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Revenue Department

Minutes of Consultations

14th July 1857

Back Numbers 26-27

Order No 697 dated 13th July 1857

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15 Encl

பாதுகாப்பு பிரிவு-1

செப்பனிடுபவர் பெயர்

செப்பனிடுவதற்காக எடுத்துக் கொள்ளப்பட்ட நாள்

செப்பனிட்டு முடித்த நாள் - 7.1.07

சரிபார்க்கும் முதல் மு. நி. பா. எ. கையொப்பம்.

சரிபார்க்கும் 2ம். பா. எ. கையொப்பம்.

ஆராய்ந்து உதவியாளர் கையொப்பம்

Fort Saint George, Revenue Consultation of 14*th July* 1857.

No. 26. Read the following Extract from the Proceedings of the Board of Revenue; dated 25th June 1857, No. 2186.

Read Extract Minutes of Consultation dated 6th June 1857, R. D.

(Here enter No. 558.)

* Enclose Nos. 1 and 2 in from Guntoor 30th March in N. C. Dy. Consultation 10th April 1854.

From Guntoor 10th June N. C. dated 15th July 1852.
From ,, 3d March in N. C. Consultation 11th April 1852.
To ,, 11th June N. C. Consultation 11th April ,,

Resolved that the documents * referred to in the above Extract Minutes of Consultation together with the correspondence noted in the margin be submitted for the information of Government.

(A true Extract,)

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

No. 27. ORDER THEREON, No. 697; dated 13th July 1857.

With the above communication, the Board of Revenue submit the papers called for in Extract Minutes Consultation dated 6th June 1857, No. 558, with reference to an application made by the Acting Collector of Guntoor, and recommended by the Board in their Secretary's letter of the 22d May last, No. 1717, for the payment to certain salt servants of the costs incurred by them in appealing to the Civil Court against a decision passed by the Revenue officers under Regulation IX. of 1822, and awarded to them by that Court.

2. The Government observe from para. 3 of Mr. Acting Collector Purvis' letter to the late Commissioner dated 30th March 1854, that he proposed to include the costs in question, amounting to 12 Rupees, in his next statement of law charges submitted for sanction. This course the Commissioner approved, and there is nothing in the papers now before Government to shew that it has not been pursued. They must therefore withhold the sanction solicited till the Board have ascertained from the detailed statements which must be found among their records, that authority for the disbursement has not already been granted. A list of the particulars of the costs should also be furnished, because the order of the Court does not specify them, and the sum appears to be above the proper amount. The case was laid before the Court in two miscellaneous Petitions, and the cost of the two stamps on which they must have been written cannot, unless they occupied several sheets, have been more than 2 Rupees under Section XX. Regulation XIII. of 1816.

3. In connection with the case under notice, the Government must remark that the order of the Civil Court of Guntoor was illegal in so far as it awarded costs, and on this ground it should have been taken in appeal before the higher Court. In para. 5 of their Circular Order dated 20th October 1853, the Court of Sudder Udalut laid down that cases of the description which Mr. Rhode decided are "merely appeals from a penal sentence" in which "there is no party who could be entered as a respondent;" under this exposition of the law, the Revenue officers occupy the position of a judicial authority subordinate to the Civil Court, and the case is received by the latter Court in appeal. The order of the Civil Judge awarding costs against the Revenue officers, is the same as if he were to award costs against a Subordinate Judge in an order in which he might reverse any decision passed by the latter authority. Moreover, as they were not called on to appear as respondents, the Revenue officers cannot be bound by the order which is the subject of the present remarks. Considering however the time that has elapsed, and the expectation which has been held out to the appellants, the Government will not refuse their consent to the payment of such a sum as may appear proper on the submission of the further information required above.

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

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Revenue Department.

No 2186

Extract from the Proceedings of the Board of Revenue,
dated 25th June, 1857. No 2186

Read Extract Minutes
of Consultation dated 6th June, 1857. N.O.
(Revenue No 538)

Enclose Nos 1 & 2 in
Jas Cumberbee 30th March
to the N.C. Dy Collr 10th
April 1858

Resolved that the Documents
referred to in the above Extract Minutes of
Consultation together with the Correspondence
noted in the Margin be submitted for the
information of Government.

(A True Extract)

Acting Secretary

To,
W. Forbes Esq.
Acting Secretary to Government
Revenue Department.

D

Recd.

Canc 9th June/57 No 737/738
" 24th October/54 - 676

Rec. 1837 Def.
D.to Canc. 14th July.
C. No. 738.

Extract from the Proceedings of the Board of Revenue

Date d 27th June/57
Rec.d 26th

6 Encls.
Letter No. 2186
Ltr. Rec. 697 - 13 July

Submitting for the information of Government certain documents and Correspondence referred to in E. In.a Canc. of 6th June 1837
Revenue Department.

No 26

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C/ 2nd July 210

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Revenue Department

№ 151.

Extract from the Proceedings of the Commissioner for the Northern Circars, dated Vizagapatam 11th April 1853.

Read the following letter from the Acting Collector Junior dated 3d Ultimo forwarding the Record of appeal Case № 4 of 1853.

(Here enter № 12)

Read also appeal Petitions № 9 of 1853 from Nizamudah Yegnumah Duffadar Ramaswamy and Poor Inabonie Cassim 2d 3d and 4th Defendants.

(Here enter)

1. From the Record it is seen that the 2d and 3d Defendants were charged Jointly With having on the 6th and 7th April 1853 at the Sarbey Cottaur Sold to Mercator of Salt being the Property of Government to the 1st and 3d Witness (Lumbadies) at 9 instead of 12 Rupees and fraudulently appropriated the Money to their own use. Secondly. 2d Defendant With Farther having on the aforesaid dates entered

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in

in the Massacat book only 637 instead of 677 Mercals of Salt as the quantity sold to the Lumbadies.

3d Defendant With having made a similar entry in his Report to the Buzzar the said Entries in both instances being false and made with intent to defraud.

4th Defendant First With having negociated for the 2d and 3d Defendants the sale of 40 Mercals of Salt receiving the value thereof Rupees 9 from 1st and 3d Witness Secondly With having concealed the fraudulent Entries made in the Public accounts by 2d and 3d Defendants & Thirdly with having neglected to give information against them.

1st Witness a Lumbedy deposed that he and 4 others purchased Salt at the Parley Cutcherry on the 6th and 7th April 1852 that the following quantities were sold to them by 2d & 3d Defendants in whose presence it was measured.

		Mercals.
30	1st Witness	75.
"	Beema Naick	170.
"	Jacoo	75.
"	Beeo	332.
"	Thasia	25.
		677

that on the Second day as soon as the measurement was

was finished 2d and 3d Defendants went
away to the Village while 1st Defendant continued
about the yard. that as Witness was packing
up his Sacks 3d Witness came and informed him
that the 5th Defendant had asked for 9 instead of 12
Rupees the proper price of 40 Mercals of Salt.
which would not be entered in the Accounts
or in the Rowanah. 1st Witness further
deposes that he gave the Peon (4th Defendant)
1½ Rupees for 20 Mercals supplied
to him in excess of the quantity specified
in the Rowanah, and that 3d Witness also
gave him 1½ Rupees for 20 Mercals more making
altogether 3 Rupees that in the evening 1st Witness
and his party paid 19¼ - 4 - 7 to the Shroff, the
price of the 637 Mercals entered in the Rowanah
that on the following day 2d Witness went
again to the Cutcherry for the Rowanah
and received A Perwanah 2d Prisoner prohibiting
a Sale of only 637 Mercals of Salt being
40 Mercals less than the quantity purchased.
that whilst on their way they were stopped
by 6th Witness and Peons who asked why
they had carried away an excess of Salt
when they confessed they had 40 Mercals
more than were specified for which they had

paid

paid 9 Rupees to 4th Defendant — that the deficiency found on remeasurement of that excess before the Apprehend Collector owing to the difference of Measurement and wastage from their having made it salt since leaving Parlay. The above Evidence is fully corroborated by 2d and 3d Witnesses also Lumbadies. 6th Witness stated that he had measured the Salt and according to his Custom, had placed Roots on a String, each Root being for 20 Mercals that there were 33 Roots, and 17 Mercals above that 2d Defendant also entered the quantity in the Manacal book and said it was 677 Mercals that on the morning of the next day Witness noticed 2d 3d 4th Defendants whispering & consulting together that his succession was excited — that on learning from the Sheriff that the Lumbadies had only paid for 637 Mercals witness pursued and stopped them on the Road when without any attempt at concealment they confessed they had 40 Mercals more than they ought for which they had given 9 Rupees to 4th Defendant. 7th Witness (Sheriff) deposes to the receipt of Rupees 191 — 7 from the Lumbadies for 637 Mercals of Salt. He alleges that he did not

Mention

* Explained to mean a book in which all the daily debits & credits in large sales are entered, which are not paid for at this time but adjusted when the transaction is concluded.

mention to 6th witness how much Salt had been
paid for.

8 Witness stated that he followed 6th Witness
each day and found he had already detained
the Lumbadies.

2. The Defendants pleaded not guilty
to the charges preferred against them. 2d and
3d Defendants farther stated that they and
4th Defendant had sold the Salt to the Lum-
badies. That 2d Defendant made the entry
on the Manacut book. That on the Monday
and in order to get them dismissed. 6th Witness
may have conveyed Salt to the place
where the Lumbadies had left their canoe and
them to meet with their Salt, and that this
is the only reason he can give for
the excess found on Measurement.

3. Upon the foregoing Evidence the
2d 3d and 4th Defendants were severally
convicted of the first charge and sentenced
to pay in equal proportions a Fine of
18 Rupees or double the amount [illegible]
under Section V Regulation IX of 1

2d and 3d Defendants were also con-
victed of the second charge and adjudged
to pay the former a further sum of 50

and

and the latter of 40 Rupees.

4th Defendant being considered guilty of conniving at the false entries made in the Public accounts was further cautioned to pay an additional fine of 20 Rupees.

4 From this decision 2d and 3d Defendants appealed to the Acting Collector who considering the Charges to be fully proved confirmed the original decision -

5 Dissatisfied with this result the 2d 3d and 4th Defendants have preferred a further Appeal to the Commissioner on the grounds that the Charges were got up by 6th Witness out of revenge - that his Evidence as well as that of the 1st 2d & 3d Witnesses is so contradictory that it should not be believed - that they maintain Berua as one of their party which he never was, and that the excess found in the Salt is entirely owing to the manner in which it was measured by 6th Witness.

On a careful Examination of the Record and of the grounds of appeal the Commissioner does not find that Petitioners have advanced any Complaints against the proceedings of the Local Officers or that

they

they have brought forward any arguments which have not been fully considered by them. The fraudulent sale is fully proved by the testimony of the purchasers who cannot be viewed as willing witnesses seeing they had by their participation in the clandestine sale rendered themselves liable to have the whole of their Salt confiscated. that they were brought back to the Assistant Collector's Office at the expence of much inconvenience and delay. and that although so loud from the full penalty they had alternately to pay for the excess improperly purchased. Concealment was impossible because they knew they had a larger quantity in their possession than was covered by the Journals, and although the actual quantity found on Re-measurement was much below that proved to have been taken away, still there was an excess. The occurrence of a deficiency was to be expected. There is always loss by Wastage in newly purchased Salt, and it is possible that some small sales may have been effected by the Lascharies after their departure from the Cotar, a period of 6 or 7 days elapsed between that event and the Assistant Collector's examination, and the 1st Defendant admitted in his deposition before the Assistant Collector that

y[e] 6 15th & 16th Apl.

there

there is always a deficiency never an excess on remeasurement.

7. The 2d Defendant relies mainly on the argument which he derives from certain discrepancies in the statements of the witnesses and different occasions and particularly on the introduction into them of the name of Bhurroo the Naik or chief of the band who it appears was never even at Paraly at all. These objections however have no weight with the Commissioner Bhurroo was represented by a younger brother who seems to have used his own or his brothers name indifferently the purchase of the Salt having been made on his brothers account.

8 The Commissioner sees no sufficient reason for interfering with the orders which have been passed on the subject by the Assistant Collector and confirmed by the Collector. He declines therefore to comply with the prayer of the Petitioners If Petitioners are still dissatisfied they are at liberty, if they think fit, to seek redress in the established Courts of Adalut.

9 The Commissioner observes that no mention is made on the face of the proceedings of the mode in which the charge against the

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1st. Defendant has been disposed of. Such omission should be corrected, if it occurs on any future occasion. This learnt by a reference to the Monthly Return dated 10th. July 1852 No. 317 that he was acquitted.

10. Ordered that the Vessel be returned to the Acting Collector and that an Endorsement to the above effect be passed on Appeal Petition No. 4 of 1853.

(A True Extract)

(Signed) Walter Elliot

Commissioner

To The Acting Collector of Customs

(True Copy)

A Lum

Acting Secretary

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Inclosing a letter from the Acting Secretary to the Board of Revenue to the Acting Secretary to Government Revenue Dept. No. 2186

R 738/57

Copy

Commissioner's Proceedings to be Entered dated 11th April 53.

Respecting Appeal Petition No. 9 of 1853 from Nisamudeh Syed Ameer Ali Jaf. Jaffar Rama Swamy an Peon Mahomed Cassim.

Recd 14 July 57

No 20

Rev. Dept

N° 697

Extract from the Minutes of Consultation
Under date the 13th July 1857

Read the following
Extract from the Proceed-
-ings of the Board of
Revenue-

Here enter 25th June 1857
N° 2186.

With the above
communication the Board
of Revenue submit the
papers called for in
Govt Mun. Cons. 7/6th June
1857 N° 558, with refer-
ence to an application
made by the Acting Col-
lector of Guntoor, and re-
-commended by the Board
in their Secretary's letter

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of the 22nd May last. No
1717, for the payment to
certain salt servants of
the costs incurred by
them in appealing to
the Civil Court against
a decision passed by the
Revenue Officers under
Reg: IX of 1822, and
awarded to them by
that Court.

2 The Govt observe
from para 3 of Mr
Acting Collector Turner's
letter to the late Com-
missioner of 30 March 1854,
that he proposed to in-
clude the costs in question
amounting to 12 Rupees,
in his next statement
of law charges submitted
for sanction. This course
the Commissioner ap-
proved, and there is
nothing

nothing in the papers now
before Government to shew
that it has not been pursued.
They must therefore withhold
the sanction solicited till
the Board have ascertained
from the detailed Statements
which must be found among
their records that authority
for the disbursement has not
already been granted. Neither
of the particulars of the
Costs should also be furnished
because the order of the
Court does not specify them,
and the sum appears to
be above the proper amount.
The case was laid before
the Court in two Miscellaneous
Petitions, and the cost
of the two stamps on which
they must have been written
cannot, unless they occupied
several sheets have been

more

more than 2 Rupees under
Section XX Regulation XIII
of 1816.

3 In connection with
the case under notice, the
Government must remark
that the order of the Civil
Court of Sumbor was
illegal in so far as it
awarded costs, and on
that ground it should
have been taken in appeal
before the higher Court.
In para 5 of their Circular
order dated 20th October 1853
the Court of Sudder Udalut
laid down that the cases
of the description which
Mr Rhode decided are
"merely appeals from a
penal sentence" in which
"there is no party who
could be interested as a Re-
spondent - under this exposition
of

of the Law, the
Revenue Officers occupy
the position of a judicial
authority subordinate to
the Civil Court, and the
case is received by the
latter Court in appeal.
The order of the Civil
Judge awarding costs
against the Revenue Officers
is the same as if he were
to award costs against a
subordinate Judge in an
order in which he might
reverse any decision passed
by the latter authority.
Moreover as they were not called
on to appear as Respondents,
the Revenue Officers cannot
be bound by the order
which is the subject of
the present remarks. Con-
sidering however the time
that has elapsed, and
the

the expectation which
has been held out to the
appellants, the Govern-
ment will not require
their consent to the payment
of such a sum as may
appear proper on the
submission of the further
information required above.

H.R.

Copies to the Bd of Rev.
with Collr Chelsea Dist. 14th.

Revenue 1857 Sept.
Do to Cus. 14th July.

No 697.

Extract Mins. of Cons.
Of 13th July 57.

Extract from the Pro. of the
Bd of Rev. of 25 Augt 57
C. No 903 inf 8 Sept

Passing orders on an
application made by the Acting
Coll. of Gunroon for the payment
to certain Salt servants of the
Costs incurred by them, in ap-
pealing to the Civil Court against
a decision passed by the Revd
Officers under Regulation IX of
1822, and awarded to them by
that Court.

No 26 & 27.

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7 July 9/10