

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No: LOK/INQ/14-A/142/2013/ARE-3

Multi Storied Buildings,
Dr.B.R.Ambedkar Veedhi,
Bengaluru-560 001,
Date: 02/04/2019

RECOMMENDATION

Sub:- Departmental inquiry against;
Dr. D.T. Anandakumar, the then Assistant
Horticulture Officer, Farmers Communication Centre,
Mayakonda, Davangere & District – Reg.

- Ref:-1) Government Order No. ತೋಇ 374 ತೋಸೇಪ 2009
Bengaluru dated 22/02/2013.
- 2) Nomination order No.LOK/INQ/14-A/142/2013
Bengaluru dated 19/03/2013 of Upalokayukta-2,
State of Karnataka, Bengaluru.
- 3) Inquiry Report dated 30/03/2019 of Additional
Registrar of Enquiries-3, Karnataka Lokayukta,
Bengaluru

The Government by its Order dated 22/02/2013 initiated the disciplinary proceedings against Dr. D.T. Anandakumar, the then Assistant Horticulture Officer, Farmers Communication Centre, Mayakonda, Davangere Taluk & District (hereinafter referred to as Delinquent Government Official for short as DGO) and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No. LOK/INQ/14-A/142/2013 dated 19/03/2013 nominated Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGO for the alleged charge of misconduct, said to have been committed by him. Subsequently by Order No. UPLOK-2/DE/2016 dated 3/8/2016, the Additional Registrar of Enquiries-3

was re-nominated as Inquiry Officer to conduct Departmental Inquiry against DGO.

3. The DGO Dr. D.T. Anandakumar, the then Assistant Horticulture Officer, Farmers Communication Centre, Mayakonda, Davangere Taluk & District was tried for the following charge:-

“That, you Dr. D.T. Anandakumar was working as Assistant Horticulture Officer, Farmers Communication Centre, Mayakonda, Davanagere Taluk, Davanagere District one Sri K.M. Rudresh S/o Mrithyunjayappa R/o Kodaganooru Village of Davangere Taluk and District (herein after referred to as ‘complainant’) approached you-DGO as he being the owner of areca garden had purchased areca nut peeling machine (ಅಡಿಕೆ ಸುಲಿಯುವ ಯಂತ್ರ) on 16/07/2009 for Rs.1,71,600/- from Eureka Technology at Bangalore. Thereafter, he came to know about availability of subsidy on said machines. Hence, he contacted you-DGO through mobile and enquired on 05/08/2009 about subsidy (amount). You DGO-on the same day at about 2.00 p.m. came and inspected said machine (areca nut peeling machine) and told him to apply for subsidy in the office of the Assistant Director of Horticulture (ತೋಟಗಾರಿಕೆ) at Davanagere with photo. As such, he applied for subsidy on 07/08/2009. Thereafter, complainant met you-DGO between 4.00 p.m. to 5.00 p.m. near Davangere Mahanagara Palike as per your instruction. Then, you -DGO demanded Rs.5,000/- to submit report. Complainant pleaded his inability to pay that much amount inspite of it, it was not reduced. When the complainant told that he has other work regarding banana saplings also with you-

DGO, you-DGO asked him to pay it within 2-3 days to attend his said work. On 12/08/2009, you-DGO called the complainant over mobile to bring Rs.5,000/- again he pleaded his inability to bring that much amount on that day i.e. on 12/08/2009 itself, but you-DGO asked the complainant to bring the said amount on the next day. On 14/08/2009, you-DGO took the tainted (bribe) amount of Rs.5,000/- from the complainant in Indian Coffee Bar situated on Bapuji Hospital Road at Davangere, thereby you-DGO has failed to maintain absolute integrity and devotion to duty, that your such act is unbecoming of a Government Servant and thereby committed misconduct as enumerated U/R 3(1) of Karnataka Civil Service (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 the DGO Dr. D.T. Ananda Kumar, the then Assistant Horticulture Officer, Farmers Communication Centre, Mayakonda, Davangere.

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

6. The DGO was convicted in Spl. C.C.No.2/2010 on the file of the Principal District and Sessions Judge and Special Court, Davanagere by Judgment dated 29/4/2016. The DGO had challenged the Judgment of conviction dated 29/4/2016 in


Criminal Appeal No.861/2016 before Hon'ble High Court of Karnataka, Bengaluru, which is pending consideration. In view of conviction of DGO by Judgment dated 29/4/2016, he was dismissed from service.

7. As per the First Oral Statement submitted by DGO Dr. D.T. Anandakumar, he was due to retire from service on 30.4.2034.

8. Having regard to the nature of charge (demand and acceptance of bribe) proved against DGO Dr. D.T. Anandakumar and challenge to the judgment of conviction dated 29.4.2016 in Criminal Appeal No.861/2016, it is hereby recommended to the Government for imposing penalty of compulsory retirement of service on DGO Dr. D.T. Anandakumar, the then Assistant Horticulture Officer, Farmers Communication Centre, Mayakonda, Davangere Taluk, Davangere District, if the judgment of conviction of DGO dated 29/4/2016 is set aside in Criminal Appeal No.861/2016. If the judgment of conviction of DGO dated 29/4/2016 is confirmed in Criminal Appeal No.861/2016, this recommendation shall be treated as redundant.

9. Action taken in the matter shall be intimated to this Authority.

Connected records are enclosed herewith.


(JUSTICE N. ANANDA)
Upalokayukta-2,
State of Karnataka,
Bengaluru

KARNATAKA LOKAYUKTA

No. LOK/INQ/14-A/142/2013/ARE-3

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

Date: 30.3.2019

Enquiry report**Present: Sri.S. Renuka Prasad**
Additional Registrar Enquiries-3

Sub: Departmental Enquiry against Dr.D.T. Anandakumar,
Assistnat Horticulture Officer, Farmers Communication
Centre, Mayakonda, Davanagere - reg

- Ref:**
1. Report under Section 12(3) of the Karnataka Lokayukta Act, 1984, in No. Compt/Uplok/BD/466/2010/DRE-1 dated 24.1.2013
 2. Government order No. ತೋಇ 374 ತೋಸೇಪ 2009, ಬೆಂಗಳೂರು ದಿ: 22.2.2013
 3. Nomination Order No.LOK/INQ/14-A/142/2013 dated 22.5.2013 of Hon'ble Upalokayukta, Karnataka State, Bengaluru.

1. One Sri K.M. Rudresh S/o Mrithyunjayappa R/o Kodaganooru village, Davanagere Taluk and District (hereinafter referred to as 'complainant') has filed a complaint to Lokayukta police, Davanagere on 13.8.2009 against Dr. D.T. Anandakumar, Assistant Horticulture Officer, Farmers Communication Centre, Mayakonda, Davanagere (hereinafter referred to as 'DGO' for short) making allegations against him that, he/DGO is demanding him to pay Rs. 5000/- by way of bribe in order to see that, Government subsidy of Rs. 50,000/- is sanctioned in his favour as he scheme of the Government in carrying mechanized Horticulture activities, and

towards the purchase of Arecanut de-shelling machine, he had acquired for using it in his Arecanut processing unit.

2. On registering a case on the basis of the said complaint, a trap was held on 14.8.2009 at Indian Coffee Bar, situated on Bapuji Hospital Road, at Davanagere wherein, the DGO having demanded bribe from the complainant, received the said bribe amount of Rs. 5000/- from him. The tainted money of Rs. 5000/- was recovered from the left side shirt pocket of the DGO during the trap proceedings. Since it was revealed during investigation that, the DGO has demanded bribe of Rs.5000/- from the complainant and received the same, in order to show an official favour i.e., in order to see that Government subsidy of Rs. 50,000/- is sanctioned in favour of the complainant as per the scheme of the Government in carrying mechanized horticulture activities, and towards the purchase of Areca nut de-shelling machine the complainant had acquired for using it in his Arecanut processing unit, the Police Inspector having conducted investigation, filed charge sheet against the DGO.
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 DGO, providing him an opportunity to show-cause as to why recommendation should not be made to the Competent Authority, for initiating disciplinary proceedings against him. DGO has submitted his reply dated 22.2.2012 contending that, he was not furnished with the copies of the charge sheet and other relevant documents for preparing his reply and requested this authority to furnish him all the documents and also provide him a month's time

to furnish his reply. Even a reminder was issued to him, asking him to expediate the sending of reply. But DGO has not bothered to submit any reply to the observation note despite granting him sufficient opportunity. Hence, it was considered that, DGO has nothing to say on the allegations made against him in the observation note, and a recommendation under Section 12(3) of the Karnataka Lokayukta Act was forwarded to the Competent Authority recommending to initiate disciplinary enquiry against the DGO and to entrust the enquiry under Rule 14-A of KCS (CCA) Rules, to this authority to hold enquiry. Accordingly, the Government of Karnataka in the Horticulture Department by its order No. ತೋಇ 374 ತೋಸೇಪ 2009, ಬೆಂಗಳೂರು ದಿ: 22.2.2013, initiated disciplinary proceedings against the DGO and entrusted the same to Hon'ble Upalokayukta to hold enquiry. As per the order issued against the DGO, the Hon'ble Upalokayukta issued a nomination order dated 19.3.2013 nominating ARE-4 to frame charges and to conduct enquiry against the DGO. Accordingly, charges were framed by the then ARE-4 against the DGO, as under:

“Charge:

That, you Dr.D.T.Anandakumar was working as Assistant Horticulture Officer, Farmers Communication Centre, Mayakonda, Davanagere Taluk, Davanagere District one Sri K.M.Rudresh s/o Mrithyunjayappa r/o Kodaganooru -village of Davanagere Taluk and District (herein after referred to as 'complainant') approached you-DGO as he being the owner of areca garden had purchased arecanut peeling machine (ಅಡಿಕೆ ಸಲಿಯುವ ಯಂತ್ರ) on 16-07-2009 for Rs:1,71,600/- from Eureka Technology at Bangalore. Thereafter, he came to know about availability of subsidy on said machines. Hence, he contacted

you-DGO through mobile and enquired on 05-08-2009 about subsidy (amount). You-DGO on the same day at about 2.00 p.m. came and inspected said machine (arecanut peeling machine) and told him to apply for subsidy in the office of the Assistant Director of Horticulture (ಪೋಷಣಾಧಿಕಾರಿ) at Davanagere with photo. As such, he applied for subsidy on 07-08-2009. Thereafter complainant met you-DGO between 4.00 p.m. to 5.00 p.m. near Davanagere Mahanagarapalike as per your instruction. Then, you-DGO demanded Rs.5,000/- to submit report. Complainant pleaded his inability to pay that much amount inspite of it, it was not reduced. When the complainant told that he has other work regarding banana saplings also with you-DGO, you-DGO asked him to pay it within 2-3 days to attend his said work. On 12-08-2009, you-DGO called the complainant over mobile to bring Rs.5,000/- again he pleaded his inability to bring that much amount on that day i.e. on 12-08-2009 itself, but you-DGO asked the complainant to bring the said amount on the next day. On 14-08-2009, you-DGO took the tainted (bribe) amount of Rs.5,000/- from the complainant in Indian Coffee Bar situated on Bapuji Hospital Road at Davanagere, thereby you-DGO has failed to maintain absolute integrity and devotion to duty, that your such act is un-becoming of a Government Servant and thereby committed mis-conduct as enumerated U/R 3 (1) of Karnataka Civil Service (Conduct) Rules 1966.

STATEMENT OF IMPUTATIONS OF MISCONDUCT

The complainant approached the DGO as he being the owner of arecanut garden land, had purchased arecanut cutting machine (ಅಡಿಕೆ ಸುಲಿಯುವ ಯಂತ್ರ) on 16-07-2009 for Rs.1,71,600/- from Eureka Technology at Bangalore. Thereafter, he came to

know about subsidy to be given on said machines. Hence, he contacted the DGO through mobile and enquired on 05-08-2009 about subsidy (amount). So, on the same day itself at about 2.00 p.m. the DGO came and inspected said machine (arecanut cutting machine) and told him to apply for subsidy in the office of the Assistant Director of Horticulture (ತೋಟಗಾರಿಕೆ) at Davanagere with photo. As such, he applied for subsidy on 07-08-2009 and thereafter met the DGO between 4.00 p.m. to 5.00 p.m. near Metropolitan City at Davanagere as per instructions of the DGO. Then, the DGO demanded Rs.5,000/- to submit report. For that, when the complainant pleaded his inability to pay that much amount, it was not reduced. When the complainant told that he has other work also with the DGO, the DGO asked him to pay it within 2-3 days to attend his said work. On 12-08-2009, the DGO told the complainant over mobile to bring Rs.5,000/- again he pleaded his inability to bring that much amount on that day i.e. on 12-08-2009 itself, but the DGO asked the complainant to bring the said amount on the next day itself. The complainant was not willing to pay the bribe demanded by the DGO. Therefore, the complainant lodged a complaint before the Lokayukta Police Inspector of Davanagere (herein after referred to as the Investigating Officer, for short "the I.O."). The I.O. registered the complaint in Cr.No.3/2009 for the offences punishable U/S 7, 13(1)(d) R/W 13(2) of Prevention of Corruption Act 1988. The I.O. took up investigation and on 14-08-2009 the DGO received the tainted (bribe) amount of Rs.5,000/- from the complainant in Indian Coffee Bar located on Bapuji Hospital Road at Davanagere. The I.O. seized tainted (bribe) amount under mahazar. The I.O. recorded statement of the complainant and panch witnesses. The

record of investigation and materials collected by the I.O. showed that the DGO has committed mis-conduct failing to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of Government servant. As the materials on record showed prima facie case about DGO receiving bribe for discharging duty as Government Servant, a suo-motu investigation was taken up U/S 7(2) of the Karnataka Lokayukta Act against the DGO. An Observation Note was sent to the DGO calling for his explanation. The DGO failed to give his reply in spite of time was given. So, it has been taken that the DGO has nothing to say to the observation note. As there is a prima facie case showing that. the DGO has committed mis-conduct as per Rule 3(1) of Karnataka Civil Service (Conduct) Rules 1966, report U/S 12(3) of the Karnataka Lokayukta Act was sent to the Competent Authority with recommendation to initiate the disciplinary proceedings against the DGO. Accordingly, the Competent Authority initiated Disciplinary Proceedings against the DGO and entrusted the enquiry to the Hon'ble Upalokayukta U/R 14-A of Karnataka Civil Service (Classification, Control and Appeal) Rules 1957. Hence, the Charge. "

4. The Articles of Charges and Statement of Imputations are duly served on the DGO. DGO has appeared before this authority and First Oral Statement of the DGO was recorded. DGO has denied the charges framed against him. He has engaged the services of an Advocate to appear on his behalf and to defend him, in the enquiry.
5. DGO has filed his written statement dated 22.5.2013, filed on 16.11.2013, denying the allegations made against him contending

that, he never demanded or received any money by way of bribe from the complainant and he has been falsely implicated. He has made allegations against the complainant contending that, the complainant in order to get double benefit and obtain financial assistance/Government subsidy both under the Central Government scheme (KVIC), and the State Government scheme, filed application supported by fabricated documents and having suppressed the fact of availing of benefit under the Central Government scheme while filing application seeking Government subsidy to the State Government/Horticulture Department, tried to mislead the authorities in illegally getting double benefit from the Government. He has admitted conducting of spot inspection on 4.8.2009 and inspected the Areca nut peeling machine purchased by the complainant, and submitted report to the higher authorities recommending to sanction the Government subsidy in favour of the complainant. So far as receipt of Rs. 5000/- from the complainant at Indian Coffee Bar on 14.8.2009 is concerned, he has taken up a contention that, the complainant met him near Indian Coffee Bar and requested him to help him in getting good quality banana saplings from Bengaluru along with standard fertilizer and he/DGO having agreed to help him to supply good quality banana saplings, collected that amount of Rs. 5000/- from the complainant and kept that money in his shirt pocket, in order to purchase banana saplings for the complainant. Taking up such contentions and denying the allegations made against him in the AOC, he has requested this authority to drop the proceedings against him and to absolve him from the charges leveled against him.

6. While the enquiry was pending before ARE-4, in pursuance of O.M. ಕಲೋ/ಸಿಬ್ಬಂದಿ-1/54/2013-14 ದಿ: 1.3.2014, this enquiry file was withdrawn from

the file of ARE-4 and was assigned to ARE-10 by nominating ARE-10 to proceed with the enquiry.

7. During enquiry, before ARE-10, complainant has been examined as PW1 and shadow witness has been examined as PW2 in part. When the enquiry was in progress before ARE-10, by virtue of order No. UPLOK-2/DE/2016, Bengaluru dated 3.8.2016 of Hon'ble Upalokayukta-2, this enquiry file was withdrawn from the file of ARE-10 and was made over to ARE-3 to proceed with the enquiry and to submit report. Hence, further enquiry was taken up before ARE-3.
8. During the enquiry before ARE-3, PW2 was recalled and subjected to cross examination and IO has been examined as PW3. Totally 15 documents came to be marked as Ex-P1 to Ex-P15, during the evidence of PW1 to PW3. During the cross examination of PW1, 6 documents were confronted to him and got marked through him as Ex-D1 to D6. After closure of the evidence on behalf of disciplinary authority, second oral statement of the DGO was recorded. Since, DGO desired to lead defence evidence, permission was granted to him accordingly. DGO has examined himself as DW-1 and adduced his evidence by way of his defence evidence. But no fresh documents were produced by him during his defence evidence.
9. Thereafter, the learned Presenting Officer has filed written arguments. The learned counsel for DGO has submitted his written arguments. Thereafter, this matter is taken up for consideration.
10. The points that would arise for my consideration are:
 - Point No.1:** Whether the charge framed against the DGO is proved by the Disciplinary Authority?
 - Point No.2:** What order?

11. The above points are answered as under:

Point No.1: In the 'Affirmative'

Point No.2: As per Conclusion.

REASONS

Point No.1:-

12. DGO was working as Assistant Horticulture Officer, Farmers Communication Centre, Mayakonda, Davanagere, during the relevant period.

13. The complainant in his complaint has narrated in detail the circumstances under which he has filed the said complaint against the DGO. According to him, he is having Areca garden and due to non availability of sufficient labourers to de-shell Areca nuts, he has purchased an Areca nut peeling machine on 16.7.2009 at a cost of Rs. 1,71,600/-. After purchase of the said machine, he came to know that, the State Government is providing Government subsidy to facilitate farmers to introduce mechanized Horticulture and towards purchase of machineries and hence he contacted the DGO on 5.8.2009 on his mobile and enquired him about the scheme of the Government and sanction of subsidy towards the Areca nut peeling machine he has purchased. In response to his query with the DGO, he/DGO visited the house of the complainant on the same day, and having inspected the new Areca nut peeling machine he has purchased, asked the complainant to file an application along with the receipts and other documents, in order to sanction him the Government subsidy and promised him that, he has already inspected the machine and he would give a favourable report for sanctioning him the Government subsidy. Accordingly, the complainant filed the application with all the relevant documents on 7.8.2009 to the O/o Assistant Director of Horticulture. According to

the complainant, DGO again contacted him on his mobile on 7.8.2009 and asked him to meet him near CMC, Davanagere. Accordingly, the complainant met the DGO near CMC, Davanagere as per his direction. DGO told him that, he is entitled to receive Rs. 50,000/- by way of Government subsidy as he had purchased Areca nut peeling machine and demanded him to pay 10% of the Government subsidy payable to him, by way of commission/bribe telling him that, only on paying him Rs. 5000/- within 2 or 3 days, his application will be processed. Even subsequently DGO kept on calling the complainant on his mobile insisting him to pay Rs. 5000/- as demanded by him, in order to process his application.

14. Hence, the complainant having decided not to give any sum by way of bribe to the DGO, approached Lokayukta police on 12.8.2009 and told the Police Inspector about the demand for bribe being made by the DGO. The Police Inspector, gave him a mobile having recording facility by inserting the sim from the mobile of the complainant, asking him/complainant to call the DGO and to speak with him about the grant of Government subsidy in his favour and asked him to record the conversation with the DGO, in the said mobile phone, regarding demand for bribe being made by the DGO. The complainant contacted the DGO on the mobile phone given to him by the Police Inspector and spoke to him and DGO during the conversation with the complainant put forth his demand for bribe with the complainant, asked him to give 10% of Rs. 50,000/- being the Government subsidy for which he is entitled to, insisting the complainant to pay Rs. 5000/- in order to process his file, asking him to bring money and to give it to him on the same day. The complainant told him that, he would meet him on the next day and will give him money approached Lokayukta Police, Davanagere on 13.8.2009 and filed complaint against the DGO as per Ex-P1.

15. On the basis of the complaint so filed by the complainant on 13.8.2009 the Police Inspector, Karnataka Lokayukta, Davanagere has registered a case in Cr. No. 3/2009 under Sections 7,13(1)(d) R/w 13(2) of P.C Act, 1988 and took up investigation.
16. An entrustment proceedings was conducted in the Lokayukta Police Station, Davanagere on 13.8.2009 in the presence of two panch witnesses viz., Sri H. Venkateshappa, SDA, O/o BEO North and Sri S. John, SDA O/o Joint Director, District Training Centre, Davanagere and in the said proceedings, the bait money of Rs. 5000/- consisting of 10 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 were entrusted to the Complainant asking him to give that money to the DGO when he meet him and only in case if the DGO demands for bribe. Panch witness Sri H. Venkateshappa was sent along with the complainant, as a shadow witness. A voice recorder was entrusted to the complainant asking him to switch on the same and record the conversation with the DGO, while paying money to him. Accordingly, an entrustment mahazar was prepared as per Ex-P2.
17. The complainant was asked to contact the DGO on his mobile and to enquire him about the place of his availability. The complainant contacted the DGO on his mobile but there was no response from the DGO as the mobile of the DGO was found switched off. Hence the proposed trap of the DGO was postponed to the next day.
18. On 14.8.2009 since, the DGO asked the complainant to meet him on District Treasury road, the complainant was walking towards the District Treasury and he was being followed by Sri Veerabhadrappa,

Police constable and the shadow witness Venkateshappa on a motor cycle. The Police Inspector and his staff and another panch witness were following them on their official vehicle. While the complainant was moving towards District Treasury, the DGO came on his motor cycle and stopped the vehicle near the complainant and took him on his pillion and DGO took the complainant to the Indian Coffee Bar situated on Bapuji road. The Police constable and the shadow witness who were following them also went to Indian Coffee Bar. While sitting inside the said coffee bar, since the complainant gave pre-arranged signal, the Police Inspector and his staff apprehended the DGO who was found sitting by the side of the complainant having coffee, since shown by the complainant claiming that, he is the concerned Assistant Horticulture Officer and he has received money from him.

19. The Police Inspector introduced himself to the DGO and explained to him about the registration of a case against him and asked him to co-operate in the investigation. DGO disclosed his name as Dr.D.T. Anandakumar, Assistant Horticulture Officer, Farmers Communication Centre, Mayakonda, Davanagere.
20. Thereafter, the hand wash of DGO was obtained, asking him to wash his both hand fingers separately in two separate bowls containing sodium carbonate solution. When the DGO washed his right hand fingers and left hand fingers separately in two separate bowls containing sodium carbonate solution, the solution in which DGO washed his right hand fingers turned into pink colour, whereas the solution in which DGO washed his left hand fingers, did not change its colour. The said pink coloured solution of right hand wash and un-changed coloured solution of the left hand wash of the DGO, were collected in two separate bottles and sealed the same..

21. Thereafter, the Police Inspector asked the DGO about the money he has received from the complainant. DGO stated that money is available in his left side shirt pocket and the Police Inspector instructed panch witness John to search the shirt pocket of the DGO. John having searched the shirt pocket of DGO, took out money from the left side shirt pocket of the DGO and produced the same before the Police Inspector. On verification of those notes with reference to its serial numbers, 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.
22. On providing an alternate shirt to the DGO, the shirt worn by the DGO was got removed and the left side pocket portion of the said shirt when dipped in a separate bowl containing sodium carbonate solution, the colourless solution in the said bowl turned into pink colour. The said pink coloured solution was collected in a separate bottle and sealed the same and seized along with the shirt of the DGO.
23. Thereafter, the DGO was asked to produce the relevant documents and application filed by the complainant. DGO told the Police Inspector that, those documents are available in the house of Sri.Shivashankara Swamy where he is residing in the house of his elder brother. Hence, the Police Inspector directed the DGO to take them to his house. Accordingly, the DGO took them to the house No.604/3, 15th cross, KTJ nagar, to the first floor of his house and the DGO produced a plastic bag containing a file pertaining to the complainant. The attested copies of those documents from the said file, have also been seized. Thereafter the DGO was taken to the O/o

Assistant Director of Horticulture and he was asked to give his explanation in writing regarding recovery of tainted notes from his possession. DGO gave his explanation in writing as per Ex-P11 claiming that, he has been falsely implicated at the instance of his superior officers, who are inimical towards him.

24. During enquiry, the complainant has been examined as PW1. Shadow witness has been examined as PW2 and IO has been examined as PW3.
25. The complainant in his evidence has stated about the details regarding the circumstances which forced him to file complaint against the DGO as per Ex-P1. It is his contention that, he has purchased an Areca nut peeling machine at the cost of Rs. 1,17,600/- for using it in peeling the Areca nuts in his Areca nut processing unit. After purchase of the said machine, he came to know that, Government is providing subsidy for purchase of such machines under the scheme of the State Government providing financial assistance for introducing mechanized processing in carrying agriculture/horticulture. It is his contention that, he contacted the DGO on his mobile and informed him about purchase of Areca nut peeling machine and enquired him about the scheme of the State Government in providing Government subsidy for such machines. It is his contention that, DGO visited his house on the same day i.e., on 4.8.2009 and having inspected the machine, asked him to file an application along with supporting documents and promising him that he will see that Government subsidy will be sanctioned to him. Complainant claimed that, accordingly he filed the application on 7.8.2009 to the office of the Assistant Director of Horticulture furnishing all the required documents and on contacting the DGO, he informed him about the filing of application

to his office. The complainant has further deposed that, the DGO told him that he is entitled for Government subsidy of Rs. 50,000/- and told him that, in order to process his application and to recommend for release of Government subsidy, in his favour he has to pay 10% of Rs. 50,000/- demanding him to pay Rs. 5000/-, in order to provide him the Government subsidy. Though the complainant contacted the DGO subsequently on his mobile, and enquired him about his application. DGO kept on insisting him to pay Rs. 5000/- and then only his application will be processed and the Government subsidy amount will be released in his favour. According to the complainant, DGO himself contacted him and insisted him to pay the bribe amount as demanded and even on 12.8.2009 DGO again contacted him and enquired him about the bribe amount he has demanded. Hence, he approached Lokayukta police on 13.8.2009 and filed complaint as per Ex-P1.

26. Complainant further deposed regarding the details of the entrustment proceedings conducted in the Police Station claiming that, on registering a case on the basis of his complaint, the Police Inspector conducted entrustment proceedings and entrusted him the tainted notes of Rs. 5000/- in the said proceedings and asked panch witness by name Sri Venkateshappa to accompany him as a shadow witness. He further stated that, on 13.8.2009 due to non availability of the DGO since not responded to the phone calls made to him, trap was not materialized be conducted on that day and it was postponed to 14.8.2009. He further stated that, on 14.8.2009 when he contacted the DGO to enquire him about his place of availability, DGO asked him to come near the farmers communication centre, Mayakonda. Hence, he was again entrusted with the tainted notes on that day and also entrusted him a voice recorder asking him to switch on the same while paying money to

the DGO. While taking him to the O/o DGO, he/complainant was again made to call the DGO to enquire him about his place of availability and DGO asked him to come near District Treasury and he would be available there. Hence, the complainant was taken near District Treasury and made him to wait there for the DGO. Police constable Venkatesh and shadow witness Venkateshappa were made to keep vigil on the complainant and they were watching the complainant at some distance, sitting on the motor cycle of the Police constable.

27. The complainant further stated that, while he was going towards the District Treasury, DGO came on his pulsar motor cycle and asked him/complainant to sit on the pillion of his motor cycle and took the complainant on his motor cycle to the Indian Coffee Bar situated on Bapuji Hospital road. The complainant further claimed that, while sitting on the pillion of the motor cycle of the DGO, he switched on the voice recorder and went along with him inside the Indian coffee Bar. It is his evidence that, both shadow witness Venkateshappa and Police constable Veerabhadappa having followed the motor cycle of the DGO, also came to the said Indian Coffee Bar and they were sitting on a different table watching him and the DGO. It is his further evidence that, when he enquired the DGO about his application for grant of Government subsidy, DGO enquired him by making hand signs about the money he has demanded and when he/complainant took out the tainted notes from his shirt pocket and gave it to him, DGO having received it with his right hand, kept that money in his left side shirt pocket. Thereafter, the complainant claimed that, he gave signal while sitting along with the DGO in the hotel and on receiving the signal, both panch witness Venkatesh and police constable Veerabhadra came near their table and Police constable Veerabhadra caught hold of the hands of the DGO and by

that time the Police Inspector and his staff and another panch witness also came inside the hotel.

28. The complainant further deposed regarding the procedures conducted by the Police Inspector inside the said hotel where, the right hand wash of the DGO was obtained by making him to dip his right hand fingers in a bowl containing sodium carbonate solution and the said solution turned into pink colour, thereby giving positive result regarding presence of phenolphthalein. He further stated that, since the DGO on enquiry disclosed the availability of the tainted notes in his shirt pocket, the Police Inspector with the help of panch witness John, got taken out the tainted notes from the shirt pocket of the DGO and even the pocket portion of the said shirt was subjected to phenolphthalein test, which gave positive result regarding presence of phenolphthalein.

29. He further gave details regarding the seizure of documents pertaining to him claiming that, when the Police Inspector enquired the DGO about the documents and the application filed by him/complainant seeking for grant of Government subsidy, DGO claimed that, those documents are available in the house of his brother where he is staying with his brother and accordingly took the Police Inspector and others to the house of his brother at KTJ Nagar and produced a plastic cover containing a file and the said file was containing the papers pertaining to grant of Government subsidy as per his application (application of the complainant) and those documents were seized as per Ex-P6. He has further stated that, on taking the DGO to his office, the further proceedings was conducted wherein, DGO gave his explanation in writing and the voice recorder entrusted to him was taken back from him and when

played, the conversation took place between him and the DGO was found recorded in it and the same was also seized.

30. The complainant has been thoroughly cross examined by the learned counsel for the DGO and during his cross examination complainant has admitted that, he had filed an application to KVIC to obtain loan of Rs. 10 lakhs for establishing Areca nut processing unit. Various documents pertaining to the grant of Rs. 10 lakh loan in favour of the complainant were confronted to him/complainant and marked through him as per Ex-D1 to D6. A suggestion was put to him that, since he had already obtained Government benefit from the scheme of the Central Government, which was released through the Khadi board , he is not entitled for the Government subsidy from the Horticulture department. This suggestion has been denied by the complainant. Various questions were put to him regarding his disentitlement to get the benefit of Government subsidy from the Horticulture department. But all those questions have been suitably replied by the complainant in his cross examination.
31. A specific suggestion was put to the complainant during his cross examination that, in order to purchase tissue cultured banana saplings, he gave Rs. 5000/- to the DGO on that day while having tea with him in the said hotel. But the complainant has denied this suggestion claiming that, he paid Rs. 5000/- to the DGO towards bribe amount demanded by him towards grant of Government subsidy, for having purchased Areca nut peeling machine by him. Various suggestions were put to him that he knew Sri Channaveerappa, Sr. Assistant Director of Horticulture and on colluding with him, he has filed false complaint against the DGO to

falsely implicate him on the false charges of corruption. complainant has categorically denied this suggestion.

32. PW2 is the shadow witness narrated in detail about conducting of entrustment proceedings in the Police Station on 13.8.2009 and entrustment of the tainted notes of Rs. 5000/- to the complainant in the said proceedings. He has further stated that, since the proposed trap of the DGO on 13.8.2009 was not materialized due to non availability of the DGO since not responding the calls of the complainant, the trap was postponed and taken up on 14.8.2009 and on that day the tainted notes and voice recorder were again entrusted to the complainant asking him to contact the DGO on his mobile to enquire him about his availability and since the DGO asked the complainant to come near District Treasury, the complainant was sent to District Treasury to meet the DGO. PW2 has further claimed that, he was sitting on the motor cycle of Police constable, Veerabhadrappe and they were watching the complainant keeping vigil on him. PW2 has further stated that, the DGO came on his motor cycle and took the complainant on the pillion of his motor cycle and took him to the Indian Coffee Bar on Bapuji hospital road and having went inside the hotel they were sitting on a table to have coffee. PW2 has claimed that, he and the police constable Veerabhadrappe, having followed them went inside the said hotel and on sitting on a neighbouring table, they were watching the activities of the complainant and the DGO. It is his evidence that, the complainant and DGO were talking about digging of pits to plant banana saplings and other subject matters and while discussing, the DGO stretched his right hand towards the complainant and received money from him and kept that money in his left side shirt pocket. PW2 further claimed that, the complainant after giving

money to the DGO gave signal and police constable Veerabhadrappa having approached the DGO, caught hold of his hands.

33. He further narrated about arrival of Police Inspector and his staff, and gave details of the procedures conducted by the Police Inspector on the DGO including obtaining of right hand wash of the DGO which gave positive result regarding presence of phenolphthalein, recovery of tainted notes of Rs. 5000/- from the left side shirt pocket of the DGO with the help of panch witness John, subjecting the pocket portion of the shirt of the DGO to phenolphthalein test which also gave positive result regarding presence of phenolphthalein and other details of the procedures conducted inside the hotel. He further gave details regarding the DGO taking them to the house of his brother situated at 15th Cross KTJ Nagar and production of a plastic cover containing a file and the said file was found to contain the documents belonged to the complainant and seizure of the copies of those documents in the said house of the DGO. He further gave details regarding taking of the DGO to his office and DGO giving his explanation in writing. He also gave details regarding voice identification proceedings conducted there wherein, the voice recorder entrusted to the complainant since was containing the recorded conversation took place between the complainant and DGO in the hotel, when played in the presence of one Channigappa and Khadarigowda the offices of the DGO who have identified the voice of the DGO in the said conversation. He further gave details regarding preparation of mahazar as per Ex-P5, stage by stage, right from the Indian Coffee Bar till the voice identification proceedings conducted in the O/o DGO.

34. PW2 has been thoroughly cross examined by the learned counsel for DGO. He reiterated his contention even in his cross examination

claiming that, on sending the complainant asking to go towards the District Treasury, he went on the motor cycle of the police Constable Veerabhadrapa by following the complainant and the Police Inspector and his staff followed them in their jeep. He also reaffirmed his contention that, on seeing the complainant and DGO sitting on a table talking among themselves, he and police constable Veerabhadrapa sat on a nearby neighbouring table and started listening the conversation that was going on between the complainant and the DGO. He confirmed that, the complainant was talking with the DGO about digging of pits in his land for planting plantain saplings. He reiterated his contention even in his cross examination that, DGO on receiving money with his right hand from the complainant, kept that money in his left side shirt pocket. He further reiterated his contention that, only right hand wash of the DGO was obtained and the money was recovered from the left side shirt pocket of DGO since taken out by panch witness John as per the request of Police Inspector. Various suggestions put to him during his cross examination have been categorically denied by him.

35. PW3/IO, in his evidence has stated in detail regarding the complainant approaching him on 13.8.2009 and informing about the demand for bribe being made by the DGO. PW3 has further stated that in order to confirm the veracity of the allegations being made against the DGO, he took the sim from the mobile of the complainant and put the said sim in the mobile phone belonged to him which has got recording facility, asking the complainant to speak with the DGO and when the complainant spoke to the DGO about the grant of Government subsidy to him, DGO during the said conversation with the complainant discussed with him about the bribe money he has demanded asking him to pay that amount to him. The said conversation the complainant had with the DGO, was

recorded in the said mobile and the same was transferred into CD and thereafter, the complainant filed a complaint as per Ex-P1 and on that basis he registered a case against the DGO in Cr.No. 3/2009.

36. PW3 further gave details regarding conducting of entrustment proceedings in the Police Station in the presence of two official witnesses and entrustment of the tainted notes of Rs. 5000/- to the complainant in the said proceedings. He also gave details regarding the preparation of transcription of the conversation the complainant had with the DGO on the mobile and incorporation of the transcription of the said conversation in the mahazar prepared as per Ex-P2. He further stated that, since the DGO has not responded to the calls of the complainant as the mobile of the DGO was found switched off, the trap proposed to be conducted on that day was postponed for the next day.
37. PW3 has further stated that, on 14.8.2009 having entrusted the tainted notes of Rs. 5000/- along with voice recorder to the complainant, he was asked to contact the DGO on his mobile to enquire him about the place of his availability and since the DGO asked him to come near the District Treasury, the complainant was taken there and he was made to wait for the DGO near the District Treasury and the shadow witness was sent along with police constable Veerabhadrapa on his motor cycle asking them to follow the complainant and he/PW3 and his staff followed them on their official vehicle.
38. PW3 has further stated that, while the complainant was going towards the District Treasury by walk, DGO came there on his motor cycle and took the complainant on the pillion of his motor

cycle and took him to Bapuji hospital road to Indian coffee Bar. According to him, even Police constable Veerabhadrapa and shadow witness have followed them on their motor cycle and he and his staff and another panch witness followed them in their vehicle. He has further stated that, the complainant and DGO went inside the said hotel and even the shadow witness and police constable Veerabhadrapa went inside the said hotel and after some time the complainant gave him the signal. He has further stated that, on receiving the signal he went inside the hotel and by that time the police constable Veerabhadrapa was found holding the hands of the DGO and he having went inside the hotel, conducted procedure of obtaining of right hand wash of the DGO which gave positive result regarding presence of phenolphthalein and recovery of tainted notes from the shirt pocket of the DGO with the help of panch witness John and subjecting the pocket portion of the shirt of the DGO to phenolphthalein test and preparation of a portion of the mahazar in the said hotel. He further narrated in detail that when he asked the DGO about the documents of the complainant, the DGO took them to the house of his brother Sri Shivashankaraswamy where he is residing with his elder brother situated at KTJ Nagar and production of the file pertaining to the complainant by the DGO and seizure of documents of the complainant as per Ex-P6 since produced by the DGO. He further gave details regarding taking the DGO to his office and giving of explanation by the DGO in writing as per Ex-P11, conducting of voice identification procedure in the office of the DGO wherein the officers G.S.Channaveerappa and Kadiregouda have identified the voice of the DGO in the conversation played in their presence (conversation recorded with the DGO on the mobile prior to registration of the complaint and also the conversation recorded in the voice recorder during trap).

39. PW3 further gave details regarding sending of seized articles to FSL to chemical examination and receipt of chemical examiner's report as per Ex-P13, and various other documents and records obtained during the investigation and the details of the investigation he has conducted and filing of the charge sheet against the DGO.
40. PW3 has been cross examined by the learned counsel for DGO in detail. A suggestion was put to him during his cross examination that, since the complainant disclosed the fact of availability of tainted notes in the shirt pocket of DGO, he issued direction to the DGO to produce the money and DGO having taken out tainted notes from his shirt pocket produced the same before him/PW3 and thereafter, the right hand wash of DGO was obtained. This suggestion has been categorically denied by PW3. A further suggestion was put to him that, during investigation he came to know that, there was animosity between the DGO and his superior officers and at the instance of the superior officers of the DGO who were inimical towards the DGO, the complainant has filed a false complaint against the DGO and this fact was revealed during his investigation. But PW3 has denied this suggestion. A further suggestion was put to him that, his investigation disclosed that, though the DGO never demanded any bribe from the complainant, the complainant being instigated by the superior officers of the DGO, while talking with the DGO and under the pretext of talking about the plantain saplings, forcibly inserted money in the shirt pocket of DGO. Even this suggestion has been categorically denied by PW3. On considering the cross examination of PW3/IO, nothing was elicited to disbelieve his evidence.
41. DGO in his evidence tendered before this authority by way of sworn affidavit in lieu of his chief examination, has reiterated all the

contentions he has taken in his written statement about existence of animosity between him and his superior officers and making allegations against the complainant that, he/complainant in collusion with his/DGO superior officers has filed a false complaint against him.

42. He has taken up a further contention in his defence evidence which reads as follows:

"I submit that the complainant Rudresh is my neighbor. I know him from my college days. I was working in Horticulture Department at Davanagere and my wife is working as Deputy Manager in HDFC Bank, Yelahanka branch, Bengaluru. Therefore I was regularly visiting Bengaluru. As I was working in Horticulture Department, my neighbor, my friends used to purchase the tissue culture banana saplings from Yelahanka through me. Accordingly, I would supply the same to the persons who ordered for that. Sri Rudresh had approached and asked me to purchase tissue culture banana saplings from Yelahanka. On 14.8.2009 he called me over phone and asked for supply of tissue culture banana saplings. I told him to contact me on 14.8.2009. On 14.8.2009 at about 12.10 pm he called me and asked him to meet at District Treasury, Davanagere. As we are friends I have taken him in my motor cycle for having cup of coffee at Indian Coffee Bar. While having coffee the complainant himself kept the amount in my shirt pocket and asked me to supply the tissue culture banana saplings."

43. Taking up such a contention it is the defence contention of the DGO that, the complainant under the pretext of purchase of tissue cultured banana saplings, created a false story of demand for bribe against him and on the instigation of Sri Channaveerappa , Sr. Assistant Director of Horticulture, filed a false complaint against him.
44. So far as the alleged existence of animosity between him and his superior offices including Sri Channaveerappa, Sr. Assistant Director of horticulture is concerned, except his self serving testimony, he has neither produced any documents nor examined any witnesses in support of such contention. Therefore, there is nothing on record to believe such a defence contention taken by the DGO.
45. It is the further defence contention of the DGO that, the complainant had already obtained the benefit of Government subsidy from the Central Government scheme and in order to obtain the benefit under the State Government scheme, he has filed application with fabricated documents, suppressing the fact of obtaining benefit under the Central Government scheme and since he told him/DGO that, he is not entitled for the benefit of Government subsidy under the State Government scheme, he/complainant has filed a false complaint against him and falsely implicated him in this case. In support of his contention he has produced Ex-D1 to D6 on confronting these documents to the complainant, during his cross examination.
46. On perusing Ex-D1 to D6, the complainant had filed an application seeking for financial assistance under Prime Minister's Employment Generation Programme (PMEGR) seeking loan of Rs. 10 lakhs with

Government subsidy, for establishment of Areca nut processing unit in his Areca garden, which includes construction of building of processing unit, construction of store room, boiling room to boil Areca nuts, drying platform, as per the estimate Ex-D4. No records are produced by the DGO to establish that, the complainant is not entitled for Government subsidy towards purchase of Areca nut peeling machine. Therefore, DGO has failed to establish his defence contention about disentitlement of the complainant in receiving Government subsidy under the State Scheme, towards purchase of Areca nut peeling machine.

47. DGO in his defence evidence has taken up a specific contention that, he used to supply tissue cultured banana saplings from Bengaluru and the complainant while having coffee with him at India Coffee Bar on that day, kept the amount in his shirt pocket asking him to supply the tissue cultured banana saplings. Though he has taken up such a contention in his defence evidence tendered by way of sworn affidavit, in lieu of his chief examination, no such contention was taken by him in the earlier opportunities available to him. The fact of giving of written explanation by DGO as per Ex-P11 is not disputed or denied on behalf of the DGO. On going through Ex-P11, except making allegations against his superior officers claiming that he has been falsely implicated, he has not taken up any such contention that, complainant gave him Rs. 5000/- on that day while having coffee with him in the said hotel, towards supply of tissue cultured banana saplings. If really he received money from the complainant for the said purpose of supplying him the tissue cultured banana saplings, there was no impediment for him to take up such a contention while giving his written explanation as per Ex-P11 on the day of trap. Further, he was served with the observation note asking him to offer his remarks regarding the allegations made

against him. Though he requested for time to offer his reply, he failed to submit his reply thereby, he failed to utilize the said opportunity of taking up such a defence contention that, complainant gave him Rs. 5000/- for the purpose of supplying him tissue cultured banana saplings. But while filing his written statement, he has taken up such contention while admitting receipt of Rs. 5000/- from the complainant, which reads as follows:

“xxxxxx He met me near Indian Coffee Bar situated at Bapuji Road. He requested me to get the good quality of Banana saplings from Bengaluru along with standard fertilizer. He repeatedly appeal me to do the needful, as he was incurred huge loss due to failure of the crops repeatedly. The complainant appealed me to get the necessary Banana Saplings of Good quality from Bengaluru. I agreed to help him out believing his words and on trust. I collected the amount of Rs. 5000/- from him and kept it in my shirt pocket without counting it. xxxxx”

48. Such a contention was taken during the cross examination of PW1/complainant by way of putting suggestion to him that, in order to purchase tissue cultured banana saplings, he /complainant gave Rs. 5000/- to the DGO. But the complainant has denied this suggestion. Therefore, it is for the DGO to establish this contention by producing reliable evidence. But except his self serving testimony, no evidence has been produced by him to establish that, he used to supply good quality tissue cultured banana saplings from Yelahanka Bengaluru to the farmers who are in need of such saplings and the complainant gave Rs. 5000/- to him requesting him to supply tissue cultured banana saplings and he received that amount from the complainant with an intention to supply such saplings.

49. The Hon'ble Supreme Court in a decision reported in AIR 1968 Page 1292 (Sri S.N. Bose Vs. State of Bihar) have clarified the legal position as to the nature of evidence, an Accused has to produce to prove the contention taken by him by way of his defence and the relevant portion of the observation reads as follows:

“A fact is said to be proved when after considering the matters before it, the Court either believes it to exist or considers its existence was so probable that a prudent man ought under the circumstances of the particular case to act upon the supposition that it exists. The proof given by the accused must satisfy the aforementioned conditions. If it does not satisfy those conditions then he cannot be said to, have proved the contrary. In Dhanvantrai Balwantrai v. State of Maharashtra(¹) this Court considered the nature of the proof required to be given by' the accused under s. 4 (I). Wherein this, Court held that the burden resting on the accused person in such a case would not be as light as that placed on him under s. 114 of the Evidence Act and the same cannot be held to be discharged merely by reason of the fact that the explanation offered by him is reasonable and probable. It must further be shown that the explanation is a true one. The words 'unless the contrary is proved' which occur in that provision make it clear that the presumption has to be rebutted by proof and not by a bare explanation which is merely plausible.”

50. The defence contention of the DGO taken during the enquiry, when considered with reference to the above ruling of the Hon'ble Supreme Court, the bare explanation given by the DGO without establishing the same, cannot be relied upon and the DGO cannot be held to have established his defence contention by producing

legal evidence. Hence, I have no hesitation to conclude that, DGO has utterly failed to establish the specific defence contention taken by him during this enquiry. Further, considering the fact that, no such defence contention was taken by the DGO during the earliest opportunity provided to him and his failure to utilize the opportunity in taking up such a contention by submitting his reply to the observation note, the defence contention taken by the DGO during enquiry, since not established by producing convincing evidence thereby he failed to discharge his burden of proving his defence contention and hence I decline to believe the defence contention taken by the DGO in this enquiry.

51. But on the other hand, the complainant gave evidence explaining the circumstances which forced him to file complaint against the DGO and also reiterated his allegation even in his evidence contending that, DGO in order to process his application for grant of Government subsidy towards the Areca nut peeling machine he had purchased, demanded him to pay him Rs. 5000/- by way of bribe, to show an official favour and thus he is guilty of demanding and accepting bribe from the complainant.

52. Further the Principal District and Sessions Judge, Davanagere, on holding detailed trial in Spl.Case No. 2/2010, proceeded to convict the DGO/accused vide judgment dated 29.4.2016 holding him guilty of offence under Section, 7,13(1)(d) R/w 13(2) of P.C Act, 1988, and proceeded to convict him and sentencing him to undergo imprisonment and to pay fine. Aggrieved by the said judgment of conviction passed against him by the trial court, DGO has preferred appeal before the Hon'ble High Court of Karnataka, Bengaluru Bench and the appeal so filed in Cr.A. no. 861/2016 is pending consideration before the Hon'ble High Court. Consequent to his

conviction by the Spl.Court, DGO came to be dismissed from service vide orders of the Government in No. ತೋಇ 195 ತೋಸೇಪ 2015 ದಿ: 17.12.2018. Therefore, this is also an another factor which persuaded me to disbelieve the defence contention of the DGO. On considering the evidence adduced on behalf of the disciplinary authority both oral and documentary, I have no hesitation to conclude that, the charges against DGO has been established and thus proved by the disciplinary authority. Accordingly, I answer point no.1 in the affirmative.

Point No.2

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

CONCLUSION

- i) The Disciplinary Authority has proved the charge as framed against the DGO Dr.D.T. Anandakumar, the then Assistant Horticulture Officer, Farmers Communication Centre, Mayakonda, Davanagere.
- ii) As per the service particulars, Ex-P15, the date of birth of the DGO is 21.04.1974 and in the normal course, he was to retire from service on 30.4.2034.
- iii) The Principal District and Sessions Judge and Special Court, Davanagere vide judgment dated 29.4.2016 in Spl.C. No. 2/2010 convicted the DGO/accused holding him guilty of offence under Section 7,13(1)(d) R/w. Section 13(2) of P.C. Act and convicted him imposing sentence of imprisonment and fine.

iv) DGO has challenged the said judgment of conviction and sentence by preferring appeal before the Hon'ble High Court of Karnataka, Bengaluru Bench and the appeal so filed in Cr.A.No. 861/2016, is still pending consideration.

v) Consequent to his conviction, he has been dismissed from service, and hence DGO is no longer in Government service.


30/3/19.
(S. Renuka Prasad)

Additional Registrar of Enquiries-3
Karnataka Lokayukta, Bengaluru.

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

| | |
|-------------|--|
| PW-1 | Sri Rudresh (complainant) (original) |
| PW-2 | Sri H. Venkateshappa (shadow witness) (original) |
| PW-3 | Sri Sudhir M. Hegde (Investigation officer) (original) |

II. Witnesses examined on behalf of the DGO:

| | |
|-------------|--------------------------------|
| DW-1 | Dr.D.T. Anand Kumar (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 mahazar |
| Ex.P-4 | Certified copy of mahazar |
| Ex.P-5 | Certified copy of trap mahazar |
| Ex.P-6 | Certified copy of records seized by IO |
| Ex.P-7 | Certified copy of mahazar |
| Ex.P-8 | photographs (xerox) |
| Ex.P-9 | Certified copy of mahazar |
| Ex.P-10 | photographs (xerox) |
| Ex.P-11 | Certified copy of written explanation of DGO |
| Ex.P-12 | Certified copy of sketch of scene of occurrence |
| Ex.P-13 | Certified copy of FSL report |
| Ex.P-14 | Extract of Call details (xerox) |
| Ex.P-15 | service particulars of DGO (xerox) |

IV. Documents marked on behalf of DGO:

| | |
|--------------|---|
| Ex-D1 | Application of the complainant submitted to the Board |
| Ex-D2 | Letter dated 24.3.2010 |
| Ex-D3 | Estimated Projected report dated 13.8.2009 |
| Ex-D4 | Plan submitted by complainant |
| Ex-D5 | Project report submitted by complainant |
| Ex-D6 | Copy of license |

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


 30/3/14
 (S. Renuka Prasad)
 Additional Registrar of Enquiries-3,
 Karnataka Lokayukta, Bengaluru.

