

KARNATAKA LOKAYUKTA

No.UPLOK-1/DE/115/2015/ARE-13

M.S. Building,
Dr. B.R.Ambedkar Road,
Bangalore-56001,
Date: 29/07/2019.**: Present:****Patil MohanKumar Bhimanagouda**Additional Registrar Enquiries-13,
Karnataka Lokayukta,
Bangalore.**:: ENQUIRY REPORT ::****Sub:-** Departmental Enquiry against,
Sri.B. Mallikarjuna, the then Tahasildar,
Anekal Taluk, presently working as Special
Land Acquisition Officer for Tumkur-
Raidurga and Tumkur – Davangere
Railway Project, Tumkur- reg.**Ref :** 1) Report u/s 12(3) of the K.L Act, 1984 in
Compt/Uplok/BCD-626/2009/ARE-8,
dated.25/09/2014.2) Govt. Order No.RD 114 ADE 2014,
Bengaluru, dated 23/02/2015.3) Nomination Order No.Uplok-1/
DE/115/2015, dated 06/03/2015.

1. This Departmental Enquiry is directed against Sri. B. Mallikarjuna, the then Tahasildar, Anekal Taluk, presently working as Special Land Acquisition Officer for Tumkur-Raidurga and Tumkur – Davangere Railway Project, Tumkur.

(herein after referred to as the Delinquent Government Official in short "DGO").

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 Upa Lokayukta-1, vide order dated: 06/03/2015 cited above at reference-3, nominated Additional Registrar of Enquiries-4 of the office of the Karnataka Lokayukta as the Enquiry Officer to frame charges and to conduct Enquiry against the aforesaid DGO. The Additional Registrar Enquires-4 prepared Articles of Charges, 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 DGO calling upon him to appear before this Authority and to submit written statement of his defence. Initially the DGO appeared and his First Oral statement was recorded on 12/05/2015. However, later on he remained absent and hence, he was placed Ex-parte.
4. As per order of Hon'ble UPLOK-1 & 2/DE/Tranfers/2018 Dated 06/08/2018 this enquiry file was transferred from ARE-4 to ARE-13.

5. The Article of Charges framed by ARE-4 against the DGO is as below:

ANNEXURE NO-1

6. That, you-DGO Sri. B.Mallikarjuna, the then Tahsildar, Anekal Taluk presently working as Special Land Acquisition Officer for Tumkur-Raidurga and Tumkur-Davangere Railway Project, Tumkur, while you were working as Anekal Tahasildar, during the year 2009, despite of complainant Sri.Yellappa S/o Late Chikkathimmaiah R/o Chinnaiahnalya in Anekal Taluk, Bangalore Urban District Submitted an application to you-DGO on 30/07/2009 requesting not to effect the 'phodi' with respect to Sy.No.10/P34 of a Sonnanayakanapura village informing that he had filed O.S.414/2009 on the file of Civil Judge, Anekal on 03/07/2009 and filing objections in TQ/DPR-77/09-10, you-DGO passed the order in favour of Chikkayellappa and others with an ulterior motive, thereby, you-DGO being a Government servant failed to maintain absolute integrity and devotion to duty, the said act of you were un-becoming of a Government Servant and thereby committed mis-conduct as enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

ANNEXURE-II
STATEMENT OF IMPUTATIONS OF MISCONDUCT

7. On the complaint filed by Sri. Yellappa S/o Late Chikkathimmaiah of Chinnaiahnapalya Grama in Anekal Taluk, Bangalore (herein after referred to as complainant for short), against DGO, alleging misconduct, an investigation was taken up under section 9 of Karnataka Lokayukta Act 1984.
8. **According to complainant:** Complainant has filed suit O.S. 414/2009 against Sri. Thimmaiah and he gave a petition to DGO requesting not to effect phodi of Sy.No.10/P34 informing about the suit filed. Still, they effected 'phodi' during the pendency of the suit.
9. Comments of DGO was called for. For that, DGO has submitted comments. DGO has stated that land has been purchased by Thimmaiah on 08/11/1977 and the land has been phodid as per 'Akar Band'.
10. During investigation, DGO has filed comments. Later on also, DGO submitted his reply when called for to state why he effected phodi during the pendency of the suit and inspite of objection. In the reply, DGO stated that there was no stay for effecting phodi and therefore, DGO effected phodi and the

remedy of the complainant is to file appeal against the phodi effected.

11. Consideration of material on record shows that:

- a) O.S.414/2009 has been filed by the complainant on 03/07/2009 against Chikkayellappa and 4 others for partition of Sy.No.10/P34 and 10/P36.
- b) Complainant has given application to the Tahasildar on 30/07/2007 informing about filing of suit O.S.414/2009 and requested not to effect phodi;
- c) In spite of that, during pendency of the said suit, an order has been passed on 04/11/2009 in TQ/DPR 77/09-10 by DGO ordering for phodi;
- d) DGO-the then Tahasildar of Anekal Taluk having had knowledge of suit O.S.414/2009 pending in respect of Sy.No.10/P34 and 10/P36 besides objection filed, has ordered for phodi.

12. Said facts supported by the material on record show that the DGO, being a public/Government servant, have failed

to maintain absolute integrity besides, devotion to duty and acted in a manner unbecoming of a Government servant, and thereby repeatedly committed misconduct and made themselves liable for disciplinary action. Since said facts and material on record prima-facie show that DGO has committed misconduct Rule 3(1)(iii) of KCS (Conduct) Rules, 1966, now, action U/S 12(3) of Karnataka Lokayukta Act, recommendation is made to the Competent Authority to initiate proceedings against the DGO and to entrust the enquiry to this Authority under Rule 14-A of K.C.S (CC & A) Rules, 1957. In turn Competent Authority entrust the enquiry to this institution vide ref (1) and Hon'ble Upa Lokayukta-1 nominated the enquiry authority to conduct enquiry and report vide ref (2). Hence, the Charge.

13. The DGO appeared before this Enquiry Authority on 12/05/2015 and on the same day his First Oral Statement was recorded U/Rule 11(9) of KCS (CC &A) Rules 1957. The DGO pleaded not guilty and claimed to hold an enquiry. Subsequently the DGO has filed his written statement of defence by denying the articles of charge and statement of imputations contending that, there is no such evidence to prove that he has committed misconduct U/Rule 3(1) of KCS (Conduct) Rules, 1966. Accordingly, prayed to exonerate him from the charges framed in this

case. Since the DGO later on remained Ex-parte the question of recording SOS, defence evidence and Questionnaire does not arise.

14. In order to substantiate the charge, the Disciplinary Authority examined one witness as PW-1 and got marked the documents at Ex.P-1 to P-4 and closed the evidence. Since the DGO remained Ex-parte, the question of recording SOS, defence evidence and questionnaire as provided U/Rule 11(9), 11(16), 11(17) and Rule 11(18) of Karnataka Civil Services (CC & A) Rules 1957 does not arise.
15. Upon consideration of the charge leveled against the DGO, the evidence led by the Disciplinary Authority by way of oral and documentary evidence, the only point that arises for my consideration is as under:

Point No-1) Whether the Disciplinary Authority has satisfactorily proved that, the DGO who was working as the Tahasildar, Anekal Taluk, during the year 2009, even though the complainant Sri.Yellappa S/o Late Chikkathimmaiah R/o Chinnaiahnapalya of Anekal Taluk, Bangalore Urban District had submitted an

application to the DGO on 30/07/2009, requesting you not to effect the 'phodi' with respect to land bearing Sy.No.10/P34 of Sonnanayakanapura village, informing that he had filed O.S.No.414/2009 on the file of Civil Judge, Anekal on 03/07/2009 and even though the suit bearing O.S.No.414/2009 was pending and the complainant had also filed objections in the proceedings pertaining to phodi of Sy.No.10/P34 of Sonnanayakanapura village in TQ/DPR-77/09-10, the DGO passed the order in favour of Chikkayellappa and others, inspite of the pendency of the suit and thereby failed to maintain absolute integrity and devotion to duty, which act is unbecoming of a Government Servant and thus committed mis-conduct as enumerated U/R 3 (1) (i) to (iii) of Karnataka Civil Service (Conduct) Rules, 1966.

16. My finding on the above point is held in **"Affirmative"** for the following:

:: REASONS ::

17. **Point No-1:-** The case of the Disciplinary Authority in brief is that,

The complainant by name Sri.Yellappa S/o Chikkathimmaiah resident of chinnaiahnapalya village of Anekal taluk has lodged the complaint and Form No-I and II as per Ex.P-1 to P-3 respectively. The complainant states that, he is the permanent resident of Chinnaiahnapalya village of Anekal taluk, and he is the owner of land bearing Sy.No.10/P34 measuring 3 acres and 17 guntas. He further states that, a person by name Thimmaiah and others had created bogus documents and they were trying to cause obstruction and nuisance to the complainant. Hence, the complainant filed O.S.No.414/2009 before the Hon'ble Civil Judge, Anekal. In the meanwhile the complainant requested the DGO and his subordinate officers not to effect phodi in respect of land bearing Sy.No.10/P34 of Sonnanayanakapura village. However, the DGO by taking bribe from Thimmaiah S/o Chikkathimmaiah and Venkataswamy S/o Chikkathimmaiah, had illegally done the phodi of the said land. When the complainant asked the DGO about the phodi, the DGO even demanded bribe from the

complainant. Hence, he was constrained to file this complaint.

18. During the pendency of the enquiry it was reported that, the complainant had expired the same was recorded in the order sheet on 13/04/2017. Hence, summons were issued to scrutiny officer i.e ARE-8 Smt.K.A. Lalitha.

19. The then ARE-8 Smt.K.A. Lalitha was summoned and examined as PW-1. She states that, in the year 2014 she was working as Additional Registrar Enquiries-8. She has scrutinized the complaint file bearing No.Compt/Uplok/BCD/626/2009. PW-1 further submits that, the complainant had filed the complaint and he had stated that, he had filed O.S.No.414/2009 against one Thimmaiah and others. Though the suit was pending, the DGO had done the phodi of land bearing Sy.No.10/P34 in the name of Thimmaiah. PW-1 identifies the complaint in Form No-I and II at Ex.P-1 and P-2 and the details of the complaint at Ex.P-3.

20. PW-1 further states that, the complainant had filed his objections before the DGO and he had requested not to do the phodi work, since the Civil suit was pending. Even though the DGO was aware of the pendency of the civil suit, he had conducted the phodi.

21. PW-1 further states that, after the complaint was lodged, the comments of DGO were called for and he has filed his comments as per Ex.P-4.

22. PW-1 further states that, on careful perusal of the file and the documents, she has observed the following aspects.

a) O.S. 414/2009 has been filed by the complainant on 03/07/2009 against Chikkayellappa and 4 others for partition of Sy.No.10/P34 and 10/P36.

b) Complainant has given application to the Tahasildar on 30/07/2007 informing about filing of suit O.S.414/2009 and requested not to effect phodi;

c) In spite of that, during pendency of the said suit, an order has been passed on 04/11/2009 in TQ/DPR 77/09-10 by DGO ordering for phodi;

d) DGO-the then Tahasildar of Anekal Taluk having had knowledge of suit O.S.414/2009 pending in respect of Sy.No.10/P34 and 10/P36 besides objection filed, has ordered for phodi.

23. PW-1 further states that, the DGO has effected the phodi during the pendency of suit. Though the complainant had filed his objections for effecting phodi, the DGO has not taken the said objections into consideration and he has effected the phodi. Hence, the conduct of the DGO amounts to mis conduct.

24. The DGO had appeared at the initial stage, his First Oral statement was recorded and thereafter he filed his written statement. However, thereafter he remained absent and hence, he was placed Ex-parte. The evidence of PW-1 has totally remained unchallenged.

25. In this case the complainant has expired during the pendency of the enquiry proceedings. Hence, the scrutiny officer i.e ARE-8 was summoned and examined as PW-1. She has reiterated the facts stated in the 12(3) report. On careful appreciation of the evidence of PW-1 and 12(3) report, it is quite clear that, the complainant Sri. Yellappa had filed O.S.No.414/2009 before the Hon'ble Civil Judge, Anekal against Chikkayellappa and others. The said suit was a suit for partition in respect of lands bearing Sy.No.10/P34 and 10/P36 of Sonnanayakanapura village. The complainant had given a representation to the DGO i.e. the Tahasildar of Anekal Taluk on 30/07/2007, informing him about the pendency of the suit. The complainant had requested the DGO not to effect phodi of the said lands because

O.S.No.414/2009 was pending. However, the DGO inspite of the pendency of the suit, had proceeded to effect the phodi on 04/11/2009 in the proceedings bearing No.TQ/DPR 77/09-10. Though the DGO was having knowledge about the pendency of suit bearing O.S.No.414/2009 filed by the complainant, he has proceeded to effect phodi in respect of land bearing Sy.No.10/P34 and 10/P36.

26. PW-1 further states that, the complainant had brought to the knowledge of the DGO with regard to the pendency of suit for partition bearing O.S.No.414/2009 on the file of Hon'ble Civil Judge Anekal. The complainant had even filed his objections to the phodi work. However, the DGO even though, he was aware of the pendency of the said suit and even though the complainant had filed objections, he has proceeded to effect phodi in proceedings bearing No.TQ/DPR 77/09-10 dated 04/11/2009. PW-1 has categorically stated that, this conduct of the DGO amounts to misconduct.

27. I have carefully gone through the evidence adduced by the Disciplinary Authority. Due to the death of the complainant during pendency of this enquiry he could not be examined. The scrutiny officer has been examined as PW-1 and she has reiterated the facts stated in the 12(3) report. On careful perusal of the evidence, it is observed that, the complainant had filed a suit for partition in respect of lands

bearing Sy.No.10/P34 and 10/P36 of Sonnanayakanapura village against Chikkayellappa and 4 others. The DGO who was the Tahasildar of Anekal taluk was informed by the complainant about the pendency of the suit bearing O.S.No.414/2009. The complainant had even filed objections with regard to effecting phodi work of land bearing Sy.No.10/P34 and 10/P36 of Sonnanayakanapura village. Even though the DGO was very well aware of the pendency of the civil suit bearing No. O.S.No.414/2009, and even though objections were filed by the complainant, he has proceeded to effect phodi in the proceedings bearing No.TQ/DPR 77/09-10 dated 04/11/2009. The conduct of the DGO shows that, even though the civil suit was pending in respect of lands bearing Sy.No.10/P34 and 10/P36 of Sonnanayakanapura village and the complainant had filed his objections, the DGO has proceeded to effect phodi. This conduct of the DGO amounts to misconduct. The DGO has effected the phodi in respect of lands bearing Sy.No. 10/P34 and 10/P36 of Sonnanayakanapura village even though, he was very well aware of the pendency of the civil suit bearing no.O.S.No.414/2009. The DGO had deliberately and with ulterior motive effected the phodi even though the pendency of the suit was brought to his knowledge. Hence, the conduct of the DGO amounts to misconduct.

28. For the reasons stated above the DGO, being the Government/Public Servant has failed to maintain absolute integrity besides devotion to duty and acted in a manner unbecoming of Government servant. On appreciation of entire oral and documentary evidence I hold that the charge leveled against the DGO is established. Hence, I answer point No.1 in the "Affirmative".

:: ORDER ::

The Disciplinary Authority has proved the charge against the DGO Sri.B. Mallikarjuna, the then Tahasildar, Anekal Taluk, presently working as Special Land Acquisition Officer for Tumkur- Raidurga and Tumkur - Davangere Railway Project, Tumkur.

29. This report is submitted to Hon'ble Upa Lokayukta-1 in a sealed cover for kind perusal and for further action in the matter.

Dated this the 29th day of July 2019

(Patil MohanKumar Bhimanagouda)

Additional Registrar Enquiries-13


Karnataka Lokayukta

Bangalore

ANNEXURE

Witness examined on behalf of the Disciplinary Authority
PW-1: Smt. K.A. Lalitha (Original)
Witness examined on behalf of the DGO
Nil
Documents marked on behalf of the Disciplinary Authority
Ex.P-1: Form No-I (Original)
Ex.P-2: Form No-II (Original)
Ex. P-3: Complaint (Original)
Ex. P-4: Comments of DGO (Original)
Documents marked on behalf of the DGO
Nil

Dated this the 29th day of July 2019


(Patil MohanKumar Bhimanagouda)
 Additional Registrar Enquiries-13
 Karnataka Lokayukta
 Bangalore



KARNATAKA LOKAYUKTA

No. UPLOK-1/DE/115/2015/ARE-13

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001
Date: 31/07/2019

RECOMMENDATION

Sub:- Departmental inquiry against;
Sri B.Mallikarjuna, the then Tahsildar, Anekal Taluk –
Presently working as Special Land Acquisition officer
for Tumakuru Raidurga and Tumakuru Davanagere
Railway Project, Tumakuru – Reg.

Ref:- 1) Government Order No.ಆರ್‌ಡಿ 114 ಎಡಿಇ 2014 Bengaluru
dated 23/2/2015

2) Nomination order No.UPLOK-1/DE/115/2015,
Bengaluru dated 6/3/2015 of Upalokayukta-1, State
of Karnataka, Bengaluru

3) Inquiry Report dated 29/7/2019 of Additional
Registrar of Enquiries-13, Karnataka Lokayukta,
Bengaluru

The Government by its Order dated 23/2/2015, initiated the disciplinary proceedings against Sri B Mallikarjuna, the then Tahsildar, Anekal Taluk, Presently working as Special Land Acquisition Officer for Tumakuru Raidurga and Tumakuru Davanagere Railway Project, Tumakuru (hereinafter referred to as Delinquent Government Official, for short as DGO) and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.UPLOK-1/DE/115/2015, Bengaluru dated 6/3/2015 nominated Additional Registrar of Enquiries-4, 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. Subsequently, by Order No. UPLOK-1&2/DE/Transfers/2018 dated 6/8/2018, the Additional Registrar of Enquiries-13 Karnataka Lokayukta, Bengaluru was re-nominated as inquiry officer to conduct departmental inquiry against DGO.

3. The DGO Sri B Mallikarjuna, the then Tahsildar, Anekal Taluk, Presently working as Special Land Acquisition Officer for Tumakuru Raidurga and Tumakuru Davanagere Railway Project, Tumakuru was tried for the following charge:-

“That, you DGO Sri B. Mallikarjuna, the then Tahsildar, Anekal Taluk, Presently working as Special Land Acquisition Officer for Tumakuru-Raidurga and Tumakuru-Davanagere Railway Project, Tumakuru, while you were working as Anekal Tahsildar during the year 2009 despite of Complainant Sri Yellappa S/o. Late Chikkathimmaiah R/o. Chinnaiahnapalya in Anekal Taluk, Bengaluru Urban District submitted an application to you - DGO on 30/07/2009 requesting not to effect the 'Phodi' with respect to Sy. No. 10/P34 of Sonnanayakanapura Village informing that he had filed O.S. No. 414/2009 on the file of Civil Judge, Anekal on 03/07/2009 and filing objections in TQ/DPR-77/09-10 you - DGO passed the order in favour of Chikkayellappa and others with an ulterior motive, thereby you - DGO being a Government Servant failed to maintain absolute integrity and devotion to duty, the said act of you were unbecoming of a Government servant and thereby committed misconduct as enumerated U/R. 3(1)(i) to (iii) of the Karnataka Civil Services (Conduct) Rules, 1966.”

4. The Inquiry Officer (Additional Registrar of Enquiries-13) on proper appreciation of oral and documentary evidence has held that the Disciplinary Authority has proved the above charge framed against DGO Sri B Mallikarjuna, the then Tahsildar, Anekal Taluk, Presently working as Special Land Acquisition Officer for Tumakuru-Raidurga and Tumakuru-Davanagere Railway Project, Tumakuru.
5. On re-consideration of inquiry report, I do not find any reason to interfere with the findings recorded by the Inquiry Officer. It is hereby recommended to the Government to accept the report of Inquiry Officer.
6. As per the First Oral Statement submitted by DGO, he is due to retire from service on 30/09/2038:
7. Having regard to the nature of charge proved against DGO Sri B.Mallikarjuna, it is hereby recommended to the Government for imposing penalty of withholding four annual increments payable to DGO Sri B Mallikarjuna, the then Tahsildar, Anekal Taluk, Presently working as Special Land Acquisition Officer for Tumakuru Raidurga and Tumakuru Davanagere Railway Project, Tumakuru, with cumulative effect.
8. Action taken in the matter shall be intimated to this Authority.

Connected records are enclosed herewith.


(JUSTICE N. ANANDA)
Upalokayukta-1,
State of Karnataka,
Bengaluru

