

**KARNATAKA LOKAYUKTA**

NO: COMPT/UPLOK/BGM/79/2008/ARLO1

M.S.Building,  
Dr.B.R.Ambedkar Veedhi,  
Bengaluru,  
Date:21/01/2016

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

**Sub:** Proceedings against 1) Sri.H.Shivappa – Then Tahsildar of Mundargi (presently retired), 2) Sri.M.N.Udayshankar – Then Senior Geologist at Dharwad (presently retired), 3) Dr.Umesh M Bagari – Geologist in Dharwad (presently at Bellary district) and 4) Sri.Mohammed Nasrulla – Geologist, all are of Department of Mines and Geology, Dharwad, about their mis-conduct as a public/ Govt. servants – reg.

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On the basis of the letter sent by Sri.Basavaraj Korlahalli of Mevundi in Mundargi taluk at Gadag district (hereinafter referred to as, 'complainant' – for short), a suo-moto investigation was taken up under Section of the Karnataka Lokayukta Act, 1984 against 1) Tahsildar of Mundargi taluk, 2) Asst. Executive Engineer of Minor Irrigation department at Gadag and 3) Senior Geologist (Minerals) of Department of Mines and Geology at Dharwad (hereinafter referred to as 'respondents no.1 to 3' respectively, for short).

2. After receipt of the complaint, the complaint was referred to Police Inspector, Karnataka Lokayukta, Gadag (hereinafter referred to as 'Investigating Officer' for short called as, 'I.O.')

for investigation and report. Accordingly, after investigation the I.O. has submitted his report.

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3. In the said report it is stated that, the allegations of illegal quarrying of stones at Mevundi Village of Mundaragi Taluk one Sri.Gidappa Arogeri and another person by name Siddappa Rachappa is doing illegal stone quarrying business since 1995-96 without paying royalty to Government. Another by name Siddappa Rachappa is doing illegal quarrying business Kyasmattie area damaging the minor irrigation tank. Jindigeshwara temple which is situated near by the quarries bearing Sy. No. 30/1A and 30/1B at Mevundi village are being damaged due to the stone quarrying work. The Assistant Commissioner Gadag, Tahasildar Mundaragi has not taken action inspite of giving representation. Even though illegal quarrying business is carried out for 7-8 years, the officers of Mines & Geology department are not giving attention to it. After receipt of letter from Karnataka Lokayukta they have issued notice to the quarries. So also the minor irrigation department is also kept quite for 5-6 years. They have written a letter to the Mines & Geology department for eye watch. He has also recorded the statements of five persons of Mevundi village during time of investigation. Hence he has submitted report stating that due to the dereliction of duties of the office of department of Mines & Geology and other respondents committed dereliction of duties.

4. For the complaint, comments was called for from the respondents. The respondents has stated that, they have issued notices to the parties to stop illegal mining and also directed one Siddappa Rachappa Baradoor who is doing illegal quarry business and a penalty of ₹1,80,000/- has been imposed on the said Siddappa Baradoor. The said amount of penalty has to be recovered as arrears of Land Revenue.

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5. Rejoinder was called from the complainant, he has not submitted his rejoinder to the comments of respondents. Hence, the rejoinder of the complainant was taken as nil.
6. Report was called from Deputy Commissioner, Gadag to submit report regarding, 1) whether illegal quarry business is stopped, if so, when; 2) what is the quantity of stone produced by illegal quarry business; 3) what is the quantity of royalty recovered from illegal quarry business; and, 4) whether it is as per Rules. Deputy Commissioner, Gadag has submitted that, Senior Geologist has recovered the said amount of ₹1,80,000/- as penalty from Sri.Sidappa Rachappa Baradoor. The case bearing CC no.194/2011 is pending for trial against the said persons before JMFC Court, Mundargi. When spot inspection conducted again on 05/08/2014, the aforesaid person continued his illegal stone quarry business in Sy.No.30/1A and 30/1B situated at Mevundi village. He has extracted 94306 metric tonnes of stone illegally and a case registered under Cr.no.190/2014 is filed before the jurisdictional JMFC Court under Sec.200 CrPC against the said person.
7. The then Hon'ble Upalokayukta – 1 had made observations and called a report from Deputy Superintendent of Police, Karnataka Lokayukta, Gadag, for which he has submitted his report stating that, 1) the Mines and Geology department, Gadag has not recovered penalty in respect of 94306 metric tonnes of stone recovered by illegal quarrying of stones by the persons; 2) Deputy Commissioner, Gadag has recovered penalty amount of ₹1,80,000/- from the said Sri.S.R.Baradoor as arrears of land revenue in respect of illegal quarrying of stones; 3) Two cases in Cr.no.194/2011 and 190/2014 were registered against the persons involved in illegal quarrying of stones to control illegal quarrying of

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stones; 4) an action may be initiated against such persons under Sec.21 and 44 for violation of Rules 3(1), 42(1) of Karnataka Sub Mining Concession Rules, 1994 and Sec.4(1), 4(1-A) of MMDR Act, 1957; 5) the vehicles and machines of such persons were not seized; and 6) furnished the list of 18 officers who have not taken any action against illegal stone quarrying business from 2007 till today.

8. The allegations made in the complaint pertain to the period from 1996-97 till 2007-08 only, out of officers viz., 1) Sri.N.Udayashankar, 2) Dr.Umesh M Bagari, 3)Sri.Mohammed Nasarulla, 4) Sri.B.V.Desai were worked as Senior Geologist on deputation during the relevant period from 01/01/2007 to 29/02/2008. Hence, the said 4 officers were impleaded as respondents no.2 to 6 and comments were called from respondent no.1 to 6. Respondents no.1 to 6 have submitted comments to the complaint.

9. The replies to the I.O. report was not called earlier from the previous respondents no.1 and 3. Hence, replies were called to the earlier report of I.O. from respondents no.1 to 3. Respondents no.1 has submitted his reply to the I.O report stating that –

He worked as Tahsildar Mundargi from 19/02/2005 to 09/04/2008 and subsequently got transferred from his service on attaining age of superannuation on 30/04/2011. The complainant has neither mentioned his name nor made any specific allegations against him. On the other hand complainant had many allegations against the Asst. Commissioner, Gadag sub-division for not taking action on the report submitted by him on 24/02/2007. He is relieved from his duties on 09/04/2008 from the office of Tahsildar, Mundargi, he was not aware of any subsequent developments with regard to illegal and unauthorized stone quarrying mentioned in the complaint. In the I.O. report it is clearly mentioned that the officials of Mines &

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Geology department were held responsible in allowing the persons of quarrying activities.

10. Respondents no.2 has submitted his reply, adopting the comments submitted by him earlier.

11. Respondents no.3 has submitted his reply, to the I.O report stating that –  
He has submitted his comments to the complaint on 04/05/2015, he has worked as Senior Geologist, Dept. of Mines and Geology, Dharwad from 28/01/2006 till 07/01/2009, but I.O. in his report dated:14/01/2008 has stated that, he had worked from 01/01/2007 till 07/01/2009, he has taken action against the persons carrying illegal stone quarrying business in accordance with law, as stated in his comments.

12. Respondent no.2 has submitted his comments to the complaint stating that –

He worked as Asst. Executive Engineer at the office of Minor Irrigation sub-division, Gadag from 02/07/2007 till 06/10/2008 with honesty and integrity. The complainant had submitted an application to stop the illegal stone quarrying business at Mevundi Bazaar villages as it caused damage to the temple and houses situated near the stone quarrying business. When he has taken charge of the said post at Gadag, rainy season was started, soon after noticing the stone quarrying business going on at Mevundi Bazaar he had written a letter dated:27/11/07 to the Director, Mines and Geology department, Dharwad to take action to stop the above said stone quarrying business. He produced annexure-1 in support of the same. The I.O. had written a letter to his office on 18/12/2007 to furnish information regarding damage caused to the Mevundi Bazaar, accordingly he had furnished the information to I.O. on 05/01/2008. The said letter is produced at annexure-2. He had also submitted a detailed report i.e., annexure-3 regarding the said subject matter on 24/04/2008. During his tenure he has also informed the owners of the stone quarry to stop the stone quarrying business. During his tenure at office of Gadag he has taken all necessary actions to protect the interest of the Government. As he

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was transferred on 06/10/2008, he is not responsible to the developments taken place after 06/10/2008.

13. Respondent no.3 has submitted his comments to the complaint stating that –

He had worked as Senior Geologist (Mines) at Mines and Geology department, Dharwad from 28/01/2006 till 07/01/2009. He was looking after the large area of Dharwad, Gadag, Haveri, Davangere and Bellary districts with very less staff. At that time, he has taken suitable action against the illegal sand mining and transportation and Ore mining and transportation from Davangere to Mundargi on the bank of Tunga Bhadra river by issuing notices, recovering penalty from the persons involved in the illegal stone quarrying and informing Tahsildar and PSI of Mundargi to stop the illegal stone quarrying business.

14. Respondent no.4 has submitted his comments dated:06/04/2015 to the complaint by reasserting and reiterating the contents of the comments of respondent no.3 and he has further stated that, he joined to the services newly on 09/05/2007 as a Senior Geologist (Mines), Mines and Geology department, Dharwad and produced the copies of documents annexure-1 to 11.

15. Respondent no.5 has submitted his comments dated:06/03/2015 to the complaint stating that, he was deputed to the post of Senior Geologist (Mines) at Dharwad on 13/03/2007 temporarily and he joined to the said post on 05/04/2007. His deputation was cancelled on 17/05/2007 and he again joined to the original post as Deputy Director of Mines and Geology, Karwar. Hence, he is relieved from the office of Dharwad on 02/06/2007, hence he has worked for about 60 days at Dharwad office i.e., from 05/04/2007 till 02/06/2007. During the said period he has done his daily technical works as per the direction of Senior Geologist and no work order was issued from his office. He worked

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regarding the problem of sand in Haveri district. Hence, he has worked all emergent works entrusted to him by the Senior Geologist as he has temporarily deputed to the said post.

16. Respondent no.6 has submitted his comments to the complaint stating that, he has worked as a Geologist at office of Senior Geologist, In-land water division, Dharwad for the period from 07/07/2000 till 28/02/2008 in respect of the work concerned to the In-land water only. Later on, he was deputed to the office of Senior Geologist, Mines division on 29/02/2008, from 18/03/2008 he worked in the said office and looking after the mines work pertain to the Haveri district only. During the period when illegal stone quarrying business was carried on he was not working at the office of Senior Geologist, Mines division, Dharwad, but he was working in In-land water division, Dharwad. The alleged illegal stone quarrying was done prior to his joining to the office of Senior Geologist, Mines division. He worked in the office of Senior Geologist, Mines division, Dharwad for the period from 29/02/2008 till 28/07/2009. Hence, he is not at all concerned to the contents of the report of I.O and requested to give up his name from this case.

17. On examination of the material on record, the respondents no.1, 3 to 5 have committed dereliction of their duties by allowing Sri.S.R.Baradoor of Mevundi Village in Mundaragi Taluk to continue illegal stone quarrying in the land bearing Sy.no.30/1A and 30/1B situated at Mevundi village to extract 94306 metric tonnes stones illegally without seizing the vehicles and machines of the said person and without taking action against the said person under Sec.21 and 44 for violation of Rules 3(1), 42(1) of Karnataka Sub-mining Concession Rules, 1994 and Sec. 4(1), 4(1-A) of MMDR Act, 1957.

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18. The proceedings against respondent no.2 is dropped as he has not committed dereliction of duties.

19. The proceedings against respondent no.6 is also dropped as he is not working during the period illegal quarrying of stones i.e., from 01/01/2007 to 29/02/2008.

20. The replies of respondents no.1, 3 to 5 have not been found convincing to drop the proceedings.

21. The respondents no.1, 3 to 5, being public / Govt. servants, have failed to maintain absolute integrity, besides devotion to duty and acted in a manner unbecoming of Govt. servants and thereby committed misconduct and made himself liable for disciplinary action.

22. Since the material on record prima-facie shows that, the respondents no.1, 3 to 5 have committed misconduct as per Rule 3(1) of KCS (Conduct) Rules 1966, now, acting under Section 12(3) of Karnataka Lokayukta Act, recommendation is made to the Competent Authority to initiate disciplinary proceedings against the respondents and entrust the inquiry to this Authority under Rule 14-A of Karnataka Civil Services (Classification, Control and Appeal) Rules 1957, but with sanction of Government as per Rule 214(2)(b)(i) of KCSR, as the respondents no.1 and 3 have retired on 30/04/2011 and 31/03/2015, respectively.

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23. 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, **not later than one month** from the date of receipt of this report, the action taken or proposed to be taken on this report, along **with sanction** as per Rule 214(2)(b)(i) of KCSR, **as the respondent no.1 and 3 have already retired** and complaint is of the year 2008.

Connected records are enclosed.

*N. Ananda*  
(JUSTICE N. ANANDA) 21/1/2016  
Upalokayukta-1,  
State of Karnataka.  
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