



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

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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 unearthed. 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 Golkonda 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 Qamruddin 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 Bakht*' 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 last 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 who 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's*. 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*, *Waqai Nigar* and *Khufia Nawis*. *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 *Khatibs* were decided. These courts delivered oral verdict only, and no appeals against their decision were permitted.¹⁸

Usually the offices of *sadr-us-Sudur* 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 new 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 'Angelic 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.

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REFERENCE

- 1- Lala Mansaram, *Masir-i-Nizami*, MS, Central Record Office, Hyderabad State Archives, Hyderabad, f.15. | 2- Shahnawaz Khan, *Masir-ul-Umara*, (c.1742), 3 Vols, ed, Maulvi Abdur Rahim and Mirza Ashraf Ali, Bib. Ind. Series, Calcutta 1890, tr, H. Beveridge, Revised, Annotated and Completed by Beni Prasad. Vol.II, pp.875-879. | 3- Munshi Abdul Qadir Bidri, *Tarikh-i-Asaf Jahi*, OMLRI, Hyderabad f.11, Yusuf Husain Khan, *The First Nizam, the life and times of Nizam-ul-Mulk Asaf Jah I*, Bombay 1963, p.42. | 4- *Masir-i-Nizami*, op.cit., f.19. | 5- *Ibid*, f.20, Yusuf Husain Khan, op.cit., p.36. | 6- Khafi Khan, *Muntakhab-ul-Lubab*, ed Kabiruddin Ahmad and Ghulam Qazi, *Bibliothica Indica Series*, Calcutta 1860-74, 3rd Vol, ed Sir Woolesey Haig, Bib Ind, Calcutta 1901-25, Vol II p-538. | 7- *Masir-i-Nizami*, op.cit, pp.26-27. | 8- *Ibid*, p.67. | 9- *Ibid.*, pp.103, 104. | 10- *Ibid.*, pp.107-8. | 11- Henry George Briggs, *The Nizam*, 2 Vols., London, 1861, Vol.II, p.204. | 12- Mansaram, Lala, *Risala-i-Darbar-i-Asafia or Haqiqat Hai Huzur Pur Noor*, (c.1761), MSS 841, State Library, Hyderabad, p.101-2. (zabita). | 13- *Tarikh-i-Asaf Jahi*, op cit, p.248. | 14- *Risala-i-Darbar-i-Asafia*, p.99. | 15- Basheer Ahmad, *Administration of Justice in Medieval India*, Aligarh, 1941, p.149. | 16- *Risala-i-Darbar-i-Asafia*, p.102. | 17- Briggs, Henry George, *The Nizam*, 2 Vols, London, 1861. Vol.II, pp.239-40. | 18- Bilgrami, Syed Hussain and Willmott, *Historical and Descriptive Sketch of His Highness, The Nizam's Dominions*, 2 Vols, Bombay, 1883, Vol.II, p.162. | 19- Basheer Ahmad, op.cit., p.250. | 20- Doc No. 4979, Central Record Office, Hyderabad. This is a petition which was submitted to Nizam requesting him to permit the transference of a case from Qazi to Panchayat. | 21- Briggs, Vol.I, p.240. | 22- Basher Ahmad, p.196. | 23- Briggs, op.cit., Vol.I, p.240. | 24- *Masir-i-Nizami*, op.cit., p.121. | 25- *Muntakhab*, op.cit., Vol.II, p.961. | 26- *Masir-i-Nizami*, p. 71. | 27- *Umara*, op.cit., Vol.III, p.905. |