



KARNATAKA LOKAYUKTA

No.UPLOK-1/DE/179/2021/ARE-17

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001,
Dated 07.09.2022.

RECOMMENDATION

Sub:- Departmental inquiry against Sri.Megharaj Naik, the then Tahasildar, Office of the Tahasildar, Kumta Taluk, Uttara Kannada District (presently Retired) – reg.

Ref:- 1) Government Order No.ಕಂಇ 40 ಎಡಿಇ 2021, ಬೆಂಗಳೂರು, ದಿ:15-9-2021.

2) Nomination order No.UPLOK-1/DE/179/2021, dated 24.09.2021 of the Upalokayukta, State of Karnataka.

3) Inquiry report dated 06.09.2022 of Additional Registrar of Enquiries-17, Karnataka Lokayukta, Bengaluru.

~~~~~

The Government by its order dated 15.09.2021 initiated the disciplinary proceedings against Sri.Megharaj Naik, the then Tahasildar, Office of the Tahasildar, Kumta Taluk, Uttara Kannada District (presently Retired) [hereinafter referred to as Delinquent Government

Q.

2 ✓  
Officer/official, for short as 'DGO'] and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.UPLOK-1/DE/179/2021, dated 24.09.2021, nominated Additional Registrar of Enquiries-17, 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 Sri.Megharaj Naik, the then Tahasildar, Office of the Tahasildar, Kumta Taluk, Uttara Kannada District (presently Retired), was tried for the following charge:-

**ANNEXURE-I**  
**CHARGE :**

1. You the DGO Sri.Megharaj Naik, the then Tahsildar, Office of Tahsildar, Kumata Taluk, Uttara Kannada District (presently Retired), as per survey conducted by A.D.L.R, Kumata visited the spot on 15/9/2020 to conduct the survey in Kumata Taluk, Gokarna Village, bearing Sy.No.1677 and to identify the Tamra Parani Tank area and fixed the boundary. At that time he noticed that, Ramachandra Subbaraya Nirvaneshwara has encroached the "tank area measuring 5 x 5 mtr., length and 40

✓

c.m. width totally measuring 23 ft., on one side and 13 ft., on the other side and got constructed a shed, and to that effect you have not evicted the encroacher of public property.”

2. Thus, you DGO, being Government/public servant has failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of Government servant and thus you have committed misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules, 1966.
4. The Inquiry Officer (Additional Registrar of Enquiries-17) on proper appreciation of oral and documentary evidence has held that, the Disciplinary Authority has **‘proved’** the above charge against the DGO Sri.Megharaj Naik, the then Tahasildar, Office of the Tahasildar, Kumta Taluk, Uttara Kannada District (presently Retired).
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.

L.

4

6. As per the First Oral Statement of DGO, furnished by the Inquiry Officer, DGO has retired from service on 31.05.2021.

7. Having regard to the nature of charge '**proved**' against DGO and considering the totality of circumstances,

"it is hereby recommended to the Government to impose penalty of withholding 5% of pension payable to DGO Sri.Megharaj Naik, the then Tahasildar, Office of the Tahasildar, Kumta Taluk, Uttara Kannada District (presently Retired), for a period of **one year**."

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

Connected records are enclosed herewith.



**(JUSTICE K.N.PHANEENDRA)**

Upalokayukta,  
State of Karnataka.

**KARNATAKA - LOKAYUKTA**

No. Uplok-1/DE/179/2021/ARE- 17

M.S. Building  
Dr. B.R. Ambedkar Road  
Bengaluru-560 001  
Date: 06/09/2022

**ENQUIRY REPORT**

**PRESENT** : SRI RAJKUMAR S AMMINABHAVI  
ADDITIONAL REGISTRAR (ENQUIRIES)-17  
KARNATAKA LOKAYUKTA  
M.S. BUILDING  
BENGALURU - 560 001.

**Subject :** Departmental Inquiry against Sri. Megharaj Naik, the then Tahsildar, Office of Tahsildar, Kumata Taluk Uttara Kannada District (presently retired) - reg.,

- References:**
1. Report u/s 12(3) of the Karnataka Lokayukta Act, 1984 in Compt/Uplok/BGM/125/2020/ARE-6, dt.09/04/2021.
  2. Government Order No. ಕಂಇ 40 ಎಡಿಇ 2021 dt:15/09/2021
  3. Nomination Order No.Uplok-1/DE/179/2021 Bengaluru dt.24/09/2021 of Hon'ble Upalokayukta-1.

\* \* \*

This enquiry is initiated on the basis of complaint filed by Sri.Pradeep Ganapathi Ganeyan, Near Karnataka Bank, Ganjigadde, Gokarna, Karwar, Uttara Kannada District, (hereinafter referred to as 'complainant') against Sri.Megharaj Naik, the then Tahsildar, Office of Tahsildar, Kumata Taluk Uttara Kannada District (presently retired) (hereinafter referred to as 'DGO' for short) alleging that the DGO has not vacated the encroachment of Tamraparni Tank in Sy.No.1677 of Gokarna Village.

2. After completion of investigation a report was sent to the Government u/s 12(3) of the Karnataka Lokayukta Act, 1984

against the DGO, as per reference No.1. In pursuant to the report, Government was pleased to issue the Government Order authorizing Hon'ble Upa-lokayukta-1 to hold an enquiry against the DGO Sri.Megharaj Naik, the then Tahsildar, Office of Tahsildar, Kumata Taluk Uttara Kannada District (presently retired) as per reference No. 2.

3. On the basis of the Government Order, nomination order was issued by Hon'ble Upalokayukta-1 on 24/09/2021 authorizing ARE-17 to frame Article of Charges against the DGO, and to hold an enquiry and to submit a report as per reference No.3. On the basis of the nomination order, the Article of Charges against DGO was framed and sent to the Delinquent Government Official on 16/11/2021.

4. The Article of charges and the statement of imputations of misconduct prepared and leveled against the DGO is reproduced here as under :-

**ANNEXURE-I**  
**CHARGE :**

1. You the DGO Sri.Megharaj Naik, the then Tahsildar, Office of Tahsildar, Kumata Taluk, Uttara Kannada District (presently Retired), as per survey conducted by A.D.L.R, Kumata visited the spot on 15/9/2020 to conduct the survey in Kumata Taluk, Gokarna Village bearing Sy.No.1677 and to identify the Tamra Parani Tank area and fixed the boundary. At that time he noticed that, Ramachandra Subbaraya Nirvaneshwara has encroached the "tank area measuring 5x5 mtr., length and 40 c.m. width totally measuring 23 ft., on one side and 13 ft., on the other side and got

constructed a shed, and to that effect you have not evicted the encroacher of public property.”

2. Thus, you DGO, being Government/public servant have failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of Government servants and thus, you have committed misconduct U/Rule 3(1) (i) to (iii) of Karnataka Civil Services (Conduct) Rules, 1966.

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

3. On the complaint filed by Sri.Pradeep Ganapathi Ganeyan, Near Karnataka Bank, Ganjigadde, Gokarna, Karwar, Uttara Kannada District (hereinafter referred to as complainant for short) against Sri.Megharaj Naik, Tahasildar, Kumta Taluk, Uttara Kannada District, (hereinafter referred to as respondent) alleging that the respondent being the Public/Government servant, has committed misconduct, an investigation has been taken up u/s 9 of the Karnataka Lokayukta Act, 1984.
4. After taking up the investigation, the respondent was asked to submit his comments. Accordingly, the respondent has submitted his comments dtd:21-3-2020, wherein he has stated that, Tamra Parani tank has not been encroached, hence, question of removal of encroachment does not arise at all. The respondent further stated that, there is an internal dispute between the complainant and his opponent and due to that dispute, the complainant has filed this false complaint. Accordingly, prayed to close the complaint.

5. Thereafter, rejoinder from the complainant was secured, wherein the complainant reiterated his stand with regard to encroachment of Tamra Parani tank area by one Sri.Ramachandra Subraya. After having considered the rival claims, as per the order dtd:5-9-2020, the Dy. Commissioner, Karwar, was directed to get a fresh survey conducted through DDLR, Karwar, in accordance with law.
6. In pursuance of the said order, the DDLR, Karwar, has submitted the report. The said report discloses that, after issuing notices to the complainant, his opponent and the Government officials, survey was conducted on 15-9-2020, in the presence of the parties concerned and prepared the survey sketch. As per the survey sketch the portion shown in the red colour near the "C" point, measuring 13' where shed has been constructed, has been encroached. In Sl.No.5 it has been shown that in Sy.No.1677 of Tamra Parani tank, "half aane" land has been encroached.
7. Further, we have also received a letter dtd:17-9-2020, from one Sri.Ramachandra Subraya Nirvaneshwara, along with the certain documents. In his letter, he tried to contend that he has not at all encroached any land pertaining to Tamra Parani tank and the complainant has filed the false complaint.
8. In view of the report submitted by the DDLR, Karwar, after conducting the survey in the presence of all the parties concerned, the request of the opponent of the complainant Sri.Ramachandra Subraya Nirvaneshwara has not been considered in this matter. Since the survey report submitted by the DDLR, pointed out



about encroachment of the public property, the report of the respondent becomes doubtful and it cannot be relied upon. In the comments, the respondent has stated that, the land in question has not been encroached. But, now, in view of the said survey report, the comments of the respondent becomes false.

9. In view of the said circumstances, the respondent was asked to submit his explanation as to on what basis he had submitted his comments and why action shall not be initiated against him in accordance with law and also the respondent was directed to take steps for removal of encroachment in respect of the tank in question, in terms of the survey report submitted by the DDLR.
10. Thereafter, the respondent has submitted his reply to the survey report submitted by the DDLR, Karwar, and after having considered the facts on record, in order to ascertain the true facts, SP, Karnataka Lokayukta, Karwar, was directed to conduct an investigation in accordance with law and to submit the investigation report. Accordingly, Superintendent of Police, Karnataka Lokayukta, Karwar, has submitted the investigation report dtd:4-2-2021, which reads here as under;

ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾರವಾರ

ಕ್ರಮಾಂಕ:ಕಲೋ/ಡಿ.ಎಸ್.ಪಿ/ಅ.ವಿ/2020-2021      ಪೊಲೀಸ್ ಉಪಾಧೀಕ್ಷಕರ ಕಛೇರಿ,

ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ,

ಕಾರವಾರ

ದಿನಾಂಕ: 04/02/2021

ರಿಗೆ,

ಮಾನ್ಯ ಪೊಲೀಸ್ ಅಧೀಕ್ಷಕರು,  
ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾರವಾರ

ವಿಷಯ: ಶ್ರೀ ಪ್ರದೀಪ ಗಣಪತಿ ಗಣಿಯನ್, ವಾಸ ಗಂಜಿಗದ್ದೆ ಗೋಕರ್ಣ, ಕುಮಟಾ ತಾಲೂಕು ರವರು ಶ್ರೀ ಮೇಘರಾಜ ನಾಯ್ಕ, ತಹಶೀಲ್ದಾರ ಕುಮಟಾ ರವರ ವಿರುದ್ಧ ಮಾಡಿಕೊಂಡ ಅರ್ಜಿಯ ವಿಚಾರಣಾ ವರದಿ ನಿವೇದಿಸಿಕೊಂಡ ಬಗ್ಗೆ.

- ಉಲ್ಲೇಖ: 1. ಮಾನ್ಯ ಅಪರ ನಿಬಂಧಕರು, ವಿಚಾರಣೆ-6, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಬೆಂಗಳೂರು ರವರ ಕ್ರ:ಕಂಪ್ಲೆಂಟ್/ಲೋಕ್/ಬಿಜಿಎಂ/125/2020/ ಎಆರ್‌ಇ-6 ದಿನಾಂಕ: 24/12/2020.
2. ಮಾನ್ಯರವರ ಕಛೇರಿ ಕ್ರಮಾಂಕ:ಲೋಕ್/ಎಸ್.ಪಿ/ಕಾರವಾರ/ದೂ.ಅ/20 ದಿನಾಂಕ: 13/01/2020

\*\*\*

ಈ ಮೇಲಿನ ವಿಷಯ ಹಾಗೂ ಉಲ್ಲೇಖನಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಮಾನ್ಯರವರಲ್ಲಿ ಈ ಮೂಲಕ ನಿವೇದಿಸಿಕೊಳ್ಳುವುದೇನೆಂದರೆ, ಮಾನ್ಯರವರು ಉಲ್ಲೇಖ -2 ರನ್ವಯ ಶ್ರೀ ಪ್ರದೀಪ ಗಣಪತಿ ಗಣಿಯನ್, ವಾಸ ಗಂಜಿಗದ್ದೆ ಗೋಕರ್ಣ, ಕುಮಟಾ ತಾಲೂಕು ರವರು ಇವರು ಮಾನ್ಯ ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಬೆಂಗಳೂರು ರವರಿಗೆ ಮಾಡಿಕೊಂಡ ಅರ್ಜಿಯಲ್ಲಿ ಗೋಕರ್ಣ ಗ್ರಾಮ ಸರ್ವೆ ನಂಬರ: 1677 ರಲ್ಲಿ ಇರುವ ತಾಮ್ರಪರ್ಣಿ ಕೆರೆಯು ಒತ್ತುವರಿಯಾಗಿದ್ದು, ಒತ್ತುವರಿಯಾದ ಜಾಗವನ್ನು ತಹಶೀಲ್ದಾರ ಕುಮಟಾ ರವರು ಸರಿಯಾಗಿ ಖುಲ್ಲಾಪಡಿಸಿರುವುದಿಲ್ಲಾ ಅಂತಾ ಆಪಾದಿಸಿರುತ್ತಾರೆ.

ಈ ಅರ್ಜಿಯ ವಿಚಾರಣೆ ಕುರಿತು ಅರ್ಜಿದಾರ ಶ್ರೀ ಪ್ರದೀಪ ತಂದೆ ಗಣಪತಿ ಗಣಿಯನ್, 66 ವರ್ಷ, ವ್ಯಾಪಾರ, ವಾಸ : ಗಂಜಿಗದ್ದೆ, ಗೋಕರ್ಣ, ಕುಮಟಾ ತಾಲೂಕು ಇವರನ್ನು ಹಾಜರಿಟ್ಟುಕೊಂಡು ಸದರಿಯವರ ಹೇಳಿಕೆಯನ್ನು ಪಡೆದುಕೊಂಡಿದ್ದರಲ್ಲಿ, ತಾಮ್ರಪರ್ಣಿ ಕೆರೆಯ ಒತ್ತುವರಿ ಕುರಿತು ತಹಶೀಲ್ದಾರ ಕುಮಟಾ ರವರು ಸದರಿ ಜಾಗದ ಸರ್ವೆಯ ಅಳತೆಯನ್ನು ಸರಿಯಾಗಿ ಮಾಡದೇ ಹಾಗೂ ಒತ್ತುವರಿ ಜಾಗವನ್ನು ಸರಿಯಾಗಿ ಖುಲ್ಲಾಪಡಿಸಿರುವುದಿಲ್ಲವಾಗಿ ಹೇಳಿಕೆಯನ್ನು ನೀಡಿದ್ದು, ಸದರಿಯವರ ಹೇಳಿಕೆಯನ್ನು ಇದರೊಂದಿಗೆ ಲಗತ್ತಿಸಿದೆ.

ತದನಂತರ ಶ್ರೀ ಸಂದೀಪ ತಂದೆ ದಾನಲಿಂಗ ಪೋತದಾರ, 35 ವರ್ಷ, ಭೂಮಾಪಕರು ಕುಮಟಾ ಎ.ಡಿ.ಎಲ್.ಆರ್ ಕಛೇರಿ ಕುಮಟಾ ಸ್ವಂತ ಊರು ನವನಗರ, ಪಂಚಾಕ್ಷಿನಗರ, ಹುಬ್ಬಳ್ಳಿ, ಇವರನ್ನು ಹಾಜರಿಟ್ಟುಕೊಂಡು ಸದರಿಯವರ ಹೇಳಿಕೆ ಪಡೆದುಕೊಂಡಿದ್ದರಲ್ಲಿ ದಿನಾಂಕ: 28/02/2020 ರಂದು ತಾನು ಹಾಗೂ ಆ ಅವಧಿಯಲ್ಲಿದ್ದ ಗೋಕರ್ಣ ಗ್ರಾಮ ಲೆಕ್ಕಧಿಕಾರಿಗಳು, ಶ್ರೀ ಕೃಷ್ಣ ಗೊಂಡ ಕಂದಾಯ ನಿರೀಕ್ಷಕರು, ಸ್ಥಳದಲ್ಲಿ ಹಾಜರಿದ್ದ ಇಬ್ಬರು ಪಂಚರ ಸಮಕ್ಷಮ ಗೋಕರ್ಣ ಗ್ರಾಮ ಸರ್ವೆ ನಂ: 1677 ನ್ನೇದರ

ತಾಮ್ರಪರ್ಣಿ ಕೆರೆಯ ಸರ್ವೆಯನ್ನು ಮಾಡಿ ಪಿ.ಟಿ ಶೀಟ್ ತಯಾರಿಸಿ ವರದಿಯಲ್ಲಿ ಗೋಕರ್ಣ ಗ್ರಾಮ ಸರ್ವೆ ನಂ: 1677 ನ್ನೇದರ ತಾಮ್ರಪರ್ಣಿ ಕೆರೆಯು ಒತ್ತುವರಿಯಾಗಿರುವುದಿಲ್ಲಾ ಅಂತಾ ಭೂದಾಖಲೆಗಳ ಸಹಾಯಕ ನಿರ್ದೇಶಕರು ಕುಮಟಾ ರವರಿಗೆ ವರದಿ ನೀಡಿರುತ್ತೇನೆ.

ತದನಂತರ ತಾನು ದಿನಾಂಕ: 10/12/2020 ಮೌಖಿಕವಾಗಿ ತಹಶೀಲ್ದಾರ ಕುಮಟಾ ಭೂದಾಖಲೆಗಳ ಉಪ-ನಿರ್ದೇಶಕರು ಉತ್ತರ ಕನ್ನಡ ಜಿಲ್ಲೆ ಕಾರವಾರರವರು ಸದರಿ "ತಾಮ್ರಪರ್ಣಿ ಕೆರೆಯು ಒತ್ತುವರಿಯಾಗಿರುವ" ಬಗ್ಗೆ ಭೂಮಾಪನ ಮಾಡಿ ವರದಿ ನೀಡಿರುವ ಬಗ್ಗೆ ತಿಳಿಸಿದ್ದು, ಆ ಕುರಿತು ತಾನು ಈ ಹಿಂದೆ ಸಲ್ಲಿಸಿದ್ದ ಸರ್ವೆ ವರದಿ ವ್ಯತಿರಿಕ್ತವಾಗಿರುವುದಕ್ಕೆ ಕಾರಣದ ಕುರಿತು ಮಾಹಿತಿ ನೀಡಲು ತಿಳಿಸಿದಂತೆ ತಾನು ಅದೇ ದಿನ ಸರ್ವೆ ಉಪಕರಣ ಬಳಸುವಲ್ಲಿ ಏರುಪೇರಾಗಿ ವ್ಯತ್ಯಾಸ ಆಗಿರಬಹುದು ಹಾಗೂ ಒತ್ತುವರಿ ಪ್ರಮಾಣ ಕಡಿಮೆ ಇದ್ದುದರಿಂದ ಅಳತೆ ಸಮಯದಲ್ಲಿ ಒತ್ತುವರಿ ಕಂಡು ಬಂದಿರುವುದಿಲ್ಲಾ. ಹೀಗಾಗಿ ತಾನು ಒತ್ತುವರಿ ಆಗಿರುವುದಿಲ್ಲವಾಗಿ ವರದಿಯನ್ನು ತಹಶೀಲ್ದಾರ ಕುಮಟಾ ರವರಿಗೆ ಸಲ್ಲಿಸಿರುತ್ತೇನೆ.

ನಂತರ ಡಿಡಿಎಲ್‌ಆರ್ ರವರು ಮಾಡಿದ ಭೂಮಾಪನದ ವರದಿಯಿಂದ ತಾಮ್ರಪರ್ಣಿ ಕೆರೆಯು ಒತ್ತುವರಿಯಾಗಿರುವ ಬಗ್ಗೆ ತನಗೆ ತಿಳಿದು ಬಂದಿರುವ ಬಗ್ಗೆ ಹೇಳಿಕೆಯನ್ನು ನೀಡಿದ್ದು ಸದರಿಯವರ ಹೇಳಿಕೆಯನ್ನು ಇದರೊಂದಿಗೆ ಲಗತ್ತಿಸಿದೆ.

ನಂತರದಲ್ಲಿ ಶ್ರೀ ನಾರಾಯಣ ಸ್ವಾಮಿ ತಂದೆ ಲಕ್ಷಯ್ಯ, 56 ವರ್ಷ, ಭೂದಾಖಲೆಗಳ ಉಪ-ನಿರ್ದೇಶಕರು, ಶಿವಮೊಗ್ಗ, ಪ್ರಭಾರ ಭೂದಾಖಲೆಗಳ ಉಪ-ನಿರ್ದೇಶಕರು, ಉತ್ತರಕ ಕನ್ನಡ ಜಿಲ್ಲೆ, ಕಾರವಾರ. ಖಾಯಂ ವಾಸ ಸ್ಥಳ: ಚಿಕ್ಕವೀರಯ್ಯನಪಾಳ್ಯ, ಶಿರಾಗೇಟ್, ಕಾಳಿದಾಸನಗರ, ತುಮಕೂರು, ನಗರ ತುಮಕೂರು ಇವರ ಹೇಳಿಕೆಯನ್ನು ಪಡೆದುಕೊಂಡಿದ್ದರಲ್ಲಿ, ತಾನು ಶಿವಮೊಗ್ಗ ಭೂದಾಖಲೆಗಳ ಉಪ-ನಿರ್ದೇಶಕರಾಗಿ ಮತ್ತು ಪ್ರಭಾರ ಭೂದಾಖಲೆಗಳ ಉಪ-ನಿರ್ದೇಶಕರು ಉತ್ತರ ಕನ್ನಡ ಜಿಲ್ಲೆಯಲ್ಲಿ ಮೇ-10, 2020 ರಿಂದ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿದ್ದು, ಈ ಅವಧಿಯಲ್ಲಿ ಮಾನ್ಯ ಅಪರ ನಿಬಂಧಕರು, ವಿಚಾರಣೆಗಳು-6, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಬೆಂಗಳೂರು ರವರು ಜಿಲ್ಲಾಧಿಕಾರಿಗಳು ಉತ್ತರ ಕನ್ನಡ ದವರಿಗೆ ಗೋಕರ್ಣ ಗ್ರಾಮದ ಗೋಕರ್ಣ ದೇವಸ್ಥಾನ ಹಿಂಭಾಗದಲ್ಲಿರುವ ತಾಮ್ರಪರ್ಣಿ ಕೆರೆಯನ್ನು ಅಳತೆ ಮಾಡಿಸಿ ಒತ್ತುವರಿ ಯಾಗಿದೆಯೇ? ಅಥವಾ ಇಲ್ಲವೇ ಎಂಬದನ್ನು ಅಳತೆಯಿಂದ ಖಚಿತಪಡಿಸಿಕೊಂಡು ಅಗತ್ಯ ದಾಖಲಾತಿಗಳೊಂದಿಗೆ ವರದಿ ಸಲ್ಲಿಸುವಂತೆ ನಿರ್ದೇಶನ ನೀಡಿದ್ದರ ಮೇರೆಗೆ, ಜಿಲ್ಲಾಧಿಕಾರಿಗಳ ಕಛೇರಿಯಿಂದ ಸೂಕ್ತ ಕ್ರಮಕ್ಕಾಗಿ ತನಗೆ ಬಂದಂತೆ ಭೂದಾಖಲೆಗಳ ಉಪ-ನಿರ್ದೇಶಕರಾದ ತಾನು ದೂರು ಅರ್ಜಿದಾರರಾದ ಶ್ರೀ ಪ್ರದೀಪ ಗಣಪತಿ ಗಣಿಯನ್, ಶ್ರೀ ರಾಮಚಂದ್ರ ಸುಬ್ರಾಯ ನಿರ್ವಾಣೇಶ್ವರ, ತಹಶೀಲ್ದಾರ ಕುಮಟಾ ರವರಿಗೆ ನೋಟಿಸ್ ಮೂಲಕ ಮುಂಚಿತವಾಗಿ ತಿಳಿಸಿ ನಿಗದಿಪಡಿಸಿದ ದಿನಾಂಕ: 15/09/2020 ರಂದು ಬೆಳಿಗ್ಗೆ 10.30 ಗಂಟೆಗೆ ಸ್ಥಳಕ್ಕೆ ಹಾಜರಾಗಿ

ತಾಮ್ರಪರ್ಣಿ ಕೆರೆ ಇರುವ ಸರ್ವೆ ನಂಬರ 1677 ಮತ್ತು ಅದರ ಸುತ್ತಲಿನ ಸರ್ವೆ ನಂಬರುಗಳ ಆಧಾರದ ಮೇಲೆ ಸರ್ವೆ ನಂ: 1677 ರ ತಾಮ್ರಪರ್ಣಿ ಕೆರೆಯ ಗಡಿಯನ್ನು ಅಳತೆಯಿಂದ ಗುರುತಿಸಿರುತ್ತೇನೆ. ಅಳತೆ ಕಾಲದಲ್ಲಿ ದೂರು ಅರ್ಜಿದಾರರು, ಮತ್ತು ಗ್ರಾಮಸ್ಥರು, ರಾಮಚಂದ್ರ ನಿರ್ವಾಣೇಶ್ವರ ರವರು ಸ್ಥಳದಲ್ಲಿ ಹಾಜರ ಇದ್ದು, ಕೆರೆಯ ಗಡಿಯನ್ನು ಗುರುತಿಸಿರುವುದನ್ನು ನೋಡಿಕೊಂಡಿರುತ್ತಾರೆ. ಅಳತೆ ಮಾಡಿ ಗಡಿ ಗುರುತಿಸಿದಂತೆ 2 ಕಡೆ ಒತ್ತುವರಿಯಾಗಿರುವುದು ಕಂಡು ಬಂದಿದ್ದು, ಒಂದು ಕಡೆ 40 ಸೆಂ. ಮೀಟರ ಅಗಲ, 5.5 ಮೀಟರ ಉದ್ದ, ಸುಮಾರು 23 ಅಡಿ ಒತ್ತುವರಿಯಾಗಿರುತ್ತದೆ. ಮತ್ತೊಂದು (ಸದರಿ ಸರ್ವೆ ನಂ: 1677 ರಲ್ಲಿ ಭಾಗಶಃ ಜಾಗದಲ್ಲಿ ಶೆಡ್ ಕಟ್ಟಿದ್ದು) ಕಡೆ ಒತ್ತುವರಿಯಾಗಿದ್ದು ಅದರ ವಿಸ್ತೀರ್ಣ 13 ಅಡಿ ಇರುತ್ತದೆ. ಒತ್ತುವರಿಯಾಗಿದ್ದನ್ನು ಸ್ಥಳದಲ್ಲಿ ಬಣ್ಣದಿಂದ ಗುರುತಿಸಿದ್ದು, ಯಾವ ಬಣ್ಣದಿಂದ ಅಂತಾ ನನಗೆ ನೆನಪಿರುವುದಿಲ್ಲ. ತಾಮ್ರಪರ್ಣಿ ಕೆರೆಯ/ಸರ್ವೆ ನಂ: 1677 ಒತ್ತುವರಿಯಾಗಿರುವುದನ್ನು ನಕ್ಷೆಯಲ್ಲಿ ದಾಖಲಿಸಿ, ನಕ್ಷೆಯೊಂದಿಗೆ ವರದಿಯನ್ನು ಮಾನ್ಯ ಹೆಚ್ಚುವರಿ ನಿಬಂಧಕರು, ಕರ್ನಾಟಕಲೋಕಾಯುಕ್ತ ಬೆಂಗಳೂರು ರವರಿಗೆ ದಿನಾಂಕ: 24/09/2020 ರಂದು ಸಲ್ಲಿಸಿರುತ್ತೇನೆ, ಎಂಬಿತ್ಯಾದಿ ಹೇಳಿಕೆಯನ್ನು ನೀಡಿದ್ದು ಸದರಿಯವರ ಹೇಳಿಕೆಯನ್ನು ಇದರೊಂದಿಗೆ ಲಗತ್ತಿಸಿದೆ.

ತದನಂತರದಲ್ಲಿ ಸಹಾಯಕ ಆಯುಕ್ತರು, ಕುಮಟಾ ಉಪ-ವಿಭಾಗ, ಕುಮಟಾ ರವರಿಗೆ ಗೋಕರ್ಣ ಗ್ರಾಮ ಸರ್ವೆ ನಂ: 1677 ರಲ್ಲಿ ಇರುವ ತಾಮ್ರಪರ್ಣಿ ಕೆರೆಯ ಜಾಗವನ್ನು ತಮ್ಮ ಉಪಸ್ಥಿತಿಯಲ್ಲಿ ಜಂಟಿ ಸರ್ವೆ ನಡೆಸಿ ವರದಿ ಸಲ್ಲಿಸುವಂತೆ ದಿನಾಂಕ: 28/01/2020 ರಂದು ಪತ್ರವನ್ನು ಬರೆದುಕೊಂಡಿರುತ್ತೇನೆ.

ನಂತರದಲ್ಲಿ ಸದರಿ ಅರ್ಜಿಯ ವಿಚಾರಣೆ ಕುರಿತು ನಾನು ಹಾಗೂ ಅರ್ಜಿದಾರ ಶ್ರೀ ಪ್ರದೀಪ ಗಣಪತಿ ಗಣಿಯನ್, ಗಂಜಿಗದ್ದೆ, ಗೋಕರ್ಣ, ಕಂದಾಯ ನಿರೀಕ್ಷಕರು, ಪಂಚಾಯತ ಅಭಿವೃದ್ಧಿ ಅಧಿಕಾರಿ ಗೋಕರ್ಣ ಪಂಚಾಯತ ರವರ ಸಮಕ್ಷಮ ಗೋಕರ್ಣದ ತಾಮ್ರಪರ್ಣಿ ಕೆರೆಯ ಸ್ಥಳಕ್ಕೆ ಭೇಟಿ ನೀಡಿ ಪರಿಶೀಲಿಸಿರುತ್ತೇನೆ. ಪರಿಶೀಲನೆ ಕಾಲಕ್ಕೆ ಶ್ರೀ ರಾಮಚಂದ್ರ ಸುಬ್ರಾಯ ನಿರ್ವಾಣೇಶ್ವರ ರವರು ಸ್ಥಳದಲ್ಲಿ ಹಾಜರಿದ್ದು, ಸದರಿ ತಾಮ್ರಪರ್ಣಿ ಕೆರೆಯ ಸಂಬಂಧಪಟ್ಟಂತೆ ಮಾನ್ಯ ಪ್ರಿಸ್ಸಿಪಲ್ ಸಿವಿಲ್ ಜಡ್ಜ್ & ಜೆ.ಎಂ.ಎಫ್.ಸಿ ಕೋರ್ಟ್ ಕುಮಟಾ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಮೂಲ ದಾವಾ ನಂ: 77/2020 ನೇದರಲ್ಲಿ ವಿಚಾರಣೆಯಲ್ಲಿರುವ ಬಗ್ಗೆ ತಿಳಿಸಿರುತ್ತಾರೆ.

ಅದರಂತೆ ನಾನು ಮಾನ್ಯ ಪ್ರಿಸ್ಸಿಪಲ್ ಸಿವಿಲ್ ಜಡ್ಜ್ & ಜೆ.ಎಂ.ಎಫ್.ಸಿ ಕೋರ್ಟ್ ಕುಮಟಾ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಮೂಲ ದಾವಾ ನಂ: 77/2020 ನೇದರ ಪ್ರತಿಗಳನ್ನು ಪಡೆದು ಪರಿಶೀಲಿಸಲಾಗಿ ಸದರಿ ಗೋಕರ್ಣ ಗ್ರಾಮ ಸರ್ವೆ ನಂ: 1677 ತಾಮ್ರಪರ್ಣಿ ಕೆರೆಗೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ಮಾನ್ಯ ನ್ಯಾಯಾಲಯದಿಂದ ತಡೆಯಾಜ್ಞೆಯಾಗಿರುತ್ತದೆ. ಸದರಿ ಮಾಹಿತಿಯನ್ನು ಮಾನ್ಯರವರ ಅವಹಗಾನೆಗಾಗಿ ಸಲ್ಲಿಸಿದೆ. ಇದರೊಂದಿಗೆ ಮೂಲ ಅರ್ಜಿ ಹಾಗೂ ಮಾನ್ಯ ನ್ಯಾಯಾಲಯದ ಆದೇಶ ಪ್ರತಿಗಳನ್ನು ಲಗತ್ತಿಸಿದೆ.

ತಮ್ಮ ವಿಧೇಯ

ಪೊಲೀಸ್ ಉಪಾಧೀಕ್ಷಕರು,  
ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ, ಕಾರವಾರ

11. Perused the investigation report as extracted above carefully. As per the observations made by the Investigating Officer, the earlier survey report submitted by the ADLR was not as per the actual facts. It is further discloses that, as per the directions given by this institution, the DDLR visited the spot on 15-9-2020 and conducted the survey in respect of Sy.No.1677 and identified the Tamra Parani tank area and fixed the boundary marks. He noticed that, one Sri.Ramachandra Subray Nirvaneshwara has encroached the tank area, measuring 5.5 mtr. length and 40 c.m. width totally measuring 23 feet on one side and 13 feet on the other side and got constructed a shed. In pursuance of the said survey report, some portion of the encroached area has been cleared, but, subsequently, the encroacher has approached the competent civil court and got obtained interim order of status-quo.
12. The material collected during the course of investigation prima-facie discloses that, the encroacher has obstructed the officials at the time of removing the encroachment and also the matter has appeared in the newspaper. It also discloses that, Smt.Parvathi Subray Nirvaneshwar and Sri.Ramachandra Subray Nirvaneshwar have filed suit in O.S.77/2020 against the State of Karnataka and the Tahasildar/Administrator of Tamra Gowri temple, Gokarna. The order sheet in O.S.77/2020 discloses

that, when the summons was issued by the competent civil court, to the Tahasildar, to file the written statement, the Tahasildar, even though appeared through AGP, but, did not file the written statement so far, therefore, the competent civil court has passed an order dtd:20-11-2020, directing the parties to maintain status-quo as on 19-11-2020.

13. So, the above material prima-facie shows that, the earlier report submitted by the respondent with regard to the allegations made by the complainant stating that, the respondent has failed to prevent the encroachment in respect of the public tank is not correct. It also shows that, the respondent had submitted the comments, which was not as per the actual facts at the spot. Even, after conducting the further investigation it has come to light that, the respondent has not only submitted the false report to this institution, with regard to the encroachment, but, also failed to take effective steps to prevent the encroachment and also failed to take steps to clear the encroachment, when there was a clear opportunity for him to clear the encroachment in respect of the public tank. It is to be noted that, the tank in question is very important as large number of people worship Gokarnanatheshwara and visit the same to offer pooja and to perform other traditional rituals. Therefore, it is the duty of the respondent being the Administrator of the temple, to see that no portion of the public property is encroached by any person and preventing any devotee to make use of the area for performing several sevaas.

14. Further, it is to be noted that, when facts were within the knowledge of the respondent before receipt of the summons from the competent civil court in relation to suit in O.S.77/2020, the respondent failed to take steps to file the written statement pertaining to the said case and also to request the competent civil court not to grant any interim order, by placing all the relevant material to show that, the encroacher has no equity to seek an order of injunction, since, they are the encroachers of public property. Had the respondent filed the written statement, along with the relevant material, the competent civil court would have been in a position to appreciate the case, before granting the relief of temporary injunction. But, it appears, for the reasons best known to the respondent, he has not filed the written statement and in view of that, the competent civil court has granted the order of status-quo and thereby prevented the authorities from taking further steps for removal of the encroachment. Therefore, the acts on the part of the respondent with regard to protecting the public property, shows that, he did not discharge his duty by maintaining devotion to duty, honesty and integrity and it amounts to misconduct within the meaning of Rule-3(1)(i) to (iii) of KCS (Conduct) Rules, 1966.
15. Hence, in the light of above imputations on records, discloses that, DGO being a Government servant, he has failed to maintain absolute integrity, devotion to duty and acting in a manner of unbecoming of a Government servant and thereby committed misconduct attracting under Rule 3(1) of K.C.S (Conduct) Rules, 1966.

16. Therefore, a report in terms of section-12(3) of Karnataka Lokayukta Act, 1984 was made to the Competent Authority recommending for initiating disciplinary proceedings against **DGO** for his misconduct as defined under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules, 1966 and to entrust the same to this authority as per Rule 14A of KCS (CCA) Rules, 1957.
17. In turn, the Competent Authority initiated disciplinary proceedings against the DGO and entrusted the enquiry to this Institution vide reference No.1 and Hon'ble Upalokayukta-1 has nominated this enquiry Authority to conduct enquiry and report vide reference No.2. **Hence this charge.**

5. The aforesaid Article of charges was served upon the DGO, and the DGO appeared before this enquiry authority and his first oral statement under Rule 11(9) of KCS (CCA) Rules, 1957 was recorded on 08/12/2021. The DGO pleaded not guilty and claimed for holding an enquiry. The DGO has filed Written Statement to the Articles of Charges on 23/12/2021.

6. The DGO had denied the Articles of Charges. The Disciplinary Authority has led evidence of one witness PW-1 & 2 and got marked exhibits Ex.P1 to Ex.P.19. The D.G.O examined witness and documents came to be marked as Ex.D1 to D3.

7. After closing the evidence of Disciplinary Authority, Second Oral Statement of D.G.O, was recorded on 28/04/2022. He claimed that false evidence was given against him.



8. Heard the arguments.

9. Now, the points that arise for my consideration are;

1 : *Whether the charges leveled against the DGOs are proved by the Disciplinary Authority?*

2 : *What order?*

10. My findings to the aforesaid points are as under:-

POINT No.1 : In the AFFIRMATIVE

POINT No.2: As per the final order for the following;

### **REASONS**

11. **POINT NO. 1** : This is the case of the complainant that, the Mahabaleshwara Temple including Tamra Parani tank which is situated at Gokarna Village, Kumta Taluk, Karwar District. It has history of more than 3000 years and said Temple comes under Archeological Department i.e., Muzarai Department of Mysore and said temple situated in Sy.No.1677 of Gokarna Village. One Ramachandra Subbaraya Nirvaneshwara had got constructed 5 storied commercial complex with lodging and boarding and also super market in basement of the building in Sy.No.6 of said village by encroaching the extent of 5.5 mtr., length and 40 cmtr., width totally measuring 23 ft., one side and 13 ft., on another side of the said tank area which was situated behind the constructed building and said constructed sewerage water passing through encroached area and the said drain water hurting the sentiments of the devotees who have visited the Tamra Gowri Temple.

12. To that effect complainant has written several correspondence to the Tahsildar, who is care taker of said Tamra Gowri Temple which is comes under the Muzarai Department, D.C, Karwar, CEO, Zilla Panchayath, Karwar, Archeological Department, and also to take action about said Ramachandra Nirvaneshwar. But they have not taken any suitable action against the said Ramachandra Nirvaneshwar.

13. Further, the said owner of the building had not taken prior permission for construction of the said complex from Gokarna Gram Panchayath and Tahsildar, Kumata, and alleged construction of building it was also published in local News Papers. He has also produced the copies of letters issued to the aforesaid officials. In spite of giving such complaints before the concerned officials, they have not taken any suitable action and thereafter only he has filed the present complaint before this institution.

14. The complainant who is examined as PW-1 he has reiterated the averments made in the complaint and he has produced the documents which are marked as Ex.P.1 to Ex.P.12.

15. On perusal of Ex.P.7 letter dt.12/7/2018 written by the Commissioner, Archaeological, Museum and Heritage Department, Mysore, addressed to the D.C, Karwar, Uttara Kannada, with respect to protect the Sri.Mahabaleshwara Temple which is situated in Sy.No.1677 not to encroach within the limits of 200 to 300 mtrs., which is prohibited area no one shall construct any building except without taking prior permission from the Government. As per Ex.P.6 D.C. Karwar wrote letter to the Tahsildar, Kumata with respect to said fact dt.15/6/2019 any construction made within the limits of the said temple with reference to complaint given by the complainant, and also to maintain it clean. As per Ex.P.5 Assistant Commissioner of

Kumata wrote a letter dt.26/11/2019 to the P.D.O, Gokarna to remove the encroachment area made by one Sri.Ramachandra Nirvaneshwara in Sy.No.6 of said village why he has not taken any action despite order passed by the Tahsildar, Kumata. As per Ex.P.4 the PDO Gokarna have passed resolution on 6/11/2019 with respect to encroachment of Tamra Parani Tank area stating that Tamra Gowri Temple and Tamra Parani Tank which has been encroachment removal to be made by the Administrator/ Tahsildar it comes within his jurisdiction. Therefore, in spite of aforesaid documents and also paper publication as per Ex.P.8 and 9 produced by the complainant, the said DGO has not taken any action with respect to removal of encroachment made by said Ramachandra Nirvaneshwara. Thereby only the complainant constrained present complaint before this institution.

16. After appearance of DGO and he has filed report before the ARE-6 as per the complaint filed by the complainant and in the report he has conducted survey of the disputed property with the assistance of ADLR who has conducted the survey through Taluk Surveyor and he has submitted the report stating that there was no any encroachment of Tamra Parani Tank situated, adjacent to building constructed by Sri.Ramachandra Nirvaneshwara. For the said report submitted by the DGO, the complainant has filed rejoinder as per Ex.P.12. In the rejoinder he has denied the entire report submitted by the DGO stating that, DGO in collusion with Ramachandra Nirvaneshwara, he had taken breakfast in the house of Ramchandra Nirvaneshwara and at the time of conducting survey one of the member of said Panchayath by name Mahesh Shetty was not called at the time of conducting survey and thereby he denied the entire survey conducted by the Taluk Surveyor. As per order of D.C, Karwar dt.5/9/2020 and also ARE-6 conduct fresh survey of disputed property through D.D.L.R, Karwar with assistance of the S.P,

20

KLA, Karwar. Accordingly, DDLR, Karwar conducted fresh survey on 15/9/2020 in presence of the complainant, DGO, and villagers and submitted report as per Ex.P.11 to ARE-6 dt.24/9/2020. On perusal of survey sketch of Sy.No.1677 of Gokarna Village demarcating A, B, C, D, Sl.No.3 shown with green colour 40 cm., width, 5.5 mtr length approximately 23 ft., or ½ Ana was encroached area in Tamra Parani Tank. The said sketch marked as Ex.P.11(a) and the statement of complainant and Ramachandra Subbraya Nirvaneshwar is marked as Ex.P.11(b) and the signature of complainant is marked as Ex.P.11(c) and said statement is signed by DDLR and other witnesses.

17. The other documents R.I, Gokarna wrote letter to Tahsildar, Kumata to submit documents pertains to disputed property which is marked as Ex.P.10. original copy of the complaint, Form No.I and II are marked as Ex.P.1 to 3 and his signature marked as P.1(a) to 3(a) respectively.

18. PW.1 in his cross examination he deposed that, he was running petty shop near Ganjigadde on rental basis and the said shop is situated in Sy.No.6. The said shop was belongs to one Champa. The said shop was not rented to him. Further, he deposed that the said Champa was not running petty shop in Sy.No.6 about more than 3-4 years. It is true that Sy.No.6 and Sy.No.1677 are situated adjacent to each other. It is true that, the encroached area which was constructed in Sy.No.6 by Ramachandra Nirvaneshwara. Further, it is true that, the said building constructed in Sy.No.6 then only he was left petty shop which was belongs to said Champa. He do not know said Champa was filed case against Sri.Ramachandra Nirvaneshwara and he denied the suggestion that, at the instance of said Champa he was filed false complaint before this authority against

the DGO. Further it is true that, after filing the present complaint ADLR was conducted the survey with respect to disputed Sy.No.6 property. But, he voluntaries that ADLR was not conducted the survey in accordance with law and survey sketch was not properly shown. He denied the suggestion that, after construction of the building in Sy.No.6 he has filed complaint before this authority. Further he denied the suggestion that, since DGO/Tahsildar was not proper person to look after the said Temple, but, he voluntaries that DGO/Tahsildar was the administrator of the said temple and thereby only he has filed the said complaint against the DGO, since he has not properly discharged his official duty knowing fully well that the said Ramachandra was encroached the Tamra parani portion of the tank. It is true that he was present when Surveyor and others were present for removal of encroached area but he voluntaries that encroachment was not at all removed till today. He denied other suggestions.

19. PW-2 retired Dy.S.P. He deposed that from 5/6/2020 to 30/9/2021 he has served as Dy.S.P, Karnataka Lokayukta, Karwar. As per the direction of S.P, KLA, Dharwad dt.15/1/2021 he has conducted investigation and submitted report. Prior to conducting investigation he has issued notice to the complainant and respondent on 21/1/2021 and also he has visited the spot and submitted the report. He has also recorded the statement of the complainant and the respondent. As per the statement of the complainant Ramachandra Nirvaneshwara was not removed the encroached area of Tamra Parani Tank and statement of the said complainant is marked as Ex.P.13 and signature of the complainant is marked as Ex.P.13(a) and the signature of the Dy.S.P., is marked as Ex.P.13(b). He has also recorded the statement of the ADLR, Kumta on 27/1/2021, but ADLR has stated that there was no any encroachment in Sy.No.1677

wherein Tamra Parani Tank is situated. Thereafter on 10/12/2020 the Tahsildar stated that ADLR has conducted the survey and there was no any encroachment.

20. Then, the D.D.L.R, Karwar was conducted fresh survey with the help of Surveyor of their department by name Sri.Sandeep and submitted report. As per the report submitted by the DDLR there was encroachment of Tamra Parani Tank and to that effect he has recorded the statement of Surveyor by name Sandeep on 27/1/2021. The statement of Sri.Sandeep is marked as Ex.P.14 and signature of Sandeep is marked as Ex.P.14(a) and the signature of the Dy.S.P, is marked as Ex.P.14(b). Then on 28/1/2021 he wrote a letter to the Assistant Commission, Kumta Sub-Division for conducting joint survey for removal of encroached area. The copy of the letter is marked as Ex.P.15 and the signature is marked as Ex.P.15(a). Then on 29/1/2021 himself, his staff, complainant, Revenue Inspector, PDO visited the spot and he came to know that, said Ramachandra was filed civil Suit before the Hon'ble Principal Civil Judge and JMFC, Kumta bearing O.S.No.77/2020 for the relief of permanent injunction and he has stated that the Court has passed order to maintain status-quo. Copy of the plaint of O.S.No.77/2020 is marked as Ex.P.16. Order sheet of the O.S.No.77/2020 of Civil Judge, Kumta marked as Ex.P.17. The statement of Narayanaswamy incharge ADLR, Karwar recorded on 3/2/2021 is marked as Ex.P.18 and signature of ADLR is marked as Ex.18(a) and signature of the Dy.S.P. marked as Ex.18(b). The original copy of the report submitted by the Dy.S.P, to the S.P, dt.4/2/2021 which is marked as Ex.P.19 and the signature of the Dy.S.P, is marked as Ex.P.19(a).

21. Further P.W.2 deposed that, on 3/2/2021 Narayanaswamy as per the direction of the DDLR has conducted

fresh survey on 15/9/2020 and he has submitted report alongwith sketch wherein it reveals that there was encroachment of Tamra Parani Tank to extent of 13 ft one side and another side 23 ft and he has submitted the sketch before the Enquiry Officer, ARE-6 and he has also recorded the statement of Sri.Narayanaswamy as per Ex.P.18 and the signature of Sri.Narayanaswamy marked as Ex.P.18(a) and signature of P.W.2 is marked as Ex.P.18(b). He has submitted the enquiry report to the S.P, KLA, Karwar which is marked as Ex.P.19 and his signature is marked as Ex.P.19(a).

22. In his cross, he deposed that, he was studied B.Com and diploma in Pharmacy. It is true that he has not given notice to the DGO prior to conducting enquiry. Further it is true that he has not verified which type of instrument has been used by the surveyor and also he has not made enquiry with respect to survey conducted by the surveyor. It is true that he has wrote a letter to the Assistant Corporator of Karwar with respect to disputed property for conducting joint survey, but joint survey was not conducted. He was visited the spot on 29/1/2021 and on that day the DGO was not present and he has not given any notice to DGO for his appearance on the said date. It is true that he came to know that about pendency of the aforesaid suit on 29/1/2021 and thereafter he has stopped the investigation. He denied the suggestion that, the encroachment was already removed.

23. The DGO himself examined as DW.1 by filing chief affidavit. He submitted that the complainant has filed complaint against him with ulterior motive. He has discharged his duty with at most sincerity and honesty, except present case no any allegation were made his tenure of his service. There are several litigations are pending between relatives of complainant and Ramachandra Nirvaneshwara. One of the relatives of the

complainant by name Champa Mallanna was running grocery shop in Sy.No.6 of Gokarna Village which is adjacent to the Tamra Parani Tank situated at Sy.No.1677. Further he deposed that Taluk Surveyor of ADLR office was carried out the survey of said Tank area and he has submitted report dt.28/2/2020 alongwith survey sketch and said surveyor did not depict any sought of encroachment in the area as alleged in the complaint. Since there is no whisper of encroachment in the report the question of the removal of the same is not arise.

24. As per the direction given by this authority, DDLR was conducted survey on 15/9/2020 and survey sketch prepared and it shown as encroachment of  $\frac{1}{2}$  ana land of Sy.No.1677. As per the report submitted by the DDLR on 15/9/2020 he has removed encroachment of Sy.No.1677 on 11/11/2020 and same has been communicated to ARE-6 as per letter dt.10/12/2020. He further deposed that the disputed property Ramachandra Subbaraya Nirvaneshwara has already filed suit bearing O.S.No.77/2020 on 12/10/2020 for the relief of declaration and injunction against the defendants and in that suit the Deputy Commissioner of Karwar , Tahsildar, Kumta are made as defendant No.1 and 2 and in that suit they have given instructions to the Government Advocate represented on their behalf. The Government Advocate filed written statement. The Hon'ble Court passed order to maintain status-quo. On all other reasons he prays for drop the proceedings against him. In support of his case he has produced copy of report dt.5/7/2021 marked as Ex.D-1 and also one Champa who has filed appeal No.384/2015 under Sec.7A of Karnataka Land Reforms Act, and the said appeal was dismissed on 30/8/2015. Subject to objection which is marked as Ex.D.2. he has also produced copy of order dt.11/11/2021 passed by the D.C, Uttara Kannada, Karwar as per order of Principal Secretary to Government of Karnataka, Revenue Department since DGO



was already retired from service, thereby there is no necessity to conducting departmental enquiry and the copy of the same is marked as Ex.D.3.

25. In his cross, he deposed that, it is true that, he know the survey report conducted by one Sandeep Potedar. Further he do not know whether the surveyor has given notice to said Ramachandra Nirvaneshwara who has encroached the disputed property. Further, he do not know, since the surveyor has not conducted the survey properly by giving notice to the respective parties and on account of that, he has not given application for conducting fresh survey. The said Taluk Surveyor was not conducted survey in presence of complainant and Ramachandra Nirvaneshwara and thereby only DW-2 was not drawn mahazar.

26. It is true that, he has not having any personal revenge against the complainant as stated by him in para No.3 of his chief examination. It is true that the surveyor has not drawn the survey in presence of complainant and thereby only the complainant has filed the present complaint before this authority against him. It is true that, after filing the complaint by the complainant, even after due service of notice he has not filed any objections to the complaint during the tenure of his service. It is true that, as per the survey conducted by the DDLR and it is shown that, Tamra Parani Tank was encroached and said survey map discloses encroached area. It is true that there is no dispute between the present complainant and Ex.D.2.

27. As per Ex.D.3, it is true that, there is no any specific order from the Government not to conduct departmental enquiry against him.

28. DW-2 who is Taluk Surveyor of Kumata in his chief, he deposed that, he has served as Taluk Surveyor at ADLR Office, Kumata for the year 2013 to 2018 and he has conducted survey

of disputed property on 28/2/2020 and he has submitted report and he has stated that there is no any encroachment of Tamra Parani tank as per his report. Further he has given the statement before the S.P, KLA, Karwar stating that, at the time of conducting survey, the survey instrument by using the same there will be variation.

29. In his cross of DW.2, he deposed that, he has not given prior intimation to the complainant and also not intimated date of survey to the complainant through Village Accountant and Revenue Inspector. It is true that himself, Village Accountant and Revenue Inspector none other persons were present at the time of drawing survey of the disputed property. Further he deposed that, at the time of conducting survey he has drawn mahazar but he cannot say the names of mahazar witnesses but he voluntaries that, the villagers have stood as mahazar witness. It is true that he has not given notice in writing to the witnesses who have acted as mahazar witness. Further it is true that, there was no any impediment for giving notice to the complainant, mahazar witness mentioning the date of conducting survey. Further he denied the suggestion that he has drawn survey at the instance of Ramachandra Nirvaneshwara. Further it is true that, DDLR has conducted fresh survey and in that survey there was encroachment of Tamra Parani Tank which was made by Ramachandra Nirvaneshwara. He denied other suggestions.

30. On evidence of DW-2, Taluk Surveyor who has conducted the survey of disputed property on 28/2/2020, he has submitted the report there was no encroachment of Tamra Parani Tank. Whereas he has given statement before the S.P, KLA, Karwar stating that, at the time of conducting survey, the survey instrument by using the same will be variation.

31. Further in his cross, as per para No.28, he has given categorical admission that he has not given prior intimation to the complainant and mahazar witnesses about date of survey of disputed property and he has also admitted that as per fresh survey conducted by the D.D.L.R, in that survey there was encroachment of Tamra Parani Tank made by Ramachandra Nirvaneshwara to the extent of 23 ft. Therefore it can be presumed that, at the instance of Ramachandra Nirvaneshwara he has given false report stating that there was no encroachment. Though in the instant case of the complaint the said Taluk Surveyor was not made as party and report under Sec.12(3) was also not sent to the Government against the DW-2 i.e., Sandeep Potadar, Taluk Surveyor, Kumta. But, the DGO has examined said Sandeep Potadar as witness and thereby he can be presumed that he has given false report in the instance of DGO. Hence, the Government may take appropriate action against the DW-2 i.e., Sandeep Potadar, Taluk Surveyor, Kumta, who has submitted false report at the time of conducting survey of disputed property there was no encroachment. On the other hand D.D.L.R. conducting the fresh survey of the disputed property shows there was encroachment of 23 ft., by the Ramachandra Nirvaneshwara and that fact admitted by the DW.2, for that reason the Government may take appropriate action against the DW.2 as he has given false report.

32. On perusal of oral evidence of complainant and also documents produced by the complainant and the evidence of DGO and documents produced by the DGO. It is admitted that, the complainant has filed the complaint against the DGO who is Custodian and Administrator of Sri.Mahabaleshwara Temple, Gokarna, Tamra Gowri Temple including Tamra Parani Tank which is situated in Sy.No.1677 of Gokarna Village and Sy.No.6 of said village adjacent to Tamra Parani Tank. So also it is

admitted that, one Sri.Ramachandra Subbaraya Nirvaneshwara was/is constructed 5 storied building complex, it consists of lodging, boarding and at basement commercial shop. It is also admitted that, said Mahabaleshwara Temple of Gokarna, it has got history of more than 3000 years which comes within the jurisdiction of Archeological Department of Mysore. Further, it is also admitted fact that, prior to filing of complaint by the complainant, he has given complaint before the Assistant Commissioner, Deputy Commissioner, Karwar, alleging that, said Ramachandra Nirvaneshwara has encroached the Tamra Parani Tank and constructed the said building without obtaining prior permission from the Gram Panchayath and also Tahsildar, since said building is constructed in Sy.No.6 of said village. Further, the complainant in spite of giving complaint before the aforesaid officers/officials, they have not taken proper action against the said Ramachandra Nirvaneshwara and thereby complainant constrained the present complaint.

33. As per the evidence of DW-2, he has deposed that, as per the order of ADLR Kumta, he conducted survey of the disputed property on 28/2/2020 in the presence of Village Accountant, Revenue Inspector and he came to know that there was no any encroachment as per the allegations made by the complainant and he has submitted the report. In the cross examination he deposed that, prior to conducting the survey of the disputed property he has not given notice in writing to the Village Accountant and R.I, and villagers and also the present complainant. Further there was no any impediment for giving notice to the aforesaid persons. And so also, he do not know who have stood as mahazar witness and he has also not given notice to the mahazar witness and thereby only the report submitted by him was not accepted.

34. It is also admitted fact that, the encroachment made by the said Ramachandra Nirvaneshwara about Tamra Parani tank area and said fact was published in local news paper as per Ex.P.8 & 9. Further it is also admitted that, during pendency of the said complaint bearing No.Uplok/BGM-125/2020/ARE-6 as per the order of the Upalokayukta, S.P, KLA, Karwar, directed D.C, Karwar and during that time the Deputy Commissioner, Karwar was given direction to the DDLR to conduct fresh survey of disputed Sy.No.1677 and submit report and accordingly DDLR was submitted the report alongwith Survey map which was drawn in presence of complainant, Ramachandra Nirvaneshwara and villagers, and said survey sketch and the letter submitted by the D.C, Karwar to ARE-6 which is marked as Ex.P.11. The DDLR has conducted survey of Sy.No.1677 on 15/9/2020 and survey map clearly disclosed that, Sl.No.1 to 5 which are marked in map A to D among them Sl.No.3 shown as 40 cm width, 5.5 mtr length totally to the extent of 23 ft. 04 cents in Sy.No.1677 is encroached property and said Tamra Parni Tank is encroached to the extent of ½ Ana. That itself clearly goes to show that the encroachment made by Sri.Ramachandra Nirvaneshwar of said Tank and constructed building and sewerage water passing to the said Tank and caused hurt the sentiments of devotees who have visited the said Temple.

35. During the course of arguments, counsel for DGO relied unreported order passed by the Hon'ble High Court in W.P.6677/2010 (S-DE) dt.10/10/2018, it relates to reinstate of Bank Employee. And another citation reported in (2007) 4 SCC 566 it is with respect to receiving of bribery by the Government employee. The proceedings in the aforesaid cases about misconduct by Government servant are all together different with respect to facts of the said case in the hand.

36. Since with respect to disputed property said Ramachandra Nirvaneshwara who has filed the suit after DDLR has conducted survey of the disputed property and submitted report as per Ex.P.11 with other documents and there was encroachment to the extent of 23 ft., ( $\frac{1}{2}$  Ana) in Sy.No.1677 and thereafter, only he has filed the suit O.S.No.77/2020 against the DGO and D.C, Karwar and filing of the said suit it amounts to said Ramachandra encroached the disputed property and DGO knowing fully well he has fails to remove the encroached property who was the Administrator of Mahabaleshwara Temple.

37. Hence, in this case, on perusal of the evidence of PW-1 and PW-2 and documents produced by the complainant and specific survey conducted by the DDLR and report submitted by him which is marked as Ex.P.11, it clearly reveals that, one Ramachandra Nirvaneshwara who has constructed the building by encroaching Tamra Parani Tank in Sy.No.1677 to the extent of 23 ft i.e.,  $\frac{1}{2}$  Ana, has been proved by the disciplinary authority. Thereby the probability of preponderance is higher on the side of disciplinary authority rather than the DGO and in the light of above, I, constrained to hold point No.1 in the affirmative.

38. **POINT NO. 2** : In view of my finding on point No. 1 and for the foregoing reasons, I proceed to record the following ;

**: FINDINGS :**

*The Disciplinary Authority has proved the charges levelled against the DGO Sri.Megharaj Naik, the then Tahsildar, Office of Tahsildar, Kumata Taluk, Uttara Kannada District (presently retired).*

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

Dated this the 6<sup>th</sup> September, 2022



(Rajkumar S Amminbhavi)  
Additional Registrar (Enquiries-17)  
Karnataka Lokayukta, Bengaluru

### ANNEXURES

#### I. LIST OF WITNESS/S EXAMINED ON BEHALF OF DISCIPLINARY AUTHORITY :-

- PW 1** : Sri. Pradeep Ganapathi Ganeyan, Near  
Karnataka Bank, Ganjigadde, Gokarna,  
Karwar, Uttara Kannada District  
(Complainant)
- PW 2** : Sri. M. Kalyan Kumar, Deputy  
Superintendent of Police, Karnataka  
Lokayukta, Karwar.

#### II. LIST OF DOCUMENTS MARKED ON BEHALF OF DISCIPLINARY AUTHORITY :-

|           |                                                                                            |
|-----------|--------------------------------------------------------------------------------------------|
| Ex.P.1 :  | Written complaint dt.28/12/2019                                                            |
| Ex.P.2 :  | Form No.I                                                                                  |
| Ex.P.3 :  | Form No.II                                                                                 |
| Ex.P.4 :  | Resolution dt.6/11/2019                                                                    |
| Ex.P.5 :  | Letter dt.28/11/2019 of A.C. Kumta                                                         |
| Ex.P.6    | Letter dt.15/6/2019 of D.C. Karwar                                                         |
| Ex.P.7    | Letter dt.12/7/2018 of Commissioner,<br>Department of Archaeology, Museums and<br>Heritage |
| Ex.P.8    | News paper                                                                                 |
| Ex.P.8(a) | Portion of publication in news paper                                                       |
| Ex.P.9    | News paper                                                                                 |
| Ex.P.9(a) | Portion of publication in news paper                                                       |
| Ex.P.10   | Report of Revenue Inspector                                                                |

|            |                                                                                                                                   |
|------------|-----------------------------------------------------------------------------------------------------------------------------------|
| Ex.P.11    | Letter dated 24/09/2020 of Technical Assistant of Deputy Commissioner and Deputy Director of Land Records, Uttara Kannada Karwar. |
| Ex.P.11(a) | sketch map                                                                                                                        |
| Ex.P.11(b) | statement of complainant                                                                                                          |
| Ex.P.11(c) | Signature of complainant                                                                                                          |
| Ex.P.12    | rejoinder of the complainant dated 30/05/2020                                                                                     |
| Ex.P.13    | statement of complainant dated 21/01/2021                                                                                         |
| Ex.P.13(a) | complainants signature                                                                                                            |
| Ex.P.13(b) | signature of the I.O.                                                                                                             |
| Ex.P.14    | Statement of DW-2                                                                                                                 |
| Ex.P.14(a) | Signature of DW-2                                                                                                                 |
| Ex.P.14(b) | signature of the I.O.                                                                                                             |
| Ex.P.15    | Letter dated 28/01/2021 of I.O. addressed to Assistant Commissioner, Kamata Sub-Division                                          |
| Ex.P.16    | Order sheet in O.S. No.77/2020                                                                                                    |
| Ex.P.17    | Copy of plaint                                                                                                                    |
| Ex.P.18    | Statement of Narayana Swamy dated 03/02/2021                                                                                      |
| Ex.P.19    | Letter dated 04/02/2021 of Dy.S.P. KLA, Karwar addressed to SP, KLA, Karwar                                                       |

**III. LIST OF WITNESS/S EXAMINED ON BEHALF OF DGO :**

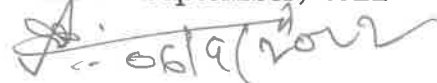
**DW-1:** Sri.Megharaj Naik, the then Tahsildar, Office of Tahsildar, Kumata Taluk Uttara Kannada District.

**DW-2:** Sandeep Pothadhar, Land Surveyor, Kumata

**IV. LIST OF DOCUMENTS MARKED ON BEHALF OF DGO :**

|          |                                                                                                                                |
|----------|--------------------------------------------------------------------------------------------------------------------------------|
| Ex.D.1 : | Letter dated 15/07/2021 of Assistant Commissioner, Kumata Sub-Division addressed to Deputy Commissioner, Uttara Kannada Karwar |
| Ex.D.2 : | Orders of Hon'ble KSAT Bengaluru dated 30/08/2017 in appeal No. 384/2015                                                       |
| Ex.D.3 : | Letter dated 11/11/2021 of Deputy Commis Kannada Karwar                                                                        |

Dated this the 6<sup>th</sup> September, 2022



(Rajkumar S Amminbhavi)  
Additional Registrar (Enquiries-17)  
Karnataka Lokayukta, Bengaluru