Public Works (189) Department.

G.O., No. 1000 I

DATED 23 Nov 99

[Despatch Abstract.]

Fishing. Agreeing with the view of the Collector of Tinnevelly that the Municipal Council has no right to control the Tinnevelly irrigation channel which is not a public water-course, and stating that the right of ~~within~~ in the channel within the Municipal limits ~~of the Mun~~ will, in future be sold + by the P.W.D, the sale proceeds therefrom being credited to Municipal funds.

290/14

Sd 24/11

P. W. 15.

BACK PAPERS.

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

FURTHER PAPERS.

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

IRRIGATION.

Government (1899) of Madras.

PUBLIC WORKS.

Recd. } 1899. *Enclosures*

Regd. *Spare copies*

G.O., No. 1000 I., 23rd November 1899.

NOVEMBER.

Fishing

Agreeing with the view of the Collector of Tinnevelly that the Municipal Council has no right to control the Tinnevelly irrigation channel which is not a public water-course; and stating that the right of — in the channel within the municipal limits will, in future, be sold by the Public Works Department, the sale-proceeds therefrom being credited to Municipal funds.

BACK PAPERS.

GOVERNMENT OF MADRAS.

PUBLIC WORKS DEPARTMENT.

Irrigation.

READ—the following papers :—

From E. SCOTT, Esq., Acting Collector of the Tinnevelly District, to the Secretary to Government, Local and Municipal Department, dated 3rd May 1899, Ref. on Cur. No. 472 Gen.

I have the honour to request that Government will be pleased to decide whether or not Municipal Councils can claim the revenue derived from fish in the Government irrigation channels maintained by the Public Works Department and within municipal limits or from trees on the banks of such channels.

2. The Municipal Council of Tinnevelly claim to be entitled to the revenue from a Public Works Department river channel passing through the town under section 143 (2) of the Municipal Act and object to an order issued by me to the effect that the Municipal Council had no authority to interfere with the channel or to claim the revenue derived from it. The order was issued as the Council is permitting the channel to be damaged by fishermen to whom it leased the right to fish.

3. Section 143 (2) cannot, I consider, be taken to have handed over such channels to Municipal Councils as they do not come within the term "*public* water-courses."

No. 575, Local and Municipal.

Transferred to the Public Works (Irrigation) Department.

(Signed) A. EDGINGTON,
Ag. Assistant Secretary.

17th May 1899.

No. 20 T.N.

Referred to the Superintending Engineer, VI Circle, for early report.

(Signed) F. J. WILSON,
Under Secy. to Govt., P.W.D.,
Irrigation Branch.

22nd May 1899.

From Lieutenant-Colonel O. V. BODDY, R.E., Superintending Engineer, VI Circle, to the Chief Engineer for Irrigation, dated Trichinopoly, 24th August 1899, No. 653 T.N.

With reference to your endorsement, No. 20 T.N., dated 22nd May 1899, herewith returned, I have the honour to forward copy of letter No. 3021, dated 16th August 1899, from the Executive Engineer, Tinnevelly division, showing in what manner the question at issue arose.

2. In order to facilitate fishing operations, the lessees of the fisheries have been in the habit of placing cross bunds across the Tinnevelly channel within municipal limits, and these cross bunds have the effect of causing silting in the channel, the clearance of which is very costly.

3. I cannot think that it was the intention of the Act to place portions of important irrigation channels under the control and direction of the Council of the Municipality through which they flow.

4. I consider that such portions of irrigation channels should be entirely under the control of the Public Works Department and that therefore the leasing of the right of fishing therein should vest in this department.

PUBLIC WORKS DEPARTMENT,
IRRIGATION BRANCH.

IMENT.

ENCLOSURE.

From M.R.Ry. S. GOPALAKRISHNA AIYAR Avargal, Executive Engineer, Tinnevelly division, to the Superintending Engineer, VI Circle, dated 16th August 1899, No. 3021.

With reference to your No. 413 T.N., dated 1st June 1899, herewith returned, I have the honour to inform you that Supervisor, Tinnevelly, early in November last, brought to notice that, owing to the non-removal of cross bunds placed by fishermen for the purpose of catching fish across the Tinnevelly channel within Tinnevelly municipal limits, the channel within municipal limits and above and below was getting silted up and inquired if the Municipality was allowed by this department the right of catching fish, and, if so, whether any conditions were laid down for the maintenance of the channel in good order. As it was known that the Municipality was leasing out the fishing in the channel and crediting the proceeds to its funds for years past, I forwarded the Supervisor's letter to the Collector and asked him for the favour of such action, as may prevent any injury to the channel being taken. He thereupon informed me that I can take any action I wished with regard to the channel which is entirely under my control, that fishing therein should not be allowed if it be considered objectionable and that the leasing out of the right of fishing should be arranged for by our department as it should get the proceeds. On this being communicated to the Chairman of the Municipality, the Municipal Council have protested against the decision of the Collector saying that the Municipality has been enjoying the right of fishing in the channel ever since the municipality came into existence, that it is periodically spending some money towards clearing both branches of the channel Nainarkulam and Arugankulam, that the fishing rent is hardly sufficient to meet this periodical expenditure, that under section 143 (2) of the Municipal Act all public water-courses within municipal limits are left to the control and direction of the Municipal Councils, and that unless the Government specially excludes under section 143 (3) the two branches of the channel above referred to, the Municipality cannot forego the right of fishing therein. The Collector has, therefore, addressed the letter which is sent me for report.

2. The channel is a very important one supplying about 5,000 acres below Tinnevelly town and must therefore be maintained in good order. As the bed within municipal limits was found much silted up and the lands below suffering from insufficient supply in times of low freshes in the river, it was cleared in 1890 by this department out of Irrigation Funds at a cost of about Rs. 700. The clearance work is very costly, as the channel passes between two rows of houses and all the spoil has to be carted along the bed. If the Municipality will keep the bed of the channel clear of all rubbish and silt and prevent fishermen from making bunds across it, it may have the right of fishing as it till now has.

Note by the Chief Engineer for Irrigation, dated 15th September 1899, No. 217 I.
Endorsement of the Local and Municipal Department, dated 23rd Sept. 1899, No. 998.
To the Government Solicitor, dated 13th October 1899, No. 290 M.
From the ,, ,, 23rd ,, ,, ,, 577.

ORDER—No. 1000 I., dated 23rd November 1899.

The Government agrees with the Collector's view that the Municipal Council has no right to control the Tinnevelly irrigation channel which is not a public water-course within the meaning of section 143 (2) of Madras Act IV of 1884, as amended by Madras Act III of 1897. The right of fishing in the channel within the limits of the Tinnevelly Municipality will, in future, be sold by the Public Works Department, the sale-proceeds therefrom and from the trees on the channel banks being credited to Municipal funds.

(True Extract.)

Under Secretary to Government,
Irrigation Branch.

To the Chief Engineer for Irrigation.
,, Superintending Engineer, VI Circle.
,, all other Superintending Engineers.
,, the Examiner, Public Works Accounts.
,, the Local and Municipal Department.
,, the Revenue Department.

Exd. T. K. Narayana Aiyangar.

BACK PAPERS.

2

Public Works Department,
Irrigation Branch.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Right of fishing in the Tinnevelly channel

Under date the

Read the following

L & M Dept transfer Endorsement, No. 575, d/ 15.5.99
To Supg Engr, VI Circle, No. 20 T.N., d/ 22.6.99
From do " 653 T.N., d/ 24.8.99
Note by the Chief Engr for I, No. 217. I d/ 15.9.99
L. & M. Dept transfer Endorsement No. 995 d/ 23.9.99
To Govt Solicitor, No. 290M, d/ 13.10.99
From do " 577 d/ 23.10.99

Print with enclosure

Print with enclosure

Issue

WH

18.11.99

I

No: 1000 I 23.11.99 The Govt agrees with the Collector's view that the Municipal Council has no right to control the Tinnevelly irrigation channel which is not a public water-course within the meaning of Section 143 (2) of Madras Act IV of 1884 as amended by Madras Act III of

To W.S. 18/11

The Secretary to Govt. L & M /
Do , Rev Dept, &
for favour of counter initials

A.E.H. 17.11.99

TP

Asst. Secy to Govt. 20 Nov. 1899

Note for the Secretary

No objection in this Dept.

18/11/99

1897. The right of fishing in the channel within the limits of the Tinnevelly Municipality will in future be sold by the P. W. Dept., the sale proceeds therefrom & from the trees on the channel banks being credited to Municipal funds.

3/11/99

4.11.99

8.XI.99

13 11 99

To

The Chief Engr for I. ✓
Supg Engr VI Circle ✓
All other Supg Engrs. ✓
Secy P.W.D. ✓
L & M Dept. ✓
Rev Dept. ✓

Despd.
7/12/99

P. I. Form No. 19(a)—100—3-5-99

P. W. ~~Local & Munl.~~ (1899.) Department.

CURRENT No. ~~1260 M~~ 3989

CHIEF ENGINEER FOR IRRIGATION.
29 AUG. 1899
No. 44 T.N.
2

ASSIST. SECY. TO GOVT.
8 MAY. 1899
L. MUNL. & LEG. DEPT.

From The Collector of Tinnevelly.

No. 575 of 17-5-99

~~**Order**~~

Transferred to the Public Works (Irrigation) Department.

SUPDG. ENGINEER'S OFFICE
No. 4303
27 MAY. 1899
P. W.
SIXTH CIRCLE

A Edgington
Ag Assistant Secretary.

13-5-99

Assn. Coll. **No.** 472/Con. 99.

Dated 3rd of May 1899.
Desp. 6th of

Received ~~8th May 99~~ 18-5-99

Registered ~~9th~~

Enclosures 1 ~~nil~~

Spare copies

No 20 T.N. of 22-5-99

Referred to the Superintending Engineer, Sixth Circle, for early report.

Under Secretary to Govt., P. W. D., Irrigation Branch.

20/5/99 22/5

27/5 28/5/99

SUBJECT.

Requesting orders as to whether or not the municipal Council is entitled to the revenue derived from fish in the Govt. irrigation channels within municipal limits ~~but~~ but maintained by P. W. Dept.

KR 8/5 12/5

BACK PAPERS.

G.O.	No.	Department.	Date.
Go	1973	L&M	16-11-96

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Refm Cn No. 472/199.

8

Tinnevelly District Collector's Office,
Dated 3rd. May 1899

From
E. Scott Esquire,
Acting Collector of the
Tinnevelly District,

LOCAL & MUNICIPAL DEPT.
CURRENT No. 1260M

18

To
The Secretary to Government,
Local & Municipal Department,
Madras.

Sir,

I have the honour to request that Government will be pleased to decide whether or not Municipal Councils can claim the revenue derived from fish in the Government irrigation channels maintained by the D.P.W. and within municipal limits or from trees on the banks of such channels.

2. The Municipal Council of Tinnevelly claim to be entitled to the revenue from a D.P.W. river-channel passing through the town under Section 143(2) of the Municipal Act and object to an order issued by me to the effect that the Municipal Council had no authority to interfere with the channel or to claim the revenue derived from it. The order was issued as the Council is permitting the channel to be damaged by fishermen to whom it leased the right to fish.

3. Section 143(2) cannot, I consider, be taken to have handed over such channels to Municipal Councils, ~~within the~~ as they do not come within the term "public" water courses".

I have the honour to be,
Sir,
Your most obedient servant,

For Ag. Collector.

S.T.T.

9

FROM

THE COLLECTOR OF THE

District,

TO

THE SECRETARY TO GOVERNMENT,

DEPARTMENT,

Madras.

Dated

Despatched 189

Received

No.

ENCLOSURES.

SUBJECT.

OWS. 1
3589/53

10

Public Works (1899) Department.

CURRENT No. 44 TN

Order

From

The Supg Engineer
IV Circle

No. 653 T.N.

Dated 24 August 1899

Received
Registered } 29 – do –

Enclosures × 2

Spare copies

SUBJECT.

Right of fishing in the Trimiveli Channel — Reporting on the question of —

DEI

Papers
JP 29/8

lcu
LCUS 1/9/99
29/8/99
mb 2.9.99

B 30.8.99

11

BACK PAPERS.

No.	Date.
I20T.N	22-5-99

FURTHER PAPERS.

No.	Date.
R380M	23-10-99

12

No. 653 T.N.

OFFICE OF THE SUPERINTENDING ENGINEER,
6TH CIRCLE,
Trichinopoly, 24th August 1899.
925

CHIEF ENGINEER
FOR IRRIGATION.
26 AUG. 1899
No. 44 T.N

From
Lieut.-Col. O.V. Boddy R.E.
Superintending Engineer,
6th Circle. 38

To
The Chief Engineer,
for Irrigation.

SIR,

2 ENCLOSURES.

With reference to your endorsement No. 20.T.N dated 22nd May 1899, herewith returned, I have the honor to forward copy of letter No. 3021 dated 16th August 1899 from the Executive Engineer, Tinnevelly Division showing in what manner the question at issue arose.

2. In order to facilitate fishing operations, the lessees of the fisheries have been in the habit of placing cross bunds across the Tinnevelly Channel within municipal limits, and these cross bunds have the effect of Causing clearing silting in the Channel, the clearance

clearance of which is very costly.

3. I cannot think that it was the intention of the act to place portions of important Irrigation channels under the Control and direction of the Council of the Municipality through which they flow.

4. I consider that such portions of irrigation channels should be entirely under the control of the P. W. Department and that therefore the leasing of the right of fishing therein should vest in this Department.

I have the honor to be

Sir

Your most obdt. servt.

J. V. [illegible] Lieut. Col. R.E.

Supg. Engineer. 6: circle.

P.W.

Letter from S. Gopalakrishna Iyer Esqre, Executive Engineer. Tinnevelly Division. to the Superintending Engineer. 6: Circle dated 16th August 1899. No. 3021:—

CHIEF ENGINEER
FOR IRRIGATION.
26 AUG. 1899
No. 44 T.N

Enclo: 1-

With reference to your No. $\frac{413\text{ T.N}}{1\text{-}6\text{-}99}$ herewith returned, I have the honor to inform you that Supervisor, Tinnevelly, early in November last, brought to notice that, owing to the non-removal of cross bunds placed by fishermen for the purpose of catching fish across the Tinnevelly channel within Tinnevelly municipal limits, the channel within municipal limits and above and below was getting silted up and enquired if the municipality was allowed by this Department the right of catching fish and if so whether any conditions were laid down for the maintenance of the channel in good order. As it was known that the municipality was leasing out the

fishing

fishing in the channel and crediting the proceeds to its funds for years past, I forwarded the Supervisor's letter to the Collector and asked him for the favour of such action, as may prevent any injury to the channel being taken. He thereupon informed me that I can take any action I wished with regard to the channel which is entirely under my control, that fishing therein should not be allowed if it be considered objectionable and that the leasing out of the right of fishing should be arranged for by our department as it should get the proceeds. On this being communicated to the Chairman of the municipality, the municipal Council have protested against the decision of the Collector saying that the municipality has been enjoying the right of fishing in the channel ever since the municipality came into existence, that it is periodically spending some money towards clearing both branches of the channel Nainarkulam

and

and Arugankulam, that the fishing rent is hardly sufficient to meet this periodical expenditure, that under Section 143 (2) of the municipal act all public water courses within municipal limits are left to the control and direction of the municipal councils and that unless the Government specially excludes under section 143 (3), the two branches of the channel above referred to, the municipality can't forego the right of fishing therein. The Collector has, therefore, addressed the letter which is sent me for report.

2. The channel is a very important one supplying about 5000 acres below Tinnevelly town and must therefore be maintained in good order. As the bed within municipal limits was found much silted up and the lands below suffering from insufficient supply in times of low freshes in the river, it was cleared in 1890 by this department

out

out of Irrigation Funds at a cost of about Rs 700 - The clearance work is very costly as the channel passes between two rows of houses and all the spoil has to be carted along the bed. If the municipality will keep the bed of the channel clear of all rubbish and silt and prevent fishermen from making bunds across it, it may have the right of fishing as it till now has.

True copy

J. V. Bo[illegible] Lieut-Col. R.E.

Supdg. Engineer, 6th circle

PW. 24. 8. 99

Public Works (1899) Department.

1000/9

IRRIGATION BRANCH.

ISSUE No. 217. I

To

The Joint Secy to Govt. P.W.D.

(Reply to letter No. , dated)

Dated 15-9-99

Despatched 4-11-99

Enclosures *

* Particulars of Enclosures.

SUBJECT.

Right of fishing in the Tinnevelly Channels - Note recommending that the irrigation Channel within municipal limits be excluded from the Control & direction of the Council under Section 143(3) of the Act.

E. I. Form No. 13—4,000—7-1-99

91

BACK PAPERS.

No.	Date.
R44TN/99	

FURTHER PAPERS.

No.	Date.

Sent to Government with No. I.,
dated 189 .
Printed with G.O., No. I.,
dated 189 .

REMINDERS ISSUED.

No. 1, dated 189 .
" 2 "
" 3 "
" 4 "
" 5 "

KEEP-WITHS.

20

PUBLIC WORKS DEPARTMENT,
IRRIGATION BRANCH.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Right of fishing in the Tinnevelly Channel.

UNDER date the

READ the following

L & M Dept transfer Endorsement, No. 575, d/17.5.99
To Supg Engr, VI Circle, No. 20 T.N., d/ 22-5-99
From do .. 653 TN, d/ 24. 8. 99

No 217. Ed/ 15-9-99
Note by the Chief Engr
for Irrigation.

The Tinnevelly channel which takes off from the Suttamalli anicut across the Tambraparni river passes through the town of Tinnevelly & supplies about 5000 acres below the town. It would appear that the Municipality of Tinnevelly has been enjoying the right of fishing in the channel ever since the Municipality came into existence. As it was found that the channel within Municipal limits & above & below was getting silted up owing to the non removal of cross bunds placed by fishermen for the purpose of catching fish, the Collector, on a representation from the Executive Engineer, issued an order that the Municipal Council had no authority to interfere with the channel or to claim the revenue derived from it. The Council, however, claim to be entitled to the revenue from the channel under Section 143+ (2) of the Municipal Act, which lays down that "all public watercourses & springs & all public tanks reservoirs

+ Flag B

cisterns, fountains, wells, stan-pipes, & other water-works existing at the time of the coming into operation of this Act or afterwards made, lai or erected, & whether made, laid or erected, at the cost of the Municipal Council or otherwise, and also any adjacent land (not being private property) appertaining thereto, shall be under the control & direction of the Municipal Council."

The Collector considers that the above section cannot be taken to have handed over such channels as the one referred to to the Municipal Council as they do not come within the term "public water courses". He therefore

D

requests that Govt will decide whether or not Municipal Councils can claim the revenue derived from fish in the Govt irrigation channels maintained by the D.P.W. & within Municipal limits or from trees on the banks of such channels.

From P.M.G. No. 297+ Rev., d/ 14th March/82, it will be seen that Govt concurred in the opinion expressed by Colonel Mullins that there should be no conflict of authority but that the P.W. Officers who are responsible for the efficiency of irrigation works in their charge should grant the leases for fishing, the proceeds

+ Flag D

E. I. Form No 1 (a)—100—3-5-99.

24

PUBLIC WORKS DEPARTMENT,
IRRIGATION BRANCH.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

UNDER date the

READ the following

being credited to Incorporated Local funds. The control of trees on channel banks & the revenue derived therefrom is regulated by the arrangement approved in G.O. No. 527+ I, d/ 14th July 1894.

+ Flag E

Under the above circumstances the undersigned concurs in the opinion expressed by the Collector, but should the contention of the Municipal Council be held to be correct, it is recommended that the irrigation channel within Municipal limits be excluded from the control & direction of the Council under section 143(3) of the Act.

13/9/99

To

The Secretary to Govt, L & M Dept
do. Rev Dept } for favour of remarks
U.O.

WH
15.9.99

As to the Policy of keeping such channels as the one under charge of the D.P.W., I quite agree with the note. I also agree with the Collector's view that the Municipal Council has no right to control these channels; the matter however is not free from doubt & if necessary the Advocate Genl's opinion might be taken upon the point.

In the case of Chidambaram

12/9/99

F.V.

Municipality - apparently the P.W.D. controls the Channel, but hands over the proceeds of the fishery to the Municipality - vide G.O. 879. L. 24 Oct 96. The same course might be taken in Tinnevelly.

There seems to be no objection to the issue of a Notification under 143.(3). of the Act; if it is decided that the water channel is now under the Control of the Municipality.

It is not known why the Municipal Council now spend money on the Channel but if it is merely to improve the channel for fishing purposes, they will of course give up spending the money when the right of fishing is taken from them.

27.ix.99

I agree with L & M

H.T.
10.10.99

P W

~~Local & Munl.~~ (1899) Department.

7907

CURRENT No. ~~2417 M~~

wolpa to register future [illegible] 27/9/99

desp

From The Collector of Tinnevelly

No. 998 of 23-9-99

~~Order~~

Transferred to the Public Works (Irrigation) Department in continuation of Endorsement No. 575. dated 17th May 1899.

A Edgington
for Assistant Secretary

[illegible]
15-9-99

Rep on arg. No. 472/99

Dated 8. 9- 99

Received 11 SEP. 1899 } 25-9-99

Registered " }

Enclosures ~~Plan~~ nil } Total
others - 2 } 2

Spare copies nil

SUBJECT.

Requesting orders on the letter Ref on Cur No 472/99 dated 3.5.99 regarding the right of the Municipal Councils to the fisheries in irrigation channels within municipal limits

To The Public Works (Irrigation) Deptt

D.S. R.A. 44 TN + file with a draft disposal was sent to E.I. on the 14 inst.

Forwarded to E.I.

Legal opinion asked for

7/10 [illegible]

J.H.
29/9/99

W.E.S.

[illegible]
26/9/99

13/9

E. I. Form No 1 (a)—100—3-5-99.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.
R 380 M			23-10-99

29

Rep on Exr gl

No. 472/99

Tinnevelly Collector's Office,
Dated 8th.September 1899.

From

J.P. Bedford Esquire,
Acting Collector of
Tinnevelly.

LOCAL & MUNICIPAL DEPT.
CURRENT No. 2417 M

To

The Secretary to Government,
Local & Municipal Department,
Madras.

Sir,

I have the honour to request that Government -- will be pleased to pass early orders on my letter Ref.on C. No.472/99,dated 3-5-99 regarding the right of the Municipal Councils to the fish rent in irrigation channels within --- municipal limits.

L & M
Enl. No 575/17-5-99

I have the honour to be,
Sir,
Your most obedient servant,
Bedford 7/9
Acting Collector.

Despatched 8-9-99

S.T.T.

NoL1
1907/21

Public Works (1899) Department.

IRRIGATION BRANCH.

ISSUE No. 290 M

To

The Govt Solicitor
Madras

(Reply to letter No. , dated)

Dated 13. 10-99

Despatched — do

Enclosures * 3

* Particulars of Enclosures.

1 - Ex's letter No. 653 TW / 24.8.99. with Encl 2

1 Act No IV of 84

1 Act No III of 97

SUBJECT.

Fishing in the portion of the Tinnevelly Irrigation Channel within municipal limits. Forwards certain correspondence for opinion on the question whether the Tinnevelly Municipal Council can claim the revenue derived from —

E. I. Form No. 13—4,000—7-1-99

BACK PAPERS.

No.	Date.
R 44 T N	24-8-99

Sent to Government with No.   I.,
dated   189 .
Printed with G.O., No.   I.,
dated   189 .

REMINDERS ISSUED.

No. 1,	dated	189 .
„ 2	„	
„ 3	„	
„ 4	„	
„ 5	„	

KEEP-WITHS.

FURTHER PAPERS.

No.	Date.
R 3 81 M	23-10-99

No 290 M

Office of the Chief Engineer for Irrgn:

Madras 13 October 1899

W. HUGHES Esq.,

Chief Engineer for Irrigation.

The Government Solicitor,

Madras.

Sir,

With reference to the enclosed correspondence, I have the honour to ask your opinion on the question whether the Tinnevelly Municipal Council can claim the revenue derived from fishing in the portion of the Tinnevelly Irrigation channel within municipal limits.

I have the honour to be,
Sir,
Your most obedient Servant,

Signed. F. J. Wilson.

For Chief Engineer for Irrign:

evell
ies
ity
cipal
the —

E. I. Form No. 13—4,000—7-1-99

No. 577.

33

Public Works (1899) Department.

CURRENT No. 380.M

From The Govt Solicitor

Order

No. 577

Dated 23 - 10 - 99.
Received
Registered } 24 - 10 - 99.
Enclosures one file.
Spare copies.

SUBJECT.

Papers
D. E. I.
24/10

Right of fishing in the Tinnevelly Irrigation Channel — Gives his opinion as to the validity of the claim of the Municipal Council of Tinnevelly to the —

24/10/99
25.10.99

E. I. Form No. 13—4,000—7-1-99

BACK PAPERS.

No.	Date.
I290M	13-10-99.

FURTHER PAPERS.

No.	Date.

No. 577.

Madras 23rd October 1899.

34

From,

Ernest Barclay Esq

Government Solicitor

MADRAS.

24 OCT. 1899

380M

To,

The Chief Engineer for Irrigation

Madras.

Sir,

I. I beg to acknowledge receipt of your letter of the 13th instant No.290M with its enclosures.

2. Section 143(2) of Madras Act 4 of 1884, as amended by Madras Act 3 of 1897, provides that all public water courses &c existing at the time of the coming into operation of the Act or afterwards made and whether made at the cost of the Municipal Council or otherwise and also any adjacent land (not being private property) appertaining thereto, shall be under the control and direction of the Municipal Council.

3. The channel referred to in your letter is apparently an irrigation channel, that is, as I understand, a channel for the purpose of irrigating the lands bordering on that channel and for which irrigation, the owners of such lands have to pay Government an assessment. It seems to me therefore that the Tinnevelly Irrigation Channel is not a public water-course within the meaning of Section 143 (2) of the Act, as every one is not entitled to the use of the water which passes along the channel.

4. I am further of opinion that, even if the channel is a public water course, the Tinnevelly Municipal Council have no right to let out that part of the channel which is within Municipal limits for the purpose of fishing. The channel is, as I have stated, for the purposes of irrigation and not for fishing and, in my opinion, the words "control and direction" in Section 143(2) of the Act mean such control and direction as may be necessary for the purposes for which a public water course has been or may be made. If this were otherwise a Municipality might turn an irrigation channel into a drain.

5. I am therefore of opinion that, as the Tinnevelly Municipal -

Council have no right to let out the Tinnevelly Irrigation channel for fishing, it necessarily follows that the Council cannot claim the revenue derived from fishing in the channel.

6. I return the file of papers sent me and

I have the honor to be

Sir

Your Obedient Servant

Ernest [illegible]

Government Solicitor.

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