

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

NO: LOK/ARE-4/Enq-09/2008  
(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: 04/04/2019

**/CONFIDENTIAL/**

**To;**

Sri. Mahendra Jain, IAS.,  
Additional Chief Secretary to Government,  
Urban Development Department,  
Room No. 436, Vikasa Soudha,  
Bengaluru – 560 001.

**Respected Sir,**

**Sub:-** Departmental Enquiry against;  
(1) Sri. B.T. Mohankrishna, Assistant  
Executive Engineer,  
(2) Sri. Ramesh Babu, Assistant  
Engineer (**now retired**),  
(3) Sri. C.N. Ashok, Assistant Engineer,  
(4) Sri. M.G. Nagaraj, Assistant Engineer  
and  
(5) Sri. A.R. Narayan, Assistant  
Engineer, Ward No. 60, BBMP,  
Bengaluru (**now retired**) – regarding.  
**Ref:-** Government Order No. UDD 04 MNG  
2018, dated 13.03.2008.

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Adverting to the above, I am directed to forward herewith the recommendations of the Hon'ble Lokayukta, State of Karnataka, Bengaluru, dated; 03/04/2019 in original, and the Report of the Inquiry Officer, in original, along with relevant records of inquiry, as detailed below:

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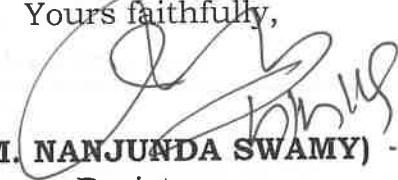
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Receipt of the recommendation of the Hon'ble Lokayukta, along with the Report of the Inquiry Officer in a sealed cover and the connected inquiry records, as mentioned above, may please be acknowledged, at the earliest.

Yours faithfully,

  
(H.M. NANJUNDA SWAMY) -  
Registrar,  
Karnataka Lokayukta,  
Bengaluru.

Copy to:

✓ The Addl. Registrar of Enquiries - 4, Karnataka Lokayukta, Bengaluru along with copy of recommendation, for information and further necessary action.





**KARNATAKA LOKAYUKTA**

No:LOK/ARE-4/Enq-9/2008

Multi Storied Building  
Dr B.R.AmbedkarVeedhi  
Bengaluru - 560 001  
Date: 03-04-2019

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

- Sub:-** Departmental Enquiry against;
- (1) Sri. B.T. Mohankrishna, Assistant Executive Engineer,
  - (2) Sri. Ramesh Babu, Assistant Engineer (**now retired**),
  - (3) Sri. C.N. Ashok, Assistant Engineer,
  - (4) Sri. M.G. Nagaraj, Assistant Engineer and
  - (5) Sri. A.R. Narayan, Assistant Engineer, Ward No. 60, BBMP, Bengaluru (**now retired**) - regarding.
- Ref:-** Government Order No. UDD 04 MNG 2018, dated 13.03.2008.

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The Enquiry report dated 13-03-2019 in No: LOK/ARE-4/Enq-9/2008 submitted by the Additional Registrar of Enquiries-4 (hereinafter referred to as the 'Enquiry Officer') Karnataka Lokayukta has been placed before me.

2. Pursuant to the report dated 12-12-2007 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 04 MNG 2008 dated 13-03-2008, while accepting the recommendation made U/Sec. 12(3) of the Act, initiated Disciplinary proceedings against (1) Sri. B.T. Mohankrishna, Assistant Executive Engineer, (2) Sri. Ramesh Babu, Assistant Engineer (**now retired**), (3) Sri. C.N. Ashok, Assistant Engineer, (4) Sri. M.G. Nagaraj, Assistant Engineer and (5) Sri. A.R. Narayan, Assistant Engineer, Ward No. 60, BBMP, Bengaluru (**now retired**) (hereinafter referred to as Delinquent Government Officers- 1 to 5, for short DGO-1, 2, 3, 4 and 5 respectively) and entrusted the same to the Hon'ble 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 13-03-2008, the then Hon'ble Lokayukta by means of Nomination Order No.LOK/INQ/14-A/04/2008-09 dated 05-05-2008, nominated the Additional Registrar





of Enquiries-4, Karnataka Lokayukta, Bengaluru as Inquiry Officer to frame charges and conduct an inquiry against the DGOs.

4. The Inquiry 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

ಆಪಾದಿತ ನೌಕರರುಗಳಾದ 1) ಶ್ರೀ ಬಿ.ಟಿ. ಮೋಹನಕೃಷ್ಣ, ಸಹಾಯಕ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರು, 2) ಶ್ರೀ ರಮೇಶ್ ಬಾಬು, ಸಹಾಯಕ ಅಭಿಯಂತರರು, ವಾರ್ಡ್-59, 3) ಶ್ರೀ ಸಿ.ಎನ್. ಆಶೋಕ, ಸಹಾಯಕ ಅಭಿಯಂತರರು ವಾರ್ಡ್-59 4) ಶ್ರೀ ಎಂ.ಜಿ. ನಾಗರಾಜ, ಸಹಾಯಕ ಅಭಿಯಂತರರು, ವಾರ್ಡ್-60 ಮತ್ತು 5) ಎ.ಆರ್. ನಾರಾಯಣ, ಸಹಾಯಕ ಅಭಿಯಂತರರು, ವಾರ್ಡ್-60, ಬೃಹತ್ ಬೆಂಗಳೂರು ಮಹಾನಗರ ಪಾಲಿಕೆ, ಬೆಂಗಳೂರು ಇಲ್ಲಿ, ಜನವರಿ 2004 ರಿಂದ ಡಿಸೆಂಬರ್ 2005ರ ಅವಧಿಯಲ್ಲಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿರುವಾಗ ನಿವೇಶನ ಸಂಖ್ಯೆ: 757/11 ರಲ್ಲಿ ಶ್ರೀಮತಿ ಸರೋಜ ಪ್ರಭಾಕರ್ ಎಂಬುವರು ಹಾಗೂ ನಿವೇಶನ ಸಂಖ್ಯೆ ನಂ. 37/6ರಲ್ಲಿ ಮೆ:ಜಿ.ಆರ್. ಡೆವೆಲಪರ್ಸ್‌ರವರು ಮತ್ತು ಜಯನಗರ 3ನೇ ಬ್ಲಾಕ್, 8ನೇ ಮುಖ್ಯ ರಸ್ತೆಯಲ್ಲಿ ಶ್ರೀಮತಿ ಸಾವಿತ್ರಿ ಕೃಷ್ಣನ್ ರವರುಗಳು ಮಂಜೂರಾತಿ ನಡೆಗೆ ವ್ಯತಿರಿಕ್ತವಾಗಿ ಹಾಗೂ ಕರ್ನಾಟಕ ಮುನ್ಸಿಪಲ್ ಕಾಯಿದೆ ಮತ್ತು ನಿಯಮಗಳನ್ನು ಹಾಗೂ ಬೈಲಾಗಳನ್ನು ಉಲ್ಲಂಘಿಸಿ ಕಟ್ಟಡಗಳನ್ನು ಕಟ್ಟಿದ್ದಾಗ್ಯೂ ನೀವುಗಳು ಅವರುಗಳ ವಿರುದ್ಧ ಕ್ರಮವನ್ನು ತೆಗೆದುಕೊಳ್ಳದೇ ಕರ್ತವ್ಯ ಲೋಪ ಮಾಡಿರುತ್ತೀರಿ ತನ್ಮೂಲಕ ಸಾರ್ವಜನಿಕ ನೌಕರರಾಗಿ ನೀವು ಸಂಪೂರ್ಣ ಪ್ರಾಮಾಣಿಕತೆಯನ್ನು ಕಾಯ್ದುಕೊಳ್ಳುವಲ್ಲಿ ವಿಫಲರಾಗಿದ್ದು, ಅಂತಹ ನೌಕರರಿಗೆ ಸಲ್ಲದ ಕೃತ್ಯವನ್ನು ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವಾ (ಸರ್ವಿಸ್) ನಿಯಮಾವಳಿ 1966ರ 3(i) ಮತ್ತು (iii)ನೇ ನಿಯಮವನ್ನು ಉಲ್ಲಂಘಿಸಿ ದುರ್ನಡತೆ ಎಸಗಿದ್ದೀರಿ.



5. The substance of the charge levelled against the DGOs No. 1 to 5 is that though, the owners of three sites i.e., (i) Smt. Saroja Prabhakar of Ward No. 58, Site No. 757/2011 (ii) M/s G.R. Developers, Ward No. 58, Site No. 37/6 (iii) Smt. Savithri Krishnan of Ward No. 59, Site No. 122(C) carried out constructions by deviating the sanctioned plan and by violating the bye-laws, the DGO No.1 being the Assistant Executive Engineer, and DGOs No. 2 to 5 being the Assistant Engineers have failed to prevent the illegal construction and thereby committed misconduct as enumerated under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules, 1966.

6. All the DGOs have entered appearance through their respective counsels and filed their written statement of defence denying the alleged misconduct.

7. In the course of inquiry proceedings, on behalf of Disciplinary Authority, the complainant one Sri. Madan Mohan Patil is examined as PW-1, one Sri. Yashawanth, the then Joint Commissioner of BBMP is examined as PW-2 and one Sri. K.N. Rajagopal, Assistant Executive Engineer, who submitted the investigation report is examined as PW-3 and got marked 38 documents as Ex.P-



1 to Ex.P38. The DGO No.1 Sri. B.T. Mohan Krishna is examined himself as DW-1 and marked 8 documents as Ex.D-1 to Ex.D-8. The DGOs No. 2 to 5 have not chosen to adduce evidence.

8. The Inquiry Officer on the basis of the evidence adduced in the course of enquiry, found that the disciplinary authority has established the charges levelled against the DGOs No. 1, 3 and 5 and failed to establish the charges leveled against the DGOs 2 and 4.

9. I have gone through the materials on record. The first question is whether the constructions made by (i) Smt. Saroja Prabhakar of Ward No. 58, Site No. 757/2011 (ii) M/s G.R. Developers, Ward No. 58, Site No. 37/6 (iii) Smt. Savithri Krishnan of Ward No. 59, Site No. 122(C) is in contravention of the sanctioned plan and by violating the bye-laws. In this regard, pursuant to the direction given by the then Hon'ble Lokayukta to the Joint Commissioner, South Zone, one Sri. Rajagopal, Assistant Executive Engineer inspected all the three buildings and submitted a detailed report along with the sketch as per Ex.P-19 to 23. In the said report, the particulars of the deviations from the sanctioned plan is set out as hereunder;



**I. In respect of the building of Smt. Saroja Prakash  
at Ward No.58, site No. 757/11 K.R. Road**

*Set back deviation: Basement Floor*

	<b>As per sanctioned plan</b>	<b>As per actual</b>	<b>% of deviation</b>
Front	3.00 m	0.25 m	91.66, 100.00
Rear	2.00m, 1.50 m	1.55m	22.50
Front	3.00 m	1.20m	60.00, 100.00
Rear	1.50 m	1.35m	10.00

*Set back Deviation: Ground Floor*

	<b>As per sanctioned plan</b>	<b>As per actual</b>	<b>% of deviation</b>
Front	3.00m	1.85m	38.33
Rear	2.00m, 1.50m	1.55m	22.50
Front	3.00m	2.80m	6.66
Rear	1.50m	1.35m	10.00

*Set back Deviation: First Floor*

	<b>As per sanctioned plan</b>	<b>As per actual</b>	<b>% of deviation</b>
Front	3.00m	0.25m	91.66
Rear	2.00m, 1.50m	0.80m	60.00, 46.66
Front	3.00m	1.20m	60.0
Rear	1.50m	0.45m	70.00

*Set back Deviation: Second Floor*

	<b>As per sanctioned</b>	<b>As per actual</b>	<b>% of deviation</b>
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	<b>plan</b>		
Front	3.00m	0.25m	91.66
Rear	2.00m, 1.50m	0.80m	60.00,46.66
Front	3.00m	1.20m	60.00
Rear	1.50m	0.45m	70.00

**II. The deviation observed in Site No. 37/6, 4<sup>th</sup> main road, Tata Silk Form, Yadiyur belonging to M/s G.R. Developers at Ward No. 59:-**

Site Area=620.55 smtr.

<b>Sl. No.</b>	<b>Description</b>	<b>As per sanctioned plan</b>	<b>As per actual</b>	<b>Difference in Mtr. Actual</b>	<b>Percentage of deviation set back</b>
1	Basement Floor				
	Front	6.00	4.80	1.20	20.00%
	Rear	4.71	1.50	3.21	68.15%
	Front	4.50	$\frac{1.25+1.85}{2}$	2.95	65.55%
	Rear	4.50	0.95	3.55	78.88%
2.	Ground floor				
	Front	6.00	4.80	1.20	20.00%
	Rear	4.71	1.50	3.21	68.15%
	Front	4.50	$\frac{1.25+1.85}{2}$	2.95	65.55%
	Rear	4.50	0.95	3.55	78.88%

3.	<i>First Floor</i>				
	<i>Front</i>	5.00	4.80	0.20	4.00%
	<i>Rear</i>	4.71	1.50	3.21	68.15%
	<i>Front</i>	4.50	$\frac{1.25+1.85}{2}$	2.95	65.55%
	<i>Rear</i>	4.50	0.95	3.55	78.88%
4.	<i>Second Floor</i>				
	<i>Front</i>	5.00	4.80	0.20	4.00%
	<i>Rear</i>	4.71	1.50	3.21	68.15%
	<i>Front</i>	4.50	$\frac{1.25+1.85}{2}$	2.95	65.55%
	<i>Rear</i>	4.50	0.95	3.55	78.88%
5.	<i>Third Floor</i>				
	<i>Front</i>	5.00	4.80	0.20	4.00%
	<i>Rear</i>	4.71	1.50	3.21	68.15%
	<i>Front</i>	4.50	$\frac{1.25+1.85}{2}$	2.95	65.55%
	<i>Rear</i>	4.50	0.95	3.55	78.88%
6.	<i>Coverage</i>	33.74%	69.23%		
7	<i>FAR</i>	1.24	3.45		
8	<i>Height of Building</i>	14.20 Mtrs	17.50 Mtrs		

**III. The calculations of deviation observed at Site No. 122/C, 8<sup>th</sup> Main, 3<sup>rd</sup> Block, Jayanagar, belonging to Smt. Savithri Krishnan at Ward No. 59:-**

**Site Area= 394.84 smtr**

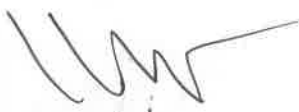
<b>Sl. No.</b>	<b>Description</b>	<b>As per sanctioned plan</b>	<b>As per actual</b>	<b>Difference in Mtr. Actual</b>	<b>Percentage of deviation set back</b>
1	Basement Floor				
	Front	3.50	2.40	1.10	31.42%
	Rear	3.00	1.50	1.50	50.00%
	Front	3.50	0.70	2.80	80.00%
	Rear	3.00	1.35	1.65	55.00%
2.	Ground Floor				
	Front	3.50	2.40	1.10	31.42%
	Rear	3.00	1.50	1.50	50.00%
	Front	3.50	0.70	2.80	80.00%
	Rear	3.00	1.35	1.65	55.00%
3.	First Floor				
	Front	3.50	2.40	1.10	31.42%
	Rear	3.00	1.50	1.50	50.00%
	Front	3.50	0.70	2.80	80.00%
	Rear	3.00	1.35	1.65	55.00%

4.	<i>Second Floor</i>				
	<i>Front</i>	<i>3.50</i>	<i>2.40</i>	<i>1.10</i>	<i>31.42%</i>
	<i>Rear</i>	<i>3.00</i>	<i>1.50</i>	<i>1.50</i>	<i>50.00%</i>
	<i>Front</i>	<i>3.50</i>	<i>0.70</i>	<i>2.80</i>	<i>80.00%</i>
	<i>Rear</i>	<i>3.00</i>	<i>1.35</i>	<i>1.65</i>	<i>55.00%</i>
5.	<i>Coverage</i>	<i>41.45%</i>	<i>66.84%</i>		
6.	<i>FAR</i>	<i>1.12</i>	<i>2.18</i>		
7.	<i>Height of Building</i>	<i>9.40 Mts.</i>	<i>15.00 Mtrs</i>		

8. Any other violation Observed:

1. *Unauthroised mezzanine floor construction*
2. *Unauthroised construction of III Floor*
3. *In Basement Floor Map area covered by building*

10. The AEE Sri. K.N. Rajagopal who inspected the spot and submitted the report has been examined as PW-3. In his evidence also he has reiterated the particulars of the deviations in the constructions made by aforesaid three site owners. In so far as Site No. 757/11 of Ward No. 58 belonging to Smt. Saroja Prabhakar he has identified the deviations in Ex.P-19 (a) to (d) sketch and marked the approved area of constructions in red line and actual



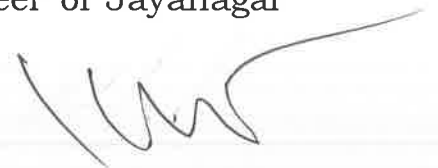


constructions in blue line. In so far as Site No. 37/6 belonging to M/s G.K. Developers at 4<sup>th</sup> 'A' Main of Jayanagar, he has identified the deviations in Ex.P-20 (a) to (e) sketch and marked the approved area of constructions in green line and actual constructions in red line. In so far as site no. 112 C belonging to Smt. Savithri Krishnan at 8<sup>th</sup> Main, 3<sup>rd</sup> Block of Jayanagar, he has identified the deviations in Ex.P-23 (a) to (d) sketch and marked the sanctioned area of constructions in green line and actual constructed area in red line.

11. The respondents have not denied the deviations of sanctioned plan in all the three buildings and the violation of bye-laws. Therefore, the deviation of the sanctioned plan and the violation of bye-laws to the extent mentioned in the report of PW-3 Sri. K.N. Rajagopal is proved.

12. The next question is whether the DGOs are responsible for the illegal constructions. Since, the role and the working duration of DGO's are different, it is necessary to consider the responsibility of each DGOs separately.

**13. DGO No.1 Sri. B.T. Mohan Krishna**:- This DGO was working as the Assistant Executive Engineer of Jayanagar



Sub-Division from 22.12.2003 to 24.12.2005 as certified in Ex.D-3 certificate given by BBMP. As per the report of Joint Commissioner, South produced at Ex.D-2, the construction in Site No. 757/11 belonging to Saroja Prabhakar was carried out in between January – 2004 to March – 2005. The construction in site no. 37/6 belonging to M/s G.R. Developers was commenced in the month of December – 2004 and completed in the month of December -2005. The construction of building belonging to Smt. Savithri Krishnan was commenced in the month of August – 2004 and completed in the month of October – 2005. This DGO was in-charge of the area of construction of three buildings located in three sites referred to above. Therefore, it was the responsibility of this DGO to prevent the illegal constructions and also to take necessary steps for the demolition of illegal structures. It is contended by him that there was no complaint in respect of the constructions made by Smt. Saroja Prabhakar and Smt. Savithri Krishnan. Since, this DGO was the Engineer in-charge of area, he was expected to monitor each stage of constructions and to see that the sanctioned plan is not violated. This is the primary duty of an Area Engineer and



he cannot escape from the responsibility on the ground that the illegal construction was not brought to his knowledge by way of complaint.

In so far as the construction made by M/s G.R. Developers is concerned, he states that he issued provisional order under Section 321(1) of KMC Act and after issuance of the notice, the owner of the building removed the illegal constructions. But, the report of PW-3 Sri. Rajagopal shows that the illegal construction was not demolished even during the time of his inspection. There is nothing on record to show that pursuant to the notice given by this DGO, the owner of the building removed the illegal construction. On the other hand, though the DGO issued provisional order under Section 321(1) of KMC Act on 10.01.2005 as per Ex.P-14, subsequently he has failed to issue confirmation order. This inaction of DGO No.1 in respect of all the three buildings is a clear case of dereliction of duty on his part.

**14. DGO No.2 Sri. Ramesh Babu:-** DGO No.2 was working as Assistant Engineer in Ward No. 59 from 17.10.2002 to 09.09.2004. Out of above three constructions, the constructions made by Smt. Savithri



Krishnan and M/s G.R. Developers was within the limits of ward no. 59. As per report of Joint Commisisioner, the construction in the site of Smt. Savithri Krishnan was commenced in the month of August – 2004. Immediately after the commencement of construction work, i.e., on 09.09.2004 itself, DGO No.2 was transferred from that area. Therefore, during the tenure of this DGO the construction work was in the initial stage and it may not be possible to identify the violation. In so far as the construction of M/s G.R. Developers, it was commenced only in the month of December – 2004. By that time, this DGO was not working in that area. Hence, dereliction of duty cannot be attributed to this DGO.

15. **DGO No.3 Sri. C.N. Ashok, Assistant Engineer:-**

This DGO was the successor of DGO No.2 and he took charge of ward no. 59 on 09.09.2004. He was in-charge of that ward until 29.10.2007. The construction made by M/s G.R. Developers commenced and completed during this period. The construction made by Smt. Savithri Krishnan was commenced in the month of August – 2004 and completed in the month of October – 2005. Therefore, it was the duty of this DGO to monitor the construction



and report the same to his higher officers. But, this DGO has taken up a contention that, he was not aware of either commencement of the work or its completion and he came to know only when the Joint Commissioner, South Zone called for a report in the year 2007. He has also contended that, no complaint was made to him by anyone and he had no power or authority to take action against the illegal constructions. It is needles to point out that, though an Assistant Engineer does not have power under Section 321 of the KMC Act to initiate proceedings, it was his duty to report the illegal construction immediately to the Assistant Executive Engineer in writing. The very contention of this DGO to the effect that he was unaware about the construction clearly shows that he has failed to monitor the construction activities and identify the illegal constructions. This is the clear dereliction of duty of this DGO on his own showing. Further, it is also difficult to believe his version that he was unaware of the said constructions of the building in contravention of the plan and bye-laws.

**16. DGO No.4 Sri. M.G. Nagaraj, Assistant Engineer:-**

This DGO was working as Assistant Engineer, BBMP



during January – 2004 to December – 2005 at Ward No. 60. But, none of the above building constructions were carried out at Ward No. 60 during the tenure of this DGO. The records reveal that a complaint was filed alleging that illegal constructions in Site No. 19/35 of ward no. 60 belonging to one Sri. K. Raghavan and when the concerned engineers issued Provisional Order under Section 321(1) and Confirmation Order under Section 321(3), the owner of the building approached the KAT and obtained the stay order. Therefore, charge was not framed in respect of alleged deviation of sanctioned plan of the building belonging to Sri. Raghavan. Hence, the inquiry officer has justified in taking the view that the disciplinary authority has failed to establish the charges leveled against this DGO.

**17. DGO No.5 Sri. A.R. Narayan, Assistant Engineer:-**

This DGO was working as Assistant Engineer at Ward No. 58 from 19.08.2004 to 29.12.2004. Further, he worked as Assistant Engineer in Ward No. 60 from 08.05.2005 to 25.01.2006. The illegal construction in Site No.757/11 belonging to Smt. Saroja Prabhakar was within the limits of Ward No. 58. The constructions in the said site was



carried out in between January – 2004 to March – 2005. This DGO was working as Assistant Engineer for more than four months at the time when construction was carried out. But he has contended that he was not aware of the construction carried out in site no. 757/11. He claims that no complaint was given and therefore he could not identify the illegal construction. It is again reiterated that the primary duty of a jurisdictional Assistant Engineer is to monitor all the constructions carried out in his area and to identify the illegal constructions if any. The tenure of more than four months was sufficient to this DGO to identify the illegal construction carried out in site no. 757/11 belonging to Smt. Saroja Prabhakar. This DGO has failed to monitor the illegal construction carried out in Site No. 757/11 and report the same to his higher authority. Hence, this DGO has committed dereliction of duty.

18. In view of the above reasons, I am of the opinion that the Disciplinary Authority has proved the misconduct of DGOs No.1, 3 and 5 by establishing the charge leveled against them and it has failed to prove the charges leveled against the DGOs No. 2 and 4. The Enquiry Officer on elaborate consideration of the evidence on record has found



that the charges leveled against DGO No.1, 3 and 5 have been proved and the charges leveled against DGOs 2 and 4 have not been established. The conclusion reached by the Enquiry Officer is supported by evidence on record. Therefore, 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 and a recommendation is required to be made to the Competent Authority on that behalf.

19. The only other question that requires to be considered is with regard to penalty that is required to be imposed on the DGOs 1, 3 and 5.

20. The DGO-1 and 3 are still in service and will be retiring from service on 28-02-2023 and 31-12-2033 respectively and DGO No.5 has already retired from service on 30.06.2011. The incident in question had taken place in the year 2004-05. The report under section 12(3) of the Karnataka Lokayukta Act was sent to the Competent Authority on 12.12.2007. Therefore, the proceedings are pending against the DGOs 1 to 5 for the last more than fourteen years.





21. Having regard to the facts and circumstances of the case and keeping in mind the percentage of deviation in each buildings and the year of construction, I am of the view that the ends of justice would be met if a recommendation is made to the Competent Authority to deny 2 (Two) annual increments to DGO No.1 & 3 for a period of 3 (Three) years without cumulative effect from the date of such denial. In so far as DGO No. 5 is concerned, as observed by me earlier, he was working only for four months during the illegal constructions and his dereliction of duty was in relation to only one building. Further, he has retired from service in the year 2011. Keeping in mind all these aspects, the ends of justice would be met, if 10% (ten percent) of the monthly pension payable to him is denied for a period 3 (three) years from the date of such denial.

22. In the light of the discussions made above, I make the following recommendations to the Competent Authority;

- (i) The Enquiry Report dated 13-03-2019 submitted by the Enquiry Officer i.e., ARE-4 holding that the Disciplinary Authority has established the



charges levelled against DGOs No.1, 3 and 5 and the Disciplinary Authority has failed to establish the charges leveled against the DGOs 2 and 4 is correct and required to be accepted.

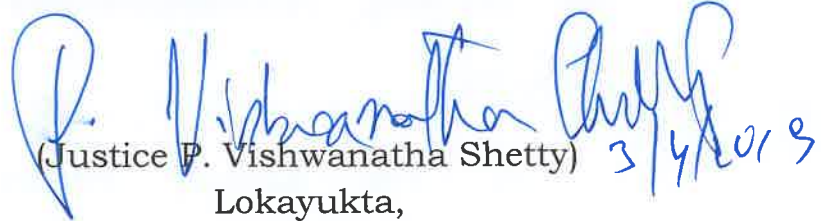
(ii) To deny 2 (Two) annual increments of DGO No.1 Sri. B.T. Mohan Krishna and DGO No.3 Sri. C.N. Ashok for a period of 3 (Three) years without cumulative effect from the date of such denial.

(iii) To deny 10% (ten percent) of the monthly pension payable to DGO No.5 Sri. A.R. Narayan for a period of 3 (three) years from the date of such denial.

Accordingly, recommendation is made to the Government.

23. 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) 3/4/2019  
Lokayukta,  
State of Karnataka, Bengaluru.

**KARNATAKA LOKAYUKTA**

No.LOK/ARE-4/ENQ/09/2008 M.S.Building  
Old No. LOK/INQ/14-A/4/08-09 Dr. B. R. Ambedkar Road  
Bangalore-560 001  
Date: 13/03/2019

**:: INQUIRY REPORT ::**

**Sub:** Departmental Inquiry against,  
1) Sri B.T. Mohankrishna  
Assistant Executive Engineer  
BBMP

2) Sri Ramesh Babu  
Assistant Engineer  
Ward No. 59, BBMP, **(now retired)**

3) Sri C.N. Ashok  
Assistant Engineer  
Ward No. 59, BBMP

4) Sri M.G. Nagaraj  
Assistant Engineer  
Ward No. 60, BBMP

5) Sri A.R. Narayan  
Assistant Engineer  
Ward No. 60,  
BBMP, Bengaluru **(now retired)**

**Ref:** 1) Report u/s 12(3) of the K.L Act,  
1984 in Compt/Lok/BCD/308  
/2005/ARE-1, dated:  
12/12/2007

2) G.Order. No. UDD 04 MNG 2008,  
Bengaluru dated: 13/03/2008

3) Order No.LOK/INQ/14-  
A/04/2008-2009, Bengaluru,  
Dt:05/05/2008 of  
the Hon'ble Lokayukta

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This Departmental Inquiry is directed against 1) Sri B.T. Mohankrishna, Assistant Executive Engineer, BBMP, 2) Sri Ramesh Babu, Assistant Engineer, Ward No. 59, BBMP, **(now retired)**, 3) Sri C.N. Ashok, Assistant Engineer, Ward No. 59, BBMP, 4) Sri M.G. Nagaraj, Assistant Engineer, Ward No. 60, BBMP and 5) Sri A.R. Narayan, Assistant Engineer, Ward No. 60, BBMP, Bengaluru **(now retired)** (herein after referred to as the Delinquent Government Officials in short "DGO No.1, DGO No.2, DGO No.3, DGO No.4 and DGO No.5 or DGOs" respectively)

2. After completion of the investigation a report u/sec. 12(3) of the Karnataka Lokayukta Act was sent to the Government as per Reference No.1.

3. In view of the Government Order cited above at reference-2, the Hon'ble Lokayukta, vide order dated: 05/05/2008 cited above at reference-3, nominated Additional Registrar of Enquiries-4 of the office of the Karnataka Lokayukta as the Inquiry Officer to frame charges and to conduct Inquiry against the aforesaid DGOs. Additional Registrar Enquires-4 prepared Articles of Charge, Statement of Imputations of mis-conduct, list of documents proposed to be relied and list of witnesses proposed to be examined in support of Article of Charges. Copies of same were issued to the DGOs calling upon them to appear before this Authority and to submit written statement of their defence.

4. The Article of Charges framed by ARE-4 against the DGOs are as below;

**ಅನುಬಂಧ-1**  
**ದೋಷಾರೋಪಣೆ**

ಆಪಾದಿತ ನೌಕರರುಗಳಾದ 1) ಶ್ರೀ ಬಿ.ಟಿ. ಮೋಹನಕೃಷ್ಣ, ಸಹಾಯಕ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರು, 2) ಶ್ರೀ ರಮೇಶ್ ಬಾಬು, ಸಹಾಯಕ ಅಭಿಯಂತರರು, ವಾರ್ಡ್-59, 3) ಶ್ರೀ ಸಿ.ಎನ್. ಆಶೋಕ, ಸಹಾಯಕ ಅಭಿಯಂತರರು ವಾರ್ಡ್-59 4) ಶ್ರೀ ಎಂ.ಜಿ. ನಾಗರಾಜ, ಸಹಾಯಕ ಅಭಿಯಂತರರು, ವಾರ್ಡ್-60 ಮತ್ತು 5) ಎ.ಆರ್. ನಾರಾಯಣ, ಸಹಾಯಕ ಅಭಿಯಂತರರು, ವಾರ್ಡ್-60, ಬೃಹತ್ ಬೆಂಗಳೂರು ಮಹಾನಗರ ಪಾಲಿಕೆ, ಬೆಂಗಳೂರು ಇಲ್ಲಿ, ಜನವರಿ 2004 ರಿಂದ ಡಿಸೆಂಬರ್ 2005ರ ಅವಧಿಯಲ್ಲಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿರುವಾಗ ನಿವೇಶನ ಸಂಖ್ಯೆ: 757/11 ರಲ್ಲಿ ಶ್ರೀಮತಿ ಸರೋಜ ಪ್ರಭಾಕರ್ ಎಂಬುವರು ಹಾಗೂ ನಿವೇಶನ ಸಂಖ್ಯೆ ನಂ. 37/6ರಲ್ಲಿ ಮೆ:ಜಿ.ಆರ್. ಡೆವೆಲಪರ್ಸ್‌ರವರು ಮತ್ತು ಜಯನಗರ 3ನೇ ಬ್ಲಾಕ್, 8ನೇ ಮುಖ್ಯ ರಸ್ತೆಯಲ್ಲಿ ಶ್ರೀಮತಿ ಸಾವಿತ್ರಿ ಕೃಷ್ಣನ್ ರವರುಗಳು ಮಂಜೂರಾತಿ ನಕ್ಷೆಗೆ ವ್ಯತಿರಿಕ್ತವಾಗಿ ಹಾಗೂ ಕರ್ನಾಟಕ ಮುನ್ಸಿಪಲ್ ಕಾಯಿದೆ ಮತ್ತು ನಿಯಮಗಳನ್ನು ಹಾಗೂ ಬೈಲಾಗಳನ್ನು ಉಲ್ಲಂಘಿಸಿ ಕಟ್ಟಡಗಳನ್ನು ಕಟ್ಟಿದ್ದಾಗ್ಯೂ ನೀವುಗಳು ಅವರುಗಳ ವಿರುದ್ಧ ಕ್ರಮವನ್ನು ತೆಗೆದುಕೊಳ್ಳದೇ ಕರ್ತವ್ಯ ಲೋಪ ಮಾಡಿರುತ್ತೀರಿ ತನ್ಮೂಲಕ ಸಾರ್ವಜನಿಕ ನೌಕರರಾಗಿ ನೀವು ಸಂಪೂರ್ಣ ಪ್ರಾಮಾಣಿಕತೆಯನ್ನು ಕಾಯ್ದುಕೊಳ್ಳುವಲ್ಲಿ ವಿಫಲರಾಗಿದ್ದು, ಅಂತಹ ನೌಕರರಿಗೆ ಸಲ್ಲದ ಕೃತ್ಯವನ್ನು ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವಾ (ಸರ್ವಿಸ್) ನಿಯಮಾವಳಿ 1966ರ 3(i) ಮತ್ತು (iii)ನೇ ನಿಯಮವನ್ನು ಉಲ್ಲಂಘಿಸಿ ದುರ್ನಡತೆ ಎಸಗಿದ್ದೀರಿ.

ಆದ್ದರಿಂದ, ಈ ದೋಷಾರೋಪಣೆಯ ವಿವರ.

**ಅನುಬಂಧ-2**

**ದೋಷಾರೋಪಣೆಯ ವಿವರ**

**(ಸ್ಟೇಟ್ ಮೆಂಟಲ್ ಆಫ್ ಇಂಪ್ರೂವ್‌ಮೆಂಟ್ ಆಫ್ ಮಿಸ್‌ಕಾಂಡೆಕ್ಟ್)**

ಆಪಾದಿತ ನೌಕರರುಗಳಾದ 1) ಶ್ರೀ ಬಿ.ಟಿ. ಮೋಹನಕೃಷ್ಣ, ಸಹಾಯಕ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರು, 2) ಶ್ರೀ ರಮೇಶ್ ಬಾಬು, ಸಹಾಯಕ ಅಭಿಯಂತರರು, ವಾರ್ಡ್ ನಂ. 59, 3) ಶ್ರೀ ಸಿ.ಎನ್. ಆಶೋಕ, ಸಹಾಯಕ ಅಭಿಯಂತರರು ವಾರ್ಡ್ ನಂ. 59 4) ಶ್ರೀ ಎಂ.ಜಿ. ನಾಗರಾಜ, ಸಹಾಯಕ ಅಭಿಯಂತರರು, ವಾರ್ಡ್-60 ಮತ್ತು 5) ಶ್ರೀ ಎ.ಆರ್. ನಾರಾಯಣ, ಸಹಾಯಕ ಅಭಿಯಂತರರು, ವಾರ್ಡ್-60 ಬೃಹತ್

ಬೆಂಗಳೂರು ಮಹಾನಗರ ಪಾಲಿಕೆ, ಬೆಂಗಳೂರು ಇಲ್ಲಿ 1ನೇ ಆಪಾದಿತ ನೌಕರರು 27/12/2003 ರಿಂದ 12/12/2005 ರವರೆಗೆ ಹಾಗೂ ಉಳಿದ ಆಪಾದಿತ ನೌಕರರು ಜನವರಿ 2004 ರಿಂದ ಡಿಸೆಂಬರ್ 2005ರ ಅವಧಿಯಲ್ಲಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿದ್ದರು.

ಡಾ: ಹೆಚ್. ಆರ್. ಮದನ್ ಮೋಹನ್ ಪಾಟಿಲ್, ನಂ. 57, ಐ.ಕೆ.ಎಸ್ ಸೆಂಟರ್, 4ನೇ ಬ್ಲಾಕ್ (ಪೂ) ಜಯನಗರ, ಬೆಂಗಳೂರು ರವರು ದಿನಾಂಕ: 12/09/2005 ರಂದು ಲೋಕಾಯುಕ್ತ ಕಚೇರಿಗೆ ಲೋಕಾಯುಕ್ತ ಕಾಯಿದೆ ನಮೂನೆ-1 ಮತ್ತು 2ರಲ್ಲಿ ದೂರನ್ನು ಸಲ್ಲಿಸಿ ತಮ್ಮ ಮನೆಯ ಪಕ್ಕದ ನಿವೇಶನ ಸಂಖ್ಯೆ: 503ರಲ್ಲಿ ನರ್ಸಿಂಗ್ ಹೋಂನ್ನು ಕಟ್ಟಲು ಪ್ರಾರಂಭಿಸಿದ್ದು, ಮಂಜೂರಾತಿ ನಕ್ಷೆಗೆ ಬೈಲಾಗಳಿಗೆ ಹಾಗೂ ಜೋನಲ್ ರೆಗ್ಯುಲೇಷನ್‌ಗಳಿಗೆ ವಿರುದ್ಧವಾಗಿ ಕಟ್ಟುತ್ತಿದ್ದಾರೆಂದು ನೆಲ ಮತ್ತು 1ನೇ ಅಂತಸ್ತಿಗೆ ಮಂಜೂರಾತಿ ಪಡೆದಿದ್ದು, 2 ಮತ್ತು 3ನೇ ಅಂತಸ್ತುಗಳನ್ನು ಕಟ್ಟುತ್ತಿದ್ದಾರೆಂದು ಈ ಬಗ್ಗೆ ದೂರನ್ನು ನೀಡಿದಾಗ ದೂರುದಾರರಿಗೆ ಕಿರುಕುಳ ಕೊಡುತ್ತಿದ್ದಾರೆಂದು ಹಾಗೂ ಲಿಖಿತ ದೂರನ್ನು ಆಯುಕ್ತರಿಗೆ ನೀಡಿದಾಗ ದೂರುದಾರರಿಗೆ ನೋಟೀಸುಗಳನ್ನು ಜಾರಿ ಮಾಡುತ್ತಾರೆಂದು ಅದರಂತೆ ಫಿರ್ಯಾದಿಗೆ ಸಹ ಸಹಾಯಕ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರು ನೋಟೀಸ್ ಜಾರಿ ಮಾಡಿದರೆಂದು ಈ ರೀತಿ ಫಿರ್ಯಾದಿಗೆ ನೋಟೀಸನ್ನು ಜಾರಿ ಮಾಡಿರುವುದು ಫಿರ್ಯಾದಿಯು ತಮ್ಮ ಅಕ್ಕಪಕ್ಕದವರು ಕಾನೂನು ಬಾಹಿರವಾಗಿ ಕಟ್ಟುವ ಕಟ್ಟಡಗಳನ್ನು ಪ್ರಶ್ನಿಸದಂತೆ ಮಾಡುವ ಉದ್ದೇಶದಿಂದ ನೋಟೀಸನ್ನು ನೀಡಿರುತ್ತಾರೆಂದು ಆಪಾದಿಸಿ ಈ ಬಗ್ಗೆ ಸೂಕ್ತ ಕ್ರಮತೆಗೆದುಕೊಳ್ಳಬೇಕೆಂದು ದೂರನ್ನು ನೀಡಿರುತ್ತಾರೆ.

ಫಿರ್ಯಾದಿಯು ಕೊಟ್ಟ ದೂರಿನ ಮೇಲೆ 1ನೇ ಆಪಾದಿತ ನೌಕರರ ವಿವರಣೆ ಕೇಳಿದ್ದು ಅವರು ತಮ್ಮ ವಿವರಣೆಯನ್ನು ನೀಡಿದ್ದು ಅವರ ವಿರುದ್ಧ ಮಾಡಿರುವ ಆಪಾದನೆಗಳನ್ನೆಲ್ಲಾ ಅಲ್ಲಗಳೆದು ಜೊತೆಗೆ ಕೆಲವು ದಾಖಲೆಗಳನ್ನು ಸಹ ಹಾಜರು ಪಡಿಸಿರುತ್ತಾರೆ. ತಮ್ಮ ವಿವರಣೆಯಲ್ಲಿ ಜಯನಗರದ 7ನೇ ಬ್ಲಾಕ್‌ನ ನಿವಾಸಿಗಳ ಕ್ಷೇಮಾಭಿವೃದ್ಧಿ ಸಂಘದವರು ಪ್ಲಾಟ್ ನಂ: 503ರಲ್ಲಿ ಶ್ರೀ ಉಮಾಶಂಕರ್ ಮತ್ತು ರೂಪಕಲಾ ಎಂಬವರು ಕಟ್ಟುತ್ತಿದ್ದ ಕಟ್ಟಡದ ಬಗ್ಗೆ ದೂರನ್ನು ನೀಡಿದ್ದು ಅವರು ವಾಸದ ಉದ್ದೇಶಕ್ಕಾಗಿ ನಕ್ಷೆಯ ಮಂಜೂರಾತಿ ಪಡೆದಿದ್ದು ಹೆರಿಗೆ ಆಸ್ಪತ್ರೆಯನ್ನು ಕಟ್ಟಿಸುತ್ತಿದ್ದಾರೆಂದು ಆಪಾದಿಸಿದ್ದು ಅದರ ಮೇಲೆ ಸ್ಥಳ ತನಿಖೆ ಮಾಡಿ ಪ್ರಾರಂಭಿಕ ಆದೇಶ ಮಾಡಿ ಜಾರಿ ಮಾಡಿರುತ್ತಾರೆಂದು ಈ ಮಧ್ಯೆ 21/03/2004 ರಂದು ಉಮಾಶಂಕರ್ ಮತ್ತು ರೂಪಕಲಾ ಎಂಬವರು ಫಿರ್ಯಾದಿಯು ನಿವೇಶನ ಸಂಖ್ಯೆ: 501 ಮತ್ತು 502ರಲ್ಲಿ ಮನೆಯನ್ನು ನಕ್ಷೆಗೆ ವ್ಯತಿರಿಕ್ತವಾಗಿ ಕಟ್ಟಿರುತ್ತಾರೆಂದು ಆಪಾದಿಸಿದ್ದು ಈ ದೂರು ಮೇಯರ್‌ರವರಿಗೆ ಬಂದಿದ್ದು ಅವರು ಆಯುಕ್ತರವರಿಗೆ ಸ್ಥಳ ತನಿಖೆ ಮಾಡಲು ಸೂಚಿಸಿದ್ದು ಅದರಂತೆ ಸ್ಥಳ ತನಿಖೆ ಮಾಡಿ ಫಿರ್ಯಾದಿಗೆ ನೋಟೀಸ್ ಕಳುಹಿಸಿರುವುದಾಗಿಯೂ ಇದರಿಂದ ಫಿರ್ಯಾದಿಯು ಸುಳ್ಳು ದೂರನ್ನು

ನೀಡಿರುತ್ತಾರೆಂದು ಆಪಾದಿಸಿರುತ್ತಾರೆ. ಈ ವಿವರಣೆಯನ್ನು ಫಿರ್ಯಾದಿಗೆ ಕಳುಹಿಸಿದ್ದು ಅವರು ಪ್ರತ್ಯುತ್ತರ ಕಳುಹಿಸಿರುತ್ತಾರೆ ಅದರಲ್ಲಿ ನಿವೇಶನ ಸಂಖ್ಯೆ: 757/11 ರಲ್ಲಿ ಶ್ರೀಮತಿ ಸರೋಜ ಪ್ರಭಾಕರ್ ಎಂಬುವರು ಹಾಗೂ ನಿವೇಶನ ಸಂಖ್ಯೆ ನಂ.37/6 ರಲ್ಲಿ ಮೆ.ಜಿ.ಆರ್. ಡೆವೆಲಪರ್ಸ್ ರವರು ಮತ್ತು ಜಯನಗರ 3ನೇ ಬ್ಲಾಕ್, 8ನೇ ಮುಖ್ಯ ರಸ್ತೆಯಲ್ಲಿ ಶ್ರೀಮತಿ ಸಾವಿತ್ರಿ ಕೃಷ್ಣನ್ ಮತ್ತು ಪ್ಲಾಟ್ 19/35 12ನೇ ಮುಖ್ಯ ರಸ್ತೆ 4ನೇ ಬ್ಲಾಕ್ ಜಯನಗರ ಇವರುಗಳು ಮಂಜೂರಾತಿ ನಕ್ಷೆಗೆ ವ್ಯತಿರಿಕ್ತವಾಗಿ ಹಾಗೂ ಕರ್ನಾಟಕ ಮುನ್ಸಿಪಲ್ ಕಾಯಿದೆ ಮತ್ತು ನಿಯಮಗಳನ್ನು ಹಾಗೂ ಬೈಲಾಗಳನ್ನು ಉಲ್ಲಂಘಿಸಿ ಕಟ್ಟಡಗಳನ್ನು ಕಟ್ಟಿದ್ದಾಗ್ಯೂ ನೀವುಗಳು ಅವರುಗಳ ವಿರುದ್ಧ ಕ್ರಮವನ್ನು ತೆಗೆದುಕೊಂಡಿರುವುದಿಲ್ಲವೆಂದು ತಿಳಿಸಿರುತ್ತಾರೆ. ಈ ಪ್ರತ್ಯುತ್ತರಕ್ಕೆ 1ನೇ ಆಪಾದಿತ ನೌಕರರು ತಮ್ಮ ಉತ್ತರವನ್ನು ಕಳುಹಿಸಿರುತ್ತಾರೆ.

ನಂತರ ದಿನಾಂಕ: 27/02/2007 ರಂದು ಫಿರ್ಯಾದಿ, 1ನೇ ಆಪಾದಿತ ನೌಕರರು, ಬಿಬಿಎಂಪಿ ಜಂಟಿ ಆಯುಕ್ತರ ಸಮಕ್ಷಮದಲ್ಲಿ ವಿಚಾರಣೆ ಮಾಡಿದಾಗ ಫಿರ್ಯಾದಿಯು ಮಾಡಿರುವ ಆಪಾದನೆಯ ಬಗ್ಗೆ ಮೇಲೆ ಉಲ್ಲೇಖಿಸಿದ 4 ಕಟ್ಟಡಗಳ ಬಗ್ಗೆ ತನಿಖೆ ಮಾಡಿಸುವ ಅವಶ್ಯಕತೆ ಇರುವುದನ್ನು ಪರಿಗಣಿಸಿ ದಿನಾಂಕ: 10/01/2001 ರಂದು ಆದೇಶ ಮಾಡಿ ಶ್ರೀ ಯಶವಂತ್ ಕುಮಾರ್ ಜಂಟಿ ಆಯುಕ್ತರು ಬಿಬಿಎಂಪಿ ದಕ್ಷಿಣ ವಲಯ ಇವರಿಗೆ ಸ್ಥಳ ಪರೀಕ್ಷೆ ಮಾಡಿ ವರದಿ ಮಾಡುವಂತೆ ಆದೇಶಿಸಿರುತ್ತದೆ. ಈ ಆದೇಶವನ್ನು ಫಿರ್ಯಾದಿ ಹಾಗೂ 1ನೇ ಆಪಾದಿತ ನೌಕರರ ಸಮ್ಮುಖದಲ್ಲಿ ಮಾಡಿರುತ್ತದೆ ಅದರಂತೆ ಜಂಟಿ ನಿರ್ದೇಶಕರು ಶ್ರೀಮತಿ ಸರೋಜ ಪ್ರಭಾಕರ್ ರವರಿಗೆ ಸೇರಿದ ಜಯನಗರ 7ನೇ ಬ್ಲಾಕ್ ನ ಕೆ.ಆರ್. ರಸ್ತೆಯ ನಿವೇಶನ ಸಂ: 711/19 ಹಾಗೂ ಮೆ. ಜಿ.ಆರ್. ಡೆವೆಲಪರ್ಸ್ ರವರಿಗೆ ಸೇರಿದ ಯಡಿಯೂರು, ಕನಕಪುರ ಮುಖ್ಯ ರಸ್ತೆಯ ಟಾಟಾ ಸಿಲ್ಕ ಫಾರಂನ 4ನೇ ಎ ಮುಖ್ಯ ರಸ್ತೆಯಲ್ಲಿರುವ ನಿವೇಶನ ಸಂ: 37/6ರಲ್ಲಿರುವ ಮತ್ತು ಜಯನಗರ 3ನೇ ಬ್ಲಾಕ್ 8ನೇ ಮುಖ್ಯ ರಸ್ತೆಯಲ್ಲಿ ಭೀಮಾ ಜ್ಯುವೆಲರ್ಸ್ ನ ಶ್ರೀಮತಿ ಸಾವಿತ್ರಿ ಹಾಗೂ ಶ್ರೀ ಕೆ. ರಾಘವನ್ ರವರಿಗೆ ಸೇರಿದ ನಂ.19/35 12ನೇ ಮುಖ್ಯ ರಸ್ತೆಯಲ್ಲಿರುವ ಈ 4 ಕಟ್ಟಡಗಳನ್ನು ಸ್ಥಳ ತನಿಖೆ ಮಾಡಿ ವರದಿಯನ್ನು ಸಲ್ಲಿಸಿರುತ್ತಾರೆ. ಅವರ ವರದಿಯಲ್ಲಿ ಈ ಎಲ್ಲಾ 4 ಕಟ್ಟಡಗಳ ಮಾಲೀಕರ ವಿರುದ್ಧ ಮುನ್ಸಿಪಲ್ ಸೆಕ್ಷನ್ 321(1) ರಡಿ ದಿನಾಂಕ: 19/05/2007 ರಂದು ಆದೇಶ ಮಾಡಿರುತ್ತಾರೆಂದು ಹಾಗೂ ಈ ಆದೇಶದ ವಿರುದ್ಧ ಕಟ್ಟಡಗಳ ಮಾಲೀಕರು ನ್ಯಾಯಾಲಯದ ಮೊರೆ ಹೋಗಬಹುದೆಂದು ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಹಾಗೂ ಉಚ್ಚ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಕೆವಿಯಟ್ ಅರ್ಜಿಗಳನ್ನು ಸಲ್ಲಿಸಿರುತ್ತಾರೆಂದು ತಿಳಿಸಿರುತ್ತಾರೆ. ಇವರ ವರದಿಯಲ್ಲಿ 4 ಕಟ್ಟಡಗಳ ಕೆಲಸ ಪ್ರಾರಂಭವಾಗಿ ಮುಗಿಯುವ ಹಂತದವರೆಗೆ ಯಾವ ಯಾವ ಅಧಿಕಾರಿಗಳು ಕೆಲಸ ನಿರ್ವಹಿಸುತ್ತಿದ್ದರು ಹಾಗೂ ಕಟ್ಟಡಗಳಲ್ಲಿ ಎಷ್ಟು ಪ್ರಮಾಣದವರೆಗೆ ಮಂಜೂರಾತಿ ನಕ್ಷೆಯ ಹಾಗೂ ನಿಯಮಗಳ

ಉಲ್ಲಂಘನೆಯಾಗಿರುತ್ತದೆಂಬ ಮಾಹಿತಿಯ ಬಗ್ಗೆ ಖಚಿತವಾಗಿ ನಮೂದಿಸದೇ ಇದ್ದುದರಿಂದ ಜಂಟಿ ನಿರ್ದೇಶಕರಿಗೆ ಈ ಮಾಹಿತಿಯನ್ನು ಒದಗಿಸಲು ಕೋರಲಾಗಿದ್ದು ಅದರಂತೆ ಅವರು ಮಾಹಿತಿಯನ್ನು ಒದಗಿಸಿರುತ್ತಾರೆ ಹಾಗೂ ಈ 4 ಕಟ್ಟಡ ಬಗ್ಗೆ ಪ್ರತಿ ಕಟ್ಟಡಗಳ ಪ್ರತಿ ಅಂತಸ್ತಿನಲ್ಲಿ ಕಟ್ಟಿರುವ ಕಟ್ಟಡದ ವಸ್ತು ಸ್ಥಿತಿಯ ಬಗ್ಗೆ ಹಾಗೂ ಕಟ್ಟಲು ನೀಡಿದ್ದ ಅನುಮತಿಯ ಬಗ್ಗೆ ತಿಳಿಸಿರುತ್ತಾರೆ ನಕ್ಷೆಯನ್ನು ಸಹ ಒದಗಿಸಿರುತ್ತಾರೆ. ಇವರ ವರದಿಯನ್ನು ಪರಿಶೀಲಿಸಿದಾಗ ಈ 4 ಕಟ್ಟಡಗಳ ಬಗ್ಗೆ ಫಿರ್ಯಾದಿಯು ಮಾಡಿರುವ ಆಪಾದನೆಗಳಲ್ಲಿ ಸತ್ಯಾಂಶವಿದೆಯೆಂದು ಕಂಡು ಬಂದಿರುತ್ತದೆ.

ಜಂಟಿ ಆಯುಕ್ತರು ಈ ಕಟ್ಟಡಗಳಲ್ಲಿ ವ್ಯತಿರಿಕ್ತವಾಗಿ ಕಟ್ಟಿರುವ ಕಟ್ಟಡದ ವಿವರಗಳನ್ನು ಒದಗಿಸಿದ್ದು ಅವುಗಳು ಈ ಕೆಳಕಂಡಂತೆ ಇರುತ್ತದೆ.

Provisional order passed u/sec. 321(1)of the KMC Act, 1976 upon report of the A.E. and upon spot inspection of the property at site No. 757/11 KR Road, 13<sup>th</sup> Cross road, 7<sup>th</sup> Block West Jayanagar, Bengaluru in Ward No. 58, it is found and I am satisfied that there is deviation with the sanctioned plan in I.P. No. DC(S)/520/2003-04 dated: 01/12/2003 of construction of commercial building and details of which are hereby given below:

**Set back deviation: Basement Floor**

	<b>As per sanctioned plan</b>	<b>As per actual</b>	<b>% of deviation</b>
Front	3.00 m	0.25 m	91.66, 100.00
Rear	2.00m, 1.50 m	1.55m	22.50
Front	3.00 m	1.20m	60.00, 100.00
Rear	1.50 m	1.35m	10.00

**Set back Deviation: Ground Floor**

	<b>As per sanctioned plan</b>	<b>As per actual</b>	<b>% of deviation</b>
Front	3.00m	1.85m	38.33
Rear	2.00m, 1.50m	1.55m	22.50
Front	3.00m	2.80m	6.66
Rear	1.50m	1.35m	10.00



**Set back Deviation: First Floor**

	<b>As per sanctioned plan</b>	<b>As per actual</b>	<b>% of deviation</b>
Front	3.00m	0.25m	91.66
Rear	2.00m, 1.50m	0.80m	60.00,46.66
Front	3.00m	1.20m	60.0
Rear	1.50m	0.45m	70.00

**Set back Deviation: Second Floor**

	<b>As per sanctioned plan</b>	<b>As per actual</b>	<b>% of deviation</b>
Front	3.00m	0.25m	91.66
Rear	2.00m, 1.50m	0.80m	60.00,46.66
Front	3.00m	1.20m	60.00
Rear	1.50m	0.45m	70.00

Details calculations of deviation observed at site No. 37/6 at 4<sup>th</sup> A Main Road Tata Silk Farm, Yediyur, Sanctioned Asst. Director of Town Planning (South) 237/2004-05 dated: 06/08/2004

Site Area=620.55 smtr.

<b>Sl. No.</b>	<b>Description</b>	<b>As per sanctioned plan</b>	<b>As per actual</b>	<b>Difference in Mtr. Actual</b>	<b>Percentage of deviation set back</b>
1	Basement Floor				
	Front	6.00	4.80	1.20	20.00%
	Rear	4.71	1.50	3.21	68.15%
	Front	4.50	1.25+1.85/2	2.95	65.55%
	Rear	4.50	0.95	3.55	78.88%
2.	Ground floor				
	Front	6.00	4.80	1.20	20.00%
	Rear	4.71	1.50	3.21	68.15%
	Front	4.50	1.25+1.85/2	2.95	65.55%

	Rear	4.50	0.95	3.55	78.88%
3.	First Floor				
	Front	5.00	4.80	0.20	4.00%
	Rear	4.71	1.50	3.21	68.15%
	Front	4.50	1.25+1.85/2	2.95	65.55%
	Rear	4.50	0.95	3.55	78.88%
4.	Second Floor				
	Front	5.00	4.80	0.20	4.00%
	Rear	4.71	1.50	3.21	68.15%
	Front	4.50	1.25+1.85/2	2.95	65.55%
	Rear	4.50	0.95	3.55	78.88%
5.	Third Floor				
	Front	5.00	4.80	0.20	4.00%
	Rear	4.71	1.50	3.21	68.15%
	Front	4.50	1.25+1.85/2	2.95	65.55%
	Rear	4.50	0.95	3.55	78.88%
6.	Coverage	33.74%	69.23%		
7	FAR	1.24	3.45		
8	Height of Building	14.20 Mtrs	17.50 Mtrs		

Details calculations of deviation observed at site No.122/C at 8<sup>th</sup> Main Road, III Block, Jayanagar, Sanctioned Asst. Director of Town Planning (South) 176/2004-05 dated: 23/06/2004.

**Site Area= 394.84 smtr**

Sl. No.	Description	As per sanctioned plan	As actual per	Difference in Mtr. Actual	Percentage of deviation set back
1	Basement Floor				
	Front	3.50	2.40	1.10	31.42%

	Rear	3.00	1.50	1.50	50.00%
	Front	3.50	0.70	2.80	80.00%
	Rear	3.00	1.35	1.65	55.00%
2.	Ground Floor				
	Front	3.50	2.40	1.10	31.42%
	Rear	3.00	1.50	1.50	50.00%
	Front	3.50	0.70	2.80	80.00%
	Rear	3.00	1.35	1.65	55.00%
3.	First Floor				
	Front	3.50	2.40	1.10	31.42%
	Rear	3.00	1.50	1.50	50.00%
	Front	3.50	0.70	2.80	80.00%
	Rear	3.00	1.35	1.65	55.00%
4.	Second Floor				
	Front	3.50	2.40	1.10	31.42%
	Rear	3.00	1.50	1.50	50.00%
	Front	3.50	0.70	2.80	80.00%
	Rear	3.00	1.35	1.65	55.00%
5.	Coverage	41.45%	66.84%		
6.	FAR	1.12	2.18		
7.	Height of Building	9.40 Mts.	15.00 Mtrs		

8. Any other violation Observed:

1. Unauthroised mezzanine floor construction
2. Unauthroised construction of III Floor
3. In Basement Floor Map area covered by building

ಮೇಲೆ ವಿವರಿಸಿರುವಂತೆ ಕಟ್ಟಡಗಳನ್ನು ಮುನಿಸಿಪಲ್ ಕಾಯಿದೆ ಹಾಗೂ ಮಂಜೂರಾದ ನಕ್ಷೆಗೆ ವಿರುದ್ಧವಾಗಿ ಕಟ್ಟಿರುತ್ತಾರೆಂದು ತಿಳಿಸಿದ್ದು ಈ 4 ಜನಗಳ ಪೈಕಿ ಕೆ. ರಾಘವನ್ ರವರಿಗೆ ನೋಟೀಸ್ ಕೊಟ್ಟ ನಂತರ ಅವರು ನ್ಯಾಯಾಲಯದಿಂದ ತಡೆಯಾಜ್ಞೆ ಕೊಟ್ಟಿರುತ್ತಾರೆಂದು

ತಿಳಿಸಿರುತ್ತಾರೆ. ಉಳಿದ 3 ಕಟ್ಟಡಗಳ ಬಗ್ಗೆ ಪ್ರತಿವಾದಿಯು ನೀಡಿರುವ ಉತ್ತರವು ಸಮಂಜಸವಾಗಿರುವುದಿಲ್ಲ. ಆದ್ದರಿಂದ, ರಾಫವನ್ ಹೊರತುಪಡಿಸಿ ಮೇಲೆ ಉಲ್ಲೇಖಿಸಿದ ಇತರೆ ಮೂವರು ಮಂಜೂರಾತಿಯಾದ ನಕ್ಷೆಗೆ ವಿರುದ್ಧವಾಗಿ ಹಾಗೂ ಮುನಿಸಿಪಲ್ ಬೈಲಾ ಹಾಗೂ ಜೋನಲ್ ರೆಗ್ಯುಲೇಷನ್ ಉಲ್ಲಂಘನೆ ಮಾಡಿ ಕಟ್ಟಡ ಕಟ್ಟಿದ್ದಾಗ್ಯೂ ಆಪಾದಿತ ನೌಕರರುಗಳು ಸೂಕ್ತ ಕ್ರಮವನ್ನು ತೆಗೆದುಕೊಳ್ಳದೇ ಕರ್ತವ್ಯಲೋಪವೆಸಗಿರುತ್ತಾರೆ.

ಮೇಲ್ಕಂಡ 3 ಕಟ್ಟಡಗಳಲ್ಲಿ ಶ್ರೀಮತಿ ಸರೋಜ ಪ್ರಭಾಕರ್ ರವರು ನಂ: 757/11 ಕೆ.ಆರ್. ರಸ್ತೆ, 13ನೇ ಕ್ರಾಸ್, 7ನೇ ಬ್ಲಾಕ್ ಜಯನಗರದಲ್ಲಿ ಜನವರಿ 2004 ರಲ್ಲಿ ಕಟ್ಟಡ ಕಟ್ಟಲು ಪ್ರಾರಂಭಿಸಿ ಮಾರ್ಚ್ 2006 ರಲ್ಲಿ ಕಟ್ಟಡ ಪೂರ್ಣಗೊಳಿಸಿರುತ್ತಾರೆ. ಅದೇ ರೀತಿ ಜಿ.ಆರ್. ಡೆವೆಲಪರ್ಸ್‌ರವರು ನಂ. 37/6, 4ನೇ ಎ ಮುಖ್ಯ ರಸ್ತೆ ಟಾಟಾ ಸಿಲ್ಕ ಫಾರಂ ಕನಕಪುರ ಮುಖ್ಯ ರಸ್ತೆ, ಎಡೆಯೂರು ಇಲ್ಲಿ ಡಿಸೆಂಬರ್ 2004ರಲ್ಲಿ ಕಟ್ಟಡದ ಕೆಲಸ ಪ್ರಾರಂಭಿಸಿ ಡಿಸೆಂಬರ್ 2005ರಲ್ಲಿ ಪೂರೈಸಿರುತ್ತಾರೆ. ಅದೇ ರೀತಿ ಭೀಮಾ ಜುವೆಲರ್ಸ್ ಶ್ರೀಮತಿ ಸಾವಿತ್ರಿ ಕೃಷ್ಣನ್ ರವರು ಜಯನಗರದ 3ನೇ ಬ್ಲಾಕ್, 8ನೇ ಮುಖ್ಯ ರಸ್ತೆಯಲ್ಲಿ ಕಟ್ಟಡದ ಕೆಲಸವನ್ನು ಆಗಸ್ಟ್ 2004ರಲ್ಲಿ ಪ್ರಾರಂಭಿಸಿ ಅಕ್ಟೋಬರ್ 2005ರಲ್ಲಿ ಮುಕ್ತಾಯಗೊಳಿಸಿರುತ್ತಾರೆ. 1ನೇ ಆಪಾದಿತ ನೌಕರರ ಹೇಳಿಕೆಯಂತೆ 27/12/2003 ರಿಂದ 12/12/2005ರವರೆಗೆ ಸಹಾಯಕ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರಾಗಿ ಕಾರ್ಯನಿರ್ವಹಿಸಿರುತ್ತಾರೆ. ಅದೇ ರೀತಿ ಉಳಿದ ಆಪಾದಿತ ನೌಕರರುಗಳು ಜನವರಿ 2004 ರಿಂದ ಡಿಸೆಂಬರ್ 2005 ರವರೆಗೆ ಸಹಾಯಕ ಅಭಿಯಂತರರಾಗಿ ಕೆಲಸ ನಿರ್ವಹಿಸಿದ್ದು, ಮೇಲೆ ಹೇಳಿದ 3 ಕಟ್ಟಡಗಳ ಕಟ್ಟುವ ಅವಧಿಯಲ್ಲಿ ಕಾರ್ಯವನ್ನು ನಿರ್ವಹಿಸಿದ್ದು ಅವರುಗಳ ವಿರುದ್ಧ ಕ್ರಮ ತೆಗೆದುಕೊಳ್ಳುವಲ್ಲಿ ನಿರ್ಲಕ್ಷ್ಯ ತೋರಿಸಿರುತ್ತಾರೆ.

ಆದ್ದರಿಂದ ಮೇಲ್ನೋಟಕ್ಕೆ ಆಪಾದಿತ ನೌಕರರುಗಳು ಕರ್ತವ್ಯ ಲೋಪ ಮಾಡಿರುತ್ತಾರೆಂದು ಕಂಡು ಬಂದಿರುತ್ತದೆ. ಆದ್ದರಿಂದ ಅವರ ವಿರುದ್ಧ ಕ್ರಮ ತೆಗೆದುಕೊಳ್ಳಲು ಸರ್ಕಾರಕ್ಕೆ ವರದಿ ಕಳುಹಿಸಿದ್ದು, ಆ ವರದಿಯ ಆಧಾರದ ಮೇಲೆ ಆಪಾದಿತ ನೌಕರರ ವಿರುದ್ಧ ಸರ್ಕಾರವು ಆದೇಶ ಮಾಡಿ ಇಲಾಖಾ ವಿಚಾರಣೆ ನಡೆಸಿ ವರದಿ ಸಲ್ಲಿಸಲು ಮಾನ್ಯ ಲೋಕಾಯುಕ್ತರವರಿಗೆ ವಹಿಸಿರುತ್ತದೆ.

ಆದ್ದರಿಂದ ಈ ದೋಷಾರೋಪಣೆ ವಿವರ:

5. DGOs appeared before this Inquiry Authority on 25/06/2008 and on the same day their First Oral Statement was recorded u/Rule 11(9) of KCS (CC&A) Rules, 1957. The DGOs pleaded not guilty and claimed for an inquiry.

6. DGO No.1 has filed his written statement denying the charges framed against him. He has contended that he has not committed any misconduct as alleged in the charge memo. Hence, he has prayed to exonerate him from the charges leveled against him in this case.

7. DGO No.2 has filed his written statement as follows:

The DGO No.2 denied the charge framed against him. DGO No.2 has worked as Assistant Engineer, BBMP, Bengaluru, during the year 2002-2004 in Ward No. 59. The DGO No.2 is not responsible along with the other DGOs for not taking action against the owners, who have constructed the buildings by violating the rules bye-laws and zonal regulations as recorded in the charge. He was in charge of Ward No. 59 from 17/10/2002 to 09/09/2004. The construction of building belonging to Smt. Savithri Krishnan, Bheema Jewellers, 8<sup>th</sup> Main, 3<sup>rd</sup> Block, Jayanagar, Bengaluru, was commenced during the month of August 2004 as reported by Joint Commissioner (South) BBMP, Bengaluru as per the letter dated: 02/11/2007. At the time of leaving the office (Ward No.59) the construction of the said building was in initial stages i.e., only earth work excavation for basement was in progress. After he left the said office due to transfer, for the violations observed in respect of the above said building, he is not responsible. There is no lapse on the part of the DGO No.2 in taking action. Hence, he has prayed to exonerate him from the charges leveled against him in this case.

8. DGO No.3 has filed his written statement as follows:

He denies the articles of charge and the statement of imputations. The copy of the complaint given by the complainant was not forwarded to the DGO No.3 and no opportunity was given to him to give his explanation. Hence, there is violation of Section 9 of the Karnataka Lokayukta Act. The DGO No.3 took charge of Ward No. 59 on 09/09/2004 and he worked in that ward up to 29/10/2007. The owners of the two building under reference in Ward No. 59 have neither approached the Ward office for commencement certificate nor given the completion report. There was no complaint also made to DGO No.3 by any one about the construction by those two owners in violation of sanctioned plan and the building rules. The DGO No.3 has learnt that the competent officer had issued a preliminary order to the owner of the building of NO. 37/6 and consequent upon such order the owner had also demolished the illegal construction. DGO No.3 had no particular knowledge of the illegal construction. He has no power or authority to take action u/sec. 321 of KMC Act. The construction put up in violation of sanctioned plan and building bye-laws came to the notice of DGO No.3 only when the Joint Commissioner of the corporation gave his report in the year 2007. DGO No.3 has not committed any misconduct. Hence, he has prayed to exonerate him from the charges leveled against him in this case.

9. DGO No.4 has filed his written statement as follows:-

DGO No.4 worked as A.E., BBMP, Bengaluru from the year January 2004 to December 2005 in Ward No.60. DGO No.3 is not responsible along with the other DGOs for the

building works said to have been constructed violating the rules in Ward Nos. 58 and 59. DGO No.4 and A.E.E., have jointly issued notice dated: 28/01/2004 to Sri K. Raghavan, House No. 19/35, 12<sup>th</sup> main, Jayanagar 4<sup>th</sup> Block for conducting the building by violating the rules and bye-laws as it was coming under the jurisdiction of Ward NO. 60. The above said owner Sri K. Raghavan approached the KAT and obtained the stay order. Hence, absolutely there is no laps on the part of this DGOs in taking action against the owner who violated the rules. Hence, he has prayed to exonerate him from the charges leveled against him in this case.

10. DGO No.5 has filed his written statement as follows:-

The copy of the complaint of the complainant was not forwarded to this DGO and no opportunity was given to him to give his explanation and there is violation of Sc. 9(3) of the Karnataka Lokayukta Act. This DGO took charge of Ward No. 58 on 19/08/2004 and he worked in that ward only up to 29/12/2004. This DGO did not find any record in the ward that the owner of No. 757/11 had obtained any commencement certificate. This DGO was not aware of the construction in progress on the said property. No completion certificate was also given to the owner of the building in the above said property. There is no complaint that the construction on the above said property was in violation of bye-laws or the sanctioned plan. This DGO is not competent to take action u/sec. 351 of KMC act. This DGO worked in Ward No. 60 from 18/05/2005 to 25/01/2006 during that period there was no occasion for him to inspect site NO. 19/35 as

there was no complaint. Hence, he has prayed to exonerate him from the charges leveled against him in this case.

11. In order to substantiate the charge leveled against the DGOs, the Disciplinary Authority examined three witnesses as PW1 to PW3 and got marked documents at Ex.P1 to P38. After closing the evidence of the Disciplinary Authority, the Second Oral Statement of DGO Nos.1 to 4 was recorded as required u/Rule 11(16) of KCS (CC & A) Rules, 1957. After closing the evidence of the Disciplinary Authority, DGO No.1 examined as DW1 and got marked documents at Ex.D1 to D8 and closed his evidence. Thereafter, questioning of DGO Nos.2 to 4 was recorded as required u/Rule 11(18) of KCS (CC&A) Rules, 1957.

12. The Disciplinary Authority has not filed the written brief, but on the side of the DGO Nos.1 to 4 written brief has been filed. Oral arguments of the Presenting Officer and the learned counsel for the DGO Nos.1 to 4 was heard. The points, that arise for the consideration of this inquiry authority are:-

Point NO.1:- Whether the Disciplinary Authority satisfactorily proved the charge framed against DGOs?

Point NO.2:- What order?

13. My finding on the above points are as follows:-

Point No.1: In the “**AFFIRMATIVE**” in respect of DGO Nos. 1,3,5 and “**NEGATIVE**” in respect of DGO Nos.2 and 4.

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



**:: REASONS ::**

**14. Point No.1:-** It is the case of the Disciplinary Authority that the DGO No.1 was working as A.E., DGO Nos. 2 and 3 were working as A.E., in Ward No. 59 and DGO Nos.4 and 5 were working as A.E., in ward No. 60, from January 2004 to December 2005 and during that period in site No. 757/11 Smt. Sarojaa Prabhakar, in site NO. 37/6 M/s. G.R. Developers and in 8<sup>th</sup> main road, Jayanagar 3<sup>rd</sup> Block, Smt. Savithri Krishnan constructed the buildings contrary to the approved plans and also against the bye-laws and municipal rules and regulations and even then, DGO Nos.1 to 5 did not take any action in that respect and thereby committed misconduct. Thus it is the case of the Disciplinary Authority that in respect of the above said three constructions even though the constructions were contrary to the approved plan and the set-back bye-laws the DGO Nos.1 to 5 did not take any action and allowed the constructions to be completed and thereby there was dereliction of duty which amounts to misconduct.

15. The complainant has been examined as PW1 and Form No.1 and 2 are at Ex.P1 and P2 and the complaint is at Ex.p3. In Ex.P3 it is stated that the neighbour of the complainant started construction of Nursing Home in site No. 503, adjacent to the house of the complainant and that construction is contrary to the sanctioned plan, bye-laws and zonal regulations and the construction of 2<sup>nd</sup> and 3<sup>rd</sup> floor is unauthorised and in that respect the complainant gave the complaint to the Commissioner and the provisional order and the confirmation order were passed, instead of proceeding

further the DGO No.1 issued notice to the complainant alleging that the construction of PW1 is contrary to the plan and bye-laws even though the complainant occupied his house long back. A.E.E., that is DGO No.1 does not take action against the owners who paid him bribe even though their constructions are contrary to the law and the approved plan and he is issuing the notice on selective basis.

16. PW1 has deposed that he is residing in House no. 501 situated in 8<sup>th</sup> Cross, 7<sup>th</sup> Block, Jayanagar and house Nos. 501, 502 belongs to him. He has deposed that in site No. 503 its owner started construction contrary to the building bye-laws and in that connection he had given the complaint to the Commissioner as DGO No.1 did not take any action. He has deposed that after his complaint to the Commissioner, the provisional order and confirmation order were passed in respect of site No. 503 and the owner of the same approached KAT and obtained the status quo order. He has deposed that afterwards status quo order was modified and permission was given to put up windows and doors. He has deposed that the DGO No.1 approached him and asked him to compromise with the owner of site No. 503, for which he did not agree. He has deposed that he approached the Commissioner and the Commissioner directed not to take any further steps regarding the construction (house) put by him. Ex.P4 is the office note of DGO No.1. In Ex.P4 it is stated that provisional order was also made in respect of the construction of the complainant and the commissioner has instructed to maintain status quo in respect of the construction of the complainant. PW1 has deposed that even the confirmation order has been passed

against him by DGO No.1 by wrongly mentioning the extent of deviation and in that respect he has produced Ex.P6. Ex.P6 is the letter of the A.E.E., dated; 28/10/2006 addressed to PW1 wherein it is stated that in the provisional order passed against the complainant u/sec. 321(1)(2) of the K.M.C., Act dated: 27/04/2004 the percentage of the deviation has been wrongly mentioned as 88% instead of 11.56% in respect of ground floor right side portion.

17. PW1 has further deposed that there are number of constructions which have been put up violating the bye-laws and sanctioned plan and the DGO No.1 instead of taking action against them has issued the provisional order and confirmation order against him as he complained against the construction of his neighbour in site No. 503.

18. The records discloses that the complainant gave the details of four properties which comes within the jurisdiction of DGO Nos.1 to 5 in which the constructions have been made contrary to the sanctioned plan and the building bye-laws regarding set-back etc. and the Hon'ble Lokayukta passed the order directing the Joint Commissioner, BBMP (South) zone to inspect those four building and to give the report. The Joint Commissioner has entrusted the said work to the concerned A.E.E., and after inspection A.E.E., has given his report along with the sketches to the Joint Commissioner. The report given by the Joint Commissioner (South) is at Ex.P18. In the same it is stated that all the four constructions are contrary to the sanctioned plan, set-back bye-laws and regulations. After receiving the reports from the DGOs the charge against the DGOs is in respect of the three buildings

only out of the said four building and there is no charge in respect of one of the construction namely the construction by Sri K. Raghavan in NO. 19/35, 12<sup>th</sup> Main, 4<sup>th</sup> Block, Jayanagar, on the ground that provisional order and confirmation order have been passed against him for putting up the construction in violation of the sanctioned plan and that he has approached the KAT and obtained the stay. The charge against the DGOs is in respect of the following three constructions. The construction made by 1) Smt. Saroja Prabhakar in House No. 753/11, K.R. road, 13<sup>th</sup> cross, 7<sup>th</sup> Block Jayanagar West, 2) G.R. Developers, No. 37/6, 4<sup>th</sup> 'A' Main, 3) Tata Silk Farm, Kanakapura mina road, Yadiyuru, three construction of Smt. Savithri Krishnana, Bheema Jewelers, 8<sup>th</sup> main, 3<sup>rd</sup> block, Jayanagar. Hence, the evidence adduced has to be confined to the above said three building only.

19. PW2 is the Joint Commissioner and he has deposed that he was directed to appear before the Hon'ble Lokayukta on 10/05/2007 and the notice in that respect is at Ex.P16. He has deposed that he was directed to give his report in respect of the constructions made in Jayanagar Sub-Division (four constructions) and to take action in case those constructions are contrary to the approved plan and the bye-laws of the corporation. He has deposed that he instructed the concerned A.E.E., to inspect the four buildings and to take action as per the KMC Act in case there is violation and also to give report. He has deposed that the copy of the directions given by him to A.E.E., Sri Rajagopal is at Ex.P17. He has deposed that the A.E.E., Sri Rajagopal inspected the four

buildings and has given the report that the constructions have been made contrary to the sanctioned plan and building bye-laws and that notices have been given to the owners of all the four building in that respect as per the KMC Act and his report is at Ex.P18.

20. PW3-Sri K.N. Rajgopal, and he has deposed that from 25/10/2006 to 29/10/2007 he was working as A.E.E., Jayanagar Sub-Division BBMP, Bengaluru and at that time PW2 was working as the Joint Commissioner. He has deposed that in the year 2007, PW2 send note to him as per Ex.P17. He has deposed that as per Ex.P17 he was directed to inspect the four buildings mentioned in the same and to ascertain whether they have been constructed by violating the building bye-law or not and if constructed violating the approved plan and building bye-law to proceeded u/sec. 321 of KMC Act. He has deposed that he inspected the four buildings to ascertain whether they have been constructed contrary to the approved plans or not. He has deposed that all the four buildings are constructed contrary to the approved plans.

21. PW3 has deposed that the copy of the approved plan in respect of Smt. Saroja Prabhakar bearing site NO. 757/11 is at Ex.P19. He has deposed that the building has been constructed contrary to the approved plan-Ex.P19. He has deposed that the said building consists of basement, ground-floor, 1<sup>st</sup> and 2<sup>nd</sup> floor and he has prepared four sketches and they are at Ex.P19 (a) to (d) and in the same the red line indicates the building to be constructed as per the plan and the actual construction is shown in blue lines. He has deposed that he has also passed order u/sec.321(1) of

KMC Act on 19/05/2007 and served the same on Smt. Saroja Prabhakar and the copy of the same is at Ex.P20.

22. PW3 has deposed that the approved plan in respect of the G.R. Developers bearing No. 37/6 is at Ex.P21. He has deposed that the said building consists of basement, (slit) ground, 1<sup>st</sup>, 2<sup>nd</sup> floor and 3<sup>rd</sup> floor and he has prepared five sketches and they are at Ex.P21(a) to(e). He has deposed that in Ex.P21(a) to (e) he has shown the construction to be made according to the approved plan in green lines and the construction made is shown in red lines. He has deposed that the deviation is listed in Ex.P21(f). He has deposed that he has passed the order u/sec. 321(1) of the Act dated: 19/05/2007 and sent the same through registered post to the owner and the copy of the same is at Ex.P22.

23. PW3 has deposed that the approved plan in respect of the building of Smt. Savithri Krishnan situated in 8<sup>th</sup> main road, Jayanagar, 3<sup>rd</sup> Block is at Ex.P23. He has deposed that the construction has been made contrary to the approved plan. He has deposed that the said building consists of basement, ground, 1<sup>st</sup> and 2<sup>nd</sup> floor and hence, he has prepared four sketches as per Ex.P23 (a) to (d). He has deposed that in Ex.P23(a) to (d) he has shown the construction as per the plan in green lines and the actual construction is shown in the red lines and the deviation is listed in Ex.P23(e). He has deposed that the 3<sup>rd</sup> floor had been constructed without any licence and he has deposed as follows;-

“ಮೊದಲನೇ ಮಹಡಿಯ ಮಧ್ಯದಲ್ಲಿ Mezzanine Floor ಕಟ್ಟಿದ್ದು, ಬೇಸ್‌ಮೆಂಟ್ ಪ್ಲೋರ್‌ನಲ್ಲಿ ರ್ಯಾಂಪ್ ಭಾಗವನ್ನು ಬಿಡದೇ ಕಟ್ಟಡ ಕಟ್ಟಿದ್ದು, ಆ ಬಗ್ಗೆ ನಿಶಾನೆ ಪಿ-23(ಇ)ನ 8ನೇ ಅಂಕಣದಲ್ಲಿ ನಮೂದು ಮಾಡಿದ್ದೇನೆ”.

He has deposed that he has passed the order u/sec. 321(1) of the Act dated: 19/05/2007 and sent the same to the owner through post and the copy of the same is at Ex.P24 and Ex.P24(a) is the postal acknowledgment.

24. The evidence of PW3 and his sketches regarding deviation made while putting up constructions clearly shows that all the above said three buildings have been constructed contrary to the approved plan and the set-back regulations.

25. PW3 has deposed about the deviations made by Sri K. Raghavan while putting up construction in No. 19/35, 12<sup>th</sup> main road, 4<sup>th</sup> Block, Jayanagar. But there is no charge in respect of that building and hence I feel it is not necessary to consider the evidence and documents deposed by PW3 in that respect.

26. As stated above Ex.P18 is the report given by PW3 in respect of the above said four constructions. The provisional orders in respect of the above said three buildings clearly shows the extent of the deviation made by the owners while putting up construction and it is as follows:-

27. In respect of the building of Sri Saroja Prabhakar at Ward No.58, site No. 757/11 K.R. road, is as follows:-

**Set back deviation: Basement Floor**

	<b>As per sanctioned plan</b>	<b>As per actual</b>	<b>% of deviation</b>
Front	3.00 m	0.25 m	91.66, 100.00
Rear	2.00m, 1.50 m	1.55m	22.50
Front	3.00 m	1.20m	60.00, 100.00
Rear	1.50 m	1.35m	10.00

**Set back Deviation: Ground Floor**

	<b>As per sanctioned plan</b>	<b>As per actual</b>	<b>% of deviation</b>
Front	3.00m	1.85m	38.33
Rear	2.00m, 1.50m	1.55m	22.50
Front	3.00m	2.80m	6.66
Rear	1.50m	1.35m	10.00

**Set back Deviation: First Floor**

	<b>As per sanctioned plan</b>	<b>As per actual</b>	<b>% of deviation</b>
Front	3.00m	0.25m	91.66
Rear	2.00m, 1.50m	0.80m	60.00,46.66
Front	3.00m	1.20m	60.0
Rear	1.50m	0.45m	70.00

**Set back Deviation: Second Floor**

	<b>As per sanctioned plan</b>	<b>As per actual</b>	<b>% of deviation</b>
Front	3.00m	0.25m	91.66
Rear	2.00m, 1.50m	0.80m	60.00,46.66
Front	3.00m	1.20m	60.00
Rear	1.50m	0.45m	70.00

28. The deviation observed in Site No. 37/6, 4<sup>th</sup> main road, Tata Silk Form, Yadiyur (R.G. Developers) is as follows:-

Site Area=620.55 smtr.



Sl. No.	Description	As per sanctioned plan	As per actual	Difference in Mtr. Actual	Percentage of deviation set back
1	Basement Floor				
	Front	6.00	4.80	1.20	20.00%
	Rear	4.71	1.50	3.21	68.15%
	Front	4.50	$1.25+1.85/2$	2.95	65.55%
	Rear	4.50	0.95	3.55	78.88%
2.	Ground floor				
	Front	6.00	4.80	1.20	20.00%
	Rear	4.71	1.50	3.21	68.15%
	Front	4.50	$1.25+1.85/2$	2.95	65.55%
	Rear	4.50	0.95	3.55	78.88%
3.	First Floor				
	Front	5.00	4.80	0.20	4.00%
	Rear	4.71	1.50	3.21	68.15%
	Front	4.50	$1.25+1.85/2$	2.95	65.55%
	Rear	4.50	0.95	3.55	78.88%
4.	Second Floor				
	Front	5.00	4.80	0.20	4.00%
	Rear	4.71	1.50	3.21	68.15%
	Front	4.50	$1.25+1.85/2$	2.95	65.55%
	Rear	4.50	0.95	3.55	78.88%
5.	Third Floor				
	Front	5.00	4.80	0.20	4.00%
	Rear	4.71	1.50	3.21	68.15%
	Front	4.50	$1.25+1.85/2$	2.95	65.55%
	Rear	4.50	0.95	3.55	78.88%
6.	Coverage	33.74%	69.23%		
7	FAR	1.24	3.45		

8	Height of Building	14.20 Mtrs	17.50 Mtrs		
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29. The calculations of deviation observed at Site NO. 122/C, 8<sup>th</sup> Main, 3<sup>rd</sup> Block, Jayanagar, belonging to Smt. Savithri Krishnana (Bheema Jewellers) is as follows:-

**Site Area= 394.84 smtr**

Sl. No.	Description	As per sanctioned plan	As actual per	Difference in Mtr. Actual	Percentage of deviation set back
1	Basement Floor				
	Front	3.50	2.40	1.10	31.42%
	Rear	3.00	1.50	1.50	50.00%
	Front	3.50	0.70	2.80	80.00%
	Rear	3.00	1.35	1.65	55.00%
2.	Ground Floor				
	Front	3.50	2.40	1.10	31.42%
	Rear	3.00	1.50	1.50	50.00%
	Front	3.50	0.70	2.80	80.00%
	Rear	3.00	1.35	1.65	55.00%
3.	First Floor				
	Front	3.50	2.40	1.10	31.42%
	Rear	3.00	1.50	1.50	50.00%
	Front	3.50	0.70	2.80	80.00%
	Rear	3.00	1.35	1.65	55.00%
4.	Second Floor				
	Front	3.50	2.40	1.10	31.42%
	Rear	3.00	1.50	1.50	50.00%
	Front	3.50	0.70	2.80	80.00%
	Rear	3.00	1.35	1.65	55.00%
5.	Coverage	41.45%	66.84%		

6.	FAR	1.12	2.18		
7.	Height of Building	9.40 Mts.	15.00 Mtrs		

8. Any other violation Observed:

1. Unauthroised mezzanine floor construction
2. Unauthroised construction of III Floor
3. In Basement Floor Map area covered by building

30. Thus PW3 has given his evidence to the effect that all the above said three buildings have ~~not~~ been constructed contrary to the approved plans and the set-back regulations.

31. DGO No.1 has been examined as DW1 and he has deposed that he did not receive any complaints regarding the constructions made by Smt. Savithri Krishnana and Smt.Saroja Prabhakar, and he did not take any action against them under KMC Act. He has deposed that in respect of the construction of R.G.R Developers, he received the oral complaint when the construction was at the stage of foundation and he inspected the construction and ascertained that the construction was contrary to the approved plan and hence he passed the provisional order as per the Sec. 321 of Act and the copy of the same is at Ex.P14. He has deposed that after the provisional order the owner of the said building removed the construction which was put up contrary to the approved plan and hence he did not take any action in respect of the above said building. Ex.P14 is an admitted document and it is the case of the Disciplinary Authority that inspite of Ex.P14 there was no demolition of the unauthorised construction and DGO NO.1 has given the false information to

the effect that the unauthorised construction was removed after the provisional order stated above.

32. Ex.P14 also consists of the details of calculations of deviation observed at site and it is as follows:-

Sl. No	Description	As per sanctioned plan	As per actual	Difference	% age of Deviation	Area Deviated in Sq.mtr.
1	<b>Stilt Floor:</b>					
	Front 15.30x0.71	6.00	5.29	0.71	11.83%	10.86
	Rear 15.65x3.21	4.71	1.50	3.21	68.15%	50.23
	Front 3.20x15.88	4.50	1.30	3.20	71.11%	50.81
	Rear 3.50x9.80=34.30 3.50x3.64=12.74 4.10x7.01=28.74	6.0,6.26 &n 4.50	1.00 2.16	4.00	71.68%	75.78

33. As stated above, Ex.P21(f) is the details of the calculation of deviation observed in respect of the building of G.R. Developers in respect of basement floor and deviation mentioned in Ex.P21(f) regarding basement floor is as follows:-

Sl. No	Description	As per sanctioned plan	As per actual	Difference	% age of Deviation in Set back	Remarks
1	<b>Basement Floor:</b>					
	Front	6.00	4.80	1.20	20.00%	
	Rear	4.71	1.50	3.21	68.15%	
	Front	4.50	(1.25+1.85) /2	2.95	65.55%	
	Rear	4.50	0.95	3.55	78.88%	

34. The deviation shown in respect of basement floor in Ex.P21(f) when compared with Ex.P14 clearly shows that there was no demolition of deviation as per the order Ex.P14 and on the contrary the deviation has increased in respect of front

side. Hence, it has to be said that, there was no demolition of construction <sup>ich</sup> when was put up by G.R. Developers even after the order Ex.P14 and the contention of the DGO No.1 that the construction that was put up contrary to the plan was removed cannot be accepted. Hence, it has to be said that the DGO No.1 has not taken any action even after Ex.P14 to remove the construction put up contrary to the sanctioned plan and allowed the further construction above the basement/stilt floor also.

35. DW1 has deposed that the owners of the above said three buildings had not obtained commencement certificates and in that respect he has produced Ex.D4. Ex.D4 is the copy of the building bye-laws 2003 and Rules 5.2 deals with commencement of work. According to the same, the construction of the building shall be commenced within the period of two years from the date of issue of licence and before expiry of two years the owner shall given intimation to the authority of the intention to start work in the prescribed form. The non-obtaining of the commencement certificate does not give any authority to put up construction contrary to the approved plan and the DGO No.1 being the A.E.E., was entitled to take action against any building put up contrary to the approved plan and building bye-laws even though the commencement certificate is not obtained. DGO No.1 cannot escape his responsibility by contending that the owners of the above said three buildings had not obtained the commencement certificates. Ex.P7 to P11 are the photographs of the buildings. Ex.P10 is the photograph of the building of Savithri Krishnanan (Bheema jewelers) and it shows that the

said building is by the side of the main road itself and it cannot be said that the DGO No.1 was not able to observe that construction while he was working as A.E.E., of Jayanagar Sub-Division. Ex.P11 is the building constructed by Smt. Saroja Prabhakar and Ex.P11 also shows that the said building is by the side of the busy road and it cannot be said that the construction has been put up by its owner without the knowledge of DGO No.1 or the other DGOs. All the above said three buildings are having more than 3 floors and it is hard to believe that without the knowledge or notice of the DGOs, the said constructions have been put up. Hence, the contention of the DGOs that there was no complaint in respect of the buildings of Smt. Saroja Prabhakar and Smt. Savithri Krishnanan, the action was not taken for the deviations cannot be accepted.

36. Ex.D2 is the copy of the letter written by Joint Commissioner (South) to ARE-1 dated: 02/11/2007 in which the details regarding the commencement of the above said four buildings and the completion of the same has been given which is not disputed by the DGOs. According to the same the construction by Sri Saroja Prabhakar in site NO. 757/11 commenced in January 2004 and completed in March 2005, the construction of G.R. Developpers started in December 2004 and completed in December 2005, the construction by Sri Savithri Krishnana (Bheema jewelers) started in August 2004 and completed in October 2005, as there is no charge regarding the construction of Sri K. Raghavan, there is no necessity to mentioned about the same.

37. It is not in dispute that DGO No.1 worked as A.E.E., Jayanagar Sub-Division from 22/12/003 to 24/12/2005. Hence, it can be said that all the three buildings stated above have been constructed during his period and he has not taken any steps to stop the construction of the above said three buildings even though the constructions were contrary to the approved plans and set-back bye-laws. <sup>AS</sup> ~~SA~~ ✓  
already stated above, the DGO No.1 had passed the provisional order in respect of the construction of ~~R.G.R~~ ✓  
Developers. But he has not taken any action to demolish the construction put up contrary to the approved plan and allowed the construction to be completed up to third floor. DGO No.1 has contended that, it is the duty of the A.E.'s to observe the construction that are made contrary to the sanctioned plan. It is pertinent to note that DGO No.1 is the higher officer of the A.E.'s and he cannot escape his responsibility by saying that A.E.'s should have noticed the construction put up contrary to the approved plans.

38. DGO No.2 has worked as A.E., Ward No. 59, from 17/10/2002 to 09/09/2004. In his questioning, he admits that the construction of Smt. Savithri Krishnanan was in his ward. But it was at the initial stage (earth work) and in view of his transfer on 09/09/2004 he was not able to take action against the construction of Smt. Savithri Krishnana (Bheema jewelers). As per Ex.D2 Smt. Savithri Krishnana has started putting up construction in August 2004 and DGO No.2 has been transferred on 09/09/2004. Hence, it can be said that within about one month of the commencement of the above said construction the DGO No.2 has been transferred and

hence I feel his contention to the effect that the construction of Smt. Savithri Krishnana was in the initial stage (earth work only) and hence he was not able to take action against the deviation can be accepted. Even in his written statement DGO No.2 has contended that he worked as A.E., in Ward No. 59 from 17/10/2002 to 09/09/2004 only and when he was transferred when the earth excavation for basement was in progress regarding the construction of Smt. Savithri Krishnan.

39. DGO NO.3 has worked as A.E. of Ward No. 59 from 09/09/2004 to 29/10/2007. He has contended that there was no complaint regarding the construction of Smt. Savithri Krishnan. But as stated above on that ground only DGO No.3 cannot be escape his responsibility. As stated above. Smt. Savithri Krishnan had put up the construction from August 2004 to October 2005 during which period DGO No.3 was the concerned A.E., and he has not taken any steps to prevent the construction that has been put up contrary to the approved plan and set-back rules. In his written statement DGO No.3 has contended that in respect of the building of G.R. Developers provisional order was made and deviated portion was demolished. But as stated above, there is no evidence to show that the deviated portion were demolished and construction of the building of G.R. Developers has taken place between December 2004 to December 2005. Hence, it has to be said that DGO NO.3 has committed dereliction of duty in not stopping the construction put up contrary to the approved plans and building bye-laws.

40. DGO No.4 is Sri M.G. Nagaraj, and he has worked as A.E., from January 2004 to December 2005 in Ward No.



60. In his written statement he has contended that out of the four building only the building of Sri K. Raghavan comes in Ward No. 60 and regarding the construction of Sri K. Raghavan the provisional order and confirmation order have been made as stated above and there is no charge in respect of the building of Sri K. Raghavan. In his questioning also he has contended that only the above said building of Sri K. Raghavan comes within Ward No. 60. In view of there being no charge in respect of the building of Sri K. Raghavan it has to be said that there was no dereliction of duty on the part of the DGO No. 4.

41. DGO No.5 is Sri A.R. Narayan he has worked as A.E., in Ward No. 58 from 19/08/2004 up to 29/12/2004 and in Ward No. 60 from 08/05/2005 to 25/01/2006 and as stated above, the construction of Sri Saroja Prabhakar in site No. 757/11 K.R. road, comes in Ward No. 58 and the said building has been constructed between January 2004 to March 2005. Hence, it has to be said that DGO No.5 was the A.E., of ward No. 58 from 19/08/2004 to 29/12/2004 during which period also the above said construction has been made. It is his contention that there was no complaint regarding the above said construction. But on that ground it cannot be held that there is no dereliction of duty on the part of DGO No. 5. DGO No.5 has not taken any action to stop the above said construction put up contrary to the approved plan and the set-back byelaws.

42. Thus for the reasons stated above, the DGO Nos.1,3 and 5 have committed misconduct by allowing the above said three constructions to be put up contrary to the

approved plans and the set-back bye-laws. They have contended that the owners of the above said buildings have not obtained the completion certificate and that cannot be a ground for not stopping the construction put up contrary to the approved plan and building bye-laws.

43. Ex.D6 is the provisional order in respect of the construction of the complainant. There is no charge regarding the construction of the complainant or the construction of his neighbour. The charge is only regarding the above said three buildings and the documents regarding the above said three buildings only has to be considered and not the documents produced pertaining to the constructions of the complainant his neighbour or Sri. K. Raghavan.

44. It is the duty of the concerned Assistant Engineer and the Assistant executive Engineer to monitor the constructions that are put up in their jurisdiction and to see that the constructions are put up as per approved plans and set back bye-laws and if not the action has to be taken as per KMC Act. In this case DGO Nos. 1,3 and 5 have allowed the above said three buildings to be constructed contrary to approved plans and building bye-laws and thereby committed misconduct.

45. In the evidence of PW3 the objection has been taken to mark Ex.P19 and P21 (xerox copies of approved plans). It is not the case of the DGOs that, Ex.P19 and P21 are not the xerox copies of the approved plans of Smt. Saroja Prabhakar and G.R. Developers respectively. This is a departmental inquiry only and when there is no documents to

show that Ex.P19 and P21 are not the xerox copies of the approved plans of Smt Saroja Prabhakar and G.R. Developers, Ex.P19 and P21 have to be relied upon as the copies of the approved plans of Smt.Saroja Prabhakar and G.R. Developers.

46. DGO Nos. 3 and 5 in their written statement have contended that they were not competent to take action under KMC Act and hence they are not responsible for the constructions put up contrary to the approved plans and building bye-laws. It is pertinent to note that it is not the case of the DGO Nos.3 and 5 that, they had brought to the notice of the A.E.E., (DGO No.1) the above said three constructions being put up contrary to the approved plans and building bye-laws. Hence, their above said contention cannot be accepted.

47. DGO Nos.3 and 5 in their written statement have contended that the copy of the complaint was not forwarded to them and there is violation of sec. 9 of the Karnataka Lokayukta Act. If there was violation of Sec. 9 of the above said Act the DGO Nos.3 and 5 would have challenged report u/sec. 12 (3) of the K.L. Act of the Hon'ble Lokayukta before the proper forum and I feel DGO Nos. 3 and 5 cannot take up the above said contention at this stage.

48. Hence, for the reasons stated above it has to be said that the disciplinary authority has proved its case in respect of the charge against DGO Nos.1, 3 and 5, but failed to prove its case in respect of the charge against DGO Nos.2 and 4. Hence, I answer point No.1 in the affirmative in respect of DGO Nos.

1, 3 and 5 and in the negative in respect of DGO Nos. 2 and 4 respectively.

**49. Point NO.2:-** For the reasons discussed above, I proceed to pass the following:-

**:: ORDER ::**

*The Disciplinary Authority has satisfactorily proved the charge against the DGO No.1-Sri B.T. Mohankrishna, Assistant Executive Engineer, BBMP, DGO No.3-Sri C.N. Ashok, Assistant Engineer, Ward No. 59, BBMP and DGO No.5-Sri A.R. Narayan, Assistant Engineer, Ward No. 60, BBMP, Bengaluru (now retired).*

*The Disciplinary Authority has failed to prove the charge against the DGO No.2-Sri Ramesh Babu, Assistant Engineer, Ward No. 59, BBMP, (now retired) and DGO No.4-Sri M.G. Nagaraj, Assistant Engineer, Ward No. 60, BBMP.*

50. Hence this report is submitted to Hon'ble Lokayukta for kind perusal and for further action in the matter.

Dated this the 13<sup>th</sup> day of March, 2019

-Sd/-  
(Somaraju)  
Additional Registrar Enquiries-4,  
Karnataka Lokayukta,  
Bangalore.

**:: ANNEXURE ::****LIST OF WITNESSES EXAMINED ON BEHALF OF DISCIPLINARY AUTHORITY:**

- PW-1 :Sri Madan Mohan Patil (complainant)  
 PW-2:Sri V. Yashvanth (I.O.)  
 PW-3:Sri K. N. Rajagopal (another I.O.)

**LIST OF WITNESSES EXAMINED ON BEHALF OF THE DEFENCE:**

- DW-1:Sri B.T. Mohan Krishna (DGO-1)

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

- Ex.P-1:Original Form No.1  
 Ex.P-2:Original Form No.2  
 Ex.P-3: Original complaint dated: 29/08/2005  
 Ex.P-4: Certified copy of the note sheet  
 Ex.P-5: Certified copy of another of the note sheet  
 Ex.P-6: Original letter of A.E.E., BBMP, dated: 28/10/2006  
 Ex.P-7 to P11: Original colour photos  
 Ex.P-12: One C.D. (original)  
 Ex.P-13: Certified copy of the order dated; 20/08/2003 u/sec. 321(1) of Municipality Act with certified copies of the enclosures  
 Ex.P-14: Certified copy of the order dated; 10/01/2005 u/sec. 321(1) of Municipality Act with certified copies of the enclosures  
 Ex.P-15: Original letter of A.E.E. Jayanagar Sub-Division, BBMP, dated: 01/03/2007 addressed to the complainant  
 Ex.P-16: Original letter of ARE-5, KLA, Bengaluru dated: 24/04/2007 addressed to the Joint Commissioner, BBMP, South Zone, Jayanagar II Block, Bengaluru  
 Ex.P-17: Xerox copy of the note sheet of Joint Commissioner (South) dated: 10/05/2007  
 Ex.P-18: Original letter of Joint Commissioner (south), BBMP dated: 07/06/2007 addressed to ARE-5 KLA, Bengaluru  
 Ex.P-19:Xerox copy of the plan  
 Ex.P-19(a to d): Certified copy of the others plans  
 Ex.P-20:Original Provision order dated: 19/05/2007 with certified copy of the enclosure  
 Ex.P-21:Xerox copy of the plans  
 Ex.P-21(a to f): Relevant entries in Ex.P21

- Ex.P-22:Original order passed u/sec. 321(1) of Municipality Act 1976 dated: 19/05/2007 with certified copy of the enclosure
- Ex.P-22(a,b): Relevant entry in Ex.P22
- Ex.P-23:Neeli Nakshe (plan)
- Ex.P-23(a to e): Relevant entries in Ex.P23
- Ex.P-24: Original order passed u/sec. 321(1) of Municipality Act 1976 dated: 19/05/2007 with certified copy of the enclosures
- Ex.P-24(a): Relevant entry in Ex.P24
- Ex.P-25:Neeli Nakshe (plan)
- Ex.P-25( a to e) Relevant entries in Ex.P25
- Ex.P-26: Original order passed u/sec. 321(1) of Municipality ct 1976 dated: 21/05/2007 with original enclosure with certified copy of the enclosures
- Ex.P-27: Xerox copy of the postal acknowledgment
- Ex.P-28: Xerox copy of the Caveat Petition No. 4938/2007 filed before Hon'ble High Court of Karnataka
- Ex.P-29:Xerox copy of the confirmation order passed u/sec. 321(3) of the KMC Act 1976 dated: 10/07/2007
- Ex.P-30:Xerox copy of the postal acknowledgment
- Ex.P-31:Original order u/sec. 462 of KMC Act, 1976
- Ex.P-32:Xerox copy of the letter of A.,E.E., Jayanagar Sub-Division, BBMP dated: 10/08/2007 addressed to Assistant Commissioner of Police, South Range, Jayanagar, Bengaluru
- Ex.P-33:Xerox copy of the interim order passed in Writ Petition NO. 12648/2007 (LB-BMP)
- Ex.P-34:Xerox copy of the Confirmation order passed u/sec. 321(3) of the KMC Act 1976 dated: 10/07/2007
- Ex.P-35: : Xerox copy of the Caveat Petition No. 4939/2007 filed before Hon'ble High Court of Karnataka
- Ex.P-36:Original order passed u/sec. 462 of KMC Act, 1976
- Ex.P-37: Xerox copy of the letter of A.,E.E., Jayanagar Sub-Division, BBMP dated: 10/08/2007 addressed to Assistant Commissioner of Police, South Range, Jayanagar, Bengaluru
- Ex.P-38: Xerox copy of the Interim order passed in Writ Petition No. 12611/2007 (LB-BMP)

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

- Ex.D-1:-Xerox copy of the sketch
- Ex.D-2:-Certified copy of the letter of Joint Commissioner (South), BBMP, Bengaluru dated: 02/11/2007
- Ex.D-3:-Certified copy of the service certificate dated:

01/02/2016

- Ex.D-4:-Xerox copy of the Building Bye-Laws-2003 rules  
Ex.D-5:-Certified copy of the note sheet  
Ex.D-6:-Certified copy of the order passed by Assistant  
Executive Engineer, BBMP (consists of 7 sheets)  
Ex.D-7:-Certified copy of the order sheet submitted to the  
JDTPBMP  
Ex.D-8:-Certified copy of the Confirmation order passed u/sec.  
321(3) of the Karnataka Municipal Corporation Act,  
1976 dated: 14/06/2004

Dated this the 13<sup>th</sup> day of March, 2019

-Sd/-  
(Somaraju)  
Additional Registrar Enquiries-4,  
Karnataka Lokayukta,  
Bangalore.

