

**KARNATAKA LOKAYUKTA**

NO: UPLOK-1/DE/300/2016/ARE-9

M.S.Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru - 560 001.  
Date: 15-06-2018**:: ENQUIRY REPORT ::****:: Present ::**( Lokappa N.R )  
Additional Registrar of Enquiries-9  
Karnataka Lokayukta,  
Bangalore**Sub:** Departmental Inquiry against Sri  
Shivananda, PDO, Jojana Grama  
Panchayath, Aurad Taluk Bidar District - reg.**Ref:** 1) Government Order No. ಗ್ರಾಅಪ/  
380/ಗ್ರಾಪಂಕಾ/2016 ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 06/08/2016.  
2) Nomination Order No: UPLOK-1/DE-  
300/2016 dated 17-08-2016 of Hon'ble  
Upalokayukta, State of Karnataka.

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This Departmental Enquiry is initiated against Sri Shivananda, PDO, Jojana Grama Panchayath, Aurad Taluk Bidar District (hereinafter referred to as the "Delinquent Government Official" in short "DGO").

In view of the Government Order cited above at reference No.1, Hon'ble Upalokayukta-1 vide order dated 17/08/2016 cited at reference No.2 has Nominated Addl. Registrar of Enquiries-9 to frame the charges and to conduct the enquiry against the aforesaid DGO. Addl. Registrar of Enquiries-9 has

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prepared Articles of charges, statement of imputations of misconduct, list of witnesses proposed to be examined in support of the charges and list of documents proposed to be relied on in support of the charges. The copies of the same were issued to the DGO calling upon him to appear before the Enquiry Officer and to submit his written statement of defence.

The Article of charges framed by the ARE-9 against the DGO is as under :

**ANNEXURE-I**  
**CHARGE**

*You DGO - Shivananda, while working as PDO, Jojana Grama Panchayath, Aurad Taluk, Bidar District that in Gudapalli village J.C.B. machine has been used for executing several works under MGNREGA Scheme and amount has been misappropriated in executing the said works and thereby you DGO has failed to maintain absolute integrity, 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.*

**ANNEXURE-II**

**STATEMENT OF IMPUTATION OF MISCONDUCT:**

1. *On the basis of complaint filed by Sri.Jaivanth, s/o.Balappa, Post Guddapalli, Aurad Taluk, Bidar District (hereinafter referred to as 'complainant' for short) against Sri.Sivananda Panchayath Development Officer, Jojana Grama Panchayath, Aurad Taluk, Bidar*

District (hereinafter referred to as "DGO") alleging that he has committed misconduct, an investigation was taken up invoking Section 9 of Karnataka Lokayukta Act, 1984.

**2. According to the Complainant: -**

In Gudapalli village J.C.B. machine has been used for executing works under MGNREGA Scheme and amount has been misappropriated in executing the said works.

3. DGO has submitted comments denying the allegations made by the Complainant.

4. A perusal of records prima facie discloses the following:

i) In respect of formation of road from main road to land of Basappa Ambranna at Gudapalli, in the work certificate it is mentioned that an amount of Rs.52,500/- has been paid towards coolie labourers and Rs.28,057/- towards materials.

In the letter to the post master, cheque for an amount of Rs.52,500/- towards payment to the 13 labourers with their account number and job card number with NMR-15060010372025 has been sent. For the same work, an amount of Rs.52,500/- is again paid by cash to labourers.

ii) In the work order dtd: 2.2.2011 for formation of road from Gudapalli village to the land of Sri.Shivaraj Varik at Gudapalli village, an amount of Rs.2.50 lakhs has been granted and one of the condition is that the amount is to be paid to Bank Account of labourers. An amount of Rs.1,19,000/- is paid to labourers and an amount of Rs.99,740/- has been paid towards materials, totally 2,18,740/- has been paid as seen from the work certificate dt: 26.2.2011. As seen from the Muster Roll (Flag-I) payment of Rs.1,19,000/- is made by cash to the labourers though the

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condition is that the payment must be made to the labourers to their bank account only.

iii) In the work of formation of road from main road to Hanumareddy temple at Gudapalli, as seen from the work certificate dt:12.3.2011 an amount of Rs.86,800/-, (40,600 + 34,800+ 11,600) towards labour charges and Rs.59,000/- towards materials has been paid. But, from the records produced payment of Rs.40,600/-, 34,800/- and 11,600/- has been paid by cash to the labourers which is against the condition imposed in the work order dt:20.11.2011.

iv) In respect of field bund work in the land of Manohar at Gudapalli work certificate dt:30.9.2011 disclose that an amount of Rs.37,125/- has been paid towards labour charges , but payment is made by cash as seen from Muster Roll which is against the condition imposed in the work order dt:20.11.2011.

5. In view of the materials and documents on record, the comments submitted by the DGO is not acceptable to drop the proceedings against him.

6. Since the said facts and materials on record prima facie show that DGO Sri.Shivananda, Panchayath Development Officer, Jojana Grama Panchayath, Aurad Taluk, Bidar District has committed misconduct under Rule 3(1) of KCS (Conduct) Rules 1966, recommendation is made under section 12(3) of Karnataka Lokayukta Act, 1984 to the Competent Authority to initiate disciplinary proceedings against him and to entrust the inquiry to this Authority under Rule 14-A of Karnataka Civil Service (Classifications, control and Appeal) Rules, 1957. Hence, the charge.

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The DGO has appeared on 29/11/2016 before this enquiry authority in pursuance to the service of the Article of charges.

Plea of the DGO has been recorded and he has pleaded not guilty and claimed for holding enquiry.

DGO filed the written statement and submitted that, he has executed the several works under MGNREGA scheme in Jojana gram panchayat, Aurad taluk, Bidar district as a PDO as per the norms described under the said scheme and he has not committed any misconduct or dereliction of duty. Further he submitted that he has not misappropriated any amount at the time of executing the said works. All the payments in respect of the work paid through the cheque not in cash. Further he submitted that he has not used the JCB in the place of labour work. Hence, prayed to drop the charge leveled against him.

The disciplinary authority has examined the complainant Sri Jaivant S/o Balappa, Aurad taluk, Bidar district as Pw.1 and Sri Shankar Kalligudda, Retired DSP, Bidar as Pw.2 and Ex.P1 to 7 are got marked. The DGO himself examined as Dw.1 and Ex.D1 is got marked.

The DGO has filed written brief. Heard the submissions of the disciplinary authority and DGO's side. I answer the above charges in **NEGATIVE** for the following ;

### **REASONS**

- 3) It is the prime duty of the disciplinary authority to prove the charges that are leveled against the DGO/s.

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4) The disciplinary authority has examined PW.1- the complainant Sri Jaivant S/o Balappa, Aurad taluk, Bidar district, in his chief examination deposed that, the DGO as a PDO of the Jojan gram pachayat used the JCB to execute the work under MGNREGA scheme instead labours and also has not paid the amount to the labours properly. For that he had made complaint before the Chief Executive Officer, Zilla Panchayat and Executive Officer, Taluk Panchayat, Aurad, but they have not taken any action. For that reason, he has filed the complaint before the Lokayukta Office. Further he deposed in his cross examination that, there is a provision in the estimate of the concerned work to use the JCB to loose the hard area including rock. Further, admitted the fact that after loosing the hard rocky area by the JCB, work completed through the labours. Further he admitted that the payment to the labours paid as per their work. Also he deposed that no payment made by the DGO by way of cash. Further he deposed that he has filed the complaint against the DGO with misunderstanding. The DGO has paid all the amounts through the bank account of the concerned labours. Pw.2 is the I.O, he submitted Ex.P5 report he deposed in his evidence that the allegations regarding the fact that the DGO has used the JCB to execute the work is not proved. Further deposed that as per the record the DGO has made payment to the labours by way of cash instead of cheque. In his cross examination he admitted that the amount deposited in the bank account by way of cheque but, he further deposed that he has not deposited the wages amount in the Bank/Post office account of the individual labour.



5) The DGO himself examined as Dw.1 he deposed in his evidence that he made a payment to the labourers through the bank account and further he deposed that at the time of the payment to the labourers, deposited the amount to the account of the family head of the labourers as per the direction given by the higher officer and also he deposed in his evidence that even though the amount deposited to the account of the family head of the labourers he has taken the signature on the muster roll in respect of the concerned work and mentioned how many days the said labour has worked and also mentioned the total amount to be paid. But, in the said form one of the column is written as ಒಟ್ಟು ನಗದು ಪಾವತಿ (total cash amount) but, really he has not paid the labour wages by way of cash. Further he deposed that, the Pw.2-I.O by mistakenly considered the said column of the muster roll and stated in his report that the payment made by the DGO by way of cash instead of cheque.

6) Perused the oral evidence of the Pw.2 and Dw.1 and Ex.P1 to 6 and Ex.D1. The Pw.1 complainant himself not supported his own complaint and also charge leveled against the DGO in his cross examination. Pw.2 also deposed in his evidence that there is no misappropriation of the amount made by the DGO during his tenure. He only made a complaint that the DGO made payment to the labourers by way of cash instead of payment made through the cheque. The Pw.2 has also deposed that the allegation made in the complaint that the DGO used the JCB to execute the alleged work is not proved. The Dw.1 DGO deposed, he made all the payments through



cheque only. Ex.P6 is a document submitted by the Pw.2 I.O along with his report Ex.P5, the said Ex.P6 consists 163 sheets in the said documents. The muster roll and payment sheets, measurement books are there. In all the muster rolls he endorsed that the said amount mentioned in the muster roll paid through the cheque and also in respect of the same the DGO sent the letter to the Post Master, Post Office, Shantapur to deposit the amount in the concerned account of the concerned labour with specific amount. Also mentioned the DD/ cheque number and total amount in the said letter dated 11/7/2011 and also produced the copy of the DD. In Ex.P6 page No.54, 55 another two letters written to the Post Master, Shantapur for depositing the amount to the concerned labour account. In the said letter mentioned the specific amount and number of days work and number of the job card and account number mentioned and said amount sent to the post office through the cheque. In Ex.P6 page No.61 to 63, 101 to 103 bills in respect of payment of hire purchase of road roller the said payment also made through the cheque. In Ex.P6 page No.89 to 100 muster roll No.934 in the said document also DGO endorsed that the said amount paid through the cheque to the labours. In page No.113 of Ex.P6 the DGO submitted his letter to the concerned post office regarding the deposit of payment to the labours with specific amount number of days, job card number, number of labours. Further in the said document page No.114 to 117, 135 to 137, 162 and 163 are the muster rolls in the said documents also he endorsed the fact that the said amount paid through the cheque. Further in the said document page No.147, 151, the





letters written by the DGO to the Post master, Post Office, Shantapura along with particulars of the payment the concerned labour account with job card number etc. The above said all the documents are all clearly shows that the DGO has not paid any amount to the labours by way of cash. He only paid the said amount through the cheque by depositing the amount in the bank/post office account of the concerned labour. The DGO has also produced Ex.D1 is the certificate issued by the Executive Officer, Taluk Panchayat, Aurad on 7/2/2018. In the said document clearly stated that there is no provision to pay the wages amount to the labour under the MGNREGA scheme by way of cash. But, the format of NMR consists a column ie., "ಒಟ್ಟು ನಗದು ಪಾವತಿ". Said column used only for taken signature of the concerned labour with mentioning the labour wage amount under the said column for the purpose to show the said amount paid to the said labour not for payment of the said amount by way of cash. Further, as per the estimation the amount released to the concerned work. In this situation how can the DGO or concerned PDO paid the double payment to the concerned labourers in respect of the said work. In this case also the DGO in all the NMR endorsed regarding payment of the said amount through the cheque. Hence, question of considering the same was double payment does not arise. The evidence of the Pw.2 Investigating Officer regarding the fact that the DGO has paid the wages amount under the MGNREGA scheme by way of cash is not considerable one. Also the evidence of the Pw.2 regarding the fact that the DGO shall pay the wage amount by way of cheque by depositing the wage amount to



the individual labour bank account is also not taken into consideration to prove the charge. Because, the DGO clearly stated in his evidence that, as well as in Ex.D1 the Executive Officer, Taluk Panchayat, Aurad stated that the wage amount under the above said scheme paid or deposited through the cheque in the bank/ post office account of the head of the family of the labours who holding the job card. Further there is no material evidence by the side of the disciplinary authority to show that the DGO has paid the amount to the labours under the MGNREGA scheme by way of cash and the DGO has misappropriated any amount under the said scheme. Thereby disciplinary authority failed to prove the charge leveled against the DGO.

7) In the event of the above circumstances, the charge leveled against the DGO is not proved. Hence, this report is submitted to Hon'ble Upalokayukta for further action.

  
(Lokappa N.R)

Additional Registrar Enquiries-9  
Karnataka Lokayukta,  
Bangalore

**i) List of witnesses examined on behalf of Disciplinary Authority.**

Pw.1	Sri Jaivant S/o Balappa, Aurad taluk, Bidar district dated 22/8/2017 (Original)
Pw.P2	Sri Shankar Kalligudda, Retired DSP, Bidar dated 25/10/2017 (Original)



**ii) List of Documents marked on behalf of Disciplinary Authority.**

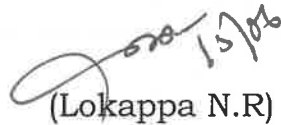
Ex.P1 Ex.P1(a)	Complaint dated 14/9/2011 (original) Signature
Ex.P2&3 Ex.P2(a)3(a)	Complaint Form No.I & II dated 14/9/2011 (Original) Signatures
Ex.P4	Copy of complaint submitted to the higher officer of the DGO (Xerox)
Ex.P5 Ex.P5(a)	Report of Deputy Superintendent of Police, Karnataka Lokayukta, Bidar dated 16/12/2014 (Original)
Ex.P6	Documents submitted along with the report of DSP
Ex.P7 Ex.P7(a)	Comments of the DGO dated 26/5/2012 (Xerox) Signature

**iii) List of witnesses examined on behalf of DGO.**

Dw.1	Sri Shivananda, PDO, Jojana Grama Panchayath, Aurad Taluk Bidar District
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**iv) List of documents marked on behalf of DGO**

Ex.D1	Letter dated 7/2/2018 issued by the Executive Officer, Taluk Panchayat, Aurad(B) along with the DGO's letter dated 9/2/2018 (Original)
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(Lokappa N.R)  
Additional Registrar Enquiries-9  
Karnataka Lokayukta,  
Bangalore



**GOVERNMENT OF KARNATAKA**



**KARNATAKA LOKAYUKTA**

NO: UPLOK-1/DE/300/2016/ARE-9

Multi Storied Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru-560 001,  
Date: 19/06/2018

**RECOMMENDATION**

Sub:- Departmental inquiry against Sri Shivananda,  
Panchayath Development Officer, Jojana Grama  
Panchayath, Aurad Taluk, Bidar District – Reg

Ref:- 1) Government Order No. ಗೌಪ/380/ಗೌಪಂಕಾ/2016,  
Bengaluru dated 6/8/2016

2) Nomination order No.UPLOK-1/DE/300/2016 dated  
17/8/2016 of Upalokayukta-1, State of Karnataka,  
Bengaluru

3) Inquiry Report dated 15/6/2018 of Additional  
Registrar of Enquiries-9, Karnataka Lokayukta,  
Bengaluru

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The Government by its Order dated 6/8/2016, initiated the disciplinary proceedings against Sri Shivananda, Panchayath Development Officer, Jojana Grama Panchayath, Aurad Taluk, Bidar 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.UPLOK-1/DE/300/2016, Bengaluru dated 17/8/2016 nominated Additional Registrar of Enquiries-9, 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 Shivananda, Panchayath Development Officer, Jojana Grama Panchayath, Aurad Taluk, Bidar District was tried for the following charge:-

“You DGO – Shivananda, while working as PDO, Jojana Grama Panchayath, Aurad Taluk, Bidar District that in Gudapalli Village, J.C.B. Machine has been used for executing several works under MGNREGA scheme and amount has been misappropriated in executing the said works and thereby you DGO has failed to maintain absolute integrity, 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-9) on proper appreciation of oral and documentary evidence has held that the Disciplinary Authority has failed to prove the above charge against DGO Sri Shivananda, Panchayath Development Officer, Jojana Grama Panchayath, Aurad Taluk, Bidar District.

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

6. It is hereby recommended to the Government to accept the report of Inquiry Officer to exonerate the DGO Sri Shivananda, Panchayath Development Officer, Jojana Grama Panchayath, Aurad Taluk, Bidar District of the aforestated charge.

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

Connected records are enclosed herewith.

  
**(JUSTICE N. ANANDA)**  
Upalokayukta-1,  
State of Karnataka,  
Bengaluru

