

KARNATAKA LOKAYUKTA

NO:UPLOK-1/DE/1072/2017//ARE-9

M.S.Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru - 560 001.
Date: 7.9.2022

:: ENQUIRY REPORT ::**:: Present ::****(S.GOPALAPPA)**

**Additional Registrar of Enquiries -9
Karnataka Lokayukta,
Bengaluru**

Sub: Departmental Inquiry against Sri.Basavaradhya,
Sub Registrar, Previously working in
Yeshawanthpur, Bengaluru, Presently
working in Nagarabhavi, Sub Registrar
Office, Bengaluru - reg.

Ref: 1. G.O.No. KameE 33 MuNoSe (2) 2017 dated:
11.9.2017

2.Nomination Order No: UPLOK-
1/DE/1072/2017 Bangalore
dated:25.10.2017 of Hon'ble Upalokayukta-
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This Departmental Inquiry is initiated against Sri.Basavaradhya, Sub Registrar, Previously working in Yeshawanthpur, Bengaluru, Presently working in Nagarabhavi, Sub Registrar Office, Bengaluru (hereinafter referred to as the Delinquent Government Official for short "DGO").

2. In pursuance of the Government Order cited above at reference No.1, Hon'ble Upalokayukta vide order dated 25.10.2017 cited above at reference No.2 has nominated Additional Registrar of

Enquiries-9 (in short ARE-9) to frame Articles of charges and to conduct the inquiry against the aforesaid DGO.

3. This Authority (ARE-9) has issued the Articles of charges, Statement of imputations of misconduct, list of witnesses proposed to be examined in support of the charges and list of documents proposed to be relied in support of the charges.

4. The Article of charges issued by the ARE-9 against the DGO are as under :

ANNEXURE-I
CHARGE

The complainant is the owner of the house property bearing No.189 measuring 30x40 feet situated at 3rd Stage, 3rd Block, 4th C Main road, Basaveshwaranagar, Bengaluru. She has already executed a registered will with respect to the said property. Her husband's brother B.H. Shivaswamy, daughter-in-law Smt. B.R. Vinutha along with some unknown lady have got executed a fake gift deed in favour of her son P. Jnanesha on 16/5/2015 by creating fake documents. You being the DGO/Sub Registrar without verifying the genuineness of the documents and parties as u/s 34(3) of Registration Act 1908 and Rule 81 of Registration Rules 1908 and the circular of Registration Department vide No.ಸಾಡೂಎ-100/2012-13 dated 19/4/2013 got registered the fake gift deed without her knowledge. Under the circumstances it can be inferred that you-DGO have not shown minimum diligence in ascertaining the identity of the executants and therefore, has failed to perform your statutory duty.

Thereby you -DGO have failed to maintain absolute integrity, devotion to duty and committed an act which is unbecoming of a government servant and thus you are guilty of misconduct u/r 3 (1) (i) to (iii) of Karnataka Civil Service (conduct) Rules 1966.

ANNEXURE – 2

STATEMENT OF IMPUTATIONS OF MISCONDUCT

An investigation was taken up under Section 9 of Karnataka Lokayukta Act, 1984, on the basis of complaint filed by Sri Sarojamma, H.No.189, 3rd Stage, 3rd Block, 4th 'C' Main road, Basaveshwarangar, Bengaluru (hereinafter referred to as 'complainant' for short) against Sri M.Basavaradhya, Sub Registrar, Yeshwanthapur, Bengaluru (Presently working as Sub Registrar at Nagarabhavi, Bengaluru) (hereinafter referred to as 'respondent' for short).

The complainant alleges that she is the owner of the house property bearing No.189 measuring 30 x 40 feet situated at 3rd Stage, 3rd Block, 4th C Main road, Basaveshwaranagar, Bengaluru. She has already executed a registered will with respect to the said property. Her husband's brother B.H. Shivaswamy, daughter-in-law Smt. B.R. Vinutha along with some unknown lady have got executed a fake gift deed in favour of her son P. Jnanesha on 16/5/2015 by creating fake documents. She has lodged a criminal complaint before Basaveshwaranagar Police Station in Cr.No.203/2016 on 3/6/2016. No proper investigation is being conducted on the said case. The DGO/Sub Registrar without

verifying the genuineness of the documents and parties, got registered the fake gift deed without her knowledge.

The complainant alleges that some third person has got registered gift deed with respect to her self-acquired house property by misrepresenting and impersonating her and the respondent had registered the gift deed without ascertaining the identity of the parties.

The DGO has submitted his comments dt 14/6/2017 stating that the registration of the document has been made as per the provisions of law and he has also taken the signatures of 2 witnesses. In his comments, he has stated nothing about enquiry of the witnesses so far as identity of the executants are concerned. He has not even collected minimum documents such as voter identity card, aadhar card etc., to ascertain the identity of the executants.

Sec. 34(3) of the Registration Act, 1908 reads as follows;

Sec. 34 :- Enquiry before registration by registering officer :

- 1)
- 2)
- 3) The registering officer shall thereupon –
 - a) Enquire whether or not such document was executed by the persons by whom it purports to have been executed;
 - b) Satisfy himself as to the identity of the persons appearing before him and alleging that they have executed the document ; and

- c) In the case of any person appearing as a representative, assign or agent, satisfy himself of the right of such person so to appear.

Rule 81 of Registration Rules, 1908 reads as follows;

Rule 81. Identification of executants.

- i) When a Registering Officer is acquainted either with the person admitting execution of a document or with the identifying witness, he shall make a note in the endorsement to this effect. If the Registering Officer is not acquainted with the executants and no witness with whom the Registering Officer is acquainted is produced to identify the executants, the Registering Officer shall either. --- a) examine any two witnesses, produced by the executants to prove his identity; or b) examine on oath the executants and [two witnesses] produced by the executants to prove his identity.
- ii) ----- (iii) xxxxxxxxxxxx (iv) ----- . (v) -----

Sub section (3) of Section 34 requires the Registering Officer to do two things viz.,

- i. To enquire whether or not such document was executed by the persons who claim to have executed the same and
- ii. To satisfy himself as to the identity of those persons or to the right of the representatives to appear, if the document is presented by a representative.

In the case on hand it is alleged that the respondent has not ascertained the identity of the executants of the alleged gift deed.

The documents produced by the complainant go to show that the alleged property belongs to the complainant Sarojamma w/o Paramashivaiah. The detailed complaint of the complainant contains photo of the complainant which is different from the photograph of the executants taken during the registration. The signature of the executants also seems to be different from that of the complainant.

The DGO in his comments has not stated anything with respect to the enquiry conducted by him so as to the identity of the executants and the witnesses during registration. The purpose of identification is to prevent fraudulent transactions by impersonation. Mere taking signature of the witnesses does not satisfy the purpose. The DGO has not even verified the public documents of the executants and identifying witnesses such as aadhar card, voters ID card etc. for identifying them as per the circular of Registration Department vide No.ಸಾಧೂವಿ-100/2012-13 dated 19/4/2013. He has not even obtained the photographs and thumb impressions of the attesting witnesses on the alleged document during its registration.

Both identifying the witnesses have given their address as "No.6, 2nd Floor, Malleshwaram, Bengaluru". No person can be traced with such address at Bengaluru. The identifying witnesses who have signed the alleged gift deed have no proper address of their residence which prima facie show that the DGO has registered the document without satisfying about the identity of the executants and the identifying witnesses.

Under the circumstances, it can be inferred that the DGO has not shown minimum diligence in ascertaining the identity of the

executants and therefore, has failed to perform his statutory duty. In view of the said findings, the comments of the DGO cannot be accepted at this stage. There are prima facie materials against the DGO for the above said misconduct. Hence, the DGO has failed to maintain absolute integrity, devotion to duty and has acted in a manner which is unbecoming of a Government Servant for which he has made himself liable for departmental action.

Since said facts and material on record prima-facie show that the DGO committed misconduct, now, acting under section 12(3) of Karnataka Lokayukta Act, recommendation is made to the Competent Authority to initiate disciplinary proceedings against the DGO and to entrust the inquiry to this Authority under Rule 14-A of Karnataka Civil Service (Classifications, Control and Appeal) Rules. Hence the charge.

5. The Article of charge was issued to the DGO calling upon him to appear before this authority and to submit written statement.

6. The DGO has not appeared even though the Article of Charges was served on 30.11.2017. Hence, the DGO was placed exparte and case is posted for evidence of the Disciplinary authority.

7. Meanwhile DGO filed application No. 7199/2017 and obtained stay order. Later vide order dtd: 4.3.2020, Hon'ble KSAT rejected the application No. 7199/2017. The same was intimated to Additional Registrar of Enquiries-9 as on 18.5.2022. Therefore notice was issued to the DGO again. Notice was served on the DGO. But DGO did not appeared before this authority vide letter dated: 15.7.2022 sent by post, DGO submits that he is aged person and unable to attend the enquiry due to ill health. Due to age factor he forget everything, he is not able to recollect. Hence prays to close the

enquiry. But this was not a ground to adjourn or to close the enquiry. DGO called out but he was absent. Hence, DGO was placed exparte.

8. The disciplinary authority has examined the complainant Smt. Sarojamma, Basaveshwaranagara, Bengaluru, as PW.1 and got marked a document as **Ex.P-1 to Ex.P-10**.

9. Heard the submissions of Presenting Officer. Perused the entire records. The only point that arise for my consideration is:

1. Whether the Disciplinary Authority proves the charge framed against the DGO ?

My finding on the above point is in **AFFIRMATIVE** for the following:

REASONS

10. PW-1 has deposed in her evidence that she has got allotted a site measuring 30X39½ feet from BDA long back and she has constructed house in site No. 189, Basaveshwara Nagara 3rd phase, 3rd block, 4C main road, Bengaluru. She has further deposed that she has built the ground floor and the first floor by borrowing loan from bank and government and it was in her possession, and she is paying property tax every year. But on 16.5.2015 her brother-in-law, his wife and unknown woman created gift deed by using her name, as if gifted the house property to her son. But earlier to this she had already executed the will deed in the name of her granddaughter Namitha.

11. Without enquiring about the original owner and without verifying documents, DGO has registered the above said gift deed and committed dereliction of duty. In April 2016 when she went to pay the property tax, she came to know that the gift deed was illegally

registered. Hence, she filed complaint at Basaveshwara Nagara Police Station. Basaveshwara Nagara Police has filed a charge sheet against her brother-in-law (mydhuna), his wife and her son. But she had also filed a complaint against the lady who forged her signature.

12. She gave a complaint against DGO before the Inspector General of Registrar. After that she filed a complaint in Karnataka Lokayukta as per Ex.P-1 to 3. She has deposed that in the copy of gift deed Ex.P-4 the fake signature and the photo affixed as Sarojamma are not her signature and photo.

13. The photographs found on the complaint Ex.P-3 and the copy of gift deed are totally different. The signatures found on Ex.P-1 to Ex.P-3 and the signature found on the copy of the gift deed Ex.P-4 are different. The signature of the complainant on Ex.P-1 to 3 are tallying with the signature found on the deposition of the complainant. The complainant has clearly deposed that the photographs and the signatures found on the copy of gift deed Ex.P-4 are not her signatures and photographs.

14. Therefore as per section 34 of the Registration Act 1908, the Sub Registrar has to enquiry whether a correct person is executing the document or not. The Sub Registrar has to satisfy himself as to the identity of the persons appearing before him to execute the document and the right of a person to execute the document. So also as per Rule 81 the Sub Registrar who is not acquainted with the executants and the witnesses, he shall examine any two witnesses produced by the executants to prove his identity or he has to examine both the executants and two witnesses produced by the executants to prove his identity.

15. In spite of service of notice DGO did not appear before this authority to show that he followed the above said procedure. Because of the negligent act on the part of DGO the complainant was made to run from pillar to post with a fear to lose her property.

16. According to the complainant she had already executed a will deed in favour of her granddaughter who is the daughter of said P.Jnanesha. In spite of it with a malafide intention said P.Jnanesha colluding with his younger paternal uncle and aunt created a gift deed to usurp the property. The DGO without verifying the identity of the executants, title of executants to execute the property and without discharging his primary duty registered the document.

17. Therefore the DGO has committed an act which is unbecoming of a Government servant and failed to maintain absolute integrity and devotion to duty.

18. Therefore, overall examination of the evidence on record show that the disciplinary authority has established the charges leveled against DGO. Hence, I proceed to record the following:-

FINDINGS

19. The Disciplinary Authority has proved the charges leveled against DGO. Hence, this report is submitted to Hon'ble Upalokayukta for further action.

20. Date of retirement of DGO is 30.4.2018.

(S.GOPALAPPA)
Additional Registrar Enquiries-9
Karnataka Lokayukta, Bengaluru.

i) List of witnesses examined on behalf of Disciplinary Authority.

PW.1	Smt. Sarojamma, H.No. 189, 3 rd stage, 3 rd Block, 4 th 'C' Main Road, Basaveshwaranagar, Bengaluru
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ii) List of Documents marked on behalf of Disciplinary Authority.

Ex.P1 to 3	Ex.P-1 to 3 are the complaint dated: 9.5.2017 filed by PW-1 in Karnataka Lokayukta office.
Ex.P-4	Ex.P-4 is the gift deed dated: 28.5.2015
Ex.P-5	Ex.p-5 is the EC
Ex.p-6	Ex.P-6 is the FIR dated: 3.6.2016
Ex.p-7	Ex.p-7 is the complaint dtd: 31.5.2016 filed by PW-1 before Assistant Commissioner of Police
Ex.P-8	Ex.P-8 is the receipt dtd: 28.4.2015
Ex.P-9	Ex.P-9 is the complaint filed by PW-1 before Deputy commissioner, ARO, ADGP, etc.,
Ex.P-10	Ex.P-10 is the complaint filed by PW-1 before sub registrar, Rajajinagara Bengaluru

iii) List of witnesses examined on behalf of DGO

DW-1	NIL
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iv) List of documents marked on behalf of DGO

Ex.D-1	NIL
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v) List of Additional documents

1	Letter dtd: 15.7.2022 from DGO to the Enquiry officer Karnataka Lokayukta Bengaluru
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(S.GOPALAPPA)
Additional Registrar Enquiries-9
Karnataka Lokayukta,
Bengaluru.



KARNATAKA LOKAYUKTA

No.UPLOK-1/DE/1072/2017/ARE-9

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001.
Dated 12.09.2022.

RECOMMENDATION

Sub:- Departmental inquiry against Sri Basavaradhya, the then Sub-Registrar, Yeshwanthapur, Bengaluru- reg.

Ref:- 1) Government Order No.RD 33 SRS(2) 2017 dated 11.09.2017.

2) Nomination order No. UPLOK-1/DE/1072/2017 dated 25.10.2017 of Hon'ble Upalokayukta, State of Karnataka.

3) Inquiry report dated 07.09.2022 of Additional Registrar of Enquiries-9, Karnataka Lokayukta, Bengaluru.

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The Government by its order dated 11.09.2017 initiated the disciplinary proceedings against Sri Basavaradhya, the then Sub-Registrar, Yeshwanthapur, Bengaluru, [hereinafter referred to as Delinquent Government Officer, for short as ' DGO ' ] and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No. UPLOK-1/DE/1072/2017 dated 25.10.2017 nominated Additional

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Registrar of Enquiries-9, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct departmental inquiry against DGO for the alleged charge of misconduct, said to have been committed by him.

3. The DGO was tried for the following charge :

"The complainant is the owner of the house property bearing No.189 measuring 30x40 feet situated at 3<sup>rd</sup> Stage, 3<sup>rd</sup> Block, 4<sup>th</sup> C Main road, Basaveshwaranagar, Bengaluru. She has already executed a registered will with respect to the said property. Her husband's brother B.H. Shivaswamy, daughter-in-law Smt. B.R. Vinutha along with some unknown lady have got executed a fake gift deed in favour of her son P. Jnanasha on 16/5/2015 by creating fake documents. You being the DGO/Sub Registrar without verifying the genuinity of the documents and parties as u/s 34(3) of Registration Act 1908 and Rule 81 of Registration Rules 1908 and the circular of Registration Department vide No.ಸಾಡೂಎ-100/2012-13 dated 19/4/2013 got registered the fake gift deed without her knowledge. Under the circumstances it can be inferred that you-DGO have not shown minimum diligence in ascertaining the identity of the executants and therefore, has failed to perform your statutory duty.

Thereby you -DGO have failed to maintain absolute integrity, devotion to duty and committed an act which is unbecoming of a government servant and thus you are guilty of misconduct u/r 3 (1) (i) to (iii) of Karnataka Civil Service (conduct) Rules 1966."

4. The Inquiry Officer (Additional Registrar of Enquiries- 9) on proper appreciation of oral and documentary evidence has held that, the Disciplinary Authority has '*proved*' the above

charge against the DGO Sri Basavaradhya, the then Sub-Registrar, Yeshwanthapur, Bengaluru.

5. On perusal of the entire materials on record, in order to prove the misconduct of the DGO, the Disciplinary Authority has examined one witness as PW-1 and got marked documents Ex. P.1 and P.10. The DGO failed to appear before the Inquiry Officer in spite of service of notice and hence he was placed ex parte. The evidence of PW.1 coupled with the documents disclose that, DGO has committed misconduct. Therefore, there is no reason to deviate from the opinion expressed by the Inquiry Officer. Hence, it is hereby recommended to the Government to accept the report of Inquiry Officer.

6. The Enquiry Officer has submitted that the DGO Sri Basavaradhya, has retired from service on 30.04.2018.

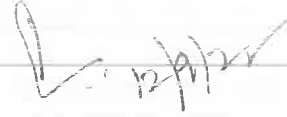
7. Having regard to the nature of charge proved against DGO and considering the totality of circumstances, it is hereby recommended to the Govt. to impose penalty of;



i) withholding 10% of pension payable to DGO Sri Basavaradhya, for a period of five years.

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

Connected records are enclosed herewith.



(JUSTICE K.N.PHANEENDRA)  
Upalokayukta,  
State of Karnataka.