

BEFORE THE ADDITIONAL REGISTRAR, ENQUIRES-11

KARNATAKA LOKAYUKTA, BENGALURU


ENQUIRY NUMBER: LOK/INQ/14-A/238/2012

ENQUIRY REPORT Dated: 30/12/2017

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

Delinquent Government Official : Sri. Rajakumara (name mentioned by him as "Rajkumar" on the note sheet on 23/12/2016)
Discharged duties as Village Accountant, Chambola Circle, Bidar Taluk, Bidar District in the year 2009.
(Due for retirement on superannuation on 30/06/2038).

1. In the year 2009 Delinquent Government Official (in short, "DGO") by name Rajakumara was working as Village Accountant, Chambola Circle, Bidar Taluk, Bidar District. He is due for retirement on superannuation on 30/06/2038.
2. Facts which necessitated for initiating the present inquiry proceedings may be stated in a nutshell. Complainant by name Venkata Rao resident of Hippalagoan, Bidar Taluk, Bidar District had filed application in the office of Tahasildar, Bidar Taluk on 30/03/2009 for causing entries of land bearing survey number 8 situated at Hippalagoan village, Bidar Taluk, Bidar District. The said application was marked to the DGO to submit report. According to the complainant,

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DGO demanded illegal gratification of Rs.600/- to process the application and to submit report. The complainant felt annoyed by the said demand thought of setting law into motion and accordingly, on 03/08/2009 at 9.00 A.M. approached the Police Inspector (hereinafter will be referred to as "Investigating Officer") attached to Lokayukta Police Station, Bidar and lodged written complaint. On the basis of the said complaint the Investigating Officer registered case against the DGO in crime number 07/2009 of Lokayukta Police Station, Bidar for the offence punishable under section 7, for the offence defined under section 13(1)(d) which is punishable under section 13(2) of The Prevention of Corruption Act, 1988 and submitted FIR to the Court of Principal District and Sessions Judge, Bidar. Thereafter, the Investigating Officer secured panch witness by name Ashoka Beldar and shadow witness by name Rajapura Babu. Complainant placed cash of Rs.600/- before the Investigating Officer. The Investigating Officer got applied phenolphthalein powder on those notes and on his instructions the panch witness handled those tainted notes and after placing those notes in the left side pocket of shirt of the complainant washed fingers of hands in the solution prepared with water and sodium carbonate powder. The said wash turned to light pink colour. The complainant placed a voice recorder which contained the voice of DGO pressing for illegal gratification. The Investigating Officer got transmitted the contents of voice recorder to a compact disc. The Investigating Officer handed over a voice recorder to the complainant with instruction to keep the same live at the time of approaching the DGO. Instructions are also given by the Investigating Officer to the

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complainant to approach the DGO and to give tainted notes only in case of demand by DGO. Investigating Officer also gave instructions to shadow witness to accompany the complainant and to watch what transpires between the complainant and DGO. Instructions are also given to the complainant by the Investigating Officer to communicate in case of acceptance of tainted notes by DGO. With that process, the Investigating Officer conducted pre-trap mahazar as primitive step of investigation. Thereafter, the Investigating Officer along with his staff complainant, shadow witness and panch witness reached near the office of DGO which is behind medical college at J.P. Nagara, Bidar at 1.45 P.M. Complainant and shadow witness went to the office of DGO and came to know that DGO has left for attending a meeting. Afterwards, complainant and shadow witness went to the office of DGO at 2.50 P.M. DGO returned to his office at 3.00 P.M. The complainant expressed that cash of Rs.600/- as demanded earlier by DGO is brought. DGO responded that after attending the file of complainant the same is sent to the Tahasildar. Afterwards, the complainant offered tainted notes. DGO instructed the complainant to hand over those notes to his Assistant by name Yashawantha. In response to the said instructions the complainant gave tainted notes to Yashawantha who in turn received those notes with right hand and kept those notes in the left side pocket of the shirt. It was then 4.14 P.M. The complainant came out of the office of the DGO and communicated the Investigating Officer by removing the cap. Thereafter, Investigating Officer along with his staff and panch witness entered the office of DGO where the complainant pointed out the DGO and informed the

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Investigating Officer that as per the instructions of DGO tainted notes are given to Yashawantha. The Investigating Officer got prepared solution with water and sodium carbonate powder in two bowls and obtained sample of the said solution in a bottle. On the instructions of the Investigating Officer Yashawantha immersed fingers of right hand in the solution kept in a bowl and immersed fingers of left hand in the solution kept in another bowl. Finger wash of both hands of Yashawantha turned to light pink colour. The Investigating Officer seized the said solution separately in the bottles. On being questioned about tainted notes Yashawantha informed that cash is in the left side pocket of the shirt and placed the same. The Investigating Officer seized those tainted notes. The Investigating Officer got removed the shirt of Yashawantha and afterwards, got immersed left side pocket of shirt in the solution prepared separately with water and sodium carbonate powder. The said wash equally turned to light pink colour. The Investigating Officer seized the said wash in a bottle. The Investigating Officer seized the shirt of Yashawantha. The DGO placed the file of complainant before the Investigating Officer. The Investigating Officer obtained xerox copies of sixteen sheets of the said file and after getting those sheets attested seized those sheets. The DGO and Yashawantha offered their separate statement in writing. The Investigating Officer conducted trap mahazar and thereafter caused arrest of DGO and Yashawantha and brought them to Lokayukta Police Station, Bidar. On the instructions of Investigating Officer the staff of Investigating Officer produced the DGO and Yashawantha in the home office of Principal District and

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Sessions Judge, Bidar. Further investigation conducted by the Investigating Officer disclosed prima facie case against DGO and Yashawantha and on completion of investigation placed the final report before his superior officer for sanction for prosecution of DGO and Yashawantha.

3. On the basis of the report of Additional Director General of Police, Karnataka Lokayukta, Hon'ble Upalokayukta-1, Karnataka, in exercise of the powers conferred upon under section 7(2) of The Karnataka Lokayukta Act, 1984 took up investigation and on the basis of records prima facie felt satisfied that DGO has committed misconduct within the meaning of Rule 3 (1) of The Karnataka Civil Services (Conduct) Rules, 1966 and in exercise of powers conferred upon under section 12(3) of The Karnataka Lokayukta Act, 1984 recommended the competent authority to initiate disciplinary proceedings against the DGO and to entrust the inquiry to the Hon'ble Upalokayukta-1 Karnataka under Rule 14-A of The Karnataka Civil Services(Classification, Control and Appeal) Rules 1957.
4. Subsequent to the report dated 25/04/2012 of the Hon'ble Upalokayukta-1, Government Order bearing number ಕಂಇ 55 ಬಿಡಿಪಿ 2012 ಬೆಂಗಳೂರು, ದಿನಾಂಕ:17/05/2012 has been issued by the Under Secretary to the Government, Department of Revenue(Services-2), Government of Karnataka, entrusting the inquiry to the Hon'ble Upalokayukta, Karnataka under Rule 14-A of The Karnataka Civil Services(Classification, Control and Appeal) Rules 1957. Subsequently, Order number LOK/INQ/14-A/238/2012 Bengaluru dated 29/05/2012 has been ordered by the Hon'ble Upalokayukta-1, Karnataka nominating the Additional Registrar, Enquiries-


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4, Karnataka Lokayukta, Bengaluru as Inquiry Officer to frame charges and to conduct departmental inquiry against the DGO.

5. Articles of charge at Annexure-I which includes statement of imputation of misconduct at Annexure-II framed on 16/08/2012 by the Additional Registrar, Enquiries-4, Karnataka Lokayukta, Bengaluru is the following:

ಅನುಬಂಧ-1

ದೋಷಾರೋಪಣೆ

ಶ್ರೀ ರಾಜಕುಮಾರ ಆರೋಪಿತ ನೌಕರರಾದ ನೀವು ಗ್ರಾಮ ಲೆಕ್ಕಿಗರಾಗಿ ಚಾಂಬೋಳ ವೃತ್ತ, ಬೀದರ್ ತಾಲ್ಲೂಕು, ಬೀದರ್ ಜಿಲ್ಲೆ ಇಲ್ಲಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿದ್ದಾಗ ಪಿಯಾದುದಾರರಾದ ಶ್ರೀ ವೆಂಕಟರಾವ್ ಬಿನ್ ಮುಕಂದರಾವ್ ಶೇರಿಕಾರ್, ಹಿಪ್ಪಳಗಾಂವ್, ಚಾಂಬೋಳ ಅಂಚೆ ಬೀದರ್ ಜಿಲ್ಲೆ ಇವರು ಹಿಪ್ಪಳಗಾಂವ ಗ್ರಾಮದ ಸ.ನಂ.8 ರ 2 ಎಕರೆ ಜಮೀನನ್ನು ಒಟ್ಟುಗೂಡಿಸುವ ಸಲುವಾಗಿ ದಿನಾಂಕ 30-03-2009 ರಂದು ತಹಸೀಲ್ದಾರ್ ಕಚೇರಿಗೆ ಅರ್ಜಿಯನ್ನು ಕೊಟ್ಟಿದ್ದು ಸದರಿ ಕೆಲಸದ ಸಂಬಂಧ ದಿನಾಂಕ 30-07-2009 ರಂದು ಆರೋಪಿತ ನೌಕರರಾದ ನಿಮ್ಮನ್ನು ಭೇಟಿ ಮಾಡಿದಾಗ ಸದರಿ ಕೆಲಸವನ್ನು ಮಾಡಿಕೊಡಲು ರೂ.600/-ಗಳ ಲಂಚವನ್ನು ಕೇಳಿ, ದಿನಾಂಕ 03-08-2009 ರಂದು ಲಂಚದ ಹಣ ರೂ.600/- ಗಳನ್ನು ಪಡೆದಿದ್ದು, ತನ್ಮೂಲಕ ನಿಮ್ಮ ಕರ್ತವ್ಯದಲ್ಲಿ ಸಂಪೂರ್ಣ ಪ್ರಾಮಾಣಿಕತೆ ಮತ್ತು ಕರ್ತವ್ಯ ನಿಷ್ಠೆ ಕಾಯ್ದುಕೊಳ್ಳುವಲ್ಲಿ ವಿಫಲರಾಗಿದ್ದು ಸರ್ಕಾರಿ ನೌಕರರಿಗೆ ಸಲ್ಲದ ಕೃತ್ಯವನ್ನು ಮಾಡಿದ್ದು ಕರ್ನಾಟಕ ಸರ್ಕಾರಿ ಸೇವಾ (ಸದ್ಭರ್ತನೆ) ನಿಯಮಾವಳಿ 1966ರ (3) (i) ಮತ್ತು (iii) ನೇ ನಿಬಂಧನೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿ ದುರ್ನಡತೆ ಮಾಡಿರುತ್ತೀರಿ.

ಅನುಬಂಧ-2

ದೋಷಾರೋಪಣೆಯ ವಿವರ (ಸ್ಟೇಟ್‌ಮೆಂಟ್ ಆಫ್ ಇಂಪ್ಯೂಟೇಷನ್ ಆಫ್ ಮಿಸ್‌ಕಾಂಡೆಕ್ಟ್)

ಪಿಯಾದುದಾರರಾದ ಶ್ರೀ ವೆಂಕಟರಾವ್ ಬಿನ್ ಮುಕಂದರಾವ್ ಶೇರಿಕಾರ್, ಹಿಪ್ಪಳಗಾಂವ್, ಚಾಂಬೋಳ ಅಂಚೆ ಬೀದರ್ ಜಿಲ್ಲೆ ಇವರು ಹಿಪ್ಪಳಗಾಂವ ಗ್ರಾಮದ ಸ.ನಂ.8 ರ 2 ಎಕರೆ ಜಮೀನನ್ನು ಒಟ್ಟುಗೂಡಿಸುವ ಸಲುವಾಗಿ ದಿನಾಂಕ 30-03-2009 ರಂದು ತಹಸೀಲ್ದಾರ್ ಕಚೇರಿಗೆ ಅರ್ಜಿಯನ್ನು ಕೊಟ್ಟಿದ್ದು ಸದರಿ ಕೆಲಸದ ಸಂಬಂಧ ದಿನಾಂಕ 30-07-2009 ರಂದು ಅ.ಸ.ನೌ. ರವರನ್ನು ಭೇಟಿ ಮಾಡಿ ತನ್ನ ಕೆಲಸದ ಬಗ್ಗೆ ವಿಚಾರಿಸಿದಾಗ, ಅ.ಸ.ನೌ. ರವರು ಸದರಿ ಕೆಲಸವನ್ನು ಮಾಡಿಕೊಡಲು


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ರೂ.600/- ಲಂಚವನ್ನು ಕೇಳಿದ್ದು, ಪಿಯಾರದಿದಾರರು ಲಂಚ ಕೊಡಲು ಆಗುವುದಿಲ್ಲವೆಂದು ಹೇಳಿ, ಮತ್ತೆ ದಿನಾಂಕ 31-07-2009 ರಂದು ಅ.ಸ.ನೌ. ರವರನ್ನು ಭೇಟಿ ಮಾಡಿ ತನ್ನ ಕೆಲಸದ ಬಗ್ಗೆ ವಿಚಾರಿಸಿದಾಗ ರೂ.600/- ಲಂಚ ಕೊಟ್ಟರೆ ನಾಳೇನೆ ನಿಮ್ಮ ಕೆಲಸ ಮಾಡಿಕೊಡುತ್ತೇನೆ ಎಂದು ತಿಳಿಸಿರುತ್ತಾರೆ. ಲಂಚ ಕೊಟ್ಟು ತನ್ನ ಕೆಲಸ ಮಾಡಿಕೊಡಲು ಇಷ್ಟ ಇಲ್ಲದ ಪಿಯಾರದಿದಾರರು ದಿನಾಂಕ 03-08-2009 ರಂದು ಪೊಲೀಸ್ ನಿರೀಕ್ಷಕರು, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ, ಬೀದರ್ ಇವರನ್ನು (ಇನ್ನು ಮುಂದೆ "ತನಿಖಾಧಿಕಾರಿ" ಎಂದು ಕರೆಯಲ್ಪಡುವ) ಭೇಟಿಯಾಗಿ ಪಿಯಾರದಿದಾರರು ಮಾಡಿರುತ್ತಾರೆ. ತನಿಖಾಧಿಕಾರಿಗಳು ಪಿಯಾರದಿದಾರರನ್ನು ಅಪರಾಧ ಕ್ರಮಾಂಕ 7/2009 ರಲ್ಲಿ ಲಂಚ ನಿರೋಧ ಕಾಯ್ದೆ ಕಲಂ 7, 13(1)(ಡಿ) ಸ/ವಾ ಕಲಂ 13(2) ರಡಿಯಲ್ಲಿ ಶಿಕ್ಷಾರ್ಹ ಅಪರಾಧಗಳಿಗಾಗಿ ಪ್ರಕರಣ ದಾಖಲು ಮಾಡಿಕೊಂಡಿದ್ದು ತನಿಖೆ ವಹಿಸಿಕೊಂಡಿರುತ್ತಾರೆ. ಅದೇ ದಿನ, ಅಂದರೆ ದಿ: 03-08-2009 ಛಾಯಾ ಸಾಕ್ಷಿಯ ಸಮಕ್ಷಮ ಪಿಯಾರದಿದಾರರಿಂದ ರೂ.600/- ಲಂಚದ ಹಣವನ್ನು ಸ್ವೀಕರಿಸಿದ ಬಳಿಕ ತನಿಖಾಧಿಕಾರಿಯ ಧಾಳಿ/ಬಲೆಗೆ ಸಿಕ್ಕಿಬಿದ್ದಿರುತ್ತಾರೆ. ತನಿಖಾಧಿಕಾರಿಗಳು ಆರೋಪಿತ ನೌಕರರ ಲಿಖಿತ ಹೇಳಿಕೆಯನ್ನು ಪಡೆದುಕೊಂಡಿರುತ್ತಾರೆ ಹಾಗೂ ಪಿಯಾರದಿದಾರರು. ಪಂಚರು ಮತ್ತು ಇತರರ ಹೇಳಿಕೆ ಪಡೆದುಕೊಂಡಿರುತ್ತಾರೆ. ತನಿಖಾಧಿಕಾರಿಗಳು ಸಂಬಂಧಿಸಿದ ದಾಖಲಾತಿಗಳನ್ನು ಮತ್ತು ರಾಸಾಯನಿಕ ವಿಶ್ಲೇಷಣೆಯ ವರದಿ ಪಡೆದು ಅಂತಿಮ ವರದಿಯನ್ನು ಸಲ್ಲಿಸಿರುತ್ತಾರೆ. ಸಂಗ್ರಹವಾಗಿರುವ ಮಾಹಿತಿ, ದಾಖಲಾತಿಗಳ ಆಧಾರದ ಮೇಲೆ ಆರೋಪಿತ ನೌಕರರು ಸಾರ್ವಜನಿಕ ನೌಕರರಾಗಿದ್ದುಕೊಂಡು ತಮ್ಮ ಕರ್ತವ್ಯ ಪಾಲನೆಯಲ್ಲಿ ಪರಿಪೂರ್ಣ ಪ್ರಾಮಾಣಿಕತೆ ಹಾಗೂ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ಪಾಲಿಸದೆ ಮತ್ತು ಸರ್ಕಾರಿ ನೌಕರರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡು ದುರ್ನಡತೆಯಿಂದ ವರ್ತಿಸಿ, ಶಿಸ್ತು ಕ್ರಮಕ್ಕೆ ಭಾಧ್ಯರಾಗಿದ್ದಾರೆಂದು ಮೇಲ್ಮೋಟಕ್ಕೆ ಕಂಡುಬಂದಿದ್ದರಿಂದ ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯ್ದೆಯ ಕಲಂ 7(2)ರಡಿಯಲ್ಲಿ ಆರೋಪಿತ ನೌಕರರ ವಿರುದ್ಧ ತನಿಖೆಯನ್ನು ಕೈಗೊಂಡು ವೀಕ್ಷಣಾ ಟಿಪ್ಪಣಿಯನ್ನು ಕಳುಹಿಸಿಕೊಟ್ಟಿದ್ದು, ಆರೋಪಿತ ನೌಕರರು ಕೊಟ್ಟ ಜವಾಬಿನಂತೆ ನಂತರ ಅವರ ವಿರುದ್ಧ ತನಿಖೆಯನ್ನು ಕೈ ಬಿಡಲು ಸೂಕ್ತವಾದ ಆಧಾರಗಳು ಇರುವುದು ಕಂಡುಬಂದಿರುವುದಿಲ್ಲ. ಆದ್ದರಿಂದ ಸಂಗ್ರಹವಾಗಿರುವ ಮಾಹಿತಿ, ದಾಖಲಾತಿಗಳ ಆಧಾರಗಳಿಂದ ಆರೋಪಿತ ನೌಕರರು ನಾಗರಿಕ ಸೇವಾ ನಿಯಮಗಳು (ನಡತೆ) 1966, ನಿಯಮ 3(1) ರಡಿಯಲ್ಲಿ ಉಕ್ತವಾದ ದುರ್ನಡತೆ ಎಸಗಿದ್ದಾರೆಂದು ಹಾಗೂ ಅವರ ವಿರುದ್ಧ ಶಿಸ್ತು ಕ್ರಮ ಕೈಗೊಳ್ಳಬಹುದೆಂದು ಕಂಡುಬಂದ ಕಾರಣ, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯ್ದೆ ಕಲಂ 12(3) ರಡಿಯಲ್ಲಿ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರದಡಿಯಲ್ಲಿ ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಆರೋಪಿತ ನೌಕರರ ವಿರುದ್ಧ ಶಿಸ್ತು ನಡವಳಿಗಳನ್ನು ಹೂಡಲು ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ ನಿಯಮ (ವರ್ಗೀಕರಣ, ನಿರ್ಭಂಧ ಮತ್ತು ಮೇಲ್ಮನವಿ) 1957, ನಿಯಮ 14-ಎ ರಂತೆ ತನಿಖೆಯನ್ನು ಈ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಒಪ್ಪಿಸಲು ಶಿಫಾರಸ್ಸು ಮಾಡಿದ್ದು, ಸರ್ಕಾರವು ಆದೇಶ ಮಾಡಿ ಆರೋಪಿತ ನೌಕರರ ವಿರುದ್ಧ ಇಲಾಖಾ ವಿಚಾರಣೆಯನ್ನು ಕೈಗೊಂಡು ವರದಿ ಸಲ್ಲಿಸಲು ಗೌರವಾನ್ವಿತ ಉಪಲೋಕಾಯುಕ್ತರಿಗೆ ವಹಿಸಿರುತ್ತದೆ.

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ಆದ್ದರಿಂದ ಈ ದೋಷಾರೋಪಣೆ”.

6. In response to due service of articles of charge, DGO entered appearance before the Additional Registrar Enquiries-4, Karnataka Lokayukta, Bengaluru on 28/09/2012. During first oral statement of DGO recorded on 04/12/2012 he pleaded not guilty.

7. In the course of written statement filed on 01/08/2013 he has denied the alleged charge and contended that he is not guilty of the alleged misconduct.

8. As per Order number LOK/INQ/14-A/2014 dated 14/03/2014 of Hon'ble Upalokayukta-1, this file has been transferred to the Additional Registrar, Enquiries-5, Karnataka Lokayukta. As per Order number Uplok-1/DE/2016 Bengaluru dated 03/08/2016 of the Hon'ble Upalokayukta-1, Karnataka, this file has been transferred to this section i.e., Additional Registrar, Enquiries-11, Karnataka Lokayukta, Bengaluru.

9. The disciplinary authority has examined the panch witness by name Ashoka Beldar as PW1, complainant by name Venkata Rao as PW2, shadow witness by name Rajapura Babu as PW3, Investigating Officer by name H.N. Panchaksharappa as PW4. During evidence of PW1 attested copy of pre-trap mahazar consisting of two sheets is marked as Ex P1, attested copy of trap mahazar consisting of four sheets is marked as per Ex P2, attested copy of statement in a single sheet of DGO is marked as per Ex P3, attested copy of statement of Yashawantha in a single sheet is marked as per Ex P4. During evidence of complainant attested copy of complaint dated 03/08/2009 in a single sheet of the

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complainant is marked as per Ex P5, attested copies of photographs consisting of one sheet each are marked as per Exs P6 to Ex P14. During evidence of PW4 attested copy of FIR in a single sheet in crime number 07/2009 of Lokayukta Police Station, Bidar is marked as per Ex P15, attested copies of the file of the complainant totally consisting of 12 sheets altogether marked as per Ex P16, attested copy of rough sketch in a single sheet of the place of trap is marked as per Ex P17, attested copy of sketch in a single sheet of place of trap drawn by the Assistant Executive Engineer, PWD, Bidar is marked as per Ex P18, attested copy of report in two sheets of Chemical Examiner, Public Health Institute, Bengaluru is marked as per Ex P19.

10. During second oral statement of DGO recorded on 21/09/2017 he has neither chosen to get himself examined as defence witness nor any independent witnesses on his behalf.

11. Incriminating circumstances which appeared against him in the evidence of PWs 1 to 4 by way of questionnaire. During questionnaire DGO has denied the incriminating circumstances which appeared against him including his statement in writing given before PW4.

12. In the course of written argument dated 11/12/2017 filed by the Presenting Officer it is mainly contended that evidence of PWs 1, 3 and 4 coupled with documents tendered in evidence establishes the charge. In the course of written argument of DGO filed on 11/12/2017 it is contended that his name is mentioned as Rajesh in the FIR and that he has not been trapped. Focusing at the evidence of PWs 1 to 4



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particularly the evidence of PW2 it was sought to contend that oral evidence does not establish the alleged charge. It is contended that there are material infirmities in the evidence of PWs 1,3 and 4 and that evidence on record does not establish seizure of tainted notes from the possession of DGO. Attested copy of charge list in a single sheet, attested copy of one more charge list in a single sheet, xerox copy of office order dated 27/07/2009 in a single sheet of Tahasildar, Bidar, attested copy of a list consisting of four sheets containing certain entries which are not specified in the written argument are enclosed to the written argument of DGO.

13. In tune with articles of charge at Annexure-I, sole point which arises for consideration is whether in order to extend official favour to the complainant i.e., in order to attend the application of complainant filed before the Tahasildar, Bidar on 30/03/2009 the DGO demanded illegal gratification of Rs.600/- on 03/08/2009 between 3.00 P.M. and 4.10 P.M. in the office of DGO at Bidar and instructed the complainant to pay the said sum of Rs.600/-to Yashawantha and on the instructions of DGO, Yashawantha accepted the said sum from DGO and thereby DGO is guilty of misconduct within the meaning of Rule 3(1) (i) to (iii) of The Karnataka Civil Services (Conduct) Rules 1966?

14. During evidence the complainant has not stated anything incriminating against the DGO and turned hostile for the reasons well within his knowledge. He has not even spoken to the complaint lodged by him. Evidence of PW4 that the complainant placed the complaint before him at 9.00

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A.M on 03/08/2009 in Lokayukta Police Station, Bidar has remained unchallenged and therefore his evidence establishes lodging of complaint by the complainant though the complainant has not spoken to that complaint is lodged by him. Evidence of PW4 that on the basis of the complaint he registered case against the DGO and submitted FIR the attested copy of which is at Ex P15 has remained unchallenged and therefore that portion of his evidence needs acceptance. Evidence of PW4 that the complainant placed total cash of Rs.600/- before him has remained unchallenged. Evidence of PWs 1 and 3 that the complainant placed cash of Rs. 600/- before PW4 has remained unchallenged. It is in the evidence of PW1 that after application of some powder on the currency notes PW3 placed tainted notes in the left side pocket of shirt of complainant. Though the said portion of his evidence is not in conformity with the evidence of PW3 who has spoken to that PW1 placed tainted notes in the right side pocket of shirt of complainant PW4 has spoken to during his evidence that PW1 has placed tainted notes in the left side pocket of shirt of complainant. It is in the evidence of PW1 that pre-trap mahazar has been conducted. It is in the evidence of PW3 that PW1 washed fingers of hands in the solution and consequently the said solution turned to pink colour. It is in the evidence of PW4 that when PW1 washed fingers of hands in the solution prepared with water and sodium carbonate powder the said wash turned to light pink colour. PWs1,3 and 4 have categorically spoken to the proceedings of pre-trap mahazar. Upon perusal of cross examination of PWs 1,3 and 4 I find no material infirmities in


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their evidence and therefore it needs to be held that PW4 conducted pre-trap mahazar as primitive step of investigation.

15. As observed earlier PW2 who is the complainant has not supported his own cause and turned hostile for the reasons well within his knowledge. His attention has been drawn to the xerox copies of photographs at Exs P6 to P14. He admits his images found on Exs P6 to P14. When his evidence is appreciated along with Exs P6 to P14 it is apparent that in order to safeguard DGO he has suppressed the incriminating materials and with that intention he turned hostile. Merely because he has not supported the case his evidence does not lead to draw conclusion to hold that trap was not laid.

16. It is in the evidence of PW3 who is shadow witness that subsequent to pre-trap mahazar he along with the complainant went to the office of DGO. It is his evidence that DGO arrived at the office at about 5.00 or 5.30 P.M. It is his evidence that he has not entered the office of DGO and that complainant alone entered the office of DGO and thereafter came out of that office about 15 minutes thereafter. He has not supported the alleged demand by DGO and acceptance of tainted notes by Yashawantha. It is in the evidence of PW1 that subsequent to pre-trap mahazar the complainant along with PW3 entered the office of DGO at about 4.00 P.M. and five minutes thereafter the complainant came of that office and conveyed message. It is in the evidence of PW3 that subsequent to pre-trap mahazar when he along with his staff, complainant, PWs1 and 3 reached near the office of DGO, then DGO was not found there and that DGO returned to the office at 3.00 P.M. and afterwards the complainant and PW3

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proceeded to the said office. It is in the evidence of PW4 that at 4.15 P.M. the complainant came out of that office and offered signal. It is in the evidence of PWs1 and 4 that they entered the office of DGO where DGO was pointed out by the complainant. Evidence of PWs1 and 4 that they entered the office of DGO has not been assailed seriously during their cross examination.


17. Evidence of PW1 that after his entry to the office of DGO the complainant informed that as per the instructions of DGO Yashawantha received cash has remained unchallenged during his cross examination that therefore that portion of his evidence needs acceptance. Evidence of PW3 that after the entry of PW1 and Lokayukta Police staff the complainant expressed that Yashawantha was pointed out by the complainant stating that amount is received has remained unchallenged during his cross examination. It is in the evidence of PW4 that after his entry to the office of DGO the complainant pointed out DGO and expressed that DGO instructed to give amount to Yashawnatha and in response cash was given to Yashawantha.

18. During evidence PWs1, 3 and 4 have categorically spoken to that Yashawantha immersed fingers of right hand in the solution prepared with water and sodium carbonate powder kept in a container and immersed fingers of left hand in the solution kept in another container. It is in the evidence of PW1 that finger wash of both hands of Yashawantha turned to pink colour. It is in the evidence of PWs 3 and 4 that finger wash of both hands of Yashawantha turned to light pink colour. It is in the evidence of PW1 that after

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removing the shirt of Yashawantha left side pocket of shirt of Yashawantha was immersed in the solution. It is in the evidence of PWs 3 and 4 that left side pocket of shirt of Yashawantha when immersed in the solution the said solution turned to light pink colour. It is in the evidence of PW1 that wash of left side pocket of shirt of Yashawantha turned to pink colour. Evidence of PWs 1,3 and 4 touching change of colour of finger wash of hands of Yashawantha and also change of colour of wash of left side pocket of shirt of Yashawantha has not been assailed during their cross examination and therefore it stands established that since Yashawantha received tainted notes and placed those notes in the left side pocket of shirt there was change of colour of wash of fingers of hands and also wash of left side pocket of shirt. It is brought out during cross examination of PW4 that process of finger wash of hands of Yashawantha and process of wash of pocket of shirt of Yashawantha are conducted. It is in the evidence of PWs1, 3 and 4 that tainted notes are seized from the possession of Yashawantha. It is elicited during cross examination of PW4 that cash is seized from the possession of Yashawantha. PWs 1, 3 and 4 have categorically spoken to trap mahazar. Suggestion made to PW4 suggesting that trap mahazar is not conducted in the office of DGO has been denied by PW4.

19. Records would show that Yashawantha was in the office of DGO as "Grama Sevaka" at the time of trap. Ex P4 which is the attested copy of statement of Yashawantha given before PW4 soon after trap when perused would show that according to Yashawantha, while he was writing near DGO the complainant kept cash by force in his pocket with


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instructions to hand over the same to the DGO for which he offered protest. Normal response of ordinary prudent man in such a situation would be that apart from protest strong efforts will be bestowed either to return the cash or to throw away the cash. It is not found mentioned in Ex P4 that soon after tainted notes are thrust into the pocket Lokayukta Police Staff arrived at there and prevented either to return the cash or to throw away the cash. Therefore, contents of Ex P4 cannot be believed as gospel truth. As against question number 22 of questionnaire DGO has stated that he has not given statement in writing and that he is not aware of statement given in writing by Yashawantha. In such a situation, it needs to be expressed that Yashawantha gave statement in writing before PW4 contents of which cannot be accepted for the reasons mentioned above. Ex P3 which is the attested copy of statement of DGO when perused would show that according to him since he had not demanded money he was pressurised and that Grama Sevaka was equally pressurised. It is further found mentioned in Ex P3 that in fact Grama Sevaka refused to receive cash. Though DGO has stated during questionnaire as against question number 22 that he has not given statement in writing evidence of PW4 during cross examination would establish that DGO gave statement in writing.

20. Perusal of Ex P3 would show that DGO has admitted that Yashawantha was in the office of DGO in the capacity of Grama Sevaka which would lead to draw inference that as desired by DGO the said Yashawantha used to be in the office of DGO to render assistance to DGO in official matters and therefore it needs to be inferred that there was pre-consorted

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union of guilty mind of DGO and Yashawantha. Therefore, possession of tainted notes by Yashawantha was in response to the instructions of DGO given to the complainant.

21. Seizure of Ex P16 from the office of DGO as spoken to by PW4 has not been assailed during his cross examination and therefore, inference can certainly be drawn that demand must have been made by DGO in order to submit the file of complainant to the concerned Tahasildar.

22. It is well settled that in a criminal prosecution for the offences punishable under sections 7 and 13(2) of The Prevention of Corruption Act, 1988, the prosecution has to establish that in order to extend official favour the accused has to demand and accept tainted notes and the evidence of complainant touching demand and acceptance shall invariably be corroborated by the testimony of shadow witness. In the absence of proof of demand and acceptance presumption under section 20 of The Prevention of Corruption Act, 1988 cannot be raised against the accused in criminal prosecution. It is equally well settled that proof beyond reasonable doubt is the yardstick while appreciating evidence in criminal trial. Preponderance of probabilities is the yardstick which needs to be applied while appreciating evidence in the enquiry of this nature.

23. To sum up, evidence on record establishes that file of the complainant was still with DGO on the date of trap and therefore it needs to be inferred that in order to submit the said file to the concerned Tahasildar DGO demanded illegal gratification of Rs.600/-. Evidence on record establishes that Yashawantha was under the command of DGO and therefore

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DGO instructed the complainant to place a sum of Rs.600/- at the hands of Yashawantha who in turn accepted tainted notes. Unchallenged evidence of PW1 that after the entry of Lokayukta Police Staff to the office of DGO the complainant informed that on the instructions of DGO cash is received by Yashawantha. Likewise, unchallenged evidence of PW3 that after the entry of Lokayukta Police staff Yashawantha was pointed out by complainant stating that Yashawantha received cash establishes that Yashawantha received on the instructions of DGO. Evidence of PW4 that after his entry to the office of DGO the complainant pointed out the DGO and expressed that on the instructions of DGO cash is handed over to Yashawantha also establishes that on the instructions of DGO Yashawantha received tainted notes from the complainant. Documents enclosed to written argument when appreciated would not lend assistance to the defence formulated by DGO. In the presence of evidence as discussed above I am not inclined to accept the contentions put forward in the course of written statement and also in the course of written argument by the DGO. When the evidence on record is appreciated keeping in mind the yardstick of preponderance of probabilities, it needs to be held that in order to extend official favour the DGO demanded illegal gratification of Rs.600/- from the complainant and ventured upon to receive the same through Yashawantha.

24. Being of this view, I proceed with the following:

REPORT

Charge against DGO that in order to extend official favour to the complainant i.e., in order to attend the application of

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complainant filed before the Tahasildar, Bidar on 30/03/2009 the DGO demanded illegal gratification of Rs.600/- on 03/08/2009 between 3.00 P.M. and 4.10 P.M. in the office of DGO at Bidar and instructed the complainant to pay the said sum of Rs.600/-to Yashawantha and on the instructions of DGO, Yashawantha accepted the said sum from DGO and thereby DGO is guilty of misconduct within the meaning of Rule 3(1) (i) to (iii) of The Karnataka Civil Services (Conduct) Rules Rule 3(1) of The Karnataka Civil Services (Conduct) Rules, 1966 is proved.

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

(V.G. BOPAIAH)

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

ANNEXURE

List of witness examined on behalf of the Disciplinary

Authority

PW 1:-	Ashoka Beldar
PW 2:-	Venkata Rao
PW 3:-	Rajapura Babu
PW 4:-	H.N. Panchaksharappa.

List of documents marked on behalf of Disciplinary

Authority

Ex P 1	Attested copy of pre-trap mahazar consisting of two sheets
Ex P 2	Attested copy of trap mahazar consisting of four sheets

- Ex P 3 Attested copy of statement in a single sheet of DGO
- Ex P 4 Attested copy of statement of Yashawantha in a single sheet
- Ex P 5 Attested copy of complaint dated 03/08/2009 in a single sheet
- Ex P 6 to Ex P14 Attested copies of photographs consisting of one sheet each
- Ex P 15 Attested copy of FIR in a single sheet in crime number 07/2009 of Lokayukta Police Station, Bidar
- Ex P 16 Attested copies of the file of the complainant totally consisting of 12 sheets
- Ex P 17 Attested copy of rough sketch in a single sheet of the place of trap
- Ex P 18 Attested copy of sketch in a single sheet of place of trap drawn by the Assistant Executive Engineer, PWD, Bidar
- Ex P19 Attested copy of report in two sheets of Chemical Examiner, Public Health Institute, Bengaluru

(V.G. BOPAIAH)

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

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

NO:LOK/INQ/14-A/238/2012/ARE-11

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001,
Date: 03/01/2018

RECOMMENDATION

Sub:- Departmental inquiry against Sri Rajakumara,
Village Accountant, Chambola Circle, Bidar
Taluk, Bidar District – Reg.

Ref:- 1) Government Order No.ಕಂಇ 55 ಬಿಡಿಪಿ 2012, Bengaluru
dated 17/5/2012

2) Nomination order No.LOK/INQ/14-A/238/2012,
Bengaluru dated 29/5/2012 of Upalokayukta-1,
State of Karnataka, Bengaluru

3) Inquiry Report dated 30/12/2017 of Additional
Registrar of Enquiries-11, Karnataka Lokayukta,
Bengaluru

The Government by its Order dated 17/5/2012, initiated the disciplinary proceedings against Sri Rajakumara, Village Accountant, Chambola Circle, Bidar Taluk, Bidar District (hereinafter referred to as Delinquent Government Official, for short as **'DGO'**) and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.LOK/INQ/14-A/238/2012, Bengaluru dated 29/5/2012 nominated Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGO for the alleged charge of misconduct, said to have been committed by him. Subsequently, by Order No. LOK/INQ/14-A/2014 dated 14/3/2014, the Additional Registrar of

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Enquiries-5, Karnataka Lokayukta, Bengaluru was re-nominated as Inquiry Officer to conduct departmental inquiry against DGO. Again, by Order No. UPLOK-1/DE/2016, Bengaluru dated 3/8/2016, the Additional Registrar of Enquiries-11, Karnataka Lokayukta, Bengaluru was re-nominated as Inquiry Officer to conduct departmental inquiry against DGO.

3. The DGO Sri Rajakumara, Village Accountant, Chambola Circle, Bidar Taluk, Bidar District was tried for the following charge:-

“ಶ್ರೀ ರಾಜಕುಮಾರ ಆರೋಪಿತ ನೌಕರರಾದ ನೀವು ಗ್ರಾಮ ಲೆಕ್ಕಿಗರಾಗಿ ಚಾಂಬೋಳ ವೃತ್ತ ಬೀದರ್ ತಾಲ್ಲೂಕು, ಬೀದರ್ ಜಿಲ್ಲೆ ಇಲ್ಲಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿದ್ದಾಗ ಫರ್ಯಾದುದಾರರಾದ ಶ್ರೀ ವೆಂಕಟರಾವ್ ಬಿನ್ ಮುಕುಂದರಾವ್ ಶೇರಿಕಾರ್, ಹಿಪ್ಪಳಗಾಂವ್, ಚಾಂಬೋಳ ಅಂಚೆ ಬೀದರ್ ಜಿಲ್ಲೆ ಇವರು ಹಿಪ್ಪಳಗಾಂವ ಗ್ರಾಮದ ಸ.ನಂ.8 ರ 2 ಎಕರೆ ಜಮೀನನ್ನು ಒಟ್ಟುಗೂಡಿಸುವ ಸಲುವಾಗಿ ದಿನಾಂಕ 30-03-2009 ರಂದು ತಹಶೀಲ್ದಾರ್ ಕಛೇರಿಗೆ ಅರ್ಜಿಯನ್ನು ಕೊಟ್ಟಿದ್ದು ಸದರಿ ಕೆಲಸದ ಸಂಬಂಧ ದಿನಾಂಕ 30-07-2009ರಂದು ಆರೋಪಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನಿಮ್ಮನ್ನು ಭೇಟಿ ಮಾಡಿದಾಗ ಸದರಿ ಕೆಲಸವನ್ನು ಮಾಡಿಕೊಡಲು ರೂ.600/-ಗಳ ಲಂಚವನ್ನು ಕೇಳಿ, ದಿನಾಂಕ 03-08-2009ರಂದು ಲಂಚದ ಹಣ ರೂ.600/-ನ್ನು ಪಡೆದಿದ್ದು, ತನ್ಮೂಲಕ ನಿಮ್ಮ ಕರ್ತವ್ಯದಲ್ಲಿ ಸಂಪೂರ್ಣ ಪ್ರಾಮಾಣಿಕತೆ ಮತ್ತು ಕರ್ತವ್ಯ ನಿಷ್ಠೆ ಕಾಯ್ದುಕೊಳ್ಳುವಲ್ಲಿ ವಿಫಲರಾಗಿದ್ದು ಸರ್ಕಾರಿ ನೌಕರರಿಗೆ ಸಲ್ಲದ ಕೃತ್ಯವನ್ನು ಮಾಡಿದ್ದು ಕರ್ನಾಟಕ ಸರ್ಕಾರಿ ಸೇವಾ (ಸದ್ವರ್ತನೆ) ನಿಯಮಾವಳಿ 1966ರ 3(i) ಮತ್ತು (iii)ನೇ ನಿಬಂಧನೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿ ದುರ್ನಡತೆ ಮಾಡಿರುತ್ತೀರಿ.”

4. The Inquiry Officer (Additional Registrar of Enquiries-11) on proper appreciation of oral and documentary evidence has held that the charge against DGO that in order to extend official favour to the complainant i.e., in order to attend the application of Complainant filed before the Tahsildar, Bidar on 30/03/2009, the DGO demanded illegal gratification of Rs.600/- on 03/08/2009

between 3.00 P.M and 4.10 P.M. in the office of DGO at Bidar and instructed the Complainant to pay the said sum of Rs.600/- to Yashawantha and on the instructions of DGO, Yashawantha accepted the said sum from DGO and thereby DGO is guilty of misconduct within the meaning of Rule 3(1)(i) to (iii) of the Karnataka Civil Services (Conduct) Rules, 1966, is proved.


5. On re-consideration of report of inquiry, I do not find any reason to interfere with the findings recorded by the Inquiry Officer. It is hereby recommended to the Government to accept the report of Inquiry Officer.

6. As per the First Oral Statement submitted by DGO, he is due to retire from service on 30/6/2038.

7. Having regard to the nature of charge (demand and acceptance of bribe) proved against DGO Sri Rajakumara, it is hereby recommended to the Government to impose penalty of compulsory retirement from service on DGO Sri Rajakumara, Village Accountant, Chambola Circle, Bidar Taluk, Bidar District.

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

Connected records are enclosed herewith.


(JUSTICE N. ANANDA)
Upalokayukta-1, 2/1
State of Karnataka,
Bengaluru

