

Public (1898) Department.

ORDINARY PRINTED.

G.O., No. 1227

DATED 27-7-98

INDEXED.

[Despatch Abstract.]

Petitions for mercy

Directing the substitution
of certain rules for those approved.
in 36. No. 1192 Public of 11-11-96 regarding
the disposal of — addressed to this Govt.
to the Govt of India or to Her Majesty
the Queen.

T.
29/9/98

BACK PAPERS.

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

FURTHER PAPERS.

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

Government (1898) of Madras.
PUBLIC.

Recd.

Enclosures

Regd.

1898.

Spare copies

G.O., No. 1227, 27th September 1898.

SEPTEMBER.

Petitions for Mercy.

Directing the substitution of certain rules for those approved in G.O., No. 1192, Public, dated 11th November 1896, regarding the disposal of — addressed to this Government, to the Government of India or to Her Majesty the Queen.

GOVERNMENT OF MADRAS.

PUBLIC DEPARTMENT.

ORDER—No. 1227, Public, dated 27th September 1898.

Under the authority vested in him by sections 28, 24 and 25 Victoria Cap. 67, (The Indian Councils Act, 1861), His Excellency the Governor is pleased to direct that the following rules be substituted for those approved in G.O., No. 1192, Public, dated 10th November 1896:—

(1) Petitions for mercy from convicts under sentence of death addressed to the Governor in Council shall be circulated to His Excellency the Governor and the two Civil Members of Council.

(2) Similar petitions addressed to the Government of India, which can be forwarded so as to reach the Government of India 24 hours before the time fixed for the execution, shall be transmitted to the Government of India on the authority of the Chief Secretary without circulation of the papers. Any similar petition, which cannot reach the Government of India within such time, shall be circulated to His Excellency the Governor and the two Civil Members of Council for orders as to whether it clearly contains nothing which is likely to cause the Government of India to take a view of the case different to that taken by the Government on the petition addressed to it by the convict.

(3) Petitions for mercy from condemned prisoners addressed to Her Majesty the Queen-Empress, which are copies of those already considered by this Government or the Government of India, may be withheld on the authority of the Chief Secretary without circulation of the papers. In other cases such petitions shall be circulated to His Excellency the Governor and the two Civil Members of Council for orders.

(True Extract.)

G. STOKES,
Chief Secretary.

To all Departments of the Secretariat.

C. No.

SUBJECT.

Disposal of petitions for mercy.

FOR ORDERS.

Please see the rules in G.O. No. 1192, Public, dated 10th November 1896 regarding the disposal of petitions for mercy addressed to the Govt. of India or Her Majesty the Queen. The Public order amending the rules under the Indian Council's Act was drafted from notes recorded in G.O. 156, Judl., dated 30th September 1896, flag P, to which a reference is invited. The point there submitted for orders was whether the Chief Secretary should be authorized to dispose of petitions addressed to the Govt. of India or Her Majesty the Queen "in cases on which the conditions as to transmission have been clearly and ~~undoubtedly~~ ^{undoubtedly} fulfilled". These words are understood to mean "in cases where the petition cannot be forwarded to the addressee in time to reach before the date fixed for execution, and where there is nothing in the petition likely to induce the Govt. of India or Her Majesty the Queen to interfere".

to interfere". His Excellency the Governor assented to this Delegation of authority to the C.S. and the original draft in G.O. 1192, Public, dated 10th November 1896 followed this line. In the notes in the last quoted G.O. however, it was decided that the question whether a petition contains anything which would make the Govt. of India or Her Majesty likely to interfere should be submitted for the orders of H.E. and H.Ms. This direction has ever since been carried out, except in the case of petitions for mercy addressed to Her Majesty which are received at the same time as petitions to the Govt. of India.

If the petition to the Govt. of India is received in time to allow of an answer to being received before the date fixed for the execution, the C.S. forwards it, at the same time disposing of the petition to Her Majesty by a routine order declining to forward it.

This procedure would appear to be, strictly speaking, contrary to rule, for there is nothing in the rules as they stand authorizing the C.S. under any circumstances to withhold a petition for mercy. It is submitted, however, that the present practice is a convenient one. A petition to Her Majesty can under no circumstances reach England in time for a reply to be received before the execution, and the Govt. of India has stated clearly enough that such petitions are not meant to

. be

3
be forwarded (vide para. 4 of Govt. of India letter on page 4 of G.O. No. 456, Judicial, dated 22nd February 1894 flag H). It may here be mentioned that the rules as they at present stand imply that petitions to Her Majesty should be forwarded to the Govt. of India, being withheld only if they cannot reach that Govt. with 24 hours of the time fixed for the execution. This it is submitted is incorrect. If a petition to Her Majesty were forwarded at all it would be sent direct to the Secretary of State. The rules may, it is submitted, be amended accordingly.

If the present procedure is sanctioned as far as regards petitions to Her Majesty received with petitions to the Govt. of India, there will remain for consideration cases in which petitions addressed to Her Majesty are received separately either after the petition to the Government of India has been rejected, or, as may possibly happen, without any petition having been submitted.

Orders are requested whether in such cases the petition should be withheld by the C.S., or whether it should be circulated for orders.

With reference to the Hon. Mr. Arundel's note dated 13th August 1898. at flag B, it is submitted that under rule 1023 of the Jail Code a prisoner is not absolutely barred from appealing to Her Majesty, even after

his petition to the Govt. of India has been rejected. The intention of the rule appears to have been that the prisoner should make his choice, whether he will petition the Govt. of India, or Her Majesty or both, and should not afterwards be permitted ^{to change his mind,} but as the rule stands there is no limitation imposed on the direction, that if a prisoner wishes to petition Her Majesty more than seven days after he has been informed of this Govt.'s. decision, the petition shall be forwarded to Govt. with the least practicable delay. With reference to the concluding portion of the Hon. Mr. Arundel's note it is submitted that as the time necessary before the Govt. of India can dispose of a petition will necessarily extend beyond seven days from the date when the prisoner's previous refusal of this Govt. to interfere has been communicated to the prisoner, the case put forward by the Hon. Member will fall under rule 1023, and the subsequent petition to Her Majesty having been ^{presented} ~~submitted~~ after due date the Supt. will not be authorized to postpone execution.

Mr.
19/8/25

The doubt which has arisen relates entirely to petitions for mercy addressed to Her Majesty.

These petitions may be

submitted either with or separate from petitions to this Govt. or the Govt. of India. It is intended (vide orders of India at H) that they should be withheld ^{and} the question is what should be done with them. According to the existing rules they have to be treated exactly as petitions to India i.e. if they can reach India 24 hours before the time fixed for execution, they are to be sent on without circulation. If they cannot they are to be circulated to Hon'ble Members. The practice here however is to withhold them passing a routine order on them.

3. It is objected in the note that the practice here is wrong. It is certainly directly contrary to the second rule, but except that rule there is nothing which authorizes petitions to Her Majesty being sent on to India which probably would refuse to receive them and they ought to be sent to the Secy. of State. But if the direction that these petitions should be sent on to India be neglected as it would seem it ought to be such petitions ought to be circulated, falling as they then would under rule 3.

4. The existing practice is convenient but I think it ought to be laid down that petitions for mercy to Her Majesty should be circulated. *to H. M.*

5. The rules need verbal ^{revision} in several respects and I think

*Yes - unless, as is usual, they are
these cases of petition already considered by
the Govt. of India - in that case,
I think the C.B. might dispose of them*

MA.
A.H.

the case of petitions to Her Majesty should be entirely separated from those to India in redrafting them.

6. In regard to the point taken in the Hon: Mr. Arundel's note, as I understand the rule, the convict can appeal at any time after the rejection of his appeal by Govt. or the Govt. of India to any other authority, but the point of the rule is that if he appeals after the times laid down in Jail rule 1023, the Supt. while he must send on the appeal must not postpone the execution.

6
Bs
MS
2.9.98

Bs
24.9.98
MS
24.8.98

[G.]
24.
500-8-12-97.

Public
Judicial DEPARTMENT.

Papers to be read in Proceedings:-

Again G.O., dated	189	No.
Again G.O., dated	189	No.
Current No.	of 189	, dated , from
" "	" 189	" "
" "	" 189	" "

CS

ORDER No 4227, 27th September 1898
P.S.

Under the authority vested in him by Sec. 28, 24 & 25 Victoria, Cap. 67, (The Indian Councils Act, 1861) H.E. the Governor is pleased to direct that the following rules be substituted for those approved in G.O. No. 119, Pat 8 10th Nov: '96:-

1. Petitions for mercy from Convicts under sentence of death addressed to the Governor in Council shall be circulated to H.E. the Governor and to the two Civil members of Council.

CS
The proceedings will be brought to the notice of the Govt. of India & the Govt. of India does not appear to be necessary to communicate them separately.

MS
22/9/98
107-988

2. Similar petitions addressed to the G. & S. which can be forwarded so as to reach the G. & S. 24 hours before the time fixed for the execution, shall be transmitted to the Govt. of India on the authority of the Chief Secy: without circulation of the papers. Any ^{similar} petition of this nature, which cannot reach the G. & S. within such time, shall be circulated to H.E. the Governor and the two Civil members of Council for orders as to whether it clearly contains nothing which is likely to cause the Govt. of India to take a view of the case different to that taken by the Government on the petition addressed to it by the convict.

Petitions for mercy from condemned prisoners addressed to Her Majesty the Queen Empress, which

FROM ORDERS.

H.C. (Madras)

note for the such
issue of the Council
orders.

Mr. 27/9/98

2^d
~~are received with~~
~~Similar petitions addressed~~
~~to the G. & S. or which~~
are more copies of those
already considered by
the Govt. or the G. & S.,
may be withheld on
the authority of the
Chief Secretary without
circulation of the
papers. In other cases
such petitions shall
be circulated to H.E.
the Governor and the
two Civil members
of Council for orders.

(from orders)

Mr.
22/9/58.

Mr.
23.9.98

26.9.98.

Depts of the Sect.] deapd
to all ~~branches of the Secy.~~

PUBLIC DEPARTMENT.
NOTES CONNECTED WITH G.O., No. 1227, PUBLIC, DATED
27TH SEPTEMBER 1898.

[SUBJECT.—*Disposal of petitions for mercy.*]

Please see the rules in G.O., No. 1192, Public, dated 10th November 1896, regarding the disposal of petitions for mercy addressed to the Government of India or Her Majesty the Queen. The Public order amending the rules under the Indian Council's Act was drafted from notes recorded in G.O. No. 1564, Judicial, dated 30th September 1896, to which a reference is invited. The point there submitted for orders was whether the Chief Secretary should be authorised to dispose of petitions addressed to the Government of India or Her Majesty the Queen "in cases on which the conditions as to transmission have been clearly and indubitably fulfilled". These words are understood to mean "in cases where the petition cannot be forwarded to the addressee in time to reach before the date fixed for execution, and where there is nothing in the petition likely to induce the Government of India or Her Majesty to interfere". His Excellency the Governor assented to this delegation of authority to the Chief Secretary and the original draft in G.O., No. 1192, Public, dated 10th November 1896, followed this line. In the notes in the last quoted Government order, however, it was decided that the question whether a petition contains anything which would make the Government of India or Her Majesty likely to interfere should be submitted for the orders of His Excellency and Honourable Members. This direction has ever since been carried out, except in the case of petitions for mercy addressed to Her Majesty which are received at the same time as petitions to the Government of India. If the petition to the Government of India is received in time to allow of an answer being received before the date fixed for the execution, the Chief Secretary forwards it, at the same time disposing of the petition to Her Majesty by a routine order declining to forward it. This procedure would appear to be, strictly speaking, contrary to rule, for there is nothing in the rules as they stand authorizing the Chief Secretary under any circumstances to withhold a petition for mercy. It is submitted, however, that the present practice is a convenient one. A petition to Her Majesty can under no circumstances reach England in time for a reply to be received before the execution, and the Government of India has stated clearly enough that such petitions are not meant to be forwarded (*vide* paragraph 4 of Government of India letter on page 4 of G.O., No. 456, Judicial, dated 22nd February 1891. It may here be mentioned that the rules as they at present stand imply that petitions to Her Majesty should be forwarded to the Government of India, being withheld only if they cannot reach that Government with 24 hours of the time fixed for the execution. This it is submitted is incorrect. If a petition to Her Majesty were forwarded at all it would be sent direct to the Secretary of State. The rules may, it is submitted, be amended accordingly.

If the present procedure is sanctioned as far as regards petitions to Her Majesty received with petitions to the Government of India, there will remain for consideration cases in which petitions addressed to Her Majesty are received separately either after the petition to the Government of India has been rejected, or, as may possibly happen, without any petition to that Government having been submitted.

Orders are requested whether in such cases the petition should be withheld by the Chief Secretary, or whether it should be circulated for orders.

With reference to the Hon'ble Mr. Arundel's note, dated 13th August 1898, it is submitted that under rule 1023 of the Jail Code a prisoner is not absolutely barred from appealing to Her Majesty, even after his petition to the Government of India has been rejected. The intention of the rule appears to have been that the prisoner should make his choice whether he will petition the Government of India, or Her Majesty or both, and should not afterwards be permitted to change his mind, but as the rule stands there is no limitation imposed on the direction, that if a prisoner wishes to petition Her Majesty more than seven days after he has been informed of this Government's decision, the petition *shall* be forwarded to Government with the least practicable delay. With reference to the concluding portion of the Hon'ble Mr. Arundel's note, it is submitted that as the time necessary before the

Government of India can dispose of a petition will necessarily extend beyond seven days from the date when the previous refusal of this Government to interfere has been communicated to the prisoner, the case put forward by the Honourable Member will fall under rule 1023, and the subsequent petition to Her Majesty having been presented after due date, the Superintendent will not be authorized to postpone execution.

A. R. KNAPP—19-8-93.

Honourable Member and circ.—

The doubt which has arisen relates entirely to petitions for mercy addressed to Her Majesty.

2. These petitions may be submitted either with or separate from petitions to this Government or the Government of India. It is intended (*vide* orders of India that they should be withheld and the question is what should be done with them. According to the existing rules they have to be treated exactly as petitions to India, i.e., if they can reach India 24 hours before the time fixed for execution, they are to be sent on without circulation. If they cannot they are to be circulated to Honourable Members. The practice here, however, is to withhold them passing a routine order on them.

3. It is objected in the note that the practice here is wrong. It is certainly directly contrary to the second rule, but except that rule there is nothing which authorizes petitions to Her Majesty being sent on to India which probably would refuse to receive them and they *ought* to be sent to the Secretary of State. But if the direction that these petitions should be sent on to India be neglected as it would seem it ought to be such petitions ought to be circulated falling as they then would under rule 3.

Yes: unless, as is usual, they are mere copies of petitions already considered by this Government or the Government of India. In that case, I think the Chief Secretary might dispose of them.

H. W. B. [LISE].
A. T. A. [RUNDEL].
A. E. H. [AVELOCK].

H.W.B.
A.T.A.
A.E.H.

4. The existing practice is convenient but I think it ought to be laid down that petitions for mercy to Her Majesty should be circulated to Honourable Members.

5. The rules need verbal revision in several respects and I think the case of petitions to Her Majesty should be entirely separated from those to India in redrafting them.

6. In regard to the point taken in the Hon'ble Mr. Arundel's note, as I understand the rule, the convict can appeal at any time after the rejection of his appeal by Government or the Government of India to any other authority, but

the point of the rule is that if he appeals after the times laid down in Jail Rule 1023, the Superintendent while he must send on the appeal *must not postpone the execution*.

G. STOKES—20-8-98.

[G.O., No. 1227, Public, dated 27th September 1898.]

First copy sent to Press. 29/9

Returned for signature.

Despatched in print.

NUMBER OF COPIES REQUIRED. { Order complete. 65
Letter only.
Order complete with Letter.

READ AGAIN G.O., No.
189

DATED

CURRENT NO.

ENCLOSURES 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 = Print in full.
- B = Not to be printed.
- P = Print abstract only.
- Q = Print heading only.

Star