

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

NO:LOK/INQ/14-A/331/2011/ ARE-3

Multistoried Building,
Dr.B.R.Ambedkar Veedhi,
Bengaluru-560 001,
Date: 31/03/2018

RECOMMENDATION

Sub:- Departmental inquiry against;
Sri Y.N. Rudraiah, the then Section Officer, Land
Grant-I Section, Revenue Department,
Karnataka Government Secretariat, Multi
Storied Buildings, Bengaluru – Reg.

Ref:- 1) Govt. Order No.ಸಿಆಸಇ 14 ಆಕೋಇ 2011, Bengaluru,
dated 24/9/2011

2) Nomination Order No.LOK/INQ/14-A/331/
2011, Bengaluru, dated: 13/10/2011 of
Upalokayukta-1, State of Karnataka,
Bengaluru.

3) Inquiry Report dated 27/3/2018 of Additional
Registrar of Enquiries-3, Karnataka
Lokayukta, Bengaluru

The Government by its Order dated 24/9/2011, initiated disciplinary proceedings against Sri Y.N.Rudraiah, the then Section Officer, Land Grant-I Section, Revenue Department, Karnataka Government Secretariat, Multi Storied Building, Bengaluru, (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/331/2011, Bengaluru dated 13/10/2011, nominated the Additional Registrar of Enquiries-3, Karnataka Lokayukta,

Bangalore, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against the DGO for the alleged charge of misconduct, said to have been committed by him.

3. The DGO Sri Y.N.Rudraiah, the then Section Officer, Land Grant-I Section, Revenue Department, Karnataka Government Secretariat, Multi Storied Building, Bengaluru was tried for the following charge:

“That you Sri Y.N. Rudraiah (hereinafter referred to as Delinquent Government official, in short DGO), while working as Section officer, Land Grant-1, Revenue Department, M.S. Building, Bangalore District demanded and accepted a bribe of Rs.10,000/- on 09/02/2007 from Complainant Sri Thimmarayappa S/o. Late Ramanna, Aymareddyhalli Village and Post, Kasaba Hobli, Chintamani Taluk, Kolar District for attending the file regarding grant of Government land to an extent of 35 Guntas abutting the land of the Complainant situated at Aymareddyhalli village of Chintamani Taluk of Kolar District that is for doing an official act, and thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government servant and thus you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) rules, 1966.”

4. The Inquiry Officer (Additional Registrar of Enquiries-3), on proper appreciation of oral and documentary evidence has held that the Disciplinary Authority has proved the above charge against DGO Sri Y.N.Rudraiah, the then Section Officer, Land Grant-I Section, Revenue Department, Karnataka Government Secretariat, Multi Storied Building, Bengaluru.

5. On re-consideration of the 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 First Oral Statement submitted by DGO, he has retired from service on 31/10/2012 (during the pendency of inquiry).

7. Having regard to the nature of charge (demand and acceptance of bribe) proved against the DGO Sri Y.N.Rudraiah, it is hereby recommended to the Government for imposing penalty of permanently withholding 50% of pension payable to DGO Sri Y.N.Rudraiah, the then Section Officer, Land Grant-I Section, Revenue Department, Karnataka Government Secretariat, Multi Storied Building, Bengaluru.

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

Connected records are enclosed herewith.

N. Ananda
(JUSTICE N. ANANDA)
Upalokayukta-1 31/3
State of Karnataka,
Bengaluru

KARNATAKA LOKAYUKTA

No. LOK/INQ/14-A/331/2011/ARE-3

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

Date: 28.03.2018

[27/03/2018]

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

Sub: Departmental Enquiry against Sri Y.N. Rudraiah, the then Section officer, Land Grant-1 section, Revenue Department, Karnataka Government Secretariat, , M.S. Building, Bengaluru - reg.

- Ref: 1. Report under Section 12(3) of the Karnataka Lokayukta Act, 1984, in No. Compt/Uplok/BCD/676/2007/ARE-10 dated 18.7.2011
2. Government Order No. DPAR 14 AVD 2011, Bengaluru dated 24.9.2011
3. Nomination Order No.LOK/INQ/14-A/331/2011 dated 13.10.2011 of Hon'ble Upalokayukta, Karnataka State, Bengaluru.

1. The complainant Sri Thimmarayappa S/o late Ramanna, R/o Aymareddyhalli Village, Kasba Hobli, Chintamani Taluk, Kolar District (hereinafter referred to as 'complainant') has filed a complaint to Lokayukta police, Bengaluru City Division on 9.2.2007 against Sri Y.N. Rudraiah, Section officer, Land Grant-1 section, Revenue Department, Karnataka Government Secretariat, M.S. Building, Bengaluru (hereinafter referred to as 'DGO' for short) making allegations against him that, DGO is demanding him to pay Rs. 10,000/- as bribe in order to do an official favour, in processing

- the file in respect of regularization of unauthorized occupation of 0.35 guntas of land in sy. no.34/P2 of Cheemanahalli village and granting the said land in favour of the complainant, as requested by him.
2. On registering a case on the basis of the said complaint, a trap was held on 9.2.2007 in the land grant section of Revenue Department at room no. 625, 6th floor, M.S. Building, Bengaluru wherein, the DGO having demanded bribe from the complainant, received Rs. 10,000/- from him by way of bribe. The tainted money of Rs. 10,000/- was recovered from the left side pant pocket of the DGO. Since it was revealed during investigation that, the DGO has demanded bribe of Rs. 10,000/- and received the same from the complainant, in order to show an official favour i.e., in processing the file pertaining to the complainant, in respect of regularization of the unauthorized occupation of 0.35 guntas of land in sy. no.34/P2 and obtaining orders for granting the said land in favour of the complainant 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 departmental proceedings against him. The DGO submitted his reply denying the allegations made against him and taking up a contention that, since the trial of the prosecution case launched against him, is in progress and as he has been

assigned with important work which he is attending, he is not able to face the departmental proceedings and requested for postponing the initiation of disciplinary proceedings against him. Except taking up such a contention, he has not taken up any specific defence in his reply. 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 proceedings against DGO and to entrust the enquiry under Rule 14-A of KCS (CCA) Rules, to this authority to hold enquiry. Accordingly, the Government of Karnataka i.e., the Revenue Department by its order in No. DPAR 14 AVD 2011, Bengaluru dated 24.9.2011, initiated departmental proceedings against the DGO and entrusted the same to Hon'ble Upalokayukta to hold enquiry. As per the order issued against DGO, the Hon'ble Upalokayukta issued a nomination order dated 13.10.2011 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. Y.N. Rudraiah (here in after referred to as Delinquent Government Official, in short DGO), while working as Section Officer, Land Grant-1, Revenue Department, M.S. Building, Bangalore District demanded and accepted a bribe of Rs. 10,000/- on 09/02/2007 from complainant Sri Thimmarayappa S/o late Ramanna, Aymareddyhalli Village and Post, Kasba Hobli, Chintamani Taluk, Kolar District for attending the file regarding grant of Government land to an extent of 35 guntas abutting the land of the complainant situated at Aymareddyhalli Village of Chintamani Taluk of Kolar District that is for doing an official act, and thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servant and thus you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966.

STATEMENT OF IMPUTATION OF MISCONDUCT:

The complainant Sri Thimmarayappa S/o late Ramanna, Aymareddyhalli Village and Post, Kasba Hobli, Chintamani Taluk, Kolar District filed a complaint on 09/02/2007 before the Police Inspector, Police Wing, City Division, Karnataka Lokayukta, Bangalore alleging that he is an agriculturist and he is the owner and in possession of the land to an extent of 3 acres and that land belonging to the Government to an extent of 35 guntas is abutting his above mentioned land and that he has been cultivating the said Government land of 35 guntas for more than 30 years and that he had filed an application before Tahsildar, Chintamani for granting the same to him and that the Tahsildar had prepared the file and sent it to the Asst. Commissioner, Chikkaballapur and that the AC, Chikkaballapur sent the said file with his recommendation to the DC and that the Deputy Commissioner sent the said file to the Principal Secretary, Revenue Dept. M.S. Building, Bangalore with his recommendation for grant of the land and that thereafter the complainant had been to Sri Y.N. Rudraiah, who was working as Section Officer in Land Grant-1, Revenue Department, M.S. Building at Bangalore (here in after referred to as Delinquent Government Servant, in short DGO) and asked about his work and at that time the DGO told him that the file was with him and that Rs. 50,000/- expenses will be there for granting the Government land in his favour and that when the complainant pleaded his inability to pay so much of amount the DGO told him to pay bribe amount of Rs. 10,000/- and he also told the amount will have to paid to his higher officers also.

As the complainant was not willing to pay any bribe to the DGO, he went to Police Inspector, Karnataka Lokayukta, Police Wing, City Division Bangalore on 09/02/2007 and lodged a complaint. On the basis of the same a case was registered in Bangalore Lokayukta Police Station Cr. No. 3/2007 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 concerned learned special judge.

After registering the case, investigating officer observed all the pre trap formalities and entrustment mahazar was conducted and you, the DGO was trapped on 09/02/2007 by the Investigating Officer after your demanding and accepting the bribe amount of Rs. 10,000/- from

the complainant in the presence of shadow witness 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. During the investigation the I.O has recorded the statements of Panchas and other witnesses and further statement of the complainant. The I.O during the investigation has sent the seized articles to the chemical examiner and obtained and obtained the report from him 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 bribe of Rs. 10,000 /- from the complainant on 09/02/2007 for doing an official act i.e., for attending the file regarding grant of Government land to an extent of 35 guntas abutting the land of the complainant situated at Aymareddyhalli Village of Chintamani Taluk of Kolar District. Thus you, the DGO, have failed to maintain absolute integrity and devotion to duty and this act on your part is unbecoming of a Government servant. Hence, you have committed an act which amounted to 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 have submitted your reply which, after due consideration, was found not acceptable. Therefore, a recommendation was made to the Competent Authority under Section 12(3) of the Karnataka Lokayukta, Act 1984, to initiate Departmental Proceedings against you, 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."

4. The Articles of Charges and Statement of Imputations are duly served on the DGO. DGO has appeared in response to the notice issued to him and First Oral Statement of the DGO was recorded. DGO has denied the charges framed against him. He has engaged the services of Sri R. Vidhyasagar and Sri Raghunath, Advocates to appear on his behalf and to defend him, in the enquiry.

5. DGO has filed his written statement on 18.1.2012 denying the allegations made against him contending that, he neither demanded nor accepted any illegal gratification and he never met the complainant at any point of time. He has taken up a further contention in his written statement that, on that day when the complainant met him in his chamber and enquired him about his file, he/DGO told the complainant that, his file has been sent to Under Secretary for further proceedings and he has nothing to do with his case. It is the further contention of the DGO that, the complainant had forcefully made him to come out of his chambers stating that, one of his relatives need clarification and insisted him to come out, though he refused to come out of the section. Due to the repeated requests of the complainant he/DGO came out of his section and while stepping down the stairs, the complainant tried to thrust the tainted notes into his left side pant pocket but, he resisted and refused to take the amount from the complainant and during this happenings, the currency notes fell down and within no time some people caught hold of him and introduced to him that they are Lokayukta police and forcibly made him to take the money which were lying on the ground and because of this reason he collected those notes and handed it over to Lokayukta police. He further claimed that, no work of the complainant was pending with him since he had already forwarded the said file to the Under Secretary on 7.2.2007 itself and hence there was no occasion for him either to demand or to receive any money from the complainant and further claimed that, he has been falsely implicated by creating false documents and requested this authority to drop the proceedings against him and to absolve him from the charges leveled against him.

6. During enquiry, on behalf of the Disciplinary authority, 3 witnesses have been examined as PW1 to PW3 and 13 documents came to be marked as Ex-P1 to P13. It is to be stated that, the DGO was appearing before this authority regularly till 13.6.2017 but, he remained absent on the subsequent dates of hearing when the matter was taken up for recording the evidence of the witnesses in the enquiry. CW1/complainant was examined on 11.8.2017, CW2/shadow witness was examined on 9.11.2017 and the IO/CW4 was examined on 16.11.2017. But on all these dates of hearing, DGO remained absent. Even the counsels appearing for DGO never bothered to appear on the above dates of hearing and never bothered to cross examine PW1 to PW3 despite granting opportunity. Thereafter, the matter was adjourned from time to time providing opportunity to DGO to appear before this authority and to contest this matter by adjourning the enquiry to further dates of hearing on 16.11.2017, 22.12.2017, 5.2.2018. But the DGO never bothered to appear before this authority and even his advocates failed to represent the DGO on those dates of hearing. A final opportunity was provided to the DGO to appear before this authority on 16.3.2018, but DGO failed to utilize this opportunity and failed to appear before this authority. Hence, it is considered that, DGO has no interest in defending himself in this enquiry and having placed him exparte, the matter was taken up for submitting report. Since the DGO failed to appear before this authority despite granting sufficient opportunity, second oral statement of the DGO could not be recorded.
7. Thereafter, the learned Presenting Officer was heard on the merits and this matter is taken up for consideration.

8. 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?
9. The above points are answered as under:
Point No.1: In the 'Affirmative'
Point No.2: As per final order.

REASONS

Point No.1:-

10. The DGO was working as Section officer, Land grant-1 section, Revenue department, Karnataka Government Secretariat, M.S. Building, Bengaluru, during the relevant period.
11. The complainant is the resident of Aymaedlyhally village of Kasaba Hobli, Chintamani Taluk of Kolar District. According to the complaint averments, he is having lands in sy.no. 67/1&2 at Cheemanahalli village and adjacent to these lands, another 0.35 guntas of Government kharab land in sy.no. 34/P-2 is situated. According to the complainant he is cultivating even the said Kharab land since more than 15 years by planting coconut trees in the said land thereby, he is in un-authorized occupation of the said land. In order to get the said land granted in his favour, he made an application to the Tahsildar which was forwarded to the Assistant Commissioner and from there to Deputy Commissioner and having made recommendation, the Deputy Commissioner forwarded the file to Revenue Department for grant of the said land in favour of the complainant and the file was pending in the land grant section of the Revenue Department. The complainant having come to know that, his file has been sent to the Government, visited Revenue

Department and approached the DGO who is the section officer of land grants section and enquired him about his file. It is the allegation of the complainant that, the DGO has initially demanded him to pay Rs. 50,000/- by way of bribe in order to process his file and to put up for orders. Since the complainant pleaded his inability to pay that much amount, after negotiation, the DGO scaled down his demand asking the complainant to pay Rs. 10,000/- initially for the present . The complainant having not willing to pay any money by way of bribe to get his work done, approached Lokayukta Police Inspector, Karnataka Lokayukta, Bengaluru City Division on 9.2.2007 and informed the Police Inspector about the demand for bribe being made by the DGO and filed a written complaint against the DGO as per Ex-P1.

12. On the basis of the complaint so filed by the complainant on 9.2.2007 Police Inspector, Karnataka Lokayukta, Bengaluru City Division has registered a case in Cr. No. 3/2007 under Sections 7,13(1)(d) R/w 13(2) of P.C Act, 1988 and took up investigation.
13. An entrustment proceedings was conducted in the Lokayukta office on 9.2.2007 in the presence of two panch witnesses viz., Sri G. Gnaneshwar, Typist and S. Srinivas, SDA, O/o Director of Industries and Commerce, and in the said proceedings, the bait money of Rs. 10,000/- consisting of 20 currency notes of Rs. 500/- denomination each, given by the Complainant, were smeared with phenolphthalein powder making it as tainted money, and the said tainted notes were entrusted to the Complainant asking him to give that money to the DGO when he meets him and only in case if the DGO demands for bribe. Panch witness Gnaneshwar was sent along with the complainant, as a shadow witness.

14. The complainant and the shadow witness were taken to the land grant-1 section of Revenue Department situated in room no. 625, 6th floor M.S. Building, Bengaluru and sent them to meet the DGO. The Police Inspector and his staff and another panch witness were standing in the corridor watching the happenings. At about 4pm, the complainant and shadow witness came out of room no. 625 along with another person/DGO and all the three persons walked towards the stair case and the complainant and DGO talked among themselves for about 2 to 3 minutes. While talking with the DGO, the complainant gave pre-arranged signal at about 4.05pm. On receiving the signal the Police Inspector and his staff approached the complainant and the complainant showed the DGO claiming that, he is the concerned section officer and he has received money from him. The complainant further stated before the Police Inspector ^{that} on seeing him, the DGO came out of the section and took him to the corridor and went towards staircase and near the stair case when he/complainant enquired about his file, the DGO enquired him as to whether he has brought money and when he/complainant told him that, he has brought money and gave it to DGO, the DGO having received money from the complainant with his right hand and transferred the said money to his left hand and kept that money in his left side pant pocket, by using his left hand.
15. Police Inspector introduced himself to the DGO and explained to him about the registration of a case against him and asked him to cooperate in the investigation. The DGO disclosed his name as Sri Y.N. Rudraiah, Section officer, Land Grant-1 section, Karnataka Government Secretariat, Department of Revenue.
16. Thereafter, the hand wash of the DGO was obtained asking him to wash his both hands fingers separately in two separate bowls

containing sodium carbonate solution. When DGO washed his right hand fingers and left hand fingers separately in two separate bowls containing sodium carbonate solution, the solution in both the bowls turned into pink colour. Those pink coloured solution of right hand wash and left hand wash of the DGO, were collected in two separate bottles and sealed the same.

17. Thereafter, the Police Inspector asked the DGO about the money he has received from the complainant. DGO took out the money from the left side pocket of his pant and produced the same before the Police Inspector. On verification of those notes with reference to its serial numbers, it was confirmed that, those were the notes entrusted to the complainant during the entrustment proceedings. Those notes were kept in a separate cover and sealed the same.
18. Since the corridor is a public place and many public were moving there, the Police Inspector took the DGO inside room no. 625, to conduct further proceedings.
19. On taking the DGO inside room no. 625, even the pant of the DGO was got removed by providing him an alternate pant and the left side pocket portion of the said pant when dipped in a separate bowl containing sodium carbonate solution, it gave positive result. The said pant of the DGO was also seized.
20. The Police Inspector asked the DGO to give his explanation in writing. DGO gave his explanation in writing as per Ex-P5 claiming that, the complainant on forcibly bringing him out of the section took him near the stairs and forcibly thrusting money in his hands though he never demanded any money from the complainant and further claimed that, no work of the complainant was pending with

him as he had already forwarded the relevant file of the complainant on 6.2.2007 itself, for further action.

21. DGO was asked to produce the relevant file pertaining to the complainant. DGO told the Police Inspector that, he has already forwarded the file to the Deputy Secretary and the file is available in the personal section of the Deputy Secretary. Then, the Police Inspector took the DGO to the personal section of the Deputy Secretary and the personal assistant Smt. Pramila produced the file pertaining to the complainant and the copies of the said papers in the file have been seized as per Ex-P6. A detailed mahazar was also got prepared by the Police Inspector as per Ex-P9 incorporating all the details of the trap proceedings.
22. During enquiry, the complainant has been examined as PW1 who narrated in detail explaining the circumstances which forced him to file the complaint against the DGO on 9.2.2007. He reiterated the allegations he has made against DGO in the complaint, even while giving his evidence during the enquiry. He also gave details regarding the entrustment proceedings conducted in the Police Station and entrustment of tainted notes of Rs. 10,000/- to him and preparation of entrustment mahazar as per Ex-P4 and obtaining of photographs as per Ex-P3 (1 to 4).
23. He further stated that, he having accompanied with shadow witness, met the DGO in the land grant section of Revenue Department at room no. 625, 6th floor M.S building and met the DGO. He has further stated that, on seeing him the DGO came out of the room and took him to the veranda/corridor. He has further stated that, when he enquired the DGO about his file, DGO enquired him as to whether he has brought money as per his demand and when he took

out the tainted notes from his shirt pocket and gave it to the DGO, the DGO received the said money with his right hand and transferred the said money to his left hand and kept that money in the left side pocket of his pant. He further claimed that, shadow witness Gnaneshwar also followed them from room no. 625 and was with them and watched all the happenings including the demand and receipt of money by the DGO, from him.

24. He further gave details regarding the arrival of Police Inspector on receiving ~~the~~^{his} signal and obtaining ~~the~~^{of} the hand wash of both the hands of the DGO which gave positive result and recovery of tainted notes from the left side pant pocket of the DGO since DGO himself took out the money from his left side pant pocket and produced the same before the Police Inspector. He further gave details regarding taking the DGO inside room no. 625 and made him to remove his pant and subjecting the said pant for phenolphthalein test which gave positive result and giving of written explanation by the DGO as per Ex-P6 and seizure of the file pertaining to him from the personal section of the Deputy Secretary and preparation of trap mahazar and other details of trap proceedings.

25. Shadow witness -Gnaneshwar has been examined as PW2 and he stated in detail regarding conducting of entrustment proceedings in the Police Station and entrustment of tainted notes of Rs. 10,000/- to the complainant in the said proceedings. He further stated that, he accompanied the complainant and went with him to land grant section of the Revenue department in M.S. Building. He further stated in clear terms that, when the complainant met the DGO in the said section, the DGO on seeing the complainant came out of the section and took the complainant near the stair case in the veranda and on receiving money from the complainant with his right hand

transferred it to his left hand and kept that money in the left side pocket of his pant. He also narrated in detail regarding obtaining of hand wash of both the hands of the DGO which gave positive result and recovery of tainted notes from the DGO since the DGO himself produced the tainted notes on taking out from his left side pant pocket and giving of explanation by the DGO as per Ex-P6 and seizure of file pertaining to the complainant from the personal section of the Deputy Secretary, preparation of Trap mahazar as per Ex-P9 and other details of the trap proceedings.

26. The IO who registered the complaint and conducted entrustment and trap proceedings has been examined as PW3. He gave evidence in detail regarding registration of a case on the basis of the complaint filed by the complainant on 9.2.2007 as per Ex-P1 and conducting of entrustment proceedings and entrustment of the tainted notes of Rs. 10,000/- to the complainant and preparation of entrustment mahazar. He further narrated in detail regarding the trap proceedings claiming that, he having sent the complainant and the shadow witness to room no. 625 asking them to meet the DGO, he and his staff were standing in the veranda. He has further stated that, DGO along with the complainant and shadow witness came out of room no. 625, and went near the stair case and complainant and DGO talked among themselves for some time. IO/PW3 has further claimed that, as he could observe, the DGO received money from the complainant and kept that money in his left side pant pocket and he has seen this transaction since he was standing at some distance in the veranda where he could able to see the transaction taken place between the complainant and the DGO near the stair case. Therefore, according to the evidence of IO, he is also an eye-witness to the fact of the DGO receiving tainted money from

the complainant and keeping that money in the left side pocket of his pant.

27. He narrated in his evidence in detail regarding obtaining of hand wash of both the hands of the DGO which gave positive result and further stated that, on enquiry, the DGO himself produced the money on taking out from the left side pocket of his pant. He has also stated that, on taking the DGO inside room no. 625, and on providing him an alternate pant, the pant worn by the DGO was got removed and subjected the left side pocket portion of the said pant, to phenolphthalein test which gave positive result. He gave further details regarding seizure of relevant file pertaining to the complainant, from the personal section of the Deputy Secretary, giving of written explanation by the DGO as per Ex-P6, obtaining of photographs and preparation of the trap mahazar etc.,
28. He further gave details regarding the details of investigation he has conducted in sending the seized articles to FSL and obtaining of chemical examiner's report as per Ex-P12 and securing of service particulars of DGO as per Ex-P13 and filing of charge sheet against the DGO, on obtaining necessary sanction from the Competent Authority.
29. As I have discussed earlier, DGO never participated in the proceedings during the examination of PWs 1 to 3 and failed to take steps to get the witnesses cross examined through his Advocate. Even the Advocates representing the DGO never bothered to appear before this authority to cross examine these witnesses on behalf of the DGO. Despite granting sufficient opportunity, DGO never bothered to appear before this authority and failed to contest this enquiry. Hence, the evidence given by PW1 to PW3 are not disputed

or denied on behalf of the DGO and hence I have no hesitation to place reliance on the unchallenged evidence of PW1 to PW3 in order to come to the conclusion that, DGO having demanded bribe of Rs. 10,000/- from the complainant received the same from the complainant on the day of trap i.e., on 9.2.2007 and tainted notes were recovered from his pant pocket, which fact has been spoken to by PW1 to PW3. Since the evidence of PW1 to PW3 are not challenged on behalf of the DGO, there is nothing to disbelieve their evidence given before this authority.

30. The DGO while filing his written statement has taken up a contention that, the complainant is an habitual person who has filed similar complaints against various Government servants and in support of his contention, he has produced copies of certain FIRs. Though he has taken up such a contention, he never bothered to establish those contention by contesting this enquiry and by producing evidence in support of his contention, by adducing his defence evidence.
31. Further, the DGO in his written statement has taken up a contention that, the complainant made him to come out of the section under the pretext of giving some clarification to his relative and tried to thrust the tainted currency notes into his left side pant pocket and due to his resistance the currency notes fell down and the Police Inspector made him to pick up those notes and he has been falsely implicated in a false trap. But, while giving his written explanation as per Ex-P6, he has claimed that, the complainant on making him to come out of the section, forcibly thrust money in his hands and the money was recovered by the police from his hand. He said nothing in his explanation as to how the tainted notes were found in his left side pant pocket which he himself taken out the

money from his pant pocket and produced the same before the Police Inspector. The contradictory version taken by the DGO in his written statement and in his written explanation is also another factor which made me to believe the unchallenged evidence of PW1 to PW3.

32. DGO has taken up a further contention that, no work of the complainant was pending with him as on 9.2.2007 as he had already forwarded the file to the higher officers. On perusing the documents seized during the trap proceedings as per Ex-P6, DGO having put up a note on 7.2.2007 at para no. 4 to 6 in file no. RD 15 LGK 2007 pertaining to the complainant, submitted the file to the Under Secretary who inturn submitted the file to the Deputy Secretary. The file was pending with the Deputy Secretary as on 9.2.2007. Since the DGO has put up the file on 7.2.2007 itself, by making favourable recommendation, he was aware that, favourable orders will be passed in the said file and because of this reason, the possibility of he demanding bribe from the complainant and receiving Rs. 10,000/- from the complainant on 9.2.2007, cannot be ruled out. Therefore, his contention that, since he has already put up the file on 7.2.2007 itself, no work of the complainant was pending with him on 9.2.2007 and hence there was no occasion for him to demand money from the complainant, cannot be believed.

33. Hence, I have no hesitation to conclude that, the evidence of PW1 to PW3 and the documentary evidence produced in this case are sufficient to arrive at a conclusion that, the DGO having demanded bribe from the complainant received Rs. 10,000/- by way of bribe from the complainant on 9.2.2007 and the said bribe amount received by him was recovered from the pant pocket of the DGO on the day of trap and even the hand wash of both the hands of DGO

since gave positive result and also considering the fact that, he admitted in his written explanation, Ex-P6 about complainant met him on that day in the section and taken up a contention that, the complainant has forcibly thrust money in his hands which he failed to substantiate that contention, I am of the considered opinion that, the disciplinary authority was able to establish the charges against the DGO and accordingly, I answer point no.1 in the affirmative.

Point No.2:

34. 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 Y.N. Rudraiah, the then Section officer, Land Grant-1 section, Revenue Department, Karnataka Government Secretariat, , M.S. Building, Bengaluru .

ii) As per the service particulars at Ex-P13, the date of birth of the DGO is 18.10.1952 and DGO has already retired from service on 31.10.2012.



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

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

PW-1	Sri Thimmarayappa (complainant)
PW-2	Sri Gnaneshwar (shadow witness)
PW-3	Sri Irshad Ahemmad Khan (investigation officer)

II. Witnesses examined on behalf of the DGO:

Nil

III Documents marked on behalf of D.A.

Ex.P-1	Certified copy of the complaint
Ex.P-2	Certified copy of the sheet of paper containing note numbers
Ex.P-3 & 8	Certified copy of the photographs
Ex.P-4	Certified copy of entrustment mahazar
Ex.P-5	Certified copy of written statement of DGO
Ex.P-6	Certified copy of the records seized by IO
Ex.P-7	Certified copy of the rough sketch
Ex.P-9	Certified copy of the trap mahazar
Ex.P-10	Certified copy of the extract of attendance register
Ex.P-11	Certified copy of the FIR
Ex.P-12	Certified copy of the chemical examiner report
Ex.P-13	Certified copy of the service particulars of DGO

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.

