

KARNATAKA LOKAYUKTA

No. Lok/ARE.1/Enq-249/2014

Bangalore,

Dated.19/11/2015.

REPORT OF ENQUIRY

Sub:- Departmental Enquiry against (1) Anjinappa, Asst. Director of Town Planning, (2) Sri. K.M. Devanath, Asst. Executive Engineer and (3) Sri. Rajanna, Asst. Executive Engineer, BBMP, Bangalore - regarding.

Ref:- Proceedings Order No. LOK/INQ/14-A/249/2014, Dated: 03/05/2014 of Hon'ble Upalokayukta, State of Karnataka, Bangalore.

This is an enquiry conducted in pursuance to the Government Order **No. UDD/131/MNU/2014/Bangalore, Dated: 05/04/2014** of the Disciplinary Authority, i.e., Under Secretary to the Government, Urban Development Department, Government of Karnataka, Bangalore against (1) Anjinappa, Asst. Director of Town Planning, (2) Sri. K.M. Devanath, Asst. Executive Engineer and (3) Sri. Rajanna, Asst. Executive Engineer, BBMP, Bangalore (hereinafter referred as **DGOs 1 to 3** - in short), After receipt of the Government order, Hon'ble Upalokayukta-1 vide his order No. LOK/INQ/14-A/249/2014, Bangalore Dated: 03/05/2014 appointed and nominated the Addl. Registrar of Enquiries-1, Karnataka Lokayukta, Bangalore to conduct enquiry against the DGOs 1 to 3. After receipt of records, sent the article of charges, statement of imputation, list of witnesses and documents to DGOs 1 to 3 and he was summoned to appear. Accordingly, DGOs 2 to 3 appeared in person on 27/06/2014 and their First Oral Statement was recorded and DGO No.1 appeared in person on 30/07/2014 and his First Oral Statement was recorded and DGOs 1

to 3 pleaded not guilty and claimed to be tried. The DGOs have filed written statement denying the allegations made against them in the articles of charge. The DGOs in their written statement have stated that the complaint is not come within the jurisdiction of Lokayukta and further they were not working in the concerned ward, when alleged buildings were constructed. The DGOs have further stated that the buildings referred in the articles of charge were constructed before the area was included in the BBMP limits and therefore, they are not responsible for illegal construction. The DGOs have further stated in their written statement that nobody brought to their notice about the illegal constructions.

2. In order to establish the charges leveled against the DGOs 1 to 3, two witnesses were examined as PWs-1 and 2 and exhibits P-1 to P-8 were marked on behalf of disciplinary authority. Thereafter, Second Oral Statements of DGOs were recorded. The DGOs 1 to 3 have examined themselves as DWs-1 to 3 and got marked 4 documents as Ex.D-1 to D-4 and closed his side. Both sides submitted their Written Briefs. The Presenting Officer in his written arguments has stated that the evidence produced by the disciplinary authority clearly disclose that the DGOs, who were working as working as ADTP and Asst. Executive Engineer in Yelahanka Sub-Division of BBMP did not take any action in respect of 123 houses constructed illegally and there is documentary evidence to show that the houses were constructed when the DGOs were working in Yelahanka Sub-Division of BBMP. The learned presenting officer further submitted that the evidence produced by the disciplinary authority is clear about the inaction of the DGOs in taking action against the persons, who constructed buildings without obtaining plans and therefore they are liable to be punished for dereliction of duty.

3. The learned counsel who has appeared for the DGOs, in his written arguments, has submitted that the evidence produced by the disciplinary authority do not show that the buildings mentioned in the

articles of charge were actually constructed when the DGOs were working in Yelahanka Sub-Division and further the DGOs were not at all in Yelahanka Sub-Division to which Chikkabettahalli Area come. The counsel has further stated that the oral and documentary evidence produced by the DGOs clearly shows that Chikkabettahalli area was included in the BBMP limits during the year 2007 and the houses in question were constructed before the area was included in BBMP limits and hence the DGOs cannot be blamed. The learned counsel has further stated that the DGO No.1 was working as ADTP, who issue license and approved plan and since the allegation made against the DGOs is that no plan was obtained, question of DGO No.1 taking action to prevent illegal construction did not arise. The learned counsel further submitted that DGO No.1 is wrongly included in the case by the complainant with ulterior motive. The counsel also submitted that the evidence produced on record do not show that the DGOs 2 and 3 were working in Yelahanka Sub-Division, when the buildings in question were constructed therefore they cannot be held liable. The learned counsel has submitted that the complainant has deliberately filed false complaint against the DGOs even though number of officers had worked in Yelahanka Sub-Division during the period from 2007 to 2010 and hence the DGOs may be exonerated. Afterwards, the matter is posted for report.

4. The charge levelled against the DGO's is as follows:

While you the DGO Sri. Anjanappa working as Asst. Director of Town Planning, Sri. K.M. Devanath, Asst. Executive Engineer and Sri. M. Rajanna, Asst. Executive Engineer, BBMP have failed to collect the plan and permission as per the Circular of commissioner, BBMP Dated: 10/08/2009 and failed to inspect the spot wherein construction of more than 123 buildings were undertaken by the builders during 2007-08, 2008-09 and 2009-10, Yelahanka Zone and failed to verify whether the constructions made were in accordance with the plan sanctioned and permission obtained. Further, you DGOs 1 to 3 have failed to take action on ongoing constructions made in violation of plan and permission and failed to take steps to

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

5. The only points that arises for my consideration is:

- i) Whether the Disciplinary Authority is able to establish the charge framed against the DGO No.1?**
- ii) Whether the Disciplinary Authority is able to establish the charge against DGO No.2 and 3?**

My finding on the above point is as under;

Point No.1 for DGO No.1 in the **NEGATIVE**

Point No.2 for DGOs No.2 and 3 in the **AFFIRMATIVE**, for the following reasons;-

:- REASONS :-

6. In order to prove the charge framed against the DGOs, disciplinary authority has examined two witnesses and has got marked 8 documents. Afterwards, the DGOs examined themselves as DWs-1 to 3 and marked 4 documents and closed their side evidence.

7. PW-1 Sri. Kishore Rao N. has stated in his evidence that the DGO No.1 was working as Asst. Director of Town Planning, BBMP and DGOs No.2 and 3 were working as Asst. Executive Engineer, BBMP during the period from 2008 to 2010 and Chikkabettahalli – Vidyaranyapura comes within the BBMP limits. PW-1 has further stated that from the information received by him under RTI Act, 123 houses were constructed in Chikkabettahalli area during the period from 2007-08 to 2010-11 and Ex.P-1 is the information given to him by BBMP. The witness has further stated that 123 houses in Chikkabettahalli area were constructed unauthorisedly without obtaining sanctioned plan and license and DGOs, who were responsible to take action and stop illegal construction, have kept quite and thereby allowed the illegal

construction. PW-1 has further stated that the DGOs 2 and 3 should have periodically inspected the buildings under construction and take action if the construction is unauthorized or violated building bye-laws, but they did not take any action in respect of 123 buildings even though the buildings were constructed without any plan and license and therefore DGOs have committed dereliction of duty. PW-1 has further stated that after coming to know about the inaction of the DGOs in taking action in respect of 123 houses constructed illegally, he filed a complaint with Lokayukta as per Ex.P-5 to P-7. During cross-examination, it is suggested to the witness that he is in the habit of filing complaints before Lokayukta against public servants and the witness has stated that he had filed another complaint against his neighbor and his daughter in law has filed two complaints before Lokayukta. It is suggested to the witness that 123 houses referred by him were constructed before Chikkabettahalli area was included in BBMP limits, but the witness has denied the suggestion. It is further suggested to the witness that since the officers of BBMP had served notice on his son for illegal construction of building, he is filing false complaints against the BBMP officials.

8. PW-2 Sri. Anand Bennur has stated that he is working as Addl. Registrar of Enquiries-10, Karnataka Lokayukta and PW-1 had filed a complaint before Hon'ble Upalokayukta and after the complaint was taken up for investigation, the comments of the DGOs were called and DGO No.3 filed his comments. The witness has further stated that after considering the allegations made in the complaint, documents produced and the comments of DGO No.3, Hon'ble Upalokayukta sent a report under Section 12(3) of the Karnataka Lokayukta Act 1984 to the Competent Authority. The witness has further stated that as per the circular issued by the Commissioner, BBMP dated: 10/08/2009, jurisdictional Engineers are expected to visit the site where construction is taken up and see that the buildings are constructed in consonance with the plan and license and if there is any violation of

building bye-laws or plan, then action has to be taken, but the DGOs have failed to take any action in that regard.

9. DW-1 examined in the case is the DGO No.1 and he has stated in his evidence that he worked as ADTP, Yelahanka Zone during the period from 23/02/2010 to 03/11/2010 and Chikkabettahalli Village was included in BBMP jurisdiction after 16/01/2007 and 123 buildings in question were constructed before the area was included in the BBMP. The DGO No.1 has further stated that the complainant in this case had not approached his office about illegal construction at any time and since no plan was sanctioned for 123 buildings, he had not taken any action in respect of those buildings. During cross-examination, the witness has admitted that when the area was included in the BBMP limits, the buildings already completed would be surveyed by Revenue Officers for the purpose of collecting house tax. The witness has admitted that whenever plan is sanctioned, a copy of the plan will be sent to the concerned offices.

10. DGO No.3 is examined as DW-2 in the case and he has stated that he worked in Yelahanka Sub-Division of BBMP as Asst. Exe. Engineer from 2009 to 26/06/2011 and since ADTP had not sent copy of sanctioned plan in respect of any of the 123 buildings constructed in Chikkabettahalli area and no information was available in his office, question of taking action against illegal construction did not arise. He has further stated that Chikkabettahalli area was coming under jurisdiction of Yelahanka New Town and he was posted there between 26/06/2011 and 2013. He has further stated that Chikkabettahalli area was not coming under in his jurisdiction and it was coming in the jurisdiction of Yelahanka New Town Sub-Division and Ex.D-2 is the document to show that Chikkabettahalli was not included in Yelahanka New Town Sub-Division and Ex.D-3 is the Gazette Notification. During cross-examination, the witness has admitted that whenever a building is constructed, it is the duty of the Asst. Exe. Engineer and Asst. Engineer to inspect the building and take action if there is any violation

of building plan. It is further suggested that even though he was aware of construction of 123 buildings without plan, he did not take any action to prevent the construction and the witness has denied the suggestion. DW-3 is DGO No.2 in the case and he has given evidence that he worked in Yelahanka Upanagar Sub-Division, BBMP from 20/04/2010 to 29/11/2010 and while working there, he had not received any complaint in respect of buildings constructed in Chikkabettahalli area and there is no records in his office about the construction of 123 buildings. The witness has further stated that since no plan was received in his office in respect of illegal construction in Chikkabettahalli area, question of taking action against illegal construction did not arise. The witness has further stated that the buildings in question were construction before the area was brought into the limits of BBMP. During cross-examination, the witness has stated that he does not know whether 123 buildings in question were constructed unauthorisedly without plan or not. The witness has admitted that whenever new area is included in BBMP, survey will be conducted about the existing buildings for the purpose of collecting tax.

11. In this case the allegations made against DGO No.1 is that he was working as ADTP in Yelahanka Sub-Division during the years 2007 to 2010 and even though 123 buildings were constructed without plan, he did not take any action. It is to be noted that the work entrusted to the ADTP in BBMP is to scrutiny the plans submitted for sanction and sanctioning of the plan and also issue license for construction. As per the circulars issued by the Commissioner, BBMP from time to time, if anybody bring to the notice of ADTP about deviation in the construction of the building in respect of which plan is sanctioned, then he has to visit the place and suggests suitable action. In the present case the allegations made against the DGOs is that 123 buildings were constructed in Chikkabettahalli area during the period from 2007 to 2010 without obtaining plan and license and the officers have not take any action. It is nobody's case that in respect of 123 buildings in

question, plan was sanctioned either by DGO No.1 or by his predecessor in office. Therefore, question of DGO No.1 taking action against the owners of buildings which were constructed without plan did not arise. Even in the circulars referred by the disciplinary authority, which were issued by the Commissioner, BBMP, responsibility of inspecting the buildings under construction and taking action is fixed on the Asst. Exe. Engineer and Asst. Engineer of BBMP and no responsibility is fixed on the ADTP to inspect the building periodically and to take action. Therefore, I am of the view that the DGO No.1 is wrongly included in this case as delinquent official even though it is alleged that no plan was obtained for construction of 123 buildings in Chikkabettahalli area of Yelahanka Sub-Division. Therefore, I am constrained to hold that the disciplinary authority has failed to prove the charge framed against the DGO No.1 in this case and hence the DGO No.1 is entitled to be exonerated from the charge.

12. Now we shall examine the evidence to prove the charge framed against the DGOs 2 and 3. PW-1 in his evidence has specifically stated that 123 houses constructed in Chikkabettahalli area were actually constructed after the area was brought into the limits of BBMP. PW-1 has also stated that DGOs 2 and 3 were working as Asst. Executive Engineers of Yelahanka Sub-Division, under which Chikkabettahalli area was coming, when the houses were constructed between 2007 to 2010. The DGOs 2 and 3 in the cross-examination of PW-1, as well as in their evidence, have stated that 123 buildings in question were actually constructed before the area was brought into the limits of BBMP. They have further stated that Chikkabettahalli area was not coming within their jurisdiction when they worked as Asst. Exe. Engineer in Yelahanka Sub-Division.

13. Ex.P-1 marked in this case is the information given by the Asst. Revenue Officer, Yelahanka Sub-Division and in that document it is mentioned that after survey of Chikkabettahalli area was done, 53 houses were constructed during the year 2007-08 and 29 houses were

constructed during the year 2008-09 and 41 houses were constructed during the period 2009-10 to 2010-11. Ex.P-2 is the list of houses prepared when survey was conducted in the area. Therefore, Ex.P-1 and P-2 completely negates the defence taken by DGOs 2 and 3 that 123 houses were constructed before the area was included in the BBMP limits. It is to be noted that Ex.P-1 is an information given to a lawful authority by the officer of BBMP and therefore there is no reason to suspect the genuineness of the information. Therefore, the oral evidence of PW-1 and the document at Ex.P-1 clearly shows that 123 houses were constructed in Chikkabettahalli area after it was brought into the limits of BBMP in the year 2007. Ex.P-1 clearly shows that 123 houses were constructed during the period from 2007 to 2011.

14. It is the specific case of the complainant that 123 houses were constructed by the respective owners without obtaining license or sanctioned plan from BBMP and the DGOs, who were responsible to check the same and stop the construction did not discharge their duties and they had kept quite. If the cross-examination of PW-1 by the DGOs and also the oral evidence given by DGOs 2 and 3 is carefully scrutinized, it can be seen that DGOs 2 and 3 have also admitted that no sanctioned plan was taken to construct 123 new buildings in Chikkabettahalli area after the area was brought into the limits of BBMP.

15. As pointed out supra, the complainant has specifically stated that DGOs 2 and 3 were working as Asst. Exe. Engineers in Yelahanka Sub-Division when 123 new houses were constructed in Chikkabettahalli area without obtaining sanctioned plan and license. The DGOs 2 and 3 in their evidence have stated that Chikkabettahalli area was not coming within their jurisdiction when they worked as Asst. Exe. Engineers in Yelahanka Sub-Division. The DGOs 2 and 3 have produced and marked as Ex.D-1(a) to D-4 to support their stand. Ex.D-1(a) is the letter issued by Asst. Exe. Engineer, Yelahanka Sub-Division and in that document it is mentioned that Sri. M. Rajanna, i.e., DGO No.3 worked in

Yelahanka Sub-Division as Asst. Exe. Engineer from 04/12/2009 to 25/06/2011. Ex.D-2 is another letter issued by Asst. Exe. Engineer, Yelahanka Upanagar Sub-Division and in that document it is mentioned that DGO No.2 worked as Asst. Exe. Engineer during the period from 20/04/2010 to 29/11/2010. Ex.D-3 is the letter given by the Executive Engineer, Yelahanka Division wherein it is mentioned that Yelahanka Division consists of two sub-divisions namely Yelahanka Sub-Division (Old Town) and Yelahanka Upanagar Sub-Division (New Town) and Chikkabettahalli area comes within Yelahanka Upanagar Sub-Division. It is further mentioned that the Yelahanka Division was divided into two sub-divisions from 23/09/2009. Therefore, it is crystal clear that DGO No.3 before he started working in Yelahanka Old Town Sub-Division was actually working in Yelahanka Division before it was bifurcated in the month of September 2009. Ex.D-2 discloses that DGO No.2 worked in Yelahanka Upanagar Sub-Division after it was bifurcated during the period from 20/04/2010 to 29/11/2010. Hence, claim of DGOs 2 and 3 that Chikkabettahalli area was not coming in their jurisdiction when they worked in Yelahanka Division of BBMP cannot be accepted. Since, there is documentary evidence to show that both DGOs 2 and 3 worked in Yelahanka Division within which jurisdiction, Chikkabettahalli area was coming, it was their duty to take action in respect of the buildings constructed without sanctioned plan.

16. The DGOs 2 and 3 in their oral evidence have stated that nobody had brought to their notice about the construction of buildings to their knowledge and therefore they did not take any action. This contention of the DGOs 2 and 3 cannot be accepted. As per the circular issued by the Commissioner, BBMP, marked as Ex.P-3 in the case duty is casted on Asst. Exe. Engineer and Asst. Engineer of the respective areas to monitor the construction activity at every stage and take action if the building is constructed violating the building bye-laws or without plan. Therefore, DGOs 2 and 3 cannot expect public to complain about illegal

construction in order to take action. It was their bounden duty to take action in respect of the buildings constructed without sanctioned plan. The evidence on records discloses that though 123 buildings were constructed without obtaining sanctioned plan, DGOs 2 and 3 had kept quiet and did not initiate any action against the owners of those buildings. Therefore, I hold that DGOs 2 and 3 have committed dereliction of duty while discharging their duties as Asst. Exe. Engineer in Yelahanka Sub-Division.

17. After careful scrutiny of the oral and documentary evidence produced by the disciplinary authority to prove the charge framed against the DGOs 1 to 3, I am of the view that the disciplinary authority has clearly established the charge leveled against the DGOs 2 and 3 about their committing dereliction of duty, which is an official misconduct, while discharging duties. Hence, I hold that the DGOs 2 and 3 have committed official misconduct as defined under Rule 3 (i) to (iii) of the KCS (Conduct) Rules 1957. Therefore, I have answered point No.2 formulated above in the **AFFIRMATIVE** in respect of DGOs 2 and 3. Further, as pointed out supra, the disciplinary authority has failed to produce evidence to show that the DGO No.1 was entrusted with the duty of taking action against the owners, who constructed buildings, without obtaining sanctioned plan. Therefore, the charge framed against the DGO No.1 is not proved. Hence, I have answered point No.1 formulated above in the **NEGATIVE** in respect of DGO No.1 and proceed to pass the following order.

ORDER

For reasons discussed above, I hold that Disciplinary Authority has proved the charge framed against DGOs 2 and 3.

Further, I hold that the disciplinary authority has failed to prove the charge framed against DGO No.1.

Hence, this report is submitted.

It is reported that the DGOs goings to retires from their duty as below:

- DGO No.1 : 31/01/2019
- DGO No.2 : 31/05/2016
- DGO No.3 : 31/05/2017

(C. CHANDRAMALLEGOWDA)
Additional Registrar Enquiries.1,
Karnataka Lokayukta, Bangalore.

ANNEXURE

LIST OF WITNESSES EXAMINED ON BEHALF OF D.A.:-

- PW-1 Sri. N. Krishore Rao (complainant)
PW-2 Sri. Anand Bennur (Enquiry Officer)

LIST OF WITNESSES EXAMINED ON BEHALF OF DGOs:-

- DW-1 Sri. D. Anjinappa (DGO No.1)
DW-2 Sri. M. Rajanna (DGO No.3)
DW-3 Sri. K.M. Devanath (DGO No.2)

LIST OF DOCUMENTS MARKED ON BEHALF OF D.A.:-

- Ex.P-1 : Copy of RTI information
Ex.P-2 : Copy of list of construction of houses
Ex.P-3 : Copy of Circular passed by Commissioner, BBMP
Ex.P-4 : Copy of Order of the Station Information Commissioner
Ex.P-5 : Copy of Complaint
Ex.P-6 & 7 : Copy of Form No. I & II
Ex.P-8 : Copy of DGOs Comments

LIST OF DOCUMENTS MARKED ON BEHALF OF DGOs:-

- Ex.D-1 : Copy of Building permission letter (Marked through PW-1)
Ex.D-1(a) : Copy of letter issued by AEE
Ex.D-2 : Copy of letter for details of officers worked in Yelahanka SD
Ex.D-3 : Copy of Gazette Notification
Ex.D-4 : Copy of Letter given by AEE, Yelahanka Sub-Division

(C. CHANDRAMALLEGOWDA)
ARE-1, KLA, Bangalore.

KARNATAKA LOKAYUKTA

No. LOK/ARE-1/ENQ-249/2014

M.S. Building,
Dr. B.R. Ambedkar Veedhi,
Bangalore, Dtd: 12/11/2016.

-: Additional Recommendation :-

Sub:- Departmental Enquiry against (1) Sri. Anjinappa, Assistant Director Town Planning, (2) Sri. K.M. Devanath, Assistant Executive Engineer and (3) Sri. M. Rajanna, Assistant Executive Engineer, BBMP, Bangalore – regarding.

Ref:- (i) Government Order No. UDD/131/MNU/2014 Bangalore, Dtd:05/04/2014.
(ii) Recommendation Report No. LOK/ARE-1/Enq/249/2014, dated: 22/12/2015 of this office.
(iii) Govt. Order No. UDD/131/MNU/2014, Dated: 09/02/2016.
(iv) This office letter dated: 12/05/2016.
(v) Govt. Letter No. UDD/131/MNU/2014, Bengaluru, Dated: 16/06/2016.
(vi) Govt. Letter No. ಲೋಇ/274/ಸೇಇಎ/2016, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 14/11/2016.

In the enquiry No. LOK/ARE-1/ENQ-249/2014, the Enquiry Officer submitted report stating that the charge framed against DGOs Sri. K.M. Devanath, Assistant Executive Engineer, BBMP, Bangalore and Sri. M. Rajanna, Asst. Exe. Engineer, BBMP is proved. After considering the entire material on record, this authority concurred with the findings of the enquiry officer and recommended penalty of permanently withholding 10% of the pension payable to Sri. K.M. Devanath and also to recover 50% of the loss caused to Government/BBMP and further recommended

penalty of withholding annual increments with cumulative effect of Sri. M. Rajanna and also to recover 50% of pecuniary loss caused to the State/BBMP jointly from the service benefits payable to him as per Rule 8(iii) of KCS (CCA) Rules 1957.

Now, a letter No. ಲೋಇ/274/ಸೇಇವಿ/2016, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 14/11/2016 is received from Principal Secretary to the Government, PWD, Port and Inland Water Transport Department, Bangalore in which it is stated that in the enquiry report or in the recommendation of Hon'ble Upalokayukta the quantum of loss caused by DGOs 2 and 3 is not mentioned and therefore the quantum of loss may be intimated.

The charge framed against DGO No.2 Sri. K.M. Devanath and DGO No.3 Sri. M. Rajanna is as under;-

While you the DGO Sri. Anjanappa working as Asst. Director of Town Planning, Sri. K.M. Devanath, Asst. Executive Engineer and Sri. M. Rajanna, Asst. Executive Engineer, BBMP have failed to collect the plan and permission as per the Circular of commissioner, BBMP Dated: 10/08/2009 and failed to inspect the spot wherein construction of more than 123 buildings were undertaken by the builders during 2007-08, 2008-09 and 2009-10, Yelahanka Zone and failed to verify whether the constructions made were in accordance with the plan sanctioned and permission obtained. Further, you DGOs 1 to 3 have failed to take action on ongoing constructions made in violation of plan and permission and failed to take steps to demolish the same. Thereby you the DGO has failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servants and thus you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966.


In para-16 of the enquiry report it is observed as under:-

"The evidence on records, disclosed that though 123 buildings were constructed without obtaining sanctioned plan, DGOs 2 and 3 had kept quiet and did not initiate any action against the owners of those building."

During enquiry no evidence is produced as to what was the actual fee which was to be paid by the owners of 123 buildings for sanctioning the plan and license. Therefore, the total amount of loss caused by DGOs 2 and 3 due to their negligence in taking action against the owners of the properties, who constructed building without plan and license, could not be quantified.

Therefore, it is recommended to the disciplinary authority to ascertain the fee which was to be paid by the owners of 123 buildings, who constructed the buildings without plan and license in the area where DGOs 2 and 3 were working during the year 2007-08 to 2009-10 and recover the said amount from DGOs 2 and 3. Further, 50% of the loss caused to the State/BBMP by DGO No.2 Sri. K.M. Devanath may be recovered from his pensionary benefits or by filing civil suit against him and the remaining 50% of the loss caused to the State/BBMP may be recovered from DGO No.3 Sri. M. Rajanna from his salary/pensionary benefits. This recommendation is in addition to the recommendation made earlier for imposing penalty on DGOs 2 and 3.

Action taken in the matter be intimated to this authority.


(JUSTICE N. ANANDA)

Upalokayukta-1,
Karnataka State,
Bangalore.

14/12

GOVERNMENT OF KARNATAKA
KARNATAKA LOKAYUKTA

No. LOK/ARE-1/ENQ-249/2014

Multi Storied Buildings,
Dr. B.R. Ambedkar Veedhi,
Bengaluru 560 001.
Date: 27/03/2018

Sub:- Departmental Enquiry against;

- (1) Sri Anjinappa, Assistant Director of Town Planning;
- (2) Sri K.M.Devanath, Assistant Executive Engineer; and
- (3) Sri M. Rajanna, Assistant Executive Engineer, Bruhat Bengaluru Mahanagara Palike, Bengaluru - Reg.

- Ref:-
- 1) Government order No. UDD 131 MNU 2014, Bengaluru, Dated 5/4/2014
 - 2) This office Recommendation of even number dated 21/12/2015
 - 3) Government Letter No. UDD 131 MNU 2014, Bengaluru dated 16/6/2016
 - 4) This office modified recommendation of even number dated 18/6/2016.
 - 5) Government's Unofficial Note No. UDD 131 MNU 2014, Bengaluru dated 30/8/2016.
 - 6) Government Letter No. PWD 274 Se.E.V 2016, dated 14/11/2016.
 - 7) This office recommendation No. LOK/ARE-1/ENQ-249/2014, dated 9/11/2016.
 - 8) Government letter No. PWD 274 Se.E.V 2016, dated 17/3/2018.

In response to Government Letter No. PWD 274 Se.E.V 2016, dated 17/3/2018, it is clarified as follows:-

- 1) The recommendation was made having regard to the proved charge against DGO No.2 Sri K.M.Devanath, the

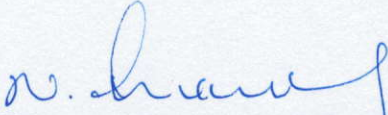
Assistant Executive Engineer, BBMP, Bengaluru and DGO-3 Sri M. Rajanna, Assistant Executive Engineer, BBMP, Bengaluru that they have caused financial loss to BBMP by allowing construction of as many as 123 buildings without licence approved plan in some of the cases, in contravention of terms of plan.

2) It is needless to state that if construction of buildings is allowed without licence or without approved plan, the building may collapse, resulting in devastating consequences. Having regard to these facts, recommendation was made to permanently withhold 10% of pension payable to DGO No.2 Sri Devanath, the then Executive Engineer, BBMP and to withhold two annual increments with cumulative effect on DGO NO.3 Sri M. Rajanna, Assistant Executive Engineer, BBMP, Bengaluru.

3) This institution cannot assess the loss caused to BBMP on account of construction of buildings without licence and without payment of licence fee to BBMP. It is for the BBMP to assess the loss caused and to take appropriate action to recover the same. Therefore, recommendation to recover the loss is not a penalty imposed in the instant inquiry, as the recovery needs an inquiry regarding assessment of financial loss to BBMP.

4) It is hereby clarified that the penalty recommended in the earlier recommendation be imposed. Regarding recovery of financial loss caused by DGOs 2 and 3, action to be taken after assessing the loss caused to BBMP in relation to construction of 123 buildings without getting licence, approved plan and without paying licence fee and other fee to BBMP.

Action taken in this regard shall be intimated to this Authority.


(JUSTICE N. ANANDA) 27/3
Upalokayukta-1
State of Karnataka, Bengaluru

GOVERNMENT OF KARNATAKA
KARNATAKA LOKAYUKTA

No. LOK/ARE-1/ENQ-249/2014

Multi Storied Buildings,
Dr. B.R. Ambedkar Veedhi,
Bengaluru 560 001.

Date: **12/06/2020**

MODIFIED RECOMMENDATION

Sub:- Departmental Enquiry against;

- (1) Sri Anjinappa, Assistant Director of Town Planning;
- (2) Sri K.M.Devanath, Assistant Executive Engineer; and
- (3) Sri M. Rajanna, Assistant Executive Engineer, Bruhat Bengaluru Mahanagara Palike, Bengaluru - Reg.

Ref:- 1) Government order No. UDD 131 MNU 2014, Bengaluru, Dated 5/4/2014

2) This office Recommendation of even number dated 21/12/2015

3) Government Letter No. UDD 131 MNU 2014, Bengaluru dated 16/6/2016

4) This office modified recommendation of even number dated 18/6/2016.

5) Government's Unofficial Note No. UDD 131 MNU 2014, Bengaluru dated 30/8/2016.

6) Government Letter No. PWD 274 Se.E.V 2016, dated 14/11/2016.

7) This office recommendation No. LOK/ARE-1/ENQ-249/2014, dated 12/11/2016.

8) Government letter No. PWD 274 Se.E.V 2016, dated 17/3/2018.

9) This office clarification letter No. LOK/ARE-1/ENQ-249/2014 dated 27/3/2018 communicated under letter dated 2/4/2018 of Registrar, Karnataka Lokayukta, Bengaluru.

10) Government letter No. PWD 274 Se.E.V. 2016, dated 22/5/2020.

1) In the above Departmental inquiry, on 22/15/2015, recommendation was made to the Government for imposing penalty of withholding two annual increments of DGO-2 Sri K.M.Devanath and DGO-3 Sri M. Rajanna with cumulative effect and for recovering 50% of pecuniary loss caused to the State/BBMP jointly from the service benefits payable to DGOs 2 and 3.

2) The recommendation was made having regard to the proved charge against DGO No.2 Sri K.M.Devanath, the Assistant Executive Engineer, BBMP, Bengaluru and DGO-3 Sri M. Rajanna, Assistant Executive Engineer, BBMP, Bengaluru that they have caused financial loss to BBMP by allowing construction of as many as 123 buildings without licence, approved plan, in some of the cases in contravention of terms of plan.

3) Thereafter, in pursuance of Government letter dated 16/6/2016 seeking fresh recommendation in view of retirement of DGO No.2 Sri K.M.Devanath on 31/5/2016, by this office recommendation dated 18/6/2016 it was recommended for imposing penalty of withholding 10% of basic pension of DGO-2 Sri K.M. Devanath, Assistant Executive Engineer, BBMP permanently in addition to recovery of 50% of the pecuniary loss caused to the State/BBMP from the service benefits payable to him.

4) Again the Government by letter dated 14/11/2016 sought clarification regarding quantum of loss caused by DGOs 2 and 3 to the State/BBMP. In this regard, by Additional Recommendation dated 12/11/2016, it was recommended to ascertain the fee which was to be paid by the owners of 123 buildings who constructed the buildings without plan and

licence in the area where DGOs 2 & 3 were working during the years 2007-08 to 2009-10 and recover the said amount from DGOs 2 and 3.

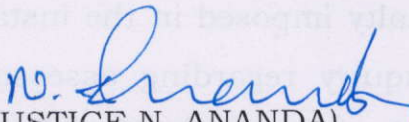
5) Thereafter, in pursuance of the Government letter dated 17/3/2018, clarification was given to Government on 27/3/2018 that if construction of buildings is allowed without licence or without approved plan, the building may collapse, resulting in devastating consequences. Having regard to these facts, recommendation was made to permanently withhold 10% of pension payable to DGO No.2 Sri Devanath, the then Executive Engineer, BBMP and to withhold two annual increments with cumulative effect on DGO NO.3 Sri M. Rajanna, Assistant Executive Engineer, BBMP, Bengaluru. Further, it was clarified that this institution cannot assess the loss caused to BBMP on account of construction of buildings without licence and without payment of licence fee to BBMP. It is for the BBMP to assess the loss caused and to take appropriate action to recover the same. The recommendation to recover the loss is not a penalty imposed in the instant inquiry, as the recovery needs an inquiry regarding assessment of financial loss to BBMP. Therefore, it was clarified that the penalty recommended in the earlier recommendation be imposed and regarding recovery of financial loss caused by DGOs 2 and 3, action shall be taken after assessing the loss caused to BBMP in relation to construction of 123 buildings without getting licence, approved plan and without paying licence fee and other fee to BBMP.

6) In spite of above recommendations, modified recommendations and clarification, the penalty of permanently withholding 10% of pension against DGO-2 Sri K.M. Devanath and withholding two annual increments with cumulative effect

on DGO-3 Sri M. Rajanna, in addition to recover 50% of pecuniary loss from each of DGOs 2 and 3 was not passed by Government. Instead, the Government is corresponding with BBMP to calculate and intimate the loss caused by DGOs 2 and 3.

7) Now, the Government by letter dated 22/5/2020 has stated that DGO-3 Sri M. Rajanna has retired from service on 31/5/2017 and sought for fresh recommendation regarding penalty to be imposed on DGO-3 Sri M. Rajanna. In view of retirement of DGO-3 Sri M. Rajanna on 31/5/2017, it is recommended to Government for imposing penalty of permanently withholding 10% of pension payable to DGO-3 Sri M. Rajanna, the then Assistant Executive Engineer, BBMP, Bengaluru in addition to recover 50% of the pecuniary loss caused to the State/BBMP from the service benefits payable to him.

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


(JUSTICE N. ANANDA)
Upaiokayukta-1 12/6
State of Karnataka, Bengaluru



KARNATAKA LOKAYUKTA

NO: LOK/INQ/14-A/249/2014/ARE-1

M.S. Building,
Dr. Ambedkar Veedhi,
Bengaluru, Dated: 05.10.2021.

**MODIFIED RECOMMENDATION IN MODIFICATION OF ALL
EARLIER RECOMMENDATIONS**

- Sub: Recommending punishment for DGO 2. Sri. K.M Devanath, Assistant Executive Engineer and DGO 3. Sri. M. Rajanna, Assistant Executive Engineer, BBMP -reg.
- Ref: 1. Government Order number UDD 131 MNU 2014, Bengaluru dated 05.04.2014
2. This office recommendation of even number dated 21.12.2015
3. Government letter number UDD 131 MNU 2014, Bengaluru dated 16.06.2016
4. This office modified recommendation dated 18.06.2016
5. Government Unofficial Note No. UDD 131 MNU 2014, Bengaluru dated 30.08.2016
6. Government letter number PWD 274 Se.E.V 2016, dated 14.11.2016
7. This office recommendation number LOK/ARE-1/ENQ-249/2014, dated 12.11.2016.
8. Government Letter number PWD 274 Se.E.V 2016, dated 17.03.2018
9. This office clarification letter number LOK/ARE-1/ENQ-249/2014 dated 27.03.2018 communicated under letter dated 02.04.2018 of Registrar, Karnataka Lokayukta, Bengaluru.
10. Government Letter number PWD 274 Se.E.V. 2016, dated 22.05.2020.
11. This office modified recommendation dated 12.06.2020
12. Government Unofficial Note No. PWD 274 Se.E.V. 2016, dated 08.01.2021.
13. Government Letter No. PWD 274 Se.E.V. 2016, dated 19.02.2021.
14. This office even number reminder letters dated 30.03.2021, 30.06.2021
15. Government Letter No. UDD 131 MNU 2014, Bengaluru dated 07.07.2021.

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In the enquiry No. LOK/INQ/14-A/249/2014/ARE-1, after completion of the inquiry, having regard to the nature of charges held proved

by the inquiry officer against DGOs 2 and 3 viz., Sri. K.M. Devanath, the then Assistant Executive Engineer and Sri. M. Rajanna, Assistant Executive Engineer of BBMP, Bengaluru, a recommendation dated 22.12.2015 was made to the competent authority for imposing penalty of withholding two annual increments of DGOs 2 and 3 with cumulative effect and also ^{for} recovering 50% of pecuniary loss caused to the State/BBMP from the service benefits payable to DGOs 2 and 3.

2. By modified recommendation dated 18.06.2016, it was recommended for imposing penalty of permanently withholding 10% of pension payable to DGO-2 Sri. K.M Devanath, in view of his retirement from service on 31.05.2016 apart from recovering 50% of the pecuniary loss caused to the State/BBMP.

3. The Government by letter dated 14.11.2016 sought clarification from this office ^{regarding} the quantum of loss to be recovered from both DGOs 2 and 3, since the amount was not mentioned either in the inquiry report or ^{in the} recommendations. In this regard, a letter dated 14.12.2016 has been sent to the competent authority to ascertain the fee which was to be paid by the owners of 123 buildings, who ^{have} constructed the buildings without plan and licence in the area where DGOs 2 and 3 were working during the years 2007-08 to 2009-10 and recover the said amount from DGOs 2 and 3 at 50% each.

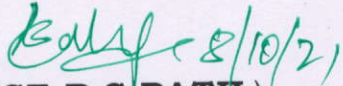
4. A clarification letter dated 27.03.2018 was sent to the competent authority stating that this institution cannot assess the loss caused to BBMP on account of construction of buildings without licence and without payment of licence fee to BBMP and it is for the BBMP to assess the loss caused and to take appropriate action to recover the same. Further ^{it} was clarified that the penalty recommended for withholding pension ^{of} on DGO2

and withholding two annual increments of DGO-3 with cumulative effect could be imposed and regarding recovery of financial loss action can be taken after assessing the loss.

5. Now, the Government by letter dated 07.07.2021 has intimated that it has become difficult to identify the site numbers, extent of the sites, names and addresses of owners who have constructed buildings without obtaining licence and payment of fee and hence, the loss caused could not be computed. Therefore, the Government has sought for revised penalty that could be imposed on DGOs 2 and 3.

6. In view of the above facts, **“it is recommended for imposing penalty of permanently withholding 12% of pension payable to DGO 2. Sri. K.M Devanath and DGO 3. Sri. M. Rajanna, in modification of all earlier recommendations made in the above departmental inquiry”**.

Action taken in the matter be intimated to this authority.


(JUSTICE B.S.PATIL)
Upalokayukta-1,
Karnataka State,
Bengaluru.