

Revenue (189) Department.

ROUTINE SERIES.

G.O., No. 593

DATED 22nd March 97

[Despatch Abstract.]

INFORMING Pannavano Madali, late Mansif Watteranigar,
of Pettai Village, Madura Taluk, Madura
District, that, under section 23 of Madras Act III of 1895, as amended by Act II of 1897, no appeal lies
to Government.

BACK PAPERS.

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

FURTHER PAPERS.

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

Revenue (1897) Department.

CURRENT No. 1807

*Relie not
int. 6535/96
4 may 97*

Order

From

Punayana Mudaly
Late Munsif Kallamais
of Pettai Village
No. Madura Taluk &
St

Dated 22. 2. 97

Received 28. 2. 97

Registered 2. 3. 97

Enclosures 1

Spare copies

SUBJECT.

Praying that early
orders may be passed
on his petition dated
3rd September 1896,
regarding the Munsif's
post of the above
Village

Reps 15.7

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

To,

His Excellency the Governor in Council,
PETITION
Fort Saint George
Madras.

3177

REVENUE DEPT.

CHIEF SECRETARY
24 FEB. 1897

The humble memorial of Sundararaja Mudaly late
Muniof Nattamgar of Pettai village, Madura Taluk, Madura
District.

Respectfully sheweth:-

The petitioner humbly begs to submit that he
has not been favoured with reply to his humble memorial
(copy enclosed), addressed to His Excellency on 3rd September
1896 re - the hereditary Muniof Nattamai office of Pettai
village.

2. A kind perusal of the memorial will convince
His Excellency in Council that the procedure of the Honorable
Board in admitting the 2nd Review petition of Sundararaja
Ayer (respondent) on his false information that he is senior
in service and that his Mirasi right is far superior to that of
the petitioner and cancelling their own orders passed in
the case on two different occasions in favour of the petitioner as
well as of the Lower Court is ultra vires. No report was called
for from the Lower Court as to the truth or otherwise of the fact
alleged in the revision petition.

3. The hereditary claims of both the petitioner and the
respondent are fully and clearly detailed in para 7(a) and (b)
of the memorial already submitted.

4. It is most humbly and earnestly prayed that the
records submitted with his Memorial may be perused and
due justice be rendered to the petitioner in whose behalf the
hereditary

22^d February 1973
Madura

Revenue (189) Department.

CURRENT No. 6505

Order

From Punnawana Mudaly
late Mff. Nattamigar
of Pettar Village
Madura.

No.

Dated 3-9-96

Received 9-9-96

Registered 10-9-96

Enclosures 9

Spare copies

SUBJECT.

Praying for restoration.

To be done

BACK PAPERS.

G.O.	No.	Department.	Date.
			8

FURTHER PAPERS.

G.O.	No.	Department.	Date.



To,

HIS EXCELLENCY
THE GOVERNOR IN COUNCIL,
FORT SAINT GEORGE
MADRAS.

PETITION

0709

REVENUE DEPT.

*Humble Memorial submitted by PUNNAVANA MUDALI
late Munsif Nattamaigar of Pettai Village,
Madura Taluk and District, appealing
against the Proceedings of the Board
of Revenue, Land Revenue, dated
16th March 1894, No. 1431 Misf*

RESPECTFULLY SHOWETH :—

That your Memorialist and the Respondent were the Nattamaigars of the village of Pettai before the revision of the village establishment. As one Nattamaigar and Munsif only was sanctioned when the village establishment was reorganized, the petitioner who proved his hereditary title satisfactorily, was appointed as the sole Pattamaniagar and Munsif and the respondent, Sundraraja Iyer, being found on enquiry as apparently having no hereditary title, was directed to establish his claims by a suit if he has better title for the office; vide order of the Deputy Collector dated 28-8-90 in column 15 of the village establishment register; (Exhibit A).

2. That the respondent, in obedience to the above order, then commenced regulation suit under Act VI of 1831.

(a) He 1st filed his suit in No. 16 of 1891 in the Deputy Collector's office. His suit was dismissed and the revision judgment (in favour of the petitioner) was confirmed. (Ex. B).

(b) He then presented a review petition to the same officer on 25-1-1892. In the enquiry, the Deputy Collector arrived that the claims of both the parties were equal; but revision judgment was not affected.

(c) Petitioner appealed to the Collector against the said finding of the Deputy Collector in No. 26 of 1892. The Collector reversed the decision (in favor of the petitioner) on the ground that the Deputy Collector was not authorised to revise his own decision (Ex. C).

(d) Respondent then appealed to the Honorable Members of the Board of Revenue on 25-11-1892. Appeal dismissed vide Proceedings of the Board of Revenue No. 8418 Miscellaneous dated 22nd December 1892 (Exhibit D).

(e) Respondent again presented a review petition to the above officer on 19-2-1893. Revision judgment confirmed (in favour of the petitioner);— Vide Proceedings of the Board of Revenue No. 2463 Mis dated 20-4-1893 (Exhibit E)

Thus it is very clear that the petitioner's claims being found, on enquiry to be for senior than those of the respondents, all the authorities, quoted above, have confirmed the original revision judgment in favour of the petitioner.

3. That the respondent again submitted a 2nd review petition to the Board of Revenue on 25th January 1894 praying for a review of their Proceedings No. 8418 Miscellaneous dated 22-12-1892. To the petitioner's great misfortune, the Board of Revenue accepted this 2nd review petition and passed the following resolution in No. 1431 Miscellaneous dated 16th March 1894 (Exhibit F). "On a consideration of the facts now brought to notice, the Board resolves to admit this review petition, to cancel B. P. No. 2463 dated 20-4-1893 and to appoint appellant to the office of Munsif-Maniam on the ground that he is a direct descendant of a Faisaldar in the male line and that he has a service of 22 years. The respondent claimed through a female and had no previous service". It is against this proceedings that this appeal is now submitted to your Excellency in Council.

4. That the said B. P. No. 1431 Miscellaneous admitting a 2nd review petition from the respondent and cancelling their proceedings Nos. 8418 dated 22-12-92 and 2463 dated 20-4-1893 being *ultra-vires*, petitioner prays that it may be cancelled for the following reasons.

(a) B. P. No. 8418 dated 22-12-92 is a decision under clause 1. See 5 of Regulation VI of 1831, rejecting on the merits, the appeal of the said respondent.

(b) B. P. No. 2463 dated 20-4-1893 is an order cancelling the suit decisions including the said B. P. No. 8418 under G. O. No. 1168 dated 24-11-1892. as the village was affected in the revision.

(c) But as the Deputy Collector's decision in the regulation suit was passed on 16-12-1891, i. e. prior to the said G. O. No. 1168, the Honourable Board is perfectly right in cancelling by its proceedings No. 1431 dated 16-3-1894 the subsequent B. P. No. 2463 which set aside the suit decisions including its own on the authority of G. O. No. 927 dated 23-10-1893 and 1004 dated 21-11-1893 and the authority conferred by these G. Os. on the collectors and the Honorable Board is limited to that only and no more.

(d) But so far as B. P. No. 8418 is concerned (which is a decision on the merits of a suit on a regular appeal preferred to them by the respondent) the B. P. No. 1431 cancelling the said B. P. (8418) is evidently *ultra vires*; for it amounts to the illegal admission of a review of their decision in B. P. No. 8418 and cancelling it on that review petition. But there is no provision in the Regulation empowering the Honorable Board to review its own decision and that too on two distinct occasions inasmuch as a final power of revision against Board's decision is reserved to Government by Section VI of the regulation; the only remedy for a party aggrieved by Board's decision is to appeal to Government against it. Therefore the B. P. No. 1431 dated 16th March 1894 is illegal and ought to be cancelled as *ultra vires* and as invalid in law.

5. That as regards the observation that the respondents' claim as the direct descendant in the male line of a Faisaldar is preferable to that of the petitioner in the female line of another Faisaldar, petitioner submits that that finding of the Honorable Members is against the existing records and the opinion of the Honorable Board itself based on those records in paras 1 and 2 of its Pro. No. 8418 that he is a

collateral relation being the grandson of the Faisaldar's younger brother. A history of the descent of the petitioner's and respondent's family, ascertained from the records filed by both parties, is given in para 7 below. The inaccuracies, discrepancies and contradictions of the respondent's and his father's statements therein shown will clearly convince Your Excellency in Council that the respondent's family connection in the village under question as Nattamie Munsif, dates only very lately but not for back to the time of the Ayacut. Now for arguments' sake even supposing the respondent to be directly descended in a male line, petitioner begs to add that that distinction (of male and female descent) can only hold good if both of them belong to the same family and claim an office through one and the same Faisaldar; but when the parties belong to different families and claim through different Faisaldars, there can be no preference of descent through the male line to descent in the female line and their Mirassi rights are equal. This view was entertained by the Honorable Board itself in this very case in para 2 of B. P. No. 8418. (Ex. D). Therefore in the face of the authorities above quoted, the respondent is not entitled to preference either on the ground of alleged direct descent from a Faisaldar or in his male line.

6. That as to the remark that the respondent has 22 years service, but that petitioner has no previous service, petitioner humbly begs to submit that the Honorable Board have come to that wrong conclusion only on believing the one sided false representations of the respondent made in his 2nd review petition dated 25—1—1894 on which the B. P. No. 1431 now appealed against is based. As a matter of fact petitioner has longer service than the respondent, the former having been appointed in 1849 while the latter came to office only in 1868. Petitioner pays a Revenue of Rs 800 per annum. He is also a Nattamai Mirasidar of another village called Kovil Kurivithurai. He was permitted to do the duty in the other village and to employ a gumastah in the suit village under question as provided in Articles 39 and 43 of the Law and Rules by Mascarenhas. He was registered as office holder in 1849 and the duties performed by a gumastah on his behalf; vide order of the Asst. Collector to the Tahsildar appointing the petitioner to the office No. 25 dated 2—10—1849 (Ex. G). Besides this in column 8 of the village establishment Register (Ex. A) petitioner is entered as having been appointed in 1849 which fact is also supported by the Tahsildar in column 13 of Ex. A. Under the authorities quoted above, the service of the gumastah is virtually the service of the Registered holder. Hence the surmises of the Honorable Board that the respondent has got a longer service is unfounded and untrue. It is the petitioner who has a longer service of 19 years than the respondent as pointed above.

7. That your Memorialist humbly begs to submit herewith a history of the family descent of both the parties.

(a) *Petitioner's family.* One Seturama Mudaly was a Nattamaigar at the Fysal for the village of Pettai. His son-in-law Thitharappa Mudaly succeeded him. On his death one Mnthuthandavaraya Mudaly (Faysaldar's brother's son) came to office. He died in 1834 and was succeeded by Sangaralinga Mudaly (his sister's husband i. e. husband of the brother's daughter of the Fysaldar). The petitioner is the son (i. e. the son of the Fysaldar's brother's daughter) and successor of the said Sangaralinga Mudaly who died in 1849. Thus it is proved that the petitioner is the grandson—i. e. daughter's son of the Fysaldar, Seturama Mudaly's elder brother.

These facts are admitted by the respondent and is well explained in paras 4 and 5 of the Dy. Collector's decision. (Ex. B.)

(b) *Respondents' family*; One Sundararajier was a Nattamaigar at the Fysal. He was succeeded by Dhurmarajier. The latter was succeeded by his minor son, Venkataraya Iyer. Dhurmarajier's son-in-law Subbaya Iyer was at first the minor's gumastah; he then became the permanent Nattamaigar on the minor's death in 1828. He was again dismissed in 1832 when Kuppusamier, respondents father, was appointed as the Nattamaigar. The respondent succeeded his father in 1868. These facts are corroborated by proper records and is clearly marked in para 3 of Ex. B. But not one of the records shows how Dharmarajier was related to the Fysaldar and how the respondent's father was related to Subbaya Iyer or Dharmarajier. In one case respondent's father has deposed before the Tahsildar that the above Dharmarajier who succeeded the Fysaldar was an outsider. If Dharmarajier was unconnected with the Fysal family, it then follows that the holders of the office till 1833, did not belong to the Fysal family (Para 9 of Ex. B). The very same individual (respondent's father) has stated before the Inam Deputy Collector that he was the sister's son of the said Dharmarajier (Ex. H). In column 7 of the village establishment register prepared during the settlement for the village under question, the respondent has certified that he cannot say how he is related to the Fysaldar (Ex. A). It is very strange that the respondent (a Brahmin) who is bound to repeat the names of the deceased father, grand-father, and great grand-father, at least to 3 generations, on every New Moon day and on the 1st day of each tamil month when he makes *Tarpanam* (i. e. pouring gingelly oil seed with water followed by Mantrams) for his deceased ancestors, should not have known the names of his ancestors. Every one who is taken for a Brahmin cannot ignore this fact. Such pretended ignorance may lead to the inference that the real names of the ancestors, if revealed, may prove against him or spoil his case. Again in paras 2 and 3 of the petition dated 10—9—90 submitted to the Deputy Collector by the respondent, he has stated that his father Kuppusamier is the son of the Faisaldar. (Ex. I). This is quite opposed to the existing records as shown below. In Para 12 of the Deputy Collector's decision (Ex. B), it is remarked that the said Kuppusamier (respondent's father) was represented as the grand-son of the Faisaldar's brother. It has already been pointed out that later on in 1863, he represented himself to be a nephew of Dharmarajier (Ex. H) who is admittedly unconnected with the Faisaldar and that in 1868 he represented himself to be the son of a brother of the Fysaldar and that finally, the respondent himself showed that he has really known nothing about his parentage but represented himself as the grandson of the Fysaldar.

8. That thus it is pretty clear that the respondent and his father were only guessing and have been trying to represent themselves as heirs to the Fysaldars. These and several other inaccuracies are well pointed out by the Deputy Collector in paras 6, 7, 8, 9, 10, 11 and 12 of his judgment (Ex. B). In para 13, that officer has remarked,—“I am therefore of opinion that their allegation of possessing hereditary title to the office is more or less a guess and that the plaintiff has failed to prove that he has hereditary title to the office. I therefore dismiss his suit”.

9. That on a glance over the arguments above elicited your Excellency in Council may clearly understand that the admission by the Honorable Board of a 2nd review petition from the respondent and setting aside by proceeding No. 1431

dated 16th March 1894, its decision in proceeding No 8418 by which the suit decisions were confirmed and the respondents appeal was rejected on the merits, are quite illegal and unauthorized by law.

10. That further, your humble Memorialist has well proved that he is a direct descent of the Fysaldar while the respondent is not so, but tries to set up a false claim and that he (petitioner) is also senior in service to the respondent by 19 years. Hence all the defects (on petitioner's side) observed by the Board of Revenue in their proceedings No. 1431, now appealed against, are satisfactorily proved in petitioner's favour.

11. That Your Excellency in Council should please note this solitary fact as it is very strange, interesting and deserving of Your Excellencies special encouragement in the matter, for the ends of justice. In the opening portion of the Boards proceedings No. 1431 now appealed against, it is remarked. "On a consideration of the facts *now brought to notice* the Board resolves to admit this review petition &c". As observed in para 2 above, the respondent has represented his claims in (6) offices, i. e. 1st before the revision officer (2ndly) before the Deputy Collector by a Rogulation suit (3rdly) before the same officer by a review petition (4thly) before the Collector by a counter petition (5thly) before the Board of Revenue by an appeal petition (6thly) before the above, by a review petition. Such being the case your Excellency in Council should now judge, is there anything still left unrepresented in the above 6 offices. The answer must be in the negative, for the following reasons; i. e. if at all the respondent introduces a new argument or claim, his petition should be forwarded for a fresh enquiry on the fresh matters lately brought to notice, enquiry should be conducted in the presence of the petitioner and sufficient opportunity should be given to the latter for cross-examining him and to rebut his statement; for enquiries conducted in the absence of the accused without allowing him to cross-examine the plaintiff, cannot be admitted as legal. Inasmuch as no such legal formalities were observed in the case under question, the natural inference is that it must be the exaggeration of the Rev. Board and no more.

12. That under these circumstances, your humble Memorialist most humbly craves that your Excellency in Council will be graciously pleased to cancel Board's Proceedings No. 1431 dated 16th March 1894 and confirm their decision passed in the Regulation suit No. 8418 dated 22nd December 1892.

For which act of charity and kindness, your Memorialist as in duty bound shall ever pray.

3-9-96

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List of records submitted with the above petition.

- A Extract from the village establishment register prepared at the revision.
- B Decision of the Dy. Collector in suit No. 16 of 1891 dated 16-12-91
- C Do. of the Collector No. 26 of 1892 dated 7-10-92
- D Proceedings of the Board of Revenue dated 22-12-92 No. 8418

- E Proceedings of the Board of Revenue No. 2463 dated 20-4-93
- F Do. No. 1431 Mis dated 16-3-94
- G Order of the Asst. Collr to the Tahr. appointing petr. to the office of the Nattamai, No. 25 dated 2-8-49
- H Extract from the village service Inam dated 15-7-63
- I Petn of Respdt dated 10-9-90 addressed to the Dy. Collector.

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Government of Madras.

Read cor. 6505 of 96 + 1867 of 97

REVENUE DEPARTMENT.

Endorsement No. 5934 ^{and} 22 March 97

22/8/97

THE petitioner is informed that no appeal lies
to Government under Section 23 (1) of Madras
Act III of 1895. as amended
by Act II of 1897.

Note.

The first petition to
Govt. is dated
3rd September 1896.

(P.
20 March 97)

H. M. M.

(By Order.)

O.C.

Under Secretary to Government.

FORT ST. GEORGE,

189 . }

To the pet^r
with Encl^s }

45.25-3.97

22/8/97

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 When examined _____
 When signed _____

189

READ AGAIN G.O., No.
 189

DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

A A A A A A A

LETTERS OF GOVERNMENT

STATEMENT WITH DIET

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