1,000—5-8-98.

# Revenue (1898) Department.

MISCELLANEOUS SERIES.

G.O., No. 2559

DATED 17th June

[Despatch Abstract.]

Conveying to the Bd: of Rev: Procs: of the P.W.D. authorizing the completion of improvements to the Pudiyur-Perugalam Tank and channel, in Timmerally Vk. in consultation of the recovery of the whole contribution due by the Pallivasal managers.

## BACK PAPERS.

| G.O. | No. | Department. | Date. | G.O. | No. | Department. | Date. |
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## FURTHER PAPERS.

| G.O. | No. | Department. | Date. | G.O. | No. | Department. | Date. |
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Revenue 1898 Department

Current No. 4116.

IRRIGATION.

# Government {1898} of Madras.

## PUBLIC WORKS.

Recd. 9 June
Regd. 11 "
} 1898.

*Enclosures*

*Spare copies*

**G.O., No. 350 I., 28th April 1898.**

**APRIL.** G.O. No. 2559 dy 17th June 98. Communicated to the Board of Revenue.

RS 14-6-98

15/6/98

To the Board of Rev (Rev. Sett) 20.6.98

**Puliyur-Periyakolam Tank and Channel**

Authorising the completion of improvements to the —, in Tinnevelly district, in anticipation of the recovery of the whole contribution due by the Pallivasal managers.

11/6/98

GOVERNMENT OF MADRAS.

PUBLIC WORKS DEPARTMENT.

**Irrigation.**

READ—the following papers:—

From Lieutenant-Colonel O. V. BODDY, R.E., Superintending Engineer, VI Circle, to the Chief Engineer for Irrigation, dated Trichinopoly, 8th July 1897, No. 573 T.N.

In paragraph 3 of G.O., No. 660 I., dated 11th September 1894, it has been ordered that the execution of the work (improving Puliyur-Periyakolam tank and channel, estimate Rs. 5,160) should be held in abeyance until the contribution Rs. 2,608 has been paid by the Pallivasal managers.

2. The execution of the work was however ordered by Mr. Mildred, late Executive Engineer, Tinnevelly Division, at the request of the Collector who has recovered a portion of the contribution, viz., Rs. 1,423-11-1, and has recommended to the Board of Revenue that the balance be collected in two instalments in the months of November 1897 and 1898, as will be seen from copies of correspondence from the Executive Engineer herewith sent.

3. The work is reported to be in full progress and it cannot be stopped at the present stage. Under the circumstances, I have the honour to request that sanction may be accorded for the completion of the work from Irrigation funds in anticipation of the collection of the balance of contribution.

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ENCLOSURES.

From M.R.Ry. S. GOPALAKRISHNA AIYAR, Executive Engineer, Tinnevelly Division, to the Superintending Engineer, VI Circle, dated 12th June 1897, No. 2087.

I have the honour to bring to your notice that in G.O., No. 660 I., dated 11th September 1894, sanctioning an estimate of Rs. 5,160 for the improvements of Puliyur-Periyakolam tank and channel, it was ordered that the execution of work must be held in abeyance pending the collection of the contribution amount of Rs. 2,608 from the Pallivasal managers. The Collector having been written to for the collection of the contribution money, he communicated to this office with his No. 1521 of 1895, dated 7th August 1895, copy of his endorsement on the petition of the President, Muhammadan Committee, Tinnevelly (a copy is herein enclosed for perusal) and asked for the execution of the work as Rs. 1,412 of the contribution money had already been collected. The work was accordingly put on hand and the expenditure on it, to end of last month, is about Rs. 3,575 or Rs. 510 in excess of the Government portion of the estimate amount. The Collector having been again written regarding the contribution money he has replied in his letter No. 1150 of 1897, dated 29th May 1897 (copy herein enclosed for information) that Rupees 1,423-11-1 has already been collected and that he is recommending to the Board that the balance may be collected in two instalments—one in November 1897 and the other in the same month of next year. I have now asked him to place at the disposal of this department Rupees 1,423-11-1 already collected so that payment may be made for work done up to that amount without objection.

2. The work is now in full progress and is approaching completion. It cannot be stopped at the present stage and the contractor doing it cannot be kept waiting for money for work done very long. I therefore request that sanction may be accorded for the completion of the work and paying it in full in anticipation of the collection of the balance of contribution money in instalments as recommended by the Collector.



No. 515 T.N.

The circumstances under which this work was put in hand before the full contribution of Rs. 2,608 was paid, and contrary to the orders conveyed in this office No. 563 T.N., dated 2nd October 1894, should be reported for communication to the Chief Engineer for Irrigation.

(Signed) O. V. BODDY, Lt.-Col., R.E.,
Suptg. Engr., VI Circle.

17th June 1897.

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From M.R.Ry. S. GOPALAKRISHNA AIYAR, Executive Engineer, Tinnevelly Division, to the Superintending Engineer, VI Circle, No. 2291, dated 30th June 1897.

With reference to your No. 515 T.N., dated 17th June 1897, herewith returned, I have the honour to inform you that order for the execution of the work has been issued on the 28th March 1896 by the then Executive Engineer Mr. Mildred on the strength, I consider as I have already presumed, of the Collector's endorsement on the petition of the President, Muhammadan Committee, Tinnevelly, and of his request to proceed with the work conveyed in his No. 1521 of 1895, dated 7th August 1895, copy of which is one of the enclosures to my letter No. 2087, dated 12th June 1897, herewith returned and on the strength of an allotment of Rs. 3,000 for expenditure during 1896-97. I am unable to trace out further circumstances which may have led to the starting of the work.

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Endorsement on the petition of the President, Muhammadan Committee, Tinnevelly, dated 10th October and 14th December 1894 and 6th March 1895, objecting to the payment of contribution towards the improvements to Puliyur-Periyakolam tank and channel in Tenkási taluk.

Petitioner is informed that the Collector sees no reason to exempt the inam from payment of contribution towards the repairs. Such contribution was collected from the manager of the mosque even prior to the assignment of the lands in 1852, when there was a division of produce and also subsequently. The manager appointed by the Board of Revenue in 1844 with the consent of other hukdars bound himself by a muchilika to contribute towards the repairs, failing which the contribution was to be collected from the ryots. The control of the institution which vested in the Board of Revenue under Regulation VII of 1817 and which passed on to Muhammadan Committee under Act XX of 1863 was subject to the conditions which existed prior to the transfer. The dismissal of the manager who executed the muchilika does not affect the validity of the muchilika. The Tahsildar was therefore right in collecting the contribution from the tenants under the terms of the muchilika. Out of Rs. 2,608 the sum of Rs. 1,412 already collected will be retained and the balance of Rs. 1,196 should be paid by the committee by the 1st April 1896, failing which it also will be collected by the Tahsildar from the tenants. In the meanwhile, the Executive Engineer will be asked to proceed with the work.

(Signed) A. W. B. HIGGENS,
Collector.

7th August 1895.

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Dis. No. 1521 Gl. of 1895.

To the Executive Engineer, Tinnevelly, in continuation of this office disposal No. 1183 of 1895, dated 1st June 1895. It is requested that the work may be proceeded with.

(Signed) V. SUBBIER,
*for* Collector.

7th August 1895.

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Copy of Collector's letter Ref. on P. C. No. 1150/97, dated 29th May 1897, to the Executive Engineer, Tinnevelly Division.

With reference to your letter No. 1826, dated 19th May 1897, regarding the collection of contribution of Rs. 2,608 from the managers of Syed Sulaiman Purshotta Pallivasal for improvements to Puliyur-Periyakolam tank, I have the honour to inform you that Rs. 1,423-11-1 has hitherto been collected from the tenants. The Board of Revenue has, on a petition from the President of the Muhammadan Committee, observed that it would be prepared to recommend to Government the recovery of the balance in two or three annual instalments, if the managers so wish. They now request that the money be recovered in four annual instalments and I am recommending to the Board that the balance be collected in two instalments in November 1897 and 1898.

(Signed) D. WALLER,
*for* Collector.

To the Board of Revenue (Revenue Settlement, Land Records and Agriculture), No. 232 M., dated 14th July 1897.
To the Board of Revenue (Revenue Settlement, Land Records and Agriculture), No. 16 M., dated 20th January 1898.
To the Board of Revenue (Revenue Settlement, Land Records and Agriculture), No. 107 M., dated 29th March 1898.

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Proceedings of the Board of Revenue (Revenue Settlement, Land Records and Agriculture), Mis. No. 2191, dated 30th March 1898.

*Read*—again the following Proceedings of the Board of Re[illegible] Revenue (Revenue Settlement, Land Records and Agriculture), Mis. No. 5373[illegible], dated 31st October 1896 :—

*Read*—Petition from Muhammad Hussain Sa[illegible]hib, President, Muhammadan Committee, Tinnevelly, received in the [illegible] Land Revenue Department of the Board of Revenue, on 6th Novem[illegible]ber 1895, submitting his petition rejected in Board's Proceedings (Land [illegible]evenue), No. 2369 R., dated 17th September 1895, duly stamped, regarding the payment of contribution towards the upkeep of a certain channel by the inamdars.

*Read*—also Board's Proceedings (Land Revenue) Reference, dated 12th November 1895, referring the above petition to the Collector of Tinnevelly for report.

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*Read*—also the following letter from the Collector of Tinnevelly, Disposal No. 1122. Gen. Rev. of 1896, dated 26th June 1896 :—

Adverting to Board's Reference, dated 12th November 1895, on petition register No. 3851 of 1895, I have the honour to report as follows.

2. The village of Kila Puliyur, in the Tenkási taluk, referred to by the Board's petitioner, was originally granted on tax-free tenure by Minakshiammal, Pattamahishe of Vijiaranga Chockanada Nayanagaru in 1734 to one Syed Suleman Sahib for the support of a mosque called Syed Suleman Pirjathu Pallivasal at Tenkási. In 1772 it was converted into Ardhamanyam tenure and a moiety of the beriz of the village was granted annually for the support of the mosque until 1852. In 1852 the village was divided between Government and the inam and the share of the Pallivasal consisting of the marginally-noted lands. Besides these certain poramboke lands (122 kottas, 6 marakkals and 6½ padis of wet poramboke and 42s. 13v. 1 of dry poramboke) were also held in common between Government and the mosque.

| | K. | M. | P. |
|---|---|---|---|
| Wet, one crop ... ... ... | 189 | 3 | 1¾ |
| Third vaguppu on special poramboke ... ... ... | 11 | 0 | 2¼ |
| | S. | V. | |
| Dry ... ... ... ... | 156 | 11 | 1 |
| Third vaguppu, poramboke ... | 32 | 3 | 2 |
| | RS. | A. | P. |
| Tope, 452 trees, assessment ... | 95 | 14 | 2 |
| Fish tax ... ... ... | 2 | 0 | 0 |

3. It appears from paragraph 4 of the Collector's letter No. 105, dated 10th April 1854, to the Board of Revenue that the surplus proceeds of the endowment were enjoyed by the servants of the founder of the institution in 16½ shares. It also appears from the above letter and its enclosure that Syed Muhammad Abzul Sahib, one of the shareholders, was appointed manager of the mosque in 1844 under the sanction of the Board, apparently with reference to Regulation VII of 1817, as the control of all religious endowments vested in it. The said manager executed a muchilika in 1844 with the consent of the other coparceners. This muchilika is not forthcoming. The same manager executed another muchilika in 1852, when the beriz deduction was converted into an assignment of land, by which he bound himself, among other conditions, to pay a proportionate contribution towards the repair of the common irrigation works, failing which such contribution was to be collected by Government out of the rent due to the mosque by the tenants.

4. A suit was filed by the other hukdars against the above-named manager and in appeal suit No. 23 of 1850 on the file of the Civil Court, Tinnevelly, the manager was declared unfit for the duty of managing the trust. The Collector, in his letter



above referred to, recommended the removal of the manager and the appointment of two other persons in his stead. This was approved by the Board in its Proceedings, dated 4th May 1854.

5. The area of irrigation under the Periyakolam tank and channel of the village is 655 acres, of which 369 acres are ayan lands; 265·73 acres belong to the Pallivasal referred to and 20·27 acres are minor inam. In 1894, an estimate for Rs. 5,160 was sanctioned in G.O., No. 660 I., dated 11th September 1894, communicated with Board's Proceedings, Mis. No. 6345, dated 18th October 1894, Revenue Settlement, for improving the tank and the channel, of which Rs. 2,608 was to be contributed by the mosque as shown in the margin. The manager for the time being, who agreed to pay the contribution in three instalments, was subsequently dismissed by the Muhammadan Committee, of which the petitioner is the President and the amount of contribution was therefore not paid. The tenants put in a petition for the early execution of the maramut works, and offered to pay the amount under condition 6 of the muchilika referred to above. The President of the Committee was addressed with a view to ascertain whether he would pay the amount promised by the late manager, but as he did not reply to the reference, the Tahsildar began to collect the amount from the tenants who offered to pay.

| | RS. |
|---|---|
| Works ... ... ... ... ... | 2,095 |
| Establishment .... ... ... ... | 482 |
| Tools and plant ... ... ... | 31 |
| Total ... | 2,608 |

6. The petitioner presented a petition objecting to the course adopted by the Tahsildar and on hearing his Vakil, I saw no reason to interfere with the Tahsildar's action. The petitioner also represented that the amount of estimate was large and that it should be reduced. This, I found, unnecessary, as the Public Works Department had prepared the estimate on a careful consideration of the condition of the tank, and as the original estimate for Rs. 7,020 had been reduced to Rs. 5,400 by the Superintending Engineer and to Rs. 5,160 by the Chief Engineer. The petitioner also requested that the amount already collected from the tenants should be refunded to him, and any smaller contribution that may be eventually decided on should be collected from him in instalments. I, however, ordered in August 1895 that the sum of Rs. 1,412 already collected from the tenants should be retained and that the balance should be paid by the committee in April 1896, failing which it was to be collected from the tenants.

7. The petitioner appeals against this order on the following grounds :—

(1) That the muchilika executed in 1852 by the then manager is not valid, as he was found to be incompetent to hold the trust property by the civil court and dismissed by the Board of Revenue.

(2) That the original muchilika is not forthcoming and that a copy produced in court was not believed to be genuine by the Sub-judge.

(3) That no contribution was hitherto paid by the committee and that the small amount of contribution paid by the hukdars was merely with the intent to establish their right to the management.

(4) That the large amount estimated for is not required for the repair and that the conduct of charity will be interfered with by the demand for such large contribution.

(5) That the tenants enjoy the entire fishery and pay only Rs. 6 to the mosque.

(6) That faslijasti assessment being imposed on the inam, it is not fair to collect contribution.

8. As regards the first ground of objection, I beg to state that the manager, who executed the muchilika, was appointed by the Board of Revenue, apparently under the authority vested in it under Regulation VII of 1817 and with the consent of other hukdars. Under Act XX of 1863, the control which vested in the Board of Revenue was transferred to the Muhammadan Committee and the transfer of control must be assumed to be subject to the same conditions and restrictions which existed prior to the transfer. Further, the executant of the muchilika was the manager in office at

the time of the execution and his dismissal which took place subsequently would not affect the validity of the muchilika. Any succeeding trustee has no right to repudiate the obligations undertaken by a former trustee. Apart from the obligation under the muchilika of 1852, the trustees of the mosque, who are holders of an entire inam, are bound to contribute towards the repair of common irrigation works (*vide* Board's Proceedings, No. 70, dated 18th March 1895, Revenue Settlement).

9. As to the second ground of objection, it is true that the original muchilika is not forthcoming, but a copy duly authenticated by the Collector Mr. Bird is available in the records. The petitioner stated at the original enquiry that a muchilika was executed by the trustees appointed in 1854, but no such muchilika is forthcoming.

10. With respect to the third ground of objection, I beg to state that the petitioner's allegation that no contribution was hitherto paid is opposed to facts. From the Civil Engineer's diary for the month of August 1843, it appears that a contribution of Rs. 287 was levied on the mosque lands. Again, a sum of Rs. 856-14-6 was collected in 1881 and 1882 although similar objections were made by the President of the Committee and the managers.

11. The fourth objection is groundless. The necessity for the estimate has been explained in the enclosure to Superintending Engineer's letter to the Chief Engineer, dated 13th April 1894, No. 43 T.N., printed in G.O., No. 660 I., Public Works, referred to above.

12. As regards the fifth ground of objection, it is observed that the fishery rent for the village was permanently fixed at the Revenue Settlement at Rs. 4 per annum and that the patta for it stands in the name of the village deity. Half the fixed rent is due to the inamdar and this amount is also shown in the inam register. It is not understood how the inamdar receives Rs. 6 from this source.

13. The last ground of objection relates to the collection of faslijasti. This question was not raised before by the petitioner and has not been considered. It appears from the inam register that the question of faslijasti on single crop land was raised at the time of inam settlement and the Inam Commissioner decided that the inamdar was entitled to raise second crop on an extent of 138·50 acres, and that the question of the right of Government to half faslijasti assessment on single crop land, when more than this extent is cultivated, can be left for decision to the Revenue authorities, should it arise. The petitioner should be informed that if he has any grievance on this point, he should present a separate petition on the subject. The fact that an irrigation work is maintained at the cost of Government and the inamdar does not affect the right of Government to charge water-rate for water used in excess of the inamdar's rights (*vide* paragraphs 6 to 8 of the opinion of the Government Pleader embodied in Board's Proceedings, No. 719, L.R., dated 29th December 1893).

14. The Board's petition and its enclosure are returned herewith. I may note that pending the disposal of this appeal, further collection of money from the ryots towards the cost of the repair of the tank has been stopped. The repair being somewhat urgent, I have the honour to request the favour of early orders.

15. No further hearing has been given to the petitioner since 8th May 1895, as a hearing did not seem to be necessary.

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*Read*—also petition from Mohideen Hussain Sahib, President of the Muhammadan Mosque Committee, Tinnevelly district, dated 30th July 1896, submitting a supplemental petition regarding the cost of repairing certain tank.

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*Resolution*—Mis. No. 5373, dated 31st October 1896.

The Board has received a full report from the Collector on the subject of the petitioner's appeal and sees no reason to interfere.

2. The muchilika executed in 1852 by the then manager is undoubtedly binding on the present managing committee. The document was executed, not, as stated in the petition, long after the dismissal of the said manager, but some time prior to it.



Under the terms of the muchilika, the committee is bound to contribute a proportionate share of the cost of repairs to the tank, and there is evidence to show that such contribution was paid on previous occasions. Even apart from the obligation under the muchilika of 1852, the trustees of the mosque are, as pointed out by the Collector, bound to contribute towards the repair of irrigation works in which they are jointly interested with Government. It is a different question whether the petitioners are properly charged faslijasti assessment. If they have any grievance on this point, they should present a separate petition on the subject.

3. There is no reason to suppose that the estimate of repairs framed by the Public Works Department is excessive. The original estimate has, after careful examination, been reduced by the Superintending Engineer and the Chief Engineer for Irrigation, and there does not seem to be room for any further reduction. If, however, the petitioners consider that their resources do not admit of the whole amount of contribution (Rs. 2,608) being paid at once, the Board will be prepared to recommend to Government the recovery of the balance due in two or three annual instalments.

(True Copy and Extract.)

(Signed) R. V. SRINIVASIAR,
Secretary.

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READ—also the following letter from the Collector of Tinnevelly, dated 29th May 1897, Reference on C. No. 803/G.B. of 1896:—

With reference to paragraph 3 of Board's Proceedings, Mis. No. 5373, dated 31st October 1896, the President, Mahomedan Committee, requests that the balance of Rs. 1,184-4-11 still remaining to be collected from the managers of Syed Sulaiman, Purshatta Pallivasal, Tenkasi, out of the contribution of Rs. 2,608 due towards the improvement of the Puliyur Periakolam tank, be recovered from them in four annual instalments. In view of the fact that such a large sum of money (viz. Rs. 1,423-11-1) has already been collected, I consider that it will suffice to collect the balance in two instalments of Rs. 600 and Rs 584-4-11 in November 1897 and 1898, respectively. The work is in progress and already Rs. 3,015 has been spent on it by the Public Works Department. I have the honour to request the Board's early orders in the matter.

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READ—also endorsement from the Chief Engineer for Irrigation, No. 232 M., dated 14th July 1897.

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*Resolution*—Mis. No. 2191, dated 30th March 1898.

The Collector's proposal is approved and sanctioned.

(True Copy and Extract.)

(Signed) R. V. SRINIVASIAR,
Secretary.

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No. 146 I.

*Note by the Chief Engineer for Irrigation.*

In G.O., No. 660 I., dated 11th September 1894, an estimate of Rs. 5,160 was sanctioned for improving the Puliyur-Periyakolam tank and channel, the execution of the work being ordered to be held in abeyance until the contribution of Rs. 2,608 due by the Pallivasal managers has been paid.

2. At the request of the Collector of Tinnevelly, the work was put in hand, Rs. 1,423-11-1 of the contribution having already been paid. The Board of Revenue in its Proceedings marginally noted has sanctioned the Collector's proposal to collect the balance, Rs. 1,184-4-11, in two instalments in November 1897 and 1898.

Mis. No. 2191, dated 30th March 1898.

3. In anticipation of the recovery of the whole contribution, the Superintending Engineer, VI Circle, requests sanction to the completion of the work, which may be accorded.

(Signed) W. HUGHES,
Chief Engineer for Irrigation.

18th April 1898.

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ORDER—No. 350 I., dated 28th April 1898.

The completion of the work referred to is authorized in anticipation of the recovery of the whole contribution due by the Pallivasal managers.

(True Extract.)

Under Secretary to Government,
Irrigation Branch.

To the Chief Engineer for Irrigation.
" Superintending Engineer, VI Circle.
" Examiner, Public Works Accounts.
" Revenue Department. ✓

Exd Shaik Karim.

*When given for copying*_____
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*When examined*_____
*When signed*_____

READ AGAIN G.O., No. DATED
189 ,

CURRENT No.

ENCLOSURES TO C. No.

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| ORDER OF GOVERNMENT .. .. .. | A | A | A | A | A | A | A | |
| LETTER OF GOVERNMENT. | | | | | | | | |
| STATEMENT WITH DITTO. | | | | | | | | |
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