

Public (1897) Department.

ORDINARY MS.

G.O., No. 1110 - 1111

DATED 23.8.97.

[Despatch Abstract.]

Enquiring of the G. of I. with reference to its letter N^o 1462 of 14th May last re the appointment of Commissions to Enquire into the Conduct of Public Servants with the previous sanction of that Gov^t, if the power of this Gov^t to dismiss officers when such power exists is not absolute.

23/8/97

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

[Pub.
29.
2,000-5-3-97.

Public (1897) Department.

CURRENT No.

H.M. & Co.

Order
A.

Communicated to the
Departments of the Secretariat
for information and guidance

From

The 4 of 3.

At one
Public.

No. 1462

Dated

Received

Registered

Enclosures

Spare copies

14

20

20

-

-

7-97

26.7.97

To

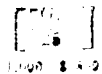
The Rev. Dept.
P. W. Dept.
Marine Dept.
L & M Dept.
Jud. Dept.
Ind. Dept.
Educ. Dept.
Poll Dept.
Ecol. Dept.

SUBJECT.

Regarding the power of
the local govt. to order
inquiries into the conduct
of officers serving under
them.

Special Order

R 31277 C 288,



Public DEPARTMENT.

C. No. 2696

H. E. THE GOVERNOR.

SUBJECT.

(1) THE HON'BLE MR. BLISS, C.I.E.

(2) THE HON'BLE MR. GROSE, C.I.E.

§ 23 of Act XXXVII of 1850
as amended by
Act I of 1897.

FOR ORDERS.

The order may be flagged A in p. 10. 11
but India's letter does not, so far as I can see,
affect this part at all -
Our power to remove officers
from their appts is not
"subject to the control of the
§ 8 in C."

Please see the notes
1189 published 17. XI. 96
Section 23 of Act XXXVII
of 1850 as amended by Act I
of 1897 runs:—

"The powers of the Government
"this Act may in all cases be
"exercised by the G. in C., and
"when the person accused
"can be removed from his
"apt by the Local Gov., those
"powers may also be ex-
"ercised by the Local Gov."

I think this is so, viz. it is
the Gov. who is to remove
the officer from his apt.
The Local Gov. may also
remove the officer from his
apt. if he is a local officer.

The Govt of India now
writes to say that a Local
Govt can under § 23 institute
an enquiry into the behaviour
of a person in the service of the Govt.

absolute power
to remove the officer
concerned from his
app't"; and that in
all cases where
this power is not
absolute, the circum-
stances should be reported
to the supreme govt for
orders before taking
any action in the direction
of appointment or removal.

As an instance in
point I India quotes
the case of Commissioner,
Dy. Commr and Dist Commr
in the Central Provinces
vide § 7 Act XVIII of 1881.

This being India's
order a draft J.O.
is submitted.

x on docket sheet of
C 2690

C.S.
26.7.97

[G.]
[25]
500-25 11 206

~~H. E. THE GOVERNOR.~~
Sd/- H.E.
(1) THE HON'BLE ~~MR.~~ BLISS, C.I.E.
(2) THE HON'BLE MR. GROSE, C.I.E.

Public Dept.

Cur. no. 2690

SUBJECT.

Act XXXVII of 1850 as
amended by
Act I of 1897.

FOR ORDERS.

Re-circulated with
reference to the note
by H.E. the Governor
dated 4.8.97,
proposing that the
Govt. of India should
be addressed.

Ak.
6/8/97. 20
7/8/97

NOTE FOR THE CHIEF SECRETARY.

Submitted to the
C.S. for perusal. The
Honble Sir Henry Bress
remarks that this fort's
power to remove officers
from their appointments
is not "subject to the
control of the G. G. in C"
appears to be correct
i.e. when fort has power
to remove, its power is
not subject to the control
of India.

It may however
be necessary to refer
to the Statutes to make
sure of this and
this will take some
time

Members of the
J.C.S. cannot be removed
i.e. dismissed from their service by the
local fort nor can
a statutory civilian
without the sanctioning
of the Govt. of India
3097

The G.O. can it is submitted,

order of the addition of a
second para. It is observed
that the power ^{of the Govt} to remove officers
from their appointments where
it exists is absolute, and is
not subject to the control of
the S. G. M. C.

In regard to H.E. the
Governor's note of 4/8/57, when
he solicited as to whether
the file should be circulated
with regard to the proposal
to address India, ~~and whether~~
~~the letter should be drafted,~~
~~or not.~~ If India
is to be addressed it
will, it is submitted, be
more satisfactory to hold
over the issue of the S. O.
till the answer is received.

AK
6/8/57

[G.]
73
300 300 26

NOTE FOR THE

In the reference to the Hon. Mr
Gowen's note d. 29/7/57
in which he says that
the point raised by the
Govt should be recorded
in the G.O., it is submitted
that the issue of the G.O.
communicating India's
letter may now await
India's reply. If it says
that the letter does not
apply to Madras the
letter may either be recorded
or simply communicated.
If India does not accept
the view of this Govt, & the
G.O. has issued, it will
be necessary to recall it.
The Hon. Mr. Gowen ^{did} not ~~mean~~
then he only contemplated
a letter to India.

AK
16/8/57

Act xxxvii of 1850 as amended
[6] by Act I of 1897.
1.0.14-6-97.

Public

DEPARTMENT.

Papers to be read in proceedings :—

Again G.O., No.	dated	189	.
Again G.O., No.	dated	189	.
Current No. 2690	of 1897, dated 14/7	, from	The Govt. of India
" "	" 1897, "	" "	" "
" "	" 1897, "	" "	" "

ORDER. W. 1110 of 23rd July 97

H.E. The Governor.

(Draft letter to the Govt. of India -
no motion)

The Govt. of India will be
addressed.

Letter W. 1110 of 23rd July 97
to the Secy to the Govt. of India.
Home Dept (Public)

Sir,

I am directed to acknowledge
the receipt of your letter
no 1462 d. July 14th 1897,
regarding the construction to
be placed on sec 23 of Act
xxxvii of 1850 as amended
by Act I of 1897.

In reply I am to
observe that the power
of the Govt. to remove an
officer from office

Where it exists, ~~appears~~ ^{will seem}
 to H.E. the Government cannot
 take absolute, and is not
 any subject to the control
 of the Government of India.
 Under the circumstances it
 need seem that in the
 cases referred to in your
 letter ^{alluded to above} ~~understandably~~ cannot
 arise ~~in the same manner~~ ^{as the business}
 the restrictions regarding
 reports to the Govt of India
 are ~~not~~ ^{to the Govt} applicable, I
 am to require whether this
 view is correct.

A.H. (from orders)

16/8/57

h3

When given for copying 25
 When copied 26 1897
 When examined 26
 When signed 27

READ AGAIN G.O., No.
 189

DATED

CURRENT No.

ENCLOSURE TO C. No.

ORDER OF GOVERNMENT

LETTER OF GOVERNMENT

STATEMENT WITH DITTO

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
 IN ORIGINAL.

N.B.—

A = Copy in full.
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 Q = Copy heading only