

KARNATAKA LOKAYUKTA

No.UPLOK-1/DE/210/2017/ARE-13

M.S. Building,
Dr.B.R. Ambedkar Road,
Bangalore-560001,
Date: 17/11/2021.**:: ENQUIRY REPORT ::**

Sub:- Departmental Inquiry against,
Sri. N. Srinivas, Assistant Engineer,
presently working in the office of the
Executive Engineer, Project Division,
Yelahanka Zone, Bruhath Bengaluru
Mahanagara Palike, Bengaluru District.

- Ref :** 1) Report u/s 12(3) of the K.L Act, 1984 in
COMPT/UPLOK/BCD/3657/2015/DRE-
2, dated : 26/08/2016.
- 2) Govt Order No.UDD 718 MNY 2016,
Bengaluru dated :12/01/2017.
- 3) Nomination Order No.UPLOK-1/DE/
210/2017, Bengaluru, dated :
09/02/2017.

The Departmental Enquiry is initiated against Delinquent Government Official Sri. N. Srinivas, Assistant Engineer, presently working in the office of the Executive Engineer, Project Division, Yelahanka Zone, Bruhath Bengaluru Mahanagara Palike, Bengaluru District (*hereinafter referred as D.G.O for short*).

2. In view of Government Order cited at reference No-1, the Hon'ble Upalokayukta vide Order cited at reference No-2, has nominated Additional Registrar (Enquiries-1) to frame Articles of Charge and to conduct Enquiry against aforesaid D.G.O.

3. The Complainant Sri. A.S. Ananda Kannan has lodged complaint before this Institution alleging that a building constructed at Ward No.90, is not in accordance with sanctioned plan. The building is constructed encroaching the place where electric pole (Street Lamp Post) is erected. It is seen from the photograph enclosed to the complaint that there is no space left between the electric pole and building. Therefore, he has prayed to take appropriate action against him.

4. Hon'ble Upalokayukta on perusal of material on record found prima-facie case against D.G.O and hence a Report dt:26/08/2016 u/s. 12(3) of Karnataka Lokayukta Act, 1984, was sent to Government to initiate disciplinary proceedings against D.G.O. The Competent Authority by Order dt:12/01/2017 entrusted the matter to Hon'ble Upalokayukta. In turn, Hon'ble Upalokayukta has nominated ARE-1 as Enquiry Officer.

5. In pursuance of the Nomination Order, Articles of Charge with Statement of Imputations of Misconduct, List of Witnesses and Documents were prepared and served upon the D.G.O.

6. The Articles of Charge framed is as follows :

While you DGO Sri. N. Srinivas, working as Assistant Engineer in BBMP, Bangalore did not take any action in respect of the multi-storied building illegally constructed at Bhovi Street connected to Main Bazaar Street, Halsuru, Ward No.9 without sanctioned plan and encroaching on the public street and therefore you DGO has failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servant and therefore you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966.

7. The Statement of Imputation of misconduct is as follows:

- a. **Brief facts of the case:-** According to the complainant, a building constructed at Ward No.90, is not in accordance with sanctioned plan. The building is constructed encroaching the place where electric pole (Street Lamp Post) is erected. It is seen from the photograph enclosed to the complaint that there is no space left between the electric pole and building.
- b. On the other hand, comments were called for from the respondent. The Respondent has stated that the building is a very old building. There was no proposal from

BESCOM and BBMP. During his tenure there was no complaint.

c. The respondent has stated that he was working during the period from 26/11/2014 to 30/09/2015. The respondent should have noticed the alignment between the electric pole and building. The Respondent should not have kept quiet, by stating that he had not received any complaint. He had a duty to inspect the place and take necessary action for maintaining proper distance between the building and electric pole. There is dereliction of duty on the part of the respondent.

d. In view of the facts stated above and on consideration of the material on record, reply of respondent has not been found satisfactory to drop the proceedings.

e. The facts supported by the material on record prima facie show that the respondent, being a Government Servant, has failed to maintain absolute devotion to duty and has acted in a manner unbecoming of a Government Servant and thereby committed misconduct under rule 3(1)(i) to (iii) of KCS (Conduct) Rules and made himself liable for disciplinary action.

f. Therefore, recommendation is made under section 12(3) of Karnataka Lokayukta Act, to the Competent Authority to initiate disciplinary proceedings against the respondent and to entrust the inquiry to this Authority under Rule 14-A of Karnataka Civil Service (Classifications, Control and Appeal) Rules, 1957.

g. Since said facts and material on record prima facie show that, the respondents/DGO Sri. N. Srinivas has committed grave misconduct, now, acting under section 12(3) of the Karnataka Lokayukta Act, recommendation is made to the Competent Authority to initiate disciplinary proceedings against the respondents for misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) rules 1966 the Government after consideration of materials, has entrusted enquiry to Hon'ble Upalokayukta. Hence, the charge.

8. The notice issued to D.G.O was duly served and he had appeared before Enquiry Officer. The DGO Sri. N. Srinivas has stated in his First Oral Statement dated: 07/04/2017 that he is presently working as Assistant Engineer, in the Office of the Executive Engineer, Project Division, Yelahanka Zone, Bruhath Bengaluru Mahanagara Palike, Bengaluru and his date of retirement is 30/06/2022. He denied the charges and pleaded not guilty.

9. The D.G.O Sri. N. Srinivas subsequently filed Written Statement stating that during his tenure i.e 26/11/2014 to 01/10/2015 no complaint was received by him either from the complainant or by general public or even by the BESCO and Street light wing of the BBMP. The building alleged in close proximity with the street pole is a very old building constructed more than 5 to 8 years back and during the tenure of the DGO no new building was constructed and hence taking action against building owner is not permissible. He has denied all the allegations and has stated that he has not committed any misconduct and therefore prays to discharge him.

10. As per Order No. Hon'ble UPLOK-1 & 2/DE/2017 Bangalore, dated : 06/07/2017, this file was transferred from ARE-1 to ARE-7.

11. Again as per Order of Hon'ble Uplok-1 & 2/DE/Transfers/2018 of Registrar, Karnataka Lokayukta dated : 06/08/2018 this Enquiry file was transferred from ARE-7 to ARE-13.

12. The Disciplinary Authority has examined two witnesses as P.W-1 and P.W-2 and got marked Five documents as Ex. P1 to P5.

13. Per contra, the D.G.O. examined him as D.W-1 and got marked three documents as Ex.D-1 to D-3.

14. Heard both sides and perused the written arguments and other material on record.

15. Under the above circumstances, the points that arise for consideration are as follows:

(i) Whether the Disciplinary Authority proves that DGO Sri. N. Srinivas, working as Assistant Engineer in BBMP, Bangalore did not take any action in respect of the multi-storied building illegally constructed at Bhovi Street connected to Main Bazaar Street, Halasuru, Ward No.9, without sanctioned plan and encroaching on the public street engulfing the electricity pole has committed misconduct, dereliction of duty, acted in a manner unbecoming of a Government Servant and not maintained absolute integrity violating R.3(1)(i) to (iii) of K.C.S. (Conduct) Rules, 1966?

(ii) What Finding?

16. My findings to the above points are :

i) In the Negative.

ii) As per finding,

:: REASONS ::

17. **Point No-1:-** This Departmental Enquiry came to be initiated against the DGO due to his in action and failure in taking any action against the owner of the multi-storied building illegally constructed without sanctioned plan by encroaching public street engulfing an electricity pole. In the complaint, the exact particulars of the building, when it was constructed or the name of the owner who allegedly put up illegal construction are not forthcoming. Except for the fact that the said building is constructed in Bhovi street, Ward No.90 of Halsuru no better particulars are available.

18. Admittedly DGO was working as Assistant Engineer, BBMP in Ward No.90 from 26/11/2014 till 01/10/2015. In his written statement and also evidence given before this Authority, he has specifically stated that the alleged illegal construction was not put up during his tenure and he had not received any complaint during the above period from the complainant. It is also his case that the matter comes under the domain of BESCO and Street

Light Division-East of BBMP as it pertains to construction encroaching the street light pole.

19. The complainant/A.S. Ananda Kannan came to be examined as PW-1. He has given evidence that the owner of the alleged building has put up construction encroaching the electricity pole and despite his complaint, the BBMP authorities have not cleared the encroachment. Ex.P-4 is the complaint given by him which is addressed to Sri. G. Kumara Naik, Commissioner, BBMP, Bangalore which is dated:29/7/2015. The said complaint was not directly lodged or given in the Office of DGO. Ex.P-5 consists of 3 photos showing the alleged encroachment and construction of building engulfing the electricity pole. In his cross examination, PW-1/A.S. Ananda Kannan has admitted that the alleged construction by encroaching the electricity pole was made about 5 years ago before DGO assumed charge in Ward No.90. He has further admitted that at the time of the alleged encroachment, he had not given any complaint to BBMP or any other authority and he had also not filed any civil suit. He has further admitted that after DGO had written letter to the concerned authorities the electricity pole that was encroached was removed. He has also admitted that on 19/3/2019 he has written a letter to Lokayukta Institution that he had not filed any complaint against the DGO and therefore no action should be taken against him. Though the above letter dated; 19/3/2019 is not produced, the above

admissions and statements made by the complainant in his evidence is sufficient to hold that the alleged encroachment or illegal construction made was not during the tenure of the DGO.

20. As observed above, the complainant has not furnished the name of the owner, property Number of the alleged building, measurements or sanctioned plan. In his cross examination PW-1 /A.S. Ananda Kannan has admitted that he does know the measurements of the building and he has not seen its sanctioned plan. Since he has admitted that the alleged encroachment and construction of building was made 5 years ago before DGO assumed his office in Ward No.90, the charge framed against him is not substantiated.

21. PW-2/Smt. Vijayalakshmi Devi was the in-charge Scrutiny Officer at the relevant point of time who has given evidence that report U/s12(3) of Karnataka Lokayukta Act 1984 was forwarded to the Competent Authority on 26/8/2016. There is no investigation conducted regarding the alleged encroachment by the Owner of the said building. There is no evidence, oral or documentary, or any other material placed by the Disciplinary Authority to show that the DGO had failed to exercise due diligence during his tenure as Assistant Engineer Ward No.90. Admittedly the alleged construction or encroachment was not during his period. Since the complainant himself has admitted

that the encroachment or construction was made 5 years before DGO was posted, I am of the opinion that the charge framed against the DGO cannot be endorsed or validated.

22. DGO examined him as DW-1 and in his evidence he had refuted the charge and allegations made in complaint and stated that even if encroachment was made up to the street light pole, it was not during his period as the building is more than 5 to 8 years old. He has also given evidence that putting up construction by engulfing these street light pole comes within the domain of Street Light Division of BBMP and BESCO Sub-division No.3 M.G. Road to take action against any such encroachment and therefore he had nothing to do with the facts and allegations made in the complaint. Nothing worthwhile is elicited during his cross examination by the Presenting Officer. There is nothing to suggest that the DGO had acted of unbecoming of a Government Servant or he had failed to maintain absolute devotion to duty or committed misconduct.


23. For the reasons stated above the Disciplinary Authority has failed to prove that the DGO, being the Government/Public Servant has failed to maintain absolute integrity besides devotion to duty and acted in a manner unbecoming of Government Servant. Therefore, I hold that the charge leveled against the

DGO., is not established. Consequently, I answer point No.1 in the "Negative".

:: FINDING ::

The Disciplinary Authority has not proved the charge against the DGO.

Submitted to Hon'ble Upalokayukta-1 for kind approval and further action in the matter.


(C.CHANDRA SEKHAR)
(I/c)Additional Registrar (Enquiries-13)
Karnataka Lokayukta,
Bengaluru.

ANNEXURES

File 3	Witness examined on behalf of the Disciplinary Authority
	PW-1: Sri. A.S. Ananda Kannan (Original)
	PW-2: Sri. L. Vijayalakshmi Devi (Original)
	Witness examined on behalf of the Defence
	DW-1 : Srinivas N (Original)
File 4	Documents marked on behalf of the Disciplinary Authority
	Ex. P-1: Complaint(Original) Ex. P-1(a): Signature of the complainant.
	Ex.P-2: Form No-I (Original) Ex. P-2(a) : Signature of the complainant.
	Ex. P-3: Form No-II (Original) Ex. P-3(a) : Signature of the complainant.
	Ex. P-4: The letter addressed to G. Kumara Naik, Commissioner, BBMP, Bangalore dated:29/7/2015 by the complainant (Xerox copy)
	Ex. P-5: Three photos of Bhovi street, Halasuru Ward No.90, BBMP, Bengaluru (Colour Xerox Copies)
	Documents marked on behalf of the DGO
	Ex.D-1 : BBMP Office Order copy dated; 28/10/2020 (Xerox copies)
	Ex.D-2 : DGO Relieving order dated : 26/11/2014 (Xerox copy)

Ex.D-3: DGO Suspension order dated: 01/10/2015
(xerox copy)

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(C.CHANDRA SEKHAR)
(I/c) Additional Registrar (Enquiries-13)
Karnataka Lokayukta,
Bengaluru.