

KARNATAKA LOKAYUKTA

No.COMPT/UPLOK/GLB/988/2020/ARE-20

M.S. Building
Dr. B.R. Ambedkar Veedhi
Bengaluru, dated: 23-2-2022

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

Sub: Proceedings initiated against (1) Sri. Vijayakumar Patil, Headmaster, Kanyaka Parameshwari High School, Bidar District and (2) Sri. Shivakumar Biradar, SDA, Kanyaka Parameshwari High School, Bidar District about their misconduct as Government servant - Reg.

A suo-motu investigation was taken up U/Sec.7 R/w. Sec.9 of The Karnataka Lokayukta Act, 1984, against respondents by name (1) Sri. Vijayakumar Patil, Headmaster, Kanyaka Parameshwari High School, Bidar District and (2) Sri. Shivakumar Biradar, SDA, Kanyaka Parameshwari High School, Bidar District,

2) Brief facts of the case are that one Sri. Lakhan S/o. Chandrakanth Hedde, R/o. Sultanpura, Bidar Taluk lodged a complaint dated 11-9-2015 before Police Inspector, Karnataka Lokayukta, Bidar stating that he completed his SSLC education at Kannika Parameshwari High School of Bidar, on 10-9-2015 he went to said high school and met the Headmaster Sri. Vijayakumar (Resp.No.1) to get his original marks card and transfer certificate, the said Headmaster told him that already he

informed the clerk Sri.Shivakumar and he told him to meet said Sri. Shivakumar. Hence complainant met said Sri. Shivakumar who demanded for the bribe of Rs.6,000/- to issue his transfer certificate. Hence complainant returned back to the home.

3) Further, it is alleged in the said complaint dated 11-9-2015 that on same day i.e. on 10-9-2015 he took mobile phone of his brother and contacted said Sri. Shivakumar (Resp.No.2 herein) to his phone. At that time also Resp.No.2 demanded to pay Rs.6,000/-. This demand made by him has been recorded in the mobile phone. Subsequently, complainant contacted Resp.No.1 through said mobile phone. Resp.No.1 told to the complainant to meet Resp.No.2. At that time complainant told Resp.No.1 relating to the demand made by Resp.No.2 for huge money as bribe. At that time Resp.No.1 told to the complainant that already he has written transfer certificate and further told to pay Rs.4,000/- to Resp.No.2 and collect his transfer certificate. Subsequently complainant made phone call to Resp.No.2 who told to the complainant to come to his house to pay money and to collect transfer certificate. Complainant told to Resp.No.2 that he would come tomorrow to his house.

4) After recording above noted conversation in the mobile phone, complainant secured Rs.4,000/- and lodged complaint on 11-9-2015 to the Lokayukta Police

Station Bidar by producing mobile conversation recording. On the basis of said complaint, Cr.No.12/2015 came to be registered for the offence U/Sec.7 of Prevention of Corruption Act-1988 R/w.Sec.34 of IPC.

5) Investigating Officer (IO) started investigation of alleged crime. On 11-9-2015 he secured two panch witnesses by name Sri. Kristadasa and Sri. Rajakumar to the Bidar Lokayukta Police Station where panch witnesses were given with full details of the bribe demanded by the respondents from the complainant in the matter of issue of transfer certificate to the complainant. Complainant also explained the same to the panch witnesses in the Police Station. Complainant produced currency notes of Rs.4,000/-, which were verified by the panch witnesses and numbers of the said notes came to be recorded on the sheet on which panch witnesses have signed. I.O. secured sodium carbonate liquid. Its sample was taken separately. I.O. collected phenolphthalein powder. Its sample was taken separately. Phenolphthalein powder was put on currency notes of Rs.4,000/-. Subsequently the said currency notes were counted by the panch witness by name Sri. Rajakumar and said notes were kept to the shirt pocket of the complainant. Subsequently hands of said panch witness Sri. Rajakumar were put into sodium carbonate liquid which turn to pink colour. The said liquid was collected separately. I.O. explained the process of sodium

carbonate liquid and phenolphthalein powder to the panch witnesses and to the complainant. I.O. seized the samples and other materials by conducting pre-trap mahazar. As per the instruction of the I.O., panch witnesses heard the conversation recorded in the mobile produced by the complainant. The said conversation reduced to the writing in the sheet. Subsequently I.O. gave instructions to the complainant and shadow witness to proceed to the house of Resp.No.2 and gave money to him on his demand. Further he instructed to the shadow witness to observe the happening and to hear the conversation which may take place in the house of Resp.No.2, by standing nearby place and then to give signal immediately after receipt of money by the Resp.No.2. I.O. took photographs of the pre-trap mahazar stage by stage.

6) Subsequently on 11-9-2015 I.O. and other police staffs left to the police station at 2-55 p.m. along with complainant panch witnesses and they went near the house of Resp.No.2 at Jyoti Colony in Bidar Town. As per the instruction of I.O., complainant went towards the house of Resp.No.2. Shadow witness followed the complainant. Complainant made phone call to Resp.No.2. Within span of few minutes Resp.No.2 arrived to the said place on two wheeler. Complainant demanded Resp.No.2 for his transfer certificate. Resp.No.2 demanded to give him money first and then only he would give his transfer

certificate. Complainant took out money i.e. Rs.4,000/- from his shirt pocket and gave it to Resp.No.2 who counted currency notes through his both hands and then smelling some doubt, Resp.No.2 thrown out those currency notes on the earth. Shadow witness observed this. Complainant gave signal to the I.O. and another panch witness who stood little away place. Resp.No.2 started to escape from said place. Immediately I.O. and other police staff caught hold Resp.No.2 and they got introduced themselves and requested to co-operate for the investigation.

7) I.O. enquired the complainant and shadow witnesses relating to the happenings with Resp.No.2 in the said place. Complainant explained to the I.O. that he made call to the Resp.No.2 who came to the place within few minutes on two wheeler and demanded for money and accordingly he gave Rs.4,000/- to Resp.No.2 who counted currency notes through his both hands and smelling some doubt he thrown away the currency notes and started to escape. Further complainant has stated he recorded the conversation of the said place in the voice recorder. Shadow witness has confirmed the same. Therefore I.O. secured sodium carbonate liquid and put the hands of Resp.No.2 into said liquid which turned to pink colour. I.O. seized said liquid by collecting it in a bottle. Currency notes, which were on the earth, were seized and on verification by the panch witnesses,

numbers of those currency notes tallied with the numbers of the notes recorded in the pre-trap mahazar. The said currency notes were seized by the I.O. Conversation of the voice recorder was heard in the said place and its conversation was reduced to writing in a sheet.

8) I.O. enquired Resp.No.2 relating to transfer certificate of the complainant. Resp.No.2 told to the I.O. that transfer certificate of the complainant is kept in his house. Accordingly Resp.No.2 took the I.O., complainant and panch witnesses to his house and produced the original register of transfer certificates. On verification of the register of transfer certificates, Sl.No.1256 relates to the complainant with the round seal of the school and with the signature of the Headmaster. I.O. collected Xerox of the said transfer certificate and gave the original transfer certificate to the complainant.

9) Subsequently I.O. called BEO of Bidar to the police station and voice conversation recorded in the mobile of the complainant and in the voice recorder were opened. After hearing the conversation, BEO identified the voice conversation of Resp.Nos. 1 and 2 who are his subordinate staffs. I.O. got said conversation reduced to a C.D. disk and seized it through mahazar. I.O. recorded statements of respondents and also witnesses and collected other materials. I.O. arrested Resp.No.2 and produced him before the jurisdictional court. After

completion of the investigation, I.O. submitted charge sheet jurisdictional Special Court for the offences punishable U/Sections 7, 13(1)(d) and 13(2) of PC Act-1988 R/w.Sec.34 of IPC against Resp.Nos.1 and 2.

10) On the basis of charge sheet and documents in Cr.No.12/2015 of Karnataka Lokayukta Police Station, Bidar relating to the offence punishable U/Secs.7, 13(1)(d), R/w.Sec. 13(2) of Prevention of Corruption Act, 1988 R/w.Sec. 34 of IPC, Observation Note was prepared and same was duly served to the respondents on 03/07/2020.

11) On request of Resp.No.1, time was granted to him to submit his comments. But Resp.No.1 has not submitted his comments.

12) Resp.No.2 has submitted his comments dated 10-7-2020, in which he has denied the contents of the observation note dated 17-6-2020. Further Resp.No.2 in his comments has submitted as under;

“1) ಶ್ರೀ ಲಖನ್ ತಂದೆ ಚಂದ್ರಕಾಂತ ಈತನು ನಮ್ಮ ಶಾಲೆಯಲ್ಲಿ 2013-14 ನೇ ಸಾಲಿಗೆ ಎಸ್.ಎಸ್.ಎಲ್.ಸಿ ಯಲ್ಲಿ ಪ್ರವೇಶ ಪಡೆದಿರುತ್ತಾರೆ. ಪ್ರತಿ ವರ್ಷದಂತೆ ಶಾಲೆಯ ವತಿಯಿಂದ ವಾರ್ಷಿಕ ಶೈಕ್ಷಣಿಕ ಪ್ರವಾಸ 2013-14 ನೇ ಶೈಕ್ಷಣಿಕ ಸಾಲಿನಲ್ಲಿ ಹಮ್ಮಿಕೊಂಡಿದ್ದು ಅವಾಗ ಶ್ರೀ ಲಖನ್ ರವರು ನನಲ್ಲಿ ಬಂದು ಸರ್. ಟೂರ್ ಗೆ ಹೋಗಲು ನನ್ನ ಹತ್ತಿರ ಹಣ ಇರುವುದಿಲ್ಲ ನನಗೆ ಟೂರ್‌ಗೆ ಬರಲು ತುಂಬಾ ಮನಸಿದ್ದು ಹಣ ಇರದ ಕಾರಣ ಬರಲು ಆಗುತ್ತಿಲ್ಲ ನನಗೆ ಹಣಕಾಸಿನ ಸಹಾಯ ಮಾಡಿರಿ ನಾನು ಸಹ ಟೂರಿಗೆ ಬರುತ್ತೇನೆ. ಬೇಸಿಗೆ ಯಲ್ಲಿ ಕೆಲಸ ಮಾಡಿ ಹಣ ಮರಳಿಸುತ್ತೇನೆ ಅಂದಾಗ ನಾನು ನಮ್ಮ ಶಾಲೆಯ ಹೆಡ್ ಮಾಸ್ಟರ್ ಹತ್ತಿರದ ರೂ.6000/- ಗಳನ್ನು ಲಖನ್ ಗೆ ಕೊಡಿಸಿರುತ್ತೇನೆ.

2) ಪ್ರವಾಸ ಕಾಲಕ್ಕೆ ನೀಡಿದ ಹಣವನ್ನು ಮರಳಿಸುವಂತೆ ಲಖನ್ ನಿಗೆ ಸುಮಾರು ಸಲ ಕೇಳಿದಾಗ ಆತ ಮರಳಿ ಕೊಟ್ಟಿರುವುದಿಲ್ಲ. ನನ್ನ ಮೂಲ ಅಂಕಪಟ್ಟಿ ಹಾಗೂ ಟಿ.ಸಿ. ಪಡೆದುಕೊಂಡು ಹೋಗುವ ಕಾಲಕ್ಕೆ ತಮ್ಮಿಂದ ಪಡೆದ ಹಣ ಹಿಂದಿರುಗಿಸುತ್ತೇನೆ ಅಂತ ಅನ್ನುತಾ ಹಣ ವಾಪಸ್ ಕೊಟ್ಟಿರುವುದಿಲ್ಲ. ಪ್ರವಾಸ ಸಮಯದಲ್ಲಿ ನೀಡಿದ ಹಣ ಕೊಡದೇ ಇದ್ದುದರಿಂದ ನಾನು ಅವನಿಗೆ ಪಡೆದ ಹಣ ಹಿಂದಿರುಗಿಸುವಂತೆ ತಿಳಿಸಿದಾಗ ಅವನು ಹಣ ಮರಳಿ ಕೊಡಬಾರದೆಂಬ ಉದ್ದೇಶದಿಂದ ಟಿ.ಸಿ. ಕೊಡಲು ಶಾಲೆಯವರು ಹಣ ಕೇಳುತ್ತಿದ್ದಾರೆ ಅಂತ ಲೋಕಾಯುಕ್ತದಲ್ಲಿ ನಮ್ಮ ವಿರುದ್ಧ ದೂರು ದಾಖಲಿಸಿರುತ್ತಾನೆ. ನಾವು ವರ್ಗಾವಣೆ ಪ್ರಮಾಣ ಪತ್ರ ನೀಡುವ ಕುರಿತು ಯಾವುದೇ ಹಣದ ಬೇಡಿಕೆ ಇಟ್ಟಿರುವುದಿಲ್ಲ. ಕೆಲವು ಕಾಣದ ಕೈಗಳ ಕೈವಾಡದಿಂದ ಲಖನ್ ಈತನು ನಮ್ಮ ವಿರುದ್ಧ ಲೋಕಾಯುಕ್ತ ಪೋಲೀಸರಲ್ಲಿ ದೂರು ನೀಡಿರುತ್ತಾನೆ. ಶೈಕ್ಷಣಿಕ ಪ್ರವಾಸ ಕಾಲಕ್ಕೆ ನೀಡಿದ ಹಣ ಕೊಡುವಂತೆ ಕೇಳಿದ್ದು, ದೂರುದಾರರಿಗೆ ವರ್ಗಾವಣೆ ಪ್ರಮಾಣ ಪತ್ರ ಕುರಿತು ಹಣ ಕೇಳಿರುವುದಾಗಿ ಮಾಡಿದ ಆಪಾದನೆ ಸುಳ್ಳಿರುತ್ತದೆ.

3) ಈ ಖಂಡಿಕೆಗೆ ಉತ್ತರವಾಗಿ ನಾನು ತಿಳಿಸುವುದೇನೆಂದರೆ, ದೂರುದಾರ ಲಖನ್ ರವರು ಆ ದಿನ ನನಗೆ ದೂರವಾಣಿ ಕರೆ ಮಾಡಿ ಟಿ.ಸಿ. ಕೊಡಲು ಮನವಿ ಮಾಡಿದ್ದು, ನಾನು ಆತನಿಗೆ ಟಿ.ಸಿ.ಬರೆದು ಮುಖ್ಯೋಪಾಧ್ಯಾಯರ ಸಹಿ ಪಡೆದುಕೊಂಡು ಇಟ್ಟಿದ್ದು ಟಿ.ಸಿ. ನನ್ನ ಬಳಿ ಇದ್ದು ನಾನು ಇಂದು ಶಾಲೆಗೆ ಹೋಗುತ್ತಿಲ್ಲ ಮನೆಗೆ ಟಿ.ಸಿ. ತಂದಿರುತ್ತೇನೆ. ಯಾವಾಗ ಬೇಕಾದರು ಬಂದು ಪಡೆದುಕೊಂಡು ಹೋಗು ಅಂತ ಕೊಡಲು ಕೇಳಿದ್ದು ನಾನು ಅವನಿಗೆ ಅಲ್ಲಿಗೆ ಬಂದು ಅವನ ಟಿ.ಸಿ. ಕೊಟ್ಟಿರುತ್ತೇನೆ. ಶಾಲೆಯ ಶೈಕ್ಷಣಿಕ ಪ್ರವಾಸ ಕಾಲಕ್ಕೆ ನಾನು ನಮ್ಮ ಹೆಡ್ ಮಿಸ್ಟರ್ ರವರ ಹತ್ತಿರ ಇಸಿದುಕೊಟ್ಟ ಹಣ ಆತನು ನನಗೆ ಅವರಿಗೆ ಕೊಡುವ ಹಿಡಿದುಕೊಂಡಿರುತ್ತಾರೆ. ವರ್ಗಾವಣೆ ಪತ್ರ ಕೊಡುವ ಕುರಿತು ನಾನಾನಗಲಿ ನಮ್ಮ ಶಾಲೆಯ ಮುಖ್ಯೋಪಾಧ್ಯಾಯರಾಗಲಿ ಹಣಕ್ಕೆ ಬೇಡಿಕೆ ಇಟ್ಟಿರುವುದಿಲ್ಲ.

4) ಕಾರಣ ಮಾನ್ಯರು ಅನಾವಶ್ಯಕವಾಗಿ ನಮಗೆ ಆಗದೇ ಇರುವ ಕೆಲವು ಕಾಣಲಾರದ ಕೈಗಳು ದೂರುದಾರ ಲಖನ್ ಈತನನ್ನು ಬಳಸಿಕೊಂಡು ನಮ್ಮ ವಿರುದ್ಧ ಹಗೆ ಸಾಧಿಸುವ ಉದ್ದೇಶದಿಂದ ಪ್ರವಾಸ ಕಾಲಕ್ಕೆ ಕೊಡಲಾದ ಹಣ ಮರಳಿ ಕೇಳಿದಾಗ ಅದನ್ನು ವರ್ಗಾವಣೆ ಪ್ರಮಾಣ ಪಡೆಯುವ ಕುರಿತು ಹಣಕ್ಕೆ ನಾನು ವಿದ್ಯಾರ್ಥಿಯ ವರ್ಗಾವಣೆ ಪ್ರಮಾಣ ಪತ್ರ ಸುಮಾರು ದಿನಗಳ ಹಿಂದೆ ಬರೆದು ಇಟ್ಟಿದ್ದು ಅವನು ವರ್ಗಾವಣೆ ಪ್ರಮಾಣ ಪತ್ರ ಪಡೆದುಕೊಂಡು ಹೋಗಿರುತ್ತಾರೆ. ಆದರೆ ಈ ವಿದ್ಯಾರ್ಥಿ ಟಿ.ಸಿ. ಪಡೆದುಕೊಂಡು ಹೋಗಲು ಬಂದಿರುವುದಿಲ್ಲ. ಸೆಪ್ಟೆಂಬರ್ ತಿಂಗಳಲ್ಲಿ ದೂರವಾಣಿ ಮೂಲಕ ನನಗೆ ಮತ್ತು ನಮ್ಮ ಶಾಲೆಯ ಮುಖ್ಯೋಪಾಧ್ಯಾಯರಿಗೆ ಕರೆ ಮಾಡಿ ಕರೆಯನ್ನು ದುರುದ್ದೇಶದಿಂದ ರಿಕಾರ್ಡ್ ಮಾಡಿಕೊಂಡು ನಮ್ಮ ವಿರುದ್ಧ ಪ್ರಕರಣ ದಾಖಲಿಸಿರುತ್ತಾನೆ.

ಕಾರಣ ನನ್ನ ವಿರುದ್ಧ ಹೊರಡಿಸಿದ ವಿಚಾರಣೆಯನ್ನು ಇಲ್ಲೆಗೆ ಮುಕ್ತಾಯ ಮಾಡಲು ತಮ್ಮಲ್ಲಿ ಕಳಕಳಿಯ ವಿನಂತಿ ಇರುತ್ತದೆ.”

13) From the comments of the Resp.No.2 it is found that the Resp.No.2 brought transfer certificate of the complainant Sri. Lakhan S/o. Chandrakanth to his house. It is the say of Resp.No.2 that he brought said transfer certificate to his house to handover it to said Lakhan who is complainant in Cr.No.12/2015. This itself prima facie supports the say of complainant that respondents demanded for bribe and due to this reason his transfer certificate was brought to the house of Resp.No.2. Otherwise, Resp.No.1 being Headmaster of the School and he is Competent to issue transfer certificate of the complainant, he should have insisted the complainant to come to the school and to get the transfer certificate by signing the register for having received the transfer certificate. There was no necessity for Resp.No.1 to handover transfer certificate to the Resp.No.2 in order to carry it to his house and to hand it over to the complainant. Therefore, at this stage the comments of respondent no.2 cannot be accepted. It is material to note that the respondent no.1 has not submitted his comments to the contents of the observation note dated: 17-6-2020.

14) It is relevant to point out that as per the provisions of rule 3(1)(i) to (iii) of Karnataka Civil Services (Conduct)

Rules,1966, every Government servant shall at all times maintain absolute integrity, devotion to duty and shall not act as unbecoming of Government servants. It is bounden duty of Government servant to maintain integrity and devotion to duty in the light of statutory provisions. On examination of materials on record, it is found that the respondents have failed to submit acceptable defence. There are materials to show that respondents have failed to maintain absolute integrity, devotion to duty and they acted as unbecoming of Government servants.

15) Therefore defence, if any, of the respondent No.2 is to be appreciated by conducting a detailed enquiry. By considering the materials placed on record i.e., charge sheet & documents there exists prima-facie case to attribute misconduct on the part of respondents as defined in Rule 3(1)(i) to (iii) of KCS (conduct) Rules 1966 and this is a fit case to hold departmental enquiry against respondents.

16) Therefore by invoking the power vested in me U/Sec.12(3) of Karnataka Lokayukta Act 1984, recommendation is made to the Competent Authority to initiate disciplinary proceedings against the respondents and to entrust enquiry to this authority under Rule 14-A

of Karnataka Civil Services (Classification, Control and Appeal) Rule, 1957.

17) Further, as per Sec.12(4) of Karnataka Lokayukta Act, 1984, the Competent Authority shall intimate to this Authority **within three month** from the date of receipt of this report, as to the action taken or proposed to be taken on the basis of this report.

Connected records are enclosed.

Baly 24/2/22
[JUSTICE B.S. PATIL]
UPALOKAYUKTA
KARNATAKA STATE

JP

