

Public (1897) Department.

ORDINARY MS.

G.O., No. 1187

DATED 10.9.97

[Despatch Abstract.]

Recording Proceedings, Rev: Deptt.,
on Resolution of the Govt. of I.
laying down the conditions under
which the Forest Deptt. may
charge another Govt. Deptt. for
articles extracted from state
forests.

13/9/97

BACK PAPERS.

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

FURTHER PAPERS.

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

Public Dept

Government {1897} of Madras. REVENUE.

Recd. *20 Aug 97* } 1897.
Regd. *20 Aug 97*

Enclosures —
Spare copies, —

G.O., No. 669, 3rd August 1897.

AUGUST.

Order 11878 10th Sept 97
mis.

Recorded

Forwarded to the Dept. under the Public Dept.

11878 10th Sept 97
to Dept. under the Public Dept.

Articles extracted from State Forests. *10/9/97*

Communicating to departments of the Secretariat, to the Board of Revenue and the other Heads of Departments under the Revenue Secretariat and to the Accountant-General, Resolution of the Government of India laying down the conditions under which the Forest Department may charge another Government department for —.

Note the conditions concern Department of Revenue.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

READ—the following :—

Extract from the Proceedings of the Government of India, in the Department of Revenue and Agriculture, dated Simla, the 12th July 1897, Circular No. 13—63—2-F. :—

Read—

- (i) Finance Department's Resolution No. 4145, dated the 28th July 1888.
- (ii) Circular No. 2-F., dated the 24th January 1889.

Read also the following letter in connection with a question as to whether any charge should be made in respect of *kankar* extracted by a Government department from quarries situated in a State forest :—

From M. W. FENTON, Esq., C.S., Revenue Secretary to the Government of the Punjab, to the Secretary to the Government of India, Revenue and Agriculture Department, dated Lahore, the 21st January 1897, No. 44.

I am directed by the Lieutenant-Governor to refer for the orders of the Government of India the question whether any charge should be made in respect of *kankar* extracted by a Government department from quarries situated in a State forest, and to explain as follows.

2. In the particular case which has given rise to the present reference, the *kankar* quarries are situated in unclassified State forest land in the charge of the Deputy Commissioner; but the question is a general one which affects Government forests and waste lands generally, whether under the Forest Department or managed by civil officers. Another circumstance peculiar to the present case is that the claim to extract the *kankar* free of royalty or other charge is made by the Irrigation Department not in respect of its own quarrying operations, but on behalf of contractors through whom the *kankar* is supplied. The Chief Engineer, Irrigation Department, urges that no charge should be made, pointing out that, if such a claim were insisted on, the Public Works Department might apply for and obtain surrender, without payment, of the land containing the quarry. As regards contractors, he is unable to see any distinction between the case of these and of his own officials working the quarries by direct agency.

3. From the enclosed note by the Conservator of Forests, dated 2nd instant, it will be seen that the rulings on this question issued by the Punjab Government in the past have been by no means uniform, and the question being one of general principles it should, in the Lieutenant-Governor's opinion, be referred to the Government of India. Sir Dennis Fitzpatrick's view is that one Government department, whether Imperial or Provincial, should not be charged by another for such things as *kankar*, except when the latter department is a *quasi-commercial* department and the things in question are things in which it deals as such; and, it may be added, His Honour would not hold that *kankar* or stones in a forest managed by the Forest Department were things in which the Forest Department dealt in its *quasi-commercial* capacity, though it may sell them when they happen to exist in the forest, just as a Deputy Commissioner might sell them if they existed in *nazul* land.

4. As regards contractors, I am to say that if a Government department made its bargain with the contractor on the understanding that it would procure for the contractor the same privilege in this respect that it would be entitled to claim itself if working *inam*, the contractor should not be charged for what he took for the supply of the department, but otherwise the contractor would have to pay like any other person.

Resolution—The Resolution of the Finance Department, No. 4145, dated the 28th July 1888, prescribed the conditions under which one department of the public service may charge another department for services rendered or articles supplied to it; and under this Resolution the Forest Department is included in the category of *quasi-commercial* departments maintained for the purpose of rendering particular services on payment made for services rendered or for articles supplied. These *quasi-commercial* departments are to charge other departments of Government for services rendered or articles supplied in the same way as they would charge a member of the public; provided, however, that the services or supplies are such as it is the object of the existence of the department to render or to furnish.

Under the Forest Law of India, "forest produce" practically includes all natural products found in a forest, whether vegetable, animal, or mineral.

In 1889 * it was decided that the revenue realized from quarries and minor mineral products in Government forests and lands which are under the management of the Forest Department, should be credited to "Forests"; but where such forests and lands are not under the management of that department, to "Land Revenue (Miscellaneous)."

2. The question whether under these rulings, the Forest Department is entitled to charge royalty to another department of Government upon minerals taken from the forest area, has more than once come before the Government of India; but, though it has usually been decided, on these individual references, that the Forest Department was entitled to levy a royalty on all materials supplied to other departments, no definite general ruling on the subject has yet been laid down. The Government of India now consider it desirable to issue formal orders in the matter for general guidance, in order to secure uniformity of procedure and to prevent the possibility of misunderstanding. They consider that a distinction may properly be drawn between vegetable products which strictly appertain to a forest as such, and animal products which depend for their existence either directly or indirectly upon the presence of the forest, on the one hand, and mineral products, the existence of which is independent of the fact that the land is a forest, on the other. They consider, also, that it is undesirable to extend to contractors working for a Government department, any privileges which the department itself may enjoy when operating directly by its own establishment.

3. They direct therefore that the Forest Department shall charge other Government departments for all vegetable or animal products extracted from a forest area, in the same manner in which it charges the public; and that it shall similarly charge contractors for all mineral products extracted by them, whether in behalf of a Government department or not. If a Government department extracts mineral products for sale, they also will be charged for. But the Forest Department will not charge other Government departments for mineral products extracted from a forest area by the direct agency of the department concerned, under its own supervision and without the intervention of contractors or middlemen, for its own use, and not for disposal to the public (Treasury) accounts of Government. But for statistical purposes the value of these products should be shown in the returns furnished by the Forest Department, just as the value of timber and other forest produce removed by free grantees or right-holders is already shown.

4. The ruling that certain forest products shall not be charged for if directly extracted by other Government departments for their own use, in no way confers upon such departments any right of entry upon or of working in the areas under the charge of the Forest Department. That department retains its full powers of control; and, subject to the orders of superior authority, will continue to fix and limit the localities where such extraction may take place, and to impose any conditions which it may consider necessary for the safety of its forests and the convenience of its own work.

5. The above rulings will apply, *mutatis mutandis*, to every class of forest or waste land at the disposal of Government, independently of the agency by which such land may be administered.

Order—Ordered, that a copy of this Resolution be forwarded, for information and guidance, to the Governments of Madras and Bombay, the Local Governments and Administrations noted in the margin, and the Inspector-General of Forests; and for information to the Finance Department, the Public Works Department, and the Comptroller and Auditor General.

Bengal.
North-Western Pro-
vinces and Oudh.
Punjab.
Burma.
Central Provinces.

Assam.
Coorg.
Ajmere.
Andamans.
Baluchistan.
Hyderabad.

(True Extract.)

(Signed) DENZIL IBBETSON,
Secretary to the Govt. of India.

To the Secretary to the Government of Madras,
Revenue Department.

ORDER—No. 669, Revenue, dated 3rd August 1897.

Forest No. 144.

Communicated to the Departments of the Secretariat, to the Board of Revenue and the other Heads of Departments under the Revenue Secretariat and to the Accountant-General.

(True Extract.)

for Ag. Secretary to Government,

To all the Departments of the Secretariat.
„ the Board of Revenue (Land Revenue).
„ the Departments under the Revenue Secretariat
(other than the Board of Revenue, Land Revenue).
„ the Accountant-General.

Charles F. Eccleston

Edw A F Eccleston

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READ AGAIN G.O., No.
189

DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

A A A A A A A

LETTER OF GOVERNMENT

STATEMENT WITH DUTTO

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