

**KARNATAKA LOKAYUKTA**

No. LOK/DE/479/2015/ARE-10

M.S. Building,  
Dr. B.R. Ambedkar veedi,  
Bengaluru.

Date: 12/11/2021.

**ENQUIRY REPORT**

**PRESENT: G. NANJUNDAIAH**

ADDITIONAL REGISTRAR (ENQUIRIES)-10  
M.S. BUILDING  
KARNATAKA LOKAYUKTA  
BENGALURU - 560 001.

**Subject :**

Departmental Inquiry against:

**DGO-1 Sri. Mahadev**, Assistant Executive Engineer, Hebbal Sub Division, Bruhath Bengaluru Mahanagara Palike, Bengaluru **(Abated)** and **DGO-2 Sri. Mohan Gowda**, Executive Engineer, Hebbal Sub Division, Bruhath Bengaluru Mahanagara Palike, Bengaluru - **Reg.**

- References:**
1. Report u/s 12(3) of the Karnataka Lokayukta Act, 1984 in Compt/Lok/BCD/2539/2014/ARE-1 dt: 09/07/2015.
  2. Government Order No. UDD 587 MNU 2015 Bengaluru dated: 31/01/2017.
  3. Nomination Order No. LOK/DE/479/2015 Bengaluru dt. 31/01/2017 of Hon'ble Lokayukta.

\* \* \*

  
12/11/21

1. On the basis of the complaint filed by Sri. **Hande H.R.**, No. 86, AECS layout, 3<sup>rd</sup> Stage, 1st Main, Sanjayanagar, Bengaluru (hereinafter referred to as **complainant**) against (1) Sri. **Mahadev**, Assistant Executive Engineer, Hebbal Sub Division, BBMP, Bengaluru and (2) Sri. **Mohan Gowda**, Executive Engineer, Hebbal Sub Division, BBMP, Bengaluru (hereinafter referred to as **DGOs-1 and 2 respectively**) alleging one Sri. B. Annayappan is constructing apartment complex on property No. 87, AECS Layout, 3<sup>rd</sup> stage, Sanjayanagar, Bangalore violating bylaws without leaving set back and put up illegal construction and in spite of complaint given to the DGOs they have not taken any action.

2. After taking investigation comments were called from DGOs-1 and 2. The DGOs-1 and 2 have submitted their comments denying the allegations of the complaint. Not satisfied with the comments of DGOs-1 & 2 a report was sent to the Government u/s 12(3) of the Karnataka Lokayukta Act, 1984 as per reference No.1. Pursuant to the report, Government was pleased to issue the Government Order (G.O.) authorizing Hon'ble Lokayukta to hold an enquiry against the DGO as per reference No. 2.

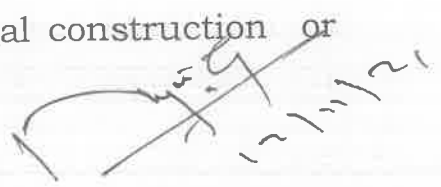
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3. On the basis of the Government Order, nomination order was issued by Hon'ble Lokayukta on 31/01/2017 authorizing ARE-10 to frame Article of Charges against the DGOs-1 and 2 and to hold an enquiry to find out the truth and to submit a report as per reference No. 3. On the basis of the nomination order, the Article of Charges against the DGOs-1 and 2 was framed and sent to the Delinquent Government Officials on 16/02/2017.

4. The Article of charges and the statement of imputations of misconduct prepared and leveled against the DGOs-1 and 2 are reproduced here under :-

**ANNEXURE NO. 1**  
**CHARGE**

That, you DGO -(1) **Sri. Mahadev**, Assistant Executive Engineer and you DGO (2) **Sri. Mohan Gowda**, Executive Engineer, both in Hebbal Sub Division, Bruhath Bengaluru Mahanagarapalike, Bangalore, though the complainant has given many letters to you DGOs 1 and 2 about Sri. Annayappan constructing the building by violating the sanctioned plan, action was not taken by you DGOs either to stop the illegal construction or

  
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to demolish the portion of the building constructed in violation of the sanctioned plan. Though the order of Karnataka Appellate Tribunal is only to maintain status quo of the disputed building, the violator has continued the construction and completed the same.

Thus you DGOs 1 and 2, being Government /public servants have failed to maintain absolute integrity besides devotion to duty and acted in a manner unbecoming of Government servants and thus committed misconduct as enumerated U/R 3(1) of Karnataka Civil Service (Conduct) Rules 1966.

**ANNEXURE NO. II**  
**STATEMENT OF IMPUTATIONS OF MISCONDUCT**

3. A complaint has been filed by Sri. Hande H.R., No. 86, AECS layout, 3<sup>rd</sup> stage, 1<sup>st</sup> main, Sanjaynagar, Bangalore-94 (hereinafter referred to as complainant for short) against (1) Sri. Mahadev, Assistant Executive Engineer, Hebbal Sub Division, BBMP, Bangalore and (2) Sri. Mohan Gowda, Executive Engineer, Hebbal Sub Division, BBMP, Bangalore alleging that one Sri. B. Annayappan is constructing apartment complex on property No. 87, AECS Layout, 3<sup>rd</sup> stage, Sanjaynagar, Bangalore violating bylaws without leaving set back and put up illegal

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construction and in spite of complaint given to the DGOs, they have not taken any action.

4. After taking up the investigation in that complaint, the complaint was sent to the DGOs for their comments and DGOs submitted their comments. Afterwards complainant has filed rejoinder to the comments. DGOs in their comments have stated that Sri. Annayappan has obtained sanctioned plan from Joint Commissioner (East), BBMP in LP No. OL/SP/03-08/2013-14 dt. 25.6.2013 and started constructing the building. DGOs have further stated that since Annayappan was found constructing his building violating the sanctioned plan, preliminary order u/s 321 (i) and 321 (ii) of KMC Act was passed and afterwards on 5.2.2014 preliminary order was made absolute. DGOs have further stated that Annayappan has approached the Karnataka Appellate Tribunal by filing appeal and KAT directed him to maintain status quo.

5. Complainant has filed rejoinder to the comments of DGOs and has stated that even after the orders passed by the KAT, Annayappan proceeded with the construction and completed the construction of the building and DGOs did not take any action. Complainant has produced photographs of the building taken when the building was under construction and also after the construction is

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completed. The copy of preliminary order passed by the DGO 1 u/s 321(1) of KMC Act produced by the complainant discloses that Sri. Annayappan has constructed the building in violation of the sanctioned plan and violation is 81.81% in the front side and 68.68% on the rear side and 50% on the right side of the building. The photographs produced by the complainant and DGOs disclose that Sri. Annayappan has completed the construction and occupied the building.

6. Circular No. COMM/CIR/Constn. Verification /5/09-10 dt. 10/8/2009 issued by the Commissioner BBMP mandates that once new construction is taken up in the respective ward the concerned AEE/AE shall obtain, copy of the sanctioned plan and monitor the construction activity at every stage i.e., at the foundation level, basement level, and super structure and to maintain record for appraisal and verification by Executive Engineer and Chief Engineer of the zone.

7. On careful consideration of the allegations made in the complaint, documents produced by the complainant and the comments of DGOs, it discloses that though, many letters were given by the complainant to DGOs 1 and 2 about Sri. Annayappan constructing the building by violating the sanctioned plan, no action was taken by the DGOs either to stop the illegal construction or to demolish

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the portion of the building constructed in violation of the sanctioned plan. Further, even though the order of the Karnataka Appellate Tribunal is only to maintain status quo of the disputed building, the violator has continued the construction and now has completed the construction. This shows the inaction of the DGOs to discharge their duty.

8. In view of the facts stated above and the material on record, reply of the DGOs have not been found satisfactory to drop the proceedings. The facts supported by the material on record show that the DGOs, being Government servants, have failed to maintain absolute integrity, devotion to duty and also acted in a manner unbecoming of Government servants and thereby committed misconduct and made themselves liable for disciplinary action.

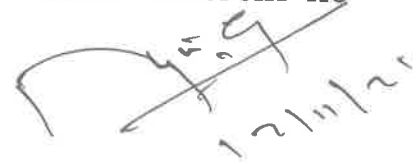
9. Since the said facts and material on record prima-facie show that the DGOs have committed misconduct as per Rule 3(1) of the KCS (Conduct) Rules, 1966, a report u/s 12(3) of Karnataka Lokayukta Act, was sent to the Competent Authority with a recommendation to initiate disciplinary proceedings Under Rule 14-A of Karnataka Civil Services (Classification, Control and Appeals) Rules 1957. In turn Competent Authority initiated disciplinary proceedings against DGOs 1 and 2 and entrusted the

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enquiry to this Institution vide reference no. 2 and Hon'ble Lokayukta nominated this enquiry Authority, to conduct enquiry and report vide reference No. 2. **Hence, this charge.**

5. The aforesaid Article of charges was served upon the DGOs-1 and 2 on 27/2/2017. DGOs-1 and 2 appeared before this enquiry authority and their first oral statement under Rule 11(9) of KCS (CCA) Rules, 1957 was recorded on 28/02/2017. The DGOs-1 and 2 pleaded not guilty and claimed for holding an enquiry.

6. DGOs-1 and 2 have filed written statement dt. 06/09/2017. DGO-1 in his written statement of defense had contended that, he has passed an order Under/section 321(1) and 321(2) and (3) of Karnataka Municipal Corporation Act 1976. Thereafter, Sri. Annayappan had approached Karnataka Appellate Tribunal by filing an appeal against the orders passed by DGO-1 on behalf of Commissioner, BBMP. The Karnataka Appellate Tribunal had passed an interim order of status quo in favour of Annayappan. The Annayappan had also filed an injunction suit against Mr. Hande not interfere with his enjoyment of his property. DGO-2 in his written statement he has got powers only to perform functions i.e. stated in Section 462 of Karnataka Municipal Corporation Act 1976 wherein he

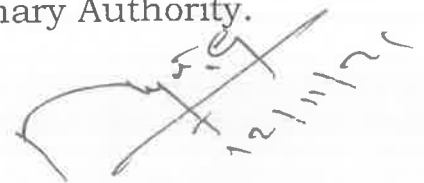
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can if all the other sections are complied with pass orders only for demolition of the buildings which are in the violation of Karnataka Municipal Corporation Acts and Rules. Hence DGOs-1 and 2 have requested to exonerate them from the charges.

7. DGO-1 Sri. Mahadev filed application bearing No.2372/2018 in Hon'ble KAT, Bengaluru and obtained stay until further orders on Government Order dated 29.09.2015 and Article of Charges dated 16.02.2017. Meanwhile, received note from Chairman, Legal Cell, Karnataka Lokayukta, Bengaluru on 23/12/2020 along with the opinion copy stating that the Hon'ble KAT, Bengaluru disposed of the KAT application No. 2372/2018 filed by DGO-1 Sri. B.A. Mahadev, as the **DGO-1 had dead**. Hence, as per approval of Hon'ble Lokayukta dated 02.03.2021 the disciplinary proceedings initiated against the deceased **DGO-1 Sri. Mahadeva is closed as abated**.

8. In order to prove the charge leveled against the DGOs-1 and 2, the disciplinary authority has examined Sri. **H. Raghavendra Hande** (Complainant) Sanjayanagar, Bengaluru as PW-1 and got marked the documents as **Ex.P-1 to Ex.P-11** on behalf of Disciplinary Authority.

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9. After the closure of evidence of Disciplinary authority, Second Oral Statements of DGO-2 was recorded as required U/R 11(16) of KCS (CCA) Rules, 1957 on 23/08/2021. DGO-2 – Sri. Mohan Gowda is examined as DW-1 and got marked Ex. D-1. Hence, recording the answers of DGO-2 to questionnaires under rule 11(18) of KCS (CC & A) Rules was dispensed with. Heard argument of Presenting Officer. DGO-2 had filed his written arguments.

10. Upon consideration of oral, documentary evidence, and the defense of DGO-2, the points that arise for my consideration are as follows;

*1 : Whether the charge leveled against the DGO-2 is proved by the Disciplinary Authority?*

*2 : What order?*

11. My findings to the aforesaid points are as under

:-

POINT No. 1 : In the **Negative** against DGO-2.

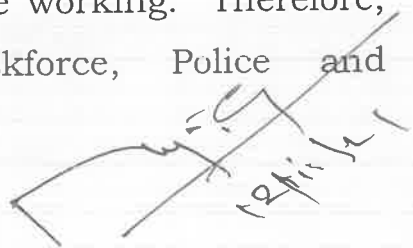
POINT No. 2 : As per final order for the following.

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## REASONS

**POINT NO. 1** : It is the case of the Disciplinary Authority that, DGO -(1) **Sri. Mahadev**, Assistant Executive Engineer and DGO (2) **Sri. Mohan Gowda**, Executive Engineer, both in Hebbal Sub Division, Bruhath Bengaluru Mahanagarapalike, Bangalore, though the complainant has given many letters to DGOs 1 and 2 about Sri. Annayappan constructing the building by violating the sanctioned plan, action was not taken by DGOs either to stop the illegal construction or to demolish the portion of the building constructed in violation of the sanctioned plan. Though the order of Karnataka Appellate Tribunal is only to maintain status quo of the disputed building, the violator has continued the construction and completed the same.

12. It is the evidence of PW-1 Sri. H. Raghavendra Hande, Sanjaynagar, Bengaluru deposed that, he owns a residential house bearing No. 86 AECS Layout, 3<sup>rd</sup> stage, 1<sup>st</sup> Main, Sanjayanagar, Bengaluru City. Towards Southern side of his house Sri. Anniyappan started to construct an apartment without leaving the set back and violated the sanctioned plan. Therefore, he gave representation to BBMP where the DGOs-1 and 2 were working. Therefore, he gave representation to Taskforce, Police and

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Commissioner BBMP. But, no action was taken at that time. Therefore he lodged a complaint to Lokayukta along with Form No. I and II as per **Ex. P-1 to 3.**

13. PW-1 further deposed that, Representation of complainant **Ex. P-4** (8 sheets). Six photographs are marked as **Ex. P-5.** The copies of PO & CO are marked as **Ex. P-6 & 7.** He also filed rejoinder **Ex. P-8 to 10.** Eight photographs are marked as **Ex. P-11.**

14. PW-1 further deposed that, until filing of complaint to Lokayukta the DGOs had not taken any action and **after that violated portion is demolished.**

15. During the course of Cross Examination of the complainant by Advocate for DGO-2 the following is elicited:-

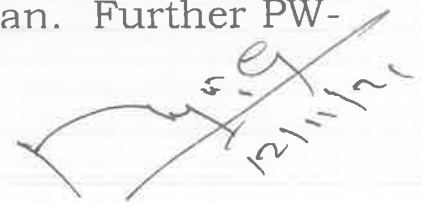
“ ನಮ್ಮ ಮನೆಯ ದಕ್ಷಿಣಕ್ಕೆ ಅಣ್ಣಯಪ್ಪ ರವರ ಮನೆ ಇರುತ್ತದೆ ಎಂದರೆ ಸರಿ. ಸದರಿ ಅಣ್ಣಯಪ್ಪ ರವರು ದಾವೆ ಸಂ. 157/2014 ನ್ನು ನನ್ನ ವಿರುದ್ಧ ಸಲ್ಲಿಸಿ ಸ್ಟೇಟಸ್ಕೋ ಆದೇಶ ಪಡೆದಿರುತ್ತಾರೆ ಎಂದರೆ ಸರಿ. ಸಾಕ್ಷಿದಾರರು ಮುಂದುವರೆದು ಹೇಳುತ್ತಾರೆ, ಕಟ್ಟಡದ ಮಾಲೀಕರು ದಾವೆ ಸಂ. 157/2014 ನ್ನು ವಾಪಸ್ಸು ಪಡೆದಿರುತ್ತಾರೆ ಎಂದು ನನಗೆ ಮಾಹಿತಿ ಇರುತ್ತದೆ ”.

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“ ನಕ್ಷೆಗೆ ವಿರುದ್ಧವಾಗಿ ಕಟ್ಟಿದ ಕಟ್ಟಡದ ಭಾಗವನ್ನು ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರು ಹಾಗೂ ಸಹಾಯಕ ಅಭಿಯಂತರರು ಸ್ಥಳಕ್ಕೆ ಭೇಟಿ ಕೊಟ್ಟು ನಕ್ಷೆಗೆ ವಿರುದ್ಧವಾಗಿ ಕಟ್ಟಿದ ಕಟ್ಟಡ ಭಾಗವನ್ನು ತೆರವುಗೊಳಿಸಿರುತ್ತಾರೆ ಎಂದರೆ ಸರಿ. ಆ ಸಮಯದಲ್ಲಿ ಡಿಜಿಟ-2 ರವರು ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರಾಗಿ ಹೆಬ್ಬಾಳ ವಿಭಾಗ, ಬಿಬಿಎಂಪಿಯಲ್ಲಿ ಕಾರ್ಯನಿರ್ವಹಿಸುತ್ತಿದ್ದರು ಎಂದರೆ ಸರಿ. ಸಹಾಯಕ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರು ಮತ್ತು ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರು ಅವರ ಕಾರ್ಯ ವ್ಯಾಪ್ತಿಯಲ್ಲಿ ಕೆಎಂಸಿ ಕಾಯ್ದೆ ಪ್ರಕಾರ ನೋಟಿಸ್ ಜಾರಿ ಮಾಡಿ ಅದಕ್ಕೆ ಕಟ್ಟಡದ ಮಾಲೀಕರು ಮಂಜೂರಾದ ಕಟ್ಟಡದ ಭಾಗವನ್ನು ತೆರವುಗೊಳಿಸಿರುತ್ತಾರೆ ಎಂದರೆ ಸರಿ. ದೂರಿನನ್ವಯ ಕಟ್ಟಡದ ಮಾಲೀಕರು ನಕ್ಷೆ ಮಂಜೂರಾತಿಗೆ ವ್ಯತಿರಿಕ್ತವಾಗಿ ಕಟ್ಟಿದ ಕಟ್ಟಡದ ಭಾಗವನ್ನು ಬಿಬಿಎಂಪಿ ರವರು ತೆರವುಗೊಳಿಸಿರುತ್ತಾರೆ ಎಂದರೆ ಸರಿ.

ಡಿಜಿಟ-2 ರವರಿಂದ ನನಗೆ ಯಾವುದೇ ರೀತಿಯ ತೊಂದರೆ ಆಗಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿ”.

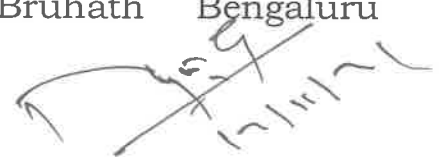
From the cross-examination of PW-1 (complainant), it is clear that DGOs-1 and 2 have taken action and visited the spot and **demolished the unauthorized construction of the building** of Sri. Annayyappan. Further PW-

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1 is admitted that he had **no grievance or allegations against DGO-2.**

16. It is the evidence of DGO-2 Sri. Mohan Gowda as **DW-1 that**, on 4.8.2014 a complaint was made by one Sri. H.R. Hande, owner of site No. 86, AECS layout, 3<sup>rd</sup> stage, 1<sup>st</sup> Main Sanjay Nagar to DGO No.1, alleging that the owner of the building Sri. Annayappan, who is a neighbor to the complainant has started construction of residential building without living set back and construction is being made in violation of building bye-laws. Further stated that DGO No.1 Sri. B.A. Mahadev had issued a notice under Section 321(1) & (2) of KMC Act on 23.01.2014. The said DGO-1 Sri. Mahadev also issued confirmation order U/Sec. 321(3) on 05.02.2014. **The said file was never put up at any point of time before him.** The charges leveled against me are false and prayed to exonerate from the charge leveled against him/DGO-2.

17. On perusal of records, evidence of PW-1, DW-1 and **Ex. P.1 to Ex.P.11**, it indicates that, the DGO-1 **Sri. Mahadev** worked as Assistant Executive Engineer at Hebbal Sub-Division, Bruhath Bengaluru Mahanagara Palike, Bengaluru during the period December 2012 to January 2015 and DGO-2 Sri. Mohan Gowda worked as Executive Engineer at Hebbal Division, Bruhath Bengaluru

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Mahanagara Palike, Bengaluru during the period 19.03.2012 to 26.02.2015. The complainant Sri. Hande H.R. filed complaint in lokayukta alleging that one Sri. B. Annayappan is constructing apartment complex on property No. 87, AECS Layout, 3<sup>rd</sup> Stage, Sanjayanagar, Bengaluru violating bylaws without leaving set back and put up illegal construction and in spite of complaint given to the respondents, they have not taken any action.

18. The DGO-2 in his defense evidence as DW-1 stated that, on DGO No.1 Sri. B.A. Mahadev had issued a notice under Section 321(1) & (2) of KMC Act on 23.01.2014 to the building owner Sri. Annayappan. The said DGO-1 Sri. Mahadev also issued confirmation order U/Sec. 321(3) on 05.02.2014. Further, DGO-2 stated that the said file was never put up before him.

19. As admitted by PW-1 (complainant) in his cross-examination that **the DGOs-1 and 2 visited the spot and unauthorized portion of the building was demolished by DGOs. He has no grievance or allegation against DGO-2.**

20. As per office order No. ಬಿ12(1)/ಪಿಆರ್/223/2010-11 ದಿನಾಂಕ **29.06.2015** of Commissioner, BBMP, Bengaluru under KMC Act, it is only the commissioner who is to implement the provisions and only authorization is provided to certain officers to implement certain sections. As per

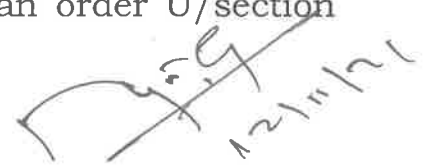
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circular DGO-2 i.e. Executive Engineer only authorization to demolish the deviated portion of the structure can be given to the Assistant Executive Engineer i.e. under section 462 of the Act, to carry out demolition under Section 321(3) all the other functions including issue of notice, confirmation order and actual demolition is to be carried out by the Assistant Executive Engineer i.e. DGO-1 as he has been authorised by the Commissioner of the BBMP to exercise functions under Section 321(1) & (2) of the Act as per **Ex. D-1.**

21. Exercise of power by DGO-2 under Section 462 does not arise, since DGO-1 Assistant Executive Engineer had not submitted the file to DGO-2 to exercise the power of issuing Section 462 of Karnataka Municipal Council Act, 1976.

22. From the above it is clear that, complainant Sri. Hande H.R, filed complaint before lokayukta alleging one Sri. B. Annayappan is constructing apartment complex on property No. 87, AECS Layout, 3<sup>rd</sup> stage, Sanjayanagar, Bangalore violating bylaws without leaving set back and put up illegal construction and in spite of complaint given to the DGOs they have not taken any action.

23. In this regard DGO-1 Sri. Mahadeva, Assistant Executive Engineer DGO-1 has passed an order U/section

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321(1) and 321(2) and (3) of Karnataka Municipal Corporation Act 1976 Thereafter, Sri. Annayappan had approached Karnataka Appellate Tribunal by filing an appeal against the orders passed by DGO-1 on behalf of Commissioner, BBMP **without bringing the knowledge to the DGO-2.** The Karnataka Appellate Tribunal had passed an interim order of status quo in favour of Annayappan. After filing of the complaint in Lokayukta DGO-2 visited the spot and directed DGO-1 to take action as per KMC Act 1976. DGOs-1 and 2 have taken action demolishing the unauthorized portion of the constructed building.

24. In this enquiry DGO-1 Sri. **Mahadev**, Assistant Executive Engineer, Hebbal Sub Division, Bruhath Bengaluru Mahanagar Palike, Bengalur was treated **as abated** since he is dead, as per approval of Hon'ble Lokayukta on 02/03/2021.

25. Accordingly, I am of the opinion that the Disciplinary Authority had **not proved** the charges leveled against the DGO-2, since DGO-1 has not brought to the notice of the DGO-2 and complainant i.e. PW-1 is admitted that DGOs 1 and 2 have taken action and demolished the unauthorized constructed portion and DGO-2 is no way responsible for the lapses. Therefore, I answer Point No.1 in the **Negative.**

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26. **POINT NO.2** : In view of findings on Point No.1, I proceed with the following ;-

**: REPORT :**

The charge leveled against DGO-1 Sri. **Mahadeva**, Assistant Executive Engineer, Hebbal Sub Division, Bruhath Bengaluru Mahanagara Palike, Bengaluru is treated as **(Abated)**. The Disciplinary Authority **has failed to prove** the charge against DGO-2 Sri. **Mohan Gowda**, Executive Engineer, Hebbal Sub Division, Bruhath Bengaluru Mahanagara Palike, Bengalur.

Submit this report to the Hon'ble Lokayukta in a sealed cover forthwith along with connected records.

Dated this the 12<sup>th</sup> November, 2021

  
(G. NANJUNDAIAH)

Additional Registrar (Enquiries-10)  
Karnataka Lokayukta,  
Bengaluru.

**ANNEXURES****LIST OF WITNESS EXAMINED ON BEHALF OF DISCIPLINARY AUTHORITY :**

PW-1 : Sri. H. Raghavendra Hande  
(Complainant) (original)

**LIST OF WITNESS EXAMINED ON BEHALF OF DEFENSE :**

DW-1 : Sri. **Mohan Gowda** (DGO-2)  
(original)

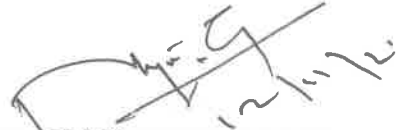
**LIST OF EXHIBITS MARKED ON BEHALF OF DISCIPLINARY AUTHORITY:**

Ex. P.1 :	Complaint of complainant dated 1 <sup>st</sup> August 2014. (Original)
Ex.P.2 :	Form No. I (complaint) dated 04/08/2014 (original)
Ex.P.3 :	Form No. II (Affidavit) dated 04/08/2014 (original)
Ex.P.4 :	Representation of complainant (8 sheets) (Xerox)
Ex.P.5 :	Five photos (original)
Ex.P.6 : & 7	The copies of PO 321(3) & CO 321(1) issued by Assistant Executive Engineer, BBMP Hebbal Sub Division (Xerox)
Ex.P.8 to 10 :	Rejoinder of the Complainant dated 11.02.2015, 10.01.2015 and 24.10.2014 (original)
Ex.P.11 :	Eight photo graphs (Original)

**LIST OF EXHIBITS MARKED ON BEHALF OF  
DEFENSE:**

Ex.D-1 :	Office Order dated 29.06.2015 issued by Commissioner, BBMP, Bengaluru ( Xerox )
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Date of Retirement of DGO-1 is abated, DGO-2 is  
**30.06.2023**



**(G. NANJUNDAIAH)**

Additional Registrar (Enquiries)-10  
Karnataka Lokayukta,  
Bengaluru.

**GOVERNMENT OF KARNATAKA****KARNATAKA LOKAYUKTA**

NO: LOK/ARE-10/Enq-479/2015  
(Encl: (a) Recommendation of Hon'ble  
Lokayukta & Inquiry Report  
of Inquiry Officer, in original  
(b) Connected records

Multi Storied Building  
Dr. B.R. Ambedkar Veedhi  
Bengaluru - 560 001  
Date: 31/12/2021

**/CONFIDENTIAL/**

**To;**

Sri. Rakesh Singh, IAS.,  
Additional Chief Secretary to Government,  
Urban Development Department,  
Vikasa Soudha,  
Bengaluru - 560 001.

**Respected Sir,**

**Sub:-** Departmental Enquiry against;  
1. Sri. Mahadev, Assistant Executive  
Engineer, Hebbal Sub-Division, Bruhath  
Bengaluru Mahanagara Palike,  
Bengaluru (**Abated**),  
2. Sri. Mohan Gowda, Executive  
Engineer, Hebbal Sub-Division, Bruhath  
Bengaluru Mahanagara Palike,  
Bengaluru - reg.

**Ref:-** Government Order No UDD 857 MNU  
2015, Bengaluru dated 29.09.2015.

\*\*\*\*\*

Adverting to the above, I am directed to forward herewith the recommendations of the Hon'ble Lokayukta, State of Karnataka, Bengaluru, dated; 31/12/2021 in original, and the Report of Inquiry Officer, in original, along with relevant records of inquiry, as detailed below:

**INDEX**

<b>File No.</b>	<b>Particulars</b>	<b>Page Nos.</b>
	One sealed cover containing recommendation of Hon'ble Lokayukta dated; 31.12.2021 and the report of Inquiry Officer dated; 12.11.2021.	
File No.I	Order Sheet File – (original)	1-25
File No.II	Report u/s 12(3) of the K.L Act, 1984 dt. 09/07/2015 ( xerox)	26-28
	Government Order dt. 29/09/2015 ( xerox)	29-30
	Nomination order dt. 31/01/2017 – (Xerox)	31-32
	Served Article of Charges dt. 16/02/2017 (original)	33-38
	First Oral Statement of DGOs-1 & 2 Dtd. 28/02/2017 (original)	39-40
	Written Statement of DGOs-1 and 2 06/09/2017 along with enclosure (Original 41to 46 Xerox 47 & 48)	41-48
	Second Oral Statement of DGOs-2 dated 23/08/2021 (original)	49
	Written Argument of Presenting Officer dated 22.10. 2021 (original)	50-51
	Written Argument of DGOs-2 dated 27/10/2021 (original)	52-55
File No.III	<b>LIST OF WITNESS EXAMINED ON BEHALF OF DISCIPLINARY AUTHORITY :</b>	
	PW-1 : Sri. H. Raghavendra Hande (Complainant) (original)	56-58
	<b>LIST OF WITNESS EXAMINED ON BEHALF OF DEFENSE :</b>	
	DW-1 : Sri. Mohan Gowda (DGO-2) (original)	59-64
File No. IV	<b>LIST OF EXHIBITS MARKED ON BEHALF OF DISCIPLINARY AUTHORITY:</b>	
Exhib its File	Ex. P.1 : Complaint of complainant dated 1 <sup>st</sup> August 2014. (Original)	65-66
	Ex.P.2 : Form No. I (complaint) dated 04/08/2014 (original)	67-68
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	04/08/2014	(original)	
Ex.P.4 :	Representation of complainant (8 sheets)	(Xerox)	70-78
Ex.P.5 :	Five photos	(original)	79-83
Ex.P.6 : & 7	The copies of PO 321(3) & CO 321(1) issued by Assistant Executive Engineer, BBMP Hebbal Sub Division	(Xerox)	84-86
Ex.P.8 to 10 :	Rejoinder of the Complainant dated 11.02.2015, 10.01.2015 and 24.10.2014	(original)	87-91
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<b>LIST OF EXHIBITS MARKED ON BEHALF OF DEFENSE:</b>			
Ex.D-1 :	Office Order dated 29.06.2015 issued by Commissioner, BBMP, Bengaluru	( Xerox )	100-101

Receipt of the recommendation of the Hon'ble Lokayukta, along with the Report of the Inquiry Officer in a sealed cover and the connected inquiry records, as mentioned above, may please be acknowledged, at the earliest.

Yours faithfully,



**(USHARANI)**

Registrar,  
Karnataka Lokayukta,  
Bengaluru.

**Copy to:**

The Addl. Registrar of Enquiries - 10, Karnataka Lokayukta, Bengaluru along with copy of recommendation, for information and further necessary action.







**KARNATAKA LOKAYUKTA**

No:LOK/ARE-10/Enq-479/2015

Multi Storied Building  
Dr B.R.AmbedkarVeedhi  
Bengaluru - 560 001  
Date: 31-12-2021

**RECOMMENDATION UNDER RULE 14(A)(2)(d) OF  
THE KARNATAKA CIVIL SERVICES (C.C&A) RULES, 1957**

**Sub:-** Departmental Enquiry against;

1. Sri. Mahadev, Assistant Executive Engineer, Hebbal Sub-Division, Bruhath Bengaluru Mahanagara Palike, Bengaluru **(Abated)**,
2. Sri. Mohan Gowda, Executive Engineer, Hebbal Sub-Division, Bruhath Bengaluru Mahanagara Palike, Bengaluru - reg.

**Ref:-** Government Order No UDD 857 MNU 2015, Bengaluru dated 29.09.2015.

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The Enquiry report dated 12-11-2021 in No: LOK/ARE-10/Enq-479/2015 submitted by the Additional Registrar of Enquiries-10 (hereinafter referred to as the 'Enquiry Officer') Karnataka Lokayukta is placed before me.

2. Pursuant to the report dated 09-07-2015 submitted by the then Hon'ble Lokayukta under Section 12(3) of the Karnataka Lokayukta Act, 1984 (hereinafter referred to as 'the Act'), the Government of Karnataka by means of its

Government Order No. UDD 587 MNU 2015 dated 31-01-2017, while accepting the recommendation made U/Sec. 12(3) of the Act, initiated Disciplinary proceedings against (1) Sri. Mahadev, Assistant Executive Engineer, Hebbal Sub-Division, BBMP, Bengaluru and (2) Sri. Mohan Gowda, Executive Engineer, Hebbal Sub-Division, BBMP, Bengaluru (hereinafter referred to as Delinquent Government Officers-1 and 2 'for short DGOs-1 and 2 respectively') and entrusted the same to the Lokayukta to conduct an enquiry with regard to the allegations made against the DGOs under Rule 14-A of Karnataka Civil Services (CCA) Rules, 1957.

3. Subsequent to the receipt of the said Government Order dated 31-01-2017, the Hon'ble Lokayukta by means of a Nomination Order No.LOK/DE/479/2015 dated 31-01-2017, nominated the Additional Registrar of Enquiries-10, Karnataka Lokayukta, Bengaluru as Enquiry Officer to frame the articles of charges and conduct an Enquiry against the DGOs.

4. The Enquiry Officer has framed the Articles of charges against the DGOs. It is useful to extract the Article of




charges framed against the DGOs, which reads as hereunder:

**CHARGE**

That, you DGO -(1) **Sri. Mahadev**, Assistant Executive Engineer and you DGO (2) **Sri. Mohan Gowda**, Executive Engineer, both in Hebbal Sub Division, Bruhath Bengaluru Mahanagarapalike, Bangalore, though the complainant has given many letters to you DGOs 1 and 2 about Sri. Annayappan constructing the building by violating the sanctioned plan, action was not taken by you DGOs either to stop the illegal construction or to demolish the portion of the building constructed in violation of the sanctioned plan. Though the order of Karnataka Appellate Tribunal is only to maintain status quo of the disputed building, the violator has continued the construction and completed the same.

Thus you DGOs 1 and 2, being Government /public servants have failed to maintain absolute integrity besides devotion to duty and acted in a manner unbecoming of Government servants and thus committed misconduct as enumerated U/R 3(1) of Karnataka Civil Service (Conduct) Rules 1966.



5. The substance of the charge levelled against the DGOs No. 1 and 2 is that though the complainant Sri. H. Raghavendra Hande gave complaints to the DGOs regarding construction of a building by the owner Sri. Annayappan violating the sanctioned plan, they have not taken action either to stop the illegal construction or to demolish the portion of the building constructed violating the approved plan and licence.

6. The material on record indicates that PW-1 Sri. H. Raghavendra Hande had filed a complaint dated 01.08.2014 (Ex.P-1) before this institution against the DGOs alleging that one Sri. B. Annayappan was constructing the apartment complex on the property bearing Site No. 87, AECS Layout, 3<sup>rd</sup> Stage, Sanjaynagar, Bengaluru violating building bye-laws i.e., without leaving set back and put up illegal construction and in spite of the complaints made to the DGOs, they have not taken action. The complaint was taken up for investigation and during the course of preliminary investigation, it was prima-facie found that the allegations made by the complainant against the DGOs were substantiated. Therefore, a report under Sec.12(3) of the Act was forwarded by the then



Hon'ble Lokayukta to the Competent Authority to initiate disciplinary proceedings against the DGOs and entrust the enquiry to Lokayukta under Rule 14-A of KCs (CC&A) Rules, 1957. Accordingly, the Competent Authority based on the said report having initiated the disciplinary proceedings entrusted the enquiry to Lokayukta.

7. Pursuant to the Articles of Charges issued, the DGOs have filed their written statement denying the charge leveled against them. During the course of enquiry, DGO No.1 Sri. B.A. Mahadev, Assistant Executive Engineer had died. Hence, the disciplinary proceedings initiated as against him was closed as having been abated. So far as DGO No.2 is concerned, the disciplinary proceeding has been continued.

8. During the course of disciplinary proceedings, the disciplinary authority has examined the complainant Sri. H. Raghavendra Hande as PW-1 and got marked as many as eleven documents on behalf of the disciplinary authority as Ex.P-1 to Ex.P-11. On the other hand DGO No.2 examined himself as DW-1 and got marked one document as Ex.D-1.



9. The Enquiry Officer, after considering the oral and documentary evidence of both parties, has come to the conclusion that the disciplinary authority has failed to prove the charges leveled against the DGO No.2. In this connection, it is useful to extract the paragraph no. 19 to 25 of the enquiry report, which reads as hereunder;

*19. As admitted by PW-1 (complainant) in his cross-examination that **the DGOs-1 and 2 visited the spot and unauthorized portion of the building was demolished by DGOs. He has no grievance or allegation against DGO-2.***

*20. As per office order No. **ಬಿ12(1)/ಪಿಆರ್/223/2010-11 ದಿನಾಂಕ 29.06.2015** of Commissioner, BBMP, Bengaluru under KMC Act, it is only the commissioner who is to implement the provisions and only authorization is provided to certain officers to implement certain sections. As per circular DGO-2 i.e. Executive Engineer only authorization to demolish the deviated portion of the structure can be given to the Assistant Executive Engineer i.e. under section 462 of the Act, to carry out demolition under Section 321(3) all the other functions including issue of*



notice, confirmation order and actual demolition is to be carried out by the Assistant Executive Engineer i.e. DGO-1 as he has been authorised by the Commissioner of the BBMP to exercise functions under Section 321(1) & (2) of the Act as per **Ex. D-1**.

21. Exercise of power by DGO-2 under Section 462 does not arise, since DGO-1 Assistant Executive Engineer had not submitted the file to DGO-2 to exercise the power of issuing Section 462 of Karnataka Municipal Council Act, 1976.

22. From the above it is clear that, complainant Sri. Hande H.R, filed complaint before lokayukta alleging one Sri. B. Annayappan is constructing apartment complex on property No. 87, AECS Layout, 3<sup>rd</sup> stage, Sanjayanagar, Bangalore violating bylaws without leaving set back and put up illegal construction and in spite of complaint given to the DGOs they have not taken any action.

23. In this regard DGO-1 Sri. Mahadeva, Assistant Executive Engineer DGO-1 has passed an order U/section 321(1) and 321(2) and (3) of Karnataka Municipal Corporation Act 1976 Thereafter, Sri. Annayappan had



approached Karnataka Appellate Tribunal by filing an appeal against the orders passed by DGO-1 on behalf of Commissioner, BRMP **without bringing the knowledge to the DGO-2.** The Karnataka Appellate Tribunal had passed an interim order of status quo in favour of Annayappan. After filing of the complaint in Lokayukta DGO-2 visited the spot and directed DGO-1 to take action as per KMC Act 1976. DGOs-1 and 2 have taken action demolishing the unauthorized portion of the constructed building.

24. In this enquiry DGO-1 Sri. **Mahadev**, Assistant Executive Engineer, Hebbal Sub Division, Bruhath Bengaluru Mahanagar Palike, Bengalur was treated **as abated** since he is dead, as per approval of Hon'ble Lokayukta on 02/03/2021.

25. Accordingly, I am of the opinion that the Disciplinary Authority had **not proved** the charges leveled against the DGO-2, since DGO-1 has not brought to the notice of the DGO-2 and complainant i.e. PW-1 is admitted that DGOs 1 and 2 have taken action and demolished the unauthorized constructed portion and DGO-2 is no way responsible for





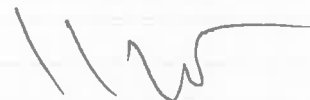
*the lapses. Therefore, I answer Point No.1 in the Negative.*

10. The Enquiry Officer, after elaborately discussing the evidence on record, has recorded a finding that the disciplinary authority has failed to prove the charge leveled against DGO No.2. On the basis of evidence on record, I do not find any good ground to take a different view from the one taken by the Inquiry Officer. Therefore, the conclusion of the Inquiry Officer is required to be accepted as correct.

11. In the light of the discussion made above, the enquiry report dated 12.11.2021 submitted by the Enquiry Officer (Additional Registrar of Enquiries-10) holding that the Disciplinary Authority has failed to prove the charge leveled against DGO No.2 and the Disciplinary Proceedings as against DGO No.1 is closed as having been abated is required to be accepted as correct and recommendation is required to be made to the Competent Authority to accept the said report.

12. In the light of the discussion made above, I make the following recommendation:

- (i) The Enquiry Report dated; 12.11.2021 submitted by the Inquiry Officer i.e., ARE-10




holding that the Disciplinary Authority has failed to prove the charge leveled against DGO No. 2 Sri. Mohan Gowda, Executive Engineer, Hebbal Sub-Division, BBMP, Bengaluru and the proceedings as against DGO No.1 Sri. Mahadeva, Assistant Executive Engineer, Hebbala Sub-Division, BBMP, Bengaluru was closed as having been abated is requires to be accepted as correct.

Accordingly, recommendation is made to the Government.

13. Action taken in the matter be intimated to this Authority within three months from the date of receipt of the recommendation.

Connected records are enclosed.

  
(Justice P. Vishwanatha Shetty) 3.11.2021.  
Lokayukta,  
State of Karnataka, Bengaluru.