

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No.LOK/INQ/14-A/125/2011/ARE-3

Multi Storied Buildings,
Dr.B.R.Ambedkar Veedhi,
Bengaluru-560 001,
Date: 20/03/2019

RECOMMENDATION

Sub: - Departmental inquiry against;

- (1) Sri Mayappa Ekanaki, First Division Assistant, Office of the Land Acquisition Officer, Bhimarayanagudi, Shahapur Taluk, Yadgir District.
- (2) Sri Jagannatha Kauthala, Second Division Assistant, Office of the Land Acquisition Officer, Bhimarayanagudi, Shahapur Taluk, Yadgir District.
- (3) Sri Abdul Gafoor, Second Division Assistant, Office of the Land Acquisition Officer, Bhimarayanagudi, Shahapur Taluk, Yadgir District - Reg.

Ref:-1) Government Order No.ಕಂಇ 49 ಬಿಡಿಬಿ 2011 Bengaluru dated 11/05/2011 and its Corrigendum dated 09/06/2011.

2) Nomination order No.LOK/INQ/14-A/125/2011 Bengaluru dated 06/07/2011 of Upalokayukta-1, State of Karnataka, Bengaluru.

3) Inquiry Report dated 18/03/2019 of Additional Registrar of Enquiries-3, Karnataka Lokayukta, Bengaluru

The Government by its Order dated 11/05/2011 read with its Corrigendum dated 09/06/2011 initiated the disciplinary proceedings against (1) Sri Mayappa Ekanaki, First Division Assistant, Office of the Land Acquisition Officer, Bhimarayanagudi, Shahapur Taluk, Yadgir District; (2) Sri Jagannatha Kauthala, Second Division Assistant, Office of the Land Acquisition Officer, Bhimarayanagudi, Shahapur Taluk, Yadgir District and (3) Sri Abdul Gafoor, Second Division Assistant, Office of the Land

Acquisition Officer, Bhimarayanagudi, Shahapur Taluk, Yadgir District (hereinafter referred to as Delinquent Government Officials 1 to 3 for short as 'DGO-1, DGO-2 and DGO-3 respectively') and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.LOK/INQ/14-A/125/2011 dated 06/07/2011 nominated Additional Registrar of Enquiries-3, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGOs 1 to 3 for the alleged charge of misconduct, said to have been committed by them.

3. The DGO-1 Sri Mayappa Ekanaki, First Division Assistant, Office of the Land Acquisition Officer, Bhimarayanagudi, Shahapur Taluk, Yadgir District; DGO-2 Sri Jagannatha Kauthala, Second Division Assistant, Office of the Land Acquisition Officer, Bhimarayanagudi, Shahapur Taluk, Yadgir District and DGO-3 Sri Abdul Gafoor, Second Division Assistant, Office of the Land Acquisition Officer, Bhimarayanagudi, Shahapur Taluk, Yadgir District were tried for the following charge:-

That you DGO-1 Sri.Mayappa Ekanaki, FDA, you DGO-2 Sri.Jagannatha Kauthala, SDA and you DGO-3 Sri.Abdul Gafoor, SDA- office of the Land Acquisition Officer, Bhimarayanagudi, Shahapur Taluk, Yadgir District, while discharging your duties;

a) When the complainant Sri Mahanthesh, S/o. Devappa Talavar of Sumbada, Taluk Jevargi met you namely Mayappa Ekanaki alias Mahesh and Jagannatha Kauthala on 23/05/2007, at your office,

out of you Mayappa Ekanaki alias Mahesh told the complainant that to serve the notice u/s 4(1) of the Land Acquisition Act, each of the claimants have to pay Rs.500/- and out of you Sri. Jagannatha Kauthala demanded Rs.1000/- from each of the claimants for serving the notice u/s 6(1) of Land Acquisition Act, and for that the complainant told to you that he is unable to pay that much amount, and requested you to reduce the amount to be paid by him, at that time, out of you Mayappa Ekanaki and Jagannatha Kauthala told to the complainant that not only they are involved in the work, but approval of the file has to be made by you DGO-3, Sri.Abdul Gafoor, and for him also amount is to be paid, and you Mayappa Ekanaki and Jagannatha Kauthala further told to the complainant that if Rs.1500/- is brought and paid to them, they will take steps to see that the compensation amount is paid at the earliest, and

- b) on 24/05/2007, when the complainant met you DGO-1 in CADA office, Bhimarayanagudi and enquired as to whether his work is done, at that time, you DGO-2 and 3 who were sitting by the side of DGO-1 came and enquired as to whether the amount told by them has been brought by the complainant and for that the complainant told that he has brought only his share of Rs.1500/- and for that the DGO-1 told that he will come to Vijaya Hotel after the office hours, and there to pay Rs.1500/- to him and that will be distributed among each of them equally and thereafter in the Vijaya Hotel, situated at Bapugouda, Darshnapur Chowk, Bheemarayanagudi,

you DGO-1 Sri. Mayappa Ekanaki alias Mahesh demanded and accepted the bribe amount of Rs.1500/- for yourself and on behalf of DGO-2 and 3 to do the official work of the complainant for release of compensation for 2 acres 4 Guntas in respect of the acquisition of the said land for D9 main canal of Upper Krishna Project,


and thereby you all have failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servant and thus you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966.

4. The Inquiry Officer (Additional Registrar of Enquiries-3) on proper appreciation of oral and documentary evidence has held that, the Disciplinary Authority has proved the above charge against DGO-1 Sri Mayappa Ekanaki, First Division Assistant, Office of the Land Acquisition Officer, Bhimarayanagudi, Shahapur Taluk, Yadgir District. Disciplinary Authority has failed to prove the above charge against DGO-2 Sri Jagannatha Kauthala, Second Division Assistant, Office of the Land Acquisition Officer, Bhimarayanagudi, Shahapur Taluk, Yadgir District and DGO-3 Sri Abdul Gafoor, Second Division Assistant, Office of the Land Acquisition Officer, Bhimarayanagudi, Shahapur Taluk, Yadgir District.

5. On re-consideration of inquiry report, I do not find any reason to interfere with the findings recorded by the Inquiry Officer.

6. It is hereby recommended to the Government to accept the report of Inquiry Officer and to exonerate the DGO-2 Sri Jagannatha Kauthala, Second Division Assistant, Office of the Land Acquisition Officer, Bhimarayanagudi, Shahapur Taluk, Yadgir District and DGO-3 Sri Abdul Gafoor, Second Division Assistant, Office of the Land Acquisition Officer, Bhimarayanagudi, Shahapur Taluk, Yadgir District of the aforestated charge.
7. As per the First Oral Statement submitted by DGO-1 Sri Mayappa Ekanaki, he is due to retire from service on 30/06/2024.
8. Having regard to the nature of charge (demand and acceptance of bribe) proved against DGO-1 Sri Mayappa Ekanaki, it is hereby recommended to the Government for imposing penalty of compulsory retirement from service on DGO-1 Sri Mayappa Ekanaki, First Division Assistant, Office of the Land Acquisition Officer, Bhimarayanagudi, Shahapur Taluk, Yadgir District.
9. Action taken in the matter shall be intimated to this Authority.

Connected records are enclosed herewith.


(JUSTICE N. ANANDA)
Upalokayukta-1,
State of Karnataka,
Bengaluru

20/3

KARNATAKA LOKAYUKTA

No. LOK/INQ/14-A/125/2011/ARE-3

M.S.Building,
Dr. B.R.Ambedkar Veedhi,
Bengaluru - 560001.

Date: 18.3.2019

Enquiry reportPresent: Sri.S. Renuka Prasad
Additional Registrar Enquiries-3

Sub: Departmental Enquiry against (1) Sri Mayappa Ekanaki, FDA, (2) Sri Jagannatha Kauthala, SDA, (3) Sri Abdul Gafoor, SDA, O/o Land Acquisition Officer, Bhimrarayanagudi, Shahapur Taluk, Yadgir District - reg

Ref: 1. Report under Section 12(3) of the Karnataka Lokayukta Act, 1984, in No. Compt/Uplok/GLB/47/2009/ARE-6 dated 15.3.2011

2. Government Order No. RD 49 BDP 2011 dated 11.5.2011 and its corrigendum dated 9.6.2011

3. Nomination Order No.LOK/INQ/14-A/125/2011 dated 6.7.2011 of Hon'ble Upalokayukta, Karnataka State, Bengaluru.

1. One Sri.Mahanthesh, S/o. Devappa Talavar of Sumbada Village, Taluk Jevargi of Yadgir District (hereinafter referred to as 'complainant') has filed a complaint to Lokayukta police, Yadgir on 24.5.2007 against (1) Sri Mayappa Ekanaki, FDA, (2) Sri Jagannatha Kauthala, SDA, (3) Sri Abdul Gafoor, SDA, O/o Land Acquisition Officer, Bhimrarayanagudi, Shahapur Taluk, Yadgir District (hereinafter referred to as 'DGOs 1 to 3' for short) making allegations against them that, they are demanding him to pay Rs. 1500/- by way of bribe, in order to issue the notifications under Section 4(1) and 6(1) of Land Acquisition Act and to see that,

compensation is disbursed to him, in respect of the additional land of 2.04 acres of land in sy. no. 34/A belonged to the complainant and his brother, which was utilised towards construction of main canal of UKP Project.

2. On registering a case on the basis of the said complaint, a trap was held on 24.5.2007 in the Vijaya Hotel, situated near the O/o Special LAO, UKP, Bhimarayanagudi wherein, DGO-1 having demanded bribe from the complainant, received the said bribe amount of Rs. 1500/- from the complainant, both on his behalf and on behalf of DGOs 2 and 3. The tainted notes of Rs. 1500/- was recovered from the possession of DGO-1 which he was holding in his left hand when he/DGO-1 was apprehended in the said hotel. Since it was revealed during investigation that, DGO-1 to 3 have demanded bribe of Rs.1500/- from the complainant and DGO-1 received the bribe amount from the complainant both on his behalf and on behalf of DGOs 2 and 3, on the day of trap, in order to do an official act i.e., in order to issue the notifications under Section 4(1) and 6(1) of Land Acquisition Act and to see that, compensation is disbursed to the complainant in respect of the additional land of 2.04 acres of land in sy. no. 34/A belonged to the complainant and his brother, which was utilised towards construction of main canal of UKP Project, the Police Inspector having conducted investigation, filed charge sheet against the DGOs 1 to 3.
3. The ADGP, Karnataka Lokayukta, Bengaluru has forwarded the copy of the charge sheet to the Hon'ble Upalokayukta. On the basis of the materials collected during investigation and materials placed before this authority, an investigation was taken up under Section 7(2) of the Karnataka Lokayukta Act. An observation note was served on the DGOs 1 to 3, providing them an opportunity to show-

cause as to why recommendation should not be made to the Competent Authority, for initiating disciplinary proceedings against them. DGO-1 has not submitted his reply to the observation note despite service of observation note on him. DGOs 2 and 3 have submitted their reply denying the allegations made against them contending that, they never demanded or received any money by way of bribe from the complainant and they have been falsely implicated. Hence, as per the defence contention taken by DGOs 2 and 3, they have denied the allegation of demand for bribe made against them and further denied the allegation that, DGO-1 has received bribe amount of Rs. 1500/- from the complainant, even on their behalf.

4. Since the explanation offered by the DGOs 2 and 3 were not satisfactory and since DGO-1 never bothered to submit his reply, a recommendation under Section 12(3) of the Karnataka Lokayukta Act was forwarded to the Competent Authority recommending to initiate disciplinary enquiry against DGOs 1 to 3 and to entrust the enquiry under Rule 14-A of KCS (CCA) Rules, to this authority to hold enquiry. Accordingly, the State Government i.e., the Revenue Department, by its order in No. RD 49 BDP 2011 dated 11.5.2011 and its corrigendum dated 9.6.2011 initiated disciplinary proceedings against DGOs 1 to 3 and entrusted the same to Hon'ble Upalokayukta to hold enquiry. As per the order issued against DGOs 1 to 3, the Hon'ble Upalokayukta issued a nomination order dated 6.7.2011 nominating ARE-3 to frame charges and to conduct enquiry against DGOs 1 to 3. Accordingly, charges were framed by the then ARE-3 against DGOs 1 to 3 as under.

“Charge:

That you DGO-1 Sri. Mayappa Ekanaki, FDA, you DGO-2 Sri.Jagannatha Kauthala, SDA and you DGO-3 Sri.Abdul Gafoor, SDA - office of the Land Acquisition Officer, Bhimarayanagudi, Shahapur Taluk, Yadgir District, while discharging your duties;

a) When the complainant Sri.Mahanthesh, S/o. Devappa Talavar of Sumbada, Taluk Jevargi met you namely Mayappa Ekanaki alias Mahesh and Jagannatha Kauthala on 23/05/2007, at your office, out of you Mayappa Ekanaki alias Mahesh told the complainant that to serve the notice u/s 4(1) of the Land Acquisition Act, each of the claimants have to pay Rs.500/- and out of you Sri. Jagannatha Kauthala demanded Rs.1000/- from each of the claimants for serving the notice u/s 6(1) of Land Acquisition Act, and for that the complainant told to you that he is unable to pay that much amount, and requested you to reduce the amount to be paid by him, at that time, out of you Mayappa Ekanaki and Jagannatha Kauthala told to the complainant that not only they are involved in the work, but approval of the file has to be made by you DGO-3, Sri.Abdul Gafoor, and for him also amount is to be paid, and you Mayappa Ekanaki and Jagannatha Kauthala further told to the complainant that if Rs.1500/- is brought and paid to them, they will take steps to see that the compensation amount is paid at the earliest, and

b) on 24/05/2007, when the complainant met you DGO-1 in CADA office, Bhimarayanagudi and enquired as to whether his work is done, at that time, you DGO-2 and 3 who were sitting by the side of DGO-1 came and enquired as to whether

the amount told by them has been brought by the complainant and for that the complainant told that he has brought only his share of Rs.1500/- and for that the DGO-1 told that he will come to Vijaya Hotel after the office hours, and there to pay Rs.1500/- to him and that will be distributed among each of them equally and thereafter in the Vijaya Hotel, situated at Bapugouda, Darshnapur Chowk, Bheemaranagudi, you DGO-1 Sri. Mayappa Ekanaki alias Mahesh demanded and accepted the bribe amount of Rs.1500/- for yourself and on behalf of DGO-2 and 3 to do the official work of the complainant for release of compensation for 2 acres 4 guntas in respect of the acquisition of the said land for D9 main canal of upper Krishna project, and thereby you all have failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servant and thus you all are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct)Rules 1966.

STATEMENT OF IMPUTATION OF MISCONDUCT:

Suo-motu investigation was taken up under Section 7(2) of the Karnataka Lokayukta Act, 1984, was registered against Sri.Mayappa Yekanakki, working as FDA 2)Sri. Jagannatha Kowtala working as SDA & 3) Sri. Abdul Gaphoor, working as SDA in the office of Special Land Acquisition officer at Bhimarayanagudi in Shahapur Taluk of Yadgir District (hereinafter referred to as DGOs 1, 2 &3), on the basis of the material placed by the Police Inspector, Karnataka Lokayukta at Yadgir (hereinafter referred to as Investigating Officer - 'IO' for short), that the DGOs demanded and accepted bribe of

Rs.1500/- from Sri.Mahantesh, S/o.Devappa Talwar of Jevargi Taluk in Yadgir (hereinafter referred to as the 'complainant'), in connection with discharge of their official duty and committed misconduct as public servant.

2. The brief facts of the case are:

- a) The complainant had approached the DGOs in connection with compensation not paid in respect of 2 acres 4 guntas of his land in sy.no. 34 of Sumbada Village in Jevargi Taluk of Yadgir District. For that, they demanded bribe of Rs.1500/- jointly, which the complainant was not willing to pay. Hence, he lodged a complaint before the IO, on which basis, a case in Cr.No.1/2007 was registered under Sections 7 and 13(1)(d) r/w section 13(2) of Prevention of Corruption Act, 1988 and FIR was submitted to the concerned court.
- b) Then after securing two panch witnesses on 24/05/2007, the IO conducted entrustment mahazar about the entrustment of bribe amount produced by the complainant to the complainant after applying Phenolphthalein powder to it and followed pre-trap proceedings required for that purpose.
- c) Therefore, IO along with complainant, said panchas and his staff came near KADA office at Bhimarayanagudi. Then complainant and shadow witness approached DGOs in that office. The DGO-2 and 3 asked the complainant to pay the bribe amount in the hands of DGO-1. The DGO-1 told the complainant to meet him near Vijaya hotel. So, complainant went near Vijaya Hotel and gave bribe amount of Rs.1500/- to DGO-1 on demand in that hotel

and DGO-1 received the same for him and other DGOs also. Then as per the pre-arranged signal given by the complainant, IO along with remaining trap party members came and seized the bribe amount from the DGO-1 under mahazar, after following post-trap formalities.

- d) During the course of investigation, the IO has recorded the statements of complainant, panchas and others and also received report from Chemical Examiner about the articles sent for chemical examination, which showed the result as positive.

3. The material collected by the IO during the course of investigation and produced before this authority besides the said facts show that for discharging their official duty as public servants, DGO demanded and DGO-1 received amount other than legal remuneration for him and other DGOs in connection with the work of the complainant and failed to maintain absolute integrity and acted in a manner unbecoming of Government servants, for which they are liable for Disciplinary Action.

4. Therefore, suo-motu investigation was taken up against the DGO 1,2 and 3 under section 7(2) of Karnataka Lokayukta Act and an observation note was sent to them to show casue as to why recommendation should not be made to the Competent Authority for initiating Departmental Enquiry against them in the matter. For that, the DGOs 2 and 3 gave their reply but DGO-1 did not file his reply. However, on considering the reply of DGO2 and 3, the same are not convincing to stay or drop the proceedings.

5. Since said facts and material on record prima-facie show that the DGOs 1, 2 & 3 have committed misconduct as per Rule 3(1)(i) & (iii) of KCS (Conduct) Rules, 1966, recommendation was made under Section 12(3) of the Karnataka Lokayukta Act, to the Competent Authority to initiate disciplinary proceedings against the DGOs 1, 2 & 3 and to entrust the inquiry to this Institution under Rule 14-A of Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.

The Government after considering the recommendation made in the report, entrusted the matter to the Hon'ble Upalokayukta to conduct departmental/disciplinary proceedings against DGOs 1 to 3 and to submit report. Hence the charge."

5. The Articles of Charges and Statement of Imputations are duly served on DGOs 1 to 3. DGOs 1 to 3 have appeared before this authority and First Oral Statement of DGOs 1 to 3 was recorded. DGOs have denied the charges framed against them. They have engaged the services of Advocates of their choice, to appear on their behalf and to defend them, in the enquiry.
6. Despite granting sufficient opportunity, DGOs 1 and 2 never bothered to file their written statement. On the other hand, DGO-2 filed an application seeking to drop the proceedings against him on the ground that, the enquiry initiated against him is barred under 214(2)(b)(ii) of KCSRs since, the enquiry against him has been initiated after lapse of more than 4 years after the event was taken place. But his application was rejected vide order dated 20.7.2015. Even thereafter, DGO-2 did not chose to file his written statement.

7. DGO-3 has filed his written statement on 5.5.2014 denying the allegations made against him, taking up a contention that, he never demanded the complainant for any bribe and he has not received any bribe amount from the complainant. It is his further contention that, charge sheet has been filed against him and also against DGOs 1 and 2 which is pending before Special Court, Yadgir in Spl.C.C. No. 3/2010 and hence the present enquiry initiated against him, by way of parallel proceedings is not maintainable and requested this authority to drop the proceedings against him and to exonerate him from the charges levelled against him.
8. During enquiry, 3 witnesses have been examined as PW1 to PW3 and 15 documents came to be marked as Ex-P1 to Ex-P15 on behalf of the disciplinary authority. DGO-1 though appeared before this authority and having engaged an Advocate of his choice took steps to contest this enquiry, but failed to file his written statement despite granting several opportunities. Subsequently he remained absent and never bothered to appear before this authority and never contested the charges framed against him, by defending himself in this enquiry. His counsel did not choose to cross examine PWs 1 to 3 on behalf of DGO-1, but they have been cross examined by the learned counsels appearing for DGOs 2 and 3 and on their behalf. Hence, DGO-1 has been placed exparte, as per the order dated 20.8.2018
9. After closure of the evidence on behalf of disciplinary authority, second oral statement of the DGOs 2 and 3 was recorded. Since, DGOs 2 and 3 desired to lead defence evidence, permission was granted to them accordingly. DGO-2 has examined himself as DW-1

and DGO-3 has examined himself as DW-2 and 3 document came to be marked as Ex-D1 to D3 during their defence evidence

10. Thereafter, the learned Presenting Officer has filed written arguments. The learned counsel for DGOs 2 and 3 has filed written arguments on their behalf. Thereafter, the matter is taken up for consideration.

11. The points that would arise for my consideration are:

Point No.1: Whether the charge framed against the DGO-1 is proved by the Disciplinary Authority?

Point No.2: Whether the charges framed against the DGO-2 & 3 are proved by the Disciplinary Authority?

Point No.3: What order?

12. The above points are answered as under:

Point No.1: In the 'Affirmative'

Point No.2: In the 'Negative'

Point No.3: As per Conclusion.

REASONS

Point No.1 and 2 :-

13. DGO-1 was working as FDA, DGO-2 and 3 were working as SDAs in O/o Land Acquisition Officer, Bhimrarayanagudi, Shahapur Taluk, Yadgir District, during the relevant period.

14. The complainant in his complaint has narrated in detail the circumstances under which he has filed the complaint against the DGOs 1 to 3.

15. According to him, he and his brother have jointly holding 14 acres of land in sy.no. 34/A of Sumbada village and out of 14 acres, 6.32 acres has been acquired for the purpose of construction of main canal and compensation with respect to the said acquired land has been awarded to them. But while constructing the main canal, another 2.04 acres of land in the said sy.no. 34, was utilized for the construction of the main canal, for which no compensation was awarded to them. Hence, they have filed an application for granting compensation even to the said extent of land utilized, in excess of the acquired land. According to him, in that connection he went to the office of the Spl.LAO, UKP Bhimarayanagudi on 23.5.2007 and met DGO-1 and enquired him about award of compensation to the land utilized in excess in sy.no. 34. It is the allegation of the complainant that, DGOs 1 and 2 have demanded him to pay Rs. 500/- each to them for the purpose of issuing notification under Section 4(1) and 6(1) of LA Act for that land utilized ~~in~~ excess. According to the complainant, DGO-1 told him that, similar applications of another 8 persons are pending in the office and asked the complainant to pay Rs. 1000/- each by him and other 8 applicants whose applications are pending for award of compensation towards utilization of excess land. The complainant told DGO-1 and 2 that, he cannot take responsibility of collecting Rs. 1000/- from the other 8 persons but, he is ready to pay Rs. 1000/- as demanded, and requested to process his case for award of compensation towards utilization of excess land. It is the allegation of the complainant that, DGO-1 asked the complainant to pay Rs. 1500/- stating that, one more official by name Gafoor is also there, who has to process the file, for issue of notification and hence he/complainant has to pay Rs. 500/- each not only to them/DGOs 1 and 2 but also to Gafoor/DGO-3.

16. Since the complainant was not willing to pay any bribe to get his work done, he filed a complaint on 24.5.2007, not only against DGOs 1 and 2, but also against Gafoor (Abdul Gafoor)/DGO-3 regarding the demand for bribe being made by them.
17. On the basis of the complaint so filed by the complainant on 24.5.2007 the Police Inspector, Karnataka Lokayukta, Yadgir, has registered a case in Cr. No.1/2007 under Sections 7,13(1)(d) R/w 13(2) of P.C Act, 1988 and took up investigation.
18. An entrustment proceedings was conducted in the Lokayukta Police Station Yadgir on 24.5.2007 in the presence of two panch witnesses viz., Sri Surendra Javali and Sri Somanatha Angadi SDAs from O/o Tahsildar, Shahapur, and in the said proceedings, the bait money of Rs. 1500/- consisting of 3 currency notes of Rs. 500/- denomination each, given by the Complainant, were smeared with phenolphthalein powder making it as tainted money, and the said tainted notes was entrusted to the Complainant asking him to give that money to DGOs 1 to 3 when he meet them and only in case if the DGOs demand for bribe. The Police Inspector asked panch witness -Sri Somanatha Angadi to act as shadow witness and to accompany the complainant and to go with him and to watch the happenings that may take place when the complainant meets the DGOs. In this regard, a detailed entrustment mahazar has been prepared as per Ex-P2.
19. The complainant and the shadow witness were taken to the office of the Spl.LAO, UKP, Bhimarayanagudi and sent them to meet DGOs 1 and 2 in the said office, at about 12.30pm. When the complainant accompanied with the shadow witness met DGO-1 in the said office, he/DGO-1 asked the complainant to wait near Vijaya hotel which is

situated near the said office, saying that, he would come there during lunch hour and meet him there near the hotel. Hence, the complainant and shadow witness returned and told the Police Inspector that, DGO-1 has asked them to wait for him near Vijaya Hotel. Hence the Police Inspector took the complainant and shadow witness near the Vijaya Hotel and asked them to wait for DGO-1 there. While the complainant and shadow witness were waiting near the hotel DGO-1 came near the said hotel at about 2pm and took the complainant with him inside the hotel and they started having tea by sitting on a table. The shadow witness who followed them inside the hotel, sat on a neighbouring table watching the happenings. After the complainant, shadow witness had their tea, the complainant enquired about his work with DGO-1. DGO-1 enquired him about the money he has demanded. Then the complainant having taken the tainted notes from his shirt pocket, gave that money to DGO-1. DGO-1 having received that money from the complainant was holding the money with his left hand, the complainant came out of the hotel and gave pre-arranged signal to the Police Inspector.

20. On receiving the signal, the Police Inspector and his staff and the other panch witnesses approached the complainant, who took them inside the hotel and showed DGO-1 to the Police Inspector telling him that, he is the concerned, official of the O/o Special LAO, and he has received money from him.
21. The Police Inspector introduced himself to the DGO-1 and explained to him about the registration of a case against him and DGOs 2 and 3 and asked him to co-operate in the investigation. DGO-1 disclosed his name as Sri Mayappa Ekanaki, FDA, O/o Land Acquisition Officer, Bhimrarayanagudi, Shahapur Taluk, Yadgir District.

22. Since DGO-1 was found holding the tainted notes in his left hand, and since it was a public place, DGO-1 was taken to the office of the Spl. LAO, along with the tainted notes he was holding and having taken him inside the said office, he was made to keep the notes he was holding in his left hand on a table.
23. Thereafter, the hand wash of DGO-1 was obtained, asking him to wash his both hand fingers separately in two separate bowls containing sodium carbonate solution. When DGO-1 washed his right hand fingers and left hand fingers separately in two separate bowls containing sodium carbonate solution, the colourless solution in both the bowls, turned into pink colour. Those pink coloured solution of right hand wash and left hand wash of DGO-1, were collected in two separate bottles and sealed the same.
24. Thereafter, the notes DGO-1 was holding in his hand at the time of his apprehension, which the Police Inspector made him to keep on the table, were cross checked with reference to its serial numbers and it was confirmed that, those were the notes entrusted to the complainant during the entrustment proceedings. Those notes were kept in a separate cover and sealed the same.
25. The Police Inspector thereafter, asked DGO-1 to give his explanation in writing. DGO-1 gave his explanation in writing as per Ex-P4. The complainant has denied the correctness of the version of the explanation given by DGO-1, claiming it as false and incorrect.
26. The Police Inspector directed DGO-1 to produce the relevant file pertaining to the acquisition of land of the complainant. DGO-1 having taken a file from his almirah produced the same before the

Police Inspector. The copies of those records in the said file, have been seized as per Ex-P3.

27. While the trap proceedings against DGO-1 was in progress, DGO-2 who had gone for lunch returned to the office. The Police Inspector also apprehended DGO-2 and asked him to give his explanation in writing. DGO-2 gave his explanation in writing as per Ex-P5 claiming that, no work of the complainant was pending with him and he never demanded any bribe from the complainant and he has no connection with the bribe amount received by DGO-1 from the complainant.
28. The Police Inspector made efforts to secure DGO-3 but, he could not be secured since he was not available in the office though he attended the office on that day as per the entry in the attendance register. Subsequently, DGO-3 has appeared before the Police Inspector during the stage of investigation of the case, on obtaining anticipatory bail from Spl. Court and hence DGO-3 was also included in the charge sheet as accused no.3.
29. During enquiry, the complainant has been examined as PW1, the shadow witness has been examined as PW2. The Investigating officer Sri S. Maheshwarappa, Police Inspector has been examined as PW3.
30. The complainant, in his evidence has stated about the circumstances under which he has filed the complaint against DGO-1 as per Ex-P1. He has made a specific allegation against the DGO-1 in his evidence alleging that, DGO-1 has demanded him to pay Rs. 1500/- as bribe for him and also demanded for bribe on behalf of DGOs 2 and 3. The complainant while giving his evidence, said nothing about the presence of DGO-2 at the time of demand for

bribe made to him by DGO-1, and not made any allegation against DGO-2 regarding demand for bribe made by DGO-2 to him, along with DGO-1.

31. Both PW1 and PW2 have narrated in detail regarding conducting of entrustment proceedings in the Police Station in the presence of 2 official panch witnesses and entrustment of tainted notes of Rs. 1500/- to the complainant, in the said proceedings. They have further stated that, complainant/PW1 met DGO-1 in the office and since DGO-1 asked him to wait for him near Vijaya Hotel, both he and the shadow witness went near the hotel waiting for DGO-1. They have further stated that, DGO-1 came near the hotel at about 2pm. and took the complainant inside the hotel and both had their tea in the said hotel by sitting on a table. PW2 claimed that, he was sitting on the neighbouring table and watched the happenings by hearing the conversation between the complainant and DGO-1 and what transpired between them.
32. PW1 further claimed that, when he discussed about his work with DGO-1, DGO-1 enquired him about the money he has demanded and when he/PW1 gave him tainted notes of Rs. 1500/- on taking out from his shirt pocket, DGO-1 having received the said amount with his right hand counted those notes by using his both hands and while he was holding those notes in his left hand, he/PW1 claimed that, he came out of the said hotel and gave pre-arranged signal to the Police Inspector. PW2 in his evidence has stated that, he was sitting in a nearby table and deposed that, the complainant kept the notes into the shirt pocket of DGO-1.
33. Both PW1 and PW2 have narrated in detail regarding the arrival of the Police Inspector inside the hotel, taking DGO-1 to his office along

with the tainted notes he was holding in his left hand and on making him to keep the money he was holding in his hand, on a table obtaining of hand wash of both the hands of DGO-1 which gave positive result regarding presence of phenolphthalein and seizure of the tainted notes of Rs. 1500/- which DGO-1 was holding at the time of his apprehension, giving of explanation by DGO-1 as per Ex-P4, production of file containing the documents pertaining to the acquisition of lands belonged to the complainant and other details of the trap proceedings. PW2 has also stated about arrival of DGO-2 and giving of written explanation by DGO-2 as per Ex-P5 and preparation of trap mahazar as per Ex-P6.

34. Since PW1 has not stated anything against DGO-2 regarding demand for bribe made by him/DGO-2 when the complainant met DGO-1 in the said office, PW1 has been treated as a partly hostile witness and learned Presenting Officer has cross examined him regarding the role played by DGO-2 in demanding bribe from him. But DGO-2 denied the suggestions put to him that, on the day when he met DGO-1 and discussed with him about his work of paying compensation to the utilized land in excess of the acquisition proceedings, DGO-2 and 3 were also present and they have also demanded bribe from him along with DGO-1. PW1 has categorically denied this suggestion put to him suggesting him that, even DGOs 2 and 3 have put forth demand for bribe asking him to pay them Rs. 500/- each in order to attend his work. PW1 has denied giving of statement before the Police Inspector as per Ex-P7 and also denied the allegations made against DGO-2 in the complaint claiming that, DGO-2 never demanded him for any bribe.
35. Even PW2 was treated as hostile witness since, while giving his evidence he has stated that, the complainant kept the money in the

shirt pocket of DGO-1. A suggestion was put to him during his cross examination that, when the complainant met DGO-1 inside the office on the day of trap, DGO-2 and DGO-3 were also present in the office and when DGO-1 enquired the complainant about the money and when the complainant told DGO-1 that, he has brought money, DGO-2 and DGO-3 who were present along with DGO-1, told the complainant to give the entire amount of Rs. 1500/- to DGO-1 and they will distribute that money among themselves afterwards. A further suggestion was put to him/PW2 that, when DGO-1 asked for money while sitting in the hotel with the complainant, the complainant gave tainted notes to him and DGO-1 having received that money from the complainant counted the same by using his both hands and was holding money with his left hand and by that time PW1 went out of the hotel and gave signal to the Police Inspector. PW2 has denied these suggestions put to him during his cross examination. A further suggestion was put to him that, DGO-3 who was in the office when the complainant met DGO-1, fled away from the office after coming to know about apprehension of DGO-1 near the hotel. All these suggestions have been categorically denied by PW2. PW2 has further denied giving of statement before the Police Inspector as per Ex-P9 (a) to (c).

36. Both PW1 and PW2 have been cross examined by the learned counsel appearing for DGOs 2 and 3. PW1 during his cross examination has stated that, the relevant file was in the almirah of DGO-2 and the key of the said almirah was with DGO-1. The further suggestion put to him that, DGO-2 was brought to the office from his house, PW1 pleaded his ignorance and further claimed that, he never seen DGO-3 in the office on that day. PW2 in his cross examination has admitted that, DGO-2 was brought to the office by Lokayukta police at the time of preparation of mahazar and further

admitted that, the explanation given by DGO-2 as per Ex-P6 was true and correct.

37. Since DGO-1 remained *exparte* and failed to participate in these proceedings and even the counsel for DGO-1 never bothered to cross examine PW1 and PW2, the evidence given by them was not at all disputed or denied on behalf of DGO-1 and that evidence of PW1 and PW2 have not been challenged by DGO-1. Therefore, there is nothing to disbelieve the evidence of PW1 and PW2 given against DGO-1 and hence reliance can be placed on the unchallenged testimony of PW1 and PW2 in so far as allegation of demand and acceptance of bribe by DGO-1.

38. PW3/IO, in his evidence has stated in detail regarding the complainant approaching him on 24.5.2007 and filing of the complaint as per Ex-P1 and on the basis of the said complaint, registered a case and took up investigation. He narrated in detail regarding conducting of entrustment proceedings and entrustment of tainted notes of Rs.1,500/- to the complainant, in the said proceedings. .

39. He further gave details regarding the trap proceedings giving details that, the DGO-1 was apprehended in the Vijaya Hotel since shown by the complainant and at the time of his apprehension, DGO-1 was found holding notes in his left hand and since the said hotel was a public place, DGO-1 was taken along with the notes he was holding, inside the office of Spl. LAO to conduct further proceedings. He further stated about obtaining of hand wash of both the hands of the DGO-1 which gave positive result regarding presence of phenolphthalein, seizure of currency notes he was holding in his left hand at the time of his apprehension, giving of explanation by DGOs

1 and 2 as per Ex-P4 and P5, production of the file pertaining to the acquisition of the lands of the complainant by DGO-1 on taking out the said file from his almira and other details of the trap proceedings including preparation of trap mahazar as per Ex-P6 and also sending of seized articles to FSL for chemical examination and received report of chemical examiner as per Ex-P12 and other details of the trap proceedings.

40. Even PW3 was cross examined by the learned counsel for DGOs 2 and 3 but nothing was elicited during his cross examination, to disbelieve the evidence given by PW3/IO in his chief examination. PW3 has reiterated his contention that, DGO-1 has produced the relevant documents pertaining to the complainant on taking out from his almira and no documents were seized from the possession of DGO-2 at the time of trap.
41. On considering the evidence of PW1 to PW3, so far the evidence given by them as against DGO-1 is concerned, the same was not challenged or disputed on behalf of DGO-1 since DGO-1 remained exparte and never bothered to participate in this enquiry and even his counsel did not chose to cross examine these witnesses on behalf of DGO-1. Therefore, the evidence of PWs 1 to 3 in so far as the implication of DGO-1 in the trap since remained unchallenged, reliance can be placed on their evidence so far as the role played by DGO-1 in demanding and accepting bribe from the complainant.
42. PW1 though filed complaint making allegations against both DGOs 1 and 2 regarding their presence when he met them on 23.5.2007, making allegations against both DGOs 1 and 2 that, they have demanded him to pay Rs. 1000/- as bribe in order to attend his work, PW1 has not made any such allegation against DGO-2 while

giving his evidence before this authority. As per the allegations in the complaint Ex-P1, DGO-3 was not present on 23.5.2007 when the complainant met DGO-1 and discussed with him about his work. According to the contents of the complaint, both DGO-1 and DGO-2 have asked him to pay Rs. 1500/-, as one more person by name Gafoor is also to be paid money, to put up his file. Therefore, when the complainant met DGO-1 on 23.5.2007, though according to the complaint averments, DGO-2 was also present, but complainant has not stated about the presence of DGO-3 on that day and no allegation has been made in the complaint about demand for bribe by DGO-3.

43. But so far as the allegation of demand for bribe by DGO-2 made in the complaint is concerned, the complainant has not made any such allegation while giving his evidence before this authority and therefore, he was treated as partly hostile witness and was cross examined with regard to the role played by DGO-2 in demanding bribe from him on 23.5.2007. But the complainant has reiterated his contention that, DGO-2 never demanded any bribe from him. Therefore, the allegation made against DGO-2 in the complaint Ex-P1 has not been substantiated, since the complainant himself has not supported that allegation against DGO-2 while giving his evidence before this authority. Admittedly, DGO-2 never received any bribe amount from the complainant and no tainted notes were recovered from the possession of DGO-2. DGO-2 while giving his written explanation as per Ex-P5 has claimed that, he had been to his house for having lunch and he was secured from his house and was brought to the office and there he came to know that, DGO-1 has been trapped while receiving Rs. 1500/- from the complainant. DGO-2 pleaded his ignorance about receipt of bribe by DGO-1 from the complainant and claimed that, he is nothing to do with the

recovery of tainted notes of Rs. 1500/- from DGO-1 during the trap proceedings. In view of the fact that, the complainant made no allegation against DGO-2 and said nothing about demand for bribe by DGO-2 from him, there is nothing in the evidence of the PW1 to PW3 about demand for bribe by DGO-2. Since I have already held that, DGO-3 was not present on 23.5.2007 when the complainant met DGO-1 and discussed with him about his work and even as per the averments in the complaint that, DGO-1 has demanded money even in the name of DGO-3, in the absence of DGO-3, there is nothing to conclude that, DGO-3 has also demanded bribe from the complainant. Hence, I have no hesitation to conclude that, DGO-2 and 3 are not guilty of misconduct in demanding bribe from the complainant and accordingly I hold that, charges against DGOs 2 and 3 are not established.

44. Since the allegation of demand for bribe made against DGO-1 both in the complaint and in the evidence of PW1 are not disputed or denied on behalf of DGO-1 and the fact of recovery of tainted notes from the possession of DGO-1 since not disputed and even the documents pertaining to the complainant were recovered from the possession of DGO-1 since is undisputed, I have no hesitation to conclude that, DGO-1 is guilty of misconduct in demanding and accepting Rs. 1500/- by way of bribe, from the complainant.

45. Further, DGO-1 while giving his written explanation as per Ex-P5 taken up a defence as follows:

“ಶ್ರೀ ಮಹಾಂತೇಶ ತಂದೆ ದೇವಪ್ಪ ತಳವಾರ, ಸಾ. ಸುಂಬಡ ಇವರು ಬೆಂಗಳೂರು ದಲ್ಲಿ ಶಿಕ್ಷಕ ವೃತ್ತಿಯನ್ನು ಮಾಡುತ್ತಿದ್ದು ಜೀವರ್ಗಿ ತಾಲ್ಲೂಕಿನ ಸುಂಬಡ ಗ್ರಾಮದ ಭೂಸ್ವಾಧೀನದ ಹೆಚ್ಚುವರಿ ಪ್ರಕರನಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ನನ್ನ ಹತ್ತಿರ ಬರುತ್ತಿದ್ದರು ಒಂದು ಸಲ ಬೆಂಗಳೂರಿಗೆ

ಹೋಗಲು ಹಣ ಕಡಿಮೆ ಇದೇ ಎಂದು ನನ್ನ ಹತ್ತಿರ 1500/- ರೂಪಾಯಿಗಳನ್ನು ಸಾಲರೂಪವಾಗಿ ಪಡೆದಿದ್ದರು. ದಿನಾಂಕ 24.5.2007 ರಂದು ನನಗೆ ಹಣ ಕೊಡುವುದಾಗಿ ಮೊಬೈಲ್ ಮುಖಾಂತರ ತಿಳಿಸಿದ್ದರಿಂದ ನಾನು ಅವರಿಂದ ಹಣವನ್ನು ಪಡೆದಿರುತ್ತೇನೆ. ಆದರೆ ಅವರು ನನ್ನನ್ನು ಲೋಕಾಯುಕ್ತರಿಂದ ಹಿಡಿಸುತ್ತಾರೆಂದು ಪ್ರಜ್ಞೆ ಇರಲಿಲ್ಲ ನಾನು ಅವರಿಂದ ಯಾವುದೇ ರೀತಿಯಿಂದ ಲಂಚವನ್ನು ಪಡೆದಿರುವುದಿಲ್ಲ.”

46. He has taken up a contention in his written explanation Ex-P4 that, the complainant had borrowed Rs. 1500/- from him by way of hand loan and he received Rs. 1500/- from the complainant, in the hotel since the complainant gave that money to him saying him that, he is returning the loan he has borrowed from him. Considering this portion of the written explanation of DGO-1, he has clearly admitted receipt of Rs. 1500/- from the complainant on that day. But he never bothered to take up such a defence contention by filing reply to observation note or by filing written statement. Further, no such contention was taken by him by cross examining PW1/complainant and he never bothered to adduce any defence evidence taking up such a contention, by examining himself. Therefore, there is nothing to believe his defence contention taken by him in his written explanation, Ex-P4. Therefore, I am of the considered opinion that the charge against DGO-1 stands established and accordingly, I answer point no.1 in the affirmative.

Point No.3

47. Having regard to the discussion made above, and in view of my findings on point no.1 and 2 as above, my conclusion is as follows:

CONCLUSION

(i) The Disciplinary Authority has proved the charges as framed against DGO-1 Sri Mayappa Ekanaki, the then FDA, O/o Land Acquisition Officer, Bhimrarayanagudi, Shahapur Taluk, Yadgir District

(ii) The charges against DGO-2 Sri Jagannatha Kauthala, SDA, and DGO-3 Sri Abdul Gafoor, SDA, O/o Land Acquisition Officer, Bhimrarayanagudi, Shahapur Taluk, Yadgir District are not proved.

(ii) As per the service particulars, Ex-P13 to P15, the date of birth of the DGO-1 is 1.7.1964 and he is due for retirement on 30.6.2024, the date of birth of DGO-2 is 13.3.1952 and he has already retired from service on 31.3.2012 and the date of birth of DGO-3 is 01.06.1971 and he is due for retirement on 31.5.2031.



(S. Renuka Prasad)

Additional Registrar of Enquiries-3
Karnataka Lokayukta, Bengaluru.

ANNEXURES**I. Witnesses examined on behalf of the Disciplinary Authority:**

PW-1	Sri Mahantesh (complainant) (original)
PW-2	Sri Somanath (shadow witness) (original)
PW-3	Sri S. Maheshwarappa (investigation officer) (original)

II. Witnesses examined on behalf of the DGO:

DW-1	Sri Jagannath (DGO-2) (original)
DW-2	Sri Abdul Gafoor (DGO-3) (original)

III Documents marked on behalf of D.A.

Ex.P-1	Certified copy of the complaint
Ex.P-2	Certified copy of entrustment mahazar
Ex.P-3	Certified copy of records seized by IO
Ex.P-4	Certified copy of written explanation of DGO- 1
Ex.P-5	Certified copy of written explanation of DGO- 2
Ex.P-6	Certified copy of trap mahazar
Ex.P-7	Certified copy of statement of complainant given before IO
Ex.P-8	Certified copy of extract of attendance register
Ex.P-9	Certified copy of statement of PW2 given before IO
Ex-P10	Certified copy of FIR
Ex-P11	Certified copy of sketch of scene of occurrence
Ex-P12	Certified copy of FSL report
Ex-P13 to Ex-P15	Certified copy of service particulars of DGO-1 to DGO-3

IV. Documents marked on behalf of DGO:

Ex-D1	Judgment in Spl.C. 3/2010 (xerox copy)
Ex-D2	Letter dated 18.2.2014 (attested copy)
Ex-D3	Judgment in Spl.C. 3/2010 (xerox copy)

V. Material Objects marked on behalf of the D.A: Nil


(S. Renuka Prasad)

Additional Registrar of Enquiries-3,
Karnataka Lokayukta, Bengaluru.

