

KARNATAKA LOKAYUKTA

NO. COMPT/UPLOK/BD/2616/2016/DRE-1 M.S.Buildings,
Dr. B.R. Ambedkar Veedhi,
Bengaluru 560 001.

Dated: 4/11/2019

**Report under section 12(1) of
Karnataka Lokayukta Act**

Sub: complaint filed by Sri.Devaraju K S/o
Kadirappa, Appasanahalli Village, Mittahalli
Post and Panchayath, Chilakalanerpu Hobli,
Chintamani Taluk, Chikkaballapura District.

- 1) On the basis of complaint filed by Sri.Devaraju K S/o Kadirappa, Appasanahalli Village, Mittahalli Post and Panchayath, Chilakalanerpu Hobli, Chintamani Taluk, Chikkaballapura District, (hereinafter referred to as 'Complainant'), against (1) Sri.Ramesh Babu, Head Master, Government Lower Primary School, Appasanahalli Village, Chintamani Taluk, and (2) Sri.Raghu, President, SDMC, Lower Primary School, Appasanahalli Village, Chintamani Taluk, Chikkaballapura District (hereinafter referred to as 'Respondents 1 and 2' respectively) an investigation under Section 9 of the Karnataka Lokayukta Act, 1984 was taken up.
- 2) The complainant has alleged in the complaint that the respondent No.1 being the Head Master of Government Lower Primary School, Appasanahalli, has misappropriated the amount of Rs.78,000/- and Rs.3,91,007/- which were

sanctioned by the Government for construction of compound and additional building without constructing the same.

- 3) The complainant has produced the copies of information dt.14/9/16 and 16/8/16 furnished under RTI Act wherein it is stated that Rs.78,000/- sanctioned for construction of compound to the school during 2012-13 has been withdrawn by the Head Master, Ramesh Babu and without constructing compound the amount has been misappropriated. In another information dt.14/9/16 it has been recited that an amount of Rs.3,91,007/- released for construction of additional building during 2011-12 has been completely withdrawn by the Head Master, Ramesh Babu, but without construction of the rooms the amount has been misappropriated. Statements of Account extract of Karnataka Bank and SBM, Chintamani have been produced.
- 4) Notices were issued to the respondent No.1 and 2 to submit their comments. The respondent No.2 has filed comments contending that since 2012 to 2015 he was the President of S.D.M.C, and respondent No.1 was the Head Master of the school. He has further contended that respondent No.1 used to fillup the cheques and get his signatures whenever amount was required to be withdrawn from the bank. He has further stated that the account was in the joint names of Head Master and the President. It is further stated that after the Civil Court and the Hon'ble High Court granted stay order, he did not sign any cheques. It is further stated that during 2016 he came to know that the respondent No.1 has drawn the amount through cheques, though he did not

affix his signatures to the said cheques and thereafter the respondent No.1 was kept under suspension.

- 5) The respondent No.1 inspite of service of notice has not filed any comments.
- 6) The Superintendent of Police, Karnataka Lokayukta, Chikkaballapura who was directed to investigate and submit report has submitted that a parallel enquiry was going on at the behest of Block Education Officer, Chintamani. Along with the said report copies of the letter dt.18/11/2017 by the Head Master, Government High School, Dodda Bommanahalli, Chintamani Taluk, the notification dt.22/7/17 of the Block Education Officer, Chintamani initiating disciplinary proceedings under Rule 11 of Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957, against the respondent No.1 and appointing Sri.Raghavendra, Head Master, Government High Schook, Dodda Bommanahalli as Inquiry Officer and Smt.E.Sahana, Superintendent, office of the Block Education Officer, Chintamani as Presenting Officer with annexure-1 to 4 have been produced.
- 7) The Articles of Charge, Inquiry Report and the order of the Disciplinary Authority were produced by the Block Education Officer, Chintamani as per the directions of the Hon'ble Lordship at para 78. As per the Articles of Charge the respondent No.1 had misappropriated the amount granted under SSA plan for construction of additional school building by withdrawing the amount, but not utilizing the same for the completion of the school building.

- 8) In the Inquiry report the Inquiry Officer has reproduced the evidence recorded in the Inquiry. It is seen that during cross examination of PW.2, Krishnappa, the delinquent official/respondent No.1 has admitted that he has drawn the amount without construction of compound and without construction of building. It has further been observed by the Inquiry Officer that, since the delinquent official has admitted misappropriation of amount, the enquiry was closed. Inquiry Officer has given the report that the charges leveled against the delinquent official/respondent No.1 have been proved.
- 9) Therefore, considering the Inquiry Report submitted by the Inquiry Officer it can be safely opined that the allegation of misappropriation of amount to the tune of Rs.7,48,962/- (including interest of Rs.2,79,055/-, on the misappropriation amount of Rs.4,69,007/-) is substantiated. From the conduct of the respondent No.1 in not filing any comments inspite of due service of notice, an adverse inference is to be drawn against the respondent No.1.
- 10) However, in the order dt.6/2/2018 the Block Education Officer, Chintamani has passed the order withholding the two annual increments with cumulative effect as per Rule 8(iv)(a) of Karnataka Civil Services (Classification, Control and Appeal) Rules 1957 and has further directed that the respondent No.1 shall repay the misappropriated amount of Rs.4,69,007/- along with interest of Rs.2,79,055/- totally Rs.7,48,062/- in one installment.
- 11) No further report was received regarding recovery of misappropriated amount. After several reminders the Block

Education Officer, Chintamani in his letter dt.31/5/19 submitted that an amount of Rs.15,000/- each has been deducted from the salary of the respondent No.1 for the month of April 2019 and May 2019 and has been credited to the concerned Head of Account. Therefore, Block Education Officer, Chintamani was directed to take steps for recovery of entire misappropriated amount in one installment as per his own order dt.6/2/18. But in his letter dt.31/8/19 Block Education Officer, Chintamani has reported that the Deputy Director of Public Instructions was sought clarification in this regard and vide his letter dt.15/3/19, the Deputy Director has directed for recovery of the misappropriated amount by deducting Rs.15,000/- each from the net salary of the respondent No.1.

- 12) Respondent No.1 is a public servant and hence the above misconduct of the respondent No.1 attracts the penal provisions of Prevention of Corruption Act. Sec.13 of Prevention of Corruption Act (prior to amendment Act No.16 of 2018 w.e.f. 26/7/2018) read as below:

13. Criminal misconduct by a public servant

(1) A public servant is said to commit the offence of criminal misconduct,-

(a) if he habitually accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person any gratification other than legal remuneration as a motive or reward such as is mentioned in section 7; or

(b) if he habitually accepts or obtains or agrees to accept or attempts to obtain for himself or for any other person, any valuable thing without consideration or for a consideration which he knows to be inadequate from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any

person whom he knows to be interested in or related to the person so concerned; or

(c) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or under his control as a public servant or allows any other person so to do; or

(d) if he,-

(i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest; or

(e) if he or any person on his behalf, is in possession or has, at any time during the period of his office, been in possession for which the public servant cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income. Explanation.-For the purposes of this section, "known sources of income" means income received from any lawful source and such receipt has been intimated in accordance with the provisions of any law, rules or orders for the time being applicable to a public servant.


(2) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than one year but which may extend to seven years and shall also be liable to fine.

- 13) Respondent No.2 was the President of SDMC, Lower Primary School, Appasanahalli Village, Chintamani Taluk, at the relevant period. In his comments respondent No.2 has also conceded that the bank account was in the joint names of the President and the Head Master and that he has signed the cheques allegedly filled up by the respondent No.1 to draw the amount which was sanctioned for construction of school building and compound. Sec.403, 405, 406 and 409 of Indian Penal Code deal with the offences of criminal misappropriation, criminal breach of trust, and prescribe penalty for the said offences. Therefore from the above

discussion it can be safely opined that there are prima facie materials to initiate criminal proceedings against respondent No.1 and 2 for the alleged misappropriation.

- 14) In the above facts and circumstances, in exercising the powers conferred under Section 12(1) of Karnataka Lokayukta Act this recommendation is made to the competent authority to initiate criminal proceedings against both the respondent No.1 and 2.
- 15) The Competent Authority shall intimate or cause to be intimated to this Authority about the action taken on the report within one month thereafter as stipulated under Section 12(2) of Karnataka Lokayukta Act, 1984.

Connected records are enclosed herewith.


(JUSTICE N. ANANDA) 5/11
Upalokayukta
State of Karnataka, Bengaluru

