

Government of Madras.

Public (190¹⁸⁹²) Department.

ORDINARY MIS.

G.O., No. 308

DATED 6-5-92

[Despatch Abstract.]

Communicating to the Registrar-General of Births, Deaths and Marriages, opinion of the Advocate General that the Registrar-General of Births, Deaths and Marriages is not empowered to scrutinize validity of and to reject certificates of marriage sent to him by licensed ministers of religion; that ministers of religion licensed under section 6 of Act XV of 1872 cannot solemnize marriages in Native States and that the Rev. Mr. Parker writes that solemnizing a marriage in Pondicherry under the Indian Marriage Act is not a crime.

No 682 & 826.

From Registrar General of B. & A. marriages.

Dated 24th March

1892

FOR ORDERS.

With the sole question whether the statement
that the certificate should be signed by the
Registrar General? What power has that officer
to examine the validity of marriages for
which certificates are sent him? This is a
question of a marriage solemnized by a
minister under the 5th. The marriage may
be valid or invalid, but being so registered
is treated with regard to its validity.

I am not at all clear that the marriage
in this case would be held to be invalid.
The Registrar General has no power to
examine the validity of marriages solemnized
by a minister under the 5th. The marriage
may be valid or invalid, but being so
registered is treated with regard to its
validity. The Registrar General has no
power to examine the validity of marriages
solemnized by a minister under the 5th.
The marriage may be valid or invalid, but
being so registered is treated with regard
to its validity. The Registrar General has
no power to examine the validity of
marriages solemnized by a minister under
the 5th. The marriage may be valid or
invalid, but being so registered is treated
with regard to its validity.

I submit that the certificate referred to
by the S. G. is not a valid one and
must therefore be rejected.
The marriage to which it relates was solemnized
or rather the marriage ceremony was performed
through at Sudbury where it took place
in the presence of the administration of
the Master of the Court and the Registrar General
- the Rev. Mr. Parker who was
the officiating clergyman held a license
for the performance of marriages in
the parishes subject to the jurisdiction of
the Bishop of the Diocese of London
which was no doubt issued under
the administration of that Bishop. He was
therefore competent to solemnize the
marriage which has given rise to this
question. The question of what is to be
done in such matters is quite in this
particular case has not been raised
and therefore appears to call for no further

X
30 March

Marriages in Pudukottah
Territory

Howell's No. 1158

P. 4/4

682
6
1
REGISTRATION DEPARTMENT
(BIRTHS, DEATHS AND MARRIAGES).

No. 34

From

M.R. BY. S. SRINIVASA RAGHAVAIYANGAR, AVARGAL,

DEWAN BAHADUR,

REGISTRAR GENERAL OF BIRTHS, DEATHS AND MARRIAGES,

Madras,

To

The Honorable J. F. Price.

CHIEF SECRETARY TO GOVERNMENT,

Fort St. George.

Kuppam, the 7th March 1892.

SIR,

I have the honor to report the following case for the orders of Government.

Two licences (copies enclosed) under the Christian Marriage Act XV of 1872 were issued by Government on the 11th August 1876 to the Reverend L. J. Pasler, under sections 6 and 9 of that Act. The first license authorizes the Reverend L. J. Pasler, stationed at Poodocottah to solemnize marriages "within the territories subject to the Government of Madras" and the

Second authorizes the same gentleman, stationed at Poodocottah to grant Certificates of marriages between Native Christians "within the territories subject to the Government of Madras."

3. A doubt has arisen as to whether these licenses were intended to be in force in British Territory or within Poodocotta State or both. As regards the license granted under section 6 the words used in the licence to define the local limits within which the power granted is to be exercised are "territories subject to Government of Madras" while the words used in the section itself to denote British territory are "the territories under its (the local Government's) administration". If it was intended that the license was to be in force in the Poodocottah State, the grant of the license would seem to be ultra vires as until section 6 of Act XV of 1872 was amended by Act II of 1891, the law did not make any provision for the grant of licenses to ministers of religion to solemnize marriages in Native States. As regards licenses to grant Certificates of marriages between Native Christians, the Government under sections 9 and 86, has had all along power to grant such licenses to have force in British India

as well as in the Native States. The meaning in the present case is, in the meaning of the words "territories subject to the Government of Madras."

4. Reverend L. T. Päsler has forwarded to me a Certificate of marriage solemnized by him at Poodocottah on 25th November 1891, between "British Subjects".

I enclose a copy of it. As the parties to the marriage are British Subjects, section 9 of the Act does not apply, and the marriage must have been solemnized under section 6. The Government, however, as already observed, had no power to issue a license to ministers of religion to solemnize marriages in Native States, when the license granted to Reverend L. T. Päsler, was issued, but they had this power under Act II of 1891 when the marriage in question was solemnized.

5. In these circumstances, I beg to be instructed as to whether the Certificate of marriage forwarded by the Reverend L. T. Päsler may be recognized as a v

G.O. 11870 W 209 Eccl. Div. 9

Certificate and Submitted to the Secretary
of State for India and otherwise dealt with in
with the provisions of Section 7 of Act VI
of 1886.

I have the honor to be,
Sir

Your most obedient servant

Munimasa Raghunayagun
Registrar General of
Births Deaths & Marriages

2nd

502

His Excellency the Governor of Madras
in Council, under and by virtue of the authori-
ty contained in and conferred by Section 6
of Act No. 25 of 1872, passed by the Governor
General of India in Council and entitled
"The Indian Christian Marriage Act 1872"
hereby licenses the Reverend Ludwig Traugott
Päster, Leipzig Evangelical Lutheran
Mission, stationed at Pudukottai to solemnize
marriages within the territories subject to
the Government of Madras in accordance
with the provisions of the said act.

As witness the hand of His Grace
the Duke of Buckingham and Chandos
Governor of Madras in Council, this
eleventh day of August 1876.

(Signed) Buckingham & Chandos.

(True copy)

Munimasa Raghunayagun
Registrar General of
Births Deaths & Marriages

2nd

Don't give

Gift of the Hon. Secy. to Govt. of Madras
11

His Excellency the Governor of Madras in Council, under and by virtue of the authority contained in and conferred by Section 9 Part I of Act No. XV of 1872, passed by the Governor General of India in Council, and entitled "The Indian Christian Marriage Act, 1872" hereby licenses the Reverend Ludwig Traugott Paster, Leipzig Evangelical Lutheran Mission Stationed at Pudukottai to grant Certificates of marriage between Native Christians in accordance with the provisions of the said Act, within the territories subject to the Government of Madras.

As witness the hand of His Grace the Duke of Buckingham and Chandos Governor of Madras in Council, this Eleventh day of August 1876.

(Signed) Buckingham & Chandos
True copy

Exdmd

Registrar General of Births &c

Register Book

13

No	When married		Name of Parties		Age	Condition	Rank or Profession	Residence at date of marriage	To what Church and Society
	By	at	Christian	Surname					
40	25	Nov 1891	George Edward	James	28	Bachelor	Band Sergeant	Padukota Trichinopoly	John James Melbourn Wesleyan Methodist
7									

Married in the Evangelical Lutheran Church at ?
(Signed) G. Baerle

Minister of the Ev. Lutheran Church (Trichinopoly)

This marriage was solemnized between us

(Signed) George Edward James

(Signed) Matilda Jennings also with

in the presence of us

(Signed) J. R. James

(Signed) William Henry also with

(True copy)
G. Baerle

Entered as to in Registrar's Book

(Signed) Geo. Allen

British born subjects
Don't forget

Public (1892) Department
(Registration of Births, Deaths
and Marriages)

From

The Registrar General of
Births Deaths & Marriages
Madras

The Chief Secretary to
Government
Fort St George

Attd 7 } March 1892
Received
12th

T. No. 34.

Encls. 2.

No.

CHIEF SECRETARY
10 MAR 92
Subject.

Submitting copies of two
... granted to the ...
... and requesting
... as to whether
certificates of marriages
... may be re-
... and
submitted to the Secretary of
State for India.

NO
Ref 1718 March 1, 2nd 575

The Regr: Genl. is re-
quested to report whether
it is certain that the
marriage did take place
in Pudukottai Taluk.
The certificates do not
show where it took place.

/Fr: orders of C.S./

G.D.B.

for S.D.

17/3/92

Regr: Genl. B. & C.

DESPATCHED

10 MAR 92

IN M.S.

CURRENT No. 682

[9]

Public DEPARTMENT.



From The Registrar General
of Births, Deaths & Marriages,
Madras

J. No. 34

Dated 7th }
Received 10th } March 1892

Enclosures Three

SUBJECT.

Enquiring whether a certificate
of marriage forwarded by the Rev.
C. J. Padar may be recognized as a
valid certificate.

REGISTRATION DEPARTMENT
(BIRTHS, DEATHS AND MARRIAGES).

J. No. 44

From

M.R. RY. S. SRINIVASA RAGHAVAIYANGAR, AVARGAL,
DEWAN BAHADUR,
REGISTRAR-GENERAL OF BIRTHS, DEATHS AND MARRIAGES,
Madras.

To

The Honorable J. F. Price,
CHIEF SECRETARY TO GOVERNMENT,
Fort St. George.

Dated. Radiri, the 21st March 1892.

SIR,

Adverting to your reference of
of 1892. Public department dated 18th inst.
on my letter of the 7th idem J. No. 34,
have the honor to enclose a copy
letter dated 2nd February 1892 from
Registrar of the Trichinopoly District
from which it will be seen that
marriage in question was solemnized

The Rev. L. T. Pasler at Poodacottah

I have the honor to be

Sir,

Your most obedient servant

~~Rumana~~ R. R. R.
Registrar General of
Births, Deaths & Marriages.

4/11/92

Trichinopoly 2nd February 1892

From

G. A. Salisbury Esq^r
Marriage Registrar

Trichinopoly

To

Mr. R. R. S. Srinivasa Raghanaiaiyar Esq^r
Dewan Bahadur

Registrar General of Births, Deaths
& Marriages

Madras

Sir

I have the honor to enclose copies
of Licenses granted to Mr. T. Pasler
under Sections 6 and 9 of the Indian
Marriage Act. The marriage
in question was solemnized at Pooda-
cottah. As this office has not been
supplied with a copy of Act II of 1891
and Act VI of 1886, I have the honor to
request you will kindly inform me
whether I may purchase the said Acts
and include the price in my contingent
charges account to the Collector.

I have &c.

(True Copy) Rumana

4/11/92

R

WITH REMARKS

4/4

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A1X

1000

Imp. No. 826/92

2
04-1079/92

Form C107-1
(Registration of Births Deaths
and Marriages.)

From
The Registrar General of
Births Deaths and Marriages
Madras.

To
The Chief Secretary to
Government.
Fort St George.

Dated 21st } March 1892.

Received

Regd 24/3/92

CHIEF SECRETARY
24 MARCH 1892
L. No. 44
Enclosure. (One)

No.

Subject.

Forwarding copy of letter from
the Marriage Registrar of Trichy
dated 6th February 1892
reporting that the marriage in
question took place at Poodu-
ottah.

Currents 682 and 826

Refce

77 April 1892

The papers will be
forwarded to the Govt
Solicitor for an expression
of the Advocate General's
opinion on the following
points:-

- (1) Whether the Registrar
General is empowered to
scrutinise the validity
of, and to reject, certifi-
cates of marriage sent
to him by licensed min-
isters of religion.
- (2) Whether ministers
of religion licensed by a
local Govt: under Sect.
6 of Act XV of 1872 can
solemnise marriages
in native States or outside
the territories under the
administration of the
local Govt: which li-
censes them.
- (3) Whether the Revd. Mr.
Päster could solemnise
a marriage in Pudu-
cotta under the license
granted to him.
- (4) Whether the marriage
in question is valid
or not.

To the Govt: Solicitor }
with the papers }
20/3/92
From orders/

2
Pud: 10/8/92

Public
Memorandum No 647

77-4-92

1078
87
In the matter of Reference on Nos 682 and 826 of 1892

Public Department

memorandum
O p i n i o n

1. The validity of a marriage is not an easy question even for a Court of Law to decide, it is quite beyond the means of the Registrar General to investigate. The Legislature never could have intended to confer upon him the power of raising a doubt as to the validity of a marriage, without conferring upon him the power of settling that doubt and providing for an appeal against his decision, or protection from the disastrous effects which an error of judgment on his part would produce. No such powers have been conferred upon him, nor do they form a necessary part of his duties.

My answer to the first question put to me is that the Registrar General of births, deaths and marriages is not empowered "to scrutinize the validity of, and to reject, certificates of marriage sent to him by licensed ministers of religion"

2 Section 6 of Act XV of 1872 confines the power of a local Government to the grant of licenses to solemnize marriages within the territories "under its administration." The wording of the Section substituted for the above by Act II of 1891 Section 1 (1) discloses this limitation of power very clearly.

My answer to the second question put to me is that ministers of religion licensed by a local Government under Section 6 of Act XV of 1872 cannot solemnize marriages in Native States under and by virtue of such licenses.

3 Act II of 1891 Section 1 (3) keeps alive licenses then in force granted under the prior Act, but does not give force to any license, the grant of which was ultra vires. The local Government could not grant Mr Pasler a license under Section 6 of Act XV of 1872 to solemnize marriages in Puducottah as that is a "Native State," not territory under the administration of the Madras Government. The reference in the licenses to the fact that Mr Pasler was "stationed at Puducottah," and the substitution of the phrase "territory subject to the Government of Madras" for the words "under its administration" used in Section 6, seem to point to the conclusion that the licenses were intended to apply to Puducottah. If so, such a grant was ultra vires, therefore Act II of 1891 Section 1 (3) does not apply.

My answer to the third question put to me is that the Revd Mr Pasler could not solemnize a marriage in Puducottah under the license granted to him.

4 It does not necessarily follow from the above answer that the marriage now in question is void. The certificate does not state that the marriage was solemnized at Puducottah under the license above referred to, but assuming that it was, I do not think that the validity of the marriage is affected thereby. The marriage was solemnized by a "Minister of Religion licensed under the Act to solemnize marriages" It was therefore not solemnized otherwise than in accordance with the provisions of Section 6, and it is therefore not void.

My answer to the fourth question put to me is that the marriage in question is valid.

(Signed) J H Spring Branson,
Advocate General

(True Copy)

Ernest Bantley
Government Solicitor.

*For Mr. Hunter's
personal
Gazette of
India Vol. II
p. 258.*

*c. Macorras
13 April 1892*

Public
Judicial (1892) Department

From Ernest Barclay,
Government Solicitor,
Maoras.

To The Chief Secretary to
Government
Judicial Department
Maoras

Submitted to H. M. with reference to
his M.O. dated 2nd April
28 June

The following is a list of the
cases which have been referred to
the Registrar for his opinion
and recommendation.
The cases are as follows:
1. The case of the Registrar
against the Registrar.
2. The case of the Registrar
against the Registrar.
3. The case of the Registrar
against the Registrar.
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against the Registrar.

No. 142
Dated 19th April 1892
Recd. 20/4/92
Regd 20/4/92
Encls. 8

Forwarded with Enclosure
with reference to the order of
Government dated 7th April 1892
at 647 Judicial Department

Ernest Barclay
Government Solicitor.

e. 29/4
R: 1/5

Public Dept 33

Current 682, 820, Reg
d 7.4.92, & current 107.

Order 6 May 92 at 308.

Copies of the Reference
of the 7th April and of
the advocate General's
opinion dated the 13th
idem will be sent
(confidentially) to the Reg.
General for guidance.

2. Revised licenses
will be issued to the
Rev. Mr. Paster under
separate orders.

/from orders/

5 May

80388

Registrar General of
B. & L.

DESPATCHED

9 MAY 92

M.S.

in double copy.

18
Form No. 382
4-692

27-5-92

ORDINARY, MS.

Pulley DEPARTMENT.
G.O., DATED *6-5-92*
No. *308*

INDEXED.

When given for copying

[Despatch Abstract.]

Com. to the Registrar for
Deaths & Marriages of
the Adversary for that
the Registrar is not empowered to
certify validity of a
marriage celebrated by a
minister of religion, that minister of reli-
gion licensed under sec. 6 of
Act 44 of 72 cannot solemnize
marriages in Native States
but the said Registrar is
not empowered to solemnize in
Native States, the li-
censed minister of religion, &
that a marriage
is valid.

PRINTED IN G.O., dated

28 May 1895 No. 425