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Regul...

8th.

3,000—5-3-98.

Revenue (1898) Department.

MISCELLANEOUS SERIES.

G.O., No. 4786

DATED 6th December 98

[Despatch Abstract.]

Stating that Government is not prepared to move in the matter of further extending the principle of separation of judicial from executive functions.

BACK PAPERS.

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

FURTHER PAPERS.

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

Paper taken out of the Records from the charge of the Record-keeper.

Revenue

Judicial (1898) Department.

CURRENT No. 7463 / 4090

From The Hon'ble P. Ratnasabapati Pillai B.A. Addl Member Leg Council, Nega-patam

No.

~~Order~~ Endorsement :- No. 2299, d/28-10-98.
Transferred to the Rev. Dept.
A. Rhoades.
Ag. Under Secretary.

Dated 1
Received 4 } 10-98
Registered 5
Enclosures
Spare copies

SUBJECT.

On the subject of the separation of judicial from executive functions.

Paper taken out of the Records from the charge of the Record-keeper.

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

Judicial (1898)

Note for the Madras office

The H.D. clerk desires to know what has been done with His Excellency's tour minute which was sent to Madras during my absence. The Under Secretary's instruction is that the action already taken should be briefly indicated. It should also be pointed out that the P.S.G. on the previous occasion said that no further action was needed. The H.C. wants that the file may be sent back soon

3.VI.99

To Mr Jesudian

Please note

V.Kim
5.6.99

~~Order~~ Endorsement :- No. 2299, d/28-10-98

Transferred to the Rev. Dept.

A.R. Knapp.

Ag. Under Secretary.

H.S.
28/10/98

17/10/98

[illegible] Rev. Dept.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS:—

G.O.	No.	Department.	Date.

Paper taken out of the Records from the charge of the Record-keeper.

CURRENT No. 2790

NEGAPATAM,
Octr. 1, 1898.

FROM

THE HON'BLE P. RATNASABHAPATI PILLAI, B. A.,

ADDITIONAL MEMBER, LEGISLATIVE COUNCIL OF

FORT ST. GEORGE,

NEGAPATAM.

RECEIVED IN THE OFFICE OF THE CHIEF SECRETARY TO THE GOVERNMENT OF FORT ST. GEORGE
4 OCT 1898

TO

THE HON'BLE THE CHIEF SECRETARY TO THE

GOVERNMENT OF FORT ST. GEORGE,

MADRAS.

SIR,

IN my budget speech at the Council meeting dated 4th April 1898, I spoke as follows on the question of the separation of executive from judicial functions :—

> "The scheme of Stationary Magistrates which was introduced in this Presidency a few years back is a decided success. It only accentuates the imperative necessity which exists for extending the scheme in view to a complete separation finally of the judicial from executive functions. Lord Dufferin characterised the suggestion as a counsel of perfection, and it has been pointed out by authorities competent to speak upon the subject that the scheme can be worked out by a simple process of redistribution of work without any additional outlay."

2. In the opinion of Lord Kimberley the fusion of the two functions is "contrary to right and good principle." The Government of Madras has already accepted the principle of separation and taken the initial step by appointing Stationary Magistrates. There can be no doubt that the only obstacle in the way of government further extending the principle is additional cost. If, however, the extension can be carried out without additional cost, I am inclined to think that Government will be pleased to view it with favour. The object aimed at may be attained by a redistribution of work among the existing officers, one section being allotted for the revenue and other executive work, and the other section for the criminal work. It seems to me that this redistribution is practicable in every district, without prejudice to efficiency. If it cannot be effected in all the districts, it may be tried at least in the advanced districts. I shall take Tanjore as a typical district, and show below how the suggestion will work out.

3. In the district of Tanjore there are 9 taluks in charge of 5 divisional officers, VIZ. Sub-Collector 1, Head Assistant Collector 1, Assistant Collector 1, and Deputy Collectors 2. For revenue and other executive purposes the district may be divided into 3 divisions, and for criminal work into 2 divisions. 3 of the officers may be placed exclusively in charge of revenue and executive work, and the other 2 exclusively in charge of criminal work.

4 3

D 1,000—7-9-98.

REVENUE DEPARTMENT.

Current No. 7463 of 98

Endorsement From The Judicial Department

Dated 28th October 1898.

FOR ORDERS.

Page 26 of the Proceedings of the Council meeting on 4. 4. 98.

Flag XI

The Hon'ble P. Ratnasabhapati Pillai, additional non-official member of the Legislative Council made the following remarks in connection with the Financial Statement for 1898-99 presented before the council on the 4th April last:— "The scheme of Stationary "Magistrates which was introduced "in this Presidency a few years back "is a decided success. It only accentuates the imperative necessity which "exists for extending the ~~[illegible]~~ scheme "in view to a complete separation "finally of the Judicial from executive "functions."

2. Referring to the above speech, the Hon'ble member now states that the Government of Madras has already accepted the principle of separation and taken the initial step by appointing Stati[illegible]

FOR ORDERS.

that the only obstacle in the way of Government further extending the principle is additional cost. He is therefore inclined to think that if the extension can be carried out without additional cost, Government will be pleased to view it with favour and that the object aimed at may be attained by a redistribution of work among the existing officers, one section being allotted for revenue and other executive work, and the other section for the criminal work. Taking for instance the Tanjore District in which there are 9 taluks in charge of 5 divisional officers, he suggests that the district may be divided into three divisions for revenue and other executive purposes and into two divisions for criminal work and that the revenue divisions may be placed in charge of the Sub-Collector, the Head Assistant Collector, and the Assistant Collector and ~~that~~ the criminal divisions in charge of the two Dy Collectors (First class magistrates). He states that if it may be necessary on occasions to give a judicial training to the Civilian divisional officer

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he may take one of the Judicial divisions, his place as a revenue divisional officer being taken by one of the Dy Magistrates (Deputy Collectors). In view of the circumstance that it is more or less impossible for an officer to give as a magistrate a free and unbiassed consideration to a matter which had already come up before him as an executive officer and inasmuch as it is of paramount importance that the administration of criminal justice should have the unstinted confidence of the public, Mr Ratnasabhapati Pillai trusts that the Government will give the subject its earnest and serious consideration.

3. As regards the question of the complete separation of judicial fr executive functions in the subordinate ranks of the magistracy, the Hon. C. Tambulingam [illegible] to a question put by [illegible] meeting of the [illegible] held on 1st Feb [illegible] informed the [illegible] magistrates [illegible] in all those [illegible]

reply to qn. XVII [illegible]
G.O. 672
4.2.98

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Services were deemed to be necessary.

4. The Hon Mr. A.T. Arundel in replying to the criticisms passed on the budget made the following remarks in connection with the present question

"There is one other point that I would like to mention, namely with reference to the separation of the judicial and executive functions. With regard to this I am afraid there is a good deal of talk and discussion that is not altogether in accordance with facts. So far as my knowledge goes it is quite impossible to separate judicial and executive functions. You can prevent a Revenue officer from doing magisterial work; that is perfectly intelligible, but whether the entire separation of the judicial and executive function is possible is a matter of doubt. If a man's liberty is [illegible] away who is to do it? [illegible] but the judge. If [illegible] fined & his money [illegible] to do it? It is [illegible] judge. All these [illegible] functions [illegible] land is to be

Page 44 of the Proceedings of the meeting on 4.4.98.

"a Civil Court and by the act of a Court's officer. You can prevent a Revenue officer from exercising magisterial functions. But even he must be a judicial officer in certain cases in administering certain acts of the legislature."

From the above remarks it would seem that it would be quite impossible to effect a separation between the judicial and executive functions.

For orders as to whether Mr. T. Ratnasabhapati Pillai may be informed that the scheme is impracticable or whether the proposal may be referred to the Board of Revenue for remarks.

[illegible] 18.11.98

[illegible] 19/11/98

Secy [illegible] 21-11-98

The question has been repeatedly discussed by this Govt. & the Govt. of India. It is not question which the can in any case does there seem reason to move

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9

India will itself move if
the time shd ever come when
it wd be politically desirable
to change the present system

Please see draft order below.

Yes
Yes
Yes
Yes

Yes
Yes

Yes
Yes

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10

Read Endt Judl No 2299 d 28-10-98 on letter from the Hon P. Ratnasabapathi Pillai Arl Member of the Legislative Council of Fort St George d 1 Oct 98

G.O. Mis No 4786 & 6 Dec 1898

The Govt ~~[illegible]~~ ~~[illegible]~~ [~~seems no sufficient reason~~] to move in the matter ~~at present~~

28/11/98

29-11-98

To Judl Dept
To the Hon P Ratnasabapathi Arl Negapatam

Mr as altered

6/12/98

I should prefer
is not prepared
W.S.
30-11-98

I do not believe we shall ever be prepared to move in the matter. The words 'at present' might therefore in my opinion, be omitted. But, I do not press this.

A.H. 5.12.98

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