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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

REVENUE DEPARTMENT

G.O. No. ~~B.P. No.~~	968	Press. Mis.
Dated	26- 6-1878	~~197~~ :

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Archives I—5,806—24-2-78.

958
1

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

26th June 1878, No. 968.

Read the following papers :—

No. 306. Proceedings of the Board of Revenue, dated 29th April 1878, No. 1,138.

Read the following letter from R. RICE, Esq., Special Assistant Collector in charge of Head Quarter Office, Bellary, to C. A. GALTON, Esq., Acting Secretary to the Board of Revenue, dated 8th April 1878, No. 109 :—

WITH reference to the Proceedings of the Board of Revenue, No. 716, dated 16th ultimo, I have the honor to state that, under the orders of the Board conveyed in their Proceedings, No. 3,690, dated 25th August 1871, which were supposed to authorize the Collector to grant permits for the conveyance of toddy from one taluq to another without the consent of the contractor of the taluq, Mr. Abraham, the Toddy Contractor of the Alur Taluq, was told at the time of the sale of the farm that the privilege of importing toddy into Alur Taluq would be continued.

COMMUNICATED to the Government Pleader with reference to Board's Proceedings, dated 16th March 1878, No. 716.

2. The Board do not understand how their Proceedings of 25th August 1871, No. 3,690, could have been interpreted as authorizing the Collector to grant permits for the conveyance of toddy from one taluq to another without the consent of the contractor of the taluq.

(A true Copy and Extract.)

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

No. 307. Proceedings of the Board of Revenue, dated 3rd June 1878, No. 1,487.

Read the following letter from J. W. HANDLEY, Esq., Government Pleader, Madras, to C. A. GALTON, Esq., Acting Secretary to the Board of Revenue, dated Ootacamund, 16th May 1878 :—

WITH reference to the Board's Proceedings noted in the margin, I have the honor to submit the following opinion.

16th March 1878, No. 716.
29th April „ „ 1,138.

2. As I understand, the legal questions raised in these papers are two — (1) whether an abkari renter who draws toddy from trees outside the limits of his farm for sale within it infringes the law, and (2) whether the Collector in granting permits for the passage of the toddy so drawn is infringing the monopoly granted to the renter of the farm within the limits of which the trees are situated.

3. I think both questions must be answered in the affirmative. As to question (1), drawing toddy from the trees is the first step in its manufacture; in fact, the only active step, I believe, taken by the manufacturer, the rest being done by the natural process of fermentation. The renter therefore who draws toddy from trees situated outside the limits of his farm is, I think, manufacturing toddy in a place "other than that specified in his license" and comes within the provision of Section 21 of the Abkari Act (Madras Act III of 1864) and is acting illegally.

4. If the above answer to question (1) is correct, it follows that question (2) must also be answered in the affirmative; for the person drawing toddy from trees within another's farm is infringing the monopoly of manufacture owned by the renter of that farm, and the Collector in allowing a pass to the toddy so drawn is aiding him in such infraction.

5. It would be possible to provide by the terms of the licenses granted to abkari contractors for cases such as that out of which the present reference arose, where obviously the revenue would not be injured but rather benefited by a contractor being allowed to import toddy from outside for sale within his own district, and such allowance would cause no real injury to the other contractor. The Board of Revenue might perhaps make rules under Section 5 of the Act with this object.

6. With regard to Mr. Abraham's case, the fact that at the time of the sale of his farm he was told that the privilege of importing toddy into his taluq would be continued would probably give him a claim in law either to the rescission of his contract or to damages, and it might be as well therefore to comply with his request for a remission or for cancellation of his contract.

7. I return the petition and other original enclosures to the above Proceedings.

SUBMITTED to Government with reference to G.O., 6th March 1878, Petition Department.

2. The Government Pleader's opinion is in accordance with the view taken by the Board. Although the Collector was not warranted by the instructions issued to him in promising that the practice of importing toddy into the Alur, Taluq rented by the petitioner should be allowed to continue, he appears to have given an engagement to that effect, and Mr. Abraham is entitled to special consideration. The term of the lease is on the point of expiring and the contract therefore cannot be cancelled; but fair remission must be granted and the Collector will take the matter into consideration at an early date and endeavour to estimate the loss caused by the restriction imposed in the matter of importation apart from losses occasioned by the unfavorable nature of the season, for which remission has already been allowed. Inquiry should be made as to the quantity of toddy which Mr. Abraham used to import from other taluqs and which he might fairly calculate on getting, and the best estimate of the loss resulting from the stoppage of the supply should then be made and submitted for orders together with a statement of the demand, collection, and balance on account of the farm.

Board's Proceedings, dated 29th April 1878, No. 1,138.

2. The course suggested in paragraph 5 of the Government Pleader's letter is not feasible. It would be impossible to regulate the matter, and if the Board were to reserve to themselves power to allow importation, the bids for good farms would certainly be affected owing to the uncertainty as to the amount of interference which would be exercised and the loss would not be counterbalanced by increased bids for inferior farms. The contractors who have an insufficient supply must be left to make their own arrangements with those who have a superabundance of toddy.

(A true Copy and Extract.)

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

968/2

No. 308. ORDER THEREON, 26th June 1878, No. 968.

Separate Revenue, No. 31.
Abkari.

RECORDED.

2. The instructions issued by the Board to the Collector in the later of the above Proceedings are approved.

3. The petitioner will be referred to the Collector.

(True Extract.)

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

To the Board of Revenue.
„ the Petition Department.

Exd. F. R. Bantleman.

Ordered
Allowed

968
3

L.O. No 968 of 26 June 1878

Read Boards Pets: 29th April 78 & 38
— do — 3rd June 78 - 1487.

Recorded.

Note If not to be seen by the notes on petitions 3314 of 77 & 2220 of 78 that the members of the Board thought compensation should have to be given. L.C.

2. The instructions issued by the Board to the Collector in the latter of the above proceedings are approved.

3 The Petitions will be referred to the Collector

L.C.

"Do Board of Revenue Order passed
1 — Petition Disp: of

MD.
26/6

Cont. of (1878) Custom
REVENUE.

To the BOARD of REVENUE,

Sir, &c., &c.

Dated June 26th.

Read.

Regd.

G.O., 968 June 1878, No. 968.

Compensation to Mr. Abraham, Toddy Contractor, Attur Taluq, Salem District.—Recording Proceedings of the Board requiring, upon the instructions issued to the Collector and referring the petitioner to the Collector.

JUNE
Nos. 807—808.

C 25-6-78.
R 26-6-78.

Revenue Dept.

No. 1109

98/5

Proceedings of the Board of Revenue
Dated 29th April 1778

Read the following

No. 109

From. The Collector of Bellary

To. The Secretary to the
Board of Revenue
Madras

Sir.

With reference to the Proceedings of the Board of Revenue No. 716 dated 16th Ultimo, I have the honor to state that under the orders of the Board, conveyed in their Proceedings No. 3690 dated 25th August 1871, which were supposed to authorize the Collector to grant permits for the conveyance of toddy from one

Taluq

Taluq to another without the
consent of the Contractor of the
Taluq. Mr. Abraham the Toddy
Contractor of the Aloor Taluq
was told at the time of the sale
of the farm that the privilege
of importing toddy into Aloor
Taluq would be continued.

I have &c
Sd/ T. Rice
Special Asstt. Collector
In charge of Hd. Quarter Office

Collrs Office
8th April 1872

Communicated to the
Government Reader with reference
to Board's Proceedings dated 16th March
1872. 716.

2. The Board do not understand
how their Proceedings of 25th August
1871

968/70

1871 No. 3690, could have been
interpreted as, authorizing the
Collector to grant permits for
the conveyance of Toddy from one
Taluq to another without the
consent of the Contractor of the taluq.

True Copy & Extract
Sd. C.A. Galton
Ag. Secretary

To The Government Reader &c

True Copy

C.A. Galton
Ag. Secretary

To The Secretary to Government R.D.

Rev: Department

No 1127

Proceedings of the Board of Revenue.

Dated 3d June 1878.

Read the following

No.

From

J. W. Handley Esqre

Government Pleader - Madras

To

C. A. Galton Esqre

Actg Secretary to the Board of Revenue

Sir,

With reference to the Board's Proceedings noted in the margin I have the honor to submit the following opinion.

16 march 1878 No 408

29 april 1878 No 1138.

2. As I understand, the legal questions raised in these papers are two - (1) whether an abkari renter who draws toddy from trees outside the limits of his farm for sale within it, infringes the law; & (2) whether the Collector in granting permits for the passage of the toddy so drawn, is infringing the monopoly granted to the renter of the farm within the limits of which the trees are situated.

3. I think both questions must be answered

Rev. Proceedings dated 29th April 1878 No 1127

Proceedings of the Board of Revenue

Read 29th April 1878

Dated 27th April 1878 Received 1st May 1878 No 1138

Communicating with reference to the Proceedings noted in the margin the opinion of the Government Pleader on the questions raised in the papers noted in the margin and requesting that the Board will favor the Collector with their orders thereon.

Ans. 2nd May 1878

answered in the affirmative. As to question (1), drawing toddy from the trees is the first step in its manufacture, in fact the only active step, I believe, taken by the manufacturer, the rest being done by the natural process of fermentation. The renter therefore who draws toddy from trees situated outside the limits of his farm is, I think, manufacturing toddy in a place "other than that specified in his license", & comes within the provision of Section XX of the Abkari Act (Madras Act III of 1864) & is acting illegally.

4. If the above answer to question (1) is correct, it follows that question (2) must also be answered in the affirmative: for the person drawing toddy from trees within another's farm is infringing the monopoly of manufacture owned by the renter of that farm, & the Collector in allowing a pass to the toddy so drawn is aiding him in such infraction.

5. It would be possible to provide by the terms of the licenses granted to Abkari

Abkari Contractors for cases such as that out of which the present reference arose where obviously the revenue would not be injured but rather benefitted by a contractor being allowed to import toddy from outside for sale within his own district, and such allowance would cause no real injury to the other contractor. The Board of Revenue might perhaps make rules under Section 9 of the Act with this object.

6. With regard to Mr. Abraham's case the fact that at the time of the sale of his farm he was told that the privilege of importing toddy into his taluq would be continued, would probably give him a claim in law either to the possession of his contract or to damages, & it might be as well therefore to comply with his request for a permission or for cancellation of his Contract.

7. I return the Petition & other original Enclosures to the above Proceeding.

I have &c.

Octacamund
16th May 1878.

(Sd) J. H. Hawley
Govt. Pleader

Submitted

Submitted to Govt with reference to
G.O 6th March 98 Petition Depart.

2. The Govt Pleader's opinion is in accord
-ance with the view taken by the Board. Although
the Collector was not warranted by the in
structions issued to him in promising that
the practice of importing toddy into the
Alur taluq, rented by the petitioner should
be allowed to continue, he appears to
have given an Engagement to that effect
& Mr. Abraham is entitled to special consi
-deration. The term of the lease is on the
point of expiring & the contract therefore
cannot be cancelled, but fair permission
must be granted & the Collector will take
the matter into consideration at an early
date endeavour to estimate the loss caused
by the restriction enforced in the matter
of importation apart from losses occa
-sioned by the unfavourable nature of
the season, for which permission has
already been allowed. Enquiry should be
made as to the quantity of Toddy which
Mr. Abraham used to import from other
talugs

B.P. Proc 29 April 98
No 1138.

98

talugs & which he might fairly calculate on
getting & the best estimate of the loss resulting
from the stoppage of the supply should then be
made & submitted for order together with a
statement of the Demand Collection & balance
on account of the Farm.

2. The Course suggested in para 5 of
the Govt Pleader's letter is not feasible. It
would be impossible to regulate the matter
& if the Board were to reserve to themselves
power to allow importation the bids for
good farms would certainly be affected
owing to the uncertainty as to the amount of
interference which would be exercised & the
loss would not be counterbalanced by in
-creased bids for inferior farms. The contractors
who have an insufficient supply must be
left to make their own arrangements with
those who have a superabundance of
Toddy.

/True copy & Extract/

A. Secretary.

To
The Secretary to Government R.D.
with Petition returned.

Ord Ent

Revenue 1878 Dept

No 2427

Proceedings of the
Board of Revenue
Dated 3rd June 1878.
Dept ——— ——.

encl.

Read 6th June 1878

Sd de 9th 26 June 1878

Submitting to Govt
letter from Govt Pleader
advising on certain points
relative to Mr Abrahams
contract for the Abkari
farm of Akola Taluq
Kolhapur Dn.

No 307.

C 25-6-78
R 26-6-78