



ORIGINAL RESEARCH PAPER

History

OFFICIAL HIERARCHY AND THE FUNCTIONS OF SUPERVISOR & SUPERINTENDENTS IN THE ADMINISTRATION OF JUSTICE IN COLONIAL MALABAR

KEY WORDS: Judiciary, Colonialism, Legal system, Modernity, Customs, Regulations, Justice

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ABSTRACT

This paper explores the official colonial hierarchy and the momentous role played by the Supervisor and Superintendent in the administration of justice in colonial Malabar. When the district of Malabar became a part of the Bombay presidency in 1792, the joint commissioners were appointed to promulgate a code for the administration of civil and criminal justice. The rules for revenue administration and for the conduct of the Supervisor and Superintendent were drafted in 1793. Special superintendents were appointed with their centers at Thalassery and Cherpulassery. The supervisor or the Chief Magistrate at Calicut was to supervise the activities of the superintendents. They were appointed for the timely and effective dispensation of justice among the people belonging to the province. The supervisor had both the powers of judge of the court of appeals and the chief Magistrate. There role was remarkably well in the future administration of justice in Malabar.

Introduction

As part of the Treaty of Srirangapatnam in 1792, Malabar was annexed as a separate Province of the Bombay Presidency. The advent of the British marked a new phase in the progress of the country and its judicial administration. This political development paved the way for the introduction and subsequent modification of the regular courts of judicature primarily aiming at the rule of law and order in the society. In spite of the dispensation of justice by kings and their close associates, prior to the British ascendancy in Malabar region, there was no systematic and well-knit judicature incorporating the principle of equality of all before law. The king's might was most respected and feared. Manu even went to the extent of identifying Danda or punishment with dharma or law, as he says "it is Danda that rules the subjects it is only Danda that protects all people, Danda is dharma itself".

For effective administrative purpose, the province was divided into three districts and three servants of the British East India Company were entrusted with the duty of administration. In order to ensure steady income of the company so that the financial stability could be strengthened, the British East India Company implemented the system of annual revenue settlement. Since the establishment of an effective administration of impartial justice was essential for their reputation and also for safeguarding their future prospects, Marquis Cornwallis and his successor Sir John Shore imparted great importance for the success or the result that their administrative reform would face in the Malabar region.

Since Malabar was annexed to Bombay, the responsibility of administration of the region was vested with the Government of Bombay. The judicial system at the Presidency Towns was designed primarily to administer justice to the Englishmen. But, with the passage of time, the Indian population of these settlements increased and, therefore, adjustments had to be made in the judicial system with a view to provide for the administration of justice to these people as well. With acute political acumen coupled with military foresight in the light of strategic importance, Cornwallis realized need for framing regulation for effective administration of the newly conquered coast of Malabar. Lord Cornwallis prepared a set of Regulations dealt with commercial system, with civil and criminal justice with the police and with the land revenue. The Regulations were intended to ensure disciplined administration and prevent any return to the chaos and abuses of the past.

Objectives

- To explore the traditional legal system that existed in Malabar

- To unravel the judicial system under the Bombay Presidency
- To formulate and present the findings on the official hierarchy and the functions of the superintendent and supervisor

Methodology

The methodology adopted in this study is generally analytical and descriptive. Historical methodology is essential for analyzing the source materials and arriving at historical inference. In short, the methodology adopted in this study can be characterized as critical, analytical, descriptive, interdisciplinary and interpretative in nature.

Appointment of Commissioners

Consequent to the Treaty of Srirangapatnam, on 23rd March 1792, Lord Cornwallis addressed a letter to Sir Robert Abercrombie in Bombay, highlighting the expediency of the immediate appointment of Commissioners to undertake necessary enquiries as might lead to and supply the relevant information with the purpose of the formation of a stable system for the future Government of the region and prevent internal dissensions. He issued orders for the appointment of a commission to "enquire into the present state of the ceded districts and to establish such a system for their future government". The major objective of the appointment of these Commissioner was to "prevent internal dissensions among the chiefs and to secure under a regular administration of justice, all those advantages to the Company".

Malabar under Bombay Presidency

The powers vested in the Commission were similar to those of a Board of Revenue constituted in Bengal presidency in 1786. In the light of knowledge and experience that the Joint commissioners assimilated out of the British administrative intervention in other provinces of India mainly in Bengal and the Western coast, they eventually prepared a plan for the settlement and administration of the Malabar province, now annexed to Bombay Province. They accepted in principle many of the methods implemented by the Dutch. In 1678; Governor Yale of Madras sent "a book contains the Dutch methods" to the Directors. In their contact and interaction with the Dutch, many early English administrators assessed them to be of superior caliber which was evident from a somewhat helpless remark made by the English factors at Pulicat about the Dutch as follows; "thus in every quality they go beyond us". The plan envisaged the division of the district into general divisions that would be placed in charge of two Superintendents under a Supervisor or General Magistrate of the coast.

In a circular letter issued by General Abercromby as the Governor of Bombay on 30th March 1793 to all the Rajas and principle landholders within the province of Malabar putting the province of Malabar under the control of a Supervisor located at Calicut and two Superintendents located at Tellicherry in the north and Cherpulcherry in the south . In the circular letter he makes it clear that “the whole Malabar country from Cochin to the Cavay, the administration of which is to be entrusted to two civil servants of the Company, who are to be the immediate representatives of the British Government within their respective districts in which they are to preserve the peace, administer justice, and to receive from you the revenue payable to Government, the said gentlemen being in all cases subject to the Supervisor”. The major duties of the Superintendents included, among others things, the preservation of peace, and the administration of justice and collection of revenue under the direction, control and supervision of the supervisor.

The rules for revenue administration and for the conduct of the supervisor and superintendents were drafted and passed by Duncan, Page and Boddan with effect from 1st July 1793 . As part of the paraphernalia of power to be exercised, the Supervisor and the Superintends had, under their command, necessary number of assistants to keep the public accounts and records. Those assistants would act as Registers (Registrars) to the courts of Justice, and also undertake several duties on deputation as and when they would be given suitable instructions by their superiors. The supervisor had an assistant attached to him who was “wrested with civil, criminal and police jurisdiction in Calicut and its vicinity” .The supervisor had both the powers of judges of the court of appeals and the chief magistrate .He had to submit an annual report of the state of Malabar region to the Bengal government and a copy of this report was to be regularly transmitted to the commissioners .

Conclusion

A salient feature of the system of judicial administration implemented by the British at this time was the periodical circuits of the Supervisor and the Superintendents for the timely and effective dispensation of justice among the people belonging to the province. The role of supervisor in Malabar was entirely different from that of the Bengal supervision. In Malabar he held some important pivotal position in revenue, judicial and military administration but in Bengal the Board of Revenue or a council did all these activities instead of supervisor . The official time table adopted for periodical circuits was to proceed from one sitting in a site to another from the middle of October till the middle of March. This periodical circuit was undertaken and carried out in such an august manner that every branch of administration could easily be influenced and dominated by the system of the dispensation of justice introduced by the company. During the periodical circuit, the Supervisor invariably found time to enquire into the official duties and functions of the two Superintendents with the aim of inspecting and supervising the way in which they performed their official duties. In every ensuing month of September for the revenue year completed, he had to prepare an annual report to be presented to Government of Bombay which should also incorporate a general statement about the condition prevailing in the country. With necessary remarks and comments by the Government, that report would be dispatched to Governor General-in-Council for information and observation.

For the administration of justice in civil cases, the Joint commissioners introduced a civil code which was prepared, passed and dispatched on 12th June 1793. As part of the civil code so prepared, there is a wide and detailed representation of the legal and political aspects of Malabar Province. The Joint Commissioners prepared, passed and transmitted the civil code on 12th June 1793 for the administration of justice in civil case, a truly remarkable act in the evolution of judiciary in

India, especially contributed by the joint commissioners. According to this, except in the town of Calicut, the Superintendents would assume the power of Judges. The Judges had the power to appoint and remove the Native officers after getting the confirmation of the chief Magistrate. With the aim of ensuring good behavior and ascertaining integrity, the Judge was in a position to exact Mochulkas or penal obligations from all this officers. On an average, the fine so imposed on the officers for their lapse of duties, was equal to their annual allowances.

The Provincial Courts of Appeals were established for hearing appeals and their powers and jurisdictions were defined. In 1802 the Sadar Adalath was constituted in 1816 the magisterial powers were transferred from the Zillah Judge to the Collector. The Court of Circuit was established in the four division of the Presidency. The Foujdary Adalath was established at Malabar and it became the chief criminal court. The most adversely effected factor of the system was the complete dissociation of the Indians from the totality of their native country and its traditions. Whatever may be the defects, it achieved a more efficient and effective functioning of the administration of justice in the Malabar region.

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