



KARNATAKA LOKAYUKTA

No. LOK/INQ/14-A/63/2010/ARE-3

Multi-storeyed Building,
Dr.B.R. Ambedkar Veedhi,
Bengaluru, dt.03.04.2017.RECOMMENDATION

Sub: Departmental inquiry against
Shri Anantha S. Prabhu, Asst. Director
of Sericulture, Department of Sericulture,
Bantwal Taluk, Dakshina Kannada
District - reg.

- Ref: 1. Government Order No. ವಾಕ್ಯೆ 11 ರೇಸೇವಿ 2008
dated 05.10.2010 .
2. Nomination Order No. LOK/INQ/14-A/
63/2010 dated 30.11.2010.

~~~~~

Government, by order dated 05.10.2010, initiated the disciplinary proceedings against Shri Anantha S. Prabhu, Asst. Director of Sericulture, Department of Sericulture, Bantwal Taluk, Dakshina Kannada District [hereinafter referred to as the Delinquent Government Official, for short 'DGO'] and entrusted the disciplinary inquiry to this

S/dt.

Institution. This Institution, by nomination order dated 30.11.2010, nominated the Additional Registrar of Enquiries-3, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to conduct the departmental inquiry against the DGO for the alleged misconduct alleged to have been committed by him.

2. The Inquiry Officer, after completing the departmental inquiry has submitted his report dated 31.03.2017 inter alia holding that the charge of misconduct framed against the DGO is '*proved*' by the Disciplinary Authority.

3. The charge levelled against the DGO was that, while he was working as Asst. Director of Sericulture, Department of Sericulture, Bantwal Taluk, Dakshina Kannada District, one Shri V.N. Kotyana s/o late Sanku Anchan, Koila, Bangarugudde Mane, Koila village, Bantwal Taluk, Dakshina Kannada District [hereinafter referred to as 'the complainant'] approached the DGO for handing over the subsidy amount of Rs.14,400/- granted by Government of Karnataka in respect of his land measuring 80 c ents in Koila village in the name of his wife. However, the DGO

demanded Rs.600/- as bribe amount to attend the file and on 28.02.2007 at 04.10 pm, DGO demanded and accepted the said bribe amount of Rs.600/- from the complainant. Thereby, the DGO failed to maintain absolute integrity, devotion to duty and acted in the manner unbecoming of a Government servant and committed misconduct within the meaning of Rule 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules, 1966.

4. The Disciplinary Authority, in order to establish the charge of misconduct, has examined 4 witnesses viz., complainant as PW3; Shadow witness as PW1; panch witness as PW2; and Investigating Officer as PW4, and got marked 11 documents as Exs.P1 to P11, whereas on defence side, DGO got himself examined as DW1 and also examined one witness Shri Eshwara Bhatt as DW2 and got marked 11 documents as Exs.D1 to D11.

5. The evidence led by the Disciplinary Authority established the charge of misconduct alleged against the DGO. Though the DGO had taken a defence that, he had

*S. J. K.*

collected Rs.600/- towards the sale of 'Armed Force Flags' and not the bribe. However, his defence was not supported by any documentary evidence. In turn, 100 flags which were distributed by the Deputy Director of Sericulture costing each Rs.5/- did not tally with the defence taken by the DGO. Though the DGO had examined one witness as DW2 to substantiate that, the amount collected by the DGO towards sale of flags, but on consideration of the evidence of DWs 1 & 2, the Inquiry Officer has found that, the said defence was not substantiated by any reliable and acceptable evidence.

6. Having regard to the findings of the Inquiry Officer and also, the nature and the gravity of the misconduct alleged against the DGO, it is hereby recommended to the Government that, the DGO - *Shri Anantha S. Prabhu, Asst. Director of Sericulture, Department of Sericulture, Bantwal Taluk, Dakshina Kannada District*, be punished with the penalty of '*dismissal from service*' in exercise of powers under Rule 8(viii) of the Karnataka Civil Service (Classification, Control and Appeal) Rules, 1957.

*S. J. S.*

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

Connected records are enclosed herewith.

*Sydi. 3/11/17.*  
(Justice Subhash B. Adi)  
Upalokayukta,  
State of Karnataka.

Slg\*



**KARNATAKA LOKAYUKTA**

No. LOK/INQ/14-A/63/2010/ARE-3

M.S.Building,  
Dr. B.R.Ambedkar Veedhi,  
Bengaluru - 560001.  
Date: 31.03.2017

**Enquiry report**

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

**Sub:** Departmental Enquiry against Sri Anatha S. Prabhu, Assistant Director of Sericulture, Department of Sericulture, Buntwal Taluk, Dakshina Kannada District - reg.

**Ref:**

1. Report under Section 12(3) of the Karnataka Lokayukta Act, 1984, in No. Compt/Uplok/MYS-24/2009/PP dated 06.11.2009
2. G.O. No. ವಾಕ್ಯೆ 11 ರೇಸೇವಿ 2008, Bengaluru dated 5.10.2010
3. Nomination Order No.LOK/INQ/14-A/63/2010 dated 30.11.2010 of Hon'ble Upalokayukta, Karnataka State, Bengaluru.

\*\*\*

1. The complainant Sri. E.N. Kotyan, R/o Koyla Village, Buntwal Taluk of D.K. District (hereinafter referred to as 'complainant') has filed a complaint to Lokayukta Police, Mangalore on 28.02.2007 against Sri Anatha S. Prabhu working as Assistant Director of Sericulture, Department of Sericulture, Buntwal Taluk, Dakshina Kannada District during the relevant period (hereinafter referred to as 'DGO' for short) making allegations against him that, the DGO is demanding him to pay Rs. 600/- by way of bribe, in order to release the subsidy amount of Rs. 14,400/- sanctioned by the Sericulture department, towards construction of a shed in his

land for rearing cocoons. Initially, the complainant having approached Police Inspector Lokayukta Police, Mangalore on 23.2.2007 informed about the demand for bribe being made by the DGO. Hence, the Police Inspector gave him a voice recorder asking him to approach the DGO again and to record the conversation between him and the DGO about demand for bribe being made by the DGO. Accordingly, the complainant met the DGO in his office and discussed with him regarding release of the subsidy amount and recorded the said conversation wherein, the DGO insisted the complainant to pay Rs. 600/- in order to release the subsidy amount received from the Sericulture department, in his favour. He filed the written complaint on 28.2.2007 and also produced the recorded conversation of DGO with him, recorded by him on the voice recorder. On the basis of the said complaint, the Police Inspector, Lokayukta Police Station, Mangalore having registered a case, took up investigation and a trap was held in the office of the Assistant Director of Sericulture (O/o DGO) situated at BC road, Mangalore on the same day and the DGO was trapped while demanding and accepting bribe of Rs. 600/- from the complainant. The tainted amount of Rs. 600/- was recovered from the left side shirt pocket of the DGO. Since the explanation given by the DGO regarding possession of tainted money of Rs. 600/- with him was not satisfactory and convincing, the Police Inspector having conducted investigation charge sheeted the DGO.

2. 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 departmental proceedings against him. The DGO has submitted his reply giving his explanation to the observation note served on him contending that, Rs. 600/- he has received from the complainant was the value of armed forces flags sold to him on that day. Since the explanation offered by the DGO was not satisfactory and convincing, a recommendation under Section 12(3) of the Karnataka Lokayukta Act was forwarded to the Competent Authority recommending to initiate disciplinary enquiry against him and to entrust the enquiry under Rule 14-A of KCS(CCA) Rules, to this authority to hold enquiry. Accordingly, the Government in the Commerce and Industries Department vide Government order No. ವಾಕ್ಯೆ 11 ರೇಸೇವಿ 2008, Bengaluru dated 5.10.2010 initiated departmental proceedings against the DGO and entrusted the same to Hon'ble Upalokayukta to hold enquiry. The Hon'ble Upalokayukta issued a nomination order dated 30.11.2010 nominating ARE-3 to frame charges and to conduct enquiry against the DGO. Accordingly, charges are framed against the DGO as under.

3. **“Charge**

*That you, DGO Sri Anantha S. Prabhu, Assistant Director of Sericulture, Department of Sericulture, Buntwal Taluk, Dakshina Kannada District while working as such when complainant Sri V.N. Kotyana S/o late Sanku Anchan, Koila, Bangaru Gudde Mane, Koila Village, Buntwal Taluk, Dakshina Kannada District (hereinafter referred to as complainant), approached you and requested to hand over the subsidy amount of Rs. 14,400/- of the Government of Karnataka for sericulture cultivation in an extent of 80 cents of land in Koila village in the name of his wife, you demanded Rs. 600/- bribe for getting the work done and on 28.2.2007 at about 4.10pm at Buntwal Sericulture office, in your office, you DGO demanded and accepted illegal gratification of Rs. 600/- from the complainant, in the presence of shadow panch witness and thereby failed to maintain absolute integrity, devotion*

to duty and also did an act of unbecoming of a Government servant and thus you are guilty of misconduct as enumerated under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966.

**STATEMENT OF IMPUTATION OF MISCONDUCT:**

The complainant Sri V.N. Kotyana, S/o late Sanku Anchan, Koila, Bangaru Gudde Mane, Koila Village, Buntwal Taluk, Dakshina Kannada District filed complaint on 28.2.2007 alleging that, complainant met DGO Sri Anantha S. Prabhu, Assistant Director of Sericulture, Department of Sericulture, Buntwal Taluk, Dakshina Kannada District and requested to hand over the subsidy amount of Rs. 14,400/- granted by the Government of Karnataka for sericulture cultivation in an extent of 80 cents of land in Koila village in the name of his wife, for which DGO demanded Rs. 600/- bribe for getting the work done. As complainant was not willing to pay the bribe, he filed complaint before Police Inspector, Karnataka Lokayukta, Mangalore on 28.02.2007. On the basis of the said complaint, Sri. Prasanna V. Raju, Police Inspector, Karnataka Lokayukta, Mangalore (hereinafter referred to as I.O.) registered a case in Cr.No. 2/2007 and submitted FIR to the jurisdictional court.

After registering of the case, investigating officer followed all the pre trap formalities and on the same day i.e., on 28.2.2007, the IO along with complainant, panchas and other staff of Lokayukta office reached near the Sericulture office situated at Buntwal. In the Sericulture office of DGO, at about 4.10pm, DGO demanded and accepted bribe amount of Rs. 600/- from the complainant, currency notes being smeared with phenolphthalein powder. Thereafter, the DGO was apprehended and the amount which was received from the complainant was in the left side shirt pocket of the DGO and the same was recovered. Hand wash tests were conducted, Mahazar was drawn in the spot. All the formalities of collecting the hand wash and sealing the bottles are completed. DGO also gave statement in writing. The currency notes and the hand wash are seized under panchanama.

The materials collected by the IO during the course of investigation prima facie disclosed that, DGO demanded and accepted Rs. 600/- bribe from the complainant for doing an official favour, thus DGO has failed to maintain absolute integrity and this act on the part of the DGO is unbecoming of a public servant, hence DGO has committed misconduct under Rule 3(1)(i) to (iii) of KCS(Conduct) rules 1966.

*In this connection an observation note was sent to the DGO and the DGO has submitted his reply which was found after due consideration not acceptable. Therefore, recommendation was made to the Competent Authority under Section 12(3) of the Karnataka Lokayukta, Act 1984, to initiate Departmental Proceedings against the DGO. The Government after considering the recommendations made in the report, entrusted Hon'ble Upalokayukta to conduct departmental proceedings against 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 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. The DGO has filed his written statement on 23.6.2011 denying the allegations made against him and further taken up a contention that, he is innocent, he has not committed any misconduct and he has been falsely implicated. Further he has taken up a specific contention that, on 28.2.2007, the complainant had come to his office to receive the subsidy cheque and he/DGO requested the complainant to purchase armed forces flag of Rs. 600/-. The complainant was readily agreed to purchase armed forces flags worth Rs. 600/- as requested by him and paid him Rs. 600/- towards the value of 120 armed forces flags (Rs. 5/- each per flag). It is his further contention that, he having received Rs. 600/- from the complainant gave him the requisite number of armed forces flags. Hence, according to his specific contention, he has received Rs. 600/- from the complainant towards the value of armed forces flags sold to him but not as a bribe. According to him., while

giving his written explanation on the day of the trap, he has reiterated the same contention. Though he/DGO has requested the investigating officer to search the complainant and to verify the possession of armed flags by the complainant, the investigating officer did not consider his request and did not bother to verify the possession of armed forces flags with the complainant. Taking up such a contention, the DGO has requested this authority to absolve him from the charges leveled against him.

6. The case was taken up for enquiry and during enquiry, on behalf of the Disciplinary authority 4 witnesses have been examined as PW1 to PW4. 6 documents came to be marked as Ex-P1 to P6 After closure of the evidence on behalf of the disciplinary authority, second oral statement of the DGO was recorded. The DGO has denied the evidence given by PW1 to PW3 against him, and further desired to lead defence evidence in support of his defence. Hence, DGO was permitted to adduce his defence evidence. The DGO has examined himself as DW-1 and also examined one witness by name N. Eshwarbhat Retired Assistant, Director of Sericulture, in support of his defence. 11 documents came to be marked as Ex-D1 to D11 during the defence evidence of the DGO.
7. Thereafter, learned Presenting officer has filed written arguments. The learned counsel for DGO has also filed his written arguments and produced certain documents and also some citations in support of his 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 final order.

### **REASONS**

#### **Point No.1:-**

10. The DGO was working as Assistant Director of Sericulture, Buntwal Taluk, D.K. District during the relevant period.

11. The complainant in his complaint dated 28.2.2007 has narrated in detail as to the circumstances under which he is filing the said complaint. According to him, he approached the DGO seeking for release of Rs. 14400/- being the subsidy amount sanctioned to him by the sericulture department, towards the subsidy for construction of shed in his land for rearing cocoons and the DGO demanded him to pay Rs. 600/- by way of bribe in order to release the subsidy amount in his favour. According to him, he approached the Lokayukta police on 23.2.2007 and informed the Police Inspector about the demand for bribe being made by the DGO. He was entrusted with the voice recorder asking him to meet the DGO again and to record the conversation of the DGO with him about the demand for bribe being made by the DGO. Hence the complainant, having met the DGO again in his office recorded the conversation with him wherein, the DGO insisted him to pay Rs. 600/- in order to release the subsidy amount in his favour and along with the said recorded conversation, the complainant has filed a written complaint on 28.2.2007 as per Ex-P6 against the DGO and on that basis a case in Cr. No. 2/2007 under Sections 7,13(1)(d) R/w 13(2) of P.C Act, 1988 came to be registered against him.

12. An entrustment proceedings was conducted in the Police Station and bait money of Rs. 600/- given by the complainant were smeared with phenolphthalein powder making it as tainted money and entrusted to the complainant and during the trap proceedings the DGO received tainted money from the complainant and the said tainted money of Rs.600/- was recovered from the shirt pocket of the DGO, during the trap proceedings.

13. The DGO did not dispute the receipt of Rs. 600/- from the complainant and also seizure of tainted money of Rs. 600/- from his shirt pocket. According to him, on his request, the complainant has purchased armed forces flags worth Rs. 600/- and paid that money to him and he/DGO received that amount from the complainant, towards the value of the armed forces flags sold to the complainant on 28.2.2007, while disbursing him the cheque for Rs. 14,400/- towards payment of subsidy amount sanctioned to him. While giving his written explanation as per Ex-D3, he has taken up the same contention which reads as follows:

“ಸದರಿಯವರು ಆರ್ಮಡ್ ಪೊರ್ಟ್ಸ್ (flag day) ಪ್ಲಾಗ್ ಡೇ ಸಂಬಂಧದ ಸ್ಟಾಂಪ್‌ಗಳನ್ನು ಪಡೆದ ಬಗ್ಗೆ ಹಣವನ್ನು ನನಗೆ ನೀಡಿದ್ದು, ಸದರಿ ಹಣವನ್ನು ಲಂಚವೆಂದು ತಮಗೆ ತಿಳಿಸಿ ನನ್ನ ಮೇಲೆ ಮೇಲಿನಂತೆ ವಿನಾಕಾರಣ ಉದ್ದೇಶ ಪೂರ್ವಕವಾಗಿ ತಮ್ಮಲ್ಲಿ ಆರೋಪ ಮಾಡಿ ಮೇಲ್ಕಂಡ ದಾಳಿಯನ್ನು ಮಾಡುವಲ್ಲಿ ಯಶಸ್ವಿಯಾಗಿರುತ್ತಾರೆ. ನಾನು ಅವರಿಂದ “ಆರ್ಮಡ್ ಪೊರ್ಟ್ಸ್ ಪ್ಲಾಗ್ ಡೇ” ಸ್ಟಾಂಪ್ ಬಗ್ಗೆ ಮಾತ್ರ ಅವರಿಂದ ಹಣವನ್ನು ಪಡೆದಿರುತ್ತೇನೆ ಮತ್ತು ಅವರಿಗೆ ಸ್ಟಾಂಪ್‌ಗಳನ್ನು ನೀಡಿರುತ್ತೇನೆ ಎಂದು ತಮ್ಮಲ್ಲಿ ನಿವೇದಿಸಬಯಸುತ್ತೇನೆ.”

14. Since the DGO has admitted the fact of receiving Rs. 600/- from the complainant on 28.2.2007 and recovery of tainted money of Rs. 600/- from his shirt pocket during the trap proceedings held in his office on that day, I need not discuss the details of the entrustment proceedings and trap proceedings conducted by the investigating officer on 28.2.2007. The only point that is required to be considered is whether, the DGO was able to establish the specific

defence he has taken that, he has received Rs. 600/- from the complainant towards value of armed forces flags, sold to the complainant on that day.

15. The complainant when examined, supported the DGO and stated that, on that day i.e., on 28.2.2007, on approaching the DGO in his office, he has requested him for issue of subsidy cheque and gave Rs. 600/- to the DGO and the DGO having received Rs. 600/- from him kept that money, in his shirt pocket. The complainant has further stated that, the DGO gave him the stamps in a cover. According to the complainant, when he gave Rs. 600/- to the complainant he thought it was towards bribe but, when the DGO gave him stamps he thought that, Rs. 600/- paid by him to the DGO, was towards stamps. Hence, the complainant was treated as an hostile witness and he was thoroughly cross examined by the learned Presenting Officer. He has admitted the entrustment of voice recorder to him on 23.2.2007 and he recording his conversation with the DGO in the said voice recorder. He has further admitted filing of the complaint as per Ex-P6 by him on 28.2.2007. During the cross examination he has supported the defence of the DGO by giving positive answers to the various suggestions put to him by the learned counsel for the DGO.

16. The shadow witness who is examined as PW1 gave evidence regarding conducting of trap proceedings and payment of the amount by the complainant to the DGO and the DGO having received the amount from the complainant kept it in the chest pocket of his shirt. Even he has stated that, the DGO gave stamps to the complainant and the complainant paid the amount to the DGO. He has further stated about, recovery of tainted money of Rs. 600/- from the shirt pocket of the DGO under mahazar Ex-P3.

During his cross examination PW1/shadow witness supported the defense of the DGO giving positive answers to the suggestions put to him.

17. The investigating officer examined as PW4 gave details regarding the steps he has taken right from the registration of the complaint and the trap of the DGO and recovery of tainted money from his possession. He has admitted that, the DGO gave his written explanation as per Ex-D3. The learned counsel for DGO cross examined him as to whether he has enquired with the complainant and the shadow witness, in order to ascertain the truth or otherwise of the written explanation given by the DGO. PW4 has stated that, he has enquired with the complainant and the shadow witness about the defence taken by the DGO in his written explanation Ex-D3 but no, further investigation has been conducted in that regard.
18. Therefore, the evidence of the complainant/PW3, shadow witness/PW1 reveals the fact of giving armed forces flag by the DGO to the complainant on the day of the trap, while receiving Rs. 600/- from him. The specific defence taken by the DGO is required to be considered with reference to the defence evidence adduced by the DGO and the documents produced in support of his defence
19. The DGO who examined himself as DW-1 has reiterated his defence contending that, he has received Rs. 600/- from the DGO towards sale of armed forces flags to him. He has produced the letter of memorandum of the Deputy Director of Sericulture, Mangalore dated 4.12.2006 (Ex-D2) wherein the Deputy Director entrusted the sale of armed forced flags to all the units of Sericulture Department in Mangalore District. According to the



letter of the Deputy Commissioner dated 20.11.2006, 500/- armed forces flags were sent to Deputy Director for sale by the officials of Sericulture department and the Deputy director in turn distributed those flags to various units as per the details in Ex-D2.

|   |                                                                |       |         |
|---|----------------------------------------------------------------|-------|---------|
| 1 | ರೇಷ್ಮೆ ಉಪ ನಿರ್ದೇಶಕರ ಕಛೇರಿ, ಮಂಗಳೂರು                             | 40x5  | 200     |
| 2 | ರೇಷ್ಮೆ ಕೃಷಿ ಕ್ಷೇತ್ರ, ಕೊಲ್ಲಾ                                    | 40x5  | 200     |
| 3 | ರೇಷ್ಮೆ ಕೃಷಿ ಕ್ಷೇತ್ರ, ಗೇರುಕಟ್ಟೆ                                 | 40x5  | 200     |
| 4 | ವಿಸ್ತರಣಾ ಚಾಕಿ ಕೇಂದ್ರ, ಮಂಗಳೂರು                                  | 40x5  | 200     |
| 5 | ವಿಸ್ತರಣಾ ಮತ್ತು ಚಾಕಿ ಕೇಂದ್ರ, ಬೆಳ್ತಂಗಡಿ                          | 80x5  | 400     |
| 6 | ರೇಷ್ಮೆ ಸಹಾಯಕ ನಿರ್ದೇಶಕರ ಕಛೇರಿ, ಬಂಟ್ವಾಳ                          | 100x5 | 500     |
| 7 | ರೇಷ್ಮೆ ಸಹಾಯಕ ನಿರ್ದೇಶಕರ ಕಛೇರಿ ಮತ್ತು ತಾಂತ್ರಿಕ ಸೇವಾ ಕೇಂದ್ರ, ಸುಳ್ಯ | 80x5  | 400     |
| 8 | ಗಿರಿಜನ ರೇಷ್ಮೆ ವಿಸ್ತರಣಾ ಕೇಂದ್ರ, ಪುತ್ತೂರು                        | 80x5  | 400     |
|   |                                                                |       | 2500-00 |

20. As per the letter of Deputy Director, 100 flags ~~each~~ worth Rs. 5/- each were entrusted to the office of Assistant Director of Sericulture, Buntwal and the total value of 100/- flags supplied to the O/o Assistant Director was Rs. 500/-. Thus, the DGO who was working as Assistant Director of Sericulture, Buntwal during the relevant period, was entrusted with the sale of 100 flags of Rs. 5/- each. The DGO has taken up his defence stating that, he has sold 120 flags to the complainant and received Rs. 600/- from him. Though he was entrusted with the sale of 100 flags, how he sold 120 flags to the complainant, is not explained by the DGO.
21. The complainant was entitled to subsidy amount of Rs. 14,400/- and he was to receive the cheque from the DGO on that day. Even the DGO has admitted that, the cheque was disbursed to the complainant on the day of the trap. Insisting the complainant to

purchase flags worth Rs. 600/- in order to receive cheque of Rs. 14400/- appears to be unreasonable and hence, unbelievable.

22. According to the DGO, the cheque for the amount of Rs. 14,400/- was received in his office on 27.01.2007 itself. But he has not disbursed the said cheque to the complainant till the date of the trap on 28.2.2007. The DGO gave his explanation offering reason for the delay in disbursement of the cheque stating that, as per the instructions, the benefits of the Government should be distributed to the beneficiaries in the presence of the members of Taluk Panchayath and in the special functions arranged for the said purpose. According to him, it was decided to distribute the cheques to the beneficiaries in the meeting of the Taluk Panchayath on 24.2.2007 but it was postponed to 8.3.2007 and hence the cheque could not be disbursed to the complainant on 24.2.2007. The date of trap was 28.2.2007 and according to him, the cheque was issued to the DGO on 28.2.2007. As per the contention of the DGO himself, the cheque should have been given to the complainant in the adjourned meeting of the Taluk Panchayath on 8.3.2007 but, how he/DGO gave the cheque to the complainant on 28.2.2007 and also the reason for giving the cheque on 28.2.2007 to the complainant are not explained by the DGO.
23. According to the DGO, there were 3 beneficiaries who were entitled for subsidy during 2006-07 and the subsidy cheque pertaining to the complainant was received in his office on 27.1.2007 and the remaining 2 cheques of other 2 beneficiaries were received in his office on 13.2.2007. The DGO has not produced any evidence to show that, when those two cheques to other two beneficiaries were disbursed and the date of such disbursement of two cheques to

those two beneficiaries. He has not come out with any details as to whether, armed forces flags were sold, even to those two beneficiaries while handing over subsidy cheques to them. In the absence of any materials regarding these aspects, the contention of the DGO that, he has sold 120 flags worth Rs. 600/- to the complainant while disbursing the subsidy cheque to him, cannot be believed.

24. The DGO has examined one more witness by name Sri N. Eshwar Bhat retired Assistant Director of Sericulture as DW-2. During the relevant period he was working as incharge Deputy Director of Sericulture and he has received 500 token flags from the office of the Deputy Commissioner for selling the same, along with the letter of the Deputy Commissioner, Ex-D9. According to the evidence of DW-2, out of the 500 flags he has received, 260 flags worth Rs. 1300/- were allotted to the DGO for the purpose of selling at Buntwal Taluk as per the letter written by him to DGO as per Ex-D2. But on perusing Ex-D2, 100 flags worth Rs. 5/- each were allocated to office of the Assistant Director of Sericulture whereas, 80 flags was allocated to Chaki Kendra Beltangadi and 40 flags each to Chaki Kendra Mangalore and Reshme Krushi Kendra, Gerukatte. The DGO and the DW-2 are claiming that, the above allocation of 260 flags were given to the O/o the Assistant Director of Sericulture, Buntwal. But, absolutely there are no materials to consider whether, Chaki Kendra Mangalore and Beltangadi comes within the administrative control of the Assistant Director of Buntwal. Absolutely, there are no materials to conclude that the DGO was assigned with the sale of 260 flags. But, as per Ex-D2, only 100 flags were assigned to DGO and hence question of he selling 120 flags to the complainant as per his defence does not arise and such contention of the DGO cannot be believed.

25. DW-2 was also examined by the DGO in support of his defence with an intention to provide some more materials to establish that, Rs. 600/- was not remitted to the Sainik Welfare Board since it was seized by Lokayukta police. Since the DGO was kept under suspension on 8.3.2007 he has handed over charge of Assistant Director of Sericulture, to DW-2. It is the evidence of DW-2 that, he has written a letter dated 4.3.2008 asking the DGO to remit Rs. 1300/- towards 260 flags assigned to him for selling under the letter Ex-D2. In turn, the DGO since working during relevant period as Assistant Director of Sericulture, Shidlaghatta, addressed a letter to DW2 returning 20 unsold stamp and sending Rs. 600/- towards the value of 120 flags sold by him and further pleading his inability to remit remaining Rs. 600/- being the value of 120 flags sold to the complainant since the Lokayukta police have seized that amount from him during the trap proceedings. By producing this letter, DW-2 has deposed before this authority that, he has remitted Rs. 600/- the amount sent by the DGO and returned 20 unsold flags to the Sainik Welfare Board and also assigning the reasons for not remitting Rs. 600/- being the amount of 120 flags sold by the DGO to the complainant since seized by Lokayukta police.
26. On considering the evidence of DW2 in the light of the specific defence taken by the DGO, it appears these letters Ex-D4, D5 and D10 must have been brought up subsequently, to support the defence taken by the DGO. As per the letter of the Deputy Commissioner, Ex-D9, the amount should have been remitted to the Sainik Welfare Board within 25.10.2007 but in this case, the DGO did not take any steps either to remit the amount or to explain about his inability to remit that amount within the

prescribed date. Only after he was trapped and in support of his defence, these letters Ex-D4 and D5<sup>appears to</sup> have been subsequently created with the help of DW-2 and hence, no reliance can be placed on the evidence of DW-2 and also Ex-D4 and D5.

27. It is the specific contention of the DGO that, he has sold 120 flags to the complainant on the day when the complainant met him to collect his subsidy cheque on 28.2.2007. While cross examining the complainant, it was elicited through him that, flags were given to him. The complainant since turned hostile has supported the DGO stating that, the DGO told him that, the amount was received by him towards flags. But, the complainant has not stated how much flag were given to him by the DGO. A further admission was taken from the mouth of the complainant that, soon after the arrival of Lokayukta police in the chamber of the DGO on that day, he left that place and he signed the trap mahazar after about 10 or 15 days. But on perusing Ex-P3, the complainant has signed the trap mahazar on 28.2.2007 i.e., on the day of the trap itself. The mahazar was prepared from 4.15pm to 6.30pm and even the complainant was present till the completion of the mahazar and thereafter, he put his signature on it on the same day. Since the complainant having turned hostile, supporting the DGO by giving supporting evidence in his favour, the portion of the evidence of the complainant in so far as supporting the DGO needs to be discarded. Absolutely, there are no materials to conclude that, the DGO has sold 120 flags to the complainant on that day. Further the possibility of the DGO giving 1 or 2 flags to the complainant on that day cannot be ruled out and hence for that reason, the complainant<sup>appears to</sup> have stated in his evidence that, DGO gave him flags but without giving details as to the number of flags he has received from the DGO.

28. One more aspect that needs to be considered is whether, the flags in lumpsum numbering 120 flags could be sold to a single person. The letter of the Deputy Commissioner, Ex-D9 gives the purpose behind selling armed forces flags to individuals and the flags will be exchanged with general public for collection of donations to honour the personnel of armed forces. The relevant para in Ex-D9 reads as follows:

“ The ‘Armed Flag Day’ is observed every year on 7<sup>th</sup> December to honour the personnel of the Armed Forces. By wearing the Armed Forces Flag, the citizens reinforce their solidarity with Armed Forces for what they do for the honour, safety and integrity of the nation. It reassures defence personnel that, the entire nation is behind them. On this day, the community also expresses their gratitude and appreciation to honour the brave and the martyrs for their supreme sacrifice as well as to salute the valiant soldiers, sailors and airmen, both serving and veterans of the Armed Forces by voluntary contributions to the Armed Forces Flag Day Fund which is utilized for a number of welfare program for the benefit and empowerment of widows, disabled soldiers – sailors-airmen, ex-servicemen and their dependents and also for serving personnel. On this occasion, Token and car Flags will be exchanged with general public for collection of donations. The cost of car Flag is Rs. 10/- for two wheelers and light vehicles and for private buses/trucks Rs.100/-. The cost of Token Flag is Rs.5/- for general public. As a special gesture cost of Token Flag for students of schools and colleges is Rs. 2/-.”

29. Considering the above norms prescribed for selling armed flags, it is a voluntary contribution offered by the public by purchasing flags numbering one or two and contributing Rs. 5/- or Rs. 10/- by way of donation to the armed forces Welfare fund. The flags will be

distributed to various Government offices for selling those flags to the public who visits Government offices for their work. But, selling lumpsum quantity of flags to an individual is uncalled for and such selling of flags in lumpsum is against the norms of the scheme. Therefore, the defence taken by the DGO that, he has sold 120 flags to the complainant and received Rs. 600/- towards the value of 120 flags sold to him, cannot be believed.

30. Considering the circumstances under which Rs. 600/- was received from the complainant, the complainant had visited the office of the DGO to receive his subsidy cheque amounting to Rs. 14,400/- and in order to issue that cheque to the complainant the DGO has demanded and received Rs. 600/- from him. Though the DGO himself has stated that, two more beneficiaries were also entitled for the subsidy amount and the cheques of those two beneficiaries were received in the office on 13.2.2007, no materials are provided by the DGO that, he has sold flags even to those two beneficiaries. The DGO has not summoned those two beneficiaries and not examined them to support his defence. Therefore, I decline to accept the defence taken by the DGO that, he has received Rs. 600/- from the complainant towards 120 Sainik flags sold to him, as the said defence of the DGO is unbelievable and cannot considered to be plausible explanation.
31. Having regard to the discussions made as above, I decline to accept the defence of the DGO. But on considering the evidence adduced on behalf of the disciplinary authority both oral and documentary, I am of the considered opinion that, the disciplinary authority was able to establish that, the DGO has received Rs. 600/- from the complainant on 28.2.2007 in his office, in order to show an official favour i.e., to disburse the subsidy cheque to the

complainant and accordingly, I hold that, the charge against DGO is established. I answer point no.1 accordingly in the affirmative.

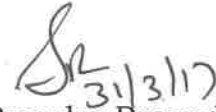
**Point No.2:**

32. Having regard to the discussion made above, and in view of my findings on point no.1 as above, I submit the following report:

**REPORT**

i) The Disciplinary Authority has proved the charge as framed against the DGO- Sri Anatha S. Prabhu, Assistant Director of Sericulture, Department of Sericulture, Buntwal Taluk, Dakshina Kannada District.

ii) As per the particulars furnished by the DGO in his First Oral Statement, the date of birth of the DGO is 02.12.1964 and his date of retirement 31.12.2024.



(S. Renuka Prasad)

Additional Registrar of Enquiries-3  
Karnataka Lokayukta,  
Bengaluru.