. S. S., required
some trees in connection
with the groynes under
construction at Cochin to
protect

Govt. of India

PUBLIC.

THE ACTING PRESIDENT OF THE
COCHIN MUNICIPAL COMMISSION.

Esq.,

Dated October, 22nd.

Recd.

Recd.

G. O., 22nd October 1869, No. 1452.

OCTOBER.
Nos. 32-93.

Communicating the decision of Government
respect to the right of the Municipality to cut
Portia trees which have been cut down, and
purchasing ground on which they were growing, and
the position of the Police in relation to the Co-
missioners.

protect a portion of the Town
from the encroachments of
the sea. The trees were
upon ground situated within
Municipal limits. But
the Executive Engineer
who is ex-officio a member
of the Municipality, applied
to the Tahsildar, who au-
thorized him to fell the
trees. The Municipal Com-
missioners endeavoured to
put a stop to the felling,
but failed in doing so.

3. The Acting President
therefore solicits the Orders
of Government on two points.

1st. The right of
the Municipality to the
Portia trees, and to the
Parade ground on which
they were growing.

2nd. The position of
the

the Police in relation to
the Commissioners.

4. According to Section
XI of the Town Improvement
Act, "all public highways
in any Town (not being
the property of, and re-
-paired by, and kept
under the control of, the
Government, and not
being private property)
existing at the time the
Act comes into operation
* * * * shall vest in, and
belong to the Municipal
Commissioners and their
successors."

5. When a Detachment
of Native Infantry was
stationed at Cochin, the
parade ground was exclu-
-sively under the control
of the officer commanding
the

the Detachment. But in 1860 the Government allowed the inhabitants of Cochiti a full right to resort to the green for recreation and exercise, when the green was not occupied by the Troops.

6. Since the removal of the Detachment certain buildings occupied by the Detachment were made over to the Municipal Commissioners to be converted into Police Offices.

7. The Municipal Commissioners argue that as the Parade-ground is a public thoroughfare, and that as Government have transferred to the Municipality all open ground through

* Order of 30 July 1860, No 152.

19

through which the public have a right of way. The trees were clearly the property of the Municipality. The acting President is unable to concur with the Commissioners, and he adds:-

"If their (the Commissioners') view of the case be maintained, it follows that as the public have a right of way through all open Government ground, all such ground in the Cochiti Municipal limits has been vested in the Municipality. I cannot think that this was the intention of Government when making over to the Commissioners Avenue trees on

on District Roads; and, as this Parade ground does not appear to have been specially made over to the Commissioners, it appears to me that it is still the property of Government.

The Commissioners contend that the ground was necessarily made over to them when the buildings were transferred, but as nothing was said about the ground at the time, I think the Commissioners' argument cannot be upheld."

8. It is shown in the papers circulated that the Conservancy of the Parade ground is undertaken

I agree with the
Commissioners.

M. A.

The parade ground and the Portia trees growing on it should be regarded as having been transferred to the Municipality and the Tahsildar had no right to pass any order for felling any of the trees.

W. D. G.

undertaken by the Municipal Commissioners, if this be the case, the Tahsildar of Jochin ought to have consulted them before he authorized the felling of the trees. The District President, however, does not support the action of the Tahsildar.

9. All that seems necessary now is to make over the Parade ground and the trees growing thereon to the Municipal Commissioners, it being desirable for the efficient conservancy of the Town that the ground in question should be under their control;

and

and that the Commis-
sioners be informed
that the Police are under
the orders of their own
Officers and the Magis-
trates.

Yes. But I must
know the names
of the persons
who were arrested
by the Police
and I am directed
to write down the
names of the
persons who
were arrested.

A. A.
W. J.

1/11/69

Memo. regarding the
claims of the Mount
Courts of Cochin to some
Portia trees, and the
relative position of
the Courts & the Portia.

(7)

Public Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter

from the
Acting President Cochin
Municipal Commission.
(Here enters 28th Sept. 1869, No. 1.)

Order thereon 22 October 1869, No. 1452

With the foregoing
letter the Acting President
of the Cochin Municipality
submits certain papers
relative to the felling of
some Portia trees within
the limits of the Cochin
Municipality by the Executive
Engineer, without reference
to the Municipal Com-
missioners.

2. It appears from the
papers that some trees
were urgently required
by the Executive Engineer,
and

copy
taken

Mr. O'Shaughnessy, in
consultation with the groynes
under construction at Cochin,
and that, with the permis-
sion of the Sahildar,
he cut down the Portia
trees on the parade ground
in rear of the Police Station
House. The Vice President
endeavoured, both by
written and verbal message
to the Sahildar, and
through the Police, to prevent
the cutting down of the
trees, but failed in
doing so.

4. The Acting President,
therefore, refers the decision
of Government on two
points:

1st The right of the
Municipality to the Portia
trees, and to the Parade
ground on which they
were growing; and,

2nd The position of
the Police in relation to
the

17 4

the Commissioners.

4. Referring to the first
point the Governor in
Council is of opinion that
the Parade ground & the
Portia trees growing on it
should be regarded as having
been transferred to the
Cochin Municipality on the
introduction into that town

of Act No. 1 of 1865, and
that the Sahildar of Cochin
had no right whatever to pass
an order for felling any
of the trees on the parade
ground without obtaining the
consent of the Municipal
Commissioners for so doing.

5. With reference to the
second point the Municipal
Commissioners will be informed
that the Police are under
the orders of their own
Officers & the Magistrate.

6. The Governor in Council
considers

consider the Sabudary
 Cochin, Mr. A. A. K. is
 much to blame in having in
 opposition to the appeals of the
 Vice President, permitted
 the felling of the trees, and
 Mr. O'Hanlon, the
 Executive Engineer, is
 also to blame for not
 having decided upon
 cutting down the
 trees pending a
 reference to Government.

Dated

Recd.

186, No.

To

Govt. of 186 : 200000.

[Signature]

52. 110

To the Acting President of
 the Cochin Municipality
 with enclosures
 Public Works Dept.
 City of Cochin

The blame is to be
 Cochran's to the
 Porter the
 by order of the
 of day -

Count of 118691 M. Adams.
 Public

To
 Mr. J. P. S. of the
 Cochran's
 Adams.
 of day.

Dated Oct. 22
 Recd. 1869, No. 1182

Nos. 92 & 93.

Among the
 of 5000 in request of the
 by the
 to the
 have been out during the
 have been around on which
 they were growing, & the
 position of the hills in
 relation to the (Cochran's)