

**KARNATAKA LOKAYUKTA**

No. Compt/LOK/BGM/376/2017/ARLO-3

M.S. Building,  
Dr. Ambedkar Veedhi,  
Bangalore-560 001,  
Date: 04/10/2018.**REPORT UNDER SECTION 12(3) OF  
KARNATAKA LOKAYUKTA ACT, 1984**

Sub:Proceedings initiated against (1) Sri Rajugowda Babugowda Patil, President, Kedanur Gram Panchayath, Belgaum Taluk & District (2) Sri Meleppa Kallappa Chalavadi, Retd. Assistant Director, Taluk Panchayath, Khanapura, Belgaum District and (3) Rajashekar Siddappa Araballi, the then Junior Engineer, Taluk Panchayath, Belagavi Taluk & District(abated), regarding their misconduct as Government Servants - Reg.

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A suo-moto case was instituted and investigation was taken up under Section 9 of the Karnataka Lokayukta Act, on the basis of the final report submitted by I/c S.P., Karnataka Lokayukta, Belagavi (I.O. for short), who had conducted investigation based on a reference made to him by the 4<sup>th</sup> Additional District & Sessions Court, Belagavi u/s 156(3) of Cr.P.C. in P.C.R. 10/2012 filed by one Sri Yellappa Rama Terani, R/o Mannikere, Kedanur Post, Belagavi Taluk & District (hereinafter referred to as 'complainant' for short) against (1) Sri Rajugowda Babugowda Patil, President, Kedanur Gram Panchayath, Belgaum Taluk &




District (2) Sri Meleppa Kallappa Chalavadi, Retd. Assistant Director, Taluk Panchayath, Khanapura, Belgaum District and (3) Rajashekar Siddappa Araballi, the then Junior Engineer, Taluk Panchayath, Belagavi Taluk & District (hereinafter referred to as 'respondents 1, 2 and 3 respectively' for short).

2) During the course of investigation the following aspects have been found by I/c S.P., Karnataka Lokayukta, Belagavi, (I.O. for short) and the investigation report discloses the following allegations against the Respondents 1, 2 and 3 which are as under:

(a) It was found that the works in Kedanur Grama Panchayath carried out at the instance of the respondents were executed by usage of machines, however, amount was withdrawn for making payment to the unskilled labours though they were not employed. On examination of finger print of the unskilled labours by FSL only one finger print got tallied with the NMRs whereas finger prints of the 49 unskilled labours did not tally. Therefore, it was found that those unskilled labours were not involved in execution of the said work whereas it was mentioned in the NMR that the same was executed by those unskilled labours.

(b) Sri V.N.Patil, Executive Engineer, PWD, Hukkeri, has conducted personal inspection of 14 works on 11/05/2015 that were executed by the Grama Panchayath at the instance of the



respondents during the year 2010-11 and it was noticed that totally an amount of Rs.1,21,811/- has been misappropriated by the respondents in furtherance of their common intention.

(c) Four unskilled workers by name (1) Vaiju Kallappa Tolagekar, R/o Kedanur village, Belagavi Taluk & District; (2) Shrimanth Erappa Kolkar, R/o Kedanur village, Belagavi Taluk & District; (3) Balakrishna Mahadev Sambaji, R/o Kedanur village, Belagavi Taluk & District and (4) Maruthi Gundu Gudagenahatti, R/o Kedanur village, Belagavi Taluk & District: had expired on 02/06/2009, 19/07/2010, 26/07/2010 and 15/08/2010 respectively. However, the respondents 1 to 3 in furtherance of their common object and common intention had entered the names mentioned above in the NMR thereby they had misappropriated amounts in their names by showing these deceased persons as having been employed in the works got executed by the respondents.

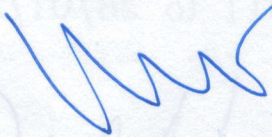
(d) The letter dated. 5.8.2015 addressed by BEO, Hukkeri shows that one Sri Sathyappa Maruthi Varge, R/o Kedanur village, Belagavi taluk & district, was working in Govt. Junior Kannada Medium School, Kalabhavi, Hukkeri taluk ever since 30/04/2008. However, the said person has been shown in the NMR No.1496, 1688 and 2184 as having worked as an unskilled labour in the works executed by the respondents 1 to 3 for the year 2010-11 between the period 22/01/2011 to 28/01/2011,



31/01/2011 to 06/02/2011 and 16/02/2011 to 22/01/2011. Therefore, it was ascertained that the public fund of Rs.2,100/- was misappropriated by the respondents 1 to 3 as having been paid to him.

3) Considering the entire material on record it was found that there were prima facie materials placed on record as such the observation note was forwarded to the respondents on 15/06/2017 calling for their comments. Accordingly, the respondent no.1 and 2 have placed their comments on record, whereas respondent no.3 was reported to have expired as such the matter came to be abated as against respondent no.3.

4) Both the respondents no.1 and 2 have submitted similar comments before this authority and stated that the complainant herein has instituted criminal proceedings before the Hon'ble 4<sup>th</sup> Additional District & Sessions Court, Belagavi in Special case no.26/2016 as well as 4<sup>th</sup> JMFC, Belagavi in C.C.No.832/2014 which are pending consideration and that they have worked for the welfare and progress of the village and that they have committed no offence as alleged against them. It is further contended that the alleged offence punishable U/s 13(7) and 13(1) of Prevention of Corruption Act are not applicable to them as such they cannot be held liable. Hence, they pray for dropping proceedings against them.



5) On consideration of the entire material on record it is significant to note that pendency of criminal proceedings is not a bar for making recommendation under sec. 12(3) of K.L.Act. The nature of proceedings under K.L. Act as well as under P.C. Act are entirely different and the consequences of the said proceedings are also different. Therefore, the contention of the respondents that criminal cases instituted at the instance of the present complaint are pending consideration as such this proceedings needs to be dropped, cannot be accepted.

6) The other contention put forward by the respondents that the offence U/sec. 13(7) and 13(1) of Prevention of Corruption Act are not applicable to them as such recommendation u/s 12(3) cannot be made, cannot be accepted in view of the prima facie material available on record.

7) As per the observation note forwarded to both respondents no.1 and 2 the allegations against them as detailed in pre-para 2 (a) to (d) have been specifically mentioned. The explanation submitted by R-1 & 2 are not satisfactory to call for dropping the proceedings at this stage.

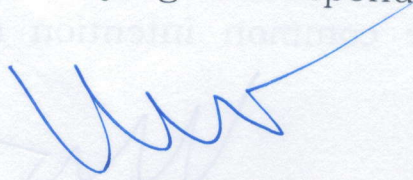
8) In all, the respondents have been alleged to have misappropriated a total sum of Rs.1,23,911/- (being Rs.1,21,811/- under charge no. (b) in pre-para 2 above and Rs.2,100/- under charge no. (d) in pre-para 2 above). Therefore, the above aspects would indicate the common intention and



common object of both these respondents in swindling public money by fabrication of records and by abusing their power at that given point of time. The materials collected by I.O. referred to above prima facie indicates that the respondents have committed serious misconduct by making false entries in NMRs by showing the persons who are dead as the persons whose services were taken and payment were made to them. Further, one Sri Sathyappa Maruthi Varge, who was working in a school was also shown to have been employed as a labourer. The said false entries made, prima facie indicates that respondents have misappropriated government funds by showing that payment were made to several persons who were not employed.

9) The respondent no.1 was a former President of Kedanur Gram Panchayath, Belagavi taluk & district, whereas respondent no.2 was working as Assistant Director, Taluk Panchayath, Khanapura, Belagavi district, who is now retired from service on 31/05/2015. Hence, respondent no.1 was a 'public servant' and respondent no.2 was a 'government servant' as per Sec. 2(12) and 2(6) of K.L. Act respectively.

10) Since the respondent no.1 is not the President of Gram Panchayath presently and since he is not governed by KCSR Rules, no enquiry can be ordered against him. However, a recommendation is required to be made to the government for disqualifying the respondent no.1 from being a member of grama

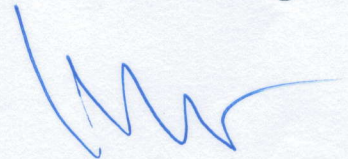


panchayath hereafter as per Section 12 of Karnataka Panchayath Raj Act 1993 and also for recovery of the amount from him as mentioned in pre-para 8.

11) Further the respondent no.2 though a retired government servant, yet misappropriation of public fund by abusing the power and trust bestowed on him is an offence involving moral turpitude and the act of the said respondent in retaining the misappropriated money gives raise for a recurring/continuing cause of action. The said respondent has retired on 31/05/2015. The allegations made against him relates to the year 2011. As per Rule 214(2)(b)(ii) of KCSR enquiry against a government servant who has retired from service can be initiated only within a period of 4 years from the date such event. Therefore, the said provision places an embargo in initiating disciplinary proceedings against respondent no.2. However, the material on record indicates that there has been misappropriation of government funds by both respondent no.1 & 2 as narrated in para 8 above.

12) Accordingly, now, acting under Section 12(3) of the Karnataka Lokayukta Act, 1984, I make the following recommendation that:

(1) The competent authority to take action to disqualify the respondent no.1-Sri Rajugowda Babugowda Patil, the then President, Kedanur Gram Panchayath, Belgaum Taluk and District from being member of the gram



panchayath hereafter as per Sec.12 of Panchayath Raj Act 1993.

- (2)The respondent no.1-Sri Rajugowda Babugowda Patil, the then President, Kedanur Gram Panchayath, Belgaum Taluk and District and the respondent no.2, Sri Meleppa Kallappa Chalavadi, Retd. Assistant Director, Taluk Panchayath, Khanapura, Belgaum District are jointly liable for reimbursement of amount mentioned in pre-para 8 and the competent authority shall take steps for such recovery of Rs.1,23,911/- and report the same to this authority.
- (3)The respondent no.3 is reported to be dead. Hence, disciplinary proceedings cannot not be taken against him and proceedings against respondent no.3 is ordered as abated.

13) Further, as per Section 12(4) of Karnataka Lokayukta Act, 1984, the Competent Authority is required **to intimate to 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)

Lokayukta,  
State of Karnataka.

7/10/2018