

DUDUMA

By

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Member, Servants of India Society

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Author of "Hill Tribes of

Jepore" and Orissa in

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A Short history of the Jeypore Estate

We find from the Vizagapatam District Gazetteer that the Jeypore Samasthanam was formerly known as the Nandapur Kingdom. It was established in the year 1413. The Jeypore Zamindary at this time included not only the country now comprised in the Jeypore impartible Estate but also the strip of land which lies at the bases of the Ghats in the East. Even in the middle of the 18th century the Zamindars of Madgol, Kashi-puram, Salur, Panchipeta and Kuruppam were among the vassals of the great Jeypore Estate. In 1784 Lord Hobart conferred on its then Rajah a permanent sanad granting the Estate to him and his heirs in perpetuity. At the time of the permanent settlement of 1803 its peshkush was fixed permanently at Rs. 1,6000 per annum. By this permanent settlement all the ancient Zamindari's which were then the vassals of the Jeypore Estate were handed over to the respective owners in perpetuity. This Jeypore Zamindary was scheduled as impartible and inalienable by an Act of the Madras Legislature in the year 1904. It is called the Madras Impartible Estates Act. Its peshkush had been permanently fixed at Rs. 16,000 per annum by the Regulation of 1803. The Jeypore Estate has been

paying this peshkush till the present day and the natural presumption is that the Zamindary has not undergone any partition since 1803.

The Madgol Estate which is intimately connected with the Duduma question is also an impartible and permanent settled Zamindary consisting partly of plains area and partly an agency tract. The agency portion is called Hill Madgol and it is this Estate which adjoins the Jeypore Impartible Estate on its West. In 1803 a Permanent Settlement was concluded with the then Proprietor of the Madgol Estate. In 1870 the Estate was mortgaged with possession to the Maharajah of Jeypore for 16 years for a loan of five lakhs of rupees, It was under Court of Wards from 1877 to 1888. In 1890 a settlement of the claims of the Maharajah of Jeypore was effected by which 68 villages of the plains part of the Madgol Estate were mortgaged to the Maharajah of Jeypore and the Hill villages were restored to the Madgol Zamindary. In 1928 the entire Madgol Estate was purchased by the Maharajah of Jeypore.

The Duduma Falls.

The Duduma Falls of Jeypore lie in the Machhakund river which rises in the Madgol Hills of Vizag District of the Madras Province. For some 30 miles or more the river runs nearly North through the Padwa valley. About 30 or 35 miles off Jeypore town it winds westwards at the village Ambapada and then suddenly turns through a sharp angle to the south-west down a deep descent. About the third mile down from this bend the descent is barred by a huge barrier of rock shut in on either side by walls of rock 200 or 300 feet high over

which the river flings itself constituting what is called the Duduma Falls. The length of the river from its source to the Duduma Falls is about 54 miles.

Facts about Bagra and Duduma.

The Koraput District contains two big waterfalls Bagra and Duduma. Long before the people of Orissa had even dreamt of their value, indeed long before the province was created, the Madras Government were alive to the question. In 1931 the Madras Government deputed their Chief Engineer Major H. G. Howard to survey the Kolab or Bagra Falls. At that time the Machhakund Falls were not so prominent, for they were then inaccessible and the economic development of it was not considered possible. The Madras Government were however all along planning to develop both the Falls Bagra and Machhakund or Duduma in conjunction with each other as that will be the most convenient and suitable plan. That ultimately the Bagra Falls were by passed and Badigada Duduma came to the forefront, though the former was all along being considered to be more feasible plan, is due to political reasons. Because Bagra is entirely within Jeypore Samasthanam and Badigada Duduma was close to the Madras side, the interested officials of the Madras Government perhaps thought it best to tackle Badigada Duduma first, leaving Bagra to Orissa. And we would see in the course of this article how the boundary of Madras has been slowly and imperceptibly pushed into Jeypore Zamindary from the Madgul side until the mid stream of the river Machhakund has been adjudicated by Sir B. N. Rau as the boundary between Madras and Orissa.

It will not be out of place here to give a few quotations from the report of Sir Howard to the Madras Government on the Kolab Hydro-Electric project to show how the Madras Government were fully alive to the great value of the waterfalls of the Koraput district since 1931, before the Orissa province was created :—

“The greatest attraction to new industry is an established and cheap power supply. Commercial interests do not usually care to wait until a power scheme has materialised. They go elsewhere. For this reason it is necessary in projects of this nature to base the financial returns on a considered and experienced visualisation of the probable industrial future of the district under review and its potential possibilities rather than wait for actual agreements with the industrialists which may never materialise so long a power supply is not available.”

* * * The natural resource of the area (Vizag Agency) tapped by the extension of the Bengal Nagpur Railway to Raipur makes it one of the richest in India. The timber alone may form a considerable industry and among mineral deposits of major economic value may be mentioned bauxite, manganese, iron ore and lime stone. Geological reports of the region also indicate deposits of coal, buildings stone, kaoline clay, graphite and wolfram. The bauxite deposits of Kalahandi State contain 67 per cent of Aluminium which means a very high percentage.”

History of the Duduma controversy.

The history of this controversy would show how the Madras Government have been adopting various tricks to get the better of the Orissa Government in utilising

the wealth of the water-power in the Koraput district. They had been contemplating to develop Hydro-Electric power at the Duduma Falls long before Jeypore was separated from Madras in 1936. They had the Kolab Falls in view too. The whole of the Kolab basin came into Orissa with only a part of the Machhakund area so that the Government of Madras could now only take up the projects in cooperation with the Government of Orissa. In 1939 when there was a Congress Ministry in Orissa the Madras Government started negotiations with the Orissa, Government for the joint execution of the Duduma project on a fifty—fifty basis. The boundary question was never raised during the course of these negotiations. The only boundary question raised by the Madras Government after the creation of the Orissa Province between the years 1938-40 was that certain areas on the left side of Aruku river to the south of Koraput belong to Madras and some areas on the right side belong to Orissa. The then Government of Orissa entrusted the Madras Government with the necessary enquiry in this connection and the Madras Government after amalgamating the areas they required with their province informed the Government of Orissa that they had no other complaint to make about the boundary. Indeed all talk and negotiation about the waterfalls at that time were being conducted on the basis that both the Falls were situated in Orissa.

In 1939 a conference of three Ministers of Madras and two from Orissa was held at Jeypore to undertake the harnessing of the waterfalls in Jeypore to the benefit of both the provinces. As a result of this conference it was decided to undertake a more detailed investigation

through the Government of Madras in 1940 at the joint expense of the two Governments. It was after this investigation that it was said that developing the Machhakund was more economical and attractive in all respects than the Kolab scheme.

In 1941 the Government of Madras sent an estimate of cost amounting to Rs. 92,000 for the detailed investigation and indicated the cost of the initial and final schemes. Thus the Orissa Government were faced with a large Bill and had to come to a definite finding on the matter. Its technical experts did not see any immediate prospect of development of load on the Orissa side. The Electrical Engineer in his report on the survey of the load possibilities came to the conclusion that out of the estimated capacity of one lakh KW of Duduma, Orissa's needs during the first few years will not exceed five thousand KW. In consideration of these difficulties the Government wisely refused to undertake the scheme jointly with the Government of Madras and informed the Madras Government that if they wished to proceed with the scheme as their own, the terms on which water-power could be derived from that part of the Falls which lay in this province would be a matter of discussion and negotiation. The Government of Madras replied that they were prepared to take this scheme as their own and said that they will communicate with the Orissa Government later as regards the terms. This brings the affairs to the end of 1941.

In 1942 the Government of Madras sent up their terms which were subjected to scrutiny by the Departments concerned and a Committee of the Heads of the

Departments was formed to formulate the terms of the Government of Orissa.

In July 1943 this Committee came to certain tentative conclusions with which the then Prime Minister the Maharajah of Parlakimedi agreed. Amongst the conclusions arrived at the most important were—

- (a) the waterrights belong to Jeypore and that the Orissa Government had nothing to do with it ;
- (b) Orissa would take 20 per cent of the electrical energy at the cost price plus ten per cent ;
- (c) Twenty per cent of the technical staff should be from Orissa if suitable and acceptable men were available.

The matter remained at this till February 1944 when a meeting was held at Madras under the presidentship of Sir S. V. Ramamurti, I.C.S., Adviser to the Madras Government. This meeting was attended on behalf of Orissa by Orissa's Chief Engineer Captain Green, the Electrical Engineer Mr. B. B. Roy, the Collector of Koraput Mr. Taylor and the Dewan of Jeypore Mr. C. V. Rao. But the Orissa Government did not let the public know anything about this meeting. Rumours were thick in the air and it was said that on the plea of huge expenditure the Orissa Government had decided to hand over the project entirely to the Madras Government though the previous Congress Government were planning to work it as a joint concern. The public anxiety to which these rumours gave rise found expression in an adjournment motion in the Orissa Legislative

Assembly then sitting on the 31st of March 1944 through Sm. Sarala Devi, Sri Jadunani Mangaraj and late Sri Brajasundar Das. In reply to the adjournment motion of Srimati Sarala Devi the Maharajah of Parlakhimedi in charge of the P. W. D. made the following statement :—“I need not go into the details of the scheme but I assure the House that the Provincial Government so far as this scheme is concerned will not commit itself one way or the other and when that stage is reached for a final decision it will call for a special session and then seek the advice on behalf of the public through the representatives and then commit itself to an agreement.”

This statement of the Parla Maharajah gave us an assurance and all felt that nothing would be done without consulting the people.

From this moment the public became highly vigilant and Sri Rabindrakumar Das visited the Duduma Falls on 26—4—44 in company with Sjt. Godavaris Misra, Sjts. Harihar Misra Kumar Bidyadhar Singh Deo Mr. B. B. Roy, Electrical Engineer, and Mr. Taylor, Dt. Collector Koraput. The Maharajah of Jeypore and Mr. C. V. Rao, Dewan were also present.

Then the terms were modified as follows :—

Out of 20 per cent of electricity, 12 per cent (12 thousand KW) were earmarked for Jeypore and 8 per cent for Orissa. Over and above this, 125 KW were allotted to the Maharajah of Jeypore as a Salami at a nominal rate of Re. 1 per KW. According to Mr. C. V. Rao the Maharajah expected an income of Rs. 35,000/- a year

from this source of 125 KWs. The Madras Government agreed to the proposal of the Maharajah of Jeypore to fix up the transmission line in Jeypore Estate, the Estate having the option to purchase the whole transmission system by paying cash within ten years. There was no term in the agreement as regards employment except perhaps an understanding that Jeypore labour would be employed. The Madras Government accepted the right of Jeypore Samasthanam to get contracts for the execution of this scheme. In return the Maharajah of Jeypore agreed to supply timber of the Estate at cost price. Some agreement regarding the Bagra Falls was also arrived at—all these on the assumption and assertion of Sir S. V. Ramamurti, I.C.S., Adviser to the Madras Government as if Orissa had no claim upon Duduma.

All these were a matter of great jubilation for the Andhras who have controlled all business in Koraput district, purchased extensive plots of lands from the Jeypore Samasthanam, floated Companies to work up mines in the Koraput district and have an eye also to populate the district by Andhra labour so that in course of time they may oust Oriya population altogether by creating a majority and then taking back Koraput district or Jeypore Samasthanam as their old game into the future Andhra province. The Andhra officials of the Madras Government have planned it with the help of the Andhra officials of the Jeypore estate. The 12,000 K.W. of energy that the Jeypore Estate would have got according to agreement, would have been utilised by Andhras in starting various industries, as virtually this great power would have been under the control of the Andhra officials of the Estate. The Duduma scheme,

and the Andhra aspiration are so linked up that they are anxious to work it to the detriment of the interests of the Orissa Province.

On June 29th 1944 the Parlakimedi Ministry resigned and to our surprise on 3rd July, 1944, Sec. 93 Government of our Hawthorne Lewis issued a press note announcing that the Government of Madras had entered into an agreement with the Maharaja of Jeypore on the 20th June, 1944 at Vizagapatam regarding the Duduma scheme transferring his rights on the land and the Duduma falls in the perpetuity to Madras Government. The dates are very significant. There was a great agitation throughout the length and breadth of the province of Orissa both in the press and on platforms denouncing this agreement. Sir Hawthorne Lewis turned his eyes to it and was adamant to uphold the rights of the people. Then Madras officials came suppliantly to the Governor of Orissa and there were many pourparleyings. The result was that the secret agreement between the Maharaja of Jeypore and Madras Government was annulled by the issue of joint press communique of the Governments of Madras and Orissa on 4-10-1944.

The Communique is as follows :—

Press Communique Machhkund Hydro-Electric Project.

“The attention of the Government of Madras and Orissa has been drawn to comments which have appeared in the press about the Machhkund Hydro-Electric Project. The two Governments wish to state the position for the information of the public.

2. The project is designed to harness the power of the Machhkund river where it drops 550 ft. at the Duduma Falls in order to develop by stages about 100,000 K.W. of electric power at an estimated cost of Rs. 6.71 crores. The Machhkund river at this point forms the boundary of the Madras and Orissa Provinces. The catchment area and the water spread of the proposed reservoir extend into both provinces and are situated in the estates of the Maharaja of Jeypore.

Since the project affects both the Madras and Orissa Governments it can only be executed with the good will and agreement of both the Governments. The co-operation of the Jeypore Estate which had been readily offered will greatly facilitate the execution of the project.

Negotiations have been proceeding between the two Governments on the general basis that the project will be executed by the Madras Government on conditions to be agreed between the two Governments and a portion of the electric power generated from it will be supplied to the Orissa Province.

In order to expedite the starting of the project, the Madras Government recently entered into an agreement with the Maharaja of Jeypore under which the Maharaja agreed inter-alia to transfer his rights in the waters of the river to the Madras Government. The Government of Orissa took certain objections to this agreement and in deference to their wishes the Madras Government asked the Maharajah of Jeypore if he would agree to the cancellation of the agreement. The Maharajah has agreed to this request.

Negotiations are still proceeding and it is hoped to reach an agreement at an early date.

"This communique is issued on the joint authority of both the Governments."

In December 1944 the Utkal Union Conference held the Berhampore Session, when the feeling was very high and a wave of this conference spread far and wide. Wherever there were Oriyas they met together in meetings and declared and demanded that the Duduma Falls belong wholly to Orissa and as such it must be worked out by the Government of Orissa as their own. As a counter blast to this agitation a mischievous news appeared in the 'Hindusthan Standard' of Calcutta all of a sudden in its issue dated the 28th December from its special Madras correspondent that the Madras Government were claiming that their boundaries near Duduma lay for 3 miles to the north into Orissa and for this the necessary papers were being collected though the joint statement issued by both the Governments on the 4th of October 1944 had stated that the Machhakund river near the Duduma waterfalls formed the boundary line between Orissa and Madras. As this demand was altogether an impossible one no body paid any heed to it. 8 or 10 days after this event a conference between the Advisers of the two Governments attended by experts of the Government of India and a representative of the Resident, Eastern States was held in the Government House. The conference was postponed after a discussion lasting over two days. Neither the Orissa Government nor the Madras Government published any communique at the time. Various speculations were afloat in the newspapers. It was heard that the Madras Government

did not raise any objection with regard to the boundary ; other circles said that they had raised the point. Subsequently in the month of April 1945 the Madras Government appointed a Special Officer of their own to enquire about the boundary question. It was known then that the Madras Government had really raised or were going to raise the boundary question. In March 1945 Sjts. Radhanath Rath and Rabindrakumar Das (Joint Secretary) of the Duduma Committee of Action went out to Koraput and Vizagapatam districts in search of more facts about the location of Duduma. They came back and submitted a report to the Adviser of the Orissa Government in April, 1945 and requested him to gather more data through official agency. Late Dewan Bahadur Govindan Nair was appointed to be in charge of collecting facts about Duduma. In the conference of the Advisers held in the beginning of the year 1945, the Madras Government after raising the boundary dispute for the first time wanted a guarantee of 70 per cent of the power output for 99 years which Orissa was not prepared to concede for so long a period. By July 1945 Rai Bahadur Somanath Mahapatra was appointed Additional District Magistrate at Koraput. He was entrusted with the work of the collection of the data about Duduma.

While all these things were happening suddenly the news appeared through a communique issued by the Orissa Government on the 13th September that the Madras Government had appealed to the Governor-General with regard to the delimitation of the boundary between Orissa and Madras near Duduma in accordance with Section 3 (sub-section 3) of the 1936 Orissa Province

Construction Order and the Governor-General had appointed a Madrasee Sir B. N. Rau as Special Officer who is an ex-Judge of the Calcutta High Court and was the President of the Hindu Code Committee. This Special Officer was to enquire into the boundary dispute between Orissa and Madras near Duduma on the 17th September. After hearing both the sides Sir B. N. Rau would advise His Excellency as regards what decision should be made about the boundary. Section 3 (3) of the 1936 Orissa Province Construction Order provides that the decision of the Governor-General would be final on the question of any boundary dispute. It was clear from the Communique that the people of Orissa were acquainted with the news in the nature of a 24-hour notice. Nobody had anything to say about the qualifications of Sir B. N. Rau, but he himself belonged to Madras and as he was connected with Madras the Oriyas feared that proper justice could not be done by him in this case. At that time an alternative suggestion about the enquiry had been made by the Joint Secretary of the Duduma Committee of Action which sought that Sir Maurice Gwyer should be the President of the enquiry.

But all these were not heeded and the enquiry proceeded.

The Duduma enquiry conducted by Sir B. N. Rau.

It has been said above how the Orissa Government were asked to attend this enquiry by the Government of India in a letter dated the 10th September 1945 to be held in Madras on the 17th September in the nature of a 24-hour notice. The Special Officer appointed by the

Orissa Government Rai Bahadur Somenath Mahapatra had not by that time submitted his report about the location of Duduma but still the enquiry was begun by Sir B. N. Rau on the 21st September 1945. Sir B. N. Rau started asking Madras to refute if Machhakund was not the boundary line between the two provinces as it seemed from a study of all the maps that were available. This shows that Sir B. N. Rau had from the very beginning made up his mind about the boundary. Dewan Bahadur Sriram Sastri, the Government Pleader of Vizagapatam interrogated by saying, "This means that you have taken it for granted that Machhakund is the dividing line." Sir B. N. Rau replied, "Do you want that Orissa should say that the whole of the river belongs to Orissa? By that is not the debatable ground extended beyond Jeypore Samasthanam"? Sriram Sastri said, "In future the Oriyas may demand that." Sir B. N. Rau said, "At present they are not demanding it." This shows how Sriram Sastri was anxious to get a commitment from Orissa that it must not in future agitate for further boundary beyond Machhakund. The Madras Government then took time and the next meeting was fixed for 6—10—1945. By this time the Orissa Government had secured a full and detailed report from the Additional District Magistrate of Koraput which proved to the hilt that Jeypore impartible Estate has since 1802 Duduma within it in full.

Before going into the details of the points raised by Orissa's Advocate-General Mr. Lingaraj Panigrahi on behalf of the Orissa Government on the strength of the report of their Special Officer Rai Bahadur Mahapatra it is necessary to explain what were the bones of contention.

Section 3 (3) of the Orissa Province Construction Order had given to Orissa the whole of the Jeypore impartible Estate including the remaining portions of Pattangi taluk. The total area of this Jeypore Zamindari is 11,526 sq. miles but there are now only 9,875 sq. miles of it in the Orissa Province. That not to speak of only a few villages near the Duduma but a huge area amounting to one and a half thousand sq. miles have been excluded from Orissa is only a recent discovery arising from the Duduma enquiry. It shows the avarice and the dexterity of hand of the Madras Government whose object has all along been to push the boundary of Madras as far near Duduma as possible. When this province was created the delimitation of its boundary in the south was left to the Madras Government and Orissa was nowhere in the picture. It was proved during the course of the enquiry from the confidential correspondence that had passed between the Madras Government and the Secretary of State in the years 1934-35 that the Madras Government had then cleverly proposed to the Central Government that, *for the sake of convenience*, the boundary of Jeypore and Madgol which belongs to the Maharajah of Jeypore by the right of purchase but was to be excluded from the new province) should lie in the middle of the Machhakund river. It will thus be seen that the Madras Government had made preparation for this enquiry even at that stage. But the Secretary of State did not accept that proposal unreservedly for had they done so they would have described the boundary clearly in the Orissa Order-in-Council. But instead of doing that it was stated in the Order-in-Council that the actual boundary between Jeypore and Madgol should form the boundary of both the provinces. It was well-

known how the boundaries of the two Estates Jeypore and Madgol were in an indefinite and confused state and how Madgol the Zamindary of the Maharajah of Jeypore being a hilly tract some Mustadars by 1916 had illegally transferred some villages of that area to their advantage. Orissa's Advocate-General showed that some 6 mouzas lying to the east of the Machhakund river did not belong to the Sujanakota Mutha of Madgol till 1916 and that by an executive order of the Special Assistant Agent these villages had been transferred to the Muthadar of Sujanakotta. This transfer was declared illegal in the Civil Court subsequently. It was for these reasons that the Orissa Province Construction Order Sec. 3 (3) under which the Madras Government appealed to the Governor-General to delimit the boundary near Duduma provided that in case of future dispute about the area between the provinces of Madras and Orissa, the decision of the Governor-General should be final. It may be noted in this connection that though Sind was created a separate province at the same time as Orissa, no such provision was made with regard to Sind.

Thus it was that the real boundary of the Jeypore impartible Estate and the dividing line between the Jeypore and the Madgol Estates as well as the legality of the subsequent encroachments on Jeypore became the chief bones of contention at the time of the enquiry.

Sjt. Lingaraj Panigrahi showed numerous maps and atlases to prove that the areas to the Estate of the Machhakund river belonged to the Malkangiri taluk of the Jeypore Impartible Estate. And it should have been included in Orissa Province. In support of his view

Orissa's Advocate-General pointed to the topographical maps Nos. 20 and 21 prepared by the Government of India in 1870-72, the atlas of the year 1903, the map given in the 1906-07 Vizagapattam District Gazetteer, the map prepared by the Reforms Department of the Government of India in 1932 and the maps of the Police stations and crime chart prepared in the years 1933-34.

The most important proof shown by Sjt. Panigrahi was the report submitted to the Madras Government by Mr. Turner in 1885. This report showed that the Madgol Estate was situated on a three thousand feet high plateau on the ghats and that the Machhakund river rises from the west of this plateau and flows into the Malkangiri taluk of Jeypore. The western side of this plateau was included in the Jeypore Zamindary. This proved clearly that the Machhakund river and Duduma lay completely inside Orissa. Sjt. Panigrahi quoted portions from Mr. Turner's report to show that if a straight line be drawn from Galikunda in the ghats to below the Headquarters of the Malkangiri taluk the area lying to the north would remain in Jeypore Zamindary and that lying to the south in Madgol. Mr. Turner wrote that the northern portion was Oriya area and the southern portion Telugu area. Sjt. Panigrahi showed that Hill Madgol area and Paderu taluk were synonymous terms and the O'Donnell Committee had also divided Paderu taluk into Padura A and Paderu B declaring that Paderu A is an Oriya area which should be included in Orissa. The recommendation of the O'Donnell Committee tallies with the report of Mr. Turner but instead of following the recommendation of the O'Donnell Committee, the Madras Government

had proposed a convenient boundary as we have seen above.

Sjt. Panigrahi showed further from the records of the Jeypore Zamindary that there was a village Duduma by name in Malkangiri taluk in 1911. It was seen from the report about Inams in the Jeypore Zamindary by the Inam Deputy Collector of Madras and the 1919 Revenue Settlement map that the extensive area lying below the Duduma Falls to the east of Machhakund river was known as the Nandapur Pragana of Jeypore Zamindary.

Sjt. Panigrahi read out from the 1936 Gazette Notification of the Madras Government the names of the villages which had been transferred to Madras. It was clear from this notification that many villages of Padwa taluk lying to the east of the Machhakund river near the Duduma Falls had not been transferred to Madras and hence they continue to be included in the Jeypore Zamindary and form part of the Orissa Province.

The Advocate-General of the Madras Government had not been able to show any map to support his contention except a road-map of 1945 at the previous sitting. Subsequently, he showed an old map of Vizagapatam district of 1886 but even this did not show that the river lay entirely within the Madgol boundary in the disputed area. He further showed the map of Madgol as given by Sjt. Minakshi Sundaram in his report about Inam of the year 1909 but it was found out that the course of the river was not clearly marked out even in this map. The entire effort of the Madras side was devoted to proving the delimitation of the taluk bound-

aries as correct but these taluk boundaries are always and had been changed from time to time by the Madras Government themselves for administrative convenience.

The next serious point of consideration was what should be taken to be the proper boundary of the Jeypore Impartible Estate unquestionably transferred to Orissa by the Orissa Construction Order, whether it should be the area as it was in 1802 when the Estate was transferred in perpetuity to the Zamindar of Jeypore or as it was 1904 when the Madras Government passed the Impartible Estates Act or as it stood by the year 1936 after encroachments from the Madgol side reinforced by the Madras Government's mischievous suggestion in their confidential correspondence with the Secretary of State that the Machhakund river should be taken as the dividing line for the sake of convenience. Sjt. Panigrahi showed that the area of the Jeypore Impartible Estate cannot be changed except by the special order of Government and that it should continue to consist of the 31 Praganas as described in the Permanent Settlement of 1802 with the Zamindar. The Impartible Estates Act of 1904 fully legalised this area as described in the Permanent Settlement. The impartible Estate should consist of the areas on which the Peshkush of 1802 had been based and that the Zamindar could neither transfer nor be dispossessed of any portion of such area except by the special order of Government. As for example, Sjt. Panigrahi cited page 2 of the Madgol Enquiry Report of the Madras Government to show how the permission of Government was obtained and the amount of Peshkush was re-adjusted when a portion of Madgol was transferred. In this connection he showed further that when the Government

proposed to build a rest-house near Duduma in 1930-31 and land was acquired for the purpose, it had been proposed to reduce six pies from the amount of the Peshkush.

Sjt. Panigrahi showed further that there could be no question of adverse possession in this case against Jeypore as the plains portion of Madgol had been mortgaged to Jeypore in 1890 and the Maharajah had purchased Hill Madgol in 1928.

To refute any possible contention that some areas of Hill Madgol might have been wrongly included in Jeypore, he showed from the Madgol Inam Enquiry Report that the villages of Hill Madgol had never been included in the Permanent Settlement area of Jeypore.

Thus the enquiry entirely proved the case of Orissa but towards the end the Lawyer of Jeypore Samasthanam filed a bundle of papers relating to the Madgol Estate declaring that they had found it at the last moment. Naturally the Orissa Government asked for some time for looking into the papers that the Madras Government produced in the last stage of enquiry and for giving satisfactory reply. There was also the question of visiting the spot. Sir B. N. Rau said that he would inform both the Governments if he would feel the necessity of going to the spot and making a spot enquiry. Under these circumstances the enquiry was held up. But suddenly Sir B. N. Rau submitted his report without affording the Orissa Government further opportunity to look into the papers submitted by the Madras Government at the last moment and the Governor-General drew the boundary line in the middle of the Machhakund river basing his

conclusion on the report of Sir B. N. Rau. Then the following Press Communiqué was issued by the Government of Orissa:

“Intimation has been received that His Excellency the Governor-General after considering the report submitted to him by Sir B. N. Rau has decided that for purposes of the Orissa Order-in-Council the Jeypore Impartible Estate is bounded in the disputed region by the line midway between the two banks of the Machhakund river, so that one bank falls within Orissa and the other within Madras.”

Needless to say this gave rise to a great national agitation throughout Orissa against the decision of the Governor-General and the Oriyas throughout the province resolved not to abide by this decision and get it annulled.

Post-Award Machinations culminating in the Duduma Agreement.

That the entire Duduma enquiry was only farcical and that in some of the highest quarters it had been decided to deprive the Oriyas of their national wealth of Duduma could be clear from the fact that while the Duduma enquiry was being held in Madras, there was also a parallel conference between the Advisers of both the Madras and the Orissa Governments in September 1945, the public of course did not know anything about this conference held on the 21st September. It may be recalled that in the conference held before this on the 8th of January, 1945 which was attended by the experts of the India Government and a representative of the

Resident, Eastern States, the Madras Government had wanted a guarantee of 70 per cent of the power output for 99 years while raising the boundary dispute at the same time. It was heard at that time that the Madras Government had proposed to develop 80 per cent of the electrical energy to be had from the Duduma Project of which the Madras Government will take 50 per cent, the rest 30 per cent going to the Orissa Government. Then in future when the remaining 20 per cent of the energy will be produced the shares to be taken by the Madras and Orissa Governments were to be settled amicably or failing which it was to be settled through an arbitrator. It is now said that no agreement could be reached in this second conference held in September 1945 because Madras would not agree to pay compensation demanded by Orissa for transfer of its share of power for 99 years.

While the whole of Orissa is agitating against the decision of the Governor-General about the boundary between Orissa and Madras near Duduma, the Section 93 Governments of both the provinces as well as the India Government were merrily carrying on negotiation about the sharing of power. Thus there was a third conference at Cuttack in January 1946 which was attended by Rao Bahadur V. P. Menon, C.I.E., Secretary to the Governor-General, Rao Bahadur Menon was largely instrumental in bringing about the settlement between the two Governments.

As a result the Government of Orissa issued the following Communique dated the 21st February 1946:—

“ Since the issue of Press Communique dated the 14th January 1946 the Governments of Madras and

Orissa have considered the Draft Agreement arrived at between the two Advisers regarding the development of Hydro-Electric power at the Duduma Falls on the Machhakund river and accepted and ratified the same subject to one slight modification relating to the expenses of audit being borne by the Central Government. The terms of the final agreement are as follows"—

Agreement between the Government of Madras and the Government of Orissa regarding the development of hydro-electric power at the Duduma Falls on the Machhakund river.

I. The Government of Madras and the Government of Orissa agree that the power resources at the Duduma Falls should be developed without delay to the fullest extent and for the maximum benefit of both Provinces.

II. (a) The Government of Madras shall have full right to the use of 50 per cent of the ultimate power developed at the Duduma Falls as well as of that developed at each stage.

(b) The Government of Orissa shall have full right to the use of 50 per cent of the ultimate power developed at the Duduma Falls as well as of that developed at each stage.

III. The two Governments agree that based on present conditions and knowledge the Government of Madras will be in a position to use power to a greater extent and at a much earlier date than the Government of Orissa. The two Governments accordingly agree to develop power jointly at the Duduma Falls on the terms and conditions laid down hereinafter.

IV. The Government of Orissa shall transfer to the Government of Madras for a period of 99 years from the date of signing of this Agreement its right of use of 20 per cent of the ultimate power developed as well as of that developed at each stage.

V. In consideration of the transfer of the said 20 per cent the Government of Madras shall pay annually to the Government of Orissa for 30 years commencing from the date of operation of the power plant an amount calculated at the rate of Rs. 20 per kilowatt on 20 per cent of the actual maximum demand recorded at the power house during each financial year. After the expiry of 30 years the terms of payment shall be liable to revision in such manner as may be mutually agreed upon between the two Governments.

VI. On the expiry of the said period of 99 years, it shall be open to the Government of Orissa to take over the said 20 per cent on payment to the Government of Madras of the proportionate share of the capital cost as defined in the schedule, less depreciation.

VII. The Government of Madras shall be responsible for the construction maintenance and operation of all civil works including dam and appurtenant works and of hydro-electric installations including power plant and switch gear at the Duduma Falls whether situated in the Province of Madras or Orissa. Each Government shall be separately responsible for the construction maintenance and operation of the power transmission lines and distribution system within their respective territories.

VIII. The general proposal of the Government of Madras for the construction and development of the

Scheme as contained in their printed report of 1944 are hereby accepted by both Governments subject to such modifications as may be made by the Government of Madras in the interest of economy. The Government of Orissa agree that the Government of Madras may proceed forthwith with the execution of the scheme in a manner which is in the opinion of the Government of Madras best suited to meet the demand for power as and when it arises. Both Governments further agree to permit all engineers and employees to enter freely into all lands and property for the purposes of the scheme and of the transmission system. Each Government shall grant free right of way for all transmission lines which may be necessary to transmit power from the scheme to places within the territory of the other Government.

IX. (a) The Government of Madras shall provide 70 per cent and the Government of Orissa shall provide 30 per cent of the capital cost of the scheme. Interest during construction of any part of the scheme till such time as that part comes into operation for generation of power shall be borne by the Governments of Madras and Orissa in the ratio of 70 : 30 respectively.

(b) The cost of maintenance and operation charges as specified in the schedule shall be paid by the two Governments every year in proportion to the maximum demand utilised by each Government in that year. That is to say each Government shall contribute to the maintenance and operation cost as specified in the Schedule every year in the ratio of the maximum demand utilised by it in that year and from such contributions shall be paid the interest due to each Government in respect of its capital investment.

X. The Government of Madras shall maintain accounts of capital expenditure and of maintenance and operation charges incurred by both the Governments and attributable to the Scheme. The Auditor-General of India will be requested to arrange for the audit of the accounts relating to accounts or the inclusion or the exclusion of any particular items of expenditure and of any dispute connected therewith the decision of the Auditor-General shall be final and binding on the two Governments.

XI. The Governments of Madras and Orissa shall be at liberty to fix or modify their tariff rates for power supplied within their respective territories without interference from the other Governments.

XII. During construction as well as subsequent maintenance and operation, 30 per cent of exclusive and supervisory staff as well as contractors and labourers shall be drawn from Orissa, provided that suitable persons are available. The Government of Madras shall further afford full facilities for the training of Engineering and other personnel deputed by the Government of Orissa on construction maintenance and operation of the Scheme.

XIII. A joint Board of Control shall be set up as soon as practicable and all matters of major policy shall be referred to that Board. Representation on the Board shall be in proportion to the capital contribution made by each Government.

XIV. Both Governments and the joint Board of Control may at any time call for such information as may be required relating to the Scheme direct from

either Government or from the joint Board of Control and such information shall be furnished.

XV. An Advisory Committee may be formed to advise the two Governments in respect of the incidental matters connected with the resettlement of the dispossessed inhabitants, afforestation of the reserved areas in the catchment, construction of silt traps along the water course, terracing *podu* cultivation and formation of thick forest belts near the river margins and such other matters as may be referred to it for advise by either Government. The committee shall consist of two representatives nominated by the proprietor of Jeypore and Madgole Estates.

XVI. (a) The Government of Orissa consent to the development of power by the Government of Madras at the two power sites on the Sileru river at the expense and under the sole control of the Government of Madras and to its full utilisation by that Government for a period of 99 years.

(b) During this period the Government of Madras shall make power available from these two sites to the consumers in Orissa on the same terms and conditions as may be applicable from time to time to the consumers in Madras.

(c) Subject to the provisions of clause VIII the Government of Madras undertake that the development of either of the two power sites on the Sileru river shall not affect adversely the Machhakund Hydro-Electric Scheme as generally outlined in their Report of 1944.

(d) The Government of Madras shall keep separate accounts for the two Sileru Schemes and shall

furnish copies of accounts and progress reports to the Governor of Orissa every year.

(e) At the expiry of the period of 99 years the Government of Orissa shall be entitled to claim upto 50 per cent of the total output at these sites on payment of proportionate share of the Capital Cost. Thereafter the two Governments shall pay maintenance and operation charges in proportion to the power taken by them.

XVII. The Governments of Madras and Orissa agree that any dispute arising in respect of this agreement, including the interpretation of any of its clauses, shall be referred to the Governor-General and his decision shall be final and binding on the two Governments.

SCHEDULE.

1. For purposes of this agreement all works necessary for the generation of power at the Duduma Falls on the Machhakund river and matters incidental thereto shall be known as the 'Scheme.'

2. The Capital expenditure relating to the Scheme shall consist of the following :—

(a) Cost of acquisition of land and other rights, if any.

(b) Costs incidental to the Scheme in connection with the resettlement of the hillmen, afforestation of the reserved areas in the catchment, construction of silt traps along water courses, terracing, control of *podu* cultivation and the formation of a thick forest belt near the river margins.

(c) Cost of constructing and improving communications for the Scheme.

(d) Cost of preliminary surveys, construction camps, staff quarters and colony as may be necessary to accommodate the personnel engaged in the construction and operation of the generating station.

(e) Cost of all hydraulic works, control dams, weirs, *flumes*, tunnels, pipe lines, power station buildings and any other civil works required to establish (and extend from time to time) the generating station.

(f) Cost of all plant and machinery required for generation and sale of power at the generating station excluding step-up transformer and their associated switch gear and any equipment required for transmission purposes.

(g) All other incidental expenditure of a capital nature directly distributable to the Scheme.

3. The maintenance and operation charges shall consist of—

(i) all expenditure incurred on maintenance and operation of the Scheme ;

(ii) interest on capital ;

(iii) depreciation ; and

(iv) a margin not exceeding 1 per cent on the total capital expenditure at the end of each financial year

Harmfulness of the Agreement.

A perusal of the agreement from end to end would clearly show that the Madras Government have in fact got what they had wished for from the very beginning. Though Orissa had been admitted on paper to be an

equal share-holder of the Machhakund river it shall have to depend upon the kindness and favour of Madras in connection with this scheme. Though Madras and Orissa are equal share-holders it is difficult to understand how the Orissa Government could agree to the arrangement that the 70 per cent of the representation would go to Madras and only 30 per cent to this province in the joint Control Board. The result will be that the Madras Government would be able to do whatever they think best on the strength of their majority representation and the representatives of Orissa would be forced to merely supplicate them to get justice. And again 30 per cent of the employment contractors and labourers would fall to the share of Orissa if only they are found suitable. There is no provision as to who is to decide whether the Oriyas are suitable or not. But it is not difficult to understand that if the Madras Government would pay scant attention to Orissa's just demand on the plea that the Oriyas were not suitable Orissa will have no other way except to curse its fate. The position would mostly be 'heads I win, tails you lose.' Another thing to be noted in this connection is that the entire scheme is to be carried out, maintained and kept going by the Madras Government who would incur the expenditure and keep its accounts. We would be entitled only to get 30 per cent of the electricity. But most of the lands that have to be submerged to carry out the scheme, that is most of the sacrifice would fall to the lot of Orissa, whereas when it comes to sharing the advantage Madras will get lion's share.

Besides it is difficult to understand the mystery behind the Orissa Government handing over completely

to the Madras Government two other schemes with regard to the Sileru river while the Duduma matter is under negotiation. What *quid pro quo* has Orissa got for it? To say briefly, this agreement shows that all the agitation and effort that have been made so long in Orissa for Duduma have been in vain. This last agreement which the Governor has concluded before his departure from the province is a mortal blow to the hearts of the Oriyas.

Value of Electricity.

The harmfulness of the agreement would be more apparent when we see what others think about electric energy, I therefore, give a few extracts of such opinion below.

The A. B. Patrika in its Editorial under date December 13th, 1945 wrote the following in an article on the power of Industry.

“India has a limited supply of coking coal and high grade steam or gas coal which, it is estimated, can meet the requirements of her metallurgical industries only for a period of sixty years or so, unless the use of such coals in railway locomotives (estimated at 2½ to 3 million tons of coking coal and 4 to 4½ million tons of high grade steam or gas coal per annum according to the pre-war standard) can be stopped or substantially reduced under a progressive plan.”

Sir Padamji P. Ginwala in his recent memorandum on Electrification of Railways says “that electrification with minimum risk can be undertaken for a limited range of 1,500 route miles which will require a lakh Kilowatts of

energy to be generated by two generating stations." This will give an idea of how much will B.N.R. alone require.

The National Planning under the Presidentship of Pt. Jawaharlal Nehru has given the warning on the shortage of coal in India and the necessity of developing electricity by hydro-electric method. The Economic Geology of Orissa Report states.

The first requirement before industrial enterprise is to be attracted is that cheap supply of power should be available. The great industrial centres of the world have been based mainly on the ready supply of coal or oil and in India expansion of industry in Bihar and Bengal has taken place side by side with the expansion of coal mining. Orissa apart from Sambalpur is not so fortunately placed but reasonably cheap power may be available in the future from hydro-electric schemes.

Thus Orissa will require all the electric power to be generated at Duduma and those who aver that we cannot consume electricity to the extent of 30 per cent from the Duduma Hydro-electric scheme are simply befooling themselves and thereby doing much harm to Orissa. Sir Ardeshir Dalal, Ex-planning member of the Government of India said at Cuttack (December 27th 1945):— "I have so long considered that in view of the smallness and poverty of the Province (Orissa) perhaps it was a mistake to create a separate Province of Orissa. I have now changed my mind and find justification for the creation of the Province. Now I realize that because the areas had been tacked to other provinces they were neglected. I have no doubt that the natural resources

of the Province are very extensive in the whole of India. They require power for development. That power you will have in the natural resources. They will develop and in the course of the next generation Orissa will form one of the industrially advanced provinces of India." We quote here a famous saying of Lenin. "Communism is the Soviet Power plus electrification of whole country." To end my argument I appeal to the people to adopt the slogan, More Power to the Farmer. This will mean more and better crops, and better life to the Oriya farmer. It means electrification of the farms. Rural electrification by raising the farmer's income and by cutting costs and saving time will lose the shackles of one crop farming and create a more balanced agriculture. He will domesticate his Kilowatt as thoroughly as his ancestor did his bullocks. American experts have found at least 300 separate uses for electricity.

Legal Aspects.

The question has been raised whether the agreement could legally be annulled. Though I am not a lawyer I venture to make the following observations in this regard. In Section 93 Government, the Governor was requested repeatedly by the public not to hasten into an agreement as the elections to the Legislative Assemblies were ahead. And moreover, the Governor was a party to the assurance given by the Prime Minister, (Maharaja of Parlakimedi) that nothing should be done without consulting the Legislature. It is therefore a great wrong done by Sir Hawthorne Lewis the Governor in allowing his Adviser to enter into an agreement with the Madras Government, just on the eve of the General Elections.

The Government of India Act, 1935, Section 93, clause 4, runs thus. If the Governor by a Proclamation under the section assumes to himself any power of the Provincial Legislature to make laws, any law made by him in the exercise of that power, shall, subject to the terms thereof continue to have effect until two years have elapsed, from the date on which the Proclamation ceases to have effect, unless sooner repealed or re-enacted by an Act of the appropriate Legislature. This clearly defines the power of the Governor under section 93 which is of a very temporary character. It also shows the intention of the Parliament that all the laws passed by the Governor would be of a temporary character. In view of this, it is not conceivable how a Governor acting under this section can barter away all our rights over our mines, forests, water power, etc., for 99 years. Moreover, the Executive authority of the Province (vide section 175) shall extend subject to any act of the Legislature to the grant, sale, disposition or mortgage of any property vested in His Majesty for the purposes of Government of the Province and to the purchase or acquisition of property on behalf of the Majesty for both purposes respectively and to the making of contracts.

And moreover, we find that the subject 'contract' is under the concurrent Legislative list. This means that the Provincial Legislature has power to legislate on contracts and may also pass laws defining terms and conditions under which the Provincial Government shall be able to enter into agreements or contracts. And to this extent we think that the agreement may be revised.

It is said that Orissa cannot utilize even 10 per cent of the energy it will get from Duduma, I therefore give

below a rough estimate of Duduma electrical energy Orissa might require.

Electric energy to be available from Duduma.

		Kilowatt.	
Electric Energy Needed in Orissa :—			
		No. of	Energy
		plants.	required.
Rice Mill at	30 KW.	75	2,250
Sugar Factory at	500 „	4	2,000
Paper Mill at	5,000 „	4	20,000
Tile at	40 „	10	400
Oil Extractor	50 „	10	500
Jute Mill at	1,500 „	2	3,000
Ceramic Factory		3	400
Cotton Mill	5,000 „	4	20,000
Rayon Mill	2,000 „	2	2,000
Dyestuff Factory		1	5,000
Glass Factory	15 „	2	30
Aluminium Factory	25,000 „	1	25,000
Heavy Chem. Plant	4,000 „	1	4,000
Iron and Steel Works			
at Koraput	3,000 „	2	6,000
Hand-made paper			
Industry	10 „	20	200
Celluloid Factory			
(small)		10	
Match Factory	10 „	3	30
Cement Factory	10 „	2	20

Saw Mills	10	„	...	5	50
Colliery at	1,000	„	...	2	2,000
					(20 h.p.....15 KW.)
Ice Factory at	60	„		5	300
Lime Factory at	5	„		10	50
Rope Factory	30	„		2	60
Kalahandi	3,000
Patna	5,000
Gangpur	500
Bamra	500
Sonepur	300
Baudh	500
Athmalik	500
Talcher	1,000
14 Sub-divisional Head-quarter					7,000
50 Workshops at	20	KW.			1,000
Sulphuric Acid plant at	20			...	20
					<hr/>
					1,12,610
					<hr/>

Cuttack (Orissa)
August 1st 1946.

L. N. SAHU,
Secretary, Utkal
Union Conference.

Hill Tribes of Jeypore

BY

PANDIT L. N. SAHU, M.A., M.L.A., M.R.A.S.,
Member, The Servants of India Society, Cuttack.

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