

GOVERNMENT OF KARNATAKA**KARNATAKA LOKAYUKTA**

No.UPLOK-1/DE/118/2015/ARE-14

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560001
Date: 21st November, 2022.

RECOMMENDATION

Sub: Departmental Inquiry against Shriyuths:

- (1) Basavaraja K.E. (deceased), the then Junior Engineer.
- (2) H.Vishwanath, the then Assistant Engineer (presently working as Assistant Executive Engineer, PWD, Raichur).
- (3) Anilraj G.N., Assistant Executive Engineer.
- (4) K.V.Shankarappa, Executive Engineer and
- (5) B.Surendrababu, Executive Engineer-PWD Division, Raichur-reg.

Ref: 1) Government Order No.ಲೋಇ 44 ಸೇಇವಿ 2015,
ಬೆಂಗಳೂರು, dated: 02/03/2015.

2) Nomination Order No.UPLOK-1/DE/118/
2015, Bengaluru, dated: 07/03/2015 of
Upalokayukta, State of Karnataka, Bengaluru.

4) Inquiry Report dated: 17/11/2022 of
Additional Registrar of Enquiries-14, Karnataka
Lokayukta, Bengaluru.

The Government by its order dated: 02/03/2015 initiated
the disciplinary proceedings against (1) Shri Basavaraja K.E.

(deceased), the then Junior Engineer; (2) Shri H.Vishwanath, the then Assistant Engineer (presently working as Assistant Executive Engineer, PWD, Raichur); (3) Shri Anilraj G.N., Assistant Executive Engineer; (4) Shri K.V.Shankarappa, Executive Engineer and (5) Shri B.Surendrababu, Executive Engineer-PWD Division, Raichur (hereinafter referred to as Delinquent Government Officials, for short as DGOs No.1 to 5) and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.UPLOK-1/DE/118/2015, Bengaluru, dated: 07/03/2015 nominated Additional Registrar of Enquiries-7, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGOs No.1 to 5 for the alleged charge of misconduct, said to have been committed by them. Subsequently, by Order No.UPLOK-1 & 2/DE/Transfers/2018, Bengaluru, dated: 06/08/2018, the Additional Registrar of Enquiries-14, Karnataka Lokayukta, Bengaluru was re-nominated as Inquiry Officer to conduct Departmental Inquiry against DGOs No.1 to 5.
3. The DGO No.1, Shri Basavaraja K.E. (deceased), the then Junior Engineer; DGO No.2, Shri H.Vishwanath, the then Assistant Engineer (presently working as Assistant Executive Engineer,

PWD, Raichur); DGO No.3, Shri Anilraj G.N., Assistant Executive Engineer; DGO No.4, Shri K.V.Shankarappa, Executive Engineer and DGO No.5, Shri B.Surendrababu, Executive Engineer-PWD Division, Raichur were tried for the following charges:

ANNEXURE-1
CHARGE

That you-DGO Nos. 1) Sri Basavaraj K.E – the then Junior Engineer (now working as Asst. Executive Engineer in Canal No.3, Sub-Division at Manvi in Raichur District), 2) Sri H. Vishwanath – the then Assistant Engineer (now working as Asst., Executive Engineer in Public Works, Ports & Inland Water Transport Department's office at Raichur), 3) Sri Anilraj G.N. – the then Assistant Executive Engineer (now working as Asst. Executive Engineer in Public Works, Ports & Inland Water Transport Department's office at Raichur in District), all the three then working in Public Works, Ports & Inland Water Transport Department's sub-division office at Manvi in Raichur District, 4) Sri Shankarappa K.V. and 5) Sri B. Surendrababu – Both Executive Engineers in Public Works, Ports & Inland Water Transport Department's Division office at Raichur (but now respondent no.5 is working as Executive Engineer-ರಸ್ತೆ ಮೂಲಭೂತ ಸೌಕರ್ಯ - ಪಶ್ಚಿಮ ವಿಭಾಗ in BBMP., Annex Building No. 3, 1st floor, N.R. Circle at Bangalore) while discharging your duties:

- i. Since both the roads were to be improved on the basis of the approved estimates made taking into consideration the situation of the road, volume of traffic on the road (as road is running completely in irrigation command area), nature of the soil i.e., black cotton soil, heavy movement of the vehicles on the roads viz., Managoli – Bichal road which is a State Highway, and the 2nd road from Neermanvi to Sirwar was taken for widening the road since edges were worn out due to movement of heavy vehicles, they could not have become unworthy for traffic within two years of those works;
- ii. The roads were designed to last for 10 years, but pot holes had developed within a span of about 6 months. So also, the roads were not found as per "The specification road and bridge works", published by the Indian Road Congress;



- iii. A total amount of Rs.234.91 lakhs was shown spent/booked for the improvement of from Managoli – Bichal, which is a State High Way – 61 where as an amount of Rs.116.16 lakhs was spent/booked for improvement of road from Neermanvi to Sirwar. But, inspite of that, they were found damaged & became non transport-worthy within about two years from the date of formation and therefore, the total amount of Rs.351.07 lakhs shown as spent was found to be wasteful expenditure;
- iv. The Executive Engineer, “Kaamagari Usthuvari Kosha” has also examined the road from 18/05/2011 to 21/05/2011 along with other roads of Devadurga Taluk & observed that road from Neermanvi to Sirwar K.M. 204.00 to 213.00 K.M. as having ditches and road in sunken with repair going on;
- v. Since the samples were collected with the assistance of the Quality Control, Sub-division at Bellary, in the presence of you DGO Nos.1 and 3 and analysed by the Asst. Executive Engineer, Quality Control Sub-division, National High ways, Bangalore, the contention of you-DGOs that the quality of the metal used for the road is to be taken into consideration and not the quantity of the jelly & bitumen used cannot be accepted.
- vi. Even otherwise, as the surface of both the roads Managoli to Bichal road & Neeramanvi to Sirwar were found heavily damaged with many pot holes within about 6 months of the formation as against 10 years, for which they had been formed/improved, totally making the said roads unworthy for traffic, you DGO Nos.1 to 5 are answerable totally for Rs. 24,20,545/- (i.e., Rs. 14,60,425 + Rs.9,60,120)
- vii. Thus, you DGO Nos.1 to 5 have caused a total loss of Rs. 24,20,545/- to the State exchequer.
- viii. Out of that you DGO No.1-Sri K.E. Basavaraj is responsible for Rs. 6,47,660/-, you DGO No.2 – Sri. H. Vishwanath is responsible for Rs. 3,60,045/-, you DGO No.3 – Sri Anilraj G.N. is responsible for Rs. 9,07,704/-, you DGO No.4 –Shankarappa K.V. is responsible for Rs. 3,65,106/- and you DGO No.5 – B. Surendrababu is responsible for Rs. 2,40,030/-, as per the report of I.O. when apportioned;

and thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of Government Servants and thus you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966.

4. The Inquiry Officer (Additional Registrar of Enquiries-14) on proper appreciation of oral and documentary evidence has recorded abatement of enquiry against **DGO No.1** Shri Basavaraja K.E. (deceased), the then Junior Engineer, in view of death on 13/08/2021.

'Not Proved' the charges leveled against the **DGO No.2**, Shri H.Vishwanath, the then Assistant Engineer (presently working as Assistant Executive Engineer, PWD, Raichur); **DGO No.3**, Shri Anilraj G.N., Assistant Executive Engineer; **DGO No.4**, Shri K.V.Shankarappa, Executive Engineer and **DGO No.5**, Shri B.Surendrababu, Executive Engineer-PWD Division, Raichur.

5. On perusal of the Inquiry Report, in order to prove the guilt of the DGOs No.1 to 5, the Disciplinary Authority has examined three witnesses i.e., PW-1 to PW-3 and Ex. P-1 to P-18 documents were got marked. DGOs No.1, 3, 4 and 5 have also examined themselves as DW-4, DW-3, DW-1 and DW-2 respectively and got marked Ex. D-1 to D-12 documents.
6. On re-consideration of Inquiry Report and taking note of the totality of the circumstances of the case, 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 record abatement of enquiry against **DGO No.1**, Shri Basavaraja K.E. (deceased), the then Junior Engineer, in view of death on 13/08/2021 and to exonerate **DGO No.2**, Shri H.Vishwanath, the then Assistant Engineer (presently working as Assistant Executive Engineer, PWD, Raichur); **DGO No.3**, Shri Anilraj G.N., Assistant Executive Engineer; **DGO No.4**, Shri K.V.Shankarappa, Executive Engineer and **DGO No.5**, Shri B.Surendrababu, Executive Engineer-PWD Division, Raichur of the charges leveled against them.

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

Connected records are enclosed herewith.



(JUSTICE K.N.PHANEENDRA)
UPALOKAYUKTA-2,
STATE OF KARNATAKA.

KARNATAKA LOKAYUKTA

No.UPLOK-1/DE/118/2015/ARE-14

Multi Storied Building,
Dr. B.R Ambedkar Road,
Bangalore-560001,
Dated: 17/11/2022.**ENQUIRY REPORT****Present :** Sri. **Sudesh Rajaram Paradeshi**Additional Registrar of Enquiries-14
Karnataka Lokayukta
Bangalore.**Sub:** Departmental Enquiry against (1) Sri. Basavaraja K.E, the then Junior Engineer (presently working as Assistant Executive Engineer, No.3, Canal Sub-Division, Manvi)(*died during the pendency of enquiry*) (2) Sri. H Vishwanath, the then Assistant Engineer (presently working as Assistant Engineer, PWD, Raichur) (3) Sri. Anilraj G.N, Assistant Executive Engineer (4) Sri. K.V Shankarappa, Executive Engineer and (5) Sri. B Surendrababu, Executive Engineer, PWD, Division, Raichur – Reg.**Ref:** 1. Report U/s.12(3) of the K.L Act, 1984 in COMPT/UPLOK/GLB/225/2011 & 168/2012/ARE-4 dated 05/01/2015.
2. Government Order No.ಆೋಇ 44 ಸೇಇವಿ 2015, Bengaluru dated 02/03/2015.
3. Nomination Order No.UPLOK-1/DE/118/2015, dated 07/03/2015 of Hon'ble Upalokayukta, Bangalore.
4. Order No.UPLOK-1&2/DE/Transfers/

2018 Bengaluru, Dtd: 06/08/2018 file
is transferred from ARE-7 to ARE-14.

* * * * *

The complainant by name **Sri. Swamy Das**, Vice-President of B.J.P, Raichur Rural R/o Kurdi Villaeg, Manvi Taluk, Raichur District has filed the complaint against (1) Sri. Basavaraja K.E, the then Junior Engineer (presently working as Assistant Executive Engineer, No.3, Canal Sub-Division, Manvi) (2) Sri. H Vishwanath, the then Assistant Engineer (presently working as Assistant Engineer, PWD, Raichur) (3) Sri. Anilraj G.N, Assistant Executive Engineer (4) Sri. K.V Shankarappa, Executive Engineer and (5) Sri. B Surendrababu, Executive Engineer, PWD, Division, Raichur, alleging that the Respondents (DGO No.1 & 2)

- (1) Executed/ formed the road from Neermanvi to Sirwar from K.M. 204.65 to 212.65 K.M. (K.M. 204.00 to 210.00 K.M.) under 5054 Central Road Fund for the year 2008-09 at an estimated cost of Rs.125.00 lakhs.
- (2) Improvements of road from Managoli to Bichal road (State High Way - 61) from K.M. 194.00 to 205.00 (K.M. 194.65 to 204.00) under 5054 Central Road Fund for the year 2008-09, at an estimated cost of Rs. 300.00 lakhs.

But the formation of said roads are very poor and sub-standard and the said roads have completely damaged within two months, the same is registered as Compt/Uplok/GLB/225/2011.

2. Later, another complaint filed by Sri. Basavaraj Amaravathi S/o Amarappa dalitha leader in Zilla Samithi, Jaanekal Post, Manvi Taluk and Raichur district, against the same persons and with same allegations and the complainant is registered as COMP/UPLOK/GLB/225/2011. As such both complaints are taken up together.
3. Thereafter matter was referred for investigation to Chief Engineer of TAC for preliminary investigation matter and submitted his report.
4. After completion of the investigation, a report was sent to the Government U/s.12(3) of the Karnataka Lokayukta Act as per reference No.1. In pursuance of the report, the Government of Karnataka was pleased to issue the G.O. dated 02/03/2015 authorizing Hon'ble Upalokayukta to hold enquiry as per reference No.2. In pursuance of the G.O., the Nomination was issued by the Hon'ble Upalokayukta on 07/03/2015 authorizing ARE-7 to hold enquiry and to report as per reference No.3 and this file is transferred from ARE-7 to ARE-14 as per reference No. 4.
5. On the basis of the Nomination, Articles of Charge against the **DGOs were framed by the Additional Registrar of Enquiries-7** which includes Articles of Charge at Annexure-I and Statement of

Imputation of Misconduct at Annexure No. II which are as follows:-

ANNEXURE-I

CHARGE:-

That you-DGO Nos. 1) Sri Basavaraj K.E – the then Junior Engineer (now working as Asst. Executive Engineer in Canal No.3, Sub-Division at Manvi in Raichur District), 2) Sri H. Vishwanath – the then Assistant Engineer (now working as Asst., Executive Engineer in Public Works, Ports & Inland Water Transport Department's office at Raichur), 3) Sri Anilraj G.N. – the then Assistant Executive Engineer (now working as Asst. Executive Engineer in Public Works, Ports & Inland Water Transport Department's office at Raichur in District), all the three then working in Public Works, Ports & Inland Water Transport Department's sub-division office at Manvi in Raichur District, 4) Sri Shankarappa K.V. and 5) Sri B. Surendrababu – Both Executive Engineers in Public Works, Ports & Inland Water Transport Department's Division office at Raichur (but now respondent no.5 is working as Executive Engineer-ರಸ್ತೆ ಮೂಲಭೂತ ಸೌಕರ್ಯ -

ಪಶ್ಚಿಮ ವಿಭಾಗ in BBMP., Annex Building No. 3, 1st floor,
N.R. Circle at Bangalore) while discharging your duties:

- i. Since both the roads were to be improved on the basis of the approved estimates made taking into consideration the situation of the road, volume of traffic on the road (as road is running completely in irrigation command area), nature of the soil i.e., black cotton soil, heavy movement of the vehicles on the roads viz., Managoli – Bichal road which is a State Highway, and the 2nd road from Neermanvi to Sirwar was taken for widening the road since edges were worn out due to movement of heavy vehicles, they could not have become unworthy for traffic within two years of those works;
- ii. The roads were designed to last for 10 years, but pot holes had developed within a span of about 6 months. So also, the roads were not found as per “The specification road and bridge works”, published by the Indian Road Congress;
- iii. A total amount of Rs.234.91 lakhs was shown spent/booked for the improvement of from Managoli – Bichal, which is a State High Way – 61 where as an amount of Rs.116.16

lakhs was spent/booked for improvement of road from Neermanvi to Sirwar. But, inspite of that, they were found damaged & became non transport-worthy within about two years from the date of formation and therefore, the total amount of Rs.351.07 lakhs shown as spent was found to be wasteful expenditure;

- iv. The Executive Engineer, "Kaamagari Usthuvari Kosha" has also examined the road from 18/05/2011 to 21/05/2011 along with other roads of Devadurga Taluk & observed that road from Neermanvi to Sirwar K.M. 204.00 to 213.00 K.M. as having ditches and road in sunken with repair going on;
- v. Since the samples were collected with the assistance of the Quality Control, Sub-division at Bellary, in the presence of you DGO Nos.1 and 3 and analysed by the Asst. Executive Engineer, Quality Control Sub-division, National High ways, Bangalore, the contention of you-DGOs that the quality of the metal used for the road is to be taken into consideration and not the quantity of the jelly & bitumen used cannot be accepted.
- vi. Even otherwise, as the surface of both the roads Managoli to Bichal road & Neeramanvi

to Sirwar were found heavily damaged with many pot holes within about 6 months of the formation as against 10 years, for which they had been formed/improved, totally making the said roads unworthy for traffic, you DGO Nos.1 to 5 are answerable totally for Rs. 24,20,545/- (i.e., Rs. 14,60,425 + Rs.9,60,120)

- vii. Thus, you DGO Nos.1 to 5 have caused a total loss of Rs. 24,20,545/- to the State exchequer.
- viii. Out of that you DGO No.1-Sri K.E. Basavaraj is responsible for Rs. 6,47,660/-, you DGO No.2 – Sri. H. Vishwanath is responsible for Rs. 3,60,045/-, you DGO No.3 – Sri Anilraj G.N. is responsible for Rs. 9,07,704/-, you DGO No.4 –Shankarappa K.V. is responsible for Rs. 3,65,106/- and you DGO No.5 – B. Surendrababu is responsible for Rs. 2,40,030/-, as per the report of I.O. when apportioned;

and thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of Government Servants and thus you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966.

ANNEXURE-II

STATEMENT OF IMPUTATION OF MISCONDUCT

An investigation was taken up under section 9 of Karnataka Lokayukta Act 1984, on the complaint filed by Sri.Swamy Das, Vice-President of B.J.P., Raichur Rural R/o Kurdi village in Manvi Taluk of Raichur District (hereinafter referred to as complainant for short), against 1) Sri Basavaraj K.E – the then Junior Engineer (now working as Asst. Executive Engineer in Canal No.3, Sub-Division at Manvi in Raichur District), 2) Sri H. Vishwanath – the then Assistant Engineer (now working as Asst., Executive Engineer in Public Works, Ports & Inland Water Transport Department's office at Raichur), 3) Sri Anilraj G.N. – the then Assistant Executive Engineer (now working as Asst. Executive Engineer in Public Works, Ports & Inland Water Transport Department's office at Raichur in District), all the three then working in Public Works, Ports & Inland Water Transport Department's sub-division office at Manvi in Raichur District, 4) Sri Shankarappa K.V. and 5) Sri B. Surendrababu – Both Executive Engineers in Public Works, Ports & Inland Water Transport Department's Division office at Raichur (but now

respondent no.5 is working as Executive Engineer-ರಸ್ತೆ ಮೂಲಭೂತ ಸೌಕರ್ಯ - ಪಶ್ಚಿಮ ವಿಭಾಗ in BBMP., Annex Building No. 3, 1st floor, N.R. Circle at Bangalore) (hereinafter referred to as Delinquent Government Officials, in Short "DGO Nos.1 to 5") alleging that they being Government Servants, have committed misconduct.

2. **According to the Complainant:** The DGOs have executed/ formed the road from Neermanvi to Sirwar from K.M. 204.65 to 212.65 K.M. (K.M. 204.00 to 210.00 K.M.) under 5054 Central Road Fund for the year 2008-09 at an estimated cost of Rs.125.00 lakhs and improvements of road from Managoli to Bichal road (State High Way - 61) from K.M. 194.00 to 205.00 (K.M. 194.65 to 204.00) under 5054 Central Road Fund for the year 2008-09, at an estimated cost of Rs. 300.00 lakhs. But the formation of said roads is very poor and sub-standard and the said roads have completely damaged within two months, the same is registered as Compt/Uplok/GLB/225/2011.

3. Later, another complaint is registered at No. Compt/Uplok/GLB/168/2012 on the complaint of Sri Basavaraj Amaravathi S/o Amarappa dalitha leader in Zilla Samithi, Jaanekal Post, Manvi Taluk and Raichur

district, against the same DGOs complaining the same allegations.

4. So, on calling for the reports besides comments of the DGOs, when scrutiny note was put up on 02/07/2014, it has been ordered to put up the said Compt/Uplok/GLB/168/2012 with the earlier complaint no. Uplok/GLB/225/2011. As such, both the complaints are taken up together.
5. On registration of earlier complaint (Compt/Uplok/GLB/225/2011), it was referred to C.E. in TAC of our Institution i.e., Karnataka Lokayukta, for preliminary investigation. In turn, he entrusted the investigation to Sri. C.N Ananda, A.E.E.-III in TAC (who will be hereinafter referred to as "I.O." for short), to conduct preliminary investigation and to report. Instead of visiting spot and personally inspecting the roads, the said I.O. had called for the report from the Executive Engineer in PWD at Raichur and submitted a report with photos and certificates of Quality Assurance Sub-Division at Bellary, sent by said Engineer stating that the Execution of work is up to the standard with no deficiency in the quality of work.

6. Thereafter, when directed, the Chief Engineer himself personally visited the spot on 01/10/2010 and found that works was not upto mark and roads were found not formed to last for a period of 10 years, for which they were designed in the estimates and the execution of the said road works were not as per the standards prescribed in "The Specifications for Road and Bridge Works" published by the Indian Roads Congress. Therefore, Chief Engineer, again directed the I.O. to conduct detail investigation and ascertain as to whether the roads have been executed as per the standards prescribed in "The specifications for the roads and bridge works."

7. Then the I.O., visited the spot on 18/12/2012 and conducted the inspection in the presence of DGO Nos.1 and 3, other Engineers from the PWP & IWT Department's, Asst. Executive Engineers, Quality Control Sub-division, Bellary, besides the complainant.

(A) During the spot investigation, the I.O. has found that, several pot holes have come up on the road surface of Managoli to Bichal road (CH 194.65 K.M. to 204.00 K.M) and pot hole filling work of those pot holes was being carried out by the tendered contactor.

- i. During the spot investigation, five trial pits at different chainages of Managoli to Bichal road were taken to assess the quality and quantity of the materials used for the road work. Out of the above five trial pits, in the presence of the engineers from Quality Control Sub-Division, Bellary and DGO Nos.1 & 3. The I.O. has collected samples of asphalt and metal used in 3 trial pits, in the reaches, where the road surface appears to be in good condition. The asphalt samples were analysed by the Asst., Executive Engineer, Quality Control Sub-Division, National Highways, Bangalore and the metaling quantity was weighted on the spot and it was found that the required quantity of metal (grade 2 and 3) and the asphalt have not been utilized in the formation of road.
- ii. Based on the findings, the I.O. has calculated the amount of Rs.6,36,544/- as loss for using lesser quantity of metal and Rs. 8,23,881/- as loss for using lesser quantity of asphalt as against the provision made in the sanctioned estimate and thereby, there was an excess payment of Rs.14,60,425/- in the work of improvement to road from Managoli –Bichal road and for that amount, shown Sri

Basavaraj, Sri Anil raj and Sri Shankarappa
(DGO Nos.1,3 and 4) as responsible.

B) During spot inspection of **road from Neeramanki to Sirwar**, in fact, I.O. has observed the surface of that road worn out heavily with many potholes which had come up & the road surface as traffic unworthy condition.

1. The road surface was found worn out and full of pot holes in the chainage 204 K.M. to 210 K.M. due to which bitumen samples could not be collected in the reach K.M. 203 to 204 K.M. but as the road surface was much similar to the road surface in Ch. 203 to 204, the results of the sample at Ch. 203.25 were taken into consideration.
2. On the basis of test made on samples taken, use of lesser jelly and bitumen for improvement of that road was found;
3. On the basis of findings made on Quantity of metal and asphalt on the samples collected and material by Quality Control Sub-Division, National High Way, Bangalore, the I.O. has calculated the amount of Rs. 2,07,280/- as loss for using lesser quantity of metal and Rs. 7,52,840/- as loss for using lesser quantity of

asphalt against the provision made in the sanctioned estimate and thereby, there was an excess payment of Rs. 9,60,120/- in the work or improvement of road from Neermanvi to Sirwar road and for that amount, shown Sri H. Vishwanath, Sri Anil Raj and Sri Surendra Babu (DGO Nos. 2,3 & 5) as responsible.

(C) Thus, the I.O., has calculated the loss at Rs.14,60,425/- in the improvement of road from Managoli - Bichali road (SH 61) and loss at Rs.9,60,120/- in the improvement of road from Neermanvi to Sirwar and fixed the liability by apportioning the loss (caused) to the exchequer on the DGO Nos.1 to 5 as follows:

1. Sri Basavaraj K.E.(DGO No.1) - Junior Engineer, for Rs. 5,47,660/-, 2) Sri H. Vishwanath (DGO No.2) - Asst. Engineer for Rs. 3,60,045/-, 3) Sri Anilraj G.N. (DGO No.3) - Assistant Executive Engineer, all said three working then in Department's Sub-division at Manvi, for Rs. 9,07,704/-, 4) Sri Shankarappa K.V. (DGO No.4) - Executive Engineer, for Rs. 3,65,106/-, and 5) Sri Surendrababu (DGO No.5) - Executive Engineer for Rs. 2,40,030/- both them working in Public Works, Ports and

Inland Water Transport Department Division at Raichur.

(D) It is also opined by the TAC that the surface of the said roads was found damaged heavily within 6 months of the formation of roads, even though, they were supposed to last for many years i.e., 10 years as per the estimate & became unworthy for road traffic thereby the amount of Rs.24,20,545/- shown as spent on the said roads, became a wasteful expenditure. So, for that, the DGO Nos.1 to 5 are answerable.

8. Therefore, the comments of DGO Nos.1 to 5 have been called for. Accordingly, all the DGOs have submitted their separate reply, they have taken almost similar and identical stand stating that, work was commenced on 02/12/2009 & during the course of execution of work, metalling was collected and spread on the road manually for the required thickness, due to which uniformity could not be achieved & as asphaltting was not done immediately by the contractor due to non-payment of bills resulting in the loosening of metal and loss of weight in the aggregate collected from the test pits by the I.O. (as asphaltting was done in the year 2010-11, & there was heavy rain in October, 2010) & therefore, the bitumen contents had washed away due to heavy rain.

The quantity of metal (jelly) used for the said roads was certified by the Quality Control Sub-division at Bellary, at the time of formation of road, & it was not required to weigh the metal (jelly) used for the road, but the quality and gradation of metal used for were to be examined and the same were certified by the Quality Control Assurance Division at Bellary. Apart from that, after completion of the roads, they were subjected to movement of heavy vehicles for transportation of paddy and other agriculture goods. So also, heavy vehicles loaded with material moved on the said roads due to renovation of TLBC Distributaries for a period of about one year. They have further stated that efforts have been made to patch up pot holes through the concerned agency, for which payment was not made, and the defects will be rectified before the payment of final bills. On the said grounds, the DGOs have prayed to stop further proceedings.

9. **Consideration of material on record shows that:**

2. Since both the roads were to be improved on the basis of the approved estimates made taking into consideration the situation of the road, volume of traffic on the road (as road is running completely in irrigation command area), nature of the soil i.e., black cotton soil, heavy movement of the vehicles on the roads

viz., Managoli – Bichal road which is a State Highway, and the 2nd road from Neermanvi to Sirwar was taken for widening the road since edges were worn out due to movement of heavy vehicles, they could not have become unworthy for traffic within two years of those works;

3. The roads were designed to last for 10 years, but pot holes had developed within a span of about 6 months. So also, the roads were not found as per “The specification road and bridge works”, published by the Indian Road Congress;
4. A total amount of Rs.234.91 lakhs was shown spent/booked for the improvement of from Managoli – Bichal, which is a State High Way – 61 where as an amount of Rs.116.16 lakhs was spent/booked for improvement of road from Neermanvi to Sirwar. But, inspite of that, they were found damaged & became non transport-worthy within about two years from the date of formation and therefore, the total amount of Rs.351.07 lakhs shown as spent was found to be wasteful expenditure;
5. The Executive Engineer, “Kaamagari Usthuvari Kosha” has also examined the road from 18/05/2011 to 21/05/2011 along with other

roads of Devadurga Taluk & observed that road from Neermanvi to Sirwar K.M. 204.00 to 213.00 K.M. as having ditches and road in sunken with repair going on;

6. Since the samples were collected with the assistance of the Quality Control, Sub-division at Bellary, in the presence of you DGO Nos.1 and 3 and analysed by the Asst. Executive Engineer, Quality Control Sub-division, National High ways, Bangalore, the contention of you-DGOs that the quality of the metal used for the road is to be taken into consideration and not the quantity of the jelly & bitumen used cannot be accepted.
7. Even otherwise, as the surface of both the roads Managoli to Bichal road & Neeramanni to Sirwar were found heavily damaged with many pot holes within about 6 months of the formation as against 10 years, for which they had been formed/improved, totally making the said roads unworthy for traffic, you DGO Nos.1 to 5 are answerable totally for Rs. 24,20,545/- (i.e., Rs. 14,60,425 + Rs.9,60,120)
8. Thus, you DGO Nos.1 to 5 have caused a total loss of Rs. 24,20,545/- to the State exchequer.

Out of that you DGO No.1-Sri K.E. Basavaraj is responsible for Rs. 6,47,660/-, you DGO No.2 -Sri H. Vishwanath is responsible for Rs. 3,60,045/-, you DGO No.3 - Sri Anilraj G.N. is responsible for Rs. 9,07,704/-, you DGO No.4 - Shankarappa K.V. is responsible for Rs. 3,65,106/- and you DGO No.5 - B. Surendrababu is responsible for Rs. 2,40,030/- , as per the report of I.O. when apportioned;

10. In view of the facts stated above and on considering the material on record, comments of the DGOs have not been found satisfactory to drop the proceedings.
11. Said facts supported by the material on record show that the DGOs, being public servants, have failed to maintain absolute integrity besides devotion to duty and acted in a manner unbecoming of Government servants, and thereby committed misconduct and made themselves liable for disciplinary action.
12. Since said facts and material on record prima facie show that the DGOs have committed misconduct under Rule 3 (1) of the KCS Conduct Rules, 1966, recommendation is made under Section 12(3) of the Karnataka Lokayukta Act, to the Competent Authority to initiate disciplinary

proceedings against the DGOs and to entrust the inquiry to this Institution under Rule 14-A of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.

13. The Government after considering the recommendation made in the report, entrusted the matter to the Hon'ble Upalokayukta to conduct departmental/disciplinary proceedings against the DGO Nos.1 to 5 and to submit report. Hence the charge.
6. The aforesaid '*Articles of Charge*' was served on the DGOs. The DGO No.1 to 6 have appeared before this authority on 29/06/2015 and their first oral statement under Rule 11(9) of KCS (CCA) Rules, 1957 was recorded. The DGO No.1 & 2 pleaded not guilty and claimed to be enquired about the charges.
7. The facts supported by the material on record prima-facie showed that the DGOs, being a public servants failed to maintain absolute integrity besides devotion to duty and acted in a manner unbecoming of Government servants and thereby committed misconduct as per Rule 3(1) of KCS (Conduct) Rules, 1966 and made himself liable for disciplinary action.
8. The complainant examined as PW-1 and Ex.P.1 to P.5 were got marked. Sri. Basavaraj Amaravathi is examined as PW-2 and

Ex.P.6 to 10 were got marked. Investigating Officer Sri. Anand, examined as PW-3 Ex.P.11 to 18 were got marked. DGO No.4 examined as DW-1 and got marked Ex.D.1 to D.5. DGO No.5 examined as DW-2. DGO No.3 examined as DW-3 and got marked Ex.D.6 to D.12. DGO No.1 examined as DW-4. DGO No.2 did not lead his evidence.

9. Perused the entire case record and heard the argument of both the side in respect of DGOs.

10. The points that arise for my consideration are:

Point No.1 to 7 : Whether the charge framed against the DGOs is proved?

Point No.8 : What order?

11. My answers to the above points are as under:

Point No. 1 to 7: **In the Negative.**

Point No. 8 : **As per final order for the following;**

REASONS

12. **Point No.1 to 7** : All the points are interlinked with each other, hence taken up for discussion together. The complainant by name **Sri. Swamy Das**, Vice-President of B.J.P, Raichur Rural R/o Kurdi Village, Manvi Taluk, Raichur District has filed the

complaint against (1) Sri. Basavaraja K.E, the then Junior Engineer (presently working as Assistant Executive Engineer, No.3, Canal Sub-Division, Manvi) (2) Sri. H Vishwanath, the then Assistant Engineer (presently working as Assistant Engineer, PWD, Raichur) (3) Sri. Anilraj G.N, Assistant Executive Engineer (4) Sri. K.V Shankarappa, Executive Engineer and (5) Sri. B Surendrababu, Executive Engineer, PWD, Division, Raichur, alleging that the respondents executed/formed road Neermanvi to Sirivar and improvement of road from Managuli to Bichal are very poor and substandard and the said road have completely damaged within 2 months from the formation of the road. Therefore, the DGOs committed misconduct and dereliction of duty while discharging their duty as Government servants.

13. DGO No.1, 2, 3 & 5 filed their written statement. They have denied allegations made against them in the AOC. They have contended that improved the roads based on the approved estimates and also by taking into consideration the situation of the road, volume of traffic on the road is running completely in irrigation command area, nature of the soil i.e., black cotton soil and other factors. They have denied that the roads designed to last for 10 years had developed pot holes within a period of 6 months. It is further contended that the roads were formed as per the specification published by the Indian Road Congress. Further they have submitted that they have not cause loss to the Government to extent of Rs.24,20,545/- as alleged in the AOC.

14. DGO No.4 in his written statement stated that he worked as Executive Engineer from 16/07/2010 to 21/06/2012 and again served as Executive Engineer from 12/08/2013 till the date of superannuation on 30/09/2015.
15. It is further stated that he was not present at the time of investigation made by the I.O. on 18/12/2012 as no intimation was made to him about the complaint. The report of the I.O. is riddled with errors, misunderstanding of facts and wrong interpretation of the procedures and test results. The imputation made on the financial loss is also an imaginary understanding by the I.O. of the Department code. The apportioning as cited by the I.O. does not find a place in any of the Rules of the code. The allegations made in the charges are false and incorrect.
16. Complainant examined as PW-1 and got marked Ex.P.1 to Ex.P.5. In his evidence he deposed that the improvements/execution of road was from Neermanvi to Sirwar and Madageri to Neermanvi were taken up by the P.W.D. Department for the year 2011-12. Within 2 months of completion of roads, due to heavy rains, roads were completely damaged and due to which pot holes were formed. The formation of sand roads are very poor and sub-standard. When he brought to the notice of concerned Department, they have filled pot holes. In spite of this, road were damaged. So, he filed the complaint as Ex.P.3. Form No.1 & 2 was marked as Ex.P.4. He further

deposed I.O. has visited spot and prepared panchanama as Ex.P.5 and he signed on the said panchanama.

17. PW-2 deposed according to PW-1. Ex.P.6 & 7 are Form I and II. Ex.P.8 is the complaint; Ex.P.9 is Rejoinder and Ex.P.10 is C.D.
18. Investigating Officer Sri. Anand examined as PW-3. He deposed that he visited the spot on 18/12/2012. At that time complainant and officials were present. After investigation he submitted his report as Ex.P.14. In Ex.P.14 it is observed that as per allegations the work of asphaltting and shoulder metalling to the road from Sirwara to Neermanvi was substandard.
19. Based on records and during the investigation he found that the estimate was sanctioned for Rs.300 lakhs under the head of A/c.5054 i.e. improvements to road from Mangoli-Bichal Road. SH-61 km from 194 km to 205 km in the road 2009-10. It is mentioned that the main provisions in the estimate are Jungle cleaning, scarifying the top bituminous surface, murrum for base coat and sides, metalling grade II & III. Pot holes filling and patch repairs, surface dressing, tack coat, mix seal 20 mm thick etc.
20. During the spot inspection, it was observed that many potholes have come up on the road surface and these potholes filling work was being carried out by the tendered contractor up to 198.10 km and pothole filling work was on progress in further drainages.

The adjoining land owners have encroached the road side drain portion. Water was stored in the adjoining fields for paddy crop. The cage wheel movement marks which has cut the asphalted road surface were observed. Level of some of the adjoining fields are on par with above existing road level. Hence water collected in the fields may over flow the road surface. The road surface was not in good condition and having several potholes in the remaining chainage 200 km to 204 km. The pot have patch works were carried out in the previous chainages.

21. It is further contended that trial pits were taken to assess the quality and quantity of metal and asphalt used for the road works at chainage 195.10, 197.205, 200.08, 200.8 & 203.25. the asphalt samples were collected at 197.205, 200.08, 203.25 kms, where road surface appears to be good and was free from potholes.
22. The metal obtained from trial pits were weighed with assistance of Quality Control Sub-Division, Bellary. Quality analysis tests on asphalt samples collected were conducted by National Highway Quality Control Sub-Division Office, Bengaluru. As per report of Assistant Executive Engineer, Quality Assurance Sub-Division, Bellary found difference metal quality as such amount of short fall of using lesser quantity of metal Rs.6,36,544/-. It is also found difference in bitumen content, so amount incurred for lesser content of bitumen assessed at Rs.8,23,881/-.

23. I.O further stated that for above both amounts the DGO-1 Basavaraj, DGO-3 Anilraj and DGO-4 Shankarappa are held responsible.
24. As for improvement to road from Neermanvi to Sirwara road 204.65 to 212.05 km, is concerned mentioned that, as per the quality analysis results submitted by the Assistant Executive Engineer Quality Analysis Sub-Division, Bellary found difference in metal quantity. So an amount of short fall for using lesser quantity of metal rs.2,07,280/- and also found short fall of amount of Rs.7,52,480/- for using lesser content of bitumen for above amount DGO-2 H. Vishwanath, DGO-3 Anilraj and DGO-5 Surendrababu are held responsible.
25. Therefore he comes to conclusion that the concerned officers should have studied whether the provisions in the sanctioned estimate/tender are sufficient to cater the needs of the road to last for longer life before taking up the work. The road improvement work carried out has been damaged heavily making the road surface traffic unworthy conditions.
26. PW-1 in his cross examination he deposed that at the time of lodging the complaint, there were potholes on the road, thereafter they were filled up. Further deposed that by fixing the cage wheels to the tractor, they were running on the road, due to which potholes were formed. Due to the rain, road was damaged. When the investigation team was visited the potholes were filed

up. He further deposed that he has not at all stated about sub-standard work of the road in his complaint. He further deposed that he is not filed the complaint against any officer.

27. PW-2 in his cross examination he deposed that in the year 2009, there was heavy rain in the Raichur District.
28. PW-3 in his cross examination he deposed that he visited spot on 18/12/2012. He did not know when work of the road was started. Further deposed that when he visited the spot work of the road was completed and last bill payment was not made. Quality Control Department had given report in year 2009. He admitted that there are chances due to heavy rain upper layer stratum of the road was damaged. When he visited the spot filing of the potholes were being carried out. It is further deposed before going for investigation he collected the documents like measurement book, estimate, estimate marked as Ex.D.1.
29. Estimate was sanctioned by the Chief Engineer PWP & IWTD Division, Raichur (Public Works, Ports & Inland Water Transport Department Sub-Division). He further admitted that the estimate was prepared by Superintendent Engineer, PWD, Bellary (Circle) & submitted to Chief Engineer. He further admitted that the longevity of the road and its durability has to be decided by technical persons who have approved but not DGOs. He further admitted that DGOs were not having power to decide longevity and durability of road, only they have to carry the works as per

approved estimate and tender. The road was carried out in the year 2009-10. He visited the spot on 18/12/2012. He further admitted that when he visited the spot he did not count the potholes, but the work of filing of potholes was being carried out.

30. PW-3 in his cross examination he deposed that, “ಅವರು ಮಾಡಿದ ಕಾಮಗಾರಿಯಲ್ಲಿ ಅಳತೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ಯಾವುದೇ ನ್ಯೂನತೆ ಕಂಡುಬಂದಿರುವುದಿಲ್ಲ. ಸಾಕ್ಷಿಯು ಮುಂದುವರಿದು ನುಡಿಯುತ್ತಾರೆ. ಉಪಯೋಗಿಸಿದಂತಹ ಜಲ್ಲಿ ಕಲ್ಲುಗಳ ತೂಕದಲ್ಲಿ ನ್ಯೂನತೆ ಕಂಡುಬಂದಿರುತ್ತದೆ ಎನ್ನುತ್ತಾರೆ”.

31. When it was asked what was longevity of the road, for that he deposed as per the circular issued by IRC & MOST it was 10 years. When it was suggested that in the circular it was mentioned as period of 3 to 5 years. The witness perused the circular and deposed he did not mention in the report that the longevity of the road is of period 10 years. He further admitted that he was not mentioned in the report that within 6 months of completion of road they were found potholes. ಆ ರಸ್ತೆ ವಾಹನಗಳ ಸಂಚಾರಕ್ಕೆ ಯೋಗ್ಯವಾಗಿಲ್ಲದೇ ಇರುವುದರಿಂದ, ಆ ರಸ್ತೆಗಳಲ್ಲಿ ಮಾಡಿದಂತಹ ಪೂರ್ತಿ ಖರ್ಚು ಸಹ ವ್ಯರ್ಥವಾಗಿರುತ್ತದೆ ಎಂದು ನಾನು ನನ್ನ ವರದಿಯಲ್ಲಿ ತಿಳಿಸಿರುವುದಿಲ್ಲ.

32. He further admitted that after 32 days of taking sample he had sent the samples for examination. Samples were examined on 47th day of taking samples.

33. DGO-4 examined as DW-1 and got marked Ex.D-2 to Ex.D-4, DGO-5 examined as DW-2 and not got marked any documents. DGO-3 examined as DW-3 and got marked Ex.D-6 to Ex.D-12 and DGO-1 examined as DW-4 and not got marked any documents. As per the DGOs, the damage to the roads has occurred due to the movement of heavy traffic as well as the sub-base soil which is black cotton in nature and due to heavy cloudburst during the year 2009-10. The investigation officer (PW-3) in his investigation report vide Para No. Sl. No. 3-02 (A) (ii) observed that "during the spot inspection, it was observed that many potholes have come up on the road surface and these potholes filling work was being carried out by the tendered contractor upto 198.10 kms and potholes filling work was in progress in the further chainages. The adjoining land owners have encroached the road side drain portion and water was stored in the adjoining fields for paddy crop. The cage wheel movement marks which has cut the asphalted road surface were observed on the road surface. Level of some of the adjoining fields are on par with above existing road level. Water collected in the fields may over flow over the road surface was not in good condition and having several potholes in the remaining chainage 200 k.m. to 204 k.m. The potholes patch work were carried in the previous chainages.

34. This aspect shows that the correction work was being got done through the tender contractor as per the conditions of the

contract as the final bill was not paid to the contractor and the work is not closed.

35. Thus the inference drawn by the I.O. stating that the road surface was not in good condition and having several potholes in the remaining chainages 200 k.m. to 204 k.m. is contradictory and adverse to his own findings mentioned above.

36. The PW-1 in his cross examination has deposed that “ನಾನು ರಾಯಚೂರು ಜಿಲ್ಲೆಯಲ್ಲಿ ಬಿ.ಜೆ.ಪಿ. ಉಪಾಧ್ಯಕ್ಷನಾಗಿ ಕೆಲಸ ಮಾಡುತ್ತಿದ್ದೆ. ಫಾರಂ ನಂ. 1 ಮತ್ತು 2 ರಲ್ಲಿ ನನ್ನ ಸಹಿ ಇಲ್ಲ. ಪಾಟ್‌ಹೋಲ್ ದೂರು ಕೊಡುವ ಕಾಲಕ್ಕೆ ಇತ್ತು. ನಂತರ ಅದನ್ನು ಮುಚ್ಚಿದ್ದಾರೆ. ನಾನು ದೂರು ಕೊಡುವ ಕಾಲಕ್ಕೆ ಟ್ರಾಕ್ಟರ್‌ಗೆ ಕೇಜ್ ವೀಲ್ ಅಳವಡಿಸಿ ಓಡಾಡುತ್ತಿತ್ತು. ಆದ್ದರಿಂದ, ರಸ್ತೆ ಗುಂಡಿ ಆಗುತ್ತಿತ್ತು. ಆ ಕಾಲಕ್ಕೆ ತುಂಗಭದ್ರಾ ಎಡದಂಡೆ ಕಾಲುವೆ ಕಾಮಗಾರಿ ನಡೆಯುತ್ತಿತ್ತು. ಆ ಕಾಲಕ್ಕೆ ಹೆಚ್ಚು ಭಾರದ ವಾಹನಗಳು ಓಡಾಡುತ್ತಿದ್ದವು. ಆ ಕಾಲಕ್ಕೆ ಮಳೆ ಬಂದು ರಸ್ತೆ ಹಾಳಾಗಿದೆ. ರಸ್ತೆ ಗುಂಡಿ ಮುಚ್ಚಿಸಿದ ಬಗ್ಗೆ ಈ ಸಂಸ್ಥೆಗೆ ಪತ್ರ ಬರೆದಿದ್ದೆ. ಲೋಕಾಯುಕ್ತ ತಾಂತ್ರಿಕ ವಿಭಾಗದವರು ಸ್ಥಳ ಪರಿಶೀಲನೆಗೆ ಬಂದಾಗ ರಸ್ತೆ ಗುಂಡಿಗಳನ್ನು ಮುಚ್ಚಲಾಗಿತ್ತು” ಅಂತ ನುಡಿದಿರುತ್ತಾರೆ.

37. PW-3 in his cross examination, he deposed that “ನಾನು ಸ್ಥಳ ತನಿಖೆಗೆ ಹೋಗುವ ಮುನ್ನ ಅಳತೆ ಪುಸ್ತಕ ಮತ್ತು ಅಂದಾಜು ಪಟ್ಟಿಯನ್ನು ಪಡೆದಿದ್ದೆ ಮತ್ತು ನೋಡಿದ್ದೆ. ಈಗ ನೋಡುತ್ತಿರುವ ದಾಖಲಾತಿ ಅಂದಾಜು ಪಟ್ಟಿಯಾಗಿರುತ್ತದೆ. ಅದನ್ನು ನಿ.ಡಿ-1 ಎಂದು ಗುರುತಿಸಿಕೊಳ್ಳಲಾಯಿತು (ನಿ.ಪಿ.-16 ಸಹ ಅಂದಾಜು ಪಟ್ಟಿಯಾಗಿದ್ದು ಅದರಲ್ಲಿ ಪೂರ್ಣ ಮಾಹಿತಿ ಇರುವುದಾಗಿದೆ. ಹಾಗಾಗಿ ಪುನಃ ಸಂಪೂರ್ಣ ಇರುವ ಅಂದಾಜು ಪಟ್ಟಿಯನ್ನು ನಿ.ಡಿ-1 ಎಂದು ಗುರುತಿಸಲಾಗಿದೆ). ಸದರಿ ನಿ.ಡಿ-1 ನ್ನು ಮುಖ್ಯ ಅಭಿಯಂತರರು ಸಂಪರ್ಕ ಮತ್ತು ಕಟ್ಟಡ (ಉತ್ತರ), ಧಾರವಾಡ ಅವರು ಅನುಮೋದಿಸಿದ್ದಾರೆ. ಮೊದಲು ಈ ಅಂದಾಜು ಪಟ್ಟಿಯನ್ನು ಅಧೀಕ್ಷಕ ಅಭಿಯಂತರರು, ಲೋಕೋಪಯೋಗಿ ಇಲಾಖೆ, ಬಳ್ಳಾರಿ ವೃತ್ತ ಅವರು ಪರಿಶೀಲಿಸಿ, ಒಪ್ಪಿ ನಂತರ

ಅದನ್ನು ಮುಖ್ಯ ಅಭಿಯಂತರರಿಗೆ ಸಲ್ಲಿಸಿರುತ್ತಾರೆ ಎಂದರೆ ಸರಿ. ರಸ್ತೆಯ ಬಾಳಿಕೆಗೆ ಮತ್ತು ಆಯಸ್ಸನ್ನು ನಿರ್ಧರಿಸಲು ತಾಂತ್ರಿಕ ಅನುಮೋದನೆಯನ್ನು ನೀಡಿದ ಅಧಿಕಾರಿಗೆ ಮಾತ್ರ ಸೀಮಿತವಾಗಿರುತ್ತದೆ ಹೊರತು ಆ.ಸ.ನೌ. ರಿಗೆ ಸಂಬಂಧಿಸಿದ್ದಲ್ಲ ಎನ್ನುವುದು ಸರಿ ಎಂಬುದನ್ನು ಒಪ್ಪಿಕೊಂಡಿರುತ್ತಾರೆ. ಅನುಮೋದಿತ ಅಂದಾಜು ಪಟ್ಟಿಯಂತೆ ಟೆಂಡರ್‌ಗೆ ಅನುಗುಣವಾಗಿ ಆ.ಸ.ನೌ.ರು ಕೆಲಸ ನಿರ್ವಹಿಸಬೇಕಾಗಿರುತ್ತದೆಯೇ ವಿನಃ ರಸ್ತೆಯ ಬಾಳಿಕೆ ಮತ್ತು ಆಯಸ್ಸನ್ನು ನಿರ್ಧರಿಸಲು ಇವರುಗಳಿಗೆ ಅಧಿಕಾರವಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿ ಎಂದು ಒಪ್ಪಿಕೊಂಡಿರುತ್ತಾರೆ”.

38. ಮುಂದುವರಿದು, ಇವರು ಪಾಟೀ ಸವಾಲಿನಲ್ಲಿ “ಮನಗೂಳಿ ಬಿಚ್ಚಾಲೆ ರಸ್ತೆಯ ಕಿ.ಮೀ. 194 ರಿಂದ ಕಿ.ಮೀ 205 ರವರೆಗೆ ಅಭಿವೃದ್ಧಿ ಕೆಲಸದಲ್ಲಿ ಗುಂಡಿ ಮುಚ್ಚುವ ಕೆಲಸಕ್ಕೆ ಅನುವು ಮಾಡಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿ. 2009-10 ನೇ ಸಾಲಿನಲ್ಲಿ ಈ ಕಾಮಗಾರಿ ನಡೆದಿರುತ್ತದೆ. ನಾನು ಸ್ಥಳ ತನಿಖೆಗೆ ದಿನಾಂಕ 18-12-2012 ರಂದು ಭೇಟಿ ನೀಡಿರುತ್ತೇನೆ. ನಾನು ಸ್ಥಳಕ್ಕೆ ಹೋದಾಗ ಬಹಳ ಗುಂಡಿಗಳಿದ್ದವು. ಆದರೆ, ನಾನು ಅವುಗಳನ್ನು ಲೆಕ್ಕ ಹಾಕಿರುವುದಿಲ್ಲ ಮತ್ತು ಆ ಗುಂಡಿಗಳ ಅಳತೆಗಳನ್ನು ಮಾಡಿರುವುದಿಲ್ಲ. ಸಾಕ್ಷಿ ಸ್ವತಃ ನುಡಿಯುತ್ತಾರೆ ಗುಂಡಿಗಳನ್ನು ಮುಚ್ಚುವ ಕೆಲಸ ನಡೆಯುತ್ತಿತ್ತು. ತಾನು ಪರಿಶೀಲಿಸಿದಾಗ ಅಂತಿಮ ಬಿಲ್ಲು ತಯಾರಿಸಿರುವುದಿಲ್ಲ. ನಾನು ತೆಗೆದಂತಹ 5 ಪರೀಕ್ಷಾ ಗುಂಡಿಗಳ ಆಳವನ್ನು ನಿ.ಪಿ.-5 ರ ಮಹಜರ್‌ನಲ್ಲಿ ನಮೂದಿಸಿರುತ್ತೇನೆ. ಅವರು ಮಾಡಿದ ಕಾಮಗಾರಿಗಳಲ್ಲಿ ಆಳಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ಯಾವುದೇ ನ್ಯೂನತೆ ಕಂಡುಬಂದಿರುವುದಿಲ್ಲ.

39. ಮುಂದುವರಿದು, ತಮ್ಮ ಪಾಟೀ ಸವಾಲಿನಲ್ಲಿ ದಿನಾಂಕ 27-12-2018 ರಲ್ಲಿ ಪ್ಯಾರಾ ನಂ. 14 ರಲ್ಲಿ ಈಗ ತೋರಿಸಿದ ಡಾಟಾ ರೇಟ್ಸ್ ರೂರಲ್ ರೋಡ್ ಷೆಡ್ಯೂಲ್ಸ್ ಆಫ್ ರೇಟ್ಸ್ 2014-15 ರಲ್ಲಿ ಗ್ರೇಡ್-2 ಮತ್ತು ಗ್ರೇಡ್-3 ರಲ್ಲಿ ಅನುವು ಮಾಡಿರುವುದು 0.91 ಕಾಂಪಾಕ್ಷನ್ ಫ್ಯಾಕ್ಟರ್ ಎನ್ನುವುದು ಸರಿ. ಅದನ್ನು ನಿ.ಡಿ-1 ಎಂತಲೂ (ಈ ವಿಚಾರಣೆಯಲ್ಲಿ ಈಗಾಗಲೇ ಅಂದಾಜು ಪಟ್ಟಿ ನಿ.ಡಿ.1 ಎಂದು ಗುರುತಿಸಲಾಗಿದ್ದು ಇರುತ್ತದೆ. ಮುಂದುವರೆದು, data rates rural road schedule of rate 2014-15 ಇದು ಮತ್ತೊಮ್ಮೆ ನಿ.ಡಿ.1 ಎಂದು ಗುರುತಿಸಲಾಗಿದ್ದು, ಅದನ್ನು ನಿ.ಡಿ.1(ಸಿ) ಎಂದು ಓದಲಾಗಿದೆ) ಸಂಬಂಧಪಟ್ಟ ಭಾಗವನ್ನು ನಿ.ಡಿ-1 (ಎ) ಎಂತಲೂ ಹಾಗೂ ನಿ.ಡಿ.-1 (ಬಿ) ಎಂತಲೂ ಗುರುತಿಸಲಾಯಿತು. ಮುಂದುವರಿದು, ಪ್ಯಾರಾ ಸೀರಿಯಲ್ ನಂ. 15 ರಲ್ಲಿ “ನಿ.ಡಿ-1 ರಲ್ಲಿ ಗ್ರೇಡ್-1

ಜಲ್ಲಿಗೆ ಕಾಂಪ್ಯಾಕ್ಟ್ ಫ್ಯಾಕ್ಟರ್ 1.21 ಎಂದಿದೆ ಎನ್ನುವುದು ಸರಿ. ಅದರಂತೆ ಪ್ಯಾರಾ ಸೀರಿಯಲ್ ನಂ. 17 ರಲ್ಲಿ ನಿ.ಪಿ.12 ರಂತೆ ಗುಣಭರವಸೆ ವಿಭಾಗ, ಬಳ್ಳಾರಿ ಇವರು ನೀಡಿರುವ ವರದಿಯಂತೆ ಕಾಂಪ್ಯಾಕ್ಟ್ ಫ್ಯಾಕ್ಟರ್ ಗ್ರೇಡ್-2 ಮತ್ತು ಗ್ರೇಡ್-3 ಜಲ್ಲಿಗೆ 1.21 ಎಂದು ಪರಿಗಣಿಸಿ ಫಲಿತಾಂಶವನ್ನು ನೀಡುತ್ತಾರೆ ಎನ್ನುವುದು ಸರಿ. ಸಾಕ್ಷಿಯು ಮುಂದುವರಿದು ನುಡಿಯುತ್ತಾರೆ. 1.21 ನ್ನು ಸಡಿಲಗೊಳಿಸಿದ ಮಾದರಿಗಳಿಗೆ ಪಡೆಯಲಾಗಿದೆ. ಮುಂದುವರಿದು ಪ್ಯಾರಾ ಸೀರಿಯಲ್ 18 ರಲ್ಲಿ Morth Specification ಪ್ರಕಾರ ಸಡಿಲಗೊಳಿಸಿದ ಗ್ರೇಡ್-2 ಮತ್ತು ಗ್ರೇಡ್-3 ಮಾದರಿಗಳಿಗೆ 0.91 ಕಾಂಪ್ಯಾಕ್ಟ್ ಫ್ಯಾಕ್ಟರ್ ಇರುತ್ತದೆ ಎಂದು ಮಾಡಿದ ಸಲಹೆಗೆ ಸಾಕ್ಷಿಯು ಅದನ್ನು Morth Specification ನ್ನು ನೋಡಿ ಹೇಳಬೇಕಾಗುತ್ತದೆ ಎನ್ನುತ್ತಾರೆ.

40. ಮುಂದುವರಿದು, ಪ್ಯಾರಾ ಸೀರಿಯಲ್ 19 ರಲ್ಲಿ ಆದರೆ ಅವರು ನೀಡಿದ ವರದಿಯನ್ನು ಆಧರಿಸಿ ಆರ್ಥಿಕ ನಷ್ಟ ಮತ್ತು ವಿಭಜನೆಯನ್ನು ಮಾಡಿ ವರದಿಯನ್ನು ನೀಡಿರುತ್ತೇನೆ ಎಂತ ನುಡಿದಿರುತ್ತಾರೆ. ಗುಣ ನಿಯಂತ್ರಣ ಉಪ ವಿಭಾಗ, ಬಳ್ಳಾರಿಯವರು ನೀಡಿದ ವರದಿ ಸರಿ ಇದೆಯೋ ಇಲ್ಲವೋ ಎಂಬುದನ್ನು ನಾನು ಪರಿಶೀಲಿಸಿರುವುದಿಲ್ಲ ಎಂದು ನುಡಿದಿರುತ್ತಾರೆ.

41. As per the report of I.O. i.e., Ex,P-14 in para No. 3.02 sub para No iv it is mentioned that “ the metal obtained from trial pits were weighed with the assistance of quality control sub division Bellary officers and Quality Analysis Test on asphalt samples collected were conducted by National High ways Quality Control Sub division office Bengaluru.

The details of Metal contents as below:

Sl. No.	Chainage	Weight of metal		Diff
		As required	as per actual	

1	197.205	102.77	100.23	2.55
2	200.08	102.79	100.25	2.54
3	203.25	102.77	85.40	17.37

As per report of Assistant Executive Engineer, PWP and IWT Department QA sub division Bellary, It is mentioned samples collected at site during site inspection on 18.12.2012 along with AEE Section Officer, complaint and Lokayukta Enquiry Officer. Item work Grade-II Aggr. (two layer) + Grade-III Aggr. (one layer) total weight of metal found for three layers 99.66 k.gs. In the report mentioned as above. As per actual the weight of metal is 100.23, 100.25 and 85.40. At two chainage i.e., at Sl N.o. 1&2 are more that 99.66 K.g.

42. Likewise the I.O. in his report at page No. 9, para No. 3.02 (B) iv it is mentioned that "the metal obtained from the trial pits were weighed with assistance of Quality Control Sub division Bellary Officers. As the surface was worn out and was similar to the road surface in chainage 203 to 204 k.m. bitumen samples could not be collected in the chainage 204 to 210 k.m. and the results of chainage 203 to 204 were considered.

The details of Metal contents as below:

Sl. No.	Chainage	Weight of metal		Diff
		As required	as per actual	
1	204.04	100.86	88.15	12.71

2	207.80	100.86	100.10	0.76
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As per report AEE PWP and IWT Department QA sub division Bellary. It is mentioned samples collected at site during site inspection on 18.12.2012 along with AEE Section Officer, complaint and Lokayukta Enquiry Officer. Item work Grade-II Aggr. (two layer) + Grade-III Aggr. (one layer) total weight of metal found for three layers 100.86 k.gs. But the calculations both the reports was mentioned that they have taken the compaction factor 1.21. Further as admitted by the I.O. the compaction factor for Grade-II and Grade-III is 0.91 as mentioned in EX D-1 (a) and EX D-1(b), and EX D-1 i.e., data rates rural road schedule rates 2014-15. But the I.O. has calculated the difference by taking compaction factor 1.21 instead of 0.91. So in my opinion the calculation made by the I.O. is not correct and amount of short fall for user of lesser quantity of metal Rs. 6,36,544/- and Rs. 2,07,280/- is not correctly calculated.

43. Now coming to bitumen content. As per report of I.O. the bitumen content of improvement of road Managuli, Bichal road found that the amount incurred for lesser content of bitumen is Rs. 8,23,881/-. This finding is based on report issued by the AEE, Quality Control Sub-Division National High way Bengaluru wherein, it is mentioned at remark column that "required

bitumen content is not achieved". Where as same Authority has issued another report mentioned in remark column "Aggregate gradation confirms to table 500.26 of morth and H specification" Based upon this report the I.O. assessed amount incurred for lesser content of bitumen is Rs. 7,52,840/-. As already stated pertaining to the work of improvement to road from Neermanvi to Sirvar surface was worn out was similar to the road surface in chainage 203 to 204 k.m. bitumen samples could not be collected in the chainage 204 to 210 k.m. and the result of chainage 203 to 204 were considered. But as stated above two reports issued by the AEE, QA Sub division, NH Bengaluru, it is mentioned in one report bitumen content is not achieved, where as in another report it is mentioned "Aggregate gradation confirms to table 500.26 of morth and H specification". Moreover as per the evidence of Pw1 and 2 they have admitted that due to heavy rain the roads were damaged. Further to substantiate that during the year 2010-11 the work of RCC/CC linings from mile 70 to 104 of the left blank distributory canal was tendered for Rs. 11,175.80 lakh. The work order issued by the Executive Engineer Sirwar division marked as Ex-D10. Due to the above work the movement of heavy vehicles took place on said roads as these roads were the mode of access for the Thungabhadra left bank canal. Hence the damage to the road occurred. To substantiate the same 6 Photo graphs have been marked as Ex.D11. This was also substantiate by the Pw.2 who was also the complainant.

44. In this enquiry the contract document has been marked as Ex.D12 and to substantiate that the contractor is liable to correct any discrepancies in the work till the final bill is submitted and relevant portion is marked as Ex. D12(A) and cost of the repair has to be borne by the contractor is marked Ex. D-12 (B)
45. In this case after completion of evidence and when the case is posted for arguments, DGO No. 1 died and notice was issued to his Legal Representative i.e. wife of the complainant to appear and to say about her arguments if any. Accordingly she appeared and submitted that she has no knowledge about the facts which was carried out by her husband. However by perusing above evidence and documents I am of the opinion that the presenting Office on behalf of disciplinary authority failed to prove the charges leveled against the DGO's hence I answer the point No.1 to 7 in the negative.
46. Hence, I proceed to record the following:

FINDINGS

The Disciplinary Authority has not **proved** the charges framed against DGO-2 Sri. H Vishwanath, the then Assistant Engineer (presently working as Assistant Engineer, PWD, Raichur); DGO-3 Sri. Anilraj G.N, Assistant Executive Engineer; DGO-4 Sri. K.V

Shankarappa, Executive Engineer and DGO-5
Sri. B Surendrababu, Executive Engineer, PWD,
Division, Raichur.

DGO-1 Sri. Basavaraja K.E, the then Junior
Engineer (presently working as Assistant
Executive Engineer, No.3, Canal Sub-Division,
Manvi)(*died during the pendency of enquiry*)

The Date of Retirement of DGO No.2, 3, 4 &
5 is 30/06/2026; 31/12/2027; 30/09/2015 and
30/06/2021 respectively.

This report is submitted to the Hon'ble
Upalokayukta in a sealed cover.

Paradeshi
17/11/22
(SUDESH RAJARAM PARADESHI)
Additional Registrar Enquiries-14,
Karnataka Lokayukta,
Bangalore.

ANNEXURES

Sl. No.	Particulars of Documents	
1	Witness examined on behalf of the Disciplinary Authority	
	PW-1	Sri. Swamy Das, S/o Gundayya, Former, Kurudi, Raichur (Original)
	PW-2	Sri. Basavaraj, S/o Amarappa Former, Amaravati, Raichur (Original)
	PW-3	Sri. Anand S/o Late Nagaraj, EE, Bengaluru. (Original)
2	Documents marked on behalf of the Disciplinary Authority Ex.P-1 to Ex.P-18	
	Ex.P.1 & 1(a)	Form No.1 with signature.
	Ex.P.2 & 2(a)	Form No.2 with signature (Affidavit)
	Ex.P.3 & 3(a)	Complaint dtd: 12.11.2011 given to this institution with signature (Original).
	Ex.P.4	Photographs.
	Ex.P.5 5(a)& 5(b)	Copy of Mahazar, with signature.
	Ex.P.6& 6(a)	Form No.1 with signature.
	Ex.P.7 & 7(a)	Form No.2 with signature (Affidavit).
	Ex.P.8 & 8(a)	Complaint dtd: 04.01.2022 given to this institution with signature.
	Ex.P.9& 9(a)	Letter by Haidrabad Karnataka D.S.S.(R) dtd. 05.02.2014 given to this Institution.
	Ex.P. 10	C.D. by Pw.2, dtd. 23.01.2017.
	Ex.P. 11	Colour Photos of Siravar-Neermanavi Road Inspection.
Ex.P. 12	Letter by AEE, PWD & Port dtd. 27.12.2012, to AEE-3, Technical Wing, KLA, Bengaluru, with enclosure.	

	Ex.P. 13	Letter by AEE, Quality Control Sub-Division, N.H. Bangalore dtd. 18.12.2013, to AEE, I.O. Technical Wing, KLA, Bengaluru, with enclosure.
	Ex.P. 14 & 14(a)	I.O. Report with Signature, dtd. 29.11.2013.
	Ex.P. 15	M.B. No. 193, of PWD -1, Raichur, Manvi, sub-division of year 2010-11.
	Ex.P. 16	Detailed and abstract Estimate for improvements to road from Managoli-Bichal road.
	Ex.P. 17	M.B. No. 2040, of PW -12B, of Raichur, Manvi, sub-division.
	Ex.P. 18	Detailed and abstract Estimate for improvements to road from Neermanvi-Sirwar.
3	Witness examined on behalf of the DGO, Documents marked on behalf of the DGO	
	DW-1	Sri. Shankarappa S/o Veeranna K.V., Rtd. EE, Vidyarannapur, Bengaluru.
	DW-2	Sri. Surendr Babu, S/o Basappa, Executive Engineer, TLBC Division-4, KBJNL, Rodal Bund camp, Lingsuru, Raichur Distric.
	DW-3	Sri. G.N. Anilraj, S/o Nagappa, Assistant Executive Engineer, Krishnabhagya Jalnigam, Narayanpur, baldande Kaluwe, Sub-Division, Devdurga, Raichur.
	DW-4	Sri. Basavraj S/o Siddappa, Junior Engineer, Assistant Executive Engineer Office, PWD, Sub-Division, Devadurga, Raichur.
4	Documents marked on behalf of the DGOs through the complainant	
	Ex.D.1(a), 1(b) & 1(c)	Copies of DATA RATES RURAL ROAD SCHEDULE OF RATES 2014-15.
	Ex.D.1	Copies of Detailed and Abstract Estimate for improvements of road.
	Ex.D.2	Certified copy of CTC dtd.16.07.2010.

Ex.D.3	Certified copy of CTC dtd.22.06.2012.
Ex.D.4	Certified copy of Flexible Payment Design
Ex.D.5	Copies of M.B. No.2193 PW-12B of Raichur division, Manvi Sub-Division.
Ex.D.6	Copy of Certified Service letter dtd.12.02.2021
Ex.D.7	Certified Copy of Rain measuring Centre reg.
Ex.D.8	Certified Copy of Rain measuring Centre reg.
Ex.D.9	Certified proceedings copy of DC, Raichuru dtd. 06.10.2009.
Ex.D.10	Certified copies of CONTRACT DOCUMENT with enclosures, Book No. 4 of 7.
Ex.D.11	Colour Photos with certified.
Ex.D.12, 12(a) & 12 (b)	Agreement Form with enclosures with signature

Dated this the 17th November, 2022

Paradeshi
17/11/22
(SUDESH RAJARAM PARADESHI)
Additional Registrar Enquiries-14,
Karnataka Lokayukta,
Bangalore.