

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	1504	<u>Press</u> <u>Mis.</u>
Dated	20. 6.	1866.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
20th June 1866.*

No. 435. Read the following Petition from STRI KRISTNA TATHACHARY
and others, Durmakurthas of Conjeveram Pagoda:—

Stating certain circumstances shewing that they
are independent Trustees of Devarajasawmy
Pagoda, and protesting against the Notifica-
tion published in the "Fort Saint George
Gazette," under the signature of the Collec-
tor of Madras, giving notice to the Committees
that as the Government approved of his nomi-
nation of Committees, they are at liberty to
exercise the powers vested in them under Act
XX. of 1863; pray that as the said Notification
is contrary to the Order of Government passed
on their Petition, the Collector may be directed
to withdraw the Notification, and substitute
one drawn up in accordance with the orders
of Government.

(Here enter — June 1866.)

No. 436. ORDER THEREON, 20th June 1866, No. 1,504.

Miscellaneous.

1. The Government desire that the Collector of
Madras will modify his Notification regarding the Temple
Committees, published at page 887 of the "Fort Saint
George Gazette," as in its present form it is calculated to mislead, and cause
complications.

2. It should run thus:—

"The Government having approved of the Committees nominated by the
Collector for the various Hindoo and Mahomedan Institutions in the Madras
District coming under Section 3, Act XX. of 1863, the Collector hereby notifies, that
the Committees are now at liberty to exercise the powers vested in them under
Act XX. of 1863. The rules for the election of members when vacancies occur
have already been published in the Supplement to the District Gazette of the
13th January 1866."

(True Extract.)

(Signed) W. HUDLESTON,
Acting Secretary to Government.

To the Collector of Madras.
„ the Board of Revenue.

Exd. S. T. Augustin.

*various Hindoo and Maho-
medan Institutions in*

2
Jut 15/4/86 Myfahow
I have 66

2
I. D. Sir Esy

Sir

The enclosed is
a revised representation of
the rights of the Durumkuta
in the Congregation of God.
The order of government in
this last petition does not
meet the case & risk them
from litigation. I beg in their
behalf your kind considera-
-tion & support.

Yours

Sir

Your most obedt servt.
Wm Henry Channing
April

15A9-60
2.6
TH

TO

THE RIGHT HON'BLE LORD FRANCIS NAPIER, K.T.,

Governor of Fort Saint George in Council.

&c. &c. &c.

The Humble Petition of Stri Kistna
Thatha Charry, Kistnasawmy Thatha
Charry and Vencata Vuruda Thatha
Charry, Durmakurthers of Davarajah-
swamy Pagoda at Conjeveram.

SHEWETH,

1. That in Petition No. 2829 of 1865, your Petitioners claimed exemption for their Pagoda, from the jurisdiction of the Temple Committees appointed for the Taluq under Act 20 of 1863. Government were pleased to endorse the Petition as follows :—

" The Government observe that the Committee has been expressly appointed for such institutions as come under the scope of Section 3 of Act 20 of 1863, and for such institutions only. If the Pagoda to which Petitioners refer does not come within the scope of that Section, the Committee of course have no power of interference with it."

2. That this endorsement does not meet the case of your Petitioners' Pagoda which belongs, in every respect, to the class of institutions described in Section 4 of the Act. To go no further back than 1842, it will be sufficient to state that in that year, when Government resolved to sever their connection with the religious institutions of the country, the Board of Revenue, who occupied, under Regulation VII of 1847, the place now assigned by the new Act to Temple Committees, stated it as their opinion, with reference to your Petitioners' Pagoda,

" that there are in this case hereditary claims which could not be justly set aside."
See Decisions of the Sadr Adawlat for 1849, para. 11 of Decree in Regular Appeal No. 29 of 1849. " They added " It is within the Board's knowledge that this family (viz., that of your Petitioners) is very numerous and much respected, and they are of opinion " that the best arrangement for the Davarajahswamy Pagoda will be to constitute " Comara Thatha Chariar the head of the family to be sole Durmakurther ; the dignity to be hereditary."

3. Again in the Regular Appeal No. 29 of 1849, above referred to, the late Sadr Court, in deciding upon the claim set up by one Appoo Row, to the office of Durmakurther of the Petitioners' Pagoda, concluded a most careful Decree in the following words :—

" All the authorities therefore for the last 57 years have had but one opinion of the claims of the Respondent's family to the office he now holds, and on what grounds the Appellant rests his hopes to dislodge them and obtain the appointment for himself, the Court fail to discover. The Appellant's exhibits prove nothing in his favor, whereas those of the Respondents and the public records, show most distinctly that their ancestors have always been considered and acknowledged to be the original Mirassidars of the institution."

4. Such are the grounds and authorities on which Petitioners claim to be " Independent " Trustees of the Davarajahswamy Pagoda in Conjeeveram ; and Your Petitioners beg Your Lordship in Council to consider whether their case is not such as to entitle them to a declaration from Government of exemption from the jurisdiction of the Committee appointed under Sections 3 and 7—a declaration similar to that made in the case of the Pagoda at Tri-patty in the North Arcot District.

Various Hunder and Maho
Medan Institutions in

5. The endorsement of Government quoted at the commencement of this Petition leaves the matter in doubt, and will lead the Committee to litigate in the established Courts a question already authoritatively settled as above shown by the Highest Court in the land. The only effect then of the order of which Petitioners venture to complain will be to encourage and foment litigation, which must necessarily entail a ruinous expenditure of funds already insufficient for the legitimate wants of the Pagoda, under the pressure of the almost famine prices now prevailing.

6. That your Petitioners feel emboldened to contest the view taken by your Government in the matter, as it is so entirely opposed to the spirit of British legislation to suppose that it was the intention of the framers of Act XX of 1863 to leave it to Committees, appointed at random, without any defined jurisdiction, and to Temple Trustees, to fight out, by a course of uncalled for and ruinous litigation in courts already over-burdened with suits, what Pagodas are to be subject to the authority of the Committees and what not. Such intention appears to your Petitioners to be wholly inconsistent with the entire Act and its individual provisions. Your Lordship will observe that all the Religious Institutions in the country are divided by the Act into two grand classes, to which Sections 3 and 4 are to be respectively applied. According to the former of these Sections, in the case of every Pagoda, the nomination of the Trustee whereof was, at the time of the passing of the Act, vested in or exercised by the Government or any Public Officer, or in which the nomination of such Trustee, was subject to the confirmation of the Government or any Public Officer, the Local Government is to make special provision by the appointment of Committees as enjoined in Section VII.

7. Section IV enjoins that in the case of every such religious establishment, which, at the time of the passing of this Act, shall be under the management of any Trustee, Manager, or Superintendent, whose nomination shall not vest in, nor be exercised by, nor be subject to the confirmation of the Government, or any Public Officer, the Local Government shall, as soon as possible after the passing of this Act, transfer to such Trustee, Manager, or Superintendent all the landed or other property which, at the time of the passing of this Act, shall be under the superintendence or in the possession of the Board of Revenue, or any local Agent, and belonging to such Mosque, Temple, or other religious establishment, except such property as is hereinafter provided, and the powers and responsibilities of the Board of Revenue and the local Agents in respect to such Mosque, Temple, or other religious establishment, and to all land and other property so transferred, except as regards acts done and liabilities incurred by the said Board of Revenue or any local Agent previous to such transfer, shall cease and determine.

8. Your Petitioners' venture to appeal to your Lordship's candid judgment to determine whether these Sections 3 and 4 of the Act do not render it obligatory on the Government to decide and declare to what individual Pagodas, Committees are to be appointed and to what not. If this point is not decided, how is the transfer of the landed and other property mentioned in Section IV to be carried out? It so happens that, in this Presidency, all Pagoda property was made over in 1843 on the severance of Government connection, and there is nothing to transfer now; but supposing there was property to deliver over, how could the Government proceed, without first deciding which Pagodas fell under Section 4 and which under Section 3? Your Petitioners refer to this consideration simply to show that the construction of the Act by Government as implied in their endorsement of which Your Petitioners complain, is not in unison with what appears to have been the manifest intention of the Legislature.

9. After all, the duty laid on the Local Government by Sections 3 and 4 is not very onerous, and it is such as can be properly performed by the Executive Government and its Officers, and by them only. For nearly half a century the Government by their own voluntary act, had under their own management every religious institution of any importance in the country, and when at last they thought fit to withdraw from that management and to supply their own place, as regards the institutions, by other machinery, who could know and who could decide better than the Government and their Officers, to what Pagodas they were in the habit, during their management of them, of appointing Trustees, and what Pagodas were exempt from that interference? To leave the decision of a point so simple, and which of necessity must be easily known to Government from their long connection with the Pagodas, to the Courts of the country is to plunge every Pagoda in expensive and vexatious litigation, and the sure result of the appointment of Committees must, under the circumstances, prove a curse instead of a blessing to the institutions affected.

10. But, without adverting any more to the general principle involved in the question, and to the consequences which must result from the line of action taken by Government in leaving both Committees and Trustees

in uncertainty, and in forcing them to have recourse to unnecessary litigation, contrary to what appears to Your humble Petitioners to be the clear intention of the Act, Your Petitioners will only state that, in their case, they are so completely the "Independent Trustees" contemplated by Section 4, that they beg Your Lordship in Council will be pleased to re-consider the order already passed on the former Petition and definitively declare Your Petitioners' Pagoda exempt from the Committee appointed for the Taluq of Conjeeveram. Any thing short of this must involve them in precisely the same course of litigation out of which Your Petitioners and their family successfully emerged only in 1847. The Government incur no responsibility by doing this in a clear case like Your Petitioners, in which indeed the Board of Revenue regretted that the facts "were not brought more prominently to notice by Mr. Baubury in his letter of the 7th January 1864, reporting on the nomination of Committees for the management of the Conjeeveram Pagodas." This shows that, if the case had been properly reported on before the Board came to their final determination to advise the Government to leave every Pagoda, whether private or public property, in the hands of Lawyers, Your Petitioners might have hoped for a different result, but it is hard that Your Petitioners should suffer for such omission on the part of the Collector. They therefore most respectfully but earnestly pray that your Lordship in Council will take the whole matter into your impartial consideration and protect Your Petitioners from the violence which will be done to their already well established rights, established, as Your Lordship will perceive, after a course of long and expensive litigation, if they are forced again to wage war with a Committee which, however well disposed, is sure to be influenced by the bitter spirit of faction and party contention so prevalent among the religious sects of this country.

11. Your Petitioners beg, in conclusion, to refer to a Notification recently published under the signature of the Collector in the *Port St. George Gazette*. Your Petitioners beg leave to object to the Notification as going beyond the terms of the Government Order, and therefore likely to lead the Committee to go beyond their jurisdiction. The Notification* in question says that

* vide page 897 of the *Port St. George Gazette* for the current year.

"the Government having approved of the Committees nominated by the Collector for the various Hindoo and Mahomedan Institutions in the Madras District, the Collector hereby notifies, that the Committees are now at liberty to exercise the powers vested in them under Act XX of 1863. The rules for the election of members when vacancies occur have already been published in the Supplement to the District Gazette of the 13th January 1866." Whereas, Government in their endorsement to Your Petitioners has stated, "The Government observe that the Committee has been expressly appointed for such institutions as come under the scope of Section 3 of Act XX of 1863, and for such institutions only."

12. Your Petitioners request therefore that the Collector may be directed to withdraw the Notification, and substitute one drawn up in accordance with the Orders of Government.

various Hindoo and Mahomedan Institutions in

in uncertainty, and in forcing them to have recourse to unnecessary litigation, contrary to what appears to Your humble Petitioners to be the clear intention of the Act, Your Petitioners will only state that, in their case, they are so completely the "Independent Trustees" contemplated by Section 4, that they beg Your Lordship in Council will be pleased to re-consider the order already passed on the former Petition and definitively declare Your Petitioners' Pagoda exempt from the Committee appointed for the Taluq of Conjeeveram. Any thing short of this must involve them in precisely the same course of litigation out of which Your Petitioners and their family successfully emerged only in 1847. The Government incur no responsibility by doing this in a clear case like Your Petitioners, in which indeed the Board of Revenue regretted that the facts "were not brought more prominently to notice by Mr. Banbury in his letter of the 7th January 1864, reporting on the nomination of Committees for the management of the Conjeeveram Pagodas." This shows that, if the case had been properly reported on before the Board came to their final determination to advise the Government to leave every Pagoda, whether private or public property, in the hands of Lawyers, Your Petitioners might have hoped for a different result, but it is hard that Your Petitioners should suffer for such omission on the part of the Collector. They therefore most respectfully but earnestly pray that your Lordship in Council will take the whole matter into your impartial consideration and protect Your Petitioners from the violence which will be done to their already well established rights, established, as Your Lordship will perceive, after a course of long and expensive litigation, if they are forced again to wage war with a Committee which, however well disposed, is sure to be influenced by the bitter spirit of faction and party contention so prevalent among the religious sects of this country.

11. Your Petitioners beg, in conclusion, to refer to a Notification recently published under the signature of the Collector in the *Fort St. George Gazette*. Your Petitioners beg leave to object to the Notification as going beyond the terms of the Government Order, and therefore likely to lead the Committee to go beyond their jurisdiction. The Notification* in question says that

* Vide page 887 of the *Fort St. George Gazette* for the current year.

"the Government having approved of the Committees nominated by the Collector for the various Hindoo and Mahomedan Institutions in the Madras District, the Collector hereby notifies, that the Committees are now at liberty to exercise the powers vested in them under Act XX of 1863. The rules for the election of members when vacancies occur have already been published in the Supplement to the District Gazette of the 13th January 1866." Whereas, Government in their endorsement to Your Petitioners has stated, "The Government observe that the Committee has been expressly appointed for such institutions as come under the scope of Section 3 of Act XX of 1863, and for such institutions only."

12. Your Petitioners request therefore that the Collector may be directed to withdraw the Notification, and substitute one drawn up in accordance with the Orders of Government.

various Hindoo and Mahomedan Institutions in

17433

of the most high and
His Excellency the
Governor of Fort St
George
is most respectfully requested that
your Excellency will kindly consider
the following petition
of the excellent that late Gover-
nor has finally ordered that Committee
shall be appointed for Carguam
and Anagapudam and Bagoda after a
long consideration on the matter
and accordingly the resolutions were
passed in the presence of the mem-
bers who are present for the purpose
of Committee for the said Bagoda and

by the collector for the
various Hindoo and Maho-
medan Institutions in

prayed for exemption) that
 their requests could be complied
 with. ^{as far as possible}
 V. Ramengar unconvinced
 of the Govt office being the
 disciple of the said trustees, is
 trying his best with the influence
 of Mr. Phillips, who is his friend
 to exempt the said pagoda from
 the operations of Act XX of 1863.
 The said Ramengar in order to
 get his wicked intentions accom-
 plished has made the trustees
 to present petitions during the
 absence of Mr. Pycroft, he has
 cunningly done this. We are
 the merasidars of the pagoda

and are poor ^{having} no such
 influence at all. We therefore
 pray that the request of the trustees
 for exemption may not be com-
 plied with, and the official ar-
 rangements of the office by the
 late Governor may not be dis-
 turbed as Ramengar cunningly
 uses his influence for exempting
 the pagoda during the absence
 of Mr. Pycroft, and sending justice

Madras
 14th June
 1866-

B. S. Desai
 Parasumabhai
 Atapa Singara Bhai

by the collector for the
 various Hindu and Maho-
 medan Institutions in

W. H. Fiddistone
The Hon. Secy of the Interior



Private Emergency

His Excellency the
Governor of New York

Albany



State of New York

1866

George Gazette under
 the signature of
 the Collr. of Madras
 giving notice to the
 committees that as
 the Govt. approved
 of his nomination of
 committees, they are
 at liberty to exercise
 the powers vested in
 them under act 20 of
 1863, pray that
 as the said notification
 is contrary to
 the order of Govt.
 passed on their petition
 the collr. may be
 directed to withdraw
 the notification &
 substitute one drawn
 up in accordance
 with the orders of
 Govt. —
 C.B. June 1863
 N. 435

Rev. 1866 @ 1/2
 No. 1745.
 From Sri Krishna
 Nathachary, Krishna
 Swamy Nathachary
 & Venkatarudachary
 Durmakurthas of
 Sagarajawany
 Pagoda at Conjee-
 warum in Madras
 District through V. Ranga
 chary.
 Dated 22 June 1866.
 Enclosure Oct. 30, 1866
 1. Act 1506-20 June
 Stating certain
 circumstances show-
 ing that they are in-
 dependent Trustees
 of Sagarajawany
 Pagoda protesting
 against the Notifi-
 cation published
 in the Fort Saint

Revenue Department
 N. 1504

Proceedings of the Madras Govt.
 under date the 20th June 1866.

Stating certain circumstances showing that they are independent Trustees of Sagarajawany Pagoda and protesting against the Notification published in the Fort Saint George Gazette under the signature of the Collector of Madras giving notice to the Committees that as the Government approved of his nomination of Committees, they are at liberty to exercise the powers vested in them under Act 20 of 1863, pray that as the said Notification is contrary to the order of Government passed on their petition the Collector may be directed to withdraw the Notification and substitute one drawn up in accordance with the orders of Government.

Read the following Petition from Sri Krishna Nathachary and others, Durmakurthas of Conjeevaram Pagoda.

(Here enter)

The Govt. desire
 that the Collector of Madras
 will modify his notifica-
 tion regarding the Temple
 Committees - published at
 page 887 of the Fort St.
 George Gazette, as in its
 present form it is cal-
 culated to mislead and
 cause complications.

It should ever thus.
 "The Govt. having approved
 of the committees nominated
 by the Collector for the
 various Hindu and Maho-
 medan Institutions in

Wm

"the Madras District in
"coming under Section
"3 Act 20 of 1863, the Colly
"hereby notified, that the
"Committees are now at
"liberty to exercise the
"powers vested in them
"under Act 20 of 1863. The
"rules for the election of
"members when vacancies
"occur have already been
"published in the Supple-
"ment to the District Gazette
"of the 13th January 1866."

LD

Copy to the Colony Magistrate
11/1/66

Bureau 1861 Deposit
Pro: of Govt papers

22/2/1861
18/1/14

No 1504

Pro: of the Madison Govt
At 20 June 1861

3300/77: 285078

No 4358426

Coll: of letters
to modify the notice
con regarding sample
Committee published
in the Brit St George
Gazette.