M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 290—291

~~Press~~ / Mis.

Dated 31 — 5 — 1859.

Not to be folded or roughly handled

To

The Right Honorable

the Secretary of State for India in Council,

India House Leadenhall Street,

London,

England.

The humble Petition of
C. Chinnadany Naick,
Inhabitant and Shopkeeper
of Tranquebar.

Respectfully Showeth,

I. That your Petitioner had the full privelege of selling all sorts of European Liquors for a series of years under the Danish Government.

II. That, after the settlement was brought under British Rule in the year 1845 your Petitioner was permitted to continue his Traffic by three successive Collectors, (a) from whom he invariably obtained a renewal of his License, when applied for, year after year.

(a)
J. F. Bishop, Esquire.
J. W. Goodwyn, Esquire.
H. Forbes, Esquire.

III. That in July 1854, when the Shopkeepers of the place (b) applied to the Collector for the time being (c) for the usual renewal of their Licenses, they met with an unexpected refusal, and were referred to the Abkarry Renter. (d) As the sale of European Liquors would more or less interfere with the sale of Country Spirits and Toddy, obviously the Renter, at liberty to act as he pleased, would, with a view to his own interests, refuse to grant the Licenses to as many as he could. Conceiving the requisition in question to be thus detrimental to their own cause, and at variance with the Circular Orders of the Board of Revenue dated the 31st May 1852, the Shopkeepers made two subsequent appeals to the Collector; when they were again directed to the Renter (e) as the proper person to grant the License. But the Renter, when applied to, demanded a fee of 2 Annas on every bottle they might sell; which they objected to as an unlawful exaction, and reported to the Collector in common with the Merchants of the place (f).

(b) C. Chinnasamy Nauck, S. Valoo Chetty, M. Suppa Pillay

(c) H. Forbes, Esquire.

(d) Appendix, No. 1.

(e) Appendix No. 243.

(f) Appendix, No. 4.

IV. That their commercial preveleges were virtually superceded, and their personal feelings violated, by being thus subjected to a refusal from a man of a very inferior caste; the European Inhabitants of the Town, who would not consent to be supplied with Wines

and Spirits by Toddymen, addressed the Government of Madras on the subject; (g) and when the matter was eventually referred to the Board of Revenue, the Collector was compelled to grant the licenses required, as will be seen by the Boards Endorsement of 5th February 1855. (h)

(g) Appendix No. 5.

(h) Appendix No. 6.

V. But tho' the other Shopkeepers had their licenses renewed to them, that favor was not extended to your Petitioner. His application of 5th March 1855 was denied him on a charge that he had attempted to carry 30 Gallons of Brandy without paying the Frontier Duty. (i)

(i) Appendix No. 7.

VI. In reference to this charge, your Petitioner would simply observe.

1. The Liquor adverted to was indeed consigned to your Petitioner by a Merchant at Pondicherry, who adopting the cheapest and most expeditious mode of transit in the Monsoon, had shipped it to Karical. But in virtue of an agreement between the Seller and himself, the Liquor was not to be considered your Petitioner's till actually delivered into his store, the Duty being in the mean while to be paid by the Seller as it was included in the general bargain. The Seller himself being at Pondicherry, it was reasonable to expect his agent at Karical would have been duly instructed to attend to the agreement aforesaid; and it was the Seller's agent who accordingly brought the Liquor on to the British Frontier.

2 The Seller's agent (who in the

Collectors Endorsement of March 30th 1855 (J) is erroneously called your Petitioners agent) is said indeed to have deposed that your Petitioner went himself to Karrical to convey the liquor to Tranquebar, and that he is throughout the Agents deposition represented as the actual owner of it - But was it not evidently the Agents design to exculpate himself by the implied imputation? As it was he who brought the liquor on from Karrical to the British Frontier; so it must have been he who brought it thither between sunset and sunrise - And conscious of the default on his side he tried to shift the ownership on your Petitioner.

(J) Appendix No 8.

3. As the Collector, however, regarded the Agents deposition in the light of "recorded facts" and acted upon it, your Petitioner respectfully submits whether, even from that deposition, he does not appear innocent of the charge on which his application of 5th March 1855 for a renewed license was denied him - While the Agent tries to make your Petitioner appear the actual owner of the liquor at the time it was confiscated, by stating that your Petitioner went himself to Karrical to bring it to Tranquebar; he deposes that your Petitioner took money with which to pay the Duty thereon - If, then, your Petitioner is admitted, even by his accuser, to have taken money for the avowed purpose of paying the Frontier Duty; the charge of "an attempt" on his part "to carry 30 Gallons of Brandy without payment of the Frontier Duty is obviously groundless - The attempt, if made, must clearly have been made by the Sellers Agent of Karrical; and being the defaulter he was deservedly made to bear the loss of the confiscated property.

4. Even granting that the attempt to defraud the Government was really made by your Petitioner, your Petitioner would humbly ask, why he had not been charged with that attempt before 30th March 1855? The attempt to smuggle 30 Gallons of Brandy is said to have been made by your Petitioner on 21st December 1853. If so, why, when the liquor adverted to was confiscated, was your Petitioner not immediately deprived of his license? He was allowed to retain it, and act upon it till the end of June 1854. And when in July 1854 he applied to the Collector for a renewal of his license, in reply to none of the three several applications made on that occasion was it even insinuated that his license would not be renewed by reason of any such charge. If his license was not then renewed it was precisely on the same ground on which the licenses of other Shopkeepers at the place were not renewed. They were all referred to the Abkarry Renter, as has been already stated; and not a word was then said about your Petitioners attempting to introduce the liquor without the payment of the Frontier Duty. This charge was not heard of till 30th March 1855, tho' 15 months had intervened between that time and the date of the alledged smuggling. Towards the close of that interval, the European Inhabitants of Tranquebar had, as has been already related, succeeded in obtaining an order from the Board of Revenue directing the Collector to grant the local Shopkeepers their respective licenses; and probably supposing them to have acted chiefly at your Petitioners private instigation, the Collector seems

to have made your Petitioner a marked object of his dread displeasure.

5. The truth however of the matter is that your Petitioner neither sent to Karsical to bring the liquor into Tranquebar, nor did he take money for that purpose. (k) The agreement between the Seller and himself superseded the necessity of his doing one or the other. But surprized to hear that the Brandy he had been waiting for was kept at the Chokey; and inferring from that circumstance, the Seller's Agent had not been supplied with cash, your Petitioner despatched his own man to advance money on behalf of the Seller's Agent, and pay the frontier duty, when the Chokeydar said he only waited for instructions as to the amount of duty he was to levy, and would pass the liquor as soon as he received them. After the lapse of a few days, as the liquor he expected had not yet been passed, your Petitioner waited on the Assistant Collector for the time being (l) and reported the matter to him.

(k) Appendix, Nos. 9, 10, 11, 12, & 13.

(l) L. C. Spines, Esquire.

It was then, for the first time, your Petitioner was informed by that Gentleman that the Brandy had been carried between sunset and sunrise, and that therefore he had ordered it to be confiscated. Your Petitioner has shewn already that the carrying of the Brandy at an illicit hour, was no act of his. Hence, while the Seller's Agent was made to bear the loss of the confiscated property, your Petitioner was not placed on his trial for a breach of the Revenue Regulations, nor was he ever convicted. On the contrary, he was permitted to retain his

license full six months after; and lost it afterwards only under the circumstances related above. It did indeed come afterwards to his knowledge, that the Sub Judge of Combaconum alluded to an accusation of your Petitioner being concerned in a smuggling transaction and convicted thereon. But not aware of being convicted on any such transaction, or even cited to appear before any Authority to answer such a charge, your Petitioner applied to the Collector of the District (m) for a Copy of the Document in which the allusion was said to be made, with a view to your Petitioner being thereby enabled to submit an Appeal to the Session Judge of Combaconum, but Petitioner regrets to add the means of self vindication were denied him.

(m) Appendix, No. 14.

VII. When deprived of his license under the circumstances already noticed, your Petitioner's Shop was filled with sundry kinds of Spirits imported while your Petitioner had a License. And not only so. While in the possession of his License, your Petitioner had also given orders to his Agent at Madras to make sundry purchases of Beer &c., for which cash had been remitted, and those purchases had been actually made when it was found too late to countermand the orders. Two Consignments from Madras, with valid Permits, and regularly passed thro' the Sea Custom House of Tranquebar, were thereupon added to the supplies on hand. And your Petitioner, feeling it a grievous inconvenience to have a large Stock that had thus accumulated without the liberty of selling it, made the Collector fully acquainted with his dilemma, and entreated a renewal of his License with pressing importunity.

VIII. The following is a faithful statement

of the kind of redress your Petitioner obtained.

1. He was charged by the Assistant Magistrate (n.) on avowed suspicion, with having in his possession more than one Seer of Spirituous liquors without a valid permit. (n) Appendix, Nos. 15, 16, & 17.

2. His property was confiscated. (o) By G. Vans Agnew, Esquire. (o)

3. He was sent to the Sub Court at Combaconum as a Criminal. (p) By G. Vans Agnew Esquire (p)

4. He was tried by the Sub Judge, (q) the very Assistant Collector who had previously directed the confiscation of the 30 Gallons Brandy. L. C. Grimes, Esquire. (q)

5. He was condemned, not on the charge for which he had been sent to take his trial, viz, that of being in possession of Spirituous Liquors exceeding one Seer without a valid Permit; but on the novel charges of having imported Spirituous Liquors without a License, and of having concealed a Cask of Beer in his house, when his Shop was directed to be searched. (r) (r) Appendix, Nos. 18 & 19.

6. He was sentenced to a fine of 250 Rupees which he was obliged to pay forthwith.

IX. In reference to the charge of your Petitioner "having in his possession beer and other Spirituous Liquors exceeding one Seer in quantity, without a valid permit," your Petitioner would observe.

1. That the charge is admitted by the accuser himself to have rested only on suspicion (s) (s) Appendix, No. 16.

2. That the Liquors referred to were in your Petitioner's possession at the time in virtue of

valid Permits that covered their importation from Madras, and by reason of which they were passed regularly thro' the Sea Custom House at Tranquebar.

X. In reference to his trial at Combaconum, your Petitioner begs to observe that the Sub Judge was both his judge and accuser. He sat to try your Petitioner on one charge, but during the trial, introduced other charges your Petitioner had never heard of before. Those charges, and the penalty awarded thereon; have been already noticed. And tho' the sentence of the Sub Court was confirmed by the Appeal Court of Combaconum, the Judges of a higher Court (the Foujdarry Adawlut Court) to whom your Petitioner's case was subsequently submitted reversed the sentence of the Combaconum Courts and directed "that the fine, if levied, should be repaid to the Petitioner." Hence it would appear that the Judges of the highest of the late East India Company's Courts at Madras seemed disinclined even to suppose that the fine had been actually levied by the Judges of the Combaconum Courts. And whereas the Judges of the Combaconum Courts, who appear to have lost sight of a distinction between a "License" and a "valid Permit" punished your Petitioner for being in possession of Spirituous liquors without a License, the Judges of the Foujdarry Adawlut Court, who resolved (t) "to quash the" alleged "conviction in this case," observed that "Had the Defendant been found guilty of selling Spirituous liquor without a license he might have been convicted under clause 9 Section VI, but under section XV of Regulation I of 1820 it is the absence of a "valid permit" and not of (t) Appendix No. 20.

a "license" which makes the possession of Spirituous liquors punishable.

The Court of Foujdarry Adawlut on these grounds, are of opinion that the prisoner being charged with being in possession of Brandy without a license, cannot be punished under the Section of the Regulation above quoted.

They accordingly direct that the fine, if levied, be repaid to the Petitioner.

XI. The charge of having concealed a Cask of Beer in his house, when orders had been issued to search his Shop, is of such a nature that your Petitioner could only submit,

1. As your Petitioner had frequently complained to the Collector of being overstocked with liquors which he was precluded the liberty of selling, he had no reason to conceal any portion of his Stock on hand.

2. The Officials, directed to search your Petitioners Shop, could have exceeded their commission had they proceeded to search your Petitioners house; which therefore, in point of fact, was not searched. How then could they have deposed to a Cask of Beer being concealed in a house which they had neither searched, nor received any commission to search?

XII. In conclusion your Petitioner regrets that, the the fine of 250 Rupees was refunded to him, his loss of the confiscated property remains irreparied, and his license

unrestored still. Your Petitioner repeatedly appealed for redress both to the Board of Revenue and to the Government; (U) but as the order for the confiscation of his property had emanated from the Board themselves, the Board of Revenue seem disinclined to undo their own act in a matter in which, if indemnification is to be made, it must be made from the Treasury of the Madras Government, into which the proceeds of the paid Confiscation were paid. (V) Hence your Petitioners reiterated appeals for redress have proved sadly unavailing. The extent to which his interests have consequently been injured may easily be conceived. But tho' India has denied him the satisfaction he feels he has a right to demand, he looks with humble confidence to India's Gracious Queen and to Her Royal Government for Mercy and for Justice, in the harmonizing exercise of which consists the glory of an Imperial Crown. Aware that his case is a very tedious one, your Petitioner has made it his duty, with a view to your convenience, to condense the whole into a little Compass.

(U)
Appendix,
Nos 21, 22, 23 & 24.

(V)

Value of Goods Confiscated.

1855, November 29th

45 11/12 dozens Beer @ 6 Rupees	275 8 .	
" 8 dozens Pints Beer @ 4 Rs	32 . .	
" 40 1/4 dozens Brandy @ 18 Rs	724 8 .	
" 7 Flasks Holland Gin, @ 24 Rs per base of 15 Flasks	11 3 3	
" 1 Hhd Beer, with shipping charges	90 . .	
	1133 3 3	
Interest on the above sum locked up by the stoppage of the license from July 1854 to the end of 1858, 4 1/2 years, at 12 per Cent per annum - the usual Mercantile rate in India	611 14 10	
Rupees	1745. 2. 1	

referring for fuller details, if necessary, to the Documents hereto appended. He begs an indemnification for all the losses he has sustained, and such further redress as in your superior and unbiassed judgment you may deem it right to award him. On your just and liberal decision will depend his future welfare; and awaiting it with anxious solicitude, your Petitioner, as in duty bound.

Shall ever Pray.

Madras
19th April
1859

C. Chinnasamy Naick

To

The Chief Secretary to Government.

Fort St. George.

Sir,

I have the honor to hand you the accompanying Petition, to Lord Stanley which I beg to request, you will submit to the Right Honorable the Governor in Council, together with my prayer for its transmission to the Secretary of State for India, through the Government, under the rules provided for in such cases.

I have the honor to be

Sir,

Your Most Obedient

very Humble Servant.

C. Chinnasamy Naick

Madras
19th April
1859

Revenue 1859 Dept.

Covrs 31st May –

No. 694

From C. Chinnasawmy Naick, Inhabitant & Shopkeeper of Trongue-bar –

Dated 19th April 1859
Rec.d
27 Encls. ~~to Govt.~~

Forwarding for submission to the Right Honble the Secretary of State for India an appeal against the injustice done by the Collr of Tanjore in the Confiscation of his property & in sending him as a criminal to the Sub Court of Combaconum –

Mis Nos 295 & 296

Wilkinson Orders.

No. 89.

Ordered. to be returned to C. Chinnasawmy Naick with an intimation that Memorials to the address of the Secretary of State must be submitted in triplicate either all in manuscript or all in print.

J. C. Lees

Fort St. Geo.
31st May 1859

1 Copy to the Chinnasawmy Naick
Dated 1st
with 27 Encls

J. H. H.

J.