

G.O., No. 10849

DATED 21-12-96

P.W.D. (Vengaloor)

G.O. memo: 10849 dt 21.12.1896.

25/2/97 Letter for B. H. A. uf
C.O. 4963/95

Resubmitted on 15-3-97

[Despatch Abstract.]

sent separately

Distribution of Water Compts. to Lt. Col.
Ensign Mr Stokes' remarks, for his Con-
sideration and assistance in drawing up the
rules for the — at Keeranur & Kuthanur
Ponds on Nandalar, Tanjore Dt.

T.C. 4/4/97

[P.W.D. 100-5091-96]

Indexed.

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No 662.

Office of the Superintending Engineer
Canary Completion Estimates
Tanjore dated 17th October 1896.

From

Lt. Col. A. W. Smart R.E.

Superintending Engineer on special duty

Tanjore.

To

The Chief Engineer

for Irrigation

Madras.

Sir,

2 files
not printed
I dy 20-11-86

See S.O.
not printed
Go No

I dy 20-11-86

I have the honour to request your orders with reference to the Case of the masonry and other dams in the Vandalar now under dispute between the French and ourselves. In 1887, two mud dams at Keeranur and Kuthanur were replaced by masonry ones with a sluice in each fitted with needle shutters. In the report accompanying estimate, Mr Mitford Smith says "a sluice of 4 feet width has been provided at each end of the work by which sufficient water may be let down when the river is low," that is for irrigation. Mr Gibson, in 1888, informed the French authorities that

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Encls. 2 files

799 I of 2011

I have the honour to request your orders with reference to the Case of the masonry and other dams in the Vandalar now under dispute between the French and ourselves. In 1887, two mud dams at Keeranur and Kuthanur were replaced by masonry ones with a sluice in each fitted with needle shutters. In the report accompanying estimate, Mr Mitford Smith says "a sluice of 4 feet width has been provided at each end of the work by which sufficient water may be let down when the river is low," that is for irrigation. Mr Gibson, in 1888, informed the French Authorities that

that these vents were intended for irrigation of lower lands when water ran low.

In 1894, the French, when their lands under the river were suffering considerably from scarcity, demanded that the mud dams above should be cut and the sluices in the masonry dams opened to allow of their lands obtaining a supply. It appears that this was allowed but after much opposition. Since then, in 1895, the Collector in writing to the Administrateur Principal at Harikal said "your statement, that the vents on both sides of the Keeranur and Kaliyadi (Kuthanur) masonry dams were constructed to allow the free flow of water for the irrigation of the lands in your Territory, does not receive support from our officers. The D. P. W. Sub-Divisional officer says that the vents are meant solely for clearing silt in front of the dams and for allowing the free passage of water during floods and that they should not be opened in ordinary irrigation season, much less during scarcity of water."

In my opinion, this contention of the Collector cannot be upheld in the face of the opinion of Mr Gibson and of Mr Mitford Smith as laid ^{down} in the report

report of the estimate. When a mud dam is replaced by a masonry one, those who irrigate under it are distinct gainers, and the owners of land lower down cannot so easily get a supply as with mud dams which they can cut at their leisure. To say nothing of the facts of the present case, it would appear to be only right that when masonry dams take the place of mud dams that a morai or turn should be given for the lower lands, when the free flow of water down the river would be allowed. In the case of the Kundalaver, I believe the French would be satisfied if they were allowed from 15th August to 15th October one day in the week in which the sluices in the Keeranur and Kuthanur dams should be left open and a passage cut through the mud dams in our Territory for the same period time.

2. I am to meet the French Engineer sometime in December next to settle this and other disputed questions. I am of opinion that if I have
Authority

Authority to offer a morai in the case of the Nandalaru dams, that it will facilitate matters very much and enable us to settle all the questions under dispute without much difficulty.

3. I send you the files in connection with the Nandalaru for your reference.

*Admitted to
Collection
Mk*

I have the honor to be,
Sir,
Your most obedient servant.

An. Smart
Lt. Col. R. E.
Superintending Engineer
on special duty.

CHIEF ENGINEER
NO. 1608a

CHIEF
FOR IRRIGATION
19 OCT. 96
No. 1608a

E. FORM No. 4 (a)—500—14-4-93.

His Excellency the Govt.

*Points to be decided about masonry
and other dams in Nandalaru*

PUBLIC WORKS DEPARTMENT,

IRRIGATION BRANCH.

Read the following:—

Note on letter dated 17th October 1896, NO:662, from Lieut: Coll: Smart, Special Superintending Engineer suggesting that he should be allowed to propose rules for distribution of water at the Keeranur and Kuthanur dams across the Nundalar at his approaching conference with the representative of the French Government.

FOR ORDERS.

From the reports made before the construction of the two masonry dams in question it appears that the Kudis used to raise mud dams and maintain them until their lands received a sufficient supply. There was evidently no rule regulating the time for which the dams might be maintained nor has any rule been made since the construction of the masonry dams for the supply of the lower irrigation. There are vents in the dams described by the Superintending Engineer when submitting the estimate for sanction as intended "for passing water through when the river is low and for acting as undersluices during floods."

The British Kudis have on various occasions opposed the opening of the vents alleging that they have a right to take all the water they want irrespective of the claims of lower irrigation. No doubt there is a little water

*This question might be sent to the
Revenue Dept. for report. Mr.
S. P. S. as Collector has. Some
local knowledge of the
French claims. 16.11.96*

Forwarded to the
Secretary to Govt. Revenue
Dept with reference to
H. E.'s remarks above

W.H.

18/11

18.11.96

FOR ORDERS.

water in the river at times and it may take several days to raise it to the level necessary for irrigation and give the lands a sufficient supply but the Kudis cannot for that reason claim an exclusive right nor claim to be placed in a better position as regards water supply than before the construction of the masonry dams which were built chiefly to save the expense of erecting mud dams and the injury which the frequent erection of such dams caused to the river.

It is very difficult to say on what lines rules for regulation should be drawn up as the river supply consists entirely of drainage and spring water. It would be well to instruct Coll: Smart to suggest whatever rules he considers fair having regard to all the circumstances.

W. H. Hughes

12.11.96

R. S. 19/11

M. S. 14/11. R. S. 15/11

Public Works (1896) department

Note. Current No: 11517

8.12.96

Sometimes owing to the high level

of the lands, sometimes owing to the ~~plowing~~ out of the bed of the source it is necessary to raise the water level in order to continue irrigation. From the earliest times it has been the practice in Tanjore to effect this by erecting mud dams across the source. It is plain from this that in times of scarcity of water the flow of water down the source must be cut off from the lower villages while if the dam be not allowed the upper villages cannot be irrigated. A system of compromise has therefore been devised by the establishment of a "morai" i.e. an arrangement by which each interested village shall get water "by turns". For example, if the irrigated area of a high level village ^{were} ~~is~~ half that of a low level one, the high level village would be allowed to erect a dam and take all the water for one day when the dam would be removed and the low level village would take all the water for the next two when the dam would be again erected and so on. In many instances

Revised with reference to the remark of H. S. The Governor.

W. H. Hughes

Submitted to H. S. The Governor with reference to his remark on the 12th inst for order whether the suggestions made by Mr. Stokes should be adopted

30.11.96

W. H. Hughes

Mr. Stokes' remarks should be sent to Col. Smart for his consideration and ~~advice~~ ^{assistance} in drawing up the Rules which he may hold to be fair.

8.12.96

since the erection of mud dams means continuous expense such mud dams have been replaced by masonry dams constructed with shutters which can be ^{removed} ~~secured~~ in times of flood or when required by the "morai". The practice of erecting mud dams is of very ancient date in the Delta and many of these dams have been ~~erected~~ continuously erected before and are mentioned in the Paimash (i.e. Early Survey Accounts); such dams are called Paimash dams.

The law regulating the use of water by riparian owners is that the upper ~~xx~~ riparian owner may draw off as much water as he wants provided he does not thereby cause actual damage to lower owners. It is almost impossible to prove such damage: hence it is very difficult for lower owners to prevent the erection of such dams. New ones are being erected every day and after the lapse of the time needed to acquire ^{or} a title by prescription, users become ^{established} entitled. It has always been the settled practice of the district to hold that Paimash dams cannot be removed but that any other dam objected to must be re-

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removed unless long prescription is proved. Both the dams of Keeranur and Kuthanur are Paimash dams.

The present dispute arose in this wise. In 1894 there was a great scarcity of water. The French Controller of Taxes inspected the river and channels on which the French irrigation depends and found in their upper reaches that there ^{were} ~~was~~ a number of dams erected in British territory for the drawing off of water. He addressed the Administrator who wrote to the Collector of Tanjore. In his letter the Administrator states that certain dams are contrary to usage and that the vents which ~~are~~ intended for passing water down in times of scarcity in certain ^{masonry} ~~necessary~~ dams were completely closed. He argued that the water of a river, whatever its volume, ought to be of use to all the land which it irrigates which the English Mirasidars ^{had} ~~have~~ completely dried up the river and he concludes by asking the Collector to see that the river is never completely shut. Inquiries were made by the Collector some dams were found to be Paimash, some

prescriptive and some unauthorized. All unauthorized dams were removed and their reconstruction was prohibited. The Collector declined to interfere with the others, and with some bad temper asked the Administrator not to waste his time too easily with unfounded complaints. He stated on the authority of the P.W. Officer that the vents in the masonry dams were for the purpose of carrying off flood water and silt, not for letting water down for the irrigation of French territory and he refers to a letter of Mr. ^aHöppel's dated 7th January 1890.

In his reply the Administrator quotes a correspondence ending with Mr. Gibson's letter No. 3975, d/11th July 1888 from which it appears that on the French authority asking that openings should be left in the middle or at the sides of the Keeranur and Kuthanur dams so that the French villages might always receive irrigation water, Mr Gibson said quoting the Engineer that "there were already openings which the Engineer considered sufficient to supply the irrigated lands in French territory". The Administrator goes on to

*Correspondence returned to Col Smart.
Mh*

ask what becomes of the principle of equal¹ sharing ^{in the} ~~of~~ water by all those who have a right to it and further on says "our right to a proportionate sharing of the water especially in times of scarcity cannot be doubted". He concludes by asking that in dams authorized by the Paimash, openings be left for the irrigation of French land.

To this the Collector replied that he could not issue any general orders as ^{such} were asked for and that each case must be decided on its merits.

On this the Administrator asked for a Commission to ascertain the dispute as to Keeranur and Kuthanur and he goes on to say "Permit me to point out to you that the question is not as regards these two sluices only. The complaint of our Mirasidars, lies against other dams, some authorized by Paimash others not so authorized. The dams not authorized by Paimash ought never to have been established and the dams authorized thereby ought all to be provided with an opening for the irrigation of the lower villages". No answer has been sent to this last letter.

Such being the French claims and arguments the next question is the basis on which they rest. I can find little bearing on this. I find however that in November 1876 that Mr. Kittoo, a Sub-Overseer, P.W.D., reported that "Each dam is closed entirely without letting any water for the ~~the~~ irrigation of the next down villages, but it is only accessible to the French territory to cut one and all of the dams and Calingulas across the Nundalar for its irrigation at times of scarcity of water".

On what this statement rested or whether it was ever investigated there is nothing to show but the Sub-Divisional Officers accordingly reported that the "French authorities have power to open all the temporary dams thrown across the Nandalar above the French Calingula at Mella-day at such season when there exists a scarcity of water".

Accordingly in the report accompanying *this estimate for the Karam & Kuthanor Dams* it is said "a sluice of 4 ft. width has been provided at each end of the work by which sufficient water may

the report goes on to

*Mr. Happel's letter of 1890
is not among the papers.*

9.
" be let down when the river is low and which will act as surpluses during floods. This shows that the sluices are not for the clearance of silt as contended by Mr. Thomson but the provision seems to have been based on Mr. Kittoo's report and so is not so *weighty* as it would seem. A convention of the year 1882 is referred to as having settled such matters but there is no copy of it among the papers.

I find that in 1889 the Head Asstt. Collector ordered the opening of these sluices in a time of scarcity of water. It is not very clear that in 1894 the mud ~~dams~~ dams were cut but ^aMr. Happel's letter of 1890 is not among the papers. Col. Smart may be correct when he states so.

I consider that all the available ^{the French claims} correspondence relating to ~~them or other~~ wise should be got together and the English case be properly worked up. It is not so now. As far as can be seen, however, from these papers, the French seem to have the best of the argument. Col. Smart sets out most of the above points in his letter. From what is said above I think it

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appears that the statement in the estimate
report is not as conclusive as it would
appear at first. I think also that Col.
Smart pushes Mr. Gibson's letter too far.

It will be seen that the French claims
are not confined to the dams at Kuthanur
and Keeranur. They seem to me excessive.
There is ^{really} nothing to show they have ever
been admitted. They are inconsistent with
the nature of a mud dam and in regard to
many are ^{barred} ~~bound~~ by prescription. They should
be directly traversed.

It will be seen above ~~that~~ they
have been changing and growing ^{as} ~~on~~ the cor-
respondence advanced. I think the first
thing to be done is to get a distinct state-
ment of their claim and the grounds of it,
^{generally} in regard to each work and to require that
this statement be submitted for the con-
sideration and examination of Col. Smart
who should either accept it or record his
reply and that distinct conventions should
be drawn up on each point settled and duly
recorded and printed. These irrigation dis-
putes are very difficult to settle and are

constantly recurring.

In regard to Keeranur and Kuthanur
dams Col. Smart proposes to offer the
French a morai of one day in the week
from the 15th August to the 15th October.
It is possible that this ^{is} an equitable ar-
rangement but without information as to
area, it is not possible to say whether
it is so or not.

24/11/6.

No. 10842

PUBLIC WORKS DEPARTMENT,

IRRIGATION BRANCH.

H.E. The Governor.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Under date the 21 Dec 96

Read the following

Letter from the Supg: Engr: on special (H.E. No: 662 dated 17th Octr: 96)
duty, Cauvery Completion Estimates, Tanjore

Note by G. Stokes Esquire I.C.S. (H.E. Note dated 24th November 1896)

Mr Stokes remarks will be sent to Lt: Colonel Smart Super-intending Engineer, on special duty for his consideration and assistance in drawing up the Rules which he may hold to be fair.

A.H. 17.12.96

To
The Secy. to Govt. Rev. Dept.
for favour of counter initials

11/4/12/96

W. H. Tucker
11/12/96

Issue

W.H.
10/12

The Chief Engineer for Irrigation.

,, Supg: Engr: on special duty,
Cauvery Completion Estimates, Tanjore.

The Supg: Engineer, Fifth Circle.

,, Revenue Department.

21/12/96

it.

to
and
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11/15/12