

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

NO:LOK/INQ/14-A/25/2011/ ARE-3

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001,
Date: 30/12/2017

RECOMMENDATION

Sub:- Departmental inquiry against Sri Shivalingappa Changappa Channi, the then Secretary, Kodachavada Grama Panchayath, Khanapur Taluk, Belagavi District.

- Ref:- 1) Government Order No.ಗ್ರಾಅಪ 38 ಗ್ರಾಪಂಚಾ 2011, Bengaluru dated 28/2/2011
- 2) Nomination order No.LOK/INQ/14-A/25/2011, Bengaluru dated 9/3/2011 of Upalokayukta-1, State of Karnataka, Bengaluru
- 3) Inquiry Report dated 28/12/2017 of Additional Registrar of Enquiries-3, Karnataka Lokayukta, Bengaluru

The Government by its Order dated 28/2/2011, initiated the disciplinary proceedings against Sri Shivalingappa Changappa Channi, the then Secretary, Kodachavada Grama Panchayath, Khanapur Taluk, Belagavi 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/25/2011, Bengaluru dated 9/3/2011 nominated Additional Registrar of Enquiries-3, 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.

3. The DGO Sri Shivalingappa Changappa Channi, the then Secretary, Kodachavada Grama Panchayath, Khanapur Taluk, Belagavi District was tried for the following charge:-

“That you, Sri Shivalingappa Changappa Channi (hereinafter referred to as Delinquent Government Official, in short DGO), while working as the Secretary, Kodachavada Gram Panchayath, Khanapura Taluk, Belgaum District demanded and accepted a bribe of Rs.5,000/- on 05/03/2007 from Complainant Sri Rudragowda Bheemaraya Patil, Deminakoppa, Khanapur Taluk, Belgaum District for issuing cheque for Rs.22,950/- in respect of gutter work done by the Complainant at Deminakoppa Village of Khanapura Taluk that is for doing an official act, and thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government 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-3) on proper appreciation of oral and documentary evidence has held that the Disciplinary Authority has proved the above charge against DGO Sri Shivalingappa Changappa Channi, the then Secretary, Kodachavada Grama Panchayath, Khanapur Taluk, Belagavi District.


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 has retired from service on 31/3/2016. In view of conviction of DGO in Special C.C. No.16/2008, he has been dismissed from service by Order 13/2/2012. The DGO has filed Criminal Appeal No.2742/2011 against the judgment of conviction in Special C.C. No. 16/2008.

7. Having regard to the nature of charge (demand and acceptance of bribe) proved against DGO Sri Shivalingappa Changappa Channi, it is hereby recommended to the Government to impose penalty of dismissal from service on DGO Sri Shivalingappa Changappa Channi, the then Secretary, Kodachavada Grama Panchayath, Khanapur Taluk, Belagavi District, if he is acquitted in Criminal Appeal No.2742/2011. If the conviction is confirmed in Criminal Appeal No.2742/2011, this recommendation may be treated as redundant.

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

Connected records are enclosed herewith.


(JUSTICE N. ANANDA) 26/12
Upalokayukta-1,
State of Karnataka,
Bengaluru

KARNATAKA LOKAYUKTA

No. LOK/INQ/14-A/25/2011/ARE-3

M.S.Building,
Dr. B.R.Ambedkar Veedhi,
Bengaluru - 560001.

Date: 28.12.2017

Enquiry report

Present: Sri.S. Renuka Prasad
Additional Registrar Enquiries-3

Sub: Departmental Enquiry against Sri Shivalingappa
Changappa Channi, the then Secretary, Kodachavada
Grama Panchayath, Khanapura Taluk, Belgaum District
- reg.

Ref: 1. Report under Section 12(3) of the Karnataka Lokayukta
Act, 1984, in No. Compt/Uplok/BGM/190/2008/ARLO-4
dated 31.01.2011

2. Government Order No. ಗ್ರಾಅಪ 38 ಗ್ರಾಪಂಕಾ 2011 ದಿ: 28.2.2011

3. Nomination Order No.LOK/INQ/14-A/25/2011
dated 9.3.2011 of Hon'ble Upalokayukta,
Karnataka State, Bengaluru.

1. The complainant Sri. Rudragowda Bheemaraya Patil R/o
Deminakoppa village, Khanapur Taluk, Belgaum District (hereinafter
referred to as 'complainant') has filed a complaint to Lokayukta
police, Belgaum on 5.3.2007 against Sri Shivalingappa Changappa
Channi, Secretary, Kodachavada Grama Panchayath, Khanapura
Taluk, Belgaum District (hereinafter referred to as 'DGO' for short)
making allegations against him that, DGO is demanding him to pay
Rs. 5,000/- as bribe in order to issue him cheques towards payment
of the bill amount submitted by him, in respect of the work of
construction of drains in Deminkoppa village, he has executed as per
the contract work entrusted to him.

2. On registering a case on the basis of the said complaint, a trap was held on 5.3.2007 at Taluk Panchayath office, Khanapur, wherein, the DGO having demanded bribe from the complainant, received Rs. 5000/- from him by way of bribe. The tainted money of Rs. 5000/- was recovered from the right side pant pocket of the DGO. Since it was revealed during investigation that, the DGO has demanded bribe of Rs. 5000/- and received the same from the complainant, in order to show an official favour i.e., to issue him cheques towards payment of the bill amount submitted by him in respect of the work of construction of drains in Deminkoppa village, he has executed as per the contract work entrusted to him, the Police Inspector having conducted investigation, filed charge sheet against the DGO.
3. The ADGP, Karnataka Lokayukta, Bengaluru has forwarded the copy of the charge sheet to the Hon'ble Upalokayukta. On the basis of the materials collected during investigation and materials placed before this authority, an investigation was taken up under Section 7(2) of the Karnataka Lokayukta Act. An observation note was served on the DGO providing him an opportunity to show-cause as to why recommendation should not be made to the Competent Authority, for initiating departmental proceedings against him. The DGO submitted his reply denying the allegations made against him. Since the explanation offered by the DGO was not satisfactory, a recommendation under Section 12(3) of the Karnataka Lokayukta Act was forwarded to the Competent Authority recommending to initiate disciplinary enquiry against DGO and to entrust the enquiry under Rule 14-A of KCS (CCA) Rules, to this authority to hold enquiry. Accordingly, the Government of Karnataka i.e., the Rural Development and Panchayath Raj Department by its order in No.

ಗ್ರಾ.ಅ.ಪ 38 ಗ್ರಾ.ಪಂ.ಕಾ 2011 ದಿ: 28.2.2011 initiated departmental proceedings against the DGO and entrusted the same to Hon'ble Upalokayukta to hold enquiry. As per the order issued against DGO, the Hon'ble Upalokayukta issued a nomination order dated 09.03.2011 nominating ARE-3 to frame charges and to conduct enquiry against the DGO. Accordingly, charges were framed by the then ARE-3 against the DGO as under.

Charge:

That you, Sri. Shivalingappa Changappa Channi, (here in after referred to as Delinquent Government Official, in short DGO), while working as the Secretary, Kodachavada Gram Panchayath, Khanapura Taluk, Belgaum District demanded and accepted a bribe of Rs.5000/- on 05/03/2007 from complainant Sri. Rudragowda Bheemaraya Patil, Deminakoppa, Khanapur Taluk, Belgaum District for issuing cheque for Rs. 22,950/- in respect of gutter work done by the complainant at Deminakoppa village of Khanapura Taluk that is for doing an official act, and thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servant and thus you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct)Rules 1966.

STATEMENT OF IMPUTATION OF MISCONDUCT:

The complainant Sri. Rudragowda Bheemaraya Patil, Deminakoppa, Khanapur Taluk, Belgaum District filed a complaint on 05/03/2007 before the Police Inspector, Karnataka Lokayukta, Belgaum alleging that, he has been doing the civil contract work for and that he was entrusted the gutter work of Deminakoppa worth Rs. 25,000/- and the stone gutter work of Auralli Village worth Rs. 50,000/- by the President and Secretary of Grama Panchayath, Kodachavad under the Work Development Scheme of the year 2006-07 and that he had completed those both works and that the concerned engineer after checking the works executed passed the bills in respect of those works executed and that on 2.3.2007 he met Sri Shivalingappa Changappa Channi, Secretary, Kodachavada Gram Panchayath,

Khanapura Taluk, Belgaum District (here in after referred to as Delinquent Government Servant, in short DGO) and asked him to issue cheque in respect of both the works executed and at that time the DGO demanded a bribe of Rs. 5000/- and that when he pleaded that he had no money the DGO told him that he would issue cheque for Rs. 45,554/- in respect of the stone gutter work of Auralli village and that he may encash the same and give him a bribe of Rs. 5,000/- and thereafter, he would issue another cheque for Rs. 22,950/- in respect of the gutter work of Deminakoppa village and that a cheque for Rs. 45,554/- was issued to him and that he told the DGO that he would come to him within a day or two and pay him Rs. 5000/-, get the cheque from him in respect of gutter work of Deminakoppa village.

As the complainant was not willing to pay any bribe to the DGO, he went to Police Inspector, Karnataka Lokayukta Belgaum on 05/03/2007 and lodged a complaint. On the basis of the same a case was registered in Belgaum Lokayukta Police Station Cr. No. 03/2007 for offences punishable under sections 7, 13(1) (d) r/w section 13(2) of the P.C. Act, 1988 and FIR was submitted to the concerned learned special judge.

After registering the case, investigating officer observed all the pre trap formalities and entrustment mahazar was conducted and you, the DGO was trapped on 05/03/2007 by the Investigating Officer after your demanding and accepting the bribe amount of Rs.5000/- from the complainant in the presence of shadow witness and the said bribe amount which you had received from the complainant was seized from your possession under the seizure mahazar after following the required post trap formalities. During the investigation the I.O has recorded the statements of Panchas and other witnesses and further statement of the complainant. The I.O during the investigation has sent the seized articles to the chemical examiner and obtained the report from him and he has given the result as positive.

The materials collected by the I.O. during the investigation prima facie disclose that you, the DGO, demanded and accepted bribe of Rs.5000/- from the complainant on 05/03/2007 for doing an official act i.e., for issuing a cheque for Rs. 22,950/- in respect of the gutter work done by the complainant at Deminakoppa village of Khanapur Taluk. Thus you, the DGO, have failed to maintain absolute integrity

and devotion to duty and this act on your part is unbecoming of a Government servant. Hence, you have committed an act which amounted to misconduct as stated under Rule 3 (1) (i) to (iii) of KCS (Conduct) Rules 1966.

In this connection an observation note was sent to you, the DGO and you have submitted your reply which, after due consideration, was found not acceptable. Therefore, a recommendation was made to the Competent Authority under Section 12(3) of the Karnataka Lokayukta, Act 1984, to initiate Departmental Proceedings against you, the DGO. The Government after considering the recommendation made in the report, entrusted the matter to the Hon'ble Upalokayukta to conduct departmental/disciplinary proceedings against you, the DGO and to submit report. Hence the charge."

4. The Articles of Charges and Statement of Imputations are duly served on the DGO. DGO has appeared in response to the notice issued to him and First Oral Statement of the DGO was recorded. DGO has denied the charges framed against him. He has engaged the services of an advocate to appear on his behalf and to defend him, in the enquiry.
5. The DGO has filed his written statement on 05.09.2012 denying the allegations made against him in the AOC contending that, he never demanded or accepted any amount by way of bribe from the complainant and he has been falsely implicated. He has taken up a further contention that, the enquiry initiated against him is not at all maintainable since he has been convicted by the Special Court and consequent to his conviction, he has been dismissed from service on 17.2.2012 and he ceased to be a Government servant and hence the enquiry initiated against him under the provisions of KCS(CCA) Rules is not sustainable under law. He has requested this authority to drop the proceedings against him. Further he has also

filed his written statement of defense on 20.12.2012 giving his own explanation and reply to the articles of charges framed against him and imputation of misconduct alleged against him.

6. During enquiry, on behalf of the Disciplinary authority, 3 witnesses have been examined as PW1 to PW3 and 7 documents came to be marked as Ex-P1 to P7. After closure of evidence on behalf of disciplinary authority, second oral statement of the DGO was recorded. Since, DGO did not desire to lead defence evidence on his behalf, DGO was examined under Rule 11(18) of KCS(CCA) Rules with reference to the evidence given by PW1 and PW3 against him. DGO has denied the evidence of PW1 and PW3 as false and further gave his own explanation as to how the tainted notes of Rs. 5000/- came to his possession. But no documents are produced by the DGO, in support of his defence.
7. Thereafter, the learned Presenting Officer has filed written arguments. Even the learned counsel for DGO has submitted his written arguments. Thereafter, this matter is taken up for consideration.
8. The points that would arise for my consideration are:
 - Point No.1:** Whether the charge framed against the DGO is proved by the Disciplinary Authority?
 - Point No.2:** What order?
9. The above points are answered as under:
 - Point No.1:** In the 'Affirmative'
 - Point No.2:** As per final order.

REASONS**Point No.1:-**

10. DGO was working as Secretary in Kodachavada Grama Panchayath, Khanapura Taluk, Belgaum District during the relevant period
11. The complainant is a Contractor by profession and he was entrusted with the execution of construction of drainage in Deminakoppa village as per the two work orders issued to him. In terms of the contract agreement and work order, he has executed the drainage work and submitted two bills for Rs. 25000/- and for Rs. 50,000/- claiming the amount under those two bills. The same was passed by the concerned Assistant Engineer and was forwarded to the DGO for making payment of the amount claimed in those two bills. In that connection, the complainant met the DGO on 2.3.2007 and requested him to issue him the cheques as per the bills passed by the concerned Engineer. The DGO demanded him to pay Rs. 5000/- by way of bribe in order to issue him two cheques. The complainant pleaded his inability to pay Rs. 5000/- to the DGO citing his financial crisis. Then the DGO told the complainant that, he would issue one cheque for Rs. 45,554/- and after encashing the said cheque, to give him Rs. 5000/- and to collect another cheque from him. The complainant having agreed to the said condition, received one cheque from the DGO for Rs. 45,554/- and told the DGO that, he would encash the said cheque and would approach him and he will collect another cheque from him, on paying Rs. 5000/- to him as per the demand made by him. Since the complainant was not willing to pay the amount of bribe demanded by the DGO, he approached Lokayukta police, Belgaum on 5.3.2007 and filed a complaint against the DGO as per Ex-P5.

12. On the basis of the complaint so filed by the complainant on 5.3.2007 the Police Inspector, Karnataka Lokayukta, Belgaum has registered a case in Cr. No. 3/2007 under Sections 7,13(1)(d) R/w 13(2) of P.C Act, 1988 and took up investigation.
13. An entrustment proceedings was conducted in the Lokayukta Police Station on 5.3.2007 in the presence of two panch witnesses viz., Sri Kumara Yashwantha Damannavar, Typist, O/o District Sub-Registrar, Belgaum and Sri Nagendra Yamanappa Babanavar, First Division Land Surveyor, O/o Joint Director of Land Records, North Zone, Belgaum and in the said proceedings, the bait money of Rs. 5000/- consisting of 10 currency notes of Rs. 500/- denomination each given by the Complainant, were smeared with phenolphthalein powder making it as tainted money, and the said tainted notes were entrusted to the Complainant asking him to give that money to the DGO when he meets him and only in case if the DGO demands for bribe. Panch witness Kumara Yashwantha Damannavar was sent along with the complainant, as a shadow witness.
14. The Police Inspector gave one micro tape recorder to the complainant, asking him to switch on the same when he meets the DGO and to record the conversation that may take place between him and the DGO when he meets the DGO. In this regard a detailed mahazar was got prepared as per Ex-P1, in the Police Station.
15. The complainant was asked to contact the DGO to enquire him about his place of availability. When the complainant contacted the DGO on his mobile, the DGO asked him to come to Taluk Panchayath office, Khanapur, as he is attending a meeting there. Hence, the complainant and the shadow witness were taken to the

office of the Taluk Panchayath, Khanapur and sent them to meet the DGO in the said office. The complainant accompanied with the shadow witness went inside the Taluk Panchayath office and since the DGO was in a meeting in the meeting hall, they waited for the DGO outside the meeting hall. After the meeting was over, the complainant and shadow witness went inside the meeting hall at about 3.45pm where the DGO was sitting, and met him and enquired him about his cheque. The DGO asked the complainant about the money and when the complainant gave tainted notes to the DGO, DGO having received that money from the complainant, counted the same by using his both hands and kept that money in the right side pocket of his pant and thereafter gave one cheque for Rs. 22,950/- to the complainant. On receiving the said cheque from the DGO, the complainant came out of the meeting hall and gave pre-arranged signal to the Police Inspector. On receiving the signal, the Police Inspector and his staff and another panch witness approached the complainant, and he took them inside the meeting hall and showed the DGO claiming that, he has received money from him.

16. The Police Inspector introduced himself to the DGO and explained to him about the registration of a case against him and asked him to co-operate in the investigation. The DGO disclosed his name as Shivalingappa Changappa Channi, working as Secretary in Kodachavada Grama Panchayath, Khanapura Taluk, Belgaum District .
17. Thereafter, the hand wash of the DGO was obtained asking him to wash his both hand fingers separately in two separate bowls containing sodium carbonate solution. When DGO washed his right hand fingers and left hand fingers separately in two separate bowls

containing sodium carbonate solution, the solution in both the bowls turned into pink colour. Those pink coloured solution of right hand wash and left hand wash of the DGO, were collected in two separate bottles and sealed the same.

18. Thereafter, the Police Inspector asked the DGO about the money he has received from the complainant. DGO having taken out money from his right side pant pocket produced the same before the Police Inspector and on verification of those notes with reference to its serial numbers, it was confirmed that, those were the notes entrusted to the complainant during the entrustment proceedings. Those notes were kept in a separate cover and sealed the same.
19. Even the pant of the DGO was got removed by providing him an alternate pant and the right side pocket portion of the said pant when dipped in a separate bowl containing sodium carbonate solution, it gave positive result. The said pant of the DGO was also seized.
20. The Police Inspector asked the DGO to give his explanation in writing. DGO gave his explanation in writing as per Ex-P4 stating that he had requested the complainant for hand loan of Rs. 5000/- and received that amount of Rs. 5000/- from the complainant as loan from him. The complainant has denied the correctness of the version of the written explanation given by the DGO claiming it as false and incorrect.
21. The micro tape recorder entrusted to the complainant when played during the trap proceedings, it was found that, the conversation took place between the complainant and the DGO was found recorded in it.

22. The copies of the bills submitted by the complainant and other documents have been subsequently seized from the Grama Panchayath office.
23. During enquiry, the complainant is examined as PW2. But, he did not support the case of the disciplinary authority and turned hostile. He has admitted that, he was entrusted with the work of drainage in Deminakoppa and Aurolli villages and he has executed the work and submitted bills. According to him, about 5 days prior to filing of the complaint, he met the DGO, and the DGO promised him that he will issue the cheque. But according to the complainant, DGO never demanded any bribe from him. With regard to filing of the complaint as per Ex-P5, though he has admitted his signature on the complaint but, according to him the Panchayath members obtained his signature on a paper stating that it relates to some other work. He has denied giving any complaint against the DGO as per Ex-P5. He pleaded his ignorance about entrustment proceedings and trap proceedings claiming that, he does not know anything about those proceedings. Hence, he has been treated as an hostile witness and he has been thoroughly cross examined by the learned Presenting Officer. But he has denied all the suggestions put to him and denied filing of the complaint, conducting of entrustment proceedings and entrustment of tainted notes of Rs. 5000/- to him and further denied the trap proceedings. Despite giving opportunity the complainant was not cross examined on behalf of the DGO, by his counsel.
24. The shadow witness who is examined as PW-1 has narrated in detail the conducting of the entrustment proceedings in the Police Station and entrustment of Rs. 5000/- to the complainant in the said

proceedings and preparation of entrustment mahazar as per Ex-P1. He has further stated that, he accompanied the complainant and went along with him and went inside the O/o Taluk Panchayath, Khanapura and waited for the DGO since he was busy in a meeting that was going on in the meeting hall. He further stated that, after the meeting was over, the complainant went inside the meeting hall and met the DGO in the meeting hall and requested him for issue of cheque to him and since the DGO asked him to give him the amount as demanded by him, the complainant gave the tainted notes to the DGO and the DGO having received the said amount, kept that amount in his right side pant pocket and thereafter, gave one cheque to the complainant and after receiving the cheque from the DGO, the complainant came out of the meeting hall and gave pre-arranged signal to the Police Inspector. PW1 claimed that he was with the complainant and watched all these happenings.

25. He further gave details regarding conducting of trap proceedings stating that, the Police Inspector on receiving the signal from the complainant came inside the meeting hall and caught hold of the DGO and thereafter, the hand wash of both the hands of the DGO were obtained by making him to wash his both hand fingers separately in two bowls containing sodium carbonate solution and on such washing, the colourless solution in both the bowls turned into pink colour, thereby giving positive result. Thereafter, the Police Inspector enquired the DGO about the money he has received from the complainant and the DGO himself took out the tainted notes from his right side pant pocket and produced the same before the Police Inspector and on verification of those notes with reference to its serial numbers, it was confirmed that, those were the notes entrusted to the complainant during the entrustment proceedings. Those notes were seized. Even the right side pocket portion of the

pant of the DGO, when dipped in a separate bowl containing sodium carbonate solution the colourless solution in the said bowl turned into pink colour and the said pink coloured solution was collected in a separate bottle and seized along with the pant of the DGO. He/PW1 deposed regarding giving of written explanation by the DGO as per Ex-P4. He further deposed about obtaining of photographs and preparation of trap mahazar as per Ex-P3 incorporating all the details of the trap proceedings and also deposed regarding the seizure of the cheque from the complainant as per Ex-P2 which the DGO gave to the complainant on receiving bribe amount of Rs. 5000/- from him.

26. PW1 has been thoroughly cross examined on behalf of the DGO by his learned counsel. But nothing was elicited in his cross examination to disbelieve the evidence of PW1. During his cross examination PW1 has admitted that, in his written explanation the DGO has claimed that, he has received that amount from the complainant, as hand loan.
27. The Police Inspector who conducted investigation could not be summoned before this authority as he has been bed ridden due to his ill health. A medical certificate is also produced regarding the physical condition of the IO wherein, it has been mentioned that, he is not in a position to move and attend the enquiry. Hence, at the request of the learned Presenting Officer, the Police Constable who assisted the IO, in conducting entrustment proceedings and trap proceedings by name M.B. Aralikatti, was summoned before this authority and was examined as PW3. He in his evidence has stated regarding the conducting of entrustment proceedings and entrustment of Rs. 5000/- to the complainant. He further gave details regarding the trap proceedings and obtaining of the hand

wash of both hands of the DGO which gave positive result and recovery of tainted notes from the right side pant pocket of the DGO and also subjecting the pant for phenolphthalein test and when the pocket portion of the pant dipped in a separate bowl containing sodium carbonate solution, gave positive result since the colourless solution turned into pink colour. He further deposed regarding giving of written explanation by the DGO as per Ex-P4 and obtaining of photographs, preparation of trap mahazar as per Ex-P3. He claimed that, he typed both the entrustment mahazar and trap mahazar as per the instructions of Police Inspector. Though PW3 was cross examined by the learned counsel for DGO, nothing was elicited to disbelieve his evidence.

28. DGO while giving his written explanation as per Ex-P4 has admitted in clear terms regarding receipt of Rs. 5000/- from the complainant on that day. But, he has claimed that, he has received Rs. 5000/- from the complainant as a loan. The relevant portion of his written explanation in which he has taken up such a contention, reads as follows:

“ ನನ್ನ ಸ್ವಂತ ವೈಯಕ್ತಿಕ ಕೆಲಸಕ್ಕಾಗಿ ಶ್ರೀ ರುದ್ರಗೌಡ ಬಿ.ಪಾಟೀಲ ಇವರಿಗೆ ರೂ. 5000/- ಐದು ಸಾವಿರ ಸಾಲ ಅಂತ ಕೇಳಿದ್ದೆ ಆದರೆ ಅವರು ದಿನಾಂಕ 5.3.2007ರಂದು ಖಾನಾಪುರದಲ್ಲಿ ಕೊಡುವುದಾಗಿ ತಿಳಿಸಿದ್ದರಿಂದ ಇಂದು ದಿನಾಂಕ 5.3.2007 ರಂದು ಮಧ್ಯಾಹ್ನ 3.30ಕ್ಕೆ ನನಗೆ ರೂ. 5000/- (ಐದು ಸಾವಿರ)ಗಳನ್ನು ಸಾಲ ಅಂತ ಕೊಟ್ಟರುತ್ತಾರೆ. ಸದ್ರಿ ಹಣವನ್ನು ಒಂದು ತಿಂಗಳ ಅವಧಿಯಲ್ಲಿ ಪರತ ಕೊಡುವುದಾಗಿ ಹೇಳಿ ತೆಗೆದುಕೊಂಡಿರುತ್ತೇನೆ.”

29. During his examination under Rule 11(18) of KCS(CCA) Rules, DGO has taken up a similar contention but, slight different version claiming that, he has requested the elder brother of the complainant for hand loan of Rs. 5000/- and the elder brother of the complainant sent that amount through the complainant and he received that

amount of Rs. 5000/- from the complainant, since the elder brother of the complainant sent that amount through him. The explanation offered by the DGO reads as follows:

“ನಾನು ಯಾವಾಗಲೂ Inshirt ಮಾಡಿಕೊಂಡು officeಗೆ ಬರುತ್ತಿದ್ದೆ. ಆದ್ದರಿಂದ, ಗ್ರಾಮ ಪಂಚಾಯತಿ ಉಪಾಧ್ಯಕ್ಷ ಒಂಬಾಡಿರವರು ಅದಕ್ಕೆ ಆಕ್ಷೇಪಣೆ ಎತ್ತಿದ್ದರು ಮತ್ತು ಅವರು ನನ್ನನ್ನು transfer ಮಾಡಿಸಲು ಪ್ರಯತ್ನಿಸಿದ್ದರು. ಅವರ ಆ ಪ್ರಯತ್ನ ಪಲಪ್ರದವಾಗಲಿಲ್ಲ. ಆದ್ದರಿಂದ ಅವರು ನನ್ನನ್ನು ಸುಳ್ಳಾಗಿ ಟ್ರಾಪ್ ಮಾಡಿಸಿದ್ದಾರೆ.

ಫಿಯಾದಿ ರುದ್ರಗೌಡ ಪಾಟೀಲ್ ಅವರ ಅಣ್ಣ ಹನುಮಂತಗೌಡ ನನ್ನ ಖಾಸ ಸ್ನೇಹಿತ. ಸದರಿ ಹನುಮಂತ ಗೌಡನಿಂದ ನಾನು ರೂ. 5000/- ಸಾಲ ಕೊಡು ಎಂದು ಕೇಳಿದ್ದೆನು. ಸದರಿ ಹನುಮಂತಗೌಡ ತನ್ನ ತಮ್ಮನ ಕೈಯಲ್ಲಿ ನಾನು ಕೇಳಿದ ಸಾಲದ ಹಣ ರೂ. 5000/- ವನ್ನು ಕಳುಹಿಸಿಕೊಟ್ಟಿದ್ದನು. ಆದ್ದರಿಂದ ಸದರಿ ರುದ್ರಗೌಡ ತನ್ನ ಅಣ್ಣ ನನಗೆ ಕೊಡಲು ಕೊಟ್ಟದ ಹಣವನ್ನು ರೂ. 5000/- ಅನ್ನು ನನಗೆ ಕೊಟ್ಟನು. ಆದ್ದರಿಂದ, ಸಾಲದ ಹಣ ರೂ. 5000/- ಅನ್ನು ರುದ್ರಗೌಡ ಪಾಟೀಲ ನಿಂದ ತೆಗೆದುಕೊಂಡಿರುತ್ತೇನೆ.”

30. But, while filing his reply dated 21.8.2009 to the observation note served on him, he has not taken up any such contention by way of his defense. Even while filing his written statement in this enquiry, no such contention was taken by him that, Rs. 5000/- he has received from the complainant was by way of loan, but not as bribe.
31. Even there is discrepancy in the defense contention of the DGO taken by him in his written explanation Ex-P4 and the submission he has made during recording of his statement under Rule 11(18) of KCS(CCA) Rules. Though in Ex-P4, it is his contention that, he requested the complainant for loan of Rs. 5000/- and thus the complainant paid that amount to him as loan, but while giving his explanation before this authority he has stated that, he has requested Hanumanthagowda, elder brother of Rudragowda Patil/complainant for hand loan of Rs. 5000/- and the said Hanumanthagowda, sent the amount through his brother Rudragowda Patil and hence he received that amount from the

complainant/Rudragwoda Patil by way of loan. DGO did not chose to enter into the witness box to substantiate his defence contention. He should have examined Hanumanthagowda, the elder brother of the complainant to establish the theory of hand loan put forth by him. No such effort was made by him to substantiate his defense contention. There was no reason for him to refuse himself to examine himself as a witness, probably to avoid answering the questions that may be put to him in his cross examination. Therefore, DGO has utterly failed to establish his defense contention and absolutely there is no evidence or materials produced by him to believe his contention that, he has received that amount by way of loan from the complainant. Though the complainant turned hostile and did not support the case of the disciplinary authority, there was no impediment for the counsel for the DGO to cross examine the complainant and to put forth his defence during the cross examination that, he/complainant gave that money to the DGO by way of loan but not as bribe. But, the complainant was not cross examined and the defence of the DGO was not suggested to the complainant. Hence, the defence contention taken by the DGO cannot be believed, as such explanation given by him cannot considered to be a plausible explanation. Hence, I decline to accept the defense contention of the DGO. Moreover, the discrepancy in his defence contention namely in Ex-P4, the DGO has claimed that, he received that amount from the complainant as he has requested the complainant for providing him loan of Rs. 5000/- whereas, in his explanation given before this authority he has stated that, he has requested the brother of the complainant for hand loan of Rs. 5000/- and he received that amount from the complainant since the brother of the complainant sent that amount through the complainant. This discrepancy in the defence contention of the DGO

is also another factor which renders the defence of the DGO unbelievable.

32. Moreover, the DGO has suffered conviction in the trial held before Special Court, Belgaum and consequently he has been dismissed from service. This is also another factor which strengthens the case of the disciplinary authority that, the DGO has demanded and received Rs. 5000/- by way of bribe to do an official act of disbursing the cheque to the complainant, towards the amount payable to him for the work he has executed as per the bills he has submitted. Hence, I have no hesitation to hold that, the disciplinary authority is able to establish the charge against the DGO and accordingly I answer point no.1 in the affirmative.

Point No.2:

33. Having regard to the discussion made above, and in view of my findings on point no.1 as above, my conclusion is as follows:

Conclusion

i) The Disciplinary Authority has proved the charge as framed against the DGO Sri Shivalingappa Changappa Channi, the then Secretary, Kodachavada Grama Panchayath, Khanapura Taluk, Belgaum District.

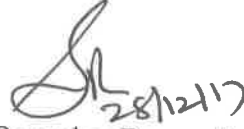
ii) As per the first oral statement, the date of birth of the DGO is 24.3.1956.

iii) DGO has been convicted by IV Additional District Judge and Special Judge, Belgaum vide judgment dated 25.6.2011 in Special C.C. No. 16/08.

contd.....

iv) Consequent upon his conviction, DGO has been dismissed from service as per the order dated 13.2.2012 issued by Chief Executive Officer, Zilla Panchayath, Belgaum and he has been relieved of his duties on 17.2.2012.

v) Criminal Appeal filed by DGO challenging the order of conviction and sentence passed against him, in Special C.C. No. 16/2008 is pending in Criminal Appeal No. 2742/2011 before Hon'ble High Court of Karnataka (Dharwad Bench).



(S. Renuka Prasad)

Additional Registrar of Enquiries-3
Karnataka Lokayukta, Bengaluru.

ANNEXURES**I. Witnesses examined on behalf of the Disciplinary Authority:**

PW-1	Sri Kumar Yashwanth Damannavar (shadow witness)
PW-2	Sri Rudragwoda Bheemaraya Patil (complainant)
PW-3	Sri M.B. Aralikatti (Police Constable)

II. Witnesses examined on behalf of the DGO:

Nil

III Documents marked on behalf of D.A.

Ex.P-1	Certified copy of the entrustment mahazar
Ex.P-2	Certified copy of the cheque
Ex.P-3	Certified copy of the trap mahazar
Ex.P-4	Certified copy of the statement of DGO
Ex.P-5	Certified copy of the complaint
Ex.P-6	Certified copy of the statement of PW2 before Police Inspector
Ex.P-7	Certified copy of the records seized by IO

IV. Documents marked on behalf of DGO:

Nil

V. Material Objects marked on behalf of the D.A:

Nil



(S. Renuka Prasad)
Additional Registrar of Enquiries-3,
Karnataka Lokayukta, Bengaluru.

