

KARNATAKA LOKAYUKTA


No:COMPT/LOK/BGM/726/2016/ARLO-3

M.S. Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru, Dtd:16/05/2020

**REPORT UNDER SECTION 12(1) OF
KARNATAKA LOKAYUKTA ACT, 1984**

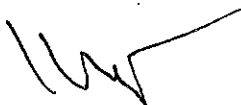
Sub: Proceedings for recovery of Rs. 12,500/- with reasonable rate of interest from the date of disbursement till its realisation from Smt. Lakshmi Bai Doddappa Badakannanavar who was selected as beneficiary under Indira Awas Scheme-reg.,

An investigation was taken up under Section 9 of The Karnataka Lokayukta Act, 1984, on the basis of complaint filed by Sri Ningappa Yallappa Badakannavara, Kadivala Kallapura Post, Hungund Taluk, Bagalkote District (hereinafter referred to as complainant for short) against (1) Sri S. G. Jathuri, the then Panchayath Development Officer of Kamatagi Gram Panchayath (presently retired) presently resident of Rajingalpet, Guledagudda, Badami Taluk, Bagalkote District, (2) Smt. Ratna, W/o Suresh Hallad, former Chairman of Kamatagi Gram Panchayath (presently resident of Jalilane, Kamatagi Village, Hungund Taluk, Bagalkote District), (3) Sri M.Y. Madar, SDC, TMC,



Kamatagi and (4) Sri Chittaragi, Present Chief Officer, Town Panchayath, Kamatagi Town, Bagalkote District (hereinafter referred to as 'respondent Nos. 1 to 4' for short).

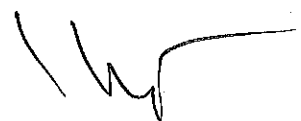
2. This complaint is filed inter-alia alleging that the respondents have illegally allotted an amount of Rs. 12,500/- towards construction of house under Indira Awaz Scheme in favour of Smt. Lakshmi Bai Doddappa Badakannawar (herein after referred to as **'beneficiary'** for short) on 10/04/2013 through cheque No. 284656. It is contended that the said beneficiary resides in the neighbouring village of Mugunur Gram Panchayath at Kadiwala Kallapura village and her family members own land, tractors and other properties. As such, she was not entitled for the benefits under the said scheme and in-spite of submitting several representations to this effect the respondents, they have failed to take action. Hence, he prays for action against the respondents.
3. On perusal of the complaint averments, reports from the Panchayath Development Officer of Kamatagi Gram Panchayath as well as the Chief Officer of Kamatagi Town Panchayath were secured with respect to the details of the payment made in favour of the beneficiary named above. On consideration of those reports it was noticed that the amount mentioned above was in fact paid to the beneficiary by the respondents as such this matter was referred to the Superintendent of Police,



Karnataka Lokayukta, Vijayapura for investigation and report. Accordingly, the Superintendent of Police, Karnataka Lokayukta, Vijayapura has submitted report dated 19/08/2019 enclosing investigation report dated 13/08/2019 submitted by Dy.S.P., Karnataka Lokayukta, Bagalkote (hereinafter referred to as 'I.O.' for short).

4. The investigation report indicates that out of the **four** allegations made by the complainant in his complaint, two of them have been substantiated. The complainant had made the following allegations in the complaint;

- a. It is alleged that while selecting beneficiaries under the Indira Awas Housing Scheme, the then officials of erstwhile Gram Panchayath of Kamatagi (presently Town Municipal Council) had received bribe.
- b. It is alleged that while executing the works under the MGNREGA scheme the guidelines issued were not followed.
- c. It is alleged that while selecting beneficiaries under the Indira Awas Housing Scheme in the year 2013, the then officials of erstwhile Gram Panchayath of Kamatagi (presently Town Municipal Council), Smt. Lakshimi Bai W/o Dodappa Badakannanawar was selected although her husband had properties standing



in his name at Kadivala Kallapura village. Therefore, it was alleged that the selection of beneficiary was improper and the amount released to her is misappropriated.

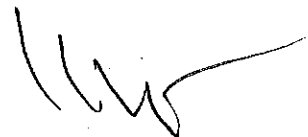
d. It is alleged that though the complainant had submitted an application dated 27/02/2016 to furnish information to the complainant, there was inaction on the part of respondents. Hence, it is alleged that there has been abuse of power and dereliction of duty on the part of respondents.

5. As mentioned above, among the four allegations made by the complainant, the allegations mentioned at pre para no. 4 (c) and (d) are found substantiated by the I.O. It is stated in the report that on securing the records relating to the selection of beneficiary under Indira Awas Scheme in the year 2011 a declaration to the effect that **“the applicant and her family members had no properties in their name in Karnataka”** was made by the then Panchayath Development Officer and Chairman of Gram Panchayath. Subsequently through cheque No. 284656 dated 10/04/2013 an amount of Rs. 12,500/- was paid to the beneficiary and during the course of spot inspection the I.O. has found that only foundation was constructed in the said land and no building was erected.



6. The I.O. has found that the husband of the beneficiary by name Sri Doddappa Yellappa Badakannanavar owns land bearing Sy.No. 48/1 and 41/2 at Kadivala Kallapura village apart from land bearing Sy.No. 10/3 at Kamatagi village. Therefore it is stated that while selecting Smt. Lakshmi Bai Doddappa Badakannanavar as beneficiary under Indira Awas Scheme, the respondent no.1 and 2 are guilty of abusing their power and dereliction of their duty.

7. So far as the allegations at pre para no. 4(d) are concerned it is stated in the investigation report that the application submitted by the complainant on 27/02/2016 at Town Municipal Council, Kamatagi requesting for the information regarding selection of beneficiary under housing scheme, was received and necessary entries were made in the inward register. It was found that the said application was not placed before the Chief Officer, TMC for further directions and the concerned caseworker was also not informed about the receipt of the said application. Therefore, it is stated that the respondent no.3 and 4 were responsible for negligence in discharge of their official duties. In view of the investigation report respondent no.1 to 3 were impleaded and the comments of respondent no.1 to 4 were secured by issuing notice to them along with the copy of the investigation report.



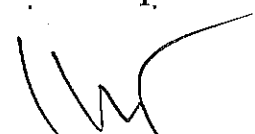
8. The respondent no.1 and 2 have submitted comments dated 22/11/2019 and 21/11/2019 respectively by raising identical defence. It is their defence that the beneficiary had no properties at Kamatagi Gram Panchayath as such she was entitled for the said benefit and the process of selecting her as beneficiary was approved by Executive Officer, Taluk Panchayath, Hungund. However, the fact of her husband owning property at Kadiwala Kallapura and Kamatagi villages were not brought to their knowledge as such an amount of Rs. 12,500/- was paid to her through cheque No. 284656 on 10/04/2013. On receipt of objections for such payment of amount, further payment was stopped. Therefore, they contend that there is no dereliction of duty and misconduct on their part.
9. It is significant to note that the respondent no.1 was working as Panchayath Development Officer of Kamatagi Gram Panchayath while selecting the beneficiary as such he was a 'government servant' as defined u/s 2(6) of Karnataka Lokayukta Act, 1984. The respondent no.1 has retired from the service on 30/04/2014 and the incident of paying money to the beneficiary had occurred on 10/04/2013. Since the report of the I.O. indicates that due to the act of respondent no.1 and 2 a wrong beneficiary was selected under the welfare scheme and an amount of Rs. 12,500/- was paid to her resulting in improper utilization of such fund causing financial loss to the State. The respondent no.1 has admitted in his



comments that the husband of beneficiary owns properties and that he had no knowledge of it while selecting her as beneficiary. He has also admitted the payment of amount to the beneficiary. This indicates that the respondent no.1 was not diligent in making enquiry about the eligibility criteria of the beneficiary before selecting her under Indira Awas Scheme. Therefore, this not only results in dereliction of duty and misconduct but also has occasioned in causing financial loss to the state.

10. It is needless to point out that 6 years have elapsed after the retirement of respondent no.1. As per the decision of Hon'ble Supreme Court of India in case of **U.P. State Sugar Corporation and others v/s Kamal Swaroop Tandon**, reported in **(2008) 2 SCC 41** it was held that financial loss caused by an employee due to the negligence and carelessness attributable to him can be recovered even after the retirement of such employee. However, show cause notice for such recovery was required to be given before such employee retires from service.

11. In the present case the alleged financial loss was caused on 10/04/2013 and the respondent no.1 has retired from service on 30/04/2014. This complaint came to be filed on 15/03/2016 i.e. after lapse of around **two years** from the date of retirement of respondent no.1. Therefore, as per the dictum of the Hon'ble Supreme



Court of India and as per Rule-214(2) of KCSR no action either for disciplinary proceedings or for recovery of the amount can be initiated against respondent no.1 who has retired from service **6 years ago**.

12. So far as, respondent no.2 is concerned, she was a public servant as defined u/s 2(12) of Karnataka Lokayukta Act, 1984 who had served as Chairman of Kamatagi Gram Panchayath from 14/03/2011 to 11/09/2013. Presently she does not continue to hold such post. However, the material on record indicates that on payment of Rs. 12,5000/- to the beneficiary, objections were received for making further payment and acting on such objections no further payments have been made to her. Since, the material on record indicates that Smt. Lakshmi Bai Doddappa Badakannanavar was not entitled to receive Rs. 12,500/- as beneficiary under Indira Awaz Scheme, I am prima facie of the view that a recommendation u/s 12(1) of Karnataka Lokayukta Act, 1984 is required to be made to the Competent Authority for effecting such recovery from the said beneficiary by initiating appropriate legal action in-accordance with law and also by proceeding against her property.

13. With respect to the allegations against respondent no.3 and 4, the report of the I.O. indicates that the respondent no.3 had failed to forward the application received from the complainant on 25/02/2016 requesting to furnish information regarding the



payments made to the beneficiary even after lapse of several days as such the respondent no.4 was also deprived of acting immediately on such application by informing the complainant that the information sought by him is not available at their office.

14. In his comments dated 21/11/2019, the respondent no.3 has contended that on receipt of the application from the complainant, it was mentioned in the inward register and the letter was placed before the respondent no.4. Since, respondent no.3 is not custodian of the information sought by the complainant, the said letter was forwarded to the concerned official who has failed to respond to it timely. Therefore, it is his contention that the delay cannot be attributed to him. On the contrary the respondent no.4 in his comments dated 12/11/2019 has contended that the respondent no.3 had retained the application filed by the complainant without bringing it to his knowledge. He has also contended that the information sought by the complainant was not available at his office. However, he has contended that the respondent no.3 is in the habit of neglecting effective discharge of his duty because of which a show cause notice was issued to him on 27/01/2016. The copy of said show cause notice is also placed on record with the comments of respondent no.4. Therefore, it is his contention that the respondent no.3 has been negligent in discharge of his duties and there lies no fault or misconduct on the part of respondent no.4.



15. I have perused the entire material placed on record. Considering the contentions raised by respondent no.3 and 4 it is apparent that the information sought by the complainant from the office of Town Panchayath, Kamatagi was not available in the office of respondent no.3 and 4. Though, the comments of respondent no.4 indicates that respondent no.3 has been negligent in the discharge of his duties because of which a show cause notice dated 27/01/2016 was issued to him, but the said aspect does not fall within the purview of the investigation in this complaint. Respondent no. 3 was only a Second Division Assistant. Merely on the basis of the statement of respondent no. 4, who has a greater responsibility, it is not safe to hold that the respondent no. 3 has committed misconduct and disciplinary proceedings are required to be initiated against him. Having regard to the facts and circumstances of the case, I am of the view that there is no justification to hold respondent no. 3 and 4 have committed any misconduct which calls for a recommendation to be made to the Competent Authority in terms of section 12 (3) of Karnataka Lokayukta Act, 1984. Therefore proceedings as against respondent no. 1 to 4 are required to be closed.

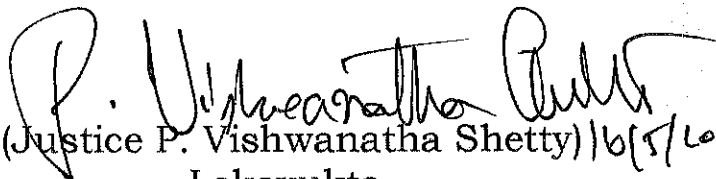
16. In view of the above, I make a recommendation u/s 12(1) of Karnataka Lokayukta Act, 1984 to the Competent Authority for recovery of Rs. 12,500/- with reasonable rate of interest from the date of disbursement till its



realisation from Smt. Lakshmi Bai Doddappa Badakannanavar who was selected as beneficiary under Indira Awas Scheme, by initiating appropriate legal action in-accordance with law and also by proceeding against her property.

17. Further, as per Section 12(2) of Karnataka Lokayukta Act, 1984, the Competent Authority is required to intimate this Authority within one month from the date of receipt of this report, the action taken or proposed to be taken on this report.

Connected records are enclosed.


(Justice P. Vishwanatha Shetty) / 6/5/2020
Lokayukta,
State of Karnataka.