M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 842 Press
~~Mis.~~

246 248

Dated 15 -4 1862

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 15*th April* 1862.

Read the following papers :—

No. 246. Read the following letter from J. W. B. DYKES, Esq., Collector of Nellore, to J. D. SIM, Esq., Secretary to Government, Revenue Department, Fort Saint George, dated Nellore, 30th November 1861, No. 50.

SIR,

1. I have the honor to request that you will be so good as to submit, for the consideration of Government, the propriety of transferring to another District, Cornelius Pillai, the Deputy Collector in charge of the Nellore Treasury.

2. Last year, in reporting on the conduct of the public servants in the Revenue Department in this District,* I described this Officer as a most efficient Officer in his special Department, adding, that I had had occasion to comment on delays in the transaction of business that I considered might have been avoided, and that I had been pleased to observe, subsequently, that those remarks had been attended to.

3. I had relieved Cornelius Pillai of all magisterial work, and, only having to give his attention to the Treasury and Account Departments, I was then well satisfied with results, so far as I saw.

4. Since then I have found on going into questions referred for report, that reports received by me from the Deputy Collector, he was unable to explain. A Native Accountant had to be brought in. And, unable to maintain the good opinion of him I had previously formed, in his special Department, in my Settlement Report for this year, I reported to the Board that from the further experience I had had of this Officer, I feared he was naturally, indolent. That, naturally indolent, his powers of prompt and independent action were here further hampered by ties arising from his having been for several years employed as a clerk among those over whom he is now called to exercise the authority of a Deputy Collector. And, adding, that I was about to recommend his transfer, on the above grounds I make the said recommendation, and request you to be so good as to submit the same for the consideration of Government.

No. 451,	dated	17th	July	1861.
,, 475,	,,	29th	,,	,,
,, 477,	,,	29th	,,	,,
,, 480,	,,	31st	,,	,,
,, 482,	,,	1st	August	,,
,, 486,	,,	3rd	,,	,,
,, 493,	,,	5th	,,	,,
,, 494,	,,	6th	,,	,,
,, 496,	,,	6th	,,	,,
,, 512,	,,	12th	,,	,,
,, 513,	,,	12th	,,	,,
,, 526,	,,	19th	,,	,,
,, 551,	,,	24th	,,	,,
,, 559,	,,	28th	,,	,,
,, 570,	,,	4th	September	,,
,, 578,	,,	7th	,,	,,
,, 579,	,,	7th	,,	,,
,, 603,	,,	5th	October	,,
,, 655,	,,	5th	November	,,
,, 666,	,,	11th	,,	,,

5. I give in the margin the dates on which I have been obliged since the 17th July last, to call on Cornelius Pillai for explanations, and record my dissatisfaction with the explanations afforded.

6. I shall be ready to submit copies of the whole correspondence should the Government wish it. And, in the meanwhile, I will briefly refer to three cases which especially illustrate the remarks made by me in the last settlement report to the Board, and given again in the fourth paragraph of this letter.

7. Last May some Ryots complained to Cornelius Pillai, that the Tahsíldár of this Táluq had got a patta given for tope land at the last Jamabandi in direct opposition to previous possession and to the orders of my predecessor. The case was analogous to what took place in Rangacharlu's case. As soon as the Deputy Collector heard of it, he should have informed me. And, instead of informing me, he entered into private correspondence with the Tahsíldár, gave the Tahsíldár papers of the Ryots' which have not been satisfactorily recovered, and the case finally coming before the District Moonsiff, exposed himself to the public censure of the District Moonsiff, as having used "undue influence over the Tahsíl- "dár to compromise matters in favor of the Defendants, viz., the Ryots."

8. The parties whose cause he espoused were in the right, but his mode of supporting their claims was wholly irregular ; and what he perhaps would not have resorted to had he not been on terms of intimacy with the Tahsíldár.

9. On the 13th February last, I called on the Deputy Collector to go over the Income Tax return of the Nellore Táluq, and give the Assessor the advantage of his local knowledge. I

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* Settlement Report, 13th October.

pointed out, that, with the best of intentions, and using all possible diligence, the Tahsildár, the first year the tax was introduced, might overlook many who ought to be brought within the scope of the Act. Whilst there were many, who are not ordinarily thrown in contact with the Revenue Officer in charge of the Taluq, but are likely to be well known to the Officer in charge of the Treasury, &c. And, not having received the information called for last year, I this year repeated my request, and received two days ago the names of eight Chetties out of a total population of a lac.

10. I give in the margin the several appointments held by Cornelius Pillai, which show clearly enough the opportunities he has had in the last eleven years of becoming acquainted with the affairs of his neighbours. And if out of a population of lac, there are only eight individuals he knows of that have been under assessed, it is clear, either that the Tahsildár has been wonderfully successful in the first year's imposition of the tax, or that Cornelius Pillai has failed to do his duty to Government.

Collectorate of Nellore.	RS.
12th July 1850, Salt Writer, salary......	50
22nd September 1851, English Record keeper and Translator......	85
1st June 1854, Cashkeeper......	100
9th September 1859, Deputy Collector in charge of the Treasury......	250

11. There is a third alternative. He might be a very stupid and a very unobservant man. But this is not, I think, the case. And as I hold in my hand, otherwise obtained, lists showing very different results; in my opinion his conduct is simply the result of cowardice, of the fear of offending influential residents. And when a man in his position thus grossly betrays his duty to Government, a bad example is set to those who draw less pay, but I am glad to say have shown that they better understand the duty they owe to the Government they serve.

12. I regret to find the length to which these remarks have extended, I will not refer further to the third case, than to say, that yesterday, on going into a report called for on the 25th February last, and furnished on the 18th instant, on certain claims brought forward by a Polligar for Rupees 15,572-5-2 arrears of collections in alleged deposit, I found not one word in that report bringing to my notice that Rupees 6,978-1-2 arrears, found by the Deputy Collector in favor of the Polligar, was a balance based on calculations made five years ago, by a Tahsildár, calculating fees over a period of 23 years previous to 1848, and wholly failing to show, how the alleged miscalculations had been made, and how they had escaped notice in 1848 when a balance had been struck, and the amount then found due paid under the requisite sanction.

No. 247. Proceedings of the Madras Government in the Judicial Department, dated 13th February 1862, No. 220.

Passing orders on certain papers relating to a riot in the village of Oorapanoor in the Madura District on the 1st ultimo, } (Vide Judicial Proceedings 13th February 1862, Nos. 90—99.)

No. 248. ORDER THEREON, 15th April 1862, No. 842.

Recorded with reference to the Minute of the President, dated 28th February 1862, transferring Mr. Jellicoe to Nellore, and Cornelius Pillay to Madura.

(Signed) C. G. MASTER,
Deputy Secretary to Government.

I think the complaints are not sufficient to justify any other action than that of a change of district

Ele

WM

Mr D— is always in hot-water with his subordinate natives WM

For Orders — as to whether the complaints shall be called up & gone into, or whether the Depy Clr shall be quietly transferred to another District

I.D.S.

62

[illegible] 2820

From
the Collector of Nellore

To
The Secretary to Government
Rev. Department,
Madras.

Dated 30th March
Despatched 1st April } 1862
Received 4th do
L.C. 13th April 1862
Sub Com
No Enclosure
No 84 15th April 62

Requests to submit for the consideration of Government the probability of transferring to another District Conductor the Dy Collector in charge of the Nellore Treasury for the reasons within set forth

No 246

14

JUDICIAL DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following papers:—

Letter from the Magistrate of Madura. (Here enter 15th January 1862.)

Memo. from Deputy Chief Engineer. („ 20th January 1862.)

ORDER THEREON, 13th February 1862, No. 220.

The papers above recorded relate to a riot in the village of Oorapanoor in the Madura District on the 1st ultimo, which resulted in the death of three persons, one of them a Constable of Police shot by his own men, and in four others being wounded. The circumstances appear to have been these.

2. The water in the tank of the village of Sattangudi having failed, the villagers applied to the Sub-Overseer, Department Public Works of the Talook, asking him to procure for them a supply of water from the Oorapanoor village channel. The Sub-Overseer took from them an agreement, that in the event of this request being complied with, they would be able to save a portion of their crops, and that, in such case they would pay the Government assessment on the crops which had perished.

Report of Magistrate paragraph 4.

3. The Sub-Overseer forwarded this agreement to the Assistant District Engineer, Lieutenant Coningham. That Officer sent it on to the District Engineer,* Captain Ryves, stating that after inspecting the localities he had ordered the Sub-Overseer to throw two temporary dams across the Oorapanoor channel, and by this means to supply water for 30 days to the tank of the Sittangudi village, and for 10 days to that of the village of Shittaly, and that he had requested the Thasildar of the Talook to "give his "assistance in case of the Oorapanoor tank ryots giving any trouble."

* Letter to the District Engineer, dated 24th December 1861.

4. Captain Ryves informed Lieutenant Coningham that he fully approved the measures which the latter had adopted. Indeed he states that he believes that Lieutenant Coningham did not issue his orders to the Sub-Overseer until he had communicated with him (Captain Ryves) personally on the subject, a day or two before Lieutenant Coningham's report to his superior of the 24th December was written.

From District Engineer, to D. C. Engineer, 9th January 1862, paragraph 3.

5. About the same date some of the Oorapanoor ryots came to Captain Ryves' house at Madura, and objected to the water of their channel being drawn off to Sittangudi, but Captain Ryves would not admit their objections.

Ibid. paragraph 4.

6. Two attempts were consequently made to cut the bank of the Oorapanoor channel, one on the 27th December by two Ameens under the Sub-Overseer, and one on the 28th by a party under the Assistant Engineer, but on both occasions the parties were repulsed by the Oorapanoor villagers. On the 30th December the Thasildar, the Assistant Engineer with some Police proceeded to the channel for the purpose of cutting the embankment, but found 300 villagers sitting and lying on the bank, and the attempt to cut it was not proceeded with.

7. On the 31st December Lieutenant Coningham, having determined to cut the channel, wrote to Lieutenant Porteous, Superintendent of Police, to come out with a body of Police and bring the Deputy Magistrate Mr. Jellicoe with him. Lieutenant Porteous communicated with Mr. Jellicoe, and after consultation with him moved off a party of 13 Constables armed with muskets, and 20 men with batons, and ordered them to Terumungalum to await his arrival there next morning.

8. Mr. Jellicoe did not accompany the force, although in a note received in the afternoon from Lieutenant Coningham to Lieutenant Porteous, it was stated that there was sure to be a riot if the bank were cut. He sent out Lieutenant Porteous with certain instructions, as to the conditions on which it would be well to cut the bank.

9. On the next morning the 1st January the Assistant Engineer, Lieutenant Porteous and his Assistant Lieutenant Coningham, the Police party, the Thasildar and his Peons proceeded to the Oorapanoor channel. After a long parley, an endeavor was made to cut the channel bank by force. The villagers who had assembled in great number, and had made their preparations beforehand by concealing stones in the channel, and posting slingers in an adjacent tope, violently resisted. Showers of stones were poured by hand, and from slings on the Officers and the whole party. The Police were broken and beaten back, the European Officers were surrounded, and the firing, which seems to have been commenced without orders, was probably no more than necessary to save them from being killed or grievously injured. The result was that two villagers were killed by the Police and four wounded, though not dangerously, and that one Police Constable was shot by his own men.

10. Such is shortly the history of this melancholy affair as it is to be gathered from the Magistrate's report and the letters of the District Engineer and his Assistant. His Excellency the Governor in Council regrets that he is constrained to declare that the whole of this disastrous business was owing to gross mismanagement, and to an ignorance of their position and duties on the part of all concerned.

11. First the Government find a Sub-Overseer, a subordinate Officer in the Department Public Works, interfering in the distribution of water to certain villages, and taking engagements from the cultivators of one village as to the terms on which they would pay the assessment on their withered crops. The Magistrate has properly pointed out that this was no part of this Executive's duty, that his conduct was quite improper, and an assumption of powers which belonged only to the Revenue authorities of the District.

12. The Assistant Engineer receives this agreement and issues orders for diverting the water of a channel contrary to all previous usage. He makes no reference to the Revenue Officers, the Thasildar who could himself however have no power to sanction such a proceeding, having been applied to only to prevent the ryots of Oorapanoor offering opposition. The Government do not however remark further on the conduct of the Assistant because his superior Captain Ryves has averred that the proceedings of Lieutenant Coningham in ordering the bank to be cut and the water of the Oorapanoor supplying channel diverted to the Sittangudi and Shittaly tanks, were taken with his knowledge, and had his full approval.

From Assistant Engineer, 24th December, last para.

13. Captain Ryves' own view of the question will be found in his letter to the Deputy Chief Engineer under date the 14th ultimo, No. 1,383. He considers, it would seem, that as flowing rivers are the property of Government, if the water passing down the supplying channel of a village tank be more than appears necessary for the irrigation of the lands of the village, the Government are at liberty, although in contravention to all previous custom, to divert it to the lands of another village whose irrigation is scanty. Further that such questions may be decided, and the measures necessary for carrying out the decisions taken by Officers of the Department Public Works without any reference to the Revenue authorities of the District. This is not expressly stated in his letter, but is implied by his own conduct throughout the affair, and by his approval and adoption of the acts of his subordinate.

14. The Government consider Captain Ryves to be entirely wrong in thus claiming for his Department the power of altering and controlling the supply of water to the different works. Water disputes are difficult to settle, excite angry feelings, and require the greatest care and attention. The Regulations therefore provide specially for their settlement *by the Collector* either by Punchayet under Regulation XII of 1816, or by summary judicial powers under Regulation V of 1822, an appeal lying in this latter case to the Zillah Court.

15. Such has been the Law, and there is certainly nothing with which the Government are acquainted in the Standing Orders of the Department Public Works as at present constituted, to show any alteration on this important point, or transfer the powers vested by law in the Collector to the District Engineer. On the contrary, it has been ruled that "the Collector has "still the protective superintendence of all works "of irrigation," so that no diversion of water especially by cutting the bank of a channel should take place without his express sanction. But other orders make the point still clearer. Thus "the relative position of the Collector and his professional associate" has been described by the figure of "head and hand." All Estimates for new works and for the improvement or repair of existing works require his countersignature, and it has been further ordered that "*all suggested alterations of a nature either directly or indirectly to influence the financial or the social condition of the people, must invariably be communicated to the Collector.*" Again, it has been laid down by Government that the Collector under the new system was to retain "the right or the duty of declaring his opinion upon the merits of every project originating in any other quarter *for improving either the irrigation* or the means of communication."

Department Public Works, Order Book, page 265.

Department Public Works, Order Book, page 248.
Do. „ 146 & 147.
Do. „ 248.
Do. „ 143.

16. The Government therefore resolve to convey to Captain Ryves, through the Public Works Department, their serious displeasure at his conduct in *adopting* the measure proposed by Lieutenant Coningham, and sanctioning the cutting of the channel bank for the purpose of diverting the water to a new tank, without first obtaining the express and formal orders of the Collector. This course is so dangerous, that it must not only be severely censured on this occasion, but must be expressly prohibited in future by a new Circular Order to be issued in the same Department, lest more of these lamentable scenes should occur. In thus disapproving the doctrine held by Captain Ryves, the Government do not advert to the fact that the Deputy Collector and Magistrate Mr. Jellicoe, had an opportunity of stopping the proceeding when he was applied to as Magistrate for the aid of the armed Police to protect the party employed to cut the bank. A serious responsibility rests with Mr. Jellicoe for sending out a body of armed Police on the occasion without first seeing in his Revenue capacity that the water dispute was fully and legally examined and decided, but Captain Ryves nowhere shows that he considered a reference to the Revenue Officers at all necessary, nor does he allude to the part taken by Mr. Jellicoe as any justification of his own proceedings, or as relieving him from the responsibility of the measure. In fact two previous attempts had been made by the Department of Public Works to cut the bank, and it was only on its failure from the opposition of the people, that an application was made to Mr. Jellicoe for the support of the armed Police.

See paragraph 5 of Captain Ryves' letter of 9th January.

17. In his letter of 14th January Captain Ryves maintains that flowing rivers are the property of the State and that the proprietor (on behalf of the State) has the right to make the most advantageous use of that water." Even if this general principle be admitted, it is not the District Engineer who is to act on behalf of the State and alter the usual distribution of water. The Collector alone is authorized to decide such questions, when objections are raised, and he would be most careful in hearing and attempting to satisfy all parties before he permitted any departure from prescriptive usage. Undoubtedly when Government improves Irrigation works so as to enable them to supply new villages without detriment to old tanks, it has the power of distributing the newly gained water, but even this must be done through the Collector and with the greatest care both to remove all unfounded fears and make existing rights so palpably secure that a clear defence could be made to any actions which might be brought in the Civil Courts.

18. On the present lamentable occasion there had been no improvement of Irrigation works which increased the ordinary supply of water. This sudden attempt therefore of the Department of Public Works to alter the usage (mamool) of the District, by deciding that one village could spare water and giving it to others is highly censurable and contrary to all orders. Such a proceeding must excite far-spread alarm by invading prescriptive rights and rendering the value of land insecure, and unless stopped in future by peremptory orders, similar unfortunate results are sure to recur.

19. The Government have already alluded to the conduct of the Deputy Collector and Magistrate, Mr. Jellicoe, and they regard it as highly reprehensible. On the 31st December he must have been well aware that the cutting of the channel bank would encounter serious opposi-

tion. He knew that a strong party of Police, some of them armed with muskets, had been sent out, yet be remained at Madura. He showed also great ignorance of Lieutenant Porteous' position and duties in constituting him the Judge of the conditions under which the channel bank was to be cut. It was for Mr. Jellicoe himself as Deputy Collector, and not for Lieutenant Porteous as a Police Officer, to decide on the relative state of the Oorapanoor and Sattangud tanks and lands, and whether supposing the supply of water to the former village to be greater than was required it could properly be diverted to the lands of the latter. Lieutenant Porteous as an Officer of Police should only have been applied to, to carry out measures on which the Revenue Authorities had on due inquiry and deliberation resolved, in the event of those measures being violently resisted. As it was Mr. Jellicoe devolved on Lieutenant Porteous duties which he should himself have discharged. As observed by Mr. Levinge, had Mr. Jellicoe himself gone to the ground, this unfortunate riot would probably not have occurred. The Government certainly cannot allow him to remain in his present charge. His future sphere of employment will be considered in the Revenue Department.

Report, paragraphs 40, 41.

20. The behaviour of the Police on the occasion is to be regretted, but allowance must be made for their being a new levy, for their being greatly out-numbered, and for the sudden and unexpected nature of the attack. The second Officer should, as pointed out by the Magistrate, have been put in command of the armed party. Lieutenant Porteous should not have consented to act on the conditional instructions given by Mr. Jellicoe, but should have required precise and explicit orders for his guidance. But, save on these points, the Government do not see cause for imputing blame to that Officer.

(True Extract.)

Chief Secretary.

To the Revenue Department.
" Public Works Department.
" Magistrate of Madura.
" Inspector General of Police.

Exd. F. Cartledge.

Revenue 1862 Depart.
[illegible]
No. 435

Proceedings of the
Madras Govt. in the
Revl. Depart.

Dated 13th } Feb. /62
Received 15th }
No. 770

From Bd. of Rev. Dated
No. 130

Passing orders
on certain papers re-
lating to a riot in the
village of Vorapandor
in the Madura Dis-
trict on the 1st Ultimo
No. 842 15 Sept.
Without Order

246-247-248

Read also No. 9820

No. 842

Recorded with reference to
the Minute of the President of
28th Feby/62 transferring the
[illegible] to Nellore and [illegible]
[illegible] Pettah to Madura

Fort St. George
15th Apl. 1862