

CONDUCT OF PUBLIC OFFICERS, MADRAS ACT, 1843

ACT NO. XIII. OF 1843

(Rep., Act 37 OF 1850)

[29th July, 1843.]

*Passed by the Right Hon'ble the Governor General of India in Council, On the 29th July, 1843.*

AN Act for regulating inquiries into the truth of matters implicating the public conduct of Officers not removable without the sanction of Government within the Presidency of Fort St. George in Madras.

WHEREAS it is expedient to amend the provisions contained in the Regulations concerning inquiries into the truth of matters implicating the public conduct of European Officers, and to extend the same to all Officers not removeable without the sanction of Government:

I. It is hereby enacted, that Regulations III. of 1809, II. of 1810, VI. of 1818, and VIII. of 1822, of the Madras Code, be repealed.

II. And it hereby enacted, that in the Territories subject to the Presidency of Fort St. George in Madras, whenever wither the Courts of Sudr and Foujdaree Adawlut, or the Board of Revenue, shall be of Opinion that substantial grounds exist for making a regular and formal inquiry into the truth of any imputation of official misconduct affecting any Officer subject to their control respectively, and not removeable without the sanction of Government, they shall submit the documents on which their opinion may be founded, together with a statement of the charges reduced to distinct articles which they may propose to be made the subject of a regular investigation, to the Governor in Council of Fort St. George, for his consideration and orders.

III. And it is hereby enacted, that any charge or information, of the description aforesaid, may be preferred direct to the Courts of Sudr and Foujdaree Adawlut, or to the Board of Revenue, respectively, who shall examine the complainant or informant circumstantially upon oath or upon solemn affirmation if he be entitled to be exempted from taking an oath, and require the party accused to explain or reply to any matters they may deem to need explanation and make such further inquires, upon oath or affirmation upon the subject as they may judge proper.

IV. And it is hereby enacted, that any charge or information may also be made before any Judge, Magistrate, or Collector, for any acts of the description beforementioned committed within their jurisdiction, respectively, who shall examine the complainant or informant circumstantially upon oath, or upon solemn affirmatio if he be entitled to be exempted from taking on oath, and shall transmit the deposition so taken to the Sudr and Foujdaree Adawlut, or to the Board of Revenue, according as the person accused may be subject to those Authorities respectively.

V. And it is hereby provided, that it shall not be lawful for the Courts of Sudr and Foujdaree Adawlut, or the said Board, respectively, to act upon any such charge or in formation, unless the person preferring the same shall make oath, or solemn affirmation in case he be entitled to be exempted from taking an oath, that he believes the facts on which the charge is grounded to be true.

VI. And it is hereby provided, that it shall be lawful for the Courts of Sudr and Foujdaree Adawlut, and for the said Board, respectively, to dismiss any such charge or information, where they do not see any substantial reason for entering further into the inquiry. Provided, that on every occasion when they shall

dismiss any such charge or information, they shall submit the same, together with all the circumstances of the case, in like manner as is provided in Section II. of this Act.

VII. And it is hereby provided, that the said Courts of Sudr and Foujdaree Adawlut, and the said Board, respectively, may, at any stage of the inquiry into such matters as aforesaid, require the person preferring such charge or information as aforesaid to furnish such security as may be deemed reasonable that he will attend and prosecute the charge to a conclusion, and in the event of security being so required all proceedings shall be stayed until the same shall be furnished accordingly.

VIII. And it is hereby provided, nevertheless, that if any matter of the nature aforesaid, affecting such Officer as is mentioned in the second Section of this Act, shall appear in the course of any proceedings, whether preliminary or otherwise, which shall come before or be reported to either of the Courts of Sudr and Foujdaree Adawlut, or the said Board, respectively, those authorities shall act upon such matter, or institute such inquiry upon oath or affirmation as aforesaid, into the same as they shall deem proper for the purpose of such reference as aforesaid to the Governor in Council of Fort St. George, although no charge or information be preferred as aforesaid: and in such cases it shall not be necessary before acting upon or instituting any inquiry concerning any matter so appearing in the course of proceedings, to require any oath or affirmation in regard to the truth of such matter.

IX. And it is hereby enacted, that if the Governor in Council of Fort St. George, upon such reference as is mentioned in the second Section of this Act, shall concur with the authority by which it may be submitted, or if such Governor in Council shall, from information of the description aforesaid that may be laid before him in respect of any Officer not directly subject to the Courts or Board above named, deem it necessary to institute proceedings against any such Officer, he shall appoint a Commissioner or Commissioners for making a regular and formal inquiry into the truth of the matters referred.

X. And it is hereby enacted, that on the appointment of every such commission, the said Governor in Council shall direct whether the Commission shall be placed under the control of any of the Authorities aforesaid, or shall act immediately under the authority of Government, and all commissions appointed as aforesaid shall be guided by the instructions which they may receive in this behalf from the Government.

XI. And it is hereby enacted, that the Commissioner or Commissioners appointed as aforesaid, before entering on the discharge of his or their duties, shall take the following oath:

I, A. B., Commissioner for the purpose of (here state the object of the Commission) do solemnly swear that I will faithfully and impartially perform the duty committed to me without fear, favour, or bias, to the best of my ability, knowledge, and judgment; so help me God.

XII. And it is hereby enacted, that whenever a charge shall be referred for investigation to a Special Commission, the said Governor in Council will determine whether the conduct of the prosecution shall be left to the accuser, or be undertaken on the part of Government. In the latter case, the said Governor in Council will nominate such person or persons as may be deemed proper, to conduct the prosecution on behalf of Government.

XIII. And it is hereby enacted, that it shall be the duty of Commissioners appointed under this Act, after receiving the plaint or charge, and the documents from which the same may have been prepared, to call upon the person accused for his reply to the accusation; to examine upon oath, or under a solemn declaration, the witnesses named by the accuser or the accused; to receive any further written documents offered in support of, or against the accusation; and to call for and take any further requisite evidence

which may be indicated by the witnesses adduced or documents exhibited by either party, and may appear to be necessary for the ascertainment of facts, or the discovery of the truth or falsehood of the charges or of any part thereof.

XIV. And it is hereby enacted, that for the discharge of the duties specified in the preceding Section, or any other functions which may be delegated to a Commission under this Act such commission shall be vested with the same powers as are exercised by the Zillah Courts, except that all process to cause the attendance of witnesses, or other compulsory process, shall be served through the Zillah Judge in whose jurisdiction the Commission may be held, and executed by the Zillah Judge in whose jurisdiction the witness or other person upon whom the process is to be served may reside.

XV. And it is hereby enacted, that on the close of the evidence for the prosecution and defence, the accused shall be at liberty to record any observation upon the result of the inquiry which he may think necessary for the vindication of his conduct and character. The accuser, or the person appointed to conduct the prosecution on the part of Government, shall also be at liberty to record any remarks on the subject of the prosecution which he may deem requisite.

XVI. And it is hereby enacted, that as soon after the conclusion of the proceedings as circumstances shall permit, the Commissioner or Commissioners shall, when the Commission shall be instructed to act immediately under the authority of Government, submit directly to the Government to which he or they may be subordinate, and in other cases to the Controlling Court or Board, the proceedings under the Commission, accompanied by translations of papers not in the English language, together with a summary of the pleadings and evidence, and his or their opinion of the merits of the case.

XVII. And it is hereby provided, that it shall be lawful for the said Governor in Council, or the Controlling Court or Board, upon consideration of the report of any such Commission as aforesaid, to direct the Commissioner or Commissioners to take further evidence, or to give further explanation of his or their opinion or opinions connected with the case investigated, and the Commissioner or Commissioners are authorized and required to take such further evidence, and to give such further explanation.

XVIII. And it is hereby enacted, that the Sudr and Foujdaree Adawlut, or the Board to which any report of a Commissioner or Commissioners may be submitted as aforesaid after due consideration of the same, and after obtaining such further evidence or explanations as they may require, shall submit the whole of the proceedings and documents received by them to the Government, together with their opinion whether any and what charged have been established against the accused.

XIX. And it is hereby provided, that whenever a Special Commission may be appointed under the Provisions of this Act, the said Governor in Council will determine, on a view of the nature and circumstances of the case, whether the accused Officer shall be suspended from the discharge of the functions of his Office; and if so, whether he shall be permitted to draw the established allowances of his Office, or otherwise.

XX. And it is hereby provided, that the Governor in Council on consideration of the report and proceedings submitted to him in pursuance of Sections XVI. and XVIII. of this Act, will pass such decision on the case as may appear to him most consonant to the principles of justice and consistent with the powers possessed by Government in matters of this description; and in the event of his deeming it necessary that the party accused should be brought to trial by a public prosecution before a competent

Court of Law, will issue the necessary instructions for that purpose to the Law Officers of Government. But whatever proceedings may be held, or whatever decision or order may be passed by Government, individuals deeming themselves aggrieved by any Public Officer, will be at all times at liberty to seek redress according to the ordinary form prescribed by law.

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