Chapter – VI

Judicial Commissioner
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JUDICIAL COMMISSIONER

Every administration had three wings – Executive, Legislature and Judiciary. The Company administrators had vested all the three together. Thomas Munro was elevated to the position of Judicial Commissioner, the powerful rank in the Company’s administration through his quality, which is justified in this chapter.

The celebrated Fifth Report of the Committee of the House of Commons, published in 1813, drew the public attention to the administration of justice and police in India. In both Bengal and Madras there were complaints of great delay in the disposal of civil suits and the non-repression of crime.¹

These defects were due to the fact that the judges of a district were also a Magistrate, and though a stationary officer, was invested with the superintendence of the police. The salaries of the native judges were too small to command either efficiency or integrity, and their number too limited to dispose of the litigation that naturally ensued on a settled government.²

He was much consulted by the government and the court of directors on the various administrative questions which came under discussion in connection with the passing of the company’s Charter Act of 1813.³ The evidence given by him before the House of commons produced a most favourable impression. His services on the occasion have thus recorded.

The court of directors recognized his services by giving him the appointment of president of a special commission to inquire into and reform the judicial system in the Presidencies of Bengal and Madras.

² Ibid.
Munro returned to India in 1814, a quick voyage of sixteen weeks. He had married just before returning to India after his long period of bachelorhood. The then governor of Madras, Mr. Huge Elliot who had assumed charge on the same day as Munro landed.

He was the head of the revenue and judicial department of the Board of control with instructions to reform the judicial and police system. Mr. Stratton one of the judges of the chief court of appeal was associated with him on the commission. In 1815 he was promoted to full colonel, while instituting civil reforms in the Madras region.

He returned to Madras for the revision of the Madras judicial system at St. Fort. George on 16th September 1814. He started inquiry into the judicial administration of the eastern dominions, for which his vigorous and comprehensive understanding. His long and extensive experience and his habits of laborious research rendered him peculiarly qualified notwithstanding the opposition he had to encounter in the course of his work on the judicial commission. The new regulations framed by the commission were eventually passed into law.

Munro’s share of the task has been recorded. They are a monument not only of Munro’s force of character in accomplishing his object against the most powerful opposition but of his high administrative ability and statesman like views.

The changes made were all in the direction of a more efficient and at the same time, a simpler system of administration. In 1816 a series of regulations were passed involving organic changes in the judicial and police department of the administration.

The most important of the changes effected by the new regulations transferred the superintendence of police, the functions of the magistrate of the district, from the judge to the collector. The hereditary village officials were to be employed mainly as police and

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4 Arbuthnot. A.J. Sir Thomas Munro, Selections from his Minutes and other official Writings Vol. London 1881.381.
5 Mukherjee. N. The Ryotwari system in Madras,(1792-1827),Calcutta. 1962.95
7 Selection of papers from the Records at the East India House Relating to Revenue, Police and Civil and Criminal Justice under the Company Government in India Vol.II. 1820-1826, 239. TNAC.
the headman of villages to hear petty suits. The simplification of the rules of practice in the courts, the system of village and district courts of arbitration were legalized, in which Munro attached much importance as being adopted to habits and usages.\textsuperscript{8}

The Madras judicature was to be modified by transferring police and general magisterial responsibilities from the judges of the district courts to collectors and by greatly enlarging the role of Indians in the judication of minor cases. These changes would displace the powerful judicial officialdom of the presidency represented most authoritatively by the judges of the Sadr Adalat Court.\textsuperscript{9}

The change in law, police and revenue administration that Munro was charged by the directors to bring to pass pertained to the relationship between the metropolitan state in England and the colonial regime in India. At the same time the Board of control, under the energetic Lord Buckinghamshire, had shifted the balance of power in decision-making for India from the Court of Directors to the ruling British Ministry.\textsuperscript{10}

Before the death of Buckinghamshire in February 1816, Munro could expect, and did receive support for his approach to law and police changes from the Board of control. This is documented in the stream of letters which he received from James Cumming and John Sullivan in London.\textsuperscript{11} Those from the latter were transmitted through Sullivan’s son John a confidant and colleague of Munro in Madras.

In the basic relationship between the Company’s Indian territories and superior authority in England, those in a position to influence the shape of colonial regimes of India. Munro had a degree of freedom and support denied to many of his predecessors in India during the first two years as Judicial Commissioner.\textsuperscript{12}

\begin{thebibliography}{99}
\bibitem{8} The Fifth Report from the Select Committee of the House of Commons on the Affairs of the East India Company, 28\textsuperscript{th} July 1812, Vol.III.501, TNAC.
\bibitem{9} Ibid.
\bibitem{10} Selection of Papers from the Records at the East-India House Relating to Revenue, Police and Civil and Criminal Justice under the Company’s Governments in India. London 1820-1826, 781, TNAC.
\bibitem{11} Wilson, H.H. \textit{A Glossary of Judicial and Revenue Terms Relating to the Administration of British India}, London, 1855, 275.
\bibitem{12} The Fifth Report from the Select Committee of the House of Commons on the Affairs of the East India Company, 28\textsuperscript{th} July 1812, 501, TNAC.
\end{thebibliography}
The long judicial letter of 29th April was primarily concerned with the civil Judicature of Madras and with police administration. The directors declared to the Madras government that they were motivated by a careful examination of official records and by a determination to reduce judicial and police charges.

While this to be a commission to investigate and recommend the best way of implementing their instructions to the Madras government. All of Munro’s report as judicial Commissioner was ordered to be sent immediately to the directors.\(^\text{13}\)

This authority from the supervision by the court of Directors, Munro and his colleague Commissioner George Stratton, were finally promulgated as law by the governor, Huge Elliot. These regulations provided first, for the transfer of police and magisterial duties from Zillah Court judges to Collectors.\(^\text{14}\)

The other regulations provided for the appointment of village Munshiffs from among village headman to hear minor cases to convene village panchyats. The appointment of native district judges to hear more serious minor cases and to convene district panchyats.

When Munro drafted the orders creating his own commission of his proposed regulations to David Hill, Chief Secretary to the Madras government. He confidently divided the subjects into two categories. One consisting of measures which the Madras government, in consultation with leading judges could accept modify or reject. The other pertaining to all those on which the order was imperative and no discretion was left with government.\(^\text{15}\)

On the completion of this work, when the outbreak of the second Maratha War led to Munro’s reemployment for a time in military capacity. Operations had commenced against the Marathas and the Pindaris. Munro had asked for the control of subsidiary force of Hyderabad and Nagpur.


\(^{14}\) Gleig, G.R. *The Life and Correspondence of Major General Sir Thomas Munro*. Vol.II. London. 1830. 424.

He received his appointment to the Commissionership of the southern Maratha country, which had been recently ceded by the Peshwa. This was purely civil appointment. Munro could not refrain from expressing his annoyance in these terms. At the same time he accepted the situation loyally.16

His patience was at last rewarded and he was given a command as Brigadier of the division of the army to reduce the southern Maratha country.17 The confidence and good will of the people which he had won during the short period of his civil administration was now to stand him in good stead.

Thomas Munro adorned the position of district collector and Judicial Commissioner. After summarizing his talent, the next chapter focuses on his role as a governor of the largest presidency in India- the Madras presidency.