

KARNATAKA LOKAYUKTA

Compt/Lok/BCD/3084/2014/ARLO-3

M.S. Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru, dated: 28/07/2021.

**REPORT UNDER SECTION 7(2)(A) r/w SECTION 12(3) OF
KARNATAKA LOKAYUKTA ACT, 1984**

Sub: Proceedings initiated against:

- 1) Sri. Chandrappa, the then Bill Collector, Seetharamthanda Gram Panchayath (presently working as Secretary of Kandagallu Gram Panchayath, Kudligi Taluk, Ballari District)
- 2) Sri. Siddalinga Swamy, the then Secretary, Seetharamthanda Gram Panchayath (presently working as Secretary of Daroji Gram Panchayath, Sandur Taluk, Ballari District)
- 3) Kum. Vasuki, the then Panchayath Development Officer, Seetharamthanda Gram Panchayath, (presently working as Panchayath Development Officer, Hosapete Taluk, Ballari District)
- 4) Smt. Neelamma, W/o Mudiappa, Former Chairman, Seetharamthanda Gram Panchayath, Hosapete Taluk, Ballari District
- 5) Smt. K. Shivarudramma, the then Secretary, Nimbalgere Gram Panchayath, Kudligi Taluk (presently working as Secretary, Rampura Gram panchayath, Kudligi Taluk)



- 6) Smt. Drakshayani Pujar, the then in-charge Secretary of Uralihalu Gram Panchayath, Kudligi Taluk (presently working as Secretary of Ramdurga Gram Panchayath, Kudligi Taluk, Ballari District)
- 7) Sri. K.R. Prakash, the then Secretary, Gudekote Gram Panchayath, Kudligi Taluk (presently working as Assistant Planning Officer, Zilla Panchayath, Ballari District)
- 8) Sri. C. Chowdappa, the then Secretary, Kandagalli Gram panchayath, Kudligi Taluk (presently working as Secretary of Hudem Gram panchayath, Kudligi Taluk),
- 9) Sri. Muddu Kumara, the then Executive Officer, Taluk Panchayath, Kudligi Taluk (presently working as Secretary, IDBI, Bengaluru) and
- 10) Sri. Chennappa, the then Executive Officer, Taluk Panchayath, Kudligi Taluk (presently working as Chief Accounts Officer, Zilla Panchayath, Ballari District about their misconduct as Government servants/public servants – reg.,

On the basis of a reference made by Government of Karnataka U/s 7(2A) of Karnataka Lokayukta Act (KL Act for short) issued by Rural Development & Panchayath Raj Dept., Bangalore, through G.O.No.: Gra Aa Pa 111 U Kha Yo 2013, Bangalore dtd.09/09/2014 an investigation was taken up in this case with reference to



irregularities/violation of guidelines issued for implementation of works under MGNREGA by the Grama Panchayaths in the State as indicated by Comptroller and Auditor General in its report relating to Ballari District. On receipt of G.O. this matter was referred to the ADGP, KLA for investigation and submit report.

2. On the basis of investigation report dated: 22/01/2018 submitted by PI, KLA, Hosapete which were forwarded by ADGP, KLA, Bengaluru and charge sheet indicates that, violation of guidelines issued under MGNREGA while executing works at Hosapete Taluka by 114 Dhanapura, Bukkasagara, Byluvaddigeri, Gadiganuru, Mallapanagudi, Mariyammanahalli, Muddapura No.10, Nagenahalli, Ramasagara and Seetaramthanda Grama Panchayats and also at Kudligi Taluk by Banavikallu, Cowdapura, Gudekote, Hirehegdal, Hurulihala, Hyalya, K. Ayyanahalli, Kandagallu, Nimbalegere and Rampura Grama Panchayats while executing works in the year 2011-12. The investigation officer had found that totally 9 Government Servants and 1 former President of the above mentioned Grama Panchayats were responsible for such violations as such he had opined that action for such violations can be taken against them.

3. Therefore, respondent no.72 i.e. **Sri. Chandrappa**, the then Bill Collector, Seetharamthanda Gram Panchayath (presently working as Secretary of Kandagallu Gram Panchayath, Kudligi Taluk, Ballari District), respondent



no.73 i.e. **Sri. Siddalinga Swamy**, the then Secretary, Seetharamthanda Gram Panchayath (presently working as Secretary of Daroji Gram Panchayath, Sandur Taluk, Ballari District), respondent no.74 i.e. **Kum. Vasuki**, the then Panchayath Development Officer, Seetharamthanda Gram Panchayath, (presently working as Panchayath Development Officer, Hosapete Taluk, Ballari District), respondent no.75 i.e. **Smt. Neelamma**, W/o Mudiappa, Former Chairman, Seetharamthanda Gram Panchayath, Hosapete Taluk, Ballari District, respondent no.76 i.e. **Smt. K. Shivarudramma**, the then Secretary, Nimbalgere Gram Panchayath, Kudligi Taluk (presently working as Secretary, Rampura Gram panchayath, Kudligi Taluk), respondent no.78 i.e. **Smt. Drakshayani Pujar**, the then in-charge Secretary of Uralihalu Gram Panchayath, Kudligi Taluk (presently working as Secretary of Ramdurga Gram Panchayath, Kudligi Taluk, Ballari District), respondent no.79 i.e. **Sri. K.R. Prakash**, the then Secretary, Gudekote Gram Panchayath, Kudligi Taluk (presently working as Assistant Planning Officer, Zilla Panchayath, Ballari District), respondent no.80 i.e. **Sri. C. Chowdappa**, the then Secretary, Kandagalli Gram panchayath, Kudligi Taluk (presently working as Secretary of Hudem Gram panchayath, Kudligi Taluk), respondent no.81 i.e. **Sri. Muddu Kumara**, the then Executive Officer, Taluk Panchayath, Kudligi Taluk (presently working as Secretary, IDBI, Bengaluru) and respondent no.82 i.e. **Sri. Chennappa**, the then



Executive Officer, Taluk Panchayath, Kudligi Taluk (presently working as Chief Accounts Officer, Zilla Panchayath, Ballari District (hereinafter referred to as '**Respondents no.72 to 85**' for short) were impleaded in this case and by forwarding copy of the investigation report to them they were informed to submit their comments on it. Among them respondent no. 75 has failed to submit her comments. All other respondents have submitted their comments which are placed on record.

4. Among the respondents mentioned above, respondent no. 77 i.e. **Sri. S.G. Nanjappa**, the then Secretary, K. Ayyanahalli Grama Panchayath, Kudligi Taluk (presently Chirabi Grama Panchayath, Kudligi Taluk, Ballari District), respondent no. 83 i.e. **Sri. M. Umamahesh**, the then Secretary, Chowdapura Grama Panchayath, Kudligi Taluk (presently residing at Kukkuppi Post, Kudligi Taluk, Ballari District), respondent no. 84 i.e. **Sri. M. Narayanappa**, the then Secretary of Rampura Grama Panchayath, Kudligi Taluk (presently residing at Kudligi Taluk, respondent no. 85 i.e. **Sri. Ramchandrappa H. Rajoji**, the then Executive Officer, Taluk Panchayath, Kudligi Taluk (presently residing at Vidya Nagara, Shivmoga) were reported to have retired from service on attaining the age of superannuation on 31/05/2017, 30/04/2015, 31/08/2015 and 31/12/2015 respectively. Since more than four years have elapsed from the date of incident in question i.e. during the period 2011-12, no



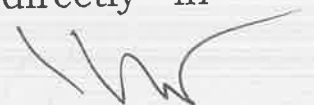
action in accordance with law can be initiated against the said respondent in the light of restriction contained in Rule 214(2)(b)(ii) of KCSR. This is also the view taken by the Hon'ble High Court of Karnataka in the decision reported in **2015 SCC Online KAR 4824** between **Sri. H.S. Lakshmegowda v. The Karnataka State Warehousing Corporation**. Therefore, proceedings against respondent no.77, 83, 84 and 85 were recommended be dropped.

5. The comments submitted by respondent no.72, 73 and 74 are identical in nature. These respondents have contended that the allegation with respect to misappropriation of public money made against them in the charge sheet submitted by the Lokayukta Police is false and that there is no such misappropriation. They have contended that the amount deposited by them are with respect to the works executed by the labourers and in some cases such amount has been deposited into the account of near relatives of the labours employed by the Grama Panchayath for execution of works under MGNREGA. They have further contended that for execution of every work under MGNREGA an Engineer will be incharge of the work who would submit report with respect to completion of work, quality of work and the labourers employed in execution of such work.
6. It is their defence that only after submission of such report by the Engineer salary of the labourers will be paid



to the concerned labourers. It is their contentions that unless the Engineer, who is incharge of the work certifies the participation of a labourer in execution of a work no salary to such labour will be paid. Therefore any payment made by them is contended to have been made in accordance with certificate and report issued by the Engineer. They have further contended that as per the guidelines issued under the scheme, amount of wages to be paid to the labourer would be deposited into his bank account and if a labourer does not have a bank account then such wages would be paid to the nearest relative who had employed in execution of the work. Therefore it is their defence that the investigation made by the I.O. before submission of final report before Hon'ble Special Court is superficial and without proper verification of records. As such they have contended that there is no misappropriation of money and there is no misconduct of their part.

7. They have further contended that in the year 2014-15 the Central Government introduced DBT scheme or DBT transaction that is to say "Direct Beneficiary Transfer" whereunder the amount to be paid to a labour would be transfer directly to his bank account and not to the account of his nearest relative. However, before introduction of such transaction earlier, wages were paid to the nearest relative of the labourer as such the amount in question had to be paid who is nearest relative of a labour though he has not participated directly in



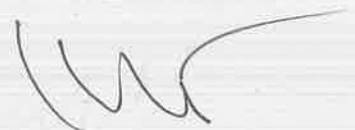
execution of the work as a labour. They have also submitted copies of the guidelines called as "Operational Guidelines" issued by the Ministry of Department of Rural Development Government of India New Delhi in the year 2008 with respect to the payment of wages and such payment being made through banks and post offices in order of justify their defence.

8. The respondent no.76 through his comments dtd.20/11/2019 has submitted that he has submitted compliance report with respect to the observations made by the investigating officer in the final report submitted before the Special Court. He has contended that the first work mentioned in the investigation report executed by Nimbalegere Grama Panchayath of Kudligi Taluk at the then Ballari District executed in the year 2009-10 have been accomplished in accordance guidelines issued under MGNREGA. He has contended that the first work was executed from 19/10/2009. The allegation that after completion of the work the NMRs were secured by the respondent no.76 and thereafter the signature of the labourers were taken and based on it payment were made is denied. He has contended that only after receipt of NMR the work will have to be commenced. Therefore on commencement of the work the signatures of the supervising officers have been obtained on 12/03/2009 and the amounts are paid cheque no.438542543 on 12/03/2010. He has raised similar defence with respect to 2nd and 3rd works contending that only after securing



NMR those works were commenced and the amounts were paid for the 2nd work through cheque no.438429 on 20/02/2010 and for execution of 3rd work the amount was paid through cheque no.76684 on 04/10/2008.

9. With respect to the allegation in the charge sheet that there is no proper maintenance of records. It is the defence the respondent no.76 that the work completion certificate is in available the file. He has also contended that the copy of MB Book is available in the file which has been verified by the Auditor. Therefore it is his contention that the observation of the I.O. are incorrect and that the records relating to the work in question and its copies have been submitted for perusal. Similar contentions are raised with respect to 2nd and 3rd work as mentioned in the investigation report. It is his defence that the records submitted by him which relates to the work in question have been verified by the authorities concerned before processing the file. Therefore he has contended there is no misconduct or dereliction of duty muchless misappropriation of public money on his part.
10. The respondent no.77 has submitted comments dtd.20/11/2019 and he has taken contentions which are similar to the one raised by respondent no.76 relating to maintenance of records, NMR and payment of money to the labours employed execution of work. It suffices to note that respondent no.77 has retired from service on 31/05/2017 which is a period beyond four years from



this day as such no recommendation for initiation of actions in terms of Rule 214(2)(b) of KCSR can be made in this case. Therefore further proceedings as against respondent no.77 may be dropped.

11. The respondent no.78 through her comments dtd.30/11/2019 and he has contended that two works executed at Hurulihala Grama Panchayath are in accordance with the guidelines issued under MGNREGA and the action taken by her are in accordance with the circulars issued by the Government of Karnataka. It is her contention that both the works executed in the year 2008-09 have been commenced on securing NMR and that those works were not commenced before receipt of NMR. She has also contended that the fact of receipt of NMR and then commencement of work has been specified in MIS data records relating to the works in question. Therefore she has denied the allegations made against her in the investigation report. She has further contended that records relating to execution of works were maintained by her which have been handed over to her successor as such there is no dereliction of duty or misconduct on her part. However, it is relevant to note that except submission of comments the respondent no.78 has not submitted any records in support of her contentions either relating to the execution of work or with respect to handing over of records by her to her successor. Therefore the contentions raised by the respondent no.78 cannot be accepted at this stage as



such her defense are required to be ascertained by holding a detailed enquiry.

12. The respondent no.79 has submitted his comments dtd.30/11/2019. In his comments he has contended that three works where in dereliction of duty and misconduct on his part are specified by the I.O. have been executed in accordance with the guidelines issued for execution of works under MGNREGA. Those works were executed in the year 2007-08, 2008-09 and 2009-10. The defence raised by respondent no.79 are identical with the defence raised by the respondent no.78. He has also contended that he had commenced execution of works only after receipt of NMRs and those facts are mentioned in the MIS data records maintained for the purpose of execution of works. Therefore it is his defence that the works executed by him are in accordance with guidelines and norms issued under MGNREGA. He has prayed for dropping action against him. It is relevant to note that the respondent no.79 has also failed to submit any records in support of his defence. Therefore his statement cannot be accepted at this stage more so when he is facing prosecution in criminal case filed against him before the Hon'ble Special Court. As such the defence of respondent no.79 is required to be appreciated only after conducting a detailed enquiry against him.

13. The respondent no.80 has submitted comments dtd.24/11/2019. The allegations against this respondent




relates to improper compliance with the guidelines issued under MGNREGA and also non-maintenance of records in accordance with such guidelines while executing two works at Kandagallu Grama Panchayath of Kudligi Taluk at erst while Ballari District presently Vijayanagara District. The following allegations are made against him they are, that executing first work the respondent no.80 had not secured the signature of the labours who had worked in executing on the NMR. He had not secured technical sanction and administrative approval for such works and that no information or records were available with respect to such sanctions being obtained by him. The name and signature of the person who had obtained the attendance of labours was not mentioned. The details in the NMR were incomplete. The work compliance certificate was not enclosed and also not available in the records. Three stages of the photographs relating to execution of works were not available. The details of the bank through which wages were paid was not available in the records.

14. The respondent no.80 in his comments has admitted that there were no signatures of the labours on the NMR. He has contended that though the labours who had worked in execution of work have been paid wages through their bank accounts, but due to rush of work their signatures could not be secured in the NMR. It is his defence that technical sanctions and administrative approvals were dispensed due to the pressure of work. With respect to



securing the signatures of the labours on the NMR, it is his defence that, the said work was entrusted to staff of Grama Panchayath who has failed in securing such signatures. He has contended that the work completion certificate has been misplaced. Similar contention is raised with respect to photographs relating to three stages of the work stating that while verification of those records those photographs though obtained have been misplaced.

15. With respect to the second work executed by the respondent no.80 the I.O. has stated that the said work was executed in the year 2009-10 and the following defects have been noticed while investigating the said work. It is contended that the details with respect to technical sanction and administrative approval were not available in the records. The person who obtained attendance of the labourers was also not specified in the records. The information filled up in the NMR were incomplete. The work completion certificate was not enclosed in the records and that photographs relating to two stages of work were not furnished, the Xerox copy of the MB book was not made available and the details of the wages paid through bank accounts to the labourers employed in execution of works were also not mentioned.
16. The respondent no.80 has taken similar defence with respect to the second work as was taken by him with respect to the defects highlighted with respect to the first



work. He has contended that technical sanction and administrative approval were dispensed for this work and that the Panchayath staff was entrusted with the duty of securing signature on the NMR in the labourers. He has also stated that the work completion certificate was though obtained but it is misplaced while verifying the records and similar in the situation to the photographs relating to execution of work. He has stated that the original MB Book was available but Xerox copy was not enclosed. With respect to payment of labourers it is his contention that those wages were paid through the bank account of the concerned labour. Therefore, he has contended that there is no dereliction of duty or misconduct on his part. It is germane to note that the respondent no.80 has admitted defects as highlighted in investigation report. Therefore, there are materials which indicate misconduct on his part.

17. The respondent no.81 has submitted his comments dtd.18/09/2020. In his comments he has stated that from 10/12/2004 to 08/01/2009 he had worked as Executing Officer of Taluk Panchayath, Kudligi. He has stated that though the records relating to the works executed by 07 Grama Panchayaths of Kudligi Taluk were verified but during the tenure of his office at Kudligi three works of three Grama Panchayaths were mentioned as defective in the investigation report. Those works are the work executed by Nimbalegere Grama Panchayath in the year 2008-09. The work executed by K Ayyanahalli



Grama Panchayath in the year 2008-09 and the work executed by Gudekote Grama Panchayath in the year 2007-08. For all the defects mentioned with respect to works executed by the above mentioned three Grama Panchayaths he has contended that the PDO or Secretary of the Grama Panchayath being the Implementation Officer is responsible for maintenance of records. With respect to verification of the execution of work, it is his contention that, the co-coordinating department and the responsible officer concerned are responsible for the purpose of verifying and supervising the work as well as to secure records and also to measure the works executed as well as to mention NMR. He has stated that maintenance of the records is the primary function of the concerned Grama Panchayath and that no such responsibility lies on the Program Officer i.e. the Executive Officer of Taluk Panchayath.

18. He has contended that Taluk Panchayath would supply NMR in accordance with the demand raised by the concerned Grama Panchayath and that the Grama Panchayath and its officials, namely, the Secretary are responsible for maintaining those records. He has further stated that the records submitted to him by the Grama Panchayath for his verification and counter signature have been sent back to the Grama Panchayath as such those records would normally be in the custody of Grama Panchayath. Therefore it is his defence that defects or noncompliance with the guidelines or mismanagement of



records, if any, would only lie with the officials of the concerned Grama Panchayath and that he is responsible for the same.

19. The Respondent no.82 has submitted his comments dtd.23/01/2020. He has also forwarded the copy of the said comments with his letter dtd.10/8/2020 subsequent to submission of his earlier comments. The respondent no.82 has contended that he was working as Accounts Officer at Zilla Panchayath, Ballari and during the said period he was put in additional charge of the Executive Officer post of Taluk Panchayath of Kudligi from 21/11/2009 to 22/03/2010. It is his contention that the investigation report has highlighted the defects in execution of three works executed by the Nimbalegere Grama Panchayath of Kudligi Taluk and five works executed by Ramapuragrama panchayath. He has contended that those works were executed before 21/11/2009 being the date on which the respondent no.82 took charge as Executive Officer of Taluk Panchayath as such he is not liable for any defects or misappropriation of funds as highlighted in the investigation report. He has narrated his defence in detail with respect to each of the work to contend that there is no dereliction of duty or misconduct on his part.
20. One of the points defence raised by respondent no.82 the allegations investigated by the Investigating Officer were not authorized by the Government through its



Government Order for being investigated in this case as such the investigation made by the I.O. is out of the purview of the authorization made by the Government. The next aspect raised as defence by the respondent no.82 is that the Government has authorized investigation through Government Order only with respect to noncompliance of the guidelines issued by MGNREGA whereas there is no authorization for registration of FIR against any of the public servants. Therefore he has contended that the registration of FIR in Crime no.7/2014 of Karnataka Lokayukta Police Station, Hospete is not in accordance with law. It is his further defence that the present complaint is registered with respect to the allegations which are investigated in Crime no.7/2014 which are also entrusted to this authority under the Government Order which he has cited in detail in his comments. Referring to the Government Order he has contended that prior to registration of this complaint there is no specific authorization or permission obtained by the Hon'ble Lokayukta for registration of this complaint. Therefore, this complaint is not in accordance with the provisions of Karnataka Lokayukta, Act.

21. He has further contended that investigation, if any, in the present complaint or to have been conducted by an officer who is expert in audits because the investigation based on the report submitted by the Comptroller and Auditor General. Therefore, he has contended that any officer who is expert in audits and senior in rank than



that of CAG ought to have conducted investigation and the investigation conducted by Police without such expertise is improper and impermissible.

22. The respondent no.82 while referring to each of the works relating to Nimbalegere Grama Panchayth has contended that out of the three works the first work was executed from 19/10/2009 to 31/10/2009. The second work was executed from 19/10/2009 to 01/11/2009, whereas the third work was executed from 10/06/2008 to 27/07/2008. Therefore he has contended that those works were executed prior to the respondent no.82 taking additional charge as Executive Officer of Taluk Panchayath Kudligi. With reference to five works executed by Ramapura Grama Panchayath of Kudligi Taluk, Ballari District, he has contended that the first work was executed from 05/10/2009 to 27/10/2009, second work was executed from 05/10/2009 to 27/10/2009, the third work was executed from 09/09/2009 to 24/09/2009, the fourth work was executed from 05/10/2009 to 27/10/2009 whereas the fifth work executed at Ramapura Grama Panchayath was from 05/10/2009 to 27/10/2009. Referring to these dates the respondent no.82 has contended that he took charge as Executive Officer of Taluk Panchayath of 21/11/2009 as such all those works were executed prior to his taking additional charge of the Executive Officer post in Taluk Panchayath, Kudligi while working as Accounts Officer at Zilla Panchayath, Ballari.



23. However, it is relevant to note that, having taken those defects the respondents had admitted at para no.19 of page no.21 in his comments that the NMR Books were issued by his predecessor in office but the fact of issue of those books were not mentioned by him as such after respondent no.82 took charge of the post of Executive Officer of Taluk Panchayath, Kudligi, he made an entry with respect to issue of those NMR and put his signature recording the fact of such issue. Therefore it is relevant to point out that one of the allegations to be investigated in this complaint as authorized by the Government order is with respect to fabrication of records or falsification of records relating to the execution of works. It is an admitted fact that NMR books are to be issued before commencement of the work. This fact has not been denied by respondent no.82. However, in many of the instances it is verified by the I.O. that NMR Books are issued and entries in those records are made subsequent to execution of works. Such conduct on the part of responsible officer of Grama Panchayath in assistance of the Executive Officer of Taluk Panchayath gives raise to an inference that the Executive Officer of Taluk Panchayath in collusion with the PDO of the Grama Panchayath had assisted in fabrication records after execution of the work in question by issuing NMR for the work which was already commenced and executed before the NMR came to be issued. For the said reason, the defence raised by the respondent no.82 cannot be



accepted that he has no role with respect to works executed prior to his taking charge of the office of Executive Officer, Taluk Panchayath, Kudligi.

24. He has also referred to the order passed by the Hon'ble High Court of Karnataka in Writ Petition no.41228/2015 to 41213/2015 to contend that the report submitted by CAG can only be used for exclusive deliberation of the House and that no other authority has any right to pick up extract from CAG report so as to initiate proceedings. It is germane to note that the report of CAG was the basis for the Government to issue Government Order dtd.09/09/2014 U/s 7(2)(A) of Karnataka Lokayukta Act authorizing Hon'ble Lokayukta to investigate the irregularities, illegalities and the discrepancies committed by the concerned officers while executing works under MGNREGA. Therefore, reliance by respondent no. 82 on the order passed by the Hon'ble High Court of Karnataka is not justified for the reason that CAG report is an essential part of the Government order entrusting investigation to this authority as such it cannot be said that the extract from the report of CAG cannot be looked into for the purpose of investigation in this case so as to initiate action against the concerned public servants.
25. It is the further defence of respondent no.82 that discrepancy or irregularities, if any, committed are to be attributed only to the officials of Grama Panchayath and that the officials of Taluk Panchayath including the



Executive Officer has no role in such discrepancy or illegality for the reason that the records relating to the works in question would be in the custody of the concerned Grama Panchayth. As mentioned above, it is an admitted fact by the respondent no.82 that he had issued NMR subsequent to the completion of work. This aspect being within one of the points of reference for investigation in this case itself indicates misconduct on the part of respondent no.82 as such it cannot be said that the investigation is not authorized or that the prosecution launched against the respondents in this case is against law. Therefore, considering the entire material placed on record, the comments submitted by the respondents cannot be accepted as such they are liable to be recommended for appropriate action against them in accordance with law.

26. It is significant to note that, the respondents have raised defence referring to the documents which the I.O. has specified that they were not furnished for his inspection during investigation. Another aspect noticed by the I.O. is that the records submitted by the respondents were not acceptable as they had come into existence after the works in question were executed. As mentioned above, it is the defence of respondents that the records relating to works in question were verified by their superiors. If such being the case submission of those records or its copies to the I.O. during investigation could have assisted him in verifying the genuineness of the transaction relating to



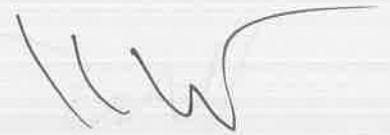
execution of works or payment of wages to the concerned labours. However, without submission of such records, forwarding them at this stage would only subject those records for being accepted by conducting a detailed enquiry. Due to the failure on the part of the respondents in submission of those records at the time of spot inspection casts burden on them to prove their defence by adducing evidence formally at the time of enquiry. Therefore, the records submitted by the respondents and their defence justifying their acts contending that they are not guilty of misconduct or misappropriation of money cannot be accepted at this stage. As such the said defence is not justified without further enquiry.

27. One of the defences raised by the respondent no.82 is with respect to registration of FIR allegedly in the absence of specific authorisation by the Government through Government Order dtd.09/09/2014. It is significant to note that the investigation in this case was entrusted to Hon'ble Lokayukta U/s 7(2)(A) of Karnataka Lokayukta Act. Based on such entrustment this matter came to be referred to the ADGP of the Police Wing in this institution by virtue of the order of the then Hon'ble Lokayukta directing him to get the inspection and investigation conducted and to submit a report so as to further investigated the matter. While conducting inspection and investigation based on such order the Investigating Officers, namely, the Police Inspector or Deputy Superintendent of Police in the concerned Districts have



ascertained commission of cognisable offence either regarding misappropriation of public money or resorting to corrupt practice by fabrication of records and dishonest, utilisation of public money either by withdrawing money through self cheque or through falsification of accounts by depositing money in the account of the persons who were unconnected with the execution of works. Therefore, on noticing such commission of cognisable offences either under the provision of Indian Penal Code or under the provision of Prevention of Corruption Act, first information reports came to be registered and investigations regarding commission of those offences have been conduct by the I.O.

28. It is settled principle of law that criminal law can be set into the motion by any person. Therefore, specific authorisation by the Government to investigate a cognisable offence is not a condition precedent as the officers working in the Police Wing of this institution were the Police Officers incharge of a Police Station as on the date of registration of FIR. Therefore, they had all the powers with them U/s 154 and 156 of the Code of Criminal Procedure of register FIR and investigate commission of offence. In the light of the discussion made above, the defence of the respondent no.82 that the registration of FIR is bad in law, has no legal basis as such it is liable to be rejected.



29. In the light of what is stated above, the defence of the respondents no. 72, 73, 74, 75, 76, 78, 79, 80, 81 and 82 cannot be accepted. There are material on record which prima facie indicates misconduct on the part of the respondents named above. Therefore, I am of the view that a recommendation in terms of section 12(3) of KL Act is required to be made to the Competent Authority for initiation of disciplinary proceedings against respondent no. 72, 73, 74, 76, 78, 79, 80, 81 and 82 for commission of misconduct within the meaning of Rule 3(1)(i) to (iii) of KCS (Conduct) Rules. Further the Competent Authority is also be recommended to initiate action as per section 43A of Karnataka Panchayat Raj Act, 1993 as against respondent no. 75.
30. Since respondent no. 77, 83, 84, 85 have retired from service on 31/05/2017, 30/04/2015, 31/08/2015 and 31/12/2015 respectively on attaining the age of superannuation, no disciplinary action can be lawfully initiated against them in view of the bar contained in Rule 214(2)(b) of KCSR. Therefore, further proceedings are recommended to be dropped against them.
31. The facts and materials on record prima-facie show that, the respondents no. 72, 73, 74, 76, 78, 79, 80, 81 and 82 have committed misconduct as per Rule 3 (1) (i) to (iii) of KCS (Conduct) Rules, 1966. Accordingly, now, acting under Section 12(3) of The Karnataka Lokayukta Act,



1984, recommendation is made to the Competent Authority to:

- i. Initiate disciplinary proceedings against respondent no.72 i.e. **Sri. Chandrappa**, the then Bill Collector, Seetharamthanda Gram Panchayath (presently working as Secretary of Kandagallu Gram Panchayath, Kudligi Taluk, Ballari District), (Date of Retirement: 30/06/2035), respondent no.73 i.e. **Sri. Siddalinga Swamy**, the then Secretary, Seetharamthanda Gram Panchayath (presently working as Secretary of Daroji Gram Panchayath, Sandur Taluk, Ballari District), (Date of Retirement: 31/08/2026), respondent no.74 i.e. **Kum. Vasuki**, the then Panchayath Development Officer, Seetharamthanda Gram Panchayath, (presently working as Panchayath Development Officer, Hosapete Taluk, Ballari District), (Date of Retirement: 31/01/2047), respondent no.76 i.e. **Smt. K. Shivarudramma**, the then Secretary, Nimbalgere Gram Panchayath, Kudligi Taluk (presently working as Secretary, Rampura Gram panchayath, Kudligi Taluk), (Date of Retirement: 30/06/2028), respondent no.78 i.e. **Smt. Drakshayani Pujar**, the then in-charge Secretary of Uralihalu Gram Panchayath, Kudligi Taluk (presently working



as Secretary of Ramdurga Gram Panchayath, Kudligi Taluk, Ballari District), (Date of Retirement: 31/12/2032), respondent no.79 i.e. **Sri. K.R. Prakash**, the then Secretary, Gudekote Gram Panchayath, Kudligi Taluk (presently working as Assistant Planning Officer, Zilla Panchayath, Ballari District), (Date of Retirement: 31/01/2026), respondent no.80 i.e. **Sri. C. Chowdappa**, the then Secretary, Kandagalli Gram panchayath, Kudligi Taluk (presently working as Secretary of Hudem Gram panchayath, Kudligi Taluk) (Date of Retirement: not available in service register), respondent no.81 i.e. **Sri. Muddu Kumara**, the then Executive Officer, Taluk Panchayath, Kudligi Taluk (presently working as Secretary, IDBI, Bengaluru), (Date of Retirement: 31/05/2029) and respondent no.82 i.e. **Sri. Chennappa**, the then Executive Officer, Taluk Panchayath, Kudligi Taluk (presently working as Chief Accounts Officer, Zilla Panchayath, Ballari District, (Date of Retirement: 31/05/2029), and to entrust the inquiry to this Authority under Rule 14(A) of the Karnataka Civil Services (Conduct) Rules.

- ii. (a) Take steps for removal of the respondent no. 75 i.e. **Smt. Neelamma**, W/o Mudiappa, Former Chairman, Seetharamthanda Gram



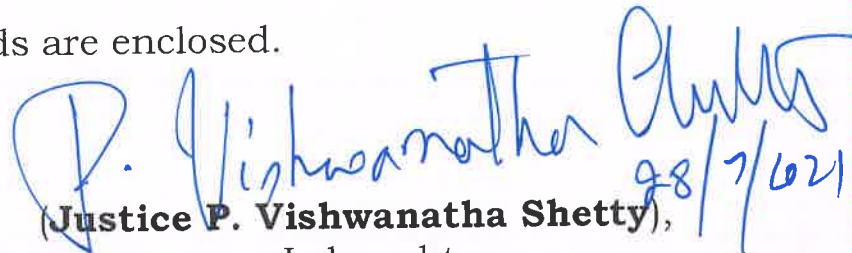
Panchayath, Hosapete Taluk, Ballari District, if she is still continuing as member of Gram Panchayath for her misconduct as provided under Sec.43(A) of Karnataka Panchayath Raj Act, 1993.

or

(b) Take steps to disqualify respondent no.75 for being chosen as member of Gram Panchayath if she has ceased to be the member of Gram Panchayath as provided under Sec.12 r/w Sec.43(A) of Karnataka Panchayath Raj Act, 1993.

32. Further, as per Section 12(4) of Karnataka Lokayukta Act, 1984, the Competent Authority shall intimate to this Authority within three month from the date of receipt of this report, as to the action taken or proposed to be taken on the basis of this report.

Connected records are enclosed.


(Justice P. Vishwanatha Shetty),
Lokayukta,
State of Karnataka.

