

Revenue (1897) Department.

ROUTINE SERIES.

G.O., No. 715

DATED 2nd April '97

[Despatch Abstract.]

Directing Sub^{business} ~~business~~ copy of
Circular No. 4798 of 18-8-93.
to produce an authenticated
copy of R.P. 4798 of 18-8-93.

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	487975						

Revenue (1897) Department.

CURRENT No. 198

To be over
11/1/97

Order R.

From Subhswami Aiyar
Late Assistant Karam of
Perunduliyar, Latyammanga
- Kum Zambh, Gumbatone
D.

No.

Dated 24-12-96

Received 8-1-97

Registered 9-1-97

Enclosures 9

Spare copies

SUBJECT.

Praying for the Assistant
Karam office of the
village.

Resd
11. Karam for coll. 6/97
26/12/97
11/4/97

BACK PAPERS.

G.O.	No.	Department.	Date.
	4385		
	5-11-85		

FURTHER PAPERS.

G.O.	No.	Department.	Date.

PETITION

To,

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

MAY IT PLEASE YOUR EXCELLENCY IN COUNCIL,

THE HUMBLE MEMORIAL OF SUBBUSAMI AIYAR, LATE
ASSISTANT KARNAM OF PERUNDALIYUR VILLAGE,
SATTIAMANGALAM TALUK, COIMBATORE DISTRICT.

MOST HUMBLY AND RESPECTFULLY SHEWETH THAT:—

Your Excellency's humble Memorialist begs permission to appeal to your Excellency in Council under Section 6 Regulation VI of 1831, against the orders of the Honorable Board of Revenue conveyed in Para 1 of their Proceedings dated 20th September 1894, No 5282, removing your Memorialist from the Assistant Karnam's place of the said Perundaliyur village for the reason that it is not a hereditary appointment. In this connection your Memorialist begs to submit, that he had submitted a Revision Appeal to your Excellency in Council, on the same subject, last year, and his petition was dismissed with the Endorsement No. 4385, dated 5th November 1895, that under Section 23 (1) of Madras Act III of 1885, no appeal lies to Government against the orders of the Board. But your Memorialist now learns, that it has been lately laid down by Government that *retrospective effect cannot be given to Section 23 of Act III of 1895*, and that all suits already disposed of under that wrong impression should be re opened *suo moto* and decided on the merits. Your Memorialist, therefore, most respectfully ventures to resubmit this memorial, fully trusting that your Excellency in Council will be pleased to peruse the same and set right the injustice done to him, by restoring him to the Assistant Karnam's place of Perundaliyur.

2. Your Excellency's Memorialist begs leave to submit, that till the date of the said Board's Proceedings your Memorialist was the Permanent Assistant Karnam of Perundaliyur, on a pay of Rs. 10—0—0; that your Memorialist being a mirasdar, had sued Seshagiri Aiyar the Head Karnam of the village, a non-mirasdar, under Regulation VI of 1831, to be transferred to that office carrying a higher pay (Rs. 15—0—0); that the Deputy Collector of the Division had decided the suit in your Memorialist's favour, in Revenue suit No. 51 of 1891, dated 31st August 1892 (Exhibit C), and put him in possession of the Head Karnam Office; that thereupon the defendant had appealed to the Collector, in Revision, when the Collector had confirmed the Lower Court's decision with some modification viz., that although your Memorialist was the undoubted mirasdar, yet as the defendant has been in office for upwards of 30 years, he ought not to be disturbed till he vacates and that your Memorialist is entitled only to succeed him in office. (Vide Exhibit D. Judgment in Revision Appeal No. 262 of 1892 dated 24th January 1893). That against this modified portion of the Collector's decision in re-the Head Karnam's place of Perundaliyur, your Memorialist had appealed to the Board of Revenue under section 5 (1) Regulation VI of 1831 and that the Board instead of confining themselves to the decision of the only simple issue which was judicially before them on appeal, viz: whether your Memorialist was entitled to get the Head Karnam's place at once as decided by the Deputy Collector or whether he must wait

* Enclosure 1.

* Enclosure 2.

to 278
22-6-96
now held
in abeyance
will suit
I 997

till the present Head Karnam vacates, has widely travelled out of record and has removed your Memorialist from the Assistant Karnam's place, regarding which no body had appealed and no issue lay before them.

3. From the above, your Excellency in Council will be pleased to see that Para I of the said Board's Proceedings removing your Memorialist from the Assistant Karnam's office of Perundaliyur, is clearly illegal and that gross injustice has been done to him by the said order.

4. In view, however, to facilitate your Excellency in Council in arriving at a just and correct conclusion, as to whether the Board was right, even on the merits of the case, in removing your Memorialist from the Assistant Karnam's office, more than three years and four months after his permanent appointment to it, on the ground that it is not a hereditary appointment, and in restoring Venkatanarasier to it, your Memorialist solicits permission to lay before your Excellency in Council a concise resume, how the said Assistant Karnam office has existed from before the passing of Regulation VI of 1831, under what circumstances your Memorialist was appointed to it and how the Board itself had confirmed his appointment to it in 1891:—

Your Excellency's humble Memorialist is the Karnam Mirasdar of Perundaliyur village. His grand-father Venkatiah alias Venkatesa Aiyar was the sole Karnam of the office, at least, from Fasly 1212 (so far as authentic records are extant in the Collector's office). About Fasly 1230, *i. e.*, long before the passing of the Regulation VI of 1831, the sole Karnam office appears to have been split up, into two, the one being styled simply as 'Karnam' and the other as 'Sani Karnam' *i. e.* joint or Assistant Karnam. Even after the said split, the grand-father of the Memorialist continued as a Karnam of the Village down to his death in Fasly 1242. After him, two of his sons, the senior uncle and father of the Memorialist, successively, held the office till Fasly 1270, when your Memorialist's father Chidambara Aiyar was dismissed. (Vide para 4 Exhibit A, and para 5 Exhibit C).

5. Thus your Excellency in Council will be pleased to see that there have been two Hereditary Karnam Offices in this village from before the passing of the Regulation VI of 1831, and that your Memorialist's immediate ancestors were in possession of one of them for, at least, 60 years.

6. In Fasly 1270 (A. D. 1861) when the present Memorialist's father was dismissed, your Memorialist could not succeed him in office, as he formed a member of the same family as the dismissed servant, and therefore a person of totally distinct *non-mirasi* family, one Seetharamier was appointed for the place, who continued in office till his death in August 1889; and two years previously, in Fasly 1268 (A. D. 1859) the other, *sani* Karnam, had also been dismissed and his place had also been filled up by another *non-mirasidar*, Seshaghiri Aiyar, who continues in office, (as Head Karnam after the Revision), to this day. That these men were *non-mirasidars* will be patent from the fact that down to this day, your Memorialist and other re-presentatives continue in possession of the Karnam Inam lands of the village as against these men (Vide Exhibit E).

7. Your Memorialist's father Chidambar Aiyar having died in May 1878, the disability of the Memorialist to hold the Karnam office ceased with it (Vide para 3—Boards Standing Order No. 172 Maclean's Edition). And from that time forwards your Memorialist had been applying to be reinstated in his *mirasi* office;

but the *three years rule* lay in his way and he had been told on every such occasion that there was no vacancy. He had therefore to wait till there should be a vacancy.

8. Meanwhile, in the Year 1889, a few months before Seetharamier's death the Revision of this village took place, when Seshaghiri Aiyar, who was appointed as Sani Karnam in 1859, was retained in office with the new designation "*Head Karnam*," and Seetharamier, appointed in 1861, was retained in office as "*Assistant Karnam*," on the principle of seniority. Thus at the *Revision there was no material change introduced in the constitution of the Karnam Offices* of this village. Both the *Mirasi Offices* were retained, as also the then incumbents. The only reform introduced was, that whereas till the Revision the two Karnams were equally remunerated from the assessment of the *Inam lands*, at Revision, for the first time, some difference was created in the pay of the two offices, the Head Karnam's pay having been fixed at Rs. 15--0--0 and the Assistant Karnam's pay at Rs. 10-0-0. In all other respects the *two mirasi Karnam Offices* which existed before the Revision, *remained essentially unaffected* after the Revision in 1889.

9. Soon after the Revision, in August 1889, Seetharamier who was holding the *mirasi Karnam Office*, (styled as *Assistant Karnam during the Revision*) died; and your Memorialist who was eagerly waiting for a vacancy at once applied to be reinstated. But the Divisional Officer appointed for the place, on probation, the deceased Seetharama Aiyer's son, Ramasawmy Aiyar and ordered your Memorialist to *sue* and recover. But before your Memorialist could do so, the aforesaid Ramaswamy Aiyar himself had been dismissed and his place filled up, on the 5th December 1890, by another *utter stranger to the village*, by one Venkatanarasier, although your Memorialist had again applied to be reinstated.

10. Your Memorialist sued therefore this Venkatanarasier, within three months of his appointment, for the *Mirasi Karnam's place* (styled as *Assistant Karnam at the Revision*) in Revenue suit No. 2 of 1891 on the file of the Deputy Collector, Northern Division, Coimbatore. In this suit the Defendant Venkatanarasier contended that the appointment of Assistant Karnam was not a mirasi appointment. But your Memorialist who was plaintiff pointed out that, as the *Assistant karnam office was in existence in the village from before the passing of the Regulation VI of 1831, and not a new appointment created at the Revision*, the Assistant Karnamship of this village must be held to be a mirasi appointment. In support of this contention, he filed, among other documents, two Judgments of the Collector of Coimbatore, where similar Assistant Karnam offices had been treated as Mirasi appointments. But Mr. E. A. Smith, the Divisional officer, who tried the suit being not thoroughly satisfied, made a special reference on the point to the Collector of Coimbatore who upheld the justice of the Memorialist's contention, and on the receipt of the Collector's authoritative opinion, based, no doubt, upon the policy till then pursued in the District, the Deputy Collector passed his decision in the suit, dated 9th May 1891, in favour of your Memorialist (vide Exhibit A). This decision was upheld in Revision Appeal No. 183 of 1891, by another Collector, by Mr. (now Honorable) Sturrock. (Vide Exhibit B dated 29th September 1891).

11. *Never did the Defendant, Venkatanarasier appeal to the Board of Revenue against these decisions as enjoined in section 5 (i) Regulation VI of 1831,*

or in any other manner. On the contrary, he deliberately gave up all such hopes and left this village of his temporary sojourn for good.

12. On the other hand, your Memorialist himself had brought the two suit decisions to the notice of the Board of Revenue, soon after the latter of them was passed, in another connection:—Ramaswamy Aiyar son of Seetharamier, who had been dismissed in November 1890 from the Assistant Karnam office, had appealed to the Board of Revenue for restoration to it in Board's appeal petition No. ¹⁶¹⁷/₁₈₉₁. Your Excellency's humble Memorialist, who had been, at the time of his appeal, appointed Assistant Karnam by virtue of his miras claims established in the above suit decisions, submitted a counter-petition to Ramaswamy Aiyar's Board's appeal petition. In that counter petition your Memorialist had expressly and clearly set out in print his mirasi claims to the Assistant Karnam's office of Perundaliyur, how he had sued, for the place, Venkatanarasier the successor of Ex-Assistant Karnam Ramaswamy Aiyar, how he (Ramaswamy Aiyar) did not deserve to be restored on the merits of the case against him, and that even if Ramaswamy Aiyar deserved to be restored, as your Memorialist had been appointed to the Assistant Karnam office by virtue of his mirasi rights, Ramaswamy Aiyar the son of a non-mirasdar, may not be restored and that your Memorialist may be confirmed, and thereby saved from the expense of another litigation against Ramaswamy Aiyar. As Exhibits to this counter petition, your Memorialist had also submitted for the perusal of the Board, the two suit decisions (Exhibits A and B), now set aside in para 1 of the Board's Proceedings now appealed against (Vide Exhibit F).

13. The Honorable Board of Revenue, upon a careful perusal of all these papers, dismissed Ex-Assistant Karnam Ramaswamy Aiyar's appeal and tacitly confirmed your Memorialist in his mirasi Assistant Karnam's place. If the Honorable Board had then thought that the Assistant Karnamship of the village was not a mirasi appointment, that was a fitter opportunity to have set aside the suit decisions and to have restored Venkatanarasier. And your Memorialist's grievance would not have been quite so much, then, as it is now, for he was hardly in office, then, for six months. But the Board of Revenue took, then, a just and correct view of the case and did not interfere with the suit decisions. Thus the Assistant Karnamship of this village had become a closed question. And your Memorialist continued undisturbed in the Assistant Karnam's place from the 9th May 1891 till the Board's Proceedings now appealed against, dated 20th September 1894, more than 3 years and 4 months.

14. In the above circumstances, your Excellency's Memorialist most respectfully and humbly submits that:—

- (i) The order of the Board removing him from the Assistant Karnam office is illegal and ultravires. For, as set out in para 2 supra, no issue lay before the Board on appeal, regarding the Assistant Karnam office, your Memorialist's appeal being exclusively in re the Head Karnam office, on the modified portion of the Collector's decision.
- (ii) The said order of the Board is arbitrary and unjust as it has unconstitutionally interfered with and set aside the decisions of two regularly constituted Revenue Courts and its own virtual decision passed in 1891.

- (iii) The said order of the Board is a clear violation of the three years rule.
- (iv) It is equally against the equitable policy of Government. For even if the Assistant Karnam's place were not a mirasi appointment, Venkatanarasier is in no way a better candidate to it than your Memorialist, a proved mirasdar. Also, at the very time when he was appointed, your Memorialist had applied for the place. His very first appointment was in clear disregard of the Government order that even in filling up non-mirasi offices preference should be given to Mirasdars. Much less did Venkatanarasier deserve to be restored, after, rightly or wrongly, your Memorialist had come into possession of the office.
- (v) Lastly, the said order of the Board is inconsistent with the settled policy pursued by the responsible Collectors of the District for a number of years. Several Assistant Karnams in the District continue in office on the principle of the two suit decisions, only their cases have not come to the notice of the Board within the past one year. Before that period, even the Board appears to have entertained the same view (Vide para 13 supra). While so many continue in office on that principle, it is inequitable that he alone should be disturbed. His case is exactly like that of a woman who, in praying for a son, was doomed to lose even her husband.

15. In conclusion, your Memorialist most earnestly prays to be pardoned for the length which this Memorial has assumed, which, in his extreme solicitude to place before your Excellency in Council all the main facts of his unfortunate case, has unavoidably developed. He most earnestly and humbly prays that he may be restored to the Assistant Karnam office of Perundaliyur.

For which act of justice and equity, he shall ever pray.

24th December 1896.

J. Jayaraman

Late Asstt. Karnam of Perundaliyur
 c/o B. C. Narayanaswami Aiyar B. A.
 Pleader, Erode.

Government of Madras.

Revenue Department

Reference on No.

Memorial of Subbuswami
Aiyar, late Assistant Karnam
of Perundaliyur, Satyamangalam
Taluk, Coimbatore, with eight
enclosures and a list of
documents.

Dated 24th December 1896

Prayer:—

Prays to be restored to the
Asst. Karnam office of Perun-
daliyur for reasons set out
within.



2/4/97

In the petr. no. 6.4.97

Read case 198 of 97
L.O. R. No. 7154 2nd April 97.

The petr should
produce an authenti-
cated copy of B.P.
no. 4798 of 18-8-93.

2/4/97

List

Note

The petr's first petition
to Govt was received
on 29-7-95 and there-
fore the case has to
be disposed of on
the merits. The B.P.
called for is necessary
for a clear under-
standing of the case.
In this Pro: the Board seem
to have held that the
office of assistant karnam
in this particular case
was hereditary.

(A.)
(Amr)

No. 7 did
not.
(A.)

2/4/97

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

} 189

READ AGAIN G.O., No.
189 ,

DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO

PAPERS NOT FILED UP, BEING WANT FOR DESPATCH
IN ORIGINAL.

N.B.—

A = Copy in full.
B = Not to be copied.
P = Copy abstract only.
Q = Copy heading only.