

KARNATAKA - LOKAYUKTA

No. Uplok-1/DE/396/2017/ARE-12

M.S. Building
Dr. B.R. Ambedkar Road
Bengaluru-560 001
Date: 17.03.2021

ENQUIRY REPORT

PRESENT : SRI D. PUTTASWAMY
ADDITIONAL REGISTRAR (ENQUIRIES)-12
M.S. BUILDING
KARNATAKA LOKAYUKTA
BENGALURU – 560 001.

Subject : Departmental Inquiry against :

1. Sri B.K. Samshi, Panchayath Development Officer, Hulguru Grama Panchayath, Shiggaon Taluk, Haveri District and
2. Sri. I.R. Jathager, Second Division Accounts Assistant, Hulguru Grama Panchayath, Shiggaon Taluk, Haveri District –reg.,

- References:**
1. Report u/s 12(3) of the Karnataka Lokayukta Act, 1984 in Compt/Uplok/BGM/8784/2016/ARLO-1, dt.23.09.2016.
 2. Government Order No.ಗ್ರಾಅಪ 703 ಗ್ರಾಪಂಕಾ 2016 dt:21.01.2017 & corrigendum dt:10.3.2017
 3. Nomination Order No.Uplok-1/DE/396/2017 Bengaluru dt.18.03.2017 of Hon'ble Upalokayukta-1.
 4. Order No.Uplok-1&2/DE/Transfers/2018 Bengaluru dated 6.8.2018

* * *

1. This complaint is filed by the complainant Sri. Syed Kaleemuddin, President of Afnan Taneem Social Welfare

Society, Haveri District (hereinafter referred to as 'complainant' for short) against (1) Sri. B.K. Samshi, Panchayath Development Officer and (2) Sri. I.R. Jathager, Second Division Assistant (hereinafter referred to as Delinquent Government Officials in short DGOs 1 and 2 respectively), alleging misconduct.

2. On the basis of the complaint, comments were called from the DGOs. The DGOs have submitted their comments denying the complaint allegations. Unsatisfied with the comments of DGOs, a report was sent to the Government u/s 12(3) of the Karnataka Lokayukta Act, 1984 as per reference No.1. In pursuance of the report, Government was pleased to issue the Government Order (G.O.) authorizing Hon'ble Upa-lokayukta to hold an enquiry against the DGOs as per reference No. 2.

3. On the basis of the Government Order, nomination order was issued by the Hon'ble Upalokayukta on 18/03/2017 authorizing ARE-3 to frame Articles of Charge against the DGOs and to hold an enquiry to find out truth and to submit a report as per reference No. 3. On the basis of the nomination order, the Articles of Charge against the DGOs were framed by the then Additional Registrar (Enquiries-3) and was sent to the Delinquent Government Officials on 02/05/2017. In view of the order cited at reference No. 4, this file was transferred from ARE-3 to ARE-12.

4. The articles of charge and the statement of imputations of misconduct prepared and leveled against the DGOs are reproduced as here under :-

ಅನುಬಂಧ-1

ದೋಷಾರೋಪಣೆ ಪಟ್ಟಿ

That you DGOs 1 and 2 named above, while working as such in Hulgur Grama Panchayath, have received 984 applications during the period from 2009-10 to 2014-15 for grant of rations card and collected Rs. 49,200/- as application fees at Rs.50/- per application. Similarly having received 433 applications for grant of ration card during the period from 11.06.2015 to 9.12.2015 collected Rs.21,650/- as application fees at Rs.50/- per application. But you have remitted only Rs.9840/- to Grama Panchayath account, out of Rs.49,200/- collected along with 984 application during 2009 to 2015 and the balance of Rs. 39,360/- has been misappropriated by you without remitting the said amount to the Grama Panchayath account.

As per the show cause notice dated 16.09.2015 issued by Executive Officer, Taluk Panchayath, Shiggaon, you the DGOs no.1 and 2 having collected Rs.17,900/- towards application fee for issue of ration card from 358 applications at Rs.50/- per application, you have failed to remit the said amount to the Grama Panchayath account and thus misappropriated the said amount.

Thus, you DGOs no.1 and 2 have failed to maintain absolute integrity, showed negligence and lack of devotion to duty and committed an act which is unbecoming of a Government Servant and thus

you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966.

ಅನುಬಂಧ-2

ದೋಷಾರೋಪಣೆಯ ವಿವರ

ಹಾವೇರಿ ಜಿಲ್ಲೆ ಶಿಗ್ಗಂವ ತಾಲ್ಲೂಕ್ ಹಲಗೂರು ದರ್ಗಾ ಅಫ್ಫಾನ್ ತನೀಂ ಸೋಷಿಯಲ್ ವೆಲ್‌ಪೇರ್ ಸೊಸೈಟಿಯ ಅಧ್ಯಕ್ಷರಾದ ಶ್ರೀ ಸಯೀದ್ ಕಲೀಮುದ್ದೀನ್ (ಇನ್ನು ಮುಂದೆ “ದೂರುದಾರರು” ಎಂದು ಕರೆಯಲ್ಪಡುತ್ತಾರೆ) ತಮ್ಮ ದೂರಿನಲ್ಲಿ ಹಾವೇರಿ ಜಿಲ್ಲೆ ಶಿಗ್ಗಂವ ತಾಲ್ಲೂಕಿನ ಹಲಗೂರು ಗ್ರಾಮ (1) ಪಂಚಾಯತ್ ಅಭಿವೃದ್ಧಿ ಅಧಿಕಾರಿಯಾದ ಶ್ರೀ. ಬಿ.ಎಸ್. ಸೌಂಸಿ ಮತ್ತು (2) ದ್ವಿತೀಯ ದರ್ಜೆ ಸಹಾಯಕರಾದ ಶ್ರೀ. ಐ.ಆರ್. ಜಟಕರ್ (ಇನ್ನು ಮುಂದೆ 1 ಮತ್ತು 2ನೇ ಆಸನು ಎಂದು ಕ್ರಮವಾಗಿ ಕರೆಯಲ್ಪಡುತ್ತಾರೆ) ರವರ ವಿರುದ್ಧ ಕರ್ತವ್ಯಲೋಪದ ಬಗ್ಗೆ ನೀಡಿದ ದೂರನ್ನು ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯಿದೆಯ ಕಲಂ 9ರ ಅಡಿಯಲ್ಲಿ ತನಿಖೆಗೆ ತೆಗೆದುಕೊಂಡಿದ್ದಿದೆ.

2. ದೂರಿನ ಸಂಕ್ಷಿಪ್ತ ವಿವರಣೆ: - ಹಾವೇರಿ ಜಿಲ್ಲೆ ಶಿಗ್ಗಂವ ತಾಲ್ಲೂಕ್ ಹಲಗೂರು, ಗ್ರಾಮ ಪಂಚಾಯತ್ ವ್ಯಾಪ್ತಿಯಲ್ಲಿ ಗ್ರಾಮೀಣಾಭಿವೃದ್ಧಿ ಮತ್ತು ಪಂಚಾಯತ್ ರಾಜ್ ಇಲಾಖೆ, ಕರ್ನಾಟಕ ಸರ್ಕಾರದ ಆದೇಶ ದಿನಾಂಕ 17.10.2015 ಮತ್ತು ಜಂಟಿ ಆಯುಕ್ತರು, ಆಹಾರ ಮತ್ತು ನಾಗರೀಕ ಸರಬರಾಜು ಇಲಾಖೆ, ಬೆಂಗಳೂರುರವರ ದಿನಾಂಕ 10.03.2015ರ ಆದೇಶದಂತೆ, ಪ್ರತಿ ಪಡಿತರ ಚೀಟಿಗೆ ರೂ.50/-ರಂತೆ ನಿರ್ವಹಣಾ ಶುಲ್ಕ ವಸೂಲಿ ಮಾಡುವಂತೆ ಆದೇಶವಿದ್ದು, ಆಸನು ಒಟ್ಟು 984 ಪಡಿತರ ಚೀಟಿ ಕೋರಿ ಸಲ್ಲಿಸಲಾದ ಅರ್ಜಿಗಳಿಗೆ ತಲಾ ರೂ.50/-ರಂತೆ ಒಟ್ಟು ರೂ.49,200/-ಗಳನ್ನು ವಸೂಲಿ ಮಾಡಿದ್ದು, ಆದರೆ ಸರ್ಕಾರಕ್ಕೆ ರೂ.9840/-ನ್ನು ಮಾತ್ರ ಜಮಾ ಮಾಡಿದ್ದಾರೆ. ಅದೇ ರೀತಿ ಒಟ್ಟು 499 ಪಡಿತರ ಚೀಟಿಗೆ ರೂ.50/-ರಂತೆ ಒಟ್ಟು ರೂ.24,950/-ನ್ನು ವಸೂಲಿ ಮಾಡಿದ್ದು, ಅದರಲ್ಲಿ ರೂ.22,520/-ನ್ನು ಮಾತ್ರ ಜಮಾ ಮಾಡಿದ್ದಾರೆ. ಆಸನು ನೀಡಲಾದ ದಾಖಲೆಗಳ ಪ್ರಕಾರ 984 ಪಡಿತರ ಚೀಟಿಗೆ ರೂ.9840/-ನ್ನು ಮಾತ್ರ ಜಮಾ ಮಾಡಿರುವ ಬಗ್ಗೆ ನಮೂದಾಗಿದೆ. ಅದೇ ರೀತಿ, 499 ಪಡಿತರ ಚೀಟಿಗೆ ರೂ.22,500/-ನ್ನು ಮಾತ್ರ ಜಮಾ ಮಾಡಿದ್ದಾರೆ. ತಾಲ್ಲೂಕ್ ಪಂಚಾಯತ್ ಕಾರ್ಯನಿರ್ವಹಣಾಧಿಕಾರಿಗಳು ಆಸನುಕರರಿಗೆ ನೀಡಲಾದ

ಕಾರಣ ಕೇಳಿ ನೋಟಿಸಿನಲ್ಲಿ ಒಟ್ಟು ರೂ.17,900/- ಹಣ ದುರುಪಯೋಗವಾಗಿರುವ ಬಗ್ಗೆ ನಮೂದಾಗಿದೆ. ಆದ್ದರಿಂದ, ಆಸನೌ ಪಡಿತರ ಚೀಟಿಗೆ ಸಂಬಂಧಪಟ್ಟ ಹಣವನ್ನು ದುರುಪಯೋಗಪಡಿಸಿಕೊಂಡಿರುವುದು ಕಂಡು ಬಂದಿದೆ.

3. ದೂರಿಗೆ ಆಸನೌಗಳಿಂದ ಆಕ್ಷೇಪಣೆಯನ್ನು ಕೇಳಲಾಗಿ, 1 ಮತ್ತು 2ನೇ ಆಸನೌ ತಮ್ಮ ಆಕ್ಷೇಪಣೆಯಲ್ಲಿ :

2009-10 ರಿಂದ 2014-15ರವರೆಗೆ ಒಟ್ಟು 984 ಪಡಿತರ ಚೀಟಿ ಕೋರಿ ಅರ್ಜಿ ಸಲ್ಲಿಸಿದ್ದು, ಇದರ ಮೊತ್ತ ತಲಾ 1ಕ್ಕೆ ರೂ.10/- ರಂತೆ ಒಟ್ಟು ರೂ.9840/-ಗಳು ವಸೂಲಾಗಿದ್ದು, ಆ ಹಣವನ್ನು ದಿ:4.3.2016ರ ಪಂಚತಂತ್ರದ ಪ್ರಕಾರ ಸರ್ಕಾರಕ್ಕೆ ಜಮಾ ಆಗಿದೆ. ಅದೇ ರೀತಿ ದಿ:18.09.2015 ರಿಂದ 05.12.2015ರವರೆಗೆ ಗ್ರಾಮ ಪಂಚಾಯತ್‌ನ ವಿವಿಧ ನಿಧಿಗಳಲ್ಲಿ ಒಟ್ಟು ರೂ.21,650/- ಜಮಾ ಆಗಿದೆ. 2015-16ರ ದಿ:11.06.2015 ರಿಂದ 09.12.2015ರವರೆಗೆ ಒಟ್ಟು 433 ಪಡಿತರ ಚೀಟಿಗೆ ರೂ.21,650/- ಆಗುತ್ತಿದ್ದು, ಇದರ ಪೈಕಿ ಸರ್ಕಾರಕ್ಕೆ ಭರಿಸಿದ್ದು ರೂ.21,650/- ಆಗಿದೆ. ದೂರುದಾರರು ದೂರಿನಲ್ಲಿ ಹೇಳಿರುವಂತೆ 499 ಪಡಿತರ ಚೀಟಿಗಳಿಂದ ಹಣ ವಸೂಲಿ ಮಾಡಿಲ್ಲ. ಹಲಗೂರು ಗ್ರಾಮ ಪಂಚಾಯತ್‌ನಲ್ಲಿ ಪಡಿತರ ಚೀಟಿ ಕೋರಿ ಸಲ್ಲಿಸಿದ ಅರ್ಜಿಯಲ್ಲಿ ಯಾವುದೇ ಹಣಕಾಸಿನ ಅವ್ಯವಹಾರ ಆಗಿಲ್ಲವೆಂದು ಹೇಳಿದ್ದಾರೆ.

4. ಕಡತ ಮತ್ತು ದಾಖಲೆಗಳನ್ನು ಕೂಲಂಕುಷವಾಗಿ ಪರಿಶೀಲಿಸಲಾಗಿ ಕಂಡು ಬರುವ ಅಂಶಗಳೇನಂದರೆ:

ಆಸನೌ ಹಲಗೂರು ಗ್ರಾಮ ಪಂಚಾಯತ್ ವ್ಯಾಪ್ತಿಗೆ ಸಂಬಂಧಪಟ್ಟಂತೆ 2009-10 ರಿಂದ 2014-15ರವರೆಗೆ ಒಟ್ಟು 984 ಪಡಿತರ ಚೀಟಿ ಅರ್ಜಿ ಪಡೆದು ತಲಾ ರೂ.50/-ರಂತೆ 49,200/- ವಸೂಲು ಮಾಡಿ, ಅದರಲ್ಲಿ ರೂ.9840/-ಗಳನ್ನು ಸರ್ಕಾರಕ್ಕೆ ಜಮಾ ಮಾಡಿರುವುದು ಕಂಡು ಬಂದಿದೆ. ಉಳಿದ ಹಣ ರೂ.39,360/-ಗಳನ್ನು ದುರುಪಯೋಗ ಪಡಿಸಿಕೊಂಡಿರುವುದು ಕಂಡು ಬಂದಿದೆ. ಅದೇ ರೀತಿ, ದಿನಾಂಕ:11.06.2015ರಿಂದ 09.12.2015ರವರೆಗೆ ಒಟ್ಟು 433 ಪಡಿತರ ಚೀಟಿ ಕೋರಿ ಅರ್ಜಿ ಸಲ್ಲಿಸಿದ್ದು, ಅದರಿಂದ ರೂ.21,650/- ವಸೂಲಾಗಿದ್ದು, ಆ ಹಣವನ್ನು ಗ್ರಾಮ ಪಂಚಾಯತ್ ನಿಧಿಗೆ ಜಮಾ ಮಾಡಿರುವುದು ಕಂಡು ಬಂದಿದೆ. ಕಾರ್ಯನಿರ್ವಹಣಾಧಿಕಾರಿಗಳು, ತಾಲ್ಲೂಕ್ ಪಂಚಾಯತ್, ಶಿಗ್ಗಾವ್‌ರವರು ದಿ:16.09.2015ರಂದು ಆಸನೌರ ವಿರುದ್ಧ ಕಾರಣ ಕೇಳಿ ನೋಟಿಸನ್ನು ಜಾರಿ

ಮಾಡಿರುವುದು ಕಂಡು ಬಂದಿದ್ದು, ಅದರಲ್ಲಿ 358 ಪಡಿತರ ಚೀಟಿಗಳಿಗೆ ತಲಾ ರೂ.50/-ರಂತೆ ರೂ.17,900/-ಗಳನ್ನು ಆಸನೌ ದುರುಪಯೋಗ ಪಡಿಸಿಕೊಂಡಿರುವ ಬಗ್ಗೆ ನಮೂದಾಗಿದೆ. ಆಸನೌರ ರೂ.39,360/-ಗಳನ್ನು ದುರುಪಯೋಗ ಪಡಿಸಿಕೊಂಡಿರುವುದು ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡು ಬಂದಿದೆ.

5. ಮೇಲ್ಕಂಡ ಅಂಶಗಳು, ಕಡತದ ಸಂಗತಿಗಳು ಹಾಗೂ ದಾಖಲಾತಿಗಳನ್ನು ಮತ್ತು ಆಸನೌರ ಆಕ್ಷೇಪಣೆಯನ್ನು ಕೂಲಂಕಷವಾಗಿ ಪರಿಶೀಲಿಸಿದಾಗ, ಸದರಿ ಆಸನೌರ ವಿರುದ್ಧದ ನಡವಳಿಯನ್ನು ಕೈಬಿಡಲು ಸೂಕ್ತ ಸಮಂಜಸ/ಸಮಾಧಾನಕರ ಕಾರಣ ತೋರಿಸಿಲ್ಲವೆಂಬ ಅಭಿಪ್ರಾಯಕ್ಕೆ ಬರಲಾಗಿದೆ.

6. ಕಡತದಲ್ಲಿಯ ಸಂಗತಿಗಳು ಹಾಗೂ ದಾಖಲಾತಿಗಳಿಂದ, ಆಸನೌ ಸರ್ಕಾರಿ/ಸಾರ್ವಜನಿಕ ನೌಕರರಾಗಿ ಪರಿಪೂರ್ಣ ಪ್ರಾಮಾಣಿಕತೆ, ಸಂಪೂರ್ಣ, ಕರ್ತವ್ಯ ನಿಷ್ಠತೆ ಮತ್ತು ಸರ್ಕಾರಿ ಸೇವಕರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡು ದುರ್ವರ್ತನೆ/ದುರ್ನಡತೆ ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡು ಬರುತ್ತದೆ.

7. ಒಂದು (1) ಮತ್ತು 2ನೇ ಆಸನೌರಿಂದ ದುರುಪಯೋಗದ ಹಣ ರೂ.39,362/-ಗಳನ್ನು ಕಾನೂನಿನಂತೆ ಸಮನಾಗಿ ವಸೂಲಿ ಮಾಡಲು ಹಾಗೂ ಸದರಿಯವರ ವಿರುದ್ಧ ಕ್ರಿಮಿನಲ್ ಪ್ರಕರಣ ದಾಖಲಿಸಲು ಸಕ್ಷಮ ಅಧಿಕಾರಿಗೆ ನಿರ್ದೇಶಿಸಲಾಗಿದೆ.

8. ಅದಲ್ಲದೆ, 1 ಮತ್ತು 2ನೇ ಎದುರುದಾರರು ಸರ್ಕಾರಿ ನೌಕರರಾಗಿದ್ದು ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವಾ (ನಡತೆ) ನಿಯಮಾವಳಿ, 1966ರ ನಿಯಮ 3(1)ರ ಅಡಿಯಲ್ಲಿ ದುರ್ನಡತೆ/ದುರ್ವರ್ತನೆ ಕಂಡು ಬರುವುದರಿಂದ, ಸದರಿಯವರ ವಿರುದ್ಧ ಇಲಾಖಾ ಶಿಸ್ತು ಕ್ರಮ ಕೈಗೊಳ್ಳಲು, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯಿದೆ ಕಲಂ 12(3)ರ ಅಡಿ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರದಡಿ ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಶಿಫಾರಸ್ಸು ಮಾಡಲಾಗಿ ಹಾಗೂ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರ ವಿರುದ್ಧದ ಇಲಾಖಾ ವಿಚಾರಣೆ ಮಾಡಲು, ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವಾ (ವರ್ಗೀಕರಣ, ನಿಯಂತ್ರಣ ಮತ್ತು ಮೇಲ್ವಿಚಾರಣೆ) ನಿಯಮಗಳು, 1957ರ ನಿಯಮ 14-(ಎ)ರಡಿ ಈ ಸಂಸ್ಥೆಗೆ ವಹಿಸಬೇಕೆಂದೂ ಕೋರಿದ ಮೇರೆಗೆ, ಸರ್ಕಾರವು ಆಸನೌರವರ ವಿರುದ್ಧ ಇಲಾಖಾ ವಿಚಾರಣೆಯನ್ನು ಕೈಗೊಂಡು ವರದಿ ಸಲ್ಲಿಸಲು ಗೌರವಾನ್ವಿತ ಉಪಲೋಕಾಯುಕ್ತರಿಗೆ ವಹಿಸಿ, ಉಲ್ಲೇಖ (1)ರಂತೆ ಆದೇಶ ಮಾಡಿದೆ. ಆದ್ದರಿಂದ ನಿಮ್ಮ ಮೇಲೆ ಈ ದೋಷಾರೋಪಣೆ.

5. The aforesaid articles of charge were served upon the DGOs on 06.06.2017 and DGOs appeared before this enquiry authority and their first oral statements under Rule 11(9) of KCS (CCA) Rules, 1957 were recorded. The DGOs pleaded not guilty and claimed to be enquired about the charges. DGOs have not filed their written statement of defence.

6. In this enquiry, to establish the charge against the DGOs, the Presenting Officer has examined Sri. Syed Khaleemudin Khadri (Complainant) as PW-1 & Sri. S.M. Kundur and got marked, in all 10 documents as Ex.P-1 to Ex.P-10 on behalf of Disciplinary Authority. After the closure of evidence of Disciplinary Authority, Second Oral Statements of DGOs U/R 11(16) were recorded. DGOs submitted that they have defence evidence and they got examined themselves as DWs-1 & 2 and got marked Ex.D1 to D9. Therefore, answers of DGOs to Questionnaire U/R 11(18) of KCS (CC&A) Rules, 1957 were dispensed with. Then I have heard both the learned Presenting Officer on behalf of disciplinary authority and the defence counsel for DGOs.

7. Now, the points that would arise for my consideration are;

1 : *Whether the charges leveled*

*against the DGOs are proved by the
Disciplinary Authority?*

2 : *What order?*

8. My findings to the aforesaid points are as under :-

POINT No. 1 : Partly in the AFFIRMATIVE

POINT No. 2 : As per the final order for the following;

REASONS

9. **POINT NO. 1** : It is the case of Disciplinary Authority that the DGOs having collected Rs.49,200/- for 984 applications at the rate of Rs.50/- per application for grant of ration card for the period from 2009-10 to 2014-15 and Rs.21,650/- for the period from 11/06/2015 to 09/12/2015, have remitted only Rs.9,840/- out of Rs.49,200/- and the balance amount of Rs.39,360/- has been misappropriated by them without remitting the same to the account and thereby they have committed misconduct.

10. In order to prove the guilt of DGOs, the complainant being PW-1 has reiterated the contents of complaint in his evidence and he has relied on complaint, form I & II and copies of documents obtained under RTI Act, at Ex.P1 to P7.

11. The then Executive Officer, Taluk Panchayath, Shiggavi as PW 2 has stated that as per the letter of CEO, Zilla Panchayath, Haveri and upon his direction, PDO has collected Rs.39,897/- from the then PDOs and remitted the amount to the account and he has submitted the report. Certified copies of letter of CEO, EO & challans are produced at Ex.P8 to Ex.P10.

12. On the other hand, DGOs as DW-1 & 2 have deposed that, the amount Rs.49,200/- was not pertaining to their period; as per the order of CEO & EO, DGO-1 has collected Rs.39,247/- from the then PDOs and remitted the said amount to the account. They have produced copies of notice, challans and letters at Ex.D1 to D9.

13. The learned Presenting Officer has submitted that the evidence adduced by PWs 1 & 2 would clearly show that the DGOs have committed misconduct. The counsel for DGOs has submitted that as per the order of CEO & EO, DGOs have collected Rs.39,247/- and remitted the same to the account and therefore, DGOs have not committed any misconduct.

14. When we analyze the oral and documentary evidence, it is clear that the DGOs were working as Panchayath Development officer and Second Division Accounts Assistant in Hulagura Grama Panchayath,

Shiggavi taluk, Haveri District from 2015. It can be seen from Ex.P8 to Ex.P10 and Ex.D7 to D9 that as per the order of the CEO, Zilla Panchayath, Haveri, DGOs have collected a total sum of Rs.39,897/- from the then PDOs i.e., Sri.S.B.Borashetty, Sri.S.B.Kulakarni & Sri.K.B.Charanthimatt and remitted the said amount to the Government. It is therefore clear that the amount shown in para-1 of Articles of Charge was not pertaining to the period of DGOs and therefore, they are not responsible for the said amount.

15. In so far as the amount shown in para-2 of the Articles of charge is concerned, DGOs during their period have collected Rs.17,900/- for 358 applications at the rate of Rs.50/- per application for issue of ration card. In this regard, the Executive Officer, Taluk Panchayath has also issued show cause notice to the DGOs on 16/09/2015. It is to be noted that at the time of arguments, the counsel for DGOs has produced a copy of receipt, which reveals that DGOs have remitted Rs.10,000/- to the account of Grama Panchayath on 01/08/2015. It shows that during the pendency of this inquiry the DGOs have remitted Rs.10,000/- out of Rs.17,900/- and therefore, DGO-1 & 2 are equally responsible for the remaining amount of Rs.7,900/-.

16. Considering all these facts, I am of the opinion that the Disciplinary Authority has not proved the charge mentioned at Para-1, but they have partly proved the charge mentioned at para-2 of Annexure-1 of Articles of charge against the DGO-1 & 2 beyond probabilities. Therefore, I answer Point No.1 partly in the Affirmative.

17. **POINT NO. 2** : In view of my finding on point No. 1 and for the foregoing reasons, I proceed to pass the following ;

: ORDER :

The Disciplinary Authority has partly proved the charge mentioned at para 2 of Articles of Charge against DGO (1)– Sri. B.K. Samshi, Panchayath Development Officer, Hulguru Grama Panchayath, Shiggaon Taluk, Haveri District and DGO (2) – Sri. I.R. Jathager, Second Division Accounts Assistant, Hulguru Grama Panchayath, Shiggaon Taluk, Haveri District.

The Disciplinary Authority has not proved the charge mentioned at para 1 of Articles of charge against the DGOs 1 and 2.

The Date of retirement of DGOs are 31.05.2024 and 31.05.2023.

This report is submitted to the Hon'ble
Upalokayukta-1 in a sealed cover forthwith.

Dated this the 17th March, 2021

(D. Puttaswamy)
Additional Registrar (Enquiries-12)
Karnataka Lokayukta, Bengaluru

ANNEXURES

I. LIST OF WITNESS/S EXAMINED ON BEHALF OF DISCIPLINARY AUTHORITY :-

PW 1 : Sri. Syed Khaleemudin Khadri
(Complainant)
PW 2 : Sri. S.M. Kundur

II. LIST OF DOCUMENTS MARKED ON BEHALF OF DISCIPLINARY AUTHORITY :-

Ex.P.1 : Complaint dt:10.03.2016
Ex.P.2 : Form No. I dt:09.03.2016
Ex.P.3 : Form No. II dt: 09.03.2016
Ex.P.4 : Statistics as on 04.03.2016
Ex.P.5 : Application under RTI Act & Documents
Ex.P.6 : Government Proceedings dt:29.04.2015
Ex.P.7 : Letter dt: 18.01.2016 of Secretary,
Hulagur
Ex.P.8: Letter of Chief Executive Officer, Haveri
District dt:11.03.2016
Ex.P.9: Letter to PDO, Hulagur dt:13.05.2016
Ex.P.10: Challans

III. LIST OF WITNESS/S EXAMINED ON BEHALF OF DGOs :

DW-1 : Sri. B.K. Samshi
DW-2 : Sri. I.R. Jathager

IV. LIST OF DOCUMENTS MARKED ON BEHALF OF DGOs :

Ex.D.1 : Letter dt:13.05.2016 of Executive Officer,
Shiggaon
Ex.D.2 : Notice dt: 20.05.2016 of PDO, Haveri
Ex.D.3 : Notice dt: 20.05.2016 of PDO, Haveri
Ex.D.4 : Notice dt: 20.05.2016 of PDO, Haveri
Ex.D.5 : Receipts
Ex.D.6 : Letter dt:11.03.2016 to Executive Officer,
Shiggaon
Ex.D.7 : Letter dt:05.01.2019 to Executive Officer,
Shiggaon
Ex.D.8: Letter dt: 08.01.2019 to Chief Executive
Officer, Haveri
Ex.D.9: Letter dt: 09.01.2019 of Chief Executive
Officer, Haveri

Dated this the 17th March, 2021

(D. Puttaswamy)
Additional Registrar (Enquiries-12)
Karnataka Lokayukta, Bengaluru

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No. UPLOK-1/DE/396/2017/ARE-12

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001
Date: **22/03/2021**

RECOMMENDATION

Sub:- Departmental inquiry against;

- 1) Sri B.K. Samshi, Panchayath Development Officer, Hulagur Grama Panchayath, Shiggaon Taluk, Haveri District;
- 2) Sri I.R. Jathager, Second Division Accounts Assistant, Hulagur Grama Panchayath, Shiggaon Taluk, Haveri District – Reg.

- Ref:- 1) Govt. Order No. ಸ್ರಾಅಪ 703 ಸ್ರಾಪಂಕಾ 2016, Bengaluru dated 21/1/2017 and its Corrigendum dated 10/3/2017.
- 2) Nomination order No.UPLOK-1/DE/396/2017, Bengaluru dated 18/3/2017 of Upalokayukta-1, State of Karnataka, Bengaluru
 - 3) Inquiry Report dated 17/3/2021 of Additional Registrar of Enquiries-, Karnataka Lokayukta, Bengaluru

The Government by its order dated 21/1/2017 read with its Corrigendum dated 10/3/2017 initiated the disciplinary proceedings against (1) Sri B.K. Samshi, Panchayath Development Officer, Hulagur Grama Panchayath, Shiggaon Taluk, Haveri District; and (2) Sri I.R. Jathager, Second Division Accounts Assistant, Hulagur Grama Panchayath, Shiggaon Taluk, Haveri District (hereinafter referred to as Delinquent Government Officials 1 & 2, for short as DGO-1 & DGO-2 respectively) and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.UPLOK-1/DE/396/2017, Bengaluru dated 18/3/2017 nominated Additional Registrar

of Enquiries-3, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGOs 1 & 2 for the alleged charge of misconduct, said to have been committed by him. Subsequently, by Order No.UPLOK-1 &2/DE/Transfers/2018, dated 6/8/2018, the Additional Registrar of Enquiries-12, Karnataka Lokayukta, Bengaluru was re-nominated as inquiry officer to conduct departmental inquiry against DGOs 1 & 2.

3. The DGO-1 Sri B.K. Samshi, Panchayath Development Officer, Hulagur Grama Panchayath, Shiggaon Taluk, Haveri District; and DGO-2 Sri I.R. Jathager, Second Division Accounts Assistant, Hulagur Grama Panchayath, Shiggaon Taluk, Haveri District was tried for the following charge:-

“1) That you DGOs 1 and 2 named above, while working as such in Hulgur Grama Panchayath, have received 984 applications during the period from 2009-10 to 2014-15 for grant of rations card and collected Rs. 49,200/- as application fees at Rs.50/- per application. Similarly having received 433 applications for grant of ration card during the period from 11.06.2015 to 9.12.2015 collected Rs.21,650/- as application fees at Rs.50/- per application. But you have remitted only Rs.9840/- to Grama Panchayath account, out of Rs.49,200/- collected along with 984 application during 2009 to 2015 and the balance of Rs.39,360/- has been misappropriated by you without remitting the said amount to the Grama Panchayath account.

2) As per the show cause notice dated 16.09.2015 issued by Executive Officer, Taluk Panchayath,

Shiggaon, you the DGOs no.1 and 2 having collected Rs.17,900/- towards application fee for issue of ration card from 358 applications at Rs.50/- per application, you have failed to remit the said amount to the Grama Panchayath account and thus misappropriated the said amount.

3) Thus, you DGOs no.1 and 2 have failed to maintain absolute integrity, showed negligence and lack of devotion to duty and committed an act which is unbecoming of a Government Servant and thus you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966.”

4. The Inquiry Officer (Additional Registrar of Enquiries-12) on proper appreciation of oral and documentary evidence has held that the Disciplinary Authority has partly proved the charge mentioned at Paragraph (2) above against DGO-1 Sri B.K. Samshi, Panchayath Development Officer and DGO-2 Sri I.R. Jathager, Second Division Accounts Assistant, Hulagur Grama Panchayath, Shiggaon Taluk, Haveri District and Disciplinary Authority has failed to prove the charge mentioned at Paragraph (1) above against DGOs1 and 2.

5. The Inquiry Officer has held that, in so far as the amount shown in Para 2 of the Articles of charge is concerned, the DGOs during their period have collected Rs.17,900/- for 358 applications at the rate of Rs.50/- per application for issue of ration card. In this regard, the Executive Officer, Taluk Panchayath has also issued Show cause notice to the DGOs on 16/9/2015. The Inquiry officer has further held that during the time of arguments, the counsel for the DGOs has produced a copy of the Receipt, which

reveals that the DGOs have remitted a sum of Rs.10,000/- to the Grama Panchayath Account on 1/8/2015, which shows that during the pendency of inquiry, the DGOs have remitted a sum of Rs.10,000/- out of Rs.17,900/- and therefore, DGOs 1 & 2 are equally responsible for the remaining amount of Rs.7,900/-.

6. On re-consideration of inquiry report and taking note of the totality of the circumstances of the case, 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.

7. As per the First Oral Statement submitted by DGOs 1 & 2;

1) DGO-1 Sri B.K. Samshi is due to retire from service on 31/5/2024;

2) DGO-2 Sri I.R. Jathager is due to retire from service on 31/5/2023.


8. Having regard to the nature of charge proved against DGO-1 Sri B.K. Samshi, Panchayath Development Officer, Hulagur Grama Panchayath, Shiggaon Taluk, Haveri District; and DGO-2 Sri I.R. Jathager, Second Division Accounts Assistant, Hulagur Grama Panchayath, Shiggaon Taluk, Haveri District, it is hereby recommended to the Government for imposing penalty of;

- (i) withholding two annual increments payable to DGO-1 Sri B.K. Samshi, with cumulative effect apart from recovering a sum of Rs.3,950/- from the pay and allowances payable to DGO-1 Sri B.K. Samshi.

(ii) withholding two annual increments payable to DGO-2 Sri I.R. Jathager, with cumulative effect apart from recovering a sum of Rs.3,950/- from the pay and allowances payable to DGO-2 Sri I.R.Jathager.

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

Connected records are enclosed herewith.


(JUSTICE B.S.PATIL)
Upalokayukta
State of Karnataka,
Bengaluru

