

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No.LOK/INQ/14-A/322/2011/ARE-4

Multi Storied Buildings,
Dr.B.R.Ambedkar Veedhi,
Bengaluru-560 001,
Date: **30/11/2019**

RECOMMENDATION

Sub:- Departmental inquiry against;
Sri M.Puttaswamy, Senior Sub-Registrar, Office of the
Sub-Registrar, Koratagere, Tumakuru District (then
working as Senior Sub-Registrar, Bengaluru North
Taluk, Bengaluru) – Reg.

- Ref:-1) Government Order No.ಕಂಇ 32 ಮುನೋಪೇ 2011
Bengaluru dated 21/09/2011.
- 2) Nomination order No.LOK/INQ/14-A/322/2011
Bengaluru dated 04/10/2011 of Upalokayukta-1,
State of Karnataka, Bengaluru.
- 3) Inquiry Report dated 28/11/2019 of Additional
Registrar of Enquiries-4, Karnataka Lokayukta,
Bengaluru

The Government by its Order dated 21/09/2011 initiated the disciplinary proceedings against Sri M.Puttaswamy, Senior Sub-Registrar, Office of the Sub-Registrar, Koratagere, Tumakuru District (then working as Senior Sub-Registrar, Bangalore North Taluk, Bengaluru) (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/322/2011 dated 04/10/2011 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.

3. The DGO Sri M.Puttaswamy, Senior Sub-Registrar, Office of the Sub-Registrar, Koratagere, Tumakuru District (then working as Senior Sub-Registrar, Bangalore North Taluk, Bengaluru) was tried for the following charge:-

“That, you Sri M.Putaswamy, the DGO, while working as Senior Sub-Registrar in the office of the Sub-Registrar at Bangalore North Taluk, the complainant namely Sri Shivakumar, Advocate at Rajajinagar approached you on behalf of Sri G.Swamy and Smt. R.Jayalakshmi for registration of site numbers 75 and 76 of Madarhalli in Yeshwanthpur hobli of Bangalore North taluk and then you asked for bribe of Rs.2,500/- for each site and after request you reduced the demand for Rs.1,500/- per site and on 23/10/2002, you received the said amount as bribe from the complainant through Sri Muthurayappaa a bond writer in your office to show official favour, failing to maintain absolute integrity and devotion to duty, the act of which was un-becoming of 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-4) on proper appreciation of oral and documentary evidence has held that, the Disciplinary Authority has proved the above charge against DGO Sri M.Puttaswamy, Senior Sub-Registrar, Office of the

Sub-Registrar, Koratagere, Tumakuru District (then working as Senior Sub-Registrar, Bangalore North Taluk, Bengaluru).


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 M. Puttaswamy, he has retired from service on 31/05/2016 (during the pendency of inquiry)

7. Having regard to the nature of charge (demand and acceptance of bribe) proved against DGO Sri M. Puttaswamy, it is hereby recommended to the Government for imposing penalty of permanently withholding 50% of pension payable to DGO Sri M. Puttaswamy, Senior Sub-Registrar, Office of the Sub-Registrar, Koratagere, Tumakuru District (then working as Senior Sub-Registrar, Bangalore North Taluk, Bengaluru).

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

Connected records are enclosed herewith.


(JUSTICE N. ANANDA)
Upalokayukta-1, 30/11
State of Karnataka,
Bengaluru

KARNATAKA LOKAYUKTA

No.LOK/INQ/14-A/322/2011/ARE-4

M.S. Building,
Dr.B.R.Ambedkar Road,
Bengaluru-560 001,
Date: 28/11/2019.

:: INQUIRY REPORT ::

Sub: Departmental Inquiry against,

Sri M. Puttaswamy
Senior Sub-Registrar
Sub-Registrars Office
Koratagere
Tumkur District
(then working as Senior Sub-Registrar
Bengaluru North Taluk,
Bengaluru, **(Now retired)**)

Ref:

- 1) Report u/s 12(3) of the K.L Act, 1984 in
Compt/Uplok/BCD/4/2009/ARE-10
dated: 10.11/08/2011
- 2) Govt. Order. No. RD 32 MNS 2011,
Bengaluru, dated: 21/09/2011
- 3) Order No.LOK/INQ/14-A/322/2011
Dtd.04/10/2011 of the Hon'ble
Upalokayukta

This Departmental Inquiry is directed against one Sri M. Puttaswamy, Senior Sub-Registrar, Sub-Registrars Office, Koratagere, Tumkur District (then working as Senior Sub-Registrar, Bengaluru North Taluk, Bengaluru, **(Now retired)**)

(herein after referred to as the Delinquent Government Official in short "DGO")

2. After completion of the investigation a report u/sec. 12(3) of the Karnataka Lokayukta Act was sent to the Government as per Reference No.1.

3. In view of the Government Order cited above at reference-2, the Hon'ble Upalokayukta, vide order dated: 04/10/2011 cited above at reference-3, nominated Additional Registrar of Enquiries-4 of the office of the Karnataka Lokayukta as the Inquiry Officer to frame charges and to conduct Inquiry against the aforesaid DGO. Additional Registrar Enquires-4 prepared Articles of Charge, Statement of Imputations of mis-conduct, list of documents proposed to be relied and list of witnesses proposed to be examined in support of Article of Charges. Copies of same were issued to the DGO calling upon him to appear before this Authority and to submit written statement of his defence.

4. The Articles of Charges framed by ARE-4 against the DGO is below:

ANNEXURE NO.I
CHARGE

That, you Sri M. Puttaswamy, the DGO, while working as Senior Sub-Registrar in the office of the Sub-Registrar at Bengaluru North Taluk, the complainant namely Sri Shivakumar, Advocate at Rajajinagar approached you on behalf of Sri G. Swamy and Smt. R. Jayalakshmi for registration of site numbers 75 and 76 of Madarhalli in

Yeshwanthpur Hobli of Bengaluru North Taluk and then you asked for bribe of Rs. 2,500/- for each site and after request you reduced the demand for Rs. 1,500/- per site and on 23/10/2002 you received the said amount as bribe from the complainant through Sri Muthurayappa a bond writer in your office to show official favour, failing to maintain absolute integrity and devotion to duty, the act of which was unbecoming of Government Servant and thereby committed misconduct as enumerated u/Rule 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules, 1966.

ANNEXURE NO. II
STATEMENT OF IMPUTATIONS OF MISCONDUCT

The complainant Sri Shivakumar an Advocate of Rajajinagar in Bengaluru approached the DGO on behalf of his clients Sri G. Swamy and Smt. R. Jayalakshmi for registration of Site NOs. 75 and 76 of Madarhulli in Yeshwanthapur Hobli of Bengaluru North Taluk in Bengaluru. Instead of telling that registration will be or cannot be done or it requires one or the other document or formality with some procedure as per law, the DGO among two other Sub-Registrars demanded Rs. 2,500/- for each site and afterward reduced the demand to Rs. 1,500/- for each site. The complainant was not willing to pay bribe as demanded by the DGO. Therefore, the complainant approached the Lokayukta Police Inspector of Bengaluru City Division (herein after referred to as the Investigating Officer, for short, "the I.O.") and lodged a complaint. The I.O. registered the complaint in Cr. No. 36/2002 for the offences punishable u/sec. 7, 13(1)(d) r/w 13(2) of

the Prevention of Corruption Act 1988. During the course of investigation into the said crime, when the tainted amount was given by the complainant to Sri Murthurayappa, a bond writer as asked by the DGO, the I.O. trapped the DGO on 23/10/2002 at the Sub-Registrar office of Bengaluru North Taluk in the presence of the complainant, the pancha witnesses and his staff members. The I.O. seized the tainted amount under mahazar after following post-trap formalities. The I.O. took statement of the DGO in writing and recorded statements of the complainant, the pancha witnesses and others. After receiving report of the chemical examiner, the I.O. submitted report of investigation. The facts and materials on record of investigation of the I.O prima facie showed that the DGO being a Government Servant, failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Government Servant. Therefore, a suo-moto investigation was taken up u/sec. 7(2) of the Karnataka Lokayukta Act and an observation note was sent to the DGO calling for his explanation. The DGO submitted his reply and the reply was not convincing and not satisfactory to drop the proceedings. As the facts and materials on record prima-facie showed that the DGO has committed misconduct as per rule 3(1)(i) & (iii) of KCS (Conduct) Rules, 1966, a report u/sec. 12(3) of the Karnataka Lokayukta Act was sent to the Competent Authority with recommendation to initiate disciplinary proceedings against the DGO and to entrust inquiry to the Hon'ble Upalokayukta u/Rule 14-A of the Karnataka Civil Service s(Classification, Control and Appeal) 1957. Accordingly the Competent Authority

initiated disciplinary proceedings against the DGO and entrusted the inquiry u/Rule 14-A of KCS (CCA) Rules 1957 to the Hon'ble Upalokayukta. Hence, this charge.

5. DGO appeared before this Inquiry Authority on 17/04/2012 and on the same day his First Oral statement was recorded U/R 11(9) of KCS (CC & A) Rules 1957. The DGO pleaded not guilty and claims to hold an inquiry.

6. DGO has filed his written statement as follows:

The Hon'ble Upalokayukta has no authority to make any recommendation to the Government and the Government has no authority to authorise the Hon'ble Upalokayukta to conduct inquiry. The DGO need the service of the learned advocate to defend him in view of the public prosecutor appearing on behalf of the department. The DGO neither demanded nor accepted any illegal gratification. The Lokayukta police just for statistical purpose have registered the case and concocted the pre-trap and the trap mahazar for the purpose of the case. Even though the material collected by the I.O. clearly shows that the DGO never abused his position. The said fact has been deliberately suppressed. There was no occasion for the DGO to demand and accept the amount from the complainant. No official favour was pending with the DGO regarding work of the complainant. The DGO has not committed any misconduct. The DGO denies the articles of charges and the statement of imputations of misconduct as false and baseless. Hence, DGO prays to exonerate him from the charges leveled against him in this case.

7. The Disciplinary Authority could not examine CW3 as it was reported that the CW3 died on 01/12/015. The copy of the Death Certificate is also produced.

8. In order to substantiate the charge leveled against the DGO, the Disciplinary Authority examined in all three witnesses as PW1 to PW3 and got marked documents at Ex.P1 to P16. After closing the evidence of the Disciplinary Authority, the Second Oral Statement of the DGO was recorded as required u/Rule 11(16) of KCS (CC & A) Rules, 1957. After closing the evidence of the Disciplinary Authority, the DGO did not choose to examine either himself or any witnesses. Thereafter, questioning of this DGO is recorded as required u/Rule 11(18) of KCS (CC&A) Rules, 1957.

9. The Disciplinary Authority has not filed any written brief, but DGO has submitted his written brief. Oral arguments of the P.O. and DGO were heard.

10. Upon consideration of the oral and documentary evidence placed on record, the defence of DGO the only points, that arise for the consideration of this inquiry authority is:-

1) Whether the Disciplinary Authority satisfactorily proved the charge framed against DGO?

2) What order?

11. My findings on the above points are as follows:

Point No.1: In the “ **AFFIRMATIVE**”

Point No.2: As per the final order for the following:

:: REASONS ::

12. **Point NO.1:** It is the case of the Disciplinary Authority that, the DGO while working as Senior Sub-Registrar in the office of the Sub-Registrar at Bengaluru North Taluk, the complainant-Sri Shivakumar, Advocate approached the DGO on behalf of his clients Sri G. Swamy and Smt. R. Jayalakshmi for registration of sale deeds in respect of site NOs. 75 and 76 of Madarahalli in Yashvanthapura and the DGO demanded the bribe of Rs. 2,500/-for each site and after request the DGO reduced the demand to Rs.1,500/- per site and on 23/10/2002 received the said amount as bribe from the complainant through Sri Muthurayappa a bond writer and thereby committed misconduct.
13. By going through the evidence and the documents produced it is not in dispute that at the relevant point of time the DGO was working as Senior Sub-Registrar in the office of Sub-Registrar, Bengaluru North Taluk.
14. The complainant has been examined as PW1 and the copy of the complaint lodged by him before the Lokayukta police, Bengaluru is at Ex.P1. The gist of Ex.P1 is to the effect that PW1 is working as an advocate and his clients Sri G. Swamy and Smt. R. Jayalakshmi purchased site Nos. 75 and 76 of Madarhalli in Yashavanthapura Hobli , from Sri Larence Domanic Pinto, and in respect of registration of sale deeds, he went to the Sub-Regisrar office and met the three sub-registrars working there and they demanded for bribe of Rs. Rs. 2,500/- per site and he told them that his clients are poor

persons and hence out of the three sub-registrars one Sub-Registrar told to give Rs. 1,500/- per site and the sale deeds will be registered and the other two sub-registrar who were with him also agreed for the same and told PW1 to give the trial amount of Rs. 3,000/- and to get the sale deeds registered and not willing to get the work done by paying the bribe amount the complaint is lodged on 23/10/2002 at 11.15 a.m. In the complaint it is stated that action be taken against all the three sub-registrars.

15. PW1 has deposed that in the year 2002 his clients Sri G. Swamy and Smt. Jayalakshmi had purchased a site each in Andrahalli village and the sale deeds had to be registered and in that connection he had been to Bengaluru North Sub-Registrar office and met the Sub-registrar's and they demanded bribe of Rs. 2,500/- per site and he told them that his clients are poor and to reduce the amount and hence the amount was reduced to Rs. 1,500/- per site. He has deposed that at that time there were three Sub-Registrars in that office and out of them one Sub-Registrar demanded the amount as stated above and he do not know the name of that Sub-Registrar. He has deposed that he lodged the complaint in Lokayukta police station and the copy of the same is at Ex.P1. He has deposed that he produced the amount of Rs. 3,000/- consisting of six notes of the denomination of Rs. 500/- and the I.O. told him to give the amount to the Sub-Registrars after he gives the signal. He has deposed that when the signal was given he gave the amount to one of the Sub-Registrar and that person has not the DGO of this inquiry. He has been

treated as hostile witness by the Presenting Officer and cross-examined

16. In his cross-examination PW1 admits that he has given his evidence in the criminal case also and in that criminal case the DGO was the accused. He has deposed that in his profession or in his private transactions he signs the documents only after going through the contents of the documents. He has further deposed that he will sign the documents only if the contents are true. He admits that out of the three Sub-Registrars the DGO is one of the Sub-Registrar. He has deposed that he is not aware about the I.O. securing the two panchas. He has denied the suggestion that after he lodged the complaint he was entrusted with a tape-recorder and he was sent to Sub-Registrar office to record the conversation and in that connection the panchanama was drawn as per Ex.P2. He admits that his signature is found in Ex.P2. He admits that he do not know whether the denomination and numbers of the notes produced by him were noted. He denies the other averments mentioned in the entrustment mahazar, the copy of which is at Ex.P3. He admits that his signature is found in Ex.P3. He denies the suggestion that on that day he met the DGO in connection with the registration of the sale deeds and the DGO demanded for the bribe amount and also received the same from him through the bond writer by name Sri Muthurayappa. He has deposed that he do not know whether the hand wash of Sri Muthurayappa was positive. He has deposed that he do not know whether Sri Muthurayappa produced the amount from his left side pant pocket and the same was seized. He has

deposed that he do not know whether the inside portion of the left side pant pocket of Sri Muthurayappa was immersed in the sodium carbonate solution and that solution also turned to pink colour. He denies the suggestion that the I.O. seized the documents pertaining to his client Sri G. Swamy and Smt. Jayalakshmi. He admits that his signature is found in Ex.P4 and Ex.P4 is the copy of the trap mahazar.

17. It is pertinent to note that PW1 is an advocate and as stated above he has clearly deposed that he signs the document only after knowing the contents of the same and in case the contents are true. Hence, it is hard to believe that PW1 has signed Ex.P2 to P4 without giving through the contents of the same. It has to be said that PW1 has signed Ex.P2 to P4 after knowing that the contents of Ex.P2 to P4 are true and correct. As stated above, PW1 admits that the DGO is one of the Sub-Registrar in Bengaluru North, Sub-Registrar office and also admits that all the three Sub-Registrars demanded for the bribe amount and out of them the DGO was also one of the Sub-Registrar. Ex.P2 is the copy of the mahazar for having entrusted the tape-recorder to PW1 and asking him to approach the Sub-Registrars and to record the conversation.

18. Ex.P4 is the copy of the Trap Mahazar. In Ex.P4 it is clearly mentioned that PW1 approached the DGO and requested for the registration of the sale deeds of his clients and DGO asked for payment of Rs. 1,620/- for each sale deed as registration fee and he also received that amount and gave the receipt for the same. In Ex.P4 it is further stated that

afterwards the DGO asked PW1 to give the amount payable to him and PW1 tried to give the tainted currency notes which were in his left side coat pocket to the DGO and the DGO showed Sri Muthurayappa and instructed PW1 to give the amount to him and accordingly PW1 gave the amount to Sri Muthurayappa and he received the same with his right hand, counted the notes using both his hands and kept the same in his left side pant pocket and the DGO told PW1 to take his clients for putting their LTM's and to come after 4-5 days and to collect the sale deeds. Thus in Ex.P4 it is clearly mentioned that the DGO demanded for the bribe amount and when PW1 tried to give the tainted currency notes the DGO showed Sri Muthurayappa who was with him and asked PW1 to give the amount to him and accordingly the tainted currency notes were given to Sri Muthurayappa.

19. As stated above, PW1 as an advocate and a literate person and it cannot be said that he has signed Ex.P2 to P4 without knowing the contents of the same. Hence, it has to be said that PW1 has tried to help the DGO at the instance of the DGO, by taking advantage of the fact that there were three Sub-Registrars in the Sub-Registrar office, Bengaluru North.

20. PW2 is Sri Umesh Babu, the shadow witness and he has deposed that from 1997-2008 he was working as SDA in Town Planning, Directorate office, Bengaluru. He has deposed that on 23/10/2002 himself and Sri Ravindra had been to the Lokayukta police station, Bengaluru and the complainant was also present in the police station. He has deposed that the inspector Sri Geerejesh, introduced them to the complainant

and they also came to know the contents of the complaint also. He has deposed that he also got confirmed the contents of the complaint by enquiring PW1. He has also deposed that a voice-recorder was given to the complainant and in that connection the panchanama-Ex.P2 was drawn. He has deposed that PW1 produced the amount of Rs. 3,000/- consisting of six notes of the denomination of Rs. 500/-. He has deposed that phenolphthalein powder was smeared to the notes and those notes were given to pancha witness Sri Ravindra and he kept those notes in the coat pocket of PW1 and afterwards the hands of Sri Ravindra was washed in the solution and that solution turned to pink colour. He has deposed that the Lokayukta police asked him to go with PW1 and to see what happens. He has further deposed that PW1 was instructed to approach the concerned Sub-Registrar office and to meet the Sub-Registrar and if the Sub-Registrar receives the amount the signal has to be given to the I.O. by cleaning his face with his hand kerchief. He has deposed that the copy of the entrustment mahazar is at Ex.P3.

21. He has further deposed that at 2.45 p.m. they went to the office of the DGO and the vehicle was stopped at a distance of 200mts and himself and PW1 were sent inside the office of the DGO and the remaining persons were waiting outside the office for the signal of PW1. He has deposed that PW1 met the DGO and asked about the registration of site of his client and the DGO told the amount of registration fee and PW1 paid that fee. He has deposed that afterwards PW1 went to the finger print section and came back and met the DGO and talked with him and he was not able to hear the same as

there were number of persons present in that office. He has deposed that the DGO told PW1 to pay Rs. 3,000/- and PW1 tried to give the tainted currency notes to the DGO and the DGO showed Sri Muthurayappa who was there and to give the amount to Sri Muthurayappa. He has further deposed that PW1 gave the amount to Sri Muthurayappa and he kept the same in his left side pant pocket and afterwards PW1 went out and gave the pre-instructed signal. He has further deposed that immediately the I.O. and another pancha witness came to the office of the DGO and PW1 told that as per the instructions of the DGO he has given the tainted currency notes to Sri Muthurayappa and showed both the DGO and the above said Sri Muthurayappa. He has deposed that the I.O. introduced himself to both the above said persons and the hands of Sri Muthurayappa were washed separately in sodium carbonate solution and the solutions turned to pink colour. He has deposed that when Lokayukta police asked Sri Muthurayappa about the amount, Sri Muthurayappa gave the amount which was in his pant pocket and those notes were the same notes mentioned in the entrustment mahazar and those notes were seized. He has deposed that the left side pant pocket of Sri Muthurayappa was washed in the sodium carbonate solution and that solution also turned to pink colour and that pant was also seized. He has deposed that the Lokayukta police seized the documents of the clients of PW1 consisting of 14 sheets and the copy of the same is at Ex.P5. He has deposed that the copies of the explanations given by the DGO and Sri Muthurayappa are at Ex.P6 and P7 respectively. He has deposed that the photographs were also taken and Ex.P4 is the copy of the Trap Mahazar.

22. PW2 has been treated as hostile witness and cross-examined in view of PW1 not giving his evidence completely in accordance with the contents of the entrustment mahazar and the trap mahazar. In his cross-examination he admits that at the time of the entrustment mahazar, I.O. instructed PW1 to meet the DGO and only if the DGO demands for the bribe amount the tainted currency notes have to be given. He admits that after PW1 paid the amount of Rs. 1,620/- for each of his clients registration charges the clients of PW1 were sent to put their LTM's. He has deposed that when PW1 tried to give the tainted currency notes to the DGO, the DGO instructed PW1 to give the amount to Sri Muthurayappa, but he was not able to hear the conversation between PW1 and the DGO at that time as there were number of persons present in the office. PW2 has deposed that Sri Muthurayappa received the amount, counted the same and kept it in his left side pant pocket. He also admits that the Lokayukta police told the contents of Ex.P6 and P7 and he told that the contents of Ex.P6 and P7 are false. Thus PW2 has substantially supported the case of the disciplinary authority except hearing the conversation between DGO and PW1. In his cross-examination he has deposed that he is a witness in 4 or 5 trap cases. But on that ground only his evidence cannot be discarded when there is no ill-will between this witness and the DGO and also between the I.O. and the DGO.

23. PW3 is Sri R. Girijesh, and he has deposed that from 2002-2003, he was working as Police Inspector in Bengalure City Lokayukta, and on 23/10/2002 at 11.25 a.m. as per the direction of Dy.S.P., he received the complaint and registered

the same. He has deposed that the copy of the FIR is at Ex.P8. He has also deposed about the gist of the averments made in the complaint. He has deposed that he secured two panchas and to confirm the allegations made in the complaint he gave the mini tape-recorder to PW1 and asked him to go to the Sub-Registrar office and to talk with the concerned Sub-Registrar and to record the conversation and in that connection he drew the mahazar and the copy of the same is at Ex.P2.

24. PW3 has further deposed that PW1 went to the Sub-Registrar office and returned on the same day at 1.45 p.m. and gave back the mini tape-recorder stating that he has recorded the conversation. He has deposed that he played the tape-recorder and heard the conversation which disclosed that the Sub-Registrar by name Sri Puttaswamy has demanded the bribe of Rs. 3,000/- from the complainant.

25. He has further deposed that as per his instructions PW1 produced the amount of Rs. 3,000/- consisting of 6 notes of the denomination of Rs. 500/- and through his staff he got phenolphthalein powder smeared to the notes. He has deposed that earlier to that the number and the denomination of the notes was verified and noted by the pancha witness Sri Raveendra and the copy of the same is at Ex.P9. He has deposed that the notes were given to the hands of Sri Raveendra and he kept the same in the left side coat pocket of PW1 and afterwards the hands of Sri Raveendra was washed in the sodium carbonate solution and that solution turned to pink colour. He has deposed about all the other averments

mentioned in the entrustment mahazar the copy of which is at Ex.P3 and I feel it is not necessary to repeat the same.

26. PW3 has further deposed that after entrustment mahazar at 2.50 p.m. himself, his staff and pancha and the complainant left the Lokayukta police station and went to Basaveshwaranagar where the office of the DGO was situated. He has deposed that the vehicles were stopped at a distance of 200 mts and PW1 and PW2 were sent inside that office to meet the DGO. He has deposed that at 4.30 p.m. PW1 came out of the office of the DGO and gave the pre-instructed signal and immediately himself and his staff and another pancha went near PW1 and PW1 took them inside the office and showed the two persons and one person told his name as Sri M. Puttaswamy, Senior Sub-Registrar and another person told his name as Sri Muthurayappa. He has deposed that his staff prepared sodium carbonate solution in two bowls and the hands of Sri Muthurayappa were washed in the same separately and the solution turned to pink colour. He has deposed that PW1 told him that as per the instructions of the DGO he gave the tainted currency notes to Sri Muthurayappa. He has deposed that when questioned Sri Muthurayappa about the amount received from PW1, Sri Muthurayappa, produced the amount from his left side pant pocket and those notes were the same notes mentioned in Ex.P9 and those notes were seized. He has deposed that even the pant wash of Sri Muthurayappa was positive (left side pant pocket). He has deposed that the pant of DGO was also seized. He has deposed about what PW1 and PW2 told him as to what happened in the office of the DGO which is mentioned in the trap

panchanama-Ex.P4. He has deposed that Ex.P5 is the copy of the attendance register. He has deposed that the copy of the explanation given by the DGO is at Ex.P6 and the copy of the explanation given by Sri Muthurayappa is at Ex.P7. He has deposed that PW1 and PW2 denied the averments made in Ex.P6 and P7 as false. He has deposed that Ex.P11 are the copies of the documents seized. Ex.P11 consists of the sale deeds in favour of Smt R. Jayalakshmi and Sri G. Swamy and the receipts for having paid the registration charges of Rs. 1,620/- and the copies of the sale deeds discloses that even though the sale deeds are signed by the vendor and the vendee there is no certificate of the Sub-Registrar in the same for having registered them. Hence, it has to be said that the work of the clients of PW1 was still pending. PW3 has deposed that Ex.P12 is the rough sketch of the scene of occurrence. He has further deposed that he sent the seized articles to the FSL and obtained the report from FSL and the copy of the same is at Ex.P13. As per Ex.P13 the presence of phenolphthalein is detected in both the hands of Sri Muthurayappa. PW3 has deposed that he has recorded the statement of Sri Swamy and Sri Jayalakshmi and the copies of the same are at Ex.P14 and P15. In Ex.P14 and P15 it is stated that they had entrusted the work of registration of the sale deeds to their counsel-PW1. Ex.P16 is the copy of the service particulars of the DGO. Thus PW3 has also given his evidence in accordance with the case of the disciplinary authority regarding the complaint and Ex.P2 to P4.

27. There is no evidence on the side of the DGO. As stated above, PW2 has clearly deposed that when PW1 tried to give

the tainted currency notes to the DGO, the DGO showed Sri Muthurayappa who was present there to pay the amount to him and accordingly Pw1 gave the tainted currency notes to Sri Muthurayappa. Ex.P7 is the explanation given by the above said Sri Muthurayappa to the I.O. In the same it is stated that on that day he had gone to the Sub-Registrar office to obtain the copy and the lawyer gave the amount to him to count the same and afterwards the lawyer kept the amount in his pocket and when he asked as to why the amount is kept in his pocket, Lokayukta police came there. The above said Sri Muthurayappa has not been examined in this inquiry to prove his explanation mentioned in Ex.P7. There is no cross-examination of PW1 in that regard also. In Ex.P6 the DGO has stated that he had received the registration fee and gave the receipt and he has not demanded and received any bribe amount from PW1. As stated above, PW1 is an advocate and it is hard to believe that he had given the tainted currency notes to Sri Muthuryappa to count the same and afterwards he kept the same in the pocket of Sri Muthurayappa. On the other hand, as stated above, PW2 has clearly deposed that on the instructions of the DGO PW1 gave the tainted currency notes to Sri Muthurayappa and Sri Muthurayappa counted the same and kept it in his pant pocket. As stated above PW3 has also deposed that the tainted currency notes were in the pant pocket of Sri Muthurayappa and he produced the same after his hand wash being positive.

28. The facts and circumstances of this case stated above only probablises the case of the disciplinary authority.

29. The learned counsel for the DGO has produced the certified copy of the judgment in Special C.C. No. 112/2008 on the file of 23rd Addl. City Civil and Sessions judge and Special Judge, Bengaluru. The same discloses that the Lokayukta police had also filed the criminal case against the DGO and Sri Muthurayappa under the provisions of the P.C. Act 1988 and that case has ended in acquittal of both the DGO and Sri Muthurayappa. Only on the ground that that the DGO has been acquitted in the criminal case it cannot be held that, the disciplinary authority has not proved its case in this departmental inquiry. It is well established principle of law that, in the criminal case the prosecution has to prove its case beyond all reasonable doubt. Where as in the departmental inquiry the evidence has to be scrutinised on the basis of the preponderance of probabilities. In the decision reported in **1997(2) SCC 699 in case of Depot Manager, APSRTC V/S Mohammed Yosuf Miya and others, (2005)7 SCC 764 between Ajit Kumar Nag v/s General manager (P) Indian Oil Corporation Limited, Haldia and others** and recent decision of Hon'ble Supreme Court in **(2012)13 Supreme Court Cases 142 in the case of Avinash Sadashiv Bhosale (dead) V/S Union of India and others** made out very clear that, the purpose of departmental inquiry and the prosecution are too different and distinct aspect though the two proceedings relates to the same set of facts. The nature of evidence in criminal case is entirely different from the departmental proceedings and in the criminal case the prosecution is required to prove the guilt of the accused beyond all reasonable doubt on the touch-stone of human conduct and where as the evidence required in a departmental

inquiry is not regulated by the Evidence Act. Therefore, misconduct of the DGO required to be taken into consideration on the basis of preponderance of probabilities and merely the DGO has been acquitted in the criminal case by the judgment in Special Case No. 112/2008 on the 23rd addl. City Civil and Sessions Judge and Special Judge, Bengaluru by itself is not sufficient to overlook the evidence placed on record by the Disciplinary Authority.

30. The learned counsel for the DGO has relied upon the decision reported in (2006)5 Supreme Court Cases 446 in G.M. Tank V/s State of Gujarat and others and that case was regarding disproportionate assets. The judgment of the criminal court discloses that the DGO and Sri Muthurayappa have been acquitted only on the ground that the prosecution has failed to prove its case beyond reasonable doubt. The judgment copy of the criminal case does not disclose that the accused were honorably acquitted holding that the case of the prosecution is false. This inquiry has to be decided on the basis of the evidence adduced in this inquiry on the basis of preponderance of probability and hence the above said decision is not of much help to the DGO in this departmental inquiry.

31. The learned counsel for the DGO also relies upon the decision reported in 2014 CRL.L.J. 4399 in Satvir Singh V/s State of Delhi through CBI, that case was under P.C. Act 1988 and that decision cannot be applied to this departmental inquiry.

32. In the written statement the DGO has contended that the Hon'ble Upalokayukta had no right to send the recommendation to the Government for initiating the departmental inquiry against the DGO and that the Government has also no power to entrust the inquiry to the Hon'ble Uplokayukta and if that is so the DGO could have challenged the report of Hon'ble Upalokayukta sent u/sec.12(3) of the Karnataka Lokayukta Act 1984 and the consequent the Government order before the competent forum and the DGO cannot take that contention at this stage of inquiry. The facts and circumstances of this case stated above, only probablises the case of the disciplinary authority that the DGO has demanded the bribe amount of Rs. 1,500/- from PW1 to show official favour and received the same through Sri Muthurayappa.

33. Thus the DGO has failed to maintain absolute integrity, devotion to duty and acted in a manner of unbecoming of a Government Servant. Hence, I answer above point in the **AFFIRMATIVE**.

34. Point NO.2:- For the reasons discussed above, I proceed to pass the following:-

:: ORDER ::

*The Disciplinary Authority has satisfactorily proved the charges against DGO- Sri M. Puttaswamy, Senior Sub-Registrar, Sub-Registrars Office, Koratagere, Tumkur District (then working as Senior Sub-Registrar, Bengaluru North Taluk, Bengaluru, **(Now retired)**).*

35. Hence this report is submitted to Hon'ble Upalokayukta -1 for kind perusal and for further action in the matter.

Dated this the 28th day of November, 2019

-Sd/-
(Somaraju)
Additional Registrar Enquiries-4,
Karnataka Lokayukta,
Bengaluru.

ANNEXURE

LIST OF WITNESSES EXAMINED ON BEHALF OF DISCIPLINARY AUTHORITY:

PW-1:Sri Shivakumar (complainant)
PW-2:Sri Umesh babu (shadow pancha witness)
PW-3:Sri R. Girijesh (I.O)

LIST OF WITNESSES EXAMINED ON BEHALF OF THE DEFENCE:

NIL

LIST OF EXHIBITS MARKED ON BEHALF OF DISCIPLINARY AUTHORITY

Ex.P-1: Certified copy of the complaint
Ex.P-2: Certified copy of the panchaname
Ex.P-3:Certified copy of the entrustment mahazar
Ex.P-4:Certified copy of the trap mahazar
Ex.P-5:Certified copy of the registered documents (containing 14 sheets)
Ex.P-6:Certified copy of the explanation of DGO
Ex.P-7: Certified copy of the explanation of Sri Muthurayappa
Ex.P-8:Certified copy of the FIR

- Ex.P-9: Xerox copy of the notes number and denomination mentioned white sheet
Ex.P-10: Xerox copy of the attendance register
Ex.P-11: Xerox copy of the Form containing receipt No. 0072916 dated; 23/10/2002 (containing 4 sheets)
Ex.P-12: Certified copy of the rough sketch
Ex.P-13: Certified copy of the chemical examination report
Ex.P-14: Xerox copy of the statement of Sri G. Swamy
Ex.P-15: Xerox copy of the statement of Smt. Jayalakshmi
Ex.P-16: Xerox copy of the service particulars of the DGO with xerox copy of the enclosures

LIST OF EXHIBITS MARKED ON BEHALF OF DGO:

NIL

Dated this the 28th day of November, 2019

-Sd/-
(Somaraju)
Additional Registrar Enquiries-4,
Karnataka Lokayukta,
Bengaluru.

