

KARNATAKA LOKAYUKTA

No. Compt/Uplok/MYS-440/2009/ARE-6

M.S. Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru.

Date: 31/12/2018.

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

Sub: Proceedings against Sri. Rajendra Kalbalvi – Planning Director, Nirmithi Kendra, Suratkal, Dakshina Kannada District, 2) Sri. U.D.Shekar – Secretary, Guttigaru Gram Panchayath, Guttigaru Village, Sulya Taluk, Dakshina Kannada District and 3) Sri.Harish- Junior Engineer, Nirmithi Kendra, Surathkal, Dakshina Kannada District about their misconduct as Public/Government servants – reg.

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On the complaint filed by Sri. M.Sudhakar and Resients of Guttigaru village, S/o. Boliyanna Gowda, Malkeja House, Guttigaru Village, Kamila Post, Sullia Taluk, Dakshina Kannada District (hereinafter referred to as complainant for short) against Chief Engineer – Nirmithi Kendra, Suratkal, Dakshina Kannada District and Secretary – Gram Panchayath, Guttigaru Village, Sullia Taluk, Dakshina Kannada District. (hereinafter referred to as respondent Nos. 1 to 2), alleging that they, being Public/Government servants, have committed misconduct, an investigation has been taken up u/s 9 of the Karnataka Lokayukta Act, 1984.

2. The complainant alleged that the Guttigaru Village Pachayath has entrusted the work relating to formation of 2 pipe culverts across the stream connecting Kapila-Eranegudde SC Colony under "Swacha Grama Yojane", during 2002-2003 at the cost of Rs.4 lakhs to R1. He further alleged that within a year of construction a pipe was cut because it was sub-standard work. Therefore, the villagers requested the ZP for allotment of additional fund for repair of the said work. Accordingly, separate cement slab was laid on the upper portion of the culvert. But, after lapse of 2 years another wall of the culvert has also been broken and thereafter the same was also got repaired by investing a sum of Rs.50,000/- from the Zilla Panchayath funds. But, thereafter also, 15 days prior to the date of filing of this complaint both the culverts have been washed away thereby the villagers have lost the connectivity. Even though, the work carried out by the respondent No.1 was sub-standard, the 2nd respondent has made the payment to the 1st respondent. Accordingly, prayed to take action against the erred officials.
3. After registration of the complaint, the respondents were asked to submit their comments. Accordingly, they have submitted their comments.
4. The respondent No.1 stated that, the Nirmithi Kendra under his supervision constructed the two pipe culverts under Swacha grama yojane at a cost of Rs.1.75 lakhs each. He

further stated that due to heavy rain only the wall of the culvert was washed away and not due to construction made by them. They are not responsible for breakage of the construction.

5. The 2nd respondent has admitted that the Panchayath had entrusted work of construction of two pipe culverts to the 1st respondent, accordingly, the work was carried out. But, due to heavy rains during 2009 the culverts were washed away and subsequently that has been got repaired by the ZP and the Deputy Commissioner. According to the respondents the work carried out by them was in good condition, but, due to unprecedented rain the culverts were washed away.
6. Later, File was referred to CE, TAC to investigate and submit report and they have submitted their report. On perusal of the report submitted by the TAC Engineer Sri. Guruprasad J.D., it indicates that two works were carried out by the respondent No.1 during 2003 at an estimated cost of Rs.1.75 lakhs each. As per the details furnished in the report, the measurements have been tallied with the measurements mentioned in the estimation and the MB Books. The works as on that day were in good condition and the people are making use of the said facility. But, the grievance of the complainant and other villagers is that the said pipe culverts are not sufficient for free flow of heavy rain water. Therefore, the rain water will come upto the houses. Therefore, it is just and proper to construct

big culverts. As per the opinion of the Engineers who were present, a decision has already been taken to construct other three culverts for the use of the people.

7. The Engineer has also drawn the spot mahazar in the presence of the complainant, respondents and other officials. He has taken photographs and collected the copies of estimation, work order, MB Book, running account bill, receipts and bills relating to purchase of materials. On perusal of the said documents, they prima facie show that the entries in the MB book have been made in terms of the agreement and the procedure. Since, the work was entrusted to Nirmithi Kendra the materials were purchased from Mahabaleshwara Spun pipe company and the work was carried out under the supervision of the respondent No.1. The documents prima facie tally with the estimation and work order. There is no lapse with regard to maintaining the MB book. This report is based upon the present existing features. The complainant and other villagers have also not disputed that presently the two culverts are under use by the people.
8. It is pertinent to note that the work was carried out during 2003. The respondents in their comments submitted that after construction of the culverts, due to unprecedented heavy rains some portion of the culverts were washed away. But the bridge was in good condition. The complainant has produced three photographs along with the complaint. As per the said

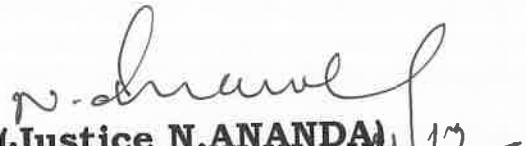
photographs the culvert was damaged to maximum extent. It was damaged within a short period. The respondents have not placed any material to show that there was an unprecedented rain in that area during that period and due to that only the bridge was damaged. They have not produced any paper cutting or the public document to support their comments. They admitted that the culvert has been subsequently got repaired two times by spending additional amount from the State Exchequer. It is a fact that in Dakshina Kannada District there will be heavy rain during rainy season and that cannot be disputed by anybody. Therefore, while undertaking any construction work either by Gram Panchayath or by any authority they will have to take extra care to make provision for construction of bridge by maintaining very good quality and also they will have to take all sorts of precautions for free flow of water and to prevent any damage to the construction. But in this case, the respondents have failed to take such precautions while implementing the scheme. Since, they have failed to place believable material to support their comments and since admittedly the culverts have been repaired twice, prima facie it is clear that the work was not carried out in terms of the agreement and by maintaining the required quality of work. Therefore, the report of the TAC is not helpful to the comments of the respondents.

9. Based on the report of TAC, the names of the 1st and 2nd respondent Sri. Rajendra Kalbalvi – Planning Director, Nirmithi Kendra, Suratkal, Dakshina Kannada District and 2) Sri. U.D.Shekar – Secretary, Guttigaru Gram Panchayath, Guttigaru Village, Sulya Taluk, Dakshina Kannada District have been inserted and respondent No.3 i.e., Sri.Harish-Junior Engineer, Nirmithi Kendra, Surathkal, Dakshina Kannada District has been impleaded and comments from respondent Nos. 2 and 3 were called for. But, the respondent Nos.2 and 3 have failed to submit their comments though the notice have been served to them. Therefore, it shows that, the respondents 2 and 3 have no comments. Hence, there is a prima facie material to come a conclusion that the respondent Nos.1 to 3 did not maintain the quality while carrying out the work and thereby committed maladministration, dereliction of official duty and misconduct within the meaning of Rule 3(i)(ii)(iii) of KCS(Conduct) Rules 1966. Therefore, it is necessary to make recommendation as per Sec.12(3) of K.L. Act.
10. Since said facts supported by the material on record prima facie show that the **Respondent Nos.1 to 3**, being Public/Government servants, have committed misconduct as per Rule 3(1)(i),(ii) & (iii) of KCS(Conduct) Rules 1957, now, acting under section 12(3) of the Karnataka Lokayukta Act, recommendation is made to the Competent Authority to

initiate disciplinary proceedings against the respondent Nos. 1 to 3 and to entrust the inquiry to this authority under Rule 14(A) of Karnataka Civil Services(Classification, Control and Appeal) Rules 1957.

11. Further, as per U/s 12(4) of Karnataka Lokayukta Act, 1984, the Competent Authority is required to intimate this Authority as early as possible but latest within three months from the date of receipt of this report, the action taken or proposed to be taken on this report against respondent Nos.1 to 3.

Connected records are enclosed.


(Justice N.ANANDA)
Incharge Upalokayukta-2,
State of Karnataka.

