

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No.LOK/INQ/14-A/330/2011/ARE-4

Multi Storied Buildings,
Dr.B.R.Ambedkar Veedhi,
Bengaluru-560 001,
Date: **12/02/2020**

RECOMMENDATION

Sub:- Departmental inquiry against Sri K.S. Ningaiah, Section Officer, Karnataka Government Secretariat, Bengaluru (the then Section Officer, Education Department, [Primary-B] Section, Karnataka Government Secretariat, Bengaluru) [now retired].

Ref:-1) Government Order No.ಸಿಆಸುಇ 13 ಆಕೋಇ 2011 Bengaluru dated 22/09/2011.

2) Nomination order No.LOK/INQ/14-A/330/2011 Bengaluru dated 13/10/2011 of Upalokayukta-1, State of Karnataka, Bengaluru.

3) Inquiry Report dated 10/02/2020 of Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru

The Government by its Order dated 22/09/2011 initiated the disciplinary proceedings against Sri K.S. Ningaiah, Section Officer, Karnataka Government Secretariat, Bengaluru (the then Section Officer, Education Department, [Primary-B] Section, Karnataka Government Secretariat, Bengaluru [now retired]) (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/330/2011 dated 13/10/2011 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 K.S. Ningaiah, Section Officer, Karnataka Government Secretariat, Bengaluru (the then Section Officer, Education Department, [Primary-B] Section, Karnataka Government Secretariat, Bengaluru [now retired]) was tried for the following charge:-

That, you Sri K.S. Ningaiah, while working as Section Officer in Education Department (Primary-B) Section at Karnataka Government Secretariat, Bangalore, Sri Mallikarjun a relative of the complainant namely Sri H. Suresh had applied for appointment on compensatory grounds and in that regard the complainant approached you several times requesting to get the work done but you delayed without attending the said work and when the complainant and his relative namely Sri Gurulinga Swamy contacted on 29.9.2009 you asked for bribe of Rs.2,000/- and after request reduced the demand of Rs.1,000/- and on 30.9.2009 received bribe to show an 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 K.S. Ningaiah, Section Officer, Karnataka

Government Secretariat, Bengaluru (the then Section Officer, Education Department, [Primary-B] Section, Karnataka Government Secretariat, Bengaluru [now retired]).

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 K.S. Ningaiah, he has retired from service on 30/06/2013 (during the pendency of inquiry).

7. Having regard to the nature of charge (demand and acceptance of bribe) proved against DGO Sri K.S. Ningaiah, it is hereby recommended to the Government for imposing penalty of permanently withholding 50% of pension payable to DGO Sri K.S. Ningaiah, Section Officer, Karnataka Government Secretariat, Bengaluru (the then Section Officer, Education Department, [Primary-B] Section, Karnataka Government Secretariat, Bengaluru [now retired]).

8. 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

KARNATAKA LOKAYUKTA

No.LOK/INQ/14-A/330/2011/ARE-4 M.S. Building,
Dr.B.R.Ambedkar Road,
Bengaluru-560 001,
Date: 10/02/2020.

:: INQUIRY REPORT ::

Sub: Departmental Inquiry against,

Sri K.S. Ningaiah
Section Officer
Education Department
(Primary-B) Section
Karnataka Government Secretariat
Bengaluru, **(Now retired)**

- Ref:**
- 1) Report u/s 12(3) of the K.L Act, 1984 in Compt/Uplok/BCD/8/2011/ARE-10, dated: 02/08/2011
 - 2) Government Order No. DPAR 13 Aa.Ko.E. 2011, Bengaluru dated: 22/09/2011
 - 3) Order No.LOK/INQ/14-A/330/2011 Dtd.13/10/2011 of the Hon'ble Upalokayukta

This Departmental Inquiry is directed against one Sri K.S. Ningaiah, Section Officer, Education Department, (Primary-B) Section, Karnataka Government Secretariat, 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: 13/10/2011 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 as follows:

ANNEXURE NO.I
CHARGE

That, you Sri K.S. Ningaiah, while working as Section Officer in Education Department (Primary-B) Section at Karnataka Government Secretariat, Bengaluru Sri Mallikarjun a relative of the complainant namely Sri H. Suresh had applied for appointment on compensatory grounds and in that regard the complainant approached you several times requesting

to get the work done but you delayed without attending the said work and when the complainant and his relative namely Sri Gurulinga Swamy contacted on 29/09/2009 you asked for bribe of Rs. 2,000/- and after request reduced the demand to Rs.1,000/- and on 30/09/2009 received bribe to show an 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

One Sri Mallikarjun a relative of the complainant H. Suresh s/o Late Omkaraiah r/o Jnanabharathi, Bengaluru had applied for appointment on compensatory grounds. In that connection, the complainant approached the DGO several times requesting to get the work done. But, the DGO was delaying without attending the said work. Again on 29/09/2009, the complainant and his relative namely Gurulinga Swamy contacted the DGO. Then, the DGO told that if money is paid he will forward on the next day itself. Later, the complainant contacted the DGO. Then, also the DGO demanded bribe of Rs. 2,000/- and after request it was reduced to Rs. 1,000/-. The complainant who was not willing to pay bribe amount to the DGO, approached the Lokayukta Police Inspector of Bengaluru City Division (herein after referred to as

the Investigating Officer, for short, "the I.O.") On 30/09/2009 and lodged a complaint. The I.O. registered the complaint in Cr.No. 67/2009 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 of Rs. 1,000/- was given by the complainant to the DGO on demand, the I.O. trapped the DGO while taking bribe of Rs. 1,000/ from the complainant at his office in M.S. Building, Bengaluru on 30/09/2009 in the presence of the complainant and panch witness and seized the tainted amount from the possession of the DGO and followed post-trap formalities. The I.O. recorded statement of the complainant, panch witnesses and others. After receiving the report of chemical examiner about the articles sent for chemical examination, the I.O. filed his Investigation Report. The facts and materials on record and the investigation report prima facie showed that, the DGO being a Government Servant failed to maintain absolute integrity and devotion to duty, the act of which was unbecoming of Government Servant. Therefore, a suo-moto investigation was taken up u/sec. 7(2) of Karnataka Lokayukta Act against the DGO and an observation note was sent to the DGO calling for his explanation. The reply given by the DGO was not convincing and not satisfactory to drop the proceedings. As the facts and materials on record prima facie showed that the DGO 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 the departmental enquiry to the Hon'ble Upalokayukta u/Rule 14-A of KCS (CCA) Rules. Accordingly, the Competent Authority initiated disciplinary proceedings and entrusted the enquiry to the Hon'ble Upalokayukta. Hence, the charge.

5. DGO appeared before this Inquiry Authority on 15/05/2012 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 DGO has filed his written statement as written explanation. In the same the DGO has stated that he has neither demanded nor accepted any illegal gratification from anybody much less from the complainant. Lokayukta police have filed the charge sheet before the Special Judge, Bengaluru in Spl. C.C. No 156/2010 and that case is still pending. No work of the complainant was pending with the DGO. The money was thrust to his pocket and there is no specific allegation of any demand made by the DGO either in the complaint or in any other document produced by the Lokayukta Police. The complaint is vague, unnatural and far from truth. The recovery of the money is doubtful and the shadow witness had not accompanied the complainant.

In view of the criminal case pending this department enquiry may be stayed. Hence, the DGO prays to exonerate him from the charges leveled against him in this case.

7. Witness warrant issued to CW1 was returned unexecuted on the ground that CW1 died on 16/11/2019 along with the copy of the death certificate of CW1. Hence, the Disciplinary Authority was not able to examine the complainant (CW1). The Disciplinary Authority has examined Sri N.H.Gurulingaswamy as additional witness in place of the complainant.

8. In order to substantiate the charge leveled against the DGO, the Disciplinary Authority examined in all four witnesses as PW1 to PW4 and got marked documents at Ex.P1 to P16. After closing the evidence of the Disciplinary Authority, the DGO himself examined as DW1 and got marked Ex.D1 and closed his evidence. Hence, recording the answer of DGO to questionnaire u/Rule 11(18) of KCS (CC&A) Rules was dispensed with.

9. Oral arguments of the P.O. was heard and the learned counsel for the DGO has filed the written brief on behalf of the DGO.

10. Upon consideration of the oral and documentary evidence placed on record, the defence of DGO the only points, that arises 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 finding 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 Section Officer in Education Department (Primary-B) Section at Karnataka Government Secretariat, Bengaluru, Sri Mallikarjuna a relative of the complainant had applied for appointment on compassionate ground and in that regard the complainant approached the DGO several times requesting for the work to be done. But the DGO delayed the work and when the complainant along with his relative Sri Gurulingaswamy contacted the DGO on 29/09/2009 the DGO asked for the bribe of Rs. 2,000/- and after request reduced the demand to Rs. 1,000/- and on 30/09/2009 received the above said bribe amount to show official favour and thereby committed the misconduct.

13. As stated above the complainant by name Sri H. Suresh, the relative of Sri Mallikarjuna is dead and the copy of the complaint lodged by him in Lokayukta Police station has been marked as Ex.P9 through PW3. The gist of the

complaint Ex.P9 is to the effect that his relative Sri Mallikarjuna had filed the application for job on compassionate ground and in that connection the complainant met the DGO working in Education Department, 6th Floor, M.S. Building, Bengaluru, 2 or 3 times along with his relative Sri Gurulingaswamy. But the DGO has not done the work and on 29/09/2009 at 4 p.m. the complainant, his relative Sri Gurulingaswamy met the DGO (Section Officer) and enquired about the work and the DGO told that no amount is given to him and if amount is given he will do the work tomorrow is itself and not willing to get the work done by paying the bribe the complainant told the matter to the Lokayukta police and the Lokayukta police gave him a voice-recorder and he approached the DGO again with the voice-recorder and requested for his work and the DGO demanded bribe of Rs. 2,000/- and afterwards reduced the same to Rs. 1,500/- and ultimately insisted for paying Rs. 1,000/- and he has recorded the conversation in the voice-recorder. The complaint has been lodged on 30/09/2009 at 10.30 a.m.

14. PW1 is the shadow witness by name Sri Prabhakar. He has deposed that in the year 2009 he was working as SDA in PWD Department, V.V. Tower and the other pancha witness Sri Balaraju was also working in his office as SDC. He has deposed that on 30/09/2009 as per the request of Bengaluru Lokayukta police, A.E.E., sent himself and Sri Balaraj to Lokayukta polic station and accordingly they went to Bengaluru Lokayukta police station and reported

before Sri Lakshmi Narayana (I.O.). He has deposed that the complainant-Sri Suresh and relative of Sri Suresh by name Sri Gurulingaswamy were present in the station and he has also deposed about the gist of the complaint lodged by Sri Suresh. He has further deposed that the complainant produced the amount of Rs. 1,000/- and the phenolphthalein powder was smeared to the notes and those notes were given to the hands of the witness Sri Balaraju and he counted the notes and kept them in the right side pant pocket of the complainant and afterwards the hands of Sri Balaraju were washed in the sodium carbonate solution and that solution turned to red colour. He has deposed about the instructions given by the I.O. to himself and to the complainant as mentioned in the Entrustment Mahazar, the copy of which is at Ex.P1.

15. PW1 has further deposed that, after the Entrustment Mahazar they went to 6th Floor of M.S. Building and the complainant and his relative Sri Gurulingaswamy went into the office of the DGO and he followed them and the other pancha witness and the I.O. and his staff remained in the corridor. He has deposed that the complainant enquired about the file of Sri Mallikarjuna, and the DGO told the complainant to come after one hour. But the complainant pleaded urgency and gave Rs. 1000/- to the DGO and the DGO received the amount and kept it in his right side pant pocket and told the complainant to come after one hour. He has deposed that afterwards the complainant and himself came out of the office and the complainant gave the pre-

instructed signal and immediately the I.O., his staff and another pancha witness Sri Balaraju came there and all of them went inside the office of the DGO and he showed the DGO and told that he has received the amount. He has deposed that the hands of the DGO were washed in the solution separately and the solution turned to red colour. He has deposed that he removed the amount which was in the pant pocket of the DGO and gave the same to another pancha witness Sri Balaraju and Sri Balaraju verified those notes and told that they are the same notes mentioned in the Entrustment Mahazar-Ex.P1. He has deposed that the DGO gave his explanation in writing and the copy of the same is at Ex.P2. He has deposed that himself and the complainant told the I.O. that the contents of Ex.P2 are false. He has deposed that alternative pant was arranged to the DGO and the pocket portion of the pant of the DGO was washed in the solution and that solution also turned to red colour. He has deposed that the file of Sri Mallikarjuna was with the DGO and the certified copy of the attendance register of the office of the DGO was seized. He has deposed that the certified copies of the file of Sri Mallikarjuna was seized and the copy of the same is at Ex.P3. He has deposed that in the office of the DGO the Trap mahazar was also drawn and the copy of the same is at Ex.P4. Thus PW1 has deposed about the DGO receiving the tainted currency notes from the complainant and keeping the same in his pant pocket. As stated above he has also deposed about the hand wash of the DGO being positive and the file of Sri Mallikarjuna was also with the DGO.

16. PW1 in his cross-examination has deposed that the room No. of the DGO was 627 and the complainant and Sri Gurulingaswamy went inside that room and he stood secretly near the door of that room to see what will happen in that room. He has clearly deposed that from the place where he was standing he was able to see what was happening in the above said room. Hence, only on the ground that PW1 had not gone inside that room, his evidence cannot be disbelieved. He has denied the suggestion of the learned counsel for the DGO that the tainted currency notes was on the table of the DGO. Nothing is made out in his cross-examination to discard his evidence.

17. PW2 is another pancha witness by name Sri Balaraju. He has deposed that in the year 2009, he was working as SDA in PWD Department and on 30/09/2009 as per the direction of his higher officer himself and his colleague PW1 had been to the Lokayukta police station and reported before the I.O. Sri Lakshminarayana. He has deposed that the complainant-Sri Suresh and Sri Gurulingaswamy were present in the police station and they were introduced to them. He has also deposed about the gist of the complaint given by the complainant. He has deposed that the complainant produced the amount of Rs. 1,000/- and powder was smeared to the notes and those notes were given to him and he kept the same in the pant pocket of the complainant. He has deposed that, earlier to the same the denomination and numbers of those notes were noted in a

paper and the copy of the same is at Ex.P5. He has further deposed that after the Entrustment Mahazar, they went to 6th Floor of M.S. Building and went near the room No. 627. He has deposed that when he went inside that room the hands of the DGO were being washed and afterwards the DGO was brought to the Lokayukta police station and he has signed Ex.P4-Trap Mahazar in Lokayukta police station.

18. PW2 has been treated as hostile witness and cross-examined by the learned Presenting Officer. In his cross-examination he admits that at the time of the Entrustment Mahazar the complainant produced the voice-recorder and the conversation recorded in the same was played and it was reduced to writing and the copy of the same is at Ex.P6. He also admits that to the shirt of complainant button camera was fixed and to the pocket of Sri Gurlingaswamy pen camera was fixed. He also admits that, the complainant, Sri Gurulingaswamy and PW1 were sent inside the office of the DGO and himself the I.O. and his staff were waiting in the passage for the signal from the complainant. He has deposed that after the complainant gave the pre-instructed signal they went inside the room of the DGO. He has deposed that he does not know whether the complainant showed the DGO and told that he has received the bribe amount. He has deposed that he does not know whether the hand wash of the DGO was positive. He has deposed that the tainted currency notes were removed from the pant pocket of the DGO and those notes were the

same notes mentioned in the Entrustment Mahazar. He also admits that in the Lokayukta police station, the visual recorded in the pen camera were shown to them with the help of the computer and in that connection a writing was made and the copy of the same is at Ex.P7. He also admits that Ex.P8 are the copies of the photographs taken at the time of the Entrustment Mahazar and the Trap Mahazar. Thus in his cross-examination by the Presenting Officer. PW2 has substantially supported the case of the Disciplinary Authority regarding recovery of the tainted currency notes from the pant pocket of the DGO.

19. PW3 is Sri K.C. Lakshminarayana and he has deposed that from 18/03/2009 to 24/06/2011 he was working as Police Inspector in the Lokayukta Police Station, Bengaluru City and he has deposed that on 29/09/2009 the complainant came to the Lokayukta police station and orally told him about the demand for the bribe and to confirm the same he gave the digital voice-recorder to the complainant and asked him to meet the DGO and to record the conversation. He has deposed that on 30/09/2009 the complainant came to the police station and gave the written complaint and the copy of the same is at Ex.P9. He has deposed about the gist of the complaint also. He has further deposed that the complainant returned the digital voice-recorder which was given to him yesterday. He has deposed that on the basis of Ex.P9, he registered the case and sent the FIR to the concerned court and the copy of the same is at Ex.P10. He has deposed about securing the two

panchas, the complainant producing the amount of Rs. 1,000/- and about all other proceedings mentioned in the Entrustment Mahazar, the copy of which is at Ex.P1 and I feel it is not necessary to repeat the same. He has deposed that along with the complainant one Sri Gurulingaswamy had also come.

20. PW3 has deposed that after the Entrustment Mahazar they went to the office of the DGO situated in 6th Floor of the M.S. Building and the complainant, his relative Sri Gurulingaswamy and shadow witness were sent inside the office of the DGO and himself, his staff and another pancha witness were waiting in the passage for the pre-instructed signal from the complainant. He has deposed that after about 2 minutes of the same, the complainant came to the passage and gave the pre-instructed signal and immediately they approached the complainant and the complainant took them inside the office and showed the DGO and told that he has received the bribe amount and kept it in his right side pant pocket. He has deposed that he introduced himself to the DGO and the hands of the DGO were washed separately in the sodium carbonate solution and the solution turned to pink colour. He has deposed that he enquired the DGO about the amount received from the complainant and the DGO told that he has kept that amount in his right side pant pocket. He has deposed that through the pancha witness Sri Prabhakar that amount was got removed from the right side pant pocket of the DGO and those notes were the same notes mentioned in Ex.P5 and those notes were

seized. He has deposed that even the pant wash of the DGO (right side pocket portion) was positive and that pant was also seized. He has deposed that he enquired the DGO about the file of the relative of the complainant and the DGO produced the file which was on his table and that file was relating to the relative of the complainant by name Sri Mallikarjuna. He has deposed that the certified copies of that file was prepared and seized and the original file was returned to the higher officer of the DGO by name Sri Prabhu swamy. He has deposed that the copy of the attendance register was also seized and the copies of the attendance register and the file of Sri Mallikarjuna are at Ex.P3. He has deposed that as it was a public place and not convenient to draw the Trap Mahazar the DGO was brought to the Lokayukta police station and further trap proceedings were conducted in the Lokayukta police station. He has deposed that the button camera which was given to the complainant and the pen camera given to Sri Gurulingaswamy were played and the conversation recorded in the same was transcribed and the copy of the same is at Ex.P6 and P7. He has deposed that Sri Prabhu Swamy identified the voice of the DGO in that conversation and Sri Prabhu Swamy has given his report in that respect and the copy of the same is at Ex.P11. He has deposed that the DGO gave his explanation in writing and the copy of the same is at Ex.P2. But the complainant and PW1 denied the contents of the same as false. He has deposed that the copy of the Trap Mahazar is at Ex.P4 and Ex.P8 are the copies of the photographs taken at the time of the Entrustment

Mahazar and the Trap Mahazar. He has deposed that he had sent the seized articles to the FSL and received the report from the FSL and the copy of the same is at Ex.P12. According to Ex.P12 the presence of the phenolphthalein is detected in both the right and left hand finger washes of the DGO. Thus Ex.P12 also supports the case of the Disciplinary Authority. He has deposed that he obtained the service particulars and the work distribution order copy and they are at Ex.P14 and P13 respectively. He has deposed that the sketch of the scene of occurrence was prepared by the PWD Engineer and the copy of the same is at Ex.P15.

21. PW3 has been cross-examined at length by the learned counsel for the DGO. But nothing is made out in his cross-examination to discard his evidence. In fact in his cross-examination he has reiterated the evidence given in his examination in chief. Ex.D1 is the certified copy of the deposition of this witness given in Special Case No. 156/2010. No omission or contradiction is made out in the cross-examination of PW3 with reference to Ex.D1. Hence, Ex.D1 is not of much help to the DGO.

22. PW4 is Sri N.H. Gurulingaswamy, and he has deposed that Sri Mallikarjuna is the son of his sister and the father of Sri Mallikarjuna was working as Teacher and he died while he was in service and Sri Mallikarjuna had given the application for appointment on compassionate ground. He has deposed that the said file had come to the Education Department situated in 6th Floor, M.S. Building. He has

deposed that the complainant told him that the DGO who is the Section Officer, is delaing the work and that the DGO has asked for the money to do work of Sri Mallikarjuna. He has deposed that on 29/09/2009 himself and the complainant met the DGO in his office and the DGO demanded for the amount and that matter was informed by the complainant to the Lokayukia police orally and the Lokayukta police gave the complainant a voice-recorder and asked him to meet the DGO and to record the conversation. He has deposed that he wrote the complaint as per the say of the complainant and the copy of the same is at Ex.P9. He has deposed that the complainant told him that the DGO demanded for bribe amount of Rs.1000/- and that conversation has been recorded by him. He has deposed that he had also gone to the Lokayukta police station along with the complainant and the I.O. secured the two panchas and afterwards they went to the office of the DGO. He has deposed that himself and the complainant went inside the office of the DGO and the shadow witness was standing near the door and he has deposed that the complainant told the DGO that he has brought the amount and DGO told the complainant to come afterwards. But the complainant told that he will give the amount now itself and gave the tainted currency notes and the DGO received the same and kept it in his pocket. But he do not remember in which pocket. He has deposed that afterwards the compliant gave the pre-instructed signal and immediately PW3, his staff came there and the hands of the DGO were washed separately in the solution and he did not observe whether there was any

change in the colour of the solution. He has deposed that the Ex.P4 is the copy of the Trap Mahazar and Ex.P1 is the copy of the Entrustment Mahazar.

23. PW4 has been treated as hostile witness and cross-examined by the learned Presenting Officer. In his cross-examination he has deposed that he is BSc and LLB degree holder and he knows reading and writing Kannada. He has deposed that he will sign the documents after knowing the contents of the documents. He has also deposed that if there is urgency he will sign the documents without reading the contents of the same. He has deposed that he has signed Ex.P1 and P4 after going through the contents of the same. He has deposed that he did not observe whether the complainant produced the amount of Rs. 1,000/- and about the proceedings mentioned in Ex.P1 being conducted in the Lokayuka Police station. He admits that the button camera was given to the complainant and he was also directed to accompany the complainant. He also admits that, he has given a pen camera and he was instructed how to operate the same. He also admits that PW1 was appointed as the shadow witness. He has deposed that he did not observe whether the DGO kept the amount which he received from the complainant in his right side pant pocket. He has deposed that he did not observe whether the tainted currency notes were seized from the right side pant pocket of the DGO. He has deposed that he did not observe whether the hand wash and pant wash of the DGO was positive.

24. In his cross-examination he has deposed that on 30/09/2009 when he went inside the room of the DGO the amount was on the table of the DGO. He has deposed that he went inside the room of the DGO along with I.O. It is pertinent to note that PW4 has been cross examined on a different date and the over all evidence of PW4 discloses that even though he had gone inside the room of the DGO along with the complainant he has given some evasive answers at the instance of the DGO only with an intention to help the DGO. Any how as stated above he has clearly deposed that he wrote the complaint-Ex.P9, according to the say of the complainant and that he had also gone to the office of the DGO along with the complainant on the date of the trap and the complainant told that he has paid the amount and gave the tainted currency notes and the DGO received the same. The above said evidence of PW4 substantially supports the case of the Disciplinary Authority.

25. DW1 is the DGO and he has deposed that he did not demand for any bribe amount and the work of the complainant was not pending with him. He has deposed that, the writing made in the second sheet of Ex.P3 is made by the Senior Assistant Sri Prakash and below the same the said Sri Prakash has also put his small signature. He has deposed that the above said Sri Prakash sent the file to the Under Secretary, Education Department, (Primary). He has deposed that in the office of the Under Secretary the draft found in 5th sheet of Ex.P3 was prepared and again the file

came to Sri Prakash to prepare the fair copy of the above said draft and after preparing the fair copy again the file was sent to the Under Secretary for signature and after signature of the Under Secretary the file again came to the above said Sri Prakash and the said fair copy should have been sent to Director, Primary (Education), Nrupathunga road. He has further deposed that on 30/09/2009 when he was in the office, the complainant came to the office in search of Sri Prakash and he told that Sri Prakash is not in the office and to come after one hour. He has deposed that after 30 minutes again the complainant came to the office and at that time also Sri Prakash was not in the office and the complainant wanted to give Rs. 1,000/- which was to be given to the above said Prakash. But he told the complainant to give the amount to Sri Prakash and the complainant told that he cannot wait till Sri Prakash comes to the office and kept the amount on the table and told him to give the amount to Sri Prakash. He has deposed that after about three minutes of the same the Lokayukta police came to his room and seized the amount. He has deposed that prior to that Lokayukta police asked him to count the amount and to give the same to the Lokayukta police after he did so his hands were washed. He has deposed that his pant was not seized. He has deposed that the file pertaining to Sri Malikarjuna was seized from the table of Sri Prakash.

26. Ex.P11 is the copy of the letter dated: 30/09/2009 written by Sri. M. Prabhu Swamy the Under Secretary, Education Department (primary) to the I.O. In the same it is

mentioned that the DGO is the Section Officer and in respect of the file of the Sri Mallikarjuna, the Under Secretary signed the same on 17/09/2009 and the DGO should have given the file to the Junior Assistant for preparing the letter and that letter had not been sent. Ex.P13 discloses that the I.O. had asked some questions and the Under Secretary, Education Department (Primary) has given his reply. According to the Ex.P13(a) the DGO on 16/09/2009 had sent the file of Sri Mallikarjuna to the Under Secretary and the Under Secretary sent back the file by making the approval note on 17/09/2009 and also signed the letter addressed to the Director (Primary Education), Public Education Department, Bengaluru for getting the report and that letter had not been dispatched till 30/09/2009. In the same it is further stated that after the Under Secretary signed the file on 17/09/2009 and he sent the file to the Section and the Section Officer should have given the file to the Junior Assistant for sending the letter. As stated above, the DGO was the concerned Section Officer and he had not given the file to the Junior Assistant, Sri Prakash for sending the letter stated above. Hence, evidence of the DGO to the effect that the above said Sri Prakash has written the note made in the second sheet of Ex.P3 and that he has signed the same cannot be given much weight. The DGO has deposed that the file of Sri Mallikarjuna was on the table of Sri Prakash. But in the Trap Mahazar, Ex.P4 it is clearly mentioned that the file was on the table of the DGO and the DGO produced the same before the I.O. Hence, the evidence of DW1(DGO) to

the effect that he was not having the above said file and that the above said Sri Prakash was having the above said file and the complainant approached him on 30/09/2009 and tried to give him the amount by saying that it has to be given to Sri Prakash cannot be believed.

27. Ex.P2 is the copy of the explanation given by the DGO to the I.O. on 30/09/2009. In the same the DGO has stated that on 29/09/2009, the complainant enquired him about the appointment on compassionate ground and he told him that on the next day the letter will be sent and on the next day that person approached him and tried to give the amount by asking him to send the letter and when he refused to receive the same the complainant forcibly thrust the amount to his hands and went away. In Ex.P2 it is not at all mentioned that the complainant had approached him asking him for Sri Prakash and that when he told that Sri Prakash is not in the office the complainant tried to give the amount to him by saying that it should be given to Sri Prakash and that the DGO was not having the file of the complainant and that Sri Prakash was dealing with the file of the complainant. More over the above said explanation to the effect that the complainant thrust the amount to the hands of the DGO and went away is also contrary to the evidence given by DW1. As stated above, in his evidence he has deposed that the complainant kept the amount on his table and went away. As stated above, there is evidence to show that even the pant wash of the DGO (right side pocket portion) was positive and DW1 has not given any

explanation as to how the wash of his right side pant pocket was positive in case he had not at all kept the amount in his right side pant pocket. It is also pertinent to note that the above evidence given by DW1 also does not find a place in his written statement.

28. DW1 in his cross-examination admits that there is no ill-will between himself and the deceased complainant likewise there is no ill-will between himself and PW3. He also admits that Sri Prabhuswamy was working as Under Secretary at the relevant point of time. He also admits that Ex.P2 is the copy of the written explanation given by him and it is in his hand writing.

29. No doubt the Disciplinary Authority is not able to examine the complainant due to the death of the complainant. But there is the believable evidence of PW1 to PW4 regarding the DGO demanding and accepting the bribe amount of Rs. 1,000/- from the deceased complainant for showing official favour and there are no cogent reasons to discard their evidence. The facts and circumstances of this case only probablises the case of the Disciplinary Authority and not the defence of the DGO stated above.

30. Thus the charge that the DGO has failed to maintain absolute integrity, devotion to duty and acted in a manner of unbecoming of a Government Servant is proved. Hence, I answer the above point No.1 in the **AFFIRMATIVE**.

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

:: ORDER ::

*The Disciplinary Authority has satisfactorily proved charge against DGO-Sri K.S. Ningaiah, Section Officer, Education Department, (Primary-B) Section, Karnataka Government Secretariat, Bengaluru, (**Now retired**).*

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

Dated this the 10th day of February, 2020

-Sd/-

(Somaraju)

Additional Registrar Enquiries-4,
Karnataka Lokayukta,
Bengaluru.

ANNEXURE**LIST OF WITNESSES EXAMINED ON BEHALF OF DISCIPLINARY AUTHORITY:**

PW-1:Sri C.G. Prabhakar (shadow pancha witness)

PW-2:Sri S. Balaraj (pancha witness)

PW-3:Sri K.C. Lakshminarayana (I.O.)

PW-4:N.H. Gugulingaswamy (witness)

LIST OF WITNESSES EXAMINED ON BEHALF OF THE DEFENCE:

DW-1: Sri K.S. Ningaiah (DGO)

LIST OF EXHIBITS MARKED ON BEHALF OF DISCIPLINARY AUTHORITY

Ex.P-1: Certified copy of the Entrustment Mahazar

Ex.P-1(a): Relevant entry in Ex.P1

Ex.P-2:Xerox copy of the explanation of the DGO

Ex.P-3: Certified copy of the file of the complainant
(containing 7 sheets)

Ex.P-4: Certified copy of the Trap Mahazar

Ex.P-4(a); Relevant entry in Ex.P4

Ex.P-5: Certified copy of the notes number and
denomination mentioned white sheet

Ex.P-6: Certified copy of the conversation takes place
between complainant and the DGO on 30/09/2009

Ex.P-7: Certified copy of the transcription recorded in the
pen camera and button camera that took place
between complainant and the DGO

Ex.P-8: Certified copy of the Xeroxed photos on the white
sheet

Ex.P-9: Certified copy of the complaint

Ex.P-9(a): Relevant entry in Ex.P9

Ex.P-10: Certified copy of the FIR

Ex.P-11: Certified copy of the voice recognizing report

Ex.P-12: Certified copy of the chemical examination report

Ex.P-13: Certified copy of the work allocation copy

Ex.P-13(a): Relevant entry in Ex.P13

Ex.P-14: Certified copy of the service particulars of the DGO

Ex.P-15: Certified copy of the sketch

Ex.P-16: Original written explanation filed by the DGO
dated: 30/09/2013

LIST OF EXHIBITS MARKED ON BEHALF OF DGO:

Ex.D-1: Certified copy of the deposition of Sri K.C.
Lakshminarayana in Special C.C. No. 156/2010
(containing 10 sheets)

Dated this the 10th day of February, 2020

-Sd/-

(Somaraju)

Additional Registrar Enquiries-4,
Karnataka Lokayukta,
Bengaluru.

