



KARNATAKA LOKAYUKTA

No.LOK/INQ/14-A/430/2013/ARE-3 Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001.
Dated 03.08.2019

RECOMMENDATION

Sub:- Departmental inquiry against Shri
H.T.Shanmukha, Surveyor, Taluk Office, Udupi
Taluk and District - reg.

Ref:- 1) Government Order No.RD 150 LRS(3) 2013
dated 10.10.2013.

2) Nomination order No. LOK/INQ/14-A/
430/2013 dated 26.10.2013 of Upalokayukta,
State of Karnataka.

3) Inquiry report dated 31.07.2019 of Additional
Registrar of Enquiries-3, Karnataka
Lokayukta, Bengaluru.

~~~~~

The Government by its order dated 10.10.2013 initiated  
the disciplinary proceedings against Shri H.T.Shanmukha,  
Surveyor, Taluk Office, Udupi Taluk and 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/430/2013 dated 26.10.2013 nominated Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct departmental inquiry against DGO for the alleged charge of misconduct, said to have been committed by him. Subsequently, by Nomination Order No. UPLOK-2/DE/2016 dated 03.08.2016 nominated Additional Registrar of Enquiries-3, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to continue departmental inquiry against DGO for the alleged charge of misconduct, said to have been committed by him.

3. The DGO - Shri H.T.Shanmukha, Surveyor, Taluk Office, Udupi Taluk and District, was tried for the following charges :-

“That, you-DGO Sri H.T. Shanmukha S/o Thimmappa, H.N. while working as Surveyor in Taluk Office at Udupi Taluk and district, during the year 2012, the complainant Sri H. Nagaraj Bhat's mother-in-law Smt. Lalithamma applied for survey and fix the boundaries of her land bearing Sy.No. 144/35, measuring 0.36 guntas situated in Nadasalu village on 16/05/2011 and paid a

necessary fee on 24/05/2011 vide receipt NO. 1531302. Even though one year was elapsed no action was taken in the office of the Tahsildar, Udupi. Therefore, on the instructions of his mother-in-law, complainant approached the survey section in the office of Tahasildar, Udupi, on 07/05/2012. At that time, officials in the said branch told the complainant to come on the next day. In this way in spite of several visits no action was taken by the survey branch on the application of his mother-in-law. Therefore, he met the Tahsildar Udupi and enquired about the application of his mother-in-law on 23/05/2012 at that time, Tahsildar called the concerned clerk and enquired about not attending the work of the complainant and ordered him to attend the said work immediately. Therefore, again he went to Taluk Office, Udupi on 01/07/2012 and enquired about the application of his mother-in-law. Then the concerned clerk told him that, he sent the said file to surveyor Shanmukha and gave the Mobile number of the said surveyor with an instruction to contact the said surveyor. Therefore, complainant phoned to you-DGO, by your mobile NO. 97405 78003 on 05/07/2012 and enquired about surveyor. Further you told that, date of survey is fixed on 24/12/2012 and gave the notices to the adjacent land owners in his hand with an instruction to serve to the adjacent land owners and asked him to meet you-DGO on 06/07/2012. Accordingly complainant met you-DGO on the morning of 06/07/2012, at that time, you demanded an illegal gratification. You-DGO visited the land of the complainant's mother-in-law at about 9 a.m. on 24/7/2012 measured and fixed the boundaries. Thereafter, you demanded a bribe of Rs. 2,000/-from complainant in Vijay Bhavan Hotel, Padubidre. On complainant telling that, he had no money, for that you-DGO told him

that, he must have collected this information from others and he should not say so after attending his work. Therefore, complainant told you-DGO that, he will meet you after contacting by phone on the next day. Thereafter, you-DGO demanded and accepted a bribe of Rs. 2,000/- from the complainant at about 2.35 p.m. on 25th July 2012 in your office. Thereby, you being a Government servant failed to maintain absolute integrity besides devotion to duty and acted in a manner un-becoming of a Government Servant and thus committed misconduct as enumerated U/R 3(1) of Karnataka Civil Service (Conduct) Rules 1966. "

4. The Inquiry Officer (Additional Registrar of Enquiries- 3) on proper appreciation of oral and documentary evidence has held that, the Disciplinary Authority has '*proved*' the above charge against the DGO - Shri H.T.Shanmukha, Surveyor, Taluk Office, Udupi Taluk and District."

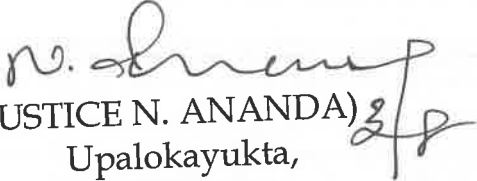
5. On re-consideration of report of inquiry, I do not find any reason to interfere with the findings recorded by the Inquiry Officer. Therefore, it is hereby recommended to the Government to accept the report of Inquiry Officer.

6. As per the First Oral Statement of DGO furnished by the Inquiry Officer, the DGO - Shri H.T.Shanmukha, is due to retire from service on 31.07.2032.

7. Having regard to the nature of charge (demand and acceptance of bribe) 'proved' against the DGO - Shri H.T.Shanmukha, it is hereby recommended to the Government to impose penalty of 'compulsory retirement from service on the DGO - Shri H.T.Shanmukha'.

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

Connected records are enclosed herewith.

  
(JUSTICE N. ANANDA)  
Upalokayukta,  
State of Karnataka.



**KARNATAKA LOKAYUKTA**

No. LOK/INQ/14-A/430/2013/ARE-3

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

Date: 31.07.2019

**Enquiry report**

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

Sub: Departmental Enquiry against Sri H.T. Shanmukha S/o  
H.N. Thimappa, Surveyor, Taluk Office, Udupi - reg

Ref: 1. Report under Section 12(3) of the Karnataka Lokayukta  
Act, 1984, in No. Compt/Uplok/MYS/981/2013/ARE-7  
dated 21.8.2013

2. Government order No. RD 150 LRS (3) 2013 dated  
10.10.2013

3. Nomination Order No.LOK/INQ/14-A/430/2013 dated  
26.10.2013 of Hon'ble Upalokayukta, Karnataka State,  
Bengaluru.

\*\*\*\*\*

1. One Sri. H. Nagaraj Bhat, R/o Banashankari Nilaya, Enagudde, Katapadi, Udupi Taluk and District (hereinafter referred to as 'complainant') has filed a complaint to Lokayukta police, Udupi on 25.7.2012 against Sri H.T. Shanmukha S/o H.N. Thimappa, Surveyor, Taluk Office, Udupi (hereinafter referred to as 'DGO' for short) making allegations against him that, he/DGO is demanding him to pay bribe of Rs. 2000/- towards the task of survey conducted by him in respect of the land bearing sy.no. 144/35 extent 0.36 guntas belonged to Smt. Lalithamma who is none other than his <sup>mother-in-law</sup> ~~maternal-aun~~ and in order to issue the sketch prepared by him in respect of the said land. He/complainant having recorded the

conversation with the DGO regarding demand for bribe being made by him approached Lokayukta police, Udupi and filed a complaint.

2. On registering a case on the basis of the said complaint, a trap was held on 25.7.2012 in the survey section of the O/o Tahsildar, Udupi wherein, the DGO having demanded bribe from the complainant, received Rs.2000/- from the complainant by way of bribe. The bribe amount was recovered from the cushion he used to sit on his chair, during the trap proceedings. Since it was revealed during investigation that, the DGO having demanded bribe from the complainant received the bribe amount of Rs. 2000/-, in order to issue him the survey sketch pertaining to land bearing sy.no. 144/35(extent 0.36 acres) which he has surveyed as per the application filed by the owner of the said land Smt. Lalithamma who is none other than the <sup>mother-in-law</sup> ~~maternal aunt~~ of the complainant, 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 submitted his reply denying the allegations made against him contending that, he never demanded or received any money by way of bribe from the complainant, and he has been falsely implicated. He has further taken up a contention that, he is innocent and he has been made as a scapegoat by the complainant who is a land



grabber and he is in the habit of fraudulently grabbing money from the general public and he used to interfere in his official duties on approaching him/DGO on several occasions and since he warned him asking him not to approach him, the complainant developed grudge against him and threatened him that, he will teach him a lesson and in order to score his vengeance against him, filed false complaint making false allegations against him. Taking up these contentions, he has requested this authority to drop the proceedings against him.

4. Since the explanation offered by the DGO was not satisfactory, a recommendation under Section 12(3) of the Karnataka Lokayukta Act was forwarded to the Competent Authority, recommending to initiate disciplinary enquiry against 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 State Government in the Revenue Department, by its order in No. RD 150 LRS (3) 2013 dated 10.10.2013 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 26.10.2013 nominating ARE-4 to frame charges and to conduct enquiry against the DGO. Accordingly, charges were framed by the then ARE-4 against the DGO as under.

“Charge:

2. That, you-DGO Sri H.T. Shanmukha S/o Thimmappa, H.N. while working as Surveyor in Taluk Office at Udupi Taluk and district, during the year 2012, the complainant Sri H. Nagaraj Bhat's mother-in-law Smt. Lalithamma applied for survey and fix

the boundaries of her land bearing Sy.No. 144/35, measuring 0.36 guntas situated in Nadasalu village on 16/05/2011 and paid a necessary fee on 24/05/2011 vide receipt NO. 1531302. Even though one year was elapsed no action was taken in the office of the Tahsildar, Udupi. Therefore, on the instructions of his mother-in-law, complainant approached the survey section in the office of Tahasildar, Udupi, on 07/05/2012. At that time, officials in the said branch told the complainant to come on the next day. In this way inspite of several visits no action was taken by the survey branch on the application of his mother-in-law. Therefore, he met the Tahsildar Udupi and enquired about the application of his mother-in-law on 23/05/2012 at that time, Tahsildar called the concerned clerk and enquired about not attending the work of the complainant and ordered him to attend the said work immediately. Therefore, again he went to Taluk Office, Udupi on 01/07/2012 and enquired about the application of his mother-in-law. Then the concerned clerk told him that, he sent the said file to surveyor Shanmukha and gave the Mobile number of the said surveyor with an instruction to contact the said surveyor. Therefore, complainant phoned to you-DGO, by your mobile NO. 97405 78003 on 05/07/2012 and enquired about surveyor. Further you told that, date of survey is fixed on 24/12/2012 and gave the notices to the adjacent land owners in his hand with an instruction to serve to the adjacent land owners and asked him to meet you-DGO on 06/07/2012. Accordingly complainant met you-DGO on the morning of 06/07/2012, at that time, you demanded an illegal gratification. You-DGO visited the land of the complainant's mother-in-law at about 9 a.m. on 24/7/2012 measured and fixed the boundaries. Thereafter, you demanded a bribe of Rs. 2,000/-

from complainant in Vijay Bhavan Hotel, Padubidre. On complainant telling that, he had no money, for that you-DGO told him that, he must have collected this information from others and he should not say so after attending his work. Therefore, complainant told you-DGO that, he will meet you after contacting by phone on the next day. Thereafter, you-DGO demanded and accepted a bribe of Rs. 2,000/- from the complainant at about 2.35 p.m. on 25th July 2012 in your office. Thereby, you being a Government servant failed to maintain absolute integrity besides devotion to duty and acted in a manner un-becoming of a Government Servant and thus committed mis-conduct as enumerated U/R 3(1) of Karnataka Civil Service (Conduct) Rules 1966.

#### STATEMENT OF IMPUTATIONS OF MISCONDUCT

3. On 16/05/2011 complainant's mother-in-law applied for the survey of land bearing sy.No. 144/35, measuring 0.36 acres of Nadasalu Village and also paid necessary fees on 24/05/2011. Even after one year no action was taken. Hence, on behalf of complainant's mother-in-law, the complainant approached the survey department, however the complainant was asked to come the next day and thereafter inspite of several visits no action was taken on the application for survey. On 23/05/2012 complainant approached Tahasildar, Udupi and he summoned the concerned case-worker and ordered for attending the said work. On 01/07/2012, complainant came to know that the file was referred to you. On 05/07/2012 complainant contacted you over the complainant's mobile NO. 9901165892 to your mobile NO. 9740578003 and enquired, you informed that, the date was fixed

for survey and asked the complainant to serve the notices to neighbouring land owners and asked to meet on 06/07/2012. Accordingly, complainant met you, however for the said work you demanded money and asked complainant to present on 24/07/2012 on the spot. On 24/07/2012 you conducted the survey and after survey the complainant accompanied you to Vijay Bhavan Hotel and you demanded Rs. 2,000/- and when complainant informed that, he has no money, however you informed the complainant to meet him on the next day, complainant recorded the said conversation. Since complainant was not interest to pay bribe, complainant approached Lokayukta Police at Udupi and lodged complaint. Not only that, on 25/07/2012, you received the tainted (bribe) amount from complainant in connection with the said work at your office.

4. Added to this, you has failed to give any satisfactory reply or explanation or account for the said (tainted) bribe amount, which you had then, when questioned by the I.O. Thereafter, you caught hold as you was found with the tainted (bribe) amount on said date. Then the said tainted (bribe) amount found with you was seized under a mahazar by I.O. Even there are statements of witnesses, including complainant, besides records collected and filed by the I.O. which show that you has received Rs. 2,000/- tainted amount from the complainant for doing official work.

5. This is supported by the mateiral on record and prima-facie show that, you, being a Public/Government Servant, has failed to maintain absolute integrity besides devotion to duty and acted in a manner unbecoming of a Public/Government Servant, and

thereby repeatedly committed misconduct, as such you are liable for disciplinary action. Therefore, an investigation was taken up against you and an observation note was sent to you to show cause as to why recommendation should not be made to the Competent Authority for initiating departmental inquiry against you about your misconduct in the matter. For that, the you filed your reply. However, the same has not been found convincing to stay or drop the proceedings as ordered in the file.

6. Since said facts and material on record prima-facie show that you has committed misconduct as per Rule 3(1) of KCS (Conduct) Rules, 1966, A report U/sec. 12(3) of Karnataka Lokayukta Act, was sent to the Competent Authority with a recommendation to initiate disciplinary proceedings Under Rule 14-A of Karnataka Civil Services (Classification, Control and Appeal) Rules 1957 against you. In turn Competent Authority initiated disciplinary proceedings against you DGO and entrusted the Enquiry to this institution vide Reference No. 1 and Hon'ble Upalokayukta-2 nominated this enquiry Authority, to conduct enquiry and report Vide reference NO. 2 . Hence, this charge.”

5. The Articles of Charges and Statement of Imputations are duly served on the DGO. DGO has appeared before this authority and First Oral Statement of the DGO was recorded. DGO has denied the charges framed against him. He has engaged the services of an Advocate, to appear on his behalf and to defend him, in this enquiry.
6. While the enquiry was pending before ARE-4, in pursuance of O.M. ಕಲೋ/ಸಿಬ್ಬಂದಿ-1/54/2013-14 ದಿ: 1.3.2014, this enquiry file was withdrawn from

the file of ARE-4 and was assigned to ARE-10 by nominating ARE-10 to proceed with the enquiry.

7. DGO has filed his written statement on 9.4.2014 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. It is his further contention that, he gave written explanation before the Police Inspector claiming that, he is nothing to do with the amount seized from the place beneath the cushion of his seat and he pleaded ignorance about the said money and the Police Inspector without considering his written explanation falsely implicated him by filing false charge sheet against him. He having denied each and every aspects of the trap proceedings, requested this authority to absolve him from the charges levelled against him.
8. During enquiry, before ARE-10, on behalf of the Disciplinary authority 3 witnesses have been examined as PW1 to PW3 and 12 documents came to be marked as Ex-P1 to Ex-P12. After closure of the evidence on behalf of disciplinary authority, second oral statement of the DGO was recorded. DGO since desired to lead defence evidence, permission was granted to him accordingly. DGO has examined one Sri Gururaj Sundar Ameen as DW-1 in support of his defence.
9. When the enquiry was at the stage of the further defence evidence of the DGO 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 again withdrawn from the file of ARE-10 and was made over to ARE-3 to proceed with the enquiry and to submit report. Hence, the further enquiry was taken up before ARE-3.

10. Since DGO has engaged a new Advocate, (Sri CAR) by changing the Advocate who was representing him before ARE-10, at the instance of the DGO, PWs1 to 3 have been again recalled and they were subjected to further cross examination by Sri CAR the counsel for the DGO. The DGO has further adduced his defence evidence by examining himself as DW-2 in support of his defence. Even DW-1 was recalled and he was subjected to further chief examination and also subjected to further cross examination by the learned Presenting Officer. One CD has been marked as M.O.-1 during the defence evidence of DW-1.
11. Thereafter, the learned Presenting Officer and the learned counsel for the DGO have filed their written arguments. I have also heard in detail the learned counsel for DGO. Thereafter, this matter is taken up for consideration.
12. 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?
13. The above points are answered as under:
- Point No.1:** In the 'Affirmative'
- Point No.2:** As per Conclusion.

### **REASONS**

**Point No.1:-**

14. DGO was working as Surveyor, Taluk Office, Udupi during the relevant period.

15. 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, his ~~maternal aunt~~<sup>mother-in-law</sup> Smt. Lalithamma is having 0.36 acres of land in sy.no. 144/35 at Nadasalu of Padubidre village. She has filed an application to the O/o Tahsildar on 16.5.2011 with a request to get her land surveyed and to fix the boundaries of the said land. She has remitted the requisite fee also. But the said application was pending in the O/o Tahsildar for more than one year, since was not attended. Hence, Smt. Lalithamma requested the complainant to enquire about her application and to do the needful. Hence the complainant went to Taluk office, Udupi on 23.5.2012 and enquired there about the application filed by his ~~maternal aunt~~<sup>mother-in-law</sup>. The Tahsildar issued instructions to the concerned case worker to do the needful. Hence, the complainant approached the case worker on 1.7.2012 and on enquiry he told him that, the task of conducting survey has been assigned to the DGO and gave the mobile number of the DGO, asking the complainant to approach him/DGO and to get his work done. Hence, the complainant called the DGO on his mobile on 5.7.2012 and enquired him about the application filed by his ~~aunt~~<sup>mother-in-law</sup>. DGO informed the complainant that, he has fixed the date for conducting survey on 24.7.2012 and he has kept ready the notices to be issued to the neighbouring land owners and asked the complainant to come to the office on 6.7.2012 and to take the notices for serving the same to the respective neighbouring land owners. Accordingly, the complainant met the DGO on 6.7.2012 and the DGO gave him the notices asking him to serve the notices on the respective neighbouring land owners, directing them to keep themselves present on 24.7.2012 the scheduled date fixed for conducting the survey of the said land. While handing over the notices to the complainant, DGO told the complainant that, he has to spend some amount, for the purpose of conducting survey.



16. It is the further contention of the complainant that, on 24.7.2012 DGO visited the said land and conducted survey and fixed the boundaries and after finishing the survey work, DGO took him/complainant to Vijayabhavan hotel at Padubidre and while having snacks in the said hotel, DGO put forth demand for bribe asking the complainant to pay him Rs. 2000/- for having conducted survey and in order to prepare sketch and to give the copy of the sketch to him. The complainant told the DGO that, he has not brought money and requested him that he would pay money on subsequent days. The complainant claimed that, he has recorded the said conversation with the DGO regarding demand for bribe being made by him, in his mobile phone and having recorded the said conversation with the DGO, he approached Lokayukta Police and filed a complaint as per Ex-P1 against the DGO and also produced his mobile phone containing the recorded conversation with the DGO. Along with the written complaint, he has produced the copy of the application filed by Lalithamma to the O/o Tahsildar for conducting survey of her land and also the receipt for having remitted the requisite fee.
17. On the basis of the complaint so filed by the complainant on 25.7.2012 the Police Inspector, Karnataka Lokayukta, Udupi , has registered a case in Cr. No.7/2012 under Sections 7,13(1)(d) R/w 13(2) of P.C Act, 1988 and took up investigation.
18. An entrustment proceedings was conducted in the Lokayukta Police Station, Udupi on 25.7.2012 in the presence of two panch witnesses viz., Sri Diwakar and Sri Chandra Mogaveera, Excise Guards, O/o Excise Inspector, Udupi Range No.2, Udupi 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 Sri Diwakar was entrusted with the task of a shadow witness. A voice recorder was entrusted to the complainant asking him to switch on the same when he meets the DGO and to record the conversation with him, while paying money to him.

19. The complainant and shadow witness were taken to the survey section of the O/o Tahsildar, Udupi and sent them to meet the DGO in the said office. When the complainant accompanied with the shadow witness met the DGO in the survey section, DGO enquired the complainant about the shadow witness regarding his identity. The complainant introduced the shadow witness as the person belonged to his village and he has brought him along with him since he was to be taken to the hospital. Then the complainant requested the DGO for issue of a copy of the sketch. DGO gave him an unsigned copy of the sketch and enquired him about the money he has demanded. Complainant took out the tainted notes and offered the money to the DGO. DGO gave him a cover asking him to keep that money in the cover and to give that cover to him. But the complainant told the DGO that, he does not mind paying money there itself, and gave the tainted notes to the DGO. DGO received the said money with his right hand. Thereafter, the complainant came out of the Taluk office and gave pre-arranged signal to the Police Inspector.
20. On receiving the signal from the complainant, Police Inspector and his staff and another panch witness approached the complainant. The complainant took them inside the survey section of the Taluk

office and showed the DGO claiming that, he/DGO is the concerned Surveyor and he has received the bribe money of Rs. 2000/- from him. Even the shadow witness confirmed these happenings saying that, the DGO having demanded money from the complainant received Rs. 2000/- from the complainant, with his right hand.

21. The Police Inspector introduced himself to the DGO and informed him about the registration of a case against him. On enquiry, DGO disclosed his name as Sri H.T. Shanmukha S/o H.N. Thimappa, Surveyor, Taluk Office, Udupi.

22. Thereafter, the Police Inspector got prepared Sodium carbonate solution in a separate bowl and asked DGO to wash his right hand fingers in that bowl containing solution. When the DGO dipped his right hand fingers in that bowl containing sodium carbonate solution, the solution in the said bowl turned into pink colour. The said pink colored solution of the right hand wash of DGO, was collected in a separate bottle and sealed the same.

23. The Police Inspector asked the DGO about the money he has received from the complainant. DGO stated that, he has kept the money inside the cushion cover of his Chair where he was sitting. The Police Inspector instructed panch witness Chandra Mogaveera to search for the cushion cover of the seat of the DGO. The said panch witness having searched the cushion cover of the seat of the DGO took out Rs. 2000/-consisting of 4 currency notes of Rs.500/-denomination each and produced the same before the Police Inspector. Those notes were cross checked with reference to its serial numbers and confirmed that, those were currency notes entrusted to the complainant during the entrustment proceedings. Those notes were kept in a separate cover and sealed the same.

24. With the help of a cotton swab, the inside portion of the cushion cover of the seat of the DGO was swabbed, and the said cotton swab was seized in order to send it for chemical examination.
25. Police Inspector asked the DGO to give his explanation in writing. DGO gave his explanation in writing as per Ex-P8 pleading ignorance about the money recovered from the cushion cover of his seat claiming that, he is nothing to do with the said money. The complainant and shadow witness having gone through the explanation given by DGO denied the same claiming that, the said explanation is not true and it is incorrect.
26. The tape recorder given to the complainant was taken back from him and it was played. The conversation took place between the complainant and the DGO was found recorded in it. The transcription of the relevant portion of the said conversation have been incorporated in the trap mahazar itself.
27. During the trap proceedings, the said conversation recorded by the complainant in the tape recorder entrusted to him and also the conversation with the DGO recorded by the complainant in his mobile phone on 24.7.2012 which was transferred into CD, were played in the presence of Sri Krishnappa.R., Survey Supervisor, who on hearing those two conversations, identified the voice of the DGO in those 2 conversations.
28. Thereafter, the Police Inspector asked the DGO about the documents pertaining to the conducting of survey of the land of Smt. Lalithamma <sup>mother-in-law</sup> ~~maternal~~ aunt of the complainant. DGO told the Police Inspector that, the said file along with the sketch he has prepared, has been given to Sri Krishnappa R. Survey supervisor for his

signature. The said Survey supervisor produced the file containing the papers pertaining to Smt. Lalithamma and the papers from the said file have been seized as per Ex-P6. The unsigned sketch given by the DGO to the complainant while demanding and accepting bribe from him, was also produced by the complainant and the said sketch was also seized during the trap proceedings. A detailed mahazar was also got prepared incorporating all the details of the trap proceedings as per Ex-P5.

29. During enquiry, the complainant has been examined as PW-1 and the shadow witness as PW2 and the investigation officer has been examined as PW3.

30. The complainant who is examined as PW1 has stated in detail explaining the circumstances under which he has filed the complaint against the DGO as per Ex-P1. He deposed regarding conducting of entrustment proceedings in the Lokayukta Police Station and entrustment of tainted notes of Rs. 2000/- to him in the said proceedings. He further deposed regarding the happenings taken place in the office of the DGO when he along with the shadow witness, met him in the survey section of the Taluk office claiming that, he met the DGO and requested him for issue of sketch and the DGO demanded him for money while handing over the unsigned sketch to him and he took out the tainted notes from his shirt pocket and gave it to the DGO and DGO having received it with his right hand, kept it inside the cushion cover of his chair. He further stated that, thereafter, he came out of the Taluk office and gave pre-arranged signal to the Police Inspector.

31. He further narrated in detail regarding the procedures conducted by the Police Inspector on his arrival inside the survey section, on

receiving signal from him and deposed in detail regarding obtaining of right hand wash of DGO which gave positive result regarding presence of phenolphthalein and recovery of tainted notes from the cushion cover of his seat with the help of panch witness, giving of explanation by DGO as per Ex-P8, seizure of relevant documents since produced by the survey supervisor, conducting of voice identification proceedings in which the survey supervisor identified the voice of the DGO in the 2 conversations played before him and other details of the trap proceedings, including preparation of trap mahazar as per Ex-P5.

32. PW1 has been cross examined by the learned counsel for DGO who was defending the DGO before ARE-10. He has admitted in his cross examination that, when he met the DGO, he has not put forth demand for money but reiterated his contention that, after completing his survey on 24.7.2012, while having tea in a hotel, DGO put forth demand for bribe. The complainant has denied for having received an unsigned sketch from the DGO before the DGO demanding him for money claiming that, DGO has not given him any sketch on that day. He further claimed that, while entering the survey section, he switched on the voice recorder given to him and recorded the conversation with the DGO while paying money to him. A specific suggestion was put to him that, he offered money to the DGO in order to give him the money forcibly, though DGO has not demanded for any money and he wanted to forcibly, put the money into the shirt pocket of the DGO, but the DGO declined to receive money from him. This suggestion has been categorically denied by the complainant. A further suggestion was put to him that, the Police Inspector obtained the hand wash of the DGO after seizure of the amount and this suggestion was also denied by the complainant. A further suggestion was put to him that, since the DGO having

prepared the sketch, sent the entire file along with the prepared sketch to the survey supervisor for his signature and since the DGO had already attended his work, there was no occasion for him to demand and receive any bribe amount from him. Even this suggestion has been denied by the DGO. A further suggestion was put to him that, after the DGO gave him an unsigned sketch, he forcibly gave money to the DGO. Even this suggestion has been denied by the complainant.

33. Subsequently, after transfer of this enquiry to ARE-3, since the DGO engaged a new Advocate by changing his previous Advocate, the complainant was again recalled on 13.7.2017 and he was subjected to further cross examination by the newly engaged Advocate of the DGO. During the cross examination conducted subsequently on 13.7.2017, a suggestion was put to him that, local TV channel reporter was present during the trap proceedings and he has recorded the video clippings of the trap proceedings. The complainant has admitted this fact. A further suggestion was put to him that, the Police Inspector and his staff, on coming inside the survey section of the Taluk office, searched for the money and since they could not able to recover any money from the DGO, the Lokayukta police have confined the DGO in a separate room and DGO was man handled by Lokayukta police and thereafter, all of them, along with him/complainant, returned to the Police Station since nothing was recovered from the DGO and his office during the search conducted initially. A further suggestion was put to him that, the Police Inspector obtained fresh currency notes from him and prepared a fresh mahazar and thereafter again came to the survey section of the Taluk office and again made the search process and able to recover the notes from the seat cover of the seat of the DGO during such search conducted for the 2<sup>nd</sup> time. All these suggestions

have been categorically denied by the complainant. The complainant has reiterated his contention that, when he offered the money to the DGO, he gave him a cover asking him to put the money in the cover and give him the cover containing money, but he directly gave the money to the DGO who received it with his right hand and kept it inside the cushion cover of his seat. A further suggestion was put to him that, though he offered money to the DGO, he/DGO refused to receive the money and hence he took back that money with him to the Police Station and handed over that money to the Police Inspector. Even these suggestions have been categorically denied by the complainant. But the complainant has admitted that, the camera man of a TV channel who was present, during the trap proceedings recorded the process of recovery of tainted notes from the seat cover of the DGO during the trap proceedings but claimed that, he was outside the survey section and hence he could not see what the TV channel camera man, recorded during the search conducted in the survey section of the Taluk office.

34. During the further cross examination of the complainant, a CD containing video clippings was played and certain questions were put to him regarding those video clippings. It was suggested to him that, the person who is taking out money from the pillow cover and the person who is holding the pillow in the video clippings, was not panch witness Chandra and the complainant has admitted this suggestion. Further suggestion was put to him that, the money was forcibly inserted in the pillow and later it was recovered from the pillow by the police and this suggestion has been denied by the complainant. By recalling the complainant and cross examining him further with reference to certain video clippings shown to him during his cross examination, the learned counsel for DGO, tried to put forth his defence stating that, the tainted notes had been put inside



the pillow cover surreptitiously without the knowledge of the DGO and subsequently it was shown to have been recovered from the pillow cover of the DGO just to falsely implicate the DGO in this trap proceedings. But the complainant has categorically denied various suggestions put to him thereby, denied the defence contention taken on behalf of the DGO, during his further cross examination.

35. PW2 is the shadow witness and he stated in his evidence regarding conducting of entrustment proceedings in the Lokayukta Police Station, Udupi and entrustment of tainted notes of Rs. 2000/- to the complainant. He has further stated that, he accompanied the complainant and went along with him inside survey section of the Taluk office and the complainant introduced him as his friend who was to be taken to the hospital. It is his evidence that, when the complainant enquired the DGO about the sketch, DGO asked for money and complainant gave him the tainted of Rs. 2000/- entrusted to him, and DGO received that mount from the complainant and thereafter, the complainant came out of the survey section and gave pre-arranged signal to the Police Inspector.
36. He further gave details regarding the arrival of the Police Inspector on receiving signal from the complainant, various procedures conducted by the Police Inspector in the survey section, including obtaining of right hand wash of the DGO which gave positive result regarding presence of phenolphthalein, recovery of tainted notes of Rs. 2000/- from the seat cushion of the seat of the DGO with the help of panch witness Chandra, and giving of written explanation by the DGO and seizure of documents pertaining to Smt. Lalithamma since produced by survey supervisor Krishanppa as **per Ex-P6** conducting of voice identification proceedings and identification of voice of the DGO by the survey supervisor Krishanppa in the 2

conversations played before him during that proceedings and other details of the trap proceedings

37. Even PW2 was thoroughly cross examined by the counsel for the DGO when the enquiry was pending before ARE-10. Various suggestions put to him during his cross examination have been categorically denied by him. He claimed that, when the complainant was talking with the DGO in the survey section, he/PW2 was standing near the door and he has witnessed the happenings regarding demand for money by the DGO and on receiving money from the complainant, with his right hand, kept that money beneath the cushion of his seat and subsequently recovery of the tainted notes from the said cushion of the seat of the DGO. On perusing the cross examination of PW2, nothing was elicited to disbelieve the evidence of PW2.
38. But subsequent to transferring of this enquiry to ARE-3, the newly engaged Advocate of the DGO, cross examined this witness further on 23.5.2017 on recalling him. During his cross examination he has admitted that, one Inspector Dinesh subsequently came there, while the trap proceedings was under progress. He has further admitted that, some person was found videographing the entire trap proceedings. A similar suggestion was put to him that, after thoroughly searching the place where the DGO was sitting, since nothing was recovered, the Police Inspector made the DGO to sit in a room and he was manhandled. A further suggestion was put to him that, after some time all of them came back to the O/o DGO and the Police Inspector while coming again to the O/o DGO, brought a seat pillow and kept that pillow on the chair of the DGO and DGO was made to sit on the said pillow and thereafter the pillow was searched by a police official and tainted notes were taken out from the said

pillow during that procedure. A further suggestion was put to him that, DGO resisted and started making allegations against the Police Inspector and his staff alleging that, they have kept the money in the said pillow and they are making drama of recovering money from the said pillow and because of this reason a police official manhandled the DGO by hitting him on the back of his head and slapping on his cheek. PW2 has denied all these suggestions.

39. Even the video clippings from the CD produced by the DGO was played in the presence of this witness and he was asked a specific question as to who was the person found taking out money from the cushion. This witness on seeing the said video clipping claimed that, it was panch witness 'Chandra Mogaveer' who was found taking out money from the cushion. A further suggestion was put to him that, at the first instance he has also searched for tainted money and since nothing could be recovered from such search, all of them returned to the Police Station and thereafter, again they came to the survey section and searched again and succeeded in recovering the tainted notes from the cushion of the seat of the DGO. All these suggestions have been categorically denied by PW2. A further suggestion was put to him that, since the DGO started shouting at the Police Inspector making allegations against him that, he and his staff have planted the money in his seat cover to falsely implicate him in the trap proceedings, the DGO was manhandled by Lokayukta police. It was also suggested to him that, panch witness Chandra Mogaveer has not searched the cushion of the seat of the DGO but it was one police official who on taking out the tainted notes from the cushion of the seat of the DGO, gave that money to Chandra Mogaveer and thereafter, the serial numbers of those notes were cross checked. Even this suggestion has been categorically denied by PW2.

40. PW3 is the IO who gave evidence in detail regarding the various stages of investigation he has conducted, right from registration of a case against DGO on the basis of the complaint filed by the complainant and took up investigation. He narrated in detail regarding conducting of entrustment proceedings and entrustment of tainted notes of Rs.2000/- to the complainant, in the said proceedings.
41. He further gave details regarding the trap proceedings he has conducted in the survey section of the taluk office claiming that, he sent both the complainant and shadow witness, to meet the DGO in his office. He further stated that, the complainant came out of the taluk office and gave him pre-arranged signal and on receiving pre-arranged signal from the complainant, he and his staff approached the complainant who took them inside the survey section and showed him the DGO claiming that, he/DGO is the concerned Surveyor who has demanded bribe and received Rs. 2000/- from him.
42. PW3 has further narrated in detail regarding the various procedures he has conducted including obtaining of right hand wash of the DGO which gave positive result regarding presence of phenolphthalein, recovery of tainted notes of Rs. 2000/- from the cushion cover of the seat of the DGO with the help of panch witness Chandra Mogaveer 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. He further deposed in detail regarding conducting of voice identification proceedings and identification of the voice of the DGO by Survey Supervisor Krishnappa in the 2 conversations played

before him. He further gave details regarding seizure of relevant documents pertaining to conducting of survey of land of Smt. Lalithamma since produced by survey supervisor Krishnappa, giving of explanation by DGO as per Ex-P8 and preparation of trap mahazar as per Ex-P3, and other details of the trap proceedings.

43. He further gave details regarding the steps he has taken during investigation of the case, the sketch of scene of occurrence got prepared as per Ex-P10, sending the seized articles to FSL for chemical examination and receipt of FSL report as per Ex-P11, preparation of transcription of the conversation which the complainant has recorded in the voice recorder entrusted to him , during the trap proceedings, as per Ex-P12 and filing of the charge sheet against the DGO.
44. Even PW3 was cross examined earlier by the previous counsel and on recalling him again, PW3 was cross examined further by the new Advocate engaged by the DGO. He has admitted in his cross examination that, as per the details of the mahazar, DGO had handed over unsigned sketch to the complainant before demanding and receiving money from him. He has further admitted that, Survey Supervisor has to approve the sketch and finalise the sketch prepared by Surveyor/DGO. Considering the fact that, the entire file was with the Survey Supervisor Sri Krishnappa from whom the said file was seized, and the fact that, the DGO has taken up a contention that, he has submitted the file to Survey Supervisor for his signature, there is no dispute that, the sketch prepared by the DGO was to be signed by the Survey Supervisor and then only the official copy of the sketch can be issued. But the DGO in order to demand for bribe, provided the complainant, an unsigned sketch during the trap proceedings and thereafter, received bribe amount

from him. Therefore, issue of unsigned sketch by the DGO to the complainant which was seized from the complainant at the time of the trap was also another factor which strengthens the case of the disciplinary authority that, in order to issue the copy of the sketch and also towards the work he has done in surveying the land, DGO has demanded bribe from the complainant on the day of conducting survey and received the bribe amount on 25.7.2012 on providing him the copy of an unsigned sketch.

45. PW3 having been recalled again was cross examined further and it was suggested to him that, he has summoned one Gururaja Sundara Ameen, owner of a local private TV channel by name 'Namma TV' and with the help of the said TV reporter, the entire trap proceedings was video graphed. But PW3 has denied this suggestion stating that, he never secured the presence of any local TV channel reporters. But according to him when the trap proceedings was being conducted in the Taluk office on 25.7.2012, certain TV channel reporters including local TV reporters were present and video graphed the trap proceedings and further claimed that, though he/PW3 made efforts to avoid the videography of the proceedings by local TV channels, he was not successful as, many local TV channel reporters were present and video graphed the trap proceedings. He has categorically denied that, he summoned the TV reporter of 'Namma TV' channel and he was responsible for video graphing the trap proceedings and airing the trap proceedings in the local TV.
46. A further suggestion was put to him that, on receiving the signal from the complainant, he and his staff went inside the survey section and made physical search of the DGO and also searched for the tainted notes but, no money could be traced during the said

search and thereafter, the DGO was made to sit in the record room and he was manhandled. A further suggestion was put to him that, he having returned to Lokayukta Police Station, again came back to Taluk office after about half an hour and while returning he brought the mahazar duly prepared and he completed the trap proceedings by showing that, the money was recovered from the cushion seat of the DGO where he used to sit and work in the said office. All these suggestions have been categorically denied by PW3/IO.

47. A further suggestion was put to him that, one Sri Thimmaiah was working as Police Inspector in Lokayukta Police Station, Udupi during the relevant period and though he was not the part of the trap party who conducted trap on the DGO, he was also present during the trap proceedings and only at the instance of the said Police Inspector-Thimmaiah, DGO was physically assaulted by his staff and an episode of recovery of tainted notes from the cushion cover of the chair of the DGO was conducted and video graphed in order to falsely implicate the DGO in this case. A further suggestion was put to him that, the said Police Inspector Thimmaiaha was very close to the father in-law of the DGO and since there was matrimonial dispute between the DGO and his wife, the father-in-law of the DGO by using the influence of his friend, Police Inspector, Thimmaiah, laid this false trap on the DGO and he/DGO has been falsely implicated. All these suggestions have been categorically denied by PW3/IO.

48. A Further suggestion was put to him showing him the video clippings that, the person who was taking out money from the cushion cover as per the video clippings, was a police constable. But PW3/IO has categorically denied this suggestion stating that the person who was found searching the cushion cover and taking out

tainted notes from it was the panch witness, but not a police official. Even this contention of PW3 finds support in the evidence of PW2/shadow witness who has categorically stated that, as could be seen in the video clippings, the person who was taking out the tainted money from the cushion was panch witness Chandra Mogaveer but not a police official. There is nothing to disbelieve the evidence of PW2 since, both the panch witnesses Diwakara/PW2 and another panch witness Chandra Mogaveer were the Excise Guards working together in the O/o Excise Inspector and hence the identification of Chandra Mogaveer in the video clippings by PW2 can be believed because he is the proper person to identify the co-panch who participated in the entrustment and trap proceedings and hence the contention taken on behalf of the DGO that, the tainted notes were clandestinely kept in the seat cushion of the DGO and it was taken out by a police official and the said trap episode was video graphed to falsely implicate him/DGO, cannot be believed and the same deserves to be rejected.

49. A further suggestion was put to him that, during the trap proceedings DGO made galatha making allegations against the Police constable that, he having kept the money in the cushion cover, he has taken out the said money from the cushion cover just to show that, the money was recovered from the seat cushion of the DGO. PW3 has categorically denied even this suggestion.
50. Much arguments was advanced in respect of a police constable beating the DGO on the back of his neck, which was covered in the video clippings produced by the DGO by way of CD which is marked as MO-1 . No doubt on watching the video clippings, the police constable found assaulting the DGO on the back of his neck and the said incident of beating of the DGO is covered in the video clippings.



But this itself is not sufficient to disbelieve the entire trap proceedings conducted on the DGO. Even the mere presence of the Police Inspector Thimmaiah during the trap proceedings is not sufficient to believe the defence contention of the DGO, since except putting suggestions to PW3 and urging the said defence contention in his defence evidence that, due to the matrimonial dispute existed between him/DGO and his wife, the father of his wife since a close friend to Police Inspector Thimmaiah, with his help, laid a false trap on the DGO, cannot be believed.

51. During the defence evidence adduced on behalf of DGO, the said Gururaja Sundar Ameen has been examined as DW-1 in support of his defence. He gave evidence stating that, at the instance of the Police Inspector Dinesh Kumar, since called him to come to Taluk office, he came to the Taluk office and covered the trap conducted on the DGO in the survey section of the Taluk office. He has stated that, when he went there, DGO was not in his chair but he was in a room and the Lokayukta police were searching for money in the files registers found kept on the table and having searched for about half an hour, since they could not get anything, the Police Inspector and his staff went out of the office of the DGO and again came back after about half an hour and again started searching for money in the office of the DGO and during such search, one police constable brought a pillow and stated that, money is in the said pillow and money was recovered from the said pillow and he video graphed these video clippings. According to him, he having video graphed the whole episode of trap proceedings conducted in the office of the DGO, edited the video clippings and aired it on the 'Namma TV' channel on the same evening. He has produced the CD MO-1 containing the edited video clippings of the trap proceedings. Even in his cross examination, he has contended that, when he saw, the

pillow was in the hand of the police constable but claimed that, he does not know from where the police constable brought the pillow. But this witness being a video grapher does not know who is the police official and who is the panch witnesses since all police officials who participated in the trap proceedings and the panch witnesses were in plain clothes. Therefore, the evidence of DW-1 that, the police constable took out money from cushion cover cannot be believed because, PW2 being the colleague of another panch witness Chandra Mogaveer, identified him in the video clippings saying that, it was Chandra Mogaveer who took out money from the cushion cover. Therefore, the evidence of DW-1 cannot be believed and possibility of he being influenced by the DGO and accordingly giving evidence in support of his defence contention, cannot be ruled out.

52. DW-1 was recalled again on 21.11.2016 and on that day he/ DW-1 produced the CD, MO-1. The reason for not producing the said CD on the earlier date of hearing when he was examined on 15.4.2016, has not been explained by him. On recalling DW-1, he was thoroughly examined by way of further chief examination by the learned counsel for DGO wherein, he has elicited so many details through him in his further chief examination. But there was no impediment for DW-1 to give these details when he was examined earlier on 15.4.2016. Considering the nature of the evidence given by DW-1, and having regard to the various suggestion put to him during his further cross examination conducted on 18.1.2019, and the reply given by him/DW-1 to those suggestions, put to him by learned Presenting Officer, it can be concluded that, the DGO with the help of DW-1, is trying to put forth his defence, in order to disprove the case of the disciplinary authority. But having considered the evidence given by DW-1 and also the CD he has

produced as per MO-1 which according to his admission is containing edited video clippings, no reliance can be placed on the said video clippings contained in the CD, MO-1 and no reliance can be placed on the defence contention taken by the DGO with the help of this witness/DW-1.

53. DGO has adduced his defence evidence by tendering his evidence by way of a sworn affidavit in lieu of his chief examination and tried to put forth his defence explaining the circumstances under which his hand wash gave positive result regarding presence of phenolphthalein and also the manner in which the Lokayukta police have surreptitiously implicated the tainted notes in the cushion of his seat claiming that, he has been falsely implicated. The relevant portion of the defence contention taken by the DGO reads as follows:

“ದೂರುದಾರರಾದ ಶ್ರೀ ನಾಗರಾಜಭಟ್ಟರು ಹೊರಟು ಹೋದ 4 ನಿಮಿಷದಲ್ಲಿಯೇ ಲೋಕಾಯುಕ್ತ ಇನ್ಸ್‌ಪೆಕ್ಟರ್ ಶ್ರೀ ತಿಮ್ಮಯ್ಯ ಹಾಗೂ ಅವರ ತಂಡದವರು ದಿಡೀರ್ ಅಂತ ಕಛೇರಿ ಒಳಗೆ ಬಂದೆ ಬಿಟ್ಟರು ಬಂದ ತಕ್ಷಣ ಷಣ್ಮುಖಿ ಎಂದರೆ ನೀನೇ ಏನಪ್ಪ? ಎಂದು ನನ್ನನ್ನು ಪ್ರಶ್ನಿಸಿದರು ಹೌದು ಸರ್ ನಾನೇ ಎಂದು ಹೇಳಿದ ತಕ್ಷಣ ಅವರ ಎಲ್ಲಾ ಸಿಬ್ಬಂದಿಗಳು ನನ್ನನ್ನು ಸುತ್ತಿವರಿದರು. ನನ್ನ ಎರಡು ಕೈಗಳನ್ನು ಅವರ ಸಿಬ್ಬಂದಿಗಳು ನನಗೆ ಕೈ ಕುಲುಕುವ ರೀತಿ ನನ್ನ ಎರಡು ಅಂಗೈಗಳಿಗೆ ಅವರ ಕೈ ನಿಂದ ಸಕ್ಕರೆ ತೇವ ಅಂಶದಿಂದ ಕೂಡಿದ ಅವರ ಕೈಯನ್ನು ನನ್ನ ಬಲಗೈಗೆ ಲೇಪಿಸಿದರು ನನ್ನ ಕೈಗಳನ್ನು ಬಿಗಿಯಾಗಿ ಹಿಡಿದುಕೊಂಡರು ನನ್ನನ್ನು ಎದ್ದು ನಿಲ್ಲು ಎಂದು ಜೋರು ಮಾಡಿದರು, ನಂತರ ಇದೇ ಇನ್ಸ್‌ಪೆಕ್ಟರ್ ಶ್ರೀ ತಿಮ್ಮಯ್ಯನವರು ಈಗ ತಾನೇ ದೂರುದಾರರಾದ ನಾಗರಾಜಭಟ್ ಎಂಬ ವ್ಯಕ್ತಿಯು ರೂ. 2000/-ಗಳನ್ನು ನಿನಗೆ ಕೊಟ್ಟು ಹೋದರಲ್ಲ ಆ ಹಣ ಎಲ್ಲಿ ಎಂದು ಕೇಳಿದರು ಆಗ ನಾನು ಯಾರೂ ಸಹಾ ನನಗೆ ಹಣ ನೀಡಿಲ್ಲ ಎಂದು ವಿನಯದಿಂದ ಬೇಡಿಕೊಂಡೆ. ಆದರೂ ಸಹಾ ಅವರುಗಳು ನನ್ನನ್ನು ಎದ್ದು ನಿಲ್ಲಿಸಿ ನನ್ನ ಕುರ್ಚಿ, ಟೇಬಲ್‌ನ್ನು ಕಪಾಟು ಕಾಗದ ಪತ್ರಗಳೆಲ್ಲವನ್ನು ಇತರೆ ಜಾಗಗಳೆಲ್ಲಾ ಸುಮಾರು 30 ರಿಂದ 40 ನಿಮಿಷದವರೆಗೂ ಎಲ್ಲವನ್ನೂ ಶೋಧಿಸಿದರು. ನನ್ನ ಷರ್ಟ್, ಪ್ಯಾಂಟ್ ನನ್ನ ಒಳ ಉಡುಪುಗಳೆಲ್ಲಾ ಬಿಚ್ಚಿಸಿ ಶೋಧನೆ ಮಾಡಿದರು, ಎಲ್ಲಿಯೂ ಸಹಾ ರೂ.

2000/- ಹಣ ಇರಲಿಲ್ಲ, ಬದಲಾಗಿ ನಾನು ನನ್ನ ಮನೆ ಗ್ಯಾಸ್ ಸಿಲಿಂಡರ್ ಹಾಗೂ ಸ್ಲಿಪ್‌ನ್ನು ತರಲೆಂದು ನನ್ನ ಪ್ಯಾಂಟಿನ ಎಡ ಹಿಂಬದಿ ಜೇಬಿನಲ್ಲಿ ರೂ. 6000/- ಗಳನ್ನು ಇಟ್ಟುಕೊಂಡಿದ್ದೆ ಅದನ್ನು ಇದೇ ಇನ್ಸ್‌ಪೆಕ್ಟರ್ ಶ್ರೀ ತಿಮ್ಮಯ್ಯನವರು ಬಂದ ತಕ್ಷಣ ಅದನ್ನು ಅವರೇ ಕಿತ್ತು ತೆಗೆದು ಅವರೇ ಅವರ ಜೇಬಿನಲ್ಲಿಟ್ಟುಕೊಂಡರು. ನಂತರ ಪುನಃ ಪುನಃ ನನ್ನನ್ನು ಸುಮಾರು 10 ರಿಂದ 12 ಜನ ಅವರ ಸಿಬ್ಬಂದಿಗಳು ಈಗ ನಾಗರಾಜ್‌ಭಟ್ ನೀಡಿರುವ ರು. 2000/- ಹಣ ಎಲ್ಲಿ ಇಟ್ಟಿದ್ದೀಯ ಎಂದು ನನಗೆ ಜೋರು ಮಾಡಿ ಅವ್ಯಾಚ್ಯ ಶಬ್ದಗಳಿಂದ ನಿಂದನರೆ ಮಾಡಿ, ಹಿಂಸಿಸಿ, ಥಳಿಸಿ ಕೇಳ ತೊಡಗಿದರು ನಾನು ಕುಳಿತಿರುವ ಕುರ್ಚಿಯ ಕುಷನ್ ದಿಂಬುಗಳನ್ನೆಲ್ಲಾ ಬಿಚ್ಚಿ, ಹರಿದುಹಾಕಿ ಅದನ್ನೆಲ್ಲಾ ಶೋಧಿಸಿದರು ಹುಡುಕಾಡಿದರು ಎಲ್ಲಿಯೂ ಸಹ ಹಣ ಸಿಗಲಿಲ್ಲ. ಹಣ ಸಿಗಲಿಲ್ಲವಲ್ಲಾ ಎಂಬ ಕಾರಣಕ್ಕಾಗಿ ಸಿಟ್ಟಿನಿಂದ ಪುನಃ ಅವರ ಸಿಬ್ಬಂದಿಗಳು ನನಗೆ ಅವ್ಯಾಚ್ಯ ಶಬ್ದಗಳಿಂದ ಬೈಯುತ್ತಲೆ, ನನ್ನನ್ನು ನಿಂದಿಸಿ, ಚೆನ್ನಾಗಿ ಥಳಿಸಿದರು. ಈ ಹುಡುಕಾಟ ಸುಮಾರು 30 ರಿಂದ 40 ನಿಮಿಷದವರೆಗೂ ನಡೆಯಿತು. ಆ ಸಮಯದಲ್ಲಿ ಶ್ರೀ ತಿಮ್ಮಯ್ಯ ಇನ್ಸ್‌ಪೆಕ್ಟರ್ ಹಾಗೂ ಅವರ ತಂಡ ಮಾತ್ರವೇ ಇತ್ತು ಇನ್ಸ್‌ಪೆಕ್ಟರ್ ಶ್ರೀ ದಿನೇಶ್ ಕುಮಾರ್ ರವರು ಇನ್ನು ಘಟನಾ ಸ್ಥಳಕ್ಕೆ ಬಂದಿರಲಿಲ್ಲ. ಕಛೇರಿಯ ಪರ್ಯಾವೇಕ್ಷಕರಾದ ಕೃಷ್ಣಪ್ಪನವರು ಈ ಸಮಯದಲ್ಲಿ ಇನ್ನೂ ಬಂದಿರಲಿಲ್ಲ. ನಂತರ ನನ್ನ ಎರಡು ಕೈಗಳನ್ನು ಬಿಗಿಯಾಗಿ ಹಿಡಿದುಕೊಂಡಿದ್ದ ಎರಡು ಮೂರು ಲೋಕಾಯುಕ್ತ ಸಿಬ್ಬಂದಿಗಳು ಹಾಗೆಯೇ ಹಿಡಿದುಕೊಂಡಿದ್ದರು ನನಗೆ ಮೂತ್ರ ಮಾಡಲೂ ಸಹಾ ಅವಕಾಶ ಕೊಡಲಿಲ್ಲ. ನನ್ನನ್ನು ಅಭಿಲೇಖಾಲಯದ ರೂಮಿನಲ್ಲಿ ಕೂಡಿ ಹಾಕಿ ಚೆನ್ನಾಗಿ ಹೊಡೆದರು.

ನಂತರ ಇದೇ ಇನ್ಸ್‌ಪೆಕ್ಟರ್ ಶ್ರೀ ತಿಮ್ಮಯ್ಯ ಹಾಗೂ ಅವರ ತಂಡ ಹಾಗೂ ಪಂಚರವರೆಲ್ಲರೂ ಸಹಾ ಸುಮಾರು 50 ರಿಂದ 100 ಮೀಟರ್ ಅಂತರ ಇದ್ದ ಅವರ ಲೋಕಾಯುಕ್ತ ಕಛೇರಿಗೆ ತೆರಳಿದರು. ತೆರಳಿದ ನಂತರ ಸುಮಾರು 30 ರಿಂದ 40 ನಿಮಿಷದ ನಂತರ ಇಡೀ ತಂಡವೇ ಪಂಚರ ಸಹಿತ ತಿರುಗಿ ವಾಪಸ್ ಬಂದಿತು. ಆಗಲೂ ಸಹಾ ದೂರುದಾರರು ಶ್ರೀ ನಾಗರಾಜ ಭಟ್ ರವರು ಇರಲಿಲ್ಲ.

ಬಂದ ತಕ್ಷಣ ಅವರುಗಳೇ ಅಂದರೆ ಅವರ ಸಿಬ್ಬಂದಿಗಳೇ ಪುನಃ ನನ್ನ ಬಳಿ ಬಂದು ಅದೇ ಕಿತ್ತು ಹರಿದು ಹಾಕಿದ ಕುರ್ಚಿಯ ಕುಷನ್ ಕವರ್‌ನ್ನು ಜಿಪ್ ಎಳೆದು ಸರಿಪಡಿಸಿದರು. ನಂತರ ನನ್ನ ಕಣ್ಣೆದುರೇ ಅವರ ಸಿಬ್ಬಂದಿಗಳು ಅಂದರೆ ಅಡ್ಡ ಪಟ್ಟಿಯ ಟೀ ಷರ್ಟ್ ಧರಿಸಿರುವ ಸಿಬ್ಬಂದಿಯು ನನಗೆ ಥಳಿಸುತ್ತಿರುವುದನ್ನು ವಿಡಿಯೋ ದೃಷ್ಟದಲ್ಲಿ

ಕಾಣಬಹುದು. ನನ್ನ ಕಣ್ಣೆದುರಿಗೆ ಪುನಃ ನನ್ನ ಕುರ್ಚಿಯ ಕುಷನ್‌ನ್ನು ದಿಂಬು ಪಡೆದು ಅದರಲ್ಲಿನ ಜಿಪ್ ಓಪನ್ ಮಾಡಿ ಅವರೇ ತಂದಿರುವ ರೂ. 2000/- ಹಣವನ್ನು ಆ ಕುಷನ್ ಕವರ್ ಒಳಗೆ ಇಟ್ಟರು ಇದನ್ನು ನನ್ನ ಕೈಗೆ ಕೈಕುಲುಕುವ ರೀತಿಯಲ್ಲಿ ಅಂಟು ತೇವ ಅಂಶದಿಂದ ಕೂಡಿದ ಅಂಶವನ್ನು ನನ್ನ ಕೈಗೆ ಕೈಕುಲುಕುವ ರೀತಿಯಲ್ಲಿ ಅಂಟು ತೇವ ಅಂಶದಿಂದ ಕೂಡಿದ ಅಂಶವನ್ನು ನನ್ನ ಕೈಗೆ ಲೇಪನ ಮಾಡಿದ ಪೊಲೀಸ್ ಸಿಬ್ಬಂದಿಯು ಇಡುತ್ತಿದ್ದಂತೆಯೇ ಇಟ್ಟು ತೆಗೆದು ತೋರಿಸುತ್ತಿದ್ದಂತೆಯೇ ನಾನು ಅದನ್ನು ಅವರನ್ನೇ ಕೇಳಿದೆ (ವಿರೋಧಿಸಿದೆ) “ನೀವೇ ಹಣವನ್ನು ತಂದು ಇಡುತ್ತಿದ್ದೀರಲ್ಲಾ, ಇಟ್ಟು ತೆಗೆದಯ್ಯುತ್ತಿದ್ದೀರಲ್ಲಾ ಏಕೆ?” ಎಂದು ವಿರೋಧಿಸಿದಕ್ಕೆ ಪುನಃ ಅದೇ ವ್ಯಕ್ತಿ ನನಗೆ ಅವ್ಯಾಚ್ಛ ಶಬ್ದಗಳಿಂದ ನಿಂದಿಸಿದರಲ್ಲದೆ ನನಗೆ ಪುನಃ ಧಳಿಸಿದರು, ಆಗ ಶ್ರೀ ತಿಮ್ಮಯ್ಯನವರು ಹೊಡೆಯಬೇಡಿ ನಿಲ್ಲಿಸಿ ಎಂದು ಸಿಬ್ಬಂದಿಗಳಿಗೆ ತಿಳಿಸಿದರು. (ಈ ಘಟನೆಯ ಸನ್ನಿವೇಶವು ವೀಡಿಯೋನಲ್ಲಿ ಚೆನ್ನಾಗಿ ಗೋಚರಿಸುತ್ತದೆ) ಅವರ ಪೊಲೀಸ್ ಸಿಬ್ಬಂದಿಗಳಿಂದಲೇ ಹಣವನ್ನು ಇರಿಸಿ, ಅವರ ಪೊಲೀಸ್ ಸಿಬ್ಬಂದಿಗಳ ಕೈಗಳಿಂದಲೇ ಹಣವನ್ನು ತೆಗೆಸಿದರು ಈ ಹಣವನ್ನು ತೆಗೆದು ತೋರಿಸುತ್ತಿರುವುದು ಸದರಿ ವೀಡಿಯೋನಲ್ಲಿ ಇರುತ್ತದೆ.”

54. But interestingly, DGO has not taken up any such defence contention while filing his reply to the observation note and also in his written statement. Even no such suggestion was put, either to the complainant or to PW3/IO. But for the first time he has taken up such a contention that, a police official took his hand and shook his hand and during that process some gum like thing was smeared to his right hand. Without taking such a defence contention on earlier occasions, such a contention taken by the DGO in his defence evidence, cannot be believed as the possibility of he taking such a contention by way of an afterthought, in support of his defence cannot be ruled out.

55. He has made allegation against Police Inspector Thimmaiah contending that, he was responsible for implicating him falsely in this trap episode. It is his specific defence contention that, there is marital discord between him and his wife, and his father-in-law

being a friend of Police Inspector Thimmaiah, and with his help, laid this false trap against him and falsely implicated him in this case. But except his self serving testimony, absolutely there is no evidence to believe this contention. Though the DGO in the affidavit filed by him in lieu of his chief examination, has narrated in detail his defence contention in order to establish that he is innocent and he has been falsely implicated, since no corroborative evidence are available except the self serving testimony of the DGO, I decline to believe the defence contention of the DGO.

56. Further, no such contention was taken by him while giving his explanation in writing as per Ex-P8 wherein, except claiming that, he is innocent and he is nothing to do with the money recovered from his seat cushion, he has not taken up any such contention that, the money has been inserted in the cushion cover by the police official and a drama was made showing that, the money was recovered from the said cushion cover in order to falsely implicate him. The explanation offered by the DGO regarding the circumstances under which his right hand wash gave positive result regarding presence of phenolphthalein, during his defence evidence, cannot be believed because no such contention was taken by him on earlier occasions and only in the affidavit filed by him in lieu of his chief examination, he has come out with such a defence contention, which I having analysed the said defence contention, declined to believe the same.

57. On the other hand, the evidence adduced on behalf of the disciplinary authority including the conversation recorded by the complainant with the DGO on his mobile on 24.7.2012 the day on which he/DGO conducted survey of the said land and after conducting survey demanded bribe insisting the complainant to pay

him Rs. 2000/- and further, on the day of trap, he having demanded money from the complainant received Rs. 2000/- which was given to him by way of tainted notes by the complainant, the right hand wash of the DGO obtained during the trap proceedings since gave positive result regarding presence of phenolphthalein, I have no hesitation to conclude that, DGO did receive the tainted notes from the complainant and it was recovered from the cushion of his seat during the trap proceedings. Considering the evidence adduced on behalf of the disciplinary authority through the evidence of PW1 to PW3 and the documentary evidence produced during the enquiry and since I totally disbelieve the defence contention of the DGO, I have no hesitation to conclude that, DGO is guilty of misconduct, in demanding and accepting bribe from the complainant.

58. The video clippings produced in this enquiry by way of CD marked as MO-1, though there is a video clipping of some police official assaulting the DGO on the back of his neck, that itself is not sufficient to disbelieve the entire case of the disciplinary Authority and to conclude that, DGO has been falsely implicated.
59. In view of my discussions made above, I am of the considered opinion that, the disciplinary authority was able to establish the allegations against the DGO and hence I hold that, charge against the DGO is established. Accordingly, I answer point no.1 in the Affirmative.

**Point No.2**

60. Having regard to the discussion made above, and in view of my findings on point no.1 as above, my conclusion is as follows:

**CONCLUSION**

i) The Disciplinary Authority has proved the charge as framed against the DGO Sri H.T. Shanmukha S/o H.N. Thimappa, Surveyor, Taluk Office, Udupi (at present working as Surveyor, O/o ADLR, Bhatkala, North Canara District).

ii) As per the first oral statement of DGO, the date of birth of the DGO is 20.7.1972 and his date of retirement is 31.7.2032.



(S. Renuka Prasad)

Additional Registrar of Enquiries-3  
Karnataka Lokayukta, Bengaluru.



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

|             |                                                         |
|-------------|---------------------------------------------------------|
| <b>PW-1</b> | Sri H. Nagaraj Bhat ( complainant) (original)           |
| <b>PW-2</b> | Sri Divakar (shadow witness) (original)                 |
| <b>PW-3</b> | Sri B.P. Dinesh kumar (investigation officer)(original) |

**II. Witnesses examined on behalf of the DGO:**

|             |                                                    |
|-------------|----------------------------------------------------|
| <b>DW-1</b> | Sri Gururaj Sundar Ameen (Original)                |
| <b>DW-2</b> | Sri H.T. Shanmukha (DGO)(original) (DGO)(original) |

**III Documents marked on behalf of D.A.**

|                |                                                  |
|----------------|--------------------------------------------------|
| <b>Ex.P-1</b>  | Certified copy of Complaint                      |
| <b>Ex.P-2</b>  | Certified copy of application                    |
| <b>Ex.P-3</b>  | Certified copy of receipt                        |
| <b>Ex.P-4</b>  | Certified copy of entrustment mahazar            |
| <b>Ex.P-5</b>  | Certified copy of trap mahazar                   |
| <b>Ex.P-6</b>  | Certified copy of records seized by IO           |
| <b>Ex.P-7</b>  | Certified copy of extract of attendance register |
| <b>Ex.P-8</b>  | Certified copy of written explanation of DGO     |
| <b>Ex.P-9</b>  | Certified copy of FIR                            |
| <b>Ex.P-10</b> | Certified copy of sketch of scene of occurrence  |
| <b>Ex.P-11</b> | Certified copy of FSL report                     |
| <b>Ex.P-12</b> | Certified copy of transcription of conversation  |

**IV. Documents/Material Object marked on behalf of DGO:**

|             |                                              |
|-------------|----------------------------------------------|
| <b>MO-1</b> | One CD ["namma TV 21.11.2016" written on it] |
|-------------|----------------------------------------------|

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


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

