



KARNATAKA LOKAYUKTA

No.LOK/INQ/14-A/21/2011/ARE-3

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001.
Dated 22.02.2019

RECOMMENDATION

Sub:- Departmental inquiry against Shri H.C. Sridhar,
Village Accountant, Paduvala Marahalli,
Nanjanagudu Taluk, Mysuru District - reg.

- Ref:- 1) Government Order No. ಕಂಇ 04 ಬಿಡಿಪಿ 2011
dated 18.02.2011.
2) Nomination order No. LOK/INQ/14-A/21/2011
dated 04.03.2011 of Hon'ble Upalokayukta, State
of Karnataka.
3) Inquiry report dated 20.02.2019 of Additional
Registrar of Enquiries-3, Karnataka Lokayukta,
Bengaluru.

The Government by its order dated 18.02.2011 initiated the disciplinary proceedings against Shri H.C. Sridhar, Village Accountant, Paduvala Marahalli, Nanjanagudu Taluk, Mysuru 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/21/2011 dated 04.03.2011 nominated Additional Registrar of Enquiries-3, 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 - Shri H.C. Sridhar, Village Accountant, Paduvala Marahalli, Nanjanagudu Taluk, Mysuru District was tried for the following charge:-

“That you, Shri H.C. Sridhar (hereinafter referred to as Delinquent Government servant, in short DGO) while working as Village Accountant, Paduvala Marahalli, Nanjangudu Taluk, Mysuru District on 28.06.2007, demanded a bribe of Rs. 300/- from Shri M. Siddaraju s/o Mallegowda, Banooru Grama, Dodda Kavalande Hobli, Nanjangudu Taluk, Mysuru District (hereinafter referred to as the complainant) for issuance of genealogical tree record of the complainant’s family and again on 02.07.2007 you demanded and accepted Rs. 300/- as bribe (illegal gratification) for doing the above mentioned official work i.e., issuing genealogical tree record and thereby you have failed to maintain absolute integrity and devotion to duty and committed an act of misconduct which is unbecoming of a Government servant under Rule 3(1)(i) to (iii) of KCS(Conduct) Rules 1966.”

4. The Inquiry Officer (Additional Registrar of Enquiries- 3) on proper appreciation of oral and documentary evidence has held that, the Disciplinary Authority has '*proved*' the above charge against the DGO - Shri H.C. Sridhar, Village Accountant, Paduvala Marahalli, Nanjanagudu Taluk, Mysuru District.

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

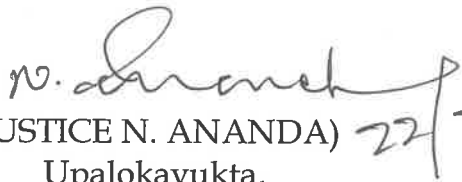
6. As per the First Oral Statement of DGO furnished by the Inquiry Officer, the DGO - Shri H.C. Sridhar is due to retire from service on 30.06.2020.

7. The DGO was tried in Special Case No.64/2008 on the file of Principal Sessions Judge and Special Judge, Mysuru and has been held guilty of offence and convicted him by imposing sentence of imprisonment and fine. The DGO had challenged the judgment of conviction in Crl. Appeal No.748/2011 before the High Court of Karnataka and it is still pending consideration. In view of the judgment of conviction passed by the Principal Sessions Judge and Special Judge, Mysuru, the DGO was dismissed from service.

8. Having regard to the nature of charge (demand and acceptance of bribe) 'proved' against the DGO - Shri H.C. Sridhar, Village Accountant, Paduvala Marahalli, Nanjanagudu Taluk, Mysuru District and the DGO has been dismissed from service in view of the judgment of conviction passed by the Principal Sessions Judge and Special Judge, Mysuru, it is hereby recommended to the Government to impose penalty of 'compulsory retirement from service and also, permanently withholding 50% of the pension payable to DGO - Shri H.C. Sridhar if the judgment of conviction of DGO is set aside by the High Court in Criminal Appeal No. 748/2011.'

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

Connected records are enclosed herewith.


(JUSTICE N. ANANDA) 22/2
Upalokayukta,
State of Karnataka.

KARNATAKA LOKAYUKTA

No. LOK/INQ/14-A/21/2011/ARE-3

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

Date: 20.2.2019

Enquiry report

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

Sub: Departmental Enquiry against Sri H.C. Sridhar, Village Accountant, Paduvala Marahalli, Nanjanagudu Taluk, Mysuru District - reg

- Ref:
1. Report under Section 12(3) of the Karnataka Lokayukta Act, 1984, in No. Compt/Uplok/MYS/170/2009/DRE-4 dated 11.1.2011
 2. Government order No. RD 04 BDP 2011 dated 18.2.2011
 3. Nomination Order No.LOK/INQ/14-A/21/2011 dated 4.3.2011 of Hon'ble Upalokayukta, Karnataka State, Bengaluru.

1. One M. Siddararju S/o Mallegowda, R/o Bannuru Village, Dodda Kavalande Hobli, Nanjanagudu Taluk, Mysuru District (hereinafter referred to as 'complainant') has filed a complaint to Lokayukta police, Mysuru on 29.6.2007 against Sri H.C. Sridhar, Village Accountant, Karya Circle, Dodda Kavalande Hobli, Nanjanagudu Taluk, Mysore District (hereinafter referred to as 'DGO' for short) making allegations against him that, he/DGO is demanding him to pay Rs. 300/- as bribe, in order to provide him the genealogical tree certificate.

2. On registering a case on the basis of the said complaint, a trap was held on 2.7.2007 in the O/o Tahsildar, Nanjangudu wherein, the DGO having demanded bribe from the complainant, received the said bribe amount of Rs. 300/- from him. The tainted money of Rs. 300/- was recovered from the right side pant pocket of the DGO during the trap proceedings conducted in the O/o Tahsildar, Nanjangudu. Since it was revealed during investigation that, the DGO has demanded bribe of Rs.300/- from the complainant and received the same, in order to do an official act i.e., in order to provide him the genealogical tree certificate as requested by him, 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 submitted his reply dated 19.8.2009 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. According to him, on 27.6.2007 the complainant when approached him for genealogical tree, he secured white sheet through the complainant and prepared the genealogical tree on the said white sheet and having obtained the signature of the complainant, he put his signature with date 27.6.2007 and he offered the said genealogical tree certificate to the complainant, but he did not receive it telling him that, he will come and collect it later

after having coffee and he did not return on that day, but filed a false complaint against him to Lokayukta police on 28.6.2008 and falsely got him trapped since, there was property dispute between him/complainant and one M. Ramu, the son of the senior uncle of the complainant and since the complainant insisted him/DGO to mention certain false things in the genealogical certificate and he refused to do so and refused to consider the request of the complainant and because of this reason, the complainant in order to falsely implicate him, filed a false complaint against him. It is his specific contention that, he has been made as a scape goat by the person who are inimical to him and also at the instance of M. Ramu and the complainant, and requested this authority to drop the proceedings against him.

4. Since the explanation offered by the DGO was not satisfactory, a recommendation under Section 12(3) of the Karnataka Lokayukta Act was forwarded to the Competent Authority, recommending to initiate disciplinary enquiry against DGO and to entrust the enquiry under Rule 14-A of KCS (CCA) Rules, to this authority to hold enquiry. Accordingly, the Disciplinary Authority, Government of Karnataka, Revenue Department by its order in RD 04 BDP 2011 dated 18.2.2011 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 4.3.2011 nominating ARE-3 to frame charges and to conduct enquiry against the DGO. Accordingly, charges were framed by the then ARE-3 against the DGO as under.

“Charge:

That you, Sri H.C. Sridhar (hereinafter referred to as Delinquent Government Servant, in short DGO) while working as Village Accountant, Paduvala Marahalli, Nanjangudu Taluk, Mysore District on 28.6.2007, demanded a bribe of Rs. 300/- from Sri M. Siddaraju S/o Mallegowda, Banooru Grama, Dodda Kavalande Hobli, Nanjangudu Taluk, Mysore District (hereinafter referred to as the complainant) for issuance of genealogical tree record of the complainant's family and again on 2.7.2007 you demanded and accepted Rs. 300/- as bribe (illegal gratification) for doing the above mentioned official work i.e., issuing genealogical tree record and thereby you have failed to maintain absolute integrity and devotion to duty and committed an act of misconduct which is unbecoming of a Government servant under Rule 3(1)(i) to (iii) of KCS(Conduct) Rules 1966.

STATEMENT OF IMPUTATION OF MISCONDUCT:

The complainant Sri M. Siddaraju S/o Mallegowda, Banooru Grama, Dodda Kavalande Hobli, Nanjangudu Taluk, Mysore District (hereinafter referred to as the complainant) filed a complaint on 29.6.2007 before the Police Inspector, Karnataka Lokayukta, Mysuru alleging that, when the complainant approached you, the DGO on 28.6.2007 and requested you to issue Genealogical tree of his family and that, you the DGO demanded Rs. 300/- as bribe for issuing of genealogical tree. The complainant was not willing to pay that bribe amount. He approached the Police Inspector, Karnataka Lokayukta, Mysore on 29.6.2007 and lodged a complaint.

On the basis of the above complaint a case came to be registered in Cr. No. 11/2007 of Karnataka Lokayukta PS, Mysore for offences punishable under sections 7, 13(1) (d) r/w section 13(2) of the P.C. Act,1988 and FIR was submitted to the jurisdictional court.

Thereafter pre trap formalities were observed and entrustment mahazar was conducted and you, the DGO was trapped on 2.7.2007 by the IO after your demanding and accepting the bribe amount of Rs. 300/- and the said bribe amount which you had received from the complainant was seized from your possession under the seizure mahazar after following the required post trap formalities. You were arrested and released on bail. During the investigation the IO has recorded the statements of the complainant, panchas and other witnesses. The IO during investigation has sent the seized articles to the chemical examiner and obtained the report from him which and he has given the result as positive.

The materials collected by the I.O. during the investigation prima facie disclose that you, the DGO, demanded and accepted Rs. 300/- for doing an official act i.e., to issue the genealogical tree of his family. Thus, you the DGO has failed to maintain absolute integrity and this act on the part of DGO is unbecoming of a public servant. Hence, you have committed an act of misconduct as stated under Rule 3 (1) (i) to (iii) of KCS(Conduct) Rules, 1966.

In this connection an observation note was sent to you, the DGO and you the DGO have submitted your reply which, after due consideration, as not acceptable. Therefore, recommendation was made to the Competent Authority under Section 12(3) of the Karnataka Lokayukta, Act 1984, to initiate Departmental

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

5. 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.
6. DGO has filed his written statement on 15.6.2011, denying the allegations made against him contending that, he never demanded or accepted any money by way of bribe from the complainant and he has been falsely implicated. It is his further contention that, since he has been charge sheeted by Lokayukta police and he is facing trial before Principal Session Judge and Special Court, Mysuru, no parallel proceedings by way of disciplinary proceedings can be initiated against him and thereby questioned the legality of the disciplinary proceedings initiated against him. He has taken up a further contention that, the complainant is a total stranger to him and he had no occasion or reason to meet the complainant either officially or personally and hence, question of he demanding him for bribe does not arise as, no work of the complainant was pending with him as on the date of filing of the complaint. Except denying allegations made against him in the AOC, he has not taken up any specific defence contention, in his written statement.

7. During enquiry, 3 witnesses have been examined as PW1 to PW3 and 11 documents came to be marked as Ex-P1 to Ex-P11 on behalf of the disciplinary authority. 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 DW1 and one document came to be marked as Ex-D1, during his defence evidence.
8. 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.
9. 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?
10. The above points are answered as under:
Point No.1: In the 'Affirmative'
Point No.2: As per Conclusion.

REASONS

Point No.1:-

11. DGO was working as Village Accountant of Karya Circle, Doddakavalande Hobli, Nanjanagudu Taluk, Mysore District during the relevant period.
12. 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 was in need of genealogical tree in

order to obtain loan from the bank and in that connection he approached the DGO on 28.6.2007 in the Taluk office, Nanjangud and requested him for issue of genealogical tree of his family. It is the allegation of the complainant that, DGO has demanded him to pay Rs. 300/- by way of bribe in order to consider his request and insisted him to pay Rs. 300/- telling him that, then only he will issue him the required certificate. The complainant told him that, he has not having that much money. Hence the DGO asked him to come with the money of Rs. 300/- on the next day i.e., on 29.6.2007 and he will give him the required certificate.

13. Since the complainant was not willing to pay any bribe to the DGO, he approached Police Inspector, Karnataka Lokayukta, Mysuru on 29.6.2007 and informed the Police Inspector about the demand for bribe being made by the DGO and filed a written complaint as per Ex-P1.
14. On the basis of the complaint so filed by the complainant on 29.6.2007 the Police Inspector, Karnataka Lokayukta, Mysuru has registered a case in Cr. No. 11/2007 under Sections 7,13(1)(d) R/w 13(2) of P.C Act, 1988 and took up investigation.
15. An entrustment proceedings was conducted in the Lokayukta Police Station, Mysuru on 29.6.2007 in the presence of two panch witnesses viz., Smt. Gnanamba, Assistant Teacher, Government Higher Primary School, Laxmipuram, Mysuru and Sri Jagadish, FDA, O/o BEO (south), Mysuru and in the said proceedings, the bait money of Rs. 300/- consisting of 3 currency notes of Rs. 100/- 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 Jagadish 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. The trap planned on 29.6.2007 was not materialised due to non-availability of the DGO in the Taluk office on that day and hence it was postponed to be held on 2.7.2007

16. The complainant and the shadow witness were taken to the Taluk office, Nanjangud on 2.7.2007 and they were sent to meet the DGO in the said office. When the complainant accompanied with the shadow witness went inside the Taluk office, DGO was found standing in the passage in front of the chamber of Tahsildar and on seeing the complainant, told him that, he has kept the genealogical tree certificate ready and enquired him as to whether he has brought money as demanded. When the complainant gave the tainted notes of Rs. 300/- to the DGO, he/DGO on receiving it with his right hand, kept the said money in the right side pocket of his pant and asked him to wait for 5 minutes and he would give him the certificate. Thereafter, the complainant came out of the Taluk office and gave pre-arranged signal to the Police Inspector.
17. On receiving the signal, the Police Inspector and his staff and another panch witness approached the complainant and along with him went near the chamber of the Tahsildar where DGO was found standing outside the said chamber. The complainant showed the DGO to the Police Inspector telling him that, he is the concerned Village Accountant , and he has received money from him.

18. 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 Sri H.C. Sridhar, Village Accountant, Karya Circle, doddakavalande Hobli, Nanjanagudu Taluk, Mysore District.
19. Thereafter, the Police Inspector took the DGO inside the chamber of the Tahsildar and also informed the Tahsildar about the apprehension of the DGO on the basis of the complaint filed by the complainant and by giving the arrest notice to the Tahsildar, arrested the DGO and conducted further proceedings.
20. The right hand wash of DGO was obtained, asking him to wash his right hand fingers in a bowl containing sodium carbonate solution. When the DGO washed his right hand fingers in the said bowl containing sodium carbonate solution, the colourless solution in the said bowl turned into pink colour. The said pink coloured solution of right hand wash of the DGO was collected in a separate bottle and sealed the same.
21. Thereafter, the Police Inspector asked the DGO about the money he has received from the complainant. The DGO having taken out money from his right side pant pocket, 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. On providing an alternate pant to the DGO, pant worn by him was got removed and the same was packed and sealed for sending it to chemical examination.

22. The Police Inspector asked the DGO to give his explanation in writing. DGO gave his explanation in writing as per Ex-P8 claiming that, while he was walking through the passage where so many people were moving in the passage in order to go inside the office, the complainant without his notice, kept the money in his pant pocket and further claimed that his hand wash obtained was not given any positive result since there was no change in the colour of the solution. Both the complainant and shadow witness have denied the correctness of the version of the explanation given by the DGO, claiming it as false and incorrect.
23. The Police Inspector asked the DGO to produce the relevant documents pertaining to the complainant. DGO took out the genealogical tree of the family of the complainant which he has kept ready, on taking out from his bag and the same was seized as per Ex-P9.
24. The voice recorder entrusted to the complainant was taken back from him and when played in the presence of panchas, no conversation was found recorded in it and the complainant told that, he has forgotten to switch on the voice recorder, while talking with the DGO.
25. During enquiry, the complainant has been examined as PW1. But the complainant has not supported the case of the disciplinary authority and turned hostile. He in his evidence, though admitted filing of the complaint as per Ex-P1, he claimed that, DGO never demanded any bribe from him. He further admitted production of Rs. 300/- before the Police Inspector but, failed to give the details of the entrustment proceedings and claimed that, the said amount was returned to him. He further claimed that, he alone went to meet the

DGO in the Taluk office and on approaching the DGO asked him to give him the genealogical tree and paid the amount to him. He further claimed that, he does not remember what else transpired between him and the DGO.

26. Since the complainant gave vague evidence regarding the filing of the complaint, conducting of entrustment proceedings and failed to give the detail of the trap proceedings, he has been treated as a hostile witness and he has been thoroughly cross examined by the learned Presenting Officer. During his cross examination, he denied all the suggestions put to him but, identified his signature on the trap mahazar Ex-P5. He further denied for having given a statement before the police with regard to filing of the complaint and the details of the trap proceedings, as per Ex-P6.
27. The learned counsel for DGO also cross examined him/complainant and got marked through him, the genealogical tree as per Ex-D1 which contains the signature of the DGO with date as 27.7.2008 . The complainant gave positive answer to the suggestion put to him that, he has received the genealogical tree and signed Ex-D1.
28. Shadow witness Sri G.A. Jagadish has been examined as PW2. He narrated in detail about conducting of entrustment proceedings in the Police Station and entrustment of tainted notes of Rs. 300/- to the complainant in the said proceedings. He has further stated that, the trap proposed to be conducted on 29.6.2007 was not materialised due to non availability of the DGO in the Taluk office on that day and hence the trap was conducted on 2.7.2007. He further claimed that, he accompanied the complainant and went inside the Taluk office and the complainant having met the DGO in the passage started talking to him and he claimed that, as he was

standing at a distance of 5 feet from them, he could not hear their conversation. He further deposed that complainant came and told him that, he paid the money to the DGO and gave pre-arranged signal to the Police Inspector. He further gave details regarding obtaining of right hand wash of DGO which gave positive result and recovery of tainted notes from the pant pocket of the DGO, seizure of the pant of the DGO and giving of explanation as per Ex-P8, production of genealogical tree, Ex-D1 by the DGO on taking out from his bag, preparation of trap mahazar as per Ex-P3 and other details of the trap proceedings.

29. Since PW2 failed to give evidence regarding materials particulars of the trap proceedings viz,, the demand and receipt of tainted notes by the DGO, he has been treated as partly hostile witness and the learned Presenting Officer has cross examined him to that extent. During his cross examination he has admitted the suggestions put to him that, the DGO on telling the complainant that, genealogical tree is ready and enquired him as to whether he has brought money and received tainted notes of Rs.300/- from the complainant with his right hand and keeping that notes in his right side pant pocket and asked the complainant to wait for 5 minutes and he will give him his certificate.
30. PW2 has been thoroughly cross examination by the learned counsel for DGO by putting suggestions to him with regard to the various details he has deposed in his chief examination with reference to the entrustment and trap proceedings. A further suggestion was put to him/PW2 that, DGO gave his written explanation stating that, he has not put forth demand for bribe but, the complainant paid it forcibly to him for which, PW2 admitted the fact of giving written explanation as per Ex-P8 by the DGO. A further suggestion was put

to him that, the explanation given by the DGO is true and correct. But PW2 denied this suggestion. On considering the cross examination of PW2 on behalf of the DGO, nothing was elicited to disbelieve the evidence given by PW2.

31. PW3/IO, in his evidence has stated in detail regarding the complainant approaching him on 29.6.2007 and filed a complaint as per Ex-P1 and on the basis of the said complaint, registered a case and took up investigation. He narrated in detail regarding conducting of entrustment proceedings and entrustment of tainted notes of Rs.300/- to the complainant in the said proceedings.

32. He further gave details regarding the trap proceedings he has conducted on 2.7.2007 in the O/o of Tahsildar, Nanjangud stating that, he sent both the complainant and the shadow witness, inside the O/o Tahsildar, Nanjangud and on receiving signal from the complainant, he claimed that, he and his staff went inside the O/o Tahsildar and complainant showed the DGO who was standing in front of the chamber of the Tahsildar in the passage, claiming that, he has received money from him. He gave evidence regarding obtaining of right hand wash of the DGO which gave positive result, regarding presence of phenolphthalein, recovery of tainted notes from the right side pant pocket of the DGO since DGO himself on taking out the tainted notes from his pant pocket produced the same before him, seizure of the pant of the DGO for sending it to chemical examination, giving of explanation by DGO as per Ex-P8, seizure of Ex-P9/genealogical tree from the possession of the DGO since he/DGO himself on taking out from his bag produced the same before him and preparation of trap mahazar as per Ex-P3 and other details of trap proceedings.

33. PW3 has further deposed about getting prepared sketch of scene of occurrence from PWD Engineer as per Ex-P11 and sending the seized articles to FSL for chemical examination and received report of chemical examiner as per Ex-P10 and other details of the investigation he has conducted.
34. Though the learned counsel for DGO has cross examined this witness at length, nothing was elicited during his cross examination to disbelieve his evidence. A suggestion was put to him that, he has seized the Xerox copy of Ex-D1 from the DGO on that day since the complainant had received the original of Ex-D1 on 27.6.2007 itself. But this suggestion has been denied by PW3/IO claiming that, the original genealogical tree was produced by the DGO on taking out from his bag and he obtained the Xerox copy of the same and returned the original document to him/DGO for giving it to the complainant. PW3 has further stated that, though the DGO kept ready the genealogical tree certificate on 27.6.2007 itself, it was not delivered to the complainant till 2.7.2007 and since it was found possessed by the DGO in his bag, he seized the said document during the trap proceedings. PW3 has further admitted that, he did not obtain the left hand wash of the DGO at the time of trap proceedings since the complainant told him that, DGO received money with his right hand and kept that money in the right side pocket of his pant. The various suggestions put to him have been categorically denied by him.
35. DGO has adduced his defence evidence by examining himself as DW-1 and produced a sworn affidavit in lieu of his chief examination and claimed in his affidavit that, he handed over the genealogical tree on 27.6.2007 itself to the complainant on preparing the

genealogical tree in his presence. He further taken up a specific defence contention which reads as follows:

“ದಿನಾಂಕ 2.7.2007 ರಂದು ಎಂದಿನಂತೆ ನಾನು ನಂಜನಗೂಡಿನ ತಹಶೀಲ್ದಾರ್ ಕಛೇರಿಯಲ್ಲಿ ರಾಷ್ಟ್ರೀಯ ಭದ್ರತಾ ಯೋಜನೆಯಡಿ ಪರಿಹಾರದ ವಿತರಣೆ ನೋಟೀಸ್‌ಗಳನ್ನು ಜಾರಿ ಮಾಡಿದ ಪ್ರತಿಗಳನ್ನು ಕಛೇರಿಯ ಸಿಬ್ಬಂದಿಗೆ, ನೀಡಲು ಹೋಗುತ್ತಿದ್ದಾಗ, ಆ ದಿನ ತಾಲ್ಲೂಕು ಕಛೇರಿಯಲ್ಲಿ ವಿವಿಧ ಜನಜಂಗುಳಿ ಇದ್ದ ಕಾರಣ ಕಛೇರಿ ಒಳಗೆ ನೂಕುನುಗ್ಗಲಿನಲ್ಲಿ ಹೋಗುವಾಗ ದೂರುದಾರರು ಮತ್ತೊಬ್ಬ ವ್ಯಕ್ತಿ ಇಬ್ಬರು ಸೇರಿ ತಹಶೀಲ್ದಾರ್ ಕಛೇರಿಗೆ ಬಂದಿದ್ದು ಸದರಿ ಸ್ಥಳವು ಚಿಕ್ಕ ಪ್ರಾಸೇಜ್‌ನಲ್ಲಿದ್ದು ನೂಕುನುಗ್ಗಲಿನ ಜನ ಜಂಗುಳಿ ಪ್ರದೇಶವಾಗಿದ್ದು ಆ ದಿನ ನನಗೆ ತಿಳಿಯದ ಹಾಗೆ ನನ್ನ ಬಲ ಪ್ಯಾಂಟ್ ಜೇಬಿನಲ್ಲಿ ಹಣ ತುರುಕಿರುತ್ತಾರೆ.

XXXXXXXX

ಆ ದಿನ ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸರು ನನ್ನ ಪ್ಯಾಂಟನ್ನು ಬಿಚ್ಚಿಸಿ ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸರೇ ತಂದಂತಹ ಒಂದು ಪ್ಯಾಂಟನ್ನು ಧರಿಸಲು ತಿಳಿಸಿ ನಾನು ತೊಟ್ಟಿದ್ದ ಪ್ಯಾಂಟನ್ ಬಲಭಾಗದ ಜೇಬಿನಲ್ಲಿ ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸರು ಹಣ ಇಟ್ಟಿರುತ್ತಾರೆ.”

36. The learned Presenting Officer has thoroughly cross examined him by putting various suggestions to him. But the DGO has conveniently denied all those suggestions put to him. He has further admitted that, complainant approached him and requested him for issue of genealogical tree of his family. He has further admitted that, his right hand wash was obtained during the trap proceedings and denied that it gave positive result since there was change in the colour of the solution. He further denied that, original of Ex-D1 was in his bag and he himself produced the same and the copy of the said Ex-D1 was seized by the police.
37. On considering the evidence adduced by the prosecution both oral and documentary and considering the nature of the defence taken by the DGO in support of his defence while giving his defence

evidence before this authority, the fact of recovery of tainted notes from the right side pocket of his pant is not denied or disputed by him or on his behalf. Giving of explanation as per Ex-P8 is also not disputed by him. Though he has disputed the fact of his right hand wash obtained during the trap proceedings gave positive result regarding presence of phenolphthalein since the solution in the bowl in which he dipped his right hand fingers turned into pink colour, the right hand wash of the DGO was sent to chemical examination and the report of the chemical examiner is made available as per Ex-P10 wherein, there is a clear mention that, the presence of phenolphthalein is detected in the right hand finger wash of DGO which was tested by testing article no.3/bottle containing very light pink coloured solution (right hand wash). Therefore, there is nothing to disbelieve the case of the disciplinary authority that, the right hand wash of the DGO obtained during the trap proceedings gave positive result regarding presence of phenolphthalein and hence the denial of this fact by the DGO has no impact on the case of the disciplinary authority.

38. With the above mentioned undisputed facts when the case of the disciplinary authority is considered with reference to the defence contention taken by the DGO, while giving his written explanation, he has not taken up any specific defence, explaining in what circumstance and how the tainted notes came to be kept in his pant pocket. But while giving his defence evidence he came up with a defence contention that, while he was moving in the passage in the O/o Tahsildar, there was rush of people in the passage and somebody have thrust money in his right side pant pocket without his knowledge. He has taken up a further contention that, while getting his pant removed, the Lokayukta police themselves have kept the tainted notes in his pant pocket, which is quite contrary to the

earlier defence contention taken by him. Further in his written explanation he has taken up a contention that, the complainant himself kept the money in his pant pocket though he refused to receive money from him. The relevant portion of his written explanation reads as follows:

“ ದಿನಾಂಕ 2.7.2007 ರಂದು ಮಧ್ಯಾಹ್ನ 4.30ರ ಅಂದಾಜು ಸಮಯದಲ್ಲಿ ನಾನು ತಾಲ್ಲೂಕು ಕಛೇರಿಯಲ್ಲಿ ರಾಷ್ಟ್ರೀಯ ಭದ್ರತಾ ಯೋಜನೆಯಡಿ ಪರಿಹಾರದ ವಿತರಣೆ ನೋಟೀಸ್‌ಗಳನ್ನು ಜಾರಿ ಮಾಡಿರುವ ಪ್ರತಿಗಳನ್ನು ಕಛೇರಿ ಸಿಬ್ಬಂದಿಗೆ ನೀಡಲು ಜನಗಳ ತುಂಬಿದ ಕಛೇರಿಯಲ್ಲಿ ಒಳಗೆ ಹೋಗುತ್ತಿದ್ದಾಗ ಎಂ. ಸುಬ್ಬರಾಜು ತಂದೆ ಮಲ್ಲೇಗೌಡ ರವರು ನನಗೆ ಗೊತ್ತಿಲ್ಲದ ಹಾಗೆ ಹಣವನ್ನು ಹಾಕಿರುತ್ತಾರೆ.”

39. As per the explanation given by him inEx-P8 it is his contention that, the complainant himself thrust the money in his pant pocket without his knowledge. Therefore, the DGO was aware that, it was the complainant who thrust money to his pant pocket and accordingly given his explanation. But in his defence evidence it is his contention that, some person has thrust money in his pant pocket and further made allegation against Lokayukta police that they have kept the tainted notes in his pant pocket while getting his pant removed during the trap proceedings. Therefore, the inconsistent defence taken by the DGO at various stages of this enquiry, is a prime factor which renders the defence contention of the DGO unbelievable.
40. Though the complainant has turned hostile during enquiry, the fact of giving of complaint by him as per Ex-P1 has been spoken to by PW3/IO and on that basis he has registered a case. Therefore, reliance can be placed on the contents of the complaint Ex-P1. Further, the fact of demand and receipt of tainted notes by the DGO

from the complainant and the manner in which he has received the tainted notes with his right hand and keeping that money in his right side pant pocket have been spoken to by PW2 by admitting the suggestions put to him in his cross examination. The right hand wash of the DGO obtained during the trap proceedings since gave positive result regarding presence of phenolphthalein when considered with the failure on the part of the DGO in explaining as to how his right hand came in contact with the tainted notes, the fact that the DGO received the tainted notes from the complainant by using his right hand stands established. The recovery of tainted notes of Rs. 300/- from the right side pant pocket of the DGO and the failure of the DGO in establishing his defence contention are sufficient to conclude that, DGO having demanded bribe from the complainant received the same on the day of trap.

41. DGO has taken up a specific defence contention that, he had already handed over the genealogical tree to the complainant on 27.6.2007 itself. Ex-D1 was confronted to the complainant and got marked through him as per Ex-D1. But the very document was claimed to have been seized from the possession of the DGO since DGO himself on taking out the original of Ex-P9 from his bag produced the same before the Police Inspector and the evidence of the Police Inspector with regard to this aspect can be considered since there was nothing to disbelieve the evidence of the Police Inspector regarding this aspect. On looking into Ex-P9 and Ex-D1 it can be considered that, the DGO has subsequently created this document by anti dating while putting his signature and though there is mention about signature of villagers, no such signatures of villagers found place in Ex-P9. Therefore, this defence contention of the DGO cannot be believed and the DGO by making use of Ex-P9 and produced the same as Ex-D1 while confronting the same to the

complainant in order to obtain favourable answer from him. Since the complainant turned hostile, such favourable answer given by the complainant with regard to Ex-D1 cannot be believed and no reliance can be placed on such admission of the complainant.

42. Further the accused has faced trial before the Spl. Court, in Spl.C. No. 64/2008 on the file of Principal Sessions Judge and Special Judge, Mysuru and the trial court after holding detailed trial proceeded to convict the accused vide judgment dated 23.6.2011 holding the accused/DGO guilty of offence under Section 7,13(1)(d) R/w 13(2) of P.C Act, 1988 and proceeded to convict him, by imposing sentence of imprisonment and fine. DGO has challenged the said judgment of conviction and sentence passed against him by the trial court, by filing appeal before the Hon'ble High Court of Karnataka, Bengaluru Bench which is pending consideration in Cr.A. No. 748/2011. Therefore, this is also another factor which persuaded me to disbelieve the defence contention of the DGO and to conclude that, the disciplinary authority was able to establish the charge against the DGO.

43. In view of my discussions made above, I am of the considered opinion that, the disciplinary authority was able to establish the allegations against the DGO and hence I hold that, charge against the DGO is established. Accordingly, I answer point no.1 in the Affirmative.

Point No.2

44. 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 Sri H.C. Sridhar, the then Village Accountant, Karya Circle, Doddakavalande Hobli, Paduvala Marahalli, Nanjanagudu Taluk, Mysuru District.

ii) As per the first oral statement, the date of birth of the DGO is 13.6.1960 and he was to be retired from service on 30.6.2020.

iii) The Principal Sessions Judge and Special Court, Mysuru vide judgment dated 23.6.2011 in Spl.C.C. No. 64/2008 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. 748/2011 is still pending consideration.

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



(S. Renuka Prasad)

Additional Registrar of Enquiries-3
Karnataka Lokayukta, Bengaluru.

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

PW-1	Sri M. Siddararju (complainant) (original)
PW-2	Sri G.A. Jagadish (shadow witness) (original)
PW-3	Sri D. Jayaram (Investigation officer) (original)

II. Witnesses examined on behalf of the DGO:

DW-1	Sri H.C. Shridhar (DGO) (original)
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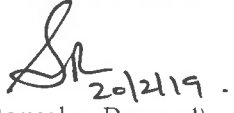
III Documents marked on behalf of D.A.

Ex.P-1	Certified copy of the complaint
Ex.P-2	Certified copy of entrustment mahazar
Ex.P-3	Certified copy of trap mahazar
Ex.P-4	Certified copy of Photograph
Ex.P-5	Certified copy of mahazar
Ex.P-6	Certified copy of Statement of complainant given before IO
Ex.P-7	Sheet of paper containing serial numbers of currency notes
Ex.P-8	Certified copy of written explanation of DGO
Ex.P-9	Certified copy of genealogical tree
Ex.P-10	Certified copy of FSL report
Ex.P-11	Certified copy of sketch of scene of occurrence

IV. Documents marked on behalf of DGO:

Ex-D1	Genealogical tree (Xerox)
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V. Material Objects marked on behalf of the D.A:


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