

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No.UPLOK-1/DE/1155/2017/ARE-8

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001
Date: **23/11/2020**

RECOMMENDATION

Sub:- Departmental inquiry against;
Sri Marippadayi (Sri Mariyappa R. Dayi), the then
Chief Officer, Town Municipal Council, Talikote,
Muddebihal Taluk, Vijayapura District – Reg.

- Ref:- 1) Govt. Order No.ನಅಇ 134 ಡಿಎಂಕೆ 2016, Bengaluru dated
30/11/2017.
- 2) Nomination order No.UPLOK-1/DE/1155/2017,
Bengaluru dated 11/12/2017 of Upalokayukta-1,
State of Karnataka, Bengaluru
- 3) Inquiry Report dated 20/11/2020 of Additional
Registrar of Enquiries-8, Karnataka Lokayukta,
Bengaluru

The Government by its order dated 30/11/2017 initiated the disciplinary proceedings against Sri Marippadayi (Mariyappa R. Dayi as mentioned in the defence statement and affidavit evidence of Delinquent Govt. official), the then Chief Officer, Town Municipal Council, Talikote, Muddebihal Taluk, Vijayapura District (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/1155/2017 Bengaluru dated 11/12/2017 nominated Additional Registrar of Enquiries-8, 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 Sri Marippadayi (Sri Mariyappa R. Dayi), the then Chief Officer, Town Municipal Council, Talikote, Muddebihal Taluk, Vijayapura District was tried for the following charge:-

“ಆ.ಸ.ನೌ. ಆದ ನೀವು ತಾಳಿಕೋಟೆ ಪುರಸಭೆಯ ಮುಖ್ಯಾಧಿಕಾರಿಯಾಗಿ ಕರ್ತವ್ಯ ಸಲ್ಲಿಸುತ್ತಿದ್ದ ಅವಧಿಯಲ್ಲಿ ಪುರಸಭೆಯ ಆಸ್ತಿ ಮಳಿಗೆ ನಂ.21 ಅನ್ನು ಅಕ್ರಮವಾಗಿ 12 ವರ್ಷಗಳ ಅವಧಿಗೆ ಬಾಡಿಗೆಗೆ ನೀಡಿದ್ದು, ಕರ್ನಾಟಕ ಪುರಸಭೆ ಕಾಯ್ದೆ ಕಲಂ 72(2)ರ ಅಡಿಯಲ್ಲಿ ಯಾವುದೇ ಪಂಚಾಯತಿಯ ಸ್ಥಿರ ಆಸ್ತಿಯನ್ನು ಬಾಡಿಗೆಗೆ ನೀಡುವಾಗ 5 ವರ್ಷಕ್ಕೆ ಮೀರಿ ಬಾಡಿಗೆಗೆ ನೀಡಬಾರದೆಂದು ಹಾಗೂ ಆ ಸ್ಥಿರಾಸ್ತಿಗೆ ಸಂಬಂಧಿಸಿದ ವ್ಯವಹಾರವು ರೂ.25,000/-ಕ್ಕೂ ಮೀರಿದಲ್ಲಿ, ಸರ್ಕಾರದ ಅನುಮತಿ ಬೇಕಾಗಿದ್ದು, ಹಾಗೂ ಈ ಸಂಬಂಧ ಸಾಮಾನ್ಯ ಸಭೆಯ ಅನುಮೋದನೆಯು ಸಹ ತಿಳಿಸಲಾಗಿರುತ್ತದೆ. ಆದರೆ, ಆ.ಸ.ನೌ ಆದ ನೀವು ಸದರಿ ವಿಷಯವನ್ನು ಪುರಸಭೆಯ ಸಾಮಾನ್ಯ ಸಭೆಯಲ್ಲಿ ಚರ್ಚಿಸಿ ಠರಾವು ಪಾಸು ಮಾಡದೇ ಹಾಗೂ ಸರ್ಕಾರದ ಸುತ್ತೋಲೆ ಸಂಖ್ಯೆ ಯುಡಿಡಿ 221 ಜಿಇಎಲ್ 2009 ದಿ: 26/10/2009ರ ಪ್ರಕಾರ ವಾಣಿಜ್ಯ ಮಳಿಗೆಗಳನ್ನು ಬಾಡಿಗೆಗೆ ನೀಡುವಾಗ ಕರ್ನಾಟಕ ಟ್ರಾನ್ಸ್‌ಪರೆನ್ಸಿ ಇನ್ ಪಬ್ಲಿಕ್ ಪ್ರೊಕ್ಯೂರ್‌ಮೆಂಟ್ ಆಕ್ಟ್ ಅಂಡ್ ರೂಲ್ಸ್ ಪ್ರಕಾರ ಮುಕ್ತ ಹರಾಜಿನ ಪ್ರಕಾರ ಬಾಡಿಗೆಗೆ ನೀಡಬೇಕಾಗಿದ್ದು, ನೀವು ಸದರಿ ಕಾಯ್ದೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿ, ಮುಕ್ತ ಹರಾಜಿಗೆ ಸದರಿ ಮಳಿಗೆಯನ್ನು ಒಳಪಡಿಸದೇ ಬಾಡಿಗೆಗೆ ನೀಡಿರುವುದು ನ್ಯಾಯಸಮ್ಮತವಾಗಿರುವುದಿಲ್ಲ ಹಾಗೂ ಬಾಡಿಗೆಯನ್ನು ಸಹ ಮೇಲೆ ಹೇಳಿದ ಸುತ್ತೋಲೆಯ ಪ್ರಕಾರ ನಿರ್ಧರಿಸಿರುವುದಿಲ್ಲ. ಆದಕಾರಣ, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನೀವು ಸರ್ಕಾರಿ ಸೇವಕರಾಗಿದ್ದು, ನಿಮ್ಮ ಕರ್ತವ್ಯ ಪಾಲನೆಯಲ್ಲಿ ಪರಿಪೂರ್ಣ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ತೋರಿಸದೆ ಸ್ವಂತ ಲಾಭಕ್ಕಾಗಿ ಸಾರ್ವಜನಿಕ ಸೇವಕರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡಿದ್ದು, ನೀವು ಕರ್ನಾಟಕ ಸರ್ಕಾರಿ ಸೇವಾ (ಸದ್ವರ್ತನೆ) ನಿಯಮಾವಳಿ 1966ರ 3(1)(ii) ಮತ್ತು (iii)ನೇ ನಿಬಂಧನೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿ ದುರ್ನಡತೆ ಎಸಗಿದ್ದೀರಿ.”

4. The Inquiry Officer (Additional Registrar of Enquiries-8) on proper appreciation of oral and documentary evidence has held that the Disciplinary Authority has proved the above charge

against DGO Sri Marippadayi (Sri Mariyappa R. Dayi), the then Chief Officer, Town Municipal Council, Talikote, Muddebihal Taluk, Vijayapura District.

5. The Inquiry officer has held that the evidence both oral and documentary placed on record by both the Disciplinary Authority and DGO establishes that the DGO leased out shop No.21 belonging to TMC, Talikote without following Circular No.DMA/IDSMB/CR/26/2004-2005 dated 04/05/2006 and the provisions of the Karnataka Transparency in Public Procurement Act, 1999. The DGO has failed to explain the extraneous circumstances for leasing out the shop No.21 belonging to TMC bypassing all the procedures. Therefore, an inference could be drawn against the DGO that the lease was made bypassing all the procedures to make wrongful gain and not otherwise. The DGO is liable for financial loss of Rs.72,000/- per year at the rate of Rs.6,000/- per month to the TMC/exchequer from 1/8/2011 i.e., date of commencement of lease agreement till 31/7/2022 for a period of 12 years, comes to Rs.8,64,000/-.

6. 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.

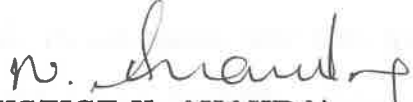
7. As per the First Oral Statement submitted by DGO, he has retired from service on 31/3/2019 (during the pendency of inquiry).

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8. Having regard to the nature of charge proved against DGO Sri Marippadayi (Mariyappa R. Dayi), it is hereby recommended to the Government for imposing penalty of recovering a sum of Rs.8,64,000/- from the pension payable to DGO Sri Marippadayi (Sri Mariyappa R. Dayi), the then Chief Officer, Town Municipal Council, Talikote, Muddebihal Taluk, Vijayapura District.

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

Connected records are enclosed herewith.


(JUSTICE N. ANANDA)
Upalokayukta-1, 23/11
State of Karnataka,
Bengaluru

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KARNATAKA LOKAYUKTA

No:UPLOK-1/DE/1155/2017/ARE - 8

M.S.Building
Dr.B.R.Ambedkar Veedhi
Bengaluru - 560001
Dated; 20th November, 2020.

ENQUIRY REPORT

Sub; Departmental Enquiry against;

Sri.Mareppadayi, the then Chief Officer,
Town Municipal Council, Talikote,
Muddebihal Taluk, Vijayapura - Reg.

Ref; 1. G.O.No. NaAaE 134 DMK 2016
Bengaluru dated; 30.11.2017.

2. Nomination Order No.UPLOK-
1/DE/1155/2017/ARE-8, Bengaluru,
Dated; 11.12.2017 of Hon'ble
Upalokayukta - 1.

The Departmental Enquiry is initiated against Sri. Mareppadayi the then Chief Officer, Town Municipal Council, Talikote, Muddebihal Taluk, Vijayapura District (hereinafter referred to as the Delinquent Government Official in short DGO) .

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2. In view of Government Order cited at reference No.1 the Hon'ble Upalokayukta - 1 vide Order cited at reference No.2 has nominated Additional Registrar Enquiries - 8 to frame Articles of Charge and to conduct enquiry against aforesaid DGO.

3. The Substance of Imputations of misconduct against the Delinquent Government Official is as follows.

"The Delinquent Government Official was working as Chief Officer, Town Municipal Council, Talikote, Muddebihal Taluk during the year 2009. The DGO allotted shop No.21 which is the Property of Municipality to one Sri.Trikamarama Bhuraji Chowdhary for a period of 12 years on a monthly rental of Rs.9,000/- against to the Circular No.DMA/IDSMB/CR/26/2004-2005 dated; 04.05.2006 of Directorate of Municipal Administration. The shop could have been allotted in a public auction after getting approval from Town Municipal Council in a General Body Meeting, and after getting sanction from the Deputy Commissioner. The DGO to make wrongful gain has not placed the proposal of auctioning of Shop No.21 in the agenda of General Body Meeting of the council held on 05.07.2011. The same was not brought to the knowledge of any of the members. Eight months prior to the allotment of Shop No.21, the TMC allotted its shops in the public auction for a sum of Rs.1,80,000/- each per year. The DGO caused financial loss to the TMC, Talikote, Muddebihal Taluk. The act of DGO is against to the Circular of Directorate of Municipal Administration dated; 04.05.2006 and also against to the procedure and requirements


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of law. Thereby the DGO has failed to maintain absolute integrity and devotion to duty the act of which is unbecoming of Public/Government Servant and have committed misconduct under rule 3 (1) of KCS (Conduct) Rules, 1966 .”

4. Additional Registrar Enquiries - 8 has prepared Articles of Charge, Statement of Imputations of misconduct, List of witnesses and List of documents and copies of the same were sent to DGO for his appearance and to submit his written statement of defence. The Delinquent Government Official appeared on 09.04.2018 before this authority pursuant to service of Articles of Charge. The Plea (FOS) was recorded, the DGO pleaded not guilty and claimed enquiry into the charge. The Articles of Charge framed against DGO is as follows.

“ಅ.ಸ.ನೌ. ಆದ ನೀವು ತಾಳಿಕೋಟಿ ಪುರಸಭೆಯ ಮುಖ್ಯಾಧಿಕಾರಿಯಾಗಿ ಕರ್ತವ್ಯ ಸಲ್ಲಿಸುತ್ತಿದ್ದ ಅವಧಿಯಲ್ಲಿ ಪುರಸಭೆಯ ಆಸ್ತಿ ಮಳಿಗೆ ನಂ.21 ಅನ್ನು ಅಕ್ರಮವಾಗಿ 12 ವರ್ಷಗಳ ಅವಧಿಗೆ ಬಾಡಿಗೆಗೆ ನೀಡಿದ್ದು, ಕರ್ನಾಟಕ ಪುರಸಭೆ ಕಾಯ್ದೆ ಕಲಂ 72(2)ರ ಅಡಿಯಲ್ಲಿ ಯಾವುದೇ ಪಂಚಾಯತಿಯ ಸ್ಥಿರ ಆಸ್ತಿಯನ್ನು ಬಾಡಿಗೆಗೆ ನೀಡುವಾಗ 5 ವರ್ಷಕ್ಕೆ ಮೀರಿ ಬಾಡಿಗೆಗೆ ನೀಡಬಾರದೆಂದು ಹಾಗೂ ಆ ಸ್ಥಿರಾಸ್ತಿಗೆ ಸಂಬಂಧಿಸಿದ ವ್ಯವಹಾರವು ರೂ.25,000/- ಕ್ಕೂ ಮೀರಿದಲ್ಲಿ, ಸರ್ಕಾರದ ಅನುಮತಿ ಬೇಕಾಗಿದ್ದು, ಹಾಗೂ ಈ ಸಂಬಂಧ ಸಾಮಾನ್ಯ ಸಭೆಯ ಅನುಮೋದನೆಯು ಸಹ ತಿಳಿಸಲಾಗಿರುತ್ತದೆ. ಆದರೆ, ಅ.ಸ.ನೌ. ಆದ ನೀವು ಸದರಿ ವಿಷಯವನ್ನು ಪುರಸಭೆಯ ಸಾಮಾನ್ಯ ಸಭೆಯಲ್ಲಿ ಚರ್ಚಿಸಿ ತರಾವು ಪಾಸು ಮಾಡದೇ, ಹಾಗೂ ಸರ್ಕಾರದ ಸುತ್ತೋಲೆ ಸಂಖ್ಯೆ: ಯುಡಿಡಿ221ಜಿಎಲ್2009 ದಿ:26.10.2009ರ ಪ್ರಕಾರ ವಾಣಿಜ್ಯ ಮಳಿಗೆಗಳನ್ನು ಬಾಡಿಗೆಗೆ ನೀಡುವಾಗ ಕರ್ನಾಟಕ ಟ್ರಾನ್ಸ್‌ಪರೆನ್ಸಿ ಇನ್ ಪಬ್ಲಿಕ್ ಪ್ರೊಕ್ಯೂರ್‌ಮೆಂಟ್ ಆಕ್ಟ್ ಅಂಡ್ ರೂಲ್ಸ್ ಪ್ರಕಾರ ಮುಕ್ತ ಹರಾಜಿನ ಪ್ರಕಾರ ಬಾಡಿಗೆಗೆ ನೀಡಬೇಕಾಗಿದ್ದು, ನೀವು ಸದರಿ

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ಕಾಯ್ದೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿ, ಮುಕ್ತ ಹರಾಜಿಗೆ ಸದರಿ ಮಳಿಗೆಯನ್ನು ಒಳಪಡಿಸದೆ ಬಾಡಿಗೆಗೆ ನೀಡಿರುವುದು ನ್ಯಾಯಸಮ್ಮತವಾಗಿರುವುದಿಲ್ಲ ಹಾಗೂ ಬಾಡಿಗೆಯನ್ನು ಸಹ ಮೇಲೆ ಹೇಳಿದ ಸುತ್ತೋಲೆಯ ಪ್ರಕಾರ ನಿರ್ಧರಿಸಿರುವುದಿಲ್ಲ. ಆದಕಾರಣ, ಆಪಾದಿತ ನೌಕರರಾದ ನೀವು ಸರ್ಕಾರಿ ಸೇವಕರಾಗಿದ್ದು, ನಿಮ್ಮ ಕರ್ತವ್ಯ ಪಾಲನೆಯಲ್ಲಿ ಪರಿಪೂರ್ಣ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ತೋರಿಸದೆ ಸ್ವಂತ ಲಾಭಕ್ಕಾಗಿ ಸಾರ್ವಜನಿಕ ಸೇವಕರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡಿದ್ದು, ನೀವು ಕರ್ನಾಟಕ ಸರ್ಕಾರಿ ಸೇವಾ (ಸದ್ವರ್ತನೆ) ನಿಯಮಾವಳಿ 1966 ರ (3) (1) (ii) ಮತ್ತು (iii) ನೇ ನಿಬಂಧನೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿ ದುರ್ನಡತೆ ಎಸಗಿದ್ದೀರಿ.”

5. The DGO filed written statement of defence on 23.06.2018 denying all the allegations made against him besides contending that he worked as Chief Officer of TMC, Talikote from 22.07.2011 till 13.02.2013. He has not allotted the shop to anyone belonging to TMC on 05.7.2011 as alleged. His predecessor in office by name S.B.Honnalli allotted the said shop before he assumed charge. He has not signed the rental agreement and prays to exonerate him from the charges.

6. The Presenting officer to prove the misconduct of the Delinquent Government Official has examined one witness as PW1, got marked Ex.P1 to Ex.P8. The second oral statement of the Delinquent Government official was recorded under Rule 11 (18) C.C.A.Rules. The Delinquent Government Official denied the evidence appears against him.

7. The DGO examined himself as DW1 in support of his defence, got marked Ex.D1 to Ex.D3.

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8. Heard the arguments of Presenting Officer appearing for disciplinary authority. Perused the written arguments submitted by the DGO on 08.08.2019.

9. The point that arises for my consideration is as follows.

“Whether the Disciplinary Authority has proved the charges framed against the Delinquent Government Official Sri.Mareppadayi, the then Chief Officer, Town Municipal Council, Talikote, Mudebihal Taluk, Vijayapura District ”

10. My answer to the above point is in the 'Affirmative ' for the following reasons.

REASONS


11. Before considering the evidence both oral and documentary placed on record by the disciplinary authority and the defence, it is necessary to narrate the case of the disciplinary authority. The Hon'ble Upalokayukta - 1 received a complaint on 07.10.2011 stated to have been written by the Councilor, TMC without mentioning his name. It is alleged in the complaint that the DGO allotted Shop No.21 belonging to TMC on a monthly rent of Rs.9,000/- for a period of 12 years to one Sri.Trikamarama Bhuraji Chowdhary against to the Circular No.DMA/IDSMB/CR/26/2004-2005 dated; 04.05.2006 of Directorate of Municipal Administration. The Chief Officer to make wrongful gain did not include shop No.21 in the agenda of General Body Meeting of the Council held on 05.07.2011 to

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conduct public auction. The DGO caused financial loss of Rs.2,00,000/- per year to the TMC. According to the disciplinary authority the DGO have not performed his official duties and caused loss to the TMC.

12. It is to be noted the DGO denied the charge leveled against him. The Delinquent Government Official was working as Chief Officer, TMC Talikote of Muddebihal Taluk on 05.07.2011 is being denied. According to DGO one by name S.B.Honnalli was the Chief Officer on 05.07.2011 and allotted the Shop No.21. He worked as Chief Officer from 22.07.2011 to 13.02.2013 and not responsible for the allotment of shop to one Sri.Trikamarama Bhuraji Chowdhary.

13. Looking to the rival contention of disciplinary authority and the DGO, the oral as well as documentary evidence placed on record by both disciplinary authority and DGO is taken for consideration. During enquiry the Presenting Officer has examined PW1 - T.M.Gopinath who said to be the scrutiny officer, and produced documents at Ex.P1 to Ex.P8. PW1 has reiterated the averments made in the complaint-Ex.P1. According to the evidence of PW1 the Hon'ble Upalokayukta - 1 suo-moto took up investigation based on Ex.P1 said to have been written by the councilor whose identity is not disclosed. The Hon'ble Upalokayukta - 1 called report from Chief Officer, TMC Talikote, Muddebihal Taluk. The Chief Officer submitted report on 20.09.2012 to Hon'ble Upalokayukta - 1 as per Ex.P2. Ex.P3 is the circular No.UDD 221 GEL 2009 dated; 26.10.2009 issued by


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the Secretary to Government, Urban Development Department. Ex.P4 is the English version of Ex.P3. Ex.P5 stated to be the copy of General Body Meeting of TMC Talikote held on 05.07.2011 and Ex.P6 is the copy of lease agreement said to have been executed in bet-ween TMC and Sri.Trikamarama Bhuraji Chowdhary in respect of Shop No.21. Ex.P7 is the copy of Public auction proceedings of 20 shops constructed by TMC in front of Bus Stand, Talikote. Ex.P8 is the copy of meeting book extract of the council dated; 01.11.2011.

14. Let me find out from the materials placed on record proves that the DGO was on duty as Chief Officer on 5.7.2011 when Shop No.21 was leased out to one Sri.Trikamarama Bhuraji Chowdhary. PW1 has stated in his evidence that;

“ ಈ ಸಂದರ್ಭದಲ್ಲಿ ಈ ಪ್ರಕರಣಕ್ಕೆ ಸಂಬಂಧಿಸಿದ ಬಿಜಾಪುರ ಜಿಲ್ಲೆಯ ಮೆದ್ದೇಬಿಹಾಳ ತಾಲ್ಲೂಕಿನ ತಾಳಿಕೋಟೆಯ ಪುರಸಭೆಯ ಸದಸ್ಯರೊಬ್ಬರು ಸದರಿ ಪುರಸಭೆಯ ಪೌರಾಡಳಿತ ನಿರ್ದೇಶನಾಲಯವು ನೀಡಿದ್ದ ಸುತ್ತೋಲೆ ಸಂಖ್ಯೆ: ಡಿಎಂಎ/ಐಡಿಎಸ್‌ಎಂಬಿ/ಸಿಆರ್/26/2004-05 ದಿನಾಂಕ: 04.05.2006ರ ಪ್ರಕಾರ ನಿರ್ದೇಶನಗಳನ್ನು ಹಾಗೂ ಕೆ.ಟಿ.ಪಿ.ಪಿ. ನಿಯಮಗಳು 2000ರ ನಿರ್ದೇಶನಗಳನ್ನು ದಿಕ್ಕರಿಸಿ ಸದರಿ ತಾಳಿಕೋಟೆಯ ಪುರಸಭೆಯ ಮುಖ್ಯಾಧಿಕಾರಿಯವರಾದ ಅ.ಸ.ನೌ. ರವರು ಪುರಸಭೆಗೆ ಸೇರಿದ್ದ ಮಳಿಗೆಗಳಲ್ಲಿ ಮಳಿಗೆ ಸಂಖ್ಯೆ 21ನ್ನು ಅಕ್ರಮವಾಗಿ ಬಾಡಿಗೆ ನೀಡಿರುತ್ತಾರೆ. ನಿಯಮಾವಳಿಗಳ ಪ್ರಕಾರ ಮಳಿಗೆಯನ್ನು ಬಾಡಿಗೆಗೆ ನೀಡದೆ ಬಹಿರಂಗ ಹರಾಜಿನ ಮೂಲಕ ಬಾಡಿಗೆ ನೀಡಬೇಕಾಗಿತ್ತು. ಅದನ್ನು ಉಲ್ಲಂಘಿಸಿ ನೇರವಾಗಿ ಬಾಡಿಗೆ ನೀಡಿರುತ್ತಾರೆ. ಮಾನ್ಯ ಜಿಲ್ಲಾಧಿಕಾರಿಯವರ ಅನುಮತಿಯನ್ನು ಸಹ ನಿಯಮಾವಳಿಗಳ ಪ್ರಕಾರ ಪಡೆಯದೇ ಬಾಡಿಗೆಗೆ ನೀಡಿರುತ್ತಾರೆ. ಪುರಸಭೆಯ ಸಾಮಾನ್ಯ ಸಭೆ ಅಜೆಂಡಾದಲ್ಲಿ ಸೇರಿಸದೆ ಮತ್ತು ಈ ವಿಷಯವನ್ನು ಯಾವುದೇ ಸದಸ್ಯರ ಗಮನಕ್ಕೆ ತರದ ಒಳ ಒಪ್ಪಂದ ಮಾಡಿಕೊಂಡಿರುತ್ತಾರೆ. ಈ ಒಪ್ಪಂದವನ್ನು ಶ್ರೀ. ತ್ರಿಕರಮರಾಮ ಬೋರಾಜಿ ಚೌಧರಿ ಇವರಿಗೆ ಕೇವಲ ರೂ.9,000/- ತಿಂಗಳ ಬಾಡಿಗೆಗೆ 12 ವರ್ಷಗಳ ಅವಧಿಗೆ ಬಾಡಿಗೆ ನೀಡಿರುತ್ತಾರೆ. ಆದರೆ

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ಈ ಹಿಂದೆ 8 ತಿಂಗಳ ಪೂರ್ವದಲ್ಲಿ ಇತರ ಮಳಿಗೆಗಳನ್ನು ಬಹಿರಂಗ ಹರಾಜಿನ ಮೂಲಕ ರೂ.1,80,000/- ಬಾಡಿಗೆಗೆ ಹರಾಜು ಮಾಡಿ ನೀಡಿರುತ್ತಾರೆ. ಈ ಎಲ್ಲಾ ಅಂಶಗಳನ್ನು ಪರಿಗಣಿಸಿದ್ದಲ್ಲಿ ಪುರಸಭೆಯ ಬೊಕ್ಕಸಕ್ಕೆ ಆರ್ಥಿಕ ನಷ್ಟ ಉಂಟಾಗಿರುತ್ತದೆ ಎಂದು ತಿಳಿಸಿ ಈ ಸಂಸ್ಥೆಗೆ ದೂರು ನೀಡಿದ್ದು, ಸದರಿ ದೂರನ್ನು ನಿಗದಿತ ನಮೂನೆ 1 ಮತ್ತು 2 ರಲ್ಲಿ ನೀಡದೆ ಇದ್ದ ಕಾರಣ ಪ್ರಕರಣವನ್ನು ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯಿದೆ ಕಲಂ 7(2) ಸ್ವಯಂ ಪ್ರೇರಿತ ಪ್ರಕರಣವನ್ನು ದಾಖಲಿಸಿಕೊಳ್ಳಲಾಗಿರುತ್ತದೆ. ದೂರಿನ ಆಧಾರದ ಮೇಲೆ ವರದಿ ಸಲ್ಲಿಸುವಂತೆ ತಾಳಿಕೋಟೆ ಪುರಸಭೆಯ ಮುಖ್ಯಾಧಿಕಾರಿಗಳಿಗೆ ಸೂಚಿಸಿ ಪತ್ರ ಬರೆಯಲಾಗಿತ್ತು. ದಿನಾಂಕ:20.09.2012ರಂದು ವರದಿ ಸಲ್ಲಿಸಿರುತ್ತಾರೆ”.

PW1 further stated that;

“ಮುಖ್ಯಾಧಿಕಾರಿಗಳು ಪುರಸಭೆ ತಾಳಿಕೋಟೆ ಇವರು ಸಲ್ಲಿಸಿದ್ದ ಪತ್ರದ ಪ್ರತಿಯನ್ನು ಈಗ ನೋಡುತ್ತಿದ್ದು ಅದನ್ನು ನಿಶಾನೆ ಪಿ.2 ಎಂದು ಗುರುತಿಸಲಾಯಿತು”.

15. A perusal of Ex.P2, it is seen that it is a report submitted by the DGO on 20.09.2012 in the capacity as Chief Officer of Talikote as called for by the Hon'ble Upalokayukta - 1 pursuant to complaint Ex.P1. Ex.P2 does not disclose that DGO was not duty on 05.07.2011 and he took charge of TMC on 22.07.2011 as contended in his written statement. Ex.P2 evident that the DGO denied the allegations made in the complaint-Ex.P1 and there is no truth in the allegations made by the councilor in Ex.P1. Nothing prevented DGO to mention in Ex.P2 that he was not the Chief Officer of TMC and one S.B.Honnalli was the Chief Officer on 05.07.2011. The name of Sri.S.B.Honnalli is not at all mentioned in Ex.P2 to fix the responsibility of leasing out Shop No.21 in violation of Circulars and the provisions of Karnataka

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Transparency Public Procurement Act 1999 and rules of 2000 on him.

16. The DGO cross-examined PW1 to discredit his evidence. PW1 has stated in his cross examination that the name of DGO is not mentioned in Ex.P1. It is to be noted that the complaint was sent to Hon'ble Upalokayukta - 1 making allegations against TMC, and it need not contain the name of Chief Officer. Therefore non-mentioning of name of DGO in Ex.P1 as admitted by PW1 will not enure to the case of the DGO. PW1 has stated in his cross-examination that without looking into the relevant documents he cannot say that DGO was not on duty as Chief Officer on 05.07.2011, and one S.B.Honnalli was the Chief Officer till 22.07.2011. Thus the DGO has failed to make out anything in the cross-examination of PW1 supporting his contention. There is nothing on record to discredit the evidence of PW1.

17. Para-2 of the Notification No. NaAaE 134 DMK 2016, Bengaluru dated;30.11.2017 would indicate that the Urban Development Department, Government of Karnataka entrusted departmental enquiry to Hon'ble Upalokayukta - 1 under rule 14-A of KCS (CCA) Rules, 1957 based on 12(3) report and after hearing the objections of DGO. It is to be noted that the DGO has not challenged the 12(3) report and the Government Order dated; 30.11.2017. The oral evidence of DW1 would indicate that the DGO was not on duty on 05.07.2011 and he cannot be made liable for the charges. DW1 admits in the cross examination that he has not stated in Ex.P2 that he was not on duty on

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05.07.2011 and he is no way connected to the said transaction. There is no explanation offered by the DGO about the non-mentioning of fact in Ex.P2 that he was not the Chief Officer on 05.07.2011. Ex.D1 to Ex.D3 are the letters issued by the Chief Officer and the Deputy Commissioner, Vijayapura. It is to be noted that the transfer proceedings of DGO and said S.B.Honnalli is not forthcoming. There is no reason as to why the DGO withheld transfer proceedings of Secretary, Urban Development Department, Government of Karnataka who is the transferring authority. In the absence of transfer proceedings notification mere on the letters Ex.D1 to Ex.D3 it cannot be held that the DGO was not the Chief Officer on 05.07.2011. Therefore it is said that the DGO failed to substantiate his contention that one S.B.Honnalli was the Chief Officer on 05.07.2011 and he is responsible for the transaction that took place on 05.07.2011 in the TMC, Talikote. Thus the oral evidence of PW1, Government Notification and the admission made by DW1 during cross examination proves that the DGO was on duty as Chief Officer of TMC Talikote on 05.07.2011.

18. Let me peruse the evidence whether the disciplinary authority prove the fact that the DGO leased out the Shop No.21 on a monthly rental of Rs.9,000/- belonging to TMC to Sri.Trikamarama Bhuraji Chowdhary for a period of 12 years without brining into public auction and without obtaining sanction from Deputy Commissioner, Vijayapura for his wrongful gain and not included in the agenda of General Body Meeting held on 05.07.2011. The act of DGO is in violation of Circular

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No.DMA/IDSMB/CR/26/2004-2005 dated; 04.05.2006 and the provisions of Karnataka Transparency Public Procurement Rules 2000. The fact that the Shop No.21 belonging to TMC was leased out to Sri.Trikamarama Bhuraji Chowdhary on a monthly rental of Rs.9,000/- for a period of 12 years is not in dispute. The oral evidence of PW1 would indicate that the lease of Shop No.21 was made infavour of Sri.Trikamarama Bhuraji Chowdhary by DGO on 05.07.2011 without following the Circular No. DMA/IDSMB/CR/26/2004-2005 dated; 04.05.2006 and the provisions of Karnataka Transparency Public Procurement Act,1999 and the Rules 2000. Further indicates that the lease was without conducting public auction and without obtaining sanction from the Deputy Commissioner, Vijayapura. On going through the cross examination PW1, it is seen that nothing is brought out by the DGO to believe that the procedure as laid down under section 72(2) of KMC Act and the provisions of KTPP Act, 2000 is complied.

19. Ex.P3 and Ex.P4 the circulars stipulate that the commercial shops constructed under various schemes by the TMC shall be disposed of through open auction by advertisement under the provisions of KTPP Act, 1999. Ex.P7 and Ex.P8 the open auction proceedings does not disclose that the Shop No.21 was brought for public auction. Ex.P5 claims to be the proceedings of General Body Meeting do not disclose that the Shop No.21 was brought for public auction. The DGO has not obtained sanction from Deputy Commissioner before entering into agreement Ex.P6 with Sri.Trikamarama Bhuraji Chowdhary as the rental value exceeds

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Rs. 25,000/. Looking to the Public Auction Proceedings the other shops were auctioned for Rs. 1,80,000/- p.a. Comparing the rents of other shops with the rent of Shop No.21 as fixed by the Chief Officer, there is a difference of Rs. **6,000/-** p.m. If the rent of Shop No.21 was fixed equivalent to the other shops it may come to Rs. **15,000/-** per month in place of Rs. **9,000/-**.

20. Looking to the rents of the other shops it could be gathered that the intention of the DGO in leasing out the Shop No.21 comparatively at a lower rate only to make wrongful gain. The matter would have been different if the leasing out of Shop No.21 was by way of public auction. Thus fixing of lower rent without following the procedure by the DGO is nothing but causing financial loss to the TMC/Exchequer of Rs. **6,000/-** per month and it comes to Rs. **72,000/-** per annum from the date of commencement of lease agreement (Ex.P6) i.e. 01.08.2011 and the other conditions stipulated therein. Ex.P6 - lease agreement evident that the lease is for a period of 12 years from **01-08-2011 to 31-07-2022**. Therefore, under the circumstances the DGO is responsible for financial loss of Rs. **72,000/-** per year at the rate of Rs. **6,000/-** per month to the TMC/Exchequer till the lease agreement prevails i.e. 31-07-2022 it comes to Rs. **8,64,000/-** (**72,000 x 12 = 8,64,000**) for 12 years. Ex.P5 and Ex.P6 evident that the DGO not complied with the provisions of section 72(2) of KMC Act and the provisions of KTPP Act, 1999. The oral evidence of DW1 is not to the effect that the DGO complied with the procedure to lease out the Shop No.21 belonging to TMC, Talikote.


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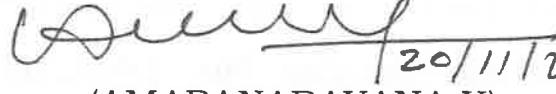
21. The evidence both oral and documentary placed on record by both the disciplinary authority and DGO establishes that the DGO leased out Shop No.21 belonging to TMC, Talikote without following circular No. DMA/IDSMB/CR/26/2004-2005 dated; 04.05.2006 and the provisions of Karnataka Transparency Public Procurement Act, 1999. The DGO has failed to explain the extraneous circumstances for leasing out the Shop No.21 belonging to TMC by passing all the procedures. Therefore an inference could be drawn against the DGO that the lease was made by passing all the procedures to make wrongful gain and not otherwise. **The DGO is liable for financial loss of Rs. 72,000/- per year at the rate of Rs. 6,000/- per month to the TMC/Exchequer from 01.08.2011 i.e. date of commencement of lease agreement till 31-07-2022 for a period of 12 years comes to Rs. 8,64,000/-.** There by the DGO has failed to maintain absolute integrity and devotion to duty, the act of which is unbecoming of Public/Government servant and liable for professional misconduct under rule 3(1) of KCS (Conduct) Rules, 1966. Hence I answered the above point in the 'Affirmative' and proceed to pass the following.

ORDER

The Disciplinary Authority has proved the charges leveled against the Delinquent Government Official Sri.Mareppadayi, Chief Officer, Town Municipal Council, Talikote, Muddebihal Taluk, Vijayapura District.

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Submitted to His Lordship Hon'ble
Upalokayukta-1 for further action in
the matter.


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(AMARANARAYANA.K)

Additional Registrar Enquiries - 8
Karnataka Lokayukta, Bengaluru.

ANNEXURES

I) LIST OF WITNESSES EXAMINED ON BEHALF OF D.A:

PW1	Sri. T.S.Gopinath, S/o T.B. Shrinivasa Rao, the retd Director of Prosecution, Bengaluru dated 9/10/2018.
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II) LIST OF WITNESSES EXAMINED ON BEHALF OF DGO:

DW1	Sri.Marippadayi, S/o Sri. Ramanna, Health Inspector, Ilakal, Bhagalkote. dated:06.05.2019
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III) LIST OF DOCUMENTS MARKED ON BEHALF OF D.A:

Ex.P1	The detailed complaint marked through PW1.
Ex.P2	Report of Chief Officer dtd: 20.09.2012 of TMC, Talikote.
Ex.P3	Circular No.ನಅಇ/221/ಜೆಇಎಲ್/2009, ದಿನಾಂಕ:26.10.2009. (Kannada Version)
Ex.P4	Circular No.UDD 221 GEL 2009, date:26.10.2009. (English Version)
Ex.P5	Proceedings of General Body Meeting dtd:05.07.2011 of TMC, Talikote
Ex.P6	Copy of agreement dtd: 15.07.2011
Ex.P7	Extract of Public Auction dtd:17.03.2001
Ex.P8	Extract of General Body Meeting proceedings dtd:18.04.2012.


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IV) LIST OF DOCUMENTS MARKED ON BEHALF OF DGO:

Ex.D1	Copy of letter dated:14.01.2019 by Chief Officer TMC, Talikote to Sri. M.R. Dhayi, TMC, Ilakal
Ex.D2	Copy of letter dated:19.07.2011 by Chief Officer TMC, Talikote to Sri. Mareppa Dhayi, Senior Health Inspector.
Ex.D3	Copy of letter dated:22.07.2011 by Chief Officer TMC, Talikote to Secretary, Urban Development Department, Vikas Soudha, Bengaluru.


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(AMARANARAYANA. K)

Additional Registrar Enquiries-8
Karnataka Lokayukta,
Bengaluru.

