

Public Works (1898) Department.

RAILWAY BRANCH.

✓ G.O., No. 888 Ry

DATED 4 July 1898

Includes

No. 5 R.M. 87 14-4-98.

[Despatch Abstract.]

Enforcing the East Coast Railway

Pro. L & L. Dept, stating with remark that the Municipal Council, Rajahmundry, is at liberty to take such action as it thinks fit, if the Manager, East Coast Railway refuses to comply with its order issued under section 176 of the District Municipalities Act, regarding

_____ on the Western side of the Ry line between the Rajahmundry & Godavari North station limits. Comd to the Manager

[P. W. Ry.
500-13-6-98.]

Indexed. 8/7/98.
for information.

BACK PAPERS.

FURTHER PAPERS.

PUBLIC WORKS SECRETARIAT, T

RAILWAY BRANCH.

PUBLIC WORKS SECRETARIAT
RAILWAY BRANCH.
No. 5. Rm
9 dated 14/4/88

Station _____ date _____ 18____

Office NOTE.

From Jt. Sec. P.W.C. B.

7. Lu. L 8 M. Dpt.

I return the papers received with your office
memo No. 426. dated 6-4-98, with the
following remarks.

Railways are placed in the interest not of the outside public but of the travelling public in the railway's train. It is the duty of the outside public to refrain from trespassing, either in person or by their cattle, on railways or on railway lands. If the public cross at any point of a fence except at an authorised crossing they are trespassers and can be punished under the Railway Act.

When as Government Inspector of Railways I have to consider any question of fencing or not fencing I consider it from the point of

view of the safety of the travelling public.
If the circumstances are such, as for
instance when a public cart road runs
alongside in such a way that bullock-carts
may get on the line, ^{as to} ~~and~~ endanger trains
I order a fence. But when I find owners
habitually picketing their cattle on the bank
or driving them on to grass, instead of
ordering fencing I ~~advise~~ ^{advise} that the whole
power of law and police should be used
to secure the safety of trains.

I do not consider that the safety of
the heavy R.P.R. engines is endangered
by a few cattle, and I consider that the
Management of the railway is remiss
in not making a bargain of a few
cattle owners if, as is claimed, cattle are
often run over.

It would be much more logical if
the Municipality were to order the owner
(Govt.?) of the waste land by the river
bank to fence its land off, in order
that the people who are permitted
to graze cattle on it may not, in defiance
of the law, endanger the safety of trains
by letting their cattle stray on the
land of the railway which is, I believe,
clearly marked out.

It is impossible for me to say whether
the Municipal Council of Rajahmundry can
or cannot enforce their order under sect.
176 of the Municipal Act. As I have
said above, it seems scarcely clear that the
order ought not primarily to be enforced
against the owners of the outside land,
first as it could undoubtedly be enforced
against the owner of a house and
compounds bordering on a public road
rather than against the public road
authorities.

A fence is not an accommodation work.
An Accommodation Work is a work of
the character of a bridge or a level
crossing, or a subway, or a road diversion
designed to continue to the public or to a
private individual the crossing rights they
previously enjoyed. But in the case
of a level crossing no local authority
can insist on any particular pattern
of gate for instance, or for example
whether it shall close across the
railway as well as across the road. The
Railway is compelled by the Government
Inspector in certain cases. Let it be seen

everywhere, to have gates and gatekeepers at level crossings. Nine tenths of the crossings of many railways, chiefly unplaced railways, have neither gates nor gatekeepers. It is the business of the people to get out of the way of the train instead of being coddled like a lot of children. and, in a fact, everywhere, when they have had time to grow a little civilized, they do get out of the way. When a road is frequented by carts the fact. Inspector will usually order a gatekeeper, not necessarily a gate, because of the risk to trains of a frightened cartman unhooking his hitches and leaving the cart on the line.

All the same if I were in the Manager's place I would go to the small expense of fencing for my own convenience and to be in a better position to bring cattle illegally driven on to the line. But I do not think that he will find it difficult, with competent legal advice, to have the Municipal Order.

F/Rs

13/9/88

Enclos.
 Despatched on 14/9/88
 File of papers (11 in all)
 including plan

Public Works (1898) Department.

Railways
 CURRENT No. 769

M/

From

The Local Board. Dept.

Order No 888 Regd July/98

Communicated to the
 Agent Manager East
 Coast Railway for infor-
 mation.

No. 1116/mhio.

Dated 22-6-98.

Received
 Registered } 27-6-98

Enclosures

Spare copies

JM D.R
 20/6/98 27-6-98

R to see
 OM.

To

The Manager. E. C.R.

Despatched on 14/9/88

SUBJECT.

Fencing the East Coast Railway

Stating with remark that the
 Munc. Council, Rajahmundry, is at
 liberty to take such action as
 it thinks fit, if the Manager
 of the East Coast Railway
 refuses to comply with its order
 issued under Section 176 of the
 District Municipalities Act
 regarding — on the western
 side of the Railway line bet-
 ween the Rajahmundry and
 Godavari North Station
 limits.

27/6/98

BACK PAPERS.

FURTHER PAPERS.

[25]

LOCAL AND MUNICIPAL DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

READ the following paper s—

From the Collector of Godavari, Ref. on Cur. No. 1291-Eng., dated
8th March 1898.

In his letter No. 557 dated 6th June 1896 the Chairman, Municipal Council, Rajahmundry called on the Manager, East Coast Railway under section 176 of the Municipal Act to fence the western side of the Railway line between the Rajahmundry and Godavari North Station limits to prevent accidents to men and cattle using the waste land between the railway and the river. The Manager in his letter 3594 dated 12th June 1896, refused to comply with the Council's notice as in his opinion the work was not required in the interests of public safety and the previous sanction of the Governor-General in Council was required under section 12 of the Railway Act for the construction of accommodation works of the nature proposed. The Chairman pointed out to him in his letter 933 H, dated 11th October 1896 that the requisition to fence could not be taken as a demand for an accommodation work, i.e. a work necessary for the enjoyment of adjoining lands as the fencing was required in the interests of the safety of the public, that as one side of the Railwayline was fenced admittedly for the public safety, there was no reason why the other side also should not be fenced, that no reference to the Governor-General was therefore necessary, that under section 176 of the Municipal Act he (the Chairman) had power to ~~re-serve~~ require the fencing of the railway line and under section 264 to enforce it and requested him to reconsider the matter and see that the Council's resolution was carried out. Unable to get the Manager to ~~conform~~ conform to the Council's resolution and unwilling to take extreme steps against the Railway Authorities, the Chairman has requested me in his letter 241 dated 14th September 1897 to interfere and call on the Railway Authorities to give effect

effect to the Council's resolution.

2. The Sub-Collector thinks and I agree with him, that it would be safe for the line to have fencing on both sides, but even as it is, it can hardly be said to be dangerous and because the line is fenced on the east is no reason for its being fenced on the west, because the town lies to the east whereas there is only the river and its bed to the west. The land adjoining the railway embankment on the side of the river also belongs to Government in the Revenue Department as river poramboke and it seems to me the Council has no power to require the fencing off of Government land from Government land. Section 176 of the District Municipalities Act seems only to apply to land adjoining roads or paths too: whereas in the present case no road or path runs along-side the embankment which the Council want fenced, though several leading to the river, cross it. The people ~~using~~ using these paths will gain no security from the fencing of the line on the West.

3. The Local Government Pleader is however of opinion that the notice given by the Municipal Council under section 176 is legally enforceable.

I have therefore the honour to request that you will be so good as to obtain the early orders of Government in the matter. Enclosures as per list accompany and I would respectfully beg to suggest a reference to the Law officers of Government in the matter. The waste land to the West of the railway embankment is submerged during floods, but generally it is the common grazing ground of the people of the town several of whose cattle have been run over and killed. It is also frequented in large numbers by dhobies and boat builders &c. carrying on their business on the bank of the river and many cross it every day their way to the river to draw water or bathe.

From the Public Works Department, Railway Branch, No. 5 R.M./O., dated 14th April 1898, returning the file of papers regarding the fencing off the western side of the East Coast Railway as far as the Godavari North Station limits and giving opinion whether the railway may be required in the interests of the public to put up a fence.

ORDER.

ORDER No. 1116 M.Mis. dated 22nd June 1898.

The Government is of opinion that if the Manager of the East Coast Railway refuses to comply with the order issued by the municipal council under section 176 of the District Municipalities Act, the Council is at liberty to take such action as it thinks fit to enforce compliance with its order, for which section 264 gives it ample powers.

(True Extract)

A. K. M. S.

for Secretary to Government.

To

The Chairman, Municipal Council, Rajahmundry,
thru' the Collector of Godavari.
,, Public Works Department. ✓