

14

Revenue Department

E. M. C. dated 6th February 1857

Back n^o 10-11

Order thereon 110 dated 29th Jan 1857

(9 slides)

Fort Saint George, Revenue Consultation of 6th February 1857.

No. 10. Read the following letter from J. D. SIM, Esq., Acting Secretary to the Board of Revenue; to J. D. BOURDILLON, Esq., Secretary to Government, Revenue Department; dated Fort Saint George, 2d January 1857, No. 27.

SIR,

With reference to the Extract from Minutes of Consultation under date the 3d December 1856, No. 1280, requiring the Board to state their views on the points mooted in the concluding para. of the Honorable D. Elliott's Minute relative to the proposed Act for the recovery of Ryotwaree arrears, I am directed to state that the Board concur in Mr. Elliott's opinion that the Circular Order of the Board of Revenue dated 30th April 1855 will need to be modified. It will be as well to cancel it, and issue any fresh order that may seem requisite.

2. They are also of Mr. Elliott's opinion that Clause I. Section IV. Regulation III. of 1830, is applicable specially to arrears of Revenue recoverable under Regulation XXVII. of 1802. This appears from the word estates being used in the preamble.

3. But these are not the only rule and enactment which will require revision. Clause 4, Section XXXIV. Regulation XXVIII. of 1802, unless it be held to be superseded by Regulation V. of 1822, authorizes the Judge to refer any case in which the validity of the demand on which a ryot is brought before the Court for imprisonment, to the Collector for investigation, which will be obviously improper when the Collector is himself a party; and in like manner the first 8 Sections of Regulation V. of 1822 will be inapplicable to transactions between the Government and ryots.

4. As the Bill for recovery of Ryotwaree arrears has already passed, it will be necessary, the Board think, to propose a separate declaratory Act, limiting the operation of the portions of Regulations noted above to cases in which Government is not a party. They observe that the preamble of Regulation V. of 1822 does express the intention to limit the Collector's special Judicial power under Regulation XXVIII. of 1802 to cases in which the officers of Government are not parties; but the enacting Clauses are entirely silent on this point.

No. 11. ORDER THEREON, No. 110; dated 29th January 1857.

In this letter the Board of Revenue reply to the order of Government of December 3d 1856, No. 1280, requesting their opinion on certain points mooted by the Honorable Mr. Elliott in his letter of the 20th June 1856 connected with the Revenue Law of this Presidency.

2. The Board agree with Mr. Elliott that their Circular Order of the 30th April 1855 should be cancelled, and it is noticed that they have cancelled it accordingly. They agree with him also in the opinion that Clause I Section III of 1830 applies to sales of land under Regulation 27 of 1802 only; and they think it desirable that an Act should be passed to the effect suggested by Mr. Elliott, viz. enabling the Board to order Ryots holdings attached under Clauses 6 and 7 Section 34 of Regulation 28 of 1802, to be sold before the end of the Fusly.

3. The Board notice also that Clause 4 of the same Section, and also the first eight Sections of Regulation V. of 1822, are unsuitable to the case of Ryots holding direct from Government; because in such cases the Collector would occupy the double position of party and Judge. They think therefore that this anomaly also should be corrected by an Act to declare the enactments just referred to inapplicable to transactions between the Government and Ryots.

4. The Governor in Council agrees with the Board in their view of the present state of the law on all the points specified; but he is not of opinion that there is any present necessity to apply for further legislation on the subject. As respects Clauses 6 and 7 of Section 34 Regulation 27 of 1802, he is of opinion that with the full powers over the personalty given by Act 23 of 1836, which powers it is to be remembered may be put in full operation on failure of a single kist, cases of the attachment and sale of land will be very unfrequent, and that no partial inconvenience will follow, even though such land should not be liable till after the termination of the Fusly.

5. Again, of the enactment now mentioned by the Board, neither as it seems to Government, is of such a character as to be likely to be called into operation. In the case of the Clause

பாதுகாப்பு பிரிவு-1

செப்பனிடுபவர் பெயர் : *சு. வரமங்குலம்*

செப்பனிடுவதற்காக
எடுத்துக்கொள்ளப்பட்ட நாள் *28/1/2006*

செப்பனிட்டு முடித்த நாள் *28/1/2006*

<i>சு. வரமங்குலம்</i>	<i>சு. வரமங்குலம்</i>	<i>சு. வரமங்குலம்</i>
சரிபார்க்கும்	சரிபார்க்கும்	ஆராய்ச்சி
முதல் மு.நி.பா.ஏ.	2ம். நி.பா.ஏ.	உதவியாளர்
கையொப்பம்	கையொப்பம்	கையொப்பம்

Fort Saint George, Revenue Consultation of 6th February 1857.

of Regulation 27 of 1802, the reference to the Collector by the Judge is not imperative but merely optional; and in the unlikely event of a Government Ryot being ever in a position to make the contemplated appeal to a Judge, the latter would certainly avoid referring the matter to the Collector. As to the early Sections of Regulation V of 1822, it seems very unlikely that under the circumstances supposed, viz., where the proceedings have been instituted by the Collector, any Ryot would appeal to him to act under these Sections.

6. As it thus appears to Government that there is no present necessity for making a further application to the Legislative Council for a temporary and intermediate Act, the Governor in Council considers it inexpedient to take that course; and he resolves to wait and see the effect of the present law.

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

3H
Revenue Board Office,
Fort Saint George
2nd January 1857

From
J. J. Sim Esq.
Acting Secy to the Board of Revenue

To
J. D. Bourdillon Esq.
Secretary to Government,
Revenue Department.

Sir,
With reference to the Extract from
Minutes of Consultation under date the 2nd
December 1856 No. 1280, requiring the Board to
state their views on the points mooted in the
concluding Para of the Honorable C. Elliott's
Minute relative to the proposed Act for the
recovery of Ryotwarre Arrears, I am directed
to state that the Board concur in Mr Elliott's
opinion that the Circular Order of the
Board of Revenue dated 30th April 1855 will
need to be modified. It will be as well to
cancel it, and issue any fresh order that may
be requisite.

2. They are also of Mr Elliott's opi-
-nion that Clause 1, Section IV, Regulation III of
1800, is applicable specially to arrears of
Revenue

Monies recoverable under Regulation XXVII of 1802.
This appears from the word *estates* being used
in the Preamble.

3. But there are not the only Rule
and Enactments which will require revision.

Clause 4, Section XXXIV, Regulation XXVIII of 1802,
unless it be held to be superseded by Regula-
tion V of 1822, authorizes the Judge to refer any
case in which the validity of the demand on
which a Ryot is brought before the Court for im-
prisonment, to the Collector for investigation,
which will be obviously improper when the Col-
lector is himself a party, and in like manner the
first 8 sections of Regulation V of 1822 will be
inapplicable to transactions between the
Government and Ryots.

4. As the Bill for recovery of Ryot
warre arrears has already passed, it will be neces-
sary, the Board think, to propose a separate
declaratory Act, limiting the operation of the
portions of Regulations noted above to cases in
which Government is not a party.

They observe that the Preamble of Regula-
tion V of 1822 does express the inten-
tion to limit the Collector's special
Judicial power under Regula-
tion XXVIII of 1802 to cases in
which

44
which the officers of Government are not par-
ties, but the enacting clauses are entirely si-
lent on this point.

Recd. Office,
2nd St. George,
22 January 1857.

Shew the honour to be
Sir,
Your most obedient servant,

L. Smith
Acting Secretary

St

J. S. Burdillon Esq.
Secretary to Government,
Revenue Department.

Compd
W. H. H. H. H.

Revenue Dept.

No. 110

Extract from the Minutes of Consultation
Under date the 29 January 1857

Recd the following
letter from the Acting
Secretary to the Board of
Revenue.

Shd be disposed
to have it to Mr Elliott
if he thinks there
is any decided opposition
to it.

Here enter 2^d January 1857
No. 110

In this letter the
Board of Revenue reply
to the order of Government
of December 3^d 1856 No. 1280,
requesting their opinion
on certain points mooted
by the Honorable Mr.
Elliott in his letter of the
20th June 1856 connected
with the Revenue Law
of this Presidency.

The

From the Acting Secretary to the
Board of Revenue
to the Secretary to
Government.

Dated 2^d January 1857.
No. 110

No. 110. 29 January

Acting the Board's
views with reference to the
points raised in the concluding
para of the Honble Mr. Elliott's
Minute relative to the proposed
Act for the recovery of
Arrears.

215/223

2 The Board agree with Mr. Eliott that their Circular Order of the 30th April 1855 should be cancelled, and it is noticed that they have cancelled it accordingly. They agree with him also in the opinion that Clause 1 Section III of 1850 applies to sales of land under Regulation 27 of 1802 only; and they think it desirable that an act should be passed to the effect suggested by Mr. Eliott, vizt enabling the Board to order Ryots holdings attached under Clauses 6 and 7 Section 34 of Regulation 28 of 1802, to be sold before the end of the July.

3 The Board notices also that Clause 4 of

joint sum
bonds -

I think it would be very desirable to have the Board empowered to order Ryots holdings attached under Clauses 6 and 7 Section 34 of Regulation 28 of 1802, to be sold before the end of the July. I think it would be very desirable to have the Board empowered to order Ryots holdings attached under Clauses 6 and 7 Section 34 of Regulation 28 of 1802, to be sold before the end of the July.

... of the same section, and also the first eight sections of Regulation V of 1822, are inapplicable to the case of Ryots holding direct from Government, because in such cases the Collector would occupy the double position of party and Judge. They think therefore that this anomaly also should be corrected by an act to declare the enactments just referred to inapplicable to transactions between the Government and Ryots. The Governor in Council agrees with the Board in their view of the present state of the law on all the points specified; but he is not of opinion that

... of the same section, and also the first eight sections of Regulation V of 1822, are inapplicable to the case of Ryots holding direct from Government, because in such cases the Collector would occupy the double position of party and Judge. They think therefore that this anomaly also should be corrected by an act to declare the enactments just referred to inapplicable to transactions between the Government and Ryots. The Governor in Council agrees with the Board in their view of the present state of the law on all the points specified; but he is not of opinion that

There is any present ne-
cessity to apply for further
legislation on the sub-
ject. As respects Clauses
6 and 7 of Section 34, Re-
gulation 27 of 1802, he is
of opinion that with
the full powers over the
personally given by Act
23 of 1856, which powers
it is to be remembered
may be put in full
operation on failure of
a single Risky Case of
the attachment and sale
of land will be very
infrequent, and that
no partial inconvenience
will follow, even though
such land should not
be liable till after the
termination of the Trust.

5. Again of the
enactments ^{now} mentioned
by the Board, neither
as

Had much
not be left
out - I am
- I believe to
be almost
true of I
conceive
themselves to
be in danger
that they will
be

7416
as it seems to Government,
is of such a character
to be likely to be called
into operation. In the
case of the Clause of Re-
gulation 27 of 1802, the
reference to the Collector
by the Judge is not
imperative but merely
optional; and in the
unlikely event of a Court
Refused being ever in a
position to make the
contemplated appeal
to a Judge, the latter
would certainly avoid
referring the matter
to the Collector. As
to the early sections of
Regulation V of 1822,
it seems very unlikely
that under the cir-
cumstances supposed,
viz, where the
proceedings

proceedings have been in-
stituted by the Collector,
any Ryot would appeal
to him to act under
these sections.

6. As it thus appears
to Government that
there is no present ne-
cessity for making a
further application to
the Legislative Council
for a temporary and
intermediate act, the
Governor in Council
considers it ⁱⁿexpedient
to take that course,
and he resolves to wait
the effect of the present
law.

[Signature]

Copy to the Secy. Secy.
Depy. Secy.

Revenue 1857 Deptt.
D. to Cons 6th February.

No 110.

Extract ellipsis of Cons.
D. of 29th January 1857.

To the Clerk of the Legislative
Council of India
27 June 1857.

Passing orders on the
reply of the Bd. of Rev. to the
Order of Govt. of Dec. 3rd 1856
No. 1280, requesting their opinion
on certain points mooted by
the Hon. Mr. D. Elliott in
his letter of the 20th June 1856
connected with the Revenue
of this Presidency.

No 1044.

15 July 1857