

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No.UPLOK-1/DE/208/2017/ARE-16

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001
Date: **18/01/2022**

RECOMMENDATION

Sub:- Departmental inquiry against;

- 1) Smt. Pavana Naagathi R.Y., Assistant Engineer, Bruhat Bengaluru Mahanagara Palike, Ward No.91, Bengaluru
- 2) Sri Venkatesh Murthy, Assistant Engineer, Bruhat Bengaluru Mahanagara Palike, Ward No.91, Bengaluru-Reg.

- Ref:- 1) Govt. Order No. ನಲಇ 469 ಎಂಎನ್‌ಜಿ 2016, Bengaluru dated 17/1/2017.
- 2) Nomination order No.UPLOK-1/DE/208/2017, Bengaluru dated 8/2/2017 of Upalokayukta-1, State of Karnataka, Bengaluru
 - 3) Inquiry Report dated 14/1/2022 of Additional Registrar of Enquiries-16, Karnataka Lokayukta, Bengaluru

The Government by its order dated 17/1/2017 initiated the disciplinary proceedings against Smt. Pavana Nagathi R.Y., Assistant Engineer and (2) Sri Venkatesh Murthy, Assistant Engineer – both of Bruhat Bengaluru Mahanagara Palike, Ward No.91, Bengaluru (hereinafter referred to as Delinquent Government Officials 1 & 2, for short as DGO-1 & DGO-2 respectively) and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.UPLOK-1/DE/208/2017 Bengaluru dated 8/2/2017 nominated Additional Registrar

of Enquiries-11, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGOs.1 & 2 for the alleged charge of misconduct, said to have been committed by them. Subsequently, by Order No. UPLOK-1&2/DE/Transfers/2019 dated 7/2/2019, the Additional Registrar of Enquiries-16, Karnataka Lokayukta, Bengaluru was re-nominated as inquiry officer to conduct departmental inquiry against DGOs 1 & 2.

3. The DGO-1 Smt. Pavana Nagathi R.Y., Assistant Engineer and DGO-2 Sri Venkatesh Murthy, Assistant Engineer – both of Bruhat Bengaluru Mahanagara Palike, Ward No.91, Bengaluru was tried for the following charge:-

“ನೀವು ಎಂದರೆ 1) ಶ್ರೀ ಪಾವತಿ ನಾಗತಿ. ಆರ್.ವೈ ಮತ್ತು 2) ಶ್ರೀ ವೆಂಕಟೇಶ್ ಮೂರ್ತಿ ಆದ ನೀವುಗಳು ಬೃಹತ್ ಬೆಂಗಳೂರು ಮಹಾನಗರ ಪಾಲಿಕೆಯ ವಾರ್ಡ್ ನಂ.91ರಲ್ಲಿ 2010ರಿಂದ 2014ರವರೆಗೆ ಸಹಾಯಕ ಅಭಿಯಂತರರುಗಳಾಗಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿದ್ದ ಅವಧಿಯಲ್ಲಿ ಬೆಂಗಳೂರಿನ ವಾರ್ಡ್ ಸಂಖ್ಯೆ.91ರ ವ್ಯಾಪ್ತಿಯಲ್ಲಿ ಬರುವ ಭಾರತಿನಗರದ (ತ್ಯಾಗಿ ದೊರೆಸ್ವಾಮಯ್ಯ ರಸ್ತೆ, (ಸೆಪ್ಟಿಂಗ್ ರಸ್ತೆ) ಸ್ವತ್ತಿನ ಸಂಖ್ಯೆ:14ರ ಕಟ್ಟಡ ಮಾಲೀಕರಾದ ಶ್ರೀ ಟಿ.ಬಿ.ಆರ್. ಬೋರಣ್ಣ ಇವರು ಮಂಜೂರಾತಿ ನಕ್ಷೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿ ಕಟ್ಟಡವನ್ನು ಕಟ್ಟಲು ಹಾಗೂ ಕಟ್ಟಡ ನಿರ್ಮಾಣ ಮುಗಿದ ನಂತರ ಮಾಲೀಕರು ಸ್ವಾಧೀನಾನುಭವ ಪ್ರಮಾಣ ಪತ್ರ ಪಡೆಯದೆ ಕಟ್ಟಡವನ್ನು ಉಪಯೋಗಿಸುತ್ತಿರುವುದಕ್ಕೆ ಅವಕಾಶ ಮಾಡಿಕೊಟ್ಟು ಆ ಮೂಲಕ ಸರ್ಕಾರಿ ನೌಕರನಿಗೆ ತಕ್ಕುದಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡು ದುರ್ನಡತೆಯಿಂದ ವರ್ತಿಸಿ ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ ನಿಯಮಗಳು (ನಡತೆ) 1966 ನಿಯಮ 3(1) (ನಡತೆ) 1966 ನಿಯಮ 3(1) (ii) ರಿಂದ (iii)ರ ಅಡಿಯಲ್ಲಿ ದುರ್ನಡತೆಯನ್ನೆಸಗಿದ್ದೀರಿ.”

4. The Inquiry Officer (Additional Registrar of Enquiries-16) on proper appreciation of oral and documentary evidence has held that the Disciplinary Authority has proved the above charge against DGO-1 Smt. Pavana Nagathi R.Y., Assistant Engineer and DGO-2 Sri Venkatesh Murthy, Assistant Engineer—both of Bruhat Bengaluru Mahanagara Palike, Ward No.91, Bengaluru.

5. On re-consideration of inquiry report and taking note of the totality of the circumstances of the case, 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 & 2;

- (i) DGO-1 Smt. Pavana Nagathi R.Y. is due to retire from service on 31/12/2044;
- (ii) DGO-2 Sri Venkatesh Murthy is due to retire from service on 30/6/2022.

7. Having regard to the nature of charge proved against DGO-1 Smt. Pavana Nagathi R.Y., Assistant Engineer and DGO-2 Sri Venkatesh Murthy, Assistant Engineer—both of Bruhat Bengaluru Mahanagara Palike, Ward No.91, Bengaluru and considering the date of retirement of DGO-2 on 30/6/2022 and the time required for passing final orders after issuing Second Show cause notices to DGOs 1 and 2 and considering their replies on the Second Show cause notices, it is hereby recommended to the Government for imposing penalty of;

- (i) Withholding two annual increments payable to DGO-1 Smt. Pavana Nagathi R.Y., with cumulative effect;

(ii) Withholding 10% of pension payable to DGO-2 Sri Venkatesh Murthy for a period of 5 years.

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

Connected records are enclosed herewith.

B.S. Patil 18-1-22

(JUSTICE B.S.PATIL)

Upalokayukta,
State of Karnataka,
Bengaluru

KARNATAKA LOKAYUKTA

No.UPLOK-1/DE/208/2017/ARE-16

M.S. Building
Dr.B.R. Ambedkar Road
Bangalore-560 001
Date: 14/01/2022.

ENQUIRY REPORT

- Present :** Vijaykumar M Pawale,
Additional Registrar of Enquiries-16,
Karnataka Lokayukta,
Bengaluru.
- Sub:** Departmental Enquiry against DGOs
1) Smt. Pavana Naagathi R.Y.,
Assistant Engineer, Ward No. 91,
BBMP, Bengaluru
(DOR : 31/12/2044)
2) Sri. Venkatesh Murthy, Assistant
Engineer, Ward No. 91, PWD,
Bengaluru (DOR : 30/06/2022) – Reg.
- Ref:** 1. Government Order No. ನಅಇ 469
ಎಂಎನ್‌ಜಿ 2016 ಬೆಂಗಳೂರು, ದಿ: 17/01/2017.
2. Nomination Order No: UPLOK- 1/
DE/208/2017, Bengaluru, Dated:
08/02/2017 of Hon'ble Upalokayukta,
Bengaluru.
3. This Office Note No. Uplok-1 & 2/
DE/Transfers/2019 dt. 7/2/2019.

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This is a Departmental Enquiry directed on the basis of
Government Order No. ನಅಇ 469 ಎಂಎನ್‌ಜಿ 2016 ಬೆಂಗಳೂರು, ದಿ:

01/1/1

ಡಿ: 17/01/2017 against 1) Smt. Pavana Naagathi. R.Y., Assistant Engineer, Ward No. 91, Bruhath Bengaluru Mahanagara Palike, Bengaluru and 2) Sri. Venkatesh Murthy, Assistant Engineer, Ward No. 91, PWD, Bengaluru. (Herein after, these Delinquent Government Officials are referred in short as 'DGO 1 & 2 respectively).

2. The Hon'ble Upalokayukta has nominated Additional Registrar of Enquiries-11, office of the Karnataka Lokayukta, Bengaluru to frame the charge and to conduct inquiry against the aforesaid DGOs as per the nomination order dated 08/02/2017. Accordingly, Articles of Charge was framed by Additional Registrar Enquires-11. Vide order No. Uplok-1 & 2/DE/Transfers/2019 dated 07/02/2019. This file is transferred to Additional Registrar of Enquiries -16. Articles of Charge as against DGOs are as under:

ಅನುಬಂಧ-1
ದೋಷಾರೋಪಣೆ

ನೀವು ಎಂದರೆ 1) ಶ್ರೀ ಪಾವತಿ ನಾಗತಿ. ಆರ್.ವೈ ಮತ್ತು 2) ಶ್ರೀ ವೆಂಕಟೇಶ್ ಮೂರ್ತಿ ಆದ ನೀವುಗಳು ಬೃಹತ್ ಬೆಂಗಳೂರು ಮಹಾನಗರ ಪಾಲಿಕೆಯ ವಾರ್ಡ್ ನಂ.91ರಲ್ಲಿ 2010ರಿಂದ 2014ರವರೆಗೆ ಸಹಾಯಕ ಅಭಿಯಂತರರುಗಳಾಗಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿದ್ದ ಅವಧಿಯಲ್ಲಿ ಬೆಂಗಳೂರಿನ ವಾರ್ಡ್ ಸಂಖ್ಯೆ:91ರ ವ್ಯಾಪ್ತಿಯಲ್ಲಿ ಬರುವ ಭಾರತಿನಗರದ (ತ್ಯಾಗಿ ದೊರೆಸ್ವಾಮಯ್ಯ ರಸ್ತೆ, (ಸೆಪ್ಟಿಂಗ್ ರಸ್ತೆ) ಸ್ವತ್ತಿನ ಸಂಖ್ಯೆ:14ರ ಕಟ್ಟಡ ಮಾಲೀಕರಾದ ಶ್ರೀ ಟಿ.ಬಿ.ಆರ್. ಬೋರಣ್ಣ ಇವರು ಮಂಜೂರಾತಿ ನಕ್ಷೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿ ಕಟ್ಟಡವನ್ನು ಕಟ್ಟಲು ಹಾಗೂ ಕಟ್ಟಡ ನಿರ್ಮಾಣ ಮುಗಿದ ನಂತರ ಮಾಲೀಕರು ಸ್ವಾಧೀನಾನುಭವ ಪ್ರಮಾಣ ಪತ್ರ ಪಡೆಯದೆ ಕಟ್ಟಡವನ್ನು ಉಪಯೋಗಿಸುತ್ತಿರುವುದಕ್ಕೆ ಅವಕಾಶ ಮಾಡಿಕೊಟ್ಟು ಆ

೧೫/೧

ಮೂಲಕ ಸರ್ಕಾರಿ ನೌಕರನಿಗೆ ತಕ್ಕುದಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡು ದುರ್ನಡತೆಯಿಂದ ವರ್ತಿಸಿ ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ ನಿಯಮಗಳು (ನಡತೆ) 1966 ನಿಯಮ 3(1) (ನಡತೆ) 1966 ನಿಯಮ 3(1) (ii) ರಿಂದ (iii)ರ ಅಡಿಯಲ್ಲಿ ದುರ್ನಡತೆಯನ್ನೆಸಗಿದ್ದೀರಿ.

ಅನುಬಂಧ-2

ದೋಷದೋಷಣೆಯ ವಿವರ

ದೂರುದಾರರಾದ ಶ್ರೀ ಮುನೀರ್ ಅಹ್ಮದ್ ಬಿ.ಎಸ್. ಬಿನ್ ಬಿ.ಎಸ್. ಮೊಹಮ್ಮದ್ ಯಾಕೂಬ್, ನಂ.21, 5ನೇ ಬೀದಿ, ಭಾರತಿ ನಗರ, ಬೆಂಗಳೂರು ರವರು ತಮ್ಮ ದೂರಿನಲ್ಲಿ ಶ್ರೀ ಟಿ.ಬಿ.ಆರ್. ಬೋರಣ್ಣ ಇವರು ಬೆಂಗಳೂರಿನ ವಾರ್ಡ್ ಸಂಖ್ಯೆ:91ರ ವ್ಯಾಪ್ತಿಯಲ್ಲಿ ಬರುವ ಭಾರತಿನಗರದ (ತ್ಯಾಗಿ ದೊರೆಸ್ವಾಮಯ್ಯ ರಸ್ತೆ, (ಸೆಪ್ಟಿಂಗ್ಸ್ ರಸ್ತೆ) ಸ್ಥಳೀಯ ಸಂಖ್ಯೆ:14ರ ಕಟ್ಟಡವನ್ನು ನಿಯಮಬಾಹಿರವಾಗಿ ಕಟ್ಟುತ್ತಿದ್ದು ಈ ಬಗ್ಗೆ ಸ್ಥಳ ಪರಿವೀಕ್ಷಣೆ ಮಾಡಿ ಸೂಕ್ತ ಕ್ರಮಕೈಗೊಳ್ಳಲು ಕೋರಿರುತ್ತಾರೆ.

ಮೇಲ್ಕಾಣಿಸಿದ ಕಟ್ಟಡದ ಸ್ಥಳ ಪರಿವೀಕ್ಷಣೆಯನ್ನು ಮುಖ್ಯ ಅಭಿಯಂತರರು (ಪೂರ್ವ) ಇವರು ದಿನಾಂಕ 18-7-2014ರಂದು ಸ್ಥಳಕ್ಕೆ ಭೇಟಿ ನೀಡಿ ಸ್ಥಳ ತಪಾಸಣೆ ನಡೆಸಿ ವರದಿಯನ್ನು ನೀಡಿರುತ್ತಾರೆ. ಸದರಿ ವರದಿಯಲ್ಲಿ ಈ ಕೆಳಕಂಡ ಅಂಶಗಳು ಕಂಡುಬರುತ್ತವೆ.

1) ಕಟ್ಟಡದ ಮಾಲೀಕರು ನೆಲಮಹಡಿ, 1ನೆಯ, 2ನೆಯ ಮತ್ತು 3ನೆಯ ಮಹಡಿಗಳ ವಾಣಿಜ್ಯ ಕಟ್ಟಡ ನಿರ್ಮಾಣಕ್ಕಾಗಿ ಬಿಬಿಎಂಪಿ ಕಛೇರಿಯಿಂದ ಮಂಜೂರಾತಿ ನಕ್ಷೆಯನ್ನು ದಿನಾಂಕ 23-07-2012ರಂದು ಪಡೆದು, ನಂತರ ದಿನಾಂಕ 23-02-2013ರಲ್ಲಿ ಅಪರ ಆಯುಕ್ತರು (ಪೂರ್ವ) ಬಿಬಿಎಂಪಿ ಕಛೇರಿಯಿಂದ ಮಾಡಿಫಿಕೇಷನ್ ನಕ್ಷೆಗೆ ಮಂಜೂರಾತಿಯನ್ನು ಪಡೆದು, ಪ್ರಾರಂಭಿಕ ಪ್ರಮಾಣ ಪತ್ರವನ್ನು ಪಡೆಯದೇ ಕಟ್ಟಡ ನಿರ್ಮಾಣ ಪ್ರಾರಂಭಿಸಿರುತ್ತಾರೆ.

2) ಮಂಜೂರಾತಿ ನಕ್ಷೆಗೆ ವ್ಯತಿರಿಕ್ತವಾಗಿ ನೆಲ, 1ನೆಯ ಮತ್ತು 2ನೆಯ ಮಹಡಿಗಳ ಪ್ರೋಜೆಕ್ಷನ್‌ಗಳನ್ನು ವಿಸ್ತರಿಸಿ 1ನೆಯ ಮತ್ತು 2ನೆಯ ಮಹಡಿಯಲ್ಲಿ ಪ್ರೋಜೆಕ್ಷನ್‌ಗಳನ್ನು ಮುಚ್ಚಲಾಗಿರುತ್ತದೆ ಮತ್ತು ನೆಲಮಹಡಿಯಲ್ಲಿ ನಿರ್ಮಿಸಿದ ವಾಹನ ನಿಲ್ದಾಣದ ಸ್ಥಳವನ್ನು ಪೂರ್ಣವಾಗಿ ಮುಚ್ಚಿದ್ದು, ವಾಹನಗಳ ನಿಲುಗಡೆಗೆ ಯಾವುದೇ ರ್ಯಾಂಪ್ ವ್ಯವಸ್ಥೆ ಮಾಡಿಕೊಂಡಿರುವುದಿಲ್ಲ.

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3) ಮಂಜೂರಾತಿ ನಕ್ಷೆಗೆ ವ್ಯತಿರಿಕ್ತವಾಗಿ 3ನೆಯ ಮಹಡಿಯನ್ನು ಅನಧಿಕೃತವಾಗಿ ನಿರ್ಮಿಸಿ ಪ್ರೋಜೆಕ್ಷನ್‌ಗಳನ್ನು ಮುಚ್ಚಲಾಗಿರುತ್ತದೆ.

4) ವಾಸದ ದೃಢೀಕರಣ ಪ್ರಮಾಣ ಪತ್ರವನ್ನು ಪಡೆದಿರುವುದಿಲ್ಲ.

ದೂರುದಾರರು ಮಾಡಿರುವ ಆಪಾದನೆಗೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಮುಖ್ಯ ಅಭಿಯಂತರರು (ಪೂರ್ವ) ಇವರು ಸಲ್ಲಿಸಿರುವ ತನಿಖಾ ವರದಿ ಹಾಗೂ ತನಿಖಾ ವರದಿಗೆ ನೀವುಗಳು ಕೊಟ್ಟಿರುವ ವಿವರಣೆಯನ್ನು ಪರಿಶೀಲಿಸಿದಾಗ, ನೀವುಗಳು ಕರ್ತವ್ಯ ಲೋಪವೆಸಗಿರುವುದು ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡುಬರುತ್ತದೆ.

ದೂರು, ತನಿಖಾ ವರದಿ ಮತ್ತು ಸಂಬಂಧಪಟ್ಟ ಎಲ್ಲಾ ದಾಖಲಾತಿಗಳನ್ನು ಪರಿಶೀಲಿಸಿದಾಗ, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನೀವುಗಳು ಯಾವುದೇ ಕ್ರಮಗಳನ್ನು ಕೈಗೊಳ್ಳದೆ ಇರುವುದು ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡು ಬಂದಿದ್ದರಿಂದ ಸದರಿ ದೂರಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ನಿಮಗೆ ಪರಿಶೀಲನಾ ಟಿಪ್ಪಣಿಯನ್ನು ಕಳುಹಿಸಿ, ಉತ್ತರವನ್ನು ಸಲ್ಲಿಸುವಂತೆ ಸೂಚಿಸಿದ್ದು, ಅದರಂತೆ ನೀವು ಉತ್ತರವನ್ನು ಸಲ್ಲಿಸಿದ್ದು, ಸದರಿ ಉತ್ತರವನ್ನು ಒಪ್ಪಲು ಬಾರದ ಕಾರಣ, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ತಮ್ಮ ಕರ್ತವ್ಯವನ್ನು ನಿಷ್ಠೆಯಿಂದ ಮಾಡಿಲ್ಲದಿರುವುದು ಕಂಡು ಬಂದಿದ್ದರಿಂದ ಮತ್ತು ಈ ಕೃತ್ಯ ದುರ್ನಡತೆ ಎಂಬ ಪರಿಭಾಷೆಯಲ್ಲಿ ಬರುವುದರಿಂದ ಕರ್ನಾಟಕ ಸಿವಿಲ್ ಸೇವಾ (ನಡತೆ) 1966ರಡಿ ನಿಯಮ 3(1) ರಡಿಯಲ್ಲಿ ದುರ್ವರ್ತನೆ ಮಾಡಿದ್ದಾರೆಂದು ಕಂಡುಬಂದಿದ್ದರಿಂದ ಎದುರುದಾರರ ವಿರುದ್ಧ ಶಿಸ್ತಿನ ಕ್ರಮ ಕೈಗೊಳ್ಳಬೇಕೆಂದು ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯ್ದೆ ಕಲಂ 12(3) ರಡಿಯಲ್ಲಿ ವರದಿಯನ್ನು ಸಲ್ಲಿಸಿ, ನಿಮ್ಮ ವಿರುದ್ಧ ಶಿಸ್ತು ಕ್ರಮವನ್ನು ಜರುಗಿಸಲು ತಿಳಿಸಲಾಗಿತ್ತು. ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರವು ಈ ಸಂಸ್ಥೆಯಿಂದ ಮಾಡಿರುವ ಶಿಫಾರಸ್ಸನ್ನು ಒಪ್ಪಿ ನಿಮ್ಮ ವಿರುದ್ಧ ಶಿಸ್ತು ಕ್ರಮಕೈಗೊಂಡು ವರದಿಯನ್ನು ಸಲ್ಲಿಸುವಂತೆ ಗೌರವಾನ್ವಿತ ಉಪಲೋಕಾಯುಕ್ತರವರಿಗೆ ವಹಿಸಲಾಗಿರುತ್ತದೆ. ಆದ್ದರಿಂದ ನಿಮ್ಮ ಮೇಲೆ ಈ ದೋಷಾರೋಪಣೆ.

3. DGOs have appeared before this Authority in pursuance of service of Articles of Charge.

(Signature)

4. First oral statement of DGOs-1 & 2 were recorded wherein D.G.Os pleaded not guilty and claimed for conducting enquiry.

5. DGO-1 and 2 have filed their common written statement by denying the allegations made against them.

6. The following witnesses were examined on behalf of the Disciplinary Authority.

(1) PW1: Sri. B.S. Prasad (I.O)

(2) PW2: Sri. B.S. Muneer Ahamed
(Complainant)

(3) P.W.3: Smt .Lalitha, the then ARE 5.

7. The following documents were marked as exhibits on behalf of the disciplinary authority.

Ex.P-1:	I.O. Report dt. 04/08/2014
Ex.P-2 :	Provisional Order passed u/s 321(1) of KMC Act,1976 on 15/7/2014 (page no.1)
Ex.P-3 :	Provisional Order passed u/s 321(1) of KMC Act,1976 on 15/7/2014 (page no.2)
Ex.P-4:	Order passed u/s 321(2) of KMC Act, 1976 on 15.7.2014
Ex.P-5:	Confirmation order passed u/s 321(3) of KMC Act dt. 22/7/2014-
Ex.P-6:	Report of Executive Engineer, BBMP, Bengaluru

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Ex.P-7:	Sketch of site no. 14
Ex.P-8:	Building Approval Plan
Ex.P-9:	Complaint dt. 01/07/2014 and Comments of DGO-1 dt. 10/10/2014
Ex.P-10:	Complaint dt. 02/08/2014 and comments of DGO-2 dt. 10/10/2014

8. Second Oral Statement of DGOs-1 & 2 was recorded.
9. Questionnaires of DGOs 1 & 2 were recorded on 03/12/2021 under rule 11(18) of KCS (CCA) Rules 1957 and no documents were marked on behalf of defence side
10. The counsels for DGOs have filed written briefs on 18/12/2021 and 22/12/2021 on behalf of DGOs.
11. The Presenting Officer filed written arguments on behalf of Disciplinary Authority. Oral arguments also heard from defence side.
12. Points that arise for determination are as follows:-
 - 1) Whether the charges framed against the DGOs-1 & 2 is proved by the Disciplinary Authority?
 - 2) What Findings?
13. Answer to the aforesaid points are as follows:
 - Point No. 1 - In the **Affirmative**.

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Point no. 2 - As per the Findings for the following:

REASONS

POINT No.1:

14. The charge against DGOs-1 & 2 as mentioned in Annexure-1 of Articles of charge is as under:

“1) ಶ್ರೀಮತಿ ಪಾವನ ನಾಗತಿ. ಆರ್.ವೈ ಮತ್ತು 2) ಶ್ರೀ ವೆಂಕಟೇಶ್ ಮೂರ್ತಿ ಆದ ನೀವುಗಳು ಬೃಹತ್ ಬೆಂಗಳೂರು ಮಹಾನಗರ ಪಾಲಿಕೆಯ ವಾರ್ಡ್ ನಂ.91ರಲ್ಲಿ 2010ರಿಂದ 2014ರವರೆಗೆ ಸಹಾಯಕ ಅಭಿಯಂತರರುಗಳಾಗಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿದ್ದ ಅವಧಿಯಲ್ಲಿ ಬೆಂಗಳೂರಿನ ವಾರ್ಡ್ ಸಂಖ್ಯೆ:91ರ ವ್ಯಾಪ್ತಿಯಲ್ಲಿ ಬರುವ ಭಾರತಿನಗರದ (ತ್ಯಾಗಿ ದೊರೆಸ್ವಾಮಯ್ಯ ರಸ್ತೆ, (ಸೆಪ್ಟಿಂಗ್ ರಸ್ತೆ) ಸ್ಥಿತಿ ಸಂಖ್ಯೆ:14ರ ಕಟ್ಟಡ ಮಾಲೀಕರಾದ ಶ್ರೀ ಟಿ.ಬಿ.ಆರ್. ಬೋರಣ್ಣ ಇವರು ಮಂಜೂರಾತಿ ನಕ್ಷೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿ ಕಟ್ಟಡವನ್ನು ಕಟ್ಟಲು ಹಾಗೂ ಕಟ್ಟಡ ನಿರ್ಮಾಣ ಮುಗಿದ ನಂತರ ಮಾಲೀಕರು ಸ್ವಾಧೀನಾನುಭವ ಪ್ರಮಾಣ ಪತ್ರ ಪಡೆಯದೆ ಕಟ್ಟಡವನ್ನು ಉಪಯೋಗಿಸುತ್ತಿರುವುದಕ್ಕೆ ಅವಕಾಶ ಮಾಡಿಕೊಟ್ಟು ಆ ಮೂಲಕ ಸರ್ಕಾರಿ ನೌಕರನಿಗೆ ತಕ್ಕುದಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡು ದುರ್ನಡತೆಯಿಂದ ವರ್ತಿಸಿ ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ ನಿಯಮಗಳು (ನಡತೆ) 1966 ನಿಯಮ 3(1) (ನಡತೆ) 1966 ನಿಯಮ 3(1) (ii) ರಿಂದ (iii)ರ ಅಡಿಯಲ್ಲಿ ದುರ್ನಡತೆಯನ್ನೆಸಗಿದ್ದೀರಿ”

15. To substantiate the case of the Disciplinary Authority, Investigating Officer-Sri. B.S.Prasad Chief Engineer (East), BBMP, Bengaluru is examined as PW-1, Complainant Sri. B.S.Muneer Ahmed is examined as PW-2 and the then ARE-5 Smt.K.A.Lalitha

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is examined as PW-3 and got marked the documents Ex.P-1 to Ex.P-10.

16. DGOs have not led any evidence to substantiate their case/defence.

17. PW-1 Sri. B.S. Prasad (Investigating Officer) in his evidence in chief examination dt. 28/08/2019 deposed to the effect that he was directed to investigate and submit report in respect of construction work of disputed building. On 18/07/2014 he gave visit to the said building and inspected the same. At the time of inspection of the building, it was found that in first and second floor construction, projection was made additionally and same was covered and basement parking place was also completely covered and no ramp was made for parking the vehicles. Further, third floor was built up unauthorisedly by making front projection and same was also covered. Further, owner of the building has constructed the building without obtaining commencement of construction certificate from BBMP. Further PW-1 has stated that in respect the said building inspection he has submitted Ex.P.1-Report and Ex.P.1(a) is his signature. Further in the evidence of PW-1, Ex.P2 to Ex.P.4-Notices dt. 15/07/2014 given to owner of the building by DGO-2 have been got marked. Further Ex.P5-copy of Confirmation order dt. 22/07/2014 issued by DGO-2 and Ex.P.6-Report

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submitted by Executive Engineer, BBMP, Shivajinagar to PW-1, Ex.P7-Sketch submitted by DGO-2 during inspection to PW-1 and Ex.P8-Xerox copy of approved sketch pertaining to building have also been got marked in the evidence of PW-1.

18. PW-1 in cross examination by Defence Assistant of DGO-2 stated that no any construction was made after issuance of approved plan sketch till issuance of modified plan sketch dt. 23/02/2013 and said fact has not been mentioned in Ex.P1-Report. Further PW-1 in cross examination that during inspection he came to know that construction work of the basement of the disputed building has been done in the month of March-2013. Further PW-1 in cross examination admitted the suggestion put to him that in respect of disputed building occupying certificate was not taken by the owner of the building.

19. Further PW-1 in cross examination admitted the suggestion put to him that Ex.P2 to Ex.P5 notices have been given to owner of the building by DGO-2. Further PW-1 in cross examination expressed his ignorance about obtaining of stay order by the owner of the building by filing suit O.S.No. 5660/2014 against BBMP.

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20. Further PW-1 in cross examination by Defence Assistant of DGO-1 stated as under:

“ಆ.ಸ.ನೌ-1 ರವರ ಅಧಿಕಾರಾವಧಿಯಾದ ದಿನಾಂಕ: 31/12/2012 ರಿಂದ ದಿನಾಂಕ: 26/02/2014ರ ಅವಧಿಯಲ್ಲಿ ಈ ವಿವಾದಿತ ಕಟ್ಟಡದ ಕಾಮಗಾರಿ 2ನೇ ಅಂತಸ್ತಿನವರೆಗೆ ಆಗಿತ್ತು. ಸದರಿ ಕಟ್ಟಡದ ಅಂತಸ್ತಿನವರೆಗೆ ನಿರ್ಮಾಣವಾಗಿದ್ದನ್ನು ನಾನು ನನ್ನ ನಿ.ಪಿ.1 ವರದಿಯಲ್ಲಿ ನಿಖರವಾಗಿ ಹೇಳಿಲ್ಲ ಎಂದರೆ ಸರಿ. ಮಾನ್ಯ ಉಪಲೋಕಾಯುಕ್ತ-1ರವರು ದಿನಾಂಕ: 14/07/2014ರಂದು ವಿವಾದಿತ ಕಟ್ಟಡದ ಬಳಿ ಭೇಟಿ ನೀಡಿದಾಗ, ಈ ಆ.ಸ.ನೌ-1ರವರು ಆ ವ್ಯಾಪ್ತಿಯಲ್ಲಿ ಕರ್ತವ್ಯದಲ್ಲಿದ್ದಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿ. ಆ.ಸ.ನೌ-1 ರವರು ಅಲ್ಲಿಂದ ವರ್ಗಾವಣೆಯಾಗಿ ಹೋದ ನಂತರ, ಮಾನ್ಯ ಉಪಲೋಕಾಯುಕ್ತ-1ರವರು ಸ್ಥಳಕ್ಕೆ ಭೇಟಿ ನೀಡಿದ ಸಮಯದ ಮಧ್ಯದಲ್ಲಿ ಈ ವಿವಾದಿತ ಕಟ್ಟಡ ಕಾಮಗಾರಿ ಆಗಿರುತ್ತದೆ ಎಂದರೆ ಸರಿಯಲ್ಲ. ಆ.ಸ.ನೌ-1 ರವರ ಕರ್ತವ್ಯಾವಧಿಯಲ್ಲಿ ಈ ಕಟ್ಟಡ ಕಾಮಗಾರಿ ಆಗಿರುವುದಿಲ್ಲವಾದ್ದರಿಂದ ಅವರು ಇದಕ್ಕೆ ಹೊಣೆಗಾರಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿಯಲ್ಲ”.

21. Complainant Sri. Muneer Ahmed S/o Mohammed Yakub aged 72 years, Shivajinagar is examined as PW-2. He has deposed in his evidence in chief examination that he has not given any complaint against DGO-1 & 2 by coming to Lokayukta Institution and he does not know DGO-1 and 2. Further he deposed that he has given request letter by coming to Lokayukta Institution. Further he deposed that he came to know that Ex.P9 complaint has been given by mentioning his name by some unknown person, to Hon'ble Upalokayukta Sri.S.B. Majage and for this reason he gave request

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letter Ex.P10 to Sri. S.B. Majage, Hon'ble Upalokayukta by coming to this office and Ex.P10(a) is his signature. So, like this PW-2 in his evidence stated that somebody had given complaint by mentioning his name. It is suggested to PW-2 in cross examination by the Learned Presenting Officer that he has given complaint Ex.P9 stating that owner Sri.T.B.R. Boranna has constructed building in property no. 14 by violating rules and he is deposing falsely to help DGOs-1 & 2. PW-2 denied the said suggestions. Further it is elicited in cross examination of PW-2 by Defence Assistant of DGO-2 that he gave Ex.P10 request letter by coming to Lokayukta Institution since Councilor of his ward had suggested him to give his explanation about Ex.P9.

22. One Smt. K.A. Lalitha, the then ARE-5 is examined as PW-3 and she deposed in her evidence in chief examination about submission of Final Scrutiny Note after going through the records and comments of Respondents pertaining to Compt/Uplok/BCD-3178/2013/ARE-5, basing on which 12(3) report was submitted to Government for issuing Government Order for initiating Departmental Enquiry against DGOs. It is to be noted here that even after issuing several process against PW-3 for facing cross examination by DGOs, PW-3 has not turned up for facing cross examination. So the evidence of PW-3 need not be looked into.

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23. Looking to documentary evidence Ex.P1-Report dt. 04/08/2014 submitted to Hon'ble Upalokayukta, Ex.P2 & Ex.P3- Provisional order dt. 15/07/2014 issued u/s 321(1) of KMC Act, 1976 to owner of the building by DGO-2, Ex.P4-Order dt. 15/07/2014 passed u/s 321(2) of KMC Act by DGO-2 against the owner of the building, Ex.P5-Confirmation Order dt. 15/07/2014 issued u/s 321(3) of KMC Act, 1976 to the owner of the building, Ex.P6-report dt. 18/07/2014 submitted by Assistant Executive Engineer, Shivajinagar Sub-division, BBMP in respect of construction in the property no. 14 situated in ward no. 91, to Executive Engineer, Ex.P7-Sketch prepared by Assistant Executive Engineer, Shivajinagar Sub division, BBMP, Ex.P8-Approved sketch and looking to the oral evidence of PW-1, it is clear that DGOs-1 & 2 have not taken action within reasonable time against owner of the building who constructed building by deviating the sanctioned plan/sketch of the construction. Further it is to be noted here that when Hon'ble Upalokayukta gave visit to disputed building on 14/07/2014 after receipt of Ex.P9-Complaint, DGO-2 has started initiating action against the owner of the building who constructed building in property no. 14 deviating the sanctioned plan. So, this fact itself discloses that DGOs, by not taking any action against owner of the building, who admittedly constructed the

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building not in accordance with sanctioned plan, have shown gross negligence while discharging their official duty and thereby they committed misconduct.

24. It is to be noted here that along with written statement filed by DGO-2, Annexures-1 to 8 have been furnished. Looking to these documents, particularly Annexure-8 documents, it appears that owner of the building has given notice dt. 02/04/2014 u/s 482 of KMC Act, 1976 and same has been served upon BBMP on 03/04/2014. Yet, DGO-2 has not visited the disputed building for taking legal action against the owner of the building to ascertain whether he has constructed his building in property no. 14 as per sanctioned plan or not. Further he has not taken any steps to file Caveat against owner of the building to prevent him from taking any ex-parte interim orders against BBMP to prevent it from taking legal action against him. Further it appears that owner of the building has filed suit bearing O.S.No.5660/2014 on 23/07/2014 against the Commissioner of BBMP and in the said suit on 24/07/2014, it is ordered by the Court that the plaintiff i.e., owner of the building and defendant i.e., BBMP have to maintain status-quo in respect of the disputed building. So, one thing is very clear that the DGO-2 has facilitated the owner of the

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building to file a suit against BBMP after visit made by the Hon'ble Upalokayukta on 14/07/2014.

25. As seen from the I.O's report-Ex.P1, sanctioned plan has been issued on 23/7/2012 and modified plan has been issued on 23/2/2013 and the owner has started construction work without obtaining commencement certificate and he has also not obtained occupancy certificate after completion of construction work and construction is not in accordance with sanctioned plan. That DGOs are responsible for allowing construction to be commenced without obtaining commencement certificate and DGOs are responsible for allowing use of the building without obtaining occupancy certificate.
26. DGOs being the jurisdictional Assistant Engineers when unauthorized construction was going on, have failed in their duty to prevent unauthorized construction and take action against the owner for having constructed building in violation of sanctioned plan.
27. As per the order of the Commissioner, BBMP vide No. ಬಿ12(1)/ಪಿ.ಆರ್/223/2010-11 dated 29/6/2015, the AEE of the ward is the appropriate authority to take action under section 321(1) to (3) of KMC Act against

[Handwritten Signature]

the unauthorized construction and construction of which are being made by violating the sanctioned plan. Assistant Engineers of the ward are ground level officers and are duty bound to report such illegal constructions to AEE of the ward. Further, as per the order of the Commissioner, BBMP vide No. ಆಯುಕ್ತರು/ಪಿ.ಎಸ್.ಆರ್/ಜಿ5235/2015-16 dt. 7/8/2015, it is the duty of the AEE to supervise the construction from the commencement/foundation level itself and note the stage wise progress of the construction in his office file from time to time. If any unauthorized construction or deviation from the sanctioned plan is found in the construction, he has to take necessary action u/s 321(1), (2) and (3) of KMC Act. Further, he has to address a letter to the BESCO and BWSSB for disconnection of temporary electricity connection and water and drainage connection and report them not to provide permanent connections. In the presence case though the DGO 2 has issued notice, Provisional Order and Confirmation Order under sub section (1) to (3) of Section 321 of KMC Act, but he has not addressed a letter to the BESCO and BWSSB for disconnection of temporary electricity connection, water and drainage connection and report them not to provide permanent connection. No doubt the DGOs had no authority to pass order for removal or demolition of unauthorized

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construction u/s 462 of KMC Act and the Executive Engineer is empowered to pass such order, but the DGOs have to place the file before Executive Engineer of the ward along with estimation of cost for removal of unauthorized construction and to get orders on the same.

28. The DGOs have not taken action in terms of order of Commissioner dt. 29/6/2015 and considering the spirit of the provisions under KMC Act and the building byelaws, it is the duty of the concerned Assistant Executive Engineer of the sub division and Assistant Engineer of the ward to supervise the construction from the commencement/foundation level itself and take appropriate action as per law in case of unauthorized constructions and deviations from the sanctioned plan or violation of building byelaws.
29. Further, failure to perform duty on the part of DGOs and allowing of the unauthorized construction to be completed, imposes a financial burden on the BBMP to remove those unauthorized constructions by spending public money, which would have been otherwise utilized for developmental/protective purposes. Though it may be said that the expenditure incurred for removal of such unauthorized construction may be recovered from the owner of the building in

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question, it cannot be disputed that the entire cumbersome and complicated procedure could have been avoided only if, the DGOs had performed their duty as per the Provisions of KMC Act, Building byelaws and the Office orders issued by the Commissioner, BBMP.

30. Facts and materials on record show that DGO-1 Smt. Pavana Naagathi R.Y., Assistant Engineer, Ward no. 91, BBMP, Bangalore and DGO-2 Sri. Venkatesh Murthy, Assistant Engineer, Ward no. 91, PWD, Bangalore, have committed misconduct under Rule 3(1) of KCS (conduct) Rules, 1966.
31. The DGOs have not adduced any oral or documentary evidence to show how and under what circumstances they were not able to take action against owner of the building though he has constructed building without adhering to sanctioned plan/sketch and without following the rules.
32. Hence the disciplinary authority has proved the charges leveled against DGOs-1 & 2. For the reasons stated above, I answer Point No.1 in the **Affirmative**.

O. V. V.

33. **Point No.2:**

For the above said reasons, I proceed to record the following:

FINDINGS

34. Disciplinary Authority has **proved** the charges leveled against 1) Smt. Pavana Naagathi. R.Y., Assistant Engineer, Ward No. 91, Bruhath Bengaluru Mahanagara Palike, Bengaluru and 2) Sri. Venkatesh Murthy, Assistant Engineer, Ward No. 91, PWD, Bengaluru.

Hence this report is submitted to Hon'ble Upalokayukta for further action.

Dated this 14th day of January 2022

(Vijaykumar M Pawale)
Additional Registrar Enquiries-16
Karnataka Lokayukta,
Bengaluru.

Date of Retirement:

1) Smt. Pavana Naagathi (DGO-1) : **31/12/2044**

2) Sri.Venkatesh Murthy (DGO-2) : **30/06/2022**

ANNEXURE**List of witness examined on behalf of Disciplinary Authority.**

- (1)PW-1 : Sri. B.S. Prasad (I.O)
 (2)PW-2: Sri. B.S. Muneer Ahamed
 (Complainant)
 (3)PW-3 : Smt. Lalitha, the the ARE-5

List of Documents marked on behalf of Disciplinary Authority:


Ex.P-1:	I.O. Report dt. 04/08/2014
Ex.P-2:	Provisional Order passed u/s 321(1) of KMC Act,1976 on 15/7/2014 (page no.1)
Ex.P-3:	Provisional Order passed u/s 321(1) of KMC Act,1976 on 15/7/2014 (page no.2)
Ex.P-4:	Order passed u/s 321(2) of KMC Act, 1976 on 15.7.2014
Ex.P-5:	Confirmation order passed u/s 321(3) of KMC Act dt. 22/7/2014-
Ex.P-6:	Report of Executive Engineer, BBMP, Bengaluru
Ex.P-7:	Sketch of site no. 14
Ex.P-8:	Building Approval Plan
Ex.P-9:	Complaint dt. 01/07/2014 and Comments of DGO-1 dt. 10/10/2014
Ex.P-10:	Complaint dt. 02/08/2014 and comments of DGO-2 dt. 10/10/2014

Q. 14/1

List of witness examined on behalf of DGOs : NIL

List of Documents marked on behalf of DGOs : NIL

Dated this 14th day of January 2022


14/1/2022

(Vijaykumar M Pawale)

Additional Registrar of Enquiries-16
Karnataka Lokayukta,
Bengaluru.