

KARNATAKA LOKAYUKTA

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NO.COMPT/LOK/BCD/3084/2014/ARLO-3

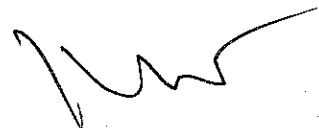
M.S. Building,
Dr. B.R. Ambedkar Veedhi,
Bangalore, Dt. 01/04/2019

**REPORT UNDER SECTION 12(3) OF THE
KARNATAKA LOKAYUKTA ACT, 1984**

Sub:Proceedings against (1) Sri Shivaram, Secretary, Hirebudur Gram Panchayath, Devadurga Taluk (presently working as Secretary, Karegudda Gram Panchayath of Devadurga Taluk, Raichur District, (2) Sri Sanjeev Kumar G.K. Assistant Engineer, Panchayath Raj Engineering Sub-Division, Devadurga, (3) Smt. Gangamma W/o Hanumantha Chalavadi, Former Chairman, Hirebudur Gram Panchayath, R/o Savanthgera, Devadurga Taluk, Raichur District, (4) Sri Shivanna Desai, the then Secretary, (Presently retired) R/o Jalahalli, Devadurga Taluk, Raichur District, (5) Sri Mallappa, Panchayath Development Officer, Ganadala Gram Panchayath, Devadurga Taluk, Raichur District, (6) Smt. Lachamma, W/o Hanumaiah, Former Chairman, Ganadal Gram Panchayath, R/o Sunnadakal, Devadurga Taluk, Raichur District and (7) Sri Hanumantha S/o Hanumantha Konemani, Former Chairman, Ganadal Gram Panchayath, R/o Devadurga Taluk, Raichur District as Government/Public Servants-reg.

Ref: Government Order bearing No. ಗ್ರಾಅಪ/111/ಉಖಾಯೋ/2013 dated 09/09/2014.

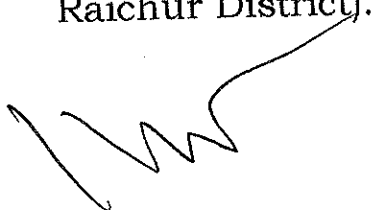
This case is registered on the basis of reference made
u/s 7(2-A) of Karnataka Lokayukta Act, 1984 by the



Government of Karnataka through G.O. bearing No. ^A 111/11/ಉಪಾಯೋ/2013 dated 09/09/2014 entrusting investigation into the lapses found by Comptroller and Auditor General ('**CAG**' for short) in its report with regard to non compliance of rules and operational guidelines issued for execution of works under Mahatma Gandhi National Rural Employment Guarantee Act ('**MGNREGA**' for short).

2. On registration of this case the matter was referred for investigation to the ADGP, Police Wing, Karnataka Lokayukta, Bengaluru. The ADGP KLA, Bangalore through letter dated 02.11.2018 has submitted copy of the final report prepared by Police Inspector, Karnataka Lokayukta, Raichur (hereinafter referred to as '**I.O.**' for short) in **Crime NO.6/2014** of **Karnataka Lokayukta Police Station, Raichur** which was submitted before the Hon'ble Special Court, Raichur against the following persons:

- a. Sri Shivaram, Secretary, Hirebudur Gram Panchayath, Devadurga Taluk (presently working as Secretary, Karegudda Gram Panchayath of Devadurga Taluk, Raichur District).



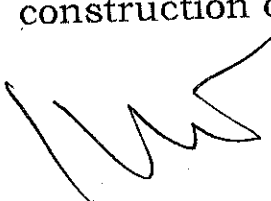
- b. Sri Sanjeev Kumar G.K. Assistant Engineer,
Panchayath Raj Engineering Sub-Division, Devadurga.
- c. Smt. Gangamma W/o Hanumantha Chalavadi, Former
Chairman, Hirebudur Gram Panchayath, R/o
Savanthgera, Devadurga Taluk, Raichur District.
- d. Sri Shivanna Desai, the then Secretary, (Presently
retired) R/o Jalahalli, Devadurga Taluk, Raichur
District.
- e. Sri Mallappa, Panchayath Development Officer,
Ganadala Gram Panchayath, Devadurga Taluk,
Raichur District.
- f. Smt. Lachamma, W/o Hanumaiah, Former
Chairman, Ganadal Gram Panchayath, R/o
Sunnadakal, Devadurga Taluk, Raichur District.
- g. Sri Hanumantha S/o Hanumantha Konemani, Former
Chairman, Ganadal Gram Panchayath, R/o Devadurga
Taluk, Raichur District. (hereinafter referred to as
'Accused no. 1 to 7 in Crime No. 6/2014' for short)
3. The report of I.O. indicates that, the above named accused
no. 1 to 7 in Crime No.6/2014, have committed offence



punishable u/s 13(1)(c) of Prevention of Corruption Act,
1988 R/w Sec.406, 409, 420, 201 R/w Sec.34 of I.P.C.

Accordingly, the final report was submitted before the Hon'ble Special Court on perusal of which cognisance has been taken in **Special Case No.132/2017**.

4. The allegations in the final report and the statements of the witnesses recorded by the investigating officer as well as the documents submitted before this authority reveals the following allegations against the persons named above.
5. The first allegation found by I.O. against the accused no. 1 to 3 in Crime No.6/2014 is that, while working at Hirebudur Gram Panchayath had undertaken work relating to construction of road under MGNREGA at Ashraya Colony in Hanchinal village in the year 2010-11. The said work was to be executed from 23.2.2011 to 23.3.2011. It is stated that the estimated cost of the said work was Rs.3,96,720/- (Rupees Three Lakhs Ninety Six Thousand Seven Hundred Twenty only) and the proposed construction of road was for 580 meters.



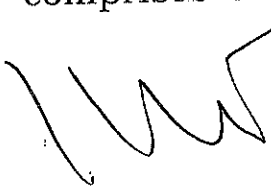
6. On investigation it was found by the I.O. that instead of constructing the above mentioned road to an extent¹⁰ of 580 meters, the said road was constructed only to an extent of 238 meters and an amount only to an extent of Rs.1,62,792/- (Rupees One Lakh Sixty Two Thousand Seven Hundred Ninety Two only) was actually spent for execution of the said work. However, records pertaining to the said work were created to show that road to an extent of 580 meters was constructed by incurring expenses of Rs.3,96,720/- (Rupees Three Lakhs Ninety Six Thousand Seven Hundred Twenty only) so as to match the estimate of works. Accordingly, by creation of work done certificate, an amount of Rs.2,33,928/- (Rupees Two Lakhs Thirty Three Thousand Nine Hundred Twenty Eight only) was misappropriated by the above mentioned accused persons with a common object and intention thereby resulting in abuse of their powers and dereliction of duty.

7. It is further alleged that during the course of investigation, the investigation officer had directed the accused no. 1 in Crime no. 6/2014, i.e, Shivarama, to produce documents relating to the above mentioned work such as,



measurement book, cash book, vouchers and receipts relating to purchase of goods and also the copies of the cheque issued for payment of amount. However, the said accused who was working as Secretary of the Hirebudur Gram Panchayath at that relevant point of time had destroyed the above said documents as such he failed to produce the same before the I. O. Hence, it is alleged that all the above said persons had committed offence punishable u/s. 13(1)(c) of Prevention of Corruption Act, 1988 R/w Sec.406, 409, 420, 201 R/w Sec.34 of I.P.C.

8. The second allegation which the final report submitted by the Investigating Officer reveals is that the accused no. 4 to 7 in Crime no. 6/2014, while working at Ganadal Gram Panchayath, Devadurga Taluk, Raichur District had undertaken work relating to repair of road from Jalahalli Road to the agricultural land of Amaregowda and also for construction of drainage on either side of the said road. The said work was undertaken under MGNREGA for the year 2009-10 and the said work was to be completed between 1.12.2009 to 15.12.2009. The 2nd allegation also comprises of illegalities committed by the persons named



above while executing work relating to construction of playground at Government High School of Gandal village, which was to be completed between the period 1.2.2010 to 15.2.2010.

9. On investigation of the above mentioned works the I. O. has ascertained that the above mentioned accused no. 4 to 7 had though secured the works from the labours by name, 1)Sri Thimmanagowda S/o Shivaraya Melmalagi, 2)Sri Ningappa S/o Hanumantha Kadechuru, 3)Smt. Ademma W/o Mallappa Kaduchuru, 4)Sri Shivaraj S/o Sannaramaiah Doddamani, 4) Sri Rangaiah S/o Hanumaiah Naik, 5)Sri Yamanappa S/o Shivanna Madiwalar, 6)Narasappa S/o Ajjappa, 7)Sri Anjaneya S/o Yankappa, 8) Sri Pampanna S/o Ningappa, 9)Sri Vinoda S/o Ramappa, 10) Sri mahadevappa S/o Chandramappa, 11)Sri Rangappa S/o Govindappa, 12)Sri Yesumithra S/o Mallaiah, 13)Ramesh S/o Kanakappa Dasar, 14)Sri Huligeppa S/o Shivappa, 15) Sri Veeranagowda S/o Shankargowda and 16)Pradhani S/o Ningappa and other persons for the execution of above mentioned works as reflected in the NMR, yet an amount of Rs.65,682/-



(Rupees Sixty Five Thousand Six Hundred Eighty Two only)

13 which was to be paid to them by making deposit of the said amount in their respective bank accounts was misappropriated for their personal use without making such payment.

10. It is also reported by the I. O. that, an amount of Rs.65,682/- (Rupees Sixty Five Thousand Six Hundred Eighty Two only) has been paid in excess than the work extracted from 1)Sri Shankrappa S/o Amarappa, 2)Sri Rachoti S/o Sidramappa, 3)Ninganna S/o Kadappa, 4)Yankanna, S/o Ninganna, 5)Rangamma S/o Lachamappa Jinna and 6)Mudukappa S/o Hanumanthi Chinna and other persons. Hence, it is alleged that the above mentioned persons have abused their powers in making such excess payment thereby committed an offence punishable u/s. 13(1)(c) of Prevention of Corruption Act, 1988 R/w Sec.406, 409, 420 R/w Sec.34 of I.P.C.

11. The I. O. has also stated in his report that the illegalities mentioned above which were investigated by him at Hirebudur and Gandal Gram Panchayaths of Devadurga Taluk in Raichur District, were also mentioned in the audit



report submitted by the team of Auditors from the office of Comptroller and Auditor General on the basis¹⁴ of verification of the above mentioned records between the period commencing from April 2007 to March 2012 and that the same has been mentioned at page no.52 of the said report.

12. After scrutiny of the report filed by the I. O. observation notes were prepared and sent to all the accused no. 1 to 7 in Crime no. 6/2014 for submission of their comments. The notice issued by this authority has been served on all the accused no. 1 to 7 in Crime no. 6/2014 except accused no. 1 i.e., Shivaram, Secretary of Hirebudur Gram Panchayath as he was reported to be dead by the Dy. S. P., Karnataka Lokayukta, Raichur through his report dated 19/12/2018. Therefore the present proceedings stands abated as against Shivaram i.e., accused no.1 in Crime No.6/2014.

13. Among the other accused, accused no. 2 and 3 have submitted their comments and other accused had sought time. In spite of sufficient opportunity except accused no.2 and 3 others have failed to submit their comments. On

perusal of the comments of the accused it is noticed that they have denied the allegations levelled against them. However, no material or acceptable version have been placed by them in order to believe the defence put forth by them. Therefore the comments submitted by the accused lacks justification as such it cannot be accepted for the present.

14. In view of the report submitted by I.O., the allegations referred to above have been prima facie substantiated as such, I am of the considered view that; it would be proper to reject the defence of the respondents no. 2 to 7 and to make a report u/s 12(3) of Karnataka Lokayukta Act, 1984 making recommendation against the Government Servants for commencing disciplinary proceedings against them for their dereliction of duty and misconduct as defined in Rule 3 (1)(i) to (iii) of KCS (Conduct) Rules, 1966 and to entrust the said enquiry to this authority under Rule 14A of KCS (CCA) Rules, 1964.
15. The I. O. report prima facie substantiates that the public servants (being elected representatives of the Hirebudur and Badanal Gram Panchayath) have abused their powers



but all of them have ceased to be Members of Gram Panchayath. It has come to my notice that, when an investigation is completed, many of the representatives of the people who were Presidents/members of the Panchayath would cease to be president/members of the Panchayath. Under these circumstances, Sec. 43-A of Karnataka Panchayath Raj Act, 1993 cannot be invoked to disqualify them on the ground of misconduct as S. 43-A applies only to the members who are in office. There is no provision in the said Act to disqualify the past members and Presidents of Gram Panchayath/Taluk Panchayath/Zilla Panchayath from becoming the members of the said Panchayaths over and again. Since large number of works at local body level are being carried out under the supervision, control and involvement of the President and members of the said Panchayath/local bodies, it is desirable for the **Government to consider making suitable amendment to the Karnataka Panchayath Raj Act, 1993** thereby providing provision to initiate action even if such President/Members of the local bodies i.e., Gram Panchayath/Taluk Panchayath and Zilla

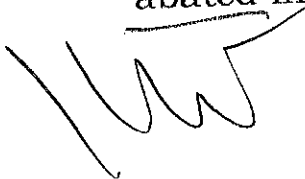


Panchayath are found guilty of misconduct, maladministration etc., even after they cease to be Presidents/Members of local bodies so as to disqualify them from contesting the election to the local bodies at least for a period of six years/two terms from the date of such disqualification.

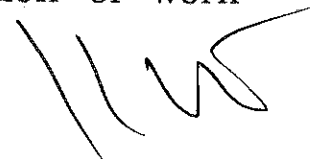
16. Similarly, due to misappropriation of public funds to a tune of Rs. Rs.2,33,928/- (Rupees Two Lakhs Thirty Three Thousand Nine Hundred Twenty Eight only) by the above named accused no. 2 and 3 in Crime no. 6/2014 a recommendation for recovery of the said amount from them and recovery of Rs. 65,682/- (Rupees Sixty Five Thousand Six Hundred Eighty Two only) from accused no. 4 to 7 in Crime no. 6/2014 is also required to be made.

17. In the light of what is stated above, now in exercise of power conferred on me u/s 12(3) of Karnataka Lokayukta Act, 1984 I make the following recommendation to the Competent Authority which is as under:

- a. That the proceedings against respondent no. 1 stands abated in view of his death.



- b. To initiate disciplinary proceedings against accused no. 2, 4 and 5 in Crime no. 6/2014 i.e., (1) Sri Sanjeev Kumar G.K. Assistant Engineer, Panchayath Raj Engineering Sub-Division, Devadurga, (2) Sri Shivanna Desai, the then Secretary, (Presently retired) R/o Jalahalli, Devadurga Taluk, Raichur District and (3) Sri Mallappa, Panchayath Development Officer, Ganadala Gram Panchayath, Devadurga Taluk, Raichur District for dereliction of duty and misconduct on their part as defined in Rule 3 (1)(i) to (iii) of KCS (Conduct) Rules, 1966 and to entrust the said enquiry to this authority U/ Rule 14-A of KCS (CCA) Rules, 1964.
- c. Since there has been misappropriation of public funds to a tune of Rs. Rs.2,33,928/- (Rupees Two Lakhs Thirty Three Thousand Nine Hundred Twenty Eight only) by the above named accused no. 2 and 3 in Crime no. 6/2014 and as well as misappropriation of public funds to a tune of Rs. 65,682/- (Rupees Sixty Five Thousand Six Hundred Eighty Two only) from accused no. 4 to 7 in Crime no. 6/2014 under the guise of incurring expenses for execution of work



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under MGNREGA Scheme, a recommendation is made for recovery of the said amount from them in accordance with law.

- d. Since the I.O. report also reveals abuse of power by the accused no. 3, 6 and 7 in Crime no. 6/2014 i.e., (1) Smt. Gangamma W/o Hanumantha Chalavadi, Former Chairman, Hirebudur Gram Panchayath, R/o Savanthgera, Devadurga Taluk, Raichur District, (2) Smt. Lachamma, W/o Hanumaiah, Former Chairman, Ganadal Gram Panchayath, R/o Sunnadakal, Devadurga Taluk, Raichur District and (3) Sri Hanumantha S/o Hanumantha Konemani, Former Chairman, Ganadal Gram Panchayath, R/o Devadurga Taluk, Raichur District in the capacity of former Chairpersons of the above mentioned Gram Panchayaths, **a recommendation is made to consider making suitable amendment to Section 43A of Karnataka Panchayataraj Act, 1993 for disqualification of past Members/Presidents of the Panchayaths as indicated above.**



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

Connected records are enclosed

P. Vishwanatha Shetty 1/4/2019
[JUSTICE P.VISHWANATHA SHETTY]
LOKAYUKTA
Karnataka State, Bengaluru