Administration of Justice in the Deccan under Nizam-ul-Mulk Asaf Jah

KEYWORDS Justice, Nizam, Deccan, Qazi

ABSTRACT The political and socio-cultural history has always been the focus of research scholars whether it is the history of a country or any region specifically. The legal History in this manner lagged behind and immense material related to the said field is still unearthen. Hyderabad or the Deccan of the Mughal times was consisted of the six Subas namely, Khandesh, Bidar, Berar, Bijapur, Hyderabad, Aurangabad, which were placed under the Viceroy whoever appointed to the post. The importance of the Hyderabad State lies in the fact that being a ‘Successor State’ of the Mughal Empire it continues with the Mughal system of Justice Administration under the early Nizams, however the changes were made in the subsequent years under the Nizams according to the need of the time and also to make it suitable according to the local variations. In the present paper an attempt has been made to bring into light the administration of Justice in the Deccan under the first Nizam, Nizam-ul-Mulk Asaf Jah.

Under the sultans, the department of Qaza or Justice was under the Sadr but Akbar was not in favor of giving so much authority to one person and thus separated the justice from the Sadr. Another significant change made by the Mughals was to give up the Abbasid practice of investing the Prime Minister with judicial powers which had been adopted by the Sultans. The power and duties of the prime minister were limited to the executive matters under the mughals while those of judiciary to chief justice.

Bashir Ahmad in his ‘Administration of Justice in Medieval India’ has discussed in detail the nature and pattern of the administration of Justice under the mughals but there is no substantial study done in order to understand whether there is a break or continuity in the pattern of the administration of justice in the ‘successor states’.

This paper tries to throw light on the administration of justice in the Deccan under the first Nizam (1719-1748 A.D) who in his time tried to maintain the system of administration of justice as established by the Mughals, however in the subsequent periods there were changes made by the successors of the first Nizam, Nizam-ul-Mulk Asaf Jah, and also by the British Resident when they came to the Deccan after the signing of the Subsidiary alliance.

Khwaja Abid, grandfather of Nizam-ul-Mulk Asaf Jah was native of Samarqand. After the death of his father, he came to India in 1654 A.D during the reign of Shahjahan. In the Mughal court he was received with distinction and the Emperor offered him a post, which he promised to join after performance of Haj.1 He was killed at the siege of Golconda on 28th January, 1687 A.D.

His son, Mir Shihabuddin, was one of the principal nobles of Aurangzeb, and in time attained the rank of 7,000 with the title of Ghazi-ud-din Khan Bahadur Firoz Jang, and as a reward for his eminent service at the battle of Bijapur, he receive from the appreciative sovereign in addition to the former titles the appellation of Farzand-i-Arjumand. During the reign of Shah Alam, Bahadur Shah he was appointed the governor of Gujarat where, he died in 1710 A.D.2

Mir Qamaruddin was born on 11 August, 1671, the son of Firuz Jang by his wife Safia Khanam, daughter of Sadul-lah Khan, Wazir of Shahjahan. The Chronogram of his birth reads ‘Nek Bakt’ which means man of destiny. Aurangzeb gave the new born the name Qamar-ud-din.3

Nizam-ul-Mulk received consideration from the Emperor Aurangzeb early in his life. He was six year old when he received a mansab of 450 horses. After one year this was increased to 900. There was a further increase in the following years. He was given the title of Chin Qilich Khan. The meaning of the word is boy swordsman. Twice in his career Nizam-ul-Mulk seems to have fallen out with his father but was reconciled with him under the instructions of the Emperor.4

In the 45th (1702), R.Y of the Emperor’s reign he was appointed as the Faujdar of Bijapur-Karnatak in place of Namwar Khan. In the 47th R.Y of Aurangzeb’s reign he was appointed the governor of the province of Bijapur. During the same year he was entrusted with the Faujdari of Talkonkan and Azamnagar and was made the thanedar of Sampgaon. Nizam-ul-Mulk received an addition of 1,000 horse in his mansab with a gift of 1 crore Dam.5

Nizam-ul-Mulk accompanied the Emperor in the siege of Wakin Kheda, the last siege conducted by the Emperor, and he did services to the satisfaction of Aurangzeb. In recognition of his ability and service Chin Qilich Khan was raised to the rank of 5000 zat and 5000 sawar and was awarded one crore and fifty lakhs of Dams, a Saber and an elephant.6

With the accession of Muazzam with the title of Shah Alam Bahadur Shah (1708-1712), Nizam-ul-Mulk was called to the court. His previous titles and mansabs were confirmed, and he was appointed to the governorship of the province of Oudh and Faujdari of Lucknow.7

During the reign of Farrukhsiyar (1713-1719), Nizam-ul-Mulk was given the Subedari of Deccan which he has retained till 1713-1715 A.D, but soon he was removed from there by the Saiyyad Brothers who find it dangerous for their own interests. After Farrukhsiyar’s deposition (in 1719 A.D) by the Saiyyad brothers, two new emperors ascended the throne in a short span of less than a year and finally in 1719 A.D, Roshan Akhtar with the title of Muhammad
Shah (1719-1748 A.D) came to the throne and it was during this period that Nizam-ul-Mulk had served as the subedar of the Deccan twice. His second viceroyalty lasted for two years (1720-1722 A.D) but soon he was called by the Emperor to take the Wizarat of the empire in his hands and worked till 1724 A.D until he find himself opposed at every step by the nobles who were in favor of any type of reform in the administration due to their own selfish interests. In 1724 A.D Nizam left the capital to get his possession in the Deccan where he served till his death in 1748 and he is known to have established the Asafjahi dynasty in the Deccan which continued to rule up to the independence of India.

The last Testament of Nizam-ul-Mulk is very significant as it throws light on the Nizam's views on administration and the other aspects related to the wellbeing of the population. The noble sentiments which Nizam-ul-Mulk expressed in his testament regarding the independence of Judiciary and the responsibility towards it, are very significant. He condemned that he was not fit for the job in view of its assignment to Qazi who was actually entrusted with this duty, since he knew his work best.8

Though he endeavored to keep the judiciary independent of the executive, he kept himself informed about its working. He would not hesitate to take prompt action to keep it free from the corrupt practices. On the report of Qazi Karimuddin that Muhammad Sanan, the Qazi of a pargana, was taking bribe, he issued an order to the subedar of Aurangabad to produce Muhammad Sanan.9

The Nizam was no respecter of ranks where transgression of justice was concerned. Hakim Muhammad Ali Khan, who was the Nizam's personal physician, was taken to task when the former caused intervention in the dispensation of justice.10

Briggs writes that “the original provisions for the administration of justice are as fair and rational under the Nizams as they are under most other governments.11

The Darul-Qaza-e-Balda-e-Hyderabad occupied more or less the position of the highest court of appeal. The cases of complicated nature were referred by the Sarkar and pargana courts to the Qazi-e-Balda.12

The Qazi-e-Balda was appointed by the Nizam. At the time of appointment the Qazi was conferred with a robe of honor by the Nizam.13

Any statement or petition was authenticated by the Qazi with his seal. Every year the statement of revenue and expenditure which was transmitted to the office of Diwan from every village was to be authenticated by the Qazi with his seal.14

No age of retirement, it seems, was prescribed for the Qazi. A Qazi could continue in service as long as his death permitted to do so or till he resigned.15

There were separate office buildings for the Qazis under the Nizam, they were known as either Darul Qaza or the Adalath or Mahkama.16 The dais on which the Qazi took his seat was known as Masnad-e-Ahkam-e-Shariat.

The attached officers of court were Darogha-e-Adalat, Mufti, Mohtasib, Waqaii Nigar and Khufia Nawaq. Darogha-e-Adalat was to receive applications to be filled in the court. Darogha-e-Adalat was appointed by Royal Sanad-e-Darogha-e-Adalat-e-Badshahi which was issued by Wazir, Mufti gives legal advice or opinion but not to deliver any judgement. Kotwal did his inquiries and referred them to Qazi-e-Balda, he was to imprison or release criminals only if the Qazi so ordered.17

In addition to the Darul Qaza, the state had an ecclesiastical court in every city and big town. At Hyderabad it was known as Sadarath-ul-Auliyah-e-Deccan, presided over by Sadr-us-Sudur. In the Sadarath-ul-Auliyah cases related to religious stipends of such dignitaries as Qazis, Mashaikhs and Khattibs were decided. These courts delivered oral verdict only, and no appeals against their decision were permitted.18

Usually the offices of sadr-us-Sadur and Muhtasib were combined in one person. A Qazi of a city on Sarkar could aspire for the post of the Sadr-us-Sudur of the city of Hyderabad. A Muhtasib performed the duties of religious censor.19

In all criminal cases the Muslim law prevailed. In civil cases the Muslim law was applied to Muslims only. Disputes between Hindus were transmitted to a panchayat comprising members drawn from the Hindu community only.

In criminal cases if any Hindu plaintiff lost his confidence in any Qazi, he could refuse to file his case before him and could submit a petition to the Nizam to permit him to fill the suit before panchayat.20

This shows that Nizam might allow the Panchayat to handle the criminal cases also.21 The civil cases filed by the Hindus in the local Panchayat were decided by arbitration.22

At the Sarkar level, there were Qazis to whom the Anil ought to refer cases relating to civil cases. The Qazi of the Sarkar or pargana like the Qazi-e-Balda led the Friday and Eid prayers. He could be promote and to Qazi-e-Suba or even to chief Muhtasib or Sadr-us-Sudur.23

Nizam never inflicted death sentence even in the case of treason, Moru and Ramdas whom, he regarded as the rebels of his dominion were confined in the fort of Ahmadnagar. However, he strongly impressed upon his sons that in their continued confinement lay their well being.24

In the administration of Justice the Early Nizams maintained Islamic law. In fact, the Nizam's dominion, being a part of the Mughal Empire followed the Mughal judicial administration for which the Islamic judicial system served as a model. Shara does not make any distinction between citizens and officers. The position of officer does not accord any person or community from the rigor of the law. By and large Shara was in Vogue.

Until the capital punishment was abolished by Siraj-ul-Mulk, the Nizam's like the Mughals uniformly maintained the Islamic law in respect of punishments. Nizam-ul-Mulk was however, critical of the capital punishment. Therefore special care was taken by him to inflict capital punishment and prefer only if Shara permitted.

The classical exposition of the abolition or prevention of capital punishment is found in Nizam-ul-Mulk's Testament. He advised his sons to be cautious in exercising the power of inflicting capital punishment. He preferred to hand over
the criminal case to the Qazi for a proper investigation and proper trial in accordance with Shara. His contention was that in inflicting capital punishment the ruler should be sympathetic since human beings are not like barley, wheat and maize which will grow every year. Nizam-ul-Mulk had a strong contention for the capital punishment that he did not suggest it even to those who commit treason.25

Khafi Khan remarks “Nizam-ul-Mulk had never moved a hair's breadth in opposition to the Mughal Emperor, but in all his undertakings, he had shed a new glory on the house of Taimur”.26

Shahnawaz Khan in his work ‘Masir-ul-Umara’ remarks “The Nawab was one of the imperial nobles at the court of the Emperors of Delhi from the reign of Khuld-i-Makan (Aurangzeb) to the death of Firdus Aramshah (Muhammad Shah 1719-1748 A.D). For nearly thirty years the six Subas of Deccan were governed under him. He was a remarkable personality endowed with ‘Angeic qualities’ and in his government the fakirs, the learned and deserving people received their share according to their deserts.27

Thus we can see that the contemporary writers are talking about the qualities and the loyalty of the First Nizam who tried to maintain the allegiance to the Mughal Court and tried to maintain the Mughal system of administration as far as possible.

*I want to acknowledge the Indian Council of Historical Research, Delhi for providing me the funds to work as a Post Doctoral Research Fellow.

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