

**KARNATAKA LOKAYUKTA**

**No.Compt/Uplok/MYS-3188/2014/DRE-1** Multi Storied Buildings,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru-560 001  
Date : 21/1/2020

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

Sub:- Proceedings against;

- 1) Sri.Prabhakar, Surveyor, Revenue Department, Mudigere Taluk,
- 2) Sri.Prasad.B.M. Range Forest Officer, Mutthodi, Chikkamagalur District,
- 3) Sri.Abdul Ajeej, Range Forest Officer, Chikkamagalur Range,
- 4) Sri.Venkatesh, Deputy Range Forest Officer, Chikkamagalur Range,
- 5) Sri.Sathish.S.K. Forest Guard, P.T.Unit, Chikkamagalur,
- 6) Sri.Raghu.H.B. Forest Guard, Gabgal Gasthu, Aldur Range,
- 7) Sri.Ramesh Babu, Assistant Conservator of Forest, Mudigere,
- 8) Sri.Srinivas Reddy.B. Assistant Conservator of Forest, Balehonnur Sub-Division,
- 9) Sri.Kiran Kumar.G. Deputy Range Forest Officer, Monaji Ghataka,
- 10) Sri.S.Venkatesan, Field Director and Conservator of Forest, Bhadra Wildlife Division of Chikkamagalur District,
- 11) Sri.G.Nanjundappa, the then Survey Supervisor, Taluk Office, Mudigere, Chikkamagalur District, presently working at Office of the ADLR, Shimoga Taluk, Shimoga, and
- 12) Sri.Chinnaraju, the then Tahsildar, Mudigere, Chikkamagalur district.

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1. On the basis of the complaint filed by Sri.Prasanna Kumar S/o.Ravindra, Editor, Malenada Minchu Fortnightly paper, Sushantha Nagar, Hesgal Post, Mudigere Taluk, Chikmagalur

District, against (1) Sri Prabhakar, Surveyor, Revenue Department, Mudigere Taluk, (2) Sri Prasad.B.M. Range Forest Officer, Mutthodi, Chikkamagalur District, (3) Sri Abdul Ajeej, Range Forest Officer, Chikkamagalur Range, (4) Sri Venkatesh, Deputy Range Forest Officer, Chikkamagalur Range, (5) Sri Sathish.S.K. Forest Guard, P.T.Unit, Chikkamagalur, (6) Sri Raghu.H.B. Forest Guard, Gabgal Gasthu, Aldur Range, (7) Sri Ramesh Babu, Assistant Conservator of Forest, Mudigere, (8) Sri Srinivas Reddy.B. Assistant Conservator of Forest, Balehonnur Sub-Division, (9) Sri Kiran Kumar.G. Deputy Range Forest Officer, Monaji Ghataka, (10) Sri.S.Venkatesan, Field Director and Conservator of Forest, Bhadra Wildlife Division of Chikkamagalur District, (11) Sri G.Nanjundappa, the then Survey Supervisor, Taluk Office, Mudigere, Chikkamagalur District, presently working at Office of the ADLR, Shimoga Taluk, Shimoga, and (12) Sri Chinnaraju, the then Tahsildar, Mudigere, Chikkamagalur District, investigation is taken up under Sec.9 of Karnataka Lokayukta Act.

2. The brief averments of the complaint are that, during 2012, 361 trees in Government land bearing Sy.No.59 of K.Thalagur village, Aldur Range, Chikkamagalur District, have been cut illegally by the Forest Department and there is collusion of about 10 officers of Revenue Department and Forest Department causing loss of crores of rupees to the Government. In the complaint, the complainant has named the above respondents No.1 to 10. Further, following specific allegations have been made in the complaint with regard to the above event.

1. 361 trees in Government land have been illegally cut by forest department.
2. Only Rs.1 Lakh fine has been imposed for trees worth crores of rupees.

3. The Revenue Department had issued the sketch without conducting the survey properly.
4. There is suspicion of felling of more than 361 trees.
5. Wrong survey has been conducted by the survey unit of forest department.
6. The higher authorities inspite of having knowledge about the incident have failed to take any action.

Along with the complainant the complainant has produced the documents.

3. The respondent No.1 to 12 have filed their comments. The respondent No.1 in his comments has stated that at the instance of the application given by Sri Ramanathan @ Ganapathi Chettiyar, the khatedar of Sy.No.35 and 58 of K.Thalagur village for permission to fell Jungle wood and reserved kind trees situated in his land, as per the orders of Tahsildar joint survey was conducted by him, respondent No.2 and respondent No.8. It is further stated that, after joint survey list of boundary trees were prepared and a sketch was prepared on 18/19.4.2012. The respondent No.1 has conceded that, while demarcating the boundaries of Sy.No.58 without his knowledge Sy.No.59 was also included in Sy.No.58 as there was no trench bifurcating the said two survey numbers and there were 30 years old coffee plants in both sy.No.58 and 59. He has further stated that, when he visited K.Thalaguru village for measurement of Sy.No.20 he came to know about the above mistake and immediately reported the same to Tahsildar and requested for an order for fresh joint survey. He has further stated that, accordingly fresh survey has been conducted and sketch has been prepared showing the Sy.No.59 separately. It is also stated that, as regards the felling of trees situated in sy.No.59, the officers of forest department having registered FOC No.15/2012-13 have compounded the offence by imposing fine of Rs.1 lakh and auctioned the felled

trees for Rs.55,61,970/-. On the above grounds, it is contended that no loss has been caused to Government and he may be exonerated from the allegations. He has produced documents with his comments.

4. Respondent No.2 in his comments has taken the same defence that, due to mistake and as there was no trench in between the two survey numbers, Sy.No.59 was included and shown within Sy.No.58 in the sketch dtd. 18/19.4.2012. Even he has contended that as fine has been imposed and the felled trees having been auctioned for Rs.55,61,970/- which has been credited to the government, there is no loss to the government and he may be exonerated from the charges.
5. Respondent No.3 & 4 in their comments have reiterated the defence taken by respondent No.1 & 2. They have also produced documents in support of their contention.
6. Respondent No.5 in his comments has stated that, after attestation of the sketch and list of trees by the Range Forest Officer, Aldur and Assistant Forest Conservator, Mudigere Sub-Division, the said documents were transmitted for affixing P.T. Stamp and accordingly after confirming himself about the boundaries, he has affixed the P.T. Stamp to the trees.
7. Respondent No.6 has stated in his comments that, the records were received from the Deputy Conservator of Forest after joint survey by the Deputy Range Forest Officer of Saragodu Branch and he has visited the spot along with Deputy Range Forest Officer and has co-operated for spot inspection on the basis of revenue documents. He has further stated that, after he came to know about the encroachment of Sy.No.59 by the hiduvalidar, he has co-operated in drawing the mahazar and seizure of wooden logs and firewood made out of felled trees on the basis of which FOC No.15/2012-13 has been registered. He has also contended that, there is no loss to the government as the felled

trees have been auctioned and an amount of Rs.55,61,970/- has been credited to the concerned Head of Account.

8. Respondent No.7 has produced a copy of reply dtd. 14.2.2013 given by him to the notice issued by Deputy Conservator of Forest, Chikkamagalur along with his letter dtd. 17.12.2014. He has reiterated the defence taken by the above respondents in their comments and he has submitted the report that FOC No.15/2012-13 may be compounded by imposing fine to the khatedar and the seized articles may be forfeited to the Government.
9. Respondent No.8 & 9 in their comments have contended that the mistake was due to the Survey Officer of Revenue Department. It is further contended that, since Sy.No.35 & 58 were private lands, the forest department had no documents pertaining to the said properties and therefore they could not make out that Sy.No.59 was included in Sy.No.58 during joint survey as there were coffee plants of about 25 years in both Sy.No.58 and Sy.No.59. It is also contended that, since Rs.55,61,970/- has been realized by auctioning the felled trees and Rs.1 Lakh as fine there is no loss to the Government Exchequer.
10. Respondent No.10 in his comments after reiterating the same contentions as taken by respondents No.1 to 9 has further stated that, the seized wooden logs and firewood made out of 361 felled trees were transported to Kadur Depot and the case was closed after imposing fine of Rs.1 Lakh. He has further stated that, the seized wooden logs and firewood were auctioned for Rs.55,61,970/- and amount has been credited to the Government. He has produced the mahazar, FIR and Form 24 regarding compounding of offence in FOC No.15/2012-13.
11. Respondent No.11 & 12 who were impleaded subsequently, in their comments have contended that, in the complaint there is no specific allegation against them and the complaint as against

them is barred u/s 8(2)(d) of Karnataka Lokayukta Act. Respondent No.12 has further contended that since he has retired on 30/6/2015 and 4 years having lapse as per Rule 214(2)(b)(ii) of K.C.S.R, 1957 disciplinary enquiry cannot be initiated against him. He has produced copy of the decision of Hon'ble High Court in W.P.No.6146/1984 in support of his contention.

12. The complainant has filed rejoinder reiterating the complaint allegations. Additional Principal Chief Conservator of Forest and SP, KLA, Chikkamgalur were directed to conduct joint investigation and submit report. Accordingly, the report dtd. 28.3.2017 with documents have been submitted opining that, there is a case of negligence in due discharge of duties on their part and an explicit voluntary admission of it.
13. Perused the comments, report and the documents submitted by the respondents and the enquiry officers.
14. As noted in the enquiry report Mr.Ramanathan @ Ganpathi Chettiyar had applied on 3.2.2012 for permission to fell jungle and reserved kind trees in Sy.No.59 of K.Thalagur of Balur Hobli as per Form No.1 of Karnataka Preservation of Trees Rules, 1977. A joint survey by the officer of Revenue/Survey and Forest Department was ordered by the officers of the Forest Department and the Tahsildar and accordingly joint survey was conducted and sketch was prepared on 18/19.4.2012 wherein admittedly Sy.No.59 was included in Sy.No.58 which resulted in granting felling permission to fell the trees situated not only in hiduvali lands of Sy.No.34 and 58, but also in Government land bearing Sy.No.59. It is conceded by all the respondents that, in the joint survey sketch dtd. 18/19.4.2012 which is marked as Annexure-1 in the enquiry report, Sy.No.59 was not separately demarcated and it was shown within Sy.No.58.

15. It is undisputed that sy.No.58 is the hidulvali land of Ramanatha @ Ganapathi Chettiyar and Sy.No.59 is a government land. From the comments of the respondents and also the enquiry report it also becomes clear that Sy.No.59 has been encroached by the said Ramanatha @ Ganapathi Chettiyar.
16. It is contended by the respondents that, since there were no trenches bifurcating Sy.No.58 and Sy.No.59 and since in both the lands coffee plants of about 25 to 30 years were in existence, respondent No.1, 2 & 9 could not identify and bifurcate Sy.No.59 which has resulted in the present incident. According to the respondents, 'it is only a mistake'. However, as per the enquiry report a P.T.sheet (plain table sheet), a survey document shall be in possession of a Surveyor and the P.T. Sheet reveals that both Sy.No.58 & 59 were originally part of Sy.No.48. It is further reported that, Sy.No.58 has been granted from Sy.No.48 only. It is also observed in the enquiry report that, in the 'Bhoomi' generated copy of RTC Sy.No.48 is recorded as 'of forest department'. Infact, in the sketch dtd. 18/19.4.2012 it is written as "(1)ಸ.ನಂ. 35 ಮತ್ತು 58 ರ ಮಾಫಿ ಹದ್ದುಬಸ್ತು ಅಳತೆಯನ್ನು ಮಾನ್ಯ ತಹಸೀಲ್ದಾರ್ ರವರ ಆದೇಶ ಸಂಖ್ಯೆ.ಟಿಕ್ಯೂಎಂಪಿಹೆಚ್‌ಬಿ 202/2011-12 ರ ಪ್ರಕಾರ ಮೂಲ ಪಿ.ಟಿ. ಜಮೀನು". Hence, it becomes clear that Tahsildar has ordered for survey as per original P.T. and the P.T sheet was in existence as on the date of said survey.
17. Though the respondents have contended that, there was no bifurcating mark so as to identify Sy.No.59 separately, in the enquiry report it has been observed specifically that Sy.No.58 & 59 are almost entirely separated by a kutchra road and in Sy.No.58 there were coffee plants of about 30 years old and in Sy.No.59 coffee plants of about 15 years were in existence at the time of inspection on 21.3.2017.
18. Further, it is not in dispute that felling permission was accorded subsequently as per Annexure-II. In the second page of felling

permission it has been specifically stipulated that the concerned forest officers/officials must confirm that there is a trench in between hiduvali land and government land and shall see that till the transportation of felled trees, the boundary trees and boundary trench are protected. Therefore, the contentions of the respondents that it was only a mistake cannot be accepted by any stretch of imagination. On the other hand, as opined by the enquiry officers this is a case of negligence in due discharge of duties on their part and an explicit voluntary admission of it.

19. From the comments of the respondents and the perusal of the sketch dtd. 18/19.4.2012 it can be seen that the joint survey in question was conducted by the respondent No.1, respondent No.2 and respondent No.9 and as per the said joint survey the sketch i.e, Annexure-I has been prepared on 18/19.4.2012. Therefore, it can be safely concluded that there is gross negligence in discharge of their duties by respondent No.1,2 & 9.
20. The signatures of Respondent No.3, 4, 11 and 12 also find place in the said sketch. The respondent No.11 & 12 who were the Tahsildar and Survey Supervisor of Mudigere during the relevant period were not arrayed as parties at the first instance. However, after submission of enquiry report they have been impleaded as per order dtd. 15.3.2019. The respondent No.11 & 12 in their comments have contended that, since their names were not mentioned by the complainant in the complaint and the event having taken place during 2012, the complaint as against them is barred by limitation. However, in the original complaint dtd.1.9.2014 itself, as stated above, there is a specific allegation that the officers of Revenue Department have issued the sketch without properly conducting the survey. Therefore, already there was allegation against the officers of Revenue Department. It is pertinent to note that, respondent No.11 was the Survey Supervisor and respondent No.12 was the Tahsildar during the relevant period as stated by all other respondents and as recited



in the sketch dtd. 18/19.4.2012 the joint survey has been conducted as per the orders of Tahsildar vide order No.TQMPHB/202/11-12. The other respondents have also stated that, after survey dtd: 18/19.4.2012 Tahsildar having inspected the spot verified the sketch and forwarded the records to the forest department recommending for grant of felling permission. It also becomes clear from Annexure-II that, felling permission has been granted by the Deputy Conservator of Forest, Chikkamagalur on 16.6.2012. As per the comments of Respondent No.12, he was the Tahsildar of Mudigere Taluk from 16.9.2011 to 23.6.2012. He has affixed his signature to the sketch in question. Therefore, the contention of the respondent No.12 that he is not liable for felling of trees in Sy.No.59 cannot be accepted.

21. As regards respondent No.11 he has affixed the signature to the sketch in question on 21.4.2012 as Survey Supervisor, below the writings "ಸ್ಥಳ ಹಾಗೂ ಮೂಲ ದಾಖಲೆಗಳೊಂದಿಗೆ ಪರಿಶೀಲಿಸಿದ" Therefore, it becomes clear that Respondent No.11 has affixed his signature to the sketch after visiting the spot and confirming about the correctness of the sketch by verifying the original documents. Hence, he is also to be held equally liable for illegal felling of trees in Government land bearing sy.No.59.
22. Both the respondents No.11 & 12 have relied upon Sec.8(1)(d) of Karnataka Lokayukta Act and contended that the complaint is barred by limitation. The event is of the year 2012. The complaint has been presented before this institution on 1.9.2014 i.e, within 5 years as contemplated u/s 8(2)(d) of Karnataka Lokayukta Act. The contention of the respondents No.11 &12 that since their names were not shown in the original complaint dtd. 1.9.2014 there is no allegation against them in the said complaint cannot be accepted. As repeatedly stated above, there is a specific allegation in the said complaint that the officers of revenue

department have issued the sketch without properly conducting survey. Both the respondent No.11 and respondent No.12 are signatories to the said sketch dtd. 18/19.4.2012 and both the said respondents having visited the spot after the said joint survey and confirming themselves about the correctness of the contents of the sketch by allegedly verifying the original documents have forwarded the records to the forest department recommending for grant of felling permission to Ramanatha @ Ganapathi Chettiyar. Therefore, the contention of the said respondents that there is no allegation against them in the complaint dtd:1.9.2014 cannot be held tenable. Therefore, Sec.8(2)(d) would not be applicable to the present case.

23. **The respondent No.12 has taken the contention that, he having retired on 30/6/2015, as per Rule 214(2)(b)(ii) disciplinary action cannot be initiated against him. In W.P.No.1897/18 (GM-res) in a case where similar contention was taken regarding initiation of disciplinary action against a retired employee, the Hon'ble High Court has stayed the orders of Karnataka State Administrative Tribunal passed in Application No.9682/2015 (Sri.Balachandra Neelgar V/s State of Karnataka and others), wherein the Administrative Member of K.A.T had quashed the impugned charge memo issued by ARE-2 of this institution on the ground that as per Rule 214(2)(b)(ii) of K.C.S.R, no departmental proceedings shall be instituted against a retired Government servant in respect of any event which took place more than 4 years before such institution. In the said case the applicant had retired from service on 31/1/2012 and charge memo had been issued on 24/6/2015 with respect to the alleged misconduct of the period from 28/2/2010 to 6/3/2010. The Hon'ble High Court in the above Writ Petition has stayed the operation of the above impugned order dt.9/8/2017.**

24. Respondent No.3, 4 & 6 are the officers of Forest Department, who have recommended for grant of felling permission on the basis of the sketch dtd. 18/19.4.2012. In their comments, they have admitted that after receipt of sketch and report from the revenue department they visited the spot and inspected as per the revenue documents. From the enquiry report it can be made out that as per RTC, Sy.No.48 was shown as belongs to "forest department". Therefore, the forest department shall have the custody of all the documents relating to Sy.No.48. Sy.No.59 is part of Sy.No.48. Therefore, the contention of the Respondent No.3 to 8 and 10 that non-showing of Sy.No.59 and inclusion of the said survey number in Sy.No.58 in the sketch dt.18/19.4.2012 was only the mistake of revenue and survey officers cannot be held tenable. Even according to the felling permission dtd.16.6.2012, the responsibility was on the Range Forest Officer and his staff to confirm themselves about the boundaries, boundary trees and boundary trench before allowing the khatedars to fell the trees. Therefore, the defence taken by the respondents No.3 to 10 that, the mistake was only due to the officers of revenue department cannot be accepted and the Respondent No.3 and his staff i.e, respondent No.4 to 6, 9 & 10 are also to be equally held liable for the complained misconduct.
25. Further, all the respondents have admitted and produced documents that after coming to know about inclusion of Sy.No.59 in Sy.No.58 in the sketch dtd. 18/19.4.2012, a case in FOC 15/12-13 was registered against khatedar and it has been compounded by imposing fine of Rs.1 Lakh. It is also undisputed that the wooden logs and firewood made out of felled trees were auctioned for Rs.55,61,970/-. According to the said respondents there is no loss to the Government since Rs.55,61,970/- plus Rs.1 Lakh, totally Rs.56,61,970/- has been realized and credited to the Government.

26. However first of all no document has been placed either by the respondents or the Enquiry Officer as to on what basis the value of felled trees were assessed. No document has been produced to show that as on the date of auction, the felled trees valued Rs.55,61,970/-.
27. Secondly as rightly pointed out by the complainant the fine of Rs.1 Lakh imposed cannot be held sufficient and as per law. From the conditions imposed in felling permission dtd. 16.6.2012 and also the enquiry report it becomes clear that the felling permission has been sought and sanctioned as per Karnataka Preservation of Trees Act, 1976. But FOC 15/12-13 has been registered under Rule 25, 43 R/w 165 of Karnataka Forest Rules. But as per Sec.8 of Karnataka Preservation of Trees Act, no person shall fell any tree whether in his ownership or occupancy or otherwise, except with the previous permission of the tree officer. As per Sec.21 of the said Act, the tree officer may compound the offence on payment of a sum equivalent to 25% of the value of the property involved in the offence. According to the respondents the property has been auctioned for Rs.55,61,970/- and even if the value of the felled trees is considered as Rs.55,61,970/-, the offence could not have been compounded by imposing fine of Rs.1 lakh only, as 25% of Rs.55,61,970/- would be Rs.13,90,492.5. Therefore, even while compounding the offence financial loss to the tune of Rs.12,90,492.5, has been caused to the Government exchequer by the respondents.
28. Further, as per sec.22 of the said Act, any person who contravenes any of the provisions of the Act shall also be liable for conviction and be punishable with imprisonment which may extend to 3 months or with fine and in such case the property may be ordered to be forfeited to the State Government.
29. Therefore, from reading Sec.21 & 22 of the Act, it also becomes clear that the respondents No.3 to 8 & 10 have not followed the


provisions of Karnataka Preservation of Trees Act, 1976 in registering the case and imposing proper penalty or in compounding the offence which has definitely resulted in loss to the Government Exchequer.

30. Further, the comments of the respondents and also the enquiry report are totally silent as regards the steps taken for removal of encroachment of more than 15 acres (as per enquiry report) in Government land bearing Sy.No.59 and to recover possession of the same. Hence, recommendation is to be made u/s 12(1) Karnataka Lokayukta Act to take steps for removal of encroachment and to take suitable action against the encroacher.
31. Therefore, there are sufficient materials to proceed against the respondents opining that there is negligence in discharge of their duties as public servants which has caused loss to the Government Exchequer which attracts disciplinary proceedings under Rule 3 of Karnataka Civil Service (Conduct) Rules 1966.
32. Therefore, acting under Section 12(3) of Karnataka Lokayukta Act, 1984, recommendation is made to the Competent Authority for initiating disciplinary proceedings against respondent No.1 to 12 i.e., (1) Sri Prabhakar, Surveyor, Revenue Department, Mudigere Taluk, (2) Sri Prasad.B.M. Range Forest Officer, Mutthodi, Chikkamagalur District, (3) Sri Abdul Ajeer, Range Forest Officer, Chikkamagalur Range, (retired on 30/4/2017) (4) Sri Venkatesh, Deputy Range Forest Officer, Chikkamagalur Range, (5) Sri Sathish.S.K. Forest Guard, P.T.Unit, Chikkamagalur, (6) Sri Raghu.H.B. Forest Guard, Gabgal Gasthu, Aldur Range, (7) Sri Ramesh Babu, Assistant Conservator of Forest, Mudigere, (8) Sri Srinivas Reddy.B. Assistant Conservator of Forest, Balehonnur Sub-Division, (retired on 30/6/2016), (9) Sri Kiran Kumar.G. Deputy Range Forest Officer, Monaji Ghataka, (10) Sri Venkatesh, Circle Officer, Bhadra Wildlife Division of Chikkamagalur District, (11) Sri G.Nanjundappa, the then


Surveyor, Taluk Office, Mudigere, Chikkamagalur District, presently working at Office of the ADLR, Shimoga Taluk, Shimoga, and (12) Sri Chinnaraju, the then Tahsildar, Mudigere, Chikkamagalur District, (retired on 30/6/2015), and to entrust the departmental inquiry to this authority under Rule 14-A of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957, with sanction as required under Rule 214(2)(b)(i) of Karnataka Civil Services Rules, against respondent No.3 Sri.Abdul Ajeej, respondent No.8 Sri.Srinivasa Reddy B, and respondent No.12 Sri.Chinnaraju who have already retired from Government service on 30/4/2017, 30/6/2016 and 30/6/2015 respectively.

33. As per section 12(4) of the Karnataka Lokayukta Act, 1984, the Competent Authority shall intimate or cause to be intimated to this Authority, the action taken or proposed to be taken on this recommendation, within a period of three months from the date of receipt of this report.

Connected records are enclosed herewith.

  
(Justice B.S.Patil)  
Upalokayukta-2

State of Karnataka, Bengaluru

  
21/1/2020