

BEFORE THE ADDITIONAL REGISTRAR, ENQUIRIES-11

KARNATAKA LOKAYUKTA, BENGALURU

ENQUIRY NUMBER UPLOK-1/DE/193/2016

ENQUIRY REPORT Dated: 30/07/2019

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

Delinquent Government Official : Sri. Balaji

Discharged duties as Panchayath
Development Officer, Chimakoda
Grama Panchayithi, Bidar Taluk,
Bidar District in the year 2010-11.

Due for retirement on
superannuation on 30/06/2039.

1. During the year 2010-11 Delinquent Government Official (in short, "DGO") was working as Panchayath Development Officer attached to Chimakoda Grama Panchayithi, Bidar Taluk, Bidar District. He is due for retirement on superannuation on 30/06/2039.
2. Background for initiating the present inquiry against DGO needs to be narrated in brief. Complaint dated 09/12/2011 of one Siddappa (hereinafter will be referred to as "complainant"), resident of Kangati, Bidar Taluk, Bidar District against Smt. Shobha the President of Chimakoda Grama Panchayithi and against the DGO came to registered in COMPT/UPLOK/GLB/324/2011/ARE-7. According to the complainant, husband of Smt. Shobha is the proprietor of Sangameshwar Electricals, Bidar. Smt. Shobha purchased CFL bulbs from Sangameshwar Electricals and issued two cheques

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to her husband without either inviting quotations calling for price list before purchase of CFL bulbs.

3. In exercise of the powers conferred upon under section 9 of The Karnataka Lokayukta Act, 1984, Hon'ble Upalokayukta, Karnataka took up investigation and referred the matter to Technical Audit Cell attached to Karnataka Lokayukta, Bengaluru. The Executive Engineer (hereinafter will be referred to as "Investigating Officer") attached to Technical Audit Cell, Karnataka Lokayukta, Bengaluru for probe. Investigation conducted by the Investigating Officer unearthed that the complainant being the member of Chimakoda Grama Panchayithi in violation of rules received a sum of Rs.5,000/- for painting of Samudaya Bhavana in the background of celebration of Ambedkar Jayanthi. Investigation unearthed that Smt. Shobha purchased CFL bulbs from her husband who is the proprietor of Sangameshwar Electricals and issued cheque dated 29/03/2011 for Rs.50,000/- and issued one more cheque for Rs.50,000/- on 10/04/2011 towards purchase of CFL bulbs. Investigation further unearthed that before purchase of bulbs, DGO neither prepared estimate touching the cost of bulbs nor obtained approval from the competent authority.
4. On the basis of the materials on record, Hon'ble Upalokayukta-1, Karnataka prima facie arrived at conclusion that as the member of Chimakoda Grama Panchayithi, Smt Shobha should not have purchased bulbs from the shop of her husband. Hon'ble Upalokayukta, Karnataka also arrived at conclusion on the basis of the available records that there are prima facie materials to reveal that DGO has neither called for quotations nor prepared estimate and equally not obtained approval from the competent authority earlier to the above

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transaction which act of DGO amounts to 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 the DGO and to 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 13/05/2016 under section 12(3) of The Karnataka Lokayukta Act,1984, Government Order bearing number ಗ್ರಾಅಪ/303/ಗ್ರಾಪಂಕಾ/2016 ಬೆಂಗಳೂರು ದಿನಾಂಕ 09/06/2016 has been issued by the Deputy Director and Ex-Officio Under Secretary to the Government of Karnataka, Department of Rural Development and Panchayath Raj entrusting the inquiry 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 Government Order ಗ್ರಾಅಪ/303/ಗ್ರಾಪಂಕಾ/2016 ಬೆಂಗಳೂರು ದಿನಾಂಕ 09/06/2016, Order number UPLOK-1/DE/193/2016 Bengaluru dated 23/06/2016 has been ordered by the Hon'ble Upalokayukta, Karnataka nominating the Additional Registrar, Enquiries-11, Karnataka Lokayukta, Bengaluru as Inquiry Officer to frame charges and to conduct departmental inquiry against the DGO.
7. Articles of charge dated 18/08/2016 at Annexure-I which includes statement of imputation of misconduct at Annexure-II framed against the DGO is the following:

ಅನುಬಂಧ-1
ದೋಷಾರೋಪಣೆ

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ನೀವು ಬೀದರ್ ತಾಲ್ಲೂಕಿನ ಚೀಮಕೋಡ ಗ್ರಾಮ ಪಂಚಾಯಿತಿ ಪಂಚಾಯಿತಿ ಅಭಿವೃದ್ಧಿ ಅಧಿಕಾರಿಯಾಗಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿರುವಾಗ, ಸಿ.ಎಫ್.ಎಲ್. ಬಲ್ಟ್ ಖರೀದಿಗಾಗಿ ಯಾವುದೇ ಅಂದಾಜು ಪಟ್ಟಿ ತಯಾರಿಸದೇ, ದರಪಟ್ಟಿಗಳನ್ನು ಕರೆಯದೇ, ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರದಿಂದ ಯಾವುದೇ ಅನುಮತಿ ಪಡೆಯದೇ ರೂ.50,000/- ಬೆಲೆಯ ಬಲ್ಟ್‌ಗಳನ್ನು ಖರೀದಿಸಿ, ಸರಬರಾಜುದಾರರಿಗೆ ಎರಡು ಚೆಕ್‌ಗಳನ್ನು ನೀಡುವ ಮೂಲಕ ಕರ್ತವ್ಯಲೋಪ ಎಸಗಿ ಸರ್ಕಾರಿ ನೌಕರನಿಗೆ ಉಚಿತವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡು ದುರ್ನಡತೆಯಿಂದ ವರ್ತಿಸಿ, ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ ನಿಯಮಗಳು (ನಡತೆ) 1966 ನಿಯಮ 3(1)ರಡಿಯಲ್ಲಿ ದುರ್ನಡತೆ ಎಸಗಿದ್ದೀರಿ.

ಅನುಬಂಧ-2

ದೋಷರೋಪಣೆಯ ವಿವರ

ದೂರುದಾರರಾದ ಶ್ರೀ ಸಿದ್ದಪ್ಪ ಬಿನ್ ಶಾಮಣ್ಣ, ಚೀಮಕೋಡ ಗ್ರಾಮ ಪಂಚಾಯಿತಿಯ ಸದಸ್ಯರು, ಚೀಮಕೋಡ, ಬೀದರ್ ತಾಲ್ಲೂಕು ಇವರು ಗ್ರಾಮ ಪಂಚಾಯಿತಿಯ ಅಧ್ಯಕ್ಷರಾದ ಶ್ರೀಮತಿ ಶೋಭಾ ಮತ್ತು ಶ್ರೀ ಬಾಲಾಜಿ, ಪಂಚಾಯಿತಿ ಅಭಿವೃದ್ಧಿ ಅಧಿಕಾರಿ ಆದ ನಿಮ್ಮ ವಿರುದ್ಧ ದೂರನ್ನು ಸಲ್ಲಿಸಿ, ಅಧ್ಯಕ್ಷರಾದ ಶ್ರೀಮತಿ ಶೋಭಾ ಇವರು ರೂ.1-00 ಲಕ್ಷ ಬೆಲೆಬಾಳುವ ಸಿ.ಎಫ್.ಎಲ್. ಬಲ್ಟ್‌ಗಳನ್ನು ಅಧ್ಯಕ್ಷರ ಗಂಡನಿಗೆ ಸೇರಿದ ಶ್ರೀ ದೇವಿದಾಸ್ ಸಂಗಮೇಶ್ವರ ಎಲೆಕ್ಟ್ರಿಕಲ್ಸ್ ಎಂಬುವವರಿಂದ ಖರೀದಿಸಿದ್ದು, ಸದರಿ ಬಲ್ಟ್‌ಗಳಿಗೆ ಆಪಾದಿತ ನೌಕರರಾದ ಶ್ರೀ ಬಾಲಾಜಿ ಇವರು ಚೆಕ್‌ಗಳನ್ನು ವಿತರಿಸಿದ್ದು, ಈ ರೀತಿ ಖರೀದಿಗೆ ಯಾವುದೇ ದರಪಟ್ಟಿಯನ್ನು ಕರೆದಿರುವುದಿಲ್ಲವೆಂದು ಆಪಾದಿಸಿರುತ್ತಾರೆ.

ಸದರಿ ದೂರಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಸದರಿ ದೂರು ಪ್ರಕರಣವನ್ನು ಲೋಕಾಯುಕ್ತ ಸಂಸ್ಥೆಯ ತಾಂತ್ರಿಕ ವಿಭಾಗ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರು-1 ಇವರು ತನಿಖೆ ನಡೆಸಿ ವರದಿಯನ್ನು ಸಲ್ಲಿಸಿರುತ್ತಾರೆ. ಸದರಿ ವರದಿಯಲ್ಲಿ ದೂರುದಾರರಾದ ಶ್ರೀ ಸಿದ್ದಪ್ಪ ಇವರು ಸಹ ಗ್ರಾಮ ಪಂಚಾಯಿತಿ ಸದಸ್ಯರಾಗಿದ್ದು ಇವರು ರೂ.5,000/-ಗಳನ್ನು ಸಮುದಾಯ ಭವನಕ್ಕೆ ಬಣ್ಣ ಹಚ್ಚುವ ಕೆಲಸಕ್ಕೆ ಪಡೆದುಕೊಂಡು ಯಾವುದೇ ಕಾಮಗಾರಿಯನ್ನು ನಿರ್ವಹಿಸಿರುವುದಿಲ್ಲ ಹಾಗೂ ಅಧ್ಯಕ್ಷರಾದ ಶ್ರೀಮತಿ ಶೋಭಾ ಇವರು ಸಿ.ಎಫ್.ಎಲ್. ಬಲ್ಟ್‌ಗಳನ್ನು ಖರೀದಿಸಿ ರೂ.50,000/-ಕ್ಕೆ ಎರಡು ಚೆಕ್‌ಗಳನ್ನು ನೀಡಿರುತ್ತಾರೆ ಮತ್ತು ಆಪಾದಿತ ನೌಕರರಾದ ಶ್ರೀ ಬಾಲಾಜಿ ಆದ ನೀವು ಯಾವುದೇ ದರಪಟ್ಟಿ ಕರೆದು, ಯಾವುದೇ ಅಂದಾಜು ಪಟ್ಟಿ ತಯಾರಿಸದೇ, ಯಾವುದೇ ರೀತಿಯ ಅನುಮತಿಯನ್ನು ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರಿಯಿಂದ ಪಡೆಯದೇ ಸಿ.ಎಫ್.ಎಲ್. ಬಲ್ಟ್‌ಗಳನ್ನು

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ಖರೀದಿಸಿರುತ್ತಾರೆಂದು ತಿಳಿಸಿರುತ್ತಾರೆ. ಮುಂದುವರೆದು, ದೂರುದಾರರಾದ ಶ್ರೀ ಸಿದ್ದಪ್ಪ ಇವರನ್ನು ಸಹ ಮೂರನೇ ಎದುರುದಾರರನ್ನಾಗಿ ಸೇರ್ಪಡೆ ಮಾಡಿರುತ್ತಾರೆ.

ದೂರುದಾರರು ಮಾಡಿರುವ ಆಪಾದನೆಗೆ ಸಂಬಂಧಿಸಿದಂತೆ, ತನಿಖಾ ವರದಿಯನ್ನು ಕಳುಹಿಸಿ ವಿವರಣೆಯನ್ನು ಸಲ್ಲಿಸುವಂತೆ ಆಪಾದಿತರ ಪೈಕಿ ಶ್ರೀಮತಿ ಶೋಭಾ, ಅಧ್ಯಕ್ಷರು, ಶ್ರೀ ಸಿದ್ದಪ್ಪ, ಸದಸ್ಯರು ಮತ್ತು ಶ್ರೀ ಬಾಲಾಜಿ ಇವರಿಗೆ ಕಳುಹಿಸಿದ್ದು, ಶ್ರೀಮತಿ ಶೋಭಾ ಮತ್ತು ಶ್ರೀ ಬಾಲಾಜಿ ಆದ ನಿಮ್ಮಿಂದ ಈ ಕಛೇರಿಯಿಂದ ಪತ್ರವನ್ನು ಸ್ವೀಕರಿಸಿದರೂ ಯಾವುದೇ ವಿವರಣೆಯನ್ನು ಸಲ್ಲಿಸಿರುವುದಿಲ್ಲ.

ದೂರುದಾರರ ಆಪಾದನೆಯಲ್ಲಿನ ಅಂಶ, ತಾಂತ್ರಿಕ ವಿಭಾಗದ ತನಿಖಾ ವರದಿಯ ಹಾಗೂ ಇತರೆ ದಾಖಲೆಗಳ ಪ್ರಕಾರ ಗುರುತರವಾದ ಕರ್ತವ್ಯಲೋಪ ಎಸಗಿರುವುದು ದಾಖಲಾತಿಗಳ ಆಧಾರದಿಂದ ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡುಬರುವುದರಿಂದ ಆಪಾದಿತರು ಕೊಟ್ಟಂತಹ ಹೇಳಿಕೆಗಳನ್ನು ಒಪ್ಪಲು ಬರುವುದಿಲ್ಲವೆಂದು ತಿಳಿಸಿರುತ್ತಾ, ಆಪಾದಿತರು ತಮ್ಮ ಕರ್ತವ್ಯವನ್ನು ನಿಷ್ಠೆಯಿಂದ ಮಾಡಿಲ್ಲದಿರುವುದು ಕಂಡುಬಂದಿದ್ದರಿಂದ ಮತ್ತು ಈ ಕೃತ್ಯ ದುರ್ನಡತೆ ಎಂಬ ಪರಿಭಾಷೆಯಲ್ಲಿ ಬರುವುದರಿಂದ ಕರ್ನಾಟಕ ಸಿವಿಲ್ ಸೇವಾ (ನಡತೆ) 1966ರಡಿ ನಿಯಮ 3(1) ರಡಿಯಲ್ಲಿ ದುರ್ವರ್ತನೆ ಮಾಡಿದ್ದಾರೆಂದು ಕಂಡುಬಂದಿದ್ದರಿಂದ ಎದುರುದಾರರ ವಿರುದ್ಧ ಶಿಸ್ತಿನ ಕ್ರಮ ಕೈಗೊಳ್ಳಬೇಕೆಂದು ಗೌರವಾನ್ವಿತ ಉಪಲೋಕಾಯುಕ್ತರವರು ಸರ್ಕಾರಕ್ಕೆ ವರದಿಯನ್ನು ಸಲ್ಲಿಸಿದ ಮೇರೆಗೆ ಸರ್ಕಾರವು ಮೇಲೆ ಉಲ್ಲೇಖಿಸಿದ ಆದೇಶದಲ್ಲಿ ಇಲಾಖಾ ವಿಚಾರಣೆ ನಡೆಸಲು ಅನುಮತಿ ನೀಡಿರುತ್ತದೆ. ಅದರಂತೆ, ಗೌರವಾನ್ವಿತ ಉಪಲೋಕಾಯುಕ್ತರವರು, ಅಪರ ನಿಬಂಧಕರು, ವಿಚಾರಣೆಗಳು-11 ರವರಿಗೆ ವಿಚಾರಣೆ ನಡೆಸಿ ವರದಿಯನ್ನು ಸಲ್ಲಿಸಲು ಸೂಚಿಸಿರುತ್ತಾರೆ. ಆದ್ದರಿಂದ ನಿಮ್ಮ ಮೇಲೆ ಈ ದೋಷಾರೋಪಣೆ.

8. In response to due service of articles of charge, DGO entered appearance before this authority on 02/11/2016. In the course of first oral statement of DGO recorded on 02/11/2016 he pleaded not guilty. Subsequently, DGO has engaged Advocate for his defence.

9. In the course of written statement of DGO filed on 07/10/2017 DGO has contended that meeting of the above Panchayath was held on 30/12/2010 in which discussion was

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held touching the civil works under 13th Financial Scheme. It is contended that action plan for the year 2010-11 was prepared touching the 2nd instalment of 13th Financial Scheme which included installation of CFL bulbs, amount reserved for maintenance of water supply, drainage, footpath, accounts, administrative expenses, repair and maintenance of computer. It is contended that instructions are given for street lights on 08/01/2011 and in that connection office order has been passed on 16/03/2011 touching purchase of CFL bulbs and in that connection publication was caused on the notice board for placing estimate within 21/03/2011. In that connection, price lists are placed by Supreme Electrical, Sangameshwar Electricals, Chetana Electricals, Grip Electricals and Dhanlakshmi Enterprises. It is stated that lowest price list of Sangameshwar Electricals has been accepted and in that connection order has been passed on 21/03/2011. It is stated that subsequent to acceptance of lowest price list of Sangameshwar Electricals, Sangameshwar Electricals supplied three hundred CFL bulbs and in that connection two bills for Rs.50,000/- are placed and action has been taken for payment. It is stated that the complainant has stated that out of grant reserved for the members of scheduled caste and scheduled tribes amount is spent for repair of buildings and for celebration of Ambedkar Jayanthi. It is contended that investigation is barred by section 8(1)(b) of The Karnataka Lokayukta Act, 1984. It is thus contended that DGO is not guilty of misconduct.

10. The disciplinary authority has examined Sri. K.T. Prakash who was working as Executive Engineer-1 attached to Technical

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Audit Cell, Karnataka Lokayukta, Bengaluru from 01/12/2012 to 31/12/2014 as PW1. During his evidence, original letter dated 22/02/2013 in a single sheet of Smt. Shobhavathi addressed to the Chief Engineer, Technical Audit Cell, Karnataka Lokayukta, Bengaluru is marked as per Ex P1, original letter dated 22/10/2013 in two sheets of DGO addressed to the Chief Engineer, Technical Audit Cell, Karnataka Lokayukta, Bengaluru is marked as per Ex P2, xerox copy of resolution dated 15/11/2010 of Chimakoda Grama Panchayithi is marked as per Ex P3, xerox copy of a single sheet of attendance register touching the meeting held by Chimakoda Grama Panchayithi is marked as per Ex P4, xerox copy of bill dated 29/03/2011 in a single sheet of Sangameshwar Electricals Spares for Rs.50,000/- is marked as per Ex P5, xerox copy of bill dated 10/04/2011 in a single sheet of Sangameshwara Electricals Spares for Rs.50,000/- is marked as per Ex P6, xerox copy of letter dated 16/01/2018 in a single sheet of the Chief Executive Officer, Zilla Panchayath, Bidar addressed to the Principal Secretary to the Government of Karnataka, Department of Rural Development and Panchayath Raj is marked as per Ex P7, xerox copy of the letter dated 10/01/2018 in a single sheet of the Executive Officer, Taluk Panchayath, Bidar addressed to the Chief Executive Officer, Zilla Panchayath, Bidar is marked as per Ex P8, xerox copy of bank challan dated 05/01/2018 in a single sheet is marked as per Ex P9, xerox copy of letter dated 10/01/2018 in a single sheet of the Executive Officer, Taluk Panchayath, Bidar addressed to the Sub-Inspector of Police, Janawada Police Station, is marked as per Ex P10, original letter dated 22/02/2013 in a single sheet of DGO addressed to the Chief Engineer, Technical Audit Cell, Karnataka Lokayukta,

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Bengaluru is marked as per Ex P11, xerox copy of three sheets maintained under 13th Financial Action Scheme 2010-11 is marked as per Ex P12, xerox copy of estimate dated 15/03/2011 in a single sheet of Sangameshwar Electricals, Bidar is marked by Ex P13, xerox copy of quotation dated 19/03/2011 without signature of Supreme Electrical, Bidar is marked as per Ex P14, xerox copy of quotation dated 20/03/2011 in a single sheet without signature of Chetan Electricals is marked as per Ex P15, xerox copy of estimate dated 15/03/2011 in a single sheet of Sangameshwar Electricals, Bidar is marked as per Ex P16, xerox copy of work order dated 21/03/2011 in a single sheet issued by the President of Chimakoda Grama Panchayithi and DGO is marked as per Ex P17, xerox copy of note sheet consisting of seven sheets in COMPT/UPLOK/GLB/324/2011/ARE-6-LOK.INV(T)LA-269/2012/EE-1 dated 26/06/2012 is marked as per Ex P18.

11. In the course of second oral statement of DGO recorded on 29/11/2018 he has stated that he would get himself examined as defence witness and that he does not intend to examine defence witness.

12. DGO got himself examined as DW1. During his evidence, attested copy of resolution dated 30/12/2010 in four sheets of Chimakoda Grama Panchayithi is marked as per Ex D1, xerox copy of the document of nomenclature "ಸೂಚನೆ" in four sheets is marked as per Ex D2, attested copy of quotation dated 19/03/2011 in a single sheet of Supreme Electrical, Bidar is marked as per Ex D3, attested copy of estimate dated 15/03/2011 in a single sheet of Sangameshwar Electricals,

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Bidar is marked as per Ex D4, attested copy of quotation dated 20/03/2011 in a single sheet of Chetan Electricals, Bidar is marked as per Ex D5, attested copy of quotation without signature dated nil in a single sheet of Grip Electricals, Bidar is marked as per Ex D6, attested copy of cash memo/estimate dated 18/03/2011 in a single sheet of Dhanlaxmi Enterprises, Bidar is marked as per Ex D7, attested copy of comparative statement of price list dated nil in a single sheet signed by the DGO and the President of Chimakoda Grama Panchayithi is marked as per Ex D8, attested copy of agreement dated 21/03/2011 in a single sheet of the proprietor, Sangameshwar Electricals, Bidar is marked as per Ex D9, attested copy of work order dated 21/03/2011 in a single sheet signed by DGO and President of Chimakoda Grama Panchayithi is marked as per Ex D10, attested copy of action plan dated nil in two sheets under 2nd instalment of 13th Finance Scheme 2010-11 signed by DGO, President and Secretary of Chimakoda Grama Panchayithi is marked as per Ex D11, attested copy of office order dated 16/03/2011 in a single sheet signed by the President of Chimakoda Grama Panchayithi is marked as per Ex D12, attested copy of cash bill dated 29/03/2011 in a single sheet for Rs.50,000/- of Sangameshwar Electricals Spares, Bidar is marked as per Ex D13, attested copy of cash bill dated 10/04/2011 in a single sheet for Rs.50,000/- of Sangameshwar Electricals Spares, Bidar is marked as per Ex D14, attested copy of FORM NO.26 in a single sheet is marked as per Ex D15, attested copy of a single sheet with xerox impressions of two photographs is marked as per Ex D16.

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13. Since DGO has adduced defence evidence questionnaire is dispensed with.

14. In the course of written argument of the Presenting Officer filed on 05/03/2019 she has referred to evidence on record. On the basis of the wordings employed in the course of written argument of the Presenting Officer it can be expressed that she sought to contend that charge is proved.

15. In the course of written argument of DGO filed on 11/07/2019 reference is made to the evidence of PW1 and DGO. It is sought to contend that the elected members of the above Panchayath approved that since grant was not available the President has to bear the expenses and to receive the same after receipt of rent. It is contended that earlier to purchase approval was given by the Executive Officer, Taluk Panchayath and that lowest quotation has been approved. It is thus sought to contend that DGO is not guilty of the alleged misconduct.

16. In tune with the articles of charge, point which arises for consideration is whether during the tenure of DGO as Panchayath Development Officer attached to Chimakoda Grama Panchayathi during the year 2010 11 DGO purchased CFL bulbs for Rs.1,00,000/- without estimate and without calling for price lists and without obtaining permission from the competent authority issued two cheques for Rs.50,000/- each and thereby is guilty of misconduct within the purview of Rule 3 (1) of The Karnataka Civil Services (Conduct) Rules, 1966?

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17. In the course of evidence PW1 has referred to Exs P1 to P18. It is in his evidence that Ex P2 shows that cheques are issued to the husband of Smt. Shobhavathi who was the then President of Chimakod Grama Panchayithi. It is seen in sheet number 2 of Ex P2 that cheque bearing number 0005738 dated 15/04/2011 for Rs.50,000/- has been issued under bill number 132 to Sri. Devidasa Biradara who is the husband of Shobhavathi. It is seen in sheet number 2 of Ex P2 that cheque bearing number 0005739 dated 28/04/2011 for Rs.50,000/- has been issued under bill number 133 to Sri. Devidasa Biradara who is the husband of Smt. Shobhavathi. It is thus clear that the said letter at Ex P2 DGO has admitted issue of above cheques to the husband of Smt. Shobhavathi who then was the President of Chimakoda Grama Panchayithi. It is in the evidence of PW1 that signatures of members of Chimakoda Grama Panchayithi were to be obtained on the book but the same was obtained on a sheet of paper. There is no challenge against the said portion of his said evidence and therefore the said portion of his evidence needs acceptance which establishes violation of norms and prevailing rules. PW1 has referred to Ex P3 which is the xerox copy of a single sheet of the resolution dated 15/11/2010 in which it is seen that since funds are not available it was resolved that the President of the above Panchayath was entrusted with the responsibility of providing CFL bulbs and to receive the expenditure after release of funds. The aspect which needs to be considered is what was the urgent necessity for providing bulbs in the absence of required funds. Providing CFL bulbs was not the compelling necessity and therefore contents of the said resolution speaks in volumes. It also needs to be remembered that bulbs are supplied by the

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husband of the then Panchayath President which is not permitted under rules. It is in the evidence of PW1 that signatures of the elected members of the Panchayath were to be obtained on the prescribed book but the same was obtained on a separate sheet the xerox copy of which is at Ex P4.

18. Exs P5 and P6 are the xerox copies of receipts respectively dated 29/03/2011 and 10/04/2011. Originals of these receipts are issued by Sangameshwar Electricals Spares owned by the husband of the then President of the above Panchayath. It needs to be expressed at this juncture that if really there was urgent need of installation of bulbs, bulbs should have been purchased within a very short time from the date of resolution passed on 15/11/2010. There is long gap between 15/11/2010 and 29/03/2011 and also between 15/11/2010 and 10/04/2011. Ex P7 which is the xerox copy of the letter dated 16/01/2017 of the Chief Executive Officer, Zilla Panchayath, Bidar addressed to the Principal Secretary to the Government of Karnataka, Department of Rural Development and Panchayath Raj shows that letter has been addressed for initiating criminal case in Janawada Police Station against the complainant as well as Smt. Shobha who then was the President of the above Panchayath. Ex P7 thus shows that original of the said letter has been addressed after getting satisfied that there existed prima facie case against the complainant and Smt. Shobha. Ex P10 dated 10/01/2018 which is the letter by way of complaint of the Executive Officer, Taluk Panchayath, Bidar addressed to the Sub-Inspector of Police, Janawada Police Station to initiate prosecution. Payment of a sum of Rs.1,00,000/- by way of two cheques has been referred to in Ex P10.

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19. Ex P11 is the original letter dated 22/02/2013 of DGO addressed to the Chief Engineer, Technical Audit Cell, Karnataka Lokayukta, Bengaluru. It is stated by DGO in Ex P11 that the complainant collected money by force in connection with Ambedkar Jayanthi. Nothing is found in Ex P11 touching release of cheques by him to the husband of Smt. Shobha.

20. Ex P13 which is xerox copy of the estimate dated 15/03/2011 issued from Sangameshwar Electricals for Rs.967/- under different heads. Ex P14 is the unsigned xerox copy of the quotation dated 19/03/2011 of Supreme Electrical. Ex P15 is the unsigned quotation dated 20/03/2011 of Chetan Electricals under different heads. Exs P13 and P16 are one and the same. Nothing is found in evidence that rules are followed in respect of Exs P13 to P16.

21. Ex P17 is the xerox copy of the work order dated 21/03/2011 for Rs.1,00,000/- signed by DGO and the President of the above Panchayath. It is significant to mention that as found in Exs P13, 14,15 and 16 these are issued earlier to 21/03/2011 i.e., earlier to the work order.

22. In the course of evidence PW1 has referred to xerox copy of the note sheet at Ex P18. Outcome of investigation conducted by PW1 is found paragraph numbers 59 to 64. It is found in paragraph number of 60 of Ex P18 that cheques are issued to the husband of Smt. Shobha who then was the President of Chimakoda Grama Panchayithi. It is also found in paragraph number 60 of Ex P18 that cheques issued to the husband of

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Smt. Shobha in gross violation of Government Order bearing number ಗ್ರಾಅಪ/02/ಎ. ಎಫ್.ಎನ್ (2)/2006. It is found in paragraph number 60 of Ex P18 that as contemplated under section 12(h) of The Karnataka Panchayath Raj Act, 1993 member of Grama Panchayath cannot directly or indirectly participate in supply of materials to the Panchayath. Evidence on record establishes that mandate of the above Government Order and section 12(h) of The Karnataka Panchayath Raj Act, 1993 are violated.

23. Suggestion made to PW1 during cross examination suggesting that he has no experience to investigate the matters involved in the case on hand has been denied by him. He states during cross examination that he cannot say whether amount was released or not by the Central Government. Suggestion made to him during cross examination suggesting that permission of Central Government is required for investigation has been denied by him. Though he admits during cross examination that permission was obtained from the Executive Officer, Taluk Panchayath the same will not lend assurance to the defence for the reason that the husband Smt. Shobha was prohibited from supplying bulbs for Rs.1,00,000/-. Though PW1 states during cross examination that DGO was bound to discharge duties as per the resolution of the Panchayath it needs to be expressed that it was the duty of DGO to point out before the President of the Panchayath that husband of the President of the Panchayath was not permitted for supply of bulbs worth Rs.1,00,000/-. Though PW1 further admits during cross examination that DGO was not conferred upon with the powers of purchase the said portion of his answer will not lend assurance for the defence for the reason that DGO was expected

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to bring it to the notice of the President of the Panchayath that the husband of the President of the Panchayath cannot indulge in supplying materials. Ex P18 shows that the present that Smt. Shobhavathi President of Chimakoda Grama Panchayithi, DGO are responsible for the above latches. It is in the cross examination of PW1 that in connection with supply of materials cheques are issued in favour of the husband of Smt. Shobhavathi. Upon careful appreciation of the entire cross examination of PW1 I find nothing worthy to disbelieve his evidence. Evidence of PW1 coupled with the above documents including Ex P18 establishes the alleged misconduct of DGO.

24. In the course of evidence DGO has stated that he has discharged duties as Panchayath Development Officer attached to Chimakoda Grama Panchayithi from 05/04/2010 to 15/07/2015. He has referred to Exs D1 to D16. He has denied the charge levelled against him and stated that he discharged duties as per the decision of the above Panchayath. He has stated that he obtained assent of the Executive Officer, Grama Panchayath to the estimate and that after securing five quotations from different concerns he approved the lowest quotation.

25. Ex D1 which is the attested copy of the proceedings dated 30/12/2010 of the above Panchayath refers to providing bulbs in addition to other matters. As already referred to above, the decision for immediate fixation of bulbs is of no assistance to the defence. Likewise, Ex D2 which shows fixation of bulbs also is of no assistance to the defence. Exs D3 to D7 are the attested copies of quotations. Exs D3 to D7 instead of


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supporting the defence substantiates the charge. Likewise, Exs D8 to D12, Exs D15 and 16 equally will not come in rescue of the defence. Exs D13 and D14 which are the bills issued by Sangameshwar Electricals Spares owned by the husband of Smt. Shobhavathi instead of supporting the defence supports the charge.

26. DGO being a responsible Panchayath Development Officer who is expected to be aware of the rules and norms was expected to advise the President and Members of the above Panchayath in the right track. It is apparent that in violation of rules and norms DGO assisted for approval of the quotation of the husband of Smt. Shobhavathi and signed the cheques which was not permitted for the reason that the husband of the President Smt. Shobhavathi is the proprietor of the shop under the name and style Sangameshwar Electrical and also Sangameshwar Electricals Spares.

27. In the presence of evidence adduced by the disciplinary authority I am not persuaded to accept the contentions of put forward in the course of written statement and also in the course of written argument of DGO.

28. Upon meticulous appreciation of the entire evidence as discussed above I am of the considered view that DGO is guilty of misconduct within the purview of Rule 3 (1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 and accordingly I proceed with the following:


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R E P O R T

Charge against the DGO by name Sri. Balaji that during the tenure of DGO as Panchayath Development Officer attached to Chimakoda Grama Panchayithi during the year 2010-11 DGO purchased CFL bulbs for Rs.1,00,000/-, without estimate and without calling for price lists and without obtaining permission from the competent authority issued two cheques for Rs.50,000/- each and thereby is guilty of misconduct within the purview of Rule 3 (1) of The Karnataka Civil Services (Conduct) Rules, 1966 is proved.

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:-

PW 1:- Sri. K.T. Prakash

List of witnesses examined on behalf DGO:-

DW-1:- Sri. Balaji

List of documents marked on behalf of Disciplinary Authority:-

1. Ex P 1 Original letter dated 22/02/2013 in a single sheet of Smt. Shobhavathi addressed to the Chief Engineer, Technical Audit Cell, Karnataka Lokayukta, Bengaluru.
2. Ex P2 Original letter dated 22/10/2013 in two sheets of DGO addressed to the Chief Engineer, Technical Audit Cell,

Karnataka Lokayukta, Bengaluru.

3. Ex P3 Xerox copy of resolution dated 15/11/2010 of Chimakoda Grama Panchayithi.
4. Ex P4 Xerox copy of a single sheet of attendance register touching the meeting held by Chimakoda Grama Panchayithi.
5. Ex P5 Xerox copy of bill dated 29/03/2011 in a single sheet of Sangameshwar Electricals Spares for Rs.50,000/-.
6. Ex P6 Xerox copy of bill dated 10/04/2011 in a single sheet of Sangameshwara Electricals Spares for Rs.50,000/-.
7. Ex P7 Xerox copy of letter dated 16/01/2018 in a single sheet of the Chief Executive Officer, Zilla Panchayath, Bidar addressed to the Principal Secretary to the Government of Karnataka, Department of Rural Development and Panchayath Raj.
8. Ex P8 Xerox copy of the letter dated 10/01/2018 in a single sheet of the Executive Officer, Taluk Panchayath, Bidar addressed to the Chief Executive Officer, Zilla Panchayath, Bidar.
9. Ex P9 Xerox copy of bank challan dated 05/01/2018 in a single sheet.
10. Ex P10 xerox copy of letter dated 10/01/2018 in a single sheet of the Executive Officer, Taluk Panchayath, Bidar addressed to the Sub-Inspector of Police, Janawada Police Station.
11. Ex P11 Original letter dated 22/02/2013 in a single sheet of DGO addressed to the Chief Engineer, Technical Audit Cell,

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Karnataka Lokayukta, Bengaluru.

12. Ex P12 Xerox copy of three sheets maintained under 13th Financial Action Scheme 2010-11.
13. Ex P13 Xerox copy of estimate dated 15/03/2011 in a single sheet of Sangameshwar Electricals, Bidar.
14. Ex P14 Xerox copy of quotation dated 19/03/2011 without signature of Supreme Electrical, Bidar.
15. Ex P15 Xerox copy of quotation dated 20/03/2011 in a single sheet without signature of Chetan Electricals.
16. Ex P16 Xerox copy of estimate dated 15/03/2011 in a single sheet of Sangameshwar Electricals, Bidar.
17. Ex P17 Xerox copy of work order dated 21/03/2011 in a single sheet issued by the President of Chimakoda Grama Panchayithi and DGO.
18. Ex P18 Xerox copy of note sheet consisting of seven sheets in COMPT/UPLOK/GLB/324/2011/ARE-6-LOK.INV(T)LA-269/2012/EE-1 dated 26/06/2012 .

List of documents marked on behalf of DGO :-

1. Ex D1 Attested copy of resolution dated 30/12/2010 in four sheets of Chimakoda Grama Panchayithi.
2. Ex D2 Xerox copy of the document of nomenclature "ಸೂಚನೆ" in four sheets.
3. Ex D3 Attested copy of quotation dated 19/03/2011 in a single sheet of Supreme Electrical, Bidar.
4. Ex D4 Attested copy of estimate dated 15/03/2011

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in a single sheet of Sangameshwar Electricals, Bidar.

5. Ex D5 Attested copy of quotation dated 20/03/2011 in a single sheet of Chetan Electricals, Bidar.
6. Ex D6 Attested copy of quotation without signature dated nil in a single sheet of Grip Electricals, Bidar.
7. Ex D7 Attested copy of cash memo/estimate dated 18/03/2011 in a single sheet of Dhanlaxmi Enterprises, Bidar.
8. Ex D8 Attested copy of comparative statement of price list dated nil in a single sheet signed by the DGO and the President of Chimakoda Grama Panchayithi.
9. Ex D9 Attested copy of agreement dated 21/03/2011 in a single sheet of the proprietor, Sangameshwar Electricals, Bidar.
10. Ex D10 Attested copy of work order dated 21/03/2011 in a single sheet signed by DGO and President of Chimakoda Grama Panchayithi.
11. Ex D11 Attested copy of action plan dated nil in two sheets under 2nd instalment of 13th Finance Scheme 2010-11 signed by DGO, President and Secretary of Chimakoda Grama Panchayithi.
12. Ex D12 Attested copy of office order dated 16/03/2011 in a single sheet signed by the President of Chimakoda Grama Panchayithi.
13. Ex D13 Attested copy of cash bill dated 29/03/2011 in a single sheet for Rs.50,000/- of Sangameshwar Electricals Spares, Bidar.

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14. Ex D14 Attested copy of cash bill dated 10/04/2011 in a single sheet for Rs.50,000/- of Sangameshwar Electricals Spares, Bidar.
15. Ex D15 Attested copy of FORM NO.26 in a single sheet.
16. Ex D16 Attested copy of a single sheet with xerox impressions of two photographs .

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(V.G. BOPALAH)
Additional Registrar, Enquiries-11,
Karnataka Lokayukta, Bengaluru.

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No. UPLOK-1/DE/193/2016/ARE-11

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001
Date: 01/08/2019

RECOMMENDATION

Sub:- Departmental inquiry against;
Sri Balaji, Panchayath Development Officer,
Chimakoda Grama Panchayath, Bidar Taluk and
District - Reg.

Ref:- 1) Government Order No.ಗ್ರಾಅಪ/303/ಗ್ರಾಪಂಕಾ/2016 Bengaluru
dated. 09/06/2016

2) Nomination order No.UPLOK-1/DE/193/2016,
Bengaluru dated 23/6/2016 of Upalokayukta-1,
State of Karnataka, Bengaluru

3) Inquiry Report dated 30/07/2019 of Additional
Registrar of Enquiries-11, Karnataka Lokayukta,
Bengaluru

The Government by its Order dated 09/06/2016, initiated the disciplinary proceedings against Sri Balaji, Panchayath Development Officer, Chimakoda Grama Panchayath, Bidar Taluk and District (hereinafter referred to as Delinquent Government Official, for short as DGO) and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.UPLOK-1/DE/193/2016, Bengaluru dated 23/6/2016 nominated Additional Registrar of Enquiries-11, 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.

as

3. The DGO Sri Balaji, Panchayath Development Officer, Chimakoda Grama Panchayath, Bidar Taluk and District was tried for the following charge:-

“ನೀವು ಬೀದರ್ ತಾಲ್ಲೂಕಿನ ಚೀಮಕೋಡ ಗ್ರಾಮ ಪಂಚಾಯತಿ ಅಭಿವೃದ್ಧಿ ಅಧಿಕಾರಿಯಾಗಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿರುವಾಗ, ಸಿ.ಎಫ್.ಎಲ್ ಬಲ್ಬ್ ಖರೀದಿದಾಗಿ ಯಾವುದೇ ಅಂದಾಜು ಪಟ್ಟಿ ತಯಾರಿಸದೇ, ದರಪಟ್ಟಿಗಳನ್ನು ಕರೆಯದೇ, ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರದಿಂದ ಯಾವುದೇ ಅನುಮತಿ ಪಡೆಯದೇ ರೂ.50,000/- ಚೆಲೆಯ ಬಲ್ಬ್‌ಗಳನ್ನು ಖರೀದಿಸಿ, ಸರಬರಾಜುದಾರರಿಗೆ ಎರಡು ಚೆಕ್‌ಗಳನ್ನು ನೀಡುವ ಮೂಲಕ ಕರ್ತವ್ಯಲೋಪ ಎಸಗಿ ಸರ್ಕಾರಿ ನೌಕರನಿಗೆ ಉಚಿತವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡು ದುರ್ನಡತೆಯಿಂದ ವರ್ತಿಸಿ, ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ ನಿಯಮಗಳು (ನಡತೆ) 1966 ನಿಯಮ 3(1)ರಡಿಯಲ್ಲಿ ದುರ್ನಡತೆ ಎಸಗಿದ್ದೀರಿ.”

4. The Inquiry Officer (Additional Registrar of Enquiries-11) on proper appreciation of oral and documentary evidence has held that the charge against the DGO by name Sri Balaji that during the tenure of DGO as Panchayath Development Officer attached to Chimakoda Grama Panchayathi during the year 2010-11, DGO purchased CFL bulbs for ₹1,00,000/- without estimate and without calling for price lists and without obtaining permission from the competent authority, issued two cheques for ₹50,000/- each and thereby is guilty of misconduct within the purview of Rule 3(1) of the Karnataka Civil Services (Conduct) Rules, 1966 is proved.


5. 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.

6. As per the First Oral Statement submitted by DGO, he is due to retire from service on 30/06/2039.

7. Having regard to the nature of charge proved against DGO Sri Balaji, it is hereby recommended to the Government for imposing penalty of withholding four annual increments payable to DGO Sri Balaji, Panchayath Development Officer, Chimakoda Grama Panchayath, Bidar Taluk and District with cumulative effect and also for deferring the promotion of DGO Sri Balaji by four years, whenever he becomes due for promotion.

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

Connected records are enclosed herewith.


(JUSTICE N. ANANDA) 17/12/2019
Upalokayukta-1,
State of Karnataka,
Bengaluru

