

**GOVERNMENT OF KARNATAKA**



**KARNATAKA LOKAYUKTA**

No.UPLOK-1/DE/140/2017/ARE14

Multi Storied Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru-560 001  
Date: **31/01/2022**

**RECOMMENDATION**

Sub:- Departmental inquiry against;

- 1) Sri L. Kenchappa, Executive Engineer, Bruhat Bengaluru Mahanagara Palike, Basavanagudi Division, Bengaluru
- 2) Sri Rahul, Assistant Executive Engineer, Bruhat Bengaluru Mahanagara Palike, Girinagar Sub Division, Bengaluru
- 3) Sri K.M. Krishna, Junior Engineer, Bruhat Bengaluru Mahanagara Palike, Ward No.163,Kathriguppe, Girinagar Sub Division, Bengaluru – Reg.

- Ref:- 1) Govt. Order No.ನ೮ಇ 777 ಎಂಎನ್ಯು 2016, Bengaluru dated 17/1/2017.
- 2) Nomination order No.UPLOK-1/DE/140/2017, Bengaluru dated 30/1/2017 of Upalokayukta-1, State of Karnataka, Bengaluru
  - 3) Inquiry Report dated 29/1/2022 of Additional Registrar of Enquiries-14, Karnataka Lokayukta, Bengaluru

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The Government by its order dated 17/1/2017 initiated the disciplinary proceedings against (1) Sri L. Kenchappa, the then Executive Engineer, Bruhat Bengaluru Mahanagara Palike, Basavanagudi Division, Bengaluru (2) Sri Rahul, Assistant Executive Engineer, Bruhat Bengaluru Mahanagara Palike, Girinagar Sub Division Bengaluru and (3) Sri K.M. Krishna, Junior Engineer, Bruhat Bengaluru Mahanagara Palike, Ward No. 163, Kathriguppe, Girinagar Sub Division, Bengaluru (hereinafter referred to as Delinquent Government Officials 1 to 3, for short as DGO-1,DGO-2 and DGO-3 respectively) and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.UPLOK-1/DE/140/2017 Bengaluru dated 30/1/2017 nominated Additional Registrar of Enquiries-1, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGOs 1 to 3 for the alleged charge of misconduct, said to have been committed by them. Subsequently, by Order No.UPLOK-1/DE/2017, dated 6/7/2017, the Additional Registrar of Enquiries-7, Karnataka Lokayukta, Bengaluru was re-nominated as inquiry officer to conduct departmental inquiry against DGOs 1 to 3. Again as per Order No.UPLOK-1&2/DE/Transfers/2018 dated 6/8/2018, the Additional Registrar of Enquiries-14, Karnataka Lokayukta, Bengaluru was re-nominated as inquiry officer to conduct departmental inquiry against DGOs 1 to 3.

3. The DGO-1 Sri L. Kenchappa, the then Executive Engineer, Bruhat Bengaluru Mahanagara Palike, Basavanagudi Division, Bengaluru DGO-2 Sri Raghul, Assistant Executive Engineer, Bruhat Bengaluru Mahanagara Palike, Girinagar Sub Division Bengaluru and DGO-3 Sri K.M. Krishna, Assistant Engineer, Bruhat Bengaluru Mahanagara Palike, Ward No. 163, Kathriguppe, Girinagar Sub Division, Bengaluru was tried for the following charge:-

“While you DGO No.1 Sri Kenchappa were working as Executive Engineer, Ward No. 163, Kathriguppe, Girinagar Zone, BBMP Bengaluru; you DGO No.2 Sri Rahul, Assistant Executive Engineer, Ward No. 163, Kathriguppe – Girinagar Zone, BBMP, Bengaluru and you DGO No.3 Sri Krishna, Junior Engineer, Ward No. 163, Katriguppe – Girinagar Zone, BBMP, Chamarajapete Ward, BBMP, Bengaluru did not take

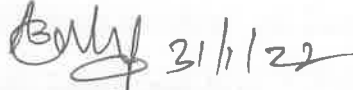
any action either to stop illegal construction of building by the owner of property No.317/A, 10<sup>th</sup> Main, Banashankari 1<sup>st</sup> Stage, Srinivasanagar, Bengaluru by violating the building byelaws and sanctioned plan even though the matter was brought to your notice by Smt. N. Savithramma and you kept quiet and allowed the owner of the building to complete the construction and you did not take steps to clear the unauthorized construction of building and thereby favoured the owner of the property and therefore you DGO No.1 to 3 have failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of Government Servants and therefore, you are guilty of misconduct under Rule 3(1)(i) to (iii) of the Karnataka Civil Services (Conduct) Rules, 1966.”

4. The Inquiry Officer has reported that during the pendency of the above inquiry the DGO-1 Sri L. Kenchappa died on 30/3/2020 and therefore, he has recorded the abatement of inquiry proceedings against DGO-1 Sri L. Kenchappa and a recommendation in this regard was sent on 26/11/2021.

5. The DGO-3 Sri K.M. Krishna approached the Hon'ble Karnataka State Administrative Tribunal in Application No.2770/2018 challenging the Government order dated 17/1/2017 entrusting inquiry to this institution and also the Articles of charges dated 19/6/2017 issued to him. The Hon'ble Tribunal by order dated 19/2/2020 allowed the Application filed by DGO-3 and set aside the Government Order dated 17/1/2017 and Articles of charges dated 19/6/2017. In pursuance of the same, the Government by its order No. Na.Aa.E 241 MNU 2018, dated 7/7/2020 has dropped the proceedings against DGO-3.

6. The Inquiry Officer (Additional Registrar of Enquiries-14) on proper appreciation of oral and documentary evidence has held that the Disciplinary Authority has proved the above charge against DGO-2 Sri Rahul, Assistant Executive Engineer, Bruhat Bengaluru Mahanagara Palike, Girinagar Sub Division, Bengaluru.
7. 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. It is hereby recommended to the Government to accept the report of Inquiry Officer.
8. As per the First Oral Statement submitted by DGO-2 Sri Rahul, he has retired from service on 31/3/2020 (during the pendency of the above inquiry).
9. Having regard to the nature of charge proved against DGO-2 Sri Rahul, Assistant Executive Engineer, Bruhat Bengaluru Mahanagara Palike, Bengaluru, it is hereby recommended to the Government for imposing penalty of withholding 10% of pension payable to DGO-2 Sri Rahul for a period of 5 years.
10. Action taken in the matter shall be intimated to this Authority.

Connected records are enclosed herewith.

  
**(JUSTICE B.S.PATIL)**  
Upalokayukta,  
State of Karnataka,  
Bengaluru

## KARNATAKA LOKAYUKTA

No.UPLOK-1/DE/140/2017/ARE-14

Multi Storied Building,  
Dr. B.R.Ambedkar Road,  
Bangalore-560001,  
Dated: 29/01/2022.

### ENQUIRY REPORT

**Present :** Sri. **Sudesh Rajaram Paradeshi**  
Additional Registrar of Enquiries-14  
Karnataka Lokayukta  
Bangalore.

**Sub:** Departmental Enquiry against **(1) Sri. Kenchappa**, Executive Engineer, Ward No.163, Kathriguppe, Girinagar Zone, BBMP, Bengaluru **(Abated)** **(2) Sri. Rahul**, Assistant Executive Engineer, Ward No.163, Kathriguppe, Girinagar Zone, BBMP, Bengaluru and **(3) Sri. Krishna**, Junior Engineer, Ward No.163, Kathriguppe, Girinagar Zone, BBMP, Bengaluru **(Dropped)** – Reg.

- Ref:**
1. Report U/s.12(3) of the K.L Act, 1984 in COMPT/UPLOK/BCD/2443/2015/ARE-9 dated 09/12/2016.
  2. Government Order No.ನೞೞ 777 ಎಂಎನ್‌ಯು 2016, Bengaluru dated 17/01/2017.
  3. Nomination Order No:UPLOK-1/DE/140/2017, dated 30/01/2017 of Hon'ble Upalokayukta, Bangalore.
  4. Order No.UPLOK-1/DE/2017 Bengaluru Dated: 6.7.2017 file transferred from ARE-1 to ARE-7.
  5. Order No.UPLOK-1 & 2/DE/

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transfers/2018, Bengaluru, Dated  
06/08/2018 file transferred from  
ARE-7 to ARE-14.

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The complainant by name **Smt. Savithramma**, Banashankari 1<sup>st</sup> Stage, Bengaluru has filed the complaint against **(1) Sri. Kenchappa**, Executive Engineer, Ward No.163, Kathriguppe, Girinagar Zone, BBMP, Bengaluru **(2) Sri. Rahul**, Assistant Executive Engineer, Ward No.163, Kathriguppe, Girinagar Zone, BBMP, Bengaluru and **(3) Sri. Krishna**, Junior Engineer, Ward No.163, Kathriguppe, Girinagar Zone, BBMP, Bengaluru, alleging that the owner of property bearing No.317/A, 10<sup>th</sup> Main, Banashankari 1<sup>st</sup> Stage, Srinivasanagar was constructing a building against the building byelaws. The respondents having colluded with the building owner and taking bribe, have not taken any action. Therefore, the DGOs committed misconduct and dereliction of duty while discharging his duty as Government servants.

2. 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 17/01/2017 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 30/01/2017 authorizing ARE-1 to hold enquiry and to report as per reference No.3 and

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this file is transferred from ARE-1 to ARE-7 as per reference No. 4. In turn, this file is transferred from ARE-7 to ARE-14 as per reference No.5

3. On the basis of the Nomination, Articles of Charge against the **DGOs were framed by the Additional Registrar of Enquiries-1** 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 No.1 Sri. Kenchappa working as Executive Engineer, Ward No.163, Kathriguppe – Girinagar Zone, BBMP, Bangalore, you DGO-2 Sri. Rahul, Assistant Executive Engineer, Ward No.163, Kathriguppe – Girinagar Zone, BBMP, Bangalore and you DGO-3 Sri. Krishna, Junior Engineer, Ward No.163, Kathriguppe – Girinagar Zone, BBMP, Bangalore Chamarajapete Ward, BBMP, Bangalore did not take any action either to stop illegal construction of building by the owner of property No.317/A, 10<sup>th</sup> Main, Banashankari 1<sup>st</sup> Stage, Srinivasanagar, Bangalore by violating the building bye-laws and sanctioned plan even though the matter was brought to your notice by Smt. N. Savithramma and you kept quite and allowed the owner of the building to*

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*complete the construction and you did not take steps to clear the unauthorized construction of the building and thereby favoured the owner of the property and therefore you DGO No.1 to 3 have failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servants and therefore you are guilty of misconduct under Rule 3(1)(i) to (iii) to KCS (Conduct) Rules 1966. Hence, the charge.*

## **ANNEXURE-II**

### **STATEMENT OF IMPUTATION OF MISCONDUCT**

**2. Brief facts of the case are :-** According to the complaint: the owner of property bearing No.317/A, 10<sup>th</sup> Main, Banashankari 1<sup>st</sup> Stage, Srinivasanagar was constructing a building against the building byelaws. The respondents having colluded with the building owner and taking bribe, have not taken any action. Hence, this complaint.

3. After registration of this case, it was referred to Technical Wing of this institution for a report and simultaneously comments were also called for from the respondents. The Chief Engineer of TAC has submitted report based on the report submitted by the

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Assistant Executive Engineer. In para No.28, it is opined by the Assistant Executive Engineer that, soon after the unauthorized construction was brought to the notice of BBMP Authorities, the respondents have taken immediate action as per rules by issuing notice u/s.308 of KMC Act and also provisional order dtd. 17/06/2015 and final order dtd. 24/06/2014 u/s.321(1) and 321(3) of KMC Act. The respondents have also sent letters to BESCO and BWSSB dtd 03/07/2015 intimating them that service connections shall not be given to the disputed building, as it was a illegal construction. A compliant is also lodged before Hanumanthanagar Police Station by the respondents on 19/06/2015. It is further say of the Assistant Executive Engineer of TAC, that as the owner of the building failed to comply the orders passed by the respondents, they have applied permission u/s.462 of KMC Act before the Executive Engineer to remove the unauthorized construction at the risk and cost of the building owner. The Assistant Executive Engineer, Girinagar Sub-Division has also submitted an estimation of cost of removal of unauthorized construction as Rs.55,000/- and same is sent for approval. It is further say of the AEE that the respondents have undertaken to take further action after approval of estimation by their higher authorities.

4. The action taken report is called for, but no action is taken. Wherein the respondents have not taken timely action in removing the unauthorized construction of the building constructed by the owner. This act of conduct is disobedience in discharge of official function amounts to misconduct.
5. In view of the facts stated above and on consideration of the material on record, respondents have not been found satisfactory to drop the proceedings.
6. The facts supported by the material on record prima facie show that the Respondents, being Government servants, have failed to maintain absolute devotion to duty and have acted in a manner unbecoming of Government servants and thereby committed misconduct and made themselves liable for disciplinary action.
7. Since said facts and material on record prima facie show that, the respondents/DGOs (1) Sri. Kenchappa (2) Rahul and (3) Sri. Krishna have committed grave misconduct, now, acting under Section 12(3) of Karnataka Lokayukta Act, recommendation is made to

the Competent Authority to initiate disciplinary proceedings against the respondents for misconduct under Rule 3(1)(i) to (iii) of KCS (conduct) rules 1966 the Govt. after consideration of materials, has entrusted enquiry to Hon'ble Upalokayukta. Hence, the charge.

4. The aforesaid '*Articles of Charge*' was served on the DGOs. The DGO No.2 & 3 have appeared before this authority on 09/03/2017 and their first oral statement under Rule 11(9) of KCS (CCA) Rules, 1957 was recorded. The DGO No.2 & 3 pleaded not guilty and claimed to be enquired about the charges.
5. 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.
6. The complainant is examined as PW-1 and Ex.P.1 to P.5 were got marked. Investigation officer examined as PW-2 and got marked Ex.P.6. DGO No.2 is examined as DW-1 and got marked Ex.D.1 to D.11 in the cross examination of PW-2 and further got marked Ex.D.12 to D.15. DGO No.1 was examined as DW-2 and got marked Ex.D.16 to D.23. DGO No.3 not lead his evidence.

7. Advocate for DGO No.2 filed the written argument. Perused the entire case record.

8. The points that arise for my consideration are:

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

Point No.2 : What order?

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

Point No. 1: **Partly in the affirmative as against DGO-2.**

Point no. 2 : **As per final order for the following ;**

### REASONS

10. **Point No.1** : The complainant by name **Smt. Savithramma**, Banashankari 1<sup>st</sup> Stage, Bengaluru has filed the complaint against **(1) Sri. Kenchappa**, Executive Engineer, Ward No.163, Kathriguppe, Girinagar Zone, BBMP, Bengaluru **(2) Sri. Rahul**, Assistant Executive Engineer, Ward No.163, Kathriguppe, Girinagar Zone, BBMP, Bengaluru and **(3) Sri. Krishna**, Junior Engineer, Ward No.163, Kathriguppe, Girinagar Zone, BBMP, Bengaluru alleging misconduct and dereliction of duty as referred above.

11. DGO No.1 to 3 filed their written statement. Thereafter DGO No.3 submitted that he has filed the application bearing No.2770/2018 before Hon'ble KAT, Bengaluru and the said



application came to be allowed by setting aside the G.O. No.NaAE 777 MNU 2016 dated 17/01/2017 and AOC bearing No.UPLOK-1/DE/140/2017/ARE-1 dated 19/06/2017. Thereafter the Government has issued the order dated 07/07/2020 which reads as under:

“ಸರ್ಕಾರದ ಆದೇಶ ಸಂಖ್ಯೆ: ನಅಇ 241 ಎಂಎನ್‌ಯು 2018, ಬೆಂಗಳೂರು,

ದಿನಾಂಕ: 07/07/2020”

‘ಪ್ರಸ್ತಾವನೆಯಲ್ಲಿ ವಿವರಿಸಲಾದ ಕಾರಣಗಳ ಹಿನ್ನೆಲೆಯಲ್ಲಿ, ಸರ್ಕಾರದ ಆದೇಶ ಸಂಖ್ಯೆ: ನಅಇ 777 ಎಂಎನ್‌ಯು 2016, ದಿನಾಂಕ: 17/01/2017ರಲ್ಲಿ ಇಲಾಖಾ ವಿಚಾರಣೆ ನಡೆಸಲು ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ (ವರ್ಗೀಕರಣ, ನಿಯಂತ್ರಣ ಮತ್ತು ಮೇಲ್ಮನವಿ) ನಿಯಮಗಳು 1957ರ ನಿಯಮ 14-ಎ ರನ್ವಯ ಮಾನ್ಯ ಉಪಲೋಕಾಯುಕ್ತರವರಿಗೆ ವಹಿಸಿರುವ ಆದೇಶದಿಂದ, ಶ್ರೀ. ಕೃಷ್ಣ, ಕಿರಿಯ ಅಭಿಯಂತರರು (ಕೆ.ಎಂ ಕೃಷ್ಣ) ವಾರ್ಡ್ ನಂ.163, ಕತ್ತಿಗುಪ್ಪೆ, ಗಿರಿನಗರ, ಬೃಹತ್ ಬೆಂಗಳೂರು ಮಹಾನಗರ ಪಾಲಿಕೆ, ಬೆಂಗಳೂರು ಇವರನ್ನು ಮಾನ್ಯ ಕೈಬಿಟ್ಟಿ ಆದೇಶಿಸಿದೆ’.

So the proceedings against DGO No.3 came to be dropped.

12. In respect of DGO No.1, during the enquiry he is reported to be dead and abatement report is sent to the Government.
13. The DGO-2 submitted his written statement and he contended that during his tenure in the Girinagar Sub-Division as Assistant Executive Engineer, he has taken all necessary action as provided under KMC Act, 1976 on the complaint of Smt. N.

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Savithramma, against the illegal construction of building violating the building by-laws and sanction plan by the owner of the property No.317/A situated at Srinivasanagar, Bengaluru. It is further submitted that the complainant complained over telephone about the illegal construction of building by one Sri. Srinivasamurthy, immediately this DGO No.2 instructed his subordinate work inspector to find out the illegal construction and report. When the work inspector confirmed illegal construction of building on the said property, on the same day the concerned Assistant Engineer visited the spot and enquired the Supervisor/Engineer of the building to furnish the sanction plan for construction. When he failed to furnish the same he had instructed them to stop the construction.

14. It is further contended that on next day i.e. 08/06/2015 a notice u/s.308 of the KMC Act 1976 was issued to the owner Sri. Srinivasamurthy to furnish the sanctioned plan, commencement of work certificate and other relevant documents to the subdivision office within 7 days failing which action would be initiated against him as per rules. After this, on 09/06/2015 said Savithramma has submitted written complaint to the office of the DGO No.2 about the illegal construction in the said property. It is further contended that the Executive Engineer also visited the said building and instructed him to issue provisional order as per Sec.321(1) & (2) of KMC Act and accordingly on 17/06/2015 he has issued provisional order to

the aforesaid property owner. Despite issuance of notice and provisional order the owner of the property did not stop illegal construction. The DGO No.2 had filed complaint before the local Sub-Inspector of Police, Hanumanthanagar Police Station by letter dated 19/06/2015 to keep vigil and to stop the illegal construction of the building in the said property during night times, as there was shortage of staff in his office. It is further contended that he had submitted detailed report to his higher authorities on 22/06/2015.

15. It is further contended that meanwhile in response to the complaint filed by the complainant before this office, this DGO No.2 met the Chief Engineer, TAC, Karnataka Lokayukta on 22/06/2015 and submitted a detailed report signed by the Executive Engineer i.e. DGO No.1. It is further submitted that as per the provisions u/s.321(3) of KMC Act, this DGO No.2 has issued the order dated 24/06/2015 confirming the provisional order issued vide dated 17/06/2015 by him, informing the owner Sri. Srinivasamurthy, to clear the constructed portion of 2<sup>nd</sup> and 3<sup>rd</sup> floor building on existing residential building illegally constructed without the sanction plan and violating the bye-laws. It is further contended that as per the instruction of the administrator on 03/07/2015 he had written letter to the Assistant Executive Engineer, S-9, Sub-Division, BESCO, Bengaluru and also the Assistant Executive Engineer, BWSSB, SB-2, Sub-Division, Bengaluru to stop the supply of electricity,

water and to disconnect the sewerage connection to the above said building.

16. It is further submitted that thereafter said Srinivasamurthy filed an appeal bearing No.732/2015 on 11/07/2015 before the KAT, Bengaluru, against BBMP to stay the further proceedings pursuant to the passing of the provisional order dated 17/06/2015 and the confirmation order dated 24/06/2015. It is further contended when the owner of the property failed to comply with orders passed by this DGO No.2 he had submitted proposal for permission u/s.462 of KMC Act before the Executive Engineer, to remove the unauthorized construction at the risk and cost of the building owner with an estimation cost of removal of unauthorized construction as Rs.55,000/- to his higher authorities i.e. Executive Engineer, BBMP, Basavanagudi Division. Hence, he prayed to exonerate from the charges leveled against him.
17. After filing the complaint, the matter was referred for investigation to Sri. K. Srinivas, Assistant Executive Engineer, TAC of this institution. Investigation Officer (hereinafter referred as I.O) for investigation. The I.O. has submitted his report.
18. Complainant examined as PW-1 and in her chief examination she deposed that she is the owner of House No.4/1 and adjoining to her house, in the back side of her house, one Srinivasamurthy owner of House No.317 was constructing the 2<sup>nd</sup> & 3<sup>rd</sup> floor



without leaving any set back, attaching to the grill of the house of the complainant. So she has filed the complaint on 06/06/2015 in the office of BBMP. She further deposed that thereafter DGO No.2 sent his Work Inspector to visit the place. In turn, Work Inspector visited the spot but he had not taken any action to stop the construction. She further deposed that she filed complaint to BBMP Commissioner, they instructed that they would inform the DGO No.1 & 2 to take suitable action. Then she approached the DGOs several times to take action but they did not take any action. So she lodged the complaint as per Ex.P.4 dated 09/06/2015, her rejoinder is marked as Ex.P.1; Ex.P.2 & P.3 are Form No.I & II; Ex.P.5 is the mahazar conducted by the I.O.

19. The Investigation Officer Sri. K. Srinivas, Retired Assistant Executive Engineer, TAC of this institution examined as PW-2. In examination in chief he deposed that on 28/10/2015 he visited the spot and in the presence of the complainant, Srinivasamurthy and DGOs, he had verified illegally ongoing construction of building and prepared mahazar and had taken the photographs of the building. He found that one room each was constructed on 2<sup>nd</sup> & 3<sup>rd</sup> floor of having length of 7.4 meter and 2.85 meter in width.

20. He further deposed that, he asked Srinivasamurthy to produce the documents pertaining to construction of building, the owner had told that he had not obtained any permission for said construction. At the spot the DGOs produced the documents.

By verifying the same he found that after filing of the complaint by the complainant on 06/06/2015 before BBMP office, a notice came to be issued on 08/06/2015 and also issued temporary notice on 17/06/2015 by the DGOs. In spite of the same Srinivasamurthy did not reply to the same. On 24/06/2015 a provisional order was also issued. Further he deposed that, thereafter DGOs issued the notice to BESCO & BWSSB on 03/07/2015 stating not to give electricity and water connection to the said building. He further deposed that the DGO filed the complaint to Hanumanthanagar Police Station on 19/06/2015 to stop the construction of the building. But Srinivasamurthy not responded to the same. So, the DGO No.1 issued notice u/s.462 of KMC Act to remove the unauthorized constructed building. Thereafter DGO No.2 prepared the estimation of cost for removal of unauthorized construction and submitted to the DGO No.1. He further deposed that the DGOs submitted that they would take action for removal of said unauthorized portion of the building after approval of estimation.

21. The DGO No.2 is examined as DW-1 and he got marked documents Ex.D.1 to D.11 in cross examination of DW-2. Further he deposed that on 7-6-2015 complainant informed over phone stating that one Srinivasmurthy was illegally constructing the building by violating KMC bye-laws. On the same day he sent Assistant Engineer and Work Inspector to visit the place and to report the same. They went to the place and asked the owner

of the building to produce the documents pertaining to the construction. But owner of the property Srinivasmurthy did not produce the documents. Hence, he issued a notice to him under KMC Act Sec.308 calling upon the owner of the property to produce the document within 7 days of the notice. Ex.D.1 is the copy of the notice dtd: 8-6-2015 issued to Srinivasmurthy U/s.308 to produce the document.

22. He further deposed that complainant filed the written complaint on 9-6-2015 to DGO No.1. Then DGO No.2 submitted the report to DGO No.1 stating that he had already issued notice as per Ex.D.1. In spite of service of notice Srinivasmurthy did not produce the document. Hence, he issued the provisional order as per Section 321(1) & (2) of the KMC Act 1976. The said document is marked as Ex.D.2. By perusing the same wherein it is ordered to demolish the unauthorized construction of the building. But in spite of issuance of notice said Srinivasmurthy did not give any reply. Thereafter this DGO No.2 lodged the complaint to Hanumanthnagar Police Station to keep vigil and to stop illegal construction of the building in the affore said property during night time, as there was shortage of staff in his office and said complaint dated 19/06/2015 is marked as Ex.D.4.

23. He further deposed that he has submitted the detail report to his higher authorities i.e., Executive Engineer, Basavanagudi, Division BBMP, Bengaluru indicating the action taken by him.

He further deposed that he met the Chief Engineer, Technical Wing, Karnataka Lokayukta on 22-06-2015 and submitted a detail report signed by the DGO No.1 to this institution. Further he deposed that as per the provisions u/s 321(3) of KMC Act 1976, he has issued order dtd: 24-06-2015 confirming the provisional order issued by him dtd: 17-06-2015, informing the owner Sri. Srinivasmurthy to clear the unauthorized constructed portion of 2<sup>nd</sup> and 3<sup>rd</sup> floor of the building. This document is marked as Ex.D.3 and report submitted to this institution marked as Ex.D.6.

24. Further he deposed that on 3-7-2015 he had written letter to the Assistant Executive Engineer, S-9, BESCOM, Bengaluru and also to the Assistant Executive Engineer, BWSSB-SB-2, Sub Division, Bengaluru to stop the supply of the Electricity, Water and to disconnect the sewerage connection to the above said building and these document are marked as Ex.D.7 & D.8. He further deposed that as he has no jurisdiction to proceed further U/s 462 of the KMC Act, he had submitted proposal for permission U/s 462 of the said act before the Executive Engineer, to remove the unauthorized construction of the portion of the building at the risk and cost of building owner, with estimation of cost of removal as Rs.55,000/-to his higher authorities i.e., DGO No.1. Accordingly DGO No.1 had issued the notice U/s.462 of KMC Act dtd:6-7-2015 authorizing the DGO No.1 to remove the

unauthorized construction of the portion of the building at the cost of the owner of the building.

25. It is further submitted that the owner of the property i.e., Srinivasmurthy filed an appeal on 13-07-2015 against the BBMP to stay the further proceedings pursuant to the passing of provisional order dtd: 17-06-2015 and the confirmation order dtd:24-06-2015. He further deposed that Hon'ble KAT passed an order for maintain status quo on 24-03-2016 by both the parties. He has produced the copy of appeal memo and stay order marked as Ex.D.10 & D.11. He further deposed that he was transferred from said place on 28-04-2016 and handed over the papers to DGO No.3. DGO No.2 has produced the transfer certificate marked as Ex.D.12. He also submitted the copy of the letters to this institution marked as Ex.D.13 & D.14 and submitted the letter to DGO No.3 marked as Ex.D.15.

26. I have already stated that, DGO No.1 before his death was examined as DW-2 and got marked Ex.D.16 to D.23. In his examination in chief he deposed similar to that of DGO No.2. Further deposed that since owner of the building did not comply with the confirmatory order, the Assistant Executive Engineer, Girinagar Sub Division (DGO No.2) had submitted a note seeking approval U/s.462 of the KMC Act dated 06/07/2015. As per the delegation of the powers issued by the Commissioner, BBMP, Bengaluru he had got power to issue order U/s.462 of the KMC Act. Accordingly he had passed the order under said section on

6-7-2015 directing the DGO No.2 to demolish the unauthorized portion of constructed building as mention in the confirmative order. Ex.D.16 is the copy of the complaint filed by the complainant. Ex.D.17 & 18 are the copies of the notice dtd: 18/05/2016 and 26/05/2016 issued by the DGO No.1 to DGO No.2, to submit the report about the action taken him on the basis of the complaint filed by the complainant. Ex.D.19 is the internal office note by the DGO No.1 dtd: 20-06-2015 and copy of the same sent to DGO No.2. Ex.D.20 is the copy of the reply address by the DGO No.2 to DGO No.1 about the steps taken by him on the complaint of complainant i.e., Savithramma. Ex.D.21 is the copy of notice dtd: 6-7-2015 issued U/s.462 of the KMC Act by the DGO No.1 authorizing the DGO No.2 to demolish the unauthorized constructed portion of the building. Ex.D.22 is the copy of the order dtd: 29-06-2015 passed by the Commissioner, BBMP, Bengaluru by delegation of his power to all his subordinate Executive Engineers to issue order U/s.462 of the KMC Act, against those persons who where unauthorizedly constructing building by violation of licence/without obtaining the licence. Ex.D.23 is copy of the circular dtd: 7-8-2015 issued by the Commissioner, BBMP, Bengaluru to that effect.

27. DGO No.2 has submitted that already he has followed the all the rules and procedures contemplated under the KMC Act to stop the unauthorized construction of building by the said

Srinivasamurthy. Hence he prayed for to exonerate from the proceedings.

28. To sum-up the case of DGO No.2 it is necessary to mention steps taken by him in chronological order

- 1) Date of the complaint 6-6-2015 submitted by the complainant to the Chief Engineer, BBMP, Jayanagar branch, Bengaluru.
- 2) Date of notice issued by the DGO No.2 on 8-6-2015 U/s 308 of the KMC Act to the owner of the building.
- 3) Date of notice issued by the DGO No.2 on 17-6-2015 U/s 321(1) of the KMC Act to the owner of the building.
- 4) DGO No.2 lodged the complaint before Hanumanthnagar Police Station dtd:19-06-2015.
- 5) Date of complaint filed by the complainant before this institution on 26-06-2015.
- 6) DGO No.2 submitted his report to the DGO No.1 about the action taken by him dtd:22-06-2015.
- 7) DGO No.2 has written letter to the BWSSB & BESCOM, Bengaluru dtd:3-7-2015.
- 8) Order passed by the DGO No.1 U/s 462 of the KMC Act dtd: 6-7-2015 authorizing the DGO No.2 to demolish unauthorized portion of constructed building.

9) Appeal filed by the owner of the property before Hon'ble KAT dtd:11/13-07-2015.

10) Status quo order passed by the Hon'ble KAT on 24-03-2016.

29. By perusing the chronological orders as mentioned above shows that from 13-07-2015 there was no interim stay order granted by the Hon'ble KAT in the appeal filed by the owner of the property. The status quo order came to be passed on 24-03-2016. But the DGO No.2 not explained what steps he had taken in between 13-07-2015 to 24-03-2016 i.e. almost period of 8 months. Though the confirmation order passed by the DGO No.1 on 6-7-2015, the DGO No.2 has not explained why he did not take any action till 24-03-2016. Hence, DGO No.2 has not taken timely action after confirmation of the order passed by the DGO No.1.

30. For the above said reasons and discussion, I answer point No.1 **partly in the affirmative in respect of DGO No.2.**

31. Hence, I proceed to record the following:

### **FINDINGS**

The Disciplinary Authority has **proved** the charges framed against **DGO No.2 Sri. Rahul**, Assistant Executive Engineer, Ward No.163, Kathriguppe, Girinagar Zone, BBMP, Bengaluru.



In view of the death of **DGO No.1 Sri. Kenchappa**, Executive Engineer, Ward No.163, Kathriguppe, Girinagar Zone, BBMP, Bengaluru proceedings are abated.

In view of the discussion made in above Para No.11 proceedings against **DGO No.3 Sri. Krishna**, Junior Engineer, Ward No.163, Kathriguppe, Girinagar Zone, BBMP, Bengaluru came to be dropped.

The Date of Retirement of DGO No.2 is 31/03/2020.

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

Dated this the 29<sup>th</sup> January, 2022

  
(**SUDESH RAJARAM PARADESHI**)  
Additional Registrar Enquiries-14,  
Karnataka Lokayukta,  
Bangalore.

**ANNEXURES**

<b>Sl. No.</b>	<b>Particulars of Documents</b>	
<b>1</b>	<b>Witness examined on behalf of the Disciplinary Authority</b>	
	<b>PW-1</b>	Smt. Savithramma W/o Rangegowda, Bengaluru.
	<b>PW-2</b>	Sri. Srinivas K S/o C.R Keshavamurthy, Rtd. AEE, Bengaluru.
<b>2</b>	<b>Documents marked on behalf of the Disciplinary Authority Ex.P-1 to Ex.P-6</b>	
	<b>Ex.P.1 &amp; 1(a)</b>	Complaint dtd: 20/06/2015 given to this institution with signature.
	<b>Ex.P.2 &amp; 2(a)</b>	Form No.1 with Signature.
	<b>Ex.P.3 &amp; 3(a)</b>	Form No.2 with Signature (Affidavit).
	<b>Ex.P.4</b>	Representation given by complainant with enclosures.
	<b>Ex.P.5, 5(a), 5(b), 5(c) &amp; 5(d)</b>	Mahazar with signatures along with copies of photographs.
	<b>Ex.P.6&amp; 6(a)</b>	Investigation report to Chief Engineer, TAC, KLA with signature.
<b>3</b>	<b>Witness examined on behalf of the DGO, Documents marked on behalf of the DGO</b>	
	<b>DW-1</b>	Sri. S.B Rahul, AEE, BBMP Basavanagudi Division, Bengaluru.
	<b>DW-2</b>	Sri. L Kenchappa S/o Late K. Lingaiah, Rtd. EE, Bengaluru
<b>4</b>	<b>Documents marked on behalf of the DGOs through the complainant</b>	
	<b>Ex.D.1</b>	Notice dtd: 08/06/2015 given by AEE, BBMP,

	Giringar Sub-Division.
<b>Ex.D.2</b>	Order of AEE, BBMP, Giringar Sub-Division dtd: 17/06/2015.
<b>Ex.D.3</b>	Order of AEE, BBMP, Giringar Sub-Division dtd: 24/06/2015.
<b>Ex.D.4</b>	Letter dtd: 19/06/2015 addressed to Police Sub-Inspector, Hanumanthanagar Police Station, Bengaluru.
<b>Ex.D.5</b>	Report dtd: 03/07/2015 of AEE, BBMP, Giringar Sub-Division.
<b>Ex.D.6</b>	Letter dtd: 22/06/2015 submitted to this institution.
<b>Ex.D.7</b>	Letter dtd: 03/07/2015 submitted to AEE, BWSSB by AEE, BBMP, Giringar Sub-Division.
<b>Ex.D.8</b>	Letter dtd: 03/07/2015 submitted to BESCO by AEE, BBMP, Giringar Sub-Division.
<b>Ex.D.9</b>	Order of EE, BBMP, Basavanagudi Division dtd: 06/07/2015.
<b>Ex.D.10</b>	KAT application No.732/2015.
<b>Ex.D.11</b>	Stay order.
<b>Ex.D.12</b>	CTC.
<b>Ex.D.13</b>	Letter dtd: 20/05/2016 submitted to this institution.
<b>Ex.D.14</b>	Letter dtd: 23/05/2016 submitted to this institution.
<b>Ex.D.15</b>	Letter dtd: 20/05/2016 submitted to AEE, BBMP, Girinagar Sub-Division, Bengaluru.
<b>Ex.D.16</b>	Letter dtd: 09/06/2016 submitted to EE, BBMP, Srinivasanagar, Bengaluru.
<b>Ex.D.17</b>	Letter dtd: 18/05/2016 submitted by EE, BBMP, Basavanagudi Division.

<b>Ex.D.18</b>	Letter dtd: 26/05/2016 submitted by EE, BBMP, Basavanagudi Division.
<b>Ex.D.19</b>	Office note of EE, BBMP, Basavanagudi Division.
<b>Ex.D.20</b>	Letter dtd: 22/06/2016 submitted to EE, BBMP, Basavanagudi Division.
<b>Ex.D.21</b>	Order of EE, BBMP, Basavanagudi Division dtd: 06/07/2015.
<b>Ex.D.22</b>	Order of Commissioner, BBMP, Bengalur.
<b>Ex.D.23</b>	Circular dtd: 07/08/2015 of Commissioner, BBMP, Bengaluru.

Dated this the 29<sup>th</sup> January, 2022

*Sudesh Rajaram Paradeshi*  
**(SUDESH RAJARAM PARADESHI)**  
 Additional Registrar Enquiries-14,  
 Karnataka Lokayukta,  
 Bangalore.