

Revenue (1898) Department.

MISCELLANEOUS SERIES.

G.O., No. 2343

DATED 2nd June 1898.

[Despatch Abstract.]

Recording B. P. Commissioner to the Collector Karnool and
in Commissioner of forests G. O. approving the rules for regulating
the rights of the Churches a hill tribe in the Nallamalai
reserved forests

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

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

CURRENT No. 3724

Order misc no. 2343 A/2 no June 98.

Recorded

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From

The Secretary to the
Commissioners of
Land Revenue

No. 146

Dated 5 May 1898

Received 22/1

Registered 23

Enclosures

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SUBJECT,

County to the Col^l of Kurnool
& the Com^{rs} of Forests, N. Circle.
G.O. approving the rules framed
by the 13th of Dec. for regulating
the rights of the Chenchus in the
Kallamalai reserves & directing their
publication in the Fort & St. George
& Kurnool Dist^{ts} Gazettes.

BACK PAPERS.

G.O.	No.	Department.	Date.
"	200	Rev	5-1-98

FURTHER PAPERS.

G.O.	No.	Department.	Date.

REVENUE DEPARTMENT.

1898.

Board of Revenue

(Land Revenue),

MADRAS.

Printed May th.

Proceedings, Forest No. 166, 5th May 1898.

MAY.

Communicating to the Collector of Kurnool and the Conservator of Forests, Northern Circle, Government Order approving the rules framed by the Board of Revenue for regulating the rights of the Chenchus in the Nallamalai reserves, and directing their publication in the Fort St. George and Kurnool District Gazettes.

PROCEEDINGS OF THE BOARD OF REVENUE
(LAND REVENUE).

Read—the following Government Order, No. 200, Revenue, dated 5th April 1898 :—

Read—the following Proceedings of the Board of Revenue (Land Revenue), Forest No. 21, dated 19th January 1898 :—

Read—again Proceedings of the Board of Revenue (Land Revenue), Forest No. 522, dated 18th November 1896.

ABSTRACT.—Recording, with remarks, inspection report of the Kurnool forests by the Conservator of Forests, Northern Circle.

Read—again the following Proceedings of the Board of Revenue (Land Revenue), Forest Mis. No. 492, dated 26th May 1897 :—

Read—letter from C. M. MULLALY, Esq., Collector of Kurnool, dated 10th December 1896, Ref. on C. No. 20.

ABSTRACT.—Submitting report on the conclusion of the settlement of the Sirvel addition No. III of Bachepalle block in the Sirvel taluk, Kurnool district.

Endorsement by A. W. PEET, Esq., Conservator of Forests, Northern Circle, dated Waltair, 24th December 1896, R. C. No. 1171.

Forwarded. The rights given to the Chenchus are most objectionable. They were unfortunately admitted by Mr. Murray, the then District Forest-officer. The admission seems more sweeping than in the case of the rights admitted by Mr. Sim, for these were subject to revision by Government. I believe that the so-called *rights* never existed, for Government always had the power of alienating the whole area of the forests under patta conveying adverse rights to the pattadar. At the best privileges only could be maintained, and we have found it practically impossible to work the forests satisfactorily while these so-called rights are admitted.

Resolution—Forest Mis. No. 492, dated 26th May 1897.

The settlement records received with the letter read above will be returned to the Collector of Kurnool for revision and resubmission with reference to the following remarks :—

(iii) *Claim 11.*—As regards the admission at settlement on behalf of the Chenchus of the right to minor forest produce, &c., the Collector's attention is drawn to the remarks of the Conservator in his forwarding endorsement, and he is requested to take this opportunity to give reference to the subsequent correspondence on the question of Chenchu rights referred to in the note appended to the Forest Settlement-officer's decision.

(True Copy and Extract.)

(Signed) N. S. BRODIE,
Acting Secretary.

To the Collector of Kurnool, with five enclosures returned.

Copy to the Conservator of Forests, Northern Circle.

Read—also the following letter from E. A. ELWIN, Esq., Acting Collector of Kurnool, to the Secretary to the Commissioners of Land Revenue, dated 1st October 1897, R.C. No. 20-Forest :—

With reference to paragraph 3 of Board's Proceedings, Forest Mis. No. 492, dated 26th May 1897 (returning for revision the settlement papers of Bachepalle block), I have the honour to forward herewith a note by Mr. Lodge on the general question of Chenchu rights. In the particular case in question the Chenchus have already been granted extensive rights in the Sirvel reserve (*vide* Government Order, Nos. 119, 119-A of 17th February 1891, communicated with Board's Proceedings, Forest No. 187, dated 5th May 1897) similar to those detailed in the enclosed note, and it was therefore quite unnecessary to give them similar rights in the Terai block; moreover as regards the right to graze cattle it should have been stated whether the cattle admitted to the Terai block are the same as, or in addition to, those admitted to the main block. As a matter of fact the gudem hardly possesses any cattle and the admitted right being in favour of a larger number of cattle than were proved to exist is *ultra vires*.

If, however, it is decided to revise all Chenchu rights, the above case can be taken along with the others, so as not to delay the publication of the notification under section 16.

2. I can fully endorse Mr. Lodge's statement of the behaviour of the Chenchus during the current year; they have been the cause of no little trouble and anxiety and except in a few instances entirely refused to work. In the Cumbum division they looted several villages near the foot of the hills.

ENCLOSURE.

Note on Chenchu rights.

In paragraphs 38, 69, 70, 71 of his inspection note, printed in Board's Proceedings, Forest No. 522 of 18th November 1896, the Conservator went into this question, but the Board directed that a separate report should be submitted.

2. As regards the character of the Chenchus my opinion as recorded in paragraph 68 of the Conservator's note remains unchanged. During the present famine several endeavours have been made to get the Chenchus to work (at line-clearing and similar works) as they said they were starving; in only one place would they accept work. At other places they said "No, we are not used to work, we like to wander in the forests and do nothing; we will not send our women and children to kitchens, but if you like to give us grain we will accept it." Naturally Government was not going to feed a lot of able-bodied good-for-nothings who refused to work; then came threats to loot the villages, and then actual loot of grain and herds of cattle. The police succeeded in rescuing 112 goats stolen from Akuvud, and I believe, the Chenchus, by way of retaliation, fired into the police camp at night.

3. There are altogether about 50 gudems (Chenchu villages) in or adjoining the Nallamalai reserves. Most of them are situated near the exterior of the forests, and the Chenchus make their living partly by supplying merchants with stolen timber and other produce. To these men certain *rights* were given at settlement, but a perusal of any of the settlement registers will show that the intention of the Forest Settlement-officer was to grant *privileges*, not *rights*. Unluckily he had no power to do this, and the Collector converted the privileges into rights.

4. As an example of the above, take Nandyal reserve settlement register (*vide* Government Order, Nos. 315, 315-A, Revenue, dated 14th April 1891, communicated with Board's Proceedings, Forest No. 241 of 16th June 1891). Bairluti Gudem (14 in B register). Under right 1 (a right to dwell at Bairluti, &c.), a proviso was made "within what the Collector may consider a reasonable distance from the same". Under right 2 to carry torches "subject to regulation by the Collector." Under right 3 to wash and bathe in all water "subject to regulation by the Collector." Under right 4 to forest produce "of such kinds and in such quantities as the Collector may consider reasonable"; and so on. Then follows a general proviso, limiting the rights to Chenchus, stating that with one exception the rights are not exclusive or monopolies, that they exist during good behaviour only, that the Forest Department shall have first right of purchase of all produce collected for sale under right 7, and that no outside labour should be employed. I think it is evident that the Forest Settlement-officer could not have imposed these conditions on rights, and

that he correctly treated the so-called rights as privileges; more especially as Government about that time issued an order that the rights and privileges of jungle tribes were to be carefully preserved at settlement (*vide* also Board's Proceedings, Forest No. 442, dated 10th June 1893, page 10, rule 15).

5. From the remark column of the settlement register it appears that the Forest Settlement-officer subsequently reviewed and modified his own or rather his predecessor's orders, although this is, I believe, *ultra vires*; here again the review note headed paragraph 6 shows that privileges, not rights, were considered "after communication with the Chenchus, and ascertaining their wishes, I direct . . ."; thus there was no attempt at proving a claim, it was merely a case of ascertaining the wishes of the Chenchus.

6. Then came the Collector's review (not appeal decision), the authority for which is not clear, in which he struck out all restrictions and all provisos, which were not merely definitions, inserting in their place one proviso, viz., "they are subject to regulation by such rules as may, from time to time, be framed by His Excellency the Governor of Fort St. George in Council."

7. Before going further, I would draw attention to the omission (probably a printer's error) in the Collector's review order of the following entry, "paragraph 7—the word *sole*"; a reference to the words ordered to be struck out of proviso (c) and to the corresponding right and review order in other gudem will show that this entry ought to be made.

8. Having established the fact that the so-called rights were originally admitted as privileges, the next question is what regulations are necessary and how can they be legally enforced. It seems to me that if the Collector's review order is legal, regulations can be enforced under the proviso passed by him; if illegal, then the rights are privileges subject to regulation by the Collector, and subject to the Forest Settlement-officer's original provisos.

9. In my note of 5th May 1895 I stated "if the forests are to be worked and improved the Chenchus must be controlled; at present they are active destroying agents . . . in order to obtain control over them, we must begin at their gudem. Limits have been fixed for these, but the limits are not respected . . . The right of pre-emption, which was originally provided for at settlement, must be introduced. We must purchase all minor forest produce from them and make it illegal for them to sell to others or for others to purchase from them. The produce thus purchased must (except so much as is required for local consumption) be exported beyond the district for sale; it will soon become impossible for local merchants to have any such produce in their possession except by illegal purchases from the Chenchus; a few prosecutions will soon stop this. If once the Chenchus depend on us for their money or grain, we shall be able to make some progress with them." There does not, at present, seem any better method of getting some control over the Chenchus, and until we have some control we cannot enforce regulations.

10. The following regulations of Chenchu rights appear necessary:—

Right 1.—The dwelling site to be strictly limited to the area admitted at settlement. At present Chenchus shift their gudem just as they choose; such shifting is only temporary, but may do much damage, and also enables Chenchus to evade the arm of the law.

Right 2.—The carriage of torches and lighting of fires in fire-protected blocks during the fire season must be prohibited.

Right 3.—Right to drink and draw water from and to wash and bathe in *all* streams, pools and springs. In the first place the word "existing" should be entered after "all" for no Forest Settlement-officer could bestow a right over wells still undug, or pools still unformed, secondly this right should not apply, as regards bathing and washing, to such streams, pools and springs as may be specially set apart for drinking purposes by the District Forest-officer; it is most important that drinking-water sources should be kept as pure as possible, and the Chenchus are neither a clean nor a healthy race.

Right 4.—Right to wood, bamboos, fibre . . . and other forest produce for domestic use.

(a) The *quantity* to be taken annually must be limited, especially in the case of wood, bamboos, fibre, firewood and honey. Supposing that the gudem doubles in size in the next 30 years, is the burden on the forest also to be doubled? In the settlement of the French communal forests all rights were limited to what existed 60 years prior to the settlement, on the grounds that it takes 60 years to acquire a right against Government, in the case of the Chenchus the rights might be limited to the actual requirements of each gudem at the time of settlement.

(b) The *quality* of the wood and of "other forest produce" should be defined. Chenchus do not require teak or ebony beams or yegi spokes and felloes for domestic purposes, but as the right now stands they can fell whatever they like, and though we may know it is for sale to merchants, the Chenchus have only to say it is for domestic use and they cannot be punished. The wood should be limited to "poles and smaller pieces of third-class and unclassified trees"; other forest produce should read "other minor forest produce," and I should like to see "excepting tusks and horns" added.

Right 5.—Right to shoot and fish; this right should be subject to the rules under section 26; it should also be stated how many guns or bows each gudem is entitled to use; the number of guns should be restricted to the number for which licenses were held at the time of settlement, as the Forest Settlement-officer could not confer a prospective right; the number of guns is rapidly increasing, and as stated in paragraph 2 they are being used against the police. Every gun should be stamped, so that one license could not be made to do duty for half a dozen guns. In 1891 only 22 gun licenses were issued to Chenchus in the whole district, now every gudem has two or three.

Right 6.—Right to graze cattle; this extends over the whole of the forest attached at settlement to each gudem; for purposes of regeneration it will be necessary to close portions of this area from time to time, and therefore a proviso, authorizing the closure of one-fifth of the area to grazing at any time and for any length of time, should be added.

Right 7.—Right to collect for sale certain minor forest produce (*vide* paragraph 9 *supra*). If the right of pre-emption of the Forest Department is restored, the Chenchus will soon learn to look upon the department as their employer and food-supplier and we shall then begin to control them and introduce order. Proviso (c) should also be restored; without it, if we plant mangoes the Chenchus are free to gather the fruit.

11. With reference to right 7, I venture to say that it never existed prior to settlement. The merchants employed any one they could get to bring down certain produce for them, and paid them cooly-hire either by the day or by results; the Chenchus being hill men were no doubt largely employed, but there still are plenty of ordinary labourers who live by bringing out certain minor produce for the merchants and are paid so much per maund, yet no right was admitted in their favour, because the produce was admittedly Government property. The Chenchus, however, have been made a handsome present of produce which properly worked would be worth at least Rs. 1,00,000 per annum; this was not the Forest Settlement-officer's intention—*vide* proviso (f); had this proviso stood, the Chenchus would have had something more approaching to what they ought to have, viz., a prior right to be employed for the collection of minor produce for the department at reasonable rates.

(Signed) F. LODGE,
District Forest-officer.

CAMP, KOMAROLI,
25th August 1897.

Endorsement by A. W. PEET, Esq., Conservator of Forests, Northern Circle,
dated Camp, Ellamanchili, 14th October 1897, No. 621.

In forwarding I have the honour to state that I have already expressed my opinion more than once on this matter of the Chenchus. The settlement which gave them "rights" was made in the infancy of the operations under the Madras Forest Act, and it seems clear that privileges were intended rather than rights.

Although I think that Mr. Lodge's estimate of the minor forest produce realisable (Rs. one lakh) is much too high, yet the present loss to Government is large, and I think the Chenchus do not benefit more, except in the way of black-mail, than they would under privileges such as are accorded to other forest tribes in other settlements. I believe that much theft to the advantage of traders goes on under cover of the Chenchu rights. As regards limitations I agree with Mr. Lodge's recommendation.

Resolution—Forest No. 21, dated 19th January 1898.

In scrutinizing the settlement records of the Sirvel addition III of Bachepalle block in the Kurnool district, the Board found that the commutation of the Chenchu rights contemplated in the first instance by Mr. Lever in claim 11 had not been effected by his successor, Mr. Smith, pending the final decision of Government on the general question of these rights. On a further reference to the Collector, he has submitted a note from his District Forest-officer, Mr. Lodge, which deals with the question at some length, and serves also as a reply to the Board's call in paragraph 10 of its Proceedings, Forest No. 522, dated 18th November 1896, for a separate report on the subject.

2. The history of the Chenchus, as gathered from these papers, is briefly as follows:—

There are about fifty gudems (Chenchu villages) in or adjoining the Nallamalai reserves, most of which are situated near the exterior of the forests. The Chenchus who inhabit them are a class of semi-wild hill tribes and are described as a "thieving set of brigands," who make their living partly by supplying merchants with stolen timber and other forest produce. They are also said to levy black-mail from the graziers in the hills, from pilgrims to the shrines and from every village at the foot of the hills, the crops of the ryots being looted in the case of refusal. They think nothing of felling a tree in order to collect its fruits, and they fire miles of forest in order to collect minor produce or to track game.

3. On an examination of the claim register of the Nallamalai blocks gazetted as reserved forests in 1891, it is found that the undermentioned "rights" were admitted at settlement, on the ground that the Chenchus had exercised the same from the times of their ancestors subject to general regulations and occasional interference by the Sircar:—

- (i) Right to dwelling sites together with the attendant rights of building, storing, clearing, lighting fires, &c.
- (ii) Rights of way and rights to carry torches.
- (iii) Right to drink and draw water from all streams, pools, springs and wells.
- (iv) Right to forest produce for home use.
- (v) Right to fish and shoot.
- (vi) Right to graze a limited number of cattle including goats and sheep.
- (vii) Right to collect for sale or barter certain minor produce.

4. Taking as a typical case claim * 14 of Nandyal reserve, Mr. Lodge contends

* *Vide* page 24 of the register in Government Order, No. 315, Revenue, dated 14th April 1891, communicated in Board's Proceedings, No. 241, dated 12th June 1891.

that the then Settlement-officer, Mr. Sim, who adjudicated on the Chenchu claims, evidently contemplated the grant of privileges and not rights. However this may be, the orders actually passed at settlement are binding, and the only point for

consideration is what arrangements can now be made without infringing these orders. To begin with, the Board observes that the District Forest-officer's statement in paragraph 5 of his note, to the effect that the Forest Settlement-officer has subsequently modified his own or his predecessor's decision, is incorrect as the modification of the Forest Settlement-officer's decision referred to by the District Forest-officer was made by the Collector acting as an appellate authority and reviewing his own judgment. This the Collector had power to do under the High Court ruling communicated in Board's Proceedings, No. 551, dated 28th September 1887. The best method of dealing with the Forest Settlement-officer's decisions in the matter of the Chenchu rights was carefully considered by the Board and Government, and the appeal memoranda in respect of them were prepared by the then Conservator, Mr. Gamble, in accordance with the instructions contained in paragraphs 15 to 18 of Board's Proceedings, No. 200, dated 17th April 1886, embodied in Government Order, No. 541, Revenue, dated 1st July 1886. The validity of the appeal and the review judgments on the Chenchu rights

seems to be beyond dispute and should be acted on. In the Collector's review orders† he distinctly laid down that the several Chenchu rights were subject to regulation by such rules as might be framed by His

† *Vide* Government Orders, Nos. 119, 119-A, dated 17th February 1891, Nos. 315, 315-A, dated 14th April 1891, and Nos. 351, 351-A, dated 21st April 1891.

Excellency the Governor in Council, and as the Chenchus are now reported to have become uncontrollable, and the proper working of the Nallamalai reserves is therefore rendered impracticable, definite rules or regulations must be framed in order to re-establish the necessary control.

5. With this object in view, the Collector and the Conservator recommend the issue of rules on the lines indicated by the District Forest-officer. The Board considers that the area of dwelling sites referred to in the District Forest-officer's proposed rule 1 having been definitely fixed at settlement, no further rule is called for in respect of the same beyond a warning to the Chenchus to confine themselves strictly

to the area allotted to them at settlement. In regard to the regulation of other rights, the Board submits the following draft notification embodying the necessary rules. It is requested that, in the event of the draft being approved, orders may be issued for its publication in the *Fort St. George Gazette*.

6. It will be understood that, when the rules have been sanctioned by Government, the purport thereof is to be personally explained to the leading men in the Chenchu villages by the Tahsildar and a Forest Ranger, and the greatest care must be taken not to enforce too suddenly any restrictions which the rules prescribe for the first time.

(True Copies and Extract.)

(Signed) R. C. C. CARR,
Secretary.

To the Secretary to Government, Revenue Department,
with two printed notifications.

Order—No. 200, Revenue, dated 5th April 1898.

Forest No. 52.

The rules framed by the Board for regulating the rights conceded to the Chenchus at the settlement of the Nalla-

malais are approved, subject to the following modifications and remarks.

2. (a) *Dwelling sites*.—The Government agrees with the Board that the Chenchus should, as a rule, be confined to the areas allotted to them at settlement. Temporary shifting such as Mr. Lodge describes must be destructive of any attempt at forest conservancy and should not be allowed. Permanent change may, however, be sometimes required. Such exceptional cases should be dealt with by the Board as they arise.

(b) *Removal of Forest produce*.—Draft Rule No. 3.—This rule will be made more clear by transposing the last two sentences, and substituting the words "other forest produce" for the words "other produce" occurring in the last sentence.

(c) *Shooting and Fishing*.—Draft Rule No. 4.—The Government considers that it would be advisable to stamp every gun licensed with a distinctive mark or number so as to prevent the abuse alluded to by the District Forest officer. The following addition will, therefore, be made to the rule:—

"Every gun covered by a license shall be stamped with a distinctive mark or number."

The following clause should also be added:—

"The use of poison and of explosives in water and the setting of cranes or fixed engines or snares for the capture or destruction of fish are strictly prohibited."

(d) *The right of pre-emption by the Forest Department*.—Draft Rule No. 6.—The Government presumes that all that is intended by the first sentence of the draft rule is that the Forest Department should have the first right to buy at the market rate, and that if they do not choose to buy at this rate the Chenchus will be at liberty to seek a purchaser elsewhere.

3. The rules, as modified, will be published in the *Fort St. George and Kurnool District Gazettes*. As pointed out by the Board the rules should be worked with care and sympathy.

(True Extract.)

(Signed) S. G. ROBERTS,
for Ag. Secretary to Government.

To the Board of Revenue (Land Revenue),
the Superintendent, Government Press, with notification.

APPENDIX.

NOTIFICATION.

His Excellency the Governor in Council is pleased to make the following rules for regulating the exercise of certain rights admitted at settlement in favour of the Chenchus, hill tribes, living in the reserved forests on the Nallamalais in the Kurnool district:—

1. The carrying of torches and the lighting of fires in fire-protected blocks during the fire season are prohibited.

2. There shall be no right to wash or bathe in such springs, wells, pools or portions of streams as are especially set apart for drinking purposes by the District Forest-officer.

3. No more than the quantity which the Collector may consider to be actually required for domestic use shall be removed in the exercise of the right to take wood, bamboos, fibre, thatching grass, firewood, roots, fruits, honey and other forest produce. The term "other forest produce" shall be taken to mean other minor forest produce, not including tusks and horns. No wood other than poles and smaller pieces of third-class and unclassified trees shall be removed.

4. No gudem (Chenchu village) shall, without the special permission of the Collector, be allowed to keep a larger number of guns than that for which licenses had been taken out at the time of settlement. Every gun covered by a license shall be stamped with a distinctive mark or number. The use of poison and of explosives in water and the setting of cranes or fixed engines or snares for the capture or destruction of fish are strictly prohibited.

5. For purposes of regeneration, a portion of the area set apart for the grazing of cattle, not exceeding one-fifth, may be closed to grazing at any time and for such length of time as the District Forest-officer deems fit.

6. The right of pre-emption of all minor forest produce collected by the Chenchus for sale or barter shall be reserved to the Forest Department. The exercise of the right of collecting wood and other produce for domestic use, and of collecting minor produce for sale or barter, shall be confined to natural growth, and shall not include forest produce which is the result of special plantation or protection on the part of the Forest Department.

RESOLUTION—Forest No. 166, dated 5th May 1898.

Communicated to the Collector of Kurnool and the Conservator of Forests, Northern Circle.

2. The attention of the Collector will be specially drawn to clauses (a) and (c) of paragraph 2 and to paragraph 3 of the order read above.

3. The presumption of Government in paragraph 2 (d) is correct.

(True Copies and Extract.)

Davidson
Acting Secretary.

To the Collector of Kurnool.
" Conservator of Forests, Northern Circle.
" Forest Settlement-officer, Ganjam, &c., Districts.
" " Nellore, &c., Districts.
" Secretary to Government, Revenue Department.

Encl. C. Parthasarathy.

When given for copying _____
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When examined _____
When signed _____

189

REAR AGAIN C.O. No.

DATES

189

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

A A A A A A A

LETTER BY GOVERNMENT

STATEMENT WITH DITTO

PAYERS NOT FILLED UP, BRING HEARTY FOR DESPATCH
IN ORIGINAL.

N.B.—

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