

**GOVERNMENT OF KARNATAKA**



**KARNATAKA LOKAYUKTA**

NO: LOK/INQ/14-A/437/2011/ARE-3

Multi Storied Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru-560 001,  
Date: 2/2/2019

**RECOMMENDATION**

Sub:- Departmental inquiry against Dr. Rathna Challuramath, Ophthalmologist, Government Hospital, Navanagar, Bagalkot – Reg.

Ref:- 1) Government Order No. ಆಕುಕ 154 ಎಂಎಸ್‌ಎ 2010 Bengaluru dated 28/10/2011

2) Nomination order No.LOK/INQ/14-A/437/2011, Bengaluru dated 29/11/2011 of Upalokayukta-1, State of Karnataka, Bengaluru

3) Inquiry Report dated 30/1/2019 of Additional Registrar of Enquiries-3, Karnataka Lokayukta, Bengaluru

-----

The Government by its Order dated 28/10/2011 initiated the disciplinary proceedings against Dr. Rathna Challuramath, Ophthalmologist, Government Hospital, Navanagar, Bagalkot (hereinafter referred to as Delinquent Government Official, for short DGO) and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.LOK/INQ/14-A/437/2011, Bengaluru dated 29/11/2011 nominated Additional Registrar of Enquiries-3, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGO for the alleged charge of misconduct, said to have been committed by her.

3. The DGO Dr. Rathna Challuramath, Ophthalmologist, Government Hospital, Navanagar, Bagalkot was tried for the following charge:-

“That you, Dr. Rathna Challuramath (Hereinafter referred to as Delinquent Government official, in short DGO), while working as the Ophthalmologist, Government Hospital, Navanagar, Bagalkot demanded and accepted a bribe of ₹2,500/- on 26/5/2010 from Complainant Sri Hucchesh Mallappa Yandigeri R/o. Guledagudda, Badami Taluk for issuing certificate with regard to defect in eye sight (disability certificate) in respect of Sri Hussainsab Mehaboobsab Nadaf and Krishnaji Kalpavrukash 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;

- (i) the Disciplinary Authority has proved the charge as framed against the DGO Dr. Rathna Challuramath, then working as Ophthalmologist, Government Hospital, Navanagara, Bagalakote;
- (ii) As per the first oral statement, the date of birth of the DGO is 01.04.1975 and she was to be retired from service on 31.03.2035;
- (iii) The Principal Sessions Judge and Special Court, Bagalkote vide Judgment dated 31.3.2016 in Spl. C.C. No. 7/2011 convicted the DGO/accused holding her guilty of offence under Section 7,

13(1)(d) R/w. 13(2) of P.C. Act and convicted her imposing sentence of imprisonment of 2 years with fine of Rs.70,000/- with default clause.

(iv) DGO has challenged the said judgment of conviction and sentence by preferring appeal before the Hon'ble High Court of Karnataka, Dharwad Bench and the appeal so filed in Cr. A No.100116/2016 is still pending consideration.

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

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

6. Having regard to the nature of charge (demand and acceptance of bribe) proved against DGO Dr. Rathna Challuramath, it is hereby recommended to Government to impose penalty of dismissal from service on DGO Dr. Rathna Challuramath, the then Ophthalmologist, Government Hospital, Navanagar, Bagalkot, if in the Criminal Appeal No.100116/2016 filed by the DGO, the judgment of conviction of DGO is set aside.

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

Connected records are enclosed herewith.

  
(JUSTICE N. ANANDA)

Upalokayukta-1,  
State of Karnataka,  
Bengaluru



**KARNATAKA LOKAYUKTA**

No. LOK/INQ/14-A/437/2011/ARE-3

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

Date: 30.1.2019

**Enquiry report**

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

Sub: Departmental Enquiry against Dr. Rathna Challuramath,  
Ophthalmogist, Government Hospital, Navanagara,  
Bagalkote - reg

- Ref:
1. Report under Section 12(3) of the Karnataka Lokayukta Act, 1984, in No. Compt/UPLOK/BGM/156/2011/ARE-8 dated 28.9.2011
  2. Government Order No. HFW 154 MSA 2010 Bengaluru dated 28.10.2011
  3. Nomination Order No.LOK/INQ/14-A/437/2011 Dated 29.11.2011 of Hon'ble Upalokayukta, Karnataka State, Bengaluru.

\*\*\*

1. The complainant Sri Hucchesh.Mallappa.Yandigeri R/o Gulegudda, Badami Taluk (hereinafter referred to as 'complainant') has filed a complaint to Lokayukta police, Bagalkote on 26.5.2010 against Dr. Rathna Challuramath, Ophthalmogist, Government Hospital, Navanagara, Bagalkote (hereinafter referred to as 'DGO' for short) making allegations against her that, she/DGO is demanding to pay Rs.2500/- as bribe, in order to issue vision disability certificates in favour of one Hussainsab Mybooba Sab Nadaf and Krishnaji Kallappa, who are having vision disability.

2. On registering a case on the basis of the said complaint, a trap was held on 26.5.2010 in the residential quarters of the DGO situated just behind the Government hospital, Navanagara, wherein, the DGO having demanded bribe from the complainant, received the said bribe amount of Rs. 2500/- from him, which was subsequently recovered from the vanity bag of the DGO, during the trap proceedings, conducted in the residential quarters of the DGO. Since it was revealed during investigation that, the DGO has demanded bribe of Rs.2500/- from the complainant and received the same, in order to do an official act of issuing vision disability certificates in favour of one Hussainsab Mybooba Sab Nadaf and Krishnaji Kallappa, the Police Inspector, Karnataka Lokayukta, Bagalkote, 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 her an opportunity to show-cause as to why recommendation should not be made to the Competent Authority, for initiating disciplinary proceedings against her. DGO sent a letter dated 28.6.2011 requesting for 30 days time to furnish her reply to the observation note. Despite waiting for 30 days, DGO did not choose to submit her reply, thereby DGO failed to utilize the opportunity provided to her, for furnishing her reply to the observation note served on her. Hence, having considered that, DGO has nothing to submit to the allegations made against her in the observation note served on her, a recommendation under Section 12(3) of the Karnataka Lokayukta Act dated 28.9.2011 was forwarded by the Hon'ble Upalokayukta to the Competent Authority

recommending to initiate disciplinary enquiry against DGO and to entrust the enquiry under Rule 14-A of KCS (CCA) Rules, to this authority to hold enquiry. Accordingly, the Disciplinary Authority, i.e., Health and Family Welfare Department by its order in No. HFW 154 MSA 2010 Bengaluru dated 28.10.2011, initiated disciplinary 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 29.11.2011 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, Dr.Rathna Chelluramath, (here in after referred to as Delinquent Government Official, in short DGO), while working as the Ophthalmologist Government hospital, Navanagar, Bagalkot demanded and accepted a bribe of ₹ 2500/- on 26/05/2010 from complainant Sri. Hucchesh.Mallappa. Yandigeri R/o Gulegudda, Badami Taluk for issuing certificate with regard to defect in eye-sight (disability certificate) in respect of Sri Hussain Sab Mehaboob Sab Nadaf and Krishnaji Kalpavrukash 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 Hucchesh.Mallappa.Yandigeri R/o Gulegudda, Badami Taluk filed a complaint on 26/5/2010 before the Police Inspector, Karnataka Lokayukta, Bagalkot alleging that he has been working as Social worker in Shabarish Handicapped Institute since 10 years and that on 26/5/2010 at about 11 am. HussainSab.Mahiboob Sab Nadaf and Krishnaji Kalpavruksh came to the said handicapped institute and requested him to get issued disability certificate and therefore those two persons and himself went to the DGO and requested her to issue certificate with regard to defect in eye sight of HussainSab. Nadaf and Krishanaji Kalpavruksh and at that DGO demanded bribe and thereafter all three came back to the institute and narrated the fact of DGO demanding the bribe to one Sri M.M. Tonasihal and thereafter all of them went to Police Inspector, Karnataka Lokayukta, Bagalkot and narrated the fact of DGO demanding the bribe and thereafter a mini tape recorder was given there to him and that again all of them went to the DGO and again requested her to issue the certificate with regard to defect in the eye sight of Hussain.Sab.Nadaf and Krishnaji.Kalpavruksh and at that time DGO demanded a bribe of Rs. 2500/- and the said conversation was recorded in the tape recorder the DGO insisted for the payment of Rs. 2500/-for issue of those certificates (disability certificates)

As the complainant was not willing to pay any bribe to the DGO, he went to Police Inspector, Karnataka Lokayukta Bagalkot on 26/5/2010 and lodged a complaint. On the basis of the same a case was registered in Bagalkot Lokayukta Police Station Cr. No. 2/2010 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 26/5/2010 by the Investigating Officer after your demanding and accepting the bribe amount of ₹ 2500/- 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 ₹ 2500/- from the complainant on 26/5/2010 for doing an official act i.e., issuing certificate with regard to defect in eye-sight (disability certificate) in respect of Sri Hussain Sab Mehaboob Sab Nadaf and Krishnaji Kalpavrukash. 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. Thereafter, 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 her and First Oral Statement of the DGO was recorded. DGO has denied the charges framed against her. She has engaged the services of an advocate to appear on her behalf and to defend her, in the enquiry.
5. DGO has filed her written statement on 31.5.2013, denying the allegations made against her contending that, she never demanded or received any bribe from the complainant and she has been falsely implicated. She has further claimed that, she never met the complainant earlier to the date of trap and the complainant has filed a false case against her with misunderstanding of the facts. According to her, she has already completed her part of the work and since no work was pending for her to attend as on the date of trap, question of she demanding and receiving any money by way of bribe from the complainant does not arise. It is her further contention that, the recovery of money as stated in the charge sheet is doubtful and hence the charge framed against her, will not sustain in the eye of law. She has taken up a further contention that, since she is facing trial before Spl. Court, Bagalkote, parallel

proceedings by way of disciplinary enquiry is not sustainable against her and requested this authority to exonerate her from the charges levelled against her.

6. During enquiry, on behalf of disciplinary authority, 3 witnesses have been examined as PW1 to PW3 and 16 documents came to be marked as Ex-P1 to Ex-P16. After closure of the evidence on behalf of disciplinary authority, second oral statement of the DGO was recorded. Since, DGO desired to lead defence evidence, permission was granted to her accordingly. DGO has examined herself as DW1 and examined one witness as DW-2 and one document came to be marked as Ex-D1 during her defence evidence, in support of her defence.
7. Thereafter, the learned Presenting Officer has filed written arguments. The learned counsel for DGO has submitted 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 Conclusion.

### REASONS

**Point No.1:-**

10. DGO was working as Ophthalmologist, Government Hospital, Navanagara, Bagalkote, during the relevant period.
11. The complainant in his complaint has narrated in detail the circumstances under which he has filed this complaint against the DGO. According to him, he is a social worker and working as member of Shabareesha disabled welfare association, Navanagara, Bagalkote during the relevant period. Two persons by name Hussainsab Mybooba Sab Nadaf and Krishnaji Kallappa who are suffering from vision disability approached the said association and requested him/complainant to get them vision disability certificate from the Government doctor and hence he/complainant took them and went to Government hospital, Navanagara and approached the DGO and requested her to provide vision disability certificate to those two persons. It is his allegation that, the DGO in order to provide vision disability certificate to those two persons, demanded bribe from him/complainant. Hence, the complainant informed this fact of, DGO demanding bribe for issuing vision disability certificate, to the Vice President of the said association Sri Myboob M. Thonasihal and he/complainant along with the Vice President and those two persons who are in need of Vision Disability certificate, approached Lokayukta police, Bagalkote and informed the Police Inspector about the demand for bribe being made by the DGO to issue vision disability certificate in favour of those two persons. The Police Inspector gave him/complainant a voice recorder asking him to contact the DGO again and to discuss with her about issue of disability certificate and to record the conversation with her regarding demand for bribe being made by her. Accordingly, the complainant having taken the voice recorder with him, approached the DGO and discussed with her about issue of vision disability certificate and during the course of the said conversation, DGO has

insisted him to pay Rs. 2500/- by way of bribe in order to issue the required certificate. Having recorded the said conversation with the DGO in the voice recorder entrusted to him, the complainant has approached the Police Inspector, Karnataka Lokayukta, Bagalkote on 26.5.2010 and filed a written complaint as per Ex-P1 and produced the conversation he has recorded with the DGO, in the voice recorder entrusted to him.

12. On the basis of the complaint so filed by the complainant on 26.5.2010 the Police Inspector, Karnataka Lokayukta, Bagalkote has registered a case in Cr. No. 2/2010 under Sections 7,13(1)(d) R/w 13(2) of P.C Act, 1988 and took up investigation.
13. An entrustment proceedings was conducted in the Lokayukta Police Station on 26.5.2010 in the presence of two panch witnesses viz., Sri Eraiah Channaiah Hukumanala, Technical Assistant, Government Polytechnic College, Bagalkote and Sri Veeresh Karidyavannavara, SDA, O/o BEO, Bagalkote and in the said proceedings, the bait money of Rs. 2500/- consisting of 1 currency note of Rs. 1000/- denomination and 3 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 her and only in case if the DGO demands for bribe. Panch witness Sri Veeresh Karidyavannavar was sent along with the complainant, as a shadow witness. Complainant was entrusted with a digital voice recorder, asking him to switch on the same when he meets the DGO and to record the conversation with her, while paying money to her.

14. The complainant and the shadow witness were taken near the Government Hospital, Navanagar and sent them to meet the DGO in her residential quarters situated behind the said Government hospital since it was told to them that, DGO will be available in her house. When the complainant accompanied with the shadow witness met the DGO inside her residential quarters, the complainant requested the DGO for issue of vision disability certificate and the DGO enquired him, as to whether he has brought money as demanded and when the complainant gave tainted notes of Rs. 2500/- to her, DGO having received that money with her right hand, counted the same by using her both hands and she having signed the vision disability certificates pertaining to Hussainsab Mybooba Sab Nadaf and Krishnaji Kallappa by mentioning their vision disability at 75% and 40% respectively handed over those certificates to the complainant. The complainant having received those certificates from the DGO, came out of the said house and gave pre-arranged signal to the Police Inspector.
15. On receiving the signal, the Police Inspector and his staff and another panch witness approached the complainant and the complainant took them inside the said house of the DGO and showed the DGO and told the Police Inspector that, she is the concerned Ophthalmogist and she has received money from him.
16. The Police Inspector introduced himself to the DGO and explained to her about the registration of a case against her and asked her to co-operate in the investigation. DGO disclosed her name as Dr. Rathna Challuramath, Ophthalmogist, Government Hospital, Navanagara, Bagalkote.

17. Thereafter, the hand wash of DGO was obtained, asking her to wash her both hand fingers separately in two separate bowls containing sodium carbonate solution. When DGO washed her right hand fingers and left hand fingers separately in two separate bowls containing sodium carbonate solution, the colourless 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.
18. Thereafter, the Police Inspector asked the DGO about the money she has received from the complainant. DGO went inside her bed room and took out her vanity bag which was found kept on the top of an almirah in the said room and took out the currency notes from the said vanity bag and produced those notes 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.
19. With the help of a cotton swab, the inside portion of the vanity bag of the DGO was swabbed and the said cotton swab when dipped in a separate bowl containing sodium carbonate solution and on such dipping, the colourless solution in the said bowl turned into pink colour. The said pink coloured solution was collected in a separate bottle and sealed the same and seized along with the cotton swab and the vanity bag of the DGO.
20. The Police Inspector asked the DGO to give her explanation in writing. DGO gave her explanation in writing as per Ex-P5 claiming that, the complainant has forcibly gave money to her, though she never demanded him for money. The complainant and shadow

witness have denied the correctness of the version of the explanation given by the DGO, claiming it as false and incorrect.

21. The Police Inspector asked the complainant to produce the two certificates issued by the DGO on receiving money from him. The complainant has produced the two certificates issued by the DGO on receiving money from him and also produced the OPD slips obtained by those two persons from Government hospital, Bagalkote, as per Ex-P6.
22. The voice recorder entrusted to the complainant was taken back from him and when played in the presence of panch witnesses, conversation taken place between the complainant and DGO was found recorded in it and transcription of the said conversation was prepared as per Ex-P9. A detailed mahazar was got prepared as per Ex-P3 incorporating all these details of trap proceedings. Photographs of these proceedings were also obtained as per Ex-P10 (1 to 4).
23. During enquiry, the complainant has been examined as PW1. But the complainant did not support the case of the disciplinary authority and turned hostile. In his evidence he has denied having known Hussainsab Mybooba Sab Nadaf and Krishnaji Kallappa who are having vision disability claiming that, he never seen them earlier to 26.5.2010. According to him, on 26.5.2010 he had been to the Government hospital, Navanagara and he came to know that, the concerned doctor is not giving disability certificate to Krishnaji and Hussainsab and on enquiry they told him that, they are suffering from vision disability but, DGO is harassing them to issue necessary certificate. According to him, somebody advised him to approach Lokayukta police in order to get the required certificate and hence



he took both Hussainsab Mybooba Sab Nadaf and Krishnaji Kallappa to Lokayukta Police Station and told the Police Inspector about their problem in getting the certificate. The Police Inspector asked him to file a complaint and since he pleaded his inability to write a complaint, the Police Inspector himself dictated the complaint and he/complainant claimed that, he wrote the complaint as told by the Police Inspector, thereby he has admitted the filing of the complaint as per Ex-P1. While giving evidence regarding the details of the entrustment proceedings conducted in the Police Station, though he failed to give the entire details, he has stated that, Rs. 2500/- currency notes were smeared with some chemical and it was kept in his shirt pocket and a mahazar was prepared as per Ex-P2. He has further stated in his chief examination that, the Lokayukta police took them to the Government hospital and asked them to give that tainted notes to the DGO/concerned doctor and when he went inside the hospital, DGO was not there in the hospital and on enquiry he was told that, DGO will be available in her house situated behind the hospital and hence, he along with Hussainsab Mybooba Sab Nadaf and Krishnaji Kallappa went to the house of the DGO. He further stated that, DGO invited them inside the house and he kept the amount of Rs. 2500/- given to him below a cover on the table since she was delaying the issue of certificate. It is his contention that, the amount was not paid to the hands of the DGO. Further, he pleaded his ignorance about the procedures conducted inside the house of the DGO on the arrival of the Police Inspector and his staff since he claimed that, he came out of the house when the police went inside the said house. Thus, he failed to give details of the trap proceedings and recovery of tainted notes from the possession of the DGO. Hence, having treated him as an hostile witness, he has been thoroughly cross examined by the learned Presenting Officer.

24. During his cross examination various suggestions were put to him. But he has denied all those suggestions put to him but, he has admitted in his cross examination that, after receipt of the money by the DGO, he came out of the house and gave signal and on receiving his signal the Police Inspector and his staff and another panch witness went inside the house of the DGO. The obtaining of hand wash of both the hands of the DGO and recovery of tainted notes from her vanity bag of DGO since DGO herself produced the tainted notes on taking out from her vanity bag, when suggested to him during his cross examination, he pleaded his ignorance about these details claiming that, he does not know those details. He has admitted that, the amount which was given to him in the Police Station was found in the house of the DGO. He further denied for having given his statement before the Lokayukta police, as per Ex-P4.
25. Even the learned counsel for DGO cross examined him and by way of putting suggestions to him, obtained favourable answers to those suggestions.
26. Shadow witness Sri Veeresh has been examined as PW2. He narrated in detail about conducting of entrustment proceedings in the Police Station and entrustment of tainted notes of Rs. 2500/- to the complainant in the said proceedings. He has further stated that, the Police Inspector took him along with the complainant near the Government hospital, Navanagara by entrusting a voice recorder to the complainant and asked the complainant to go and meet the concerned doctor in the said hospital. According to him, when he and the complainant went inside the hospital, DGO was not available in the hospital and on enquiry, they were told that, the

doctor will be available in her house situated just behind the said hospital and hence, they went to the residential quarters of the DGO situated just behind the hospital.

27. He has further stated that, the complainant met the DGO and DGO invited him inside her house. He/PW2 claimed that, he did not go inside the house of the DGO but was standing at the window and watching the happenings taken place inside the house. He has further stated that, the complainant on speaking with the DGO, gave money to her and the DGO on receiving the money from the complainant signed two certificates and gave those two certificates to the complainant. He has further stated that, while talking with the complainant, DGO enquired him as to whether he has brought the money and the complainant told her that, he has brought money and further told her/DGO that there was delay to pay money as he has to make arrangement for the money and by saying so, gave that money to the DGO and she received the said money given to her by the complainant.
28. He has further stated that, on receiving signal from the complainant, the Police Inspector and his staff went inside the house and the complainant showed the DGO and the Police Inspector questioned the DGO as to whether she has received money from the complainant and DGO on admitting receiving of money from the complainant took out the same from her vanity bag which was found kept on the top of the almirah and having opened her vanity bag took out the money and produced the same before the Police Inspector. He has also stated about the written explanation given by the DGO claiming that, the complainant gave him money forcibly insisting her to give the certificate, though she refused to receive money from him. He has also stated about obtaining of hand wash

of both the hands of the DGO and change of colour of the solution to pink colour when the DGO dipped her hand fingers separately in two bowls containing solution. He has also stated about, the playing of the voice recorder on taking it from the complainant and the conversation took place between the complainant and the DGO were found recorded in it. He has also narrated about the procedure conducted in swabbing the inside portion of the purse of the DGO with a cotton swab and subjecting the said cotton swab to phenolphthalein test and preparation of mahazar and other details of the trap proceedings.

29. The learned counsel for DGO has thoroughly cross examined him. Various questions were put to him with regard to the details of the entrustment proceedings during his cross examination. He has reiterated that, the money was got taken out through the DGO from her vanity bag. He has also admitted obtaining the hand wash of the DGO and he has replied to various questions put to him with regard to the trap proceedings during his cross examination. A suggestion was put to him/shadow witness during his cross examination that, he approached the husband of the DGO for treatment and he quarreled with the husband of the DGO and in order to score vengeance against the husband of the DGO, he is giving false evidence against the DGO. This suggestion has been categorically denied by PW2.
30. PW3/IO in his evidence has stated in detail regarding the complainant approaching him on 26.5.2010 and entrustment of voice recorder to him on that day. He further gave details regarding the complainant again approaching him on the same day and on producing the voice recorder entrusted to him, gave a written complaint as per Ex-P1 and on the basis of that complaint, he

registered a case against the DGO and took up investigation. He narrated in detail regarding conducting of entrustment proceedings and entrustment of tainted notes of Rs.2500/- to the complainant, in the said proceedings.

31. He gave details regarding the trap proceedings, he has conducted in the residential quarters of the DGO contending that, the complainant and shadow witness were sent inside residential quarters of the DGO to meet her, and the complainant went inside the house of the DGO and the shadow witness was standing outside the house peeping through the window. He further stated about the complainant giving pre-arranged signal to him on coming out of the house of the DGO and on receiving signal from the complainant, he claimed that, he and his staff went inside the house of the DGO and complainant showed him the DGO claiming that, she is the concerned doctor and she has received money from him. He gave evidence regarding obtaining of hand wash of both the hands of the DGO which gave positive result, recovery of tainted notes from the vanity bag of the DGO, since, when he enquired the DGO about the money she has received from the complainant, she went inside her bed room and took her vanity bag which was found kept on the top of the almirah in her bed room and on opening her vanity bag, she took out the currency notes from her vanity bag and produced the same before him and he on confirming that those were the notes entrusted to the complainant, seized the same. He also gave details regarding the procedure conducted in obtaining swab of the inside portion of the vanity bag of the DGO by using a cotton swab and the said cotton when subjected to phenolphthalein test gave positive result, giving of explanation by the DGO as per Ex-P5 and denial of the version of the explanation given by the DGO both by the complainant and the shadow witness, seizure of the two certificates

issued by the DGO to the complainant on receiving money from him and also the OPD chits since produced by the complainant along with the certificates and seizure ~~of~~ the same as per Ex-P6. He further gave evidence regarding the voice recorder entrusted to the complainant stating that, on taking back the voice recorder from him, when played, found to contain the conversation took place between the complainant and the DGO found recorded in it and the same was transferred into CD and the transcription of the said conversation was got prepared during the trap proceedings as per Ex-P9 and other details of the trap proceedings and also the steps he has taken at various stages of his investigation, including sending of seized articles to FSL for chemical examination and receipt of report of the chemical examiner as per Ex-P13.

32. The learned counsel for DGO thoroughly cross examined PW3/IO by putting various suggestions to him and all those suggestions have been categorically denied by the IO. A further suggestion was put to him that, a false case has been registered against the DGO at the instance of the complainant and the said the suggestion has been denied by PW3. Even, he/IO was cross examined with reference to the voice identification proceedings he has conducted and the District Surgeon Sri M.G. Bidimani and Dr. Somashekhar Hiremat have identified the voice of the DGO in the said conversation, by denying the said proceedings. But the IO reiterated his contention about the voice identification proceedings he has conducted.
33. DGO has adduced his defence evidence by examining herself as DW-1 and tendered her evidence by way of sworn affidavit in lieu of her chief examination and reiterated her defence contention that, she never demanded nor accepted Rs. 2500/- by way of bribe from the complainant and she has been falsely implicated. It is her evidence

that, the day of trap i.e., 26.5.2010 it was her last day in Government hospital Navanagara, as she was to report at KMC, Hubli on the next day for her further studies since deputed to do her PG course. According to her, she brought the copies of the certificates she has issued on 26.5.2010 to her house in order to hand over charge to her incharge doctor. It is her further contention that, about 12.30pm while she was working in the hospital the complainant approached her and quarreled with her by making allegations against her that, she is harassing the patients with disability in issuing certificates to them and in a loud voice threatened her that, he will not allow her to go to Hubli to prosecute her PG studies. According to her, some hospital staff and patients have pacified the galata and sent the complainant out of the hospital. She has taken up a further contention that, the complainant came to her house at about 6.45pm and at that time she was inside the house and her maid was also not there in the house at that time. It is her further contention that, she had kept her vanity bag on the table in her house and she on coming out from inside the house, on seeing the complainant enquired him and he apologized ~~with~~<sup>to</sup> her for the incident of galata took place in the morning in the hospital and by saying her thanks, he/complainant went out of the house and within few minutes the Lokayukta police came inside her house and started searching her vanity bag and insisted her and forced her and made her to take out the money which was found kept inside the purse. It is her further contention that, thereafter, her hand wash was obtained and her statement was forcibly obtained and also seized the copies of the certificates from her, which she has brought along with the other certificates, in order to hand over the charge to her successor.

34. The learned Presenting Officer has cross examined her at length by way of putting various suggestions to her but, DGO has conveniently denied all those suggestions put to her during her cross examination.
35. One more witness by name Smt. Chaithra Chikmat has been examined by the DGO in support of her defence and the said witness/DW-2 tendered her evidence by way of sworn affidavit in lieu of her chief examination. It is her contention in her evidence that, the husband of the DGO is a distant relative to her and she was staying in the house of the DGO during the relevant period prosecuting her studies and she was also looking after the household work in the house of the DGO and also taking care of the children of the DGO. It is her further contention that, on 26.5.2010, she returned to the house at about 6.45pm by bringing the daughter of the DGO to the house and at that time one person rushed out of the house of the DGO and went away. It is her contention that, she thought the said person must have come to obtain treatment from the doctor and when she went inside the house, the vanity bag of the DGO was found kept on the dining table and some currency notes were found kept beneath the said vanity bag of the DGO. It is her further contention that, since the money was found lying beneath the vanity bag of the DGO, she claimed that, she took that money and kept that money in the vanity bag of the DGO and she went inside the house to wash her face and by that time Lokayukta police came inside the house and started questioning the DGO making allegations against her/DGO that, she has received bribe and DGO was pleading ignorance about any money she has received by way of bribe. It is her further contention that, she then told the DGO that, one person was found rushed out of the house when she was entering the house and on seeing the money found kept



beneath the vanity bag, took that money and kept that money inside the vanity bag. It is her further contention that, the Lokayukta police did not bother to consider her explanation and made DGO to take out the money from her vanity bag and thereafter, the hand wash of DGO was obtained. It is her contention that, DGO had no knowledge about that money as she has not received that money from any person and she has been falsely implicated though, she never demanded or received any bribe from any one.

36. This witness has been thoroughly cross examined by the learned Presenting Officer and she has contended in her cross examination that, on 26.5.2010 since DGO was inside the house, she left the house without locking, in order to bring the children from the summer camp. Various suggestions put to her that, she is giving false evidence by creating a false story, just to help the DGO and to save her from the consequences of this enquiry, have been denied by her during her cross examination.
37. Considering the evidence adduced on behalf of the disciplinary authority in the context with the defence taken by the DGO in this enquiry, the recovery of tainted notes from the vanity bag of the DGO is not seriously disputed. Even obtaining of hand wash of both the hands of the DGO during the trap proceedings and the hand wash of both her hands giving positive result regarding presence of phenolphthalein are also not seriously disputed. Therefore, it is necessary to consider whether the defence taken by the DGO in this enquiry is believable and the explanation offered by the DGO regarding the seizure of the tainted notes from her vanity bag can be considered to be a plausible explanation.

38. The DGO has not filed her reply to the observation note served on her and though she was provided opportunity by extending the time limit prescribed for more than 30 days as requested by her so as to enable her to file her reply, she did not utilize that opportunity and she failed to submit her reply to the observation note. The observation note dated 6.6.2011 was duly served on her and vide letter dated 28.6.2011 DGO requested for 30 days time to furnish her reply. She has not utilized that opportunity in submitting her reply and failed to submit her reply within the extended time. Thereafter, report under Section 12(3) of Karnataka Lokayukta Act dated 28.9.2011, was forwarded to the Competent Authority.
39. After her appearance before this authority she has filed her written statement on 31.5.2013. Except questioning the legality of the enquiry initiated against her and further denying the allegations made against her contending that, she never demanded or received any money by way of bribe from the complainant, she has not taken any specific defence contention while filing her written statement. There was no impediment for her to take up such a defence contention, as adduced during her defence evidence by examining herself and examining one witness in support of her defence. The DGO should have taken the same defence contention now she has taken in this enquiry, in her written statement but no such defence contention was taken by her in her written statement. Even while cross examining PWs 1 to 3 no such contention was taken by her. PW1/complainant though turned hostile, gave evidence that, DGO has invited him inside her house and he kept the amount below the cover on the table and according to him, he paid the amount to the DGO because she was delaying in issuing the required certificate. He claimed in his evidence that, he kept the amount below the purse which was on the table. While discussing the evidence of the

complainant/PW1 in the pre-paras, considering the nature of the evidence given by him, I have already concluded that, PW1/complainant has been won over by the DGO and he was made to give evidence in his chief examination in that manner. Since DGO has not taken such contention earlier, by filing reply to the observation note and in her written statement, she has come up with such a defence contention for the first time while giving her defence evidence. But no such suggestion was put to PW1/complainant during his cross examination that, he having kept the money beneath the vanity bag found kept on the dining table, without the knowledge of the DGO, ran away from the house. In the absence of any such contention taken on behalf of the DGO while cross examining PW1 and considering the fact that, the complainant/PW1 on going inside the house of the DGO collected the certificates from the DGO, as she/DGO signed those certificates and gave it to the complainant, his contention that, he has kept the money beneath the vanity bag without the knowledge of the DGO, cannot be believed.

40. Moreover, DGO when asked to give explanation in writing, gave her explanation as per Ex-P5, during the trap proceedings. The fact of giving of such an explanation as per Ex-P5 has not been disputed while filing her written statement or while cross examining PW1. But while cross examining PW2 and PW3/IO, a suggestion has been put to them that, DGO did not give her explanation in writing voluntarily but, it was forcibly got written through her by the Police Inspector. Both PW2 and PW3 have categorically denied this suggestion. Since DGO has not disputed giving of her explanation in writing as per Ex-P5 while filing her written statement, such a contention of denying, giving of such an explanation voluntarily, cannot be believed. While giving her written explanation as per Ex-

P5, she has admitted receipt of Rs. 2500/- from the complainant and it reads as follows:

“ನನ್ನ ಮನೆಯಲ್ಲಿ ಬೆಳಿಗ್ಗೆ ಬಂದ ವ್ಯಕ್ತಿ (ಹೆಸರು ಗೊತ್ತಿಲ್ಲ) ಒತ್ತಾಯ ಪೂರ್ವಕವಾಗಿ 2500/- ತಂದು ನನಗೆ ಸರ್ಟಿಫಿಕೇಟ್ ಕೊಡಲು ತಿಳಿಸಿದ ಬೆಳಿಗ್ಗೆ ನಾನು ಅವನನ್ನು avoid ಮಾಡಿದಾಗ್ಯೂ 2-3 ವಾರದಿಂದ ನನ್ನಲ್ಲಿ certificateಗಾಗಿ ಬರುತ್ತಿದ್ದ ನಾನು avoid ಮಾಡಿ certificate ಬರುವುದಿಲ್ಲ SNMC ಹೋಗಿ ಬರಲು ಹೇಳಿದೆ. ಸಂಜೆ 5.30pm. ಸುಮಾರಿಗೆ ಮನೆಗೆ ಬಂದು ಒತ್ತಾಯ ಪೂರ್ವಕವಾಗಿ ದುಡ್ಡು ಕೊಟ್ಟು certificate ಕೊಡಲು ವಿನಂತಿಸಿಕೊಂಡ ನಾನು PGಗೆ ಹೋಗಲು relieve ಆಗಲು ತಯಾರಿ ನಡೆಸಿದ್ದರಿಂದ, ನಾನು accept ಮಾಡಿ certificate ನೀಡಿದೆ.”

41. According to the written explanation given by her as per Ex-P5, the complainant gave her money forcibly and claimed that, she having accepted that money, issued him the certificates. The mere contention of the DGO that, she did not give such an explanation voluntarily but she was forced to give such an explanation by the IO, cannot be believed because, possibility of taking up such a contention by way of an afterthought, during the stage of enquiry cannot be ruled out.
42. The fact of obtaining the hand wash of her both hands during the trap proceedings since gave positive result regarding presence of phenolphthalein which has been confirmed by the chemical examiner in his report Ex-P13 and the seizure of tainted notes from her vanity bag has been established by the disciplinary authority through the evidence of PW2 and PW3 and also the trap mahazar Ex-P3. Hence, it is for the DGO to offer convincing explanation as to the circumstances under which she touched the tainted notes with her both hands. Her explanation that, the Police Inspector made her

to take out the tainted notes from her vanity bag and thereafter, her hand wash was obtained cannot be believed as she has not taken such a contention on earlier opportunities provided to her. Therefore, her defence contention that, in her absence the complainant came inside her house and kept the money beneath the vanity purse kept on the dining table and her maid took that money from the place beneath the vanity bag and kept the money inside the vanity purse and these aspects were not within her knowledge cannot be believed as these aspects have been cooked up subsequently during the enquiry just to take false defence in this enquiry. Further she has not adduced any evidence to establish the existence of any animosity between her and the complainant. Though she has referred to certain incident of galata between her and the complainant in the hospital on the forenoon on that <sup>day,</sup> no evidence has been produced by examining any eye witnesses to the said alleged incident, in support of her such contention. Hence, the entire defence evidence produced by her and contentions taken by her during her defence evidence cannot be believed.

43. The Hon'ble Supreme Court in a decision reported in AIR 1968 Page 1292 (Sri S.N. Bose Vs. State of Bihar) have clarified the legal position as to the nature of evidence, an Accused has to produce to prove the contention taken by him by way of his defence and the relevant portion of the observation reads as follows:

"A fact is said to be proved when after considering the matters before it, the Court either believes it to exist or considers its existence was so probable that a prudent man ought under the circumstances of the particular case to act upon the supposition that it exists. The proof given by the accused must satisfy the aforementioned conditions. If it does not satisfy those conditions

then he cannot be said to, have proved the contrary. In Dhanvantrai Balwantrai v. State of Maharashtra(<sup>1</sup>) this Court considered the nature of the proof required to be given by' the accused under s. 4 (I). Wherein this, Court held that the burden resting on the accused person in such a case would not be as light as that placed on him under s. 114 of the Evidence Act and the same cannot be held to be discharged merely by reason of the fact that the explanation offered by him is reasonable and probable. It must further be shown that the explanation is a true one. The words 'unless the contrary is proved' which occur in that provision make it clear that the presumption has to be rebutted by proof and not by a bare explanation which is merely plausible."

44. Since DGO has failed to take up such a defense contention in her written statement and though such a contention was taken by her in her defence evidence, that defence contention of the DGO cannot be believed since I have already concluded that, such a false contention by way of her defence has been cooked up subsequently just to take up false defence in this enquiry and hence, I decline to believe such a defence contention taken by her during this enquiry.
45. Further, prior to registration of the case, the complainant was entrusted with a micro tape recorder and he was asked to record the conversation with the DGO. He, accordingly recorded the conversation as per the transcription produced as per Ex-P7. Even during the trap proceedings the complainant was entrusted with a voice recorder and he has recorded the conversation with the DGO in her house while collecting the certificates from her on paying money to her. The said transcription has been produced as per Ex-P9. The complainant has categorically stated that, the certificates were issued to him in her house and that certificates given to him by

the DGO have been seized from the possession of the complainant during the trap proceedings as per Ex-P6 and Ex-P6(a) along with the OPD slips. Even PW2/shadow witness and PW3/IO have confirmed the seizure of these documents from the possession of the complainant during the trap proceedings. Therefore, it can be concluded that, DGO handed over those certificates to the complainant in her house. Therefore, the contention of the DGO that, she never seen the complainant in her house and never spoke to him and in her absence the complainant kept money clandestinely beneath her vanity bag found kept on her dining table inside her house cannot be believed. DGO has not come out with any explanation as to when she handed over the certificates to the complainant. She has taken up a contention in her defence evidence that, she has brought the copies of those certificates to the house, in order to hand over the charge to her successor and copies of those certificates were seized from her possession. But she has not taken up such a contention that, she used to maintain the copies of the certificates issued by her and those copies are to be handed over while handing over charge. Moreover, except the two certificates as per Ex-P6 and Ex-P6(a), no other certificates were seized from her possession and hence such a defence contention taken by the DGO cannot be believed.

46. Having regard to the discussion made above and on considering the detailed evidence adduced on behalf of the disciplinary authority both oral and documentary and the defence evidence adduced by the DGO, I am of the considered opinion that, the defence evidence adduced on behalf of the DGO is created subsequently and in order to take up false contention, such an evidence has been adduced by her by way of an afterthought and hence I disbelieve the defence evidence of the DGO adduced in this enquiry.

47. The Principal District and Sessions Judge and Special Court, Bagalkote having conducted detailed trial against the DGO/accused in Spl.C.C. No. 7/2011, convicted her vide judgment dated 31.3.2016, imposing both sentence ~~and~~<sup>of</sup> imprisonment and fine on her. Aggrieved by the said judgment of conviction, the DGO has challenged the same by preferring appeal before the Hon'ble High Court of Karnataka in Cr.A. No. 100116/2016, and the same is pending before the Dharwad Bench of the Hon'ble High Court for consideration. Consequent to her conviction, the DGO has been dismissed from service. Hence, this is also an another factor, which persuaded me to disbelieve the defence contention of the DGO and to conclude that, the charges against the DGO stands established.
48. Since the disciplinary authority was able to establish the ingredients of trap proceedings viz., the hand wash of both the hands of the DGO obtained during the trap proceedings gave positive result regarding presence of phenolphthalein and also recovery of tainted notes from her vanity bag since according to the evidence of IO, DGO herself went inside her bed room and took the vanity bag she found kept on the top of the almirah and took out the money from her vanity bag and produced the same before him, when considered with other materials made available in this enquiry, I have no hesitation to conclude that, the disciplinary authority has proved the charge against the DGO and accordingly, I answer point no.1 in the affirmative.

**Point No.2:-**

49. 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, Dr. Rathna Challuramath, then working as Ophthalmologist, Government Hospital, Navanagara, Bagalkote.

ii) As per the first oral statement, the date of birth of the DGO is 01.04.1975 and she was to be retired from service on 31.03.2035.

iii) The Principal Sessions Judge and Special Court, Bagalkote vide judgment dated 31.3.2016 in Spl.C.C. No. 7/2011 convicted the DGO/accused holding her guilty of offence under Section 7,13(1)(d) R/w. Section 13(2) of P.C. Act and convicted her imposing sentence of imprisonment of 2 years with fine of Rs. 70,000/-, with default clause.

iv) DGO has challenged the said judgment of conviction and sentence by preferring appeal before the Hon'ble High Court of Karnataka, Dharwad Bench and the appeal so filed in Cr.A.No. 100116/2016 is still pending consideration.

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

  
30/1/19  
(S. Renuka Prasad)

Additional Registrar of Enquiries-3  
Karnataka Lokayukta, Bengaluru.

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

PW-1	Sri Hucchesh Mallappa Yandigeri (original)
PW-2	Sri Veeresh (original)
PW-3	Sri Anil Kumar S. Bhoomareddi (original)

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

DW-1	Dr. Rathna Chellur Math (DGO) (original)
DW-2	Smt. Chaithra Chikmat (original)


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

Ex.P-1	Certified copy of the complaint
Ex.P-2	Certified copy of the entrustment mahazar
Ex.P-3	Certified copy of the trap mahazar
Ex.P-4	Statement of the complainant before IO (xerox)
Ex.P-5	Certified copy of the written explanation of DGO
Ex.P-6	Certified copy of the records seized
Ex.P-7	Transcription(xerox)
Ex.P-8	photographs (xerox)
Ex.P-9	Transcription (xerox)
Ex.P-10	Photographs (xerox)
Ex.P-11	Certified copy of rough sketch (xerox)
Ex.P-12	Certified copy of sketch of PWD authorities
Ex.P-13	Certified copy of FSL report
Ex-P14	service particulars of DGO (xerox)
Ex-P15 & 16	Attendance and particulars of residential quarters allotted to the DGO (Xerox)

**IV. Documents marked on behalf of DGO:**

Ex-D1	Xerox copy of of P.U. certificate of Chaithra Hiremath
-------	--

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

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