

Chapter 20

Armar Cesses.

Another subject, which was closely related to the questions of admiralty jurisdiction and Port and Salt rights was of financial-cum-jurisdictional nature and was known as the Armar Cesses.

Four Major Heads.

The cesses levied under this head by the Baroda State on the shipping anchoring in the rivers Purna, Ambika and ~~Man~~wasara (these rivers are in Surat and Navsari districts)* comprised the fees under the following heads.

- 1) "Walawa" or convey fees.
- 2) "Kol" or pass fees.
- 3) "Chhaya" or Baithak or rent for ground etc. occupied by vessels laid up on the beach.
- 4) Other small items.

These taxes were levied by the Gaekwad both in British and Baroda Waters and on British Baroda and other shipping.

It had been abundantly proved that they had been levied for several years, probably for more than half a century and that too with the cognisance of the British Government and its officers.

- 1) Sir R. Arbuthnot, Agent for the Governor Surat declared in 1845 that the Gaekwad was entitled by prescription to levy the duties. (Vide letter No. 57 dated 26-3-45 Para 6 of Mr. Melvill's Report dated 27-11-1878)

*Residency File No. 569.

- 2) The Government of Bombay declared them to be "the undoubted rights of His Highness the Gaekwar" (No. 3559 dated 18-9-56)*
- 3) The Court of Directors confirmed this (No. 11 dated 12-5-48)
- 4) The Bombay Government again admitted the right in 1852 (No. 1827 dated 28-4-52).
- 5) Once more and in still stronger terms in 1867 the Government of Bombay declared "that the Gaekwad has by prescription the right of levying certain dues on boats frequenting the Navsari Creek whether in Gaekwad or in British Territory. (No. 2801 dated 5-9-67).
- 6) And this was reaffirmed in 1870 in Resolution No. 708 dated 3-3-70%

So it could be seen that it was Bombay Government who repeatedly recognised the Gaekwad's right and still tried to pass by its own pronouncements and thus created the anomalous position for itself as well as for the Gaekwad's Government.

Melvill's letter of 27th November 1878.

The perusal of the record on this subject will show that the substance of all the correspondence of any importance is contained in Mr. Melvill's letter of the 27th November 1878 to the Bombay Government and the precis attached to it.

In this letter Mr. Melvill framed 4 issues (Para 3) @

- 1) The nature of the right claimed and whether the right to levy dues was restricted to Navsari and Billimora and whether it extended to ships beached or anchored in British territory to which the right extends.

- 2) Whether the Gaekwar has or has not the power to levy the taxes by direct action within British territory.
- 3) The names and rates of taxes which it is within the rights of the Gaekwar to levy.
- 4) The arrangement that should be adopted either for commuting or regulating the levy of the said taxes after reviewing the evidence on both sides.

Mr. Melvill came to the following conclusions:-

- (1) That the Gaekwad's right does not extend to the Balsar district but is a right to levy certain fees on vessels anchoring at Billimora and Navsari and the fifteen ports (seven of which were British Ports) subordinate to them, in the Purna, Ambica and Mawasa rivers or on the open coast of the Gaekwad in the Talavi-Maroli pergunah and that there is no distinction in the exercise of this right between ships owned or worked by British or Gaekwad subjects. (Para 20) *
- (2) That refund should be made in the case of fees levied from Balsar District on production of receipts (Para 21)*
- (3) That the Gaekwar's right to levy the cesses by direct action within British territory is not proved (Para 42)%
- (4) That the Gaekwar should be limited to the particular kind of cesses specified by him in 1848 (Paras 46-47)@
- (5) That the rates to be levied in future should be defined (Para 49)@
- (6) Suggestions for the course to be adopted in future in regard to the realization of the dues. (Para 23) £

*H.P.O. Printed Papers	P.6
% "	" P.10
@ "	" P.11
£ "	" P.12

In reply to Mr. Melvill's letter came Government Resolution No. 5348 dated 4-10- 79. But the previous Resolution of the Bombay Government of 1870, above referred to distinctly declared that the rights of the Gaekwad to levy the dues whether in British or Baroda territory have been recognised by Government and that the only basis on "which Government would be justified in negotiating for its surrender is that of granting equitable compensation."

I

Cause of the Dispute.

In 1873*, however, matters changed. Mr. Hope was the Collector of Surat and Col. Phayre Resident at Baroda. The former informed the Resident that he was not aware of the levy having been sanctioned by Government (Vide his letter No. 1405 dated 27-5-73) and asked for the circumstances under which the cess was first levied. Col. Phayre entered into correspondence with the Darbar who stated that the cess was levied from the remotest period and the British authorities knew of it. The matter was referred to the British Government who "carefully refrained from expressing any opinion on the subject whatever."

Soon after Sir L. Pelly assumed charge of the Residency. The Government of Bombay sent him a copy of the letter from the Commissioner, northern Division protesting against the levy by the Gaekwad and with reference to the tax called "Wallawa" (Bombay Government letter No. 7164 dated 16-12-74)* wherein the Commissioner distinctly admitted that it was of the nature of 'Tora Giras' and on the analogy of the Mandvi Tora Giras, which the Gaekwad refused at the time to pay suggested a "retaliation" and recommended that the levy should not be allowed. It is important to remember this.

*Residency File No. 569

Bombay Government's Resolution.

This was how the dispute commenced. Sir Madhav Rao later on, reported on it and Mr. Melvill in an elaborate letter place all the facts of the case before the Bombay Government and the result was the October 1879 Resolution of the Government, the reference to which has been made above. The main aspects, when briefly stated, of this resolution were these:-

(1) "Wallawa" was originally levied in return for protection against pirates. But as no such protection is now afforded the levy is no longer legitimate.

(2) "Kol" or pass fee cannot be considered a legitimate import on ships belonging to British subjects or sailing in British waters.

(3) "Chhayvni" or rent cannot be claimed by Baroda on vessels beached in British territory.

(4) The other dues are small exactions added to the above and must therefore, be rejected on the same grounds and finally,

(5) That it has been conclusively shown that the rights claimed by the Gaekwad do not exist, and being nonexistent, no compensation can be claimed. *

And finally they did not agree to Mr. Melvill's suggestion but proposed that the port dues which were abolished in 1869 should be reimposed at all the ports of the Purna, Ambika and Mewasa rivers.

And the Bombay Government offered to collect port dues themselves and pay half to Baroda, on condition that the Darbar abolished the ~~armaria~~ cesses of all kind on those rivers. When asked

what the collections in 1869 amounted to, the Bombay Government replied in their letter dated 18-2-80 that the net proceeds amounted to Rs. 67-8-0 , and that the collections were made at Billimora, Navsari, Tavdi Delhwara and Vansi on the above rivers.

It will be interesting to note here that the average annual realisations of these levies was given for the ten years ending 1849 as Rs. 7955 by Mr. Hibbert the Deputy Collector of Customs in detail and this was before the Government of Bombay when it passed the Resolution under advertence.

Darbar's refusal to agree to compensation offered.

The Darbar naturally, therefore, did not agree with the suggestion that Bombay Government may be authorised to collect the fees and give half the share to Baroda. The Baroda Government repeated their arguments as to their rights and gave a statement of their realisations for ten years ending 1879-80 which amounted to some Rs. 8000 and odd and asked that compensation on that basis should be given to them. A faint allusion was made by the Darbar to their levy of customs duties in British territories to show that however anomalous it might appear for Baroda to levy these dues in British territory, yet there was the precedent of the customs duties.

Mr. Melvill on sending on Sir Madhav Rao's letter repeated that there was no difference between the Mandvi Tora Giras which Baroda paid to the British Government and the Wallawa fee now objected to on the ground that no protection was rendered.

However, the Bombay Government declined to accede to his request

and on 31st May 1881* held out the threat of removing the British customs houses then in Baroda Territory at Navsari and Billinora to British territory in order to obviate aggressions by the Gaekwad farmers on British subjects. They further declined to afford any assistance in recovering these dues ~~if~~ if the Darbar refused to accept the offer above made. They, however, proposed to hand over the whole of the net proceeds of port dues collection instead of half upto a maximum of Rs. 1000. This had been refused by the Minister and in his letter showed, moreover, that the amount realised by these cesses stood at Rs. 9000 and odd. Sir Madhav Rao also demanded that the question be referred to the Government of India for final consideration.

It seemed, nevertheless, that the chief question and the one in which British Government was most interested was the levy by the Gaekwad of these cesses on the British boats and from British subjects in British territory.

Merits of the case.

We may now enter into the merits of this case.

(1) Nothing more can be said of the attitude of the Bombay Government which is too self-evident. They had lent their consistent support to the rights of Baroda from 1845 to 1874, upto the time Baroda was under the control of the British Government. Their sudden change of attitude after that could only excite astonishment. Mr. Melvill had already pointed out their previous attitude, but it apparently had -----evoked no active or definite response.

(2) The next important feature in the case was the analogy of the "Wallawa" levy to the Mandvi Tora Giras. There had been considerable difference of opinion on this analogy among the British officials themselves. While on the one hand the Commissioner of N.D. who was responsible in commencing the dispute in 1892 distinctly admitted it and had actually suggested a stoppage of the levy of these cesses by the Gaekwad as a retaliation, if the Gaekwad refused to pay the Mandvi Tora Giras. Since then the Government of India decided that the Mandvi Tora Giras must be paid to the British Government notwithstanding its origin which was a payment to secure the forbearance of the recipient from plunder etc. One of the notes on the subject by the Head clerk of the Baroda Residency Mr. J.A. Reit thought that the British Government had treated this analogy with utmost indifference. Mr. Melvill also compared the levy of "Wallawa" with Mandvi Tora Giras and saw justification in Sir Madhav Rao's stand that if the right of Gaekwad to these levies were not accepted by the British Government, the latter Government as well cannot demand Mandvi Tora Giras from Baroda Government. But at the same time two very strong opinions were recorded one by Capt. G.E.H. Cates, Asstt. Agent to the Governor General at Baroda and another by the Agent to the Governor General Col. E.S. Reynolds himself in 1892. Mr. Cates wrote:-

*"Tora Giras is ~~tax~~ blackmail paid for abstinence from plunder, also for protection and assistance and the opportunity, so to speak, for plunder still exists but instead the British Government affords protection, maintains peace and order and while abstaining from plunder prevents others from doing so.

"Wallawa on the other hand was a fee paid on account of the protection afforded by the warships of the Gaekwad to trading

vessels against pirates. Such a fee was a very legitimate and proper impost and one which any Government could demand. In fact it does not strike one quite as being "black mail". Anyhow in return for this fee nothing now is done or could be done if necessity arose, because the Gaekwad has not the means of carrying out his contract to protect traders if necessity arose. On the other hand the British Government does do and has the means of doing something in return for the "Tora Giras."

Col. E.S. Reynold's remarks throw even greater light on the nature of Vol or Tora Giras, so well known in Gujarat. He speaks:-

*"Vol or Tora Giras is described by Mr. Melvill as a system of Black Mail, established by the predatory Girassias and not infrequently the superior chiefs, which they levied from villages exposed to their incursions; and it has been defined by the Hon'ble Mount Sturt Elphinstone to be "a sum paid to a powerful neighbour or turbulent inhabitant of the village as the price of forbearance protection or assistance." X X X

"It was generally a payment in order to induce Girassias to become industrious. Now it is clear that pass fees - (Kol) and beaching fees (Chavni) have no connection or analogy with any kind of blackmail. They are fees for leaving port and rent for the use of the ground on which vessels are beached. It is however probable that Wallawas being the fees paid to the Gaekwad for the protection and assistance afforded by his warships has erroneously been supposed to partake of that nature - a failure to correctly interpret the terms of Mr. Elphinstone's definition in which the words "protection" and "assistance" occur may have brought the

confusion which has given rise to this erroneous supposition. A little consideration, however, will at once show the difference between Wallawa and Tora Giras and prove conclusively that the two systems are not only distinct from, but diametrically opposed to each other. "Tora Giras as above stated is a sum paid to a turbulent individual or predatory community in consideration of their abstaining from plunder and ~~xxx~~ affording instead protection and assistance. This payment was also occasionally commuted into lands in order to induce the Girassias to become industrious. It was in other words the policy of establishing and maintaining friendly relations with troublesome or dangerous people; and eventually of endeavouring to wean them from habits of plunder and lawlessness, by inducing them to adopt peaceful and especially agricultural pursuits. "Wallawa" on the contrary was a sum not paid to pirates themselves, but to a constituted authority, who by the aid of these fees maintained a fleet for their repression. The practice of levying and paying such a cess was the pursuance of what is essentially a system of coercion entirely distinct from the policy adopted towards the turbulent Girassias, which was as above shown, of amicable and peaceful nature. It is clear, therefore, that no similarity or analogy exists between the Wallawa cess and the Tora Giras, and the argument founded on the supposed similarity must, therefore, fall to the ground."

Commenting further particularly on the Mandvi Tora Giras with which the analogy of 'Wallawa' was thought to exist he said:

*"Mr. Melvill in his 'Memorandum on Giras Rights in Baroda' para 5

that the changes produced by time, by the more careful definition of territorial limits and by the increased attention given to questions of jurisdiction have made the levy of these cesses by direct action every year more difficult, with no power to seize or detain defaulters it is probable that of late years the Darbar has been able to realise but a slight revenue from this source, so far as the fees formerly leviable within British Jurisdiction are concerned and we know from the correspondence that the Baroda farmers, on more than one occasion, asked the assistance of the British revenue authorities to enable them to make their collections. Just as the right grew up under one set of circumstances, so it has delayed and waned feeble under a constantly changing and now entirely altered state of affairs, until as above said it is exceedingly doubtful if the amount contributed by British subjects is of any real importance to the Baroda State."

Such strong views as expressed by these two officers made the ground of analogy put forth by the State very feeble and the ^{Bombay} ~~Bombay~~ Government's hands were strengthened.

(3) The third important point was the oft repeated statement as to the anomaly of the Gaekwad levying such dues in British territory. Though the history of similar matters could very well show that in reality there was no such anomaly or if there was its repetition in cognate matters made it a common and accepted practice. The Bombay Government was not prepared to accept this in this question.

(4) Another point which invited serious consideration was this. The duties levied by the Gaekwad had been continually increasing from an annual average of Rs. 7955 in 1849 to Rs. 8619 in 1879-80 and to Rs. 9317

in 1884-85 and this in face of the opening by the British Government of the port of Matwar which stood at the head of the Navsari Creek and which was intended to destroy the chances of Baroda realising any duties at Navsari or at least of reducing the number of shipping going to that port.

(5) The fifth and last issue was that of compensation. Even so strong a note of Col. Reynolds against the levies of such kind, accepts a defacto position that however acquired and of what ever tripling importance it may really be, a right has been created and it is moreover, one of which the Darbar is exceedingly tenacious. The amount of compensation offered viz. Rs. 67-8-0 to forego Rs. 9317 was too insignificant to be at all seriously considered. Mr. Melvill had suggested that Rs. 4000/- may equitably be accepted as a commutation of this right but the Bombay Government were not prepared at that time to reconsider their decision.

While judging the issue of compensation one important fact should also be taken into consideration that the ship masters who paid these duties had never complained against Gaekwad and one is struck by the absence of any such general or continuous complaint on the perusal of records on the subject, which, however appear to have been made spasmodically.

Any how we will have to satisfy ourselves with only noting the merit of this case as the last letter which was written by E.S. Reynolds on 20th April 1892 was never replied to by the Bombay Government till 1920.