

153R/31-5-97
206R/29-6-97
278R/4-8-97
Revenue (1897) Department.

MISCELLANEOUS SERIES.

G.O., No. 1400

DATED 13th March

[Despatch Abstract.]

From^S to the Col^r of Madras for
reprint petition from Tirumalai Achary
of Madras re. his dharukast case.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
No.	568 Rom			No.	406		
	23-3-97				22-7-98		
	7574/95				494		
	1683				3-2-97		
	8957						

Revenue (1896) Department.

CURRENT No. 9324

Order

From
 Tirumalay Achary
 No. 26 Vathear Amde
 Pillay Street
 No. Choolay, Madras

Dated 14th
 Received 17th
 Registered 19th } December 1896
 Enclosures one memorial with it
 Spare copies 25 enclosures

SUBJECT.

Requesting that his memorial
 (accompanying) may be
 transmitted to the Govt.
 of India.

ad 19.12

BACK PAPERS.

G.O.	No.	Department.	Date.
for 2241	RE	19-11-1896	

FURTHER PAPERS.

G.O.	No.	Department.	Date.

D
1,000-11-8-86.

REVENUE DEPARTMENT.

C No. 9324 of 1896.

From Tirumalai achain.

Dated

189

The Hon. Mr. G. S. S.

FOR ORDERS.

The Hon. Mr. G. S. S. must be
admitted, but the question
whether it is necessary in
such cases to be issued
again as suggested by Mr.
Gardner, & the fact that
a person will be issued
by the time the G. S. S.
gets the appeal & that it
can only be cancelled on
proof of fraud and be
noticed.

29

4/2/97

1/6/97

This is an ap-
peal to the Govt of
India in a daskha
case.

2. The question for
consideration is whether
it should be forward-
ed or withheld.

3. In 1883, a daskha
appeal to the Govt of
India was received
and the question
was raised whether
it should be forward-
ed or withheld. The
Secretary Mr E. F.

Webster wrote as follows:- "An appeal
does not lie to the Board
necess less to the Govt
of India - against
a collector's order approving

c. 2/3/97
R 573/97

approving his district officer's action in such a case as this. And here has this man tried both Board and Govt: unsuccessfully no doubt. To send up such papers to India would be too absurd, and I would withhold the memorial. This view was concurred in by the Hon Messrs Sullivan and Carmichael and the petr was informed that the transmission of his memorial had been withheld, the decision of the local Govt being final.

4. In 1885, in connection with a memorial from a village officer which this Govt declined to forward, on the ground that the order of the Govt in Council was by law final in such

FOR ORDERS.

e.g. no 767 RP
14.6.83
and note flayed C

such cases, the Govt of India observed "that in the case of memorials addressed to the Govt of India regarding orders of a similar nature and similar finality passed by the Govt of Bombay in Council, it has been decided that such memorials should always be transmitted" and requested that a similar course might be adopted by this Govt. because if the local Govt declines to transmit a memorial, the appellant may not improbably, as in the present case, submit it ^{directly} to the Supreme Govt. which then would have to deal with it without the advantage of such

such remarks as
to its admissibility
or otherwise as might
have been made
by the local Govt.
The Govt of India
also pointed out
that the only memos
^{addressed to that Govt.} which might
be withheld were the
"appeals against judi-
cial decisions of the
ordinary civil
courts or of executive
authorities exercising
the powers of such
courts" vide letter from
the Govt of India
read in G.O. No. 1177 dt
20-10-85. Under the
ruling contained
in this letter, the
local Govt had no
power to withhold
memorials address-
ed to the Govt of India
in darkhast cases.
Accordingly, when
in 1887, one Ramasada-
siva Reddi presented an

an appeal to the Govt
of India in a dark-
hast case, it was
forwarded to that
Govt. But in doing
so, it was observed
"In accordance with
the standing orders
of this Govt on the
subject of application
for land for the pur-
pose of cultivation,
the decisions of the
Collector, or the Board
of Revenue, as the
Case maybe, in second
appeal are final
and that the local
Govt. does not, save
in very exceptional
instances, interfere
with these.

"Under these cir-
cumstances, I am
to ask whether it is
the wish of the Govt
of India that memorials
of the nature of the
present should in
future be forwarded

or not. It has been considered advisable to transmit that which is the subject of the reference now made as in the opinion of this Govt., it appears hardly to come within the category of those memorials which maybe withheld as specified in para 3 of Mr. Buzk's letter no 628 R-3-274 d 15-9-85.

read in G.P. 1177
20-10-85

(vide letter no 270 d 11-3-87). In reply ^{in 85} ~~to~~ Buzk stated that "although there was no probability that the Govt of India would interfere with the action of the Local Govt in such a case, yet it was preferable that in accordance with the previous ruling communicated with in his letter of the 15th Sept 1885 no 628-3-274 R, the memorial should be sent up

sent up to the Govt of India in order that a formal order to that effect might be passed" vide letter under G.P. no 488 d 17-5-87.

5. In the beginning of 1893, another dark-hast appeal to the Govt of India was received and the question was again raised, apparently overlooking the letter last quoted above. In that case, the undersecy Mr. Carr submitted that the "memorial should be withheld under section III, rule 3(8) of the India Petition rules. The decision of this Govt in the case is not distinctly declared by any law to be final, but under S.O. no 30 (paras 23-25) the Board's decision in such cases is usually considered a

* promulgated in 1889.

as final and a
fortiori, no appeal
should lie to the Govt
of India from a deci-
sion of this Govt. The
Secy Mr Gibson there-
upon noted "sub-
mitted that this
petition to India should
not be sent on. The
daskhast rules are
accepted by the courts
as ^{the} law ^{regarding} ~~for~~ the dis-
posal of waste land."
The Hon Mr Garton
approved the suggestion
but the Hon Sir Henry
Stokes observed, "the
daskhast rules are
not law, and India
will of course do
nothing. Nevertheless
we are not warrant-
ed in keeping back
the petition under
the rules. I think
it must be forward-
ed," and it was final-
ly decided that the
memorial should be forwarded.

E.g. 525
6.2.93.

Page A

6. Since the date
of the last order,
the rules as to dask-
hast appeals have
been revised. Under
the old standing
order, second and
even third appeals
were admissible
in special cases,
and appeals seem
to have been general-
ly admitted though
seldom the orders
of the lower authori-
ties were seldom
interposed with.
Please see in this con-
nection note under
E.g. 2481 d. 26-4-88,
in which it was observed:-
~~It was stated~~, strictly
speaking no appeal
lies, under the dask
hast rules, to Govt
but every subject has,
it is presumed, a right
to petition Govt on any
and every matter.
The Hon Mr Carmichael
held that this was so.

"under the Bill of Rights"

But now under the orders contained in G.O. No 943 dt 3-11-93, not more than a single appeal is admissible in any darkhast case. The order says:- "H E in Council resolves to lay it down as a hard and fast rule that in no darkhast case shall there be more than one appeal viz, from the Tahs to the Dist officer, from the Divisional officer to the collector or from an original order of the collector to the Board of Revenue. This order of course implies that further appeals submitted to Govt will be rejected". It has now to be considered whether an appeal to India is excluded by this order. Unless

unless it could be held that darkhast rules are rules having the force of ~~law~~^{law} and the Govt of India moved to admit the same memorials to India in darkhast cases, cannot be withheld under the India Petition rules, but should be forwarded; and there will be the anomaly that while under the darkhast rules no second appeal lies and consequently the Board of Revenue generally and the Local Govt always have no power to interfere in any darkhast case, it will be open to India to reopen the question in a, perhaps, fifth appeal.

Memorials to

the Secy of State
in darkhast cases
are withheld under
Rule XII (9) of the (A) Rules.
Please see Secy of State's
Despatch in G.O. No. 694
dt 18-6-80. Rules 3(12)
of Section III of the Govt
of India Petition Rules
which were promul-
gated in 1889 is
exactly similar to
rule XII (9) of the Secy
of State's memorial
rules. But the Govt of
India has so defined
"dispersatory discretion"
that memorials of
this class cannot
be withheld under
this rule.

vide G.O. No. 851 dt 30-10-90.

8. At the time of
passing G.O. No. 943
dt 3-11-93, this question
was raised and fully
discussed in the note
for orders and the
Hon Mr Gortlee noted
as follows:- "I think
the proposal in my

flagged B

"at the beginning of
this note will meet
the case. If it does
not and if India
says ~~that~~ darkhast
appeals to them are
to go on to them, send
the first one and
point out that (they)
will be received
in hundreds - and
that our rule of
forbidding second
appeals is rendered
negatory by the practice
of India admitting
them. They will then
drop it."

No reference has
however yet been
made to the Govt
of India on the sub-
ject. In 1894 a case
arose but it was with-
held under rule 3(5)
of Section III of the Govt
of India Petition Rules.
vide G.O. No. 2502 dt 27-6-94.

9. Orders are re-
quested as to whether

in the present instance.

(1) the petition should be withheld under rule 3(8) of Section III of the Q of J Petition Rules, following the precedent under Q. J. No 2002 dt 27-6-94

or

(2) whether the ^{petition} ~~discussion~~ of that Govt should be simply forwarded to the Govt of India with a statement of the facts of the case, the decision of that Govt as communicated in ^{Sir E.C.} ~~the~~ Brink's letter, ^{reading} No 488 dt 17.5.1887 being accepted as final

or

(3) whether in forwarding the petition, the whole question should again be raised as noted by the Hon Mr Justice.

26 Feb 97 / Submit that this Govt proposal may

Can not in the face of the rulings of the Govt of India withhold this memorial but must send it on.

In doing so the question whether such memorial ought to be sent on may be again raised though I doubt the expediency of doing so.

It might also be pointed out that in such cases, on the happening of the appeal time a ^{Patna} ^{in the} ^{is issued} ^{in form} 15 of P.O. No 50; that this only way in which a man ^{under such a Patna} ^{may be} ^{is} ^{by issuing} ^{the letter} ^{due for} ^{is} ^{being} ^{cancelled} ^{but that} ^{the} ^{is} ^{not} ^{upheld} ^{such} ^{cancellation} ^{unless} ^{it} ^{can} ^{be} ^{shown} ^{that} ^{the} ^{cancelled} ^{Patna} ^{was} ^{obtained} ^{by} ^{fraud}. It is not the Petitioner's allegation that the ^{issued to Tulankaram had} ^{Patna} ^{was} ^{obtained} ^{by} ^{fraud} & he can not certainly prove it. Hence nothing can be

down to put him in possession
of the land. Even if it is held
that he has the better title
which does not appear on the
papers.

11/2/57

Sp today
13/2/57
keep intact

To the collector of Madras
with pet & encls
to be ret. } 15-3-97

Note.

Although the petitioner
has submitted a number
of enclosures (most of
which are unauthenti-
cated) it seems to be
difficult to gather the
facts of the case. The
Dy. Tahsildar's & sub-
collector's orders are
far too brief to give
any information on the
subject - while the

C.N. 9324/96

G.O. no. 1400 d/13 Mar 1897

The petition and
its enclosures will
be forwarded to the
collector of Madras
with the request that a
clear and brief
report stating the facts
of the case may be
submitted to Govt.
as early as possible.

13/2/57

appeals to the Board
and the Government
were rejected as in-
admissible under
the darkhast rules.
As, in submitting
the petition to the Govt.
of India, it is necessary
to enter into the merits
of the case, a reference
to the Collector seems
desirable.

19.
12 May 71

When given for copying _____
When copied _____
When examined _____
When signed _____

189

READ AGAIN G.O., No.
189

DATED



ENCLOSURE, to G. No.

ORDERS OF GOVERNMENT

A A A A A A A

LETTERS OF GOVERNMENT

STATEMENTS WITH DITTO

PAPERS NOT FILED UP, BEING MEANT FOR DETACHMENT
IN ORIGINAL.

N.B.—

A = Copy in full.
B = Not to be copied.
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