

(Draft)

KARNATAKA LOKAYUKTA

No:COMPT/LOK/GLB/2829/2015/ARLO-5

M.S. Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru, Dtd: 20/12/2019

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

Sub: Proceedings for compliance of recovery of
Rs.13,57,610/- from Sri.Devanagowda
Nidagundi, the then President of Hemanur
Grama Panchayath, Surapura Taluk,
Yadgir District- reg.,

On the basis of report of Additional Director General of Police, Karnataka Lokayukta at Bengaluru, along with investigations papers filed by the Police Inspector, Karnataka, Yadgir (herein after referred to as Investigation Officer – I.O for short) alleging that the respondents being Public/Government servants, have committed misconduct, when the I.O conducted search on the office of Hemanur Grama Panchayath based on the complaint of Sri. Pyare Mohammed Kutubuddin, EO, Taluk Panchayath, Surapura, Yadagiri District an investigation was taken up by the Hon'ble Lokayukta u/s 9 of Karnataka Lokayukta Act, 1984, *(transfer to about 15 asth)* after invoking power vested under Sec.7(2) of the ~~said~~ Act, against (1) Sri.Manappa Kongandikar, PDO, (2) Sri.Devannagowda Nidagundi, President of Hemanur

Grama Panchayth Surapur Taluk, Yadgir District, (3) Sri.Siddappa, Hemanur Village, Surapura Taluk, Yadgir District and (4) Sri.Late Raja Ramanayak, Hemanur Village, Surapura Taluk, Yadgir District (hereinafter referred to as Respondents 1 to 4 for short).

2. The brief facts of the case is that, on the basis of specific information received about the respondents alleging that they are by colluding with each other have misused the government fund of Rs. 13,57,610/- which was sanctioned under the MNREGA scheme during the financial year 2010-11.
3. It is also alleged that they have not taken up any work under the said scheme and no NMRs were prepared, no MBs were written, no entries were made in the MIS and also not written the cash books etc. hence, a case was registered on 01.01.2013 by the Police Inspector, Karnataka Lokayukta, Yadagiri in Cr. No. 1/2014 of Yadgiri Lokayukta Police Station for the offence punishable U/s 13(1)(c) of P.C Act 1984.
4. On the complaint of Sri.Pyare Mohamed Kutubuddin, Executive Officer, Taluk Panchayath, Surapura a criminal case in Cr. No. 24/2012 U/s 420, 406, 408, 409 of IPC has been registered in Surapura Police Station. Subsequently, Hon'ble High Court of Karnataka in the Criminal Petition No.2423/2012 has ordered to transfer this case to Lokayukta for further investigation.

5. Thereafter, on 28.06.2013 Investigating Officer (IO) visited Hemanur Grama Panchayath Office along with witnesses. During his visit he found that Sri.Manappa, Panchayath Development Officer, Sri.Devanagowda Nidagundi, President, Sri.Siddappa (a private person) and Sri.Raja Ramanaik, (who is reported as dead) have misappropriated the Government funds to the tune of Rs. 13,57,610/- () allotted under the MGNREGA Scheme during the year 2010-11 without taking up any work ^{and} have committed ~~the~~ irregularities like, not writing NMRs, MBs, cash book etc., and misused the funds and also a case was registered on the basis of the audit report. Respondents by colluding each ^{and} other have illegally issued cheques to Siddappa and Rajaramanaik. When enquired about the MB books, Cash Books, NMRs, they intimated that no such documents ^{are} available in the office. ^{and} Mahazar was drawn to that effect.

6. The Executive Officer, Taluk Panchayath, Surapura lodged the complaint against the respondents for the illegalities committed and misappropriation of Hemanuru Grama Panchayath funds under MNREGA Scheme in the year 2010-11. The respondent No. 1 Sri. Manappa Kongandikar, PDO and 2. Sri. Devannagowda Nidagundi, President of Hemanur Grama Panchayath, Surapura Taluk, Yadagiri District at relevant time colluded with each other have misappropriated government funds by issuing cheques to one Siddappa and Late Rajaramanaik both are residents of Hemanur village and in the name of the 1st respondent without maintaining proper accounts and without action

plan and without maintaining MB book, MIS registers. The amount misappropriated by them is ~~Rs.~~ [₹] 13,57,610/-. Therefore the case was registered against the respondent Nos. 1 to 4 herein under Sec. 13(1)(d) of P.C.Act, 1988 and also under Sec. 420, 406, 408, 409 of IPC vide Cr. No. 1/13 of Lokayukta Police Station, Yadgir. On the basis of said complaint the investigation was taken up by the Police Inspector, Karnataka Lokayukta, Yadgir and submitted report.

7. The respondent No. 3 is the private person, hence enquiry cannot be conduct against private person under Lokayukta Act. Therefore, observation note ~~has been~~ ^{was} not sent to the respondent No. 3 Siddappa, R/o Hemanur village, Surapura Taluk, Yadgiri District.
8. The respondent No. 4 by name Sri.Rajaramanaik R/o. Hemanur, Surapura Taluk ~~expired~~ ^{was} and hence the observation note ~~has not been~~ ^{was} sent to respondent No.4. Therefore, the observation note date 01/10/15 ~~has been~~ ^{was} sent to respondent Nos. 1 and 2.
9. The respondent No. 1 Manappa Kongadikar, PDO, Grama Panchayath Hemanuru has not submitted ~~comments~~ ^{had submitted}. As per the report dated 29.03.2016 Police Inspector, Karnataka Lokayukta, Yadgir stated that Manappa Kongadikar, Panchayath Development Officer, Grama Panchayath Hemanuru, Surapura Taluk, Yadagiri District died in the railway station on 30th January 2016 and the attested copy of the death certificate of respondent No. 1 Manappa

Kongadikar, Panchayath Development Officer, Grama Panchayath, Hemanur, Surapura Taluk, Yadgir District has been submitted along with his report.

10. In spite of several notices, the respondent No. 2 Sri. Devanagowda Nidagundi, the then President, Hemanur Grama Panchayath, Surapura Taluk has not submitted his comments. The postal acknowledgment has been received with regard to the service of notice to the 2nd respondent. Therefore, as per the order of the Hon'ble Lokayukta vide order dated 12.07.2018, the comments of the respondent No. 2 has been taken as not filed.

11. On perusal of the report submitted by the ADGP, Karnataka Lokayukta, it is found that Sri.Pyare Mohammed Kutubuddin, Executive Officer, Taluk Panchayath, Surapura has filed a complaint against respondent Nos. 1 to 4 for the misappropriation of Rs. 13,57,610/- based on the inspection report submitted by the Joint Director and Chandrashekar L, Audit Officer. The inspection team found the following cheques were issued to Sri. Rajaramanaik and to Sri. Siddappa. It is useful to extract the said portion of the inspection report. *which reads as follows*

ದೂರುದಾರರು ತಮ್ಮ ದೂರಿನಲ್ಲಿ ತಿಳಿಸಿದಂತೆ ಗ್ರಾಮ ಪಂಚಾಯತಿಯ ಪಿ.ಡಿ.ಓ ಮತ್ತು ಅಧ್ಯಕ್ಷರು, ತಮ್ಮ ಅಧಿಕಾರ ದುರುಪಯೋಗ ಪಡಿಸಿ ಅಕ್ರಮವಾಗಿ ನೀಡಿರುವ ಚೆಕ್‌ಗಳ ವಿವರ ಈ ಕೆಳಗಿನಂತಿವೆ.

ದಿನಾಂಕ	ಚೆಕ್ ನಂಬರ್	ಪಡೆದಿರುವವರ ಹೆಸರು	ಮೊತ್ತ
24/02/2011	798421	ಶ್ರೀ.ರಾಜಾ ಶ್ರೀರಾಮ ನಾಯಕ	105000.00

23/02/2011	798422	-ಅದೆ-	105000.00
23/02/2011	798423	-ಅದೆ-	105000.00
23/02/2011	798424	-ಅದೆ-	105000.00
23/02/2011	798425	-ಅದೆ-	105000.00
07/03/2011	822460	-ಅದೆ-	105000.00
03/03/2011	822459	-ಅದೆ-	105000.00
03/03/2011	822457	-ಅದೆ-	105000.00
03/03/2011	822461	-ಅದೆ-	105000.00
08/03/2011	822458	-ಅದೆ-	105000.00
08/03/2011	799713	-ಅದೆ-	70800.00
08/03/2011	799716	-ಅದೆ-	56000.00
25/05/2011	799460	ಶ್ರೀ. ಸಿದ್ದಪ್ಪ	69000.00
19/05/2011	799456	-ಅದೆ-	59000.00
19/05/2011	799457	-ಅದೆ-	19000.00
10/06/2011	799715	-ಅದೆ-	13321.00
		ಒಟ್ಟು	1357610.00

12. The respondent No. 1 Manappa Kongadikar, Panachayath Development Officer, Grama Panchayath, Hemanur took

charge from Shivashankarappa. At the time of taking charge ^{and the same} the account bearing no. 18741 in the Canara bank by the Hamanur Grama Panchayath and the cheque book No. 461012 to 461094 have been handed over to Manappa Kongadikar, Panchayath Development Officer, Grama Panchayath, Hemanur. The misappropriation of the amount has been taken place during the period of Manappa Kongadikar, Panchayath Development Officer, Grama Panchayath, Hemanur. The inspection team also provided opportunity to Manappa Kongadikar, Panchayath Development Officer, Grama Panchayath, Hemanur to submit documents pertaining to the issue of cheque to the person named above in the table. The respondent no. 2 has not submitted any documents and also has not shown any of the public work undertaken by the Grama Panchayath under MNREGA scheme. Therefore, inspection team came to the conclusion that the above said amount of Rs. 13,57,610/- has been illegally misappropriated by Manappa Kongadikar, Panchayath Development Officer, Grama Panchayath, Hemanur in collusion with the President Devanagowda Nidagundi.

13. The inspection team enquired the Manager, Canara bank to ^{with} ascertaining the cheque transactions referred above. During ^{in favour of} ~~that course~~ the cheque issued to Siddappa has been credited to the account of Siddappa whose account ^{has} maintained in the Canara Bank itself. Sri. Rajaramanaik maintained an account in Krishna Grameena Bank vide No. 20940994 and the cheque issued to Sri. Rajaramanaik ^{has}

been credited to the account ^{of} Sri. Rajaramanaik maintained in Krishna Gramēna Bank. Therefore, inspection committee along with the annexure submitted the inspection report as to the misappropriation of the amount by the respondents. The statement also recorded by the inspection committee.

14. Based on the report and as per the directions of the Chief Executive Officer in his letter dated 25.01.2012 directed the Executive Officer, Taluk Panchayath, Surapura to institute the criminal case against respondents. 1157
15. On going through the report of the ADGP and the statements and bank account extracts submitted by the Investigating Officer, it is clear that cheques have been issued in the name of Sri. Siddappa and Sri. Rajaramanaik without any cause and it is also clear that no public work have been undertaken by Hemanur Grama Panchayath and no action plan has been made with respect to any of the public works. In the absence of public works, these amount were paid to Siddappa and Rajaramanaik through cheques. ^{and 1/2} Therefore, it is clear that respondent Nos. 1 and 2 have misappropriated funds of Hemanur Grama Panchayath without doing any public work and without maintaining any of the records such as NMR (Non Muster Roll), MB Books (Measurement Book), MIS (Management Information System) etc., and thereby committed criminal misconduct. 11
16. The respondent No.1 Sri. Manappa Kongadikar, Panchayath Development Officer, Grama Panchayath, Hemanur,

Surapura Taluk, Yadagiri District expired on 30/01/2016. The report submitted by the ADGP shows that the respondent No.4 Sri. Rajaramanaik expired on 18/08/2013. Hence, the complaint against respondent No.1 & 4 has been abated.

17. Sri. Siddappa respondent No.3 is not a public servant as defined under the Karnataka Lokayukta Act 1984. Hence, investigation cannot be conducted against the private person under Lokayukta Act. Therefore, the respondent No. 3 has been dropped from the proceedings.

18. As per the order of the Hon'ble Lokayukta vide order dated 23.10.2018 the draft observation note was sent to the respondent No. 2 Devanagowda Nidagundi for submitting his comments, to explain the incriminating circumstances against him. The said notice has been served through Police Inspector, Karnataka Lokayukta, Yadgiri. The Police Inspector, Karnataka Lokayukta, Yadagiri in his report dated 15.11.2018 stated that observation note has been served to Sri. Devanagowda Nidagundi, President Grama Panchayath, Hemanur, Surapura Taluk, Yadgiri District on 14.11.2018 and the copy of the endorsement has been submitted. The respondent No.2 did not submit the comments on the observation note sent to him. Therefore, the comments of the respondent No.2 has been taken as not filed. ~~Therefore adverse inference can be drawn against the respondent No. 2.~~

19. The respondents ^{have} ~~are~~ committed criminal misconduct and in this regard a criminal case has been registered U/s. 13 (1)

(C) of PC Act and Sec. 406, 408, 409 and 420 of IPC before the District and Sessions Courts Yadagiri in Spl. Case No. 1/2015 and at present the case is posted to 06/01/2020 for framing of charges.

20. The respondent No.2, Sri. Devanagowda Nidagundi, the then President of Grama Panchayath, Hemanur, Surapura Taluk, Yadagiri District is the public servant within the meaning of Karnataka Lokayukta Act. The respondent No. 2 being a panchayath president has failed to maintain absolute integrity besides devotion to duty and acted in a manner unbecoming of a ^{Public} government servant. The investigation report and the documents submitted by the ADGP, Karnataka Lokayukta established that the respondent No. 2 has committed misconduct and misappropriated village panchayath fund to the tune of Rs. 13,57,610/-. Therefore, the action should be taken against him to recover the said amount from the respondent No. 2.
21. Therefore, the report u/s 12(1) of Karnataka Lokayukta Act may be sent to the competent authority' against the respondent No. 2 for recovery of the said amount of Rs. 13,57,610/- from Sri. Devanagowda Nidagundi.
22. In view of the above, I am of the considered opinion that it is necessary to make recommendation under Section 12(1) of the Karnataka Lokayukta Act, 1984 to recover the amount of Rs. 13,57,610/- from the respondent No. 2 Sri. Devanagowda Nidagundi, the then President of Grama Panchayath, Hemanuru, Surapura Taluk, Yadagiri District.

23. 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.Vishwanath Shetty),

P. Shetty
20/12/19. Lokayukta,
State of Karnataka.

