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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No. 1587 ~~Press~~
B.P. No. Mis.

Dated 29.7.1875 196 .

Not to be folded or roughly handled

Forest Rules.

Read the following papers :—

No. 180. FOREST No. 110.

Proceedings of the Board of Revenue, dated 22nd July 1874, No. 1914.

Read the following :—

Replies of Collectors to Board's Proceedings, dated 31st March 1874, No. 90-2200.

Letter from	Collector	of Ganjam,	dated	21st	May 1874,	No. 1265.
,,	,,	of Vizagapatam,	,,	20th	,, ,,	,, 754.
,,	,,	of Godavery,	,,	27th	,, ,,	,, 154.
,,	,,	of Kistna,	,,	20th	April ,,	,, 659.
,,	,,	of Nellore,	,,	18th	,, ,,	,, 814.
,,	,,	of Bellary,	,,	13th	,, ,,	,, 96.
,,	,,	of Cuddapah,	,,	9th	,, ,,	,, 82.
,,	,,	of Kurnool,	,,	6th	May ,,	,, 157.
,,	,,	of Chingleput,	,,	21st	April ,,	,, 157.
,,	,,	of North Arcot,	,,	15th	,, ,,	,, 191.
,,	,,	of South ,,	,,	24th	,, ,,	,, 199.
,,	,,	of Tanjore,	,,	17th	,, ,,	,, 98.
,,	,,	of Trichinopoly,	,,	2nd	May ,,	,, 106.
,,	,,	of Madura,	,,	17th	April ,,	,, 99.
,,	,,	of Tinnevelly,	,,	18th	,, ,,	,, 209.
,,	,,	of Coimbatore,	,,	11th	,, ,,	,, 81.
,,	Commr.	of the Nilgiris,	,,	17th	,, ,,	,, 32.
,,	Collector	of Salem,	,,	,,	,, ,,	,, 118.
,,	,,	of South Canara,	,,	21st	,, ,,	,, 726.
,,	,,	of Malabar,	,,	2nd	May ,,	,, 113.

From Captain C. WALKER, Officiating Inspector of Forests, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Ootacamund, 13th June 1874, No. 157.

With reference to G.O., No. 432, dated 13th March 1874, referring to the Board my circular notice submitted for approval, I have the honor to call attention to a notice published by the Collector of South Canara in his District Gazette, dated 30th May, No. 10, page 228, which is, I think, open to objection.

2. I have good reason to believe that the Orders of Government, No. 2052, dated 20th December 1873, was intended merely to express approval of the course proposed by the Collector of Coimbatore in the case of Village Munsifs, &c., and I have complaints from all districts where the ruling has been considered to apply to *all* cases of breaches of the Penal Code in the shape of forest offences (there can be no criminal prosecution for simple breach of Forest Rules) that the course adopted paralyzes any attempt at the successful prosecution of forest depredators. The notice of the Collector of South Canara appears to me particularly well qualified to affect this end, for not only does it prescribe a mode of procedure which must necessarily involve great delay, *viz.*, reporting through the Tahsildar and Divisional Officer to the Collector, and so back again, but, whilst it directs the Forest Officer to seize and hand over the timber or forest produce, which it is very

doubtful if he is legally entitled to do, he is to "abstain from inquiry into the case," merely reporting it to the Tahsildar or Deputy Tahsildar within twenty-four hours.

3. As it is probable that the case, if prosecution be sanctioned, will be tried by the same Tahsildar as Sub-Magistrate, I should imagine that it would be preferable for the preliminary inquiry to be made by the Forest Overseer or the Police.

4. I think it is open to question whether the Collector is judicious in suggesting or inferring "evils," "undue interference," and "excess of authority" on the part of Government servants under the orders of a responsible officer, such as the Deputy Conservator of Forests, and issuing orders to Forest subordinates direct instead of through his Forest Assistant.

5. *The* evil is doubtless the want of a forest law and rules framed thereon defining offences and the powers of Forest Officers of all grades in connection with them; but I much doubt if the procedure prescribed by Mr. Thomas improves matters in that respect, whilst it must certainly tend to lower the tone and position of the Forest Department in the eyes of the general population.

These reports will be submitted to Government with reference to G.O., dated 13th March 1874, No. 432.

2. In G.O., dated 20th December 1873, No. 2052, Judicial Department, Government, in passing orders on a case in which a Village Monigar had been improperly convicted of stealing a tree belonging to Government, when it was doubtful whether the tree stood on the Monigar's land or Government waste, ordered that no prosecutions for breach of Forest Rules should be instituted without the sanction of the Collector, and that quarterly returns of such prosecutions should be sent to the Board and Government.

3. The Inspector of Forests objected to this as impeding justice, and proposed that the ruling should be restricted "to special cases only in which there may be doubt as to possession, &c., in which Village Officers may be concerned," ordinary cases of theft, mischief, or trespass being entertained by the Magistracy in the usual way.

Kistna, Nellore, and Tanjore. 4. Three Collectors having no forests in their districts give no opinion.

5. Five Collectors advocate the retention of the ruling of G.O., dated 20th December 1873, No. 2052: Ganjam, because the limits of Government forest are undefined; Godavery, because continual changes in such orders are bad; Trichinopoly, because the cases turn on some of the most ambiguous sections of the Penal Code; Coimbatore, because the ruling gives the Collector power to authorize any Forest Officer to prosecute generally with stated restrictions (this the Board observe seems to be a misconstruction of the ruling which requires previous sanction in each case); and South Canara, because the ruling, which will not necessarily impede justice, should be tried before it is condemned.

Vizagapatam, Bellary, Kurnool, North Arcot, and Nilgiris. 6. Six Collectors are in favor of the modification proposed by the Inspector of Forests, but some of them point out that its terms are too vague.

7. The Collector of Cuddapah would require previous sanction only in cases where Village Officers are accused; the Collectors of South Arcot and Tinnevelly would require it both in cases where Village Officers are accused, and where the Forest Officers concerned feel doubtful; the Collectors of Madura and Malabar would require it only in doubtful cases; and the Collector of Chingleput where there is "a colorable right" pleaded by the accused. The Collector of Salem is against any restriction at all.

8. The Board are decidedly of opinion that the notification proposed by the Inspector of Forests will not work. It is obvious that the words "special case" and "ordinary case;" and "*et cætera*" are so vague as to nullify the restrictions altogether, and to leave matters just as they were before the ruling was issued, when, as Government remarked, it rested with the Collector to control his subordinates in such matters. Moreover, "theft," which the Inspector classes under ordinary cases, involves the very cases of breach of Forest Rules in which injustice is most likely to be done, simply because the Subordinate Magistracy are too ready to admit any right of Government asserted by an officer of Government.

9. The Board are of opinion that the ruling should stand as it is, or be cancelled *in toto*. The reports now before the Board seem to them to show that the ruling will be productive of great practical inconvenience, and that there is no reason to distrust the Subordinate Magistracy, acting under the direction of the chief officer of the district in these more than in any other magisterial matters. The cases, though called, from one point of view, breaches of Forest Rules, are all cases punishable under the Penal Code or some other penal Act, and the offences require exactly the same proof for conviction as other offences. The only danger is that Magistrates may be too apt to accept the assertion of Forest Officers, with regard to the right of Government to growing trees or dead-wood, and it would be a simple matter to warn them against this.

10. The letter from the Inspector of Forests, dated 13th June 1874, No. 157, in which he calls attention to a circular on the subject of these so-called forest prosecutions issued by the Collector of South Canara, deserves attention. The circular seems to the Board to be in accordance with the ruling now in force, but it is open to serious objections.

(A true Copy and Extract.)

(Signed) J. GROSE,
Secretary.

No. 181. From Captain C. WALKER, Officiating Inspector of Forests, to C. G. MASTER, Esq., Acting Secretary to Government, Revenue Department, dated Madras, 11th February 1875, No. 626.

Referring to Board's Proceedings, No. 110-1014, dated the 22nd July 1874, I have the honor to solicit the attention of Government to the subject of all forest cases being referred to the Collector of the district before prosecution before the Magistracy.

2. In every district which I have visited the Forest Officers have complained of the delay which occurs and consequent difficulty in obtaining convictions, and

in many the Collectors have expressed their opinion that the course at present prescribed is unnecessary and entails much extra work on them and their Forest Assistants.

3. The procedure varies in almost every district. In some (*e. g.*, South Canara), the Forest Department are forbidden to have anything to do with their own cases, which are inquired into by the officer who has to try them, by which means conviction and suppression of crime is not likely to ensue; in others the Forest Assistant has to work up the case and submit a summary of evidence, which he has no legal means of obtaining, to the Collector, who, if he thinks it sufficient, of which he can only judge at a distance by the way in which it is put before him, authorizes the prosecution, when the ground has generally to be gone over again.

4. I submit that the Forest Officers are quite competent to judge of what cases should be prosecuted, and, if they err, there is the Collector to find fault with them on the revenue side, and further, that the Magistracy are well able to judge what cases they should entertain or dismiss, and may record their remarks if the Forest Officer persists in bringing up false or vexatious prosecutions.

5. I would, therefore, strongly recommend that the existing rule be cancelled; that the preliminary inquiry be entrusted to the Forest Officer in charge, without whose sanction no forest case should be prosecuted by his subordinates; and that, to enable him to arrive at the real value of the evidence available, he should, when the Collector considers he has sufficient experience, be empowered to issue summons as a Revenue Officer under the provisions of (Madras) Act III. of 1869. I do not apprehend any abuse of such powers, which could be at once checked by the Collector; and as, by the reorganization, the Forest Officer has been constituted a Revenue Officer, it is only right that he should have revenue powers similar to any other of the Collector's Assistants.

6. At the time Act III. of 1869 was under consideration I asked the Conservator (Colonel Beddome) to move Government to extend its provisions to his officers, but he did not then consider it necessary. The recent changes have materially altered the position, and, the suggestion having emanated from a Native Deputy Collector who has had much practical experience of the delay and inconvenience resulting from the present rule, I venture to bring the matter to the notice of Government.

Transferred to the Judicial Department.

FORT ST. GEORGE,
16*th February* 1875.

(Signed) C. G. MASTER,
Acting Secy. to Govt.

No. 182. ORDER THEREON, 30th June 1875, No. 1455.

The Government observe that the Judicial Proceedings of 20th December 1873, No. 2052, contained no order. A proposal made by the Collector and Magistrate of Coimbatore, to the effect that prosecutions for offences in connection with the Forest Rules should not be instituted by Deputy Conservators without the sanction of the Head of the district, was held to be a desirable regulation, but it was remarked that it was for Collectors themselves to make their own

Proceedings of the Madras Government, Judicial Department,
30th June 1875.

arrangements for controlling their subordinates in such matters. The Board of Revenue appear from their Proceedings of 22nd July 1874 to have erroneously treated the Proceedings of Government above quoted as an Order directing a certain course to be uniformly adopted.

2. While leaving it to the discretion of the Collector and Magistrate of each district to regulate these matters, the Government would point out that the necessity for restraining overzeal in regard to prosecutions in connection with the Forest Rules appear to them to be obvious. To prosecute innocent acts as criminal offences is a procedure to which the subordinates of the Forest Department are occasionally liable, and Subordinate Magistrates are perhaps not sufficiently careful to see that in every case a legal offence has been committed under the Penal Code.

3. The quarterly return called for in paragraph 3 of the Proceedings of Government above quoted should include prosecutions for offences of the nature indicated, whether they are instituted by the Police or by the Forest Department.

(True Extract.)

Officiating Chief Secretary.

To the Board of Revenue.
,, all Collectors and Magistrates of Districts.
,, the Inspector of Forests.
,, the Revenue Department.

Ad. A. S. Rodgers.

Rev. 1875. July
No 2823.
No 737

Govt. of Madras.

JUDICIAL.

THE BOARD OF REVENUE.

&c. &c. &c.

3 Sheets

Dated June, 30th.

Issued 2 July 75.

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G.O., 30th June 1875, No. 1455.

Ger Letters

JUNE.

Nos. 180–182.

No 1587

Forest Rules.—Orders passed on the Proceedings of the Board of Revenue forwarding the replies of the several Collectors respecting prosecutions for breach of Forest Rules.

with Order

No 1587

Recorded

29 July 75

15/7/75