

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No: LOK/INQ/14-A/152/2011/ARE-4

Multi Storied Buildings,
Dr.B.R.Ambedkar Veedhi,
Bengaluru-560 001,
Date: **10/11/2020**

RECOMMENDATION

Sub:-Departmental inquiry against Sri Mallikarjuna Chathre, Head Master, Government High School, Muchalamba, Basavakalyana Taluk, Bidar District (Presently working as Incharge Assistant Director, Akshara Dasoha Yojane, Basavakalyana Taluk Panchayath, Bidar District) - Reg.

- Ref:-1) Government Order No. ಇಡಿ 146 ಎಸ್ಇಡಬ್ಲ್ಯೂ 2011 Bengaluru dated 18/07/2011.
- 2) Nomination order No.LOK/INQ/14-A/152/2011 Bengaluru dated 30/07/2011 of Upalokayukta-1, State of Karnataka, Bengaluru.
- 3) Inquiry Report dated 7/11/2020 of Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru.

The Government by its Order dated 18/07/2011 initiated the disciplinary proceedings against Sri Mallikarjuna Chathre, Head Master, Government High School, Muchalamba, Basavakalyana Taluk, Bidar District (Presently working as Incharge Assistant Director, Akshara Dasoha Yojane, Basavakalyana Taluk Panchayath, Bidar 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/152/2011 dated 30/07/2011 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.

3. The DGO Sri Mallikarjuna Chathre, Head Master, Government High School, Muchalamba, Basavakalyana Taluk, Bidar District (Presently working as Incharge Assistant Director, Akshara Dasoha Yojane, Basavakalyana Taluk Panchayath, Bidar District) was tried for the following charge:-

“That, you Sri Mallikarjuna Chatre the DGO, while working as the Head Master of Government High School at Muchalamba in Basavakalyana Taluk of Bidar District and the in-charge Assistant Director of Akshara Dasoha Yojana at Basavakalyana Taluk Panchayath in Bidar District, a sum of Rs.1,00,000/- had been sanctioned for construction of kitchen and store room of Honnali village Higher primary school under Akshara Dasoha scheme and the complainant namely Smt. Mahadevi, the Vice President of Honnali Govt. primary school, SDMC approached you on 12/03/2009 requesting to release the sanctioned amount and again she approached on 25/03/2009 and then you gave release order for Rs.40,000/- and asked bribe of Rs.10,000/- to release balance amount of Rs.60,000/- and on 28/03/2009 received bribe of Rs.10,000/- from the complainant to show official favour, failing to maintain absolute integrity and devotion to duty, the act of which was unbecoming of a Public Servant and thereby committed misconduct as enumerated U/R 3(1) (i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.”

4. The Inquiry Officer (Additional Registrar of Enquiries-4) on proper appreciation of oral and documentary evidence has held that the Disciplinary Authority has proved the above charge against DGO Sri Mallikarjuna Chathre, Head Master, Government

High School, Muchalamba, Basavakalyana Taluk, Bidar District (Presently working as Incharge Assistant Director, Akshara Dasoha Yojane, Basavakalyana Taluk Panchayath, Bidar District).


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. As per the information furnished by the Inquiry Officer i.e. Assistant Registrar of Enquiries-4, DGO Sri Mallikarjuna Chathre is due to retire from service on 30/11/2022.

7. Having regard to the nature of charge (demand and acceptance of bribe) proved against DGO Sri Mallikarjuna Chathre, it is hereby recommended to the Government for imposing penalty of compulsory retirement from service on DGO Sri Mallikarjuna Chathre, Head Master, Government High School, Muchalamba, Basavakalyana Taluk, Bidar District (Presently working as Incharge Assistant Director, Akshara Dasoha Yojane, Basavakalyana Taluk Panchayath, Bidar District) and also for imposing penalty of permanently withholding 50% of pension payable to DGO Sri Mallikarjuna Chathre.

8. 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

10/11

KARNATAKA LOKAYUKTA

No.LOK/INQ/14-A/152/2011/ARE-4

M.S. Building
Dr.B.R.Ambedkar Road
Bengaluru-560 001
Date: 07/11/2020

:: INQUIRY REPORT ::

Sub: Departmental Inquiry against,

Sri Mallikarjuna Chathre
Head Master
Government High School
Muchalamba
Basavakalyana Taluk
Bidar District
(Presently working as in charge
Assistant Director
Akshara Dasoha Yojane
Basavakalyana Taluk Panchayath
Bidar District)

Ref:

- 1) Report u/s 12(3) of the K.L Act, 1984 in No. Compt/Uplok/GLB/58/2011/ ARE-7, Dated:10/06/2011
- 2) Government Order No. ED 146 SEW 2011, Bengaluru, dated: 18/07/2011
- 3) Order No.LOK/INQ/14-A/152/2011, Bengaluru dated:30/07/2011 of the Hon'ble Upalokayukta

This Departmental Inquiry is directed against Sri Mallikarjuna Chathre, Head Master, Government High

School, Muchalamba, Basavakalyana Taluk, Bidar District, (Presently working as in charge Assistant Director, Akshara Dasoha Yojane, Basavakalyana Taluk Panchayath, Bidar District), (herein after referred to as the Delinquent Government Official in short "DGO")

2. After completion of the investigation a report u/sec. 12(3) of the Karnataka Lokayukta Act was sent to the Government as per Reference No.1.

3. In view of the Government Order cited above at reference-2, the Hon'ble Upalokayukta, vide order dated: 30/07/2011 cited above at reference-3, nominated Additional Registrar of Inquiries-4 of the office of the Karnataka Lokayukta as the Inquiry Officer to frame charges and to conduct Inquiry against the aforesaid DGO. Additional Registrar Inquires-4 prepared Articles of Charge, Statement of Imputations of mis-conduct, list of documents proposed to be relied and list of witnesses proposed to be examined in support of Article of Charges. Copies of the same were issued to the DGO calling upon him to appear before this Authority and to submit his written statement of defence.

4. The Articles of Charges framed by ARE-4 against the DGO is as follows:-

ANNEXURE NO.I
CHARGE

That, you Sri Mallikarjuna Chatre the DGO, while working as the Head Master of Government High School at Muchalamba in Basavakalyana Taluk of Bidar District and the incharge Assistant Director of Akshara Dasoha Yojana at Basavakalyana Taluk Panchayath in Bidar District, a sum of Rs. 1,00,000/- had been sanctioned for construction of kitchen and store room of Honnalli Village Higher Primary School under Akshara Dasoha Scheme and the complainant namely Smt. Mahadevi, the Vice President of Honnalli Government Primary School, SDMC approached you on 12/03/2009 requesting to release the sanctioned amount and again she approached on 25/03/2009 and then you gave release order for Rs. 40,000/- and asked bribe of Rs. 10,000/- to release balance amount of Rs. 60,000/- and on 28/03/2009 received bribe of Rs.10,000/- from the complainant to show official favour, failing to maintain absolute integrity and devotion to duty, the act of which was unbecoming of a Public Servant and thereby committed misconduct as enumerated u/Rule 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules, 1966.

ANNEXURE-II
STATEMENT OF IMPUTATIONS OF MISCONDUCT

The DGO was Head Master in Government High School at Muchalamama in Basavakalyana Taluk of

Bidar District and also the in charge Asst. Director of Akshara Dasoha scheme in the office of Basavakalyana Taluk Panchayath, Bidar District. There was a sanction of Rs. 1,00,000/- for construction of kitchen and store room for Government Higher Primary Schools under Akshara Dasoha Scheme. The complainant namely Smt. Mahadevi, w/o Dilip Jadhav was the Vice-President of SDMC of the said school. On 12/03/2009, the complainant approached the DGO requesting to release the said amount of Rs. 1,00,000/- The complainant, again approached the DGO on 25/03/2009 and made enquiry to give release order. The DGO gave release order to the complainant for Rs. 40,000/- telling that balance amount of Rs. 60,000/- will not be released unless a bribe of Rs. 10,000/- is paid for him. The complainant was not willing to pay bribe demanded by the DGO. Hence, on 28/03/2009, the complainant approached the Lokayukta Police Inspector of Bidar (herein after referred to as the Investigating Officer, for short, "the I.O.") and lodged a complaint. The I.O. registered the complaint in Cr. No. 3/2009 for the offences punishable u/sec. 7, 13(1)(d) r/w 13(2) of the Prevention of Corruption Act 1988. During the course of investigation into the said crime, when the tainted (bribe) amount was given to the DGO by the complainant, the I.O. trapped the DGO on 28/03/2009 in the presence of complainant, pacha witnesses and his staff at the residence of the DGO in Hiremath galli o Basavakalyana. The I.O. seized the said tainted amount under mahazar after following post-trap formalities. The I.O. took statement of the

DGO in writing. The I.O. recorded statements of complainant, panch witnesses and others. The I.O. subjected the seized articles for chemical examination and obtained report of the Chemical Examiner. The report was positive. The facts and material collected by the I.O. prima facie showed that the DGO being a public servant did not release the sanctioned amount as per law and demanded bribe. Thus, the DGO had failed to maintain absolute integrity and devotion to duty and acted in the manner unbecoming of a Government Servant. Therefore, a suo-moto investigation was taken up under Sec. 7(2) of Karnataka Lokayukta Act and an observation note was sent to the DGO calling for his explanation. The reply given by the DGO was not convincing and not satisfactory to drop the proceedings. The materials on record prima facie showed that, the DGO had committed misconduct as per Rule 3(1) of KCS (Conduct) Rules, 1966. Therefore, a report u/sec. 12(3) of the Karnataka Lokayukta act was made to the Competent Authority with recommendation to initiate disciplinary proceedings against the DGO. Accordingly, the Competent Authority initiated disciplinary proceedings and entrusted the enquiry to the Hon'ble Upalokayukta u/Rule 14-A of KCS (CCA) Rules, 1957. Hence, the charge.

5. DGO appeared before this Inquiry Authority on 14/03/2012 and on 03/04/2012 his First Oral statement was recorded U/R 11(9) of KCS (CC & A) Rules 1957. The DGO pleaded not guilty and claims to hold an inquiry.

6. DGO has filed his written statement denying the allegations made in the charge memo. He has contended that, he has not committed any misconduct as alleged in the charge memo.

7. In order to substantiate the charge leveled against the DGO, the Disciplinary Authority examined in all five witnesses as PW1 to PW5 and got marked documents at Ex.P1 to P17. After closing the evidence of the Disciplinary Authority, the Second Oral Statement of the DGO was recorded as required u/Rule 11(16) of KCS (CC & A) Rules, 1957. After closing the evidence of the Disciplinary Authority, the DGO himself examined as DW3 and two witnesses examined as DW1 and DW2 and got marked documents as Ex.D1 to 10 and closed his side. Hence, recording the answer of DGOs to questionnaire u/Rule 11(18) of KCS (CC&A) Rules was dispensed with.

8. The Disciplinary Authority has not filed the written brief. In spite of giving sufficient time, the DGO and his counsel remained absent and written brief is also not filed on behalf of the DGO and no arguments were addressed on the side of the DGO. Oral arguments of the Presenting Officer was heard. The points, that arise for the consideration of this inquiry authority are:-

1. Whether the Disciplinary Authority has satisfactorily proved the charge framed against DGO?

2. What order?

9. My finding on the above points are as follows:-

Point No.1: In the **"AFFIRMATIVE"**

Point No.2: As per the final order for the following:

:: REASONS ::

10. Point No.1: It is the case of the Disciplinary Authority that, the DGO while working as the Head Master of the Government High School at Muchalamba in Basavakalyana Taluk of Bidar District and in charge Assistant Director "Akshara Dasoha Yojana" at Basavakalyana Taluk Panchayath in Bidar District and a sum of Rs. 1,00,000/- had been sanctioned for construction of kitchen and store in Honnalli village, Higher Primary Scholl under "Akshara Dasoha Yojana" and the complainant namely Smt. Mahadevi, Vice-President of Honnalli Government Primary School, SDMC approached the DGO on 12/03/2009 requesting to release the sanctioned amount and again she approached on 25/03/2009 and the DGO gave the release order for Rs. 40,000/- and asked bribe of Rs. 10,000/- to release the balance amount of Rs. 60,000/- and on 28/03/2009 received the bribe amount of Rs. 10,000/- from the complainant to show official favour and thereby he has committed the misconduct.

11. The complainant has been examined as PW1 and the copy of the complaint lodged by her in Lokayukta Police Station is at Ex.P1. The gist of Ex.P1 is to the effect that, PW1 is the Vice-President of SDMC Government Higher

Primary School, Honnali and she has actively participating in the developmental works of the said school under "Akshara Dasoha Scheme" and Rs. 1,00,000/- was sanctioned to the above said school for construction of the kitchen and that amount kept in the joint account of the Head Master of the above said school Sri Bheemanna and the SDMC President Sri Ashok and no amount was released in respect of constructing the kitchen, The Head Master and SDMC President asked her to meet the DGO working as Assistant Director of "Akshara Dasoha Scheme" and to request for release of the amount and accordingly on 12/03/2009 she went to the office of the DGO and met the DGO and requested for release of the amount and the DGO demanded Rs. 10,000/- for releasing the amount of Rs. 1,00,000/- and also asked PW1 to meet him after 16/03/2009. Accordingly on 25/03/2009 PW1 met the DGO in his office and the DGO told that he will release Rs. 40,000/- and for releasing the balance amount of Rs. 60,000/-, Rs. 10,000/- has to be given to him and gave the order for release of Rs. 40,000/- only. PW1 returned to the village and told the matter to the Head Master and the President and afterwards she has given the complaint against the DGO. The complaint has been lodged on 28/03/2009 at 10 a.m.

12. PW1 has deposed about all the averments mentioned in the complaint stated above in her deposition and I feel it is not necessary to repeat the same. She has clearly deposed that, the DGO demanded for Rs. 10,000/- to

release the entire amount of Rs. 1,00,000/- sanctioned to the above said school for constructing the kitchen. He has also deposed that, on 25/03/2009 also when she met the DGO, the DGO demanded for bribe of Rs. 10,000/- and hence he lodged the complaint as per Ex.P1.

13. PW1 has further deposed that, after she gave the complaint, the Lokayukta Police secured Sri Baburao and Sri Kashinatha as panchas and she produced the amount of Rs. 10,000/- consisting of five notes of the denomination of Rs. 1,000/- and ten notes of the denomination of Rs. 500/-. She has deposed that, the panchas noted the denomination and numbers of the notes. She has deposed that, the powder was smeared to the notes and the notes were given to the pancha witness Sri Kashinath who counted the same and kept the same in her purse. She has deposed that, the hands of Sri Kashinatha were washed in the solution and that solution turned to red colour. She has deposed that, the Entrustment Mahazar was drawn and the copy of the same is at Ex.P2.

14. PW1 has further deposed that, afterwards all of them went near the house of the DGO and herself and the pancha witness Sri Baburao were asked to meet the DGO by going inside his house. She has deposed that, on seeing her the DGO asked her to sit down and asked her whether she has brought the amount and she gave the tainted currency notes to the DGO and the DGO received the amount and kept the same beneath the newspaper which

was on the table and asked her to come after one hour. She has deposed that, she came outside the house of the DGO and gave the pre-instructed signal and immediately the Police Inspector his staff and another pancha approached her and she took them inside the house of the DGO and showed the DGO and told that, he has received the amount from her. She has deposed that, the Lokayukta police introduced themselves to the DGO and the tainted currency notes were on the table and above the notes there was the newspaper. She has deposed that, the hands of the DGO were washed in the solution separately and the solution turned to red colour. She has deposed that, the concerned records were also seized and the copies of the same are at Ex.P3. She has further deposed that, as there were children in the house of the DGO, the DGO was taken to Basavakalayna Inspection Bungalow and the DGO gave his explanation in writing and the copy of the same is at Ex.P4. She has deposed that, the Trap Mahazar was also drawn and the copy of the same is at Ex.P5. Thus PW1 has given her evidence in support of her complaint-Ex.P1, Entrustment Mahazar-Ex.P2 and the Trap Mahazar-Ex.P5.

15. In her cross-examination she has deposed that, she does not know reading and writing Kannada. She has deposed that, her complaint was prepared in Lokayukta office. But on that ground only her evidence cannot be doubted as she has clearly deposed that, she has lodged the complaint as per Ex.P1 and she has also given her evidence in accordance with the averments made in Ex.P1. She has

denied the suggestion that, she has not produced the amount of Rs. 10,000/- . She has deposed that, Ex.D1 is the copy of her deposition in Special Case NO. 12/2011 before the Hon'ble Prl.District and Session Judge, Bidar. No omission or contradiction is made out in the evidence of PW1 and hence, Ex.D1 is not of any help to the DGO. She has deposed that, she does not know whether the amount had to be released in six installments as per "Askshara Dasoha Scheme". She has deposed that, at the time of the Entrustment Mahazar she has given a small tape-recorder to record the conversation and she had not switched on that small tape-recorder. She has denied the suggestion that, her husband without constructing the kitchen wanted the DGO to release the amount and the DGO refused for the same and hence, she has filed the false complaint against the DGO. She has also denied the suggestion that, the Lokayukta Police made the DGO to take the tainted currency notes which were on the table and afterwards got his hand washed in the solution. Nothing is made out in the cross-examination of PW1 to discard her evidence.

16. PW2 is pancha witness by name Sri Kashinath. He has deposed that, in the year 2009, he was working as F.D.A., in Karnataka Urban Water Supply and Sewage Board, Bidar and on 28/03/2009 as per the direction of his higher officer he had been to the Lokayukta police station, Bidar at 11.15 a.m. and in the station, PW1 and another pancha witness Sri Baburao were present along with the Police Inspector. He has deposed that, the complainant was

introduced to himself and to the above said Sri Baburao and the copy of the complaint was given to him and he read the same and came to know its contents. He has deposed that, PW1 admitted the contents of Ex.P1 as true.

17. PW2 has further deposed that, PW1 produced the amount of Rs. 10,000/- and himself and another pancha witness noted the value and number of those notes in a white sheet and the copy of the same is at Ex.P6. He has deposed that, phenolphthalein powder was smeared to the notes and he counted those notes and kept them in the purse of PW1 and afterwards his hands were washed in the sodium carbonate solution and that solution turned to pink colour. He has deposed about all other averments mentioned in the Entrustment Mahazar, the copy of which is at Ex.P2. He has deposed that, Ex.P2(a) is his signature.

18. PW2 has further deposed that, after the Entrustment Mahazar, they left the Lokayukta Police station at 12.30 p.m. and reached Basavakalyana at about 2.15 p.m. He has deposed that, the vehicle was stopped at a distance and PW1 and the pancha witness Sri Baburao were sent to the house of the DGO to meet the DGO. He has deposed that, at about 2.30 p.m. PW1 came out of the house of the DGO and gave the pre-instructed signal and immediately the Police Inspector and his staff and himself approached PW1 and PW1 took them inside the house of the DGO and showed the DGO and told that, he has received the amount from her. He has deposed that, the hands of the DGO were

washed separately in sodium carbonate solution and the solution turned to pink colour. He has deposed that, the Police Inspector asked the DGO about the amount received from PW1 and DGO told that, he has kept the amount on the table and that amount was found on the table below the newspaper, which was on the table and that amount was seized. He has deposed that, those notes were the same notes mentioned in the Entrustment Mahazar. He has also deposed that, the place where the notes were kept on the table was cleaned with a piece of cotton and that cotton was dipped into the sodium carbonate solution and that solution also turned to pink colour. He has deposed that, the DGO produced the connected documents pertaining to PW1 and the copies of the same were seized. He has deposed that, the DGO gave his explanation in writing and the copy of the same is at Ex.P4. He has deposed that, the Trap Mahazar was drawn and the copy of the same is at Ex.P5. He has also deposed that, PW1 denied the contents of Ex.P4 as false.

19. PW2 in his cross-examination has deposed that, Ex.D2 is the copy of the letter written by the Police Inspector to his higher officer for sending the panchas and in the same his higher officer has not written the date on which he was deputed to go to Lokayukta police station. It is pertinent to note that, Ex.D2 is dated: 28/03/2009 and on the same day the higher officer of PW2 has received the same and noted that, he has deputed PW2 as pancha. He has deposed that, himself, Police Inspector and his staff

were waiting outside the house of the DGO and from the place where he was standing he was not able to see what was going on inside the house of the DGO and also hear the conversation that was going on inside the house of the DGO. It is also the case of Disciplinary Authority that, PW2 was not able to see what was going on in the house of the DGO and hear the conversation that took place between PW1 and the DGO in the house of the DGO. Any how it is the case of the Disciplinary Authority that, PW2 has seen the hand wash of the DGO being positive and also the seizure of the tainted currency notes which were found on the table of the DGO. Even though PW2 has been cross-examined at length, nothing is made out in his cross-examination to discard his evidence.

20. PW3 is the above said Sri Baburao, who is the shadow panch witness. He has deposed that, in the year 2009 he was working as S.D.A., in APMC, Bidar, and on 28/03/2009 as per the direction of his Secretary, he had been to the Lokayukta Police Station, Bidar and reported before the Lokayukta Inspector by name Sri Chandrakanth. He has deposed that, PW2 also reported as another panch witness before the Police Inspector and PW1 was also present in the station and PW1 was introduced to them. He has deposed that, the copy of Ex.P1 was given to him and he read the same and came to know its contents. He has also deposed about the gist of Ex.P1 also. He has deposed that, PW1 produced the amount of Rs.10,000/- and himself and PW2 noted the denomination and numbers of those

notes on a paper and the copy of the same is at Ex.P6. He has deposed that, phenolphthalein powder was smeared to the notes and those notes were given to the hands of PW2 and PW2 counted the same and those notes were kept in the purse of PW1. He has deposed that, the hands of PW2 were washed in the solution and that solution turned to pink colour. He has also deposed that, he was appointed as the shadow witness and PW1 was given the tape-recorder also and the Entrustment Mahazar was drawn and the copy of the same is at Ex.P2.

21. PW3 has further deposed that, after the Entrustment Mahazar they left Bidar and went near the house of the DGO situated in Basavakalayana. He has deposed that, himself and PW1 were asked to go to the house of the DGO. He has deposed that, PW1 met the DGO in his house and the DGO asked PW1 whether she has brought the amount and PW1 told that, she has brought the amount and gave the tainted currency notes and the DGO received the same, counted the notes and kept the same on his table and afterwards PW1 came out of the house of the DGO and gave the pre-instructed signal to the Police Inspector. He has deposed that, the above said incident took place he was by the side of the PW1 in the house of the DGO. He has deposed that, after PW1 gave the signal, Police Inspector and others came inside the house of the DGO and the hands of the DGO were washed separately in the solution and the solutions turned to pink colour. He has deposed that, the Inspector asked the DGO regarding the amount

received by him from PW1 and the DGO showed the amount which he had kept on the table and those notes were the same notes mentioned in the Entrustment Mahazar and those notes were seized. He has also deposed that, the place where the notes were kept on the table was cleaned with a piece of cotton and it was dipped in the solution and that solution also turned to pink colour. He has deposed that, the conversation between PW1 and the DGO was not recorded in the tape-recorder given to PW1. He has deposed that, the DGO gave his explanation in writing and the copy of the same is at Ex.P4 and himself and PW1 after knowing the contents of Ex.P4 denied the contents of Ex.P4 as false. He has deposed that, the copies of the documents were also seized and the copies of the same are at Ex.P3 and Ex.P5 is the Trap Mahazar. He has deposed that the copies of the photographs taken at the time of the Entrustment Mahazar and the Trap Mahazar are at Ex.P6.

22. PW3 in his cross-examination has denied the suggestion that, PW1 did not produce any amount before the Police Inspector. He has deposed that, Ex.P3 is the copy of his deposition in Spl. C.C. No. 12/2011 on the file of the Hon'ble Prl. District and Sessions Judge, Bidar. It is pertinent to note that, no omission or contradiction is made out in the evidence of PW3 with the help of Ex.D3. Hence, Ex.D3 is of no help to the DGO. He has denied the suggestion that, he was at a distance of 10 mt from PW1 when PW1 met the DGO in his house of the DGO. He has also denied the suggestion that, when DGO went into the

kitchen to bring tea PW1 kept the tainted currency notes on the table. He has denied the suggestion that, he had not at all gone inside the house of the DGO along with PW1. Thus even in his cross-examination PW1 has given his evidence in accordance with his examination in chief. Thus, he has deposed that, he has seen the DGO demanding for the bribe amount and receiving the bribe amount from PW1 and keeping it on the table. Nothing is made out in his cross-examination to disbelieve his evidence.

23. PW4 is Sri H.N. Panchaksharappa and he has deposed that, in the year 2009-2010 he has worked as Police Inspector in Lokayukta Police station and on 03/07/2009 he took up further investigation of this case in view of the death of Sri Chandrakanth, the previous Police Inspector. He has deposed that, Sri Chandrakanth, died in the motor vehicle accident and afterwards he was posted to the place of Sri Chandrakanth. He has deposed that, he has recorded the statements of some of the witnesses and after completing the investigation, he has filed the charge sheet. He has deposed that, Ex.P9 is the FSL report copy and in Ex.P9 it is opined that, the presence of phenolphthalein is detected in both the right and left hand finger washes of the DGO. Thus Ex.P9 also supports the case of the Disciplinary Authority. He has also deposed that, he wrote the letter to the Assistant Director, Akshara Dasoha Scheme, Basavakalayna Taluk, and received Ex.P10. Ex.P10 consists of the letter given by the DGO as Assistant Director addressed to the Manager of the Bank for release of Rs.

40,000/- from Account No. 1904 of Government Higher Primary School, Honalli. One of the document marked as Ex.P3 is the above said document and apart from the same Ex.P3 contains another document, which is the copy of the letter dated: 14/03/2009 given to the Director, Akshara Dasoha for release of Rs. 40,000/- towards the construction of kitchen room. PW4 has deposed that, Ex.P8 is the copy of the sketch of scene of occurrence obtained from the PWD Engineer. Ex.D4 has been marked in the cross-examination of PW4 and Ex.D4 is the copy of the memorandum dated:15/01/2009, in which it is stated how the kitchen has to be constructed and SDMC has to look after the use of the amount sanctioned for construction of the kitchen.

24. As stated above, the I.O.-Sri Chandrakanth is dead and in his place PW5 has been examined. PW5 has deposed that, from 2006 to 2015 he was working as Police Constable in Bidar Lokayukta Police Station and he has worked under the Late Sri B.H. Chandrakanth and he can identify the signature and the hand-writing of Sri B.H. Chandrakanth. He has deposed that, he has assisted Sri B.H. Chandrakanth in this case. PW5 has deposed that, on 28/03/2009 PW1 gave the complaint as per Ex.P1 and on the basis of Ex.P1 the case was registered and FIR was sent to the concerned court and the copy of the FIR is at Ex.P11. He has deposed that, Ex.P1(a) and Ex.P11(a) are the signatures of the above said Police Inspector. He has deposed that, two panchas were secured and the proceedings as mentioned in the Entrustment Mahazar

were conducted and he was present at that time and the copy of the Entrustment Mahazar is at Ex.P2. He was also deposed about PW1 producing the amount of Rs. 10,000/- and the panchas noting down the denomination and numbers of those notes on a paper and copy of that paper is at Ex.P6. In fact he has deposed about all the proceedings mentioned in Ex.P2. He has deposed that, after the Entrustment Mahazar they went to the house of the DGO situated in Basavakalayana and PW1 and PW3 were sent to meet the DGO in his house. He has deposed that, himself, the Police Inspector and others were waiting outside the house of the DGO for the pre-instructed signal from PW1. He has deposed that, after some time PW1 came out of the house of the DGO and gave the pre-instructed signal and immediately, the Police Inspector, his staff and another pancha went inside the house of the DGO and PW1 showed the DGO and told that, the DGO demanded and received the amount of Rs. 10,000/-. He has deposed about the hand wash of the DGO being positive and the tainted currency notes were on the table which was in the house of the DGO and the same was seized. He has also deposed about all other proceedings mentioned in the Trap Mahazar, the copy of which is at Ex.P5. He has deposed that, Ex.P4 is the copy of the explanation given by the DGO. He has deposed that, the DGO produced some documents and the copy of the same are at Ex.P12. Ex.P12 consists of the letter given on behalf of the school for release of Rs. 40,000/- and the list of the schools which have been

granted the amount. He has identified the signature of the above said Police Inspector in Ex.P5 and Ex.P13 also.

25. PW5 has been cross-examined by the learned counsel for the DGO. In his cross-examination he has deposed that, he has typed Ex.P2 and Ex.P5 and he has also signed Ex.P2 and P5 in that respect only on the ground that, PW5 has typed Ex.P2 and P5 as per the dictation of the Police Inspector and the panchas it cannot be said that, he was not personally aware about the contents of the Ex.P2 and Ex.P5. He has deposed that, in Ex.P13 and in Ex.P8 the place where he was standing when PW1 gave the pre-instructed signal is not shown. But on that ground also his above said evidence cannot be discarded. In fact, he has deposed that, he had not gone inside the house of the DGO along with PW1 and PW3. He has deposed that, he went inside the house of the DGO along with Police Inspector only after PW1 gave the pre-instructed signal. Thus nothing is made out in the cross-examination of PW5 to disbelieve his evidence stated above.

26. DW1 is Sri Bheemanna, and he has deposed that, from 2006 to 2009 he was working as Head Master in the Government Higher Primary School, Honalli and for the year 2007-2008, 17 kitchens were sanctioned to various schools of Basavakalayna Taluk and one such school was his above said school and for that Rs. 1,00,000/- was sanctioned. He has deposed that, the amount of Rs. 1,00,000/- was deposited in the joint account of himself

and SDMC, President on 03/03/2009. He has deposed that, in the SDMC meeting it was decided to construct the kitchen and in that respect he has produced Ex.D5. Ex.D5 is not in Kannada language and the Kannada translation of the same is at Ex.D6. In Ex.D6 there is resolution to withdraw of Rs. 40,000/- for construction of the kitchen and Ex.D7 is the copy of the letter written by the President of SDMC and the Head Master to the DGO for release of Rs. 40,000/- and it is dated: 14/03/2009. Ex.D8 is the copy of the letter written by Assistant Director of Akshara Dasoha Scheme to the Manager of the Bank for release of Rs. 40,000/- and it is also dated: 14/03/2009. He has deposed that, the construction of kitchen was not entrusted to PW1. It is also not the case of the PW1 that, she was entrusted with the construction of the kitchen stated above. He has deposed that, after the release of Rs. 40,000/- he was transferred.

27. In his cross-examination DW1 has deposed that, he has not given statement before the I.O. as per Ex.P16. In Ex.P16 it is stated that, PW1 told DW1 and the President of SDMC that the DGO has given the letter regarding release of Rs. 40,000/- and that he is demanding bribe of Rs. 10,000/- for release of the balance amount and they instructed PW1 to lodge the complaint to Lokayukta Police and DW1 does not depose about the same. The above said evidence given by DW1 is contrary to Ex.P16 which very

much discredits the veracity of this witness. Even otherwise the evidence given by DW1 stated above is not in dispute.

28. DW2 is one Sri Ashok and he has deposed that, from 2008 to 2010 he was working as SDMC, President of Honali Higher Primary School. He has also deposed about the sanction of Rs. 1,00,000/- for construction of the kitchen and that amount was credited to the joint account of the President and Head Master and it was to be released in 6 installments. He has deposed that, in the SDMC meeting it was decided to pray for release of Rs. 40,000/- for starting the construction of kitchen and the copy of the resolution in that respect is at Ex.D5. He has deposed that, it was decided that the construction should be done by the Head Master and the President of the SDMC. He has also deposed that, on 14/03/2009 himself and the Head Master requested for release of Rs. 40,000/- and the copy of the letter written by them in that respect is at Ex.D7 and on the same day the DGO has written the letter to the bank to release of Rs. 40,000/- and copy of that letter is at Ex.D8. He has deposed that, Rs. 40,000/- has been used for construction of the kitchen. He has deposed that, he has given his evidence in the criminal case and the certified copy of his deposition in that case is at Ex.D9. He has deposed that, his term is expired in the year 2010 and he does not know whether the construction of the kitchen was completed or not. He has deposed that, when he was the President, construction had come up to the slab level.

29. In his cross-examination DW2 has deposed that, there is no ill-will between himself and PW1 and likewise there is no ill-will between himself and the I.O. He has deposed that, the husband of PW1 was the Vice-President of SDMC at that time. He has denied the suggestion that, himself and the Head Master of the school had instructed PW1 to meet the DGO for release of the remaining amount of Rs. 60,000/- and that PW1 had intimated them that the DGO is demanding Rs. 10,000/- for the same. He has deposed that, he has not given his statement before the I.O. as per Ex.P17. In Ex.P17 it is stated that, PW1 told him and DW1 that the DGO has given the letter regarding release of Rs. 40,000/- and that he is demanding bribe of Rs. 10,000/- for releasing the balance amount of Rs. 60,000/- and they instructed PW1 to lodge the complaint to Lokayukta police and DW2 has not deposed about the same. Thus Ex.P17 is contrary to the evidence given by DW2. Hence, much reliance cannot be placed on the evidence of the DW2 stated above.

30. DW3 is the DGO and he has deposed that, he was working as in charge Assistant Director of Akshara Dasoha Scheme and at that time, he was working as Head Master of Government High School, Muchalamba. He has deposed that, for construction of the kitchen Rs. 1,00,000/- was sanctioned to Higher Primary Scholl of Honnali and that amount was kept in the joint account of the Head Master and SDMC President of the above said school. He also admits that, for release of the amount stated above,

permission of the Assistant Director of Akshara Dasoha Scheme was required. He admits that, the Head Master and the SDMC President had given letter dated: 14/03/2009, for release of Rs. 40,000/- and he gave the permission for the same and the copies of those documents are at Ex.D7 and D8. He has deposed that, the amount of Rs.1,00,000/- had to be released in three installments depending on the construction. He has deposed that, the application for release of second installment amount should have been accompanied by the copy of the M.B. book and photos of the construction. He has deposed that, the construction of the kitchen was entrusted to the Head Master and the President of SDMC. He has deposed that, on 12/03/2009 PW1 had not approached him for release of the amount. He has deposed that, prior to 28/03/2009 he had not at all seen PW1. He has deposed that, on 28/03/2009 at about 9.30 a.m. he was in his house and at that time PW1 and her husband came to his house and introduced themselves to him. He has deposed that PW1 told him that, the construction of the kitchen will be commenced and went away from his house and after 10 minutes of the same, some persons entered his house and told him that, they are the Lokayukta Police and asked him where is the amount given by PW1 and he told him that, he has not received any amount from PW1. He has further deposed that, the Lokayukta Police themselves showed him the amount which was on the table beneath the newspaper. He has deposed that, the Lokayukta police asked him to take that amount for which he refused and the Lokayukta police by force

touched the notes to his right palm. He has deposed that, he has written Ex.P4 as per the dictation of Lokayukta police and he does not know whether his hand wash was positive.

31. In his cross-examination, he has deposed that, there is no personal ill-will between himself and PW1 and likewise there is no ill-will between himself and the I.O. also. He has deposed that, he has not given any complaint to the higher officer of the I.O. to the effect that, he has written the contents of Ex.P4 as per the dictation of the I.O. It is pertinent to note that, the above said evidence of DW3 does not find a place in his written statement. Hence, it has to be said that, the defence stated by DW3 in his deposition does not find a place in his written statement and hence, the above said evidence of DW3 cannot be believed. He has deposed that, PW1 and her husband had kept the tainted currency notes on the table without his knowledge, which cannot be believed as there is the believable evidence of PW1 and the shadow witness PW3 to the effect that, the DGO asked PW1 whether she has brought the amount and PW1 gave the tainted currency notes and the DGO received the same, counted the notes and kept it on the table. The evidence given by DW3 to the effect that, the Lokayukta police forcibly touched the tainted currency notes to his right palm is also not believable as there is the believable evidence of the witnesses examined on the side of the Disciplinary Authority coupled with the FSL report which discloses that, the both the right and left hand wash of the

DGO was positive. As stated above, DW3 has also deposed that, there is no ill-will between himself and the PW1 and the I.O. and there is no reasons as to why PW1 has to give the false complaint against the DGO and deposed falsely against the DGO.

32. DW3 has deposed that, he has been acquitted in the criminal case and Ex.D10 is the certified copy of the judgment passed in Special case (Corruption) No.12/2011 by the Prl. District and Sessions Judge, Bidar dated; 13/01/2015, which discloses that, the DGO has been acquitted on the ground of benefit of doubt. In the departmental inquiry the evidence has to be scrutinised on the basis of the preponderance of probabilities. In the decision reported in **1997(2) SCC 699 in case of Depot Manager, APSRTC V/S Mohammed Yosuf Miya and others, (2005)7 SCC 764 between Ajit Kumar Nag v/s General manager (P) Indian Oil Corporation Limited, Haldia and others** made out very clear that, the purpose of departmental inquiry and the prosecution are too different and distinct aspects though the two proceedings relate to the same set of facts. The nature of evidence in criminal case is entirely different from the departmental proceedings and in the criminal case the prosecution is required to prove the guilt of the accused beyond all reasonable doubt on the touch-stone of human conduct and where as the evidence required in a departmental inquiry is not regulated by such strict rules. Therefore, misconduct of the DGO is required to be taken into consideration on the basis of of

preponderance of probabilities and merely because the DGO has been acquitted in the criminal case by the judgment in criminal case that itself is not sufficient to overlook the evidence placed on record by the Disciplinary Authority.

33. Further more the above said decisions of the Hon'ble Supreme Court has been reiterated in the recent judgment by the **Hon'ble Supreme Court in Shashi Bhusan Prasad V/s Inspector General, Central Industrial Security Force and others decided on 01/08/2019**. Hence, Ex.D10 is not of any help to the DGO.

34. As stated above, PW1-complainant and PW3-shadow witness have completely supported the case of the Disciplinary Authority. PW2 who is the other pancha witness and PW5 have also supported the case of the Disciplinary Authority and there are no reasons to discard their evidence. As stated above, the evidence given by the DGO does not find a place in his written statement and his evidence which is not supported by his written statement cannot be given much weight. More over the facts and circumstance of this case stated above, clearly supports the case of the Disciplinary Authority. As stated above, there is the believable evidence of PW1 and PW3 to show that, the DGO on 28/03/2009 demanded for the bribe amount and received the amount from PW1 in his house.

35. Thus the charge that the DGO has failed to maintain absolute integrity, devotion to duty and acted in a manner

of unbecoming of a Government Servant is proved. Hence, I answer the above point No.1 in the **AFFIRMATIVE**.

36. Point NO.2:- For the reasons discussed above, I proceed to give the following Report:

:: REPORT ::

The Disciplinary Authority has proved the charge against the DGO-Sri Mallikarjuna Chathre, Head Master, Government High School, Muchalamba, Basavakalyana Taluk, Bidar District, (Presently working as in charge Assistant Director, Akshara Dasoha Yojane, Basavakalyana Taluk Panchayath, Bidar District).

37. Hence this report is submitted to Hon'ble Upalokayukta-1 for kind perusal and for further action in the matter.

Dated this the 7th May of November, 2020

-Sd/-
(Somaraju)
Additional Registrar Inquiries-4,
Karnataka Lokayukta,
Bengaluru.

:: ANNEXURE ::**LIST OF WITNESSES EXAMINED ON BEHALF OF DISCIPLINARY AUTHORITY:**

- PW-1:Smt. Mahadevi (complainant)
 PW-2:Sri Kashinath (pancha witness)
 PW-3:Sri Baburao (shadow witness)
 PW-4:Sri H.N. Panchaksharappa (I.O)
 PW-5:Sri Naganath (police constable)

LIST OF WITNESSES EXAMINED ON BEHALF OF THE DEFENCE:

- DW-1:Sri Bheemanna (witness)
 DW-2:Sri Ashok (another witness)
 DW-3:Sri Mallikarjuna Chattrre (DGO)

LIST OF EXHIBITS MARKED ON BEHALF OF DISCIPLINARY AUTHORITY

- Ex.P-1: Certified copy of the complaint
 Ex.P-1(a): Signature
 Ex.P-2: Certified copy of Entrustment Mahazar
 Ex.P-2(a,b,c): Signatures
 Ex.P-3: Certified copy of letter to Director, Akashara Dasoha
 Project, Basavakalyana with certified copy of
 sketches.
 Ex.P-4: Certified copy of statement of DGO
 Ex.P-4(a,b): Signature
 Ex.P-5: Certified copy of the Trap Mahazar
 Ex.P-5(a,b,c,d): Signatures
 Ex.P-6: Xerox copy of note sheet containing currency
 Numbers and denomination
 Ex.P-6(a): Signature
 Ex.P-7: Xerox copy of photos on the white sheet (total 5
 sheets)
 Ex.P-8: Xerox copy of sketch
 Ex.P-9: Xerox copy of chemical examination report
 Ex.P-10: Xerox copy of letter from Police Inspector,
 Karnataka Lokayukta, Bidar dated: 10/11/2009
 addressed to Assistant Director, Akshara Dashoha
 Project, Taluk Panchayath, Basava Kalayna and
 with Xerox copy of the annexures (Total three sheets)
 Ex.P-11: Certified copy of FIR
 Ex.P-11(a); Signature
 Ex.P-12: Xerox copy of letter to Director Akashara Dasoha
 Project, Basavakalayana
 Ex.P-12(a,b): Signatures
 Ex.P-13: Xerox copy of Rough Sketch

Ex.P-13(a): Signature

Ex.P-14: Xerox copy of letter from Police Inspector,
Karnataka Lokayukta, Bidar dated: 28/03/2009
to E.E., Karnataka Urban Water, supply and
sanitation Board

Ex.P-15: Xerox copy of letter from Police Inspector,
Karnataka Lokayukta, Bidar, dated: 28/03/2009 to
Secretary, APMC, Bidar

Ex.P-16: Xerox copy of statement of Sri Bheemanna

Ex.P-17: Certified copy of the statement of Sri Ashok

LIST OF EXHIBITS MARKED ON BEHALF OF DGO:

Ex.D-1: Certified copy of deposition of Smt. Mahadevi in
Spl.C.C. No. 12/2011

Ex.D-2: Xerox copy of letter from Police Inspector,
Karnataka Lokayukta, Bidar, dated; 28/03/2009
to E.E., Karnataka Urban Water Supply and
Sanitation Board dated: 28/03/2009

Ex.D-3: Certified copy of deposition of Sri Baburao in Spl.
C.C. No. 12/2011

Ex.D-4: Xerox copy of memorandum Refer No.
ಅ.ವಾಯೋ./ಜಿ.ಪಂ.ಬೀ/ಆಕೋ/2008-2009 dated: 15/01/2009

Ex.D-5: Xerox copy of covering letter and with Xerox copies
of office proceedings.

Ex.D-5(a,b,c,d,e,f): Signatures

Ex.D-6: Xerox copy of SDMC proceedings dated:
18/03/2009

Ex.D-7: Certified copy of letter to Director, Akshara Dasoha,
Basavakalyana

Ex.D-7(a,b): Signatures

Ex.D-8: Certified copy of the release of withheld amount to
HM and SDMC dated: 14/03/2009

Ex.D-9: Certified copy of deposition of Sri Ashoka in Spl.
C.C. No. 12/2011

Ex.D-10: Certified copy of judgment in C.C. No. 12/2011

Dated this the 7th day of November, 2020

-Sd/-

(Somaraju)

Additional Registrar Inquiries-4,
Karnataka Lokayukta,
Bengaluru.