

**KARNATAKA LOKAYUKTA**

NO:UPLOK-1/DE/150/2018/ARE-9

M.S.Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru - 560 001.  
Date:28.4.2022

**:: ENQUIRY REPORT ::****:: Present ::****( PUSHPAVATHI.V )**

**Additional Registrar of Enquiries -9  
Karnataka Lokayukta,  
Bengaluru**

Sub: Departmental Inquiry against  
Sri.Abhaykumar Kashinath Morab,  
Assistant Director of Horticulture,  
Mudhol, Bagalkote District - reg.

Ref: 1. G.O.No.ತೋಇ 01 ತೋಸೇಪ 2018 Bengaluru  
dated: 14.2.2018.

2.Nomination Order No: UPLOK-  
1/DE/150/2018 Bangalore  
dated:21.3.2018 of Hon'ble  
Upalokayukta-1

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This Departmental Inquiry is initiated against Sri.Abhaykumar Kashinath Morab, Assistant Director of Horticulture, Mudhol, Bagalkote District (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 21.3.2018 cited above at reference No.2 has nominated Additional Registrar of Enquiries-9 (in short ARE-9) to issue Articles of charges and to conduct the inquiry against the aforesaid DGO.

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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**

That you-DGO have Purchased 5 acres in Sy.No.37/6 of Chimmada village for consideration amount of Rs.8,75,000/- on 6.10.2016. You-DGO have purchased Renault Duster car for Rs.12.00 lakhs during 2014. You- DGO have not obtained permission from the competent authority for purchasing land for Rs.8,75,000/- and Renault Duster car -KA-48-M-6128 for Rs.12.00 lakhs. You -DGO have also not furnished documents in support of source of income for purchasing the land and car and not produced Assets and Liabilities statement to verify whether you had intimated acquiring of 5 acres of land and the car.

As provided under Rule 23 (2) of KCS (Conduct) Rules, 1966 a Government servant shall not acquire or dispose of any immovable property without previous sanction of the prescribed authority. As provided under Rule 23 (3) of KCS (Conduct ) Rules, a Government servant shall report to the prescribed authority every transaction concerning moveable property owned or held by him where the value of such property exceed Rs.10,000/- in case of a Government servant holding group A or B post and in case of Government

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servants holding Group C or Group D post, where the value of moveable property owned or held exceeds Rs.5000/-. Failure on the part of you-DGO in not taking permission for acquiring immovable property and not submitting information in the Assets and Liabilities statement or otherwise by furnishing information about acquiring immovable property and the car amounts to misconduct.

Thereby you -DGO have failed to maintain absolute integrity, devotion to duty and committed an act which is unbecoming of a government servant and thus you are guilty of misconduct u/r 3 (1) (i) to (iii) of Karnataka Civil Service (conduct) Rules 1966.

**ANNEXURE-II**  
**STATEMENT OF IMPUTATION OF MISCONDUCT:**

An anonymous petition dt : nil was received by the office of Lokayukta on 12.4.2017 alleging that DGO-Sri.Abhayakumar, Horticulture officer, Mudhol Taluk, Bagalkot District is demanding bribe from the beneficiaries to issue Government cheques and he is owning properties disproportionate to his known source of income.

On the said anonymous complaint, Hon'ble Lokayukta directed investigation by ADGP, Karnataka Lokayukta, Bangalore. ADGP got the enquiry conducted by Police Inspector, Karnataka Lokayukta, Vijayapura (I.O. for short). I.O. submitted report that DGO has purchased 5 acres of land in Chimmada village valued at Rs.8,75,000/- and he has purchased car Renault-Duster No.KA-48-M-6128 for Rs.12,00,000/-. The DGO has not obtained permission from competent authority for purchasing land and car.

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On the basis of report of I.O., suo-motu investigation is taken up by Hon'ble Upalokayukta invoking Section 7(2) of Karnataka Lokayukta Act against DGO.

The report of I.O. and documents collected during investigation show that DGO has purchased following properties:

(a) Five acres of land in Sy.No.37/6 of Chimmada Village for a consideration of Rs.8,75,000/-.

(b) He has also purchased a car-Renault -Duster No.KA-48-M-6128 for a consideration of Rs.12,00,000/-.

The DGO was called upon to submit comments on the report of I.O. and on anonymous complaint.

The DGO has submitted comments dt: 1.12.2017. He has submitted that he had taken the tractor on hire for his personal work on two occasions and he is not using the tractor for agricultural work. Government has granted subsidy amount for the purchase of tractor, wheel baron, power tiller etc. to the farmers. The officers of Horticulture department had visited the spot before granting subsidy amount and they have recommended subsidy only after visiting the spot. Subsidy amount is paid after verifying the report of the officers of horticulture department. He has purchased 5 acres of land in Sy.No.37/6 of Chimmada village for Rs.8,75,000/- and Renault Duster car for Rs.12.00 lakhs out of income from land belonging to the family. In future he will take permission to purchase land.

The DGO has purchased 5 acres in Sy.No.37/6 of Chimmada village for consideration amount of Rs.8,75,000/-

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on 6.10.2016. He has purchased Renault Duster car for Rs.12.00 lakhs during 2014. The DGO has not denied that he has not obtained permission from the competent authority for purchasing land for Rs.8,75,000/- and Renault Duster car – KA-48-M-6128 for Rs.12.00 lakhs. The DGO has also not furnished documents in support of source of income for purchasing the land and car and not produced Assets and Liabilities statement to verify whether he had intimated acquiring of 5 acres of land and the car. He has also not stated that he had mentioned in his Assets and Liabilities statement about acquiring 5 acres of land in 2016 and acquiring car during 2014.

As provided under Rule 23 (2) of KCS (Conduct) Rules, 1966 a Government servant shall not acquire or dispose of any immovable property without previous sanction of the prescribed authority. As provided under Rule 23 (3) of KCS (Conduct ) Rules, a Government servant shall report to the prescribed authority every transaction concerning moveable property owned or held by him where the value of such property exceed Rs.10,000/- in case of a Government servant holding group A or B post and in case of Government servants holding Group C or Group D post, where the value of moveable property owned or held exceeds Rs.5000/-. Failure on the part of DGO in not taking permission for acquiring immovable property and not submitting information in the Assets and Liabilities statement or otherwise by furnishing information about acquiring immovable property and the car amount to misconduct.

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Since said facts and material on record prima-facie show that the DGO has committed misconduct, now, acting under section 12(3) of Karnataka Lokayukta Act, recommendation is made to the Competent Authority to initiate disciplinary proceedings against the DGO and to entrust the inquiry to this Authority under Rule 14-A of Karnataka Civil Service (Classifications, Control and Appeal) Rules, 1957. Hence the charge

**5.** The copies of the same are 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. Plea of the DGO has been recorded and he has pleaded not guilty and claimed for holding inquiry. Thereafter, he submitted written statement.

**7.** DGO in his written statement, has denied the allegations made against him. He has further stated that in the investigation report, the Investigating officer has submitted report that he has not acquired properties illegally. He has further submitted that he has joined government service on 14.1.2008 he has submitted annual returns of properties in Form No. 1 and 2 pertaining to movable and immovable properties for the every year ending from 31.3.2008 to 31.3.2017.

**8.** He has further submitted that he had applied for certified copies of Form No. 1 and 2 before his higher

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authorities, as they did not respond he has produced personal copies maintained by him before this authority. He has further submitted that in respect of the purchase of car Renault duster and the land, he has reported to his higher authorities under Form No. 1 and 2. There is no violations of any rules. With these grounds, he prayed to drop the charges leveled against him.

9. The disciplinary authority has examined the Investigating officer Sri.Sangamesh Veeranna Shivayogi S/o Veeranna, the then Police Inspector, Karnataka Lokayukta Bagalkote as PW.1 and got marked documents as **Ex.P-1 to Ex.P-5.**

10. Thereafter, second oral statement of DGO has been recorded. Both submitted they have got their evidence. So, opportunity is provided to them to adduce evidence. Accordingly, DGO got examined himself as DW-1 and got marked documents as **Ex.D-1 to Ex.D-21**

11. Heard submissions of Presenting Officer. Perused the entire records, the only point that arise for my consideration is:

**Whether the Disciplinary Authority proves  
the charge framed against the DGOs ?**

My finding on the above point is **NEGATIVE** for the following:

**REASONS**

12. On behalf of disciplinary authority the Investigating officer PW-1 has reiterated the allegations of charge. He has

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not been cross examined. He has produced Ex.P-1 to 5 among which, Ex.P-2 is sale deed, Ex.P-3 is the mutation Ex.P-4 is information for having purchased vehicle. Of course Ex.P- 2 and 3 show that the DGO has purchased land alleged. Ex.P-4 show the DGO has purchased car alleged. But these facts that the DGO has purchased land and vehicle are admitted. Ex.p-1 is the report wherein it is reported that; the DGO has purchased land and car without prior permission, has not shown source of income, has not produced documents i.e., Form No. 1 and 2 to verify whether he has purchased land and car. But this report is not enclosed with supporting documents.

**13.** Actually, the allegations against the DGO are that Rule 23 (2) of KCS (Conduct) Rules, 1966, a government servant shall not purchase or dispose of any immovable property without pervious sanction of the prescribed authority, but the DGO has not obtained permission from the competent authority for purchasing land bearing Sy. No. 37/6 of Chimmada village worth Rs. 8,75,000/- and a Renualt duster car bearing No. KA -48-10-6121 worth Rs. 12,00,000/- It is also alleged that he has not produced documents showing source of income to purchase above said land and car.

**14.** It is further alleged that as per Rule 23(3) of KCS (Conduct) Rules 1966 a government servant shall report to the prescribed authority with regard to every transaction concerning movable property owned or held by him were the value of such property exceeds Rs.10,000/- in case of

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government servant holding A or B post, but DGO being B-group official, did not produce assets and liabilities statement to verify whether he has intimated about he acquiring above said land and car to the prescribed authority.

**15.** There is no dispute that DGO purchased above said land and car. His defence is that he has reported to his higher authorities about he acquiring above said land and car under form No. 1 and 2. He does not say anything about obtaining permission to purchase the land. Here it is alleged that the DGO has violated Rule 23(2) and 23(3) of KCS (Conduct) Rules 1966.

**16.** Coming to the 1<sup>st</sup> charge that the DGO has violated Rule 23(2) of KCS (Conduct) Rules 1966, it is found necessary to reproduce the said provision which reads as follows;

***23(2) No government servant (or any member of his family) shall, except with the previous knowledge of the prescribed authority, acquire or dispose of any immovable property by lease, mortgage, purchase, sale, gift or otherwise either in his own name or in the name of any member of his family:***

***Provided that the previous sanction of the prescribed authority shall be obtained by the government servant if any such transaction is-***

- (i) With a person having official dealings with the government servant; or***
- (ii) Otherwise than through a regular or reputed dealer;***
- (iii) (provided further that nothing in this sub - rule shall apply to the transactions entered into by a member of the family of the government servant out of his or her own***

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***funds (including gifts, inheritance, etc.,) as distinct from the funds of the government servant himself/ herself, in his or her own name and in his or her own right).***

**17.** This means a government servant or his family member shall not acquire or dispose of immovable property by way of lease, mortgage, purchase, sale, gift or otherwise either in his own name or in the name of any member of his family without previous knowledge of the prescribed authority. In this case, there is no allegation as to DGO having purchased land without previous knowledge of the prescribed authority. The allegation is specific that he has purchased land and car without prior permission of the prescribed authority and violated Rule 23(2) of KCS (Conduct) Rules.

**18.** Of course, the proviso of this provision provides that the prior sanction of prescribed authority is necessary if such transaction is with a person having official dealings with the government servant and if such transaction is otherwise than through a regular or repeated dealer. Further it is not the case of disciplinary authority that the vendor of the land bearing Sy. No. 36/7 of Chammala village was having official dealing with the DGO or that he was not a regular or reputed dealer. Thus it is clear that Rule 23(2) of KCS (Conduct) Rules is not violated by DGO in respect of purchase of land.

**19.** In connection to purchase of car, it is needless to say that it is a movable property, Rule 23(2) of KCS (Conduct) Rules do not prescribe obtaining previous permission to acquire movable property. Thus, it is clear that in connection to purchase of car, Rule 23(2) of KCS (Conduct) Rules is not

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applicable. Thus, it is clear that in connection to purchase of car, Rule 23(2) of KCS (Conduct) Rules is not violated by DGO.

**20.** It is also alleged that, the DGO has not shown the source of income to purchase the land and car. In this regard, DGO has relied upon Ex.D-10 statement of assets and liabilities submitted as on to 31.3.2017. In the said statement, he has stated that he has pledged gold for Rs. 3,00,000/- and he has obtained crop loan of Rs.2,00,000/- on the land of his wife and with regard to remaining amount, he has stated in the last line but same is not visible. However, this document goes to show that the DGO has declared the source of income to purchase alleged land. But he has not produced any document to show that he had obtained loans as alleged.

**21.** With regard to purchase of car the DGO has relied upon Ex.D-18 Form No. II, (assets and liabilities statement) as on to 31.3.2015, where he has shown the source of income to purchase car as, bank loan availed in the Bank of Maharashtra and agricultural income. This shows, that he has declared the source of income to purchase car. But he has not produced any documents to show that he had obtained bank loan and was having agricultural income. However, Ex.P-1 the investigation report shows that this DGO has not acquired disproportionate properties.

**22.** One more point that requires to be made clear here is that, these documents i.e., Ex.D-10 and 18 and other documents are xerox copies. According to DGO, they are the

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personal copies maintained by him. He has stated in his evidence and also in his written statement that he had applied for certified copies of Form No.1 and 2 submitted by him to prescribed authority from 31.3.2008 to 31.3.2017. But the concerned department did not issue him the said documents. Actually, it is bounden duty of the disciplinary authority to prove the allegations by placing sufficient and convincing materials.

**23.** But the disciplinary authority has not produced or summoned these documents. Even the allegation is that since DGO did not produce Form No. 1 and 2 to verify, it is alleged that he has violated Rules of KCS (Conduct) Rules. But since the disciplinary authority has made allegations against the respondent that the DGO has violated Rule 23(2) of KCS (Conduct) Rules, it is the duty of disciplinary authority to produce sufficient and convincing documents. Actually, the prescribed authority / higher authority of DGO was the custodian of the Form No. 1 and 2 which were said to be submitted by the DGO. Then, the investigation officer had to summon the documents from the said authority. But without summoning the documents from the custodian of the documents he has reported that the DGO has not produced documents which is not proper. On summoning the document from the custodian of the department, if it is found that DGO had not submitted required information, then an opportunity should have been provided to DGO to disprove the allegation against him. But here, the investigation officer has not summoned documents relevant from the custodian,

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but has shifted burden on the DGO to produce documents (personal copies maintained by him) which is not proper.

**24.** Considering overall evidence placed by disciplinary authority, they have not placed sufficient materials to prove the allegation No.1 against DGO. **Thus I am of the opinion that charge No.1 is not proved against DGO.**

**25.** Coming to the allegations of 2<sup>nd</sup> charge that the DGO has violated Rule 23(3) of KCS (Conduct) Rules, the DGO has given his evidence as DW-1 and has reiterated the contents of the written statement. He has submitted that the statement of assets and liabilities every year from the year of his appointment ie., from 31.3.2008 to 31.3.2017. He has relied upon Ex.D-1 to Ex.D-20. I has also stated that Ex.D-10 is the Form No. 1 under which he has declared the purchase of land and under Ex.D-18, he has declared the purchase of vehicle Duster Car. I have perused Ex.D-1 to 10, Form No. 1, Ex.D-11 to 20 Form No. 2. Among which, Ex.D-10 is form No. 1, under which, DGO has declared the purchase of the alleged land. Ex.D-18 is the Form No. 2 under which, DGO has declared the purchase of Duster car. In this way, the DGO has not violated Rule 23(3) of KCS (Conduct) Rules. The documents produced by disciplinary authority do not establish the allegations against the DGO.

**26.** Thus overall examination of the evidence on record shows that the disciplinary authority has not established charge No.1 and 2 leveled against the DGO Hence, I proceed to record the following:-

*28.4.2018*

### FINDINGS

**27.** The Disciplinary Authority has not proved charge No.1 and 2 leveled against the DGO. Hence, this report is submitted to Hon'ble Upalokayukta for further action.\_

**28.** Date of retirement of DGO is 30.6.2039

*Pw91 28.4.2021*

(PUSHPAVATHI.V)

Additional Registrar Enquiries-9  
Karnataka Lokayukta,  
Bengaluru.

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

PW.1	Sri.Sangamesh Veeranna Shivayogi S/o Veeranna, the then Police Inspector, Karnataka Lokayukta Bagalkote original
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**ii) List of Documents marked on behalf of Disciplinary Authority.**

Ex.P1	Ex.p-1 is the report dated: 11.8.2017 submitted by PW-1
Ex.P 2	Ex.p-2 is the sale deed in respect of sy. No. 37/6
Ex.P-3	Ex.p-3 is the computer mutation extract
Ex.P 4	Ex.p-4 is the RTO vehicle information pertaining to vehicle No. KA 48M 6128
Ex.P5	Ex.p-5 is the letter from agriculturist Mudhol Taluk

**iii) List of witnesses examined on behalf of DGO.**

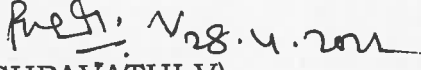
DW-1	Sri.Abhaykumar Kashinath Morab, Assistant
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*28.4.2021*

	Director of Horticulture, Mudhol, Bagalkote District original
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**iv) List of documents marked on behalf of DGO**

Ex.D-1 to Ex.D- 10	Ex.D-1 is the form No. 1 from 2007-08 to 2016-17
Ex.D-11 to Ex.D-20	Ex.D-1 is the form No. 2 from 2007-08 to 2016-17
Ex.D-21	Ex.D-21 is the letter dated: 16.7.18 from DGO to commissioner Horticulture department Bengaluru

  
 (PUSHPAVATHI.V)  
 Additional Registrar Enquiries-9  
 Karnataka Lokayukta,  
 Bengaluru.







KARNATAKA LOKAYUKTA

No.UPLOK-1/DE.150/2018/ARE-9

Multi Storied Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru-560 001.  
Dated 29.04.2022.

RECOMMENDATION

Sub:- Departmental inquiry against Sri Abhaykumar Kashinath Morab, Assistant Director of Horticulture, Mudhol, Bagalkote District - reg.

Ref:- Government Order No. HD 01 HSP 2018 dt.14.02.2018.

- 2) Nomination order No. UPLOK-1/DE.150/2018 dated 21.03.2018 of Hon'ble Upalokayukta, State of Karnataka.
- 3) Inquiry report dated 28.04.2022 of Additional Registrar of Enquiries-9, Karnataka Lokayukta, Bengaluru.

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The Government by its order dated 14.02.2018 initiated the disciplinary proceedings against Sri Abhaykumar Kashinath Morab, Assistant Director of Horticulture, Mudhol, Bagalkote District, [hereinafter referred to as Delinquent Government Official, for short as 'DGO ' ] and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No. UPLOK-1/DE.150/2018 dated 21.03.2018 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 charge of not obtaining prior permission from the Competent Authority for purchasing 5 acres of land and a car, violating Rule 23(2) & (3) of KCS(Conduct) Rules and thereby committing misconduct.

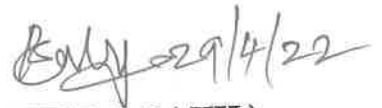
4. The Inquiry Officer (Additional Registrar of Enquiries- 9) on proper appreciation of oral and documentary evidence has held that, the Disciplinary Authority has '*not proved*' the above charge against the DGO Sri Abhaykumar Kashinath Morab, Assistant Director of Horticulture, Mudhol, Bagalkote District.

5. On re-consideration of report of inquiry and on perusal of the entire records, I do not find any reason to interfere with the

findings recorded by the Inquiry Officer. Therefore, it is hereby recommended to the Government to accept the report of Inquiry Officer and exonerate DGO Sri Abhaykumar Kashinath Morab, Assistant Director of Horticulture, Mudhol, Bagalkote District, of the charges leveled against him.

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

Connected records are enclosed herewith.

  
(JUSTICE B.S.PATIL)  
Upalokayukta-1,  
State of Karnataka.

