

CONFIDENTIAL.

Revenue (1897) Department.

G.O., No. 56

Confidential No. 894.

DATED 6th January 1897

[Despatch Abstract.]

Communicating to the Comr of Wards despatch
from the Secretary of State regarding the selection
of counsel to represent Indian Authorities in
cases of litigation ~~in this~~ at home.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
<i>f.p.</i>	5086	Rev	11-12-96				
<i>f.p.</i>	4789	Rev	25-11-96				
<i>f.p.</i>	4529	Rev	13-11-96				
		<i>a</i>	<i>a</i>				

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
<i>f.p.</i>	830	Rev	12-2-97				
<i>f.p.</i>	1182	Rev	2-3-97				
		<i>a</i>	<i>a</i>				

Revenue (1896) Department.

CURRENT No. *9373*

Confidential No. 117.

Sp 6/1/97

The Hon. Mr. C. C. C.

Desp. From

the Secretary of State

Order in 86th January 1897 No 56

communicated to the Comt of wards.

11/1/97

No. *5 Jnl*

Dated *26th November 1896*

Received *16th December 1896*

Registered *21st December 1896*

Enclosures

Spare copies

To the Comt of wards.

Sp 8/1/97

SUBJECT.

49 Jan 97. The Despatch from the Secy of state appears to have been sent to the Comt of wards de minimis & returned. It is therefore, proposed to send a copy of it officially now so that the Comt may have it in its records.

11/1/97

Stating that the selection of Council for to represent Indian authorities in cases of litigation at home should be left to the sole discretion of the Secretary of State in Council.

the

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

NOTE FOR THE Chief Secretary

Will you please take charge of the paper enclosed in the despatch or do you wish it to be kept with the despatch?

19/12/96

Send to
Rev. Secy.
with despatch

The paper has been returned to the C. Secy. 19/12/96

NOTE FOR THE CHIEF SECRETARY.

The Rev. Secretary has returned these papers - I order as to what to be done with these papers.

18/12/96

File the despatch in the ordinary way. I enclose with the telegram to Secy. of P. reply 19.12

India Office,
London, 26th November 1896.

Excellency The Honourable The Governor in Council, Fort St. George.

SIR,

I have duly received the telegram from your Government dated the 5th instant, requesting that the Solicitor of this Office may be instructed to retain two Counsel, named, in view to their appearing on behalf of the Madras Court of Wards to resist an appeal in the Privy Council.

2. The selection of Counsel to represent any Indian authorities in litigation in this country must be left to the sole discretion of the Secretary of State in Council, after the nature of the litigation has been fully made known to him, and I therefore regret that I am unable to depart from that practice by taking the action which your Excellency in Council has suggested.

I have the honour to be,

Sir,

Your most obedient humble Servant,

George Hamilton

about the

No. 12.

Judicial,
26th November 1896.

The
Letter to Fort St. George.
No. 5.



Revenue Board Office
16th December 1896.

My dear Brundel

Carr is not in the office, so I reply to the questions put in your Demi-Official of yesterday as follows:-

Question I. Whether the Court of Wards is appealing or defending the appeal *per se* on its own authority as Court of Wards.

Answer
The Court of Wards is defending the appeal as Court of Wards on behalf of its ward. In addition it may be necessary to meet a point not decided by the Madras High Court, namely, whether a decree can be given against the Court of Wards instead of against the Court of Wards as representing its ward. Government is indirectly interested in this.

Question II. Whether Government has ever claimed the right to appoint Counsellor for the Court.

Ans. In 1874, the Court of Wards requested Government to retain Mr. Mayne for a Ramnad case, which it was expected would go before the Privy Council. The Government of the day said that the Court of Wards could telegraph to the Solicitor-India Office, without the

Thereupon at the instance of the Court of Wards, the Local Government asked the Secretary of State to cancel the application for the retention of the India Office Solicitors (G.O. n^o. 636 Revenue dated 1st May 1878). The Secretary of State replied:—

"Solicitor already instructed All Court Wards' Cases in his hands alone"—G.O. n^o. 790 Revenue dated 24th May 1878.

In the same case on an application from the India Office Solicitor, the Court of Wards permitted him to retain an additional lawyer to co-operate with Counsel engaged by the deceased proprietor (Court's Proceedings n^o. 3210 Dated 29 November 1878). No copy of this Resolution was sent to Government, apparently because it related to a matter of detail.

In

In 1889, it was distinctly laid down that the instructions applicable to Government Privy Council appeals would apply to Court of Wards cases also.

Though it is not usual or perhaps legal, for Government to interfere in matters of detail with the action of the Court of Wards, it retains generally administrative supervision, and its remarks on the annual administration reports are invariably treated as instructions to be observed.

The Court expects Government to consider its wishes as regards counsel. In point of fact, according to the present law, the intervention of Government begins and ends with passing orders on each proposal submitted to it by the Board of Revenue to bring the estate of an incapacitated proprietor under the superintendence

of the Court of Wards (clause 3, Section 2 of Regulation V of 1804) From that moment, the authority of "the Board of Revenue, acting in its capacity of the Court of Wards" is legally complete and independent. It is submitted, therefore, that it was strictly within its powers, when it used its previous knowledge and experience in respect of a selection from the English Bar to suit the exigencies of the Pittapur case.

Yours sincerely

C. G. Roberts

References sent in bundle
to be ^{kindly} returned

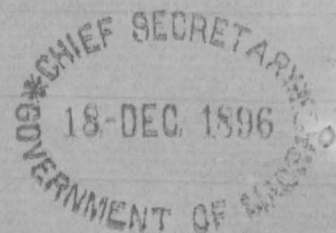
Despatch from S. & S.
 No 12. of 26 Nov. 1896
 D.O. from
 Court of wards
 re engaging Counsel
 in the case of
 appeals to the Privy
 Council.
 Vtd also C. W. P.
 of 10th March 1896
 No 357.

MS
 16.12.96.

Please return to
 the C.S.

Returned to the C. Sec.

A-54
 17.12.96



File with MS's under that
 all telegrams to the despatcher
 MS 19.12.96

First copy sent to Press.

Returned for Signature.

Despatched.

READ AGAIN G.O., N.
 189

DATED

CURRENT No.

ENCLOSURES to G. No.

ORDER OF GOVERNMENT

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
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