

ORDINARY, MS.

Public ☒ DEPARTMENT.
G.O., DATED 24-11-90
No. 810

When given for copying

[Despatch Abstract].

Recording Revenue Dept to Hon.
recording letter from the Govt
of India explaining the
term "dispensatory discon-
tinuation" used in Section III,
rule 3(12) of the Govt of India
Petition rules.

FURTHER PAPER, No. 105

OF 18

1932/93

READ AGAIN ORDER OF GOVERNMENT, DATED
18, No. MISCELLANEOUS.

ENCLOSURE.

CURRENT No. 3389

STATEMENT WITH DITTO.

ORDER OF GOVERNMENT.

A A

STATEMENT WITH DITTO.

PAPER NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL (not paged).

N.B.—

- A = Copy in full.
- B = Not to be copied.
- P = Copy abstract only.
- Q = Copy heading only.

30TH OCTOBER 1890, No. 851, REVENUE.

GOVERNMENT OF MADRAS.
REVENUE DEPARTMENT.

READ—again the following G.O., dated 7th August 1890, No. 4856, Mis., Revenue:—

Read—petition from SUBRAMANYA SOMAYAZULU, an Inamdar of Langamiswa-
ram village, Kúdligi taluk, Bellary district, dated 12th July 1890.

ABSTRACT.—Submitting, for transmission to the Government of India, a memorial praying
for the refund of assessment collected on his inam lands.

Order—dated 7th August 1890, No. 4856, Mis., Revenue.

Ordered that the petition be forwarded to the Government of India and that the
petitioner be informed of its despatch.

(True Extract.)

(Signed) C. A. GALTON,
Secretary to Government.

To the Petitioner.

READ—again the following letter from the Secretary to the Government of Madras,
Revenue Department, to the Secretary to the Government of India, Revenue
and Agricultural Department, dated 7th August 1890, No. 4856-A.

I am directed to forward, for the orders of the Government of India, the accom-
panying petition from one Subramanya Somayazulu of the Bellary district. The
petitioner appeals against an order of this Government, dated 14th January 1890,
declining to comply with his request to be granted a refund of assessment collected on
his inam lands.

2. The inam was attached in 1862, as the petitioner had failed to answer the
usual notice to appear and file the required statement before the Inam Deputy Collec-
tor. It remained under attachment until 1865, when it was ordered to be fully
assessed. No steps were taken by the petitioner to recover the inam until 1886, when
he brought the matter forward. In the following year the Inam Commissioner issued
a title-deed in favor of petitioner, on the ground that he had filed the necessary state-
ment a few months prior to the issue of the order assessing the inam in full, and as the
delay in filing his petition was said to have been due to his illness. The Commissioner,
however, declined to allow any refund of the assessment collected on the inam before
1887, and the petitioner appealed to this Government against the said order. His
Excellency the Governor in Council declined to interfere as he considered that suffi-
cient indulgence had already been shown to petitioner by the enfranchisement of his
inam. The petition, now forwarded, contains an appeal against this order, but I am
to say that His Excellency the Governor in Council has no recommendation to make
on petitioner's behalf.

3. I am further to state that, in the opinion of His Excellency the Governor in
Council, the present matter is one to be left to the discretion of the local Government,
but that the petition is forwarded to the Government of India as the wording of section
III, 3 (12) of the India Petition Rules is somewhat vague. I am to ask that the
Government of India may be moved to define the term "dispensatory discretion."
His Excellency the Governor in Council considers that the object of the rule is to
empower local Governments to withhold petitions appealing against their refusal to
exercise any of their discretionary powers, but the addition of the word "dispensatory,"
if strictly interpreted, curtails to a great extent the practical effect of the rule. If,
for example, a local Government declined to dispense with some condition on which a

man's retention in office depended, the rule in question would clearly apply, and no appeal would lie to the Government of India. His Excellency the Governor in Council is not, however, of opinion that it was ever intended to confine the action of the rule to cases where some condition is not dispensed with, and I am to request that the exact meaning of the terms used may be explained.

READ—also the following letter from J. W. P. MUIR-MACKENZIE, Esq., C.S., Under Secretary to the Government of India, Revenue and Agricultural Department (Revenue), to the Secretary to the Government of Madras, Revenue Department, dated Simla, the 3rd October 1890, No. 1077-1—55 R. :—

In acknowledging the receipt of your letter, No. 4856-A., dated 7th August 1890, submitting a petition from Subramanya Somayazulu of the Bellary district in which he prays for a refund of the assessment collected on his inam lands, I am directed to say that the Government will not interfere in behalf of the petitioner, who may be informed accordingly.

2. With regard to the definition of the term "dispensatory discretion" in section III, 3 (12) of the rules for the transmission of memorials to the Government of India, I am directed to invite a reference to paragraph 3 of Government of India Foreign Department letter noted on the margin, to the address of the Chief Secretary to the Government of Madras, in which the

Dated 18th August 1890, No. 2757 I.

term has been explained. For the rule to apply there must be a discretion vested in the local Government by a law or rule to waive or dispense with some qualification or condition and the local Government must have declined to waive such qualification or condition. An appeal to be admissible must be against such refusal only.

3. The accompaniments of the petition are returned.

ORDER—dated 30th October 1890, No. 851, Revenue.

Miscellaneous.

Recorded.

2. With reference to his petition to the Government of India, dated the 12th July last, Subramanya Somayazulu of the Bellary district is informed that that Government has declined to interfere on his behalf.

(True Extract.)

Secretary to Government.

To the Petitioner (paragraph 2), with 7 enclosures.
Copy to the other Departments of the Secretariat.

Public Department

APPENDIX.

EXTRACT from letter from the Under Secretary to the Government of India, Foreign Department, to the Chief Secretary to the Government of Madras, dated 18th August 1890, No. 2757-I.

3. With reference to paragraph 15 of your letter, I am to say that rule 3 (12), section III of the rules regarding petitions to the Government of India, can only be applied to cases in which a discretion has been reserved to Government by some law or rule to dispense with some requirement or qualification.

Exd. A. Aubert.

80 Copies.

India

vide Pub. C. No.
4057/1891

Li. Se

Public Cr 3307.
 18/11/89
 3/9/90 No. 427 Pol. C.

Govt. of (1890) Madras.
REVENUE.

Issued

Recd. 17/11/90

Encl.

4 X.C. P.

G.O., 30th October 1890, No. 851.

OCTOBER.

Government of India Petition Rules.

Letter from the Government of India explaining the term "dispensatory discretion" used in section III, rule 3 (12) of the —, recorded.

Order 24 Nov/90 No 870

Recorded.

J. S. B.

for C.S.

22/11.

Date taken out.

FOR WHAT PURPOSE.

Department

C. No.

Year.

Initials of clerk taking the paper or of attender.

Date returned.

Initials of attender.