

BEFORE THE ADDITIONAL REGISTRAR, ENQUIRIES-11

KARNATAKA LOKAYUKTA, BENGALURU

ENQUIRY NUMBER: LOK/INQ/14-A/290/2013

ENQUIRY REPORT Dated: 21/08/2019

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

Delinquent Government Official : Rukkappa

Discharged duties as Village
Accountant, Yalagoda,
Jevaragi Taluk, Kalaburagi
District in the year 2012.

Retired on superannuation
on 31/05/2015.

1. Delinquent official (in short, "DGO") by name Sri. Rukkappa was working as Village Accountant, Yalagoda, Jevaragi Taluk, Kalaburagi District in the year 2012. He retired on superannuation 31/05/2015.
2. Background for initiating the present inquiry against the DGO needs to be narrated in brief. One Sri. Siddanna (hereinafter will be referred to as "complainant") is the resident of a place called Anajagi, Jevaragi Taluk, Kalaburagi District. According to the complainant, his younger brother by name Honnappa is no more. Honnappa owned an extent of 5 acres and 7 guntas of land in survey number 6/2 situated at Anajagi village. Honnappa has not left behind wife and children and therefore on 01/02/2012 the complainant filed application

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in the office of Tahasildar, Yadrami for change of khatha of the above land into his name. According to the complainant, when he approached the DGO in connection with the application for change of khatha earlier to 19/05/2012 DGO demanded illegal gratification of Rs.1,500/-. In response the complainant paid a sum of Rs.500/-. Thereafter, on 18/05/2012 the complainant asked the DGO about the application for change of khatha. In response, DGO told demanded balance of illegal gratification of Rs.1000/- and stated that in case of fulfilment of the said demand the file will be attended and forwarded. Since the complainant was not willing to fulfil the said demand he informed the matter to his Advocate by name Sri. Girimallappa who took the complainant to Lokayukta Police Station, Kalaburagi and informed the matter to the Police Inspector (hereinafter will be referred to as "Investigating Officer") attached to Lokayukta Police Station, Kalaburagi. The Investigating Officer handed over a voice recorder to the complainant with instructions to approach the DGO and to record the conversation between the complainant and DGO. Thereafter, the complainant approached the DGO with the voice recorder and recorded the conversation between the complainant and DGO and after accumulating a sum of Rs.1,000/- appeared before the Investigating Officer at 11.00 A.M on 19/05/2012 in Lokayukta Police Station, Kalaburagi and returned the voice recorder and lodged complaint against the DGO. On the basis of the said complaint the Investigating Officer registered case against the DGO in crime number 07/2012 of Lokayukta Police Station,

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Kalaburagi for the offence punishable under section 7, for the offence defined under section 13(1)(d) which is punishable under section 13(2) of The Prevention of Corruption Act, 1988 and submitted FIR to the Court of Principal District and Sessions Judge, Kalaburagi. The Investigating Officer secured the shadow witness by name Subhash and panch witness by name Basanna to Lokayukta Police Station, Kalaburagi and informed them the purpose for which they are secured. The complainant placed cash of Rs.1000/- which consisted of a currency note of denomination of Rs.500/- and five currency notes of denomination of Rs.100/- each before the Investigating Officer. The Investigating Officer got entered the numbers of those notes on a sheet of paper and got applied phenolphthalein powder on those notes. The Investigating Officer got transmitted the contents of the voice recorder to a sheet of paper. The Investigating Officer got prepared solution with water and sodium carbonate powder in a bowl and obtained sample of the solution in a bottle. On the instructions of the Investigating Officer the panch witness placed the tainted notes in the left side pocket of shirt of the complainant and immersed fingers of hands in the residual solution. The said wash turned to pink colour. The Investigating Officer seized the said solution in a bottle. The Investigating Officer instructed the complainant to approach the DGO and to give the tainted notes in case of demand by DGO. The Investigating Officer instructed the complainant to remove the cap in case of acceptance of tainted cash by DGO. The Investigating Officer instructed the shadow to accompany the

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complainant and to watch as to what transpires between the complainant and DGO. The Investigating Officer handed over a voice recorder to the complainant with instructions to keep the same live at the time of approaching the DGO. With the said process the Investigating Officer conducted pre-trap mahazar.

3. Subsequent to pre-trap mahazar the Investigating Officer along with his staff, complainant, shadow witness, panch witness and Girimallappa left Lokayukta Police Station, Kalaburagi at 2.30 P.M destined at Jevaragi. On the way Girimallappa contacted the DGO over cell phone. DGO responded that he is in the office of Special Tahasildar, Yadrami. Afterwards, the Investigating Officer along with his staff, Girimallappa, complainant, shadow witness and panch witness reached near the bus stand of Yadrami at 4.05 P.M. The complainant and Girimallappa proceeded to the office of the Special Tahasildar, Yadrami. DGO was found seated on a bench in front of a shop in the premises of the office of Special Tahasildar, Yadrami. After noticing the complainant DGO stood up and asked to pay a sum of Rs.1000/-. In response, the complainant gave tainted cash of Rs.1000/- to DGO who in turn accepted the same with right hand and after counting the same with both hands placed the same in the hip pocket of pant. The complainant thereafter went near the Investigating officer and informed that DGO accepted the tainted cash. It was then 4.20 P.M. Immediately thereafter, staff of Investigating officer held the hands of DGO. The Investigating officer disclosed his identity to DGO and informed the purpose of his arrival. Afterwards, the

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Investigating officer took the DGO to a room in the building of the office of Special Tahasildar, Yadrami and got prepared solution with water and sodium carbonate powder and obtained sample of the solution in a bottle. On the instructions of the Investigating officer, DGO immersed fingers of right hand in the residual solution. The said solution turned to light pink colour. Again, the Investigating officer got prepared solution with water and sodium carbonate powder and obtained sample of the said solution. On the instructions of the Investigating officer DGO immersed fingers of left hand in the residual solution. The said wash turned to light pink colour. The Investigating officer seized the wash of fingers of both hands of DGO in separate bottles. On being questioned by the Investigating officer about tainted cash, DGO took out the tainted cash from the right side hip pocket of the pant. The Investigating officer seized the tainted cash. After providing a lungi to DGO the Investigating officer got removed the pant of DGO and thereafter got prepared solution with water and sodium carbonate powder. The Investigating officer got immersed the right side hip pocket of pant of DGO in the solution. The said wash turned to light pink colour. The Investigating officer seized the said wash in a bottle. The Investigating officer also seized the pant of DGO. The Investigating officer got transmitted the contents of voice recorder to a compact disc. One Ravikiran who is the colleague of DGO identified the voice of DGO which was found recorded in the voice recorder. The complainant returned the voice recorder to the Investigating officer. On being questioned by the

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Investigating officer, DGO produced the file of the complainant. The Investigating officer obtained xerox copies of seven sheets of the file of the complainant and got those sheets attested and seized those sheets. On being questioned by the Investigating Officer about the manner in which DGO possessed tainted cash, DGO offered explanation in writing before the Investigating officer. The Investigating officer conducted trap mahazar. After causing arrest of DGO, the Investigating officer brought the DGO to Lokayukta Police Station, Kalaburagi. On the instructions of the Investigating officer staff of the Investigating officer produced the DGO before the Principal District and Sessions Judge, Kalaburagi. Further investigation conducted by the Investigating officer unearthed prima facie case against the DGO and on completion of investigation the Investigating officer obtained sanction for prosecution of DGO and submitted charge sheet against the DGO in the Court of Principal District and Sessions Judge, Kalaburagi.

4. On the basis of the report of the Additional Director General of Police, Lokayukta, Bengaluru along with the investigation papers made available by the Police Inspector, Karnataka Lokayukta, Kalaburagi, Hon'ble Upalokayukta-1, Karnataka in exercise of the powers conferred upon under section 7(2) of The Karnataka Lokayukta Act, 1984 which, on the basis of materials on records prima facie disclosed that DGO has committed misconduct within the purview of Rule 3 (1) of The Karnataka Civil Services (Conduct) Rules, 1966 and accordingly, in exercise of the powers conferred upon under

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section 12(3) of The Karnataka Lokayukta Act, 1984 recommended the competent authority to initiate disciplinary proceedings against the DGO and to entrust the inquiry to the Hon'ble Upalokayukta, Karnataka under Rule 14-A of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.


5. Subsequent to the report dated 28/05/2013 under section 12(3) of The Karnataka Lokayukta Act, 1984, Government Order bearing number ಕಂಇ 31 ಬಿಡಿಪಿ 2013 ಬೆಂಗಳೂರು ದಿನಾಂಕ 25/06/2013 has been issued by the Under Secretary to the Government of Karnataka, Department of Revenue (Disaster and Management and Services-2) entrusting the inquiry against the DGO to the Hon'ble Upalokayukta, Karnataka under Rule 14-A of The Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.
6. Subsequent to the Government Order ಕಂಇ 31 ಬಿಡಿಪಿ 2013 ಬೆಂಗಳೂರು ದಿನಾಂಕ 25/06/2013 Order number LOK/INQ/14-A/290/2013 Bengaluru dated 09/07/2013 has been ordered by the Hon'ble Upalokayukta-1, Karnataka nominating Additional Registrar, Enquiries-4, Karnataka Lokayukta, Bengaluru as Inquiry Officer to frame charges and to conduct departmental inquiry against the DGO.
7. Articles of charge dated 03/08/2013 at Annexure-I which includes statement of imputation of misconduct at Annexure-II framed by the then Additional Registrar, Enquiries-4, Karnataka Lokayukta, Bengaluru is the following:

"ANNEXURE NO.I

CHARGE

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2. That, you-DGO Sri Rukkappa was a Village Accountant, Yalagoda, Jevargi Taluk, Gulbarga District during the year 2012. Complainant Sri Siddanna S/o Mallappa Bavur, R/o Anajagi, Jevargi Taluk, Gulbarga District alleged that his father during the lifetime settled 5.07 acres of land in Sy. No.6/2 of Anajagi village in favour of his younger brother Honnappa and land measuring 5.08 acres in Sy.No.6/1 of Anajagi village in favor of his mother. His brother Honnappa died during year 2005-06 without leaving either his wife or children. Therefore, he (complainant) had submitted an application to the Special Tahasildar Yadrami on 01.2.2012 for change of khatha of land being Sy. No.6/2 to the extent of 5.07 acres into his name which was standing in the name his younger brother. The said application was forwarded to you DGO. On complainant's approach you DGO demanded a bribe of Rs.1000/- and taken Rs.500/- from the complainant. Thereafter, again on complainant approach you DGO on 18.05.2012 have again demanded the balance of Rs.1000/- telling that you will sign and send the file only against payment of Rs.1000/-. Thereafter, you DGO demanded and accepted a bribe of Rs.1000/- on 19.05.2012 in front of Grocery Shop at Yadrami situated near Tahasil's Office. Thereby, you have failed to maintain absolute integrity and devotion to duty, the said act of you was un-becoming of a Government Servant and thereby committed mis-conduct as enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

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ANNEXURE NO.IISTATEMENT OF IMPUTATIONS OF MISCONDUCT

3. The Complainant Sri Siddanna s/o Mallappa Bavur, R/o Anajagi, Jevargi Taluk, Gulbarga District, land Sy. No.6/2 of his village to the extent of 5.07 acres had been given and made in the name of his younger brother namely, Sri Honnappa and Sy.No.6/1 measuring 5.08 acres had been given and made in the name of his mother by his father when his father was alive. However, his said brother died in the year 2005-06 without leaving either wife or children. As such, he had given an application in the office of Special Tahasildar at Yadrami on 01.02.2012 on entering his name for the said 5.07 acres standing in the name of his deceased brother. Having come to know that said application has come to the DGO, when complainant approached the DGO and enquired about it, the DGO demanded Rs.1,500/- for the said work. Since, complainant was not having that much amount with him, the DGO had taken Rs.500/- found by him at that time. Thereafter, to enquire as to what happened about his said application, when complainant approached the DGO on 18.05.2012, the DGO told him that his work has been attended and demanded balance of Rs.1000/- telling that if given that balance amount, the DGO will sign and sent the file. So, on approaching Lokayukta Police, when complainant met

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the DGO and talked about said matter-application, then also, the DGO reiterated said demand.

4. Not only that, on 19.05.2012, when complainant met the DGO at Yadrami in front of the Grocery shop situated near Tahasil's Office, the DGO had taken the tainted (bribe) amount from in connection with his said work. Added to that, the DGO failed to give any satisfactory reply or explanation or account for the said tainted amount which the DGO had then, when questioned by the I.O. So, the DGO was caught hold as he were found with the tainted amount on the said date and at the place. That then the said tainted (bribe) amount was seized under a mahazar by the I.O. on the said date at said place. Further , there are statements of witnesses, including complainant, besides material and records collected and filed, which show your said repeated misconduct of the DGO.

5. Said facts supported by the material on record show that the DGO, being a public/Government servant, has failed to maintain absolute interity besides, devotion to duty and acted ina manner unbecoming of a Government servant, and thereby repeatedly committed misconduct and made himself liable for disciplinary ction. Therefore, an investigation was taken up against the DGO and an observation note was sent to him to show cause as to why recommendation should not be made to the Competent Authority for initiating departmental inquiry against him in the manner. For that, the DGO gave his reply. However,

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the same has not been found convincing to drop the proceedings. Since said facts and material on record prima-facie show that DGO has committed misconduct Rule 3(1)(iii) of KCS (Conduct) Rules, 1966, now, action U/S 12(3) of Karnataka Lokayukta Act, recommendation is made to the Competent Authority to initiate proceedings against the DGO and to entrust the enquiry to this Authority under Rule 14-A of K.C.S. (CC & A) Rules, 1957. Hence, the Charge”.

8. In response to due service of articles of charge, DGO entered appearance before the Additional Registrar, Enquiries-4, Karnataka Lokayukta, Bengaluru on 07/09/2013 and engaged Advocate for his defence. In the course of first oral statement of DGO recorded on 07/09/2013 he pleaded not guilty.

9. As per Order number LOK/INQ/14-A/2014 dated 14/03/2014 of Hon'ble Upalokayukta-1, Karnataka this file has been transferred to Additional Registrar, Enquiries-5, Karnataka Lokayukta, Bengaluru.

10. In the course of written statement of DGO filed on 17/11/2014 it is contended that after attending the work DGO has sent the file and further steps are at the computer desk. It is stated that despite the same false complaint has been lodged and thus, DGO has refuted the charge levelled against him.

11. The disciplinary authority has examined the complainant as PW1 before the then Additional Registrar, Enquiries-5, Karnataka Lokayukta, Bengaluru. During

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evidence of PW1, attested copy of his complaint in two sheets is marked as per Ex P1, his signature found on page number 3 of Ex P1 is marked as per Ex P1(a), attested copy of pre-trap mahazar dated 19/05/2012 in three sheets is marked as per Ex P2, his signature found on page number 4 of Ex P2 is marked as per Ex P2(a), attested copy of trap mahazar dated 19/05/2012 in five sheets is marked as per Ex P3.

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

13. Thereafter, the disciplinary authority has examined the shadow witness by name Sri. Subhash as PW2, the Investigating Officer by name Sri. Thammaraya Patil who was working as Police Inspector in Lokayukta Police Station, Kalaburagi from the month of June 2011 to the month of May 2015 as PW3. During evidence of PW2 xerox copy of a single sheet containing the numbers of currency notes is marked as per Ex P4, attested copy of statement in writing dated 19/05/2012 in a single sheet of DGO given before PW3 on the day of trap is marked as per Ex P5. During evidence of PW3, attested copy of FIR dated 19/05/2012 in three sheets in crime number 07/2012 of Lokayukta Police Station, Kalaburagi is marked as per Ex P6, seven attested sheets of the file of the complainant is marked as per Ex P7.

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14. In the course of second oral statement of DGO recorded on 20/08/2018 DGO has stated that he would get himself examined as defence witness and that he would examine a defence witness by name Gurunatha Gowda.

15. DGO has examined a defence witness by name Sri. Mallikarjun Patil as DW1. DGO got himself examined as DW2. During evidence of DGO xerox copy of his complaint dated 06/01/2010 in two sheets lodged by him before the Sub-Inspector of Police, Yadrami Police Station is marked as per Ex D1, xerox copy of the certified copy of FIR dated 06/01/2010 in two sheets in crime number 01/2010 of Yadrami Police Station is marked as per Ex D2, xerox copy of certified copy of the charge sheet consisting of seventeen sheets in crime number 01/2010 of Yadrami Police Station is marked as per Ex D3.

16. Since DGO has adduced defence evidence questionnaire is dispensed with.

17. In the course of written argument filed by the Presenting Officer Smt. K.S. Jyothilakshmi on 25/04/2019 she has referred to the evidence on record. On the strength of the wordings employed in the course of written argument of the Presenting Officer it can be gathered that she sought to contend that charge against the DGO has remained established.

18. Despite opportunity granted to DGO to file written argument on 25/04/2019, 15/07/2019, 28/06/2019,

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18/07/2019, 01/08/2019 DGO has not evinced interest to file written argument and therefore, time sought on behalf of DGO on 01/08/2019 for filing written argument has been rejected and the matter is posted for report scheduled to 19/08/2019.

19. On 17/09/2019 Advocate Smt. Prapulla.K representing the DGO placed written argument enclosing the letter dated 26/03/2019 of the Civil Judge and J.M.F.C, Jewargi. In the course of written statement filed on 17/08/2019 on behalf of DGO reference is made to the evidence on record. It is contended that the Presenting Officer has not examined Girimallappa as witness. On the basis of certain answers elicited during cross examination of PW1 it is sought to contend that PW1 has deposed as tutored by the Presenting Officer and that evidence of PW1 does not establish the charge. It is sought to contend that official work of the complainant was not pending on the date of trap. It is sought to contend that Girimallappa occupied pivotal role for false implication of DGO. Referring to cross examination of PWs 2 and 3 it is sought to contend that their evidence will not establish the alleged charge.

20. In tune with the articles of charge, point which arises for consideration is whether, during the tenure of DGO as Village Accountant, Yalagoda, Jevargi Taluk, Kalaburgi District, in order to attend the file of the complainant Sri.Siddanna resident of Anajagi, Jevargi Taluk, Kalaburgi District touching change of khatha of the land bearing survey number 6/2 to an extent of five

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acres and seven guntas situated at Anajagi Village, DGO demanded and accepted illegal gratification of Rs. 1,500/- from the complainant earlier to 19/05/2012 and accepted a sum of Rs. 500/- towards part of the said demand on the day of demand for illegal gratification of Rs. 1,500/- and thereafter, on 19/05/2012 between 4:05 P.M and 4:20 P.M again demanded and accepted balance of illegal gratification of Rs. 1,000/- from the complainant near the shop in the premises of the office of the Special Tahasildar, Yadrami and during investigation conducted by the Police Inspector attached to Lokayukta Police Station, Kalaburgi in crime number 7/2012 of Lokayukta Police Station, Kalaburgi DGO failed to offer satisfactory explanation for possession of tainted cash of Rs. 1,000/- possessed by him on 19/05/2012 between 4:05 P.M and 4:20 P.M and thereby is guilty of misconduct within the purview of Rule 3 (1) (i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966?

21. Evidence of the complainant (PW 1) that after the death of his brother Honnappa he filed application in Taluk Office, Yadrami for mutation entry of the land measuring five acres seven guntas in survey number 6 is not under challenge and therefore that portion of his evidence needs acceptance which establishes that he filed application for change of khatha. It is in his evidence that afterwards DGO caused mutation entry and before that DGO demanded a sum of Rs.1500/- and in response he paid a sum of Rs.500/- to DGO. This portion of his evidence has not been assailed during his

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cross examination and therefore the said portion of his evidence needs acceptance which establishes the very first demand for Rs.1,500/- and acceptance of a sum of Rs.500/- towards part of the said illegal gratification earlier to the lodging of complaint by the complainant against the DGO.

22. In the course of evidence PW1 has stated that about four or five months after payment of Rs.500/- he contacted the DGO at which point of time DGO demanded a sum of Rs.1,000/- for causing mutation entry. This portion of his evidence has not been assailed during his cross examination and therefore the said portion of his testimony needs acceptance which establishes subsequent demand for Rs.1,000/-.

23. It is in the evidence of PW1 that subsequent to demand for Rs.1,000/- he contacted his advocate by name Girimallappa who in turn took him to Lokayukta Police Station, Kalaburagi and informed about the demand of DGO in response of which Lokayukta Police staff handed over a tape recorder for recording of his conversation with DGO and accordingly he approached the DGO at which point of time DGO reiterated the demand for Rs.1,000/-. This portion of his evidence has not been specifically assailed during cross examination. Though it is brought out during his cross examination from the side of DGO that nobody had given voice recorder before going to some office the said portion of his answer will not neutralise his evidence that DGO reiterated the demand.

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24. It is in the evidence of PW1 that subsequent to recording of his conversation with DGO he lodged complaint the attested copy of which is at Ex P1. It is in his evidence that he got written the complaint through the Advocate Girimallappa. Though it is brought out during his cross examination from the said of DGO that he was not aware of the contents of the complaint and that on the instructions of Girimallappa he signed the complaint it is worthy to express that nothing worthy is brought out from the side of DGO during cross examination of PW1 that he was totally kept under darkness by Girimallappa before obtaining signature on the complaint.

25. Evidence of PW3 that on 18/05/2012 the complainant orally complained against the DGO that DGO demanded illegal gratification in connection with change of khatha has remained unchallenged and therefore that portion of his evidence needs acceptance. His evidence that he handed over a voice recorder to the complainant on 18/05/2012 is not under challenge. His evidence that on 19/05/2012 at 11.00 A.M the complainant appeared before him in Lokayukta Police Station, Kalaburagi and returned the voice recorder in which demand for illegal gratification was found recorded is not under challenge. Evidence of PW3 that complaint was lodged with him on the basis of which he registered case against the DGO in crime number 07/2012 of Lokayukta Police Station, Kalaburagi is not under challenge. Suggestion made to him from the side

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of DGO during cross examination suggesting that he along with Girmallappa got prepared the complaint has not been denied by him. Submission of FIR to the Court of Principal District and Sessions Judge, Kalaburagi as spoken to by PW3 is not under challenge. His evidence that he secured the shadow witness and panch witness to Lokayukta Police Station, Kalaburagi and production of cash of Rs.1000/- before him by PW1 is not under challenge. Evidence of PW1 that he placed a currency note of denomination of Rs.500/- and five currency notes of denomination of Rs.100/- each before PW3 is not under challenge. Evidence of PW1 that some powder was applied on the currency notes and that panch witness placed the tainted notes in the pocket of his shirt and with the said process pre-trap mahazar the attested copy of which is at Ex P2 has been conducted is not under serious challenge.

26. Evidence of PW2 who is the shadow witness that on a day in the year 2012 he had been to Lokayukta Police Station, Kalaburagi where the complainant and panch witness were found and that he came to know that complaint against the DGO alleging demand for illegal gratification was filed is not under challenge. His evidence that the complainant placed cash of Rs.1,500/- in Lokayukta Police Station, Kalaburagi is not under challenge. His evidence touching application of some powder on the currency notes and finger wash of hands of the panch witness in a solution and consequential change of colour of the said wash is not under challenge.

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His evidence that pre-trap mahazar has been conducted in Lokayukta Police Station, Kalaburagi is not under challenge.

27. Evidence of PW3 that the complainant placed a currency note of denomination of Rs.500/- and five currency notes of denomination of Rs.100/- each before him in Lokayukta Police Station, Kalaburagi is not under challenge. His evidence that he got entered numbers of the currency notes on a sheet of paper the attested copy of which is at Ex P4 is not under challenge. His evidence that he got applied phenolphthalein powder on the above notes and that on his instructions the panch witness placed the tainted note in the left side pocket of shirt of the complainant is not under challenge. His evidence that he got prepared solution with water and sodium carbonate powder in a bowl and after obtaining sample of the said solution in a bottle on his instructions the panch witness immersed fingers of hands in the residual solution which consequently turned to pink colour is not under challenge. His evidence that he instructed the complainant to approach the DGO and to give tainted notes in case of demand by DGO is not under challenge. His evidence that he instructed the complainant to convey message by removing cap in case of acceptance of tainted notes by DGO is not under challenge. His evidence that he instructed the shadow witness to accompany the complainant and to observe as to what transpires between the complainant and DGO is not under challenge. His evidence that he handed over a

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voice recorder to the complainant with instructions to keep the same live at the time of approaching the DGO is also not under challenge. He has thus spoken to that with the above process he conducted pre-trap mahazar the attested copy of which is at Ex P2. Suggestion made to him during his cross examination suggesting that he conducted pre-trap mahazar to suit his convenience has been denied by him. Upon appreciation on the evidence of PWs 1 to 3 I express that there are no inherent infirmities in their evidence touching the proceedings of pre-trap mahazar and therefore I hold that proceedings of pre-trap mahazar have remained established.

28. As already expressed above while marshalling the evidence of PW1 his evidence establishes part payment of Rs.500/- towards illegal gratification and demand for balance of Rs.10,000/-.

29. Evidence of PW2 that subsequent to pre-trap mahazar he along with Girimallappa, shadow witness, panch witness and Lokayukta Police staff left Lokayukta Police Station, Kalaburagi and on the way Girimallappa contacted the DGO over cell phone for which DGO responded that DGO is available at Yadrami is not under challenge. Evidence of PW3 that subsequent to pre-trap mahazar he along with his staff, Girimallappa, complainant, shadow witness and panch witness left Lokayukta Police Station, Kalaburagi and on the way Girimallappa contacted the DGO over cell phone for which DGO responded that DGO is in the office of the Special Tahasildar Yadrami and accordingly he along

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with his staff, Girimallappa, complainant, shadow witness and panch witness reached near the bus stand of Yadrami at 4.05 P.M is not under challenge. His evidence that on his instructions the complainant and Girimallappa marched towards the office of the Special Tahasildar, Yadrami and that he along with his staff by name Linganna and the shadow witness followed the complainant and Girimallappa is not under challenge.

30. Evidence of PW1 that after reaching the bus stand at Yadrami he along with Girimallappa and shadow witness proceeded to the premises of the office of the Tahasildar at Yadrami where DGO was found seated in a shop by the side of the office of the Tahasildar, Yadrami and that he enquired the DGO about the work is not under specific challenge and therefore the said portion of his evidence needs acceptance. Evidence of PW1 that after he enquired the DGO, DGO responded that work will be attended in case of payment of a sum of Rs.1,000/- has not been specifically challenged during his cross examination and therefore that portion of his evidence needs acceptance which establishes demand for balance of a sum of Rs.1,000/- by DGO. During cross examination though he has stated that he is not aware as to what transpired after he along with Girimallappa reached the shop the said portion of answer will not lend assurance to defence in the presence of evidence of PW1 during his examination-in-chief that DGO demanded a sum of Rs.1,000/-. Evidence of PW1 that in response to demand for Rs.1,000/- he paid cash of Rs.1000/- has

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not been assailed in its true letter and spirit during his cross examination and therefore that portion of his evidence is worthy of acceptance. His evidence that DGO accepted the said cash and placed in the hip pocket of pant is also not under challenge and therefore the said portion of his evidence needs acceptance which establishes that after acceptance of tainted cash of Rs.1000/- DGO placed the same in the hip pocket of the pant.

31. It is in the evidence of PW2 who is the shadow witness that subsequent to pre-trap mahazar he along with the complainant, panch witness and Lokayukta Police staff went near the Revenue Office at Kembavi is not under challenge. His evidence that while he was out of the Revenue Office the complainant gave cash of Rs.1,500/- which has been accepted by the DGO is not under challenge. Though he has spoken to that cash for Rs.1500/- has been given which portion of his evidence is not in conformity with the evidence of PW1 it needs to be express at this juncture the said infirmity is quite marginal. It needs to be expressed that evidence of any witness need not be appreciated with mathematical precision.

32. It is in the evidence of PW3 that he noticed the complainant and Girmallappa speaking to a person and the said person stretched right hand. That portion of evidence of PW3 is not under challenge and therefore the same needs acceptance. Evidence of PW3 that after the DGO stretched hands the complainant handed over

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tainted cash to DGO and that DGO accepted the same and after counting the same with the both hands and placed the same in the hip pocket of the pant has not been assailed in its true letter and spirit and therefore that portion of his evidence needs acceptance. Suggestion made to him during cross examination suggesting that Girimallappa placed the notes in the right side hip pocket of the DGO has not been assailed during his cross examination. In order to ascertain the correctness or otherwise of the said defence, evidence of DGO who got himself examined as DW2 needs to be appreciated. In the course of evidence DGO has stated that after his apprehension by Lokayukta Police staff some powder was applied by Lokayukta Police staff and placed the same in the right side hip pocket of his pant. This portion of his evidence is not in conformity with the suggestion made to PW3 during cross examination of PW3 suggesting that Girimallappa placed the cash in the right side hip pocket of the pant. In the presence of divergent defence it cannot be accepted that tainted cash is placed in the right side hip pocket of pant of DGO. Upon meticulous appreciation of these aspects I am inclined to accept the evidence of PW1 who has spoken to during his examination-in-chief that in response to demand of Rs.1,000/- he gave cash of Rs.1,000/- to DGO who in turn accepted the same and placed the same in the hip pocket of pant.

33. Evidence of PW1 that after apprehension of DGO by Lokayukta Police staff DGO picked up the tainted cash

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from the pocket and placed before Lokayukta Police staff who seized the same is not under specific challenge from the side of DGO and therefore that portion his evidence needs acceptance which establishes recovery of tainted cash from the possession of DGO. Evidence of PW2 that cash has been seized by Lokayukta Police staff from DGO is not under challenge.

34. In the course of evidence PW3 has stated that he took the DGO to a room in the office building of the office of the Special Tahasildar, Yadrami where he got prepared solution with water the sodium carbonate powder. That portion of his evidence has not been assailed during his cross examination. It is in his evidence that on his instructions DGO immersed fingers of right hand in the solution kept in a bottle and immersed fingers of left hand in the solution kept in another bottle. It is in his evidence that finger wash of both hands of DGO turned to light pink colour and that he seized the said wash. In the course of evidence PWs 1 and 2 have categorically spoken to finger wash of hands of DGO and consequential change of colour of finger wash of both hands of DGO. Evidence of PW3 shows that subsequent to finger wash of hands of DGO he seized the tainted cash produced before him by DGO after lifting the tainted cash from the right side pocket of pant. Evidence of PW2 would show that after providing lungi to DGO he got removed the pant of DGO and subjected the right side hip pocket of the pant to wash in the solution prepared with water and sodium

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carbonate powder and consequential change of colour of the said wash. His evidence touching the said wash has not been assailed during his cross examination. Thus, upon appreciation of the evidence of PWs 1 to 3 it stands established that consequent upon touching the tainted cash by DGO his finger wash of hands and wash of right side hip pocket of pant turned to light pink colour which lends assurance touching acceptance and possession of tainted cash.


35. PW1 has not supported to some extent and therefore, after treating him hostile the Presenting Officer subjected PW1 for cross examination. After treating hostile he admits that he pointed out the DGO to Lokayukta Police staff and stated that DGO received a sum of Rs.1,000/. He admits the process of wash of pocket of pant of DGO and consequential change of colour of the said wash. Upon perusal of his cross examination from the side of DGO nothing worthy is found brought out to arrive at conclusion that there was no demand and acceptance.

36. PW2 has not supported to some extent and therefore, after treating him hostile he has been subjected to cross examination by the Presenting Officer. He admits that the complainant placed cash of Rs.1,000/- before the Investigating Officer. He admits the suggestion that DGO demanded illegal gratification of Rs.1,000/- near the hotel and that DGO accepted the same and placed the same in the hip pocket of pant. He admits the process of wash of pocket of pant of DGO

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and consequential change of colour of the said wash. He also admits that trap mahazar has been conducted in the room of DGO where computer was found placed. When subjected to cross examination from the side of DGO though he has stated that he could not see as to what transpired in the office of DGO his evidence as discussed earlier establishes acceptance of tainted cash by DGO. Upon perusal of his entire cross examination from the side of DGO I find nothing worthy to express that answers elicited during his cross examination would lend assurance to the defence.

37. It is in the evidence of PW3 that he got transmitted the contents of voice recorder to compact disc and that one Ravikiran the colleague of DGO identified the voice of DGO which portion of his evidence has not been assailed during his cross examination. Evidence of PW3 that DGO produced the file of the complainant before him and that after obtaining seven sheets of the file he got four sheets attested and seized those seven sheets which are Ex P7 has not been assailed during his cross examination and therefore that portion of his evidence needs acceptance which establishes seizure of Ex P7. His evidence thus establishes that on the day of trap the file was in the custody of DGO. PW3 has spoken to trap mahazar drawn by him in the place of trap. He has spoken to arrest of DGO, production of DGO through his staff before the Principal District and Sessions Judge, Kalaburagi and filing of charge sheet against the DGO in

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the Court of the Principal District and Sessions Judge, Kalaburagi.

38. DW1 Mallikarjun Patil who is working as Revenue Inspector, Ijeri, Jevargi Taluk, Kalaburagi District has spoken to that DGO received the file of the complainant on 03/03/2012 and thereafter DGO placed before on 03/04/2012, It is his evidence that thirty days time is scheduled for filing objections if any and that in case of objections the file will be placed before the concerned Tahasildar. It is not in his evidence as to the date on which publication was made and therefore it cannot be held that DGO had followed the prescribed procedure.

39. Though it is in the evidence of PW1 that twenty days earlier to 19/05/2012 the computer was not in order and therefore the file of the complainant was without any progress. Though it is in the evidence of PW1 that on the day of trap i.e., on 19/05/2012 the file of the complainant was not with DGO evidence of PW3 establishes that DGO produced the file on the day of trap and therefore evidence of DW1 that the file was not with DGO on 19/05/2012 cannot be believed.

40. During evidence of DGO who got himself examined as DW2 xerox copy of the certified copy of FIR in crime number 1/2010 of Yadrami Police Station is produced which is marked at Ex D2. Xerox copy of Police complaint at Ex D1 tendered in evidence in the course of evidence of DGO is the basis on registration of case in crime number 1/2010 of Yadrami Police Station. Ex D3

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tendered in evidence during evidence of DGO is the xerox copy of certified copy of charge sheet which is the outcome of investigation of the FIR in crime number 1/2010 of Yadrami Police Station. DGO has stated during evidence that Advocate by name Girimallappa and persons by name Manappa, Paramananda and Murthappa assaulted him in his office and forcibly took away the cheques of the value of Rs.9,68,000/-. It is his evidence that afterwards, he informed the Tahasildar, Yadrami and lodged complaint the attested copy of which is at Ex D1 in Yadrami Police Station. It is the evidence of DGO that afterwards, he was authorised by the Deputy Commissioner, Kalaburagi to issue fresh cheques. It is his evidence that in order to bring pressure on him for withdrawal of the complaint in crime 1/2010 registered in Yadrami Police Station Girimallappa managed to see that complaint in the present case is lodged through the complainant(PW1). Though Exs D1 to D3 show that on the basis of the complaint of DGO FIR is registered in crime number 1/2010 and charge sheet has been filed it cannot be expressed that Girimallappa is instrumental for setting law into motion against the DGO through PW1. It needs to be remembered that evidence of PW1 touching acceptance of cash Rs.500/- towards part of illegal gratification has remained unchallenged. During evidence DGO has not whispered anything touching acceptance of cash Rs.500/- earlier to the day of trap. If really Girimallappa intended to see that DGO is falsely implicated, then, he would have attended to set law into

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motion even earlier to the date of payment of Rs.500/-. Keeping this in mind evidence of DGO touching the attempt for false implication at the instance of Girmallappa cannot be believed.

41. It is the evidence of DGO that his statement the attested copy of which is at Ex P5 is the outcome of compulsion by Lokayukta Police staff. Suggestion made to PW3 that PW3 dictated the original of Ex P5 has been denied by him. Nothing is suggested to PW3 during cross examination suggesting that he compelled the DGO to write the original of Ex P5. Therefore, the say of DGO that Ex P5 is the outcome of compulsion cannot be accepted.

42. Ex P2 which is the attested copy of pre-trap mahazar contains the contents of the voice recorder in sheet number 2 of Ex P2. Voice found entered in sheet number 2 of Ex P2 refers to the conversation between the complainant and DGO earlier to trap. These contents are not seriously assailed during cross examination of PW3. These contents of the voice recorder would show acceptance of illegal gratification of Rs.500/- earlier to trap and also subsequent demand for Rs.1,000/-.

43. Ex P5 which is the attested copy of statement in writing of DGO given before PW3 subsequent to seizure of tainted cash by PW3. It is seen in Ex P5 that the complainant had approached him and at that time demand has been made and in response the

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complainant once paid a sum of Rs.500/- and subsequently paid a sum of Rs.1,000/- voluntarily. Since it cannot be believed that the said statement is the outcome of compulsion the contents of Ex P5 necessarily will have to be accepted and in the result it needs to be expressed that according to DGO he accepted the above cash paid to him by PW1 voluntarily. Thus, acceptance of a total Rs.1,500/- stands established. A public servant is not expected to accept cash even if the same is voluntarily offered by anybody. A Government Servant shall obtain prior permission from the competent authority given before acceptance of gift. Acceptance of a sum of Rs. 500/- earlier to 19/05/2012 and acceptance of a sum of Rs.1,000/- on the day of trap i.e., on 19/05/2012 amounts to misconduct within the purview of Rule 3 (1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966.

44. In the presence of overwhelming evidence as discussed above I am not persuaded to accept the contentions raised by DGO in the course of his written statement filed on 17/11/2014.

45. For the reasons mentioned supra I proceed with the following:


R E P O R T

Charge against the DGO by name Sri. Rukkappa that during his tenure as Village Accountant, Yalagoda, Jevargi Taluk, Kalaburgi District, in order to attend the file of the complainant Sri.Siddanna resident of Anajagi,

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Jevargi Taluk, Kalaburgi District touching change of khatha of the land bearing survey number 6/2 to an extent of five acres and seven guntas situated at Anajagi Village, he demanded and accepted illegal gratification of Rs. 1,500/- from the complainant earlier to 19/05/2012 and accepted a sum of Rs. 500/- towards part of the said demand on the day of demand for illegal gratification of Rs. 1,500/- and thereafter, on 19/05/2012 between 4:05 P.M and 4:20 P.M again demanded and accepted balance of illegal gratification of Rs. 1,000/- from the complainant near the shop in the premises of the office of the Special Tahasildar, Yadrami and during investigation by Police Inspector attached to Lokayukta Police Station, Kalaburgi in crime number 7/2012 of Lokayukta Police Station, Kalaburgi he failed to offer satisfactory explanation for possession of tainted cash of Rs. 1,000/- possessed by him on 19/05/2012 between 4:05 P.M and 4:20 P.M and thereby is guilty of misconduct within the purview of Rule 3 (1) (i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 is proved.

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


(V.G. BOPAI AH)
Additional Registrar, Enquiries-11,
Karnataka Lokayukta, Bengaluru.

ANNEXURE

List of witnesses examined on behalf of the Disciplinary Authority:-

PW1:- Sri. Siddanna
PW2:- Sri. Subhash
PW3:- Sri. Thammaraya Patil

List of witnesses examined on behalf DGO:-

DW1:- Sri. Mallikarjun Patil
DW2:- Sri. Rukkappa (DGO)

List of documents marked on behalf of Disciplinary Authority:-

1. Ex P1 Attested copy of complaint of PW 1 in two sheets.
Ex P1(a) Signature of PW1 found on page number 3 of Ex P1.
2. Ex P2 Attested copy of pre-trap mahazar dated 19/05/2012 in three sheets.
Ex P2(a) Signature of PW1 found on page number 4 of Ex P2 .
3. Ex P3 Attested copy of trap mahazar dated 19/05/2012 in five sheets .
4. Ex P4 Xerox copy of a single sheet containing the numbers of currency notes.
5. Ex P5 Attested copy of statement in writing dated 19/05/2012 in a single sheet of DGO given before PW3 on the day of trap.
6. Ex P6 Attested copy of FIR dated 19/05/2012 in three sheets in crime number 07/2012 of Lokayukta Police Station, Kalaburagi.

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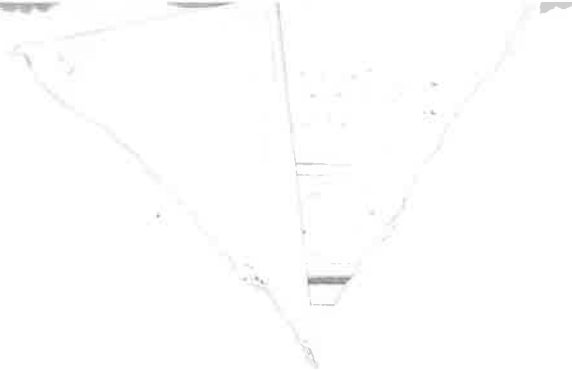
7. Ex P7 Seven attested sheets of the file of the complainant.

List of documents marked on behalf of DGO :-

1. Ex D1 Xerox copy of complaint dated 06/01/2010 in two sheets of DGO lodged by him before the Sub-Inspector of Police, Yadrami Police Station.
2. Ex D2 Xerox copy of the certified copy of FIR dated 06/01/2010 in two sheets in crime number 01/2010 of Yadrami Police Station.
3. Ex D3 Xerox copy of certified copy of the charge sheet consisting of seventeen sheets in crime number 01/2010 of Yadrami Police Station.



(V.G. BOPAIAH)
Additional Registrar, Enquiries-11,
Karnataka Lokayukta, Bengaluru.



GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No. LOK/INQ/14-A/290/2013/ARE-11

Multi Storied Building,
Dr.B.R.Ambedkar Veedhi,
Bengaluru-560 001,
Date: 23/08/2019

RECOMMENDATION

Sub:- Departmental inquiry against Sri Rukkappa S/o Chandappa Hangaragi, Village Accountant, Yalagoda, Jewargi Taluk, Kalaburagi District -Reg.

Ref:- 1) Government Order No.ಕಂಇ 31 ಬಿಡಿಪಿ 2013, Bengaluru dated 25/06/2013.

2) Nomination order No.LOK/INQ/14-A/290/2013, Bengaluru dated 09/07/2013 of Upalokayukta-1, State of Karnataka, Bengaluru

3) Inquiry Report dated 21/08/2019 of Additional Registrar of Enquiries-11, Karnataka Lokayukta, Bengaluru

The Government by its Order dated 25/06/2013, initiated the disciplinary proceedings against Sri Rukkappa S/o Chandappa Hangaragi, Village Accountant, Yalagoda, Jewargi Taluk, Kalaburagi 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/290/2013, Bengaluru dated 09/07/2013, nominated Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGO for the alleged charge of misconduct, said to have been committed by him. Subsequently by Order No. LOK/INQ/14-A/2014 dated 14/3/2014 the Additional Registrar of

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

3. The DGO Sri Rukkappa S/o Chandappa Hangaragi, Village Accountant, Yalagoda, Jewargi Taluk, Kalaburagi District was tried for the following charge:-

“That, you-DGO Sri Rukkappa was a Village Accountant, Yalagoda, Jewargi Taluk, Gulbarga District during the year 2012. Complainant Sri Siddanna S/o Mallappa Bavur, R/o Anajagi, Jewargi Taluk, Gulbarga District alleged that his father during the lifetime settled 5.07 acres of land in Sy.No.6/2 of Anajagi village in favour of his younger brother Honnappa and land measuring 5.08 acres in Sy.No.6/1 of Anajagi village in favour of his mother. His brother Honnappa died during the year 2005-06 without leaving either his wife or children. Therefore, he (complainant) had submitted an application to the Special Tahasildar Yadrami on 01.02.2012 for change of khatha of land being Sy.No.6/2 to the extent of 5.07 acres into his name which was standing in the name of his younger brother. The said application was forwarded to you DGO. On complainant's approach you DGO demanded a bribe of Rs.1000/- and taken Rs.500/- from the complainant. Thereafter, again on complainant approach you DGO on 18.05.2012 have again demanded the balance of Rs.1000/- telling that you will sign and send the file only against payment of

Rs.1000/-. Thereafter, you DGO demanded and accepted a bribe of Rs.1000/- on 19.05.2012 in front of Grocery Shop at Yadrami situated near Tahasil's Office. Thereby, you have failed to maintain absolute integrity and devotion to duty, the said act of you was un-becoming of a Government Servant and thereby committed misconduct as enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966".

4. The Inquiry Officer (Additional Registrar of Enquiries-11) on proper appreciation of oral and documentary evidence has held that, charge against the DGO by name Sri. Rukkappa that during his tenure as Village Accountant, Yalagoda, Jevargi Taluk, Kalaburgi District, in order to attend the file of the complainant Sri.Siddanna resident of Anajagi, Jevargi Taluk, Kalaburgi District touching change of khatha of the land bearing survey number 6/2 to an extent of five acres and seven guntas situated at Anajagi Village, he demanded and accepted illegal gratification of Rs.1,500/- from the complainant earlier to 19/05/2012 and accepted a sum of Rs.500/- towards part of the said demand on the day of demand for illegal gratification of Rs.1,500/- and thereafter, on 19/05/2012 between 4:05 P.M and 4.20 P.M again demanded and accepted balance of illegal gratification of Rs.1,000/- from the complainant near the shop in the premises of the office of the Special Tahasildar, Yadrami and during investigation by Police Inspector attached to Lokayukta Police Station, Kalaburgi in crime number 7/2012 of Lokayukta Police Station, Kalaburgi he failed to offer satisfactory explanation for possession of tainted cash of Rs.1,000/- possessed by him on

19/05/2012 between 4:05 P.M and 4:20 P.M and thereby is guilty of misconduct within the purview of Rule 3(1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 is proved.

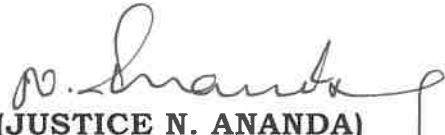
5. On re-consideration of inquiry report, I do not find any reason to interfere with the findings recorded by the Inquiry Officer. It is hereby recommended to the Government to accept the report of Inquiry Officer.

6. As per the First Oral Statement submitted by DGO Sri Rukkappa, he has retired from service on 31/05/2015 (during the pendency of inquiry).

7. Having regard to the nature of charge (demand and acceptance of bribe) proved against DGO Sri Rukkappa, it is hereby recommended to the Government for imposing penalty of permanently withholding 50% of pension payable to DGO Sri Rukkappa S/o Chandappa Hangaragi, Village Accountant, Yalagoda, Jewargi Taluk, Kalaburagi District.

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

Connected records are enclosed herewith.


(JUSTICE N. ANANDA)
Upalokayukta-1, 23/8
State of Karnataka,
Bengaluru