KARNATAKA LOKAYUKTA

NO:UPLOK-1/DE/207/2015/ARE-9

M.S.Building, Dr. B.R. Ambedkar Veedhi, Bengaluru - 560 001. Date:23.1.20**29**

:: ENQUIRY REPORT::

:: Present :: (Lokappa N.R) Additional Registrar of Enqiuries-9 Karnataka Lokayukta, Bengaluru

Sub: Departmental Enquiry against (1) Sri.
Ramegowda Assistant Executive Engineer (2)
Sri.S.V.Ramesh, Assistant Executive Engineer
(3) Sri.D.Ranganath Assistant Executive
Engineer and (4) Sri.Mallikarjun Gowda,
Assistant Executive Engineer BBMP Bengaluru
- reg.

Ref: 1. G.O.No. UDD 68 MNU 2015 dated: 1.4.2015.

2. Nomination Order No: UPLOK-1/DE/207/ 2015/ARE-9 Bangalore dated: 18.4.2015 of Hon'ble Upalokayukta-1

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This Departmental Enquiry is initiated against (1) Sri. Ramegowda Assistant Executive Engineer (2) Sri.S.V.Ramesh, Assistant Executive Engineer (3) Sri.D.Ranganath Assistant Executive Engineer and (4) Sri.Mallikarjun Gowda, Assistant Executive Engineer BBMP Bengaluru (hereinafter referred to as the Delinquent Government Official for short "**DGO No.1** to 4").

On

- 2. In view of the Government Order cited above at reference No.1, Hon'ble Upalokayukta vide order dated 18.4.2015 cited above at reference No.2 has Nominated Additional Registrar of Enquiries-6 to frame the charges and to conduct the enquiry against the aforesaid DGOs No.1 to 4.
- 3. Additional Registrar of Enquiries-6 has prepared Articles of charges, statement of imputations of misconduct, list of witnesses proposed to be examined in support of the charges and list of documents proposed to be relied on in support of the charges.
- 4. The copies of the same were issued to the DGOs No.1 to 4 calling upon them to appear before the Enquiry Officer and to submit written statement of defence.
- 5. The Article of charges framed by the ARE-6 against the DGOs is as under:

ANNEXURE NO.I CHARGE

DGO No.1

You Sri. Ramegowda - henceforth referred to as DGO No.1, while working as AEE in BBMP, Bengaluru during the prioed 17/06/2009 to 13/03/2010 being jurisdictional Engineer were required to get debris stored in 'J' Street, 1st Cross, Magadi Road, Bengaluru cleared to avoid health hazards due to nasty fungent smell derived out of the debris, failed to get it cleared despite the complainant Sri. M.Srinivasan, Resident of No.96, 'J' Street of Keshavnagar in Magadi Road, Bengaluru had filed complaint on 11/06/2009,

which remained uncleared till 28/06/2012 and your inaction during the period you were working as jurisdiction engineer had caused health hazard to the residents of locality and thereby failed to Exbit devotion to duty and committed an act which unbecoming of a government servant and thus you are guilty of misconduct under u/s 3(1) (ii) & (iii) of Karnataka Civil Service (Conduct) Rules 1966.

DGO No.2

You Sri.S.V.Ramesh - henceforth referred to as DGO No.2, while working as Assistant Engineer in BBMP, during the period from 26/07/2007 to Bengaluru 02/08/2010 being Jurisdiction Engineer were required to get debris stored in 'J' Street, 1st Cross, Magadi Road, Bengaluru cleared to avoid health hazards due to nasty fungent smell derived out of the debris, failed to get it cleared despite the complainant Sri. M.Srinivasan, Resident of No.96, 'J' Street of Keshavnagar in Magadi Road, Bengaluru had filed complaint on 11/06/2009, which remained uncleared till 28/06/2012 and you inaction during the period you were working as jurisdication engineer had caused health hazard to the residents of locality and thereby failed to exibit absolute devotion to duty and committed an act which unbecoming of a government servants and thus you are guilty of misconduct under u/s 3(1) (ii) & (iii) of Karnataka Civil Service (Conduct) Rules 1966.

DGO No.3

You Sri.D.Ranganath - henceforth referred to as DGO No.3, while working as AEE in BBMP, Bengaluru during the period 06/03/2010 to 21/08/2010 being jurisdictional

Engineer were required to get debris stored in 'J' Street, 1st Cross, Magadi Road, Bengaluru cleared to avoid health hazards due to nasty fungent smell derived out of the debris, failed to get it cleared despite the complainant Sri. M.Srinivasan, Resident of No.96, 'J' Street of Keshavnagar in Magadi Road, Bengaluru had filed complaint on 11/06/2009, which remained uncleared till 28/06/2012 and you inaction during the period you were working as jurisdication engineer had caused health hazard to the residents of locality and thereby failed to exibit absolute devotion to duty and committed an act which unbecoming of a government servant and thus you are guilty of misconduct under u/s 3(1) (ii) & (iii) of Karnataka Civil Service (Conduct) Rules 1966.

DGO No.4

You Sri. Mallikarjun Gowda - henceforth referred to as DGO No.4 while working as AEE in BBMP, Bengaluru during the period 23/08/2010 to 26/04/2011 being jurisdictional Engineer were required to get debris stored in 'J' Street, 1st Cross, Magadi Road, Bengaluru cleared to avoid health hazards due to nasty fungent smell derived out of the debris, failed to get it cleared despite the complainant Sri. M.Srinivasan, Resident of No.96, 'J' Street of Keshavnagar in Magadi Road, Bengaluru had filed complaint on 11/06/2009, which remained uncleared till 28/06/2012 and you inaction during the period you were working as jurisdication engineer had caused health hazard to the residents of locality and thereby failed to exibit absolute devotion to duty and committed an act which unbecoming of a government servants and thus you are guilty of misconduct under u/s

3(1) (ii) & (iii) of Karnataka Civil Service (Conduct) Rules 1966.

6. ANNEXURE NO.II STATEMENT OF IMPUTATIONS OF MISCONDUCT

On the basis of a complaint filed by Sri. M.Srinivasan, No.96, J Street of Keshavnaar in Magadi Road at Bangalore (hereinafter referred as complainant in short), an investigation was taken up u/s 9 of the Karnataka Lokayukta Act against Assistant Executive Engineer and the Health Inspector of BBMP Ward Office at Chikpet in Bangalore.

According to the complainant In 'J' Street, 1st cross, Magadi Road at Bangalore debris dumped since a decade or so is not got cleared by the jurisdictional Engineers and the health officer by which the residents of the locality are facing health problems, nasty fungent smell causing health hazard. So, he filed a complaint before the Jurisdictional Engineer on 11/06/2009. No steps were taken. Then he filed a petition before the BBMP commissioner on 27/06/2009. Again there was no action. Hence he gave the complaint.

Respondents submitted comments denying the allegations, After consideration of material on record it showed that:

i. The respondents being the jurisdictional Engineers were bound to get cleared the debris as an when accumulated, but failed to do so and also to make periodical inspection and visit to the dump yard;



- ii. The inaction on the part of the respondents jurisdictional Engineers led to the health hazards of the residents of the locality due to nasty fungent smell derived out of the debris;
- iii. Inspite of the petition filed by the complainant on 11/06/2009 to remove the debris and petition to the Commissioner of BBMP on 27/06/2009 also, no action was taken by the Sri.Ramegowda and Sri.SV.Ramesh during their tenure of service;
- iv. Sri. D.Ranganath and Sri. Mallikarjun Gowda failed to clear the said debris till the filing of complaint on 28/11/2011 before this authority during their tenure of service in the said area;
- v. As per the report dated 29/06/2012 of the Assistant Executive Engineer Sri. Hemanth, debris had been cleared between 25/06/2012 to 28/06/2012 which means that from 17/06/2009 to 13/03/2010, Sri. Ramegowda failed to get removed the debirs, though he was the jurisdictional engineer;
 - a. Though Sri. SV.Ramesh served in the said division from 26/07/2007 to 02/08/2010 failed to get removed the debris;
 - b. Though served in the said division from 06/03/2010 to 21/08/2010, Sri. D.Ranganath had not taken steps to clear the debris;
 - c. Though Sri. Mallikarjuna Gowda served in the said division from 23/08/2010 to 26/04/2011, he failed to get cleared the debris;
 - vi. The inaction on the part of the above said DGOs had caused health hazard to the residents of the locality.

The facts supported by the material on record prima facie show that you the DGO, being a public servant, has failed to maintain absolute integrity besides devotion to duty and acted in a manner of unbecoming of a public servant, and thereby

committed misconduct and made yourself liable for disciplinary action.

Since the facts and material on record prima-facie show that you DGO Nos. 1 to 4 have committed misconduct as per Rule 3(1) (ii & iii) of KCS (Conduct) Rules, 1966, acting under Section 12(3) of the Karnataka Lokayukta Act, recommendation was made to the Competent Authority to initiate disciplinary proceedings against you the DGO. Accordingly the Govt. after considering the report, has entrusted the enquiry to Hon'ble Upalokayukta. Hence the charge.

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- **7.** By order No.UPLOK-1/DE /2016 Bengaluru dtd: 3.8.2016 the enquiry was transferred from Additional Registrar Enquiries-6 to Additional Registrar Enquiries-9 on the orders of Hon'ble Upalokayukta-1.
- **8.** The DGO No.1 has appeared on 17.12.2015 and DGO no. 2 has appeared on 1.8.2015, DGO no.3 has appeared on 1.8.2015 and DGO no. 4 has appeared on 20.6.2015 before this enquiry authority in pursuance to the service of the Article of charges.
- **9.** Plea of the DGOs No.1 to 4 have been recorded and they have pleaded not guilty and claimed for holding enquiry.
- 10. The DGOs No.1, 3 and 4 have submitted written statement, stating that the DGO no.1 was working as a Assistant Executive Engineer in Cottonpet sub division BBMP Bengaluru from 17.6.2009 to 3.3.2010. DGO no. 3 was working as a Assistant Executive Engineer in Cottonpet sub

division BBMP Bengaluru from 6.3.2010 to 21.8.2010. no. 4 was working as a Assistant Executive Engineer in Cottonpet sub division BBMP Bengaluru from 21.8.2010 to cleaning submitted that Further 27.4.2011. sanitization work within the limits of the said sub division comes under the health department officials and also Assistant Engineer, Sanitary inspector and others who were works under the them. Further submitted that in respect of cleaning of the roads and drainages and removing wastage and lifting the silt from the drainage all the works to be done through the powrakarmikas under labour contract. Further submitted that in respect of cleaning and maintaining sanitization in respect of private properties and building only maintained by the respective owners, said works not comes under the jurisdiction of BBMP. Further they had submitted that ward no. 28,29, and 30 comes under the Cottonpet sub division BBMP and each ward having separate Assistant Sanitary inspector for Engineer and Health inspector maintaining the road and drainage work and cleaning the said area. Further submitted that they had instructed to the Assistant Engineer to inspect the spot and take proper action. Further they had received the report from the Assistant Engineer in respect of the disputed property, in the said report he had stated that said property not within their power and responsibility to clean and sanitization of the said property. Further submitted that the alleged spot wherein garbage/ debris were dump is the lane existing behind the house of complainant and others i.e., private property, it will not comes under the jurisdiction of BBMP regarding cleaning the area. Further even though that the said area was cleaned by removing the wastage materials from the said place and submitted the report on 5.11.2014 even though they were transferred from the said place. Hence pray for drop the charge leaved against them.

- 11. The DGOs No. 2 has submitted written statement, stating that the complainant submitted the complaint on 11.6.2009 before the BBMP office. In the complaint the complainant has stated that since from 11.6.2009 till 28.6.2012 debris and wastage materials not removed from the J- street,1st cross Keshavanagara, Magadi road, Bengaluru. But he had taken the charge as a Assistant Executive Engineer Cottonpet sub division on 3.3.2010 and hand over the charge on 4.3.2010. Hence question of committed any misconduct or dereliction of duty by him does not arise. Hence pray for drop the charge leaved against him.
- 12. The disciplinary authority has examined the scrutiny officer Sri.Anand Bennur, the then ARE-10, Karnataka Lokayukta, Bangalore as Pw.1, and Ex.P-1 to ExP-6 are got marked. DGOs has examined Sri.D.Hemanth, S/o Dasappa, AEE, Chikkaballapura Irrigation department as DW-1. DGOs has examined Sri.R.Ramesh, S/o Rangaiah, JE, BBMP Chamarajapet, JJR Nagara sub division, Bangalore as DW-2. DGO no. 2 Sri.S.V.Ramesh, Assistant Executive Engineer has examined himself as DW-3 and has got marked Ex.D-1 to Ex.D-9 documents.



13. The second oral statement of DGO No.1 to 4 have been recorded. Disciplinary authority and the DGO No.3 and 4 have submitted written brief. Heard the submissions of the disciplinary authority and DGOs No.1 to 4. I answer the above charge leveled against the DGO no.1 3, and 4 in **AFFIRMATIVE** and charge leveled against the DGO no.2 in **NEGATIVE** for the following;

REASONS

- 14. It is the prime duty of the disciplinary authority to prove the charges that are leveled against the DGOs.
- The disciplinary authority has examined the then ARE-10, the Sri.Anand Bennur, scrutiny officer Karnataka Lokayukta, Bangalore as Pw.1. PW-1 has deposed in his evidence that after he had perused the documents in found that the respect of the complaint file, he had complainant made an allegation against DGOs regarding the fact that in the J Street 1st cross Keshavanagara Magadi road Bengaluru in front of the house of complainant garbage was not clear and pungent smell were coming. In the J Street BBMP gang man should be removed the debris in the 4ft., breath lane which existed behind the house of complainant but they had not cleared the same. Even though had filed the complaint on 11.6.2009 and 27.6.2009 the said debris was Further he has deposed not removed by the DGOs office. that the complainant filed the complaint before the Hon'ble

Lokayukta to taking proper action against the DGOs who were not taken proper action regarding removal of said debris.

16. PW-1 further deposed that the complainant filed the complaint on 28.11.2011 before the Karnataka Lokayukta office and then Assistant Executive Engineer Hemanth submitted his report on 29.6.2012. As per the said report they were removed the alleged garbage and debris in the period 25.6.2012 to 28.6.2012 and cleaning the said lane in J- Street. For that he had also submitted the photographs along with the said report. Further he has deposed that as per the records the DGOs no. 1 was working as a Assistant Executive Engineer in Cottonpet sub division in respect of the said ward from 17.6.2009 to 13.3.2010, but in that time the DGOs no.1 not taken any action regarding removal of said garbage and debris. Further he has deposed that the DGO no. 2 was working as a Assistant Executive Engineer from 27.6.2007 to 2.8.2010, but in that time the DGOs no.2 not taken any action regarding removal of said garbage and debris, the DGO no. 3 was working as a Assistant Executive Engineer from 6.3.2010 to 21.8.2010, but in that time the DGOs no.3 not taken any action regarding removal of said garbage and debris, the DGO no. 4 was working as a Assistant Executive Engineer from 23.8.2010 to 26.4.2011, but in that time the DGOs no.4 not taken any action regarding removal of said garbage and debris. For that he has submitted the final scrutiny note before the Hon'ble Upalokayukta to recommend to initiate the departmental enquiry against DGOs no. 1 to 4.



- 17. In this case complainant was not examined for the reason that the complainant not traced out even though issued repeated summons.
- Dasappa, AEE, Chikkaballapura Irrigation department as DW-1. DW-1 has deposed in his evidence that he was working as a Assistant Executive Engineer, Cotton pet sub division in the year 2012. As per the direction of the Hon'ble Upalokayukta he had removed the garbage and debris in the back side of the house of complainant and others. Even though said property is private property. Further he has deposed that the said private property not comes within the duty limits of the Assistant Executive Engineer of the said sub division.
 - 19. DGOs have examined Sri.R.Ramesh, S/o Rangaiah, JE, BBMP Chamarajapet, JJR Nagara sub division, Bangalore as DW-2. DW-2 has deposed in his evidence that he was working as a JE in Cottonpet sub division from 26.7.2007 to 2.8.2010. Further he has deposed that the complainant filed the complaint on 11.6.2009 in the office of Assistant Executive Engineer Chickpet range in respect of alleged property. But said property comes under the ward no. 29 cottonpet sub division. Further he has deposed that the said alleged property is a private property and removing of debris and garbage not comes under within their duty, it is only left to the sanitary inspector and health inspector of the concerned ward.



- **20.** DGO no. 2 Sri.S.V.Ramesh, Assistant Executive Engineer has examined himself as DW-3. DW-3 has deposed in his evidence that he was working as a Assistant Executive Engineer in cottonpet sub division BBMP from 3.3.2010 to 4.3.2010 for that reason the question of dereliction of duty on his part does not arise.
- 21. Ex.P1 is the complaint in form no. 1 and 2 filed by complainant Sri.M.Srinivasan in Karnataka Lokayukta office on 28.11.2011. Ex.P-3 is the affidavit dtd: 10.11.2011 of the complainant Sri.M.Srinivasan. Ex.P-4 is the letter 11.6.2009 from the complainant Sri.M.Srinivasan, to the Assistant Engineer Chickpet range BBMP. Ex.P-5 is the letter dtd; 29.6.2012 from the Assistant Executive Engineer Cottonpet sub division, BBMP Bengaluru to Additional Registrar of Enquiries-10 Karnataka Lokayukta Bengaluru. Ex.P-6 are the eight photographs submitted by Assistant Executive Engineer BBMP Cottonpet sub division. Additional document: - letter dtd: 19.5.2014 from the Assistant Executive Engineer Cottonpet sub division, BBMP Bengaluru to Additional Registrar of Enquiries-8 Karnataka Lokayukta Bengaluru.
- 22. Ex.D-1 is the letter and photographs from Sri.R.Ramesh, Assistant Engineer Goraguntepalya sub division, Bengaluru to Additional Registrar of Enquiries-10 Karnataka Lokayukta Bengaluru. Ex.D-2 is the letter dtd: 5.11.2014 and four photos and a sketch enclosed from Sri.D.Ramegowda, Executive Engineer BBMP Bengaluru to the Additional Registrar of Enquiries—10, Karnataka



Lokayukta Bengaluru. Ex.D-3 is the letter and enclosure from Sri.D.Ranganath, Assistant Executive Engineer from the Additional Registrar of Enquiries—10 Karnataka Lokayukta Bengaluru. Ex.D-4 is the letter dtd: 5.11.2014 from S.Mallikarjunagowda, Assistant Executive Engineer BBMP, Bengaluru to the Additional Registrar of Enquiries—10 Karnataka Lokayukta Bengaluru. Ex.D-5 is the documents submitted by DW-3. Ex.D-6 is the CTC dtd: 3.3.2010. Ex.D-7 is the CTC dtd: 4.3.2010. Ex.D-8 is the CTC dtd: 5.3.2010. Ex.D-9 is the office order dtd: 4.3.2010 from deputy commissioner, (Admin) BBMP.

23. Perused the evidence of Pw-1, and DW-1, to DW-3 along with document produced by the both side and Article of charge. In this case charge framed against each DGOs separately.

Charge leveled against the DGO No.1

You Sri. Ramegowda - henceforth referred to as DGO No.1, while working as AEE in BBMP, Bengaluru during the prioed 17/06/2009 to 13/03/2010 being jurisdictional Engineer were required to get debris stored in 'J' Street, 1st Cross, Magadi Road, Bengaluru cleared to avoid health hazards due to nasty fungent smell derived out of the debris, failed to get it cleared despite the complainant Sri. M.Srinivasan, Resident of No.96, 'J' Street of Keshavnagar in Magadi Road, Bengaluru had filed complaint on 11/06/2009, which remained uncleared till 28/06/2012 and your inaction during the period you were working as jurisdiction engineer had caused health hazard to the residents of locality and thereby failed to Exbit devotion to duty and committed an act which unbecoming of a government servant and thus you are guilty of misconduct under u/s 3(1) (ii) & (iii) of Karnataka Civil Service (Conduct) Rules 1966.

24. Perused the evidence of Pw-1, and DW-1, to DW-3 along with document produced by the both side and Article of charge. In this case charge framed against each DGOs separately. There is no dispute from the side of the DGO no.1 that he was working as a Assistant Executive Engineer, Cottonpet sub division, BBMP Bengaluru from 17.6.2009 to 13.3.2010. Further there is no dispute regarding the fact that the disputed area i.e., J. Street 1st cross Keshavanagara Magadi road Bengaluru is comes within the jurisdiction of the cottonpet sub division. The Ex.P-4 is the complaint dtd: 11.6.2009 filed by the complainant and other residence of the same area before the Assistant Executive Engineer Chickpet BBMP Bengaluru regarding cleaning of debris and garbage in J street and also behind the house of complainant, the said complaint received in the o/o BBMP on 17.6.2009. In Ex.P-3 is affidavit, the complainant has stated that he has submitted the complaint on 11.6.2009 and also 27.6.2009. DW-1 the then Assistant Executive Engineer cotton pet sub division submitted his report Ex.D-5 along with photographs. As per his report and evidence he has cleaning debris and garbage in the lane which is situated backside of the house of complainant. From 25.6.2012 to 28.6.2012 from the assistance of gangman of his office. This fact clearly reveals that even thought the complaint filed by the complainant on 11.6.2009 in the o/o of the BBMP and complaint filed before Karnataka Lokayukta office on 28.11.2011 the said debris and garbage were not removed and not cleaning the said lane existing behind the house of the complainant.

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- cleaning and removing the debris and garbage in the private property is not comes within his preview. DGOs produced the Ex.D-5 work allotments of BBMP officials and their duty and responsibilities and also documents with their written statement i.e., in page no. 67 to 71 in respect of the work allotment. As per the said document under the Assistant Executive Engineer, Assistant Engineer were working in respective wards and said Assistant Engineer should also inspect periodically all the tanks, buildings, road, bridge, drains etc., and also have responsibility to disburse the debris and garbage in that area—and see their proper maintenance. The said act supervised by the Assistant Executive Engineer.
 - 26. The PW-1 scrutiny officer deposed in his evidence that he has received the comments of the health inspector of that area and in the said comments stated that duty of the engineer to remove the debris, the same was stated in the report under section 12 (3) of Karnataka Lokayukta Act. Further the DGO no. 1 in his written statement para no. 3 stated as follows;

"ವಾರ್ಡ್ ವ್ಯಾಪ್ತಿಯ ನೈರ್ಮಲಿಕರಣ ಹಾಗೂ ಸ್ವಚ್ಚತೆ ಕೆಲಸ ಆ.ಸ.ನೌ 1 ಇವರ ಅಧೀನದಲ್ಲಿ ಕೆಲಸ ಮಾಡುತ್ತಿರುವ ಆರೋಗ್ಯ ಇಲಾಖೆ ಅಧಿಕಾರಿಗಳು ಅಂದರೆ ಎ.ಇ., ಆರೋಗ್ಯ ನಿರೀಕ್ಷಕರು ಸ್ಯಾನಿಟರಿ ದಫೆದಾರರು ಕೆಲಸ ನಿರ್ವಹಿಸಬೇಕಾಗಿರುತ್ತದೆ."

27. As per the above said admission made by the DGO no.1 the cleaning and removing of debris and garbage comes under his duty. His duty to remove the said alleged debris and garbage through above said subordinate employees. But

the above said documents and report of the DW-1 (Ex.P-5) and his evidence clearly shows that till 28.6.2012 the DGO no.1 failed to clear the debris in the J street, 1st cross magadi road lane behind the house of complainant during his period. There is no material from the side of the DGO no.1 to disprove the charge leveled against him and to show that he had cleared the debris and garbage in that area during his period through his subordinate employees. Thereby the disciplinary authority succeeded to prove the charge leveled against the DGO no. 1.

Charge leveled against the DGO No.2

You Sri.SV.Ramesh - henceforth referred to as DGO No.2, while working as Assistant Engineer in BBMP, Bengaluru during the period from 26/07/2007 to 02/08/2010 being Jurisdiction Engineer were required to get debris stored in 'J' Street, 1st Cross, Magadi Road, Bengaluru cleared to avoid health hazards due to nasty fungent smell derived out of the debris, failed to get it cleared despite the complainant Sri. M.Srinivasan, Resident of No.96, 'J' Street of Keshavnagar in Magadi Road, Bengaluru had filed complaint on 11/06/2009, which remained uncleared till 28/06/2012 and you inaction during the period you were working as jurisdiction engineer had caused health hazard to the residents of locality and thereby failed to exibit absolute devotion to duty and committed an act which unbecoming of a government servants and thus you are guilty of misconduct under u/s 3(1) (ii) & (iii) of Karnataka Civil Service (Conduct) Rules 1966.

28. Perused the evidence of Pw-1, and DW-1, to DW-3 along with document produced by the both side and Article of charge. In this case charge framed against each DGOs separately. The DGO no.2 Sri.S.V.Ramesh has examined himself as DW-3. He has deposed that he had taken the



charge of Assistant Executive Engineer Cottonpet sub division on 3.3.2010 morning and then he had handover the charge of Assistant Executive Engineer Cottonpet sub division on 4.3.2010 after noon. In supporting his evidence he has produced the Ex.D-6, 7, 8 copy of the CTC dtd: 3.3.2010, 4.3.2010, 5.3.2010 and office order dtd: 4.3.2010 in respect of his transfer from the cotton pet sub division. The above said documents clearly reveals that this DGO not at all working as a Assistant Executive Engineer from 26.6.2007 to 2.8.2010. Further within one day as a Assistant Executive Engineer in the said sub division he has not possible to take any action regarding the alleged facts. There is no material evidence from the side of the disciplinary authority to prove the charge leveled against the DGO no. 2. Thereby the disciplinary authority has failed to prove the charge leveled against the DGO no. 2

Charge leveled against the DGO No.3

You Sri.D.Ranganath - henceforth referred to as DGO No.3, while working as AEE in BBMP, Bengaluru during the period 06/03/2010 to 21/08/2010 being jurisdictional Engineer were required to get debris stored in 'J' Street, 1st Cross, Magadi Road, Bengaluru cleared to avoid health hazards due to nasty fungent smell derived out of the debris, failed to get it cleared despite the complainant Sri. M.Srinivasan, Resident of No.96, 'J' Street of Keshavnagar in Magadi Road, Bengaluru had filed complaint on 11/06/2009, which remained uncleared till 28/06/2012 and you inaction during the period you were working as jurisdication engineer had caused health hazard to the residents of locality and thereby failed to exibit absolute devotion to duty and committed an act which unbecoming of a government servant and thus you are guilty of misconduct under u/s 3(1) (ii) & (iii) of Karnataka Civil Service (Conduct) Rules 1966.

29. Perused the evidence of Pw-1, and DW-1, to DW-3 along with document produced by the both side and Article of charge. In this case charge framed against each DGOs separately. There is no dispute from the side of the DGO no.3 that he was working as a Assistant Executive Engineer, Cottonpet sub division, BBMP Bengaluru from 6.3.2010 to 21.8.2010. Further there is no dispute regarding the fact that the disputed area i.e., J. Street 1st cross Keshavanagara Magadi road Bengaluru is comes within the jurisdiction of the cottonpet sub division. The Ex.P-4 is the complaint dtd: 11.6.2009 filed by the complainant and other residence of the same area before the Assistant Executive Engineer Chickpet range BBMP Bengaluru, regarding cleaning of debris and garbage in J street and also in lane behind the house of complainant. The said complaint received in the o/o BBMP on 17.6.2009. In Ex.P-3 affidavit the complainant has stated that he has submitted the complaint on 11.6.2009 and also on 27.6.2009. DW-1 the then Assistant Executive Engineer cotton pet sub division submitted his report Ex.D-5 along with photographs. As per his report and evidence he has cleaned the debris and garbage in the lane which is situated backside of the house of complainant, during 25.6.2012 to 28.6.2012 from the assistance of gangman of his office. This fact clearly reveals that even though the complaint filed by the complainant on 11.6.2009 in the o/o of the BBMP and complaint filed before Karnataka Lokayukta office 28.11.2011 the said debris and garbage were not removed and not cleaned the said lane existing behind the house of the complainant.

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- cleaning and removing the debris and garbage in the private property is not comes within his preview. DGOs produced the Ex.D-5 work allotments of BBMP officials and their duty and responsibilities and also documents with their written statement i.e., in page no. 67 to 71 in respect of the work allotment. As per the said document under the Assistant Executive Engineer, Assistant Engineer were working in respective wards and said Assistant Engineer should also inspect periodically all the tanks, buildings, road, bridge, drains etc., and also have responsibility to disburse the debris and garbage in that area and see their proper maintenance. The said act supervised by the Assistant Executive Engineer.
 - 31. The PW-1 scrutiny officer deposed in his evidence that he has received the comments of the health inspector of that area and in the said comments stated that duty of the engineer to remove the debris. The same was stated in the report under section 12 (3) of Karnataka Lokayukta Act. Further the DGO no. 3 in his written statement para no. 3 stated as follows;

"ವಾರ್ಡ್ ವ್ಯಾಪ್ತಿಯ ನೈರ್ಮಲಿಕರಣ ಹಾಗೂ ಸ್ವಚ್ಚತೆ ಕೆಲಸ ಆ.ಸ.ನೌ 3 ಇವರ ಅಧೀನದಲ್ಲಿ ಕೆಲಸ ಮಾಡುತ್ತಿರುವ ಆರೋಗ್ಯ ಇಲಾಖೆ ಅಧಿಕಾರಿಗಳು ಅಂದರೆ ಎ.ಇ., ಆರೋಗ್ಯ ನಿರೀಕ್ಷಕರು ಸ್ಯಾನಿಟರಿ ದಫೆದಾರರು ಕೆಲಸ ನಿರ್ವಹಿಸಬೇಕಾಗಿರುತ್ತದೆ."

32. As per the above said admission made by the DGO no.3 the cleaning and removing of debris and garbage comes under his duty. His duty to remove the said alleged debris and garbage through above said subordinate employees. But

the above said documents and report of the DW-1 (Ex.P-5) and his evidence clearly shows that till 28.6.2012 the DGO no.3 failed to clear the debris in the J street, 1st cross magadi road lane behind the house of complainant during his period. There is no material from the side of the DGO no.3 to disprove the charge leveled against him and to show that he had cleared the debris and garbage in that area during his period through his subordinate employees. Thereby the disciplinary authority succeeded to prove the charge leveled against the DGO no.3.

Charge leveled against the DGO No.4

You Sri. Mallikarjun Gowda - henceforth referred to as DGO No.4 while working as AEE in BBMP, Bengaluru during the period 23/08/2010 to 26/04/2011 being jurisdictional Engineer were required to get debris stored in 'J' Street, 1st Cross, Magadi Road, Bengaluru cleared to avoid health hazards due to nasty fungent smell derived out of the debris, failed to get it cleared despite the complainant Sri. M. Srinivasan, Resident of No.96, 'J' Street of Keshavnagar in Magadi Road, Bengaluru had filed complaint on 11/06/2009, which remained uncleared till 28/06/2012 and you inaction during the period you were working as jurisdication engineer had caused health hazard to the residents of locality and thereby failed to exibit absolute devotion to duty and committed an act which unbecoming of a government servants

along with document produced by the both side and Article of charge. In this case charge framed against each DGOs separately. There is no dispute from the side of the DGO no.4 that he was working as a Assistant Executive Engineer, Cottonpet sub division, BBMP Bengaluru from 23/08/2010 to 26/04/2011 and further there is no dispute regarding the

fact that the disputed area i.e., J. Street 1st cross Keshavanagara Magadi road Bengaluru is comes within the jurisdiction of the cottonpet sub division. The Ex.P-4 is the complaint dtd: 11.6.2009 filed by the complainant and other residence of the same area before the Assistant Executive Engineer Chickpet range BBMP Bengaluru regarding cleaning of debris and garbage in J street and also behind the house of complainant, the said complaint received in the o/o BBMP on 17.6.2009. In Ex.P-3 affidavit the complainant has stated that he has submitted the complaint on 11.6.2009 and DW-1 the then Assistant Executive also on 27.6.2009. Engineer cotton pet sub division submitted his report Ex.D-5 along with photographs. As per his report and evidence he has cleaned debris and garbage in the lane which is situated backside of the house of complainant. From 25.6.2012 to 28.6.2012 from the assistance of gangman of his office. This fact clearly reveals that even though the complaint filed by the complainant on 11.6.2009 in the o/o of the BBMP and complaint filed before Karnataka Lokayukta office on 28.11.2011 the said debris and garbage were not removed and not cleaned the said lane existing behind the house of the complainant.

34. The DGO no.4 taken the contention that the cleaning and removing the debris and garbage in the private property is not comes within his preview and DGOs produced the Ex.D-5 work allotments of BBMP officials and their duty and responsibilities and also documents with their written statement i.e., in page no. 67 to 71 in respect of the work allotment. As per the said document under the Assistant

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Executive Engineer, Assistant Engineer were working in respective wards and said Assistant Engineer should also inspect periodically all the tanks, buildings, road, bridge, drains etc., and also have responsibility to disburse the debris and garbage in that area and see their proper maintenance. The said act supervised by the Assistant Executive Engineer.

35. The PW-1 scrutiny officer deposed in his evidence that he has received the comments of the health inspector of that area and in the said comments stated that duty of the engineer to remove the debris, the same was stated in the report under section 12 (3) of Karnataka Lokayukta Act. Further the DGO no. 4 in his written statement para no. 3 stated as follows;

"ವಾರ್ಡ್ ವ್ಯಾಪ್ತಿಯ ನೈರ್ಮಲಿಕರಣ ಹಾಗೂ ಸ್ವಚ್ಚತೆ ಕೆಲಸ ಆ.ಸ.ನೌ 3 ಇವರ ಅಧೀನದಲ್ಲಿ ಕೆಲಸ ಮಾಡುತ್ತಿರುವ ಆರೋಗ್ಯ ಇಲಾಖೆ ಅಧಿಕಾರಿಗಳು ಅಂದರೆ ಎ.ಇ., ಆರೋಗ್ಯ ನಿರೀಕ್ಷಕರು ಸ್ಯಾನಿಟರಿ ದಫೆದಾರರು ಕೆಲಸ ನಿರ್ವಹಿಸಬೇಕಾಗಿರುತ್ತದೆ."

36. As per the above said admission made by the DGO no.4 the cleaning and removing of debris and garbage comes under his duty. His duty to remove the said alleged debris and garbage through above said subordinate employees. But the above said documents and report of the DW-1 (Ex.P-5) and his evidence clearly shows that till 28.6.2012 the DGO no.4 during his period failed to clear the debris in the J street, 1st cross magadi road lane behind the house of complainant. There is no material from the side of the DGO no.4 to disprove the charge leveled against him and to show that he had cleared the debris and garbage in that area

during his period through his subordinate employees. Thereby the disciplinary authority succeeded to prove the charge leveled against the DGO no.4.

37. Considering the above said reason stated in respect of the charge leveled against the DGO no.1 to 4 separately with document produced by both the side and written brief submitted by both the side it is clear that it is duty of the Assistant Executive Engineer of the cottonpet sub division BBMP to clear the debris and garbage in the lane which situated behind the house of complainant in J' Street of Keshavnagar in Magadi Road, Bengaluru. As per the evidence of the DW-1 and 2 and report submitted by DW-1 i.e., Ex.D-5 till 28.6.2012 the said debris not cleared by the Executive Engineer through his Assistant concerned subordinate staffs even though the complainant filed the complaint on 11.6.2009. There is no dispute by the DGOs no.1 working as a Assistant Executive Engineer in the said sub division from 17.6.2009 to 13.3.2010 and DGO no. 3 as a Assistant Executive Engineer from 6.3.2010 to 21.8.2010 and DGO no. 4 as a Assistant Executive Engineer from 23.8.2010 to 26.4.2011. Thereby the DGO no.1, 3 and 4 failed to clear the debris in the said alleged disputed property during their respective period. Thereby the charged leveled against the DGO no.1, 3 and 4 are proved. But as per the documents in respect of the DGO no. 2 S.V.Ramesh who was working as a Assistant Executive Engineer in the said sub division from 3.3.2010 to 4.3.2010 as per CTC produced by him. Hence the question of clearing the alleged debris in the disputed property within the said period does not arise. Thereby the charge leveled against the DGO no.2 is not proved.

38. In the above said facts and circumstances, charge leveled against the DGOs No.1, 3 and 4 are proved and charge leveled against the DGO no.2 is not proved. Hence, report is submitted to Hon'ble Upalokayukta for further action.

(Lokappa N.R)
Additional Registrar Enquiries-9
Karnataka Lokayukta,
Bengaluru.

i) <u>List of witnesses examined on behalf of</u> <u>Disciplinary Authority.</u>

Pw.1	Sri.Anand Bennur, the then ARE-10, Karnataka
	Lokayukta, Bangalore

ii) <u>List of Documents marked on behalf of</u> <u>Disciplinary Authority.</u>

Ex.P1	Ex.P1 is the complaint in form no. 1 and 2
- Innues of	filed by complainant Sri.M.Srinivasan in
	Karnataka Lokayukta office on 28.11.2011.
Ex.P-3	Ex.P-3 is the affidavit dtd: 10.11.2011 of the
	complainant Sri.M.Srinivasan.
Ex.P-4	Ex.P-4 is the letter dtd: 11.6.2009 from the
10-	complainant Sri.M.Srinivasan, to the
Limiter	Assistant Engineer Chickpet range BBMP.
Ex.P5	Ex.P-5 is the letter dtd; 29.6.2012 from the
Ot Sevin	Assistant Executive Engineer Cottonpet sub
	division, BBMP Bengaluru to Additional



	Registrar of Enquiries-10 Karnataka
	Lokayukta Bengaluru.
Ex.P6	Ex.P-6 are the eight photographs submitted by Assistant Executive Engineer BBMP Cottonpet sub division.
Additional document: -	letter dtd: 19.5.2014 from the Assistant Executive Engineer Cottonpet sub division, BBMP Bengaluru to Additional Registrar of Enquiries-8 Karnataka Lokayukta Bengaluru.

iii) List of witnesses examined on behalf of DGO.

DW-1	Sri.D.Hemanth, S/o Dasappa, AEE, Chikkaballapura Irrigation department
DW-2	Sri.R.Ramesh, S/o Rangaiah, JE, BBMP Chamarajapet, JJR Nagara sub division, Bangalore
DW-3	DGO no. 2 Sri.S.V.Ramesh, Assistant Executive Engineer

iv) List of documents marked on behalf of DGO

Ex.D-1	Ex.D-1 is the letter and photographs from
	Sri.R.Ramesh, Assistant Engineer
	Goraguntepalya sub division, Bengaluru to
	Additional Registrar of Enquiries-10 Karnataka
	Lokayukta Bengaluru.
Ex.D-2	Ex.D-2 is the letter dtd: 5.11.2014 and four
	photos and a sketch enclosed from
	Sri.D.Ramegowda, Executive Engineer BBMP
	Bengaluru to the Additional Registrar of
	Enquiries—10, Karnataka Lokayukta Bengaluru.
Ex.D-3	Ex.D-3 is the letter and enclosure from
	Sri.D.Ranganath, Assistant Executive Engineer
	from the Additional Registrar of Enquiries—10
	Karnataka Lokayukta Bengaluru.

Ex.D-4	Ex.D-4 is the letter dtd: 5.11.2014 from S.Mallikarjunagowda, Assistant Executive Engineer BBMP, Bengaluru to the Additional Registrar of Enquiries—10 Karnataka Lokayukta Bengaluru.
Ex.D-5	Ex.D-5 is the documents submitted by DW-3.
Ex.D-6	Ex.D-6 is the CTC dtd: 3.3.2010.
Ex.D-7	Ex.D-7 is the CTC dtd: 4.3.2010.
Ex.D-8	Ex.D-8 is the CTC dtd: 5.3.2010.
Ex.D-9	Ex.D-9 is the office order dtd: 4.3.2010 from deputy commissioner, (Admin) BBMP.

(Lokappa N.R)
Additional Registrar Enquiries-9
Karnataka Lokayukta,
Bengaluru.

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No. UPLOK-1/DE/207/2015/ARE-9

Multi Storied Building, Dr. B.R. Ambedkar Veedhi, Bengaluru-560 001 Date: **27/01/2020**

RECOMMENDATION

Sub:- Departmental inquiry against;

- (1) Sri Ramegowda, Assistant Executive Engineer, Bruhat Bengaluru Mahanagara Palike, Bengaluru;
- (2) Sri S.V. Ramesh, Assistant Executive Engineer, Bruhat Bengaluru Mahanagara Palike, Bengaluru;
- (3) Sri D. Ranganath, Assistant Executive Engineer,
 Bruhat Bengaluru Mahanagara Palike, Bengaluru;
- (4) Sri Mallikarjun Gowda, Assistant Executive Engineer, Bruhat Bengaluru Mahanagara Palike, Bengaluru – Reg.
- Ref:- 1) Government Order No.నఅఇ 68 ఎంఎన్య 2015 Bengaluru dated 1/4/2015.
 - 2) Nomination order No.UPLOK-1/DE/207/2015, Bengaluru dated 18/4/2015 of Upalokayukta-1, State of Karnataka, Bengaluru
 - 3) Inquiry Report dated 23/1/2020 of Additional Registrar of Enquiries-9, Karnataka Lokayukta, Bengaluru

The Government by its Order dated 1/4/2015, initiated the disciplinary proceedings against (1) Sri Ramegowda, Assistant Executive Engineer (2) Sri S.V. Ramesh, Assistant Executive Engineer, (3) Sri D. Ranganath, Assistant Executive Engineer and (4) Sri Mallikarjun Gowda, Assistant Executive Engineer – All of Bruhat Bengaluru Mahanagara Palike, Bengaluru (hereinafter referred to as Delinquent Government Officials 1 to 4, for short as DGO-1, DGO-2, DGO-3 and DGO-4) and entrusted the Departmental Inquiry to this Institution.

- 2. This Institution by Nomination Order No.UPLOK-1/DE/207/2015, Bengaluru dated 18/4/2015 nominated Additional Registrar of Enquiries-6, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGOs 1 to 4 for the alleged charge of misconduct, said to have been committed by them. Subsequently, by Order No. UPLOK-1/DE/2016, dated 3/8/2016, the Additional Registrar of Enquiries-9, Karnataka Lokayukta, Bengaluru was re-nominated as inquiry officer to conduct departmental inquiry against DGOs 1 to 4.
- 3. The DGO-1 Sri Ramegowda, Assistant Executive Engineer DGO-2 Sri S.V. Ramesh, Assistant Executive Engineer, DGO-3 Sri D. Ranganath, Assistant Executive Engineer and DGO-4 Sri Mallikarjun Gowda, Assistant Executive Engineer All of Bruhat Bengaluru Mahanagara Palike, Bengaluru was tried for the following charges:-

"Charge against DGO No.1:

You Sri Ramegowda – henceforth referred to as DGO No.1, while working s AEE in BBMP, Bengaluru during the period 17/06/2009 to 13/03/2010 being jurisdictional engineer were required to get debris stored in 'J' Street, 1st Cross, Magadi Road, Bengaluru cleared to avoid health hazards due to nasty fungent smell derived out of the debris, failed to get it cleared despite the complainant Sri M. Srinivasan, Resident of No. 96, 'J' Street of Keshavanagar in Magadi Road, Bengaluru had filed complaint on 11/06/2009, which remained uncleared till 28/6/2012 and your inaction during the period you were working as jurisdictional

engineer had caused health hazard to the residents of locality and thereby failed to exhibit devotion to duty and committed an act which is unbecoming of a Government Servant and thus you are guilty of misconduct under Rule 3(1)(ii) & (iii) of the Karnataka Civil Šervices (Conduct) Rules, 1966.

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"Charge against DGO No.2:

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You Sri S.V. Ramesh - henceforth referred to as DGO No.2, while working as AEE in BBMP, Bengaluru during the period from 26/07/2007 to 02/08/2010 being jurisdictional engineer were required to get debris stored in 'J' Street, 1st Cross, Magadi Road, Bengaluru cleared to avoid health hazards due to nasty fungent smell derived out of the debris, failed to get it cleared despite the complainant Sri M. Srinivasan, Resident of No. 96, 'J' Street Keshavanagar in Magadi Road, Bengaluru had filed complaint on 11/06/2009, which remained uncleared till 28/6/2012 and your inaction during the period you were working as jurisdictional engineer had caused health hazard to the residents of locality and thereby failed to exhibit absolute devotion to duty and committed an act which is unbecoming of a Government Servant and thus you are guilty of misconduct under Rule 3(1)(ii) & (iii) of the Karnataka Civil Services (Conduct) Rules, 1966.

"Charge against DGO No.3:

You Sri D. Ranganath – henceforth referred to as DGO No.3, while working s AEE in BBMP, Bengaluru during the period 06/03/2010 to 21/08/2010 being jurisdictional engineer were required to get debris

stored in 'J' Street, 1st Cross, Magadi Road, Bengaluru cleared to avoid health hazards due to nasty fungent smell derived out of the debris, failed to get it cleared despite the complainant Sri M. Srinivasan, Resident of No. 96, 'J' Street of Keshavanagar in Magadi Road, Bengaluru had filed complaint on 11/06/2009, which remained uncleared till 28/6/2012 and your inaction during the period you were working as jurisdictional engineer had caused health hazard to the residents of locality and thereby failed to exhibit absolute devotion to duty and committed an act which is unbecoming of a Government Servant and thus you are guilty of misconduct under Rule 3(1)(ii) & (iii) of the Karnataka Civil Services (Conduct) Rules, 1966.

"Charge against DGO No.4:

You Sri Mallikarjun Gowda - henceforth referred to as DGO No.4, while working as AEE in BBMP, Bengaluru during the period 23/08/2010 to 26/04/2011 being jurisdictional engineer were required to get debris stored in 'J' Street, 1st Cross, Magadi Road, Bengaluru cleared to avoid health hazards due to nasty fungent smell-derived out of the debris, failed to get it cleared despite the complainant Sri M. Srinivasan, Resident of No. 96, 'J' Street of Keshavanagar in Magadi Road, Bengaluru had filed complaint on 11/06/2009, which remained uncleared till 28/6/2012 and your inaction during the period you were working as jurisdictional engineer had caused health hazard to the residents of locality and thereby failed to exhibit absolute devotion to duty and committed an act which is unbecoming of a Government Servant and thus you are guilty of misconduct under Rule 3(1)(ii) & (iii) of the Karnataka

Civil Services (Conduct) Rules, 1966."

- 4. The Inquiry Officer (Additional Registrar of Enquiries-9) on proper appreciation of oral and documentary evidence has held that the Disciplinary Authority has proved the charge against DGO-1 Sri Ramegowda, Assistant Executive Engineer, DGO-3 Sri D. Ranganath, Assistant Executive Engineer and DGO-4 Sri Mallikarjun Gowda. Assistant Executive Engineer. The Disciplinary Authority has failed to prove charge against DGO-2 Sri S.V. Ramesh, Assistant Executive Engineer.
- 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 DGOs 1, 3 & 4;
 - (i) DGO-1 Sri Ramegowda has retired from service on 31/5/2015 (during the pendency of inquiry);
 - (ii) DGO-3 Sri D. Rangnath has retired from service on 30/11/2018 (during the pendency of inquiry);
 - (iii) •DGO-4 Sri Mallikarjun Gowda has retired from service on 28/2/2018 (during the pendency of inquiry).
- 7. It is recommended to Government to accept the report of inquiry officer and to exonerate DGO-2 Sri S.V. Ramesh, Assistant Executive Engineer, Bruhat Bengaluru Mahanagara Palike, Bengaluru.

- 8. Having regard to the nature of charge proved against DGO-1 Sri Ramegowda, DGO 3 Sri Ranganath D, DGO-4 Sri Mallikarjun Gowda,
 - it is hereby recommended to the Government for imposing penalty of withholding 10% of pension payable to DGO-1 Sri Ramegowda, the then Assistant Executive Engineer, Bruhat Bengaluru Mahanagara Palike, Bengaluru for a period of 5 years;
 - (ii) it is hereby recommended to the Government for imposing penalty of withholding 10% of pension payable to DGO-3 Sri D. Ranganath, the then Assistant Executive Engineer, Bruhat Bengaluru Mahanagara Palike, Bengaluru for a period of 5 years;
 - (iii) it is hereby recommended to the Government for imposing penalty of withholding 10% of pension payable to DGO-4 Sri Mallikarjun Gowda, the then Assistant Executivė Engineer, Bruhat Bengaluru Mahanagara Palike, Bengaluru for a period of 5 years;
- 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