Revenue Department

Minutes of Consultation

23rd Dec 1857

Back Numbers 59-60

Order no 1340 of 23rd Dec 1857

Binders

1340

பாதுகாப்பு பிரிவு–1

செப்பனிடுபவர் பெயர் Ex. 7127

செப்பனிடுவதற்காக எடுத்துக் கொள்ளப்பட்ட நாள் 17.1.07

சரிபார்க்கும் முதல் மு.நி.பா.எ. கையொப்பம்

சரிபார்க்கும் 2–ம் மு.நி.பா.எ. கையொப்பம்

ஆராய்ச்சி உதவியாளர் கையொப்பம்

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Fort Saint George, Revenue Consultation of 23d December 1857.

No. 59. Read the following Extract from the Minutes of Consultation in the Judicial Department; under date the 10th December 1857, No. 1603.

Read the following Extract from the Minutes of Consultation in the Revenue Department.

Referring an Extract from the Proceedings of the Board of Revenue, submitting with the Board's observations, letters from the Collector of Madras, complaining of the inconvenience caused by the frequent adjournment of cases in the Small Cause Court in which servants of his establishment are summoned as witnesses. (Here enter 26th November 1857, No. 1229.)

1. The Board of Revenue bring to notice the inconvenience experienced by the Collector of Madras, in consequence of the frequent adjournment of cases at the Court of Small Causes in which his Subordinates are subpœnaed as witnesses, and submit that Government may deem it desirable to have the matter brought specially to the notice of the Judges of that Court.

From Collector 11th May, and 4th Nov. 1857.
Rev. Board's Pro. 29th May and 26th Nov. 1857.

2. The Right Honorable the Governor in Council resolves to forward the papers as per margin, to the Judges, for any remarks they may wish to make on them.

(True Extract and Copies.)

(Signed) T. PYCROFT, *Chief Secretary.*

No. 60. ORDER THEREON, No. 1340; dated 23d December 1857.

Ordered that the foregoing Extract be recorded.

(Signed) H. FORBES,
Acting Secretary to Government.

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JUDICIAL DEPARTMENT.

No. 1603.

Extract from the Minutes of Consultation under date the 10th December 1857.

Read the following Extract from the Minutes of Consultation in the Revenue Department, dated 26th November 1857, No. 1229.

Read the following Extract from the Proceedings of the Board of Revenue, dated 20th November 1857, No. 4072.

Read the following letter from B. CUNLIFFE, Esq., Collector of Madras; to J. D. SIM, Esq., Acting Secretary to the Board of Revenue, dated 4th November 1857, No. 173.

SIR,

1. I beg to bring to the notice of the Board, the great inconvenience felt by this office, by its servants being so constantly summoned as witnesses by the Court of Small Causes, and the adjudication of the case postponed, thus rendering necessary a second attendance.

2. These remarks apply especially to my Superintendent of Abkarry, Amildar and Jawabneviss, the late Amildar, this latter officer attended to-day for the fifth time as a witness in an action brought by Eremboor Arnagherry Moodelly, and was told to present himself again on the 11th Instant, the hearing of the case having been postponed to that date.

3. Putting aside the personal inconvenience to the parties, I must represent that their duties as public servants are materially interfered with by these frequent summons. I hope therefore that the Board will request the Government to move the Court to direct the preparation of the cases within the date first fixed for the hearing, that public servants may be taken away from their proper duties as seldom as possible.

(Signed) B. CUNLIFFE,
Collector.

Resolved that the foregoing letter and the Acting Collector's communication of the 11th May last† on the same subject be submitted for the consideration of Government, with reference to Extract Minutes Consultation, 17th November 1853, No. 1270, R. D.

† In Cons. 29th May 1857.

2. Mr. Cunliffe in the letter now submitted complains chiefly of the inconvenience caused by the frequent adjournment of cases in the Court of Small Causes and the consequent necessity of the servants of his office when summoned as witnesses (as they are very frequently) having to attend the Court several times before the case in which they are called is adjudicated.

3. In the instance mentioned by Mr. Cunliffe in para. 2, one Officer of his establishment has thus attended the Court six times in a single action, the final hearing of which may after all have been postponed.

4. The Board conclude that a case is never adjourned without the assignment of reasons which are sufficiently valid in the estimation of the presiding Judge, still the inconvenience and impediment to business in the Collector's office are so great, that Government may deem it desirable to have the matter brought specially to the notice of the Judges.

(A true Extract.)

(Signed) J. D. SIM,
Acting Secretary.

From W. E. COCHRANE, Esq., Acting Collector of Madras; to J. D. SIM, Esq., Acting Secretary to the Board of Revenue, dated 11th May 1857, No. 59.

SIR,

1. I beg to bring to the notice of the Board of Revenue, that on the 2nd Instant, my Head Sheristadar received a subpœna from the Small Cause Court, calling upon him to appear in person, and to give evidence in a case of which he knew nothing, he was ignorant of the parties, and was unable to ascertain what the case was, until he had an opportunity of seeing on the evening of the 4th Idem, another subpœna served upon myself, directing me to produce the records of the case in question.

2. On referring to the records of the office, it appears that in 1854 one N. Veerana Chetty applied for a certificate for the premises situated in the village of Tondiarpet, that 5 persons objected to the issue of the certificate, among whom was one Arnachella Chetty (the person who has supœnaed the Sheristadar), of these 5 persons one withdrew his objection and sufficient time was allowed to the remaining 4 to establish their right before the Court, if they were able to do so, they however failed to do so, and the certificate was accordingly granted to the applicant.

3. The Sheristadar has been three times summoned for such cases as the above and two cases out of three, his presence was not required; the parties themselves relieving him from attendance. In obedience to the summons he attended at the Court on Tuesday the 5th Instant, the day appointed, and was detained there the whole day, no enquiry having been made, the case was postponed until Tuesday the 12th Instant, and the Sheristadar is desired to attend again on that day.

To Board, 30th August 1853.
Do. do. 12th October ,,
From do. 1st December with Minutes of Consultation, dated 17th November 1853, No. 1270

4. The great inconvenience suffered by the frequent absence of servants of this establishment from the existing practice of issuing subpœnas was complained of by Mr. Stokes as per correspondence in the margin, and the result was that the Collector was relieved from the necessity of attending.

5. The Board being aware of the onerous duties of a Sheristadar, his time cannot be spared to be at the call of every one who chooses to subpœna him on all occasions when he is acting in his official capacity.

6. Under these circumstances, I have the honor to suggest whether the Board would consider it advisable to obtain the opinion of the Company's Law Officer, as to whether the orders conveyed in Minutes of Consultation before mentioned, might not be equally applicable to the Head Sheristadar, and that an Officer from the Register's Department together with such records as should be necessary might be sent, and whether such would not be sufficient to meet the ends of justice, instead of causing such unnecessary annoyance and hindrance to the office of Collector of Madras.

(Signed) W. E. COCHRANE,
Acting Collector.

No. 1259.

The Board do not consider it necessary to make a reference to the Government Law Officers on this matter.

2. If the Head Sheristadar is subpœnaed to produce documents only, there can be no objection to the required records being forwarded by another responsible Officer qualified as prescribed by Government in Extract Minutes Consultation 17th November 1853. Revenue Department, No. 1270, para. 3.

In Cons. 1st December 1853.

3. On the other hand if the Sheristadar is subpœnaed to give evidence and receives reasonable notice, he must attend the Court and can then bring to notice the inconvenience complained of.

4. It is clear from the Advocate General's letter enclosed in the Extract Minutes Consultation above quoted, that the Courts could not entertain an application to exempt any person from being summoned as a witness.

29th May 1857.

(Signed) J. D. SIM,
Acting Secretary.

Ordered to be referred to the Judicial Department.

(True Extract.)

(Signed) H. FORBES,
Acting Secretary to Government.

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From Collector, 11th May, & 4th November 1857.
Revenue Board's Pro. 29th May & 26th Novr. 1857.

2. The Right Honorable the Governor in Council resolves to forward the papers as per margin, to the Judges, for any remarks they may wish to make on them.

(True Extract and Copies.)

Chief Secretary.

To the Judges of the Court of Small Causes.
,, Revenue Department.

Exd. F. Cartlidge.

Cons: 22 Nov 1853 Sec 10:
Cons: 1 December 57. a 29 30

Revenue 1857 Dept
Cons: 23 December

No 1575

Extract from the Min
of Cons in the Revd
Department

Dated 10th
Rec'd 16th } December,
1857.

Calling upon the Judges
of the Court of Small Causes, to
submit any proposals they may
wish to make for limiting the
inconvenience [illegible] to be
occasioned by the Collector's
consequent [illegible] adjournment of cases, in which
his subordinates are employed
as witnesses

No 1360

Recorded

22nd Dec 1857

No 59 to 60