

**KARNATAKA LOKAYUKTA**

No. Compt/Uplok/GLB-3399/2014/DRE-3

M.S. Building,  
Dr. Ambedkar Veedhi,  
Bangalore-560 001,  
Date: 07.10.2017.**REPORT UNDER SECTION 12(3) OF  
KARNATAKA LOKAYUKTA ACT, 1984**

Sub: Proceedings initiated against (1) Shri. Gurunath Kolluru, First Grade Contractor, R/o Janawada Road, Near Water Tank, Opposite to Brahmakumari Ashrama, Bidar District (2) Shri. Ramesh.S.Vallepure, the then Executive Engineer, Minor Irrigation Division, Bidar (3) Shri. Pudalika.H, the then Executive Engineer, Minor Irrigation Division, Bidar (4) Shri. Rasheed.M.A, the then Executive Engineer, Minor Irrigation Division, Bidar (5) Shri. Prabhakar.B.V, the then Assistant Executive Engineer, Minor Irrigation Division, Bidar (6) Shri. Kashinath.S.G, the then Assistant Executive Engineer, Minor Irrigation, Sub-Division, Bidar (7) Shri. Anil Kumar, Assistant Engineer, Minor Irrigation Sub-Division, Bidar District and (8) Shri. Patil.S.K, the then Junior Engineer, Minor Irrigation Sub-Division, Bidar District, regarding their misconduct as Government Servants - reg.

\*\*\*\*

An investigation was taken up under Section 9 of the Karnataka Lokayukta Act, on the basis of complaint filed by Shri. Mallikarjuna S/o Govindappa Shanagonda Malkapore, House no. 9-13-123, Sai Nagar, Bidar District (hereinafter referred to as 'complainant' for short) against (1) Shri. Gurunath Kolluru, First Grade Contractor, R/o Janawada Road, Near Water Tank, Opposite to Brahmakumari Ashrama, Bidar District (2) Shri. Ramesh Vallepure, The then Executive Engineer, Minor Irrigation Division,

Bidar District (3) Shri. Pudaika.H, the then Executive Engineer, Minor Irrigation Division, Bidar District (4) Shri. Rasheed.M.A, the then Executive Engineer, Minor Irrigation Division, Bidar District (5) Shri. Prabhakar.B.V, the then Assistant Executive Engineer, Minor Irrigation Division, Bidar District (6) Shri. Kashinath.S.G, the then Assistant Executive Engineer, Minor Irrigation, Sub-Division, Bidar District (7) Shri. Anil Kumar, Assistant Engineer, Minor Irrigation Sub-Division, Bidar District and (8) Shri. Patil.S.K, the then Junior Engineer, Minor Irrigation Sub-Division, Bidar District (hereinafter referred to as 'respondents' for short).

2) The complainant alleges that construction of Astoora minor irrigation tank was taken up under NABARD-V scheme (Account Head - 4702-CO-ON MI TANK) with estimated cost of Rs.120 lakhs. Total expenditure of the project was more than 3 crores. In spite of such expenditure the entire project has completely failed. Water is flowing below the tank embankment & therefore no water is available for irrigation to the farmers. Hence has prayed to take action against the respondents.

3) A report was called from the Lokayukta Police, Bidar. The S.P., Karnataka Lokayukta, Kalaburgi has submitted report dated; 27.06.2015 along with report of I.O/Shri. S.G. Kalligudda, Dy.S.P., Karnataka Lokayukta, Bidar dated 23.06.2015. The I.O. after conducting spot inspection on 12.05.2015 along with Shri. Mohammed Labeebuddin, Assistant Engineer-2, Karanja Canal Construction Yojana, Sub-Division-8, Janawada, Bidar has submitted report stating that the alleged work has been carried out as per the specifications. It is also stated that even though the water from the tank is not available for irrigation, the storage of water in the tank will improve the underground water level.

4) In view of the above report stating that water is not flowing to the agricultural lands, the matter was referred to Chief Engineer, Technical Audit Cell, Karnataka Lokayukta, Bengaluru for investigation, who in turn by conducting spot inspection on 24.05.2016 has submitted report dated; 26.10.2016 along with report of I.O/Assistant Executive Engineer-2, Shri. S.H. Sudheendra dated; 24.10.2016 in which it is stated that when the work was under progress there arose necessity of modifying the design of the embankment including the proportionate inclination of sides of embankment due to soft soil. After approval from the Competent Authority, the cost was revised to Rs.3,18,62,675/- and a fresh agreement was entered with contractor. Including the cost of acquisition of land the total estimated cost of the project was increased to 460 lakhs. It is stated that even though the fact that water is not flowing to the lands of the farmers is true, the quality of the construction of the tank is not responsible for the same. It is also stated that the storage of water in the tank has improved the ground water level thereby indirectly benefiting the farmers. He has not stated anything about the main allegation that water is flowing below the below the ground level and therefore water is not available for irrigation of lands.

He has also reported that as per the report of Public Accounts Committee (2009-2010), an amount of Rs.53.52 lakhs has been paid to the contractor against the approved estimate and tender agreement. The expenditure is shown as follows;

1. ಮರಳು ಮತ್ತು ಮಣ್ಣಿನ ಹಂಪೆಗಳ ಹೆಚ್ಚುವರಿ ಸಾಗಾಣಿಕೆ ವೆಚ್ಚ - ರೂ.27.92 ಲಕ್ಷಗಳು
2. ನಿರ್ಮಾಣಕ್ಕೆ ಅಗತ್ಯವಿರುವ ನೀರನ್ನು ಸಾಗಣೆ ಮಾಡಿದ ವೆಚ್ಚ - ರೂ.11.43 ಲಕ್ಷಗಳು
3. Construction & removal of diversion bund & ramp - ರೂ.14.17 ಲಕ್ಷಗಳು

It is also stated that the present Executive Engineer in his letter dated 03.06.2016 has intimated that an amount of Rs.36.98 lakhs has been

recovered out of the deposits available in the name of the Contractor and the remaining amount of Rs.16.54 lakhs will be recovered from the future bills of the contractor. In spite of it the I.O. has reported that there is no fault in execution of the work of the alleged tank. Therefore, the report of Chief Engineer, Technical Audit Cell, Karnataka Lokayukta, Bengaluru cannot be solely relied upon.

5) Later, respondents 2 to 8 have been impleaded and their comments were called. The respondents 2, 4, 6, 7 and 8 have submitted their comments dated 28.06.2017, 12.07.2017, 17.04.2017, 15.04.2017 and 17.04.2017 respectively by denying the complaint allegations. They have also contended that the work was commenced on 14.06.2000 and was completed on 14.03.2002. After 12 years, the present complaint is filed and the same is barred by limitation under Sec. 8(2)(b) and under Sec. 9(5)(b) of Karnataka Lokayukta Act, 1984. The respondents 4, 6 and 8 have stated that they have already been retired on 31.12.2000, 31.8.2001 and 30.4.2005 respectively and 4 years have been lapsed from the date of incident, no action can be initiated against them. They have also given the details with respect to cost escalation of the alleged project.

6) The respondent no.2 in his comments states that he had worked as I/c Executive Engineer from 23.07.2001 to 05.10.2001 for a period of 2 months 13 days. No work was undertaken during his tenure. By denying the allegations made in the complaint, he has prayed to drop him from the proceedings. In the report of Dy.S.P., Karnataka Lokayukta, Bidar, incumbency of the officials is given by the Executive Engineer, MI Division, Bidar in which the name of respondent no.2/Shri. Ramesh Vallapure is also mentioned and the tenure is mentioned as 28.07.2000 upto 20.10.2001. Therefore, the contention of respondent no.2 that no work was undertaken his tenure cannot be accepted.

7) The respondent no.4 in his comments states that he was placed in Addl. Charge of Executive Engineer, MI Division, Bidar from January 2000 upto June 2000 and was retired on 31.12.2000. The work was not executed during his tenure. The alleged work is shown to be commenced on 12.06.2000 and is stated to be completed on 12/14.03.2002. Therefore, the work is not found to be executed during the tenure of respondent no.4. Hence, the allegations made in the complaint are not attracted against respondent no.4.

8) The construction of the alleged Astoora Tank by the Minor Irrigation Department was taken up with noble object of providing irrigation facility to the farmers. As per the sanction, the project envisages for irrigating 175 Hectare of lands with project cost of Rs.460 lakhs. As per the project, the said lands were required to be put for irrigation for the first time during Khariff - 2003. Even though the respondents in their comments have stated that during the year 2003-04, 17.89 Hectares and in the year 2006-07, 29.23 Hectares were put for irrigation, the report of Dy.S.P., Karnataka Lokayukta, Bidar dated 27.06.2015 show that except over flow of water from the waste weir in the year 2003, no water is supplied for irrigation till their inspection. In the Panchanama recorded by the said Dy.S.P., it is clearly mentioned that on enquiry, the owners of the land Shri. Govindappa, Kashinatha, Abdul Razak have stated that except flow of excess water from the waste weir of the tank in the year 2003, no water is supplied for the purpose of irrigation and the entire project is of no use for the farmers. The report of Dy.S.P., and also Chief Engineer, Technical Audit Cell, Karnataka Lokayukta, Bengaluru go to show that no water is being supplied from the alleged tank for the purpose of irrigation. Therefore, it is to inferred that the object of implementation of the project itself is completely defeated for which the respondents are to be held responsible.

9) As per the Technical Audit Cell report and also the letter of Executive Engineer, Minor Irrigation, Bidar dtd.3.6.2016, Public Accounts Committee (2009-10) in its report has stated that an amount of Rs.53.52 lakhs has been paid to the contractor against to the approved plan and also tender agreement. The same amounts to misappropriation of public funds which is a continuous cause of action and therefore the limitation of 4 years specified in Rule 214(2)(b) of KCS Rules as contended by respondents 6 & 8 is not applicable. Therefore, the comments of respondents 2, 6 to 8 cannot be accepted at this stage.

10) The respondents 3 and 5 are reported to be dead and therefore no action can be initiated against them. Respondent no.1 is a contractor who is a private person. Therefore, no action can be initiated against him under the provisions of Karnataka Lokayukta Act. Respondent no.4 is not found guilty for the reason that the work is not related to his tenure.


11) Under the circumstances, respondent no.2, 6, 7 & 8 are to be held prima facie responsible for failure of the Astoora tank project and also for misappropriation of Rs.53.52 lakhs which has been paid to the contractor against the approved estimate and tender agreement.

12) Accordingly now, acting under section 12(3) of the Karnataka Lokayukta Act, recommendation is made to the Competent Authority to initiate disciplinary proceedings against the respondents (2) **Shri. Ramesh.S.Vallepure**, the then Executive Engineer, Minor Irrigation Division, Bidar District (Date of Retirement **31.03.2023**) (6) **Shri. Kashinath.S.G**, the then Assistant Executive Engineer, Minor Irrigation, Sub-Division, Bidar District (Date of Retirement **31.08.2001**) (7) **Shri. Anil Kumar**, Assistant Engineer, Minor Irrigation Division, Bidar District (Date of Retirement **30.09.2025**) and (8) **Shri. Patil.S.K**, the then Junior Engineer, Minor Irrigation Sub-Division, Bidar District (Date of Retirement

30.04.2005) and entrust the inquiry to this Authority under Rule 14-A, of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 along with sanction as required under Rule 214(2)(b)(i) of KCSRs against respondent no. 6 and 8 as they have already retired from the service.

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 N. ANANDA), 2/10,  
Upalokayukta-1,  
State of Karnataka.