

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No.LOK/INQ/14-A/261/2011/ARE-3

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001
Date: 28/06/2019

RECOMMENDATION

Sub:- Departmental inquiry against;
Sri Rajakumar Waldoddi, Second Division Surveyor,
Taluk Office, Bidar - Reg.

- Ref:- 1) Government Order No.ಕಂಇ 148 ಭೂದಾಸೇ (3) 2011,
Bengaluru dated 6/9/2011
- 2) Nomination order No.LOK/INQ/14-A/261/2011,
Bengaluru dated 19/9/2011 of Upalokayukta-1,
State of Karnataka, Bengaluru
- 3) Inquiry Report dated 26/6/2019 of Additional
Registrar of Enquiries- , Karnataka Lokayukta,
Bengaluru

The Government by its Order dated 6/9/2011, initiated the disciplinary proceedings against Sri Rajakumar Waldoddi, Second Division Surveyor, Taluk Office, Bidar (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/261/2011, Bengaluru dated 19/9/2011 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 Rajakumar Waldoddi, Second Division Surveyor, Taluk Office, Bidar was tried for the following charge:-

“That you Sri Rajakumar Waldoddi (hereinafter referred to as Delinquent Government Official, in short DGO), while working as the Second Division Surveyor, Taluk Office, Bidar demanded and accepted a bribe of ₹1,000/- on 24/01/2008 from Complainant Sri Shah Ibrahim Khadri S/o. Shah Khadar Pasha Khadri, Door No. 5-2-70, Khadriapura, Golekhana, Bidar for surveying the land bearing Sy. No. 52 to an extent of 6 Acres 9 Guntas of Nagaoora Village and to give the Survey Sketch, 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.”

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 Rajakumar Waldoddi, Second Division Surveyor, Taluk Office, Bidar.

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 inquiry report, the Principal Sessions Judge and Special Court, Bidar vide Judgment dated 29/10/2011 in Spl. C. No.1/2009 convicted the DGO/accused holding him guilty of

offence under Section 7, 13(1)(d) r/w. 13(2) of Prevention of Corruption Act, 1988 and imposed sentence of imprisonment and fine. The DGO has challenged the judgment of conviction and sentence by preferring Appeal before the High Court of Karnataka at Kalaburagi Bench in Criminal Appeal No. 3691/2011, which is pending consideration. Consequent to his conviction, the DGO has been dismissed from service.

7. Having regard to the nature of charge (demand and acceptance of bribe) proved against DGO Sri Rajakumar Waldoddi, it is hereby recommended to the Government for imposing penalty of Compulsory Retirement from service on DGO Sri Rajakumar Waldoddi, Second Division Surveyor, Taluk Office, Bidar, if the Criminal Appeal No.3691/2011 filed by DGO is allowed and judgment of conviction of DGO is set aside. If the conviction of DGO is confirmed in the Criminal Appeal No.3691/2011, this recommendation shall be treated as redundant.

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

Connected records are enclosed herewith.


(JUSTICE N. ANANDA) 28/6
Upalokayukta-1,
State of Karnataka,
Bengaluru

KARNATAKA LOKAYUKTA

No. LOK/INQ/14-A/261/2011/ARE-3

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

Date: 26.6.2019 (26/6/19)

Enquiry report

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

Sub: Departmental Enquiry against Sri Rajakumar Waldoddi,
Second Division Surveyor, Taluk Office, Bidar - reg

- Ref:
1. Report under Section 12(3) of the Karnataka Lokayukta Act, 1984, in No. Compt/Uplok/GLB/179/2009/ARE-7 dated 28.6.2011
 2. Government order No. RD 148 LRS (3) 2011, Bengaluru dated 6.9.2011
 3. Nomination Order No.LOK/INQ/14-A/261/2011 dated 19.9.2011 of Hon'ble Upalokayukta, Karnataka State, Bengaluru.

1. One Sri Shah Ibrahim Khadri S/o Shah Khadar Pasha Khadri, Door No.5-2-70, Khadriapura, Golekhana, Bidar (hereinafter referred to as 'complainant') has filed a complaint to Lokayukta police, Bidar on 24.1.2008 against Sri Rajakumar Waldoddi, Second Division Surveyor, Taluk Office, Bidar (hereinafter referred to as 'DGO' for short) making allegations against him that, he/DGO is demanding him to pay Rs.1000/- by way of bribe in order to conduct survey of land bearing no. 52 of Nagora village and to demarcate 6.09 acres of land in the said survey number, which he has agreed to purchase from its owner and to prepare 11E sketch, so as to enable him to purchase the said extent of land. According to him, DGO having demanded Rs. 3000/- by way of bribe in order to attend the said

work, received Rs. 2000/- as part payment insisting him to pay the balance of Rs. 1000/- while receiving 11E sketch.

2. On registering a case on the basis of the said complaint, a trap was held on 24.1.2008 in the survey section, in the Taluk office, Bidar wherein, the DGO having demanded balance of bribe from the complainant, received Rs. 1000/- from him towards balance of bribe amount he has demanded. The tainted notes of Rs. 1000/- was recovered from the right side pant pocket of the DGO. Since it was revealed during investigation that, the DGO having demanded bribe from the complainant, received Rs. 1000/- from the complainant by way of bribe in order to do an official act i.e., in order to conduct survey of land bearing no. 52 of Nagora village and to demarcate 6.09 acres of land in the said survey number which the complainant has agreed to purchase from its owner and to prepare 11E sketch and to provide him the said sketch, 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 disciplinary proceedings against him. DGO has submitted his reply dated 27.10.2009 denying the allegations made against him contending that, he never demanded or received any money by way of bribe from the complainant and he has been falsely implicated. It is his further contention that, the alleged trap proceedings are not within his knowledge and according to him

there was no trap on him on 24.1.2008. He has further admitted that a case has been registered against him in Cr.No. 2/2008 and he has been charge sheeted and he is facing trial before the Spl.Court, Bidar. It is his further contention that, since he is facing trial in the prosecution launched against him, no disciplinary proceedings by way of parallel proceedings can be initiated against him and requested this authority to drop the proceedings against him.

4. 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 the DGO and to entrust the enquiry under Rule 14-A of KCS (CCA) Rules, to this authority to hold enquiry. Accordingly, the Disciplinary Authority, i.e., the Government of Karnataka in the Revenue Department, by its order in No. RD 148 LRS (3) 2011 dated 6.9.2011 initiated disciplinary proceedings against the DGO and entrusted the same to Hon'ble Upalokayukta to hold enquiry. As per the order issued against the DGO, the Hon'ble Upalokayukta issued a nomination order dated 19.9.2011 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. Rajakumar Waldoddi, (here in after referred to as Delinquent Government Official, in short DGO), while working as the Second Division Surveyor, Taluk Office, Bidar demanded and accepted a bribe of ₹1000/- on 24/01/2008 from complainant Sri. Shah Ibrahim Khadri S/o Shah Khadar Pasha Khadri, Door No.5-2-70, Khadriapura, Golekhana, Bidar for

surveying the land bearing sy. no. 52 to an extent of 6 acres 9 guntas of Nagaoora Village and to give the survey sketch 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. Shah Ibrahim Khadri S/o Shah Khadar Pasha Khadri, Door No.5-2-70, Khadriapura, Golekhana, Bidar filed a complaint on 24/01/2008 before the Police Inspector, Karnataka Lokayukta, Bidar alleging that 2 months prior to 24/1/2008 he had entered into an agreement of sale with one Sri Adeppa.Rajgonda of the land bearing sy. no. 52 measuinnr g6 acres 7 guntas of Nagura village and that for registered the sale deed in respect of the said land the survey sketch was necessary and therefore he went to survey office and he gave duly filled form no. 11(E) in the Land Records office, Bidar and at that time Sri. Rajakumar Waldoddi, Second Division Surveyor, Taluk Office, Bidar (here in after referred to as Delinquent Government Servant, in short DGO) demanded Rs. 3000/- for surveying the land and issuing surgey sketch and he also told that the Government fees of Rs. 403/- was also included in demanded amount of Rs. 3000/- and that when the complainant told that he did not have so much of money and on that day he paid Rs. 2000/- the the DGO and requested the DGO that he was not in a position to pay any more amount, the DGO insisted that the balance bribe amount of Rs.

1000/- be paid and to take the survey sketch and that again on 22/1/2008 when he met the DGO and asked about survey sketch the DGO told him that the survey sketch was ready and to take the same after paying him the bribe amount of Rs.1000/-.

As the complainant was not willing to pay the balance bribe to the DGO, he went to Police Inspector, Karnataka Lokayukta Bidar on 24/01/2008 and lodged a complaint. On the basis of the same a case was registered in Bidar Lokayukta Police Station Cr. No. 02/2008 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 24/01/2008 by the Investigating Officer after your demanding and accepting the bribe amount of ₹ 1000/- 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

₹1000/- from the complainant on 24/01/2008 for doing an official act i.e., for sy. no. 52 to an extent of 6 acres 9 guntas of Nagaoora Village and to give the survey sketch. 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."

5. The Articles of Charges and Statement of Imputations are duly served on the DGO. DGO has appeared before this authority 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 this enquiry.
6. DGO has filed his written statement on 8.1.2013 contending that, he has not committed any misconduct as alleged against him in the AOC and denied the charges levelled against him and further sought permission to cross examine the witnesses, during the enquiry.

7. During enquiry, 2 witnesses have been examined as PW1 and PW2 and 8 documents came to be marked as Ex-P1 to Ex-P8 on behalf of the disciplinary authority. After closure of the evidence on behalf of disciplinary authority, second oral statement of the DGO was recorded. Since, DGO desired to lead defence evidence, permission was granted to him accordingly. DGO has examined himself as DW-1. 4 documents came to be marked as Ex-D1 to Ex-D4 in support of the defense of the DGO during his defense evidence.
8. Thereafter, the learned Presenting Officer and the learned counsel for DGO have filed their written arguments. Thereafter, this matter is taken up for consideration.
9. 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?
10. The above points are answered as under:
 - Point No.1:** In the 'Affirmative'
 - Point No.2:** As per Conclusion.

REASONS

Point No.1:-

11. DGO was working as Second Division Surveyor, Taluk Office, Bidar during the relevant period.
12. The complainant in his complaint has narrated in detail the circumstances under which he has filed the said complaint against the DGO. According to him, with an intention to purchase 6.09 acres of land in sy. no. 52 of Nagora village from its owner Adappa

Rajagonda, since 11E sketch was necessary to get the said land registered in his name, he has filed an application to the O/o Tahsildar requesting for conducting survey of the said land and to demarcate the extent of land he is intending to purchase and to prepare 11E sketch and to furnish him the said sketch, so as to enable him to obtain the sale deed with respect to the said land from its owner. It is the allegation of the complainant that, the DGO has demanded him to pay Rs. 3000/- by way of bribe which includes statutory fees of Rs. 403/- payable by him in support of his application, in order to conduct the survey of the said land and to demarcate the extent of land proposed to be purchased by him and to prepare 11E sketch. The complainant pleaded his inability to pay that much amount saying that, he has got only Rs. 2000/- with him. It is the allegation against the DGO that, he/DGO has received that amount of Rs. 2000/- from the complainant by way part payment, insisting the complainant to pay the balance of Rs. 1000/- at the time of receiving 11E sketch. Since the complainant was not willing to pay any more bribe to the DGO, he has approached the Police Inspector, Karnataka Lokayukta, Bidar on 24.1.2008 and filed a written complaint as per Ex-P1.

13. On the basis of the complaint so filed by the complainant on 24.1.2008 the Police Inspector, Karnataka Lokayukta, Bidar, has registered a case in Cr. No. 2/2008 under Sections 7,13(1)(d) R/w 13(2) of P.C Act, 1988 and took up investigation.
14. An entrustment proceedings was conducted in the Lokayukta Police Station, Bidar on 24.1.2008 in the presence of two panch witnesses viz., Sri Mallikarjuna, SDA, O/o Minor Irrigation Sub- Dn. Bidar and Sri Sundar Raj, CCT, O/o Taluk Social Welfare Officer, working on deputation in the O/o District Social Welfare Officer, Bidar and in

the said proceedings, the bait money of Rs. 1000/- consisting of 1 currency note of Rs. 500/- denomination and 5 currency notes of Rs. 100/- 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 Sri Sundar Raj was appointed as a shadow witness.

15. The complainant and shadow witness were taken to the Taluk office, Bidar and sent them to meet the DGO in the survey section. When the complainant accompanied with the shadow witness went inside the survey section of the Taluk office and met the DGO and enquired him about his work of issue of 11E sketch, DGO enquired him as to whether he has brought the balance of money he has demanded. When the complainant gave him the tainted notes of Rs. 1000/-, DGO having received that money with his right hand and kept the same in his right side pant pocket. Thereafter, he took out survey sketch from his almirah and handed over the same to the complainant. On receiving the sketch from the DGO, the complainant came out of the said office and gave pre-arranged signal to the Police Inspector.
16. On receiving the signal from the complainant, Police Inspector and his staff and another panch witness approached the complainant. The complainant took them inside the survey section and showed the DGO claiming that, he is the concerned surveyor who has received the bribe money of Rs. 1000/- from him.
17. The Police Inspector introduced himself to the DGO and informed him about the registration of a case against him. On enquiry, the

DGO has disclosed his name as Sri Rajakumar Waldoddi, Second Division Surveyor, Taluk Office, Bidar.

18. Thereafter, the Police Inspector got prepared Sodium carbonate solution in two separate bowls and asked the DGO to wash his both hand fingers separately in those two bowls containing solution. When the DGO dipped his right hand fingers in one bowl and left hand fingers in another bowl containing sodium carbonate solution, the solution in the bowl in which DGO washed his right hand fingers turned into pink colour. But the solution in which the DGO washed his left hand fingers, there was no change in its colour. The said pink colored solution of the right hand wash and unchanged colour solution of left hand wash of the DGO, were collected in two separate bottles and sealed the same.
19. The Police Inspector asked the DGO about the money he has received from the complainant. DGO having taken out Rs. 1000/- from his right side pant pocket, produced the same before the Police Inspector. Those notes were cross checked with reference to its serial numbers and confirmed that, those were the notes entrusted to the complainant during entrustment proceedings. Those notes were kept in a separate cover and sealed the same.
20. On providing an alternate pant, the pant worn by the DGO was got removed and right side pocket portion of the said pant was dipped in a separate bowl containing sodium carbonate solution and on such dipping, the colourless solution in the said bowl turned into pink colour. The said pink coloured solution of pocket portion of the pant wash of DGO was collected in a separate bottle and sealed the same and seized along with the pant of DGO, by packing and sealing the same.

21. Police Inspector asked the DGO to give his explanation in writing. DGO gave his explanation in writing as per Ex-P5. The complainant has denied the correctness of the explanation offered by the DGO, claiming it as false.
22. DGO was asked to produce the relevant documents pertaining to the complainant and the DGO having taken out a file from his almirah produced the same before the Police Inspector which contained the application along with annexures filed by the complainant and other documents pertaining to conducting of survey of land bearing sy. no. 52. Those documents have been seized as per Ex-P6 which contain 19 pages.
23. During enquiry the complainant has been examined as PW-1 and the shadow witness as PW2. The investigation officer who registered the case on the basis of the complaint filed by the complainant and conducted the entrustment and trap proceedings, could not be summoned and examined in this enquiry since he is reported to be dead. Even efforts were made to summon the concerned Police constable who accompanied the Police Inspector and participated in the entrustment and trap proceedings and prepared entrustment and trap mahazar by typing the same. But even the said police constable since reported to be dead, could not be examined in this enquiry.
24. The complainant who is examined as PW1 though admitted in his evidence about filing of application requesting for conducting survey of the land which he has proposed to purchase, it is his evidence that since his request was not considered and the matter was being delayed, he met an agent by name Ravi and the said Ravi took him

to Lokayukta Police Station and made him to file complaint as per Ex-P1. He has deposed about conducting of entrustment proceedings and applying of powder to the currency notes in the said proceedings and entrustment of those powder smeared notes to him. He has further stated in his evidence that, he met the DGO in his office and enquired him about his work of conducting survey and the DGO told him that, the survey work is completed. It is the further evidence of the complainant that, he paid money to the DGO and the DGO having received the said money from him, gave him the survey sketch.

25. He further gave details regarding the trap proceedings conducted on the DGO and obtaining of hand wash of the hands of the DGO which turned into pink colour. He has further stated that, since the DGO had already furnished him, the survey sketch, he returned to his house after putting his signature on the writings, prepared by Lokayukta police.
26. Since the complainant has failed to give evidence with regard to the material particulars of the trap proceedings and also gave contrary evidence regarding the circumstances under which he approached Lokayukta police, he has been declared as hostile witness as per the prayer of the learned Presenting Officer, permitting her to cross examine the complainant. During his cross examination, learned Presenting Officer put various suggestions to him. He has denied all those suggestions put to him during his cross examination. But during his cross examination he has admitted that, he having accompanied the shadow witness Sundar Raj, went inside the Taluk office and met the DGO in survey section and requested him for giving him the survey sketch. He has further admitted that, DGO demanded him to pay the balance of Rs. 1000/- and accordingly, he

gave him the tainted notes of Rs. 1000/- and DGO having received that money from him kept that money in his pant pocket. He has further admitted that, on receiving his signal, the Police Inspector and his staff came inside the survey section and he narrated details as to how the DGO on demanding money from him received Rs. 1000/- from him and kept that money in his pant pocket. He further denied for having given statement before the Lokayukta Police Inspector as per Ex-P4(a).

27. Even the learned counsel for DGO cross examined the complainant. During his cross examination, various suggestions were put to him and the complainant has suitably replied all those suggestions. He has further admitted that, when he enquired the DGO about the survey sketch, DGO gave him the survey sketch. A suggestion was put to him that, while giving him the survey sketch, DGO did not demand any money from him but he paid the money to DGO towards the fee. Complainant gave positive reply to this suggestion put to him by the learned counsel for DGO.
28. PW2/shadow witness has stated in his evidence regarding conducting of entrustment proceedings in the Lokayukta Police Station, Bidar and entrustment of tainted notes of Rs. 1000/- to the complainant. He has further stated that, he accompanied the complainant and went along with him when the complainant met the DGO in the survey section of the Taluk office, Bidar. It is his evidence that, when the complainant met the DGO, and enquired him about his work. DGO demanded money from the complainant and when the complainant gave the tainted notes to the DGO, he/DGO having received the said amount from his hand, kept that money in the right side pocket of his pant. He further claimed that, he has watched all these happenings taken place in the survey

section, since he was standing along with the complainant, on going inside the survey section.

29. He further gave details regarding the arrival of the Police Inspector on receiving signal from the complainant, various procedures conducted by the Police Inspector in the survey section including obtaining of hand wash of both the hands of the DGO and right hand wash of DGO giving positive result regarding presence of phenolphthalein and left hand wash giving negative result, recovery of tainted notes of Rs. 1000/- from the right side pocket of the pant of the DGO, since he himself on taking out from his pant pocket produced the same before the Police Inspector, subjecting the right side pocket portion of the pant of the DGO to phenolphthalein test which gave positive result regarding presence of phenolphthalein, giving of explanation by the DGO in writing as per Ex-P5, seizure of documents pertaining to the complainant as per Ex-P6 since DGO himself produced the file containing the documents pertaining to the complainant, on taking out from his almirah, seizure of extract of attendance register as per Ex-P7, preparation of trap mahazar as per Ex-P2 and obtaining of photographs as per Ex-P8 and other details of the trap proceedings.

30. PW2 was thoroughly cross examined by the learned counsel for DGO. Various suggestions have been put to him regarding various procedures conducted during the trap proceedings. But all these suggestions have been categorically denied by PW2. A specific suggestion was put to him that, the complainant while paying the money to the DGO told him that, it is the Government fee payable by him towards issue of survey sketch. PW2 claimed that, he did not hear any such conversation took place between the complainant and the DGO and the complainant saying as such, while paying money

to the DGO. He has reiterated his contention that, DGO gave his explanation in writing as per Ex-P5.

31. DGO has examined himself as DW-1 in support of his defence and tendered his evidence by way of sworn affidavit in lieu of his chief examination and produced 4 documents in support of his defence. DGO in his defence evidence has taken up a contention that, when the complainant gave him the application requesting for conducting survey and preparation of 11E sketch, he/DGO claimed that, he told the complainant that, he has to remit Rs. 806/- towards Government fee. It is his further contention that, on 24.1.2008 the complainant gave him the money and asked him to give the sketch. It is his further contention that, on receiving money from the complainant, he was about to prepare a receipt with the help of the record keeper, but by that time Lokayukta police have apprehended him and made allegations against him that, he has demanded and received that amount by way of bribe from the complainant. He has reiterated his defence contention that, he never demanded or received any money by way of bribe from the complainant, and he has been falsely implicated.
32. In support of his defence he has produced 4 documents which are marked as Ex-D1 to D4 during his defense evidence. Ex-D1 is the letter given by him to the Tahsildar reporting completion of conducting of survey of land bearing sy.no. 52 and preparation of 11E sketch. The Tahsildar received this letter on 24.1.2008. Ex-D2 is the application filed by the complainant in the prescribed form requesting for conducting of survey and preparation of 11E sketch in respect of the land intended to purchase by him from its owner. This application was filed on 14.1.2008. Ex-D3(1) and D3(2) are the 2 receipts, towards remittance of Rs.206/- under receipt no. 316287

dated 14.1.2008 and remittance of Rs. 600/- under receipt no. 316382 dated 24.1.2008. Ex-D4(1) and (2) are the 11E sketch prepared by the DGO.

33. DGO has been cross examination by the learned Presenting Officer. In his cross examination DGO has admitted filing of application by the complainant on 14.1.2008 requesting for conducting of survey of land bearing sy.no. 52 which he was intended to purchase from its owner Adivappa. He has further admitted that, the complainant has remitted the requisite fee under receipt Ex-D3(1) and remitted the said amount while filing his application. He has further admitted that, he has conducted the survey and prepared survey sketch as per Ex-D4(1) and (2). He has further admitted that, the copies of the survey sketch were not given to the complainant and claimed that, he has forwarded the said sketch to the O/o Tahsildar along with his letter Ex-D1. So far as the receipt he has produced as per Ex-D3(2) is concerned, according to him/DGO it is the receipt prepared on 24.1.2008 for having received Rs. 600/-. It is the contention of the DGO in his defence evidence tendered by way of sworn affidavit in lieu of his chief examination that, on receiving money from the complainant, he was getting the receipt prepared through record keeper and by that time Lokayukta police caught hold of him. He has not come out with any detail as to whether the preparation of the said receipt was completed by that time or not. It is his contention that, Ex-D3(2) is the receipt which was prepared on the day of trap, towards the amount he has received from the complainant by way of fee. A specific suggestion was put to him during his cross examination that, the said receipt has been falsely created subsequently just for the purpose of this enquiry and to take false defense. DGO has conveniently denied this suggestion. All the suggestions put to him during his cross examination have been

conveniently denied by him. He has further admitted that, he has been convicted by the Spl. Court on holding a detailed trial in the case filed against him, and he claimed that, he has challenged his conviction by filing appeal before the Hon'ble High Court of Karnataka and the appeal filed by him in Cr.A. No. 3691/2011 is still pending consideration before the Hon'ble High Court of Karnataka.

34. DGO has not disputed giving of his explanation in writing as per Ex-P5 during the trap proceedings. In his written explanation he has taken up a contention that, on 14.1.2008 when the complainant met him and requested him to conduct survey he asked him to remit Rs. 806/- towards statutory fees payable by him in order to conduct the survey as per his prayer in the application. It is his further contention, taken in his written explanation that, on that day he/complainant has remitted Rs. 206/- and further undertook to pay the balance of Rs. 600/- while receiving the copy of the sketch from him and accordingly on 24.1.2008 the complainant having approached him gave him the money and asked him to give him the copy of the sketch and accordingly he received the money from the complainant since offered by him and without counting the said money he has kept that money in his shirt pocket and while he was getting the receipt prepared through record keeper, the Lokayukta police have apprehended him. It is his further contention that, he never demanded any bribe from the complainant and thinking that, the complainant is giving him the balance of Rs. 600/-, received the currency notes given by the complainant and without counting the same, kept it in his shirt pocket. The relevant portion of his written explanation reads as follows:

“ದಿನಾಂಕ 14.1.2008 ರಂದು ಬಂದು ನಾಗೂರಾ ಗ್ರಾಮದ ಹೊಲ ಸರ್ವೆ ನಂ. 52ರ ಮಾರಾಟ ಪೋಡಿ ನಕಾಶೆ ಮಾಡಿಕೊಡಲು ಶಾಹ ಇಬ್ರಾಹೀಮ ಖಾದ್ರಿ ರವರು ಬಂದು ಕೇಳಿಕೊಂಡಾಗ ಅದಕ್ಕೆ 806/-ರೂ. ಫೀ ಆಗುತ್ತದೆ. ಅಷ್ಟು ತುಂಬಿ ರಶೀದಿ ತೋರಿಸಿದರೆ ನಾನು ಪೋಡಿ ನಕಾಶೆ ಮಾಡಿಕೊಡುತ್ತೇನೆ ಅಂತ ತಿಳಿಸಿದ್ದೇನೆ. ಅದಕ್ಕೆ ಅವರು ಅಂದು 206/- ರೂ.ಗಳನ್ನು ತುಂಬಿ ಉಳಿದ 600/- ರೂ. ನಕಾಶೆ ತೆಗೆದುಕೊಳ್ಳುವಾಗ ತುಂಬಲು ನಿಮ್ಮ ಕೈಯಲ್ಲಿ ಹಣ ಕೊಟ್ಟು ನಕಾಶೆ ತೆಗೆದುಕೊಳ್ಳುತ್ತೇನೆ ಅಂತ ಹೇಳಿ ಹೋದರು. ಇಂದು ದಿನಾಂಕ 24.1.2008ರಂದು ಮಧ್ಯಾಹ್ನ ನನ್ನಲ್ಲಿಗೆ ಬಂದು ಹಣ ತೆಗೆದುಕೊಳ್ಳಿ ನನಗೆ ನಕಾಶೆ ಕೊಡಿ ಅಂತ ಹೇಳಿ, ನನ್ನ ಕೈಯಲ್ಲಿ ಹಣ ಕೊಟ್ಟರು. ಅವರು ಕೊಟ್ಟ ಹಣ ಎಷ್ಟು ಅಂತ ನಾನು ಎಣಿಸಿರುವುದಿಲ್ಲ. ಹಾಗೇ ತೆಗೆದುಕೊಂಡು ನನ್ನ ಜೇಬಿನಲ್ಲಿ ಇಟ್ಟುಕೊಂಡೆನು. ನಂತರ ಅವರು ಕೊಟ್ಟ ಹಣದ ಬಗ್ಗೆ ನಾನು ರಶೀದಿ ರೆಕಾರ್ಡ್‌ಕೀಪರ್ ರವರ ಕಡೆಯಿಂದ ಬರೆಯಿಸುತ್ತಿದ್ದಾಗ ಲೋಕಾಯುಕ್ತರು ಬಂದು ನನಗೆ ಹಿಡಿದು ವಿಚಾರಣೆ ಮಾಡಿದ್ದು, ಅಲ್ಲದೇ ಅವರುಕೊಟ್ಟ ಹಣ ರೂ.1000/- ಲೋಕಾಯುಕ್ತರು ನಾನು ಹಾಜರು ಪಡಿಸಿದ್ದು. ಆದರೆ ನಾನು ಶಾಹ ಇಬ್ರಾಹಿ ಖಾದ್ರಿ ರವರಿಗೆ ಪೋಡಿ ನಕಾಶೆ ಕೊಡುವ ಸಲುವಾಗಿ ಲಂಚ ಕೇಳಿರುವುದಿಲ್ಲ ಅವರು ಕೊಟ್ಟ ರೂಪಾಯಿಗಳು 600/- ರೂ. ಫೀ ಹಣ ಇರಬಹುದೆಂದು ಹಾಗೆ ನನ್ನ ಜೇಬಿನಲ್ಲಿ ಇಟ್ಟುಕೊಂಡೆನು.”

35. Though DGO has taken up such a contention in his written explanation, Ex-P5, no such contention was taken by him while filing his reply dated 27.10.2009 to the observation note served on him. Except denying each and every allegations made against him, no such defence contention was taken by DGO that, he has received money offered to him by the complainant, without counting the same and kept it in his shirt pocket thinking that, the money given to him by the complainant was the statutory amount of Rs. 600/- payable by the complainant in order to attend his work. Even while filing his written statement, he has not taken up any such contention.

36. While cross examining PW1/complainant, no such contention was taken and no allegation has been made against the complainant

that, without receiving the receipt under preparation, towards the amount paid by him, he left the office. But a suggestion was put to him by the learned counsel for DGO during his cross examination that, while giving the survey sketch to him, DGO did not demand him for money but he himself paid the money to the DGO towards the fee and by putting such a suggestion, obtained positive answer from the complainant.

37. If the defence taken by the DGO that, while he was getting the receipt prepared through the record keeper, he was apprehended by Lokayukta police, were to be really true, there was no impediment for him to produce the said receipt before the Lokayukta police during the trap proceedings. Even no reference has been made with respect to the receipt Ex-D3(2) in his reply to the observation note or in his written statement. There was no impediment for him to confront this receipt to the complainant and the shadow witness. Moreover, the DGO is not a signatory to the receipt Ex-D3(2). He has not examined the person who signed Ex-D3(2) in the capacity of cash clerk (nagadu gumasta). Had this cash clerk has been examined in this enquiry in support of his defence, his evidence would have throw light on the fact as to when Ex-D3(2) came into existence. Therefore, without examining the author of Ex-D3(2) and without taking up such a defence contention in his reply to observation note and in his written statement and even putting such a suggestion to PW1 and PW2 during their cross examination, DGO is trying to take advantage of the evidence given by the complainant, claiming that, he has paid the amount to the DGO by way of fee. The complainant in his chief examination has categorically stated that, since the DGO told him that, the survey work is completed, hence he paid money to him and received the survey sketch from him. During his cross examination, it was suggested to him that, the

money paid by him to the DGO was towards the fee. The DGO has not established before this authority that, in addition to Rs. 206/- remitted by the complainant on 14.1.2008 under Ex-D3(1), the complainant was liable to pay another sum of Rs. 600/- towards the statutory fee. Further, without remitting the requisite fee, there was no obligation on the part of the DGO to conduct the survey and to prepare 11E sketch in anticipation of remittance of balance of statutory fee payable by the complainant. Therefore, the defence contention taken by the DGO in his defence evidence cannot be believed and his contention that, on receiving money from the complainant, without counting the same he has kept the money in his shirt pocket and while he was getting the receipt prepared through the record keeper, Lokayukta police have apprehended him, deserves to be rejected.

38. Further, the explanation offered by the DGO regarding recovery of tainted notes of Rs. 1000/- from his shirt pocket on the day of trap, cannot be considered to be plausible explanation, considering the fact that no such explanation was offered by him in his reply to the observation note and also in his written statement and even he failed to examine the author of Ex-D3(2) in support of his defence contention. Hence I am of the considered opinion that, the explanation offered by DGO by way of his defence, remained unestablished and DGO has failed to prove such a defence contention taken by him in support of his defence.

39. In addition to this, the Spl.Court having held detailed trial in the prosecution launched against the DGO, proceeded to convict him by imposing sentence of imprisonment and fine on him/DGO. Consequent to his conviction by the Spl. Court, the DGO came to be dismissed from service. This is also another factor which

persuaded me to place reliance on the evidence adduced on behalf of the disciplinary authority and to come to a conclusion that, disciplinary authority was able to establish the allegation of misconduct of demanding and accepting bribe against the DGO.

40. In view of my discussions made above, I am of the considered opinion that, the disciplinary authority was able to establish the allegations against the DGO and hence I hold that, charge against the DGO is established. Accordingly, I answer point no.1 in the Affirmative.

Point No.2

41. 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 Rajakumar Waldoddi, Second Division Surveyor, Taluk Office, Bidar.

ii) As per the first oral statement, the date of birth of the DGO is 17.7.1973 and he was to be retired from service on 31.7.2033.

iii) The Principal Sessions Judge and Special Court, Bidar vide judgment dated 29.10.2011 in Spl.C. No. 1/2009 convicted the DGO/accused holding him guilty of offence under Section 7,13(1)(d) R/w. Section 13(2) of P.C. Act

and convicted him imposing sentence of imprisonment and fine.

iv) DGO has challenged the said judgment of conviction and sentence by preferring appeal before the Hon'ble High Court of Karnataka, Kalburgi Bench and the appeal so filed in Cr.A.No. 3691/2011 is still pending consideration.

v) Consequent to his conviction, he has been dismissed from service, and hence DGO is no longer in Government service.



(S. Renuka Prasad)

Additional Registrar of Enquiries-3
Karnataka Lokayukta, Bengaluru.

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

PW-1	Sri Shad Ibrahim Khadri (complainant) (original)
PW-2	Sri Sundar Raj (shadow witness) (original)

II. Witnesses examined on behalf of the DGO: Nil

DW-1	Sri Rajkumar Valdoddi (DGO)(original)
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III Documents marked on behalf of D.A.

Ex.P-1	Certified copy of Complaint
Ex.P-2	Certified copy of trap mahazar
Ex.P-3	Certified copy of entrustment mahazar
Ex.P-4A	statement of complaint dated 25.1.08 (Xerox)
Ex.P-4	Photographs (Xerox)
Ex.P-5	Certified copy of written explanation of DGO
Ex.P-6	Certified copy of records seized by IO
Ex.P-7	Certified copy of extract of attendance register
Ex.P-8	Photographs (Xerox)

IV. Documents marked on behalf of DGO:

Ex-D1	Certified copy of the Report submitted by the DGO to the Tahsildar
Ex-D2	Certified copy of the application filed by the Vendor of the Complainant to the Tahsildar
Ex-D3	Certified copy of Receipt for having remitted fee for conducting survey
Ex-D4	Survey sketch dated 18.1.2008

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


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

