

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

NO:LOK/INQ/14-A/399/2011/ARE-3

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001,
Date: 30/12/2017

RECOMMENDATION

Sub:- Departmental inquiry against Sri Srinivasa Suresh Rao Sabnis, Village Accountant, Hirebagewadi Village, Belagavi District.

Ref:- 1) Government Order No.ಕಂಇ 135 ಬಿಡಿಎ 2011, Bengaluru dated 29/10/2011

2) Nomination order No.LOK/INQ/14-A/399/2011, Bengaluru dated 10/11/2011 of Upalokayukta-1, State of Karnataka, Bengaluru

3) Inquiry Report dated 27/12/2017 of Additional Registrar of Enquiries-3, Karnataka Lokayukta, Bengaluru

The Government by its Order dated 29/10/2011, initiated the disciplinary proceedings against Sri Srinivasa Suresh Rao Sabnis, Village Accountant, Hirebagewadi Village, Belagavi 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/399/2011, Bengaluru, Dated 10/11/2011 nominated Additional Registrar of Enquiries-3, Karnataka Lokayukta, Bengaluru, as Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGO for the alleged charge of misconduct, said to have been committed by him.

3. The DGO Sri Srinivasa Sureshrao Sabnis, Village Accountant, Hirebagewadi Village, Belagavi District was tried for the following charge:-

“That you, Sri Srinivasa Sureshrao Sabnis (hereinafter referred to as Delinquent Government Official, in short DGO), while working as the Village Accountant, Hirebagewadi Village, Belgaum District demanded and accepted a bribe of Rs.2000/- on 02/03/2009 from Complainant Sri Avinash Shivaputrappa Aralikatte R/o. Hirebagewadi in Belagavi Taluk & District for making entries in the revenue records in favour of the Complainant pertaining to the land bearing Sy. No. 401/2 of Hirebagewadi village of Belgaum Taluk and District measuring 1 acre 24 guntas, 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 Srinivasa Sureshrao Sabnis, Village Accountant, Hirebagewadi Village, Belagavi 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. 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 is due to retire from service on 31/8/2041.

7. Having regard to the nature of charge (demand and acceptance of bribe) proved against DGO Sri Srinivasa Suresh Rao Sabnis, it is hereby recommended to the Government to impose penalty of compulsory retirement from service on DGO Sri Srinivasa Suresh Rao Sabnis, Village Accountant, Hirebagewadi Village, Belagavi District.

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

Connected records are enclosed herewith.


(JUSTICE N. ANANDA)
Upalokayukta-1, 20/12
State of Karnataka,
Bengaluru

KARNATAKA LOKAYUKTA

No. LOK/INQ/14-A/399/2011/ARE-3

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

Date: 27.12.2017

Enquiry report

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

Sub: Departmental Enquiry against Sri Srinivas Suresh Rao Sabnis, Village Accountant, Hirebagewadi Village, Belgaum District - reg.

- Ref: 1. Report under Section 12(3) of the Karnataka Lokayukta Act, 1984, in No. Compt/Uplok-1/BGM/233/2010/DRE-5 dated 26.9.2011
2. Government Order No. RD 135 BDP 2011 Bengaluru dated 29.10.2011
3. Nomination Order No.LOK/INQ/14-A/399/2011 dated 10.11.2011 of Hon'ble Upalokayukta-1, Karnataka State, Bengaluru.

1. The complainant Sri Avinash Shivaputrappa Aralikatte R/o Hirebagewadi in Belgaum Taluk & District (hereinafter referred to as 'complainant') has filed a complaint to Lokayukta police, Belgaum on 2.3.2009 against Sri Srinivas Suresh Rao Sabnis, Village Accountant, Hirebagewadi Village, Belgaum District (hereinafter referred to as 'DGO' for short) making allegations against the DGO that, DGO is demanding him to pay Rs. 2,000/- as bribe in order to change the khatha and enter his name in the record of rights pertaining to land bearing sy. no. 401/2 measuring 1.24 acres, in terms of the gift deed dated 29.2.2008 executed by his brother Eranna, in his favour.

2. On registering a case on the basis of the said complaint, a trap was held on 2.3.2009 at Pranam tea stall near the office of the Tahsildar, Belgaum wherein, the DGO having demanded bribe from the complainant, received Rs. 2000/- from him by way of bribe. The tainted money of Rs. 2000/- was recovered from the left side shirt pocket of the DGO. Since it was revealed during investigation that, the DGO has demanded bribe of Rs. 2000/- and received the same from the complainant, in order to attend an official work of the complainant i.e., change the khatha of certain land in the name of the complainant in terms of the gift deed executed by his brother with respect to the said land, 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. 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 Government of Karnataka i.e., the Revenue Department by its order in No. RD 135 BDP 2011 Bengaluru dated 29.10.2011 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 10.11.2011 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. Srinivasa Suresharao Sabnis (here in after referred to as Delinquent Government Official, in short DGO), while working as the Village Accountant, Hirebagewadi Village, Belgaum District demanded and accepted a bribe of ₹ 2000/- on 02/03/2009 from complainant Sri. Avinash Shivaputrappa Aralikatte R/o Hirebagewadi in Belgaum Taluk & District for making entries in the revenue records in favour of the complainant pertaining to the land bearing sy.no. 401/2 of Hirebagewadi Village of Belgaum Taluk and District measuring 1 acre 24 guntas 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. Avinash Shivaputrappa Aralikatte R/o Hirebagewadi in Belgaum Taluk & District filed a complaint on 02/03/2009 before the Police Inspector, Karnataka Lokayukta, Belgaum alleging that the land bearing sy. no. 401/2 measuring 3 acres 9 guntas was purchased in the name of his elder brother Eranna S/o Shivaputrappa Aralikatti in the year 2004 and that in the year 2008 his elder brother gifted 1 acre 24 guntas to him by executing a gift deed and that thereafter the file was sent to Sri. Srinivasa Suresharao Sabnis, Village Accountant, Hirebgewadi Village, Belgaum District (here in after referred to as Delinquent Government Servant, in short DGO) from the O/o Tahsildar, Belgaum for making entries in his (complainant) name in the revenue records pertaining to the land bearing sy. no. 401/2 measuring 1 acre 24 guntas situated at Hirebagewadi village of Belgaum Taluk and that the DGO told his elder brother to ask the complainant to meet him and that he contacted

the DGO over telephone and at that time the DGO demanded a bribe of Rs. 3000/- for mutating his name and that after bargain he agreed for a bribe of Rs. 2000/- and that he told the DGO that he would come to him on 2/03/2009 and that when he contacted the DGO over mobile on 02/03/2009, the DGO asked him to come to the O/o Tahsildar, Belgaum and that accordingly he went to the Tahsildar office, Belgaum on 02/3/2009 and met the DGO and enquired with him about his work and at that time again DGO demanded Rs. 2000/- stating that Rs. 1080/- is towards the fees of the Government he would retain Rs. 920/- for expenses.

As the complainant was not willing to pay any bribe to the DGO, he went to Police Inspector, Karnataka Lokayukta Belgaum on 02/03/2009 and lodged a complaint. On the basis of the same a case was registered in Belgaum Lokayukta Police Station Cr. No. 02/2009 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 02/03/2009 by the Investigating Officer after your demanding and accepting the bribe amount of ₹ 2000/- 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 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 ₹ 2000/- from the complainant on 02/03/2009 for doing an official act i.e., for making entries in the revenue records in favour of the complainant pertaining to the land bearing sy.no. 401/2 of Hirebagewadi Village of Belgaum Taluk and District measuring 1 acre 24 guntas. 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 an advocate to appear on his behalf and to defend him, in the enquiry.
5. The DGO has filed his written statement on 28.1.2013 denying the allegations made against him in the AOC contending that, he never demanded or accepted any amount by way of bribe from the complainant and he has been falsely implicated.
6. During enquiry, on behalf of the Disciplinary authority, 2 witnesses have been examined as PW1 and PW2 and 4 documents came to be marked as Ex-P1 to P4. The complainant could not be examined before this authority since, he could not be secured despite issuing summons and warrants against him. Even the IO could not be secured before this authority as the summons and warrants issued against him though served on him, he failed to appear before this

authority. Hence, without examining the complainant and the IO, the case of the disciplinary authority was ordered to be closed. After closure of evidence on behalf of disciplinary authority, second oral statement of the DGO was recorded. Since, DGO desired to lead defence evidence by examining himself and also certain witnesses in order to put forth his defence, permission was granted to him accordingly. DGO has examined himself as DW-1 and also examined two witnesses viz., Bheemappa Yachareppa Shirabadagi and Mahanthesh Mahaning Ghodageri as DW-2 and DW-3 in support of his defence. But no documents are produced by the DGO in support of his defence.

7. 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.
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 Village Accountant, Hirebagewadi Grama Panchayath, Belgaum District, during the relevant period.

11. Since the complainant could not be examined before this authority, the complaint filed by him could not be marked in this enquiry. But, the entire text of the complaint has been incorporated in the entrustment mahazar Ex-P1. Therefore, though the complaint filed by the complainant is not marked in this proceedings, the entire text of the complaint incorporated in the entrustment mahazar can be looked into, in order to consider the nature of the allegations made by the complainant, against the DGO.
12. The complainant in his complaint dated 3.2.2009 has stated that, an extent of 3.09 acres of land in sy.no. 401/2 of Hirebagewadi village, was purchased in the name of his elder brother Eranna Aralikatti in the year 2004. His brother Eranna Aralikatti has gifted $\frac{1}{2}$ portion of the said land by executing a gift deed dated 29.2.2008 in his favour (in favour of the complainant). Hence, he filed an application to the office of the Tahsildar, Belgaum requesting for change of khatha of the said 1.24 acres of land in sy. no. 401/2 which was gifted in his favour by his brother and also to enter his name in the RTC of the said land. The said application was forwarded to the DGO for publication of notice and to take necessary steps and to submit report on that application. Hence, the said application of the complainant was pending with the DGO. It is the further allegations in the complaint that, the DGO having secured the presence of his brother Eranna obtained his signature and asked Eranna to send his brother/complainant to meet him/DGO. Eranna met the complainant on 15.12.2009 and asked him to meet the DGO as he want to discuss with him about his application. Hence the complainant called the DGO on his mobile and enquired him about his application. It is the allegation of the complainant that, the DGO having told him that, his application is pending with him, asked him to give Rs. 3000/- to him as expenditure in order to

process his application. The DGO pleaded his inability to pay that much amount and requested the DGO to reduce his demand. The DGO having scaled down his demand, insisted the complainant to pay Rs. 2000/- in order to consider his application. The complainant told the DGO that, he would come with the money on 2.3.2009. The complainant contacted the DGO on his mobile on 2.3.2009 to enquire ^{about} his place of availability and the DGO asked him to come near the Tahsildar office, Belgaum as he will be coming there in connection with some work. The complainant when met the DGO near the Tahsildar office in the morning of 2.3.2009, the DGO insisted him to pay Rs. 2000/- as demanded by him telling him that, in order to attend his work, he has to pay Rs. 1080/- towards Government fees and Rs. 920/- towards expenses, thus asking the complainant to pay a total sum of Rs. 2000/- to attend his work. The complainant since not willing to pay any money by way of bribe to the DGO, he came to Lokayukta Police Station on the same day at about 1pm and filed a complaint against the DGO.

13. On the basis of the complaint so filed by the complainant on 2.3.2009 the Police Inspector, Karnataka Lokayukta, Belgaum has registered a case in Cr. No. 2/2009 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 on 2.3.2009 in the presence of two panch witnesses viz., Sri Vagesha Hiremath, SDA, O/o RTO, Belgaum and Sri Sudheer Mutagekar, FDA, O/o Assistant Conservator of Forest, Watershed Development Department, Belgaum and in the said proceedings, the bait money of Rs. 2000/- consisting of 4 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 Vagesha Hiremath was sent along with the complainant, as a shadow witness.

15. The Police Inspector gave one audio player to the complainant, asking him to switch on the same when he meets the DGO and to record the conversation that may take place between him and the DGO, when he meets the DGO.
16. The complainant and the shadow witness were taken to Hirebagewadi at about 4pm and having parked the vehicle on Belagavi Bylahongal road, the complainant and shadow witness were sent to the office of the DGO in Hirebagewadi. The complainant accompanied with the shadow witness went inside the office of the DGO (O/o Village Accountant) but the DGO was not there in his office. On enquiry the complainant was informed that, the DGO had been to the O/o Tahsildar, Belgaum in connection with a meeting. The Police Inspector asked the complainant to contact the DGO on his mobile to enquire about his place of availability. The complainant when contacted the DGO on his mobile, the DGO asked him to come near the office of the Tahsildar, Belgaum as he will be available there. Hence, the Police Inspector brought the complainant and others to Belgaum and sent the complainant and shadow witness to the office of the Tahsildar to meet the DGO. Since the DGO was not to be seen in the office of the Tahsildar, the complainant again contacted the DGO on his mobile and the DGO asked him to come near Pranam Tea Stall as he is having tea in the said tea stall. Hence the complainant accompanied with the shadow witness, came near the tea stall and the complainant met the DGO and enquired him about his application. The DGO asked him about

the money as demanded by him. The complainant gave the tainted notes of Rs. 2000/- to the DGO. DGO having received that, money from the complainant counted the same by using his both hands and kept that money in the left side pocket of his shirt. Thereafter, the complainant gave pre-arranged signal to the Police Inspector. The shadow witness who was with the complainant has also seen all these happenings taken place between the complainant and the DGO near Pranam tea stall situated near the Taluk office, Belgaum. On receiving the signal, the Police Inspector and his staff and another panch witness approached the complainant. The complainant showed the DGO near the said Pranam tea stall claiming that, he has received money from him.

17. 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. The DGO disclosed his name as S.S. Sabnis, Village Accountant, Hirebagewadi.
18. Thereafter, the hand wash of the DGO was obtained asking him to wash his both hand 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.
19. Thereafter, the Police Inspector asked the DGO about the money he has received from the complainant. DGO having taken out Rs. 2000/- from his left side shirt 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. Since it was a public place, the DGO was taken to a nearby shop to conduct further proceedings.

20. Even the shirt of the DGO was got removed by providing him an alternate shirt and the left side pocket portion of the said shirt when dipped in a separate bowl containing sodium carbonate solution, it gave positive result. The said shirt of the DGO was also seized.
21. The Police Inspector asked the DGO to give his explanation in writing. DGO gave his explanation in writing as per Ex-P3 admitting receipt of Rs. 2000/- from the complainant and also admitting that, the vardi pertaining to the complainant has been received by him and it is pending with him.
22. DGO was asked to produce the relevant file pertaining to the application filed by the complainant and other documents pertaining to the change of khatha of the land as requested by the complainant. The DGO informed the Police Inspector that, all those documents are available in his office at Hirebagewadi. Subsequently those documents were seized from the office of the DGO, during the investigation.
23. During enquiry, the complainant could not be secured before this authority despite issuing summons and warrants against him as he is not residing in the given address. Even the arrest warrant issued to the complainant could not be executed and returned unexecuted with shara that, the complainant is not available in the given address for arrest.

24. The shadow witness who is examined as PW-1 has narrated in detail regarding the conducting of the entrustment proceedings in the Police Station and entrustment of Rs. 2000/- to the complainant in the said proceedings and preparation of entrustment mahazar as per Ex-P1. Even PW2 another panch witness who is an attester to the entrustment mahazar has also narrated about these details in his evidence.
25. PW1 has further stated that, he accompanied the complainant and went along with him and went to Hirebagewadi and since the Village Accountant was not there in his office and since they were told that, the DGO is in the office of the Tahsildar, Belgaum to attend a meeting, they returned to Belgaum. He has further deposed that, since the DGO could not be seen even in the Tahsildar office, Belgaum, the complainant contacted the DGO on his mobile and the DGO asked him to come near Pranam tea stall claiming that, he is having tea in the said tea stall and hence the complainant went near the Pranam tea stall which is situated near the Taluk office, Belgaum and he/PW1 also accompanied him. PW1 has further stated that, the DGO was found having tea near the said tea stall and when the complainant enquired the DGO about his work of change of khatha, the DGO enquired the complainant as to whether he has brought money and when the complainant gave tainted notes to the DGO, he/DGO having received it, counted the notes by using his both hands and kept that money in his shirt pocket. He/PW1 has further stated that, he watched all these happenings by standing by the side of the complainant near the said tea stall.
26. Both PW1 and PW2 have narrated the further details of the trap proceedings stating that, on receiving signal from the complainant

the Police Inspector and his staff went near the Pranam tea stall and since the complainant showed the DGO, the Police Inspector took him to his custody and took him to a nearby shop/Sriram furniture. They further deposed about, obtaining of hand wash of both the hands of the DGO which gave positive result and also recovery of tainted notes of Rs. 2000/- from the DGO since on enquiry DGO himself took out the tainted notes from his shirt pocket and produced the same before the Police Inspector. They further deposed regarding giving of written explanation by the DGO as per Ex-P3 and preparation of trap mahazar as per Ex-P2 and other details of the trap proceedings.

27. Both PW1 and PW2 have been thoroughly cross examined on behalf of the DGO by his learned counsel. Various suggestions have been put to them but, all those suggestions have been categorically denied by both PW1 and PW2. A suggestion was put to PW1 suggesting him that, one Mahantesh introduced the complainant to the DGO. PW1/shadow witness admitted this suggestion. A further suggestion was put to PW1 that, the complainant placed 4 currency notes into the shirt pocket of the DGO and the DGO took out that amount allegedly kept by the complainant, from his shirt pocket and shouted at the complainant as to why he has kept money in his shirt pocket and made galata on the complainant. A further suggestion was put to PW1 suggesting him that, one person who was with the DGO, made galata and told the Police Inspector that, the complainant has forcibly kept the amount in the shirt pocket of the DGO. But, these suggestions put to PW1, have been categorically denied by him. Even similar suggestions have been put to PW2 suggesting him that, the DGO was taking tea with his friend near Pranam tea stall. But PW2 has reiterated even in his cross examination regarding seizure of tainted notes from the shirt pocket

of the DGO since DGO himself took out those notes from his shirt pocket and produced the same before the Police Inspector.

28. DGO gave his defence evidence by examining himself as DW-1 and stated in his evidence tendered by way of sworn affidavit in lieu of his chief examination, which reads as follows:

“When I was in the Tahasildar office Belagavi my classmate and old friend Bhimappa Yachareppa Shiraabadagi met me and we both went for having tea to Hotel Pranam and when we were having tea at that time Mahantesh Mahaning Ghodageri and other two persons came to Pranam Hotel and Mahantesh Ghodageri introduced to me to other two persons by saying that I am the Village Accountant of Hirebagewadi. Immediately one of them counted and took four currency note of Rs. 500/- denomination and kept in my left side shirt pocket and when I tried to ask that person why he put those notes in my shirt pocket at that time six Lokayukta persons came there and took me to their custody and directed my friend Bhimappa Yallappa Shirabadagi and Mahantesh Mahaning Ghodageri to go away from that place and accordingly both went away.

After that forcibly my statement was recorded and false trap panchanama conducted subsequently I came to know that, the person who inserted notes in my left side shirt pocket is one Avinash Aralikatti who has filed false complaint against me.”

29. DGO in his defence evidence has taken up a specific contention that, while he was having tea with his friend Bheemappa Shirabadagi, one Mahanthesha Godageri introduced the complainant to him and the complainant forcibly kept money in the denomination of Rs. 500/- in his shirt pocket. In support of his contention he has examined Bheemappa Shirabadagi as DW-2 and Mahanthesha Godageri as DW-3. Both DW2 and DW3 have supported the defence version of the DGO stating that, the complainant forcibly thrust money in the shirt pocket of the DGO, while the DGO was having tea at Pranam tea stall.

30. DW-1 to DW-3 have been cross examined by the learned Presenting Officer. The DGO was cross examined by putting various suggestions to him, denying the evidence given by him in support of his defence. Even DW2 and DW3 have been cross examined suggesting them that, they are giving false evidence at the instance of the DGO and to help him and to save him from the consequences of this enquiry. But such suggestions put to DW2 and DW3 during their cross examination have been denied by them.

31. PW2 the attester to the trap mahazar has categorically stated in his evidence that, DGO when asked to give his explanation in writing, gave his written explanation as per Ex-P3 which reads as follows:

“ಶ್ರೀ ಅವಿನಾಶ ಶಿವಪುತ್ರಪ್ಪ ಅರಳಿಕಟ್ಟೆ ಸಾ-ಬಾಗೆವಾಡಿ ಇವರು ನನಗೆ 2000/-ರೂ. ಕೊಟ್ಟರುತ್ತಾರೆ ಅವರ ವರ್ಧಿ ಬಂದಿರುತ್ತದೆ ಕಾರಣ ಅವರ ನನಗೆ ಹಣವನ್ನು ನೀಡಿದರು ದಿನಾಂಕ 2.3.2009 ರಂದು ನನಗೆ ಚಹಾ ಅಂಗಡಿ ಹತ್ತಿರ ಕೊಟ್ಟರುತ್ತಾರೆ.”

32. But, though this fact of giving of explanation in writing as per Ex-P3 was not denied while cross examining PW-2 and though no such contention was taken by DGO that, his written explanation was forcibly obtained from him by the Police Inspector and no such suggestion was put to PW2 during his cross examination, DGO while giving his defence evidence has taken up such a contention claiming that, his written explanation was obtained forcibly from him during the trap proceedings.

33. DGO while giving his reply filed on 8.9.2011 to the observation note served on him, has not taken up such a contention that, the complainant Avinash has forcibly thrust money in his shirt pocket and his written explanation was forcibly obtained from him by the

Police Inspector during the trap proceedings. Even while filing his written statement before this authority on 28.01.2013, the DGO has not taken such a defence contention claiming that, the money was forcibly kept in his shirt pocket by the complainant while he was having tea near Pranam tea stall and even he has not taken up such contention in his written statement that, the written explanation was forcibly obtained from him during the trap proceedings. Even while cross examining the shadow witness no suggestion was put to him/PW1 by the learned counsel for DGO suggesting that, the Police Inspector forcibly obtained written explanation from the DGO during the trap proceedings. But only while cross examining PW-2 such a contention was taken, which DW-1 has reiterated that contention in his defence evidence. Though two witnesses have been examined in support of the contention taken by the DGO, their evidence cannot be believed as the DGO never taken up such a contention on earlier occasions in his written statement and also in his reply to the observation note. Therefore, it can be concluded that, the DGO has taken up such a false contention, just to save himself from the consequences of this enquiry and it is an afterthought.

34. The fact of recovery of tainted notes from the shirt pocket of the DGO is not at all disputed. The fact that the complainant met the DGO near Pranam tea stall is also not disputed. Moreover, the DGO while giving his written explanation has admitted in clear terms about receipt of Rs. 2000/- from the complainant and also the file relating to the complainant since received by him, was pending with him which fact has not been disputed by him during enquiry. Therefore, though the DGO tried to take up a defence that, the complainant has forcibly thrust money in his shirt pocket, he has not produced any evidence to show that, there was animosity between him and the complainant and the complainant was having

intention to falsely implicate him in a false trap case. For the first time, while giving his defence evidence DGO has taken up a contention, regarding presence of DW-2 with him while he was having tea near Pranam tea stall and also taken up a contention that, DW-3 introduced the complainant to him and he was not knowing the complainant and he was not having any acquaintance with the complainant prior to that day. But I have declined to accept the defence contention of the DGO and I am of the considered opinion that, the defence evidence of DGO and the evidence given by DW2 and DW3 in support of DGO are not worth believing as, such a defense was taken only by way of an afterthought and no such explanation by way of his defense was taken while filing written statement. Therefore, I decline to believe the evidence of DW-1 to DW3 and I hold that, the explanation given by the DGO by way of his defence during his defense evidence explaining the circumstances as to how the tainted notes came to be kept in his shirt pocket, are not plausible explanation.

35. Hence, rejecting the defense evidence adduced by the DGO and his two witnesses, if I consider the evidence of PW1 and PW2, since the fact of recovery of tainted notes from the shirt pocket of the DGO has been established through the evidence of PW1 and PW2 and the DGO since gave his explanation in writing as per Ex-P3 during the trap proceedings, admitting receipt of Rs. 2000/- from the complainant, these materials are sufficient to conclude that, the DGO having demanded Rs. 2000/- from the complainant by way of bribe to show an official favour to him i.e., to attend the application of the complainant forwarded to him from the office of the Tahsildar, and received Rs. 2000/- by way of bribe from the complainant on the day of trap and the said money he has received from the complainant by way of bribe, was recovered from his shirt pocket

during the trap proceedings and further the DGO admitted the fact of receipt of Rs. 2000/- from the complainant in his written explanation Ex-P3 admitting that, the application of the DGO was pending with him as on that day, these materials are sufficient to conclude that, the DGO by demanding and accepting bribe of Rs. 2000/- from the complainant to do an official act, committed misconduct and accordingly I hold that the disciplinary authority was able to establish the charge against the DGO and I answer point no.1 accordingly in the affirmative.

Point No.2:

36. 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 Srinivas Suresh Rao Sabnis, Village Accountant, Hirebagewadi Village, Belgaum District.
- ii) As per the first oral statement, the date of birth of the DGO is 11.08.1981 and he is due for retirement on 31.08.2041.



(S. Renuka Prasad)

Additional Registrar of Enquiries-3
Karnataka Lokayukta, Bengaluru.

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

PW-1	Sri Vagesh Hiremath (shadow witness) (original)
PW-2	Sri Sudhir Yallappa Mutagekar (panch witness) (original)

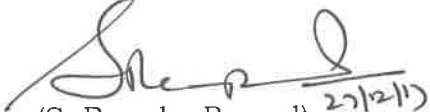
II. Witnesses examined on behalf of the DGO:

DW-1	Sri Srinivas Suresh Rao Sabnis (DGO)
DW-2	Sri Bhimappa Yachareppa Shirabadagi
DW-3	Sri Mahanthes Mahaning Ghodageri

III Documents marked on behalf of D.A.

Ex.P-1	Certified copy of the entrustment mahazar
Ex.P-2	Certified copy of the trap mahazar
Ex.P-3	Certified copy of the statement of the DGO
Ex.P-4	Certified copy of the records seized by IO

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


(S. Renuka Prasad) 27/2/11
Additional Registrar of Enquiries-3,
Karnataka Lokayukta, Bengaluru.

