

## **KARNATAKA LOKAYUKTA**

No.LOK/INQ/14-A/140/2011/ARE-4

M.S. Building  
Dr.B.R.Ambedkar Road  
Bengaluru-560 001  
Date: 26/07/2021

### **:: INQUIRY REPORT ::**

**Sub:** Departmental Inquiry against,

Sri Huchegowda  
s/o Ujinigowda  
Excise Inspector  
Nandini Layout Range  
West of Chord Road  
Bengaluru (**Now retired**)

- Ref:**
- 1) Report u/s 12(3) of the K.L Act, 1984 in No. Compt/Uplok/BCD/633/2008 /ARE-10, Dated:07/05/2011
  - 2) Government Order No. FD 62 EPS 2011, Bengaluru, dated: 30/06/2011
  - 3) Order No.LOK/INQ/14-A/140/2011, Bengaluru dated:21/07/2011 of the Hon'ble Upalokayukta

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This Departmental Inquiry is directed against Sri Huchegowda s/o Ujinigowda, Excise Inspector, Nandini Layout Range, West of Chord Road, Bengaluru (**Now retired**) (herein after referred to as the Delinquent Government Official in short "DGO")

2. After completion of the investigation a report u/sec. 12(3) of the Karnataka Lokayukta Act was sent to the Government as per Reference No.1.

3. In view of the Government Order cited above at reference-2, the Hon'ble Upalokayukta, vide order dated: 21/07/2011 cited above at reference-3, nominated Additional Registrar of Inquiries-4 of the office of the Karnataka Lokayukta as the Inquiry Officer to frame charges and to conduct Inquiry against the aforesaid DGO. Additional Registrar Inquires-4 prepared Articles of Charge, Statement of Imputations of mis-conduct, list of documents proposed to be relied and list of witnesses proposed to be examined in support of Article of Charges. Copies of the same were issued to the DGO calling upon him to appear before this Authority and to submit his written statement of defence.

4. The Articles of Charges framed by ARE-4 against the DGO is as follows:-

**ANNEXURE NO.I**  
**CHARGE**

*That, you Sri Huchegowda, the DGO, while working as Excise Inspector at Nandini Layout Range in West of Chord Road of Bengaluru took bribe of Rs. 75,000/- at first instance out of the total demand of Rs. 1,00,000/- for the purpose of closing complaints received opposing running of M/s. Gopi Bar & Restaurant at Laggere in Bengaluru and also*

*demanded another sum of Rs. 15,000/- for renewal of license which was in the name of Sri V. Gopal but being run by Sri Jagadishgowda the brother-in-law of the complainant and on 17/09/2007 received bribe of Rs. 15,000/- through one Sri Anand Babu @ Babu from the complainant namely J.K. Raju the Supervisor of the said M/s Gopi Bar & Restaurant towards the renewal of license and thus failed to maintain absolute integrity and devotion to duty the act of which was unbecoming of a public servant and thereby committed misconduct as enumerated u/Rule 3(1)(i) to (iii) of the Karnataka Civil Service (Conduct) Rules, 1966.*

**ANNEXURE-II**  
**STATEMENT OF IMPUTATIONS OF MISCONDUCT**

*The complainant viz., Sri J.K. Raju s/o Kenchegowda, Door No. 60 in Kamakshipalya of Bengaluru City was the Supervisor of M/s Gopi Bar & Restaurant situated at Laggere in Bengaluru. The license of the said bar was in the name of one Sri V. Gopal, but the same was being run by Sri Jagadish Gowda, the brother-in-law of the complainant. In the first week of August 2007, the said V. Gopal applied for renewal of license of the said bar. In the meanwhile, there were representations received opposing for running of the said bar. Instead of considering request for renewal of license and considering said representation received opposing renewal of license, the DGO threatened to close the business of the bar, if bribe of Rs. 1,00,000/- is not given to him. The DGO*

also asked for further bribe of Rs. 15,000/- for the purpose of renewal of license. After receiving Rs. 75,000/- at first instance, the DGO was demanding remaining sum of Rs. 25,000/- out of Rs. 1,00,000/- and further asked for Rs. 15,000/- towards renewal of license of that bar. The complainant was not willing to pay bribe and then on 17/09/2007 the complainant lodged a complaint before the Lokayukta Police Inspector, Bengaluru (hereinafter referred to as the Investigating Officer-'I.O.' for short). The IO registered a case in Cr. No. 31/2007 for the offences punishable u/sec. 7, 13(1)(d), r/w 13(2) of the Prevention of Corruption Act 1988. The I.O. took up the investigation. In the course of investigation, tainted amount of Rs. 15,000/- was given by the complainant. As per the say of the DGO one Anand Babu @ Babu received the said amount on 17/09/2007 on behalf of the DGO. On that day itself, the I.O. followed post trap formalities and took statements of the DGO and also one Sri Babu who was privately employed by the DGO as sweeper. I.O. recorded statement of the complainant, panchas and others. After receiving report of chemical examiner, the I.O. submitted final report against the DGO. The materials on record showed that DGO being a public servant failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Government Servant. Further investigation was taken up and an observation note was sent to the DGO calling for his explanation. The reply given by the DGO was not convincing and was not satisfactory. As there was prima-facie materials to show misconduct on the

*part of the DGO, a recommendation U/sec. 12(3) of Karnataka Lokayukta Act was made to Competent Authority to initiate disciplinary proceedings and to entrust the enquiry under 14-A of KCS (CCA) 1957. Accordingly, the Government initiated departmental proceedings with sanction under Rule 214(2)(b)(i) of KCS Rules and entrusted enquiry to the Hon'ble Upalokayukta. Hence, this charge.*

5. DGO appeared before this Inquiry Authority on 18/10/2011 and on the same day his First Oral statement was recorded U/R 11(9) of KCS (CC & A) Rules 1957. The DGO pleaded not guilty and claims to hold an inquiry.

6. DGO has filed his written statement as follows:-

The DGO has denied the Articles of Charge and also Statement of Imputations of misconduct. The allegations made in the complaint are all false and frivolous. The DGO has never demanded any bribe amount from the complainant at any time. The DGO has never accepted the bribe amount of Rs. 15,000/-. The charge sheet for the same offence is filed before the Prl. District and Sessions Judge, Bengaluru, against the DGO on the same allegations and the said case is pending for trial. Hence, there is no need to conduct the parallel departmental enquiry and with an ulterior motive and in connivance with the persons enmical to the DGO, the complainant has filed the false case. Hence, prays to exonerate him from the charges leveled against him in this case.

7. In order to substantiate the charge leveled against the DGO, the Disciplinary Authority examined in all three witnesses as PW1 to PW3 and got marked documents at Ex.P1 to P14. After closing the evidence of the Disciplinary Authority, the Second Oral Statement of the DGO was recorded as required u/Rule 11(16) of KCS (CC & A) Rules, 1957. After closing the evidence of the Disciplinary Authority, the DGO himself examined as DW1 and one witness examined as DW2 and got marked document Ex.D1 and closed his side. Hence, recording the answer of DGO to questionnaire u/Rule 11(18) of KCS (CC&A) Rules was dispensed with.

8. The DGO has also filed his defence statement as follows:-

Ex.P5 and P6 have been obtained by the Lokayukta police by force. The public of Laggere sought for closure of Gopi Bar and Restaurant on the ground that, it is situated within the 50' to 75' from the Educational Institutions and also from the place where the Schedule Caste and Schedule Tribe people are residing. In that connection the DGO was asked to hold the spot inspection and to give the report. The DGO has given the report to the effect that, the allegations made for closing the above said Bar and Restaurant are far away from the truth and the owner of the above said Bar and Restaurant had not renewed the license for the year 2006-2007 due to the financial problems and he had sought for renewal of licence for the year 2007-2008 by paying the prescribed fee. On 17/09/2007 (date of trap) the

file of the complainant was not pending with the DGO and the DGO had sent the file with his note to the Addl. Deputy Commissioner of Excise and subsequently the license has also been renewed. It is false to state that one Sri Jagadeeshgowda was running the above said Bar and Restaurant and the complainant was looking after the same. The complainant had taken the leadership on behalf of the public for closure of the above said Bar and Restaurant and thinking that, on the report of the DGO it will be re-opened, the complainant has given the false complaint against the DGO.

9. The Disciplinary Authority has not filed the written brief. Oral arguments of the Presenting Officer and the advocate for DGO was heard. The points, that arise for the consideration of this inquiry authority are:-

1. Whether the Disciplinary Authority has satisfactorily proved the charge framed against DGO?

2. What order?

10. My finding on the above points are as follows:-

Point No.1: In the **“AFFIRMATIVE IN PART”** regarding demand and acceptance of bribe of Rs. 15,000/- on 17/09/2007 from the complainant towards renewal of the licence of Gopi Bar and Restaurant

Point No.2: As per the final order for the following:

**:: REASONS ::**

**11. Point No.1:** It is the case of the Disciplinary Authority that, the DGO while working as Excise Inspector at Nandini Layout Range in West of Chord Road of Bengaluru, took bribe of Rs. 75,000/- at the first instance out of the total demand of Rs. 1,00,000/- for the purpose of closing the complaint received against M/s Gopi Bar and Restaurant and also demanded another sum of Rs. 15,000/- for renewal of the license which was in the name of Sri V. Gopal, but being run by Sri Jagadishgowda the brother-in-law of the complainant and on 17/09/2007 the DGO received bribe of Rs. 15,000/- from the complainant namely Sri J.K. Raju, the Supervisor of the said Bar and Restaurant through Sri Anand Babu @ Babu towards renewal of license and thereby committed the misconduct.

12. By going through the evidence adduced by both the parties, some facts are not in dispute and they are as follows:-

The DGO was working as Excise Inspector, Nandini layout in West of Chord Road of Bengaluru. The Excise license in respect of M/s Gopi Bar and Restaurant, situated at Laggere stands in the name of one Sri V. Gopal, some residents of Laggere had complained to the Excise Department to close the above said Bar and Restaurant on the ground that, it is situated within a distance of 50' to 75' from educational institutions and the said Bar and Restaurant is also situated very near to the place where the SC and ST people are residing and not to give the license to



run the Bar and Restaurant. Sri V. Gopal in whose name the license had been issued had also applied for renewal of the license to run the above said Bar and Restaurant for the year 2007-2008.

13. The complainant has been examined as PW1 and the copy of the complaint lodged by him is at Ex.P1. The gist of Ex.P1 is to the effect that, the brother-in-law of the complainant by name Sri Jagadish gowda is the owner of the above said Bar and Restaurant and the complainant is working as Supervisor of the same from last 10 years and the DGO who is working as Excise Inspector of Nandini layout range told him that, there are complaints against the said Bar and Restaurant and if he gives the report in that respect there will be trouble for the complainant and the Bar and Restaurant will be closed and to set right the things the complainant should pay Rs. 1,00,000/-. Thinking that, there might be problem for doing business Rs. 75,000/- was paid to the DGO and the DGO insisted for payment of the balance amount of Rs. 25,000/- and also demanded bribe amount of Rs. 15,000/- for renewal of the license. Complainant brought the same to the knowledge of Sri Jagadeesh Gowda and he told the complainant to lodge the complaint in Lokayukta police station and accordingly the complaint is lodged. The complaint has been lodged on 17/09/2007 at 11.30 a.m.

14. PW1 in his examination in chief has reiterated all the above said averments made in the complaint and I feel it is

not necessary to repeat the same. He has deposed that, Ex.P1 it is the copy of the complaint lodged by him and Ex.P1(a) is his signature. He has deposed that, the I.O. secured two panchas and introduced them to him and also told them about the contents of Ex.P1. He has deposed that he produced the amount of Rs. 15,000/- (Rs. 1,000x4+Rs. 500x22). He has deposed that, the denomination and number of the notes were typed and the copy of the same is at Ex.P2. He has deposed that, the phenolphthalein powder was smeared to the notes and the pancha witness Sri Mahesh kept the notes in his shirt pocket and afterwards the hands of Sri Mahesh were washed in the sodium carbonate solution and that solution turned to pink colour. He has deposed about all the proceedings mentioned in Ex.P3-Entrustment Mahazar.

15. PW1 has further deposed that, after the Entrustment Mahazar, they went to the office of the DGO situated in West of Chord Road, 1<sup>st</sup> Block, Rajajinagar and the vehicle was stopped at a distance and himself and pancha witness Sri Ramesh were sent inside the office to meet the DGO. He has deposed that, they went to the first floor where the office room of the DGO was situated and as it was lunch time, the DGO was not in his room and after some time the DGO came to the office room and he went to the room of the DGO along with Sri Ramesh by following the DGO. He has deposed that, the DGO asked him whether he had brought the amount and he told that, he had brought the amount of Rs. 15,000/- and the DGO called Babu and a person came

to the room of the DGO and the DGO told him to give the amount to that person and accordingly he gave the tainted currency notes to that person by name Sri Babu and Babu counted the notes and kept the same in his pant pocket. He has deposed that, afterwards he came out of the room of the DGO and gave the pre-instructed signal and immediately I.O. and his staff and another pancha came to the room of the DGO and he told the I.O. that at the instance of the DGO he paid the amount to Sri Babu and showed both of them. He has deposed that, the hands of Sri Babu were washed in the solution separately and both the solution turned to pink colour. He has deposed that, the tainted currency notes were in the right side pant pocket of Sri Babu and the same was seized. He has deposed that, even the voice-recorder given to him at the time of the Entrustment Mahazar was taken back by the I.O. and the conversation recorded in the same was heard. He has deposed that, the certified copies of the documents pertaining to renewal of the license of the said Bar and Restaurant and the attendance register were seized and the copies of the same are at Ex.P2. He has deposed that, the DGO and Sri Babu gave their explanations in writing separately and the copies of the same are at Ex.P5 and P6 respectively. He has deposed that, the Trap Mahazar was also drawn and the copy of the same is at Ex.P7 and Ex.P7(a) is his signature. He has deposed that, photos were also taken from time to time and copies of the same are at Ex.P8. Thus PW1 in his examination in chief has supported the case of the Disciplinary Authority completely.

16. PW1 has been cross-examined after five months from the date of his examination in chief. In his cross-examination he has given his evidence contrary to his examination in chief. He has admitted the suggestion of the learned counsel for the DGO to the effect that, he has not at all lodged the complaint as per Ex.P1. He has also admitted the suggestion of the learned counsel for the DGO to the effect that there was protest from the public for closing of the above said Bar and Restaurant and he was the leader of that protest. He has deposed that, in his examination in chief he has given the evidence as instructed by the Lokayukta Police. He went on accepting all the suggestions made by the learned counsel for the DGO. He has been re-examined by the learned Presenting Officer and in his re-examination he has deposed that, on the day he gave his examination in chief Lokayukta police did not produce him before the Enquiry Officer. He has deposed that, there is no ill-will between himself and the Lokayukta police. Moreover he has given the evidence after more than 10 years of his lodging the complaint. Hence, it is hard to believe that, PW1 has given evidence in his examination in chief as instructed by the Lokayukta police. As stated above, in his examination in chief he has clearly supported the case of the Disciplinary Authority and he has given his evidence regarding the contents of Ex.P1 to P7. Hence, it can only be said that, after his examination in chief he has been won over by the DGO and in his cross-examination he has admitted all the suggestions made by the learned counsel

for the DGO to help the DGO and the evidence given by PW1 in his cross-examination stated above is not believable. It is also pertinent to note that, Ex.P4 also contains the copy of the complaint given by the public for closing the above said Bar and Restaurant and the perusal of the same discloses that, PW1 is not a signatory to the same which clearly shows that, the contention of the DGO to the effect that, PW1 had taken the lead on behalf of the public for closing the above said Bar and Restaurant and thinking that, the DGO will give the report in favour of opening the Bar and Restaurant he (complainant) has filed the false complaint cannot be believed.

17. PW2 is Sri Ramesh K. who is the shadow witness. He has deposed that, in the year 2007 he was working as Junior Assistant in BESCO office situated in K.R. Circle, Bengaluru and on 17/09/2007 as per the instructions of his higher officer he had been to the Lokayukta police station along with Sri Mahesh Kumar and reported before the I.O. He has deposed that, in the Lokayukta police station, the complainant was present and he was introduced to them. He has deposed that, they were given the copy of the complaint and they read the contents of the same. In fact he has deposed about the contents of Ex.P1 also. He has deposed about PW1 producing the amount of Rs. 15,000/- and himself and another pancha Sri Mahesh Kumar examined the notes and noted the numbers and denomination of the notes and the copy of the same is at Ex.P2. He has deposed about all the proceedings mentioned

in the Entrustment Mahazar-Ex.P3 and I feel it is not necessary to repeat the same.

18. PW2 has deposed that, after the Entrustment Mahazar they went to the office of the DGO and the vehicle was stopped at a little distance and PW1 and himself were sent inside the office of the DGO to meet the DGO. He has deposed that, the DGO was not in the office and they waited for the DGO and at about 3.15 p.m. a person was going into the office and PW1 told him that, he is the DGO and himself and PW1 went inside the room of the DGO. He has deposed that, the DGO asked PW1 whether he had brought the amount and PW1 told that, he had brought the amount and the DGO called 'Babu' and one person came inside the room of the DGO and the DGO asked PW1 to give the said amount to that person and also told that person to receive the amount, count the same and keep the same with him. He has deposed that, PW1 gave the tainted currency notes and Sri Babu received the same, counted the notes and kept the same in his right side pant pocket. He has deposed that, the DGO asked PW1 as to when he is going to pay the balance amount of Rs. 25,000/- and PW1 told that, he will give the same tomorrow. He has deposed that, himself and PW1 came out of the office room of the DGO and PW1 gave the pre-instructed signal and immediately the I.O. and his staff and another pancha came inside the office room of the DGO and PW1 showed the DGO and told the I.O. that, as per the instructions of the DGO he has paid the amount to Sri Babi and also showed Sri Babu. He has deposed that,

I.O. introduced himself to the DGO and Sri Babu and also told the DGO about the case registered against him and the hands of Sri Babu were washed in the sodium carbonate solution separately and the solutions turned to pink colour. He has deposed that the DGO also produced the tainted currency notes from his right side pant pocket. He has deposed that, even the pant wash of the DGO was positive (right side pant pocket). He has deposed that, the voice recorder which was given to PW1 at the time of the Entrustment Mahazar was also played and the conversation had been recorded and the cassette which was in that voice-recorder was seized. He has deposed that, Ex.P5 and P6 are the copies of the explanations given by the DGO and Sri Babu respectively and Ex.P4 are the copies of the documents seized and Ex.P7 is the Trap Mahazar and Ex.P7(b) is his signature. He has deposed that, the copies of the photographs taken at the time of the Entrustment Mahahzar and Trap Mahazar are at Ex.P8. He has deposed that, Ex.P9 is the copy of the sketch of the scene of occurrence prepared by the I.O. Thus PW2 has supported the case of the Disciplinary Authority to the effect that, the DGO demanded the amount and received the same through Sri Babu.

19. PW2 has been cross-examined at length by the learned counsel for the DGO. He has denied the suggestion that PW1 thrust the tainted currency notes to the right side pant pocket of Sri Ananda Babu saying that the DGO is not receiving the amount. In his cross-examination there is no

evidence to disbelieve or discard the above said evidence given by the PW2. Thus there is absolutely no reason to discard the evidence of the shadow witness.

20. PW3 is the Irshad Ahammed Khan and he has deposed that, from 2004 to 2009 he was working as the Police Inspector, Karnataka Lokayukta, Bengaluru City and on 17/09/2007 PW1 gave the written complaint as per Ex.P1 and he has also deposed about the gist of the complaint. He has deposed that, on the basis of Ex.P1 he registered the case and sent the FIR to the court and the copy of the FIR is at Ex.P10. He has deposed that, immediately after registering the complaint, he wrote the letter to the BESCO authority to send two panchas and Sri K. Ramesh and Sri A.S. Mahesh Kumar, were sent to the Lokayukta office as panchas. He has deposed that, he introduced the panchas to the complainant and the copy of the complaint was given to the panchas to go through the same. He has deposed that, PW1 (complainant) produced the amount of Rs. 15,000/- and the panchas examined the notes and recorded the denomination and the numbers with the help of the computer and the copy of the same is at Ex.P2. He has deposed that, the panchas have also signed Ex.P2. He has deposed that he conducted the Entrustment Mahazar in the presence of the complainant and the panchas and copy of that panchanama is at Ex.P3. In fact PW3 deposed about all the proceedings conducted in the police station mentioned in the Entrustment Mahazar and I feel it is not necessary to repeat the same.



21. PW3 has further deposed that, after the Entrustment Mahazar, they went near the office of the DGO at about 2.45 p.m. on the same day. He has deposed that, the vehicle was stopped at a distance and PW1 and the shadow witness PW2 were reminded about the instructions already given to them at the time of the Entrustment Mahazar and both of them were sent inside the office and himself and his staff and another pancha were waiting in front of the office in the road waiting for the pre-instructed signal from PW1. He has deposed that at about 3.45 p.m. PW1 came out of the office and gave the pre-instructed signal and immediately himself, his staff and another pancha went inside the office of the DGO situated in the first floor and PW1 showed the DGO and also another person who was standing by the side of the DGO and told that, as per the instructions of the DGO he has given the tainted currency notes to the person standing by the side of the DGO.

22. PW3 has deposed that, he introduced himself to the DGO and also told him about the criminal case registered against the DGO and the other person stated above told his name as Sri Ananda babu @ Babu and that is a private person, but working in the said office. He has deposed that, the hand wash of the DGO was positive. He has deposed that, he enquired the DGO about the amount received from PW1 and he produced the currency notes from his right side pant pocket and those notes were the same notes mentioned in Ex.P2 and those notes were seized. He has deposed that, apart from the said amount of Rs. 15,000/-

the above said Sri Ananda Babu was having the amount of Rs. 9,500/- and he was not able to give the satisfactory answer for possessing the same and hence that amount was also seized. He has deposed that, even the pant wash (right side pant pocket) was positive and that pant was also seized. He has deposed that, Ex.P5 and P6 are the copies of the statements given by the DGO and Sri Ananda Babu respectively. He has deposed that, the file of the complainant and also the attendance register were secured from the DGO and the certified copies of the same were seized and the copies of the same are at Ex.P4. He has deposed that, at the time of Entrustment Mahazar and also at the time of the Trap Mahazar, the photos were taken from time to time and the copies of the photographs are at Ex.P8. He has deposed that, the Trap Mahazar was also drawn and the copy of the same is at Ex.P7. He has deposed that, the copy of the sketch of scene of occurrence is at Ex.P9. He has deposed that, the seized articles were sent to the FSL and the copy of the FSL report is at Ex.P11. In Ex.P11 the opinion given is to the effect that, the presence of phenolphthalein is detected in both the right and left hand fingers washes of Sri Ananda Babu stated above. He has deposed that, Ex.P13 is the document to show that, the Bar and Restaurant mentioned in the complaint was coming within the jurisdiction of the DGO. He has deposed that, he has recorded the statement of Sri Jagadish Gowda who was running the Bar and Restaurant mentioned in the complaint and the copy of the statement of Sri Jagadish Gowda is at Ex.P14.

23. In his cross-examination he has deposed that, he has not investigated about the payment of Rs. 75,000/- mentioned in the complaint. In other words, he has deposed that, he has not enquired on what date and where and how the above said amount of Rs. 75,000/- was paid. Hence, it can be said that, there is no investigation regarding the payment of amount of Rs. 75,000/- mentioned in the complaint.

24. PW3 in his cross-examination admits that, the copy of the report dated: 07/08/2007 given by the DGO is the 5<sup>th</sup> sheet of Ex.P13. In the same it is mentioned that, on 06/08/2007 the DGO inspected the spot and enquired the neighbouring residents and came to know that, none of the persons who have signed the complaint against the above said Bar and Restaurant are residing in that locality. Only on the ground that, the DGO had already given his report as stated above regarding the complaint given by some of the general public the case of the Disciplinary Authority cannot be discarded.

25. PW3 has denied the suggestion that, he had instructed PW1 as to how the complaint has to be given. He has also denied the suggestion that, he has obtained Ex.P5 by threatening the DGO. He has also denied the suggestion that, PW1 has not at all given the complaint as per Ex.P1.

26. PW3 has deposed that, as per the records the license of the above said Bar and Restaurant stands in the name of

Sri V. Gopal and he has not examined the above said Sri V. Gopal. As stated above, it is the case of the Disciplinary Authority that, Sri V. Gopal was the license holder. But Sri Jagadeesh gowda was running the above said Bar and Restaurant with agreement from the said Sri V. Gopal and he had appointed PW1 his brother-in-law to look after the Bar and Restaurant.

27. DW1 is the DGO and he has deposed that, from 2006-2008, he was working as Excise Inspector in Nandini Layout and complaint had been received from the public in respect of Gopi Bar and Restaurant. He has deposed that, as per the order of the Deputy Commissioner of Excise, he visited the spot on 06/08/2007 and made the enquires and came to know that, none of the persons who have signed the complaint were available and the contents of the complaint were also far away from the truth. He has deposed that, the owner of the above said Bar and Restaurant had also sought for renewal of license for the year 2007-2008 and he gave his report on 07/08/2007 to the effect that, the license can be renewed and copy of that report is at Ex.P4(c). He has deposed that, thinking that he is responsible for re-opening the above said Bar and Restaurant a false complaint has been given against him. He has produced Ex.D1 in which it is mentioned that, as per the records Sri V. Gopal is the owner of the above said Bar and Restaurant and PW1 is not the worker in the above said Bar and Restaurant. As stated above, it is the case of the Disciplinary Authority that, Sri V. Gopal was not

running the above said Bar and Restaurant and he had allowed one Sri Jagadeesh Gowda to run the same and that Sri Jagadeesh Gowda had appointed PW1 as the Manager cum Cashier of the above said Bar and Restaurant. It seems there is legal bar for sub-leasing the license and hence, there will be no entry regarding the agreement by the owner of the above said Bar and Restaurant in favour of Sri Jagadish gowda in the official records.

28. It is also pertinent to note that, the DGO has not examined the above said Sri Gopal to prove that, he had not entered into agreement with Sri Jagadish Gowda regarding allowing Sri Jagadish Gowda to run the above said Bar and Restaurant. As already stated above, the contention of the DGO to the effect that, PW1 had taken the leadership to close the above said Bar and Restaurant on behalf of the general public is not at all believable and there are no believable grounds to discard the examination in chief evidence of PW1 and also his complaint as per Ex.P1.

29. DW2 is the above said Sri Ananda Babu and he has deposed that, he was doing sarie business and on 17/09/2007 at about 1 p.m. he had been to the office of the DGO for his above said business and at that time, the complainant came to the office of the DGO and enquired about the DGO and also told that, he has to give the amount to the DGO and thrust the amount to his right side pant pocket and ran away and brought the Lokayukta police and he gave the amount which was put into his right

side pant pocket by PW1 and the Lokayukta police washed his hands in the solution and the solution turned to red colour. He has deposed that, by threat he was made to give his explanation as per Ex.P6. Ex.P6 is in the hand-writing of DW2 and in the same, it is mentioned that, from last 3 years he is working as Sweeper in the Excise office and Excise officers were giving him monthly Rs. 1,500/- and on 17/09/2007 when he was in the office, PW1 came to the office and met the DGO and tried to give the amount to the DGO and DGO called him and told him to receive the amount from PW1 and to give the same to him afterwards and accordingly he received the amount of Rs. 15,000/- from PW1, counted the notes and kept them in his right side pant pocket. This explanation given by DW2 clearly supports the case of the Disciplinary Authority. It is pertinent to note that, DW2 has not given any complaint to the higher officer of PW3 to the effect that, PW3 obtained Ex.P6 from him by force or threat. Hence, the evidence given after more than a decade from the date of Ex.P6 to the effect that, it was obtained from him by threat cannot be believed. In his cross-examination he also admits that, he has not at all given any complaint against the higher officer of PW3 to the effect that, PW3 obtained Ex.P6 from him by threat. It is also pertinent to note that DW2 has not given any reason why PW1 thrust the tainted currency notes in his right side pant pocket in case PW1 had to give the amount to the DGO.

30. This is the departmental enquiry and the evidence adduced in the departmental enquiry has to be scrutinized on the basis of preponderance of probability and not on the basis of proof beyond reasonable doubt. As stated above, the examination in chief of PW1 clearly supports the case of the Disciplinary Authority. Apart from the same, the evidence of the shadow witness PW2 and the evidence of the I.O. PW3 clearly supports the case of the Disciplinary Authority. As stated above, the contention of the DGO to the effect that, PW1 had taken the lead to close the above said Bar and Restaurant on behalf of the general public cannot be believed at all for the reasons already stated above. There is no reason to discard the evidence of PW2 the shadow witness. The facts and circumstances of this case stated above only probablises the case of the Disciplinary Authority regarding the DGO demanding and accepting the bribe amount of Rs. 15,000/- from PW1 on 17/09/2007 to show official favour. Only on the ground that, the DGO had already given his report regarding the complaint from the public prior to 17/09/2007 the case of the Disciplinary Authority cannot be discarded as false. There is no document to show that, as on 17/09/2007 the renewal of license had been communicated to Sri V. Gopal in writing. In the absence of the same it has to be said that, Sri V. Gopal had not at all received the renewal license of the above said Bar and Restaurant in writing prior to 17/09/2007. Even otherwise it is pertinent to note that, being the Excise Inspector of the locality where the above said Bar and Restaurant is situated, the DGO can cause

threat of closure of the Bar and Restaurant on the ground that there is complaint from the public etc., and demand money to show official favour.

31. It is well settled principle of law that, the judgment of the criminal case is not relevant for deciding the departmental enquiry as the criminal case is decided on the basis of proof beyond reasonable doubt, where as the departmental enquiry is decided on the basis of the preponderance of probability. Any how in this case it is ascertained that, the DGO has been convicted in the criminal case (Special Case No. 125/08) by the XXIIIrd Addl. City Civil and Session Judge, Bengaluru and the DGO has preferred the Criminal Appeal No. 1585/2016 before the Hon'ble High Court of Karnataka and the same is pending.

32. Thus the charge that the DGO has failed to maintain absolute integrity, devotion to duty and acted in a manner of unbecoming of a Government Servant is proved. Hence, I answer the above point No.1 in **PARTLY IN THE AFFIRMATIVE.**

**33. Point NO.2:-** For the reasons discussed above, I proceed to record the following:



**:: FINDINGS ::**

*The Disciplinary Authority has satisfactorily proved the charge that the DGO- Sri Huchegowda s/o Ujinigowda, Excise Inspector, Nandini Layout Range, West of Chord Road, Bengaluru (**Now retired**), that he demanded for the bribe amount and accepted the bribe amount of Rs.15,000/- from the complainant on 17/09/2007 to show official favour and thereby committed misconduct under Rule 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules, 1966.*

34. Hence this report is submitted to Hon'ble Upalokayukta-1 for kind perusal and for further action in the matter.

Dated this the 26<sup>th</sup> day of July, 2021

-Sd/-  
(Somaraju)  
Additional Registrar Inquiries-4,  
Karnataka Lokayukta,  
Bengaluru.

**:: ANNEXURE ::****LIST OF WITNESSES EXAMINED ON BEHALF OF DISCIPLINARY AUTHORITY:**

PW-1:Sri Raju J.K.  
PW-2:Sri Ramesh K.  
PW-3:Sri Irshad Ahammed Khan

**LIST OF WITNESSES EXAMINED ON BEHALF OF THE****DEFENCE:**

DW-1:Sri Hucchegowda

DW-2: Sri Ananda babu

**LIST OF EXHIBITS MARKED ON BEHALF OF****DISCIPLINARY AUTHORITY**

Ex.P-1: Certified copy of the complaint

Ex.P-1(a): Relevant entry in Ex.P1

Ex.P-2: Certified copy of the notes number and denomination mentioned white sheet

Ex.P-2(a,b): Relevant entries in Ex.P2

Ex.P-3: Certified copy of the Entrustment Mahazar

Ex.P-3(a to c): Relevant entries in Ex.P3

Ex.P-4: Certified copy of the seized documents (total 19 sheets)

Ex.P4(a to c): Relevant entries in Ex.P4

Ex.P-5: Certified copy of the explanation of DGO

Ex.P-5(a): Relevant entry in Ex.P5

Ex.P-6: Certified copy of the statement of Ananda babu

Ex.P-6(a): Relevant entry in Ex.P6

Ex.P-7: Certified copy of the Trap Panchanama

Ex.P-7(a to c); Relevant entries in Ex.P7

Ex.P-8: Certified copy of the Xeroxed photos on the white sheet

Ex.P-9: Certified copy of the sketch

Ex.P-9(a): Relevant entry in Ex.P9

Ex.P-10: Certified copy of the FIR

Ex.P-11: Certified copy of Chemical Examination Report

Ex.P-12: Certified copy of Service particulars

Ex.P-13: Certified copy of the letter of Deputy Commissioner of Excise, Bengaluru Urban District dated: 17/03/2008

Ex.P-14: Certified copy of statement of Sri Jagadish Gowda

**LIST OF EXHIBITS MARKED ON BEHALF OF DGO:**

Ex.D-1: Xerox copy of the RTI Form No. 'A'

Dated this the 26<sup>th</sup> day of July, 2021

-Sd/-

(Somaraju)

Additional Registrar Inquiries-4,  
Karnataka Lokayukta,  
Bengaluru.