

KARNATAKA LOKAYUKTA

No.UPLOK-1/DE/117/2016/ARE-13

M.S. Building,
Dr. B.R. Ambedkar Road,
Bangalore-560 001,
Date: 17-11-2021.

:: ENQUIRY REPORT ::

Sub:- Departmental Inquiry against
Sri. Manjunath B. Agera, Panchayath
Development Officer, Grama Panchayath,
Idagundi, Yellapur Taluk, Uttara Kannada
District - reg.

- Ref :-** 1) Govt. Order No.ಗ್ರಾಅಪ 40 ಗ್ರಾಪಂಕಾ 2016,
ಬೆಂಗಳೂರು, dated:29/03/2016 and its
corrigendum dated: 30/04/2016.
- 2) Nomination Order No.UPLOK-1/DE/
117/2016, Bengaluru, dated:
28/04/2016.

This Departmental Enquiry is initiated against Delinquent Government Official Sri. Manjunath B. Agera, Panchayath Development Officer, Grama Panchayath, Idagundi, Yellapur Taluk, Uttara Kannada District (hereinafter referred as D.G.O. in short).

2. In view of Government Order cited at reference No.1, the Hon'ble Upalokayukta-1 vide Order cited at reference No.2, had nominated Additional Registrar (Enquiries-8) to frame Articles of Charge and to conduct enquiry against aforesaid D.G.O.

3. An amount of Rs.30,000/- was sanctioned for the development and leveling of land Sy.No.16/1 belonging to the Complainant Sri. Manjunath Narayan Bhat situated in Kodlagadde village of Yellapur Taluk in Uttara Kannada District under MNREGA for which Complainant was required to obtain work order from Grama Panchayath to start the work. So, Complainant met DGO to get work order, but by stating that the Complainant had not given any amount in respect of the benefit availed during the previous year's work, demanded bribe of Rs. 10,000/- to issue work.
4. Hon'ble Upalokayukta on perusal of materials on record found prima-facie case against D.G.O. and hence a Report dt:04/01/16 u/s. 12(3) of Karnataka Lokayukta Act, 1984, was sent to Government to initiate disciplinary proceedings against the D.G.O. The competent authority by order dt:29/03/2016 and its Corrigendum dated: 30/04/2016 entrusted the matter to Hon'ble Upalokayukta. In turn, Hon'ble Upalokayukta has nominated ARE-8 as Enquiry Officer.
5. In pursuance of the nomination order, Articles of Charge with Statement of Imputations of Misconduct, list of witnesses and documents were prepared and served upon the D.G.O.

6. The Articles of Charge framed against DGO is as follows:

That you-Sri Manjunath B. Agera – while working as Panchayath Development Officer, Grama Panchayath, Idagundi, Yellapur Taluk, Uttara Kannada District when Sri. Manjunath Narayan Bhat of Kodlagadde of Yellapur Taluk in Uttara Kannada District (hereinafter referred to as 'Complainant') approached you-DGO seeking work order to start the work, as he was sanctioned an amount of Rs.30,000/- for the development and leveling of land Sy.No.16/1 situated in Kodlagadde Village under NREGA, but you DGO demanded bribe stating that the Complainant had not given any amount in respect of the benefit availed during the previous year's work and demanded bribe of Rs.10,000/- for the work order issued during the previous year and only then work order for this year work will be issued and on 04/08/2014 you-DGO demanded and received the tainted bribe amount of Rs.10,000/- from the Complainant in connection with the above said work 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 under Rule 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

7. The Statement of Imputations of Misconduct is as follows:

- a. An amount of Rs.30,000/- was sanctioned for the development and leveling of land Sy.No.16/1 situated in Kodlagadde Village of the Complainant Sri. Manjunath Narayan Bhat of Kodlagadde of Yellapur Taluk in Uttara Kannada District under NREGA for which Complainant was required to obtain work order from Grama Panchayath to start the work.
- b. So, Complainant met DGO seeking work order, but the DGO demanded bribe stating that the Complainant had not given any amount in respect of the benefit availed during the previous year's work and demanded bribe of Rs. 10,000/- for the work order issued during the previous year and only then work order for this year work will be issued.
- c. Being unwilling to pay bribe to DGO, he approached the Police Inspector, Karnataka Lokayukta, Karwar on 04/08/2014 and produced conversation recorded on his mobile as to the demand of bribe made by the DGO and lodged the complaint. The Police Inspector, Karnataka Lokayukta, Karwar registered a case in Crime No.7/2014 under Section 7 read with 13(1)(d) & 13(2) of Prevention of Corruption Act 1988.
- d. Thereafter when he approached you DGO at Ganesha Hotel on Yellapur Road in Idagundi Village on 04/08/2014, you-DGO

demandd and received the tainted brie amount of Rs.10,000/- from the Complainant in connection with his said work.

e. Thereafter, you – DGO caught hold as you found with the tainted bribe amount on the said date and at the said place;

f. Added to that, DGO failed to give any satisfactory reply or explanation or account for the said (tainted) bribe amount, found with him, when questioned by the I.O.,

g. Then, the said tainted (bribe) amount was seized from the DGO under a mahazar by the I.O on the said date in the presence of panchas;

h. Even there are statements of witnesses, including Complainant, besides records and material collected by the I.O., which show repeated misconduct of the DGO.

i. A careful consideration of the material on record, prima facie showed that the DGO has failed to maintain absolute integrity besides devotion to duty and acted in a manner unbecoming of Government Servant and thereby repeatedly committed misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules, 1966, and made himself liable for disciplinary action.

j. Therefore, an observation note was sent to DGO to show cause as to why recommendation be not made to the Competent Authority for initiating disciplinary inquiry against him in the matter. For that, the DGO gave the reply. However, on considering the same, it was not found convincing to drop the proceedings.

k. Since said facts and material on record prima-facie showed that the DGO has committed misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules, 1966, acting under Section 12(3) of the Karnataka Lokayukta Act, recommendation was 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 the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.

l. Accordingly, Competent Authority initiated disciplinary proceedings against DGO and entrusted the Enquiry under Rule 14-A of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 to Hon'ble Upalokayukta-1 who nominated Additional Registrar Enquiries-8 to conduct enquiry. Hence, the charge.

8. The notice issued to D.G.O. was duly served and he had appeared before Enquiry Officer. His First Oral Statement was recorded. The D.G.O. denied the charges and pleaded not guilty. He has stated in his First Oral Statement dated: 02/11/2016 that he is serving as Panchayath Development Officer in Idagundi Grama Panchayath, Yellapur Taluk, Uttara Kannada District and his date of retirement is 31/07/2033.
9. The D.G.O. filed Written Statement dt: 03/01/2017 denying the allegations. He has admitted that the work order will be issued as per seniority of the applicants. The seniority of the Complainant was not there as on the date of his alleged complaint to Lokayukta Police Station. The entire allegations made by the Complainant are false. He had never demanded bribe from the complainant and no tainted amount was recovered from him. The investigation agency has created a false and frivolous case against him without any material evidence. The trap panchanama is manipulated for the purpose of this case. He is innocent and prays to exonerate him from the charge.
10. As per order of Hon'ble Uplok-1/DE/2016 of Registrar, Karnataka Lokayukta, Bengaluru, dated :03/08/2016 this matter was transferred from ARE-8 to ARE-7.

11. Again as per order of Hon'ble Uplok-1 & 2/DE/Transfers/2018 of Registrar, Karnataka Lokayukta dated :06/08/2018 this Enquiry file was transferred from ARE-7 to ARE-13.

12. In order to prove the charge, the Disciplinary Authority has examined four witnesses as P.W-1 to P.W-4 and got marked 9 documents as Ex. P1 to P9. Per contra, the D.G.O. was examined as D.W-1 and got marked one document as Ex.D-1.

13. Heard both sides and perused Written Arguments and other material on record.

14. Under the above circumstances, the points that arise for consideration are as follows:

(i) Whether the Disciplinary Authority proves that on 01/08/2014 the D.G.O Sri. Manjunath B Agera, Panchayath Development Officer, Grama Panchayath Idagundi, Yellapur Taluk, Uttara Kannada District had demanded bribe amount of Rs. 10,000/- from the Complainant Sri. Manjunath Narayan Bhat to issue work order for the development and leveling of land Sy.No.16/1 situated in Kodlagadde Village under MGNREGA and has committed misconduct, dereliction of duty, acted in a manner unbecoming of a

Government servant and not maintained absolute integrity thereby violating R.3(1)(i) to (iii) of K.C.S. (Conduct) Rules, 1966?

(2) What Finding?

15. My findings to the above points are :

i) In the **Negative**.

ii) As per finding,

REASONS

16. **Point No-1:-** It is not in dispute that the DGO/Sri. Manjunath B. Agera was Panchayath Development Officer of Idagundi Grama Panchayath at the relevant point of time. The Complainant Sri. Manjunath Narayan Bhat and his family are the owners of Sy.No.16/1 and 17/1 of Kodlagadde Village. The contents of Ex.P-1/Complaint reflects that during the year 2013-14, the Grama Panchayath had sanctioned development works under MGNREGA Scheme and the family of Complainant got side pinching and water channel work done in their land bearing Sy.No.17/1. Another channel was also dug in the adjacent land belonging to one Sri. Shivarama Harihara Bhat to ensure free flow of water to the above land of Complainant. It appears that the Complainant, his wife and his parents got job cards and were

involved in the said construction and development works and earned Rs.10,000/- to 12,000/- as wages.

17. For the year 2014-15, under the same scheme, Rs.30,000/- each was sanctioned by the Grama Panchayath for development of land is Sy.No.16/1 and leveling works in Sy.No.17/1. It was necessary for the complainant to obtain work order and therefore he approached the DGO on 26/7/2014 to get the work orders. As per the version of the complaint, the DGO had told him that during the previous year he had not paid any commission for having sanctioned the works and further told him that he always takes 10% cut as commission for sanctioning the works. He also told him that during the previous year Complainant and his family members had worked and earned wages and if he wants the work orders to be issued for current year also, he should pay his commission by way of bribe.

18. On 01/08/2014 the Complainant had again approached the DGO and requested him to issue the work orders but he was asked to pay bribe amount of Rs.10,000/-. This conversation regarding demand of bribe was recorded by the Complainant in his mobile phone. He later transferred the conversation in to a CD and approached the Lokayukta Police, Karawara on 04/08/2014

and lodged a complaint regarding the demand made by DGO to pay bribe amount of Rs.10,000/-.

19. Ex.P-2 is the pre-trap panchanama and Ex.P-3 is the trap panchanama. On behalf of the Disciplinary Authority two independent witnesses namely Ravikumar (Shadow witness) and Sri. Sandeep Shetty are examined apart from the Complainant/PW-1 and the Investigation Officer/Kiran Kumar Nayak as PW-4 to prove the charges against the DGO. The oral evidence of the above witnesses and contents of documentary evidence reflects that the alleged bribe amount of Rs.10,000/- (10 notes of Rs.1,000/- denomination) was recovered from a drain adjacent to the Panchayath Office of DGO. Though it appears from the documentary evidence and the evidence of PW-4/Investigation Officer that Complainant had handed over and DGO had received the alleged bribe amount, he had thrown the currency notes into the drain after seeing the Lokayukta Police. After taking him into custody the police had prepared Sodium Carbonate Solution and had washed the hands and the shirt pocket and the solution had turned to pink colour. Though these facts are recorded in Ex.P-3 trap panchanama, the Complainant as well as shadow and independent witness /PW-2 and 3 have not completely supported the case of the Disciplinary Authority.

20. The Complainant Sri. Manjunath Narayan Bhat is examined as PW-1. In his chief examination at para 2, he has stated that as per the instruction of DGO, he had kept the bribe amount on the table which was outside his Office. He has not stated that bribe amount was handed over to the DGO who had kept the same in his shirt pocket. At para 3 of his chief examination, PW-1 has specifically stated that DGO did not receive the bribe amount from him. Since he had not supported the case of the Disciplinary Authority, he was declared partly hostile and was cross examined by the Learned Presenting Officer. However, PW-1 denied suggestions put to him that he had handed over the bribe amount of Rs.10,000/- and after receiving the same, DGO had kept it in his shirt pocket. He has also denied suggestion that DGO after seeing the Lokayukta Police had thrown the currency notes into the drain. The fact that bribe amount was handed over by the Complainant and the DGO had received the same is not properly elicited through PW-1.

21. PW-2/Ravikumar is the shadow witness. Though he has given evidence about Ex.P-2 pre-trap panchanama and instructions given by the Lokayukta Police, in his chief examination at para 4, he has stated that Complainant only had entered the Grama Panchayath Office and he was standing outside the building. He has expressed his ignorance about the

information given by the Complainant to the Lokayukta Police when they came to trap DGO. As per his version, he had not seen the Complainant handing over the alleged bribe amount of Rs.10,000/- to the DGO. He had also not seen the Complainant meeting or speaking to DGO on that day. Though he has stated that currency notes were found in the drain and DGO was taken into custody by the police, he has not given evidence that DGO had received the alleged bribe amount and there after threw the currency notes into the drain. This witness was also declared partly hostile and cross examined by the Learned Presenting Officer, however, no incriminating evidence is elicited. He had denied suggestions that he saw DGO receiving the bribe amount and kept the same in his shirt pocket after counting the same. He also denied of seeing DGO throwing the currency notes into the drain. Further, he denied giving any statement to the Investigation Officer. When this witness was cross examined by the counsel for DGO, he has admitted that he was not informed about the particulars of the raid, including the name of the DGO. He is ignorant about the contents of Ex.P-2 and Ex.P-3 panchanamas. Since the fact that Complainant had handed over and DGO had received bribe amount of Rs.10,000/- is not elicited from this witness and that he has denied of giving Ex.P-6 and Ex.P-6(a) statements to the Investigation Officer, I am of the opinion that his evidence is of no use to prove the charge against the DGO.

22. PW-3/Sandeep Shetty is an independent witness. During his chief examination he has spoken about the instructions given by the Lokayukta Police and the contents of Ex.P-2 pre-trap panchanama. As far as the trap and contents of Ex.P-3 panchanama and other aspects, this witness has turned partly hostile. According to him when the police had received the signal from the Complainant, all of them went near the Office of DGO and Complainant had shown them the currency notes lying in the drain. In his cross examination by the Presenting Officer, he has denied suggestion that PW-2 Ravikumar had accompanied the Complainant to the Office of DGO. He also denied suggestion that when the hands of DGO were washed with Sodium Carbonate Solution, the liquid had turned into pink colour. This witness also admitted during cross examination on behalf of DGO that he did not know about the alleged trap or the particulars of DGO till he reached the Panchayat Office. He is also ignorant about the contents of Ex.P-2 and P-3 mahazars. Since the fact that Complainant had handed over and DGO had received bribe amount of Rs.10,000/- is not elicited from this witness also and that he has denied of giving Ex.P-7 statement to the Investigation Officer, I am of the opinion that his evidence is also of no use to prove the charge against the DGO.

23. PW-4 / Kiran Kumar Nayak is the Investigation Officer. He has given evidence that he had received complaint from PW-1/ Manjunath and registered a case against DGO in Crime No.7/2014 and commenced investigation. Evidence is given that after summoning independent witnesses, the Complainant was introduced to them and informed about demand of bribe amount made by the DGO. He has given evidence that the Complainant had brought 10 currency notes of Rs.1000/- denomination and after applying phenolphthalein powder, panch witness Sandeep Shetty had kept the currency notes in the shirt pocket of the Complainant and Digital Voice Recorder (*DVR for short*) was also handed over to the Complainant to record his conversation with the DGO at time of demand and handing over the bribe amount. As per his version, at the time of raid he saw the currency notes lying in the drain and Complainant had informed him that DGO had received the bribe amount and there after threw the same after seeing the police. Evidence is given that when the hands of DGO and his shirt pocket was washed with Sodium Carbonate Solution, it had turned into pink colour which clearly establishes that DGO had received bribe amount from the Complainant. He has also given evidence regarding recording statements of witnesses, seizure of documents, arrest of DGO and filing of charge sheet.

24. Except for the evidence of the Investigation Officer/PW-4 as above, his version is not corroborated by the Complainant and the independent witnesses examined on behalf Disciplinary Authority. The material on record, particularly the contents of Ex.P-1 complaint, is clear that on 01/8/2014 the Complainant had recorded the conversation with DGO in his mobile phone regarding the demand of bribe amount of Rs.10,000/-. During the investigation, it appears that no steps were taken or attempt made by the Investigation Officer to collect sample voice recording of DGO in order to send the same along with the conversation recorded by the Complainant on 01/8/2014. It is specifically mentioned in Ex.P-1 complaint that the conversation recorded over the mobile phone by the Complainant was transferred into a CD and the same was handed over to Police along with the complaint. There is no evidence that the said conversation was heard or made known to the witnesses while preparing Ex.P-2 pre-trap panchanama. The said CD is not produced in evidence. As observed above, the I.O had not collected voice sample of DGO and also made no effort to identify his voice through his Superior Officers.

25. It appears that the conversation recorded by the Complainant through the Digital Voice Recorder on 4/8/2014 i.e when DGO was trapped, was not clearly audible. However, the said

conversation which was recorded in DVR was not transferred into the CD and no attempts were made to send the voice samples to Forensic Lab to collect incriminating evidence against DGO. The said omission on part of the Investigation Officer reflects that investigation was not up to the mark and it was sloppy. More over the Complainant and witnesses examined on behalf Disciplinary Authority had not completely supported the case put forth in respect of charge framed against the DGO. In short, there is no cogent evidence that DGO had made a demand on 1/8/2014 asking the Complainant to give him Rs.10,000/- as bribe to issue work orders under MNGREGA Scheme. There is also no acceptable evidence that on 4/8/2014 the alleged bribe amount of Rs.10,000/- was handed over by the Complainant to the DGO; that he had received the same and kept in his shirt pocket, and had thrown the currency notes into the drain after seeing the Lokayukta Police.

26. The DGO came to be examined as DW-1 and in his evidence he has denied making any demand to pay bribe amount of Rs.10,000/- to issue work orders in favour of the Complainant. Suggestions put to that effect by the Presenting Officer during his cross examination are denied. No incriminating material is elicited during his cross examination by the Presenting Officer. Exhibit P-9 is the list of beneficiaries prepared by Idagundi Grama Panchayath

for the year 2014-15 who are entitled for work orders. On perusal of the list, the name of the complainant Sri Manjunath Narayan Bhat is not reflected in the list of beneficiaries. Exhibit D-1 is the list of beneficiaries prepared by Idagundi Grama Panchayath for the year 2013-14 who are entitled for work orders. Exhibit D-1 came to be confronted to the complainant during his cross examination. He has specifically admitted that in Exhibit D-1, his name or his father's name is not mentioned as beneficiaries. He has further admitted at para 5 of his cross examination that except the beneficiaries mentioned in the list prepared by the panchayath, work order will not be issued to other persons. Since, the name of the complainant or his family members are not found either in Exhibit D-1 or Exhibit P-9, the question of DGO issuing work order to the complainant by demanding bribe does not arise. Moreover, PW-4/Investigation Officer in his cross examination dated:11/10/2019 has admitted that work or sanction order under MNAREGA scheme will be issued only by the concerned Executive Officer, Taluk Panchayath. Therefore, in view of the said admission by the Investigation Officer, it can be presumed that the DGO, who was only a Panchayath Development Officer, had no power to issue any work or sanction order to the complainant or any other beneficiary under the above scheme.

27. In the Written Brief submitted by the DGO, attention is drawn to the law laid down by Hon'ble Supreme Court in the case of ***M.R. Purushotham V/s State of Karnataka (2015) 3 SCC 247***. In the said case it is held that mere possession and recovery of currency notes from the accused without proof of demand will not bring home the offence U/s 7 of Prevention of Corruption Act 1988. In the case of hand there is dearth of evidence regarding demand of bribe amount by DGO. Though it can be gathered from the oral evidence of PWs-1, 2 and 4 that the Sodium Carbonate Solution used to wash the hands of DGO had turned into pink colour, there is no cogent evidence that DGO after receiving the alleged bribe amount from Complainant had thrown the currency notes into the drain. Crucial evidence that was in the form of recorded conversation between Complainant and DGO on 1/8/2014 is completely ignored by the Investigation Officer who had not sent the C.D containing the said conversation along with voice samples of DGO to any Forensic Lab to prove the demand made by the DGO. In view of this ineffective and sloppy investigation and fact that Complainant and witnesses have turned partly hostile, I am of the opinion that evidence on record, both oral and documentary, is not sufficient to hold that charge against DGO is proved. Therefore, I hold that there is no prima facie material or evidence to show that DGO has failed to maintain absolute integrity and devotion to duty, and caused dereliction of


duty unbecoming of a Government Servant and thereby committed official misconduct as enumerated u/r 3(1) (i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966. Therefore, this A.R.E. finds that Disciplinary Authority *has not proved* the charges against the D.G.O. Accordingly, this point is answered in the **Negative**.

28. **Point No.2:** For the aforesaid reasons, this A.R.E. proceeds to record the following:

FINDING

The Disciplinary Authority has not proved the charge against the D.G.O.


Submitted to Hon'ble Upalokayukta-1 for kind approval and further action in the matter.


(C.CHANDRA SEKHAR)
(I/c) Additional Registrar (Enquiries-13)
Karnataka Lokayukta,
Bengaluru.

ANNEXURE ::

File 3	Witness examined on behalf of the Disciplinary Authority
	PW-1: Sri. Manjunath Narayan Bhat (Original)
	PW-2 : Sri. Ravikumar Nagesh Kotebhavi (Original)
	PW-3: Sri. Sandeep Shankara Shetty (Original)
	PW-4: Sri. Kiran Kumar Nayak (Original)
	Witness examined on behalf of the Defence
	DW-1: Sri. Manjunath B. Agera (Original)
File 4	Documents marked on behalf of the Disciplinary Authority
	Ex. P-1: Complaint (True copies) Ex. P-1(a): Signature of the Complainant
	Ex.P-2: Entrustment Mahazar (True copies) Ex. P-2(a): Signature of the Complainant
	Ex. P-3: Trap Mahazar (True copies) Ex. P-3(a): Signature of the Complainant
	Ex.P-4: Photographs (13 sheets) (True copies)
	Ex.P-5: Sketch copy (True copy)
	Ex.P-6: Statement of shadow witness Sri. Ravikumar (True copies)
	Ex.P-7: Statement of panch witness Sri. Sandeep Shankara Shetty (True copies)

	Ex.P-8: Explanation of DGO (True copy)
	Ex.P-9: MGNREGA scheme during the year 2014-15 of Idagundi Grama Panchayath (True copies)
	Documents marked on behalf of the DGO
	Ex.D-1: MGNREGA scheme during the year 2013-2014 of Idagundi Grama Panchayath (True copies)


(C.CHANDRA SEKHAR)
 (I/c) Additional Registrar (Enquiries-13)
 Karnataka Lokayukta,
 Bengaluru.