

**GOVERNMENT OF KARNATAKA**



**KARNATAKA LOKAYUKTA**

No.LOK/INQ/14-A/447/2011/ARE-3

Multi Storied Buildings,  
Dr.B.R.Ambedkar Veedhi,  
Bengaluru-560 001,  
Date: 26/02/2019

**RECOMMENDATION**

Sub:- Departmental inquiry against Sri Ramappa Yellappa Amminabhavi, Warranting Officer, Hubballi – Dharwad Mahanagara Palike, Range Office – 9, Hubballi – Reg.

Ref:-1) Government Order No.ನಲಇ 82 ಎಚ್‌ಡಿ 2011 Bengaluru dated 18/10/2011 and its Corrigendum dated 23/11/2011.

2) Nomination order No.LOK/INQ/14-A/447/2011 Bengaluru dated 02/12/2011 of Upalokayukta-1, State of Karnataka, Bengaluru.

3) Inquiry Report dated 23/02/2019 of Additional Registrar of Enquiries-3, Karnataka Lokayukta, Bengaluru

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The Government by its Order dated 18/10/2011 read with its Corrigendum dated 23/11/2011 initiated the disciplinary proceedings against Sri Ramappa Yellappa Amminabhavi, Warranting Officer, Hubballi – Dharwad Mahanagara Palike, Range Office-9, Hubballi (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/447/2011 dated 02/12/2011 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 him.

3. The DGO Sri Ramappa Yellappa Amminabhavi, Warranting Officer, Hubballi – Dharwad Mahanagara Palike, Range Office – 9, Hubballi was tried for the following charge:-

“That you, Sri Ramappa Yellappa Amminabhavi, (herein after referred to as Delinquent Government Official, in short DGO), while working as the Warranting Officer, Hubli-Dharwad Mahanagara Palike, Range Office-9, Hubli District demanded and accepted a bribe of Rs.5,000/- on 17/11/2005 from complainant Sri Vasappa alias Vasu S/o Lokappa Ankushakhani R/o Thoravihakkal, Hubli for reducing the arrears of Tax of plot nos. 9 and 10 within the limits of Hubli Dharwad Mahanagara Palike to the extent of Rs.10,000/- that is for doing an official act, and thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servant and thus you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966”.

4. The Inquiry Officer (Additional Registrar of Enquiries-3) on proper appreciation of oral and documentary evidence has held that, the Disciplinary Authority has proved the above charge against DGO Sri Ramappa Yellappa Amminabhavi, Warranting Officer, Hubballi – Dharwad Mahanagara Palike, Range Office -9, Hubballi.


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. The Inquiry Officer has reported that the DGO was convicted vide judgment dated 31/3/2010 in Spl. KLA. C.C. No.3/2006 of the III Additional District & Sessions Judge & Special Court, Dharwad holding him guilty of offence under Section 7, 13(1)(d) R/w. Section 13(2) of P.C. Act and convicted him imposing sentence of imprisonment and fine. DGO has challenged the judgment his conviction and sentence by preferring appeal before the Hon'ble High Court of Karnataka, Bengaluru Bench in Crl. Appeal No. 2612/2010, which is still pending consideration. Consequent to his conviction, DGO was dismissed from service.

7. Having regard to the nature of charge (demand and acceptance of bribe) proved against DGO Sri Ramappa Yellappa Amminabhavi, it is hereby recommended to the Government for imposing penalty of permanently withholding 50% of pension payable to DGO Sri Ramappa Yellappa Amminabhavi, Warranting Officer, Hubballi - Dharwad Mahanagara Palike, Range Office - 9, Hubballi, if the conviction of DGO is set aside in the Criminal Appeal No.2612/2010.

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

Connected records are enclosed herewith.

  
(JUSTICE N. ANANDA) 96/2  
Upalokayukta-1,  
State of Karnataka,  
Bengaluru



**KARNATAKA LOKAYUKTA**

No. LOK/INQ/14-A/447/2011/ARE-3

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

Date: 23.2.2019

**Enquiry report**

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

Sub: Departmental Enquiry against Sri Ramappa Yellappa  
Amminabhavi, Warranting Officer, Hubli-Dharwad  
Mahanagara Palike, Range Office-9, Hubli - reg

Ref: 1. Report under Section 12(3) of the Karnataka  
Lokayukta Act, 1984, in No. Compt/Uplok/BGM/  
140/2007/DRE-1 dated 8.7.2011

2. Government order No. UDD 82 AHD 2011 dated  
18.10.2011

3. Nomination Order No.LOK/INQ/14-A/447/2011  
dated 29.12.2011 of Hon'ble Upalokayukta,  
Karnataka State, Bengaluru.

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1. One Sri Vasappa alias Vasu S/o Lokappa Ankushakhani R/o Thoravihakhal, Hubli (hereinafter referred to as 'complainant') has filed a complaint to Lokayukta police, Dharwad on 17.11.2005 against Sri Ramappa Yellappa Amminabhavi, Warranting Officer, Hubli-Dharwad Mahanagara Palike, Range Office-9, Hubli (hereinafter referred to as 'DGO' for short) making allegations against him that, he/DGO is demanding him to pay Rs. 5000/- as bribe in order to reduce the tax liability, promising him/complainant that, he has to pay arrears of tax of Rs. 21,189/- being the tax payable by him for his property, where he is running a timber Depot,

and if he pay him Rs. 5000/- as bribe, he will reduce the tax liability to the extent of Rs. 10,000/-.

2. On registering a case on the basis of the said complaint, a trap was held on 17.11.2005 in the zonal office No.9 of Hubli-Dharwad Municipal Corporation (hereinafter called HDMC) wherein, the DGO having demanded bribe from the complainant, received the said bribe amount of Rs. 5000/- from him. The tainted money of Rs. 5000/- was recovered from the left side pocket of his pant during the trap proceedings conducted in the zonal office of HDMC. Since it was revealed during investigation that, the DGO has demanded bribe of Rs.5000/- from the complainant and received the same, in order to show an official favour i.e., to reduce the tax liability to an extent of Rs. 10,000/-, 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 despite service of observation note, did not bother to submit his reply and thereby, he did not utilize the opportunity to take up any specific defence since, he failed to submit his reply to the observation note, served on him.
4. Considering that, DGO has nothing to submit by way of his reply to the observation note served on him, a recommendation under

Section 12(3) of the Karnataka Lokayukta Act was forwarded to the Competent Authority recommending to initiate disciplinary enquiry against DGO and to entrust the enquiry under Rule 14-A of KCS (CCA) Rules, to this authority to hold enquiry. Accordingly, the Disciplinary Authority, Government of Karnataka, Urban Development Department by its order in UDD 82 AHD 2011 dated 18.10.2011, initiated disciplinary proceedings against the DGO and entrusted the same to Hon'ble Upalokayukta to hold enquiry. As per the order issued against the DGO, the Hon'ble Upalokayukta issued a nomination order dated 29.12.2011 nominating ARE-3 to frame charges and to conduct enquiry against the DGO. Accordingly, charges were framed by the then ARE-3 against the DGO as under.

“Charge:

That you, Sri Ramappa. Yellappa. Amminabavi, (here in after referred to as Delinquent Government Official, in short DGO), while working as the Warranting Officer, Hubli-Dharwad Mahanagara Palike, Range Office-9, Hubli District demanded and accepted a bribe of Rs. 5,000/- on -17/11/2005 from complainant Sri Vasappa alias Vasu S/o Lokappa Ankushakhani R/o Thoravihakkal, Hubli for reducing the arrears of Tax of plot nos. 9 and 10 within the limits of Hubli Dharwad Mahanagara Palike to the extent of Rs. 10,000/-, that is for doing an official act, and thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servant and thus you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966.

STATEMENT OF IMPUTATION OF MISCONDUCT: .....

The complainant Sri Vasappa alias Vasu S/o Lokappa Ankushakhani R/o Thoravihakkal, Hubli filed a complaint on 17/11/2005 before the Police Inspector, Karnataka Lokayukta, Dharwad alleging that he is running a timber depot in plot nos. 9 and 10 within the limits of Hubli Dharwad Mahanagara Palike under the name and style as Srikanth Timber Depot and that he has paid the tax in respect of those two sites up to the year 2005 and that however he came to know that there was arrears of tax pertaining to these two plots and therefore he went to Sri Ramappa. Yellappa. Amminabavi, Warranting Officer, Hubli-Dharwad Mahanagara Palike, Range Office-9, Hubli (here in after referred to as Delinquent Government Servant, in short DGO) and enquired him about the arrears of tax with regard to plots and that the DGO told him that a sum of Rs. 21,189/- was in arrears and that he showed the challans to the DGO for having paid the tax and at that time the DGO told him that he would reduce the arrears of tax to an extent of Rs. 10,000/- and that he demanded Rs. 5,000/- bribe for reducing arrears of tax to the extent of Rs. 10,000/- and he also told him that the bribe amount should be given to him wherever he was after contacting him through telephone.

As the complainant was not willing to pay any bribe to the DGO, he went to Police Inspector, Karnataka Lokayukta Dharwad on 17/11/2005 and lodged a complaint. On the basis of the same a case was registered in Dharwad Lokayukta Police Station Cr. No. 8/2005 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 17/11/2005 by the Investigating Officer after your demanding and accepting the bribe amount of Rs. 5,000/- from the complainant in the presence of shadow witness and the said bribe amount which you had received from the complainant was seized from your possession under the seizure mahazar after following the required post trap formalities. During the investigation the I.O has recorded the statements of Panchas and other witnesses and further statement of the complainant. The I.O during the investigation has sent the seized articles to the chemical examiner and obtained and obtained the report from him and he has given the result as positive.

The materials collected by the I.O. during the investigation prima facie disclose that you, the DGO, demanded and accepted bribe of Rs. 5,000/- from the complainant on 17/11/2005 for doing an official act i.e., for reducing the arrears of Tax of plot nos. 9 and 10 within the limits of Hubli Dharwad Mahanagara Palike to the extent of Rs. 10,000/-. Thus you, the DGO, have failed to maintain absolute integrity and devotion to duty and this act on your part is unbecoming of a Government servant. Hence, you have committed an act which amounted to misconduct as stated under Rule 3 (1) (i) to (iii) of KCS (Conduct) Rules 1966.

In this connection an observation note was sent to you, the DGO and you have submitted your reply which, after due consideration, was found not acceptable. Therefore, a recommendation was made to the Competent Authority under Section 12(3) of the Karnataka Lokayukta, Act 1984, to initiate

Departmental Proceedings against you, the DGO. The Government after considering the recommendation made in the report, entrusted the matter to the Hon'ble Upalokayukta to conduct departmental/disciplinary proceedings against you, the DGO and to submit report. Hence the charge."

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 the enquiry.
6. DGO has filed his written statement on 17.8.2012 denying the allegations made against him contending that, he never demanded or accepted any money by way of bribe from the complainant and he has been falsely implicated. It is his defence contention that, he being a warrant officer, his duty was to collect the tax and to remit the same to the Corporation account. He has no powers to reduce or increase the tax liability payable on a property within the Corporation limits and hence there was no occasion for him to demand any bribe from the complainant, as he has no power or authority to reduce the tax liability. He has taken up a further contention that, since he is facing trial before III Additional District and Session Judge and Special Court, Dharwad in Spl.C.C. No. 3/2006, no parallel proceedings by way of disciplinary proceedings can be initiated against him and thereby questioned the legality of the disciplinary proceedings initiated against him. Taking up such contentions and denying the allegations made against him in the AOC, he has requested this authority to drop the proceedings against him and to absolve him from the charges leveled against

him. Considering the nature of defence taken by him, his defence is one of total denial,

7. During enquiry, 3 witnesses have been examined as PW1 to PW3 and 11 documents came to be marked as Ex-P1 to Ex-P11 on behalf of the disciplinary authority. After closure of the evidence on behalf of disciplinary authority, second oral statement of the DGO was recorded. Since, DGO desired to lead defence evidence, permission was granted to him accordingly. DGO has examined one witness as DW-1 and examined himself as DW2, and 3 documents came to be marked as Ex-D1 to Ex-D3, during his defence evidence.
8. Thereafter, the learned Presenting Officer has filed written arguments. The learned counsel for DGO has submitted his written arguments belatedly. Thereafter, this matter is taken up for consideration.
9. The points that would arise for my consideration are:
  - Point No.1:** Whether the charge framed against the DGO is proved by the Disciplinary Authority?
  - Point No.2:** What order?
10. The above points are answered as under:
  - Point No.1:** In the 'Affirmative'
  - Point No.2:** As per Conclusion.

### REASONS

**Point No.1:-**

11. The complainant in his complaint has mentioned the designation of the DGO as warrant officer, working in the O/o HDMC. Even DGO in his written statement has contended that, he was working as

warrant officer on 17.11.2005. But as per the work chart produced by DGO himself as per Ex-D2, in his defence evidence, DGO was working as Tax-Revenue incharge, in C.S.C and Z office No. 9, Hubli during the relevant period. Therefore, DGO was not working as Warrant officer as contended by the complainant or Bill Collector as contended by the DGO, in his defence evidence, as he was working as offic~~er~~ in the O/o HDMC in charge of 'Tax/Revenue'.

12. The complainant in his complaint has narrated in detail the circumstances under which he has filed the said complaint against the DGO. According to him, he is running a Timber Depot under the name M/S. Srikanth Timber Depot, in Plot no.9 and 10 situated in Thoravihakkal, abutting main public road at Hubli, since about 22 years. According to him, the said plot belonged to one Sri Mansoor Hajarath Sab Gunkari and Sri G.A.Bochageri and he having taken the plot from them on lease, running the Timber depot in the said plot. It is his further contention that, he himself is paying Corporation taxes regularly with respect to that plot and he is in occupation of the said plot running his timber depot. Since he came to know that, there is arrears of property tax payable with respect to the said plot, he approached the DGO and enquired him as to how much tax is in arrears with respect to the said plot. DGO on verifying the records told the complainant that, a sum of Rs. 21,189/- is the arrears of tax payable by him with respect to the said plot. The complainant showed the DGO the receipts he has maintained, in order to establish that, he is regularly paying the tax. Having verified those receipts, DGO told the complainant that, his tax liability will be reduced to an extent of Rs. 10,000/- but he has to pay Rs. 5000/- as bribe, in order to reduce his tax liability.

13. Since the complainant was not willing to pay any bribe to the DGO, in order to get the benefit of reduced tax liability, he approached Police Inspector, Karnataka Lokayukta, Dharwad on 17.11.2005 and filed a written complaint as per Ex-P1.
14. On the basis of the complaint so filed by the complainant on 17.11.2005 the Police Inspector, Karnataka Lokayukta, Dharwad, has registered a case in Cr. No. 8/2005 under Sections 7,13(1)(d) R/w 13(2) of P.C Act, 1988 and took up investigation.
15. An entrustment proceedings was conducted in the Lokayukta Police Station, Dharwad on 17.11.2005 in the presence of two panch witnesses viz., Sri Prakash, FDA, O/o Chief Engineer (C&B North) and Sri Niranjanaiah Koti, SDA, O/o Deputy Conservator of Forest, Dharwad Division and in the said proceedings, the bait money of Rs. 5000/- consisting of 10 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 meet him and only in case if the DGO demands for bribe. Panch witness Sri Prakash was sent along with the complainant, as a shadow witness. A voice recorder was entrusted to the complainant asking him to switch on the same and record the conversation with the DGO while paying money to him. Accordingly, an entrustment mahazar was prepared as per Ex-P2.
16. The complainant and the shadow witness were taken to Zonal office No.9 of HDMC housed in the old ESI hospital building PB Road, Hubli on 17.11.2005 and they were sent to meet the DGO in the said zonal office. The complainant accompanied with the shadow witness having went inside the said Zonal office of HDMC at about

6.30pm, the complainant came out of the said office at about 6.50pm and gave pre-arranged signal to the Police Inspector. On receiving the signal, the Police Inspector and his staff and another panch witness approached the complainant. The complainant took them inside the chamber of the DGO and showed the DGO to the Police Inspector telling him that, he is the concerned Warranting Officer, and he has received money from him by way of bribe. He further narrated the happenings claiming that, when he went inside the chamber of DGO accompanied with the shadow witness and met the DGO and enquired him about reduction of his tax liability, DGO enquired him as to whether he has brought money as demanded, and he/complainant gave him the tainted notes of Rs. 5000/- and he/DGO on receiving it with his right hand counted the notes by using his both hands and kept that money in the left side pocket of his pant.

17. The Police Inspector introduced himself to the DGO and explained to him about the registration of a case against him and asked him to co-operate in the investigation. DGO disclosed his name as Sri Ramappa Yellappa Amminabhavi, Warranting Officer, Hubli-Dharwad Mahanagara Palike, Range Office-9, Hubli.
18. Thereafter, the hand wash of DGO was obtained, asking him to wash his both hand fingers separately in two separate bowls containing sodium carbonate solution. When the DGO washed his 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.

19. Thereafter, the Police Inspector asked the DGO about the money he has received from the complainant. DGO having taken out the money he has received from the complainant, from his left side pant pocket, produced the same before the Police Inspector. On verification of those notes with reference to its serial numbers, it was confirmed that, those were the notes entrusted to the complainant during the entrustment proceedings. Those notes were kept in a separate cover and sealed the same. On providing an alternate pant to the DGO, pant worn by him was got removed and the same was packed, sealed and seized, for sending it to chemical examination.
20. The Police Inspector asked the DGO to give his explanation in writing. DGO gave his explanation in writing as per Ex-P5 claiming that, the complainant gave him Rs. 5000/- requesting him to remit the said amount to the bank on filling challan towards arrears of tax payable by him and though he/DGO declined to receive that amount asking him/complainant to remit the amount for himself to the bank, the complainant forcibly gave that money to him requesting him to remit the same to the bank and give him the copy of the challan. Both 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 DGO to produce the relevant documents and records pertaining to the complainant. DGO has produced the documents containing 8 pages pertaining to the complainant and the property in question, where he is running Timber depot and those documents produced by the DGO have been seized as per Ex-P11.

22. The voice recorder entrusted to the complainant was taken back from him and when played in the presence of pancha witnesses, the conversation was found recorded in it, but the conversation was not clearly audible.
23. During enquiry, the complainant has been examined as PW1. Shadow witness has been examined as PW2 and IO has been examined as PW3. As per the defence taken by the DGO while cross examining PWs 1 to 3 and in his defence evidence, he has not disputed or denied receipt of Rs. 5,000/- from the complainant on the day of trap and recovery of tainted notes of Rs. 5,000/- from his pant pocket during the trap proceedings. Hence, I need not consider the evidence adduced on behalf of the disciplinary authority with regard to these details of the trap proceedings.
24. PWs 1 to 3 have narrated in detail regarding conducting of entrustment proceedings in the Police Station and entrustment of tainted notes of Rs. 5,000/- to the complainant in the said proceedings. They have further narrated in detail regarding the trap proceedings giving details of the various procedures conducted during the trap proceedings and recovery of tainted notes of Rs. 5,000/- from the left side pant pocket of the DGO, and other details of the trap proceedings including giving of written explanation by the DGO as per Ex-P5.
25. The complainant in his evidence has stated about the details regarding the circumstances which forced him to file complaint against the DGO as per Ex-P1. He gave details regarding payment of Rs. 5,000/- to the DGO by way of bribe amount, in pursuance of the promise made by the DGO that, he/DGO would reduce the tax liability to the extent of Rs. 10,000/-.



26. The complainant has been thoroughly cross examined by the learned counsel for DGO. He has admitted during his cross examination that, since he was in need of copy of a document for having paid the tax, he visited the zonal office of the HDMC. Certain suggestions were put to him suggesting him that, he met the concerned clerk in the said office and the concerned clerk told him that, there was tax arrears of Rs. 21,189/-. It was further suggested to him that, he pleaded before the said clerk that, he has paid the upto date tax and no tax was due to be payable by him and the said clerk told him that, if he pay Rs. 10,000/- or Rs. 5000/- to the DGO, he/DGO would do the needful in clearing all the tax due to be payable by him. The complainant gave positive answer to these suggestion also. Taking advantage of this admission given by the complainant during his cross examination, it was argued on behalf of the DGO that, the DGO never demanded any bribe from the complainant but, it was some clerk in the said office demanded bribe by using the name of the DGO.
27. A further suggestion was put to him/PW1/complainant that, he paid Rs. 5000/- to the DGO requesting him to clear all his tax arrears and it was also suggested to him that, DGO took Rs. 5000/- from him telling him that, he will look into the relevant register and ascertain the exact arrears of tax payable by him and thereafter, he will issue receipt. The complainant gave positive reply even to this suggestion, put to him by the counsel for the DGO during his cross examination. Taking advantage of this admission given by the complainant, the learned counsel for DGO vehemently argued that, Rs. 5000/- received by the complainant on the day of trap was towards the arrears of tax due to be payable by the complainant and the DGO received that amount from him promising him that, he would issue receipt after ascertaining the exact arrears of tax

payable by him. In order to encash this admission given by the complainant in his cross examination and to take advantage of that admission, a further suggestion was put to the complainant that, the DGO has received Rs. 5000/- from him towards arrears of tax. But the complainant has denied this suggestion.

28. Various suggestions have been put to him/complainant/PW1 regarding the nature of possession he is having over the said property and other details of he possessing the said property and running the timber depot and saw mill in the said property stocking wooden logs and made allegations against him that, he is causing nuisance because of such activity of running timber depot in the said plot and further suggested to the complainant that, he is unauthorisedly occupying the said property and illegally using it as a stock yard. All these suggestions have been categorically denied by the complainant during his cross examination.
29. While cross examining PW2/shadow witness, suggestion was put to him on behalf of the DGO that, when the complainant gave the money to the DGO, he/DGO asked the complainant to wait for some time till he calculate the total tax payable by him and he will issue receipt for the amount of tax paid by him. Further suggestion was put to him/PW2 that, the complainant while paying the amount to the DGO, gave that amount to him/DGO saying that, he is paying the said amount towards payment of tax. PW2 gave positive answers to these suggestions. Taking advantage of these admissions given by PW2, DGO has taken his defence contention while adducing his defence evidence, in his sworn affidavit produced in lieu of his examination, contending as follows:

“ ಮುಂದುವರಿದಂತೆ, ದಿ: 17.11.2005ರಂದು 6.30 ರ ಸಮಯದಲ್ಲಿ ಮುಖ್ಯ ಕಛೇರಿಯಿಂದ ವಲಯ ಕಛೇರಿಗೆ ಮೀಟಿಂಗ್ ಮುಗಿಸಿಕೊಂಡು ಬಂದ ಸಂದರ್ಭದಲ್ಲಿ ಶ್ರೀ ವಾಸಪ್ಪರವರು, ನನಗಾಗಿ ಕಾಯುತ್ತಿದ್ದು, ಆಸ್ತಿಕರ ತಂದಿರುವುದಾಗ ಹೇಳಿದಾಗ, ನಾನು “ಈಗ ಕಛೇರಿ ಸಮಯದ ಮುಗಿದಿದೆ. ನಾಳೆ ಬನ್ನಿ” ಎಂದು ಹೇಳಿದೆ. ಆದರೂ ಸಹ ತೆಗೆದುಕೊಳ್ಳಿ ಎಂದು ಒತ್ತಾಯಪೂರ್ವಕವಾಗಿ/ಮತ್ತು ಕಳಕಳಿಯಿಂದ ನಾಳೆ ನೀವೇ ಬ್ಯಾಂಕಿಗೆ ಜಮಾ ಮಾಡಿ ರಶೀದಿಯನ್ನು ಕೊಡಿ ಎಂದು ಹೇಳಿ ಹಣವನ್ನು ನನ್ನ ಟೇಬಲ್ ಮೇಲೆ ಇಟ್ಟು ಹೋಗಿರುತ್ತಾರೆ. ನಂತರ ನಾನು ರಶೀದಿ ಹಾಕಿ ಕೊಡುವ ಸಂದರ್ಭದಲ್ಲಿ 4-5 ಜನ ಬಂದು ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸ್ ಎಂದು ಹೇಳಿ, ನನ್ನ ವಿರುದ್ಧ ಪ್ರಕರಣ ವನ್ನು ದಾಖಲಿಸಿರುತ್ತಾರೆ. ಮತ್ತು ನಾನು ಹಾಕಿದ ರಶೀದಿಯನ್ನು/ಚಲನ್‌ನನ್ನು ತಮ್ಮ ವಶಕ್ಕೆ ಪಡೆದುಕೊಂಡರುತ್ತಾರೆ.”

30. The IO/PW3 in his evidence has stated that, when he asked the DGO to give his explanation in writing, DGO gave his explanation in writing as per Ex-P5. Though suggestion was put to PW2/shadow witness that, DGO never gave any statement in his presence and obtained positive answer to the said suggestion put to him, DGO while giving his defence evidence, has not disputed or denied giving of explanation by him as per Ex-P5.

31. The relevant portion of the explanation given by the DGO in writing reads as follows:

“ ನಾನು ಶ್ರೀ ರಾಮಪ್ಪ ಯಲ್ಲಪ್ಪ ಅಮ್ಮನಬಾವಿ, ಪ್ರ.ದ.ಸ. ಹುದುಮಪಾ, ಹುಬ್ಬಳ್ಳಿ, ಆಸ್ತಿಕರ ಚಾತರು, ಶ್ರೀ ಜಿ.ಐ. ಬೋಚಗೇರಿ, ಹಸ್ತಿ ಜಿ.ಎಲ್. ಅಂಕುಶಖಾನಿ ಸಾ. ತೊರವಿಹಕ್ಕಲ, ಹುಬ್ಬಳ್ಳಿ ಇವರಿಗೆ ಸದರಿಯವರ ಆಸ್ತಿ 9+10 ಹಾಗೂ 9+10:1 ಅಂತಾ ನಮ್ಮಲ್ಲಿ ದಾಖಲೆ ಇದ್ದು ಆಸ್ತಿಕರ ರೂ. ಸುಮಾರು ಎರಡೂ ಆಸ್ತಿ ಕೂಡಿ 7,000/-ಗಳನ್ನು ನಮ್ಮ ಮಹಾನಗರ ಪಾಲಿಕೆಗೆ ಚಲನ್‌ಗಳನ್ನು ಜಮಾ ಮಾಡಲು ಕೊಟ್ಟಿದ್ದು ಇದೆ. ಆದರೆ ಸದರಿಯವರು ಶ್ರೀ ಜಿ.ಎಲ್.ಅಂಕುಶಖಾನಿ ಎಂಬುವರು ದಿನಾಂಕ 17.11.2005 ರಂದು ಸಾಯಂಕಾಲ ಮೀಟಿಂಗ್ ಮುಗಿಸಿಕೊಂಡು ಪರತ್ ಆಫೀಸಿಗೆ ಬಂದಾಗ, ಸದರಿಯವರು ನನಗೆ ಸಮಕ್ಷಮ ಆಫೀಸಿನಲ್ಲಿ ಭೇಟಿಯಾಗಿ ನನಗೆ ಬ್ಯಾಂಕಿಗೆ ಹೋಗಿ ಕರ ತುಂಬಲಿಕ್ಕೆ ಆಗಲಾರದು ನೀವೇ ಬ್ಯಾಂಕಿಗೆ ನಾನು ಕೊಟ್ಟ ಹಣ ತುಂಬಿ ನನಗೆ ಚಲನ್ ಕೊಡಬೇಕು ಎಂದು ರೂ. 5000/-ಗಳನ್ನು ಮಾತ್ರ ಕೊಟ್ಟರು ಉಳಿದ ಹಣ ಸುಮಾರು ನಾಳೆಯಾಗಲಿ,

ಇಲ್ಲವಾದರೆ ದಿನಾಂಕ 19.11.2005 ರಂದು ಕೊಡುತ್ತೇನೆ ಈ ಹಣವನ್ನು ನೀವೆ ಬ್ಯಾಂಕಿಗೆ ಹೋಗಿ ತುಂಬಿ ನನಗೆ ಆಸ್ತಿ ಉತಾರ ಕೊಡಬೇಕು ಎಂದು ಬಹಳ ಕಳಕಳಿಯಿಂದ ಬೇಡಿಕೊಂಡರು. ಆದರೆ ನಾನು 18.11.2005ರಂದು ನೀವೆ ಬ್ಯಾಂಕಿಗೆ ಹೋಗಿ ಎಂದು ತುಂಬಿರಿ ಎಂದು ಎಷ್ಟು ಸಲ ಹೇಳಿದರೂ ನನಗೆ ಒತ್ತಾಯ ಮಾಡಿ ನನ್ನ ಕೈಯಲ್ಲಿ ಕೊಟ್ಟರು ನನಗೆ ಬೇಗನೇ ಉತಾರ ಕೊಡಬೇಕು ಎಂದು ಕಳಕಳಿಯಿಂದ ವಿನಂತಿಸಿಕೊಂಡರು.

ಸದರಿಯವರು ಕೊಟ್ಟ ಹಣವನ್ನು ನಾನು ಬ್ಯಾಂಕಿಗೆ ತುಂಬಿ ಚಲನ್ ಕೊಡುತ್ತೇನೆ ಎಂದು ಹೇಳುವಷ್ಟರಲ್ಲಿ ಪೊಲೀಸ್ ಲೋಕಾಯುಕ್ತರು ನನಗೆ ನಿಮ್ಮ ಬಗ್ಗೆ ಕಂಪ್ಲೇಂಟ್ ಇದೆ ಎಂದು ನನಗೆ ಅರೆಸ್ಟ್ ಮಾಡಿರುತ್ತೇವೆ ಎಂದು ಹೇಳಿದರು. XXXXXX

ಆದರೆ ಶ್ರೀ ಜಿ.ಎಲ್. ಅಂಕುಶಾನಿಯವರು ನನಗೆ ಕರ ತುಂಬಲಿಕ್ಕೆ ರೂ. 5000/- ಕೊಟ್ಟಿದ್ದು ಕರೆ ಇದೆ ಈ ರೀತಿ ನನಗೆ ಮೋಸ ಮಾಡಿದ್ದನ್ನು ಮಾನ್ಯ ಪೊಲೀಸ್ ಇನ್ಸ್‌ಪೆಕ್ಟರ್‌ರವರು ಈ ಮನವಿ ಮೂಲಕ ತಮನಗೆ ವಿನಂತಿಸಿಕೊಳ್ಳುತ್ತೇನೆ. ನಾನು ನಿರಪರಾಧಿಯೆಂದು ಈ ಅರ್ಜಿಯ ಮೂಲಕ ತಮ್ಮಲ್ಲಿ ಬೇಡಿಕೊಳ್ಳುತ್ತೇನೆ.”

32. Therefore, DGO has not disputed receipt of tainted notes of Rs. 5000/- from the complainant on the day of trap. But according to his written explanation, complainant gave him Rs. 5000/- pleading his inconvenience to remit the said amount to the bank, requesting him/DGO to remit the said amount to the bank and to give him the challan on the next day. DGO claimed that, hence he received that amount of Rs. 5000/- from the complainant promising him that, he would remit the said amount to the bank and he will give him the copy of the challan and by that time he has been apprehended by Lokayukta police. But no such contention was taken by him on earlier occasions while filing his written statement and he has failed to submit his reply to the observation note served on him thus failed to utilize that opportunity in taking up any specific defence contention to prove his innocence. But only on obtaining certain favourable admissions while cross examining PW1 and PW2. DGO made a futile attempt to build up his defence during the stage of the

enquiry. But the question that is required to be considered is whether the DGO has succeeded in building up his defence contention taken up by him during enquiry and whether the explanation offered by him to receive Rs. 5000/- from the complainant can be believed and whether it can be considered to be a plausible explanation, in order to believe that defence contention.

33. As I have already discussed, DGO has failed to utilize the opportunity in submitting his reply to the observation note in taking up any specific defence contention. Even while filing written statement except denying the allegations made against him, he has not taken up any such defence contention or even he never referred to receipt of Rs. 5000/- from the complainant and the purpose for which he has received that amount. Only during cross examination of PW1 and PW2 the counsel for the DGO tried to build up the defence contention, by obtaining favourable answers through them to the suggestions put to them.
  
34. According to the DGO in his defence evidence, the complainant offered him money claiming that, he has brought the money towards payment of arrears of tax and he/DGO claimed that, he asked the complainant to come tomorrow as the office time is over. Despite telling him so, it is his contention that, the complainant forcibly gave him money requesting him to remit the amount to the bank and give him the receipt tomorrow and kept that money on his table. It is his further contention that, while he is trying to prepare a receipt, for the said amount paid by the complainant, Lokayukta police have apprehended him and along with the seized money, even the receipt/challan prepared by him have been seized from his possession. But he has not produced any such receipt/challan during his defence evidence to show that, he has prepared such

receipt or challan on receiving money from the complainant on that day. Even no suggestion was put to PW3/IO that, he has seized the receipt/challan prepared by the DGO, along with the cash, on the day of trap.

35. Further, DGO in his written explanation has not taken up any such contention that, on receiving money, he has prepared a receipt/challan for the said amount and even the said challan/receipt has been seized by the Police Inspector. According to his contention in Ex-P5, he received the said amount from the complainant telling him that, he would remit the said amount to the bank and give him challan for having remitted the said amount to the bank and by that time he was apprehended by Lokayukta police.
36. Considering this contradictory contentions taken on behalf of the DGO and failure on his part to produce any receipt/challan claimed to have been prepared by him, on receiving Rs. 5000/- from the complainant on the day of trap, I have no hesitation to conclude that, the DGO has failed to establish his defence contention satisfactorily, by way of adducing convincing evidence.
37. 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.”

38. The defence contention of the DGO taken during the enquiry, when considered with reference to the above ruling of the Hon'ble Supreme Court, the bare explanation given by the DGO without establishing the same, cannot be relied upon and the DGO cannot be held to have established his defence contention by producing legal evidence. Hence, I have no hesitation to conclude that, DGO has utterly failed to establish the specific defence contention taken by him during the stage of enquiry. Further, considering the fact that, no such defence contention was taken by the DGO in his written statement and his failure to utilize the opportunity in taking up such a contention by submitting his reply to the observation note, the defence contention taken by the DGO during enquiry, since not established by producing convincing evidence thereby he failed to discharge his burden of proving his defence contention and hence I decline to believe the defence contention taken by the DGO in this enquiry.

39. But on the other hand, the complainant gave evidence explaining the circumstances which forced him to file complaint against DGO and also reiterated his allegation even in his evidence contending that, DGO promising him that, he would reduce the liability of tax payable by him/complainant to an extent of Rs. 10,000/-, demanded him to pay Rs. 5000/- by way of bribe to show an official favour and thus he is guilty of demanding and accepting bribe from the complainant.
40. Further the III Additional Session Judge and Special Court, Dharwad, on holding detailed trial in Spl.C.C. No. 3/2006, proceeded to convict the DGO/accused vide judgment dated 31.3.2010 holding him guilty of offence under Section, 7,13(1)(d) R/w 13(2) of P.C Act, 1988, and proceeded to impose him sentence of imprisonment and fine. Aggrieved by the said judgment of conviction passed against him by the trial court, DGO has preferred appeal before the Hon'ble High Court of Karnataka, Dharwad Bench and the appeal so filed in Cr.A. no. 2612/2010 is pending consideration before the Hon'ble High Court. Consequent to his conviction by the Spl.Court, DGO came to be dismissed from service vide orders of the Commissioner, Directorate of Municipal Administration vide order dated 25.4.2013. Therefore, this is also another factor which persuaded me to disbelieve the defence contention of the DGO and on considering the evidence adduced on behalf of the disciplinary authority both oral and documentary, I have no hesitation to conclude that, the charges against DGO has been established and thus proved by the disciplinary authority. Accordingly, I answer point no.1 in the affirmative.



**Point No.2**

41. 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 Ramappa Yellappa Amminabhavi, Warranting Officer, Hubli-Dharwad Mahanagara Palike, Range Office-9, Hubli.

ii) As per the first oral statement, the date of birth of the DGO is 01.06.1953 and he was to retire from service on 31.5.2013.

iii) The III Additional District and Sessions Judge and Special Court, Dharwad vide judgment dated 31.3.2010 in Spl.KLA. C.C. No. 3/2006 convicted the DGO/accused holding him guilty of offence under Section 7,13(1)(d) R/w. Section 13(2) of P.C. Act and convicted him imposing sentence of imprisonment and fine.

iv) DGO has challenged the said judgment of conviction and sentence by preferring appeal before the Hon'ble High Court of Karnataka, Bengaluru Bench and the appeal so filed in Cr.A.No. 2612/2010, is still pending consideration.

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



(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 Vasappa Lokkappa Anukust (complainant) (original)
<b>PW-2</b>	Sri Prakash Srinivasa Pai (shadow witness) (original)
<b>PW-3</b>	Sri B.L. Asude (Investigation officer) (original)

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

<b>DW-1</b>	Sri Lingaraju Hebballi (original)
<b>DW-2</b>	Sri Ramappa Yellappa Amminabhavi (DGO)(original)


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

<b>Ex.P-1</b>	Certified copy of the complaint
<b>Ex.P-2</b>	Certified copy of entrustment mahazar
<b>Ex.P-3</b>	Certified copy of trap mahazar
<b>Ex.P-4</b>	Certified copy of records seized
<b>Ex.P-5</b>	Certified copy of explanation of DGO
<b>Ex.P-6</b>	Certified copy of rough sketch
<b>Ex.P-7</b>	Certified copy of FIR
<b>Ex.P-8</b>	Certified copy of extract of attendance registrar
<b>Ex.P-9</b>	Certified copy of sketch of scene of occurrence
<b>Ex.P-10</b>	Certified copy of FSL report
<b>Ex.P-11</b>	Certified copy of documents seized by IO

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

<b>Ex-D1</b>	Hubli Municipality Rules (Xerox)
<b>Ex-D2</b>	Work chart entrusting the nature of work to DGO (xerox)
<b>Ex-D3</b>	Information regarding ownership of property No. 9+10 of ward no. 42 (original)

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

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