

Administration Of Justice In Bombay Under

The East India Company

Dr. R. SAJAN . H.O.D

M.A, B.Ed. L.L.B, Ph. D

P.G. Dept. of History

N.S.S.College, Manjeri, Malappuram

Ph.9400409641, 9497289368

lithusruthy@gmail.com

Abstract

This paper focuses the early administration of justice in Bombay. The judicial system in Bombay was designed primarily to administer justice to the English men. The charter of 1668 conferred full powers, privileges and jurisdiction on the company so that it could make laws, ordinances and constitutions for the good governance of the island. The judicial reforms of 1670 reorganized the old judicial set-up of Bombay. The Judicial Plan of 1672, declaring the introduction of English law in to the Bombay Presidency. A new period in the judicial history of Bombay began with the revival and inauguration of a Court of Judicature on 1718 by the Governor.

Keywords

Justice, Court, Colonial, Bombay, Law, Government, Governor, Company, Cases

About the end of the 15th century some people of European nations especially Portuguese, Dutch, French and English came to India as trading merchants. In 1498 Vasco de Gama, a Portuguese navigator discovered the passage to India around the Cape of Good Hope. He landed at Kapad near Calicut on the Malabar Coast. Reformation movement got inspiration to the protestant nations of Western Europe during the second half of 16th century began to compete for trade with India. The trade centers were first established by the Europeans in India when the power of the *Mughal* emperors was at its zenith. The conditions which prevailing in India, was suited to the purely commercial attitude of foreign traders in the 17th century. After the decline and disintegration of *Mughal* power in the 18th century, the nobles and chiefs were establishing separate kingdoms and on the basis of their increased strength the English and French companies began to take sides in the wars amongst the local kingdoms. Finally the English East India Company emerged victorious and dominated its area of influence and establishes its empire in India.

As it exists now, the Indian laws and law courts are closely modeled on the English establishment and pattern. The origin and

history of their introduction and development began with the foundation of the East India Company under crown's charter of 1600. The East India Company, with its official title as "The Governor and Company of Merchants of London trading into the East Indies" was incorporated in England on the 31st December 1600, by a Charter of Queen Elizabeth which settled its constitution, powers and privileges. The trading centers of the company were known as factories. For the trading purpose the factory was a subordinate unit of the Company. Later the trading activities assumed the character of settlements. As a result of the expansion of the trade under the shelter of the parent factory many new factories grew up and the parent factory came to be called presidency towns and the presidencies of Bombay Madras and Bengal came into existence. In the beginning a factory was a compact little nest of buildings which comprised of lodging of the chief, subordinates, were houses, godownes and offices. Later such factories were fortified and called settlements and it become the centers of territorial expansion.

James I granted a fresh charter to the company on 31st May 1609 which granted the privileges, powers and rights which were earlier granted to it by Queen Elizabeth under the charter of 1600. The company secured the first royal The charter of 1668 was a turning point in the history of English East India Company which assisted the

transition of the trading body into a territorial powers and also authorized the company to make laws, orders, ordinances and constitutions for the good government and empowered to establish courts of judicature similar to those established in Britain for the proper administration of justice. The Charter of 1683 granted by Charles II authorized the Company to raise military forces. In 1687 the company was authorized to establish a municipality and a Mayor's Court at Madras. The Company declares in 1687 in its dispatches, its determination to "establish such a policy of civil and military power and create and secure such large revenue as may be the foundation of a large, well-grounded, sure English dominion in India for all time to come".

During the reign of Emperor Jahangir, the English people came to India and settled at Surat in 1612 entrusted with these powers. Sir Thomas Roe was sent as an ambassador by James I to the *Mughal* emperor in 1615 under a royal firman the British were allowed to establish a factory at Surat. It was one of the most important centers of trade and commerce on the western coast of India.

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Gradually the power and strength of East India Company increased after the disintegration of the *Mughal* Empire and the company got it an opportunity to lay its foundations as colonial empire in India. Its policy changed from a trade monopoly to annexation. It was found that domination itself was a source of profit. In the initial stage it was in possession of three factories and settlements at Bombay, Madras and Calcutta under the changing conditions the company gradually exercised wider authority at Bombay, Madras and Calcutta.

The East India Company finally established the trading centers in India at Surat, Madras, Bombay and Calcutta by the end of the 17th century. For regulating the company's acquisition of territory and

administration of justice in India, various charters were gradually passed from time to time and it was an inevitable steps on the road that led to the foundation stone and setting up of the British domination and Empire in India. Francis Day acquired a piece of land from a Hindu Raja of Chandragiri in 1639 from the East India Company and he built the Fort St. George in 1640. The great historical work “Vestiges of Old Madras” written by Henry Davidson has given a detailed account of the administration of justice at the beginning of the company’s administration of Madras. Due to the non-availability of the old records no clear-cut and abstract picture of the early administration of justice is possible.

The Portuguese were the first European nation to acquire the island of Bombay in 1534 by cession from the king of Gujarat, *Sulthan* Bahadurshah. The Portuguese king transferred Charles II, as the dowry on the marriage of his sister with the British king. Alfonsus VI, the king of Portugal gave Bombay in dowry to the king of England Charles II, when the English king married his sister Princess Catherine in 1668. In 1668 he transferred Bombay to the company for a very nominal amount rent of ten pound. By the charter of 1668 authorized the company to legislate and to exercise judicial authority in the island of Bombay which make it clear that such laws should be consonant to reason and not repugnant or contrary to the laws of England and as

may be agreeable to the laws of England. Under this charter the system of courts and procedure was to be similar to that established and used in England .

In 1669, Sir George Oxenden, the president of Surat, visited the island of Bombay and establishes the executive government and the laws enacted by the company under the charter of 1668 actually came into force for the government of Bombay . Gerald Aungier, the governor of Surat initiated the first important legislative work of the company in 1670 . He completely reorganized the old judicial set-up of Bombay. Impartial administration of justice, fair trial and convictions, trial by jury, establishment of court of judicature and right of appeal were some of the peculiarities of this new system. He improved the judicial system of Bombay gradually with much difficulty.

In the year 1672 a new judicial plan was introduced in which the English law was introduced into Bombay. The court of judicature, a new central court was established in 1792. In his inaugural address the governor Aungier enunciated the principles of independence, impartiality and equality for the future guidance of the judiciary. He remarked “Laws though in themselves never so wise and pious are but a dead letter and of little force except there be a due and impartial execution of them .”Speedy and impartial administration of justice was

the primarily concern of Anguir. Regarding “injudicious interference with the court by the council” Keith observes, “It seems probable that the chief weakness of the court lay in the fact that the judge was dependent on the goodwill of the Council .

In 1690, due to the invasion of Siddi Yakub, Admiral of the *Mughal* emperor, the judicial system of Bombay came to an end. For a period of 1690 to 1702 there were no courts. Governor and Council requested to the directors of the company to sent honest lawyers. As Vachha observed, “It was probably the difficulty of getting the right sort of men from the company’s standpoint, which resulted in no judge being sent out”. The result was that the machinery to administer justice was almost paralyzed in Bombay up to 1718.

The inauguration of a new court of judicature in 1718 was a turning point in the judicial history of Bombay. It had given wide powers and it exercised jurisdiction over all civil and criminal cases and also it guaranteed rule of law, equity and good conscience. It was famous for its speedy justice, impartiality and also for the cheapness of its process which was clearly mentioned in the earlier studies of Fawcett and Malabari .

The court applied English law which was vague and underdeveloped at that time. As a result this vagueness and uncertainty was bound to lead to injustice and lack of uniformity in punishing the criminals. Fawcett has described the trial of Rama Kamti, who was made the target of a plot based on lies and forgeries and grave injustice was done to Rama Kamti by the court. The case of Rama Kamati shows the dark side of the system of law and justice prevailing in Bombay at the time. This was clear-cut examples of the poor state of judicial and executive affairs.

The Court of 1726 by providing for trial by jury introduced in India a very important English ideal. All the members of the court of 1718 were also members of the Governors Council. This state of affair continued up to 1728. Under the charter of 1726 the mayor's court was established at Bombay in 1728 which replaced the old court of 1718.

Fawcett's concluding remarks was that: "The court though its administration of justice was rough and ready and though it fell short of the ideals that attended its establishment in Aungier's time clearly served a useful purpose during the ten years of its renewed existence." Such a rough and crude so-called justice continued till the Mayor's courts. With the battle of Plassey in 1757 the real authority of the *Nawabs* of Bengal passed to the English Company. In 1765, the *Diwani*

of Bengal, Bihar and Orissa was granted to the company by Shah Alam who was the puppet *Mughal* Emperor. This should be regarded as a turning point in the history of the company. In the year 1765, the period of the territorial sovereignty by the company began . Though the *Diwani* function was to be performed by it as a deputy of the emperor, its main object which was “to obtain the substance, though not the name of territorial power under the fiction of a grant from the *Mughal* Emperor.” was achieved.

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