

**GOVERNMENT OF KARNATAKA**



**KARNATAKA LOKAYUKTA**

NO: LOK/INQ/14-A/463/2011/ARE-3

Multi Storied Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru-560 001,  
Date: 21/12/2018

**RECOMMENDATION**

Sub:- Departmental inquiry against Dr. G. Basavaraja, the then Assistant Director of Agriculture, Haveri (Presently, Assistant Director of Agriculture, Mundaragi, Gadag District) – Reg.

Ref:- 1) Government Order No. ಕೃತೋಇ 44 ಕೃಪವಿ 2010, Bengaluru dated 2/12/2011

2) Nomination order No.LOK/INQ/14-A/463/2011, Bengaluru dated 15/12/2011 of Upalokayukta-1, State of Karnataka, Bengaluru

3) Inquiry Report dated 19/12/2018 of Additional Registrar of Enquiries-3, Karnataka Lokayukta, Bengaluru

The Government by its Order dated 2/12/2011, initiated the disciplinary proceedings against Dr. G. Basavaraja, the then Assistant Director of Agriculture, Haveri (Presently, Assistant Director of Agriculture, Mundaragi, Gadag District) (hereinafter referred to as Delinquent Government Official, for short as **'DGO**) and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.LOK/INQ/14-A/463/2011, Bengaluru dated 15/12/2011 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 Dr. G. Basavaraja, the then Assistant Director of Agriculture, Haveri (Presently, Assistant Director of Agriculture, Mundaragi, Gadag District) was tried for the following charge:-

“That you, Dr. G. Basavaraja (hereinafter referred to as Delinquent Government official, in short DGO), while working as the Assistant Director of Agriculture, Agriculture Department, Haveri demanded and accepted a bribe of Rs.8,000/- on 03/06/2010 from complainant Sri Rajashekar Hanumanthappa Bellary R/o. Dombar Mattur in Savanur Taluk of Haveri District for issuing license to carry on business in agricultural seeds, pesticides and fertilizers to the complainant 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 Dr. G. Basavaraja, the then Assistant Director of Agriculture, Haveri (Presently, Assistant Director of Agriculture, Mundaragi, Gadag District).

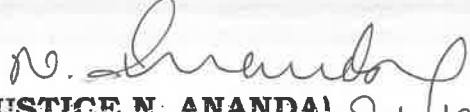
5. On re-consideration of inquiry report, I do not find any reason to interfere with the findings recorded by the Inquiry Officer. It is hereby recommended to the Government to accept the report of Inquiry Officer.

6. As per the First Oral Statement submitted by DGO, he is due to retire from service on 31/7/2028.

7. Having regard to the nature of charge proved against DGO Dr. G. Basavaraja, it is hereby recommended to the Government for imposing penalty of compulsory retirement from service on DGO Dr. G. Basavaraja, the then Assistant Director of Agriculture, Haveri (Presently, Assistant Director of Agriculture, Mundaragi, Gadag District).

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

Connected records are enclosed herewith.

  
(JUSTICE N. ANANDA) 21/12  
Upalokayukta-1,  
State of Karnataka,  
Bengaluru



**KARNATAKA LOKAYUKTA**

No. LOK/INQ/14-A/463/2011/ARE-3

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

Date: 18.12.2018

**Enquiry report**

Tg.

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

Sub: Departmental Enquiry against Dr. G. Basavaraja,  
Assistant Director of Agriculture, Haveri (presently  
Assistant Director of Agriculture, Mundaragi, Gadag  
District) – reg

Ref: 1. Report under Section 12(3) of the Karnataka Lokayukta  
Act, 1984, in No. Compt/Uplok/BGM/316/2010/DRE-1  
dated 20.8.2011

2. Government Order No. ಕೃತೋಇ 44 ಕೃಪವಿ 2010, 02.12.2011

3. Nomination Order No.LOK/INQ/14-A/463/2011  
dated 15.12.2011 of Hon'ble Upalokayukta,  
Karnataka State, Bengaluru.

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1. The complainant Sri. Rajashekar Hanumanthappa Bellary R/o Dombar Mattur in Savanur Taluk of Haveri District (hereinafter referred to as 'complainant') has filed a complaint to Lokayukta police, Haveri on 02.6.2010 against Dr. G. Basavaraja, Assistant Director of Agriculture, Haveri (hereinafter referred to as 'DGO' for short) making allegations against him that, he/DGO is demanding him to pay Rs.8000/- as bribe, in order to issue license to deal with fertilizers and pesticides in his shop situated at Udupa Complex, Guttalu road, Haveri Town .

2. On registering a case on the basis of the said complaint, a trap was held on 03.06.2010 wherein, the DGO having demanded bribe from the complainant received the said bribe amount of Rs. 8000/- from him in his office, during the trap proceedings conducted in the office of the Assistant Director of Agriculture, Haveri. The tainted money was recovered from the left side shirt pocket of the DGO. Since it was revealed during investigation that, the DGO has demanded bribe of Rs.8000/- from the complainant and received the same, in order to show an official favour i.e., in order to issue license to the complainant to deal with fertilizers and pesticides in his shop, Police Inspector, Karnataka Lokayukta, Raichur 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 submitted his reply dated 13.1.2011 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. Except denying the allegations made against him, he has not taken up any specific defence, except contending that, a false trap mahazar has been created in order to show that, he has demanded and accepted money by way of bribe from the complainant and requested for dropping the proceedings against him. Since the explanation offered by the DGO was not satisfactory, a recommendation under Section 12(3) of the

Karnataka Lokayukta Act was forwarded to the Competent Authority recommending to initiate disciplinary enquiry against DGO and to entrust the enquiry under Rule 14-A of KCS (CCA) Rules, to this authority to hold enquiry. Accordingly, the Disciplinary Authority, i.e., Agriculture Department by its order in No. ಕೃತೋಇ 44 ಕೃಪವಿ 2010, 02.12.2011 initiated disciplinary proceedings against the DGO and entrusted the same to Hon'ble Upalokayukta to hold enquiry. As per the order issued against DGO, the Hon'ble Upalokayukta issued a nomination order dated 15.12.2011 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, Dr. G. Basavaraja, (here in after referred to as Delinquent Government Official, in short DGO), while working as the Assistant Director of Agriculture, Agriculture Department, Haveri demanded and accepted a bribe of ₹ 8000/- on 03/06/2010 from complainant Sri. Rajashekar Hanumanthappa Bellary R/o Dombar Mattur in Savanur Taluk of Haveri District for issuing license to carry on business in agricultural seeds, pesticides and fertilizers to the complainant 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. Rajashekar Hanumanthappa Bellary R/o Dombar Mattur in Savanur Taluk of Haveri District filed a

complaint on 02/06/2010 before the Police Inspector, Karnataka Lokayukta, Haveri alleging that earlier he was doing grocery business and he sustained loss in the said business and a year prior to 02/06/2010 he stopped his grocery business and he thought of doing business in agricultural seeds, pesticides and fertilizers and therefore he went to the DGO and asked him about issue of license for dealing in seeds, fertilizers and pesticides and at that time Dr. G. Basavaraja, Assistant Director of Agriculture, Agriculture Department, Haveri, (here in after referred to as Delinquent Government Servant, in short DGO) demanded a bribe of Rs. 10000/- and as he was not willing to pay any bribe he went to DSP, Karnataka Lokayukta, Haveri and narrated the fact DGO demanding the bribe of Rs. 10000/- for issuing license and at that time the Sri M.B. Patil, DSP, Karnataka Lokayukta, Haveri gave him a digital voice recorder and asked him to record the conversation between himself and the DGO and that on the same day he went to the DGO and DGO asked him to produce the necessary documents and thereafter again after some time he produced the necessary documents and at that time the DGO demanded a bribe of Rs. 10000/- for issuing license and after bargain he told that he would reduce the same by Rs. 2000/- and that he told the DGO he would come on the next day and this conversation was recorded in the voice recorder and that as he could not come to the Lokayukta P.S. Haveri on 01/06/2010.

As the complainant was not willing to pay any bribe to the DGO, he went to Police Inspector, Karnataka Lokayukta Haveri on 02/06/2010 and lodged a complaint. On the basis of



the same a case was registered in Haveri Lokayukta Police Station Cr. No. 02/2010 for offences punishable under sections 7, 13(1) (d) r/w section 13(2) of the P.C. Act, 1988 and FIR was submitted to the concerned learned special judge.

After registering the case, investigating officer observed all the pre trap formalities and entrustment mahazar was conducted and you, the DGO was trapped on 03/06/2010 by the Investigating Officer after your demanding and accepting the bribe amount of ₹ 8000/- 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 ₹ 8000/- from the complainant on 03/06/2010 for doing an official act i.e., for for issuing license to carry on business in agricultural seeds, pesticides and fertilizers to the complainant. Thus you, the DGO, have failed to maintain absolute integrity and devotion to duty and this act on your part is unbecoming of a Government servant. Hence, you have committed an act which amounted to misconduct as stated under Rule 3 (1) (i) to (iii) of KCS (Conduct) Rules 1966.

In this connection an observation note was sent to you, the DGO and you have submitted your reply which, after due consideration, was found not acceptable. Therefore, a recommendation was made to the Competent Authority under Section 12(3) of the Karnataka Lokayukta, Act 1984, to initiate Departmental Proceedings against you, the DGO. The Government after considering the recommendation made in the report, entrusted the matter to the Hon'ble Upalokayukta to conduct departmental/disciplinary proceedings against you, the DGO and to submit report. Hence the charge."

4. The Articles of Charges and Statement of Imputations are duly served on the DGO. DGO has appeared in response to the notice issued to him and First Oral Statement of the DGO was recorded. DGO has denied the charges framed against him. He has engaged the services of an advocate to appear on his behalf and to defend him, in the enquiry.
5. DGO has filed his written statement on 9.11.2012, denying the allegations made against him contending that, he never demanded or received any bribe from the complainant. He has taken up further contention that, the complainant approached him to grant license for dealing in seeds, fertilizers and pesticides. The fees to issue license is Rs. 8500/- (Rs. 7500/- towards plant protection chemicals and Rs.1000/- towards fertilisers). According to him, the complainant paid him only Rs. 8000/- which is less than the prescribed fees by the authority, for issuing licenses for manufacturing and marketing of agricultural inputs. He has further contended that, but the complainant gave contradictory statement contending that, DGO demanded Rs. 10,000/- which was later

- reduced to Rs. 8000/- and further taken up a specific contention that, the complaint has been filed against him with wrongful motive and requested this authority to absolve him from the charges levelled against him.
6. During enquiry, on behalf of disciplinary authority, 3 witnesses have been examined as PW1 to PW3 and 11 documents came to be marked as Ex-P1 to Ex-P11. 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 2 witnesses in support of his evidence as DW1 and DW2 and has examined himself as DW3 and 6 documents came to be marked as Ex-D1 to Ex-D6 during his defence evidence.
7. Thereafter, the learned Presenting Officer has filed written arguments. The learned counsel for DGO has submitted his written arguments. Thereafter, this matter is taken up for consideration.
8. The points that would arise for my consideration are:
- Point No.1:** Whether the charge framed against the DGO is proved by the Disciplinary Authority?
- Point No.2:** What order?
9. The above points are answered as under:
- Point No.1:** In the 'Affirmative'
- Point No.2:** As per Conclusion.

**REASONS****Point No.1:-**

10. DGO was working as Assistant Director of Agriculture, Haveri district, during the relevant period.
11. The complainant in his complaint has narrated in detail the circumstances under which he has filed this complaint against the DGO. According to him, he was running a provision store in a shop premises taken on lease at Udupa complex, Guttalu road, Haveri Town and he has closed his business about one year ago. He having decided to run a shop dealing in seeds, pesticides and fertilizers, went to the office of the DGO/Assistant Director of Agriculture and met him/DGO on 1.6.2010 and discussed with him about grant of license, to open a new shop to deal with seeds, pesticides and fertilizers. It is the allegation of the complainant that, the DGO has demanded him to pay Rs. 10,000/- by way of bribe in order to grant license to him. Hence the complainant approached Dy.SP, Karnataka Lokayukta, Haveri on the same day and told him about the demand for bribe being made by the DGO. Dy.SP gave him/complainant a voice recorder and asked him to meet the DGO again and to record the conversation with him regarding demand for bribe being made by him. Having taken the voice recorder with him, the complainant again met the DGO and discussed with him about sanctioning of license, and recorded the conversation with him wherein, DGO has reiterated his demand for bribe of Rs. 10,000/- and since the complainant pleaded his inability to pay that much amount, DGO has scaled down his demand, insisting the complainant to pay Rs. 8000/-, in order to consider his request for grant of license to him. Having recorded the conversation with the

DGO in the voice recorder entrusted to him, The complainant again approached the Dy.SP, Karnataka Lokayukta, Haveri on 2.6.2010 and filed a complaint as per Ex-P1 and produced the conversation he has recorded with the DGO, in the voice recorder given to him..

12. On the basis of the complaint so filed by the complainant on 02.06.2010 the Dy.SP, Karnataka Lokayukta, Haveri has registered a case in Cr. No. 2/2010 under Sections 7,13(1)(d) R/w 13(2) of P.C Act, 1988 and took up investigation.
13. An entrustment proceedings was conducted in the Lokayukta Police Station on 02.06.2010 in the presence of two panch witnesses viz., Sri Kalleshappa Gubbera, Assistant, KSRTC, Haveri and Sri Saleem Valikar, SDA, O/o District Health and Family Welfare officer and in the said proceedings, the bait money of Rs. 8000/- consisting of 8 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 Kalleshappa was sent along with the complainant, as a shadow witness. Complainant was entrusted with a voice recorder asking him to switch on the same when he meets the DGO and to record the conversation with him, while paying money to him.
14. The voice recorder given to the complainant on the previous date in which he recorded the conversation with the DGO which he has produced along with his complaint, was played in the presence of panch witnesses and the same was transferred into CD and transcription of the said conversation was prepared as per Ex-P2. A detailed mahazar incorporating all these details, has been prepared

as per Ex-P3. Since it was late in the evening and the office hours since closed and due to non availability of the DGO in the office on that day, the proposed trap was decided to be held on the next day i.e., on 3.6.2010.

15. The complainant and the shadow witness were sent to the office of the DGO on 3.6.2010. When the complainant and shadow witness went inside the office to meet the DGO, DGO was not available in the office. One Clerk of the said office by name Sri Kallal, approached the complainant and filled challan, asking him to obtain the signature of the DGO, to remit the requisite amount to the Treasury. While the complainant was waiting for the DGO, DGO came to his chamber at about 11.15am. On seeing the DGO, the complainant accompanied with the shadow witness approached him and enquired him about his license, DGO asked him as to whether he has brought money. When the complainant gave tainted notes of Rs. 8000/- to the DGO, DGO having received it counted the same by using his both hands and kept it in his shirt pocket. Thereafter complainant came out of the office of the DGO and gave pre-arranged signal to the Dy.SP .
16. On receiving the signal, the Dy.SP and his staff and another panch witness approached the complainant and the complainant took them inside the chamber of the DGO and showed the DGO claiming that, he is the concerned officer and he has received money from him.
17. The Dy.SP 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 Dr. G. Basavaraja, Assistant Director of Agriculture, Haveri District.

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 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 took out the money from his left side shirt pocket and produced the same before the Dy.SP. 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.
20. On providing an alternate shirt to the DGO, shirt worn by him was got removed and pocket portion of the said shirt, when dipped in sodium carbonate solution got prepared separately in a separate bowl and on such dipping of the pocket portion of the shirt of the DGO, the colourless solution turned into pink colour and the said solution was collected in a separate bottle and sealed and seized along with the shirt of the DGO.
21. The Dy.SP. asked the DGO to give his explanation in writing. DGO gave his explanation in writing as per Ex-P8. The complainant and shadow witness have denied the correctness of the version of explanation given by the DGO claiming it as false and incorrect.

22. The relevant file pertaining to issue of license to the complainant was secured from the concerned case worker-Kallal and those papers were seized as per Ex-P9 and extract of attendance register was seized as per Ex-P10 and a rough sketch of scene of occurrence was got prepared as per Ex-P11.
23. The voice recorder entrusted to the complainant was taken back from him and when played in the presence of panchas at the time of conducting trap proceedings in the office of DGO, the conversation taken place between complainant and DGO was found recorded in it. Even the said voice recorder was also seized for taking further proceedings. A detailed mahazar was got prepared as per Ex-P4 incorporating all these details of trap proceedings.
24. During enquiry, the complainant has been examined as PW1. But the complainant has not supported the case of the disciplinary authority and turned hostile. According to him, in order to enquire about issue of license, he went to the office of the Assistant Director and DGO was not present when he went there and Parameshwarappa told him to make arrangement for money. According to him, Parameshwarappa took him to Lokayukta Police Station and arranged for bait money and he/complainant gave complaint as per the say of Parameshwarappa.
25. Since he said nothing about filing of the complaint, entrustment and trap proceedings, he has been treated as an hostile witness and he was thoroughly cross examined by the learned Presenting Officer. Even during his cross examination he said nothing about filing of the complaint against the DGO and conducting of entrustment and trap proceedings and has denied all the suggestions put to him.



26. The learned counsel for DGO has cross examined him and obtained certain favourable admissions suggesting him that, it was Parameshwarappa on Promising him that he would help him in getting a license, took him to Karnataka Lokayukta Police Station. It was also suggested to him that, he never went inside the chamber of the DGO but it was Parameshwarappa who went inside the chamber of DGO and obtained positive answers to these suggestions.
27. PW2 is the shadow witness who accompanied the complainant and went along with him when the complainant went inside the chamber of the DGO. He gave evidence regarding conducting of entrustment proceedings in the Police Station and entrustment of tainted notes of Rs. 8000/- to the complainant in the said proceedings. He stated about the attempt made to trap the DGO on the same day and due to non availability of the DGO in the office, the proposed trap was postponed to the next day. He has further stated that, on 3.6.2010 he along with the complainant went to the office of the DGO on the motor cycle of the complainant and when the complainant went inside the chamber of the DGO, he claimed that, he was standing near the door. According to him, the complainant having taken signature of the DGO on a challan, came back from the chamber of the DGO and when the Dy.SP enquired him about the money entrusted to him the complainant told the Dy.SP that, the DGO having received the money from him kept the money in his shirt pocket. According to him/PW2 he never seen the demand for money by the DGO, and the complainant giving the tainted notes to the DGO.
28. He has stated about obtaining of hand wash of both the hands of the DGO which gave positive result regarding presence of phenolphthalein and recovery of tainted notes from the shirt pocket

of DGO since DGO himself produced the same on taking out from his shirt pocket and subjecting of the shirt of the DGO for phenolphthalein test which gave positive result and giving of his explanation in writing by the DGO as per Ex-P8 and other details of the trap proceedings.

29. Since, PW2 failed to support the case of the disciplinary authority with regard to material particulars of the trap proceedings claiming that, he never seen the DGO, receiving money from the complainant on demanding for bribe from him, he has been treated as a partly hostile witness and learned Presenting Officer was permitted to cross examine him only to that extent of how the DGO received tainted notes from the complainant. Even during his cross examination, PW2 has not stated anything about these aspects and denied the suggestion put to him that, the DGO having demanded bribe from the complainant received the tainted notes from him and kept that money in his shirt pocket.
30. The learned counsel for DGO cross examined this witness and put suggestions to him suggesting him that, when the Lokayukta police went inside the chamber of DGO, the money was lying on the table and DGO told the Lokayukta police that, the said money was in respect of the license fee. A further suggestion was put to him/PW-2 that, Lokayukta police instructed the DGO to take out all the contents from his shirt pocket and accordingly DGO took out all the contents from his shirt pocket and thereafter, the hand wash of DGO was obtained and by putting such suggestions obtained favourable answers from PW-2. He further gave positive answer to the suggestions put to him that, he is giving evidence since police asked him to give evidence in such a manner and further claimed

- that, he has not seen DGO demanding money from the complainant and receiving money from him.
31. The investigating officer Sri M.B. Patil Dy.SP since dead could not be examined in this enquiry. The Police constable Sri M.D. Hiremath who was with the Dy.SP and who assisted the Dy.SP in conducting the entrustment and trap proceedings and he has prepared entrustment mahazar and trap mahazar during those proceedings, has been summoned and examined as PW3 in this enquiry. He narrated in detail regarding conducting of entrustment proceedings by the Dy.SP in the Police Station and entrustment of tainted notes of Rs. 8000/- to the complainant. He further gave details regarding the trap proceedings conducted in the office of the DGO, giving details of the trap proceedings. He gave evidence regarding obtaining of hand wash of both hands of the DGO which gave positive result, recovery of tainted notes from the left side shirt pocket of the DGO, since DGO himself took out the money from his shirt pocket and produced the same before the Dy.SP, giving of explanation by DGO as per Ex-P8 and preparation of trap mahazar as per Ex-P4 and other details of the trap proceedings and also the steps the Dy.SP has taken during the course of investigation.
32. This witness being a police constable, who accompanied the Dy.SP, gave evidence regarding the details of the investigation conducted by Dy.SP stage by stage, including conducting of trap proceedings, recovery of tainted notes from the possession of DGO and other details of the trap proceedings. Though the learned counsel for DGO cross examined this witness at length nothing was elicited, to disbelieve the evidence of this witness. PW3 has admitted during his cross examination that, DGO developed chest pain when the trap

proceedings was in progress and he was sent to the Government hospital for check up.

33. DGO has adduced his defence evidence by examining himself as DW-3. In his evidence he has admitted filing of the application by the complainant seeking for issue of license for dealing in pesticides, fertilizers and seeds claiming that the said application was received in the tappal section of his office on 1.6.2010. According to him, the said application was filed in the office, to falsely implicate him, though the complainant never intended to start any business and though he was not intending to obtain any license. He has made allegations against one Parameshwarappa stating that, he is a middlemen who used to come to the office in order to get the work of his clients done in the office. It is his contention that, he has warned the said Parameshwarappa asking not to bring bad name to his office and even instructed his subordinates not to entertain him/Parameshwarappa and not to attend any of his work. It is his further allegation that, Parameshwarappa came to his chamber on 3.6.2010 and tried to get the work of his clients done and hence he scolded him and warned him not to approach him for any work. It is the further allegation of the DGO that, the said Parameshwarappa offered him money requesting him to remit the money to the bank but, he declined to receive that money and hence Parameshwarappa kept the money on his table and rushed out of his chamber and soon after Lokayukta police came inside his chamber and the Lokayukta police shook his hand while introducing himself to him and asked him to pick up the notes which were found lying on his table and he/DGO though refused to pick up those notes, the Lokayukta police insisted him to pick those notes and accordingly he picked those notes with his hands and handed over the same to him/Lokayukta police and thereafter, he was asked to take out the

things from his shirt pocket and after he took out all the things from his shirt pocket, his hand wash were obtained.

34. He has taken up a further contention that, the Central Government vide notification dated 20.5.1999, fixed the amount of fee payable for obtaining license to deal with insecticides, fertilizers etc., and as per the said notification Rs. 7500/- is the amount fixed for obtaining license to deal with insecticides and Rs. 1000/- is the amount fixed for obtaining license to deal with fertilizers. According to him, the seized amount of Rs. 8000/- is nothing but the amount, meant for registration fee and license fee for dealing insecticides and fertilizers and it is not a bribe amount. According to him, either complainant or Parameshwarappa have remitted any fees for issuance of license and the amount seized during the trap proceedings was the amount to be remitted for issuance of license. He has produced the copies of the gazette notifications as per Ex-D1 and D2. He has also produced certain copies of the license issued to various such dealers and also the copies of the challans under which those dealers, have remitted the requisite fee for issue of license.
35. DW-2 is a private person who obtained renewal of license as per Ex-D3 (1)&(2) and also the copy of the challan under which he has remitted renewal of license fee.
36. DW-1 was working as SDA in the office of the DGO during the relevant period and he gave evidence regarding activities of Parameshwarappa and also DGO giving warning to Parameshwarappa and the alleged altercations took place between the said Parameshwarappa and the DGO and gave evidence regarding certain aspects supporting the defence contention of the DGO.

37. On considering the evidence adduced on behalf of the disciplinary authority, though the complainant has not supported the case of the disciplinary authority and turned hostile, the shadow witness/PW2 supported the case of the disciplinary authority to some extent giving details of the entrustment proceedings and trap proceedings but claiming that, he has not seen the demand and acceptance of bribe by the DGO from the complainant. But he gave evidence regarding other details, of obtaining of hand wash of both the hands of DGO which gave positive result and recovery of tainted notes from the shirt pocket of DGO and giving of explanation by the DGO in writing as per Ex-P8 etc.,
38. The fact of the DGO giving explanation in writing as per Ex-P8 has not been seriously disputed or denied on behalf of the DGO by his learned counsel. No suggestion was put to PW2, regarding this aspect of giving written explanation by DGO as per Ex-P8. Even PW3 has confirmed the DGO giving his explanation in writing as per Ex-P8. In his written explanation, DGO has narrated by way of explanation in writing, which reads as follows:

“ಶ್ರೀಯುತ ರಾಜಶೇಖರ ಇವರು ನಮ್ಮ ಕಛೇರಿಗೆ ಬಂದು ಕೀಟನಾಶಕ ಬೀಜಗಳು ಮತ್ತು ರಸಗೊಬ್ಬರಕ್ಕಾಗಿ license ಕೊಡಬೇಕು ಎಂದು ಕೇಳಿದಾಗ ನೀನು ಸರಕಾರಕ್ಕೆ ಕಟ್ಟುವ Fees ಕಟ್ಟಬೇಕು ಅಂತಾ ಹೇಳಿದಾಗ ಸದರಿಯವರು chanal ತುಂಬಿಕೊಂಡು ಬಾ ಎಂದು ಹೇಳಿದೇನು. ತದನಂತರ ಸದರಿಯವರು ನಿಮ್ಮ ಹತ್ತಿರ ರೂ. 8000/- (ಎಂಟು ಸಾವಿರ ರೂಪಾಯಿಗಳು) ಇಟ್ಟುಕೊಳ್ಳಿ ಅಂತಾ ಬಹಳ ಪೀಡಿಸಿದರು. ನಾನು ಅದನ್ನು ತೆಗೆದುಕೊಳ್ಳುವುದಿಲ್ಲ ಅಂತ ಸದರಿಯವರಿಗೆ ಬಹಳಷ್ಟು ಹೇಳಿದರು ಅವರು ಕೇಳಲಿಲ್ಲ. ನಂತರ ಸದರಿಯವರು tax department ಅಂದರೆ Commercial tax Department ಗೆ ಕಟ್ಟಬೇಕು ನಾನು ಬರುವ ವರೆಗೆ ಇದನ್ನು ಇಟ್ಟುಕೊಳ್ಳಿ ಅಂತಾ ಹೇಳಿದರು. ಆಗ ನಾನು ನೀನೇ ಅಲ್ಲೇ ಕಟ್ಟಿ ಹೋಗಿ ಅಂತಾ ಹೇಳಿದೆ. ಆದರೆ ಅವರು ನನ್ನ ಜೇಬಿನಲ್ಲಿ ಇಟ್ಟುಕೊಳ್ಳಿ ಸಾರ ಅಂತಾ ಹೇಳಿದರು. ಆಗ ನಾನು ಇಲ್ಲಿ ತುಂಬಾ ರೈತರು ಬಂದು ಹೋಗುತ್ತಾರೆ ನಾನೂ ಕೂಡಾ Seeds Distribution ಇರುವುದರಿಂದ ತಾಲ್ಲೂಕಿನ ಎಲ್ಲ Sale points and fieldಗೆ ಹೋಗಬೇಕು ಅಂತಾ ಹೇಳಿದೆ. ಸಾರ್

ನಾನು 5 ನಿಮಿಷದಲ್ಲಿ ಬರುತ್ತೇನೆ ಇಟ್ಟುಕೊಳ್ಳಿ ಸಾರ್ ಅಂತಾ ಹೇಳಿದರು. ನಾನು ನೀನು ಅರ್ಜಿಂಟ್ 5 ನಿಮಿಷದಲ್ಲಿ ಬರಬೇಕು ನಾನು fields ಮೇಲೆ ಹೋಗಬೇಕು. ನಾನು ಲೇಟಾದರೆ ನಮ್ಮ ಸಿಬ್ಬಂದಿ ವರ್ಗದವರಿಗೆ ನಿಮ್ಮ ಹಣ ಕೊಟ್ಟಿರುತ್ತೇನೆ ಅಲ್ಲಿ ತೆಗೆದುಕೊಳ್ಳಿ ಅಂತಾ ಹೇಳಿದನು. ಆಗ ಸದರಿಯವರು ಆಯ್ತು ಸಾರ್ ಈ 8000/- (ಎಂಟು ಸಾವಿರ) ಇಟ್ಟುಕೊಳ್ಳಿ ಅಂತಾ ಹೇಳಿದರು. ಆಗ ನಾನು ಹಣವನ್ನು ತೆಗೆದುಕೊಂಡು ನನ್ನ ಅಂಗಿರು ಜೇಬಿನಲ್ಲಿ ಇಟ್ಟುಕೊಂಡನು.”

39. While giving explanation in writing, DGO has not denied receiving of Rs. 8000/- from the complainant but according to his contention in his written explanation, the complainant has insisted him to keep that money of Rs. 8000/- with him, in order to remit the same to the Government and hence he kept that money given by the complainant, in his shirt pocket. Even while giving his defence evidence, he has not specifically denied receiving of Rs. 8000/- from the complainant but according to him, the alleged seizure of Rs. 8000/- from him during the trap proceedings was nothing but the amount meant for registration fee and license fee for issue of insecticides and fertilizers license and it is not the bribe amount. To substantiate his contention, he has produced certain gazette notifications to show that, the complainant was to pay Rs. 8500/- towards license fee, to obtain the registration certificate for dealing in insecticides and fertilizers but the complainant has not paid the full amount but paid only Rs. 8000/- to him and the amount of Rs. 8000/- seized from his possession, was the amount paid by the complainant, towards remittance of registration and license fee.
40. The notification dated 20.5.1999 issued by the Ministry of Agriculture, Government of India, as per Ex-D1, was a draft rules published proposing to amend the insecticide rules, proposing to amend the II schedule, revising the fees for testing or analyzing samples of insecticides. This is only a draft rules published in the gazette inviting objections and suggestions from all the persons

likely to be affected, asking such persons to file their objections to this draft rules within 45 days from the date of the notification,. Therefore, Ex-D1 is only a draft rules published vide notification dated 20.5.1999 and this is not a notification revising the license fee/registration fee, as contended by DGO.

41. DGO has produced a circular dated 1.12.2010 issued by the Director of Agriculture, revising the license fees, registration fee and renewal fee for issue of license to deal with insecticides wherein, Rs. 7500/- is the amount fixed for issue of permission/license to deal with insecticides. As per the schedule amended, the fee of Rs. 1000/- is the amount fixed for grant of certificate of registration to a retail dealer for fertilizer license. This circular instructions has been issued on 1.12.2010 as per Ex-D2. But the trap of DGO-2 was on 3.6.2010. Therefore, the fees fixed in the circular dated 1.12.2010 was not inforce as on 3.6.2010 and hence it can be concluded that, the fee fixed under Ex-D2 was ordered to be levied on or after 1.12.2010. Therefore, the contention of the DGO that, fee for issue of registration/license fee for dealing in insecticide was Rs. 7500/- and for the purpose of fertilizer, the fee was Rs. 1000/-, cannot be accepted since, the trap was earlier to the issue of the said circular and hence this contention of the DGO cannot be accepted.

42. While filing his reply dated 3.1.2011 to the observation note served on him, he has not taken up such a contention claiming that, Rs. 8000/-seized during trap proceedings conducted in his office was the amount towards payment of the requisite fee by the complainant in order to obtain license to deal with insecticides and fertilizers. He has simply contended in his reply that, a false trap mahazar has been created just to falsely implicate him in this case. But while



filing his written statement, he has taken up a contention which reads as follows

“ It is submitted that complainant approached DGO to grant license for dealing in seeds, fertilizer and pesticides. The fees to issue license is Rs. 8500/- (plant protection Chemicals – 7500/- and Fertiliser- 1000/-). Complainant paid only 8000/- which is less than the prescribed fees from the authority for issuing licenses for manufacturing and marketing of agricultural inputs. Complainant gives contradictory statement saying/- that DGO demanded Rs. 10,000/- and he goes and pays only Rs. 8000/-. Infact it makes clear that complainant was asking the DGO to reduce the fees when DGO did not agree against law with wrongful motive complainant lodged the complaint against the DGO.”

43. The two different contentions he has taken in his reply and in his written statement are quite contrary, to the contention he has taken in his written explanation as per Ex-P8 wherein it is his contention in Ex-P8 that, the complainant forced him to keep Rs. 8000/- with him by offering money to him and insisted him to keep in his shirt pocket and hence he was forced to keep that money in his shirt pocket. Therefore, he has not come out with any convincing or plausible explanation to believe his contention as to why and under what circumstance he on receiving Rs. 8000/- from the complainant, kept that money in his shirt pocket.
44. It has been established during the evidence of PW2 and PW3 that, hand wash of both hands of DGO were obtained during the trap proceedings which gave positive result regarding presence of phenolphthalein. During the cross examination of PW3, the learned counsel for DGO tried to confuse the witness by putting suggestions

to him that, he/DGO was made to take the money which was found kept on the table and thereafter, he/DGO was asked to take out the things available in his shirt pocket and only thereafter, his hand wash was obtained. PW3 has categorically denied these suggestions. Therefore, considering the fact that, the hand wash of both the hands of the DGO obtained during the trap proceedings gave positive result regarding presence of phenolphthalein goes to establish that, DGO has received the tainted notes from the complainant and during that process his both hands came in contact with the tainted notes and hence the hand wash of his both hands gave positive result regarding presence of phenolphthalein. Further, the tainted notes were recovered from the left side shirt pocket of the DGO which, DGO himself has taken out that money from his shirt pocket and produced the same before the Police Inspector. It is not the case of either the DGO or the disciplinary authority that, the tainted notes were found kept on the table of the DGO. DGO has not taken up such a contention either in his reply or in his written statement. Even while giving his written explanation as per Ex-P8 he has not take up such a contention that, he was forced to take money which was found kept on his table, by the Dy.SP. Therefore, this contention taken on behalf of the DGO during the cross examination of PW2 and PW3, cannot be believed.

45. Since, the DGO has not disputed or denied the recovery of Rs. 8000/- from his possession but, taken up a contention that, Rs. 8000/- seized during the trap proceedings was the amount of fees given by the complainant towards payment of remittance of license/registration fee for dealing in insecticides and fertilizers which contention has been disbelieved by me, I have no hesitation to conclude that, the DGO having demanded Rs. 10,000/- by way of bribe from the complainant in order to issue registration certificate

and license to the complainant to deal with fertilizers and insecticides, received the same from the complainant on the day of trap, which was recovered from his shirt pocket at the time of trap.

46. DGO has taken up a further contention that, the complainant has not filed any application seeking for issue of registration certificate/license and no work of the complainant was pending with him as on the date of trap. But seizure of documents during the trap proceedings was not disputed or denied on behalf of the DGO. Among the documents seized as per Ex-P9, the application filed by the complainant, the documents produced by him in support of his application, the ID cards and lease deed etc., are available which goes to establish that, the complainant had filed an application to the office of the DGO for issue of license/registration. Even the DGO in his evidence submitted by way of sworn affidavit has admitted this fact that, the application was received in the tappal section in his office on 1.6.2010. Therefore, the contention urged on behalf of the DGO claiming that, no work of the complainant was pending with the DGO, cannot be accepted but on the other hand the application of the complainant seeking license/registration certificate filed by him on 1.6.2010 was pending in the office of the DGO as on 3.6.2010. Therefore, I have no hesitation to conclude that, in order to consider the said application, the DGO having demanded initially Rs. 10,000/- from the complainant by way of bribe, scaled down his demand, insisting the complainant to pay Rs. 8000/- by way of bribe and received the said amount from him on the day of trap which was seized from his shirt pocket at the time of trap. Hence, I have no hesitation to conclude that, the disciplinary authority was able to establish charges of demand and acceptance of bribe of Rs. 8000/- by the DGO from the complainant.

47. The learned counsel for the DGO has vehemently argued that, since the DGO has been acquitted by the Principal District and Sessions Court, Special Judge, Haveri vide judgment dated 10.9.2015 in Spl.(Lokayukta) No. 4/2011, 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.
50. Hence, it is for the Disciplinary Authority to consider such a contention if raised by the DGO, while submitting his explanation to the second show cause notice that may be issued to him, by the disciplinary authority.

51. Further the learned Session Judge proceeded to acquit the DGO on the ground that, the prosecution has failed to establish the guilt of the accused beyond doubt and giving benefit of doubt in his favour. The said judgment of acquittal dated 10.9.2015 has been challenged on behalf of the State, by preferring appeal before the Hon'ble High Court of Karnataka, Dharwad Bench and the criminal appeal so filed in Criminal Appeal No. 100082/2016 is pending consideration before the Hon'ble High Court. Therefore, the judgment of the Spl. Court acquitting the accused/DGO is not a ground to absolve the DGO from the charges levelled against him in this enquiry. Hence, I decline to accept this contention urged on behalf of the DGO by his learned counsel.

52. In view of my discussions made above, I am of the considered opinion that, the disciplinary authority was able to establish the allegations against the DGO and accordingly I hold that, charge against the DGO is established. Accordingly, I answer point no.1 in the Affirmative.

**Point No.2**

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

**CONCLUSION**

i) The Disciplinary Authority has proved the charge as framed against the DGO, Dr. G. Basavaraja, the then Assistant Director of Agriculture, Haveri (at present working as Assistant Director of Agriculture at Hanagal of Haveri District).

ii) As per the first oral statement, the date of birth of the DGO is 21.7.1968 and he is due for retirement on 31.7.2028



(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 Rajashekar (complainant)
<b>PW-2</b>	Sri Kalleshappa Ganeshappa Gubber (shadow witness)
<b>PW-3</b>	Sri M.D. Hiremath

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

<b>DW-1</b>	Sri Channaveeraswamy (Original)
<b>DW-2</b>	Sri Veeresh (original)
<b>DW-3</b>	Dr. G. Basavaraju (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 the translated conversation
<b>Ex.P-3</b>	Certified copy of the entrustment mahazar
<b>Ex.P-4</b>	Certified copy of the trap mahazar
<b>Ex.P-5</b>	Certified copy of the note sheet
<b>Ex.P-6</b>	Certified copy of the mahazar
<b>Ex.P-7</b>	Certified copy of re-entrustment mahazar
<b>Ex.P-8</b>	Certified copy of the written explanation of DGO
<b>Ex.P-9</b>	Certified copy of records seized by IO
<b>Ex.P-10</b>	Certified copy of extract of attendance register
<b>Ex.P-11</b>	Certified copy of rough sketch

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

<b>Ex-D1</b>	Notification of the Central Government
<b>Ex-D2</b>	Notification of the State Government



<b>Ex-D3</b>	Certificate of license for dealing pesticides and seeds (xerox)
<b>Ex-D4</b>	Challan for having remitted fee for renewal of license
<b>Ex-D5</b>	Certified copy pf challans
<b>Ex-D6</b>	Certified copy of judgment in Spl. C. No. 4/2011

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



(S. Renuka Prasad)

Additional Registrar of Enquiries-3,  
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