

KARNATAKA LOKAYUKTA

NO:UPLOK-1/DE/122/2020/ARE-9

M.S.Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru - 560 001.
Date: 29.7.2022

:: ENQUIRY REPORT ::**:: Present ::****(S.GOPALAPPA)**

**I/c Additional Registrar of Enquiries -9
Karnataka Lokayukta,
Bengaluru**

Sub: Departmental Inquiry against Sri.Girish Shetty,
Assistant Executive Engineer HSR Sub
Division, Ward No. 174, Bruhath Bengaluru
Mahanagara Palike, Bengaluru - reg.

Ref: 1. G.O.No. UDD 35 MNU 2020 dated:
18.5.2020

2.Nomination Order No: UPLOK-
1/DE/122/2020/ARE-9 Bangalore
dated:12.6.2020 of Hon'ble Upalokayukta-1

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This Departmental Inquiry is initiated against Sri.Girish Shetty,
Assistant Executive Engineer HSR Sub Division, Ward No. 174,
Bruhath Bengaluru Mahanagara Palike, Bengaluru (hereinafter
referred to as the Delinquent Government Official for short "DGO").

2. In pursuance of the Government Order cited above at
reference No.1, Hon'ble Upalokayukta vide order dated 12.6.2020
cited above at reference No.2 has nominated Additional Registrar of

Enquiries-9 (in short ARE-9) to frame Articles of charges and to conduct the inquiry against the aforesaid DGO.

3. This Authority (ARE-9) has issued the Articles of charges, Statement of imputations of misconduct, list of witnesses proposed to be examined in support of the charges and list of documents proposed to be relied in support of the charges.

4. The Article of charges issued by the ARE-9 against the DGO are as under :

ANNEXURE-I
CHARGE

You DGO Sri.Girish Sheety working as Assistant Executive Engineer in HSR sub division, Ward No. 174, BBMP

You DGO is responsible to take action for removal of encroachment in question in the pedestrian footpaths by commercial establishments at No. 17, 18, 19, 24 and 27th main road of HSR Layout. Even though final order was passed by Hon'ble High court in the writ petition No. 14596/2013 on 24.2.2016 with a direction to see that the foot path are free and easily assessable by the pedestrian. You DGO was not acting promptly and timely for removal of the encroachment of pedestrian footpaths by commercial establishments at No.17, 18, 19, 24 and 27th main road of HSR Layout and for not making them easily accessible to the pedestrians especially considering the peril/hazard involved in such cases. It is prima-facie material to infer misconduct on the part of the you DGO.

Thereby you DGO has committed misconduct and dereliction of duty and failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servant and therefore you DGO is guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966. Hence, this charge.

ANNEXURE – 2

STATEMENT OF IMPUTATIONS OF MISCONDUCT

Brief facts of the case are :-

An investigation was taken up under Section 9 of the Karnataka Lokayukta Act, 1984, on the basis of complaint filed by Sri. Vijay Dennis, Founder President, Karnataka RTI Workers Seva Samithi, No. 38/28, Somasundar Palya, Near SVR College, HSR Layout, 2nd Sector, Bengaluru-102 (hereinafter referred to as 'Complainant' for short) against Sri. Girish Shetty, Assistant Executive Engineer, HSR Sub division, Ward no. 174, BBMP office, HSR Layout, Bengaluru (hereinafter referred to as 'DGO' for short).

The substance of the complaint is that in spite of representation made to the DGO on 15/03/2018 to remove/clear the encroachment of the pedestrian footpath by commercial establishment/shop-owners and in spite of the letter written by the Traffic Police Inspector that he will extend his cooperation, the DGO has failed to remove/clear the encroachment of the pedestrian footpath for the reasons known to him. It is alleged that the DGO may be getting bribe from

the encroachers and some of the encroachers are influential people.

The complainant has enclosed the copy of representation made to the DGO on 15/3/2018 and the Traffic department alleging that each and every commercial establishment located in the 17, 18, 19, 24 and 27th main have completely occupied the pedestrian footpath on either side of the roads at HSR Layout causing inconvenience to the Citizens especially Senior Citizens, Women and Children, who are forced to walk on the tarmac/road. The complainant has also enclosed the endorsement issued by the Police Inspector under the Right to Information Act, 2005 stating that it is the responsibility of BBMP to remove the encroachment and that a letter dt. 30/04/2018 was addressed to Assistant Executive Engineer, HSR Sub division that cooperation will be extended by traffic Police for the removal of the same.

The DGO – Girish Shetty has submitted comments dt. 16/11/2019. In his comments he has stated that as per the orders of the Court, action is being taken under the guidance of the Central Office for clearing the footpaths. He has enclosed the copy of the office orders dt. 9/9/2019 and 24/9/2019 requesting the Assistant Engineers and staff of Ward no. 174 and 190 to participate in the activity of clearing the footpaths on 11/09/2019 and 26/09/2019 respectively. He has enclosed copy of letters dt. 7/09/2019, 23/01/2019 and 23/11/2018 addressed to the Police Inspector, HSR Layout Police Station seeking the assistance and protection in the removal of encroachment on the footpaths as per the directions of the

Hon'ble High Court in W.P.no. 14596/2013 and W.P.no. 13731/2013. He has enclosed the copies of photographs in respect of purported removal of encroachments in the footpaths.

On perusal of the case status of W.P.no.14596/2013 and W.P.no. 13731/2013 on the website of the Hon'ble High Court, it appears that both the petitions, filed by Ms. Jennifer Pinto against the State represented by the Housing and Urban Development Secretary, BDA, BBMP, DGP, PWD, Karnataka Road Development Corporation Limited, Regional Transport Office, Society of Indian Automobile Manufacturers and Karnataka State Pollution Control Board, have been disposed on 24/02/2016.

The DGO has submitted letter dt.08/01/2020 along with the copies of orders passed by Hon'ble High Court in the said Writ Petitions no.14596/2013 and W.P.no. 13731/2013, which have been apparently printed from the website of the Hon'ble High Court. However the final order in the said cases has not been furnished. The final order in the said writ petition is available in the website of the Hon'ble High Court and it is printed and placed in file for reference.

On perusal of the orders in the said Writ petition, it is noted that the petitions were filed in public interest on account of deficiency in facilities for pedestrians in Bengaluru City and seeking pedestrians' safety on the main roads. In the order dt. 23/7/2014, it has been observed that not only people with disabilities but even for ordinary pedestrians, the footpaths are either not made or not in proper repair for able bodied persons

to walk upon them and avoid walking on the main road which is extremely hazardous, on account of phenomenal growth in the number of vehicles plying on the roads. The footpaths which have been built over the years, are either not sufficient width or they are encroached upon for multifarious activities including dumping of wastes and running of sewage lines. Further it has been observed that it could not also be disputed that this was not only a health hazard but increases the number of road accidents, maiming or mutilating innocent pedestrians, which include children and people of old age. In the said order dt. 23/7/2014, the Hon'ble High Court has directed the BBMP to remove all unauthorised encroachments, construction and obstructions either temporary or permanent on the existing footpaths within 3 months under section 288D of KMC Act. It has also directed the BBMP to repair and make, unscientifically and improperly laid footpaths, pedestrian-friendly latest by six months. The Hon'ble High Court has also directed that individual and personal responsibilities shall be fixed among the officers of BBMP for construction, repair and maintenance of proper footpaths in particular zones, so as to make them liable for any failure on their part, dereliction of duty or injury or loss caused to any pedestrian on account of failure on the part of BBMP to keep the footpaths clear and in good repair. Further, vide order dt. 22/09/2014, the Hon'ble High Court has directed that the earlier directions are required to be implemented keeping in view and without violating the provisions of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014. The compliance of

the said directions was supervised by the Hon'ble High Court on different dates and ultimately the case has been disposed off on 24/2/2016 with observation that from the report submitted by BBMP, it appears that substantial steps have been taken to safeguard the interest of the petitioners. Further, the Hon'ble High Court has directed the BBMP to see that the footpaths are free and easily accessible by the pedestrians (the orders printed from the website of the Hon'ble High Court in respect of the said Writ petitions are placed in file for reference).

Some of the media reports published on the internet suggest that pedestrians account for around 40% of all the road accident fatalities in Bengaluru. They suggest that the common issues that have turned Bengaluru into an unfriendly city for pedestrians include the absence of footpaths, which forces them to travel/walk along the road and when footpaths are available, they are unsafe and are encroached, again forcing the pedestrians to travel/walk along the road (some of the media reports printed from the internet are placed in file for reference).

In the present case, the allegations pertain to the encroachment of pedestrian footpaths by commercial establishments/shop-owners at HSR layout and the inconvenience caused to general public including senior citizens, women and children, who are forced to walk on the road instead of the footpath. The DGO in his comments has not denied or disputed the allegation that the footpaths in question have been encroached by the commercial establishments/shop-owners. The comments of the DGO and

the letter dt. 6/5/2018 of the PIO and Police Inspector, HSR Layout Traffic police station furnished along with the complaint, prima facie, indicate that such encroachments exist. The DGO has only stated that steps are being taken continuously for the removal of the encroachments as per the directions of the Hon'ble High Court in W.P.no. 13731/2013 and W.P.no. 14596/2013. The final order was passed by Hon'ble High Court in the said writ petitions on 24/02/2016 with a direction to see that the footpaths are free and easily accessible by the pedestrians. The representation of the complainant is dated 15/03/2018. The DGO has not stated as to what steps have been taken by him on the said representation and the directions of the Hon'ble High Court except writing letters in September 2019 or November 2018 to Police Inspector seeking assistance for removal of encroachments. The comments indicate that even on the date of the comments submitted by the DGO, the footpaths have not been made easily accessible to the pedestrians by clearing the alleged encroachments by commercial establishments at 17, 18, 19, 24 and 27th main road of HSR Layout.

It cannot be disputed that hardship even to an extent of loss of life and limb will be caused to the public/pedestrians if the footpaths are not clear and easily accessible to them and if they are forced to walk along the road. The DGO has not disputed that he is the official responsible to take action for removal of encroachment in question in the pedestrian footpaths by commercial establishments at 17, 18, 19, 24 and 27th main road of HSR Layout. From the foregoing discussion,

it appears that there is prima facie material to attribute negligence on the part of the DGO for not acting promptly and timely for removal of the encroachment of pedestrian footpaths by commercial establishments at 17, 18, 19, 24 and 27th main road of HSR Layout and for not making them easily accessible to the pedestrians especially considering the peril/hazard involved in such cases.

Under the circumstances, the comments of the DGO cannot be accepted and there is prima-facie material to infer misconduct on the part of the DGO.

The facts and material on record prima-facie show that the DGO has committed misconduct as per Rule 3 (i) to (iii) of Karnataka Civil Services (Conduct) Rules, 1966. Accordingly, now, acting under Section 12(3) of the Karnataka Lokayukta Act, recommendation is made to the Competent Authority to initiate disciplinary proceedings against the DGO – Sri. Girish Shetty, Assistant Executive Engineer, HSR Sub division, Ward no. 174, BBMP office, HSR Layout, Bengaluru (Date of Retirement is not available in the file), and to entrust the inquiry to this Authority under Rule 14-A of the Karnataka Civil Services (Classification, Control and Appeal) Regulations, 1957.

Since said facts supported by the materials on record prima facie show that you-DGO being Public/Government servant, has committed misconduct as per Rule 3(1)(i) to (iii) of KCS(Conduct) Rules, 1966 and under Rule 14(A) of Karnataka Civil Services (Classification, Control and Appeal) Rules 1957. Hence, the charge.

5. The Article of charge was issued to the DGO calling upon him to appear before this authority and to submit written statement.

6. The DGO appeared before this inquiry authority in pursuance to the service of the Article of charges. First Oral Statement was recorded on 29.1.2021 and plea of the DGO has been recorded and he pleaded not guilty and claimed for holding inquiry. Thereafter, he submitted written statement.

7. In his written statement, DGO has stated that the complaint was not made in the name of DGO, it was filed against the designation. During the period of filing the complaint he was not working in HSR layout sub division BBMP office. He has reported to HSR layout sub division BBMP office on 8.5.2019 and worked till 27.7.2020 and then he was relieved from the said office. Before DGO reporting to the duty his previous officer has written letter dtd: 23.1.2019 along with complainant's copy to Police Inspector stating to clear the foot paths. DGO has retired from service on 31.7.2020, and enclosed the supporting document also. He has further stated that he has taken action to respond immediately to all types of complaints received orally from the public during his tenure. Sometimes shop owners or tenants have encroached on the pedestrian space he visited the place and cleared the encroachment to allow the pedestrians to walk smoothly. Shop owners and tenants use to keep some goods in the shop while clearing the shops. They put it on the footpath and carry out cleaning work, complainant under the misconception that they have encroached on the footpath. Apart from this the owner has not encroached on any footpath during his period. Shops have

complied the order of Hon'ble High court. Further he stated that he cleared encroachment made on footpaths on 24.9.2019 in Ward No. 174 and 190 and informed the same to his superior officers also. He had cleared encroachment of footpath of all 8th sector with the help of Police officers. With these grounds, he prayed to drop the charges leveled against him.

8. The disciplinary authority has examined the complainant Sri. Vijay Dennis, Karnataka RTI Workers Seva Samithi, Jayappa layout, AECS Layout, A –Block, Kudulu Bengaluru as PW.1 and got marked documents as **Ex.P-1 to ExP-4**.

9. Thereafter, second oral statement of DGO has been recorded. DGO Sri.Girish Shetty, Assistant Executive Engineer BBMP, Bengaluru has got examined himself as DW-1 and got marked documents as **Ex.D-1 to Ex.D-15**.

10. Heard the submissions of Presenting Officer and DGO submitted written arguments. Perused the entire records. The only point that arise for my consideration is:

**1. Whether the Disciplinary Authority proves
the charge framed against the DGO ?**

My finding on the above point is in **AFFIRMATIVE** for the following:

REASONS

11. PW-1 is the complainant. DW-1 is the DGO. The certified copy of the complaint dtd:15.3.2018 submitted by PW-1 to DGO office is Ex.D-1. The CTC, that he took charge of HSR layout

on 8.5.2019 as Ex.D-2. The CTC regarding reliving of DGO on 27.7.2020 from BBMP as Ex.D-3. The report dtd: 13.11.2019 submitted by DGO that during his tenure, the clearance of temporary commercial shops encroaching on the footpaths of the main roads under HSR layout sub division as Ex.D-4 and copies of photographs taken during clearance as identified and marked as Ex.D-5 to Ex.D-15.

12. The complainant PW-1 has deposed in his evidence that the shopkeepers in HSR layout 17th, 18th, 19th, 24th and 27th Main road were doing business by putting up sheds on the pedestrian path of the layout. Due to this, it was difficult for the public to walk on above said roads. Hence he gave complaint to Assistant Executive Engineer BBMP to clear those sheds. They have not taken any action. Therefore, he filed complaint in Karnataka Lokayukta as per Ex.P-1 to 4.

13. In his cross examination, PW-1 has deposed that he does real estate business. He denies that he visits HSR layout often. He doesn't know how many main roads are there in the said layout. He has voluntarily deposed that there are 27 main roads. The public has not complained about disturbance made by the street vendors. He has voluntarily deposed that there is a complaint and it was given by a woman named Lakshmi. That complaint or copy mentioned was not enclosed in the complaint made by him. He denies that Lakshmi did not complain. He denies that he is lying. He has not inquired whether the public has complained to the BBMP office about the nuisance caused by street vendors and not even verified under RTI Act. He does not know about the complaint made by public to the BBMP Office that they were disturbed by the street vendors. He does not

know that DGO was not working in BBMP office when he complained.

14. Further PW-1 has deposed that, he does not know that he filed a complaint with the BBMP office during the tenure of DGO's previous officer. BBMP officials have not taken any legal action on the complaint made by PW-1. He denies that BBMP officials took action after he complained and they informed the same to him. But they told him orally. He denies that his name is not there in the complaint given to the Karnataka Lokayukta office. He doesn't know the action was already taken on his complaint before DGO took charge in the BBMP office. Since, the foot paths have been cleared the allegations of his complaint have been answered. He denies that even though the grievance is redressed, he has filed a complaint.

15. For the suggestion that your hobby is to complain against Government officials, PW-1 has deposed that his hobby is to complaint against corrupt officials. He denies but he accepts. As soon as his name is told in BBMP office, the works are to be done in the office. He does not want to say in which other offices he filed the complaints. For the suggestion that you have kept a car and a bike, PW-1 has deposed that he has only a bike. He denies that he walks on the footpath rarely. For the suggestion that in the morning when shops get opened the goods of the shop are kept outside, the garbage is swept and then the goods are kept in good condition, PW-1 has deposed that some shops keep the goods outside permanently.

16. For the suggestion that in some shops, at the time of closing, the goods are kept outside and the garbage is swept and then they put inside and the shop will be closed, PW-1 has deposed that in some shops, the goods are kept outside permanently. He denies that

while shop keepers keep goods outside cleaning the shop, by misunderstanding that he made a false complaint to BBMP and Karnataka Lokayukta office. He denies that he is harassing DGO by making false complaint. He denies that he had complained to the superiors. He admits that before lodging the complaint BBMP in coordination with the police officers have cleared the footpaths.

17. In HSR layout there are more than 50,000 houses. He denies that in his complaint seva samiti's registration number is not mentioned. There are other seva samitis in the said layout. He does not know whether those samitis have complained like this or not. He does not know whether residents of HSR layout have complained like this or not.

18. DGO as DW-1 has deposed that he worked as Assistant Executive Engineer in BBMP from June 2009 to 27.7.2020. He took charge of HSR layout sub division on 8.5.2019 and worked till 27.7.2020. PW-1 had complained on 15.3.2018 at that time he was not incharge of HSR layout sub division. When PW-1 complained to Karnataka Lokayukta office on 30.9.2019, his name was not mentioned. Comments were called from the Karnataka Lokayukta office. He submitted his comments stating that he was not working when the PW-1 gave complaint. During his tenure he has cleared pedestrian roads at the places mentioned by the PW-1. He made convenient to the pedestrians to walk easily on the road. In this regard he has submitted the related documents and photographs along with his report to this authority. He has not committed any dereliction of duty as alleged by complainant. The PW-1 has filed a false complaint.

19. DW-1 in his cross examination has deposed that from 8.5.2019 to 27.7.2020, he was working as an Assistant Executive

Engineer in HSR layout sub division. He admits that ward No. 174 was coming under his jurisdiction. He admits that ward no. 174 is a densely populated area. He admits that there are commercial shops and other shops in it. For the suggestion that on the 16, 17, 19, 24, 27th main roads of the HSR layout shopkeepers were doing business by putting up sheds on the footpath, PW-1 has deposed that he took action as soon as he noticed. He admits that the public cannot be bothered to walk on the road. He admits that if public movement is obstructed, the place should be inspected regularly and obstruction should be cleared. He denies that he did not take any action even though the public complained that shopkeepers were disturbing the public by setting up shops on the public road. He admits that Hon'ble High court has ordered in writ petition No. 14596/2013 dtd: 22.4.2016 that the obstructions on the public foot path should be cleared immediately. He denies that he did not obey the said order.

20. The complainant has alleged that, the DGO has failed to remove the encroachment on foot path. The DGO has worked as AEE in BBMP from June 2009 to July 2020. He took charge of HSR layout sub division on 8.5.2019 and worked till 20.7.2020. The complaint is dated: 15.3.2018 at that time he was not in charge of HSR layout sub division. When the complaint was lodged his name was not mentioned in the complaint. According to the DGO during his tenure he cleared the pedestrian path at the places mentioned by the complainant. In support of his contention he has produced the photographs Ex.D-5 to Ex.D-15. These photographs prima facie shows that the DGO was clearing the foot path encroachment.

21. The DGO has further taken a contention that he made convenient to the pedestrians to walk easily on the road. In Ex.D-4

dated: 13.11.2019 the DGO has reported that according to the orders of this institution he is continuously removing the obstructions on foot paths. The copy of CTC Ex.D-2 shows that DGO assumed charge of HSR layout sub division on 8.5.2019. According to the DGO, he took the charge on 8.5.2019 and worked till 27.7.2020. Much earlier to that on 15.3.2018 this complaint was lodged. At that time he was not in the charge of HSR layout sub division. After assuming charge on 8.5.2019 there is some delay upto 13.11.2019 to remove the obstructions on the foot paths. Before lodging the complaint BBMP in co-ordination with police officer had cleared the foot paths. In the cross examination complainant has clearly deposed that since the foot paths have been cleared the allegations of this complaint have been answered.

22. As per the photographs the obstruction of foot paths was cleared. But the DGO or government officials cannot watch the street vendors throughout 24 X7, because in the cross examination PW-1 for the suggestion that, in the morning when the shops get opened the goods of the shops are kept out side, the garbage is swept and then the goods are kept in good condition, PW-1 has deposed that some shops keep the goods outside permanently. For the suggestion that in some shops, at the time of closing, the goods are kept outside and the garbage is swept and then they are put inside and the shop will be closed, PW-1 has deposed that in some shops, the goods are kept outside permanently.

23. Though the DGO assumed the charge of HSR Layout Sub Division on 15.3.2018 he has not taken any action on the allegations

of the complainant until 13.11.2019. Even the DGO has not taken any action against shopkeepers who keep the goods outside obstructing pedestrians. From the date of assuming charge on 8.5.2019 DGO delayed to take action to clear the footpath until 13.11.2019. This amounts to dereliction of duty on the part of DGO.

23. Therefore, overall examination of the evidence on record show that the disciplinary authority has established the charges leveled against DGO. Hence, I proceed to record the following:-

FINDINGS

24. The Disciplinary Authority has proved the charges leveled against DGO. Hence, this report is submitted to Hon'ble Upalokayukta for further action.

25. Date of retirement of DGO is 14.7.2020.

Sd/-
(S.GOPALAPPA)

I/c Additional Registrar Enquiries-9
Karnataka Lokayukta, Bengaluru.

i) List of witnesses examined on behalf of Disciplinary Authority.

PW.1	Sri. Vijay Dennis, Karnataka RTI Workers Seva Samithi, Jayappa layout, AECS Layout, A –Block, Kudulu Bengaluru
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ii) List of Documents marked on behalf of Disciplinary Authority.

Ex.P1	Ex.P-1 is the complaint dtd: 15.3.2018 from complainant PW-1 to DGO
Ex.P 2	Ex.P-2 is the detailed complaint dtd: 30.9.2019 filed by complainant PW-1 before Karnataka Lokayukta office.
Ex.P-3 & 4	Ex.p-3 and 4 are the complaint in form No. 1 and 2 filed by complainant PW-1 in Karnataka Lokayukta office.

iii) List of witnesses examined on behalf of DGO

DW-1	Sri.Girish Shetty, Assistant Executive Engineer HSR Sub Division, Ward No. 174, Bruhath Bengaluru Mahanagara Palike, Bengaluru
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iv) List of documents marked on behalf of DGO

Ex.D-1	Ex.D-1 is the complaint dtd: 15.3.2018 from complainant PW-1 to DGO
Ex.D-2	Ex.D-2 is the CTC dtd: 8.5.2019
Ex.D-3	Ex.D-3 is the CTC dtd: 27.7.2020
Ex.D-4	Ex.D-4 is the letter dtd: 13.11.2019 from Assistant Executive Engineer HSR sub division, BBMP to ARLO-

	1 Karnataka Lokayukta Bengaluru
Ex.D-5 to Ex.D- 15	Ex.D-5 to Ex.D-15 are the photographs regarding - removal of temporary sheds, clearing obstacles in foot paths

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(S.GOPALAPPA)

I/c Additional Registrar Enquiries-9
Karnataka Lokayukta,
Bengaluru.



KARNATAKA LOKAYUKTA

No.UPLOK-1/DE/122/2020/ARE-9

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001.
Dated 01.08.2022.

RECOMMENDATION

Sub:- Departmental inquiry against Sri Girish Shetty,
Assistant Executive Engineer, HSR Sub-division,
Ward No.174, BBMP, Bengaluru- reg.

Ref:- 1) Government Order No.UDD 35 MNU 2020
dated 18.05.2020.

2) Nomination order No. UPLOK-1/DE/122/2020
dated 12.06.2020 of Hon'ble Upalokayukta,
State of Karnataka.

3) Inquiry report dated 29.07.2022 of Additional
Registrar of Enquiries-9, Karnataka Lokayukta,
Bengaluru.

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The Government by its order dated 18.05.2020 initiated the disciplinary proceedings against Sri Girish Shetty, Assistant Executive Engineer, HSR Sub-division, Ward No.174, BBMP, Bengaluru, [hereinafter referred to as Delinquent Government Officer, for short as ' DGO ' ] and entrusted the Departmental Inquiry to this Institution.

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2. This Institution by Nomination Order No. UPLOK-1/DE/122/2020 dated 12.06.2020 nominated Additional Registrar of Enquiries-9, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct departmental inquiry against DGO for the alleged charge of misconduct, said to have been committed by him.

3. The DGO was tried for the following charge:

“You DGO Sri Girish Shetty working as Assistant Executive Engineer in HSR Sub-division, Ward No.174, BBMP

You DGO is responsible to take action for removal of encroachment in question in the pedestrian footpaths by commercial establishments at No.17, 18, 19, 24 and 27<sup>th</sup> main road of HSR layout. Even though final order was passed by Hon'ble High Court in the writ petition No.14596/2013 on 24.2.2016 with a direction to see that the foot path are free and easily assessable by the pedestrian. You DGO was not acting promptly and timely for removal of the encroachment of pedestrian footpaths by commercial establishments at No.17,18,19,24 and 27<sup>th</sup> main road of HSR Layout and for not making them easily accessible to the pedestrians especially considering the peril/hazard involved in such cases. It is prima-facie material to infer misconduct on the part of the you DGO.

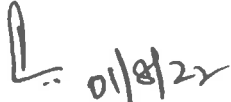
Thereby you-DGO has committed misconduct and dereliction of duty and failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servant and therefore you DGO are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966. Hence, this charge”

4. The Inquiry Officer (Additional Registrar of Enquiries- 9) on proper appreciation of oral and documentary evidence has held that, the Disciplinary Authority has '*proved*' the above charge against the DGO Sri Girish Shetty, Assistant Executive Engineer, HSR Sub-division, Ward No.174, BBMP, Bengaluru.

5. On perusal of the entire materials on record, in order to prove the misconduct of the DGO, the Disciplinary Authority has examined one witness as PW-1 and got marked documents Ex. P-1 to P-4. The DGO got examined himself as DW.1 and got marked Ex.D.1 to D.15 on his behalf. Though the DGO have denied the charge, the entire evidence and the materials on record disclose that, DGO failed to take timely action to clear the foot path and thereby committed misconduct. Therefore, there is no reason to deviate from the opinion expressed by the Inquiry Officer. Hence, it is hereby recommended to the Government to accept the report of Inquiry Officer.

6. As per the information furnished by the Enquiry Officer, DGO Sri Girish Shetty, has retired from service on 31.07.2020.
7. Having regard to the nature of charge proved against the DGO and considering the totality of circumstances, it is hereby recommended to the Govt. to impose penalty of ' withholding 10(ten)% of pension payable to DGO Sri Girish Shetty, for a period of two years.
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.