

KARNATAKA LOKAYUKTA

NO:UPLOK-1/DE-348/2016/ARE-9

M.S.Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru - 560 001.
Date: 21-10-2017**:: ENQUIRY REPORT ::***Sen (d)***:: Present ::****(Lokappa N.R)**Additional Registrar of Enquiries-9
Karnataka Lokayukta,
Bangalore**Sub:** Departmental Enquiry against Sri.
Vijayakumar S Biradar, In charge, Medical
Officer, Shivajinagar Zone, BBMP, Bangalore -
reg.**Ref:** 1) Government Order No. ನಅಇ 125 ಎಂಎನ್‌ಜಿ 2016,
ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 25/8/2016.2) Nomination Order No: UPLOK-1/DE/348/
2016, Bangalore dated 03/09/2016.

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This Departmental Enquiry is initiated against Sri. Vijayakumar S Biradar, Incharge Medical Officer, Shivajinagar Zone, BBMP, Bangalore (hereinafter referred to as the "Delinquent Government Official" in short "DGO").

2) In view of the Government Order cited above at reference No.1, Hon'ble Upalokayukta-I vide order dated 03/09/2016 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 prepared

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Articles of charges, statement of imputation 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 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

That you DGO - Vijayakumar S Biradar, while working as Incharge Medical Officer, Shivajinagar Zone, BBMP, Bangalore that the Complainant - Sri B. Umashankar had requested you DGO to clear sale of coffee, tea, beedi and cigarette at front side and backside of BBMP Office situated at N.R. Square, Bengaluru and also requested furnish the information as to whether they have obtained any license, but you have failed to furnish the information asked by the complainant and thereby you DGO failed to maintain absolute devotion to duty, the act of which was un-becoming of Government Servant and thereby committed mis-conduct as enumerated U/R 3 (1) (i) to (iii) of Karnataka Civil Service (conduct) Rules 1966.

ANNEXURE-II
STATEMENT OF IMPUTATION OF MISCONDUCT:

1. An investigation was taken up by invoking section 9 of Karnataka Lokayukta Act, 1984, on the complaint filed by

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Sri B. Umashankar, No.43, J.M. Cross, M.S. Lane, Bengaluru (hereinafter referred to as 'complainant' for short), against Sri Vijay Kumar S. Biradar, I/c. Medical Health Officer, Shivajinagar Zone, Queens Road, BBMP, Bengaluru alleging that he has committed dereliction of duty.

2. According to the complainant, he had requested the DGO to clear sale of coffee, tea, beedi and cigarette at front side and backside of BBMP Office situated at N.R. Square, Bengaluru and also requested furnish the information as to whether they have obtained any license. But, the DGO has not complied the request of the complainant.
3. In response to the notice issued by this Authority, the DGO has submitted his comments stating that he is not a regular Health Officer in respect of Ward no. 110 in respect of which the allegation is made.

In the said ward one Mr. M.S. Nagasheshu is the regular Health Officer. It was the duty of the said Nagasheshu to see that there are no such shops and complaints by the public. The said Nagasheshu had earlier attempted to remove the coffee, tea sellers from the said spot. But, he said the work was not completed due to lack of staff in the Department. It is the duty of Work Department of BBMP, Police and Government to see that there are no unauthorized activities on the footpath. The further say of the DGO is that he is the regular officer of Hebbal Zone having additional charge of Shivajinagar Zone, for last 4

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months and has got incharge of 15 Wards in total. He is attending all the complaints after, he has taken the charge. He has got additional charge of NPR census and disposal of wastage by bulk generators as per the directions of Hon'ble High Court. He is also doing the work of imposing fine on the industrialists who violates the directions and cause waste on the road side. Therefore, he has discharged his duties efficiently after taking over charge of Shivajinagar zone. Therefore, the complaint of the complainant is false.

4. These contentions of the DGO appear to be not acceptable. Because, the documents produced by the complainant disclose that, twice the complainant, has requested the DGO to take necessary action for clearing the sale of coffee, tea and beedi near N.R. Square. But, nowhere in the comments submitted by the DGO, he has not stated as to what are the steps he has taken for clearing the sale of coffee, tea, beedi, cigarette on the basis of the complaint given by the complainant. No doubt, as he had additional charge of Shivajinagar Zone, he was busy when he took the charge. But the complaint, in spite of giving representations on 30.09.2015 and once again on 07.11.2015, the DGO has not taken any action.

It is relevant to mention that even after the complainant approaching this Authority on 05.12.2015 the DGO has not taken any action. The explanation given by the DGO itself, disclose that he has not taken any steps even after this office sending notice for giving comments. It is not the say of the DGO that as he was busy earlier he



could not take any action in respect of the sale of coffee, tea and Cigarette in N.R. Square and after receiving notice from this office, he has taken all steps to remove the same. There are no documents at least to show that, he sent some representations or letter to the BBMP, police or any authorities in this direction. This shows that the DGO has not even cared the notice of this office. He has not shown his bonafide at least by making some attempts for clearance. The photographs submitted by the complainant along with his reply disclose that still there is sale of coffee, tea, beedi and cigarette at the BBMP office, NR Square even after lodging complaint before this Authority and notice sent to the DGO.

5. In view of the facts stated above and on consideration of the material on record, reply of DGO has not been found satisfactory to drop the proceedings. Therefore, this act of inaction of the DGO amounts to dereliction of duty and official misconduct under rule 3(1) (i) to (iii) of KCS (Conduct) Rules, 1966.
6. Therefore, recommendation is made under section 12(3) of Karnataka Lokayukta Act, to the Competent Authority to initiate disciplinary proceedings against the DGO 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 30/05/2017 before enquiry authority in pursuance to the service of Article of Charges.

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

The DGO has filed his written statement and submit that,

The DGOs specifically denying the charge leveled against him. Further, he submits that the complainant not submitted the complaint before the DGO and further the DGO taken steps for clearing the sale of coffee, tea, beedi, Cigarette on the basis of the complaint given by the complainant and he taken steps to redress the grievance of the complainant and further he had instructed and given suitable directions to one Sri M.S. Nagabhushan, regular Sr. health Inspector, Ward No.110 whose mandatory duty is to see that such unauthorized tea, Coffee, beedi and cigarette stalls are cleared from the pavements immediately. He also took lot of steps to clear all those stalls on the said spot and succeeded partially. But, the whole work was not completed due to lack of staff in the health department. Moreover it is also the prime duty of the Engineering of the BBMP and traffic police of Bangalore City to see that such unauthorized activities are cleared from the footpath interest of the pedestrians walk of the foot path freely in this regard he had already written a letter to the AEE, BBMP, shivajinagar circle on 11/11/2015 requesting him to take necessary action to provide one Lorry and 10 personal to clear all the pavement occupied unauthorisedly by the vendors. Also written to the concerned sub inspector of police, High Ground and Sampangi Ramangar police station to assist them by given police protection to their officials to give a suitable date in clearing



of unauthorized encroachment. Further he submitted that in spite of holding regular charge as Nodal officer, Disaster Management Cell, BBMP, Medical officer of madival range, BBMP, Census officer of Hebbal division, BBMP also holding an additional I/c Medical officer, Shivajinagar range and further he submit that he has done his job satisfactorily. Hence, prayed for dropt the enquiry against him.

The disciplinary authority has examined Sri. Umashankar S/o Banashetteppa, Bangalore as PW.1 and Ex.P1 to P6 are got marked and DGO not examined any witnesses but produced the documents which are marked as Ex.D1 and 2.

The disciplinary authority filed the written in brief and DGO submit that his written statement may be treated his given brief and heard the submission of both sides. 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 substantially that are leveled against the DGOs.
- 4) The disciplinary authority examined one witnesses as PW.1 and Ex.P1 to 6 got marked. PW.1 is deposed in his chief examination is that, in front of the Head office of the BBMP, front gate some persons install the shops for sale coffee tea, beedi cigarette ext., and it is harmful and inconvenience to the who are the public standing nearby the bus stop of the said gate who waiting for the bus. For that he filled the complaint to the DGO to clear the sale . But has not clear the same for



that reason he lodged the complaint before the Lokayukta as per Ex.P1. But, his cross examination he deposed that

ನಾನು ಬಿಬಿಎಂಪಿ ಕಛೇರಿಗೆ ಕೊಟ್ಟ ದೂರನ್ನು ಆ.ಸ.ನೌ.ರವರ ಕಛೇರಿಯಲ್ಲಿ ದಿನಾಂಕ:07.11.2015 ರಂದು ಸ್ವೀಕರಿಸಿದ್ದಾರೆ ಎಂದರೆ ಸರಿ. ಆ ವೇಳೆಯಲ್ಲಿ ಆ.ಸ.ನೌ.ರವರು ಹೆಚ್ಚಿನ ವಲಯದಲ್ಲಿ ಆರೋಗ್ಯ ವೈದ್ಯಾಧಿಕಾರಿಯಾಗಿ ಕಾರ್ಯ ನಿರ್ವಹಿಸುತ್ತಿದ್ದರು ಎಂದರೆ ಸರಿ. ಶಿವಾಜಿನಗರ ವಲಯದ ಪ್ರಭಾರವನ್ನು ಸಹ ನೋಡಿಕೊಳ್ಳುತ್ತಿದ್ದರು ಎಂದರೆ ಸರಿ. ಆ.ಸ.ನೌ.ರವರು ನಾನು ಕೊಟ್ಟ ದೂರನ್ನು ಪರಿಶೀಲಿಸಿ ಸಂಬಂಧಪಟ್ಟ ಹಿರಿಯ ಆರೋಗ್ಯ ಪರಿವೀಕ್ಷಕರು ಶ್ರೀ.ನಾಗಶೇಷ ರವರಿಗೆ ಸ್ಥಳ ಪರಿಶೀಲನೆ ಮಾಡಿ ಅದಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ಕ್ರಮ ಜರುಗಿಸಿ ವರದಿ ಸಲ್ಲಿಸುವಂತೆ ತಿಳಿಸಿದ್ದಾರೆ ಎಂದರೆ ನನಗೆ ಗೊತ್ತಿಲ್ಲ. ಸದರಿ ನಾಗಶೇಷ ರವರು ಸ್ಥಳದಲ್ಲಿ ಬುಟ್ಟಿಯಲ್ಲಿ ಟೀ, ಕಾಫಿ, ಸಿಗರೇಟ್ ಮತ್ತು ಬೀಡಿ ಇಟ್ಟುಕೊಂಡು ಮಾರಾಟ ಮಾಡುತ್ತಿದ್ದವರನ್ನು ಅಲ್ಲಂದ ತೆರವುಗೊಳಿಸಿರುತ್ತೇನೆ ಎಂದು ತಿಳಿಸಿರುತ್ತಾರೆ. ಆ.ಸ.ನೌ.ರವರು ಸಹ ನಂತರ ಸ್ಥಳಕ್ಕೆ ಹೋಗಿ ನೋಡಲಾಗಿ ಅವರು ಆ ಸ್ಥಳದಲ್ಲಿ ಇರಲಿಲ್ಲ. ಆ.ಸ.ನೌ.ರವರು ವಾಪಸ್ ಬಂದ ನಂತರ ಪುನಃ ಸದರಿ ಮಾರಾಟಗಾರರು ಆ ಸ್ಥಳಕ್ಕೆ ಬಂದಿರುತ್ತಾರೆ. ನಂತರ ದಿನಾಂಕ: 11.11.2015ಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟ ಪೊಲೀಸ್ ಠಾಣೆಗೆ ಪತ್ರ ಬರೆದು ಸದರಿ ಅನಧಿಕೃತವಾಗಿ ಟೀ, ಕಾಫಿ, ಸಿಗರೇಟ್ ಮಾರಾಟಗಾರರನ್ನು ಆ ಸ್ಥಳದಿಂದ ತೆರವುಗೊಳಿಸಲು ಪೊಲೀಸರ ಸಹಾಯವನ್ನು ಕೋರಿದ್ದರು ಎಂದರೆ ಸರಿ.”

Pw.1 further deposed that

“ಮೇಲೆ ಹೇಳಿದ ದಿನಾಂಕದಂದೇ ಅನಧಿಕೃತವಾಗಿ ಕಾಫಿ, ಟೀ ಮತ್ತು ಸಿಗರೇಟ್ ಮಾರಾಟ ಮಾಡುವವರನ್ನು ಆ ಸ್ಥಳದಿಂದ ತೆರವುಗೊಳಿಸಲು ಸಹಾಯ ಕೋರಿ ಸಹಾಯಕ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರು, ಶಿವಾಜಿನಗರ ರವರಿಗೆ ಪತ್ರ ಬರೆದಿದ್ದಾರೆ ಎಂದರೆ ಸರಿ.”

Pw.1 further deposed that

“ಆದರೆ ಸದರಿ ಪತ್ರಗಳಲ್ಲಿ ಕೋರಿದಂತೆ ಮೇಲೆ ಹೇಳಿದ ಎರಡು ಇಲಾಖೆಯವರು ಆ.ಸ.ನೌ.ರವರಿಗೆ ಸಹಾಯ ಮಾಡಲಿಲ್ಲ ಎಂದರೆ ಸರಿ. ಸದರಿ ಕಛೇರಿಯ ಮುಂಭಾಗ ಇರುವ ಪಾದಚಾರಿ ಮಾರ್ಗದ ಉಸ್ತುವಾರಿ ಮತ್ತು ರಿಪೇರಿಯನ್ನು ಸಂಬಂಧಪಟ್ಟ ವಾರ್ಡಿನ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರು ಮಾಡಬೇಕು ಎಂದರೆ ಸರಿ. ಆದರೆ, ಆರೋಗ್ಯ ಇಲಾಖೆಯವರು ಕಾಫಿ, ಟೀ, ಬೀಡಿ & ಸಿಗರೇಟ್ ವಿಚಾರಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ಕ್ರಮ ಕೈಗೊಳ್ಳಬೇಕಾಗಿರುತ್ತದೆ. ಡಿಸೆಂಬರ್ 2015 ರಂದು ಆ.ಸ.ನೌ.ರವರು ನಿವೃತ್ತಿ ಹೊಂದಿದ್ದಾರೆ ಎಂದರೆ ಸರಿ. ಪಾದಚಾರಿ ಮಾರ್ಗದ ಮೇಲೆ ಅನಧಿಕೃತವಾಗಿ ಕಾಫಿ, ಟೀ, ಬೀಡಿ & ಸಿಗರೇಟ್ ಮಾರಾಟ ಮಾಡುವವರ ವಿರುದ್ಧ ಸಂಬಂಧಪಟ್ಟ ಪೊಲೀಸ್ ಠಾಣೆಯವರು ಅವರನ್ನು ಆ ಸ್ಥಳದಿಂದ ತೆರವುಗೊಳಿಸಿ ಕಾನೂನು ಪ್ರಕಾರ ಕ್ರಮ ಕೈಗೊಳ್ಳುವುದು ಅವರ ಕರ್ತವ್ಯ ಎಂದರೆ ಸರಿ. ಆ.ಸ.ನೌ.ರವರು ತಮ್ಮ ಅಧಿಕಾರ ಅವಧಿಯಲ್ಲಿ ತಮ್ಮ ಕರ್ತವ್ಯದಂತೆ ಕರ್ತವ್ಯ ಮಾಡಿದ್ದು, ಯಾವುದೇ ಕರ್ತವ್ಯ ಲೋಪವೆಸಗಿಲ್ಲ ಎಂದರೆ ಸರಿ.”

5) As per the Ex.P4 complainant filed the application before Medical officer, Shivaji Nagar Range on 30.9.2015 on the same day he requested to give information whether the DGO issue license to run the said petty shot to sale the coffee, tea, beedi, cigarette etc., in front gate of the BBMP office. Nearby bus

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stop. The DGO issued the letter dated 3.11.2015 and give information that he has not issued any license to do above said business to any person in that place.

6) Further the complainant filed another application on 7/11/2015 to the DGO office to clear the said unauthorized shops as shown in the Xerox photo. As per the said Xerox photo someone lead a petty business on the moving cart (ತಳ್ಳುಕೆ ಎಂಡ). The DGO produced the Ex.D1 the letter submitted by him on 11.11.2015 to the AEE, Shivaji Nagar, Sub Division quince road, Bangalore for their assistance needful to remove the said businessman from the said place and also DGO produced another letter for the same date. As per the said letter he also seek police assistance from the Inspector, High Ground Police Station/Sampangi nagar police station, Bangalore and also he produced the Ex.D2 his comments to the complaint of the complainant. He stated in his comments regarding steps taken to redress the grievance of the complainant and also as per the FOS of the DGO he was retired from his service on 31.12.2015.

7) The charge leveled against the DGO is the complainant had requested to the DGO clear the sale of coffee, tea, beedi, cigarette front side and back side of BBMP office situated at NR Square, Bangalore and also requested to furnish the information as to whether they have obtained any license but the DGO have failed to furnish the information asked by the complainant and thereby DGO failed to maintain absolute

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devotion to duty the act of which was unbecoming of government servant.

8) Perused the above said charge leveled against the DGO with the cross examination of Pw.1 and Ex.1 to 6 and Ex.D1 and 2. As per the Ex.P4 the DGO give information to the complainant regarding the non issuance of license to the alleged vendor to lead such business in front gate of the BBMP office on 7.11.2015 and also as per Ex.D1 he take steps to remove the said petty shops from the said place by taking assistance from the AEE, Shivajinagar Division and also concerned police. But, the said Department not supported him in time as he requested. These are all facts also deposed by the Pw.1 in his cross examination. The DGO submitted in his written statement that he was working as i/c Medical Officer in the said ward and DGO having regular charges as nodal officer, Disaster Management Cell, BBMP, Medical Officer of Hebbal Range, BBMP, Census Officer of Hebbal Division, BBMP.

9) Considering the above all facts and circumstances with oral and documentary evidence of Pw.1, the DGO give information to the complainant regarding the license not issued to the said businessman to lead such business before the BBMP, Head Office and also he take steps to redress the grievance of the complainant as well as, evict the said un authorized businessman from the spot. But, concerned department officer not responded to his request in time. Moreover the DGO retired on 31/12/2015. The all facts clearly reveals that the DGO maintain absolute devotion to

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duty, not committing any misconduct as stated in the charge. Thereby the enquiry authority failed to prove the charge leveled against the DGO with sufficient material evidence.

10) In the event of the circumstances, the charges leveled against the DGO is not proved. Hence, this report is submitted to Hon'ble Upalokayukta-1 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	B. Umashankar s/o Banasetappa, Social worker, Bangalore
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ii) List of Documents marked on behalf of Disciplinary Authority.

Ex.P1	Typed complaint dated 5/12/2015
Ex.P1(a)	Signature of the complainant
Ex.P2	Complaint Form No.I
Ex.P2(a)	Signature of the complainant
Ex.P3	Complaint Form No.II
Ex.P3(a)	Signature of the complainant
Ex.P4	Documents submitted along with complaint (6 sheets)
Ex.P5	Written statement of the complainant dated 28/1/2016
Ex.P5(a)	Signature of the complainant



Ex.P6	Two photographs
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iii) List of witnesses examined on behalf of DGO.

:: NIL ::

iv) List of documents marked on behalf of DGO

Ex.D1	Letter dated 11/11/2015 written to the Assistant Executive Engineer, Shivaji nagar, Quince road, Bangalore by the I/c Medical Officer, Shivaji Nagar, Bangalore
Ex.D2	Letter dated 28/12/2015 written to the Deputy Registrar-2, Karnataka Lokayukta, Bangalore by Sri Vijay Kumar S Biradar, I/c Medical Officer, Shivaji Nagar, Bangalore



(Lokappa N.R)

Additional Registrar Enquiries-9
Karnataka Lokayukta,
Bangalore.

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

NO: UPLOK-1/DE/348/2016/ARE-9

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001,
Date:24/10/2017

RECOMMENDATION

Sub:- Departmental inquiry against Sri Vijayakumar
S. Biradar, Incharge Medical Officer,
Shivajinagar Zone, Bruhat Bengaluru
Mahanagara Palike, Bengaluru - Reg.

Ref:- 1) Government Order No. ಸಅಇ 125 ಎಂಎನ್‌ಜಿ 2016,
Bengaluru, dated 25/8/2016

2) Nomination order No. UPLOK-1/DE/348/2016,
Bengaluru dated 3/9/2016

3) Inquiry Report dated 21/10/2017 of Additional
Registrar of Enquiries-9, Karnataka Lokayukta,
Bengaluru.

The Government by its Order dated 25/8/2016, initiated the disciplinary proceedings against Sri Vijayakumar S. Biradar, incharge Medical Officer, Shivajinagar Zone, Bruhat Bengaluru Mahanagara Palike, 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. UPLOK-1/DE/ 348/2016, Bengaluru dated 3/9/2016, nominated Additional Registrar of Enquiries-9, Karnataka Lokayukta, Bengaluru, as 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 Vijayakumar S. Biradar, incharge Medical Officer, Shivajinagar Zone, Bruhat Bengaluru Mahanagara Palike, Bengaluru was tried for the following charges:-

“That you DGO- Vijayakumar S. Biradar, while working as Incharge Medical Officer, Shivajinagar Zone, BBMP, Bangalore that the Complainant - Sri B. Umashankar had requested you DGO to clear sale of coffee, tea, beedi and cigarette at front side and backside of BBMP office situated at N.R. Square, Bengaluru and also requested to furnish the information as to whether they have obtained any license, but you have failed to furnish the information asked by the Complainant and thereby you DGO failed to maintain absolute devotion to duty, the act of which was unbecoming of Government servant and thereby committed misconduct as enumerated U/R. 3(1)(i) to (iii) of Karnataka Civil Services (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 charges against DGO Sri Vijayakumar S. Biradar.

5. On re-consideration of the 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 and to exonerate the DGO Sri Vijayakumar S. Biradar, Incharge Medical Officer, Shivajinagar Zone, Bruhat Bengaluru Mahanagara Palike, Bengaluru from the aforesaid charges.

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

Connected records are enclosed herewith.


(JUSTICE N. ANANDA) 24/10
Upalokayukta-1,
State of Karnataka,
Bengaluru

