

BEFORE THE ADDITIONAL REGISTRAR, ENQUIRIES-11

KARNATAKA LOKAYUKTA, BENGALURU

ENQUIRY NUMBER: LOK/INQ/14-A/212/2012

ENQUIRY REPORT Dated: 10/10/2019

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

Delinquent Government Official No.1 : Sri.Sudarshan Jadhav

(Name written by him as
Sudarshan Sadashiv Jadhav on
the note sheet on 26/11/2016).

Discharged duties as Motor
Vehicles Inspector attached to the
office of Regional Transport
Officer, Chikkodi, Belagavi District
in the year 2010.

Due for retirement on
superannuation on 28/02/2022.

Delinquent Government Official No.2 : Sri.Ramappa Gurupadappa
Bandi.

Discharged duties as First
Division Assistant attached to the
office of Regional Transport
Officer, Chikkodi, Belagavi District
in the year 2010.

Retired on superannuation on
31/05/2012.

1. Delinquent Government Official No.1(in short, "DGO 1") by name Sri.Sudarshan Jadhav (name written by him Sudarshan Sadashiv Jadhav on the note sheet on 26/11/2016) was working as Motor Vehicles Inspector attached to the office of the Regional

10-10-2019


410

Transport Officer, Chikkodi, Belagavi District in the year 2010. He is due for retirement on superannuation on 28/02/2022. Delinquent Government Official No.2 (in short, "DGO 2") by name Sri. Ramappa Gurupadappa Bandi was working as First Division Assistant in the office of the Regional Transport Officer, Chikkodi, Belagavi District in the year 2010. He retired on superannuation on 31/05/2012.

2. Background for initiating the present inquiry against DGOs 1 and 2 needs to be narrated in brief. Sri. W.S.B. Ugaragola was working as Deputy Superintendent of Police attached to Lokayukta Police Station, Belagavi from 01/04/2009 to 31/07/2010. While he was in Lokayukta Police Station, Belagavi on 20/05/2009 he received credible information that DGO 1 camped at Nippani within the jurisdiction of the office of Regional Transport Officer, Chikkodi in connection with issue of driving licenses and checking of vehicles. The said information also conveyed that DGOs 1 and 2 along with a private agent by name Sri.Divakara Gajanana Kulakarni are indulged in accepting illegal gratification from the drivers and owners of motor vehicles. In order to ascertain the correctness or otherwise of the said information, Sri. W.S.B. Ugaragola along with his staff by name Sri. L.N. Kumbara, Sri. G.R.Patila and Sri. M.K.Sheik left Lokayukta Police Station, Belagavi destined at Nippani. After he along with his staff reached near "Sri Samartha Vyayama Shale" at the outskirts of Nippani National Highway he noticed checking of motor vehicles by the Motor Vehicles Inspector and staff of Motor Vehicles Inspector. Sri.W.S.B. Ugaragola along with his staff proceeded near "Sri Smartha Vyayama Shale" where he noticed a person receiving applications and cash from the drivers of vehicles and handing


10.10.2019

over applications and cash to a person who was found seated at the door of the said premises. Staff of Sri.W.S.B. Ugaragola apprehended those two persons and on seeing the same persons who were present there left that place. Afterwards, Sri. W.S.B. Ugaragola secured witnesses by name Prashantha, Virupakshappa Athani and Suresh Kamble and informed them the purpose for which they are secured. DGO 2 and the agent by name Divakara Gajanana Kulakarni were found inside "Sri Samartha Vyayama Shale". DGO 1 escaped on seeing Lokayukta Police staff. A table was found inside the said premises. Eleven receipt books were found placed on the table. Upon perusal of those receipt books it came into light that receipts are passed for a total sum of Rs.73,335/-. Two registers, forty five applications for learners driving licence, fifty three driving licences, sixteen applications for registration of new motor vehicles, ten applications for renewal of fitness certificate of vehicles were found on the table. Sri.W.S.B. Ugaragola seized those records. DGO 2 was found possessed of a bag inside which total cash of Rs.1,31,010/- was found. Out of the said cash it was noticed that receipts are issued only in respect of a sum of Rs.73,335/- and thus it came into light that excess amount of Rs.53,675/- possessed by DGO 2 was unaccounted. On being questioned by Sri. W.S.B. Ugaragola DGO 2 failed to offer satisfactory explanation and therefore Sri.W.S.B.Ugaragola conducted mahazar and seized the said unaccounted cash. In the course of mahazar Sri.W.S.B. Ugaragola seized a file consisting of 82 sheets, a file consisting of 92 sheets. Afterwards, Sri.W.S.B. Ugaragola suo-motu registered case in crime number 5/2009 of Lokayukta Police Station, Belagavi against DGOs 1 and 2 for the offence punishable under sections


10.10.2019

7, 13(1)(d) of The Prevention of Corruption Act, 1988 read with section 34 of The Indian Penal Code and under section 8 of The Prevention of Corruption Act, 1988 read with section 34 of The Penal Code against Sri. Divakara Gajanana Kulakarni and submitted FIR to the jurisdictional Special Court at Belagavi. After observing legal formalities of arrest, Sri.W.S.B. Ugaragola caused arrest of DGO2 and Sri. Divakara Gajanana Kulakarni. On 21/05/2009 Sri. W.S.B. Ugaragola caused search of the residential house of Sri. Divakara Gajanana Kulakarni at Chikkodi. No incriminating materials were found in that house. In the course of further investigation, Sri. W.S.B. Ugaragola examined and recorded statements of some witnesses and secured some relevant documents. Sri.W.S.B. Ugaragola retired from service on 31/07/2010 and thereafter his successor in office by name Sri. Hanumantha Gouda Govinda Gouda Patil conducted further investigation and filed charge sheet in the Court of the 4th Additional District and Sessions Judge, Belagavi which is the designated Special Court for trial of the above offences.

3. On the basis of the report of the Additional Director General of Police, Karnataka Lokayukta, Bengaluru along with the investigation papers made available by the Deputy Superintendent of Police, Karnataka Lokayukta, Belagavi, in exercise of the powers conferred upon under section 7(2) of The Karnataka Lokayukta Act, 1984 , Hon'ble Upalokayukta-1, Karnataka took up investigation which, on the basis of records prima facie unearthed that DGOs 1 and 2 have committed 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


10.10.2019

Karnataka Lokayukta Act, 1984 recommended the competent authority to initiate disciplinary proceedings against DGOs 1 and 2 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.

4. Subsequent to the report dated 30/04/2012 under section 12(3) of The Karnataka Lokayukta Act, 1984, Government Order bearing number ಸಾರಿಇ 106 ಸಾಇಸೇ 2012 ಬೆಂಗಳೂರು, ದಿನಾಂಕ 15/05/2012 has been issued by the Under Secretary to the Government of Karnataka, Department of Transport entrusting the inquiry against DGOs 1 and 2 under Rule 14-A of The Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.
5. Subsequent to the Government Order bearing number ಸಾರಿಇ 106 ಸಾಇಸೇ 2012 ಬೆಂಗಳೂರು, ದಿನಾಂಕ 15/05/2012 Order number LOK/INQ/14-A/212/2012 Bengaluru dated 18/05/2012 has been ordered by the Hon'ble Upalokayukta-1, Karnataka nominating Additional Registrar, Enquires-4, Karnataka Lokayukta, Bengaluru as Inquiry Officer to frame charges and to conduct departmental inquiry against DGOs 1 and 2.
6. Articles of charge dated 23/05/2012 at Annexure-I which includes statement of imputation of misconduct at Annexure-II framed by the then Additional Registrar, Enquiries-4 Karnataka Lokayukta, Bengaluru is the following:

"ANNEXURE NO.I

CHARGE

2. That, you DGO-1 Sri Sudarshan Jadhav and you DGO-2 Sri Ramappa Gurupadappa Bandi while working as Motor Vehicle Inspector and First Division Assistant respectively at the Regional Transport Office in Chikkodi


10.10.2019


412

and in the monthly camp held at Nippani on 20-05-2009, both of you had collected a total sum of Rs.1,31,010/- from several persons towards Driving License, Lerner's License, Renewal of permits Registration of new vehicles and etc, through an agent called Diwakar Kulkarni and out of that amount, receipts were issued for a sum of Rs.77,335/- and remaining amount of Rs.53,675/- was found excess collected towards bribe, failing to maintain absolute integrity and devotion to duty, the act of which was unbecoming of Government Servants and thereby you DGO-1 and DGO-2 committed misconduct as enumerated U/R 3(1)(i) to (iii) of K.C.S. (Conduct) Rules.


ANNEXURE NO.II

STATEMENT OF IMPUTATIONS OF MISCONDUCT

O
n 20-05-2009, the Deputy Superintendent of Lokayukta Police, Belgaum (herein after referred to as Investigating Officer for short "the I.O.") received credible information about camp held by DGO-1 and 2 at Nippani and also collecting more amount than the prescribed fee from several persons desirous of getting Driving License, Learners license, permit for vehicles, Registration of vehicles, Fitness certificate for old vehicles and etc. Then, the I.O. along his staff members and panch witnesses went near the said camp held at Sri Samarth Vyayam Shale situated near Government hospital in the outskirts of the Nippani town. Several vehicles were being inspected by DGO-1. Sri Diwakar Gajanana Kulkarni an agent working at RTO office of


10/10/2019

Chikkodi was collecting amount from the owners and Drivers of Motor vehicles to give the same to DGO-1. Further, the I.O. found DGO-2 sitting on a chair with an amount of Rs.1,31,010/-. The said amount was collected from owners and drivers of lorries, Auto rikshaw and other vehicles. The I.O. found 11 receipt books showing receipts issued for Rs.77,335/- for collecting prescribed fee. There were 65 applications filed to have driving license, 53 driving license, 16 application filed for registration of motor vehicles, 10 applications for renewal of permits of old vehicles and 2 registers on a table. During the raid held by the I.O. DGO-1 ran away. On enquiry, the I.O. noticed that an amount of Rs.77,395/- was received as per receipts and remaining amount of Rs.53,675/- was found in excess which was collected towards bribe for DGO-1 and DGO-2. On enquiry, DGO-2 failed to give satisfactory reply and account for excess amount of Rs.53,675/-. Then, the I.O. recorded statement of witnesses and collected relevant records in the course of investigation. The facts and materials of investigation of the I.O., prima facie showed that, DGO-1 and DGO-2 being public servants had failed to maintain absolute integrity and devotion to duty and thereby committed mis-conduct liable for disciplinary action. Therefore, further investigation was taken U/S 7(2) of Karnataka Lokayukta Act and an observation note was sent to DGO-1 and DGO-2 calling for their explanation. DGO-1 failed to give his reply DGO-2 filed his reply but, his reply was not convincing and not satisfactory to drop the proceedings. The facts


16.12.2019

and materials on record prima facie showed that, DGO-1 & 2 committed mis-conduct as per 3(1) of K.C.S. (Conduct) Rules. Therefore, recommendation was made to Competent Authority U/S 12(3) of the Karnataka Lokayukta Act to initiate disciplinary proceedings against the DGO-1 and 2 and to entrust the departmental enquiry to the Hon'ble Upalokayukta U/R 14-A of K.C.S. (CCA) Rules. Accordingly, the Competent Authority, initiated disciplinary proceedings against DGO-1 and 2 and entrusted the enquiry to the Hon'ble Upalokayukta. Hence, the charge".

7. In response to due service of articles of charge, DGOs 1 and 2 entered appearance before the then Additional Registrar, Enquiries-4, Karnataka Lokayukta, Bengaluru on 02/07/2012. In the course of first oral statement of DGOs 1 and 2 recorded on 2/07/2012 they pleaded not guilty. Subsequently, DGOs 1 and 2 have engaged Advocate for their defence.
8. In the course of written statement of DGO 1 filed on 22/05/2013 it is stated that articles of charge is vague and that no proceedings could have been initiated on the basis of records in crime number 05/2009 of Lokayukta Police Station, Belagavi and thus it is sought to contend that proceedings initiated cannot sustain. With reference to section 154 of The Code of Criminal Procedure, 1973, decision in Ramesh Kumari V/S State (NCT of Delhi) reported in (2006)2 SCC page 677, decision in Lallan Chaudhary V/S State of Bihar reported in (2006) 12 SCC page 229 are relied upon. It is contended that case in crime number 5/2009 registered on 21/05/2009 i.e., subsequent to 20/05/2009 is illegal. Reference is made to the order dated


10/10/2019

03/09/2012 of Hon'ble High Court of Karnataka in Criminal Petition numbers 2142, 2877,2910 and 2942/2012. It is contended that DGO 1 is facing trial on similar set of charges in Special case number 34/2012 on the file of the 4th Additional District and Sessions Judge, Belagavi. It is specifically contended by DGO 1 in the course of his written statement that application filed under section 227 of The Code of Criminal Procedure 1973 is pending disposal in Special case number 34/2012 on the file of the 4th Additional District and Sessions Judge, Belagavi in which he is confident that he is likely to be discharged. It is contended that pending disposal of Special Case number 34/2012 continuation of proceedings in the present inquiry would be unfair and in that connection decision in Tata Oil Mills Company Limited V/S Workman reported in AIR 1965 SC page 155 is relied upon. Decision in Captain M.Paul Anthony V/S Bharat Gold Mines Limited reported in AIR 1999 SC page 1416, decision in Kendriya Vidyalaya Sangathan V/S T.Srinivas reported in AIR 2004 SC page 4127, decision in State Bank of India V/S R.B. Sharma reported in AIR 2004 SC page 4144 are relied upon.

9. In the course of written statement of DGO 2 filed on 03/08/2013 DGO 2 has refuted the allegations levelled against him and contended that bribe amount is not recovered from his possession and thus sought to contend that he is not guilty of the alleged misconduct.
10. As per order number LOK/INQ/14-A/2014 dated 14/03/2014 of Hon'ble Upalokayukta-1, Karnataka this file has been transferred to Additional Registrar, Enquiries-5, Bengaluru.


10.10.2014

11. Subsequent to transfer of this file to Additional Registrar, Enquiries-5, Karnataka Lokayukta, Bengaluru, disciplinary authority has examined Dr. Prashantha as PW1 in part.
12. As per order number UPLOK-1/DE/2016 Bengaluru dated 03/08/2016 of Hon'ble Upalokayukta-1, Karnataka this file has been transferred to this section i.e., Additional Registrar, Enquiries-11, Karnataka Lokayukta, Bengaluru.
13. Thereafter, the disciplinary authority has further examined PW1, examined Sri. Hanumatha Gouda Govinda Gouda Patil as PW2 Sri. W.S.B. Ugaragola as PW3. PW2 is the successor in office of PW3. PW2 was working as Deputy Superintendent of Police, Karnataka Lokayukta, Belagavi from the month of September 2010 to the month of May 2014. PW3 was working as Deputy Superintendent of Police, Karnataka Lokayukta, Belagavi from 01/04/2009 to 31/07/2010.
14. During evidence of PW1 attested copy of mahazar dated 20/05/2009 in four sheets is marked as per Ex P1. During evidence of PW3, attested copy of his complaint dated 20/05/2009 in two sheets is marked as per Ex P2, his signature found on sheet number 2 of Ex P2 is marked as per Ex P2(a), xerox copy of rough sketch in a single sheet is marked as per Ex P3, attested copy of file of the nomenclature "ಕಡತ-2(A)" from sheet numbers 1 to 82 is marked as per Ex P4, attested copy of the file of the nomenclature "ಕಡತ-2(B)" from sheet numbers 1 to 92 is marked as per Ex P5, attested copy of FIR dated 21/05/2009 in a single sheet in crime number



10-10-2019

05/2009 of Lokayukta Police Station, Belagavi is marked as per Ex P6, attested copy of mahazar dated 21/05/2009 in two sheets drawn by PW3 during search of the residence of Divakara Gajanana Kulakarni is marked as per Ex P7.

15. In the course of second oral statement of DGOs 1 and 2 recorded on 16/07/2019 they have stated that they do not intend to get themselves examined as defence witnesses. DGOs have not chosen to examine any independent defence witnesses.
16. Incriminating circumstances which appeared against DGOs 1 and 2 in the evidence of PW1 to 3 are put to them by way questionnaire and their answers are recorded. DGO 1 has stated that at the time of the alleged raid he was not at that spot and that he left the said place at 2.30 P.M. He pleaded ignorance over seizure of cash and records. DGO 2 has stated that he was inside "Sri Samartha Vyayama Shale" and that Divakara Kulakarni was outside the said premises. He has admitted seizure of cash and records and contended that excess amount was not possessed by him. Regarding registration of case it is the say of DGO 2 that he has been falsely implicated by registering false case.
17. In the course of written argument of the Presenting Officer Smt. J.Kamala filed on 07/09/2019 she has referred to the synopsis of articles of charge and evidence on record. It is contended that DGOs 1 and 2 have failed to offer satisfactory explanation for the amount seized by PW3 and thus she sought to contend that the charge has remained established.


10.10.2019

18. Written statement is filed by Advocate Sri.L. Dayananda Sagar on 20/09/2019 on behalf of DGO 1. Advocate Sri. Dayananda Sagar is not on record for DGO 1. The said written argument is neither signed by DGO 1 nor by the Advocate on record for DGO 1. Be that as it may, the said written argument is taken up for consideration.
19. It is contended in written argument filed on behalf of DGO 1 that evidence of PWs 1 to 3 fail to connect DGO 1 with the alleged charge. It is contended that no independent witnesses are examined to establish that DGO 1 fled away from the scene of occurrence. It is contended that no complaint is filed in respect of escape of DGO 1 from the scene of occurrence. It is contended that it is the duty of DGO 1 to conduct inspection of motor vehicles and that at the time of the alleged raid DGO 1 was not in scene. It is contended that DGO 1 has been discharged in Special Case number 34/2012. Though it is stated in the written argument that copy of the order of discharge in Special Case number 34/2012 is produced no such copy of order of discharge is made available on the day on which written argument is filed on behalf of DGO 1.
20. In the course of written argument of DGO 2 signed by DGO 2 and his defence assistant filed on 07/09/2019 reference is made to the evidence of PWs 1 to 3 and contended that PW1 has turned hostile. Referring to cross examination of PWs 2 and 3 it is sought to contend that PW3 collected cash of Rs.53,675/- from Divakara Kulakarni and added the said amount to cash of Rs.77,335/- found in possession of DGO 2. Reference is made to the decision in Majeet Singh Khera V/S State of Maharashtra reported in 2013(9) SCC page 276 and


10.10.2019

contended that copy of complaint has not been supplied to DGO 2 which has caused prejudice to DGO 2. It is contended that in the case on hand there is no complaint and that the complainant has not been examined. It is contended that none of the persons who had applied for licence and certificates are examined. It is thus sought to contend that DGO 2 is not guilty of the alleged misconduct.

21. In tune with the articles of charge, point which arises for consideration is whether during the tenure of DGO 1 as Motor Vehicles Inspector attached to the office of Regional Transport Officer, Chikkodi, Belagavi District and during the tenure of DGO 2 as First Division Assistant attached to the office of the Regional Transport Officer, Chikkodi, Belagavi District, DGOs 1 and 2 had collected total sum of Rs.1,31,010/- from the public instead of collecting a sum of Rs.77,335/- towards driving licence, learners licence, renewal of permits, registration of new vehicles in the premises of "Sri Samartha Vyayama Shale" situated by the side of National High Way in the outskirts of Nippani of Belagavi District on 20/05/2009 within 3.00 P.M and during investigation conducted by the Deputy Superintendent of Police, Karnataka Lokayukta, Belagavi in crime number 05/2009 of Lokayukta Police Station, Belagavi DGOs 1 and 2 have failed to offer satisfactory explanation touching excess amount of Rs.53,675/- and thereby DGOs 1 and 2 are guilty of misconduct within the purview of Rule 3 (1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966?
22. It is in the evidence of PW3 that after receipt of credible information that the Regional Transport Officer, Belagavi and his staff are collecting excess amount than the prescribed fee towards issue of driving licence, renewal of documents


10.10.2019

416

pertaining to motor vehicles, he along with his staff by name L.N.Kumbara, G.R. Patila and M.K.Sheik left Lokayukta Police Station, Belagavi and reached near "Sri Smartha Vyayama Shale" by the side of National High Way in the outskirts of Nippani. The above portion of this evidence has remained unchallenged and therefore that portion of his evidence needs acceptance which establishes that upon receipt of credible information he went to the said place. It is his evidence that he noticed DGO 2 and the agent by name Divakara Gajanana Kulakarni. His evidence that he noticed Divakara Gajanana Kulakarni has remained unchallenged which portion of his evidence establishes the presence of DGO 2 and also the agent by name Divakara Gajanana Kulakarni.

23. During evidence PW3 has spoken to that after coming to know of his arrival DGO 1 escaped from the scene. Suggestion made to PW3 during his cross examination from the side of DGO 1 that DGO 1 was not found in that place has been denied by him. It needs to be expressed at this juncture that if really PW3 intended to falsely implicate DGO 1, then he had ample opportunity for false application of any other officers attached to the office of Regional Transport Officer, Chikkodi. Nothing is brought out during his cross examination to point out that PW3 had any axe to grind DGO 1. Nothing is brought out during cross examination of PW3 from the side of DGO 1 that PW3 had any ill-will or motive for false implication of DGO 1. It is brought out from the side of DGO 1 during cross examination of PW3 that during investigation some witnesses have expressed that DGO 1 escaped from the scene. In the course of questionnaire DGO 1 has stated that he left the said place at 2.30 P.M. This portion of his answer establishes that according

 10/10/2015

to him he was present in the said place till 2.30 P.M. At this juncture it needs to be expressed that for the reasons well within his knowledge he has not chosen to get examined as defence witness for himself to establish that subsequent to 2.30 P.M on that day he was present at a particular place. Nothing is made available by DGO 1 to establish his plea of alibi. Even for a while if it is taken into consideration that the say of DGO 1 that he was not in the scene after 2.30 P.M nothing is brought out by him that he never attended the camp which was scheduled on that day. It is equally not his say that he had not attended a single application of any public including drivers and owners of motor vehicles. Therefore, it needs to be certainly inferred that DGO 1 must have attended duties on that day and during his duty hours excess amount was collected at his nose. Therefore, contention of DGO 1 touching his innocence can never be either believed or accepted. Pre-consorted union of guilty mind of DGOs 1 and 2 and Divakara Gajanana Kulakarni is thus apparent and stands established.

24. It is in the evidence of PW3 that he noticed 11 receipt books on the table which was found in "Sri Samartha Vyayama Shale" and upon perusal of the same it was found that receipts are passed for total sum of Rs.77,335/-. This portion of his evidence has not been assailed during his cross examination from the side of DGOs 1 and 2 and therefore the said portion of his evidence needs acceptance which establishes that receipts are passed for a total sum of Rs.77,335/-. His evidence that he noticed 45 applications for learners licence, 53 driving licences, 16 applications for registration of new motor vehicles and 10 applications for renewal of fitness certificate of motor vehicles and that he seized those records has not been assailed during


10.10.2019

his cross examination and therefore the said portion of his evidence needs acceptance. Evidence of PW3 that DGO 2 was possessed of a bag inside which total cash of Rs.1,31,010/- was found has not been assailed during his cross examination from the side of DGOs 1 and 2 and therefore presence of the said cash inside the bag stands established.


25. It is in the evidence of PW3 that receipt book disclosed total collection of cash of Rs.77,335/- and that receipts are found issued for the said amount and thus it came into light that remaining cash of Rs.53,875/- is unauthorised. It is brought out during cross examination of PW3 from the side of DGO 2 that before leaving Lokayukta Police Station, Belagavi PW3 and staff have declared personal cash in the cash declaration register. Nothing worthy is found in the cross examination of PW3 that excess cash of Rs.53,675/- is either his personal cash or the cash of his then office. It is in his cross examination that he has not seen whether Divakara Gajanana Kulakarni was possessed with cash. Though it is brought out in his cross examination that particulars of heads of account are not mentioned in Ex P1 the same alone is not a ground to discredit the testimony of PW3. Suggestion made to PW3 during his cross examination from the side of DGO 2 suggesting that he planted the personal cash of Divakara Gajanana Kulakarni and falsely implicated DGO 2 has been denied by him. For the reasons well within knowledge of DGOs 1 and 2 they have not chosen to examine Divakara Gajanana Kulakarni in order to establish that excess cash of Rs.53,675/- belonged to Divakara Gajanana Kulakarni. It is brought out during cross examination of PW3 from the side of DGO 2 that DGO 2 completed the remaining work in the camp after DGO 1


10/10/2015

escaped from that place. It is brought out during cross examination of PW3 from the side of DGO 2 that other than Divakara Gajanana Kulakarni some other agents were found in the spot but role of those agents were not noticed. Upon appreciation of entire evidence of PW3 it needs to be expressed that his evidence that excess cash of Rs.53,675/- was unauthorised is worthy of acceptance and therefore on the strength of the evidence of PW3 it stands established that excess cash of Rs.53,675/- is unauthorised. Upon perusal of entire cross examination of PW3 I find nothing worthy to disbelieve his evidence as spoken to by him during his examination-in-chief.

26. Though it is brought out during cross examination of PW3 that before causing arrest of DGO 2 and Divakara Gajanana Kulakarni he had not registered case in crime number 5/2009 the said portion of his evidence will not lend assurance to the defence for the reason that evidence of PW3 points out that on the basis of the materials collected by him at the spot he arrived at conclusion to set law into motion and therefore, he prepared suo-motu complaint and on the basis of which he registered case suo-motu and submitted FIR in crime number 5/2009. In these circumstances law laid down in the decisions reported in (2006) 2 SCC page 677 and (2006) 12 SCC page 229 relied upon on behalf of DGO 2 in my view will not lend assurance to the defence.

27. PW1 Dr. Prashantha is one of the panch witnesses who was secured by PW3 at the time of conducting raid. It is his evidence that about five years earlier to 15/07/2014 while he was playing table tennis at "Samartha Vyayama Shale" he was asked by Lokayukta Police staff to assist as panch witness and he was told that raid is going on against corrupt activities of

 10.10.2019

RTO officials. It is his evidence that some agents were found on the ground and that he noticed about twenty vehicles and also many people. He has stated that DGOs 1 and 2 were not found there and afterwards he received call from the hospital and therefore he proceeded to the hospital. He has stated that Lokayukta staff visited the hospital. He has not supported and turned hostile. Suggestions made to him during cross examination by the Presenting Officer after treating him hostile suggesting the prime contends of the mahazar though are denied by him it is stated by him that he has not ventured upon to ascertain the contents of the mahazar before attesting the same and that he used to attest any document after ascertaining the contents of documents. Upon perusal of the said portion of his answer it can be gathered that he must have gone through the contents of the mahazar and only after ascertaining the contents of the mahazar he attested the same. It needs to be expressed that he being a responsible doctor must have signed the mahazar and must have witnessed the events what are spoken to by PW3. It can be expressed that from the tenor of his answer during his examination-in-chief he aimed at safeguarding the interest of DGOs 1 and 2 and therefore he has not supported the say of PW3. Suffice to mention that on the basis of the answers elicited during cross examination from the side of DGO 2 nothing worthy is brought out in support of the defence.

28. PW2 has spoken to further investigation and submission of charge sheet. His evidence discloses that he assumed charge of his office consequent upon retirement of PW3. He has spoken to that upon going through records it came into


10-10-2019

light that excess amount was found collected. He has spoken to that on conclusion of investigation he filed charge sheet.

29. When subjected to cross examination from the side of DGO 1 though he has stated that he has not examined the persons to whom receipts are issued the said answer will not lend support to the defence of DGO 1. Though he has stated during cross examination from the side of DGO 1 that he has not seized documents from DGO 1 and not enquired the time at which DGO 1 ran away from the spot on 20/05/2009 these answers also will not lend support to the defence of DGO1. Though he has stated that he does not remember that DGO 1 has checked the vehicles at Nippani, Yamakanamaradi and Sankeshwara and placed report it needs to be remembered that the said aspect is within the knowledge of DGO 1 but DGO 1 has not placed any material in support of the same. Suggestion made to PW2 during cross examination from the side of DGO 1 that false charge sheet is filed has been denied by him.
30. When subjected to cross examination from the side of DGO 2 PW2 has stated that excess amount of Rs.53,675/- was found collected in addition to a sum of Rs.77,335/- in respect of which receipts are issued. This portion of answer elicited during cross examination of PW2 incriminates DGOs 1 and 2. Though it is stated by PW2 during cross examination from the side of DGO 2 that he has not ventured upon to investigate touching the amount which was found with Divakara Gajanana Kulakarani, as already discussed above DGOs 1 and 2 have not ventured upon to examine Divakara Gajanana Kulakarni to establish that excess amount of Rs.53,675/- belonged to Divakara Gajanana Kulakarni. Suggestion made to PW2 during

10.10.2019

cross examination suggesting that investigation revealed that excess amount of Rs.53,675/- is the personal cash of Divakara Gajanana Kulakarani has been denied by him. Upon appreciation of the entire cross examination of PW2 I do not find anything worthy of credence in support of defence.

31. In the presence of evidence as discussed above I am not persuaded to accept the contentions raised in the course of respective written statement of DGOs 1 and 2 and also the contentions raised in the course of the respective written argument filed on behalf of DGO 1 and also filed by DGO 2. Law laid down in the decisions mentioned above, in my view, are not applicable to the defence set out by DGOs 1 and 2.
32. Evidence of PW3 establishes that he conducted raid in the premises of "Sri Samartha Vyayama Shale" near National Highway at the outskirts of Nippani after 3.00 P.M on 20/05/2009 at which point of time DGO 2 and Divakara Gajanana Kulakarani were found that DGO 1 escaped from that place. Evidence of PW3 establishes that DGOs 1 and 2 and also Divakara Gajanana Kulakarani joined together and collected total cash of Rs.1,31,010/- from the public and out of the said amount a sum of Rs.53,675/- was unauthorised. Evidence in the case on hand when appreciated keeping in mind the yardstick of preponderance of probabilities it stands established that DGOs 1 and 2 joined together and collected unauthorised cash of Rs.53,675/- for which they failed to offer satisfactory explanation during investigation in crime number 05/2009 of Lokayukta Police Station, Belagavi and thereby DGOs 1 and 2 are guilty of misconduct within the purview of Rule 3 (1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 and being of this view I proceed with the following:


10.10.2019


R E P O R T

Charge against DGO 1 by name Sri. Sudarshan Jadhav (name by written by DGO 1 as Sudarshan Sadashiv Jadhav on the note sheet on 26/11/2016) and charge against DGO 2 by name Sri. Ramappa Gurupadappa Bandi that during the tenure of DGO 1 as Motor Vehicles Inspector attached to the office of Regional Transport Officer, Chikkodi, Belagavi District and during the tenure of DGO 2 as First Division Assistant attached to the office of the Regional Transport Officer, Chikkodi, Belagavi District, DGOs 1 and 2 had collected total sum of Rs.1,31,010/- from the public instead of collecting a sum of Rs.77,335/- towards driving licence, learners licence, renewal of permits, registration of new vehicles in the premises of "Sri Samartha Vyayama Shale" situated by the side of National High Way in the outskirts of Nippani of Belagavi District on 20/05/2009 within 3.00 P.M and during investigation conducted by the Deputy Superintendent of Police, Karnataka Lokayukta, Belagavi in crime number 05/2009 of Lokayukta Police Station, Belagavi DGOs 1 and 2 have failed to offer satisfactory explanation touching excess amount of Rs.53,675/- and thereby DGOs 1 and 2 are guilty of misconduct within the purview of Rule 3 (1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 is proved.

DGO 1 is due for retirement on superannuation on 28/02/2022.

DGO 2 retired on superannuation on 31/05/2012.

Submit this report to Hon'ble Upalokayukta-1, Karnataka in a sealed cover forthwith along with the connected records.

 10.11.2019

ANNEXURE

List of witnesses examined on behalf of the Disciplinary Authority:-

PW1:- Dr. Prashantha
PW2:- Sri. Hanumantha Gouda Govinda Gouda Patil
PW3:- Sri. W.S.B. Ugaragola

List of witnesses examined on behalf DGOs 1 and 2:- NIL

List of documents marked on behalf of Disciplinary Authority:-

1. Ex P1 Attested copy of mahazar dated 20/05/2009 in four sheets.
2. Ex P2 Attested copy of complaint dated 20/05/2009 in two sheets.
Ex P2(a) Signature of PW3 found on sheet number 2 of Ex P2.
3. Ex P3 Xerox copy of rough sketch in a single sheet.
4. Ex P4 Attested copy of file of the nomenclature "ಕಡತ - 2 (A)" from sheet numbers 1 to 82.
5. Ex P5 Attested copy of file of the nomenclature "ಕಡತ -2 (B)" from sheet numbers 1 to 92.
6. Ex P6 Attested copy of FIR dated 21/05/2009 in a single sheet in crime number 5/2009 of Lokayukta Police Station , Belagavi.

7. Ex P7

Attested copy of mahazar dated 21/05/2009 in two sheets drawn by PW3 during search of the residence of Divakara Gajanana Kulakarani.

List of documents marked on behalf of DGOs 1 and 2 :- NIL.


(V.G. BOPAI AH)

Additional Registrar, Enquiries-11,
Karnataka Lokayukta, Bengaluru.

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No. LOK/INQ/14-A/212/2012/ARE-11

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001
Date: 14/10/2019

RECOMMENDATION

Sub:- Departmental inquiry against;

- 1) Sri Sudarshan Jadhav, Motor Vehicle Inspector,
Office of the Regional Transport Officer, Chikkodi,
Belagavi District;
- 2) Sri Ramappa Gurupadappa Bandi, First Division
Assistant, Office of the Regional Transport Officer,
Chikkodi, Belagavi District. - Reg.

Ref:- 1) Government Order No. ಸಾರಿಇ 106 ಸಾಇಸೇ 2012 Bengaluru
dated 15/5/2012.

- 2) Nomination order No.LOK/INQ/14-A/212/2012,
Bengaluru dated 18/5/2012 of Upalokayukta-1,
State of Karnataka, Bengaluru
- 3) Inquiry Report dated 10/10/2019 of Additional
Registrar of Enquiries-11, Karnataka Lokayukta,
Bengaluru

The Government by its Order dated 15/5/2012 initiated the disciplinary proceedings against (1) Sri Sudarshan Jadhav, Motor Vehicle Inspector, Office of the Regional Transport officer, Chikkodi, Belagavi District and (2) Sri Ramappa Gurupadappa Bandi, First Division Assistant, Office of the Regional Transport Officer, Chikkodi, Belagavi District (hereinafter referred to as Delinquent Government Officials 1 & 2, for short as DGO-1 and DGO-2 respectively) and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.LOK/INQ/14-A/212/2012, Bengaluru dated 18/5/2012 nominated Additional

Registrar of Enquiries-4, 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. LOK/INQ/14-A/2014, dated 14/3/2014, the Additional Registrar of Enquiries-5, Karnataka Lokayukta, Bengaluru was re-nominated as inquiry officer to conduct departmental inquiry against DGOs 1&2. Again, by Order No. UPLOK-1/DE/2016 dated 3/8/2016, the Additional Registrar of Enquiries-11, Karnataka Lokayukta, Bengaluru was re-nominated as inquiry officer to conduct departmental inquiry against DGOs 1 & 2.

3. The DGO-1 Sri Sudarshan Jadhav, Motor Vehicle Inspector, Office of the Regional Transport officer, Chikkodi, Belagavi District and DGO-2 Sri Ramappa Gurupadappa Bandi, First Division Assistant, Office of the Regional Transport Officer, Chikkodi, Belagavi District were tried for the following charge:-

“That, you DGO-1 Sri Sudarshan Jadhav and you DGO-2 Sri Ramappa Gurupadappa Bandi while working as Motor Vehicle Inspector and First Division Assistant respectively at the Regional Transport office in Chikkodi and in the monthly camp held at Nippani on 20/5/2009, both of you had collected a total sum of ₹1,31,010/- from several persons towards Driving Licence, Learners' Licence Renewal of permits, Registration of new vehicles and etc. through an agent called Diwakar Kulkarni and out of that amount receipts were issued for a sum of ₹77,335/- and remaining amount of ₹53,675/- was found excess collected towards bribe, failing to maintain absolute integrity and devotion to duty, the act of which was

unbecoming Government Servants and thereby you DGO-1 and DGO-2 committed misconduct as enumerated U/R. 3(1)(i) to (iii) of K.C.S. (Conduct) Rules.”

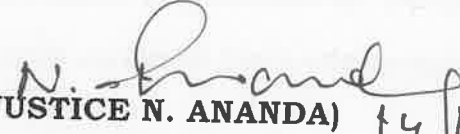
4. The Inquiry Officer (Additional Registrar of Enquiries-11) on proper appreciation of oral and documentary evidence has held that the charge against DGO-1 by name Sri Sudarshan Jadhav (Name written by DGO-1 as Sudarshan Sadashiv Jadhav on the note sheet on 26/11/2016) and charge against DGO 2 by name Sri Ramappa Gurupadappa Bandi that during the tenure of DGO 1 as Motor Vehicles Inspector attached to the office Regional Transport officer, Chikkodi, Belagavi District and during the tenure of DGO 2 as First Division Assistant attached to the office of the Regional Transport officer, Chikkodi, Belagavi District, DGOs 1 and 2 had collected a total sum of ₹1,31,010/- from the public instead of collecting a sum of ₹77,335/- towards driving licence, learners' licence, renewal of permits, registration of new vehicles in the premises of “Sri Samartha Vyayama Shale” situated by the side of National Highway in the outskirts of Nippani of Belagavi District on 20/05/2009 within 03.00 P.M. and during investigation conducted by the Deputy Superintendent of Police, Karnataka Lokayukta, Belagavi in Crime number 05/2009 of Lokayukta Police Station, Belagavi, DGOs 1 and 2 have failed to offer satisfactory explanation touching excess amount of ₹53,675/- and thereby DGOs 1 and 2 are guilty of misconduct within the purview of Rule 3(1)(i) to (iii) 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 Statements submitted by DGOs 1 & 2;
- (i) DGO-1 Sri Sudarshan Jadhav is due to retire from service on 28/2/2022;
 - (ii) DGO-2 Sri Ramappa Gurupadappa Bandi has retired from service on 31/5/2012 (during the pendency of inquiry).
7. Having regard to the nature of charge proved against DGO-1 Sri Sudarshan Jadhav and DGO-2 Sri Ramappa Gurupadappa Bandi,
- (i) It is hereby recommended to the Government for imposing penalty of compulsory retirement from service on DGO-1 Sri Sudarshan Jadhav, Motor Vehicle Inspector, Office of the Regional Transport officer, Chikkodi, Belagavi District and also for permanently withholding 20% of pension payable to DGO-1 Sri Sudarshan Jadhav;
 - (ii) It is hereby recommended to the Government for imposing penalty of permanently withholding 50% of pension payable to DGO-1 Sri Ramappa Gurupadappa Bandi, First Division Assistant, Office of the Regional Transport Officer, Chikkodi, Belagavi District.
8. Action taken in the matter shall be intimated to this Authority.

Connected records are enclosed herewith.


(JUSTICE N. ANANDA) 14/10
Upalokayukta-1,
State of Karnataka,
Bengaluru