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(2) Date of repair 28.3.69

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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No. 795 Press

~~B.P. No.~~ ~~Mis.~~

Dated 14.6.1876 ~~196~~ .

Not to be folded or roughly handled

No. 149. Read the following Proceedings of the Board of Revenue, dated 26th May 1876, No. 1,397 :—

Read again Board's Proceedings, dated 23rd August 1873, No. 1,639, 4th December 1873, No. 2,478, 28th August 1874, No. 2,437, 21st April 1876, No. 1,059, and 4th May 1876, No. 1,179.

Read also the following letter from J. D. B. GRIBBLE, Esq., Acting Collector of Cuddapah, to C. A. GALTON, Esq., Acting Secretary to the Board of Revenue, dated 19th May 1876, No. 114.

I HAVE the honor to report that, in obedience to the orders of the Board of Revenue conveyed by telegram,* I have inspected the Jillallamadaka tank with a view to making arrangements for the necessary repairs. I was accompanied by the District Engineer, by Mr. Haworth, the Resident Engineer, and by the Range Officer Mr. Schoury.

* 4th May 1876—*vide* Board's Proceedings, dated 4th May 1876.

2. The District Engineer is of opinion that it is impossible to execute the repairs before the setting in of the north-east monsoon. It might perhaps be possible to construct a calingulah ; but were this done, the bund is in such a rotten state that it is more than probable it would breach. Almost the whole of the revetment is off, and the bund leaks in several places. To put the whole into thorough repair will cost a large sum of money ; how much I cannot even now approximately say ; an estimate is, however, in course of preparation, which, when ready, shall be submitted for the information of the Board.

3. It is, however, possible to render the tank comparatively harmless. The old weir breached four years ago, and was replaced by a high revetted bund entirely blocking up the escape. In consequence of this bund, the pressure of the water was so great that in 1874 the tank-bund breached not far from the old calingulah. This breach now forms a species of rough calingulah, but it is prevented from being of any use by being blocked up by a ring-bund. Were this ring-bund removed, the District Engineer and the Range Officer both affirm that the tank would contain so little water that the danger of the bund breaching would be infinitesimal. Mr. Haworth also states that were the ring-bund removed, he would entertain no apprehensions for the safety of the railway.

4. The best thing, therefore, to be done is to remove the ring-bund, but the question arises how is this to be done? If the tank were to breach, there would be danger to the railway, and consequently to human life ; and for this reason I should feel prepared to issue an order under Section 518 *if the danger were imminent*, but I have no grounds to believe that it is. The tank is now empty, and is not likely to receive a supply until the north-east monsoon, as this portion of the country is but slightly affected by the south-west monsoon, and the District Engineer informs me that not only is he not prepared to say that the tank is a cause of imminent danger now, but that, in his opinion, it is improbable it will receive a supply for some months. Under these circumstances, an order could only be issued under Section 521, but this section clearly does not provide for a case of this kind. I feel inclined to advise caution in this matter, since if by removing the ring-bund the tank receives a short supply, I have little doubt that the

Shrotriemdars will put the Magistrate into a Civil Court, and if the loss were incurred in consequence of an order issued under Section 521, I feel no doubt that he would be cast in damages.

5. I therefore propose to adopt the following arrangement. As soon as the Civil Court opens, the Railway authorities should file a suit for an injunction to compel the Shrotriemdars to repair, and, pending the completion of the repairs, to remove the bund. In the mean time, I will instruct the Head Assistant (in whose range the tank is, and who accompanied me on my inspection) that should at any time a sudden emergency arise from a heavy fall of rain, he should at once take steps for the removal of the bund under Section 518, Criminal Procedure Code, which, in a case of emergency, is applicable.

6. Supposing my view of the law to be correct, I would strongly urge upon the Board the necessity of providing special legislation to meet such cases as suggested by the Advocate-General.

7. As regards the 30 feet arch, the District Engineer is of opinion that it should be enlarged, and in this opinion I quite concur. The arch being 30×8 up to the spring of the arch provides only a waterway of 3,600 cubic feet per second, whereas the area of the catchment basins of the Shrotriem and the Government tanks, which both discharge into the same channel, shows that the discharge might be 4,158 cubic feet per second. Hence, if a breach should occur, and a breach *is possible even when a tank is in good* repair, the railway embankment would be in considerable danger. As a matter of fact, when the tank breached in 1874 the water could not find an escape quickly enough, it stood against the railway embankment, and inundated all the surrounding fields.

NOTE.—This, in reality, is only half of the discharge of the Koorlakunta tank, as there is a second calingulah at the other end of the bund.

8. I beg to submit an accurate sketch* of the situation of the two tanks which has been carefully prepared by Mr. Schoury, the Range Officer.

* In two sheets.

MR. GRIBBLE'S letter will be submitted for the orders of Government.

2. The correspondence at the head of these Proceedings relates to the neglect of the Shrotriemdars of Jillallamadaka to repair their tank which breached in 1870, 1872, and 1874, and has never been properly repaired. The tank adjoins the line of rail, and the embankment is stated to be endangered by its insecure condition. The Board decided in 1874 that as there was no proof of negligence on the part of the Shrotriemdars an action for damages on account of the injury done to the road by the breach which occurred in 1872 would not lie, but directed that the Shrotriemdars should be served with a notice to render the tank safe. Mr. Gribble recently reported that no steps have been taken with this end, that the tank has been pronounced unsafe by the Railway authorities and District Engineer, and asked for instructions as to the course to be adopted. The Board thereupon directed him to consider whether he would not be justified in taking action as a Magistrate under Chapter XXXIX. of the Code of Criminal Procedure, and instructed him, in the event of his being of opinion that the circumstances of

the case did not warrant such a course, to file a suit for an injunction to compel the Shrotriemdars to take the requisite precautions, unless the District Engineer considered the danger imminent, in which case he was to take immediate steps to ensure the safety of the tank, leaving the question of the recovery, by civil suit, of the outlay incurred for settlement hereafter. The Collector thereupon reported that the matter was complicated by the recent construction of a dividing bund between the shrotriem tank and the adjoining Korlakunta tank, the property of Government, the danger to the former having been increased by that step, which prevented the flow of water from one tank into the other and its escape over the calingulah of the Government tank. He expressed considerable doubt as to his power to exercise his magisterial powers, and the Board, therefore, directed him to take the requisite precautions in his capacity as Collector.

3. Mr. Gribble now reports that he has inspected the tank in company with the District Engineer, Range Officer, and Resident Engineer of the Railway; that it is impossible to execute the necessary repairs before the setting in of the north-east monsoon; that the repairs will cost a considerable sum of money; and that the best course to adopt is the removal of the ring-bund thrown up in front of the breach of 1874, by which the danger would be reduced to a minimum; but, as the storage capacity of the tank would be injuriously affected, he anticipates that its removal would expose him to an action for damages. He does not consider the imminence sufficient to warrant his proceeding under Section 518 of the Code of Criminal Procedure, and he is of opinion that Section 521 is inapplicable. He, therefore, proposes that the Railway authorities should apply for an injunction as soon as the Court re-opens, the Head Assistant being instructed to take immediate action as Magistrate, should a sudden emergency arise.

4. The removal of the ring-bund would, no doubt, secure the railway embankment from danger; and as Mr. Gribble does not consider himself justified in taking immediate action under the Procedure Code, the course proposed by him in paragraph 5 seems the best possible under the circumstances. He has omitted to notice the Board's suggestion regarding the breaching of the dividing bund between the two tanks; he is requested to report on the matter at an early date.

5. The orders of Government are requested as to whether the application for an injunction should be made by the Collector or the Railway authorities, and the remarks at paragraph 7 regarding the seeming inadequacy of the water-way provided at the railway arch in question to carry off even the ordinary drainage are brought to notice for such orders as Government may deem fit to pass.

6. With reference to paragraph 6, the Board are of opinion that if Mr. Gribble is right in supposing that the danger in the present case is not sufficiently imminent to warrant a Magistrate in taking action for the removal of the ring-bund, and to prevent its reconstruction until the tank has been placed in a proper state of repair, additional powers should at once be conferred on Magistrates to meet cases of the kind. It seems clear that Section 521 is inapplicable, but the Board gather from the opinion of the Advocate-General that he contemplated the issue of an injunction under Section 519, and its enforcement by criminal prosecution under the Penal Code. On this point the orders of Government are desired, as

it seems to the Board open to question whether the fact that a single heavy fall of rain would be sufficient to breach the tank and the railway embankment before the orders of the Head Assistant Magistrate could be acted on does not constitute imminence in a sufficient degree to justify action in anticipation.

(A true Copy and Extract.)

(Signed) C. A. GALTON,
Acting Secretary.

No. 150.

ORDER THEREON, 14th June 1876, No. 795.

Irrigation, No. 4.

THE Government agree with the Board that the proposals of Mr. Gribble in paragraph 5 of his letter are the best under the circumstances stated.

2. The Government await the report called for in paragraph 4 of the Board's Proceedings.

3. Paragraphs 5 and 6 of the Board's Proceedings will be referred to the Public Works Department, where the previous correspondence on the subject was considered and disposed of.

(True Extract.)

(Signed) D. F. CARMICHAEL,
Secretary to Government.

To the Public Works Department, with Plans and other Enclosures.
„ the Board of Revenue.

Exd. F. R. Bantleman.

Revenue Department

Proceedings of the Board of Revenue.

Dated 26th May 1876. No. 1397.

Read again Board's Proceedings dated 23d August 1873, No. 1639, 4th December 1873 No. 2478, 28th August 1874 No. 2437, 21st April 1876 No. 1059 and 4th May 1876 No. 1179.

Read also the following

No. 114

From

J. D. B. Trimble Esqre
Actg Collector of Cuddapah

To. C. A. Galton Esqre
Acting Secretary to the
Board of Revenue
Madras

Sir. I have the honor to report that in obedience to the orders of the Board of Revenue conveyed by telegram I have inspected the Jillellamadaka tank with a view to making arrangements for the necessary repairs.

I

× 4th May 1876
Vide Board's Ro:
dated 4th May 1876

Govt. of 1876 [illegible]
REVENUE.
To
The PUBLIC WORKS DEPARTMENT
4.
4.
Board Jour. 1876
Read
JUNE
Rec. 1876.

I was accompanied by the District Engineer by Mr Heaworth, the Resident Engineer, and by the Ranger Officer Mr Schoery.

2. The District Engineer is of opinion that it is impossible to execute the repairs before the setting in of the North East Monsoon. It might perhaps be possible to construct a Caligula but were this done, the bund is in such a rotten state that it is more than probable it would breach. Almost the whole of the revetment is off, and the bund leaks in several places. To put the whole into thorough repair will cost a large sum of money, how much I cannot even now approximately say: an estimate is however

however in course of preparation, which, when ready, shall be submitted for the information of the Board.

3. It is however possible to render the tank comparatively harmless. The old weir breached 4 years ago, and was replaced by a high revetted bund entirely blocking up the escape. In consequence of this bund the pressure of the water was so great that in 1874 the tank bund breached not far from the old caligula. This breach now forms a species of rough caligula, but it is prevented from being of any use by being blocked up by a ring bund. Were this ring bund removed, the District Engineer

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and the Range Officer both affirm that the tank would contain so little water that the danger of the bund breaching would be infinitesimal. Mr Hoaworth also states that were the ring bund removed, he would entertain no apprehensions for the safety of the railway.

4. The best thing therefore to be done is to remove the ring bund, but the question arises how is this to be done? If the tank were to breach, there would be danger to the railway and consequently to human life, and for this reason I should feel prepared to issue an order under Section 518 if the danger were imminent, but

fact I have no grounds to believe that it is. The tank is now empty, and is not likely to receive a supply until the North East monsoon, as this portion of the country is but slightly affected by the South West Monsoon, and the District Engineer informs me that not only is he not prepared to say that the tank is a cause of imminent danger now, but that in his opinion it is improbable it will receive a supply for some months. Under these circumstances an order could only be issued under Section 521, but this Section clearly does not provide for a case of this kind. I feel inclined

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it should be enlarged, and in this opinion I quite concur. The arch being 30 X 8 up to the spring of the arch provides only a waterway of 3,600 cubic feet per second whereas the area of the catchment basins of the Shrotrium and the Government tanks which both discharge into the same Channel shows that the discharge might be 4158 cubic feet per second. Hence if a breach is possible even when a tank is in good repair, the railway embankment would be in considerable danger. As a matter of fact when the tank breached in 1874 the water could not find an escape quickly enough, it stood against the Railway embankment, and inundated all the surrounding fields.

Note. This in reality is only ½ of the discharge of the Koorlakum tank as there is a second Calingula at the other end of the bund.

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I have &c
(Signed) W. B. Gribble
Ag. Collector

19th May 1876

* in two sheets

for Gribble

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To prevent repetition of a public nuisance -

I have the honor to be
Sir
Your most obedient servant
[True Copy & Extract]

C. L. Gulton
Acting Secretary

To
the Secretary to Government
Revenue Department with a
Sketch consisting of 2 sheets to be
returned & copies of Board's Proceedings
dated 23rd August 1872, No. 1164 4 December
1873, No. 1727 & 28 August 1874, No. 1257 and Finlay,

Rec'd June 1876 Departmental Secretary's Office Minute of the Board of Revenue

Dated 26
Dated 26 May 1876
Read 29
Mins 5 Rolls 8 Warps

No 795 14 June 1876

Submitting for orders of Govt with certain remarks letter from the Collector of Sundapole reporting the measures which he proposes to adopt as regards repairs to Tyllalee-madaka Tank after personal inspection of the

R.C. 10 June R 14 June
C 15 June 76 R6 June

No 795

The Govt agree with the Board that the proposals of Mr Gribble in para 5 of his letter are the best under the circumstances stated.

The Govt await the report called for in para 4 of the Board's Proceedings.

Paras 5 and 6 of the Board's Proceedings will be referred to the Public Works Department, where the previous correspondence on the subject was considered and disposed of.

14 June 1876

Note

The proposals [illegible] not entirely accept. It is to be seen in the Public works

21 Ltr to Public Works Dept with Plans & other enclosures duplicate
14 Ltr to Board of Rev