

FACULTY OF JURIDICAL SCIENCES

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Lecture-4



Charters of the East India Company

The Charters of 1753

In the year 1746 the French got the control of Madras presidency because of this Madras corporation which was created after the Charter of 1726 was ceased to function in the year 1749 again British got the control of Madras to establish again Madras corporation, King George II again issue a new Charter on the 8th January 1753, to the Company official utilized this chance and tried to remove all the disadvantages of the Charter of 1726. The new Charter of 1753 was made applicable to the entire presidency town. New charter changed the method of appointment of Mayor and Alderman. Governor and Council got the power to appoint the aldermen. Regarding selection of the Mayor the corporation selected the names of 2 people and Governor and Council selected one of them as the Mayor every year.

This way Mayor became the puppet of the Governor and Council. This way Mayor as well as Aldermen becomes the nominee of Government and Government got the Full Control of corporation.

This way government got the power to appoint the judges of the mayor's court and remove him also. If he disobeyed the government or Governor. Mayor's Court lost all the autonomy and Independence and became Secondary in nature. The Court was allowed to hear the Indian cases only if both native Indian parties agreed and submitted the case to the Mayor's Court. Mayor's Court got the right to take action against the Mayor. No person was allowed to sit as a judge if he was interested in the matter in any way. Mayor's Court got the power to hear the cases against the government and government defended them.

Suitors deposited money with the government not to the Mayor's Court. The new Charter also created the new court called as "Court of Request" at each presidency town to decide cheaply and quickly cases up to 5 Pagodas. This Court was established to help poor Indian litigants who cannot afford the expenses of the Court. The Court weekly sat once, and was, manned by Commissioners between 8 to 24 in numbers. The government appointed the commissioners and every half of the commissioners got retired and those places were filled by the ballot method by remaining commissioners. Commissioners sat in each court on rotations for small claims, cognizable by

requests Court. If people plaintiff went to the Mayor's Court the rule was that Defendant was awarded costs, this way it saved time and money also requests court got the power to hear the Indian matters also.

There were 3 Courts, namely –

1) Court of request

2) Mayor's Court

3) Jurisdiction Court of governor and Council.

The court where appeal from the mayor court went criminal cases. Justice of the peace and Court of quarter sessions consisting of governor and Council. Regarding Civil cases, Privy Council in the England was the final authority. This Charter introduced many changes but this Charter took away the independence of Mayor's Court, which was given to this court by the Charter of 1726. The East India Company with this Charter also always followed the policy not to break the customs of Hindu and Muslims. When both Indian parties agreed that time only Mayor's Court handled those cases. An executive enjoyed more powers they appointed company servants as the judges. The executive handled the cases in such a way it does not harm them or did not harm the company servants or friends. In 1772 House of Commons appointed a committee of secrecy to check the affairs of the East India Company, the committee in its 7th report gave adverse report regarding Calcutta judicial system. The report stated that Mayor's Court behaved as the wish in all the cases without following English law. As a result of criticism Supreme Court was established at Calcutta in the year 1774.

Good feature of Charter 1753 –

- The Charter of 1753 removes out the uncertainty and made it clear that the Mayor's Court could not hear the cases where both the parties were natives unless such cases were submitted to its judgment with the consent of both parties. The Mayor's Court could hear the suits against the Mayor, Aldermen or the Company.
- The establishment of the Court of Requests was of great help to poor inhabitants. The Court provided quick and cheap justice to the poor litigants with small claims.

Defects of Charter 1753 –

1) Too much executive oriented

2) *Non – professional judges*

3) *Judges independent on the company and governor – in – council.*