

BEFORE THE ADDITIONAL REGISTRAR, ENQUIRIES-11

KARNATAKA LOKAYUKTA, BENGALURU

ENQUIRY NUMBER: LOK/INQ/14-A/154/2012

ENQUIRY REPORT Dated: 06/12/2019

Enquiry Officer: V.G.Bopaiah
Additional Registrar Enquiries-11
Karnataka Lokayukta Bengaluru.

Delinquent Government Official No.1: Sri. Mallanagouda son of
Ninganagouda Patil.

(Name written by him as
Mallanagouda Ningnanagouda Patil
on the note sheet on
24/12/2016.

Discharged duties as Assistant
Executive Engineer attached to Zilla
Panchayath Engineering Sub
Division, Lingasuguru, Raichur
District from 28/08/2010 to
31/03/2011.

Retired on superannuation on
31/10/2015.

Delinquent Government Official No.2: Sri. Ravindra.H.

Discharged duties as First Grade
Secretary attached to Kannala
Grama Panchayathi during the
years 2009 and 2012.

Retired on superannuation on
31/10/2013.

1. Delinquent Government Official number 1 (in short, "DGO 1")
was working as Assistant Executive Engineer attached to Zilla
Panchayath Engineering Sub Division, Lingasuguru, Riachur

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District from 28/08/2010 to 31/03/2011. He retired on superannuation on 31/10/2015. Delinquent Government Office number 2 (in short, "DGO 2") was working as First Grade Secretary attached to Kannala Grama Panchayathi during the years 2009 and 2012. He retired on superannuation on 31/10/2013.

2. Background for initiating the present inquiry against DGOs 1 and 2 needs to be set out in brief. Sri. Ramanna (hereinafter will be referred to as "complainant") is the resident of a place called Nandihal, Lingasuguru, Raichur District. In the year 2011 the complainant was second class civil contractor. Formation of road from Nandihal to Karemaradi at the estimate of 50,000/-, formation of Valmikinagara road at the estimate of Rs.5,00,000/-, formation of drainage from the house of Kumbara upto main road at the estimate of Rs.2,00,000/- were executed by Kannala Grama Panchayithi under Mahathma Gandhi Rural Employment Guarantee Scheme 2010-11. The complainant supplied materials for the above works. On completion of the above works bills are passed. According to the complainant, DGO 1 demanded illegal gratification of Rs.37,500/- for release of cheques. On 17/01/2011 the complainant paid a sum of Rs.30,000/- to DGO 1 through DGO 2. Despite payment of the same, there was demand for balance of illegal gratification of Rs.7,500/-. The complainant approached the Police Inspector (hereinafter will be referred to as "Investigating Officer") attached to Lokayukta Police Station, Raichur on 19/01/2011 and informed about the demand. The Investigating Officer handed over a voice recorder to the complainant with instructions to approach DGOs 1 and 2 and to record the conversation and to return the voice recorder. On 20/01/2011

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at 8.00 A.M the complainant met DGO 1 in the residence of DGO 1. At that time DGO 1 insisted for balance. On 21/01/2011 the complainant approached DGO 2 in the residence of DGO 2 at which point of time DGO 2 told that he already paid a sum of Rs. 30,000/-. The complainant recorded the conversation in the voice recorder and appeared before the Investigating Officer at 3:00 P.M on 27/01/2011 in Lokayukta Police Station, Raichur and orally complained against DGOs 1 and 2 and returned the voice recorder. The Investigating Officer got reduced the oral complaint into writing with the help of computer and after obtaining the signature of the complainant on the complaint registered case against DGOs 1 and 2 in crime number 1/2011 of Lokayukta Police station, Raichur for the offence punishable under section 7, for the offence defined under section 13(1)(d) which is punishable under section 13(2) of The Prevention of Corruption Act, 1988 and submitted FIR to the jurisdictional Special Court at Raichur. Afterwards, the Investigating Officer secured shadow witness by name S.Siddaramaiah and panch witness by name Vijaya Rao to Lokayukta Police station, Raichur and informed them the purpose for which they are secured. The complainant placed fifteen currency notes of denomination of Rs. 500/- each before the Investigating Officer. The Investigating Officer got applied phenolphthalein powder on those notes through his staff. On the instructions of the Investigating Officer, the panch witness placed the tainted cash in the left side pocket of shirt of the complainant. On the instructions of the Investigating Officer, the panch witness immersed fingers of both hands in the solution prepared with water and sodium carbonate powder. Finger wash of hands of panch witness turned to pink colour. The Investigating Officer seized the said wash in a bottle.

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The Investigating Officer instructed the complainant to approach DGOs 1 and 2 and to give tainted cash to DGOs only in case of demand by DGOs through any mode. The Investigating Officer instructed the complainant to communicate message by wiping face with kerchief in case of acceptance of tainted cash by DGOs 1 and 2. The Investigating Officer instructed the shadow witness to accompany the complainant and to observe as to what transpires between the complainant and DGOs 1 and 2. The Investigating Officer got transmitted the contents of voice recorder to a sheet of paper and also to compact disc. The Investigating Officer handed over a voice recorder to the complainant with instructions to keep the voice recorder live at the time of approaching DGOs 1 and 2. With the said process the Investigating Officer conducted pre-trap mahazar as primitive step of investigation.

3. Subsequent to pre-trap mahazar, the Investigating Officer along with his staff, complainant, shadow witness and panch witness left Lokayukta Police station, Raichur at 5:30 P.M. destined at Lingasuguru and reached Lingasuguru-Mudugal bypass road at 8:00 P.M. On the instructions of the Investigating Officer, the complainant and shadow witness went to the office of DGOs. The complainant met DGO 1 and asked about the work. DGO 1 handed over the file pertaining to the execution of drainage to the complainant and asked to meet in the residence of DGO 1. Afterwards, the complainant and shadow witness informed the same to the Investigating Officer. Thereafter, the Investigating Officer along with his staff, complainant, shadow witness and panch witness proceeded to the residence of DGO 1 situated at Basavanagara which is at Kalaburagi bypass road. After reaching near the residence of DGO 1 the complainant

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and shadow witness went to the residence of DGO 1. DGO 1 told that he is in a hurry to leave for Bengaluru and informed to meet near VRL bus stop and saying so left the house in the official vehicle. Afterwards, the Investigating Officer along with his staff, complainant, shadow witness and panch witness proceeded to VRL bus stop. Thereafter, the complainant and shadow witness met DGO 1 who was found seated in VRL bus. DGO 1 informed the complainant to approach DGO 2 and to give the balance to DGO 2. Afterwards, the Investigating Officer along with his staff, complainant, shadow witness and panch witness proceeded to the residence of DGO 2 situated at Pinchanipura area. After reaching near the residence of DGO 2 the complainant along with shadow witness went to the residence of DGO 2. The complainant entered the residence of DGO 2. The shadow witness stood near the passage by the side of front door and window of the residence of DGO 2. After entering the residence of DGO 2, the complainant told that DGO 1 instructed to approach DGO 2 and saying so handed over the file to DGO 2 and asked to get the signature of DGO 1 in the file. At that time DGO 2 told that commission amount which was due for payment to DGO 1 has not fully reached DGO 1. The complainant responded that balance of commission of Rs.7,500/- is brought and gave the tainted cash of Rs.7,500/- and asked DGO 2 to pay the said amount to DGO 1. DGO 2 accepted the tainted cash and after counting with both hands told that the same will be given to DGO 1 and afterwards signature of DGO 1 will be obtained in the file. The complainant came out of the residence of DGO 2 and offered communication by wiping face with kerchief at 9.40 P.M. Thereafter, the Investigating Officer along with his staff and

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panch witness rushed to the residence of DGO 2 where the complainant pointed out DGO 2 and expressed that DGO 2 accepted tainted cash. The Investigating Officer pointed out his identity card to DGO 2. The Investigating Officer got prepared solution with water and sodium carbonate powder in two glasses and obtained sample of the said solution in a bottle and afterwards got immersed fingers of right hand of DGO 2 in the solution placed in a glass and got immersed fingers of left hand in the solution placed in another glass. Finger wash of both hands of DGO2 turned to pink colour. The Investigating Officer seized the said wash in separate bottles. On being questioned by the Investigating Officer about the tainted cash DGO 2 pointed out his pant which was on the table and told that cash is in the right side pocket of the pant. On the instructions of the Investigating Officer shadow witness lifted the tainted cash from the right side pocket of pant. The Investigating Officer seized the said cash. The Investigating Officer got immersed the inner portion of right side pocket of pant of DGO2 in the solution prepared with water and sodium carbonate powder. The said wash turned to light pink colour. The Investigating Officer seized the said wash in a bottle. The Investigating Officer also seized the pant of DGO 2. On being questioned by the Investigating Officer about the tainted cash DGO 2 offered statement in writing stating that on 27/01/2011 at 09.30 P.M while he was at his residence the complainant came to his residence and placed the file pertaining to execution of drainage and placed cash of Rs.7,500/- for consigning the same to DGO 1 for causing check measurement and that on 17/01/2011 he received cash of Rs.30,000/- from the complainant and afterwards he handed over the said cash of

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Rs.30,000/- to DGO 1. The Investigating Officer questioned DGO 2 about the file pertaining to the complainant. DGO 2 handed over the file to the Investigating Officer which was placed before DGO 2 on that night by the complainant. The Investigating Officer obtained xerox copies of sheets of that file and seized those xerox copies. The Investigating Officer also seized the original file for placing the same before the Executive Engineer attached to Panchayath Raj Engineering Division, Raichur. The Investigating Officer caused arrest of DGO 2. Further investigation revealed prima facie case against DGOs 1 and 2 which resulted in filing of charge sheet against DGOs 1 and 2.

4. On the basis of the report of the Additional Director General of Police, Karnataka Lokayukta, Bengaluru along with the investigation papers made available by the Police Inspector attached to Karnataka Lokayukta, Raichur, Hon'ble Upalokayukta-1, Karnataka, in exercise of the powers conferred upon under section 7(2) of The Karnataka Lokayukta Act, 1984, conducted investigation which, on the basis of the records prima facie unearthed that DGOs 1 and 2 have committed misconduct within the purview of Rule 3(1) of The Karnataka Civil Services (Conduct) Rules, 1966 and accordingly, in exercise of the powers conferred upon under section 12(3) of The Karnataka Lokayukta Act, 1984 recommended the competent authority to initiate disciplinary proceedings against DGOs 1 and 2 and entrust the inquiry to the Hon'ble Upalokayukta, Karnataka under Rule 14-A of The Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.
5. Subsequent to the report dated 28.02.2012 under section 12(3) of The Karnataka Lokayukta Act, 1984, Government Order

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bearing number ಗ್ರಾಅಪ/125/ಗ್ರಾಪಂಕಾ/2012 ಬೆಂಗಳೂರು, ದಿನಾಂಕ 10.04.2012 has been issued by the Under Secretary to the Government of Karnataka, Department of Rural Development and Panchayath Raj entrusting the enquiry against DGOs 1 and 2 to the Hon'ble Upalokayukta, Karnataka under Rule 14-A of The Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.

6. Subsequent to the report dated 28/02/2012 under section 12(3) of The Karnataka Lokayukta Act, 1984, Government Order bearing number ಲೋಇ 68 ಸೇಇವಿ 2012, ಬೆಂಗಳೂರು, ದಿನಾಂಕ 30/03/2012 has been issued by the Under Secretary to the Government of Karnataka, Department of Public Works, Port and Inland Water Transport entrusting the inquiry against DGO 1 to the Hon'ble Upalokayukta, Karnataka.
7. Subsequent to the Government Order number ಗ್ರಾಅಪ/125/ಗ್ರಾಪಂಕಾ/2012 ಬೆಂಗಳೂರು ದಿನಾಂಕ 10.04.2012 and subsequent to the Government Order number ಲೋಇ 68 ಸೇಇವಿ 2012, ಬೆಂಗಳೂರು, ದಿನಾಂಕ 30/03/2012 Order number LOK/INQ/14-A/154/2012 Bengaluru, dated 16/04/2012 has been ordered by the Hon'ble Upalokayukta-1, Karnataka nominating the Additional Registrar, Enquiries-4, Karnataka Lokayukta, Bengaluru as Inquiry Officer to frame charges and to conduct departmental inquiry against DGOs 1 and 2.
8. Articles of charge dated 13/08/2012 at Annexure-I which includes statement of imputation of misconduct at Annexure-II framed by the then Additional Registrar, Enquiries-4, Karnataka Lokayukta, Bengaluru is the following:

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“ANNEXURE NO.I

CHARGE

2. That, you DGO-1 Sri Mallanagouda Ninganagouda Patil, while working as Assistant Executive Engineer at Panchayath Raj Engineering Sub-Division in Lingasugur Taluk of Raichur District and you DGO-2 Sri. H.Ravindra, while working as Grade-1 Secretary of Nagalapura Grama Panchayath & I/c Panchayath Development Officer of Kannala Grama Panchayath in Lingasugur Taluk of Raichur District, the complainant namely Sri Ramanna S/oSathyappa, a Class-II Contractor who had executed the works @ cost of ₹ 7,50,000/- at Vyas Nandihal under Mahat,a Gandhi National Rural Employment Scheme and when the complainant approached you DGO-1 for payment of the said amount, you DGO-1 asked for payment of ₹37,500/- @ ₹ 5% on the sanctioned amount and received bribe of ₹ 30,000/- through you DGO-2 on 17/01/2011 and further on 27/01/2011 you DGO-2 received balance bribe of ₹7500/- from the complainant on behalf of you DGO-1 to show official favour, failing to maintain absolute integrity and devotion to duty, the act of which was un-becoming of Government servants and thereby committed mis-conduct as enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

ANNEXURE NO.II

STATEMENT OF IMPUTATIONS OF MISCONDUCT

The complainant namely Sri Ramanna S/o Sathyappa, R/o Vyas Nandihal in Lingasugur TGaluk ofr Raichur District was a Class-II Contractor. He had undertaken three works called through tender during the year 2009-10 under Mahatma Gandhi National Rural Employment Scheme at Vyas Nandihal. The cost

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of the said three works was ₹ 7,50,000/-. He completed the said three works and sanctioned amount of the said work was released by the Government. The released amount was deposited in Pragathi Grameena Bank at Mudgal. Therefore, the complainant approached DGO-1 for payment of cost amount of three works undertaken by him. DGO-1 did not take any steps to sanction the cost amount of the work executed by the complainant. DGO-1 demanded bribe of ₹ 37,500/- @ 5% of the sanctioned amount of ₹ 7,50,000/-. However, he agreed to pay after making adjustment. After sometime DGO-1 deposited cheques for the cost of two works. On 17/01/2011, the complainant paid bribe of ₹30,000/- to DGO-1 through DGO-2 requesting to adjust with that amount only. But DGO-1 did not issue cheque for the cost of remaining work. The complainant was not willing to pay balance bribe as demanded by DGO-1. Therefore, on 27/01/2011, the complainant lodged a complaint before the Lokayukta Police Inspector of Raichur (herein after referred to as the Investigating Officer, for short " the I.O. "). The I.O. register the complaint in Cr.no.01/2011 for the offences punishable U/S 7, 13(1)(d) R/W 13(2) of the Prevention of Corruption Act 1988. During the course of investigation into the said crime, when the tainted amount of ₹7500/- was given by the complainant to DGO-2 on behalf of DGO-1, the IO trapped DGO-1 & DGO-2 on 27/01/2011 in the presence of the complainant, the Panch witness and his staff at his house at Lingasugur. The I.O. seized the tainted amount under mahazar after following post-trap formalities. The I.O. took statement of DGO-1 & DGO-2 in writing and recorded statements of the complainant, the panch witnesses . After receiving report of the chemical examiner, the I.O. submitted report of investigation.

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The facts and materials on the record of investigation of the I.O. prima facie showed that, the DGO-1 & DGO-2 being Government servants, failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of Government servants. Therefore, a suo-moto investigation was taken up U/S 7(2) of Karnataka Lokayukta Act and an observation note was sent to DGO-1 & DGO-2 calling for their explanation. DGO-1 submitted his reply and his reply was not convincing and not satisfactory to drop the proceedings. DGO-2 did not file any reply to the observation memo. As the facts and materials on record prima-facie showed that DGO-1 & DGO-2 committed mis-conduct as per rule 3(1)(i)&(iii) of KCS (Conduct) Rules, 1966, a report U/S 12(3) of the Karnataka Lokayukta Act was sent to the Competent Authority with recommendation to initiate disciplinary proceedings against DGO-1& DGO-2 and to entrust enquiry to the Hon'ble Upalokayukta U/R 14-A of the Karnataka Civil Services (Classification, Control and Appeal) 1957. Accordingly the Competent Authority initiated disciplinary proceedings against DGO-1 & DGO-2 and entrusted the enquiry U/R 14-A of the KCS (CCA) Rules 1957 to the Hon'ble Upalokayukta. Hence, this charge".

9. In response to due service of articles of charge, DGOs 1 and 2 have entered appearance before the then Additional Registrar, Enquiries-4, Karnataka Lokayukta, Bengaluru on 21/09/2012. In the course of first oral statement of DGOs 1 and 2 recorded on 21/09/2012 they pleaded not guilty.
10. As per Order number LOK/INQ/14-A/2014 dated 14/03/2014 of Hon'ble Upalokayukta-1, Karnataka this file has

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been transferred to Additional Registrar, Enquiries-5, Karnataka Lokayukta, Bengaluru.

11. In the course of written statement of DGO 1 filed on 04/09/2014 while admitting that DGO 1 was working as Assistant Executive Engineer, Panchayath Raj Engineering Sub-Division, Lingasuguru, Raichur District has denied the alleged charge levelled against him and contended that the charge is not maintainable. It is contended that the complainant is stranger to DGO 1. It is contended that DGO 1 neither demanded nor accepted illegal gratification. It is contended that DGO 1 is not the officer conferred upon with the powers of release of amount and as such he was not in a position to extend official favour to the complainant. It is contended that the complainant has not explained reason for delay in lodging the complaint. It is contended that no specific reason is assigned in the complaint in respect of demand for illegal gratification by DGO 1. It is contended that the Investigating Officer has not conducted investigation in accordance with law. It is contended that money is not recovered from the possession of DGO1. It is contended that the complainant placed cash in the hands of DGO 2 by force expressing to hand over the same to DGO 1. It is contended that charge sheet is already filed on the similar set of allegations which has been registered in Special C.C. No.19/2011 on the file of the Principal District and Sessions Judge, Raichur and as such there cannot be two trials on the similar set of charges and therefore, the present inquiry cannot sustain.

12. In the course of written statement of DGO 2 filed on 04/09/2014 he has stated that he was working as grade-I Secretary, Nagalapura Grama Panchayath and in-charge

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Panchayath Development Officer, Kannala Grama Panchayath. He has contended that complainant is stranger to him and that he had no occasion to meet the complainant. It is contended that by virtue of his position as in-charge Panchayath Development Officer was not vested with the powers of extending official favour. It is contended that the complainant has not explained any reason for delay in lodging the complaint. It is contended that the Investigating Officer has not conducted investigation in accordance with law. It is contended that money was not seized from his possession. It is contended that the complainant placed cash at his hands by force with expression to hand over the same to DGO 1. . It is contended that charge sheet is already filed on the similar set of allegations which has been registered in Special C.C. No.19/2011 on the file of the Principal District and Sessions Judge, Raichur and as such there cannot be two trials on the similar set of charges and therefore, the present inquiry cannot sustain.

13. The disciplinary authority has examined the complainant as PW1 before the then Additional Registrar, Enquiries-5, Karnataka Lokayukta, Bengaluru. During evidence of PW1, attested copy of his complaint dated 27.01.2011 in a single sheet is marked as per Ex P1, his signature found on Ex P1 is marked as per Ex P1(a), attested copy of pre-trap mahazar dated 27.01.2011 in two sheets is marked as per Ex P2, his signature found on ExP2 is marked as per Ex P2(a), portion of Ex P2 is marked as per Ex P2(b), portion of Ex P2 is marked as Ex P2(c), attested copy of trap mahazar dated 27.01.2011 in five sheets is marked as per Ex. P3, signature of PW1 found on sheet No.5 of

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Ex P3 is marked as per Ex P3(a), portion of Ex P3 is marked as per Ex P3(b), portion of Ex P3 is marked as per Ex P3(c), eighty five attested sheets of the file of PW1 are together marked as per Ex P4, attested copy of statement dated 29.01.2011 in a single sheet of PW1 recorded under section 162 of The Code of Criminal Procedure, 1973 by the Investigating Officer is marked as per Ex P5, attested copy of statement dated 03.05.2011 in a single sheet of PW1 recorded under section 162 of The Code of Criminal procedure, 1973 by the Investigating Officer is marked as per Ex P6.

14. As per Order No. UPLOK-1/DE/2016 Bengaluru dated 03.08.2016 of Hon'ble Upalokayukta-1, Karnataka, this file has been transferred to this section.

15. Subsequent to transfer of this file to this section, the disciplinary authority has examined the panch witness by name Sri. Vijaya Rao, as PW2, Sri. Ramanna Karajagi who is working as Police Constable attached to Lokayukta Police Station, Raichur as PW3 and shadow witness by name Sri. S. Siddaramaiah as PW4. During evidence of PW3 attested copy of statement dated 27.01.2011 in a single sheet of DGO is marked as Ex P7, attested copy of mahazar dated 01.02.2011 in two sheets is marked as per Ex P8, signature of PW3 found on sheet No. 2 of Ex P8 is marked at Ex P8(a).

16. In the course of second oral statement of DGO 1 recorded on 13.08.2019 he has stated that he would get himself examined as defence witness and that he does not intend to examine defence witness. In the course of second oral statement of DGO 2 recorded on 06.06.2019 he has stated that he would get

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himself examine as defence witness and that he does not intend to examine defence witness.

17. DGO1 got himself examined as DW1. DGO2 got himself examined as DW2. During evidence of DGO1 attested copy of measurement book in all six sheets is marked as Ex D1, attested copy of attendance register in four sheets of the labourers is marked as per Ex D2, attested copy of bill in a single sheet is marked as per Ex D3, attested copy of bill in a single sheet is marked as per Ex D4, attested copy of Form-35 in a single sheet is marked as per ExD5, attested copy of bill in a single sheet is marked as per ExD6, attested copy of Form-35 in a single sheet is marked as per EX D7, attested copy of bill in a single sheet is marked as per Ex D8, four attested sheets of measurement book is marked as per Ex D9, three attested sheets of attendance register of labourers is marked as per Ex D10, attested copy of receipt in a single sheet is marked as per Ex D11, attested copy of Form-35 in a single sheet is marked as per Ex D12, attested copy of measurement book in two sheets is marked as per Ex D13, attested copy of attendance register in two sheets of the labourers is marked as per Ex D14, attested copy of Form-35 in a single sheet is marked as per Ex D15, attested copy of bill in a single sheet is marked as per Ex D16, attested copy of certified copy of judgment in 23 sheets in Special Case number 19/2011 on the file of the 2nd Additional Sessions Judge, Raichur is marked as per Ex D17. During evidence of DGO2, original letter dated 20.02.2017 in a single sheet issued to DGO2 by the Deputy Director (Administration) Department of Public Instructions, Raichur is marked as per Ex D18.

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18. In the course of written argument of the Presenting Officer filed on 27.08.2019 she has referred to evidence on record and sought to contend that evidence adduced by disciplinary authority establishes the charge and equally sought to contend that defence advanced by DGOs 1 and 2 is not worthy of acceptance.
19. DGOs 1 and 2 have filed separate written argument on 22.10.2019 the contents of the same are one and the same. With reference to the evidence of PWs 1 to 4 it is sought to content that their evidence fail to establish the alleged charge. On the basis of certain answers elicited during cross examination of PWs 1 to 4 it is sought to contend that their evidence is not worthy of acceptance. With reference to the evidence of DGOs 1 and 2 it is sought to contend that their evidence would point out towards their innocence.
20. In tune with the articles of charge, points which arise for consideration are the following:

Point number 1 :- Whether it stands established that in connection with total bill amount of Rs.7,50,000/- which was payable to the complainant in connection with supply of raw materials for formation of road from Nandihal to Karemaradi, in connection with supply of raw materials for formation of Valmikinagara road, in connection with supply of raw materials for formation of drainage from the house of Kumbara upto main road within the limits of Kannala Grama Panchayithi under Mahathma Gandhi Rural Employment Guarantee Scheme 2010-11, DGO1 who was working as Assistant Executive Engineer attached to Zilla

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Panchayath Engineering Sub Division, Lingasaguru, Raichur District demanded illegal gratification of a sum of Rs. 37,500/- from the complainant earlier to 17.01.2011 and accepted part payment of Rs. 30,000/- through DGO2 on 17.01.2011 who was then working as First Grade Secretary attached to Kannala Grama Panchayithi and thereby DGOs 1 and 2 are guilty of misconduct within the purview of Rule 3(1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966?

Point number 2 :- Whether it stands established that in connection with total bill amount of Rs.7,50,000/- which was payable to the complainant in connection with supply of raw materials for formation of road from Nandihal to Karemaradi, in connection with supply of raw materials for formation of Valmikinagara road, in connection with supply of raw materials for formation of drainage from the house of Kumbara upto main road within the limits of Kannala Grama Panchayithi under Mahathma Gandhi Rural Employment Guarantee Scheme 2010-11, after acceptance of part of illegal gratification of Rs.30,000/- by DGO1 through DGO2 on 17.01.2011, on the instructions of DGO1, DGO2 who was working as First Grade Secretary attached to Kannala Grama Panchayithi demanded and accepted balance of illegal gratification of Rs. 7,500/- from the complainant between 9.30 P.M and 9.40 P.M in the residence of DGO2 situated at Pinchanipura of Lingasaguru town for and on behalf of DGO1 and during investigation conducted by the Police Inspector attached to

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Lokayukta Police Station, Raichur in crime number 01/2011 of Lokayukta Police Station, Raichur, DGO2 failed to offer satisfactory explanation for possession of tainted cash of Rs. 7,500/- possessed by DGO2 in his residence at Pinchanipura of Lingasaguru town and thereby DGOs 1 and 2 are guilty of misconduct within the purview of Rule 3(1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966?

21. Regarding point numbers 1 and 2 :- Since matters in controversy involved in point numbers 1 and 2 are almost inter linked with each other I have chosen to dwell upon to consider point numbers 1 and 2 together.
22. Evidence of PW1 that during the year 2009-10 he had supplied raw materials for the above works is not under challenge. It is brought out during his cross examination he had only supplied raw materials to Kannala Gram Panchayithi but not executed any civil works. It is in his cross examination that he had supplied raw materials worth Rs. 7,50,000/-. It is thus clear that he had supplied raw materials and therefore a sum of Rs. 7,50,000/- was due for him.
23. In the course of evidence PW1 has spoken to that when he approached DGO1 in connection with the total bill amount of Rs. 7,50,000/- DGO1 demanded 5% of the total bill amount and that he pleaded inability to fulfil the said quantum of illegal gratification but, despite the same DGO1 has not come forward to oblige and instead of obliging DGO1 expressed that measurement book will be signed only on fulfilment of illegal gratification at the rate of 5% which works out at Rs. 37,500/-. It is in the evidence of PW1 that afterwards, he fulfilled to an extent of Rs. 30,000/- and despite the same DGO1 insisted for

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balance of Rs. 7,500/- which compelled him to approach the Police Inspector (Investigating Officer) attached to Lokatyukta Police Station, Raichur.

24. It is in the evidence of PW1 that after he approached the Investigating officer he orally informed as to what transpired and in response the Investigating Officer handed over a voice recorder with instructions to record conversation touching demand and afterwards he approached DGO1 with voice recorder at which point of time DGO1 reiterated demand for balance and afterwards he approached DGO2 who equally insisted for balance. He has spoken to during evidence that afterwards he approached the Investigating Officer and handed over the voice recorder and lodged complaint the attested copy of which is at Ex P1. His evidence touching lodging of complaint and also recording of conversation with the help of voice recorder has not been assailed during his cross examination in its true letter and spirit and therefore the unchallenged testimony of PW1 needs acceptance.

25. Records would show that the Investigating Officer is no more and therefore, the Presenting Officer has examined PW3 who at the relevant point of time was working as Police Constable attached to Lokayukta Police Station, Raichur.

26. Regarding pre-trap mahazar, evidence of PW1 that after lodging of complaint shadow witness and panch witness are secured has remained unchallenged. Evidence of PW2 who is the panch witness and evidence of PW4 who is the shadow witness they appeared before the Investigating Officer on 27.01.2011 in Lokayukta Police Station, Raichur has remained unchallenged and therefore their evidence establishes that they appeared before the Investigating Officer on

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27.01.2011 in Lokayukta Police Station, Raichur. Evidence of PW1 that Lokayukta Police staff Raichur received fifteen currency notes of denomination of Rs. 500/- each from him and that some powder applied on those notes has remained unchallenged. His evidence that numbers of the above currency notes are noted equally has remained unchallenged. Evidence of PW1 that tainted notes are placed in the right side pocket of his pant has remained unchallenged. His evidence that contents of voice recorder are transmitted to compact disc is also not under challenged. He thus has spoken to the proceedings of pre-trap mahazar the attested copy of which is at Ex P2.

27. In the course of evidence PW 2 has categorically spoken to the proceedings of pre-trap mahazar. It is in the evidence of PW 2 that the complainant placed fifteen currency notes of denomination of Rs.500/- each in Lokayukta Police Station, Raichur and that some powder was applied on those notes by Lokayukta Police staff Raichur and afterwards he placed those tainted notes in the left side pocket of shirt of the complainant and thereafter washed fingers of hands and consequently the said wash turned to pink colour and with the said process pre-trap mahazar has been conducted the attested copy of which is at Ex P2. Evidence of PW2 touching the proceedings of pre-trap mahazar has remained unchallenged and since no inherent infirmity is found in his evidence touching the proceedings of pre trap mahazar his evidence needs acceptance and therefore I have no hesitation whatsoever to express that evidence of PWs 1 and 2 establishes that the Investigating Officer has conducted pre-trap mahazar as primitive step of investigation.

28. Evidence of PW1 that when he approached DGO 1 there was demand for 5% of total bill amount of Rs. 7,50,000/- is not

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under challenge and therefore, the said portion of unchallenged evidence needs acceptance which unerringly establishes demand for illegal gratification of Rs. 37,500/-. Though it is brought out during his cross examination that he does not know that supply of materials will not be entered in the measurement book and he cannot find out from the records anything about supply of materials and execution of works these answers will not nullify the matrix of his evidence in the background of the fact that bills are not under challenge. Suggestion made to PW1 during cross examination suggesting that one Sri.Veeresh Mattur had to pay amount for supply of materials has been denied by him. In support of the said defence nothing worthy is found in the evidence of DGOs 1 and 2. As already referred to above, it is elicited during his cross examination that he supplied raw materials. Nothing is suggested to him during cross examination suggesting that he has not supplied materials.

29. Evidence of PW1 that he paid a sum of Rs. 30,000/- to DGO2 as per the instructions of DGO1 has remained unchallenged. Evidence of PW1 that despite fulfilment of part of illegal gratification of Rs.30,000/- DGO1 has not sanctioned the bill and insisted for balance of Rs.7,500/- has not been assailed in its true letter and spirit during his cross examination and therefore his evidence touching payment of a sum of Rs. 30,000/- needs acceptance. For the reasons well within the knowledge of DGO1 he has not come forward to state during his evidence that he has not accepted a sum of Rs. 30,000/- through DGO2 on 17.01.2011. Equally, for the reasons well within knowledge of DGO2 he has not come forward to state during his examination-in-chief that he has not accepted a sum of Rs. 30,000/- on 17.01.2011. Suggestion made to DGO2 during his

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cross examination suggesting that the complainant paid a sum of Rs. 30,000/- on 17.01.2011 though is denied I find nothing to disbelieve the evidence of PW1 touching payment of Rs. 30,000/- on 17.01.2011. Nothing is brought out during cross examination of PW1 to hold that PW1 was nurturing vengeance against DGOs 1 and 2. In the absence of evidence that the complainant was not in good terms with DGOs 1 and 2 evidence of PW1 needs acceptance. It needs to be further added that PW1 had no axe to grind DGOs 1 and 2. Upon meticulous appreciation of the entire evidence of PW1 I have no hesitation whatsoever to hold that on 17.01.2011 DGO1 accepted illegal gratification of a sum of Rs. 30,000/- through DGO2.

30. Evidence of PW1 that subsequent to pre-trap mahazar he along with a person went to the office of DGO1 is not under challenge. Though PW1 has not referred to the presence of shadow witness (PW4) his evidence that a person was with him at the time of his entry to the office of DGO1 would convey meaning that the said person is none other than PW4. His evidence that after approaching DGO1 in the office of DGO1 he requested to subscribe signature to the file for which DGO1 called upon to approach in the residence along with the file and thereafter DGO1 proceeded to the house of DGO1 is not under challenge. If really DGO1 had nothing to do with the file of the complainant, then, there was no need for DGO1 to summon the complainant to the residence of DGO1. Evidence of PW1 that after he reached the residence of DGO1 he was told by DGO1 to hand over cash to DGO2 is not under specific challenge and therefore the said portion of his evidence incriminates DGO1. In the course of cross examination PW1 has stated that it was 6.00

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P.M when he met DGO1 in the office of DGO1. This portion of his evidence leads to draw irresistible conclusion that entry of PW1 to the residence of DGO1 is not in dispute. In the course of cross examination PW1 has stated that he asked DGO1 to receive cash after he approached DGO1 in the office of DGO1. It is brought out during cross examination PW1 that DGO1 asked to meet in the residence. This answer elicited during his cross examination speaks in volumes which establishes that with the intention of laying claim for balance of a sum of Rs. 7,500/- DGO1 asked PW1 to meet at the residence. It is brought out during cross examination of PW1 that the voice recorder which was possessed by him was switched off at the time when he approached DGO1. It is brought out during cross examination of PW1 that after he reached the residence of DGO1 he was asked by DGO1 to meet in the bus stand since DGO1 was to proceed to Bengaluru. If really official work of PW1 was not pending with DGO1, then, there was no need for DGO1 to call upon PW1 to meet in the bus stand. Suggestion made to PW1 during cross examination suggesting that DGO1 had not spoken to him on 27/01/2011 has been denied. It is worthy to remember that evidence of PW1 that DGO1 asked to pay amount at the hands of DGO2 has remained unchallenged and in that background the above suggestion does not assume any importance.

31. In the course of evidence DGO1 though has stated that the complainant was not assigned with any civil works the said portion of his evidence will not lend assurance to the defence of DGO1 for the reason that evidence of PW1 establishes that he had supplied materials to Hannala Grama Panchayithi. Though it is in the evidence of DGO1 that during his tenure civil works were not used to be entrusted to contractors under Mahatma

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Gandhi National Employment Guarantee Scheme the said portion of his evidence equally will not lend assurance to his defence for the reason that evidence of PW1 as discussed above would show that the concerned file was under the control of DGO1. Though it is spoken to by DGO1 during his evidence that contractor by name Sri. Veerasha Matturu supplied materials for two civil works and in that connection cheque for Rs. 2,00,000/- was issued to Sri. Veerasha Matturu on 11.01.2011 on his recommendation the said portion of his evidence is not supported by any documentary evidence and therefore the said portion of this evidence will not come in aid of his defence. Exs D1 to D17 have no reference to Sri. Veerasha Matturu and in the absence of any documentary evidence evidence of DGO1 that materials are supplied by Sri. Veerasha Matturu cannot be accepted. Though it is spoken to by DGO1 that the question of issue of cheque to the complainant does not arise that portion of his evidence equally is of no assistance to the defence of DGO1. Though it is spoken to by DGO1 during his evidence that the complainant had not approached him in respect of supply of materials he has spoken to further that on 20.01.2011 and on 21.01.2011 the complainant had approached him. The purpose for which the complainant had approached on 20.01.2011 and on 21.01.2011 is not narrated by DGO1 during his evidence and therefore it needs to be inferred that in connection with cheque the complainant approached DGO1 on 20.01.2011 and also on 21.01.2011. It is in the evidence of DGO1 that when the complainant approached him at about 3.30 P.M on 27.01.2011 he responded that since he was under pressure of work and also had to attend a meeting the complainant should not approach. It is not in his evidence that he instructed the complainant that

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complainant should not approach in future. DGO1 has spoken to during evidence that the complainant met him at his residence on 27.01.2011 at about 6.090 P.M and enquired about the bills for which he responded that he already has spoken to about the bills with the Junior Engineer and came to know that bill is placed by the complainant for Rs. 70,000/- and in case the said information is correct, then, bill has to be placed before him two days thereafter. This portion of evidence of DGO1 unerringly establishes that the file was to move through him and therefore he had every occasion to demand illegal gratification.

32. It is in the evidence of DGO1 that at 7.00 P.M on 27.01.2011 after he boarded the bus in VRL bus stand the complainant attempted to speak but he has not responded. Merely for the reason that DGO1 has not responded inference cannot be drawn that DGO1 had no intention to demand illegal gratification. It is in his evidence that the complainant remained in VRL bus stand for about 15 minutes. He has spoken to that he never had demanded a sum of Rs.7,500/-. When subjected to cross examination DGO1 has stated that his signature was needed for the document called 'bill of cost'. This portion of his evidence lends assurance that the file was to pass through him. Suggestions made to him during his cross examination by the Presenting Officer suggesting his complicity though are denied suffice to mention that evidence as discussed above is convincing to point out towards the charge that on 17.01.2011 he accepted a sum of Rs. 30,000/- through DGO2.

33. In the course of evidence DGO2 has stated that on 27.01.2011 at 9.00 P.M the complainant asked about bills for which he responded that in case DGO1 were to take any action, then, further process will be carried out by him. This portion of

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evidence of DGO2 incriminates DGO1 and converges much light establishing the role of DGO1 in the matter of the file of the complainant. It is in the evidence of DGO2 that action used to be initiated by DGO1 and also by the Executive Officer of Taluk Panchayath in respect of bills. This portion of evidence of DGO2 incriminates DGO1 and establishes that the file of the complainant has to pass through DGO1. During cross examination DGO2 has stated that cheque used to be issued only after the signature of DGO1 to the concerned bills. This portion of his evidence further lends assurance to express that DGO1 had occupied pivotal role in dealing with the file of the complainant. Thus, upon meticulous appreciation of the oral and documentary evidence on record I have no hesitation whatsoever to hold that in connection with the work of the complainant DGO1 demanded illegal gratification of Rs. 37,500/- from the complaint earlier to 17.01.2011 and accepted part payment of Rs.30,000/- through DGO2 on 17.01.2011 for which DGO2 joined hands with DGO1 and accordingly charge against DGOs 1 and 2 as set out in point number 1 at paragraph number 20 supra stands established.

34. It is in the evidence of PW1 that he along with a person went to the residence of DGO2 on the night of 27.01.2011. Reference to the person is none other than PW4 as already stated above. His evidence that he had been to the residence of DGO2 is not under challenge. It is in the evidence of PW1 that as per the instructions of DGO1 he paid amount to DGO2 in the presence of a person who is none other than PW4. He has spoken to that after receipt of cash by DGO2 he offered communication by wiping face with kerchief and in response Lokayukta Police staff

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rushed there and apprehended DGO2. It is brought out during cross examination of PW1 that after the entry of Lokayukta Police staff he told that on the instructions of DGO1 he gave cash to DGO2 who in turn accepted and placed cash in the pocket of pant. This portion of his evidence establishes demand and acceptance of tainted cash by DGO2. It is brought out during cross examination of PW1 that after being asked for production of cash, DGO2 lifted cash from the pocket of pant and placed before PW4 and afterwards DGO2 washed fingers of hands in the solution in the house of DGO2. These answers elicited during cross examination of PW1 will certainly incriminate DGO2.

35. During evidence of PW1 has stated that after the entry of Lokayukta Police staff DGO2 was apprehended and questioned about cash. He has stated that DGO2 responded that amount is kept in pocket of pant which is on the table. It is in his evidence that finger wash of hands of DGO2 turned to red colour and that wash of pocket of pant of DGO2 equally turned to red colour. Change of colour of finger wash of hands of DGO2 as spoken to by PW1 has remained unchallenged. Suggestion made to PW1 during cross examination suggesting that he placed cash in the pocket of pant of DGO2 has been denied by him. Since nothing worthy of acceptance is brought out during cross examination of PW1 to establish that he was had oblique motive for false implication of DGO2 defence as set out that cash is placed in the pocket of pant of DGO by PW1 cannot be accepted. Change of colour of finger wash of hands of DGO2 is suggestive of the fact that DGO2 handled tainted cash.

36. In the course of evidence PW4 who is the shadow witness has spoken to that after he went to the residence of DGO1 at about

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9.00 P.M on 27.01.2011 DGO1 expressed that he is in a hurry to proceed to Bengaluru and saying so asked to meet in VRL bus stand. He has spoken to that afterwards he along with the complainant, PW2 and the Investigating Officer reached VRL bus stand at about 9.30 P.M where DGO1 was found. He has spoken to that after he along with the complainant met DGO1, DGO1 instructed to hand over cash to DGO2 and saying so boarded the bus. This portion of evidence of PW4 has not been assailed in its true letter and spirit and therefore instructions given by DGO1 as spoken to by PW4 needs acceptance. PW4 has spoken to that after reaching the residence of DGO2 at about 10.00 P.M the complainant entered the residence of DGO2 and that he remained near the window. This portion of his evidence is not under challenge. He has spoken to that the complainant handed over the file to DGO2 and thereafter gave cash of Rs.7,500/-. He has stated that after acceptance of the said cash DGO2 placed the same in the right side pocket of the pant and expressed that work will be attended and thereafter the complainant came out of the residence of DGO2 and wiped face with kerchief. Though it is brought out during cross examination of PW4 that DGO 2 had not demanded cash from the complainant in his presence it is not his specific evidence that demand was made by DGO 2. It is his specific evidence that after the entry of the complainant to the residence of DGO 2 the complainant handed over the file and cash of Rs. 7,500/ and that DGO 2 accepted the said cash and placed the same in the right side front pocket of pant.

37. It is in the evidence of PW4 that after communication of the matter by the complainant by wiping face with kerchief the Investigating Officer along with his staff and PW2 arrived at there and afterwards the complainant expressed before the

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Investigating officer that DGO2 accepted cash of Rs. 7,500/-. His evidence that the complainant expressed before the Investigating Officer that DGO2 accepted cash of Rs. 7,500/- has remained unchallenged and therefore that portion of his evidence incriminates DGO2 which establishes acceptance of tainted cash by DGO2. It is brought out during his cross examination that after his entry to the residence of DGO2 along with the complainant the complainant gave cash to DGO2 in his presence. This portion of evidence establishes acceptance of tainted cash by DGO2. Suggestion made to PW4 during his cross examination suggesting that he has not seen handing over of cash by the complainant to DGO2 has been denied by him. Suggestion made to PW4 during cross examination suggesting that while DGO2 was in the toilet the complainant placed cash in the pocket of pant which was in the hanger has been denied by him. Seizure of tainted cash from the possession of DGO2 by the Investigating Officer has been attempted to be assailed during cross examination of PW4. Upon appreciation of the evidence of PW4 I find nothing worthy to disbelieve his evidence touching seizure of tainted cash by the Investigating Officer.

38. During evidence PW4 has spoken to the process of finger wash of both hands of DGO2 and consequential change of colour of finger wash of hands of DGO and also wash of right side pant pocket of pant of DGO 2 and also consequential change of colour of the said wash. It is brought out during cross examination of PW4 that cash which was given to DGO2 by the complainant was in the right side front pocket of pant of DGO2. PW 4 has spoken to the proceedings of trap mahazar conducted in the residence of DGO2. Upon appreciation of entire evidence of PW4 I find no inherent infirmity in his evidence and as such his evidence

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establishes that DGO2 accepted tainted cash from the complainant.

39. The panch witness who is examined has PW2 as spoken to during evidence that after the exit of the complainant and PW4 from the residence of DGO2 during night hours he entered the residence of DGO2. It is in his evidence that DGO2 lifted tainted cash from one of the pockets of DGO2. He has spoken to the process of finger wash of DGO2. It is in his evidence that finger wash of right hand of DGO2 turned to pink colour and that he does not know change of colour of finger wash of left hand of DGO2. During cross examination though he has stated that after reaching Lingasaguru he has not stepped out of the jeep of Lokayukta Police staff, from the tenor of his evidence it can be gathered that he marched at the track of safeguarding DGO2. Suffice to mention that it can be gathered from his evidence that tainted cash has been recovered from the pocket of pant of DGO2.
40. PW3 was working as Police Constable in Lokayukta Police Station, Raichur on the day of trap. The Investigating Officer is no more and therefore the Presenting Officer has chosen to examine PW3 who assisted the Investigating Officer during trap. It is the evidence of PW3 that on the night of 27.01.2011 the complainant and PW4 went to the residence of DGO1 and after some time he along with others proceeded near the private bus stand at Lingasaguru and afterwards came to know through the complainant that DGO1 proceeded to Bengaluru in a bus.
41. It is in the evidence of PW3 that thereafter, the complainant and PW4 went to the residence of DGO2 at 9.30 P.M and after about 10 minutes the complainant came out of the residence of DGO2 and wiped face with kerchief. He has spoken to that afterwards,

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he along with PW2, Lokayukta staff and the Investigating Officer entered the residence of DGO2. It is brought out during his cross examination that he entered the residence of DGO2 after the communication by the complainant. He has spoken to that after his entry to the residence of DGO2 the complainant informed the Investigating Officer that cash of Rs.7,500/- is given to DGO2. This portion of his evidence has not been specifically challenged during his cross examination and therefore the said portion of his evidence incriminates DGO2. Suggestion made to PW3 suggesting that the complainant told that cash is in the right side front pocket of pant of DGO2 has been denied by him. It is in the evidence of PW3 that after his entry to the residence of DGO 2 process of finger wash of both hands of DGO 2 in the solution prepared with water sodium carbonate solution has been conducted. He has spoken that the finger wash of both hands of DGO 2 turned to light pink colour. His evidence touching change of colour of finger wash of both hands of DGO 2 has remained unchallenged and as such it stands established that DGO 2 had handled the tainted cash. PW3 has spoken to seizure of tainted cash by the Investigating Officer in the residence of DGO 2. His evidence touching seizure of tainted cash needs acceptance. PW3 has spoken to trap mahazar conducted in the residence of DGO2. He has spoken to that he computerised the trap mahazar with the aid of laptop which was carried from Lokayukta Police Station, Raichur. He has spoken to the mahazar drawn on 01.02.2011. Ex P8 is the attested copy of the said mahazar. It is in his evidence that he computerised the said mahazar. His evidence establishes that tainted cash was found in the right side front pocket of pant of DGO2 in the residence of DGO2. His evidence establishes that

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DGO2 had handled the tainted cash. His evidence also establishes seizure of tainted cash from the residence of DGO 2, I find no inherent infirmity in the evidence of PW3.

42. In the course of evidence DGO2 has stated that after the entry of the complainant to his residence at 9.00 P.M he spoke to the complainant for about 20 minutes. If really the complainant had gone to the residence of DGO2 without any reason, then, DGO2 would not have spoken to for about 20 minutes. It is his evidence that during the period of 20 minutes he has not demanded cash of Rs. 7,500/-. It is his evidence that after the entry of Lokayukta police staff to his residence he responded that he has not taken cash. He has spoken to that the complainant had placed cash in the right side front pocket of his pant. The manner in which he came to know that the complainant placed cash in the right side front pocket of pant is not found in his evidence and therefore his evidence that the complainant had kept cash in the right side front pocket of pant cannot be believed. Though he has spoken to that finger wash of his hands have not turned to any colour in the presence of evidence of PWs 1 to 4, evidence of DGO2 that finger wash of his hands have not turned to any colour cannot be believed. Though he has spoken to that his statement in writing has been obtained by force the said portion of his evidence is nothing but self serving for the reason that if really his statement was obtained by force, then, nothing had prevented him from bringing the same into the notice of the higher officer of the Investigating Officer. Upon appreciation of evidence of DGO2 I am not persuaded to attach with credence to his evidence. His statement in writing the attested copy of which is at Ex P7 incriminates him.

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43. ExD17 shows that DGOs 1 and 2 faced trial on the similar set off charges in Special Case number 19/2011 on the file of the 2nd Additional District and Sessions Judge, Raichur. It is seen in ExD17 which is the certified copy of the judgment in Special Case number 19/2011 that DGOs 1 and 2 herein are acquitted of the charge for the offence punishable under section 7, for the offence defined under section 13(1)(d) which is punishable under section 13(2) of The Prevention of Corruption Act, 1988. Nothing is found in Ex D17 that DGOs 1 and 2 herein who faced trial in Special Case number 19/2011 are honourably acquitted and therefore acquittal of DGOs 1 and 2 in that case will not lend support to the defence of DGOs 1 and 2.
44. It is well settled that in the criminal trial for the charge for the offence punishable under section 7, for the offence defined under section 13(1)(d) which is punishable under section 13(2) of The Prevention of Corruption Act, 1988, the prosecution has to establish the charge beyond reasonable doubt. It is well settled that in the absence of corroboration of the testimony of the complainant by the testimony of shadow witness guilt cannot be fastened against the accused in the criminal trial. It is well settled that proof beyond reasonable doubt is the yardstick which needs to be applied while appreciating evidence in the trial for charge for the offence punishable under section 7, for the offence defined under section 13(1)(d) which is punishable under section 13(2) of The Prevention of Corruption Act, 1988. It is equally well settled that preponderance of probabilities is the yardstick which needs to be applied while appreciating evidence in the proceedings of this nature. Mere possession of tainted cash in the absence of evidence for demand and acceptance is not sufficient to fasten the guilt in the trial for charge for the

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offence punishable under section 7, for the offence defined under section 13(1)(d) which is punishable under section 13(2) of The Prevention of Corruption Act, 1988. Failure on the part of delinquent Government official or Government officials as the case may be in the inquiry proceedings of this nature to explain the possession of tainted cash is nothing but the act of misconduct within the purview of Rule 3(1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966.

45. Instructions given by DGO1 to DGO2 to receive cash from the complainant amounts to misconduct within the purview of Rule 3(1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966. Equally, acceptance of cash by DGO2 on the instructions of DGO1 amounts to misconduct within the purview of Rule 3(1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966.
46. In the presence of overwhelming evidence as discussed above I am not persuaded to accept the defence put forward by DGOs 1 and 2 in the course of their respective written statement. Equally, I am not persuaded to accept the contentions put forward by DGOs 1 and 2 in the course of their respective written argument.
47. On strength of the evidence as discussed above I am of the considered view that charge against DGOs 1 and 2 stands established and being of this view I proceed with the following:

REPORT

Charge against DGOs 1 and 2 that in connection with total bill amount of Rs.7,50,000/- which was payable to the complainant in connection with supply of raw materials for formation of road from Nandihal to Karemaradi, in connection with supply of raw materials for formation of Valmikinagara

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road, in connection with supply of raw materials for formation of drainage from the house of Kumbara upto main road within the limits of Kannala Grama Panchayithi under Mahathma Gandhi Rural Employment Guarantee Scheme 2010-11, DGO1 who was working as Assistant Executive Engineer attached to Zilla Panchayath Engineering Sub Division, Lingasaguru, Raichur District demanded illegal gratification of a sum of Rs. 37,500/- from the complainant earlier to 17.01.2011 and accepted part payment of Rs. 30,000/- through DGO2 on 17.01.2011 who was then working as First Grade Secretary attached to Kannala Grama Panchayithi and thereby DGOs 1 and 2 are guilty of misconduct within the purview of Rule 3(1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 is proved.

Charge against DGOs 1 and 2 that in connection with total bill amount of Rs.7,50,000/- which was payable to the complainant in connection with supply of raw materials for formation of road from Nandihal to Karemaradi, in connection with supply of raw materials for formation of Valmikinagara road, in connection with supply of raw materials for formation of drainage from the house of Kumbara upto main road within the limits of Kannala Grama Panchayithi under Mahathma Gandhi Rural Employment Guarantee Scheme 2010-11, after acceptance of part of illegal gratification of Rs.30,000/- by DGO1 through DGO2 on 17.01.2011, on the instructions of DGO1, DGO2 who was working as First Grade Secretary attached to Kannala Grama Panchayithi demanded and accepted balance of illegal gratification of Rs. 7,500/- from the complainant between 9.30 P.M and 9.40 P.M in the residence of DGO2 situated at Pinchanipura of Lingasaguru town for and on

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behalf of DGO1 and during investigation conducted by the Police Inspector attached to Lokayukta Police Station, Raichur in crime number 01/2011 of Lokayukta Police Station, Raichur, DGO2 failed to offer satisfactory explanation for possession of tainted cash of Rs. 7,500/- possessed by DGO2 in his residence at Pinchanipura of Lingasaguru town and thereby DGOs 1 and 2 are guilty of misconduct within the purview of Rule 3(1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 is proved.

DGO1 retired on superannuation on 31.10.2015.

DGO2 retired on superannuation on 31.10.2013.

Submit this report to Hon'ble Upalokayukta-1 Karnataka in a sealed cover forthwith along with the connected records.

(V.G. BOPAIAH)

Additional Registrar, Enquiries-11,
Karnataka Lokayukta, Bengaluru.

ANNEXURE

List of witnesses examined on behalf of the disciplinary authority:-

- PW1:- Sri. Ramanna.
PW2:- Sri. Vijaya Rao.
PW3:- Sri. Ramanna Karajagi.
PW4:- Sri. S. Siddaramaiah.

List of witnesses examined on behalf of DGOs 1 and 2:-

- DW1:- Sri. Mallanagouda Ningnanagouda Patil (DGO1).
DW2:- Sri. Ravindra.H (DGO2).

List of documents marked on behalf of disciplinary authority:-

1. Ex P1 Attested copy of complaint dated 27.01.2011 in a single sheet of PW1.
2. Ex P1(a) Signature of PW1 found on Ex P1.
3. Ex P2 Attested copy of pre-trap mahazar dated 27.01.2011 in a single sheet
4. Ex P2(a) Signature of PW1 found on sheet number 2 of Ex P2.
5. Ex P2(b) Portion of Ex P2.
6. Ex P2(c) Portion of Ex P2.
7. Ex P3 Attested copy of trap mahazar dated 27.01.2011 in five sheets.
8. Ex P3(a) Signature of PW1 found on sheet number 5 of Ex P3.
9. Ex P3(b) Portion of Ex P3.
10. Ex P3(c) Portion of Ex P3
11. Ex P3(d) Signature of PW3 found on sheet number 5 of Ex P3
12. Ex P4 Eighty five attested sheets of the file of PW1
13. Ex P5 Attested copy of statement dated 29.01.2011 in a single sheet of PW1 recorded by the Investigation Officer under section 162 of The Code of Criminal Procedure, 1973
14. Ex P6 Attested copy of statement dated 03.05.2011 in a single sheet of PW1 recorded by the Investigation Officer under section 162 of The Code of Criminal Procedure, 1973.

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15. Ex P7 Attested copy of statement dated 27.01.2011 in writing in a single sheet of DGO 2 given before the Investigating Officer.
16. Ex P8 Attested copy of mahazar dated 01.02.2011 in two sheets.
17. Ex P8(a) Signature of PW 3 found on sheet number 2 of Ex P8

List of documents marked on behalf of DGOs 1 and 2:-

1. Ex D1 Attested copy of measurement book in six sheets.
2. Ex D2 Attested copy of attendance register in four sheets of the labourers.
3. Ex D3 Attested copy of bill in a single sheet.
4. Ex D4 Attested copy of bill in a single sheet.
5. Ex D5 Attested copy of Form-35 in a single sheet.
6. Ex D6 Attested copy of bill in a single sheet.
7. Ex D7 Attested copy of Form-35 in a single sheet.
8. Ex D8 Attested copy of bill in a single sheet.
9. Ex D9 Attested copy of measurement book in four sheets.
10. Ex D10 Three attested copies of sheets of attendance register of labourers.
11. Ex D11 Attested copy of receipt in a single sheet.
12. Ex D12 Attested copy of Form-35 in a single sheet.
13. Ex D13 Attested copy of measurement book in three sheets.

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14. Ex D14 Attested copy of attendance register of labourers in two sheets.
15. Ex D15 Attested copy of Form-35 in a single sheet
16. Ex D16 Attested copy of bill in a single sheet.
17. Ex D17 Attested copy of certified copy of judgment in 23 sheets in Special Case number 19/2011 on the file of the 2nd Additional Sessions Judge, Raichur.
18. Ex D18 Original letter dated 20.02.2017 in a single sheet issued to DGO2 by the Deputy Director (Administration), Department of Public Instructions, Raichur.


(V.G. BOPAI AH)

Additional Registrar, Enquiries-11,
Karnataka Lokayukta, Bengaluru.

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No.LOK/INQ/14-A/154/2012/ARE-11

Multi Storied Buildings,
Dr.B.R.Ambedkar Veedhi,
Bengaluru-560 001,
Date **13/12/2019**

RECOMMENDATION

Sub:- Departmental inquiry against;

- 1) Sri Mallanagouda S/o Ninganagouda Patil, Assistant Executive Engineer, Panchayath Raj Engineering Sub Division, Lingasuguru, Raichur District;
- 2) Sri Ravindra.H, Grade-I Secretary, Nagalapura Gram Panchayath and Incharge Panchayath Development Officer, Kannala Grama Panchayath, Lingasuguru Taluk, Raichur District – Reg.

- Ref:-
- 1) Government Order No. **ಗ್ರಾಅಪ/125/ಗ್ರಾಪಂಕಾ/2012** Bengaluru dated 10/04/2012.
 - 2) Government Order No. **ಲೋಇ 68 ಸೇಇವಿ 2012** Bengaluru dated 30/03/2012.
 - 3) Nomination order No.LOK/INQ/14-A/154/2012 Bengaluru dated 16/04/2012 of Upalokayukta-1, State of Karnataka, Bengaluru.
 - 4) Inquiry Report dated 06/12/2019 of Additional Registrar of Enquiries-11, Karnataka Lokayukta, Bengaluru

The Government in Rural Development & Panchayath Raj Department, by its Order dated 10/04/2012 initiated the disciplinary proceedings against (1) Sri Mallanagouda S/o Ninganagouda Patil, Assistant Executive Engineer, Panchayath Raj Engineering Sub Division, Lingasuguru, Raichur District and (2) Sri Ravindra.H, Grade-I Secretary, Nagalapura Gram Panchayath and Incharge Panchayath Development Officer, Kannala Grama Panchayath, Lingasuguru Taluk, Raichur District (hereinafter

referred to as Delinquent Government Official's 1 and 2 for short as DGO-1 and DGO-2 respectively) and entrusted the Departmental Inquiry to this Institution.

2. The Government in Public Works, Ports & Inland Water Transport Department, by order dated 30/3/2012 initiated the disciplinary proceedings against DGO-1 Sri Mallanagouda S/o Ninganagouda Patil, Assistant Executive Engineer, Panchayath Raj Engineering Sub Division, Lingasuguru, Raichur District and entrusted the same to this Institution.

3. This Institution by Nomination Order No.LOK/INQ/14-A/154/2012 dated 16/04/2012 nominated Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGOs 1 and 2 for the alleged charge of misconduct, said to have been committed by them. Subsequently by Order No. LOK/INQ/14A/2014 dated 14/3/2014 the Additional Registrar of Enquiries-5 was re-nominated as Inquiry Officer to conduct Departmental inquiry against DGOs 1 and 2. Again by order No. UPLOK-1/DE/2016 dated 3/8/2016, the Additional Registrar of Enquiries-11 was re-nominated as Inquiry Officer to conduct Departmental Inquiry against DGOs 1 and 2.

4. The DGO-1 Sri Mallannagouda S/o Ninganagouda Patil, the then Assistant Executive Engineer, Panchayath Raj Engineering Sub Division, Lingasuguru, Raichur District and DGO-2 Sri Ravindra.H, the then Grade-I Secretary, Nagalapura Gram Panchayath and Incharge Panchayath Development Officer,

Kannala Grama Panchayath, Lingasuguru Taluk, Raichur District
were tried for the following charge:-

“That, you DGO-1 Sri Mallanagouda Ninganagouda Patil, while working as Assistant Executive Engineer at Panchayath Raj Engineering Sub-Division in Lingasugur Taluk of Raichur District and you DGO-2 Sri H. Ravindra, while working as Grade-I Secretary of Nagalapura Grama Panchayath & I/c Panchayath Development Officer of Kannala Grama Panchayath in Lingasugur Taluk of Raichur District, the complainant namely Sri Ramanna S/o Sathyappa, a Class-II Contractor who had executed three works @ cost of Rs.7,50,000/- at Vyas Nandihal under Mahatma Gandhi National Rural Employment Scheme and when the complainant approached you DGO-1 for payment of the said amount, you DGO-1 asked for payment of bribe of Rs.37,500/- @ Rs.5% on the sanctioned amount and received bribe of Rs.30,000/- through you DGO-2 on 17/01/2011 and further, on 27/01/2011 you DGO-2 received balance bribe of Rs.7,500/- from the complainant on behalf of you DGO-1 to show official favour, failing to maintain absolute integrity and devotion to duty, the act of which was unbecoming of Government Servants and thereby committed misconduct as enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.”

5. The Inquiry Officer (Additional Registrar of Enquiries-11) on proper appreciation of oral and documentary evidence has held that, charge against DGOs 1 and 2 that in connection with total bill amount of Rs.7,50,000/- which was payable to the complainant in connection with supply of raw materials for

formation of road from Nandihal to Karemaradi, in connection with supply of raw materials for formation of Valmikinagara road, in connection with supply of raw materials for formation of drainage from the house of Kumbara up to main road within the limits of Kannala Grama Panchayathi under Mahatma Gandhi Rural Employment Guarantee Scheme 2010-11, DGO1 who was working as Assistant Executive Engineer attached to Zilla Panchayath Engineering Sub Division, Lingasuguru, Raichur District demanded illegal gratification of a sum of Rs.37,500/- from the complainant earlier to 17.01.2011 and accepted part payment of Rs.30,000/- through DGO2 on 17.01.2011 who was then working as First Grade Secretary attached to Kannala Grama Panchayithi and thereby DGOs 1 and 2 are guilty of misconduct within the purview of Rule 3(1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 is proved.

Charge against DGOs 1 and 2 that in connection with total bill amount of Rs.7,50,000/- which was payable to the complainant in connection with supply of raw materials for formation of road from Nandihal to Karemaradi, in connection with supply of raw materials for formation of Valmikinagara road, in connection with supply of raw materials for formation of drainage from the house of Kumbara up to main road within the limits of Kannala Grama Panchayithi under Mahathma Gandhi Rural Employment Guarantee Scheme 2010-11, after acceptance of part of illegal gratification of Rs.30,000/- by DGO1 through DGO2 on 17.01.2011, on the instructions of DGO1, DGO2 who was working as First Grade Secretary attached to Kannala Grama Panchayithi demanded and accepted balance of illegal gratification of

Rs.7,500/- from the complainant between 9.30 P.M and 9.40 P.M in the residence of DGO2 situated at Pinchanipura of Lingasaguru town for and on behalf of DGO1 and during investigation conducted by the Police Inspector attached to Lokayukta Police Station, Raichur in crime number 01/2011 of Lokayukta Police Station, Raichur, DGO2 failed to offer satisfactory explanation for possession of tainted cash of Rs.7,500/- possessed by DGO2 in his residence at Pinchanipura of Lingasaguru town and thereby DGOs 1 and 2 are guilty of misconduct within the purview of Rule 3(1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 is proved.

6. On re-consideration of inquiry report, 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.

7. As per the First Oral Statement submitted by DGOs 1 and 2;

- i. DGO-1 Sri Mallanagouda S/o Ninganagouda Patil has retired from service on 30/09/2015 (during the pendency of inquiry)
- ii. DGO-2 Sri Ravindra.H has retired from service on 31/10/2013 (during the pendency of inquiry)

8. Having regard to the nature of charge (demand and acceptance of bribe) proved against DGO-1 Sri Mallanagouda S/o Ninganagouda Patil and DGO-2 Sri Ravindra.H;

- i. it is hereby recommended to the Government for imposing penalty of permanently withholding 50% of pension payable to DGO-1 Sri Mallanagouda

S/o Ninganagouda Patil, the then Assistant Executive Engineer, Panchayath Raj Engineering Sub Division, Lingasuguru, Raichur District;

- ii. it is hereby recommended to the Government for imposing penalty of permanently withholding 50% of pension payable to DGO-2 Sri Ravindra.H, the then Grade-I Secretary, Nagalapura Gram Panchayath and Incharge Panchayath Development Officer, Kannala Grama Panchayath, Lingasuguru Taluk, Raichur District.

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

Connected records are enclosed herewith.


(JUSTICE N. ANANDA)

Upalokayukta-1,
State of Karnataka,
Bengaluru

13/12