

THE ORIGIN AND DEVELOPMENT OF MAYOR'S COURT

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ABSTRACT:

Mayor court was established under charter 1687 and 1726 both have different aspects. The charter of 1600 permitted constrained administrative power on the organisation to makes laws, statute and so forth.. These laws were to be sensible and ought not be opposite or disgusting to the laws, statutes or traditions of England.The organisation was permitted to attempt devotion cases and could force fines and detainment.. The organisation had no energy to manage capital offences and to grant capital disciplines (capital punishment and life detainment). The organisation was denied with forces to control capital offences like murder, revolt and so on. On higher courts in charter 1726 granted the Judicial force to the organisation to make laws, to rebuff workers and so on with the goal that the working of organisation does not stop and friends does not confront misfortunes.To keep up train among its workers, the Crown issued Royal Commission to execute military law. Under 1726 it is applied all presidency towns and only civil jurisdiction is applicable.

KEYWORDS: Presidency, Crown, Courts, Aldermen, Mayor

INTRODUCTION:

In the year 1746, The French gained the power of Madras Presidency. As a result of this Madras Corporation which was made after the sanction of 1726 was stopped to function. In the year 1749 Again British gained the power of Madras. To build up again Madras partnership King

George II again issued another contract on the eighth January, 1753 the organization authorities used this shot and endeavored to expel every one of the inconveniences of the contract of 1726.

The new sanction of 1753 was made appropriate to all the 3 Presidency Towns. New contract changed the technique for arrangement of Mayor and Aldermen. Governor and Council got the ability to name the Aldermen. With respect to of the Mayor, the enterprise chose the names of 2 individuals and Governor and Council chose one of them as the Mayor consistently, along these lines Mayor turned into the making of the Governor and Council. This path Mayor and also Aldermen turned into the chosen one of Government. And Government gained the full power of Corporation This way Government got the ability to delegate the judge of the Mayor's Court and evacuate him likewise in the event that he ignored the Government or Governor. Chairman's court lost all the self-governance and freedom, and wound up auxiliary in nature. The court was permitted to hear the Indian cases just if both local Indian gathering gs concurred and presented the case to the Mayor's court. The modernization of antiquated Indian law occurred in the hand of the British individuals who came in India as an exchanging organization under a progression of Royal Charters. The pace of the advancement of the organization of equity in British India might be isolated into following four periods:

- a. Early Administration of Justice until the Charter of 1726;
- b. Organisation of Justice from the Charter of 1726 till the Regulating Act of 1773;
- c. Organisation of Justice from the Regulating Act of 1773 till the time of Unification in 1861; and
- d. From 1861 till the Independence in 1947.

The main aim of my study is to analyse the functions of Mayor Court, to analyse the changes brought by the mayor Court in the society and to bring the merits and demerits of the Mayor Court

MATERIALS AND METHODS:

This research paper is based on doctrinal method. The sources used are secondary like book, article, journal and web sources.

COMMON ADMINISTRATION AND ESTABLISHMENT OF MAYOR'S COURT IN PRESIDENCY TOWNS:

The Mayor and nine Aldermen of every Corporation framed a Court of Record which was known as the 'Leader's Court'. It was enabled to choose all the common cases inside the Presidency town and the industrial facilities subordinate thereto. The Mayor together with two other English Aldermen framed the majority. The Court likewise practiced testamentary ward. It could allow probates of will and Letters of Administration if there should be an occurrence of intestacy. The Court was to hold its sitting not in excess of three times each week. An interest from the choice of the Mayor's Court lay to the Governor and Council. Be that as it may, in cases including the estimation of-opic over 1,000 pagodas, a further interest lay to the King-in-Council.

Being a Court of Record, the Mayor's Court could rebuff people for its disdain. The procedure of the Court was to be executed by the Sheriffs, the lesser individuals from the court who were at first assigned however therefore picked yearly by the Governor and Council. There was no particular say in the Charter of 1726 with regards to the law which was to be appropriate in the Mayor's Court yet since the prior Charter of 1661 gave that equity was to be managed as per the English law, it was assumed that a similar law was to be trailed by the Mayor's Court in choosing the cases.

Common and Criminal locale—The Mayor and Aldermen constituted a common court, while the Mayor and three senior Aldermen were Justices of Peace having criminal purview. The Mayor and two Aldermen shaped the majority. The Court held its sitting just once in a fortnight and chose criminal cases with the assistance of jury. The Court could grant the sentence of detainment or fine. Offers from the choices of the Mayor's Court lay to the Admiralty Court in facilitate the estimation of the common case surpassed three pagodas, and in criminal cases, where the guilty party was condemned to death or loss of appendage.

Court of Record—The Mayor's court constituted a Court of Records since a Recorder was additionally appended to the Court. As every one of the individuals from the Mayor's Court were lay people without mastery In law. it administered equity "in a synopsis way as indicated by value, equity and great still, small voice" and law authorised by the Company. Clearly, this will undoubtedly come about into vulnerability and absence of consistency in laws.

To provide the administrations of a man having legitimate information, the Company designated Sir John Biggs, the Judge-Advocate of the Admiralty Court, as the Recorder of Mayor's Court in 1688. This arrangement of Sir John Biggs as a Recorder of the Mayor's court made an inconsistency in light of the fact that as a Judge-Advocate of the Admiralty Court, he additionally heard interests from the Mayor's Court, with which he was related as a Judge. Be that as it may, this oddity did not keep going since a long time ago Sir John Biggs kicked the bucket in 1689, and from that point, the Company did not select any Recorder in the Mayor's Court.

MAYOR'S COURT IN 1687 and 1726 :

Before 1726 there were diverse legal frameworks working in the British Settlement, which were expanded in number by 1726. Therefore the hirelings of the many, working at such unique settlements were liable to various arrangements of courts. There was, hence an absence of consistency in the British settlements, for a similar offence which involve unique and once in a while Contrary Penal Consequence. There was additionally another factor which constrained the Company to have a uniform law.

There were very vital recognising highlight between the Company's Mayer's Court and the Crown's Mayor's Courts built up under the Charter of 126. The principle contrasts are given underneath,

(1) the Mayor's Court under the Charter of 1687 was made by the Company while the Mayor's Courts under the Charter of 1726 drew their energy straightforwardly from the Crown. Along these lines the last were on a predominant balance than the previous

(2) The Charter of 1687 made just a single Mayor's Court at Madras, it didn't contact the legal framework winning in different settlements, administrations under the Company. The Charter of 1726 made Mayor' Courts at all the three administrations that is Madras, Calcutta and Bombay consequently, out of the blue, building up a uniform legal framework.

(3) The Mayor's Court built up under the Charter of 1687 appreciated both common and criminal ward. While the chairman's courts set up under the Charter of 1726 leader's Courts set up under the Charter of (were given ward in common issues including testamentary and probate of wills locale, Criminal issues were left to be chosen by am inside the purview of, Governor-in-Council which went about as a court I such issues.

(4) The Charter of 1726 made, out of the blue, an arrangement for a moment request to the King-in-Council which turned into a forerunner of the Privy Council later on. Therefore under this Charter, the main interest could be recorded before the Governor-in-Council and the second (despite the fact that now and again) offer could be taken to the King-in-Council in England. The Charter of 1687 did not make such arrangement. The interest from the Mayor's court could be documented under the steady gaze of the Admiralty Court.

(5) The Mayor's Court built up under the Charter of 1687 made an arrangement for the portrayal of the locals on the court. The Crown's Mayors Courts did not have any such portrayal, however there was an arrangement I for the same in the Charter of 1726.

(6) No uncertainty, the Crown's Mayor's Courts set up under the contract of 1726 were unquestionably unrivalled courts so far as their status is concerned, yet in strict legal and legitimate way, the Company's Mayor's Court was better prepared, for there was an arrangement for a legal counselor part who was to be known as the Recorder. The Charter of 1726 despite the fact that it implied to enhance the legal framework in India, did not make any such arrangement. . Hence the Courts set up in 1726 were for the most part made out of Company's government workers who did not have adequate involvement in lawful issues.

(7) There was yet another imperative qualification between the two Mayor's Courts. The Company's Mayor Court developed its own method and apportioned equity as per the standards of presence of mind, value and great inner voice. It dodged the complicated procedural details. Yet, the Charter of 1726 which brought the British laws into India brought all the legitimate details of the British Courts of law. In this manner the whole extent of British laws and its strategy were foisted on the Courts built up under the Charter of 1726.

(8) The Charter of 1726, as it were, got rid of the idea of partition between the official and the legal in criminal issues. The Governor-in-Council went about as the criminal court while the Mayor's Courts taken care of just the common issues and testamentary and probate of wills cases. Then again, the Mayor's Court at Madras was contributed with energy to deal with all polite and criminal issues and bids from its choices went to the Admiralty Court instead of the Governor-in-Council.

The Charter of 1726 likewise constituted a Mayor's Court for every one of the administration towns comprising of a Mayor and nine Aldermen. Three of them i.e., the Mayor or senior Alderman together with two other Aldermen were required to be available to frame the majority of the Court. The Mayor's Courts were proclaimed to be available to fan the majority of the Court. The Mayor's Courts were announced to be Courts of record and were approved to attempt, hear and decide every single common activity and supplications amongst gathering and gathering. The Court was likewise allowed testamentary locale id energy to issue letters of organization to the legitimate beneficiary of the expired individual. It was approved to practice its purview over all people living in the administration possess and working in the Company's subordinate production lines.

Advances from choices of Mayor's Court were documented in the Court of Governor and Council. A moment claim in cases including 1000 pagodas or more could be made to lord in-chamber in England. The court of Governor and Council additionally chose criminal cases.

CORRELATION BETWEEN THE 2 MAYOR COURT

Apart from the clear similitude of names there was a tremendous distinction between the two Charters. The fundamental contrasts might be specified as under:

1. The Charter of 1687 connected to Madras just while the Charter of 1726 connected to all the three Presidencies.
2. The Mayor's Court built up under the Charter of 1726 had the ward in Civil issues just notwithstanding its testamentary and probate purview, while the court under the Charter of 1687 had the locale in criminal issues moreover.

3. Appeals against the judgments of the Mayor's Court under the Charter of 1687 went to the Court of Admiralty while from the Mayor's Court under the Charter of 1726, to the King-in-Council.
4. The Mayor's Court of 1687 was a Court of the Company while the court built up under the Charter of 1726 was the Court of the Crown.
5. The Mayor's Court under the Charter of 1687 was better in one regard that it had a legal counselor part called Recorder while in the Court under Charter of 1726 there was no arrangement for any attorney part.
6. In procedural issues, the court under the Charter of 1726 needed to watch the details of the courts in England while the Court under Charter of 1687 was guided by its own particular strategy of comfort.
7. In the Court under Charter of 1687 there was great portrayal of Indians while under the Charter of 1726 notwithstanding the arrangement for two Indian individuals none was ever delegated practically speaking.
8. Under the Charter of 1726 the criminal locale was totally relegated to the official, i.e., the Governor and Council, while under the prior Charter it had a place with the Mayor's Court and the Admiralty Court
9. The Charter of 1687 being a Company's Charter, the Mayor's Court of Madras set up under it was a Company's Court while the new Mayor's Court under the Royal Charter of 1726 was a Crown Court.
10. The prior Charter of 1687 presented both, common and criminal purview on the Mayor's Court yet the new Charter of 1726 engaged the Courts to attempt and hear just the common cases. In this way, the Charter of 1687 had a more extensive degree as contrasted and the Charter of 1726.
11. Under the Charter of 1687 interests from the Mayor's Court lay to the Admiralty Court while the Charter of 1726 gave that interests from Mayor's Court lay to the Governor and Council and

a moment advance to the Court of King-in-Council of England. There was, be that as it may, no arrangement for second interests in the prior Charter of 1687.

12. The Mayor's Courts built up under the Charter of 1726 had testamentary purview which the Charter of 1687 had not accommodated.

13. The Charter of 1687 gave for a 'Recorder' in the Mayor's Court who was to be an expert legal counselor to prompt the court in legitimate issues. Be that as it may, the Recorder of the Mayor's Courts built up under the Charter of 1726 was not really to be a legitimate master and judges selected in the Court were generally lay people with no lawful preparing or experience. In this sense, the Charter of 1687 was more tuned in to the objectives of equity as contrasted and the Charter of 1726.

14. The Madras Corporation built up under the Charter of 1687 comprised of twelve Aldermen out of which no less than three were to be Englishmen. These Aldermen went about as judges of the Mayor Court, But the new Corporations set up under the Charter of 1726 comprised of nine Aldermen, out of which seven were to be Englishmen. Along these lines the new Mayor's courts were significantly more English commanded than the before one.

DISCUSSION:

1726, The Charter of 1753 was an endeavour to enhance the prior Charter of 1726 which experienced a few lacunae and imperfections. The fundamental arrangements of this contract were as per the following—

1. Recovery of Mayor's Courts with Modification—The British King George II conceded another Royal Charter hide the Presidencies of Madras, Bombay and Calcutta whereby the Corporation of Madras which stopped to work due to French occupation amid the period Tor 1746 to 1749 was resuscitated again and the locale of all the three Mayor's Courts of Presidencies were changed to conquer the deficiencies of its prior working.

2. Leader's Courts were Subordinated to the Governor and Council—With a view to end the stressed relations between the Mayor's Court and Corporation from one perspective and the Governor and Council on the other, the Charter of 1753 brought the Corporation of every

Presidency under the control of the Council by changing the method of arrangement of Mayor and Aldermen. Under the new Charter, the Governor and Council was engaged to choose the Mayor out of a board of two names chose by the Mayor and Aldermen. The Council additionally accepted full energy to designate Aldermen in the Corporation and reject them. Accordingly, the Mayor's Court was totally subordinated to the Executive Council.

CONCLUSION:

Some of the defects of the Mayor's Court. The criminal equity was completely official ruled as it was on account of the Governor-in-Council. The Mayor's courts were not free from the official impact. The council members were either Company's workers or other English dealers who relied on the Company's authorisation to remain in India and were helpless before the nearby government. At the end of the day, the Governor and Council were the producer and unmakers of the judges..Judges were non-experts. The Company had a strategy of restricting organisation of equity to its workers and consequently it abstained from delegating legal advisors. The Mayor's court was constituted to work autonomously. Be that as it may, its association with the official was not expressed unmistakably and there rose a miserable conflict between the official and the legal. This conflict is obvious from some imperative cases like Shrimpy's case, Arab Merchant's case, Pagoda Oath case and so forth.

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