

KARNATAKA LOKAYUKTA

No.UPLOK-1/ DE/242/2016/ARE-13

M.S. Building,
Dr. B.R.Ambedkar Road,
Bangalore-56001.
Date: 22/8/2019.**: Present:****Patil MohanKumar Bhimanagouda**
Additional Registrar Enquiries-13,
Karnataka Lokayukta,
Bangalore.**:: ENQUIRY REPORT ::****Sub:-** Departmental Enquiry against,
1. Sri. Devaraja M.P, Group 'D' Employee,
O/o the Deputy Director, Tourism
Department, Belagavi Divison,
Belagavi and
2. Sri. Mallikarujuna Dundappa
Hegadihala, Group 'D' Employee,
O/o the Deputy Director,
Tourism Department, Belagavi
Division, Belagavi-reg.**Ref :** 1) Report u/s 12(3) of the K.L Act, 1984 in
Compt/Uplok/BGM-471/2015/PP,
Dtd.21/05/2015.
2) Govt Order No. ಪ್ರಇ/ಆಸಿ-2/17/2014-15,
dated:24/06/2016.
3) Order No.UPLOK-1/DE/242/2016,
Bengaluru, Dated : 15/07/2016.

1. This Departmental Enquiry is directed against 1) Sri. Devaraja M.P, Group 'D' Employee, O/o the Deputy Director, Tourism Department, Belagavi Divison, Belagavi and 2) Sri. Mallikarujuna Dundappa Hegadihala, Group 'D' Employee, O/o the Deputy Director, Tourism Department, Belagavi Division, Belagavi (herein after referred to as the Delinquent Government Officials in short "DGOs" respectively).

2. After completion of the investigation a report U/sec. 12(3) of the Karnataka Lokayukta Act was sent to the Government as per Reference No-1.

3. In view of the Government Order cited above at reference-2, the Hon'ble Upa Lokayukta -1, vide order dated :15/07/2016 cited above at reference-3, nominated Additional Registrar of Enquiries-8 of the office of the Karnataka Lokayukta as the Enquiry Officer to frame charges and to conduct Enquiry against the aforesaid DGOs. Thereafter the file was transferred from ARE-8 to ARE-7. The Additional Registrar Enquires-7 prepared Articles of Charges, Statement of Imputations of mis-conduct, list of documents proposed to be relied and list of witnesses proposed to be examined in support of Article of Charges. Copies of same were issued to the DGOs calling upon them to appear before this Authority and to submit written statement of their defence.

4. As per order of Hon'ble UPLOK-1 & 2/DE/Tranfers/2018 Dated 06/08/2018 this enquiry file was transferred from ARE-7 to ARE-13.

5. The Article of Charges framed by ARE-7 against the DGO is as below:

ANNEXURE-I

CHARGE

6. That you- DGO No.1) Sri. Devaraja M.P, Group 'D' Employee, O/o the Deputy Director, Tourism Department, Belagavi Divison, Belagavi and 2) Sri. Mallikarjuna Dundappa Hegadihala, Group 'D' Employee, O/o the Deputy Director, Tourism Department, Belagavi Division, Belagavi while discharging your duties.

- a) Being a Schedule Tribe person, studied SSLC and possessing light motor vehicle driving license, the complainant had made an application in the office of you-DGOs i.e. Deputy Director of Tourism at Belagavi, requesting for sanction of a car on subsidy in the month of February 2014 along with required documents. However, in the month end of June 2014, when he met you-DGO No-1 enquiring about his said request made, he was informed that his said

application had been rejected because of not enclosing motor vehicle driving license extract besides a certificate that none from his family is in Government or semi Government service. For that, when he enquired, you-DGO No-1 told him to make an application again before 30/06/2014. As such, he made an application on 30/06/2014 with said two documents. Thereafter, before about 5-6 days of 25/07/2014 when he enquired, you-DGO No-1 demanded Rs.30,000/- to get sanctioned subsidy car to him on his said application.

- b) For that, when he pleaded that he is a poor person and requested to reduce it, you-DGO No-1 told him that if minimum of Rs.15,000/- is brought, you-DGO will see that his application is sanctioned;
- c) Not willing to pay bribe after approaching Lokayukta Police when he approached you-DGO No-1 on 25/07/2014 along with his friend and enquired, then also you-DGO No-1 asked him whether he has come after making the said amount ready.

- d) For that, he told that said amount could not be adjusted, so, he had asked others to make the amount ready.
- e) Then, you-DGO No-1 told him to come within 5.30 p.m on that day, otherwise to come after Ramzan Festival so that his work will be get done.
- f) Thereafter, on the same day, when he came to the office of you-DGOs and enquired about you-DGO No-1 with you-DGO No-2, you-DGO No-2 contacted you-DGO No-1 over phone and came back asked to go towards 'Dabba Tea' shop where you-DGO No-1 would come and shown that Dabba Tea shop also. So he went towards that. As such, near auto rickshaw stand situated in front of Tourism office, you-DGO No-1 had talk with him and went back to his office and sent you-DGO No-2 to him and then you-DGO No-2 (after talking to him), took the tainted (bribe) amount (of Rs.15,000/-) from him on behalf of you-DGO No-1.

- g) Thus, both you-DGOs are involved in taking the tainted (bribe) amount from him for his said work;
- h) When questioned by the I.O., you-DGO No-2 failed to give any satisfactory reply or account for the said (tainted) bribe amount, found then with you-DGO No-2;
- i) Thereafter, you-DGO No-2 was caught hold at said place as found with the said tainted amount;
- j) Then the said tainted (bribe) amount was seized from you-DGO No-2 under a mahazar by the I.O on the said date in the presence of panchas;
- k) Even there are statements of witnesses, including complaint, besides collected records and material filed by the I.O., which show repeated misconduct of you-DGO Nos-1 and 2.

and thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of Government Servants and thus you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966.

ANNEXURE-II
CHARGE

7. On the basis of a report of the Additional Director General of Police in Karnataka Lokayukta at Bangalore, filed with papers of investigation made by the Police Inspector, Karnataka Lokayukta, Belagavi (hereinafter referred to as Investigating Officer- 'I.O' for short), stated that 1) Sri. Devaraja M.P, Group 'D' Employee, O/o the Deputy Director, Tourism Department, Belagavi Division, Belagavi and 2) Sri. Mallikarjuna Dundappa Hegadihala, Group 'D' Employee, O/o the Deputy Director, Tourism Department, Belagavi Division, Belagavi (hereinafter referred to as Delinquent Government Officials, in short DGO Nos-1 and 2 being public/Government servants, have committed misconduct, when approached by Sri. Shivaji Ningappa Vannura R/o Plot No.447, Shivabasavanagar, Belagavi (hereinafter referred to as 'Complainant' for short) an investigation was taken up U/sec. 9 of the Karnataka Lokayukta Act, 1984, after invoking powers vested U/s 7(2) of that Act.

8. Brief facts of the case are:-

- a) Being a Schedule Tribe person, studied SSLC and possessing light motor vehicle driving license, the complainant had made an application in the office of the DGOs i.e Deputy

Director of Tourism at Belagavi, requesting for sanction of a car on subsidy in the month of February 2014 along with required documents. However, in the month end of June 2014, when he met DGO No-1 enquiring about his said request made, he was informed that his said application had been rejected because of not enclosing motor vehicle driving license extract besides a certificate that none from his family is in Government or semi Government service. For that, when he enquired, the DGO No-1 told him to make an application again before 30/06/2014. As such, he made an application on 30/06/2014 with said two documents. Thereafter, before about 5-6 days of 25/07/2014 when he enquired, the DGO No-1 demanded Rs. 30,000/- to get sanctioned subsidy car to him on his said application.

- b) For that, when he pleaded that he is a poor person and requested to reduce it, the DGO No-1 told him that if minimum of Rs.15,000/- is brought, DGO will see that his application is sanctioned;

- c) Not willing to pay bribe, after approaching Lokayukta Police when he approached the DGO No-1 on 25/07/2014 along with his friend and enquired, then also the DGO No-1 asked him whether he has come after making the said amount ready;
- d) For that, he told that said amount could not be adjusted, so, he had asked others to make the amount ready;
- e) Then, the DGO No-1 told him to come within 5.30 p.m on that day, otherwise to come after Ramzan Festival so that his work will be get done;
- f) Thereafter, on the same day, when he came to the office of the DGOs and enquired about the DGO No-1 with DGO No-2, the DGO No-2 contacted DGO No-1 over phone and came back asking to go towards 'Dabba Tea' shop where the DGO No-1 would come and shown that Dabba Tea shop also. So he went towards that. As such, near auto rickshaw stand situated in front of Tourism office, the DGO No-1 had talk with him and went back to his office and sent the DGO

No-2 to him and then the DGO No-2 (after talking to him), took the tainted (bribe) amount (of Rs.15,000/-) from him on behalf of the DGO No-1;

- g) Thus, both the DGOs are involved in taking the tainted (bribe) amount from him for his said work;
- h) When questioned by the I.O., the DGO No-2 failed to give any satisfactory reply or account for the said (tainted) bribe amount, found then with the DGO No-2;
- i) Thereafter, the DGO No-2 was caught hold at said place as found with the said tainted amount;
- j) Then the said tainted (bribe) amount was seized from the DGO No-2 under a mahazar by the I.O on the said date in the presence of panchas;
- k) Even there are statements of witnesses, including complainant, besides collected records and materials filed by the I.O, which show repeated misconduct of the DGO Nos-1 and 2.

9. Said facts supported by the material on record show that the DGO No-1 and 2, being public servants, have failed to maintain absolute integrity besides devotion to duty and acted in a manner unbecoming of Government servants and thereby committed misconduct and made themselves liable for disciplinary action.

10. Therefore, an investigation was taken up against the DGO No-1 and 2 and an observation note was sent to them to show cause as to why recommendation should not be made to the Competent Authority for initiating departmental inquiry against them in the matter. For that, the DGO No-1 and 2 gave their reply. However, the same is not convincing and satisfactory to drop the proceedings.

11. Since said facts and material on record prima facie show that the DGO No-1 and 2 have committed misconduct under Rule 3(1) of the KCS Conduct Rules, 1966, recommendation is made under section 12(3) of the Karnataka Lokayukta Act, to the Competent Authority to initiate disciplinary proceedings against the DGO No-1 and 2 and to entrust the inquiry to this Institution under Rule 14-A of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.

12. The Government after considering the recommendation made in the report, entrusted the matter to the Hon'ble Upa Lokayukta to

conduct departmental/disciplinary proceedings against the DGO No-1 and 2 and to submit report. Hence the charge.

13. The AOC was duly served on the DGO No-1 and 2. Initially they appeared and FOS was recorded . However, thereafter they remained absent and hence they were placed Ex-parte.

14. In order to substantiate the charge, the Disciplinary Authority examined in all three witnesses as PW-1 to PW-3 and got marked documents at Ex.P-1 to P-8 and closed the evidence. Initially the DGO No-1 and 2 had appeared and their FOS was recorded. Later on the DGO No-1 and 2 remained ex-parte, hence the question of recording SOS, Defence evidence and questionnaire as provided U/Rule 11(9), 11(16), 11(17) and Rule 11(18) of Karnataka Civil Services (CC & A) Rules 1957 does not arise.

15. Upon consideration of the charge leveled against the DGO No-1 and 2, the evidence led by the Disciplinary Authority by way of oral and documentary evidence, the only point that arises for my consideration is as under:

Whether the Disciplinary Authority has satisfactorily proved that, the DGO No-1 who was working as the Group 'D' Employee in the office of Deputy Director of Tourism Belagavi and DGO No-2 who was also

working as Group 'D' Employee in the office of Deputy Director of Tourism, Belagavi, the complainant who belongs to Schedule Tribe had applied for a car taxi on subsidy basis from the Department of Tourism, Government of Karnataka, in the month February 2014, but his application came to be rejected and the complainant again approached the office of Tourism Department, Belagavi in the month of June 2014 and met the DGO No-1, the DGO No-1 told the complainant that, his work will be done if he pays a bribe of Rs.30,000/-, after negotiation the DGO No-1 reduced the bribe amount to Rs.15,000/-, and on 25/07/2014 at about 5.30 p.m the DGO No-1 demanded and accepted a bribe of Rs.15,000/- through DGO No-2, from the complainant near the tea shop situated in front of the office of Tourism Department Belagavi and thereby failed to maintain absolute integrity and devotion to duty, which act is unbecoming of a Government Servant and thus committed mis-conduct as enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules, 1966.

16. My finding on the above point is held in “**Affirmative**” for the following:

:: REASONS ::

17. **Point No-1:-** The case of the Disciplinary Authority in brief is that,

The Complainant by name Sri. Shivaji S/o Ningappa Vannur has lodged a complaint as per Ex.P-1 to the Lokayukta Police, Belagavi on 25/07/2014. The complainant has been examined as PW-1 and he has reiterated the facts stated in the complaint. He states that, in the month of February 2014, he had approached the office of Deputy Director, Department of Tourism, Government of Karnataka for purchase of a car taxi under Schedule Tribe quota on subsidy basis. He further states that, at the end of June 2014 when the complainant approached the DGO No-1 and enquired about his application, the DGO No-1 informed that, his application was rejected because driving license and other documents were not produced.

18. The DGO No-1 asked the complainant to file another application on or before 30/06/2014. On 25/07/2014 when the complainant enquired the DGO about his application, the DGO No-1 demanded a bribe of Rs.30,000/- to get sanctioned a car on subsidy. When the complainant pleaded to the DGO No-1 that he

is poor person, after negotiation the bribe amount was reduced to Rs.15,000/-.

19. PW-1 further states that, since he was not willing to pay the bribe, he approached the Lokayukta Police and filed the complaint on 25/07/2014.

20. PW-1 further states that, Lokayukta Police summoned two witness/Government servants. One Sri. Sanjeev S/o Lakshman Tolamatti from the Government Polytechnic College, Belagavi and One Appasaheb S/o Krishna Indulkar, F.D.A from Veterinary Department, Belagavi and requested them to act as panchas. The complainant/PW-1 has handed over the bribe amount of Rs. 15,000/- i.e 2 notes of Rs.1000/- denomination and 26 notes of Rs.500/- denomination. The Complainant further states that, Lokayukta Police conducted Entrustment Mahazar as per Exhibit P-3. The bait money was smeared with Phenolphthalein Powder. The Sodium Carbonate Solution was taken in a glass bowl. One of the staff Sri. B.C. Goudar of Lokayukta Police smeared the bait money with Phenolphthalein Powder. The pancha No-2 kept the bait money in the right side pant pocket of the complainant. The hands of the pancha No-2 was washed in Sodium Carbonate Solution. The colourless solution turned into pink colour. The Police poured the pink solution in an empty bottle and sealed it. He further states that, the Entrustment Mahazar was conducted as per Ex.P-3.

21. PW-1 further states that, he along the panchas, I.O and his staff left the Lokayukta office and went to the office of the DGO. The I.O told the complainant to go into the office of the DGO No-1 and pay the bribe amount, only if demand is made by DGO No-1. The shadow witness by name of Sri. Sanjeev Lakshman Tolamatti/PW-3 was asked to accompany the complainant. PW-1 further states that, he along with PW-3 shadow witness went to the office of DGO No-1. However the DGO No-1 was not in the office and they enquired DGO No-2 about DGO No-1.

22. The DGO No-2 contacted DGO No-1 over the phone and DGO No-1 asked them to wait near the tea shop situated in front of the tourism office. Later on the DGO No-1 came near the Tea Shop and enquired whether the complainant had brought the bribe amount of Rs.15,000/-. When the complainant replied in the positive, the DGO No-1 told that, he would go to the Tourism office and send DGO No-2. He directed the complainant to hand over the bribe amount to the DGO No-2. Accordingly the DGO No-1 went inside the Tourism office and sent DGO No-2. The complainant has handed over the bribe amount of Rs.15,000/- on demand by the DGO No-2.

23. PW-1 further states that, he gave the signal to the I.O. The Investigation Officer came near the Tea Shop and introduced himself and asked the DGO No-2 to co-operate for the

investigation. The complainant/PW-1 showed the DGO No-2 and told that, the DGO No-1 had received the bribe amount through his assistant DGO No-2. PW-1 further states that, the I.O recovered the amount from the DGO No-2 and washed his hands in Sodium Carbonate Solution and the solution turned into pink colour.

24. PW-2 further states that, the hands of DGO No-2 were washed in Sodium Carbonate Solution and it turned into the pink colour. It was poured in a bottle, sealed and seized. The I.O enquired the said DGO No-2 about the bait money of the Rs. 15,000/-. The said DGO No-2 removed the said amount and handed over it to the I.O. The I.O has seized the said amount and also the pant of the DGO No-2 was seized and its right pocket was washed in Sodium Carbonate Solution and it turned into the pink colour. It was poured in a bottle, sealed and seized.

25. PW-1 further states that, the I.O conducted the Trap Mahazar as per Ex.P-4. The file pertaining to the complainant was also seized. The copies of the Photographs at the time of Mahazars have been produced and the same are commonly marked as Ex.P-5.

26. PW-3 Sri. Sanjeev Tolamatti is a shadow witness and he has accompanied the complainant to the Office of DGO. He states that, he is working as SDA in Government Polytechnic, Belagavi. On 25/07/2014, the Belagavi Lokayukta Police summoned him and

Sri. Appasaheb Indulkar to the office and requested them, to act as panchas. The Complainant was introduced to them and contents of Ex.P-1 complaint were explained to them. PW-3 further states that, the complainant handed over the bait money of Rs.15,000/- i.e 2 notes of Rs.1000/- denomination and 26 notes of Rs.500/- denomination. The panchas noted down the serial numbers of the notes. The Police applied Phenolphthalein powder to the notes and Pancha No-2 counted the notes and kept them in the right side pant pocket of the complainant. PW-3 further states that, the hands of pancha No-2 were washed in the Sodium Carbonate Solution and it turned into the pink colour. The police seized the said solution and sealed it in the bottle and drew the Entrustment Mahazar as per Ex.P-3.

27. He further states that, they went inside the office Deputy Director of Tourism, Belagavi and enquired DGO No-2 about DGO No-1. The DGO No-2 told that, the DGO No-1 had gone outside and asked them to wait. DGO No-2 called the DGO No-1 on his mobile phone and according to his instructions he asked the complainant and shadow witness to wait near the Tea Shop situated in front of the Tourism Department Office. Later on the DGO No-1 came near the tea shop and enquired whether the complainant had brought the bribe amount of Rs.15,000/-. When the complainant replied in the positive, the DGO No-1 told that, he would go to the Tourism office and send DGO No-2. He directed the complainant to hand over the bribe amount to the DGO No-2. Accordingly the DGO No-1

went inside the Tourism office and sent DGO No-2. The complainant has handed over the bribe amount of Rs.15,000/- on demand by the DGO No-2 and as per the instructions of DGO No-1.

28. PW-3 has elaborately stated as to how the bait amount was seized and the Trap Mahazar was prepared as per Ex.P-4. He further states that, the hands of the DGO No-2 were washed in Sodium Carbonate Solution and the solution turned into the pink colour. The said solution was poured into a bottle and sealed.

29. The I.O Sri. J.M Karunakara Shetty, Police Inspector has been examined as PW-2. He states that, the complainant approached him with the complaint on 25/07/2014 alleging that, the DGO No-1 had demanded bribe to get the car taxi loan sanctioned from the Tourism Department. He indentifies the complaint at Ex.P-1.

30. PW-2 further states that, he registered the case in Cr.No.07/2014 and submitted the FIR to the court. On the same day he summoned two witness by name Sri. Sanjeev Lakshman Tolamatti of Government Polytechnic College, Belagavi and Appasaheb Krishna Indulkar of Veterinary Department, Belagavi. He has introduced the complainant to the panchas and appraised the witnesses about the complaint. PW-2 has demonstrated the procedure for Entrustment Mahazar. He has received Rs.15,000/-

i.e 2 notes of Rs.1000/- denomination and 26 notes of Rs.500/- denomination. The I.O has asked the panchas to note down the serial numbers of notes on a paper. His staff has applied Phenolphthalein Powder to the notes and demonstrated how the colourless Sodium Carbonate Solution turns into pink colour. PW-2 has elaborately stated about the Entrustment Mahazar conducted by him as per Ex.P-3.

31. PW-2 further states that, he along with the complainant and panchas and his staff went to the office of DGO No-1. He has instructed the complainant and shadow witness Sri.Sanjeev Tolamatti to go into the office of DGO No-1. He has specifically instructed the complainant that, the bait money shall be paid only on demand by the DGO No-1. PW-2 further states that, after sometime he received signal from the complainant. He went near the Tea Shop and introduced himself to the DGO No-2. PW-2 has narrated elaborately how he washed the hands of DGO No-2 in sodium carbonate solution and seized the bait money of Rs.15,000/- from the DGO No-2. He has narrated the details of Trap Mahazar conducted by him as per Ex.P-4. He has identified his signature on the Mahazar. He has identified the photographs at Ex.P-5. The FIR is marked as Ex.P-2.

32. The I.O has produced the copies of photographs which have been commonly marked as Exhibit P-5. There are totally 16 photographs, the original photographs have been produced

to the court for the criminal case and here the xerox copies of the photographs have been produced. On careful perusal of these photographs, it is observed that, right from the point of lodging the complaint by the complainant, the conducting of Entrustment Mahazar and Trap Mahazar has been photographed. The complainant, the Mahazar witnesses, the DGO No-1 and 2 while they were trapped are all seen in the photographs. These photographs further corroborate the Entrustment and Trap Mahazars at Ex.P-3 and P-4 respectively.

33. The evidence of PW-1 to 3 has totally remained unchallenged. Initially the DGO No-1 and 2 had appeared and their FOS was recorded. Later on both of them remained absent and hence, they were placed Ex-parte. Hence, the evidence of PW-1 to 3 has remained unchallenged.

34. On careful appreciation of the oral and documentary evidence adduced by the disciplinary Authority, I am opinion that, the Disciplinary Authority has proved its case. First of all, the oral evidence of complainant/ PW-1 proves that, he had official work with regard to purchase of taxi from the Tourism Department under the SC & ST quota. PW-1 has further proved that, the DGO demanded bribe of Rs. 30,000/- and which was later on reduced to Rs.15,000/-. PW-1 has further proved that, the DGO No-1 in order

to get the official work done received the bribe amount of Rs.15,000/- through DGO No-2.

35. PW-1 has stated about lodging the complaint as per Ex.P-1 and he has deposed about the Entrustment Mahazar as per Ex.P-3. He has further deposed of having approached the DGO No-1 along with shadow witness PW-3 and paid the bribe amount on demand. PW-1 has deposed about the Trap Mahazar as per Ex.P-4.

36. The evidence of PW-1 complainant is corroborated by the evidence of shadow witness/PW-3 Sri. Sanjeev Tolamatti. This witness has also stated consistently about the procedure and Entrustment Mahazar conducted by the I.O. He has accompanied the complainant to the office of DGO No-1 and specifically states that, the DGO No-1 demanded bribe through DGO No-2 and the complainant paid the bribe amount i.e bait money to DGO No-2 as per the instructions of DGO No-1. PW-3 has elaborately deposed about the Trap Mahazar conducted by the I.O. He has stated that, the hands of the DGO No-2 were washed in Sodium Carbonate Solution and the solution turned into pink colour. He has stated about the Trap Mahazar conducted as per Ex.P-4 and the seizure of pink colour solution in a bottle.

37. The complainant who is examined as PW-1 has reiterated the facts of having lodged the complaint. He has deposed about the Entrustment Mahazar and Trap Mahazar conducted by the I.O.

The complainant has specifically stated about the demand of bribe by the DGO No-1. He has also narrated as to how the trap was laid and DGO No-1 and 2 were caught red handed.

38. The evidence of PW-1 is corroborated by the evidence of shadow witness i.e PW-3 Sri. Sanjeev Tolamatti who has accompanied PW-1 to the office of DGO No-1. This witness has specifically stated that, on 25/07/2014 when he along with complainant approached the DGO No-1, he demanded bribe of Rs.15,000/- to attend the file. PW-3 has stated about the bribe paid by the complainant and also about the Trap Mahazar conducted by the I.O as per Ex.P-4. PW-1 and 3 have also deposed about the Sodium Carbonate Solution turning into pink colour, when the hands of DGO No-2 were washed in the said solution.

39. The evidence of PW-1 and 3 is further corroborated by the evidence of I.O PW-2. He has narrated the entire procedure, right from the time of lodging the complaint, till execution of successful Trap. He has deposed about the Entrustment Mahazar and Trap Mahazar at Ex.P-3 and P-4 respectively. The I.O has specifically stated that, the bait money was recovered from DGO No-2, his hands were washed in Sodium Carbonate Solution and the solution turning to pink colour, due to the presence of Phenolphthalein Powder. He has also deposed about the wiping of the inner parts of the right side pant pocket of DGO No-2, in which he had kept the bait money and the pant was washed in Sodium

Carbonate Solution and the solution turning to pink colour, due to the presence of Phenolphthalein Powder.

40. The shadow witness PW-3 has specifically stated about the bait money of Rs.15,000/- i.e 2 notes of Rs.1000/- denomination and 26 notes of Rs.500/- denomination produced by the complainant. The panchas have noted down the numbers and they have been mentioned in both the Entrustment and Trap Mahazars. PW-1 to 3 have specifically stated that, the bait money recovered from the said DGO No-2 was verified, and they were the same notes to which Phenolphthalein Powder was applied and the serial numbers were noted down. The same notes were received by the DGO No-1 through DGO No-2. All the 3 witness have stated about washing the hands of DGO No-2 in Sodium Carbonate Solution, which turned to pink colour, due to the presence of Phenolphthalein Powder. The evidence of PW-1 and 3 is further corroborated by the evidence of I.O PW-2, who has conducted the Entrustment Mahazar as per Ex.P-3 and Trap Mahazar as per Ex.P-4.

41. It is well settled proposition of law that, the standard of proof required in departmental enquiries is preponderance of probability. The Disciplinary Authority has to make out a case in which the preponderance of probability is towards the guilt of delinquent government employee. The standard of proof required in criminal cases is proof beyond reasonable doubt. However in

departmental enquiries it will be sufficient if the preponderance of probability is towards the guilt of the DGO. On careful perusal of the oral and documentary evidence adduced by the disciplinary authority, I am of the opinion that, the Disciplinary Authority has proved that, the complainant had official work in the Tourism office in which the DGO No-1 and 2 were working as Group 'D' Employees. PW-1 and 3 have stated how the DGO No-1 demanded bribe to get the application of complainant sanctioned for purchase of car on subsidy.

42. The Disciplinary Authority has examined the complainant, the shadow witness and the investigation officer. On careful perusal of the oral and documentary evidence adduced by the Disciplinary Authority, I am of the opinion that, the Disciplinary Authority has proved that, the DGO No-1 and 2 in order to get a car sanctioned on subsidy basis under the SC & ST quota to the complainant, i.e in order to get the official work done, demanded a bribe of Rs.15,000/- from the complainant and the DGO No-1 has accepted the same through his assistant DGO No-2. The Disciplinary Authority has by cogent oral and documentary evidence proved that, the DGO No-1 has received the bribe amount through his assistant DGO No-2 and it was successfully recovered by laying a Trap.

43. On careful appreciation of the oral and documentary evidence adduced by the Disciplinary Authority, I am of the opinion that, the Disciplinary Authority has proved that the Delinquent Government Officials i.e DGO No-1 and 2 demanded a bribe of Rs.15,000/- and the DGO No-1 had accepted the said amount through his assistant DGO No-2.

44. The evidence of PW-1 to 3 has totally remained unchallenged because the DGO No-1 and 2 remained Ex-parte. Initially the DGO No-1 had made the demand for bribe of Rs.30,000/-. Later, when the complainant requested, the DGO has reduced the amount to Rs.15,000/-. The Disciplinary Authority by the cogent evidence of PW-1 to 3 has proved that, the DGO No-2 has received the bribe amount from the complainant on the instructions of DGO No-1 in order to get the official work done. The DGO No-1 demanded bribe of Rs.15,000/- and when the complainant came forward to pay the bribe money, the DGO No-1 directed the complainant to hand over the money to the DGO No-2. The I.O has seized the bait money from DGO No-2 and they have been tallied with the numbers already noted down in Ex.P-3 Entrustment Mahazar. The numbers have been noted down in Ex.P-3. The amount seized from the said DGO No-2 was tallied with Ex.P-3 and it was the same bait money, which was handed over by the Lokayukta Police to the complainant, to lay the trap. All the 3 witness have stated about washing the hands of DGO No-2 in Sodium Carbonate Solution,

which turned to pink colour, due to the presence of Phenolphthalein Powder.

45. It is the case of the Disciplinary Authority that the DGO No-1 had promised to get the application of the complainant for the purchase of taxi approved by the Deputy Director of Tourism, Belagavi. He has demanded bribe of Rs.15,000/- and he had received the said amount through his assistant i.e DGO No-2. PW-1/complainant and the shadow witness Pw-3/Sri. Sanjeev Tolamatti have consistently deposed about the bribe money accepted by the DGO No-1 through his assistant DGO No-2. The evidence of PW-1 and 3 is further collaborated by the evidence of I.O/PW-2. After giving the bait money, the complainant had given signal to the I.O, who came near the Tea shop and caught hold of the DGO No-2. The I.O/PW-2 has washed the hands of DGO No-2 in Sodium Carbonate Solution. Because of the presence of Phenolphthalein Powder, the solution has turned into pink colour. The I.O/PW-2 has elaborately stated about the Entrustment Mahazar and Trap Mahazar conducted by him as per Ex.P-3 and P-4 respectively. PW-1 and PW-3 have specifically stated that, the DGO No-1 directed the complainant to hand over the bribe money to DGO No-2. The bribe money/bait money has been recovered from the said DGO No-2. The evidence of PW-1 to 3 has totally remained unchallenged. All these three witnesses have deposed about the demand of bribe by the DGO No-1 and also the acceptance of the bribe money by the DGO No-1 through DGO No-

2. The evidence of complainant/PW-1 is corroborated by the evidence of shadow witness/PW-3, who had accompanied the complainant to the office of DGO No-1 and 2 and who had watched all the events. Further the evidence of PW-1 and 3 is fully corroborated by the evidence I.O/PW-2. The Disciplinary Authority by the cogent evidence of PW-1 to 3 has proved the Entrustment Mahazar and Trap Mahazar at Ex.P-3 and P-4. The bribe/bait money has been recovered from DGO No-2 and the Disciplinary Authority has proved that, the DGO No-1 and 2 in order to get the official work of the complainant done, demanded and accepted the bribe of Rs.15,000/- through DGO No-2. The DGO No-2 has also taken part in demanding and accepting bribe of Rs. 15,000/- from the complainant, to get the official work done. On the instructions of DGO No-1, the DGO No-2 has received the bribe amount from the complainant. The DGO No-2 is also a part of the crime committed by DGO No-1. The DGO No-2 has assisted the DGO No-1 in demanding and accepting the bribe from the complainant. The DGO No-2 has demanded and received the bribe from the complainant. Hence, DGO No-2 is also equally involved and guilty in these offences along with DGO No-1.

46. Hence for all these reasons, I am of the Opinion that the Disciplinary Authority by cogent evidence has proved that the DGO No-1 and 2 in order to get the application of the complainant for purchasing car on subsidy basis approved from the Department of

Tourism, have demanded bribe of Rs.15,000/- and they have accepted the said amount through DGO No-2.

47. For the reasons stated above the DGO No-1 and 2 being the Government/Public Servants have failed to maintain absolute integrity besides devotion to duty and acted in a manner unbecoming of Government servants. On appreciation of entire oral and documentary evidence I hold that the charge leveled against the DGO No-1 and 2 is established. Hence, I answer point No.1 in the "**Affirmative**"

:: ORDER ::

The Disciplinary Authority has proved the charge against the DGO Sri. Devaraja M.P, Group 'D' Employee, O/o the Deputy Director, Tourism Department, Belagavi Divison, Belagavi and Sri. Mallikarujuna Dundappa Hegadihala, Group 'D' Employee, O/o the Deputy Director, Tourism Department, Belagavi Division, Belagavi.

48. This report is submitted to Hon'ble Upa-lokayukta-1 in a sealed cover for kind perusal and for further action in the matter.

Dated this the 22nd day of August 2019


(Patil Mohan Kumar Bhimanagouda)

Additional Registrar Enquiries-13
Karnataka Lokayukta
Bangalore

ANNEXURE

Witness examined on behalf of the Disciplinary Authority
PW-1: Sri. Shivaji Vannur (Original)
PW-2: Sri. J.M. Karunakara shetty (Original)
PW-3: Sri. Sanjeev Tolamatti (Original)
Documents marked on behalf of the Disciplinary Authority
Ex. P-1: Complaint (True copy) Ex. P-1(a): Signature of the complainant. Ex. P-1(b): Signature of the I.O.
Ex.P-2: FIR (True copy) Ex. P-2(a): Signature of the complainant. Ex. P-2(b): Signature of the I.O.
Ex. P-3: Entrustment Mahazar (True copy) Ex. P-3(a): Signature of the complainant. Ex. P-3(b): Signature of the I.O.
Ex. P-4: Trap Panchanama (True copy) Ex. P-4(a): Signature of the complainant. Ex. P-4(b): Signature of the I.O.
Ex. P-5: The Xerox copy of Photographs (Total 16 pages)
Ex.P-6: Voice sample Mahazar (Xerox copies) Ex.P-6(a): Signature of the I.O.
Ex.P-7: Sketch copy (True copy)
Ex.P-8: Rough sketch (True copy)

Dated this the 22nd day of August 2019

(Patil MohanKumar Bhimanagouda)

Additional Registrar Enquiries-13
Karnataka Lokayukta
Bangalore



KARNATAKA LOKAYUKTA

NO:UPLOK-1/DE/242/2016/ARE-13

Multi Storied Building,
Dr.B.R.Ambedkar Veedhi,
Bengaluru-560 001,
Date: 26/08/2019

RECOMMENDATION

- Sub:- Departmental inquiry against;
- (1) Sri M.P. Devaraj, Group 'D' Employee, Office of the Deputy Director, Tourism Department, Belagavi Division, Belagavi.
 - (2) Sri Mallikarjuna Dundappa Hegadihala, Group 'D' Employee, Office of the Deputy Director, Tourism Department, Belagavi Division, Belagavi - Reg.

- Ref:- 1) Order No.ಪ್ರಇ/ಆಃ-2/17/2014-15, dated 24/06/2016 of the Director, Tourism Department, Bengaluru.
- 2) Nomination order No.UPLOK-1/DE/242/2016, Bengaluru dated 15/07/2016 of Upalokayukta-1, State of Karnataka, Bengaluru.
 - 3) Inquiry Report dated 22/08/2019 of Additional Registrar of Enquiries-13, Karnataka Lokayukta, Bengaluru

The Director, Tourism Department, Bengaluru by Order dated 24/06/2016, initiated the disciplinary proceedings against (1) Sri M.P. Devaraj, Group 'D' Employee, Office of the Deputy Director, Tourism Department, Belagavi Division, Belagavi and (2) Sri Mallikarjuna Dundappa Hegadihala, Group 'D' Employee, Office of the Deputy Director, Tourism Department, Belagavi Division, Belagavi [hereinafter referred to as Delinquent Government Official's 1 and 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.UPLOK-1/DE/242/2016, Bengaluru dated 15/07/2016, nominated Additional Registrar of Enquiries-8, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGOs 1 and 2 for the alleged charge of misconduct, said to have been committed by them. Subsequently by Order No.UPLOK-1/DE/2016, dated 03/08/2016, the Additional Registrar of Enquiries-7 was re-nominated as Inquiry Officer to conduct Departmental inquiry against DGOs 1 and 2. Again by order No. UPLOK-1 & 2/DE/Transfers/2018 dated 6/8/2018, the Additional Registrar of Enquiries-13 was re-nominated as Inquiry Officer to conduct Departmental Inquiry against DGOs 1 and 2.

3. The DGO-1 Sri M.P. Devaraj, Group 'D' Employee, Office of the Deputy Director, Tourism Department, Belagavi Division, Belagavi and DGO-2 Sri Mallikarjuna Dundappa Hegadihala, Group 'D' Employee, Office of the Deputy Director, Tourism Department, Belagavi Division, Belagavi were tried for the following charge:-

“That you DGO No.1 Sri.Devaraja M.P, Group 'D' Employee, O/o the Deputy Director, Tourism Department, Belagavi Division, Belagavi and 2) Sri.Mallikarjuna Dundappa Hegadihala, Group 'D' Employee, O/o the Deputy Director, Tourism Department, Belagavi Division, Belagavi while discharging your duties:

- a) Being a Scheduled Tribe person, studied SSLC and possessing light motor vehicle driving license, the

complainant had made an application in the office of you-DGOs i.e., Deputy Director of Tourism at Belagavi, requesting for sanction of a car on subsidy in the month of February 2014 along with required documents. However, in the month end of June 2014, when he met you – DGO No.1 enquiring about his said request made, he was informed that his said application had been rejected because of not enclosing motor vehicle driving license extract besides a certificate that none from his family is in Government or semi Government service. For that, when he enquired, you-DGO No.1 told him to make an application again before 30-6-2014. As such, he made an application on 30-6-2014 with said two documents. Thereafter, before about 5-6 days of 25-7-2014 when he enquired, you-DGO No.1 demanded Rs.30,000/- to get sanctioned subsidy car to him on his said application.

- b) For that, when he pleaded that he is a poor person and requested to reduce it, you-DGO No.1 told him that if minimum of Rs.15,000/- is brought, you-DGO will see that his application is sanctioned;
- c) Not willing to pay bribe, after approaching Lokayukta Police when he approached you-DGO No.1 on 25/7/2014 along with his friend and enquired, then also you-DGO No.1 asked him whether he has come after making the said amount ready;
- d) For that, he told that said amount could not be adjusted, so, he had asked others to make the amount ready;

- e) Then, you-DGO No.1 told him to come within 5.30 p.m. on that day, otherwise to come after Ramzan Festival so that his work will be get done;
- f) Thereafter, on the same day, when he came to the office of you-DGOs and enquired about you-DGO No.1 with you-DGO No.2, you -DGO No.2 contacted you-DGO No.1 over phone and came back asking to go towards 'Dabba Tea' shop where you-DGO No.1 would come and shown that Dabba Tea shop also. So he went towards that. As such, near auto rickshaw stand situated in front of Tourism office, you-DGO no.1 had talk with him and went back to his office and sent you-DGO No.2 to him and then you-DGO No.2 (after talking to him), took the tainted (bribe) amount (of Rs.15,000/-) from him on behalf of you-DGO No.1;
- g) Thus, both you-DGOs are involved in taking the tainted (bribe) amount from him for his said work;
- h) When questioned by the I.O., you-DGO No.2 failed to give any satisfactory reply or account for the said (tainted) bribe amount, found then with you-DGO No.2;
- i) Thereafter, you-DGO No.2 was caught hold at said place as found with the said tainted amount;
- j) Then the said tainted (bribe) amount was seized from you-DGO No.2 under a mahazar by the I.O on the said date in the presence of panchas;
- k) Even there are statements of witnesses, including complainant, besides collected records and material

filed by the I.O., which show repeated misconduct of you-DGO Nos.1 and 2.

and thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of Government Servants and thus you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966.

4. The Inquiry Officer (Additional Registrar of Enquiries-13) on proper appreciation of oral and documentary evidence has held that, the Disciplinary Authority has proved the above charges against DGO-1 Sri M.P. Devaraj, Group 'D' Employee, Office of the Deputy Director, Tourism Department, Belagavi Division, Belagavi and DGO-2 Sri Mallikarjuna Dundappa Hegadihala, Group 'D' Employee, Office of the Deputy Director, Tourism Department, Belagavi Division, Belagavi.

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

6. As per the First Oral Statement submitted by DGOs 1 and 2;

i) DGO-1 Sri M.P. Devaraj is due to retire from service on 31/05/2033.


ii) DGO-2 Sri Mallikarjuna Dundappa Hegadihala is due to retire from service on 30/04/2040.

7. Having regard to the nature of charge (demand and acceptance of bribe) proved against DGO-1 Sri M.P. Devaraj and DGO-2 Sri Mallikarjuna Dundappa Hegadihala;

- i) it is hereby recommended to the Government for imposing penalty of Compulsory retirement from service on DGO-1 Sri M.P. Devaraj, Group 'D' Employee, Office of the Deputy Director, Tourism Department, Belagavi Division, Belagavi;
- ii) it is hereby recommended to the Government for imposing penalty of Compulsory retirement from service on DGO-2 Sri Mallikarjuna Dundappa Hegadihala, Group 'D' Employee, Office of the Deputy Director, Tourism Department, Belagavi Division, Belagavi.

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

Connected records are enclosed herewith.


(JUSTICE N. ANANDA) 26/8
Upalokayukta-1,
State of Karnataka,
Bengaluru