

KARNATAKA LOKAYUKTA

NO:UPLOK-1/DE/1076/2017/ARE-9

M.S.Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru - 560 001.
Date:18.3.2023

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

**i/c Additional Registrar of Enquiries -9
Karnataka Lokayukta,
Bengaluru**

Sub: Departmental Inquiry against (1) Sri.Rangaswamy, Assistant Executive Engineer Dasarahalli Sub Division, BBMP Bengaluru (dead) and (2) Sri.Manjunath, Assistant Engineer Ward No. 14, Bagalkunte BBMP Bengaluru - reg.

Ref: 1. G.O.No. NAE 405 MNU dated: 9.10.2017.
2.Nomination Order No: UPLOK-1/DE/1076/2017 Bangalore dated: 31.10.2017 of Hon'ble Upalokayukta-1

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This Departmental Inquiry is initiated against (1) Sri.Rangaswamy, Assistant Executive Engineer Dasarahalli Sub Division, BBMP Bengaluru (**dead**) and (2) Sri.Manjunath, Assistant Engineer Ward No. 14, Bagalkunte BBMP Bengaluru (hereinafter referred to as the Delinquent Government Official for short "**DGO-1 and 2**").

2. In pursuance of the Government Order cited above at reference No.1, Hon'ble Upalokayukta vide order dated 31.10.2017 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 DGOs.

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 DGOs is as under :

ANNEXURE-I
CHARGE

You DGO –

The complainant has made a complaint on 24/12/16 to you-DGO 2 with respect to in property opposite to Sri Mahalakshmi Electricals, Mallasandra main Road, Dasarahalli post, Bengaluru ward No.14(Bagalakunte), a construction was coming up in deviation of the sanction plan without leaving set back, illegal basement and extra floors have been constructed by violating the sanction plan. In spite of the complaint, no action is shown to have been taken by the You-DGOs 1 and 2. As per the Office Order dated 29.06.2011 of BBMP, You- DGOs 1 and 2 are the responsible officers who have to take action with respect to the constructions which are being made in violation of the sanctioned plan and building bye-laws. In view of the failure of you-DGOs 1 and 2 to file their comments, adverse inference

is drawn against them holding that they have failed to take action upon the application of the complainant dt.24.12.2016 for removing the deviations of the alleged building. Therefore, prima-facie misconduct can be inferred against you-DGO 1 and 2.

Thereby you - DGOs 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 by invoking section 9 of Karnataka Lokayukta Act, on the complaint filed by Sri Pragathi K. Venkatesh Babu, No.147, 2nd Main, 3rd Cross, Chamarajpet, Bengaluru (hereinafter referred to as '**complainant**' for short), against 1) Sri Rangaswamy-Assistant Executive Engineer, Dasarahalli Sub-division, BBMP, Bengaluru, 2) Sri Manjunath-Assistant Engineer, Ward no.14, Bagalugunte, BBMP, Bengaluru, (hereinafter referred to as 'DGO No.1 and 2' for short) alleging that the DGOs have committed misconduct.

The complainant alleges that many illegal buildings are being constructed in Dasarahalli Sub-Division by violating the building bye-laws resulting in huge loss for BBMP and the DGO 1 and 2 in connivance with the building owners are not taking action against the illegal construction by taking heavy bribe. Complainant has stated

that in property opposite to Shri. Mahalakshmi Electricals, Mallasandra Main Road, Dasarahalli Post, Bengaluru, Ward No. 14 (Bagalgunte), a construction is coming up in deviation of the sanctioned plan, without leaving set back. Illegal basement and extra floors have been constructed by violating the sanctioned plan. He has produced copy of photograph of the alleged construction.

In spite of receipt of this office endorsement, the DGOs 1 and 2 have failed to submit their comments.

Perused the materials on record. The complainant has made a complaint to DGO No.1 with respect to the alleged building bylaws violations on 24.12.2016. In spite of the complaint, no action is shown to have been taken by the DGOs 1 and 2. As per the Office Order dated 29.06.2011 of BBMP, the DGOs 1 and 2 are the responsible officers who has to take action with respect to the constructions which are being made in violation of the sanctioned plan and building by-laws. In view of the failure of DGOs 1 and 2 to file their comments, adverse inference is drawn against them holding that they have failed to take action upon the application of the complainant dt.24.12.2016 for removing the deviations of the alleged building. Therefore, prima-facie misconduct can be inferred against DGO 1 and 2.

The above facts and the material on record prima facie show that the DGOs 1 and 2, being Government Servants, have failed to maintain absolute devotion to duty and has acted in a manner unbecoming of Government servants and thereby committed misconduct under rule 3(1)(i) to (iii) of KCS (Conduct) Rules and made themselves liable for disciplinary action.

Since said facts supported by the materials on record prima facie show that DGOs being Public/Government servants, have committed misconduct as per Rule 3(1)(i) to (iii) of KCS(Conduct) Rules, 1966 and under Rule 14(A) of Karnataka Civil Services(Classification, Control and Appeal) Rules 1957. Hence, this charge.

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

6. The DGOs appeared before this inquiry authority in pursuance to the service of the Article of charges. In FOS plea of the DGOs have been recorded and they pleaded not guilty and claimed for holding inquiry. Thereafter, DGO-1 &2 submitted written statement.

7. DGO-1 & 2 submitted written statement and denied all the allegations made in the Article of charge and they prayed to drop the charges leveled against them.

8. The disciplinary authority has examined complainant Sri.Pragathi K.Venkatesh Babu, Bengaluru as PW.1, and got marked documents as **Ex.P-1 to ExP-4**.

9. Thereafter, second oral statement of DGOs have been recorded. Questionnaire under section 11 (18) KCS (CCA) Rules 1957 of DGO-2 has been recorded on 19.11.2022.

10. At the stage of defence evidence it was reported that DGO No. 1 Sri.Rangaswamy, Assistant Executive Engineer died. Thereafter a report was called from the Police Inspector, Karnataka Lokayukta Chitradurga regarding the death of DGO No. 1 Sri.Rangaswamy, AEE. Police Inspector, Karnataka Lokayukta Chitradurga has submitted report dated: 11.12.2020 stating that DGO-1 Sri.Rangaswamy, AEE died on 17.11.2020 and he had enclosed copy of death certificate. Hence, the inquiry initiated against DGO-1 stands abated.

11. Heard the submissions of Presenting Officer and DGO-2 not submitted written Arguments/ written brief. 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-2 ?

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

REASONS

12. According to PW-1 in Ward No. 14 Mylasandra Main Road, opposite to Mahalakshmi electrical, the owner of building was constructing the building against to the sanction plan without leaving set back was constructing additional floors. In spite of bringing it to the notice of DGOs they have not taken any action. Therefore he has lodged the complaint as per Ex.P-1 to 3 along with the documents Ex.P-4.

13. In the cross examination PW-1 has deposed that, he does not know during which period the DGOs were working in T.Dasarahalli sub division, Bhagalagunte, BBMP, Bangalore. He is aware that the supervising work was entrusted to the DGOs, to supervise the building works. If the owners of the building do not construct the building according to the sanction plan, notice under KMC Act has to be given. The Assistant Executive Engineer is empowered to issue the notice. He does not know whether the DGOs have issued any notices to the owner of building or not. At the time of filing the complaint he has not furnished the documents. Before lodging this complaint, complaint was given to the O/o of the DGO, but not personally to the DGOs. He has not come to know what action the DGOs have taken on his complaint. On looking at the building he says that the building is constructed against to the sanction plan without leaving the set back. He has not seen the sanction plan. He has not produced the documents pertaining to the building along with this complaint. In the photograph appearing in Ex.P-4 four storied building is appearing. He cannot say on what date he found the deviation from sanction plan. He cannot say on what date the construction work was started and on what date the construction work was completed. He has not produced the CD or negative of the photograph.

14. Further PW-1 admits that BBMP town planning department will issue the sanction plan. He has not taken the copy of the sanction plan. He has not given any complaint to the Executive Engineer or BBMP commissioner stating that the DGOs have not

taken any action. He has not produced ward plan to show that the photograph Ex.P-4 is pertaining to the disputed building. He admits that he has filed about 20-25 complaints in respect of violation of building byelaws. Further PW-1 has denied the suggestions made by learned defence assistant.

15. Ex.P-1 is the copy of written complaint. Ex.P-2 and 3 are the complaint in form No. 1 and 2, Ex.P-4 is consisting of representation given to Assistant Executive Engineer, xerox copy of photo and copy of office order.

16. According to the complainant there were many upcoming illegal buildings in Hebbal sub division, BBMP, Bangalore, the building is being constructed in violation of sanctioned plan, opposite to Sri.Mahalakshmi Electricals in Mallasandra Main Road, Dasarahalli post, Bengaluru, ward No. 14, the owner of building is constructing the building in violation of sanctioned plan without leaving the set back and constructed basement and extra floors.

17. Except the xerox copy of photo he has not produced any other documents to show that in ward No. 14 opposite to Sri.Mahalakshmi Electricals in Mallasandra Main Road, Dasarahalli post, Bengaluru a building is constructed in violation of building byelaws without leaving set back and the owner of building has constructed basement and extra floors. The complainant has not produced either CD or the negative and receipt of photograph or

supporting evidence to show that this photograph is pertaining to the disputed building.

18. Except the complaint and representation there are no documents to show that the disputed building is constructed in violation of sanctioned plan. There is no technical report to show what is the sanctioned plan, how the building is constructed, when the building work was commenced and in what stage the complainant gave the representation to DGOs-1 and 2 and on what date the construction of building was completed. Except the oral assertion of the complainant there is no documentary evidence on record to show what is the sanctioned plan, how many floors were approved, what was the set back that approved and in what manner the building is constructed. In the absence of the same only the oral assertion of the complainant that the building is constructed in violation of sanctioned plan without leaving set back and the owner of the building has constructed extra floor cannot be accepted.

19. Therefore, overall examination of the evidence on record shows that the disciplinary authority has not established the charges leveled against DGO-2. Hence, I proceed to record the following:-

FINDINGS

20. The Disciplinary Authority has not proved the charges leveled against DGO-2. Due to the death of DGO -1 without touching the merits, I hold that the inquiry initiated against DGO-1

Sri.Rangaswamy, AEE stands abated. Hence, this report is submitted to Hon'ble Upalokayukta for further action.

21. The Date of retirement of DGO-2 is 30.4.2021.



(S.GOPALAPPA)

I/c Additional Registrar Enquiries-9
Karnataka Lokayukta, Bengaluru.

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

PW.1	Sri.Pragathi K.Venkatesh Babu, Bengaluru
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ii) List of Documents marked on behalf of Disciplinary Authority.

Ex.P1	Ex.p-1 is the detailed complaint dtd: 14.3.2017 of PW-1
Ex.P 2 & 3	Ex.p-2 and 3 are the complaint in form No. 1 and 2 filed by PW-1 in Karnataka Lokayukta office.
Ex.P-4	Ex.P-4 is the complaint dtd: 24.12.2016 filed by PW-1 in Assistant Executive Engineer BBMP Bengaluru

iii) List of witnesses examined on behalf of DGOs

	NIL
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iv) List of documents marked on behalf of DGO

	NIL
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Sdt
(S.GOPALAPPA)

I/c Additional Registrar Enquiries-9
Karnataka Lokayukta,
Bengaluru.





ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ

ಸಂ: ಉಪಲೋಕ್-1/ಇವಿ.1076/2017/ಅನಿವಿ.9

ಬಹುಮಹಡಿ ಕಟ್ಟಡ,
ಡಾ.ಬಿ.ಆರ್.ಅಂಬೇಡ್ಕರ್ ವೀದಿ,
ಬೆಂಗಳೂರು, ದಿ.21.03.2023.

ಶಿಫಾರಸು

ವಿಷಯ:-(1) ಶ್ರೀ ರಂಗಸ್ವಾಮಿ, ಅಂದಿನ ಸಹಾಯಕ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರು(ಪ್ರಸ್ತುತ ಮೃತಪಟ್ಟಿರುತ್ತಾರೆ), ಬಿಬಿಎಂಪಿ, ಬೆಂಗಳೂರು ಮತ್ತು (2) ಶ್ರೀ ಮಂಜುನಾಥ, ಸಹಾಯಕ ಅಭಿಯಂತರು, ವಾರ್ಡ್ ಸಂ.14, ಬಿಬಿಎಂಪಿ, ಬೆಂಗಳೂರು, ಅವರ ವಿರುದ್ಧದ ಇಲಾಖಾ ವಿಚಾರಣೆ ಕುರಿತು.

- ಉಲ್ಲೇಖ:-1. ಸರ್ಕಾರದ ಆದೇಶ ಸಂ.ನಅಇ 405 ಎಂಎನ್‌ಯು 2017
ದಿ 09 10 2017
2. ನಾಮ ನಿರ್ದೇಶನ ಆದೇಶ ಸಂ. ಉಪಲೋಕ್-1/
ಇವಿ.1076/2017 ದಿನಾಂಕ 31.10.2017.
3. ವಿಚಾರಣಾಧಿಕಾರಿಗಳು ಸಲ್ಲಿಸಿದ ವಿಚಾರಣಾ ವರದಿ
ದಿ.18.03.2023.

ಸರ್ಕಾರವು ದಿ. 09.10.2017ರ ಸರ್ಕಾರಿ ಆದೇಶದನ್ವಯ (1) ಶ್ರೀ ರಂಗಸ್ವಾಮಿ, ಅಂದಿನ ಸಹಾಯಕ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರು(ಪ್ರಸ್ತುತ ಮೃತಪಟ್ಟಿರುತ್ತಾರೆ), ಬಿಬಿಎಂಪಿ, ಬೆಂಗಳೂರು ಮತ್ತು (2) ಶ್ರೀ ಮಂಜುನಾಥ, ಸಹಾಯಕ ಅಭಿಯಂತರು, ವಾರ್ಡ್ ಸಂ.14, ಬಿಬಿಎಂಪಿ, ಬೆಂಗಳೂರು, (ಇನ್ನು ಮುಂದೆ 'ಕ್ರಮವಾಗಿ 1 ಮತ್ತು 2ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು' ಎಂದು ಉಲ್ಲೇಖಿಸಲಾಗುವುದು)ರವರ ವಿರುದ್ಧ ಇಲಾಖಾ ವಿಚಾರಣೆ ನಡೆಸಲು ಪ್ರಕರಣವನ್ನು, ಉಪಲೋಕಾಯುಕ್ತರಿಗೆ ವಹಿಸಿರುತ್ತದೆ.

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2. ಈ ಸಂಸ್ಥೆಯು ನಾಮ ನಿರ್ದೇಶನ ಆದೇಶ ಸಂಖ್ಯೆ: ಉಪಲೋಕ್-1/
ಇವಿ.1076/2017 ದಿನಾಂಕ 31.10.2017ರನ್ವಯ ಅಪರ ನಿಬಂಧಕರು ವಿಚಾರಣೆ-9
ಇವರನ್ನು ವಿಚಾರಣಾ ಅಧಿಕಾರಿಗಳನ್ನಾಗಿ ನೇಮಿಸಿ, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರ
ವಿರುದ್ಧ ದೋಷಾರೋಪಣಾ ಪಟ್ಟಿಯನ್ನು ತಯಾರಿಸಿ, ಸದರಿ ಆರೋಪಗಳ ಕುರಿತಂತೆ
ಇಲಾಖಾ ವಿಚಾರಣೆ ನಡೆಸಲು ನಾಮ ನಿರ್ದೇಶನ ಮಾಡಿರುತ್ತದೆ.

3. ವಿಚಾರಣಾಧಿಕಾರಿಗಳು ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರ ವಿರುದ್ಧ ಈ
ಕೆಳಕಂಡಂತೆ ದೋಷಾರೋಪಣಾ ಪಟ್ಟಿಯನ್ನು ತಯಾರಿಸಿರುತ್ತಾರೆ.

“You DGO -

The complainant has made a complaint on 24/12/16 to you-DGO 2 with respect to in property opposite to Sri Mahalakshmi Electricals, Mallasandra main Road, Dasarahalli post, Bengaluru ward No.14(Bagalakunte), a construction was coming up in deviation of the sanction plan without leaving set back, illegal basement and extra floors have been constructed by violating the sanction plan. In spite of the complaint, no action is shown to have been taken by the You-DGOs 1 and 2. As per the Office Order dated 29.06.2011 of BBMP, You- DGOs 1 and 2 are the responsible officers who have to take action with respect to the constructions which are being made in violation of the sanctioned plan and building bye-laws. In view of the failure of you-DGOs 1 and 2 to file their comments, adverse inference is drawn against them holding that they have failed to take action upon the application of the complainant dt.24.12.2016 for removing the deviations of the alleged building. Therefore, prima-facie misconduct can be inferred against you-DGO 1 and 2.

Thereby you - DGOs 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. ವಿಚಾರಣಾಧಿಕಾರಿಗಳಾದ ಅಪರ ನಿಬಂಧಕರು-ವಿಚಾರಣೆ-9 ಇವರು ಸುದೀರ್ಘ ವಿಚಾರಣೆ ನಡೆಸಿ, ಹಾಜರುಪಡಿಸಲಾದ ದಾಖಲೆಗಳನ್ನು ಹಾಗೂ ಸಾಕ್ಷಿಗಳ ಹೇಳಿಕೆಗಳನ್ನು ಕೂಲಂಕುಷವಾಗಿ ಪರಿಶೀಲಿಸಿ, 2ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ಶ್ರೀ ಮಂಜುನಾಥ, ಸಹಾಯಕ ಅಭಿಯಂತರ, ವಾರ್ಡ್ ಸಂ.14, ಬಿಬಿಎಂಪಿ, ಬೆಂಗಳೂರು, ಅವರ ವಿರುದ್ಧ ಹೊರಿಸಲಾದ ಆರೋಪಗಳನ್ನು ಸಾಬೀತುಪಡಿಸುವಲ್ಲಿ ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರವು 'ವಿಫಲವಾಗಿರುತ್ತದೆ' ಎಂದು ವರದಿ ಸಲ್ಲಿಸಿರುತ್ತಾರೆ.

5. ವಿಚಾರಣಾಧಿಕಾರಿಗಳು ಮುಂದುವರೆದು, 1ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ಶ್ರೀ ರಂಗಸ್ವಾಮಿ, ಅಂದಿನ ಸಹಾಯಕ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರು, ಬಿಬಿಎಂಪಿ, ಬೆಂಗಳೂರು, ಅವರು ದಿನಾಂಕ.17.11.2020ರಂದು ಮೃತಪಟ್ಟಿರುವ ಕಾರಣ, ಅವರ ವಿರುದ್ಧದ ಪ್ರಕರಣವು ರದ್ದುಗೊಂಡಿರುತ್ತದೆಂದು ವರದಿ ಸಲ್ಲಿಸಿರುತ್ತಾರೆ.

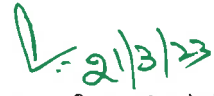
6. ವಿಚಾರಣಾ ವರದಿ, ಸಾಕ್ಷಿದಾರರ ಹೇಳಿಕೆಗಳು ಹಾಗೂ ಹಾಜರುಪಡಿಸಿರುವ/ಗುರುತಿಸಿರುವ ಎಲ್ಲಾ ದಾಖಲೆಗಳನ್ನು, ಕೂಲಂಕುಷವಾಗಿ ಪರಿಶೀಲಿಸಿದಾಗ, ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರವು 2ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರ ವಿರುದ್ಧದ ಆರೋಪಗಳನ್ನು ಸಾಬೀತುಪಡಿಸಲು ವಿಫಲವಾಗಿರುವುದು ಕಂಡುಬರುತ್ತದೆ. ಆದುದರಿಂದ ವಿಚಾರಣಾ ಅಧಿಕಾರಿಗಳ ವರದಿಯನ್ನು ಅಂಗೀಕರಿಸಿ, 2ನೇ

ಎದುರುದಾರರನ್ನು ಆರೋಪಗಳಿಂದ ಮುಕ್ತಗೊಳಿಸಲು ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಶಿಫಾರಸ್ಸು ಮಾಡಲಾಗಿದೆ.

7. ಮುಂದುವರೆದು, 1ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ಶ್ರೀ ರಂಗಸ್ವಾಮಿ, ಅಂದಿನ ಸಹಾಯಕ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರು,ಬಿಬಿಎಂಪಿ, ಬೆಂಗಳೂರು, ಅವರು ದಿನಾಂಕ.17.11.2020ರಂದು ಮೃತಪಟ್ಟಿರುವ ಕಾರಣ, ಅವರ ವಿರುದ್ಧದ ಪ್ರಕರಣವನ್ನು ರದ್ದುಗೊಂಡಿದೆಯೆಂದು ಪರಿಗಣಿಸಲಾಗಿರುತ್ತದೆ.

8. ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರವು ಈ ಪ್ರಕರಣದಲ್ಲಿ ವಿಚಾರಣಾ ವರದಿ ಹಾಗೂ ಶಿಫಾರಸ್ಸಿನನ್ವಯ ಕೈಗೊಂಡ ಕ್ರಮದ ವರದಿಯನ್ನು ಸಲ್ಲಿಸಲು ಕೋರಲಾಗಿದೆ.

9. ಸಂಬಂಧಪಟ್ಟ ದಾಖಲೆಗಳನ್ನು ಲಗತ್ತಿಸಿದೆ.



(ನ್ಯಾಯಮೂರ್ತಿ ಕೆ.ಎನ್.ಫಣೀಂದ್ರ)

ಉಪಲೋಕಾಯುಕ್ತ,
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