



KARNATAKA LOKAYUKTA

No.Lok/INQ/14-A/330/2014/ARE-3

Multi-storeyed Building,
Dr.B.R. AmbedkarVeedhi,
Bengaluru, dt.3.12.2019.

RECOMMENDATION

Sub: Departmental inquiry against Sri.K.S.Jagadeesh,
Second Division Surveyor, Taluk Office, Hassan –
reg.

Ref: 1. Government Order No. ಕಂಇ 53 ಭೂದಾಸೇ(3) 2014,
Bangalore, dated 20.5.2014.

2. Nomination Order No. Lok/INQ/14-A/330/
2014, Bangalore, dated 31.5.2014.

3. Enquiry Report dated 30.11.2019 of Additional
Registrar of Enquiries-3, Karnataka
Lokayukta, Bangalore.

The Government by its order dated 20.5.2014, initiated disciplinary proceedings against Sri. Sri.K.S.Jagadeesh, Second Division Surveyor, Taluk Office, Hassan [hereinafter referred to as the Delinquent Government Official, for short 'DGO'] and entrusted the departmental inquiry to this Institution.

2. This Institution, by Nomination Order No: Lok/INQ/14-A/330/2014 dated 31.5.2014, nominated the Additional Registrar of Enquiries-10, Karnataka Lokayukta, Bengaluru as the Inquiry Officer to frame charges and to conduct the departmental inquiry

against the 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 Additional Registrar of Enquiries-3, Karnataka Lokayukta, Bengaluru, was re-nominated to continue the said enquiry.

3. The DGO- Sri. Sri.K.S.Jagadeesh, Second Division Surveyor, Taluk Office, Hassan was tried for the following charges:-

“That, you DGO- Sri. K. S. Jagadeesh, Second Division Surveyor, Taluk Office, Hassan, when approached by the complainant Sri. Dharmegowda S/o Sri. Kariyappa, Channapatna, Hassan District, to conduct survey of his lands bearing Sy. No. 79 and 43/3A situated at Channapatna village, Channapatna Taluk, Hassan District and requested you to fix up the boundaries. To do that official Act, You-DGO demanded bribe of Rs. 500/- and accepted the same on 3.5.2007. Thereby failed to maintain absolute integrity besides devotion to duty and committed an act which is unbecoming of a Government servant and thus you – DGO are guilty of misconduct U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966”.

4. The Inquiry Officer, on proper appreciation of oral and documentary evidence has held that, the Disciplinary Authority has ‘proved’ the charge leveled against the DGO Sri.K.S.Jagadeesh, Second Division Surveyor, Taluk Office, Hassan.

5. On reconsideration of report of inquiry and all other materials on record, I do not find any reasons 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, DGO Sri. K.S.Jagadeesh, is due for retirement on 30.6.2028.

7. Having regard to the nature of charge 'proved' against DGO-Sri. Sri.K.S.Jagadeesh, Second Division Surveyor, Taluk Office, Hassan and on consideration of the totality of circumstances:-

i. "it is hereby recommended to the Government to impose penalty of 'Compulsory retirement to DGO-Sri. K.S.Jagadeesh'".

8. Action taken in the matter shall be intimated to this Authority.
Connected records are enclosed herewith.

Ready 3/12/19
(JUSTICE B.S.PATIL)
Upalokayukta-2,
State of Karnataka,
Bengaluru.

KARNATAKA LOKAYUKTA

No. LOK/INQ/14-A/330/2014/ARE-3

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

Date: 29.11.2019
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Enquiry report

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

Sub: Departmental Enquiry against Sri K.S. Jagadeesh, Second Division Surveyor, Taluk office, Hassan - reg

Ref: 1. Report under Section 12(3) of the Karnataka Lokayukta Act, 1984, in No. Compt/Uplok/MYS/2638/2013/DRE-5 dated 9.4.2014

2. Government order No. ಕಂಇ 53 ಭೂದಾಸೇ (3) 2014 ದಿ: 20.5.2014

3. Nomination Order No.LOK/INQ/14-A/330/2014 dated 31.5.2014 of Hon'ble Upalokayukta, Karnataka State, Bengaluru.

* * * * *

1. One Sri. Dharmegowda S/o Sri. Kariyappa R/o Channapatna Village of Hassan Taluk and District (hereinafter referred to as 'complainant') has filed a complaint to Lokayukta police, Hassan on 3.5.2007 against Sri K.S. Jagadeesh, Second Division Surveyor, Taluk office, Hassan (hereinafter referred to as 'DGO' for short) making allegations against him that, he/DGO is demanding him to pay bribe Rs. 500/- in order to conduct survey and effect durast of his land bearing sy.no. 43/3A and Sy.No.79 of Channapatna village.
2. On registering a case on the basis of the said complaint, a trap was held on the same i.e., on 3.5.2007 in the survey section of Taluk office Hassan wherein, the DGO having demanded bribe from the complainant, received Rs. 500/- from the complainant by way of

bribe. The tainted money of Rs. 500/- was recovered from the left side pant pocket of the DGO during the trap proceedings. Since it was revealed during investigation that, the DGO having demanded bribe from the complainant received the bribe amount to do an official act i.e., in order to conduct survey and effect durast of the land of the complainant bearing sy.no. 43/3A and Sy.No.79 of Channapatna village, 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 failed to submit his reply to the observation note served on him thus failed to take any specific defence in respect of the allegations made against him in the observation note. Hence it was considered that, DGO has nothing to say in the matter, and accordingly, 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 Disciplinary Authority, i.e., the Government of Karnataka in the Revenue Department, by its order in No. ಕಂಇ 53 ಭೂದಾಸೇ (3) 2014 ದಿ: 20.5.2014, 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 31.5.2014 nominating ARE-10 to frame charges and to conduct enquiry against the DGO. Accordingly, charges were framed by the then ARE-10 against the DGO as under.

“Charge:-

That, you DGO- Sri. K. S. Jagadeesh, Second Division Surveyor, Taluk Office, Hassan, when approached by the complainant Sri. Dharmegowda S/o Sri. Kariyappa, Channapatna, Hassan District, to conduct survey of his lands bearing Sy. No. 79 and 43/3A situated at Channapatna village, Channapatna Taluk, Hassan District and requested you to fix up the boundaries. To do that official Act, You-DGO demanded bribe of Rs. 500/- and accepted the same on 3.5.2007. Thereby failed to maintain absolute integrity besides devotion to duty and committed an act which is unbecoming of a Government servant and thus you -DGO are guilty of misconduct U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

STATEMENT OF IMPUTATIONS OF MISCONDUCT

According to the complainant, Sri. Dharmegowda S/o Sri. Kariyappa, Channapatna, Hassan District, he is the owner in possession of Sy. No. 79, Sy. No. 43/3A situated at Channapatna village, Channapatna Taluk, Hassan District. He filed an application before the Tahsildar, Hassan to conduct the survey and fix up the boundaries of his lands. The said application was forwarded to you DGO, the concerned surveyor for needful. Complainant approached you 4-5 times to do the survey and fix up

the boundaries. You went on postponing to do that work. Ultimately, demanded bribe of Rs. 500/- to do an official act.

As the complainant was not willing to pay the bribe amount, he approached Hassan Lokayukta Police on 3.5.2007 and gave his complaint. On the basis of the said complaint, a case at Crime No. 5/2007 of Hassan Lokayukta Police Station was registered for the offences punishable u/s 7, 13(1)(d) read with section 13(2) of Prevention of Corruption Act, 1988 and FIR was submitted to the Court.

After registering the case, the investigating officer observed all the pre trap formalities and prepared the entrustment mahazar. Then held the trap at about 4 p.m. at your taluk survey office, which was successful. You -DGO was found demanding and accepting bribe of Rs. 500/- from the complainant in presence of shadow witness. You were caught red handed along with the said bribe amount which you received to do an official act. It was seized in presence of the panchas under a mahazar after following the required post tap formalities. During the course of investigation, IO recorded the statement of panch and other witnesses and then sent the seized articles to the chemical examination.

The material collected by the I.O. during the course of investigation prima facie disclose that you- DGO demanded and accepted bribe of Rs. 500/- from the complainant on 3.5.2007 at about 4 p.m. at Taluk survey office, Hassan, to do any official act. Thus DGO failed to maintain absolute integrity and devotion to duty and this act on the part of the DGO is unbecoming of a

Government servant. Hence, you-DGO have committed an act which amount to misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules, 1966.

In this connection, an observation note was sent to the DGO, DGO has not sent the reply to the observation note. Thereafter a recommendation was made to the Competent Authority u/s 12(3) of the Karnataka Lokayukta Act, 1984 to initiate disciplinary proceedings against the DGO. The government after considering the recommendation made in the report entrusted the matter to Hon'ble Upalokayukta to conduct disciplinary proceedings against you-DGO and to submit report. Hence, the charge. "

4. The Articles of Charges and Statement of Imputations are duly served on the DGO. DGO has appeared before ARE-10 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 this enquiry.
5. DGO has filed his written statement on 11.4.2016 denying the charges and imputations made against him contending that, he is innocent and he never demanded or received any bribe or illegal gratification from the complainant and he has been falsely implicated. He has taken up a further contention that, he has been prosecuted by the Lokayukta police by filing charge sheet against him. The Special Court after holding detailed trial acquitted him, absolving him from the charges leveled against him. Hence, initiation of disciplinary proceedings by way of parallel proceedings is not permissible and the disciplinary proceedings initiated against him is illegal. It is his further contention that, though there was no

necessity for conducting any survey of the land of the complainant and though no work of the complainant was pending with him, the complainant has filed false complaint making false allegations against him just to take revenge against him. Taking up these contentions he has requested this authority to absolve him from the charges leveled against him.

6. During enquiry before ARE-10, CW2/panch witness was examined as PW1. 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.
7. During enquiry before ARE-3, shadow witness was examined as PW2 and Investigation officer was examined as PW3 and 11 documents came to be marked as Ex-P1 to Ex-P11 on behalf of the disciplinary authority. Complainant could not be examined as he is reported to be dead. 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 in support of his defence and tendered his evidence by way of sworn affidavit in lieu of his chief examination, by adducing his defence evidence.
8. Thereafter, the learned Presenting Officer and the learned counsel for DGO have filed their written arguments. Thereafter, this matter is taken up for consideration.

9. On considering the evidence adduced on behalf of the disciplinary authority both oral and documentary 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 Second Division Surveyor, Taluk office, Hassan 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 has got 22½ guntas of land in sy.no. 79 and 0.05 guntas of land in sy.no. 43/A at Channapatna village. In order to get his land resurveyed and effecting durast in the survey sketch of the said lands, he has filed an application to the office of the Tahsildar requesting for conducting survey of those lands by effecting durast. His application was referred to the DGO who is the Taluk surveyor, for conducting survey and effecting durast. It is his contention that, he has met the DGO on several occasions requesting him to conduct survey of the land by considering his application. It is his allegation that, the DGO has demanded him to pay Rs. 500/- by way of bribe in order to conduct survey of his land and despite he/complainant approaching the DGO several times, he

kept on insisting him to pay the bribe amount as demanded by him. Since the Complainant was not willing to pay any bribe amount as demanded by the DGO, he approached Lokayukta police, Hassan on 3.5.2007 and filed a complaint against the DGO. While filing his complaint, he has mentioned the name of the DGO as surveyor B.V. Manjunatha. But in the trap mahazar, it is mentioned that, the complainant mentioned the name of the DGO as Surveyor Manjunatha since somebody in the survey section told him that, the name of the surveyor is Manjunatha but, during the trap proceedings, it was the present DGO who demanded and received bribe money from the Complainant and the DGO during enquiry before the Police Inspector disclosed his name as K.S. Jagadeesh, Second Division Surveyor and accordingly, the Police Inspector made a request to the Special Court to include the name of DGO/K.S. Jagadeesh in the place of B.V. Manjunatha, against whom the case was registered. Even the charge sheet has been filed against the present DGO Sri K.S. Jagadeesh, Second Division Surveyor.

13. On the basis of the said complaint filed by the complainant, the Police Inspector, Karnataka Lokayukta, Hassan, has registered a case in Cr. No. 5/2007 under Sections 7,13(1)(d) R/w 13(2) of P.C Act, 1988 and took up investigation.
14. An entrustment proceedings was conducted in the Lokayukta Police Station, Hassan on 3.5.2007 in the presence of two panch witnesses viz., Sri H.L. Prakash, FDA from the office of the Assistant Executive Engineer, National Highway Division and Sri S.A. Somashekar, First Division Accounts Assistant, from the office of the Karnataka Urban Water Supply and Sewerage Board (KUWS&DB), Hassan Division and in the said proceedings, the bait money of Rs.

500/- consisting of 5 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 meets him and only in case if the DGO demands for bribe. Panch witness Sri S.A. Somashekhar was entrusted with the task of a shadow witness.

15. The complainant was made to contact the DGO on his mobile to enquire about the place of his availability. DGO asked him to come to Taluk office/Survey Section at about 3pm and he would be available in the office. Hence, the complainant and shadow witness were taken to Taluk office and sent them to meet the DGO. When the complainant accompanied with the shadow witness went inside the survey section and enquired the DGO about his work, DGO enquired him as to whether he has brought Rs. 500/- as demanded by him. Hence, the complainant took out the tainted notes from his shirt pocket and gave it to the DGO. DGO having received the said money with his right hand, counted it by using his both hands and kept that money in the left side pocket of his pant. Thereafter, the complainant came out of the Taluk office and gave pre-arranged signal to the Police Inspector.
16. On receiving the signal from the complainant, Police Inspector and his staff and another panch witness approached the complainant. The complainant showed the DGO claiming that, he/DGO is the concerned Surveyor and he has received the bribe money of Rs. 500/- from him.
17. The Police Inspector introduced himself to the DGO and informed him/DGO about the registration of a case on the basis of the

complaint filed by the complainant. On enquiry, DGO disclosed his name as Sri K.S. Jagadeesh, Second Division Surveyor, Taluk office, Hassan.

18. Thereafter, the Police Inspector got prepared Sodium carbonate solution in two separate bowls and asked the DGO to wash his both hand fingers separately in those two bowls containing solution. When DGO dipped his right hand fingers in one bowl and left hand fingers in another bowl containing sodium carbonate solution, the solution in both the bowls turned into pink colour. The said pink coloured solution of right hand wash and left hand wash of the DGO were collected in two separate bottles and sealed the same.
19. The Police Inspector asked the DGO about the money he has received from the complainant. DGO told the Police Inspector that, the money is available in his left side pant pocket and took out the currency notes from his left side pant pocket and produced the same before Police Inspector. Those notes were cross checked with reference to its serial numbers and confirmed that, those were the notes entrusted to the complainant during entrustment proceedings. Those notes were kept in a separate cover and sealed the same.
20. On providing an alternate pant, the pant worn by DGO was got removed and the left side pocket portion of the pant, was dipped in a separate bowl containing sodium carbonate solution and on such dipping, the colourless solution turned into pink colour. The said pink colored solution was collected separately in a bottle and sealed the same and seized along with the pant of DGO.
21. The Police Inspector asked the DGO to give his explanation in writing. DGO gave his explanation in writing as per Ex-P4. 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.

22. The Police inspector asked the DGO to produce the relevant documents pertaining to the complainant. DGO has produced a file on taking out from his table drawer containing the relevant documents pertaining to the Complainant. The copies of those documents were seized as per Ex-P7. Extract of attendance register was seized as per Ex-P8, Photographs of all these proceedings were obtained as per Ex-P9 (1 to 6) and a detailed mahazar was got prepared incorporating all the details of the trap proceedings as per Ex-P3.

23. During enquiry, the complainant could not be examined since he is reported to be dead. Panch witness has been examined as PW1, shadow witness as PW2 and the investigation officer has been examined as PW3.

24. PWs 1 to 3 have deposed before this authority about conducting of entrustment proceedings in the Police Station and entrustment of tainted notes of Rs. 500/- to the complainant in the said proceedings and preparation of entrustment mahazar as per Ex-P2.

25. PW2 the shadow witness gave details regarding the trap proceedings stating that, he accompanied the complainant and went along with him inside the Taluk office and the complainant took him to the place where DGO was sitting on his seat in the Taluk office. It is his further evidence that, the complainant enquired the DGO about his work and DGO asked the complainant about the money he has demanded and the complainant took out the tainted notes from his

shirt pocket and gave that money to the DGO and the DGO having received the money from the complainant counted those notes by using his both hands and kept that money in the left side pocket of his pant. He further stated that, thereafter complainant and himself came out of the Taluk office and complainant gave pre-arranged signal to the Police Inspector and on receiving the signal the Police Inspector and his staff approached the complainant, who brought them inside the Taluk office and showed the DGO claiming that, he is the concerned Surveyor and he has received bribe money from him.

26. PWs 1 to 3 have narrated in detail about the various procedures conducted during the trap proceedings of the DGO, giving details of obtaining hand wash of both the hands of the DGO which gave positive result regarding presence of phenolphthalein, recovery of tainted notes of Rs. 500/- from the possession of DGO, from his left side pant pocket, since DGO himself produced those notes on taking out from his pant pocket and on verification of those notes with reference to its serial numbers confirmed that, those were the currency notes entrusted to the complainant during the entrustment proceedings. They have further deposed in detail regarding conducting further proceedings and obtaining the wash of left side pant pocket of the DGO which gave positive result regarding presence of phenolphthalein, seizure of the said pant, giving of explanation by DGO as per Ex-P4, seizure of documents pertaining to the complainant since DGO has produced those documents by taking out the file from his table drawer, obtaining of photographs of the trap proceedings as per Ex-P9 and preparation of trap mahazar as per Ex-P3 and other details of the trap proceedings.

27. PW2/shadow witness has been thoroughly cross examined by the learned counsel for the DGO. During his cross examination, PW2 has admitted the suggestion put to him that, he came to know about the giving of money by the complainant to the DGO since the complainant told him that, he gave money to the DGO but he did not see the giving of money by the complainant to the DGO. He has further admitted that, he was present when the hand wash of both the hands of DGO was obtained and recovery of money from the pant pocket of the DGO was made since DGO himself on taking out money from his pant pocket produced the same before the Police Inspector. It is his evidence that, he has put his signature on the mahazar on the next day in the Lokayukta Police Station.
28. PW1 who is an attester to both the entrustment and trap mahazar and in whose presence those mahazars were prepared at the respective places, has stated in his evidence about conducting of entrustment proceedings in the Police Station and entrustment of tainted notes of Rs. 500/- to the complainant and preparation of entrustment mahazar as per Ex-P2 with regard to the entrustment proceedings. He has further deposed about the trap proceedings conducted in the Taluk office stating that, on receiving the signal from the complainant, the Police Inspector and his staff went inside the Taluk office and he also accompanied them and came inside the section where DGO was found sitting. He gave details regarding obtaining of hand wash of DGO, recovery of tainted notes from his pant pocket since he/DGO himself produced the same on taking out from his pant pocket and subjecting the pocket portion of the pant of the DGO to phenolphthalein test and other details of the trap proceedings. Though PW1 was cross examined by the learned counsel for the DGO, nothing was elicited during his cross

examination, to disbelieve his evidence given in his chief examination.

29. PW3/IO was also cross examined at length by the learned counsel for the DGO. During his cross examination, PW3 has admitted that, the complainant in his complaint has made allegation against Surveyor-Manjunath that, he/Manjunath demanding bribe from him and further stated that, no person by name Manjunath was found working in the survey section of the O/o Tahsildar when he conducted the trap. He has further stated in his cross examination that, during the trap proceedings the complainant has told him that, while filing complaint, he was not knowing the name of the DGO who demanded bribe from him and as per the information given to him, he mentioned the name of the DGO as Manjunath by mistake and he came to know the name of the DGO as Jagadeesh, only during the trap proceedings. By confronting the extract of the attendance register, PW3 was questioned that, one staff by name Sri B.V. Manjunatha, Second Division Surveyor has been mentioned at sl.no. 11 of the attendance register. PW3/IO admitted this fact admitting that, the name of B.V. Manjunatha, Second Division Surveyor has been mentioned at sl.no. 11 of the attendance register and according to PW3 on 3.5.2007 the said B.V. Manjunatha has not attended the office as per the entry in Ex-P8. Various suggestions put to him during his cross examination have been categorically denied by PW3. PW3/IO has further stated in his evidence that, along with the seized documents, Ex-P7 the RTCs pertaining to sy.no. 43/3A, the sale deed, rectification deed have also been seized as per Ex-P7(2 to 4) and the survey sketch pertaining to sy.no 79 and 43/3A have been seized as per Ex-P7(5&6).

30. DGO has adduced his defence evidence by examining himself as DW-1 and tendered his evidence by way of sworn affidavit in lieu of his chief examination and taken up a contention that, the application of the complainant was not entrusted to him but, it was entrusted to B.V. Manjunath, Second Division Surveyor for conducting survey and to make durast of the sketch and therefore, he/DGO is nothing to do with the said application filed by the complainant. Though he has taken such a contention in his defence evidence, he has not produced any documents or evidence to establish his defence contention that, the application of the complainant was not entrusted to him but, it was entrusted to Sri B.V. Manjunatha, Second Division Surveyor and hence no work of the complainant was pending with him. Except his self serving testimony he has not produced any evidence to substantiate this defence contention.
31. It is his further defence contention that, on 3.5.2007 when the complainant and shadow witness came to the survey section, since Sri B.V. Manjunath has not attended the office, he/DGO was working in the place of B.V. Manjunath on that day. He has taken up a further contention that, when the complainant gave him Rs. 500/-, he received the same thinking that, the complainant is giving money to him towards the fee payable for conducting survey and to prepare challan towards remittance of the said amount and hence he received that money from the complainant. It is his specific contention that, he never demanded any bribe from the complainant and he never received Rs. 500/- from the complainant by way of bribe and accordingly, he gave his written explanation before the Police Inspector on the day of trap.

32. Though the DGO has taken up such a defence contention in his defence evidence, he has not taken up any such contention at the earliest opportunity available to him by filing reply to the observation note served on him as he failed to submit his reply to the observation note despite giving opportunity to him. Even no such defence contention was taken in his written statement except denying the allegations made against him. Further, no such contention was taken, even while cross examining PW2 ~~Shri~~, suggesting him that, DGO has received money from the complainant thinking that, the complainant is giving that money to him/DGO towards remittance of requisite fee. Even while giving his explanation in writing as per Ex-P4 no such defence contention was taken by the DGO. The fact of giving such an explanation as per Ex-P4 has been admitted by the DGO in his affidavit produced in lieu of his chief examination. As per the written explanation given by the DGO, it is his contention that, the complainant has forcibly thrust money in his pocket. The relevant portion of the explanation given by him reads as follows:

“ಈ ದಿನ ನಾನು ತಮ್ಮಾಪುರ ಗ್ರಾಮಕ್ಕೆ ಸ್ಥಳ ತನಿಖೆ ಮಾಡಲು ಕಛೇರಿಯಿಂದ ತೆರಳಿದ್ದೆನು. ನನಗೆ ಪೋನ್ ಮಾಡಿ ಆರೋಪ ಹೊರಿಸಿದವರು ಕಛೇರಿಗೆ ಬರಲು ಒತ್ತಾಯ ಮಾಡಿ ಕಛೇರಿಗೆ ಬಂದಾಗ ಪೋಡಿ ಶಾಖೆಯ ಬಳಿ ನಾನು ಹೋಗಲಾಗಿ ಮೂಲ ಕಡತವು ಇವರ ಬಳಿ ಇದೆ ತೆಗೆದುಕೊಂಡು ದುರಸ್ತಿ ಮಾಡಿಕೊಡಿ ಎಂದು ಹೊರಗೆ ಕರೆದುಕೊಂಡು ಹೋಗಿ ಜೇಬಿನಲ್ಲಿ ಹಣ ಇಟ್ಟು ಹೋದ ನಂತರ ಮುಂದಿನ ಬೆಳವಣಿಗೆಯಾಗಿರುತ್ತದೆ.”

33. The omission on the part of the DGO in taking such a defence contention in his written statement and while giving his explanation in writing as per Ex-P4, the defence contention taken by the DGO during his defence evidence in this enquiry cannot be relied upon as

such a defence contention must have been taken by him as an afterthought.

34. The hand wash of both the hands of the DGO obtained during the trap proceedings gave positive result regarding presence of phenolphthalein. So far as the explanation given by the DGO in explaining the circumstances as to how his both hands came in contact with the tainted notes, his explanation that he has received that money thinking that the complainant is remitting the fee, has been disbelieved by this Authority. Therefore, it can be concluded that, DGO has received the tainted notes by way of bribe from the complainant and counted the same and because of this reason his both hands came to be tainted with phenolphthalein powder. Further, the fact of recovery of tainted notes from the left side pocket of the pant of the DGO is also established since, the wash of the left side pocket of the pant of the DGO gave positive result regarding presence of phenolphthalein. Considering the fact that, DGO has taken up a contention in his written explanation that the complainant forcibly thrust money in his pocket and further having regard to the defence contention taken by him in his defence evidence that, he has received money from the complainant thinking that, the complainant is giving money to him towards remittance of fee and for preparation of challan, the receipt of money by the DGO from the complainant has been categorically admitted by him. But his defence contention that, he has received that money from the complainant thinking that the complainant is giving that money to him towards remittance of fee and for preparation of challan cannot be believed because, the DGO has taken up such a contention for the first time while tendering his defence evidence but, has not taken up such a contention in his written statement or in the earliest opportunity available to him. Therefore, such a defence

contention taken by the DGO cannot be believed and deserves to be rejected.

35. DGO during his defence evidence has taken up a contention that, since he has been acquitted by the Special Court, by absolving him from the charges leveled against him, he should be absolved from the charges even in this enquiry. But he has not produced the copy of the judgment of the trial court during his defence evidence to verify on what grounds the Special court held that, he is not guilty of the offence.
36. Even considering for a moment that, he has been acquitted by the Special court, the judgment of acquittal will not come in the way of this authority in appreciating the evidence adduced in this enquiry independently, to come to an independent conclusion, The Hon'ble Supreme Court in the decision reported in 2005(7) SCC 764, Ajit Kumar Nag V/s. General Manager,

“The two proceedings, criminal and departmental are entirely different fields and have different objectives whereas the object of criminal trial is to inflict appropriate punishment on the offender the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance with the service Rules.

Termination/quashing of criminal case against an applicant does not ipso facts absolve him from the liability arising under the disciplinary jurisdiction as per service Rules. Hence, there is no illegality in continuation of enquiry against the applicant

not withstanding quashing of the criminal proceedings against the applicant.”

37. Further, the Hon’ble Supreme Court in the decision of State of Rajasthan V/s. B.K. Meena observed as follows:

“The approach and the objectives in the criminal proceedings and the disciplinary proceedings is altogether distinct and different. In the disciplinary proceedings the question is whether the respondent is guilty of such misconduct as would merit his removal from service or a lesser punishment as the case may be, whereas in the criminal proceedings the question is whether the offences referred against him under PC Act (and with IPC if any) are established and if established what sentence should be imposed upon him. The standard of proof, the mode of enquiry and the rules governing the enquiry and trial in both the cases are entirely distinct and different.”

38. The prayer of the DGO when considered in the context with the 2 decisions of the Hon’ble Supreme Court referred to above, the Hon’ble Supreme have held that, the approach and the objectives in the criminal proceedings and the disciplinary proceedings are all together distinct and different and the standard of proof, the mode of enquiry and the rules governing the enquiry and trial before the Court are entirely distinct and different. Therefore, the order of discharge/acquittal passed by the Special Court will not in any way come in the way of taking independent decision with regard to the charges in the Departmental Enquiry initiated against the DGO.

39. Considering the evidence adduced on behalf of the disciplinary authority both oral and documentary, the fact of recovery of tainted notes of Rs. 500/- from the pant pocket of the DGO has been established. Though the complainant could not be examined in this enquiry since he is dead, the fact of filing of complaint as per Ex-P1 by the complainant and registration of the case on the basis of the said complaint has been deposed by PW3/IO in this enquiry. PW2 the shadow witness has stated in his evidence regarding the receipt of money by the DGO from the complainant and subsequent recovery of tainted notes from the pant pocket of the DGO. Since I have already held that, the defence contention taken by the DGO is unbelievable, by discarding the defence contention of the DGO I have no hesitation to conclude that, the DGO having demanded bribe from the complainant received Rs. 500/- by way of bribe in order to do an official act of conducting survey of the land as requested by the complainant. Moreover, the recovery of the file pertaining to the complainant from the table drawer of the DGO since DGO himself produced those documents on taking out from his table drawer clearly discloses that, the work of the complainant was pending with the DGO. Hence, I have no hesitation to conclude that, DGO is guilty of misconduct in demanding and receiving Rs. 500/- by way of bribe from the complainant and the disciplinary authority has proved the charges against the DGO. Hence, I answer point no.1 in the Affirmative.

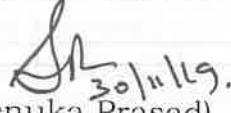
Point No.2

40. 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 K.S. Jagadeesh, the then Second Division Surveyor, Taluk office, Hassan (presently working as Surveyor in the O/o Davanagere Urban Development Authority, Davanagere).

ii) As per the first oral statement of DGO, the date of birth of the DGO is 9.6.1968 and his date of retirement is 30.6.2028.


(S. Renuka Prasad)

Additional Registrar of Enquiries-3
Karnataka Lokayukta, Bengaluru.

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

PW-1	Sri H.L. Prakash (panch witness) (original)
PW-2	Sri S.A. Somashekhar (shadow witness) (original)
PW-3	Sri Rudramuni (investigation officer) (original)

II. Witnesses examined on behalf of the DGO:

DW-1	Sri K.S. Jagadish (DGO) (Original)
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III Documents marked on behalf of D.A.

Ex.P-1	Certified copy of complaint
Ex.P-2	Certified copy of entrustment mahazar
Ex.P-3	Certified copy of trap mahazar
Ex.P-4	Certified copy of written explanation of DGO
Ex.P-5	Certified copy of photo seizure mahazar
Ex.P-6 & P9	photographs (Xerox)
Ex.P-7	Certified copy of records seized by IO 83-96 (certified copy) 97-112 (Xerox)
Ex.P-8	Extract of attendance register (Xerox)
Ex.P-10	Certified copy of sketch of scene of occurrence
Ex.P-11	Certified copy of FSL report

IV. Documents marked on behalf of DGO: Nil**V. Material Objects marked on behalf of the D.A: Nil**

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