

Revenue (1898) Department.

MISCELLANEOUS SERIES.

G.O., No. 3455

DATED 24th Aug. 98

[Despatch Abstract.]

Declining to interfere on behalf of
B.D. Karasinsu Raw, Anantapur DC, in the matter of
the grant of remission on certain lands.

BACK PAPERS.

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

FURTHER PAPERS.

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

18 2,000-30-8-04.

Revenue (1898) Department.

CURRENT No. 5238

From

Reid Petri

B.D. Narasinga Rao
Landholder of Godanapalle
Anantapur Taluk & Dist.

Order No. 210-3455 d/24th Aug 98. Plasbelam

The Govt declines to
interfere

No.

Rs
20-8-98

file
23/9/98

To Petri with encls.
To Bd of Rev Rs 2 Rs 4

Dated 20 July
Received 24th
Registered 26th
Enclosures 4
Spare copies

SUBJECT.

Appealing against the
Prop of the Bd of Rev for a re-
mission of the sum of Rs 11-2-
declining to grant remission
on certain land held by the
applicant

28
27-98

BACK PAPERS.

G.O.	No.	Department.	Date.
G.O.	4535	Revenue	13-11-96

FURTHER PAPERS.

G.O.	No.	Department.	Date.

- Enclosures:-
- (1) B. & No. 2802 Mis: (Rev: 25-4-98 Land Records & Agriculture)
 - (2) Collector's Ref: dated 5-2-98 on C.P. No. 2/142 7-2-98
 - (3) Proceedings of the Dy Collector dated 2-10-98 on Dis. No. 1004.
 - (4) Proceedings of the late Collector Mr. F. A. Nicholson dated 8 June 1895 Dis. No. 1581 on Mis: Appeal No. 28 of 1895.

PETITION

0495

REVENUE DEPT

His Excellency The Governor
in Council
Fort St. George, Madras.

CHIEF SECRETARY
GOVERNMENT OF
23 JUL 1898

The humble petition of Appeal
by B. D. Narasinga Rao, land
holder of Sodana pally,
Anantapur Taluq,
Anantapur District.

May it please your Excellency,

That your Appellant most respectfully
begs to present this his petition of appeal
against the Proceedings of the Board of
Revenue No. 2802 Mis: dated 25th April
1898 (Revenue Settlement, Land Records
and Agriculture) refusing to accept the
recommendation for remission made by
the Collector of Anantapur on the follow-
ing amongst other grounds.

I. That there was a ruined Ayakath
tank in the village of Narasapuram,
hamlet of Sodana pally, Anantapur
Taluq, the extent of the Ayakath land
being acres 30-8-4 (The present extent
according

according to the Revenue Settlement
being acres 35-61) and the extent of
the tank^{bed} being acres 78-1-8 (the present
extent according to the Revenue Settle-
ment being acres 66-7). The Appellant
2 years after having obtained patta
for the Ayakath lands under Darkhast
rules, applied to the then collector for
permission to repair the ruined tank
at his own expense. This permission was
granted to the Appellant on the condition
pointed out in collector's Ref: to the
Board of Revenue dated 5th February
1898 on G.O. No. 2142 herewith submitted.
1898

II. That the Appellant afterwards
repaired the tank at his own expense
and has since been enjoying the lands
attended with loss, the supply of the water
in the tank, though full in certain years
being insufficient to cultivate the whole
Ayakath lands.

III. That in Hasti 1304, a famine year,
the Appellant made an application to
the then Collector Mr. J. A. Nicholson
to grant remission which was accordingly
granted to the Appellant on the grounds
mentioned in his Proceedings No. 1581
dated

dated 7th June 1895 on Mis: Appeal
No 28 of 1895 which is here with -
submitted.

IV That in Fasli 1306 a more dreadful
famine year than Fasli 1304 the Appellant
made a similar application for permission
to the Deputy Collector who refused to
grant the same in his Proceedings dated
2nd October 1897 on Dis: No $\frac{1104}{2-10-1897}$ here-
with submitted.

V. That the Appellant thereon presented
an appeal to the Collector against the
said Proceedings of the Deputy Collector,
the result being that the Collector recom-
mended to the Board of Revenue for
permission (Vide Ref: by the Collector
to the Board of Revenue dated 5th February
1898 on C.O. No $\frac{2142}{9-2-98}$ here with submitted.

VI. That the Appellant submits that
upon this recommendation by the Collector
the Board of Revenue in its Proceedings
dated 25th April 1898 No 2802 Mis:
herewith submitted refused to accept the
recommendation by the Collector on the ground
among others that "to begin relaxing the
terms of the agreement in Special Seasons
would operate as an inconvenient precedent
and the Board is not therefore prepared to
accept

accept the collector's recommendation.
IV. That the Appellant submits on the above facts that the term of the grant that he should pay for the whole Ayakat lands whether cultivated or not means, the Appellant submits that he should pay for the whole whether cultivated or not when there is sufficient supply of water and not when the tank ^{receives no supply as the authorities intend} on account of want of rains in which case the Appellant is entitled to the same concessions regarding the remissions as ordinary ryots are entitled to:— That the Standing Order No. 9 para 7 does not mean that the Appellant should pay to the whole Ayakat even when the tank receives no supply on account of want of rain: That there is no provision in the Standing Orders of the Board of Revenue that a special rate tank owner should not have the benefit of the remission rules and the Appellant never meant by his grant ^{could it} nor ~~will~~ be possibly and equitably interpreted in a way to exclude him from the benefit of the remission rules: Standing Order No. 23 does not point out any distinction between special rate tank owner and the ordinary ryots in matters of remission:

accept the collector's recommendation.
IV. That the Appellant submits on the above facts that the term of the grant that he should pay for the whole Ayakat lands whether cultivated or not means, the Appellant submits that he should pay for the whole whether cultivated or not when there is sufficient supply of water and not when the tank ^{receives no supply as the authorities intend} on account of want of rains in which case the Appellant is entitled to the same concessions regarding the remissions as ordinary ryots are entitled to:— That the Standing Order No. 9 para 7 does not mean that the Appellant should pay to the whole Ayakat even when the tank receives no supply on account of want of rain: That there is no provision in the Standing Orders of the Board of Revenue that a special rate tank owner should not have the benefit of the remission rules and the Appellant never meant by his grant ^{could it} nor ~~will~~ be possibly and equitably interpreted in a way to exclude him from the benefit of the remission rules: Standing Order No. 23 does not point out any distinction between special rate tank owner and the ordinary ryots in matters of remission:

permission: From this, the Appellant
submits that the view taken by the then
Collector Mr. J. A. Nicholson in 1804 is quite correct and according
to law and equity, and that the view
taken by the Deputy Collector, the collector
and the Honorable Board concurring
with him in that that a special rate
tank owner is excluded from the benefit
of season permissions is wrong and opposed
to law + equity.

VIII That the Appellant states that prior
to restoration of the tank to him for
repairs the Government derived no benefit
whatever for about 20 years and the Ayat
lands were lying waste. Ever since it
was restored to him the Appellant spent
about Rs 500 or 600 for its repairs and
sustained great loss in successive
years paying to the Government the proper
revenue, a benefit accruing to it for
the last 11 years. The Appellant submits
that on an average only acres 14-8 per
year were cultivated, the rest lying
waste with no neglect of duty whatever
on the part of the Appellant but for the
fact of the insufficiency of the water in the
tank which, though full, cannot supply
the

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X

IX.

the whole Ayakhat lands.
That in Fauti 1306 the Appellant
States that to all pattadars throughout
the District, full permission was granted
on dry lands which were kept totally
waste and half permission was allowed
on lands cultivated. Further full
permission was granted on wet lands
cultivated & dried up as also on lands
both wet and dry occupied and cultivated
without patta and permission (Sirai-
Tama lands). Besides the Appellant
States that the Assessments on Tank-bed
lands are exempted under Board's
Proceedings No. 314 dated 3rd November
1896. These facts were not taken into
consideration by the authorities.

X

That the Appellant in Conclusion
submits that in Fauti 1307 he leased
out the lands to certain ryots in his
village being unable to lay out capital
for cultivation and selling his portion
of the produce paid the revenue for
Fauti 1306 and the first instalment for
Fauti 1307. Hence the Appellant is in
a very poor condition unable to main-
tain himself and his family. He
further adds that he still owes the
Government

Government about Rs 100 for Zasti
1307 for which the authorities
attached certain numbers of his
Ayakhat lands and are prepared
to bring them in about a month
or so for sale. He further states
that according to law and equity
the remission must be given him in the
sum of Rs 111-2-0 both for the
Ayakhat and the tank bed lands
for Zasti 1306 in question.

Under the above circumstances
the Appellant prays that Your Excellency
will be graciously pleased to grant
the poor and the helpless Appellant the
remission of the said amount of
Rs 111-2-0 by cancelling the Proceedings
of the Board of Revenue dated 5th
February 1898 on C P No. 2142 and to
order credit of a portion of the said
amount that he still owes the Government
for Zasti 1307 and to further order the refund
of the remaining portion of the said amount
to him (the Appellant) and to direct the collector
that

That the sale of the lands now under attach-
-ment be stopped pending the disposal of
this humble appeal and to issue such
orders as to your Excellency may, under
the circumstances, seem fit, for which
of Kindness and generosity the Appellant
shall, as in duty bound, ever pray.

The Appellant begs to remain
Your Excellency's most obedient
and humble servant.

B. D. Norasingh

Land holder, Sodanapally,

Gooty - 2 Anantapur Taluk,
Dated 20th July 1898 Anantapur District.

[Faint, mostly illegible handwritten text in Devanagari script, likely bleed-through from the reverse side of the page.]

Read petition from B. D. Narasinga
Anantapur dt. 20.7.91. (Lr. 52)

Note

The petitioner appeals against the Board's order declining to accept the Anantapur Collr's recommendation for the grant of remission on his lands in the village Narasapuram. The facts of the case are briefly as below:-

2. In 1887, at the request of the petitioner, a ruined tank in the village was made over to him for repair, subject to the following conditions:-

- (i) That the grantee should have no claim to the available tank-bed land or to the babul trees standing on it;
- (ii) that he should pay for the whole ayakat comprising aco 30-8-4, a special rate of Rs 2-8-0 per aco whether the ayakat lands are cultivated or not;
- (iii) that he should have the exclusive right to cultivate the available tank-bed land comprising aco 76-8, assessed at Rs 27-1-0. On

vide. Anantapur Collr's letter
of 5.2.91. Rm C.P. No. $\frac{2142}{9.2.91}$
✓

C 7/6/96
12/7/96

condition of paying taram assessment as Bisoiyama whether cultivated or not;

(iv) that in years in which the tank received supply, the area submerged under water should be exempted from assessment.

3. In fasli 1304, Mr. Nicholson allowed remission for the wet waste under the tank on account of the unfavourable character of the season. In granting the said remission, he observed: - "A special rate tank owner is not disentitled to season remission under circumstances in which ordinary ryots would get such remission. In ordinary years he must pay the rate on all lands, whether he chooses to cultivate or not; in bad years he gets remission since it is impossible to cultivate. the difference between the ordinary assessment and the special rate is to compensate the owner for the cost of the repair of the tank."

Under the circumstances of the case, the tank owner is entitled to

there was no water
a crop. He might
be helped, and I do
not believe energetic

vide. Prop. of 7. 6. 95. W.

Vide letter of 5. 2. 98.

"3. But he does claim remission of the assessment on the tank-bed. This he is bound to cultivate or pay for, if not covered with water, according to the terms of his grant. Now ex hypothesi there was practically no water, and he ought therefore to have cultivated largely. This he did not do and I cannot therefore release him of his dues under the Contract. So long as the cultivation as to the tank-bed remains one of the conditions of the grant, so long is petitioner bound by it. He must pay the full assessment on the tank-bed."

4. In fasli 1306, however, which was also a bad year, the Jamabandi Officer refused remission of assessment on the ground that ~~the same~~ ^{it} was not allowable under the conditions of the grant. The petitioner appealed to the Colly (Mr. Macchod) against this order, and that Officer forwarded the records to the Board with the recommendation that ~~the same~~ ^{the conditions} of the grant should be enforced in ordinary years even though the tank may not receive

to sufficient supply of water on account
of deficient rainfall, but in
extraordinary years like
1306, it is equitable that
the special pattadar should be
given the same concession as is
shown to the ordinary pattadars.
Under these circumstances I request that
~~the Board of Revenue~~
I may be authorized to allow remission
~~of the special rate of assessment~~
on the
remission ~~of the special rate~~ and share
to the appellants. The amount involved is about Rs 100.
The Board of Revenue
however expressed its inability to
admit the correctness of the view
taken by Mr. Nicholson in 1898 and
that the spl. rate land owner is excluded from
the benefit of the remission unless he
has a relaxation of the terms
of his grant which are also in accordance
with para 7 of B.S.G. No 9, and that a relaxation of the terms
of the agreement in special

seasons would operate as an
inconvenient precedent, declined
to accept the collector's recom-
mendation. The petitioners now
appeal to Govt against this
order.

5. The condition imposed
upon the petitioners that he should
pay the special rate of Rs 2-8-0
per acre on the whole area of
the lands whether ^{the lands are} cultivated or
not, is in accordance with para 7
of B.S.G. No 9 which directs

B.P. 2802 Mis (Lto)
25-4-98
U

I understand Mr
(without anything in)
his argument better
than the O. Note in
reply. H.A.

that "the person or persons to
whom a bank is made over for re-
pair must be made to understand
that they will be required to pay the
special rate of assessment on all
lands within the area irrigable by
the bank when properly ^{restored} ~~constructed~~
whether cultivated or not, and even
if previously charged with a lower
rate of assessment". It must be
remembered that this spl. rate is a
rate for wet crops, ~~and the special~~
and if the owner gets a remission, it
~~is a special rate~~ ~~that the owner would get~~
will be a 'wet remission' not a
'dry remission'. And wet remissions
are granted even in ordinary years
and are not restricted like dry
remissions to exceptional seasons.
So Nicholson's argument that "a
spl. rate bank owner is not dis-
entitled to season remission under
circumstances in which ordinary
ryots would get such remission"
is not understood. The reply is that
an ordinary ryot will get wet
remissions even in ordinary years;
and if the spl. rate bank owner is
to get remission whenever such
cultivation is "impossible" he may

have to be granted remission on
some portion or other of the duty that
almost every officer. It is submitted
that the Board is right & that the
petition appeals may be rejected
RS
12-8-98

See
the
16-8-98

Hu
The Board's view may
be approved.
S.H. 17/98

To m.b.
Please see draft on the current
rs
20-9-98
some
21/9/98

yes
MA 18.8.98

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

189

READ AGAIN G.O., No.
189

DATED

CURRENT No.

ENCLOSURES TO G. No.

ORDER OF GOVERNMENT

LETTER OF GOVERNMENT.

WITH DITTO.

NOT FILED UP, BEING MEANT FOR DESPATCH
ORIGINAL.

A A A A A A A

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