

KARNATAKA LOKAYUKTA

Compt/Uplok/BGM-180/2009/ARE-5

Multi-storied Building,
Dr.B.R. Ambedkar Veedhi,
Bengaluru
5th January, 2017**REPORT UNDER SECTION 12(3) OF THE
KARNATAKA LOKAYUKTA ACT, 1984 (REVISED)**

Sub: Proceedings against 1) Sri Gunnu Pujari, Secretary- Horthi Grama Panchayath, Horthi, Indi Taluk, Bijapur District, 2) Sri Siddappa Pujari (also called as Srimantha Pujari)- President, Horthi Grama Panchayath, Horthi, Indi Taluk, Bijapur District, 3) Sri Suresh Revappa Roogi-President, Horthi Grama Panchayath, Indi Taluk, Bijapur and 4) Sri F.C. Mosalagi, Secretary, Horthi Grama Panchayath, Indi Taluk, Bijapur District-now retired regarding their misconduct as public servants -reg.

Ref: (i) Report under Section 12(3) of the Karnataka Lokayukta Act, 1984 dated 17/09/2016

(ii) Your letter No. RDPR 629 GPS, dated 15/12/2016

On the basis of complaint filed by Sri.Santhosh Kumara Parasappa Talakeri, Horthi Grama Panchayath, Indi Taluk, Bijapur District (hereinafter referred to as 'complainant' for short) against 1) Sri.Gunnu Pujari, Secretary- Horthi Grama Panchayath, Horthi, Indi Taluk, Bijapur District, 2) Sri.Siddappa Pujari(also called as Srimantha Pujari)- President, Horthi Grama Panchayath, Horthi, Indi Taluk, Bijapur District, (hereinafter referred to as Respondent No.1 & 2 respectively) alleging misconduct, an

investigation was taken up after invoking Section 9 of Karnataka Lokayukta Act, 1984.

2. According to the Complainant: -

- 1) Respondent No.1 and Respondent No.2 have allotted house under Indira Awas Scheme in favour of wife of President Smt.Anasuya Srimantha Poojari during 2008-09;
- 2) The Respondents have allotted house in the name of Smt. Sarubai Ningavva Kannura under Ashraya Scheme during 2009 though she is a member of Village Panchayath;
- 3) During 2006-07 the Respondents have allotted house under Grameena Ashraya in favour of Sri.Bhimasya Somalinga Kambale, who is the husband of Smt.Yellavva Bhimasya Kambale and member of Village Panchayath;
- 4) During 2006-07 the Respondents have allotted house which is reserved for S.C. in favour of non S.C. person by name Molasidda Sonyala;
- 5) Respondents have misappropriated amount granted for construction of 150 toilets during 2008-09.

3. Report was called for from Police Inspector, Lokayukta, Bijapur (I.O. for short) on the Complaint and the I.O. has submitted report. The Report of I.O.is that:

- i) House is allotted to Sri.Bhimasya Somalinga Kambale who is the husband of Ex.Member of Grama Panchayath Smt.Yellavva during 2006-07 under Grameena Ashraya Yojane under S.C. quota though the certificate issued by the Tahsildar show that he belong to Hindu Gaaniga caste.

ii) Subsidy amount of Rs.1200/- has been paid to 117 beneficiaries by cash for constructing toilet though they have not constructed the toilets except Suresh Pomu Chauhan and five of them are not residents of Horthi Village.

iii) a) Sri.Suresh Revappa and Sri.Siddappa Poojari were the Presidents during the relevant period.

b) Sri.F.C.Musalagi (Retd) and Sri.Yankappagola (Retd) were the Secretaries during the relevant period.

4. After receiving the report of the I.O., Suresh Revanappa Roogi and F.C.Musalagi have been impleaded as Respondent No.3 and 4 respectively and copy of Complaint and report of I.O. were sent to Respondent Nos.1 to 4 for their reply.

5. Respondent No.1 and 2 have not submitted reply though they have received our letter. Respondent No.3 and 4 have submitted replies denying the correctness of the report of I.O.

6. The report of I.O., prima facie show that payment has been made to beneficiaries though they have not constructed toilets and house has been allotted to Sri. Sri.Bhimasya Somalinga Kambale who is not entitled. Therefore, the replies of Respondent No.3 and 4 are not acceptable to drop the proceedings against them.

7. Respondent No.3 was the then President, Horthi Grama Panchayath and Respondent No.4 has retired. The amount paid to the beneficiaries is the loss caused and therefore the amount is to be recovered from them also though they are not holding any post.

8. Since the said facts and materials on record prima facie show that Respondent Nos. 1) Sri.Gunnu Pujari, Secretary- Horthi Grama Panchayath, Horthi, Indi Taluk, Bijapur District, 2) Sri.Siddappa Pujari (also called as Srimantha Pujari) -President, Horthi Grama Panchayath, Horthi, Indi Taluk, Bijapur District, 3) Sri.Suresh Revappa Roogi, Ex.President, Horthi Grama Panchayath, Indi Taluk, Bijapur and 4) Sri.F.C.Mosalagi, Secretary, Horthi Grama Panchayath, Indi Taluk, Bijapur District –now retired have committed misconduct under Rule 3(1) of KCS (Conduct) Rules, 1966 recommendation is made under section 12(3) of Karnataka Lokayukta Act, 1984 to the Competent Authority to initiate disciplinary proceedings against Respondent No.1 Sri.Gunnu Pujari, Secretary , Horthi Grama Panchayath and to entrust the inquiry to this Authority under Rule 14-A of Karnataka Civil Service (Classifications, control and Appeal) Rules, 1957 against Respondent No.1 and Competent Authority is also directed to take action to recover the loss amount caused by the Respondent No.2) Sri.Siddappa Pujari (also called as Srimantha Pujari) -President, Horthi Grama Panchayath, Horthi, Indi Taluk, Bijapur District, 3) Sri.Suresh Revappa Roogi, President, Horthi Grama Panchayath, Indi Taluk, Bijapur District and 4) Sri.F.C.Mosalagi, Secretary, Horthi Grama Panchayath, Indi Taluk, Bijapur District –now retired.

9. In the letter cited at reference (ii), it was stated that against R.1 Sri Gunu Pujari, the then Secretary, Horthi Grama Panchayath, Indi Taluk, Vijayapura District has retired on 31/5/2014 and the allegations leveled against him pertain to the years 2006-07 and 2007-08 and therefore, Rule 214(2)(b)(i) of Karnataka Civil Services Rules prevents further proceedings against him and sought the revised recommendation.

10. Rule 214(2)(b)(i) to (iii) of Karnataka Civil Services Rules reads as follows:

“(b) The departmental proceedings, if not instituted while the Government servant was in service, whether before his retirement or during his re-employment,

(i) shall not be instituted save with the sanction of the Government.

(ii) shall not be in respect of any event which took place more than four years before such institution, and

(iii) shall be conducted by such authority and in such place as the Government may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the Government servant during his service.

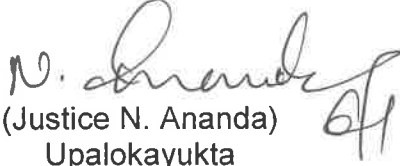
11. The Police Inspector, Karnataka Lokayukta, Vijauapura was directed to investigate and report to the undersigned. He had submitted the report on 15/4/2014. On examination of the same, with other materials, it was concluded that there was misappropriation of funds by the respondents and the said conduct was unbecoming of a Government servant. The incident of misappropriation and misconduct has occurred in the year 2006-07 and 2007-08 while the event occurred on 15/4/2014 and continued. Hence, the event referred to in Rule 214(2)(b)(ii) of Karnataka Civil Services Rules should be understood as occurred only on 15/4/2014 and later. If that be so, four years would lapse only on 14/4/2018 while the Respondent No.1 retired on 31/5/2014 and therefore, the said event is still amenable to the disciplinary proceedings.

12. It is further made clear that in all cases of misappropriation of funds, the event does not cease on the misappropriation of funds, but it is continuing event which exists and remains till the said misconduct is enquired into and punished under the law. Therefore, the meaning of 'event' should not be taken as the date of incident as it encompasses the later period also, till the respondent is brought to book.

13. Under the above circumstances, there is a need of taking necessary action against the Respondent No. 1 Sri Gunu Pujari, the then Secretary, Horthi Grama Panchayath, Indi Taluk, Vijayapura District under the Karnataka Civil Services Rules.

14. Further, as per Section 12(4) of Karnataka Lokayukta Act, 1984 the Competent Authority 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 N. Ananda)
Upalokayukta
State of Karnataka