

KARNATAKA LOKAYUKTA

No.Compt/Uplok/BGM-188/2020/ARE-6 M.S. Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru.
Date:28/12/2020.

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

Sub: Proceedings against 1) Sri.Pansale Jagannath, Asst. Commissioner of Commercial Tax, Sirasi, Uttara Kannada District and 2) Sri.Mohammed Isak, SDA, O/o the Asst. Commissioner of Commercial Tax (VAT), Uttara Kannada District, about their misconduct as Public/Government servants – reg.

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This is a trap case filed by the Police Inspector, Karnataka Lokayukta, Karwar, against 1) Sri.Pansale Jagannath, Asst. Commissioner of Commercial Tax, Sirasi, Uttara Kannada District and 2) Sri.Mohammed Isak, SDA, O/o the Asst. Commissioner of Commercial Tax (VAT), Uttara Kannada District (hereinafter referred to as respondent Nos.1 & 2) alleging that they, being Public/Government servants, have committed misconduct, an investigation has been taken up u/s 9 of the Karnataka Lokayukta Act, 1984.

2) After receipt of the records, an observation note was prepared and sent to the respondents, to submit their reply, if any. In response to the said observation note, the

respondent No.1 has not submitted the reply. But, respondent No.2 has submitted his reply.

3) The respondent No.2 in his comments has taken a contention that, against him and the respondent No.1, a Spl. Criminal case in No.34/2013 was registered before the Hon'ble District and Sessions Court at Karwar, for the same offences and after concluding the trial, the Hon'ble Court by the judgment dtd:22-9-2015, has acquitted them. It is stated that, since a criminal case has already been ended in acquittal, further proceedings in this case are required to be dropped.

4) On perusal of the records, it is seen that, a trap case was registered against the respondents, while receiving the bribe amount of Rs.1,000/- on 20-4-2012, in the office of the respondent No.2 and as per the instruction of the respondent No.1. As per the complaint averments, one Sri.Dyamappa Bhovi Vaddar was a Class-III Contractor and he needed a VAT clearance certificate and accordingly, approached the respondent No.1, on 18-4-2011 for issuance of VAT certificate. It is alleged that, the respondent No.1 demanded bribe amount of Rs.1,500/- from the complainant, for issuance of VAT clearance certificate, and since he was not willing to pay the bribe, he had given complaint to the Lokayukta Police and accordingly, the Lokayukta Police had conducted pre-trial trap proceedings and also trapped the respondents 1 & 2

while receiving the bribe amount. Thereafter, after concluding the investigation, a charge sheet was laid against the respondents.

5) Now, the point for consideration is whether acquittal in a criminal case is a ground for closure of this proceedings. In this regard, it is relevant to cite a decision reported in 1997 SCC (L & S) 548 (APSRTC) V/s Md. Yousuf Miya). In that judgment, the Hon'ble Supreme Court has made a distinction about the proceedings in criminal trial and the proceedings in departmental enquiry. It is held that, the proof required in the both the cases are distinct and different. It is also held that, acquittal in criminal case is not a ground for dropping the departmental enquiry proceedings.

6) Therefore, in view of the aforesaid judgment, the contention taken by the respondent No.2, cannot be accepted at this stage. Since the respondent No.1 has failed to submit his reply to the observation note, it shows that, he has no interest to submit the reply.

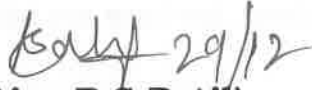
7) The material on record prima-facie discloses that, the respondents 1 & 2 being the Government servants have failed to discharge their duty with utmost honesty, integrity and devotion to duty, therefore, it amounts to misconduct within the meaning of Rule-3 (i) to (iii) of KCS (Conduct) Rules, 1966, hence, it is necessary to make

recommendation u/Sec. 12(3) of the Karnataka Lokayukta Act.

8) The above said report prima-facie points out that, the respondents are guilty of misconduct, within the meaning of Rule-3 (i) to (iii) of KCS (Conduct) Rules, 1966, while discharging their official duty, hence acting under Sec.12(3) of the Karnataka Lokayukta Act, a recommendation is made to the competent authority, to initiate departmental enquiry against respondents 1 and 2 and to entrust the departmental enquiry to this institution as per Rule-14A of the KCS (CCA) Rules, 1957.

9) Further, as per Section 12(4) of Karnataka Lokayukta Act, 1984, the Competent Authority is required to intimate this Authority as early as possible but latest within three months from the date of receipt of this report, the action taken or proposed to be taken on this report against said officials.

Connected records are enclosed.


(Justice B.S.Patil)
Upalokayukta-1,
State of Karnataka.