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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Revenue DEPARTMENT

G.O. No.	2459	Press
B.P. No.		Mis.
Dated	23.10.1876	197

Not to be folded or roughly handled

Cumbum—Sanitary.

No. 72. *Read the following letter from the Acting Collector of Kurnool, to the Chief Secretary to Government, dated Kurnool, 11th August 1876, No. 357:—*

I have the honor to address the Government again on the subject of closing the Burial-grounds at Cumbum, as the Government have not explicitly instructed me under what authority.

2. In paragraph 8 of their Proceedings, No. 810, dated 1st April, the Government directed me, as President of the Municipal Commission, "to give immediate attention to the provision of extramural burial and burning grounds in view to those in the town being speedily closed." In my letters, Nos. 181 and 240, dated 22nd April and 30th May 1876, respectively, I represented that the question of closing these grounds was considered by the Municipal Commissioners of Cumbum, and they, after examining several witnesses as to the effect of these grounds on the healthiness of Cumbum, decided they were not to be closed; and I expressed my grave doubts as to the legality of my interfering as a Magistrate to suppress a custom which none of the inhabitants of the town considered a nuisance. The Government, however, when passing their orders on my letters did not notice this point; and as since then the Cumbum Municipality has been abolished with retrospective effect from the 1st April, and I have ceased to have any power as President of the Municipality; and as I am still strongly of opinion that it would be illegal in me to interfere as a Magistrate, I am compelled to ask the Government to declare under what authority I am to proceed.

3. The only provisions of the law which authorize a Magistrate to interfere for the suppression of a nuisance are Sections 518 and 521 of the Code of Criminal Procedure. The latter section cannot apply in the present case as the retention of a burial-ground is not one of the six kinds of nuisance, the existence of which alone permits magisterial action under that section. Section 518 is intended "to provide for cases where a speedy remedy is desirable, and where the delay which would be occasioned by a resort to the procedure contained in Section 521 would, in the opinion of the Magistrate, occasion a greater evil than that suffered by the person upon whom the order was made, &c.," and the present case is not one in point. Thus so far as I can see there is no legal remedy in the matter.

4. If the Government wish me to carry out their order without troubling myself with the legal aspect of the case, I am of course prepared to carry out their order. Government need not think there is any delay on my part, because I ask this question. If the suppression of these grounds should hereafter involve us in a suit, as most likely it will, how can we justify our action in a Court of Law? I shall therefore be very much obliged to the Government if they will be pleased to remove my doubts.

No. 73. ORDER THEREON, 7th October 1876, No. 1807.

The Governor in Council is clearly of opinion that when the continued use of a Burial-ground in close proximity to a source of drinking water supply to a town or village is, from the restricted area or crowded condition of the site, unquestionably calculated to contaminate the supply by percolation and so to

*Proceedings of the Madras Government, Financial Department,
7th October 1876. No. 1807.*

prove injurious to the public health, the Magistrate has ample power under Section 519 of the Criminal Procedure Code, and Sections 268 and 188 of the Penal Code to prohibit the further use of the site for the purpose of burial, and to punish disobedience to this order.

2. The Government presume that the Magistrate is satisfied of the danger to public health from the continued use of those burial-grounds at Cumbum which have been repeatedly denounced as dangerous by the most competent medical authority. They attach little weight to the report of the residents that no harm results from them, and when other sufficient and unobjectionable sites have been provided within reasonable and convenient distance at the cost of the public revenues or of the Local Funds, the Government have no apprehension that the Courts would not uphold the Magistrate's action.

(True Extract.)

Chief Secretary.

To the Acting Collector of Kurnool.
Sanitary Commissioner.
Revenue Department.

Rev. F. O'Connor.

1. *Little Bear* 2. *Old* 3. *Sept 26-1876*

Oct 1876 *Capt*

Sept. 1876 *Chap*

FINANCIAL

207

1876

207
Amount of Revenue
2500000