

ODDAYAN v. PENNEFATHER.

[Civil Jurisdiction (Corrie, C.J.) December 21, 1936.]

Licence Ordinance, 1924—s. 4 (4)¹—refusal of Licensing Officer to grant Restaurant Licence—whether Court will grant mandamus.

Oddayan through his solicitors had delivered to the licensing officer, Nadroga an application for a restaurant house supported by a certificate signed by the District Medical Officer and a permit signed by the Acting Inspector-General of Constabulary. The licensing officer refused to issue the licence, stating to Oddayan's solicitor, in the course of an interview that an Indian restaurant in the situation contemplated would interfere with the amenities of the nearby European hotel and that in his opinion that was a proper ground for refusal of the restaurant licence.

HELD.—The Court cannot arrogate to itself the appellate jurisdiction which the law has vested in the Governor in Council by s. 4—(4) of the Licence Ordinance, 1924.¹

[**EDITORIAL NOTE.**—*Vide also Hussain v. Baker* [1946] 3 Fiji L.R.—.]

MOTION for rule *nisi* of mandamus.

D. C. Chalmers and *P. Rice* for the applicant.

The Attorney-General, *R. S. Thacker*, for the respondent.

CORRIE, C.J.—It is clear from the letters exhibited to the affidavit filed in support of this application that the licensing officer has given a decision refusing to issue a licence to the applicant.

From this decision an appeal lies under s. 4 (4) of Ordinance No. 3 of 1924¹ to the Governor in Council.

There is nothing in the law to limit or restrict the grounds upon which such an appeal can be made.

If this Court were to issue the order prayed it would be arrogating to itself the appellate jurisdiction which the law has vested in the Governor in Council.

No order will issue.

The Attorney-General.—I ask for costs. The Colonial Secretary and I have on separate occasions pointed out the right of appeal to the applicant.

P. Rice.—I submit I had a case.

The costs of this application are to be paid by the applicant.

¹ Now *Licence Ordinance Cap. 154 s. 4 (5)* (Revised Edition Vol. II page 1683).