

KARNATAKA LOKAYUKTA

No.Compt/Uplok/GLB-1545/2017/ARLO-2

M.S.Building,  
Dr, Ambedkar Veedhi,  
Bangalore-560 001  
Date: 27-08-2019.REPORT UNDER SECTION 12(3) OF KARNATAKA  
LOKAYUKTA ACT, 1984

Sub: Proceedings initiated against 1) Basanna Computer Operator, Kavalaga, Kavalaga Gram Panchayat, Aland Taluk, Kalburgi Dist (2) Sona Bai W/o Shama Raya Devantagi the then President, Kavalaga Gram Panchayat, Aland Taluk, Kalburgi Dist (3) Saibanna Vadageri The then Panchayat Development Officer, Kavalaga Gram Panchayat, Aland Taluk, Kalburgi Dist (4) Bheema Shankar S.Khandala President, Kavalaga Gram Panchayat, Aland Taluk, Kalburgi Dist (5) Ambaraya, Panchayat Development Officer Kavalaga Gram Panchayat, Aland Taluk, Kalburgi about their misconduct as public/Government servant. Reg

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An investigation was taken up under section 9 of the Karnataka Lokayukta Act, 1984, on the basis of the complaint filed by Sri. Vitai Arundodaya Ex.Member of Gram Panchayat, Kavalaga Gram Panchayat, Aland Taluk, Kalburgi Dist, (hereinafter referred to as complainant for short) against 1) Basanna Computer Operator, Kavalaga, Kavalaga Gram Panchayat, Aland Taluk, Kalburgi Dist (2) Sona Bai W/o Shama Raya Devantagi the then President, Kavalaga Gram Panchayat, Aland Taluk, Kalburgi Dist (3) Saibanna Vadageri The then

**Panchayat Development Officer, Kavalaga Gram Panchayat, Aland Taluk, Kalburgi Dist (4) Bheema Shankar S.Khandala President, Kavalaga Gram Panchayat, Aland Taluk, Kalburgi Dist (5) Ambaraya, Panchayat Development Officer Kavalaga Gram Panchayat, Aland Taluk, Kalburgi, (hereinafter referred to as respondents for short)**

1. The complainant has alleged that Respondent No.1 being the Computer Operator at Kavalaga Gram Panchayat, Aland Taluk, Kalburgi Dist took the control of Grama Panchayat and the Panchayat documents such as Bank Pass Book, Job Cards etc were kept in his house by stating that there is no proper network at Grama Panchayat office. He kept the office computer in his house. He is demanding bribe of Rs.500/- to Rs.1500/- to apply for ration card and its distribution and also demanding bribe for online updation of GPS for house allotted to the beneficiaries and he has been receiving 15% of the amount released under each installment. He has been receiving Rs.1500/- to update NMR and MIS under MNREG scheme. The funds released towards material cost are being deposited in the account of his brother Dattu S/o Dharmaraya Hemaji who is a contractor. He allotted four toilets to a single family under Nirmal Bharath Scheme and amount was drawn in the name of his brother and his brother's son. The toilets would be uploaded in the GPS only if bribe of Rs.500/- is paid.

2. Even though respondent's father has land in Sy.No.267, the Respondent No.1 by giving false information to the Tahsildar office got regularized the land in Sy.no.85 of Kavalga village under Akrama Sakrama scheme in the name of his wife. Even though his father got big house, the respondent got allotted Ashraya house in Sy.No.85. He illegally encroached 30 to 40 feet space in gramatana and running flour mill therein. He also encroached government gramatana measuring 75 x 80 ft and illegally sold it for a sale consideration amount of Rs.1,80,000/- He got constructed luxury RCC building at Kavalga village. Hence prays to take action against Respondent No.1.

3. During the pendency of this file, the Respondents 2 to 5 were added as respondents 2 to 5 and they have also filed their comments.

4. The respondent No.1 in his comments has denied the entire allegations made in the complaint. He has stated that he is working as only computer operator on daily wages. The Grama Panchayat appointed him after passing resolution in the panchayat. He has no executive powers to pass orders. He cannot be treated as public servant and he is obeying the orders of PDO and President of the Panchayat with regard to operation of computer. Therefore he has not misappropriated any public fund. It is submitted that neither Grama Panchayat nor any Superior officer had given him power to distribute ration card to the beneficiaries. He only operates the computer. Therefore the

question of demanding bribe from the card holders does not arise. He never collected house tax from the villagers. Therefore the question of misusing the house tax does not arise.

5. It is the PDO who is competent authority to allot toilet and issue cheque to the contractor. This respondent is not at all related to the allotment of toilet. This respondent did not encroach any Government land without prior permission of the government. The respondent was cultivating portion of land in Sy.No.85 since more than 25- 30 years. Therefore the Revenue Dept after due enquiry granted the land in Sy.No.85 in the name of respondent's wife. He is in possession of the said land and the said possession is not illegal one.

6. The Gram Panchayat allotted open space in Sy.No.85 in the year 1992 and this respondent and his wife took two plots from panchayat. They are in possession of the same and running flour mill therein. The panchayat entered their names in the panchayat records. The panchayat entered their names in the panchayat records. Out of two plots he sold one plot to discharge his loan and running mill in another plot. The ancestral house and lands were allotted to his brother and the respondent was houseless when the Government allotted house to him.

7. The complainant is Ex-Panchayat Member. His relation with this respondent is not cordial. Therefore in order to harass this respondent he has filed this false complaint. Hence prays to close the complaint against him.

8. The Respondent No.2 in her comments has stated that during the year 2013 Sri.Dattu Dharma Hemaji and Sri.Sanju Kumar Hemaji got constructed individual toilets. They represented that they are living separately. Accordingly an amount of Rs.4,700/- was paid to Dattu through cheque dt.12-6-2013 and an amount of Rs.4,700/- was paid to Sanju Kumar through cheque dt.5-6-2013 by opening NMR under MNREGA Scheme and amount was credited to their SB Accounts.

9. The Respondent No.3 has also filed comments similar to that of Respondent No.2.

10. The Respondent No.4 in his comments has denied the allegations against him and stated that during his period two toilets were not sanctioned in the name of single person. This respondent became President of Gram Panchayat in the year 2015. Therefore he does not know what was took place in the year 2013. The allegations are not pertaining to period during which he was the President of Grama Panchayat. No illegal activities were taken place during his period. Hence prays to close the complaint against him.

11. The Respondent No.5 has filed comments and denied the allegations against him and stated that he worked as Secretary from 2-9-2018 to 3-4-2019. At that time the PDO post was vacant and hence he was appointed as Supervisor and during that period Respondent No.1 was working as Computer Operator. He does not know about the allegations made against Respondent No.1 and he came to know about the same only

when he received the complaint and documents of this case. He was not having computer knowledge and therefore he believed the respondent No.1 with regard to passing of online bills. The respondent No.1 used to take thumb impression of this respondent for 40-50 online bills at once by saying that he would not get on line network. At that time he could have got passed the bills in the name of his brother and brother's son without the knowledge of this respondent. The allegations against this respondent are false. Hence prays to close the complaint against him.

12. Perused the records, The complainant has alleged that the Respondent No.1 got sanctioned toilets in the name of his brother Dattu S/o Dharma Rao Hemaji and his son Sanju Kumar Dattu Hemaji. Letter dated 12-6-2018 shows that toilets were sanctioned to Sri. Dattu S/o Dharma Rao Hemaji and his son Sanju Kumar Dattu Hemaji under Sampoorna Swacha Mission scheme and they received amounts through cheque. The cash book dated 12-6-2013, 15-6-2013, 15-3-2016 and 18-4-2016 shows that the said Dattu S/o Dharma Rao Hemaji and his son Sanju Kumar Dattu Hemaji received payment of Rs.12,000/- and Rs.4,700/- each. These two documents goes to show that the respondents sanctioned two toilets in the name of two persons who are members of the same family. Apart from these documents cheques also reveals that the amount for the construction of the toilets were given to the said two persons twice through cheques. The respondent No.5 in his comments

has stated that without his knowledge the Respondent No.1 would have got passed the bills in the name of his brother and his brother's son. This admission probabalise the case of the complainant. This is nothing but misappropriation of public funds and dereliction of duty on the part of the respondents who are public servants. Since Respondent No.1 got sanctioned the toilets to his family members and managed to pay amount twice, the act of the respondent may also be termed as favoritism.

13. The respondents have even not produced the photos of the alleged two toilets for having constructed the toilets. They released the bills for construction of the toilets twice, but there is nothing on record to show that the said Dattu and his son Sanju Kumar got constructed the toilets, if so how many toilets they constructed. Therefore the construction of the toilets is not proved. Therefore the respondents are liable for their illegal acts. The said Dattu and his son Sanju Kumar gave statement to the I.O and stated that they have been living separately. This aspect of the matter can only substantiate the sanction of toilets to both father and son, but it would not substantiate the act of sanction of two toilets each to father and son. Therefore viewed from any angle it is clear that the respondents have committed dereliction of duty.

14. The complainant has further alleged that the Respondent No.1 encroached two sites of Government and got panchayat records in his name and in the name of his wife. Three Tax Demand Register Extracts are produced and out of it

House No.18 stands in the name of Respondent No.1 and it was granted to him on 30-5-1992. Other two tax Demand register extracts show that House No.80/1 stands in the name of Respondent No.1 and House No.93 stands in the name of wife of R-1. The letter dated 20-6-2003 submitted by Shoba wife of Respondent No.1 to the PDO reveals that she was in possession of the vacant plot since 8-9 years and she requested to give panchayat number to the same. The Gram Panchayat proceedings dated 28-7-2003 shows that the President and Secretary of the Gram Panchayat mutated the site in the name of Shoba as per her request letter. The application and the proceedings shows that the request letter was not supported by any documents. The same reveals that the President and Secretary Gram Panchayat Kavalga mutated the name of Shoba in the Panchayat records without there being any title deeds and only on the basis of request letter. Therefore the said entry can be termed as baseless entry and the same amounts to dereliction of duty on the part of the then President and Secretary Gram Panchayat Kavalga. The application dated 21-4-2007 submitted by Wife of Respondent No.1 Shoba shows that she sought for permission to install flour Mill in the site bearing No.93. The public notice issued by Gram Panchayat and receipt for having paid the tax shows that in the above property Smt.Shoba installed Flour Mill. The same discloses that the respondent No.1 and his wife knowing fully well that they had no title in the property site No.93 got installed flour mill and the same amounts



to encroachment and on the part of the Respondent No.1 it amounts to disobedience to law.

15. The letter dated 18-8-1999 submitted by Respondent No.1 to the Gram Panchayat shows that he was in possession of plot 50 x 60 and requested to enter his name in the panchayat records of that plot. The panchayat proceedings show that the President and Secretary of the Gram Panchayat Kavalga allowed the mutation of name of Respondent No.1 in the records of the said site. The request letter and the proceedings shows that the Respondent No.1 did not produce any documents in support of his claim for mutation. The same reveals that the President and Secretary of the Gram Panchayat have mutated in the name of Respondent No.1 in the records of site measuring 50 x 60 without there being any title deed. The said mutation entry can be termed as baseless entry. The same amounts to dereliction of duty on the part of the President and Secretary of the Gram Panchayat Kavalga village.

16. The Respondent No.1 being the Public servant got mutated the public properties in his name and in the name of his wife illegally without there being any title deed. It is pertaining to note that the possession of Respondent No.1 and his wife over the public property for a period of 8-9 years would not confer right, title or interest on them. Therefore they had no right, title or interest in the said two public properties bearing House No.80/1 and 93 but inspite of the same they got entered their names in the panchayat records by misusing his position. The

same amounts to favoritism. The respondents being the public servants are supposed to act with great responsibility and verify the documents such as title deeds and grant certificates at the time of entry of names in the panchayat records and they are not supposed to enter the names of anybody without there being any title deed, but inspite of it they did so. The same amounts to misconduct and dereliction of duty.

17. The sale deed dt: 11-8-2008 shows that he sold the above site bearing panchayat No.71 to one Siddanna knowing fully well that he had no title to the said property and thereby he sold the public property. The same amounts to fraud, misconduct and dereliction of duty.

18. Another allegation of the complainant is that the respondent had his ancestral land in Sy.No.267/1E. But still he got granted land measuring 4 Acres 15 guntas in Sy.No.85/2 of Kavalga village in the name of his wife Shoba. The Mutation Register and the RTC extracts shows that the land measuring 3 Acres 12 guntas stands in the name of Respondent No.1 in Sy.No. 267/1E. Another Mutation Register shows that the land in Sy.No.85/2 was mutated in the name of Shoba as per MR.No.23/2004-05 dt.30-5-2005. The service details of Respondent No.1 dated 12-6-2018 furnished by PDO shows that the Respondent was appointed on 7-7-2007 as computer operator. The same makes it clear that the land in Sy.No.85/2 was granted in the name of his wife before his appointment. Therefore as on the date of the grant he was not the Government

servant. Therefore the provisions of Karnataka Lokayukta Act are not applicable to the transaction of the year 2004-05. Hence this institution cannot go into the legality or illegality of the grant made in the year 2004 i.e. before the appointment of Respondent No.1. If at all the complainant is having any grievance with regard to the grant of the land in the name of wife of Respondent No1 he is at liberty to approach competent authority which deals with the issues of grant of the lands and its cancellation.

19. The complainant has further alleged that Respondent No1.having ancestral house, but inspite of it he got granted site measuring 30 x 40 in Sy.No.85 by giving false information to the authorities. The grant certificate dt.30-5-1992 shows that the site was granted in the name of Respondent No.1 in the year 30-5-1992. As discussed above he got appointed in the Grama Panchayat as Computer Operator in the year 2007. Therefore the provisions of Karnataka Lokayukta Act, 1984 cannot be attracted with regard to the above transaction. Hence this institution cannot go into the legality or illegality of the grant. If at all the complainant is having any grievance with regard to grant of the site in the name of Respondent No.1 he is at liberty to approach the land grant authority or its Appellate Authority. Therefore this allegation is not tenable one.

20. The complainant has alleged that the Respondent No.1 retained the tax amount recovered from the public. But he has failed to substantiate the said allegation. He has also failed to substantiate the allegations that the respondent No.1 kept the

Bank Pass Book, Job Card and Computer of Gram Panchayat in his house. He has also failed to substantiate that he is demanding bribe from the public to do their work. Moreover the Respondent No.1 has submitted that he is Computer operator and he is having no executive powers. He is only following the instructions of the PDO with regard to operation of computer. It is for the PDO to select the beneficiaries and distribute the benefits to them. Therefore the question of the Respondent No.1 accepting bribe does not arise. Number of persons gave statement to the I.O. The same are produced herein along with the IO report. In the said statements the general public denied the allegations of demanding and taking bribe by Respondent No.1 to do the panchayati work. The same prima facie show that the villagers did not have any complaint of demanding the bribe against the Respondent no.1. On the other hand there is no material on record to substantiate the allegations of corruption.

21. In this case the SP Kalburgi was directed to investigate and file the report. He filed his report on 2-7-2018 along with the report of the I.O dt.11-6-2018. In the said report the I.O has reported that the allegations against Respondent No.1 with regard to demand of bribe and corruption are all false. The I.O. has reported that even though the Respondent No.1 was having ancestral landed property and site in the name of his wife he got granted land in his name and site in the name of his wife. It is pertinent to note that the IO has failed to observe that the Respondent No.1 got granted land and site before his

appointment. It discloses that as on the date of grant of land and site he was not Government servant and therefore this institution cannot investigate the said matter.

22. In the facts and circumstances of the case and on perusal of the entire records it is clear that the Respondents have committed misconduct and dereliction of duty by sanctioning two toilets to father and son each. They also committed fraud cheating dereliction of duty by mutating the public property in the name of Respondent No.1 and his wife in the panchayat records. Therefore action has to be taken against respondents.

23. A careful consideration of the materials on record, the same prima facie show that the respondents 1 to 5 have failed to maintain absolute integrity besides, devotion to duty and acted in a manner unbecoming of public/government servants and thereby committed misconduct and made themselves liable for disciplinary action. The respondent No. 2 is Ex-President of Gram Panchayat Kavalaga Alanda Taluk and the Respondent No.4 is present President of Gram Panchayat Kavalaga Alanda Taluk, hence, action is necessary to be taken U/s 43(a) of the Karnataka Panchayat Raj Act.

24. Since the above facts and materials on record prima facie show that the Respondents 2,3 & 5 have committed misconduct, now, acting U/s 12(3) of the Karnataka Lokayukta Act, recommendation is made to the Competent Authority to initiate Disciplinary Proceedings against the Respondents 1,3 & 5 and to entrust the inquiry to this authority under Rule-14-A of

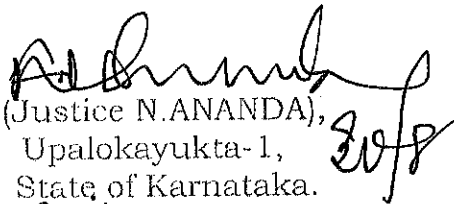
the Karnataka Civil Services (Classification, Control and Appeal), Rules 1957. Action be taken against the Respondents 2 & 4 U/s 43(A) of Karnataka Panchayat Raj Act, 1993.

26. Further as per Section 12(3) Karnataka Lokayukta Act, 1984, the Competent Authority shall intimate to this Authority within one month from the date of receipt of this report as to the action to be taken or proposed to be taken against Respondents 1 to 5 on the basis of this report.

**DETAILS OF RETIREMENT OF THE RESPONDENTS**

Rank of the Respondents	Date of retirement	Remarks
Respondent No.1	22-7-2024	In service
Respondent No.2	The then President of Grama Panchayat	Nil
Respondent No.3	31-1-2014	Already retired
Respondent No.4	The then President of Grama Panchayat	Nil
Respondent No.5	01-05-2017	Already retired

Connected records are enclosed.

  
 (Justice N. ANANDA),  
 Upalokayukta-1,  
 State of Karnataka.  
 E. Anu