

**GOVERNMENT OF KARNATAKA**



**KARNATAKA LOKAYUKTA**

No.LOK/INQ/14-A/455/2011/ARE-3

Multi Stori ed Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru-560 001  
Date: **04/11/2019**

**RECOMMENDATION**

Sub:- Departmental inquiry against;  
Sri Pandarinath S/o. Ganapathrao Patil, Second  
Division Surveyor, Office of the Deputy Director of  
Land Records, Kalaburagi – Reg.

Ref:- 1) Government Order No.ಕಂಇ 231 ಭೂವಾಸೀ (3) 2011,  
Bengaluru dated 30/11/2011

2) Nomination order No.LOK/INQ/14-A/455/2011,  
Bengaluru dated 9/12/2011 of Upalokayukta-1,  
State of Karnataka, Bengaluru

3) Inquiry Report dated 31/10/2019 of Additional  
Registrar of Enquiries-3, Karnataka Lokayukta,  
Bengaluru

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The Government by its Order dated 30/11/2011, initiated the disciplinary proceedings against Sri Pandarinath S/o. Ganapathrao Patil, Second Division Surveyor, Office of the Deputy Director of Land Records, Kalaburagi (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/455/2011, Bengaluru dated 9/12/2011 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 Pandarinath S/o. Ganapathrao Patil, Second Division Surveyor, Office of the Deputy Director of Land Records, Kalaburagi was tried for the following charge:-

“That you, Sri Pandarinath S/o. Ganapathrao Patil, (hereinafter referred to as Delinquent Government Official, in short DGO), while working as the Second Division Surveyor, O/o. the Deputy Director of Land Records, Gulbarga demanded and accepted a bribe of ₹10,000/- on 25/09/2009 from complainant Sri Nijalingappa S/o. Hanmantraya Tengali R/o. Kapanur in Gulbarga Taluk & District for getting disposed of the revision petition No. 26/2008-09 pending before the learned Deputy Commissioner, Gulbarga early, 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 Pandarinath S/o. Ganapathrao Patil, Second Division Surveyor, Office of the Deputy Director of Land Records, Kalaburagi.


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. As per the First Oral Statement submitted by DGO Sri Pandarinath, he is due to retire from service on 28/2/2033.

7. Having regard to the nature of charge (demand and acceptance of bribe) proved against DGO Sri Pandarinath, it is hereby recommended to the Government for imposing penalty of compulsory retirement from service on DGO Sri Pandarinath S/o. Ganapathrao Patil, Second Division Surveyor, Office of the Deputy Director of Land Records, Kalaburagi.

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

Connected records are enclosed herewith.

  
(JUSTICE N. ANANDA) 4/11  
Upalokayukta-1,  
State of Karnataka,  
Bengaluru



**KARNATAKA LOKAYUKTA**

No. LOK/INQ/14-A/455/2011/ARE-3

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

Date: 31.10.2019

**Enquiry report**

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

Sub: Departmental Enquiry against Sri Pandarinath S/o  
Ganapathrao Patil, Second Division Surveyor, Office of the  
Deputy Director of Land Records, Gulbarga - reg

- Ref:
1. Report under Section 12(3) of the Karnataka Lokayukta Act, 1984, in No. Compt/Uplok/GLB/156/2011/ARE-6 dated 13.10.2011
  2. Government order No. ಕಂಇ 231 ಭೂದಾಸೇ (3) 2011 ದಿ: 30.11.2011
  3. Nomination Order No.LOK/INQ/14-A/455/2011 dated 9.12.2011 of Hon'ble Upalokayukta, Karnataka State, Bengaluru.

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1. One Sri. Nijalingappa S/o Hanmantraya Tengali R/o Kapanur in Gulbarga Taluk & District (hereinafter referred to as 'complainant') has filed a complaint to Lokayukta police, Gulbarga on 25.9.2009 against Sri Pandarinath S/o Ganapathrao Patil, Second Division Surveyor, Office of the Deputy Director of Land Records, Gulbarga and was working during the relevant period as case worker in the O/o Deputy Commissioner, Gulbarga (hereinafter referred to as 'DGO' for short) making allegations against him that, he/DGO is demanding him to pay bribe Rs. 10,000/- promising him that, he would see that, a favourable order will be passed by the Deputy Commissioner in the case filed by him/complainant which was pending before the Deputy Commissioner for orders, in Revision Petition No. 26/2008-09.

2. On registering a case on the basis of the said complaint, a trap was held on the same i.e., on 25.9.2009 inside the Venkatagiri hotel situated on Jewargi road wherein, the DGO having demanded bribe from the complainant, received Rs. 10,000/- from the complainant by way of bribe. The tainted money of Rs. 10,000/- was recovered from the shirt pocket of the DGO during the trap proceedings. Since it was revealed during investigation that, the DGO having demanded bribe from the complainant received the bribe amount, promising the complainant that, he would see that a favourable order will be passed by the Deputy Commissioner in the case filed by him/complainant which was pending before the Deputy Commissioner for orders in Revision Petition No. 26/2008-09 and having persuaded the complainant to part with the bribe amount by representing that he would get a favourable order in the pending Revision petition filed by him/complainant, the Police Inspector, having conducted investigation, filed charge sheet against the DGO.
3. The ADGP, Karnataka Lokayukta, Bengaluru has forwarded the copy of the charge sheet to the Hon'ble Upalokayukta. On the basis of the materials collected during investigation and materials placed before this authority, an investigation was taken up under Section 7(2) of the Karnataka Lokayukta Act. An observation note was served on the DGO providing him an opportunity to show-cause as to why recommendation should not be made to the Competent Authority, for initiating disciplinary proceedings against him. DGO has submitted his reply dated 12.8.2011 denying the allegations made against him contending that, he never demanded or received any money by way of bribe from the complainant, and he has been falsely implicated. It is his specific contention that, the revision petition filed by the complainant was decided by the Deputy

Commissioner by passing the orders on 23.9.2009 itself and hence there was no occasion for him to demand any bribe from the complainant on 25.9.2009. He has taken up a further contention that, he was entrusted with the work of section clerk to receive and maintain the files pertaining to appeals and revisions filed before the Deputy Commissioner and he never involved in any decision making process and he was also not in a position to recommend the Deputy Commissioner to pass favourable orders in favour of the complainant in the pending revision petition and he had no say in the adjudication process pending before the Deputy Commissioner. It is his further contention that, he is facing trial before the Spl Court, Gulbarga in Spl.C. 15/09 and hence question of initiating any disciplinary proceedings against him by way of parallel proceedings does not arise and requested this authority to drop the proceedings against him.

4. Since the explanation offered by the DGO was not satisfactory, a recommendation under Section 12(3) of the Karnataka Lokayukta Act was forwarded to the Competent Authority, recommending to initiate disciplinary enquiry against the DGO and to entrust the enquiry under Rule 14-A of KCS (CCA) Rules, to this authority to hold enquiry. Accordingly, the Disciplinary Authority, i.e., the Government of Karnataka in the Revenue Department, by its order in No. ಕಂಇ 231 ಭೂದಾಸೇ (3) 2011 ದಿ: 30.11.2011, 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 9.12.2011 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. Pandarinath S/o Ganapathrao Patil, (here in after referred to as Delinquent Government Official, in short DGO), while working as the Second Division Surveyor, O/o the Deputy Director of Land Records, Gulbarga demanded and accepted a bribe of ₹ 10,000/- on 25/09/2009 from complainant Sri. Nijalingappa S/o Hanmantraya Tengali R/o Kapanur in Gulbarga Taluk & District for getting disposed of the revision petition no. 26/2008-09 pending before the learned Deputy Commissioner, Gulbarga early 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. Nijalingappa S/o Hanmantraya Tengali R/o Kapanur in Gulbarga Taluk & District filed a complaint on 25/09/2009 before the Police Inspector, Karnataka Lokayukta, Gulbarga alleging that the land bearing sy. no. 147 measuring 10 acres 36 guntas situated at Kapanur Village of Gulbarga Taluk belongs to him and stands in his name and that there was some dispute with regard to the possession and enjoyment of the said land and that there was also some dispute with regard to form no.10 issued by the survey department and that therefore he had sought the cancellation of form no.10 issued by the survey department and for resurveying of the said land in



the revision petition filed by him and that the said revision petition had reached the final stage and for getting disposed of the said revision petition early the complainant approached Sri. Pandarinath S/o Ganapathrao Patil, Second Division Surveyor, O/o the Deputy Director of Land Records, Gulbarga, (here in after referred to as Delinquent Government Servant, in short DGO) and met him on 25/09/2009 and at that time the DGO told him that the DC was under the orders of transfer and that he would get disposed of the said revision petition early and for that he demanded a bribe of Rs. 10,000/-

As the complainant was not willing to pay any bribe to the DGO, he went to Police Inspector, Karnataka Lokayukta Gulbarga on 25/09/2009 and lodged a complaint. On the basis of the same a case was registered in Gulbarga Lokayukta Police Station Cr. No. 15/2009 for offences punishable under sections 7, 13(1) (d) r/w section 13(2) of the P.C. Act, 1988 and FIR was submitted to the concerned learned special judge.

After registering the case, investigating officer observed all the pre trap formalities and entrustment mahazar was conducted and you, the DGO was trapped on 25/09/2009 by the Investigating Officer after your demanding and accepting the bribe amount of ₹ 10,000/- from the complainant in the presence of shadow witness and the said bribe amount which you had received from the complainant was seized from your possession under the seizure mahazar after following the required post trap formalities. During the investigation the I.O has recorded the statements of Panchas and other witnesses and further statement of the complainant.

The I.O during the investigation has sent the seized articles to the chemical examiner and obtained 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 ₹ 10,000/- from the complainant on 25/09/2009 for doing an official act i.e., for getting disposed of the revision petition no. 26/2008-09 pending before the learned Deputy Commissioner, Gulbarga early. 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 this enquiry.

6. DGO has filed his written statement on 8.1.2013 denying the charges and imputations made against him contending that, he is innocent and he never demanded or received any bribe or illegal gratification from the complainant and he has been falsely implicated. He has reiterated all the contentions he has taken in the reply filed by him to the observation note and further contended that, the entire trap proceedings has been falsely enacted just to falsely implicate him in this case. He has taken up a further contention that, the written explanation obtained from him by Lokayukta police was under compulsion. He having denied each and every aspects of the trap proceedings, he requested this authority to absolve him from the charges levelled against him.
7. During enquiry, 3 witnesses have been examined as PW1 to PW3 and 26 documents came to be marked as Ex-P1 to Ex-P26 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 the DGO did not desire to lead any defence evidence in support of his defense, he has been questioned under Rule 11(18) of KCS(CCA) Rules, with reference to the evidence of PW1 to PW3 given against him during the enquiry. DGO has denied the allegations made against him by PW1 to PW3 in their evidence and further reiterated his contention stating that, no work of the complainant was pending with him as on the date of trap and after 2 days of passing of the orders by the Deputy Commissioner in the Revision Petition, filed by the complainant, he/complainant has forcibly kept the money in his/DGO shirt pocket. He has taken up a further contention that, the Spl.Court, Gulbarga has absolved him

from the charges levelled against him by acquitting him in the case and requested this authority to absolve him from the charges levelled against him, in this enquiry.

8. Thereafter, the learned Presenting Officer and the learned counsel for DGO have filed their written arguments. Along with the written arguments the copy of the judgment dated 22.8.2016 in Spl.C. No. 262/11 on the file of Principal's Sessions Judge and Spl.Court, Gulbarga, copies of deposition of the Prosecution witnesses examined in the said case and also the copies of the order sheet and the order passed by the Deputy Commissioner dated 28.6.2008 and 23.9.2009 in Revision Petition 3/2007-08 and 26/08-09 are produced by the DGO in support of his defence and arguments advanced on his behalf. Thereafter, this matter is taken up for consideration.
9. On considering the evidence adduced on behalf of the disciplinary authority both oral and documentary 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. DGO was working as Second Division Surveyor in the Office of the Deputy Director of Land Records, Gulbarga and during the relevant

period and as per the work distribution order dated 1.2.2007, he/DGO was assigned with the work of a case worker, maintaining and processing the case records pertaining to the appeals filed under Section 49A and 136(2) of KLR Act, appeals and revision petitions files filed with reference to survey and attending allied works pertaining to those matters and also dealing with the files pertaining to appeals and revision filed before the Deputy Commissioner under Section 56 of the KLR Act.

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 has got lands in sy.no. 147 extent 10.36 acres at Kapanur village and there is a dispute with regard to the said land pertaining to possessory right. Hence, he has filed a revision petition before the Deputy Commissioner, Gulbarga and the said Revision petition is pending in Revision Petition No. 26/2008-09 wherein he has sought for cancellation of the sketch prepared by the Surveyor and to order for fresh survey of the said land, and after hearing the arguments of the case the Revision Petition was at the stage of conclusion. It is his further contention that, in connection with his case, he met the DGO on 25.9.2009 and enquired him about his case. It is the allegation of the complainant that, the DGO asked him to pay Rs, 10,000/- by way of bribe in order to see that, early orders will be passed in his case. It is the allegation of the complainant that, when he requested the DGO for early disposal of his case as he is agitating his case since last 3 years, the DGO told him that, the Deputy Commissioner is under orders of transfer and before he handing over the charge, he would see that, his Revision petition would be disposed of by passing favourable order in his favour and making such representation, he/DGO insisted the complainant to pay him Rs. 10,000/-.

13. Since the Complainant was not willing to pay any bribe amount as demanded by the DGO, he approached Lokayukta police, Gulbarga on the same day i.e., on 25.9.2009 and informed the Police Inspector about the demand for bribe being made by the DGO. The Police Inspector gave him a micro tape recorder asking him to contact the DGO again and to discuss with him about his case and to record the conversation with him, regarding demand for bribe being made by him. Accordingly, the complainant having taken the tape recorder with him, approached the DGO again and discussed with him about his case and during such discussion DGO asked him to give the demanded amount on the same day within 5pm., in order to get the favourable order passed by the Deputy Commissioner at an earliest. Having recorded the said conversation with the DGO in the micro tape recorder entrusted to him, the complainant has again approached the Police Inspector, Karnataka Lokayukta, Gulbarga on the same day i.e., on 25.9.2009 and filed a written complaint as per Ex-P1 and produced the conversation he has recorded with the DGO, in the tape recorder entrusted to him.
14. On the basis of the said complaint so filed by the complainant on 25.9.2009 the Police Inspector, Karnataka Lokayukta, Gulbarga, has registered a case in Cr. No. 15/2009 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, Gulbarga on 25.9.2009 in the presence of two panch witnesses viz., Shamshuddin Patel, Lecturer, Government PU College, Jewargi and Sri Sanjeev Kumar, Physical Education teacher, Government Higher Primary School, Jewargi Colony, Gulbarga and in the said proceedings, the bait money of Rs. 10,000/- consisting of 10 currency notes of Rs. 1000/-

denomination each given by the Complainant, were smeared with phenolphthalein powder making it as tainted money, and the said tainted notes were entrusted to the Complainant asking him to give that money to the DGO when he meets him and only in case if the DGO demands for bribe. Panch witness Sri Sanjeev Kumar was entrusted with the task of a shadow witness. A micro tape recorder was entrusted to the complainant asking him to switch on the same when he meets the DGO and to record the conversation with him, while paying money to him.

16. The complainant was made to contact the DGO on his mobile to enquire about the place of his availability. Initially DGO asked him to call after about 30 minutes saying that, he is in the house of the Deputy commissioner. Hence the complainant contacted the DGO after some time and the DGO asked him to come near Kamat Hotel situated near Super market. Hence, the complainant and shadow witness were taken near the Kamat Hotel at about 6pm. and they were made to wait for the DGO near the said hotel. While waiting near the said hotel, the maternal uncle of the complainant by name Sri Mahalingappa also came there, and joined the complainant.

17. Since DGO did not turn up till 7pm., the complainant again contacted the DGO and the DGO asked him to wait there and told him that, he would be coming there within ½ an hour. Hence, the complainant and shadow witness continued to wait for the DGO near the said hotel. DGO himself contacted the complainant on his mobile at about 8pm., and asked the complainant to come near the O/o Deputy Commissioner. Hence the complainant and his maternal uncle Mahalingappa along with the shadow witness were taken near the O/o Deputy Commissioner and since DGO was not available near the said office, the complainant again contacted the

DGO on his mobile and enquired him about his whereabouts. DGO asked the complainant to come near Venkatagiri hotel situated on Jewargi road. Hence, the complainant and his maternal uncle along with the shadow witness were taken near Venkatagiri hotel and the DGO was found waiting near the said hotel. On seeing the complainant and his maternal uncle, DGO approached them and the complainant and his maternal uncle took the DGO inside the said hotel and sat on a table and on placing orders for food with the waiter, they started talking to each other. The shadow witness also followed them and went inside the hotel and Lokayukta police constable by name Shivappa also joined the shadow witness and both of them sat on the neighbouring table, watching the happenings. When the complainant enquired the DGO about his work, DGO told him that, he got his work done and enquired about the money. Complainant handed over the tainted notes to the DGO. DGO having received the said money with his left hand, transferred the same to his right hand and kept that money in the left side pocket of his shirt. Thereafter, the complainant gave pre-arranged signal to the Police constable who was sitting with the shadow witness on the neighbouring table and the said police constable went out of the hotel and gave signal to the Police Inspector.

18. On receiving the signal from the complainant, Police Inspector and his staff and another panch witness came inside the hotel and went near the table where the complainant with his maternal uncle and DGO were sitting. The complainant showed the DGO claiming that, he/DGO has received the bribe money of Rs. 10,000/- from him.
19. The Police Inspector introduced himself to the DGO and informed him/DGO about the registration of a case against him. On enquiry, DGO disclosed his name as Sri Pandarinath S/o Ganapathrao Patil,



Second Division Surveyor, working in the O/o deputy Commissioner, Gulbarga.

20. Thereafter, the Police Inspector got prepared Sodium carbonate solution in two separate bowls and asked the DGO to wash his both hand fingers separately in those two bowls containing solution. When DGO dipped his right hand fingers in one bowl and left hand fingers in another bowl containing sodium carbonate solution, the solution in both the bowls turned into pink colour. The said pink coloured solution of right hand wash and left hand wash of the DGO were collected in two separate bottles and sealed the same.
21. The Police Inspector asked DGO about the money he has received from the complainant. DGO told the Police Inspector that the money is available in his shirt pocket. Police Inspector asked panch witness Shamshuddin to search for the money in the shirt pocket of the DGO. Shamshuddin having searched the shirt pocket of the DGO took out the money from the shirt pocket of the DGO and produced the same before Police Inspector and those notes were cross checked with reference to its serial numbers and confirmed that those were the notes entrusted to the complainant during entrustment proceedings. Those notes were kept in a separate cover and sealed the same.
22. Since there was rush of customers in the said hotel, the Police Inspector took the DGO along with the seized cash to the nearby inspection bungalow situated in railway station area, to conduct further proceedings.
23. On bringing the DGO to the IB, further proceedings were continued. On providing an alternate shirt, the shirt worn by DGO was got

removed and the portion of the inner side shirt pocket of the said shirt, was dipped in a separate bowl containing sodium carbonate solution and on such dipping, the colourless solution turned into pink colour. The said pink colored solution was collected separately in a bottle and sealed the same and seized along with the shirt of DGO. The Police Inspector asked the DGO to give his explanation in writing. DGO gave his explanation in writing as per Ex-P19 claiming that, the complainant forcibly gave that money to him requesting him to get favourable order in the pending revision petition before the Deputy Commissioner. The Complainant and shadow witness have denied the version of the explanation given by the DGO claiming it as false and incorrect.

24. The micro tape recorder entrusted to the complainant was taken back from him and it was played in the presence of the DGO and panch witnesses. The conversation took place between the complainant and the DGO was found recorded in it. The transcription of the said conversation was got prepared as per Ex P17. The cassette from the said recorder was taken out and the cassette was seized by packing the same. Photographs of all these proceedings were obtained as per Ex-P11 to P16 and a detailed mahazar was drawn as per Ex-P18.
25. Since DGO told the Police Inspector that, the relevant case records pertaining to the complainant are available in the O/o Deputy Commissioner, during investigation the Police Inspector visited the office of the Deputy Commissioner and obtained the copies of the orders passed by the Deputy Commissioner dated 23.9.2009 in Rev. Petition No. 26/2008-09 and the case file pertaining to the said Revision Petition, and copies of those records have been seized.

26. During enquiry, the complainant has been examined as PW-1 and the shadow witness as PW2 and the investigation officer has been examined as PW3.
27. The complainant who is examined as PW1 has stated in detail explaining the circumstances under which he has filed the complaint against the DGO as per Ex-P1. He also deposed about pendency of the revision petition filed by him before the Deputy Commissioner, Gulbarga in Revision Petition No. 26/2008-09. According to him, as per the orders of the Hon'ble High Court dated 13.2.2009 in W.P. No. 80467/2009, since Hon'ble High Court directed the Deputy Commissioner to pass orders on the Review Petition filed by the Petitioner, the Deputy Commissioner has passed the order dated 23.9.2009 cancelling form no. 10 and resurvey conducted in Sy.no. 147 directing the Tahsildar Gulbarga, to survey the said land again and to prepare Phodi sketch afresh and to prepare form no.10 on the basis of the resurvey conducted.
28. It is the allegation of the complainant that, since his Revision Petition was pending before the Deputy Commissioner, he approached the DGO to enquire about his pending Revision Petition and met him on 25.9.2009. It is his specific allegation in the complaint that, when he enquired the DGO about his Revision Petition, DGO put forth demand for bribe, persuading the complainant that, if he pays Rs. 10,000/- to him by way of bribe, he will see that, favourable order will be passed in his favour by the Deputy Commissioner, who is under orders of transfer and before laying down the office by the Deputy Commissioner, he will see that, orders will be passed in the pending Revision Petition. The complainant during his evidence has further made allegation against the DGO that, it was the DGO who called him on phone asking him

to meet him in connection with his pending revision petition. This allegation made by the complainant that, DGO himself called him on phone asking him to meet him and accordingly he met the DGO on 25.9.2009, is not disputed or denied on behalf of the DGO while cross examining the complainant. The complainant has deposed that, since he was not willing to pay any bribe as demanded by the DGO he approached Lokayukta police and informed him about the demand for bribe being made by the DGO. It is his further evidence that, the Police Inspector gave him a tape recorder asking him to meet the DGO again and to record the conversation with him regarding the alleged demand for bribe being made by him. It is the evidence of the complainant that, he met the DGO again on the same day and discussed with him about his pending case and recorded the conversation with the DGO in the tape recorder given by the Police Inspector and produced the same before the Police Inspector, while filing his complaint.

29. PWs 1 to 3 have deposed before this authority about conduct of entrustment proceedings in the Police Station and entrustment of tainted notes of Rs. 10,000/- to the complainant in the said proceedings and preparation of entrustment mahazar as per Ex-P3. They have also stated about preparation of transcription of the conversation as per Ex-P3.
30. So far as the manner in which the DGO was trapped is concerned, both the complainant and shadow witness who is examined as PW2 gave details. According to their evidence, when the complainant contacted the DGO on his mobile and enquired him about place of his availability DGO initially asked him to come near Kamat hotel and though the complainant and the shadow witness were made to wait for the DGO near Kamat hotel he did not turn up and hence the

complainant again contacted the DGO on his mobile who asked him to come near Mini Vidhana Soudha and since he did not turn up even near Mini Vidhana Soudha, the complainant again contacted the DGO on his mobile who asked him to come near Venkatagiri hotel and accordingly the complainant along with his maternal uncle and shadow witness, went near Venkatagiri hotel at about 8.20pm.

31. According to both PW1 and PW2 when they went near Venkatagiri hotel, DGO was found waiting there and the complainant and his maternal uncle Mahalingappa took the DGO inside the hotel to have refreshment and hence the shadow witness accompanied by Police constable Shivappa, sat on a neighbouring table watching the happenings in the table where the complainant and DGO along with Mahalingappa were sitting. PW1 has stated that, while having food, he enquired the DGO about his work and the DGO told him that, his work has been duly attended and asked him for money and the complainant gave the tainted notes to him. DGO having received the tainted notes from his left hand transferred the same to his right hand and kept the said money in the right side pocket of his shirt. The complainant gave pre-arranged signal to the police constable Shivappa who inturn transmitted the signal to the Police Inspector, who was waiting outside the hotel along with his staff.
32. PW3 the Police Inspector came inside the hotel on receiving the signal and since the complainant identified the DGO, he/PW3 introduced himself to the DGO and informed him about registration of a case against him.
33. PWs 1 to 3 have narrated in detail about the procedures conducted by the Police Inspector/PW3, including obtaining of hand wash of both the hands of the DGO which gave positive result regarding

presence of phenolphthalein, recovery of tainted notes of Rs. 10,000/- from the possession of DGO, from his left side shirt pocket which was got removed with the help of another panch witness Shamshuddin, and on verification of those notes with reference to its serial numbers confirmed that, those were the currency notes entrusted to the complainant during the entrustment proceedings. They have further deposed in detail regarding taking the DGO to the nearby Inspection Bungalow for conducting further proceedings and obtaining the wash of left side shirt pocket of the DGO which gave positive result regarding presence of phenolphthalein, seizure of the said shirt, giving of explanation by DGO as per Ex-P19, obtaining of photographs of the trap proceedings as per Ex-P11 to 16 and preparation of trap mahazar as per Ex-P18 and other details of the trap proceedings. PW3 also gave evidence regarding seizure of relevant file pertaining to the Revision Petition of the complainant, from the O/o Deputy Commissioner as per Ex-P20.

34. The complainant was cross examined on behalf of the DGO by his learned counsel. The complainant has admitted in his cross examination that, it was the Deputy Commissioner who has to pass the order in the Revision Petition pending before him. The copy of the order passed by the Deputy Commissioner dated 23.9.2009 when confronted to him, he has admitted that, the order in the Revision Petition has been passed by the Deputy Commissioner on 23.9.2009. Besides denying the allegation made against the DGO, suggestion was put to the complainant that, DGO never made any demand for bribe and never received any money by way of bribe from him, and further suggested to him that, he/DGO wanted to hand over the copy of the order passed by the Deputy Commissioner to him and hence met him in the hotel and using the said opportunity he/complainant forcibly kept the amount in the shirt

pocket of the DGO. A further suggestion was put to him that, since his Revision Petition was earlier dismissed by the Deputy Commissioner, he had developed enmity/grouse against the DGO and because of that reason, he has forcibly kept the amount in the shirt pocket of the DGO to falsely implicate him. These suggestions have been categorically denied by the complainant. A further suggestion was put to him that, he was aware of the order passed by the Deputy Commissioner on 23.9.2009 itself and in order to falsely victimize the DGO, he has filed a false complaint against him. Even this suggestion has been categorically denied by the complainant.

35. While cross examining PW2/shadow witness, though the shadow witness has reiterated his contention that, he could able to see the complainant sitting with his maternal uncle and DGO on their table, and further claimed that, the conversation that was going on among them was clearly audible to him, no such suggestion was put to PW2 that, the complainant has forcibly kept the money in the shirt pocket of the DGO.
36. But while cross examining the Police Inspector/PW3, a suggestion was put to him that, though the DGO never demanded for any money, the complainant has forcibly thrust money in the shirt pocket of the DGO. But the Police Inspector has denied this suggestion and also the suggestion put to him that, he has registered a false case against the DGO, falsely implicating him in this case just to harass him.
37. Considering the nature of the defence taken on behalf of the DGO during the cross examination of the complainant, the fact of recovery of tainted notes from the shirt pocket of the DGO is not at all disputed or denied on behalf of the DGO. Even obtaining of hand

wash of both the hands of the DGO and also obtaining the wash of the pocket portion of the shirt of the DGO, which gave positive result regarding presence of phenolphthalein are also not disputed on behalf of the DGO. In order to explain the circumstances under which the tainted notes came to his possession and seized from his shirt pocket, DGO came up with such an explanation that, the complainant has forcibly thrust money in his shirt pocket.

38. DGO gave his explanation in writing as per Ex-P19 contending that, the complainant gave him Rs. 10,000/- forcibly asking him to see that, favourable order should be passed in the pending case before the Deputy Commissioner. The written explanation given by the DGO reads as follows:

“ವಿಷಯ: ನನ್ನ ಬಳಿ 10000-00 ರೂಪಾಯಿ ಇದ್ದ ಬಗ್ಗೆ

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ನಾನು ಪಂಥರಿಸಾಥ ಪಾಟೀಲು ದ್ವಿ.ಭೂ. ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಅನುಸಾರ ತಮ್ಮಲ್ಲಿ ಬರೆದು ಕೊಡುವ ಸ್ವರಕ್ಷಣಾತ್ಮಕ ಹೇಳಿಕೆ ಏನೆಂದರೆ ಶ್ರೀ. ನಿಜಲಿಂಗಪ್ಪ ಟೆಂಗಳಿ ಇವರು ಕಸನೂರು ಇವರು ತಮ್ಮ ಜಮೀನಿನ ತಕರಾರು ಅಪೀಲು ಆದೇಶ ಹೇಗಾದರೂ ಮಾಡಿಸಿಕೊಡಲು ರೂ. 10,000/-ಗಳನ್ನು ಒತ್ತಾಯ ಪೂರ್ವಕವಾಗಿ ಕೊಟ್ಟಿರುತ್ತಾರೆ ಅಂತ ಬರೆದು ಕೊಟ್ಟ ಸ್ವರಕ್ಷಣಾತ್ಮಕ ಹೇಳಿಕೆ ನಿಜವಿರುತ್ತದೆ.”

39. Though the DGO has taken up such a defence contention while cross examining the complainant and the IO and also in his written explanation Ex-P19 contending that, the complainant has forcibly thrust money in his shirt pocket, the DGO has not taken up such a defence contention while filing his reply to the observation note. Even no such contention was taken by him in his written statement. But only while cross examining PW1 and PW3 such a contention was taken on behalf of the DGO. Though DGO has not taken up any specific contention with reference to the written explanation given by him during the trap proceedings, while filing his written



statement he has taken up a contention that, his statement was obtained under compulsion.

40. It is pertinent to note that, DGO never bothered to enter into the witness box to adduce his defence evidence and to take up such a contention making allegations against the complainant that, he/Complainant has forcibly thrust money in his shirt pocket. Considering the facts and circumstances of the present case, it appears that, the DGO has intentionally avoided to enter into the witness box to adduce his defence evidence in order to avoid giving answers to the various questions that may be put to him during his cross examination. Therefore, the fact of the DGO avoided to give his defence evidence in this enquiry is also another factor which renders the defence contention taken by the DGO, unbelievable.

41. While recording his statement under Rule 11(18) of KCS(CCA) Rules, DGO besides taking up a contention that, no work of the complainant was pending with him as on that date and further taken up a contention that, after 2 days of passing of the orders by the Deputy Commissioner, the complainant forcibly thrust money in his shirt pocket, he never bothered to adduce any defence evidence by examining himself in support of his contention. In this regard it is relevant to refer to the decision of the Hon'ble Supreme Court in a decision reported in AIR 1968 Page 1292 (Sri S.N. Bose Vs. State of Bihar) wherein it has 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.”

42. Therefore, the DGO though taken up such a contention in support of his defence, since he failed to substantiate his defence contention by adducing evidence to support his contention and intentionally omitted to enter into the witness box to take up such a contention on oath, the defence contention taken by the DGO cannot be believed and no reliance can be placed on such a contention taken by him, in support of his defence.
43. It is the specific contention urged on behalf of the DGO that, no work of the complainant was pending with him and he was not the authority to pass the orders in the pending Revision Petition and hence question of he demanding for bribe and receiving Rs. 10,000/- from the complainant by way of bribe promising him that, he will see that, favourable order will be passed in his case, does not

arise. The learned counsel for DGO vehemently argued that, there was no occasion for the DGO to demand any bribe from the complainant as he was not in a position to show any official favour to the complainant.

44. But this defence contention taken on behalf of the DGO, cannot be accepted for the reason that, as per the work distribution order dated 1.2.2007, the DGO was looking after the case files pertaining to the appeals filed before the Deputy Commissioner under Section 49A and 136(2) of the KLR Act and also Revision Petitions filed under Section 56 of the said Act. Therefore, as a case worker he was aware about the progress in each such cases.
45. Admittedly, the orders in the Revision Petition No. 26/08-09 came to be passed on 23.9.2009. DGO has produced the order sheet pertaining to this Revision Petition and on perusing the order sheet, it could be seen that, on 9.9.2009 the said case was taken up for arguments and the counsels representing the Revision Petitioner/complainant and the respondents have submitted their arguments and the case was reserved for orders. There is no mention in the proceedings dated 9.9.2009 as to when the orders will be going to be passed. Thereafter, vide proceedings dated 23.9.2009, the orders were pronounced by the Deputy Commissioner in the open court, with a direction to forward to the copies of the orders to both the parties through post. On the day of passing of the order on 23.9.2009 none of the parties including the complainant and their counsel were present since their signatures are not obtained on the order sheet. Therefore, it can be concluded that, the order passed on 23.9.2009 was not within the knowledge of the complainant/Revision Petitioner. DGO being the case worker, taking advantage of this fact of the complainant having no

knowledge about the favourable order passed in his favour, appears to have used that opportunity to extract money from the complainant representing him that, if he pays Rs. 10,000/- he would see that favourable orders would be passed in his case. It is the specific allegation of the complainant in his chief examination that, it was the DGO who called him on phone asking him to meet him in connection with his case and accordingly, the complainant met the DGO in his office on 25.9.2009. Since this fact as deposed by the complainant is not at all disputed or denied on behalf of the DGO during his cross examination, the said allegation of the complainant made in his chief examination, when considered with the disposal of the Revision Petition on 23.9.2009 itself, it can be concluded that, DGO being the case worker, taking advantage of the fact that, the complainant was unaware of the favourable order passed in the said Revision Petition, tried to encash the said situation and by calling the complainant to his office, demanded him for money by representing that, if he pays money, he will see that, favourable order will be passed in his case. Therefore, I have no hesitation to conclude that, the DGO had put forth demand for bribe falsely representing that, he will see that, favourable order will be passed in his favour, though the order was already passed on 23.9.2009 itself. Therefore, the allegation of demand for bribe made against the DGO, can be held to have been established.

46. So far as recovery of tainted notes from the possession of the DGO is concerned, there are ample evidence regarding this aspect. Both the complainant and shadow witness have stated in their evidence regarding the manner in which the DGO having demanded for money received the tainted notes of Rs. 10,000/- from the complainant, while having refreshment at Venkatagiri hotel. Further, the hand wash of both the hands of the DGO obtained

during the trap proceedings gave positive result regarding presence of phenolphthalein which fact has not been disputed or denied on behalf of DGO. Further, the pocket portion of the shirt of the DGO when subjected to phenolphthalein test also gave positive result. Moreover, the DGO has not denied the recovery of tainted notes from his shirt pocket, having regard to the nature of defence contention taken by him that, the complainant has forcibly thrust money in his shirt pocket, but the DGO has failed to establish this defence contention. Therefore, considering the evidence available on record both oral and documentary, I have no hesitation to conclude that, the DGO having demanded bribe from the complainant received Rs. 10,000/- by way of bribe on the day of trap. Thus, he is guilty of misconduct.

47. The learned counsel for the DGO has vehemently argued that, since the DGO has been acquitted by the Spl. Court vide judgment dated 22.8.2016 in Spl.C. No. 262/11 on the file of Principal's Sessions Judge and Spl.Court, Gulbarga, the charges against the DGO has to be held not proved and the DGO has to be absolved from the charges leveled against him. In support of his arguments, he relied upon the decision of the Hon'ble Supreme Court in G.M. Tank case, which is subsequently relied upon in S. Bhaskar Reddy's Case The Hon'ble Supreme Court in the decisions cited above, while setting aside the order of dismissal passed against the appellant, made an observation that, if the official has been honorably acquitted in the criminal trial, the disciplinary authority shall take note of that aspect and if the criminal case and departmental proceedings are based on similar facts and evidence and if the trial court acquitted the Government official honorably, then the disciplinary authority considering the grounds on which the trial court acquitted the Government official and on that basis, take a decision as to whether

the report of the enquiry officer in a departmental proceedings can be accepted or not and on that basis, can decide whether the charges against the Government official stands proved or not.

48. In pursuance of the Government order issued entrusting the proceedings to Hon'ble Upalokayukta under Section 14-A of KCS(CCA) Rules, a nomination order was issued by the Hon'ble Upalokayukta directing ARE-3 to frame charges and to hold enquiry and to submit a report as to whether the charges framed against the DGO is proved or not. Hence, the enquiry officer has to frame charge and to hold an enquiry and to prepare a report as to whether the evidence adduced on behalf of the disciplinary authority are sufficient to hold that, the charges against the DGO has been established or not. The enquiry officer has to independently consider the evidence made available on behalf of the disciplinary authority during the enquiry, without considering the judgment of the criminal court since the Hon'ble Supreme Court in a decision reported in 2012(1) SC 442 (Divisional Controller, KSRTC Vs. M.G. Vittal Rao) observed as follows:

“ Thus there can be no doubt regarding the settled legal proposition that the standard of proof in both the proceedings is quite different and the termination is not based on mere conviction of an employee in a criminal case, the acquittal of the employee in a criminal case cannot be the basis of taking away the effect of departmental proceedings nor can such an action of the department be termed as double jeopardy. The judgment of this court in Captain M. Paul Antony does not lay down the law of Universal application. Facts, charge and nature of evidence etc., involved in an individual case would determine as to whether

decision of acquittal would have any bearing on the findings recorded in the domestic enquiry.”

49. Even in the decision rendered by the Hon'ble Supreme Court cited on behalf of the DGO in S. Bhaskar Reddy case, the Principle laid down in Paul Anthony case which was based on the judgment in G.M. Tank's case has been relied upon. But, in the decision in M.G. Vittal Rao's case, the Hon'ble Supreme Court made it clear that, Paul Anthony's case does not lay down the law of universal application. Hence such a contention urged on behalf of the DGO cannot be considered in this enquiry.
50. Further, the Principal's Sessions Judge and Spl.Court, Gulbarga in Spl.C. No. 262/2011, vide judgment dated 22.8.2016 while acquitting the accused made an observation that, the prosecution has failed to establish the guilt of the accused beyond reasonable doubt for the offences with which he is charged and extending the benefit of reasonable doubt to the accused, the learned Special Judge proceeded to acquit the accused. This judgment of acquittal has been challenged on behalf of the State, in Cr.A. No. 200001/2017 which is pending consideration before the Hon'ble High Court of Karnataka, Kalburgi Bench. Hence, the acquittal of the DGO by the Trial Court cannot be a ground to disbelieve the case of the disciplinary authority. Therefore, the acquittal of the DGO by the trial court is not a ground to absolve him from the charges in this enquiry, since the said judgment is under challenge on behalf of the State and the appeal is yet to be heard by the Hon'ble High Court.
51. Further, the Hon'ble Supreme Court in the decision reported in 2005(7) SCC 764, Ajit Kumar Nag V/s. General Manager,

“The two proceedings, criminal and departmental are entirely different fields and have different objectives whereas the object of criminal trial is to inflict appropriate punishment on the offender the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance with the service Rules.

Termination/quashing of criminal case against an applicant does not ipso facts absolve him from the liability arising under the disciplinary jurisdiction as per service Rules. Hence, there is no illegality in continuation of enquiry against the applicant notwithstanding quashing of the criminal proceedings against the applicant.”

52. The Hon’ble Supreme Court in the decision of State of Rajasthan V/s. B.K. Meena.

“The approach and the objectives in the criminal proceedings and the disciplinary proceedings is altogether distinct and different. In the disciplinary proceedings the question is whether the respondent is guilty of such misconduct as would merit his removal from service or a lesser punishment as the case may be, whereas in the criminal proceedings the question is whether the offences referred against him under PC Act (and with IPC if any) are established and if established what sentence should be imposed upon him. The standard of proof, the mode of enquiry and the rules governing the enquiry and trial in both the cases are entirely distinct and different.”



53. The prayer made on behalf of DGO when considered in the context with the two decisions of the Hon'ble Supreme Court referred to above, the Hon'ble Supreme have held that, the approach and the objectives in the criminal proceedings and the disciplinary proceedings are all together distinct and different and the standard of proof, the mode of enquiry and the rules governing the enquiry and trial before the Court are entirely distinct and different. Therefore, the order of acquittal passed by the Special Court will not come in the way of this authority, in appreciating the evidence independently, adduced in this enquiry and come to an independent conclusion, regarding the charges framed against the DGO.
54. Having regard to the discussion made above, I am of the opinion that, the disciplinary authority has proved the allegations against the DGO and accordingly, I hold that, the charge framed against the DGO has been established. Hence, I answer point no.1 in the Affirmative.

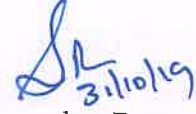
**Point No.2**

55. 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 Pandarinath S/o Ganapathrao Patil, Second Division Surveyor, Office of the Deputy Director of Land Records, Gulbarga.

ii) As per the service particulars, Ex-P25, the date of birth of the DGO is 10.2.1973 and his date of retirement is 28.2.2033.



(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 Nijalingappa (complainant)
<b>PW-2</b>	Sri Sanjeev Kumar (shadow witness)
<b>PW-3</b>	Sri Maheshwaragouda S.U

**II. Witnesses examined on behalf of the DGO: Nil****III Documents marked on behalf of D.A.**

<b>Ex.P-1</b>	Certified copy of complaint
<b>Ex.P-2</b>	Certified copy of transcription
<b>Ex.P-3</b>	Certified copy of entrustment mahazar
<b>Ex.P-4 to 16</b>	Photographs
<b>Ex.P-17</b>	Certified copy of transcription
<b>Ex.P-18</b>	Certified copy of trap mahazar
<b>Ex.P-19</b>	Certified copy of explanation of DGO in writing
<b>Ex.P-20</b>	Certified copy of records seized by IO
<b>Ex.P-21</b>	Certified copy of extract of attendance register
<b>Ex.P-22</b>	Certified copy of FIR
<b>Ex.P-23</b>	Certified copy of sketch of scene of occurrence
<b>Ex.P-24</b>	Certified copy of FSL report
<b>Ex.P-25</b>	Certified copy of service particulars of DGO
<b>Ex.P-26</b>	Certified copy of call records obtained from service providers

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


(S. Renuka Prasad)

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