

1923.

File No. 11

XV-86.
O.R.

FORM E. VIDARCHA

SECTION

CASE NO.

SUBJECT.

"Flag Salutation Satyagraha - Nagpur - 1923."

OFFICE

DISTRICT.

Subject :- Flag Salutation Satyagraha - Nagpur.

Letter No.102/1 dated 9-7-23 from Ch.Secy.

pp. 1-2

Endt. No.101/I dated 9-7-23 from Ch.Secy.

pp.3 to 5.

D.O. dated 14-7-23 to Ch.Secy.

p. 6

D.O. dated 16-7-23 to Ch.Secy.

p.7

Telegram dated 18-7-23 from Ch.Secy.

p.8

Endt. No.138-A/I dated 6-8-23 from Ch.Secy.

p. 9

U.S's D.O.No.C/27 dated 18-7-23

p.10

U.S's D.O.No.C/26 dated 18-7-23

p.11

Memo dated 21-7-23 to D.Cs.all

p.1

Endt.No.1958-1121-V dated 3-9-23 from Ch.Secy.

p.13.

Confidential.

No. 102/I

5-2

Government of the Central Provinces.
Political and Military Department.

From

A. E. Mathias, Esquire, I.C.S.,
Chief Secretary to Government,
Central Provinces.

To

The Deputy Commissioners,
Berar Districts.

Dated Nagpur, the 9th July 1923.

Sir,

I am directed to forward for your information a copy of a letter No.100/I dated the 9th July 1923, giving revised instructions regarding the measures to be taken against volunteers proceeding to Nagpur to take part in the Satyagraha movement.

2. The Local Government is advised that the legal position in Berar is different, owing to the fact that it is not a part of British India. No prosecution in this connection should therefore be instituted for any substantive offence under any section of the I.P.C. "as applied to Berar", which is a different enactment from the I.P.C. in force in British India. On the other hand, the position in regard to action under section 109 Criminal Procedure Code seems to be similar to that in a Central Provinces District, with the exception that any bond executed under that section could only be forfeited by a Berar Court. I am, therefore, to state that action against such volunteers in Berar should be taken only under Section 109 read with section 55 Criminal Procedure Code.

I have the honour to be,
Sir,
Your most obedient servant,

A. E. Mathias.

Chief Secretary.

No. 103/1

Dated Nagpur, the 9th 5-3 July 1923. 2

Copy forwarded to the Commissioner, Berar, for information.

A.J.

[Signature]
Chief Secretary.

No. 100/1

Government of the Central Provinces.
Political and Military Department

From

A.E. Mathias, Esquires, I.C.S.,
Chief Secretary to Government,
Central Provinces.

To

All Deputy Commissioners of
Central Provinces Districts
(except Nagpur)

Dated Nagpur, the 9th July 1923.

Sir,

In supersession of the instructions contained in my letter No. G/972-II, dated the 18th June last, I am directed to issue the following revised instructions regarding the arrest of volunteers proceeding to Nagpur to take part in the Satyagraha movement.

2. It is desirable to prevent such volunteers from reaching Nagpur, so far as that is possible. Volunteers recruited in your district for the purpose of proceeding to Nagpur, with the object of disobeying the order of the District Magistrate prohibiting processions within the limits of the Civil Station, should be arrested under Section 109 read with Section 55 of the Criminal Procedure Code, unless they can give a satisfactory account of themselves, and proceedings should be instituted before a magistrate under that section, the evidence available being tendered. It would also appear that such volunteers are guilty of an offence under Section 120-B I.P.C., but for such offence arrest cannot be made without a warrant, and therefore it would generally be more suitable to institute proceedings under Section 109 Criminal Procedure Code. Proceedings should not be taken under Section 143 I.P.C. or Section 185 I.P.C., or for the abetment of such offences; because there is reason to believe that such action would not be legal.

3. It is also desirable to intercept on their

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journey before they reach Nagpur any such volunteers recruited from any other district of the Central Provinces and Berar, or from any other part of India. Steps should, therefore, be taken, so far as possible, to arrest such parties of volunteers under section 55 Criminal Procedure Code at any convenient place where they may halt on their journey. The Local Government is opposed to the arrest of such parties of volunteers if they are seated in a railway train or do not leave the railway station premises.

4. If information is received that any party of volunteers have evaded arrest, the Deputy Commissioner, Nagpur, should be informed by telegram of the number of the party and the time and route of departure. There is no need to send such telegram in cipher, unless it is desired to add anything of a confidential nature.

5. The Local Government places considerable importance on stopping the activities of persons engaged in recruiting such volunteers. Such persons appear to be liable under Section 109 Criminal Procedure Code read with section 55 Criminal Procedure Code, and under section 120 B, and Section 188 read with section 116 or 117 I.P.C. Action should not be taken under section 143 read with section 107 I.P.C. It is to be noted that arrest without warrant can only be made under Section 55 Criminal Procedure Code, but in some cases it may be suitable, if the evidence is available, to institute proceedings by the issue of a summons under one or more of the substantive sections of the I.P.C. mentioned above.

6. Finally, I am to emphasise the importance of endeavouring to stop the supply of volunteers. In district where any considerable number is likely to be recruited, steps should be taken to institute propaganda against such recruitment, including warnings of the punishment to which offender^{under} themselves liable. In such districts, it may be desirable to institute some kind of watch over the principal railway stations and main roads, for the purpose of

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stopping and arresting any parties of volunteers proceedings
to Nagpur.

I have the honour to be,
Sir,
Your most obedient servant,

Sd/- A. E. Mathias
Chief Secretary.

No. 101-I

Dated Nagpur, the *9th* July 1923.

Copy forwarded to the Commissioner, Nerbudda Division
Jubbulpore
Chhattisgarh
Nagpur.

for information.

Sd/- A. E. Mathias
Chief Secretary.

A.J.

If the case for Bera as you set out in your letter 102 of the 11th. Bera will become the happy hunting ground of all political agitators - also inciter & abettors of crime in the CP. eg. A in Bera incite a gang of dacoits to dacoity in CP (that is the criminal go to school) § 1084 IPC provides for abetment in P. India from office outside India. It is time that corresponding provision be made in § 75 as applied to Bera.

Yours sincerely

5-8

7.8.11

Kuerachi Club

16/7/20 Bencas

My dear Mathias

Please see the enclosed from Wilson Smith (p. 10) partly against the instructions I have also in my letter of the 14th inst. partly against them. I mean to put forward to the section against a set of (age) goods hauled in under devalued prices (specimens preserved) but I fear small and weak. I could not find it an easy conviction to interpret the section for me against intelligent people who know what they are doing (& such would be colonies in Bencas probably). I hope that you will let me know some authority for the case of fact regarding the issue of the section or will allow me to instruct D.C. to hold the order in abeyance. I am dead against any action at all there at present. All is quiet but propaganda or action might mean a great deal of obstruction. Until the movement there comes signs of catching on in Bencas we should do wide harm than good by doing anything. I do not think that either Wilson or Smith will take action all out referring to me but Mr. J. J. J. or M. J. J. might do so. I had issued definite orders to the D.C. the day after tomorrow!

Yours sincerely

F. C. Turner

C.

0 0

POSTS



TELEGRAPHS.

59

8

NOTICE.

This form must accompany any inquiry made respecting this Telegram.

Charges to pay.

Rs.

As.

Handed in at (Office of Origin).

Date.

Hour.

Minute.

Service Instructions.

Word.

TO

Recd. here at

15

M.

10

M



Subbulpore 18 14 - 22
 Commr Beral
 Amr asti
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 sixteenth government agrees
 action not required except
 in special circumstance
 = Chief Recyts

Confidential.

No. 138/I

S-10

9

Government of the Central Provinces.
Political and Military Department.

From

A. E. Mathias, Esquire, I.C.S.,
Chief Secretary to Government,
Central Provinces.

All Deputy Commissioners,
B e r a r.

Dated Nagpur, the 6th August 1923.

Sir,

I am directed to address you in continuation of my letter No. 102/I, dated the 9th July 1923, in which it was stated that no prosecution should be instituted in Berar for any offence under the Indian Penal Code, and to state that Government is advised that Section 108-A Indian Penal Code, as applied to Berar, will, having regard to the third ~~xxx~~ proviso to paragraph 1 of Notification 3510-I.B., dated the 3rd November 1913, make abetment in Berar of an offence to be committed in British India an offence under the Indian Penal Code as applied to Berar.

I have the honour to be,

Sir,

Your most obedient servant,

Sd/- A. E. Mathias

Chief Secretary.

No. 138-A/I dated Nagpur, the 6th August 1923.

Copy forwarded to the Commissioner Berar Division
for information.

A. E. Mathias
Chief Secretary.

C.P. Government Camp,

18th July 1923.

Confidential

My dear Turner,

Your d.o. of the 14th July, enclosing a d.o. from Smith in regard to the Satyagraha movement. The legal position stated by the Legal Remembrancer is as follows:-

"Having regard to Section 40 of the I.P.C. as applied to Berar, to be punishable in Berar a conspiracy to commit an offence must be one to commit an offence punishable under the Berar Code. An offence to be committed in Nagpur is not so punishable; neither, therefore, is a conspiracy in Berar to commit it".

Section 109 Criminal Procedure Code has to be applied with discretion and the Government agrees with you that it could not be suitably applied in the circumstances you relate. On the other hand, if a depot for Satyagraha recruits was established in any district in your division, it would be possible to apply Section 109 Cr. Procedure Code. As regards the legal position, so far as abetment in Berar of offences in British India is concerned, I will take the Legal Remembrancer's opinion and let you know later. I enclose a copy of the d.o. to Smith in reply to the direct d.o. reference from him.

Yours sincerely,

H. M. K. K.

To

F. C. Turner, Esquire, I.C.S.,
Commissioner Berar,

Amraoti.

Enc. 1.

C.P. Government Camp,

18th July 1923.

My dear Smith,

Your letter of 13th regarding the first two sentences of paragraph 2 of my letter No.102/I, dated the 9th July 1923.

2. The following is the ruling of the Legal Remembrancer on which this paragraph is based:-

"Having regard to Section 40 of the I.P.C., as applied to Berar, to be punishable in Berar a conspiracy to commit an offence must be one to commit an offence punishable under the Berar Code. An offence to be committed in Nagpur is not so punishable; neither, therefore, is a conspiracy in Berar to commit it."

In the circumstances referred to in your letter, Section 109 Criminal Procedure Code could not be applied with any reasonable prospect of success. If, however, a depot were established in your district, to which recruits for the Satyagraha movement were drafted from villages outside, Section 109 could be applied suitably. It is impossible to specify every case in which the section could be applied with success, and you will have to use your discretion; but it certainly could not be so applied in the circumstances which you describe.

Yours sincerely,

Sd/- A.E.Mathias.

To

A. K. Smith, Esquire, I.C.S.,
Deputy Commissioner,
Akola.

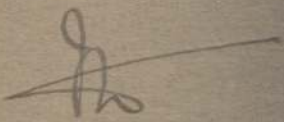
Confidential

MEMORANDUM.

5-13 12
Dated Amraoti Camp, the 21st July 1923.

Please see confidential letter No. 102/1, dated the 9th of July from the Chief Secretary to all Deputy Commissioners of Berar districts, para 2.

2. Please note that action under the letter i.e. under Section 109 of the Criminal Procedure Code should not be taken without reference to me.


Offg: Commissioner, Berar.

To

Deputy Commissioners

All (Berar)

514 13

Prisoners convicted in connection with the Nagpur flag agitation, whether convicted at Nagpur or elsewhere, should be released; but not those that may have been convicted for any local flag agitation as for instance the flag agitation at Jabbulpore. Prisoners convicted in connection with the Nagpur flag agitation, and who have since been sentenced under the Prisons Act for breach of jail discipline are not to be released.

The prisoners should be released in one batch so far as this can be arranged by the jail authorities. In any case they should be released before 6 P.M. on Monday, 3rd September.

No fares are to be paid to any prisoners for returning to their homes.

Fines realised should not be returned; and property attached for realisation of fines should be dealt with for recovering the fines. Fines not realised or for which no property has been attached, shall not be realised by process of law.

The local Government has decided under section 401, Criminal Procedure Code, to remit the unexpired terms of imprisonment and fines not yet recovered, as regards all prisoners convicted up to date in connection with the Nagpur flag agitation; but in cases where property has been attached, fines shall be realised from the said said property but not from any other property of the prisoners whose property is attached.

This remission includes persons who are suffering imprisonment for not giving security bonds under section 109, Criminal Procedure Code, in connection with Nagpur flag agitation.

Pending prosecutions in criminal courts in connection with this agitation are to be withdrawn.

Sd/- V.M. Joshi,
Home Member,
Governor's Executive Council.

2nd September 1923.

No. 1958-1121-V, dated Nagpur, the 3rd Sept. 1923.

Copy forwarded to all Commissioners of Divisions,
Deputy Commissioners

() For Central Provinces and Berar, (in continuation of my telegram, dated the 3rd September 1923).
District Magistrates only.

Guler
Under Secy for Rev Secy,
for Chief Secretary.

M.A.

5-15

Subject.	File No.	Year.	Section

Reference to previous cases.

Subject.	File No.	Year.	Section.
Maharashtra State			

