

PRESS SERIES.

G.O., No. 875

Dated 14th October 1897

[Despatch Abstract.]

Commy. to the Board of Revenue
opinion of the Advocate-General as
to the legality of clubbing main village
with adjoining Govt. villages.

Revenue (1897) Department.

CURRENT No. 8147

From

The Govt. Solicitor.
Madras.

Order

No. 537

Dated 15th Sept. 1897.

Received

Registered

Enclosures

Spare copies.

SUBJECT.

Forw. opinion re:
the legality of clubbing
Siam villages with
adjoining Govt. villages

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BACK PAPERS.

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17 SEP 97

22h

The legality of clubbing Inam villages with adjoining Government villages. (vide G. O. No 4586 Revenue Mis. dated 2nd September 1897).

O P I N I O N.

Madras Act II of 1894 is an Act which only enables Government to apply the Act either in whole or in part to particular estates in this Presidency. Section 4 of the Act defines "Estate" as including, among other things, any Inam village of which the grant was made or confirmed by the British Government. Unless the Act is extended to a particular Inam village, there is nothing to prevent the grouping of such Inam village with ryotwary villages for purposes of village administration. Whatever power Government had in the matter of clubbing an Inam village with a ryotwary village for purposes of village administration prior to Madras Act IV of 1893, remains unaffected by that Act. Nor is it affected by Madras Act II of 1894 - unless that Act be applied to the Inam village. Section 7 of Act IV of 1893 empowers the Governor in Council to impose a money-cess upon, among others, holders of Inam villages which for purposes of village administration are grouped with ryotwary villages. There does not seem to me to be any warrant for limiting this provision to "Inam villages which had been so grouped when Act IV of 1893 came into force". The word "are" does not necessarily indicate that the Inam village has been grouped with ryotwary villages prior to the Act - coming into force or prior to the Act being applied to the District in which such Inam village is situate. It only indicates that when the cess is imposed upon the holder of the Inam village, such Inam village is grouped with a ryotwary village. In other words, no village cess under Act IV of 1893 can be imposed on the holder of an Inam village, unless it be clubbed with a ryotwary village for purposes of village administration. The expression "which X X X are grouped occurring in Section 7 does not mean "which X X X are now grouped" but "which X X X are grouped for the time being when the cess is

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sought to be imposed". If before the passing of Madras Act IV of 1893, Government had as implied by that Act the power so to group the two villages, I do not see how that power has been taken away, by that Act or by the subsequent Act II of 1894. Even if an Inam village be grouped with a ryotwary village for purposes of village administration, and a cess levied under Section 7 of Madras Act IV of 1893 upon the holder of the Inam village who, under the proviso to that Section, can recover one half of such cess from the tenant, there is nothing to preclude the application to such Inam village of such of the provisions of Madras Act II of 1894 as the Government may deem fit.

2. As regards village service Inams in such a village, they cannot under Section 17 be enfranchised, at any rate for practical purposes. Even if they can be legally enfranchised by extending to the Inam village Section 17 of Madras Act II of 1894, omitting that portion of the Section which relates to the enfranchisement taking effect after the date fixed in the notification issued under Section 19, the quit rent imposed on Inams so enfranchised will have to be credited under Section 28 of Act II of 1894 to the "Proprietary Estates" village Service Fund" under that Act, and not to the "village Service Fund" under Act IV of 1893. In any event the 2nd proviso to Section 17 of Act II of 1894 will have to be applied to the Inam village in view of enabling the Inamdar on whom the village cess will be levied to resume any lands or emoluments derived from lands which may have been granted by the Inamdar for the remuneration of Village Service. If, as in the case of an Inam village to which Act II of 1894 may be extended, it be deemed expedient to subject the village staff or rather the principal members thereof specified in Section 2 of Act II of 1894 to the control of the Inamdar whose Inam village is clubbed with a ryotwary village the object can be attained by extending the Sections of Act II of 1894 relating to such control or such of those sections as may be deemed fit to his Inam village notwithstanding that it is clubbed with a ryotwary village. But if the village staff be common for the Inam village and the ryotwary village there

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will of course be practical inconvenience in subjecting the staff to dual control.

Madras

13th September 1897.

V. Bhashyam Iyengar

Officiating Advocate General

True Copy

Pillai Morgan

Acting Government Solicitor.

(1897) Department

From William Morgan
Ct. Government Solicitor
Madras

To The Secretary to Government
Revenue Department
Cotacamund

N^o 537.

Dated 15th September 1897
Recd.

Forwarded with reference to
the Order of Government No
dated 2nd Sept 1899 N^o 4588
Revenue

William Morgan
Ct. Government Solicitor

The Hon. Mr. Justice C. J. E.

Printed
by the Govt.
14/10/97

C N^o 8147 of 1897

With reference to G.O. N^o 4588 of 2nd Sept 1897,
the Advocate General furnishes his opinion
in regard to the question of the legality of
clubbing together inam villages with the
adjoining Govt villages subsequent to the passing
of Act IV of 1893 (The Madras Village Cess Act)
and II of 1894 (The Proprietary Estates Village
Service Act). His opinion is

Whatever power Govt had in the matter of
clubbing an inam village with a ryotwari
village for purposes of village administration
prior to Madras Act IV of 1893 remains
unaffected by that Act & by Act II of 1894
unless the latter Act be applied to the inam
village. There is no warrant for limiting
the provision in S. 7 of Act IV of 1893 that "the
Governor in Council may... impose... a money cess
... upon the holders of inam ^{villages which} ~~substantially~~ ^{for purposes of village} ~~the limits of a ryotwari~~ administration, are
grouped with ryotwar villages" to inam villages
which had been so grouped when Act IV of
1893 came into force. There is no objection
to applying to an inam village, which ^{for} ~~in~~ pur-
poses of village administration has been
grouped with a ryotwar village & in which
a cess under Act IV of 1893 is levied,
such of the provisions of Act II of 1894
as the Govt may deem fit. Should Act II

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194 be extended to such an Inam village.
 Village service inams therein cannot under
 10.17 of that Act be enfranchised, but to enable
 the Inamdar to resume any lands or emoluments
 derived from lands which may have been
 granted by him for the remuneration
 of Village service the second proviso to that
 section will have to be extended to the inam
 village. ~~It is deemed expedient to.~~
 subject the Village staff of the inam village
 to the control of the inamdar, such of the provisions
 of the Act as relate to such control or such
 of those sections as may be deemed suitable
 to the inam village may be extended thereto
 notwithstanding the fact that it is clubbed
 with a ryotwari village. But if the Village
 staff be common there will be practical
 inconvenience in subjecting it to dual control.

2. In cases where inam villages are clubbed
 with ryotwari villages, the Village staff will be
 common to both & in such cases it is not
 intended, it is thought, to subject the staff
 to the control of the inamdar, ~~or to the~~
 The Village staff may be directed by an executive order to render him ^{or only a portion of} all the assistance which Inamdar of big
 The following sections only of Act II of 1894 ^{main villages get from their village officers.}
 need be extended to such villages.

- Chapter I. Sections 1, 2 & 4
 Chap II " 5
 " III " 17, ~~and~~ proviso, & 21
 " IV " 31, clauses (a) & (c) of para 1 & para 2,
 " 32(iii) the form of register to be prepared
 under Section 5"
 " 34.

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 N. 8758/14th Oct. 1897.
 G.O. Res of prin S.O. no 4584
 C no 8147 2-9-97
 13/10/97

3. Submitted that the Board of Revenue
 may be asked to submit (1) proposals for
 clubbing inam villages which cannot
 afford to pay for even a trainee officer &
 a talayari with the adjoining Govt villages
 & (2) draft Notification for extending
 such portions of Act II of 1894 as it
 deems suitable to such villages.

The following draft is submitted
 for approval
 Communicated to the Board of Revenue
 for information & guidance. Proposals
 for clubbing inam villages, which cannot
 afford to pay for even a trainee officer &
 a talayari, with the adjoining Govt villages
 and draft of Notification for extending ^{to such main villages} such
 portions of Act II of 1894 as may be
 deemed suitable should be submitted at
 an early date. Rules specifying the matters
 to be taken into consideration in respect
 of which an inamdar may call upon the
 Village staff of the combined village to render
 him assistance should at the same time
 be drawn up & submitted for the approval
 of Govt.

To the Secy of Rev. (Ct. 2) dtd. 20-10-97
 P. S. dtd. 6-11-97

8/10/97

Government {1897} of Madras.
REVENUE.

Recd.

Regd.

1897.

Enclosures

Spare copies

G.O., No. 875, 14th October 1897.

OCTOBER.

Clubbing Inam Villages with adjoining Government Villages.

Communicating to the Board of Revenue opinion of the Advocate-General as to the legality of — and stating that a draft notification, for extending to unimportant minor villages such portions of Act II of 1894 as may be deemed suitable, should be submitted at an early date.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

READ—again the following G.O., Mis. No. 4588, Revenue, dated 2nd September 1897:—

Order—Mis. No. 4588, Revenue, dated 2nd September 1897.

In connection with the introduction of Act II of 1894 (The Madras Proprietary Estates' Village Service Act) the legality of clubbing together inam villages with the adjoining Government villages has engaged the attention of Government. If Act II of 1894 be extended to all inam villages, the assets of the Proprietary Estates' Village Service Fund, constituted under section 23 of the Act, will, in some districts, be insufficient to meet the cost of the village establishments for *all* the proprietary villages. With a view to set funds free and so to provide an adequate establishment for the more important villages, it has been suggested that unimportant and insignificant villages, which cannot afford to pay for an establishment even on the lowest scale, may be excluded from the operation of Act II of 1894, that they may be clubbed with the adjoining Government villages and that village-cess may be levied therein under Act IV of 1893. The maintenance of an adequate staff of village servants for such villages will then be thrown on the fund raised under Act IV of 1893. But in this case the village staff will not be subject to the control of the proprietors as in estates to which Act II of 1894 may be extended. Again, under section 7 of Act IV of 1893, the village-cess can be levied from holders of inam villages which are grouped with ryotwar villages for administrative purposes. But that provision seems to apply only to inam villages so grouped at the time when Act IV of 1893 came into force. The Hon'ble the Advocate-General will be requested to favour Government with his opinion as to whether such grouping of inam with Government villages may be ordered in future. It is presumed that in this case the village service inams, if any, in such villages cannot be enfranchised.

(True Extract.)

(Signed) G. STOKES,
Ag. Secretary to Government.

To the Hon'ble the Advocate-General (through the
Government Solicitor).

READ—also the following endorsement from W. MORGAN, Esq., Acting Government Solicitor, Madras, to the Secretary to Government, Revenue Department, dated 15th September 1897, No. 537:—

Forwarded with reference to the order of Government, Mis. No. 4588, Revenue, dated 2nd September 1897,

ENCLOSURE.

The legality of clubbing inam villages with adjoining Government villages (*vide* G.O., Mis. No. 4588, Revenue, dated 2nd September 1897).

OPINION.

Madras Act II of 1894 is an Act which only *enables* Government to apply the Act either in whole or in part to particular estates in this Presidency. Section 4 of the Act defines "estate" as including, among other things, any inam village of which the grant was made or confirmed by the British Government. Unless the Act is extended to a particular inam village, there is nothing to prevent the grouping of such inam village with ryotwari villages for purposes of village administration. Whatever power Government had in the matter of clubbing an inam village with a ryotwari village for purposes of village administration prior to Madras Act IV of 1893, remains unaffected by that Act. Nor is it affected by Madras Act II of 1894, unless that Act be applied to the inam village. Section 7 of Act IV of 1893 empowers the Governor in Council to impose a money-cess upon, among others, holders of inam villages which, for purposes of village administration, are grouped with ryotwari villages. There does not seem to me to be any warrant for limiting this provision to "inam villages which had been so grouped when Act IV of 1893 came into force." The word "are" does not necessarily indicate that the inam village had been grouped with ryotwari villages prior to the Act coming into force or prior to the Act being applied to the district in which such inam village is situate. It only indicates that when the cess is imposed upon the holder of the inam village, such inam village is grouped with a ryotwari village. In other words, no village-cess under Act IV of 1893 can be imposed on the holder of an inam village, unless it be clubbed with a ryotwari village for purposes of village administration. The expression "which . . . are grouped occurring in section 7 does not mean "which . . . are now grouped" but "which . . . are grouped for the time being when the cess is sought to be imposed." If, before the passing of Madras Act IV of 1893, Government had, as implied by that Act, the power so to group the two villages, I do not see how that power has been taken away by that Act or by the subsequent Act II of 1894. Even if an inam village be grouped with a ryotwari village for purposes of village administration, and a cess levied under section 7 of Madras Act IV of 1893 upon the holder of the inam village who, under the proviso to that section, can recover one-half of such cess from the tenant, there is nothing to preclude the application to such inam village of such of the provisions of Madras Act II of 1894 as the Government may deem fit.

2. As regards village service inams in such a village, they cannot under section 17 be enfranchised, at any rate for practical purposes. Even if they can be legally enfranchised by extending to the inam village section 17 of Madras Act II of 1894, omitting that portion of the section which relates to the enfranchisement taking effect after the date fixed in the notification issued under section 19, the quit-rent imposed on inams so enfranchised will have to be credited under section 24 of Act II of 1894 to the "Proprietary Estates Village Service Fund" under that Act, and not to the "Village Service Fund" under Act IV of 1893. In any event the second proviso to section 17 of Act II of 1894 will have to be applied to the inam village in view to enabling the inamdar on whom the village-cess will be levied to resume any lands or emoluments derived from lands which may have been granted by the inamdar for the remuneration of village service. If, as in the case of an inam village to which Act II of 1894 may be extended, it be deemed expedient to subject the village staff or rather the principal members thereof specified in section 2 of Act II of 1894 to the control of the inamdar whose inam village is clubbed with a ryotwari village, the object can be attained by extending the sections of Act II of 1894 relating to such control or such of those sections as may be deemed fit to his inam village, notwithstanding that it is clubbed with a ryotwari village. But, if the village staff be common for the inam village and the ryotwari village, there will, of course, be practical inconvenience in subjecting the staff to dual control.

MADRAS,
13th September 1897.

(Signed) V. BHASHYAM AIYANGAR,
Officiating Advocate-General.

ORDER—No. 875, Revenue, dated 14th October 1897.

Miscellaneous.

Communicated to the Board of Revenue for information and guidance. Proposals for clubbing inam villages, which cannot afford to pay for even a triune officer and a talayari, with the adjoining

Government villages and draft of notification for extending to such inam villages such portions of Act II of 1894 as may be deemed suitable, should be submitted at an early date. Rules specifying the matters in respect of which an inamdar may call upon the village staff of the combined village to render him assistance should, at the same time, be drawn up and submitted for the approval of Government.

(True Extract.)

(Signed) G. STOKES,
Secretary to Government.

To the Board of Revenue (Land Revenue).

Exd. Shaik Karim.

40 Copies.

W. L.

Approved in File.
Approved by the
Secretary to Government.
Secretary to Government.