

KARNATAKA LOKAYUKTA

No: Uplok-1/DE/1181/2017/ARE-8

M.S.Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru - 560 001.
Dated: 05/09/2022

ENQUIRY REPORT

Present : Rajashekar.V.Patil
Addl. Registrar of Enquiries-8,
Karnataka Lokayukta,
Bengaluru.

Sub:-The departmental enquiry against
(1)Sri Rangaswamy, Assistant Executive
Engineer (Retired and deceased as per
order dtd.30/12/2020), (2)Sri.
Manjunath, Assistant Engineer, Ward
No.14, Bagalgunte, Dasarahalli Sub-
Division, BBMP, Bengaluru-reg.

Ref:- 1) Report U/Sec 12(3) of the Karnataka Lokayuktha
Act 1984 in Complt/Uplok/BCD/581/2017/DRE-2,
Dt. 08/09/2017.
2) Government Order No.UDD 499 MNU
2017, dt.25-11-2017,
3) Nomination Order No.UPLOK-1/DE-1181/2017
Bangalore, dated 21-12-2017.

Present Departmental Enquiry is directed on the
basis of the complaint lodged by one Sri. Pragathi K.

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Venkatesha Babu, No.147,Chamarajapet, Bengaluru, (herein after referred as 'Complainant') against (1) Sri Rangaswamy, Assistant Executive Engineer, (Retired and deceased), (2) Sri Manjunath, Assistant Engineer, Ward No.14, Bagalgunte, Dasarahalli sub-division, BBMP, Bengaluru, (herein after referred to as the Delinquent Government Officials in short 'DGO1 and 2') though 12(3) report of the Lokayuktha office recommended as per Ref. No.1 for entrusting the enquiry against above said two DGOs from the competent Government as per the G. Order No. UDD 499 MNU/2017, Bangalore, dated 25/11/2017, against (1) Sri Rangaswamy, Assistant Executive Engineer, (Retired and deceased), (2) Sri Manjunath, Assistant Engineer, Ward No.14, Bagalgunte, Dasarahalli sub-division, BBMP, Bengaluru, (herein after referred to DGO-1 and 2) for committing misconduct as Assistant Executive Engineer attached to Dasarahally Division, BBMP., Bangalore.

2. An investigation was undertaken by invoking Section 7 (2) of the Karnataka Lokayuktha Act, DGOs did not submit their comments. Based on the allegations of the complaint and Hon'ble Lokayuktha submitted report U/Sec. 12(3) of Karnataka Lokayuktha Act, on 25/11/2017 as per Ref.No.1, to Competent Authority of DGO-1 and 2.

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3. The Competent Authority/State Government after verifying the materials accorded permission and entrusted the enquiry by issuing notification as per Ref.No.2. Hon'ble Lokayuktha nominated ARE-8 as per Ref. No.3.
4. Brief allegations made in the complaint are that:

Complainant one Pragathi K. Venkatesha Babu, No.147, Chamarajapet, Bengaluru, have lodged a complaint before Lokayuktha alleging that, many illegal buildings are being constructed in Dasarahalli Sub-Division, by violating the building construction by-laws of BBMP and it has resulted in huge loss to BBMP and the respondents in connivance with the building owners are not taking any action against building owners relating to illegal construction, by taking heavy bribe. Complainant has further alleged that in property opposite to Sahara Fast Food, Mallasandra, Bangalore Bus Stop, Hesaraghatta Main Road, Bangalore- 560073 (Ward No.14, Bagalagunte), a construction is in progress with deviation of the sanctioned plan, without leaving set back and illegal basement is constructed and so also extra floor has been constructed by violating the sanctioned plan and has produced copy of photograph of the alleged construction.


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In this regard U/Sec.9 of the Lokayuktha Act, 1984, preliminary enquiry was recommended and registered as Complt/UPLOK-1/DE-1181/2017/ARE-8, Bangalore, dtd. 21/12/2017.

5. On the basis of the nomination, article of charge was prepared under 11(3) of KCSR & CCA Rules and concerned DGO.

ANNEXURE No.I
CHARGE

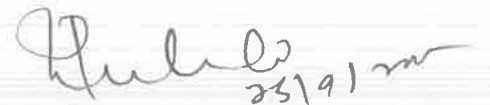
Sri Pragathi K. Venkatesh babu, No.147,Chamarajapet, Bengaluru (herein after referred to as 'complainant') alleges that many illegal building are being constructed in Dasarahallu sub-division by violating the building bye-laws resulting in huge loss for BBMP and you DGO-1 and DGO-2 have connived with the building owners and not taking action against the illegal construction by taking heavy bribe. Further, in property opposite to Sahara Fast Food, Mallasandra, Bagalgunte Bus stop, Hesaraghatta Main road, Bengaluru -560 073 (Ward no.14, Bagalgunte) a construction is coming up in deviation of the sanctioned plan without leaving set back and illegal basement and extra floor has been constructed violating the sanctioned plan and has produced copy of the photograph of the alleged construction. Complainant has made a complaint

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to you DGO-1 with respect to the alleged building byelaw violations on 24-12-2016, in spite of it no action is taken by you DGO-1 and DGO_2. As per Office order dt.29-06-2015 of the Commissioner, BBMP you DGO-1 and 2 are responsible officers who have to take action with respect to illegal constructions. Thereby, you DGO-1 and DGO-2 have failed to take proper action and have failed to maintain absolute integrity and devotion to duty, the act of which is unbecoming of a Government Servant and you DGO-1 and DGO-2 have committed misconduct as enumerated under Rule 3(1) of Karnataka Civil Services (Conduct) Rules, 1966.

ANNEXURE No.II
STATEMENT OF IMPUTATIONS OF MISCONDUCT

1. An investigation was taken up under Section 9 of the Karnataka Lokayukta Act, on the basis of complaint filed by Shri Pragathi K. Venkatesh babu, No.147, Chamarajapet, Bengaluru (hereinafter referred to as 'complainant' for short) against (1) Sri Sheshadri, Executive Engineer, Vijayanagar Division, BBMP, Bengaluru (2) Sri Rangaswamy, Assistant Executive Engineer and (3) Sri Manjunath, Assistant Engineer, Ward No.14, Bagalgunte, Dasarahalli division, BBMP, Bengaluru (herein after referred to as 'Respondents 1,2 and 3 respectively).


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2. The complainant alleges that many illegal buildings are being constructed in Dasarahalli sub-division by violating the building bylaws resulting in huge loss for BBMP and the Respondents in connivance with the building owners are not taking action against the illegal construction by taking heavy bribe. The complainant has stated that in property opposite to Sahara Fast Food, Mallasandra, Bagalgunte Bus Stop, Hesaraghata Main Road, Bengaluru -560 073 (Ward no.14, Bagalgunte), a construction is coming up in deviation of the sanctioned plan, without leaving set back and illegal basement and extra floor has been constructed violating the sanctioned plan and has produced copy of photograph of the alleged construction.
3. The Respondents 1 to 3 have been served with this office notice on 25-04-2017, 24-04-2017 and 22-04-2017 respectively. But, they have failed to submit their comments.
4. Perused the materials on record. The complainant has made a complaint to Respondent no.2 with respect to the alleged building byelaw violations on 24-12-2016. In spite of the complaint, no action is shown to have been taken by the Respondents no.2 and 3. As per the Office Order dt.29-06-2015of BBMP, the Respondents 2 and 3 are the responsible officers who has to take action with respect to the constructions which are

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being made in violation of the sanctioned plan and building bye-laws. In view of the failure of Respondents 2 and 3 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. When called Respondent no.2 over his cell phone no.9880161239, he has informed that he had already retired in the month of June-2017. The application is filed by the complainant on 24-12-2016 and Respondent no.2 is stated to be retired on June 2017. No action is shown to have been taken upon the application of the complainant by Respondent no.2 for about 6 months. When called Respondent no.3 over his cell phone no.9844090744, he has informed that he is in-charge of Ward No.14, Bagalgunte to which the allegation relates to. Under the circumstances, prima facie mis-conduct can be inferred against Respondents 2 and 3 for their inaction in taking action upon application of the complainant dated 24-12-2016.

5. Respondent no.1/Executive Engineer is not the authority to initiate action for removal of deviations as per the Office Order dated 29-06-2015 of BBMP. Only after Assistant Executive Engineer and Assistant Engineer of the respective sub-divisions report any such building bye law violations, he has the authority

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to issue order under section 462 of KMC Act. Therefore, no misconduct can be inferred against Respondent no.1.

6. The Respondents 2 and 3 have failed to maintain absolute integrity, devotion to duty and have acted in a manner which is unbecoming of a Government servant for which they have made themselves liable for departmental action.
7. Accordingly, under section 12(3) of the Karnataka Lokayukta Act, recommendation was made to the Competent Authority to initiate disciplinary proceedings against the Respondents 2 and 3 i.e. Shri Rangaswamy, Assistant Executive Engineer (Date of Retirement 30-06-2017) and Shri Manjunath, Assistant Engineer, Ward No.14, Bagalgunte, Dasarahalli Division, BBMP, Bengaluru and entrust the inquiry to this Authority under Rule 14-A of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957. Since Respondent no.2 had already retired from service on 30-06-2017, it was requested to accord sanction as required under 214(2)(b) of KCSR against him. Accordingly, the Competent Authority initiated Disciplinary Proceedings against Respondents 2 and 3 (i.e. DGO-1 and DGO-2) and entrusted the enquiry to the Hon'ble Upalokayukta. Hence, the charge.


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6. Summons was issued appended with copy of article of charge and DGO-1 and 2 appeared through their advocate RS and FOS was recorded, DG1 and 2 have denied the charges, pleaded not guilty and claimed to be tried and enquiry was adjourned for filing the objections/W.S. of DGO.
7. DGO-1 and 2 have filed joint objections contending that all the allegations made in the complaint are false and the complaint allegations are random and this DGO-1 and 2 have been falsely implicated and complaint allegations do not disclose about the Government Servants/BBMP employees responsible for raising illegal constructions and no specifications are given in the complaint about the violations of Rules in the records produced by the complainant and they have maintained absolute integrity in discharging their duty as a BBMP., Engineers and they have not contributed any such act which leads to hold that they have committed criminal misconduct. Further contend that no violation in construction of the buildings as alleged in the complaint has taken place and no expert opinion has been collected in this regard, by Lokayuktha institution. Hence, pray to drop the proceedings against DGO-1 and 2.

VOR was complied by P.O.

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8. In order to prove the allegations, summons was issued to the complainant CW.1 is examined as PW.1 and through him Ex.P.1 to Ex.P.6 were got marked. After the closure of evidence of P.O., at that time it was reported to the enquiry authority that Rangaswamy DGO-1 suffered natural death, death certificate was produced and wife of deceased Rangaswamy DGO-1 also sent a letter along with death certificate with the approval of Hon'ble Uplokayuktha-1 as per order dtd.30/12/2020, proceedings against DGO-2 alone was continued and case was posted for defence evidence of DGO-2. In spite of sufficient time given, DGO-2 did not adduce any evidence. Accordingly, defence evidence taken as NIL and case was posted for arguments. Advocate for DGO-2 filed written arguments. The LRs of the DGO-1 were present like wife and his daughter present, requested to conclude the enquiry.
9. Heard the arguments of P.O. and the defence Counsel Sri. RS filed written arguments and case was posted for submitting final report.
10. Following points arise for my consideration;

Whether the Charge leveled against DGO-1 and 2 i.e., (1) Sri Rangaswamy, Assistant Executive Engineer (Retired and deceased as per order

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dtd.30/12/2020), (2) Sri. Manjunath, Assistant Engineer, Ward No.14, Bagalgunte, Dasarahalli Sub-Division, BBMP, Bengaluru is proved by the Disciplinary Authority?

11. My answer to the above point is in the '**Negative**' for the following:

REASONS

12. In order to prove the allegations made in the Articles of Charges, the P.O. has examined PW.1 and has got marked Ex.P.1 to Ex.P.6.
13. Pw.1 has stated that the construction has been raised relating to multistoried building situated at Hesaraghatta Main Road, in front of Fast Food Hotel, in Ward No.14 of Bagalakunte, Bangalore, without following the rules of approved plan by BBMP or concerned Engineers. In this regard, he had lodged a complaint, but no action has been taken by the concerned superiors. So he was constrained to file complaint before Lokayuktha and P.O. has got marked his complaint as Ex.P.1 to Ex.P.3 and some xerox copy of photographs have been produced marked at Ex.P.5 and circular at Ex.P.6. Barring these documents no records are produced by the complainant or documents are summoned from BBMP to prove that DGOs have committed misconduct in permitting the illegal construction of said

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building with deviation from the original plan sanctioned by BBMP.

- 14.** In the cross examination PW.1 has stated that, he had also lodged complaint before BBMP before lodging Ex.P.1 to Ex.P.3 and he does not know with regard to the action taken against DGOs. It is relevant to note that the complainant has not produced copies of the complaint filed by him before BBMP in these proceedings. Further he has stated in the cross examination that, he has not produced any records except Ex.P.1 to Ex.P.5 to show that the builder of the building has violated the conditions of sanctioned plan issued by BBMP and has raised illegal construction.
- 15.** Close perusal of the complaint makes it clear that, complainant has not produced any records in support of the allegations made by him in the complaint probably such as the original plan sanctioned by BBMP and the violation of the conditions of license granted to builder. He has only produced xerox copies of the photographs of building in question. It is too difficult to assess the dereliction of duty of DGOs in the absence of production of original license/plan granted by BBMP with specifications and it is very difficult to make out amount of dereliction of duty committed by DGO-1 and 2.

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- 16.** The evidence of PW.1-complainant is cryptic and insufficient to prove the guilt and it is seen that random allegations are made by the complainant such as many illegal buildings are being constructed in Dasarahally Sub-Division by violating the byelaws resulting in huge loss for BBMP and officers like DGO-1 and 2 are not taking any action against such DGOs.
- 17.** So, in the absence of making available records relating to copy of the bye-laws the BBMP sanctioned plan for constructing the said building and other related records, it is difficult to make out a case against DGO-1 and 2 that because of their dereliction of duty, the said building in question has been constructed by the owner of the building, whose name is not mentioned in the complaint or in the records.
- 18.** DGOs have not lead any evidence on their behalf. But they have filed written statement denying all the allegations of the complainant and specifically contending that they have maintained integrity in their duty. Further in the written argument filed by DGO-2 has contended that, complainant has not produced any substantial evidence either oral or documentary to show that the said building in question constructed falls within the jurisdictional limits of DGO-1

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and 2. Secondly, whether the building is constructed in violation of the sanctioned plan conditions imposed at the time of granting of license. In this regard, the complainant has not produced any convincing evidence particularly with regard to nature of building constructed whether it is a commercial building or residential building.

19. After closely assessing the evidence of PW.1 and Ex.P.1 to Ex.P.6, the article of charges it cannot be held to have been proved because the presenting authority has not produced the documents relating to grant of license to construct the building or construction plan/map and violation of conditions of grant of sanction plan of building in question.
20. Even in the absence of evidence lead by defence, the evidence of PW.1 and the related documents produced are not sufficient arrive at a conclusion that, DGO-1 (Since deceased) and 2 have committed any dereliction of duty as Executive Engineers of BBMP at the relevant time.
21. In view of the elaborate discussion made above, this enquiry authority is constrained to hold that, the charge framed against DGO-1 (since deceased) and DGO-2 is not established. In the result, above Point is answered in the **'Negative'** and I proceed to record the following;

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FINDINGS

The Disciplinary Authority has not proved the charges leveled against the Delinquent Government Officials (1) Sri Rangaswamy, Assistant Executive Engineer (Retired and deceased as per order dtd.30/12/2020), (2) Sri. Manjunath, Assistant Engineer, PWD deputed to BBMP, Ward No.71, Hegganahally, Bengaluru.

Submitted to Hon'ble Registrar, Karnataka Lokayukta, Bengaluru, for further action in the matter.

R. V. Patil
(RAJASHEKAR.V.PATIL)

Additional Registrar Enquiries-8
Karnataka Lokayukta, Bengaluru.

ANNEXURES

1. LIST OF WITNESSES EXAMINED ON BEHALF OF DISCIPLINARY AUTHORITY:

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| PW1 | Sri. Pragathi K Venkatesh Babu, S/o P.V. Kodandarao, Bengaluru, dated: 26.02.2019 |
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2. LIST OF WITNESSES EXAMINED ON BEHALF OF DELINQUENT GOVERNMENT OFFICIALS:

NIL

2. LIST OF DOCUMENTS MARKED ON BEHALF OF DISCIPLINARY AUTHORITY:

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| Ex.P1 | Form No.-I, Complaint |
| Ex.P2 | FORM NO.II Complainant's Affidavit (original) |
| Ex.P.2(a) | Signature of PW. 1 |
| Ex.P3 | Copy of letter from PW.1 submitted before Hon'ble Lokayuktha, Bangalore, dtd.14/03/2017 (xerox copy) |
| Ex.P.3(a) | Signature of PW.1 |
| Ex.P4 | Copy of letter from PW.1 submitted to Assistant Executive Engineer, BBMP/Ward-14, Bangalore, dtd.24/12/2016 (xerox copy) |
| Ex.P5 | Xerox copy of photo. |
| Ex.P6 | Copy of office Order of BBMP, Commissioner, Bangalore, dtd.29/06/2010 |

LIST OF DOCUMENTS MARKED ON BEHALF OF DGOS:

NIL


(RAJASHEKAR V.PATIL)

Additional Registrar Enquiries-8
Karnataka Lokayukta,
Bengaluru.



KARNATAKA LOKAYUKTA

No.UPLOK-1/DE.1181/2017/ARE-8

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001.
Dated 07.09.2022.

RECOMMENDATION

Sub:- Departmental inquiry against Sri Rangaswamy, the then Asst. Executive Engineer(deceased) and (2) Sri Manjunath, Assistant Engineer, Ward No.14, Bagalagunte, Dasarahalli Sub-division, BBMP, Bengaluru - reg.

Ref:- Government Order No. UDD 499 MNU 2017 dated 25.11.2017.

- 2) Nomination order No. UPLOK-1/DE.1181/2017 dated 21.12.2017 of Hon'ble Upalokayukta, State of Karnataka.
- 3) Inquiry report dated 05.09.2022 of Additional Registrar of Enquiries-8, Karnataka Lokayukta, Bengaluru.

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The Government by its orders dated 25.11.2017 initiated the disciplinary proceedings against Sri Rangaswamy, the then Asst. Executive Engineer(deceased) and (2) Sri Manjunath, Assistant Engineer, Ward No.14, Bagalagunte, Dasarahalli Sub-division, BBMP, Bengaluru, [hereinafter referred to as

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Delinquent Government Officials, for short as ' DGOs 1 and 2' respectively ] and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No. UPLOK-1/DE.1181/2017 dated 21.12.2017 nominated Additional Registrar of Enquiries-8, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct departmental inquiry against DGOs for the alleged charge of misconduct, said to have been committed by them.

3. The DGOs were tried for the charge of not taking action against several illegal constructions made in deviation of sanctioned plan in Dasarahally Sub-division and thereby committing misconduct.

4. The Inquiry Officer (Additional Registrar of Enquiries- 8) on proper appreciation of oral and documentary evidence has held that, the Disciplinary Authority has '*not proved*' the above charge against the DGO 2 Sri Manjunath, Assistant Engineer,

Ward No.14, Bagalagunte, Dasarahalli Sub-division, BBMP,  
Bengaluru.

5. Further, the Inquiry Officer has recorded abatement of inquiry against DGO 1 Sri Rangaswamy, the then Asst. Executive Engineer, in view of his death on 17.11.2020.


6. On re-consideration of report of inquiry and on perusal of the entire records, I do not find any reason to interfere with the findings recorded by the Inquiry Officer. Therefore, it is hereby recommended to the Government to accept the report of Inquiry Officer and exonerate DGO 2 Sri Manjunath, Assistant Engineer, Ward No.14, Bagalagunte, Dasarahalli Sub-division, BBMP, Bengaluru, of the charge leveled against him.

7. Further, it is hereby recommended to the Government to record abatement of inquiry against DGO.1 Sri Rangaswamy, the then Asst. Executive Engineer, in view of his death.



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.