

KARNATAKA LOKAYUKTA

No.UPLOK-1/DE/422/2015/ARE-13

M.S. Building,
Dr.B.R. Ambedkar Road,
Bangalore-56001
Date: 04/10/2021.**: Present:****Jagadeeswara M**(I/c) Additional Registrar Enquiries-13,
Karnataka Lokayukta,
Bangalore.**ENQUIRY REPORT****Sub:-** Departmental Enquiry against,
Sri. S.M. Shivakumar, Tahsildar
Grade-1, the then Special Tahsildar,
Anekal Taluk, Bengaluru Rural
District -reg.**Ref :-** 1) Report u/s 12(3) of the K.L Act, 1984 in
Compt/Uplok/BCD/230/2015/DRE-2
dated: 03/06/2015.2) Govt. Order No.RD 37 ADE 2015,
Bengaluru, dated:23/07/2015.3) Nomination Order No.UPLOK-1/DE/
422/2015, Bengaluru, dated: 17/08/2015.

1) This departmental enquiry is directed against Sri. S.M. Shivakumar, Tahsildar Grade-1, the then Special Tahsildar, Anekal Taluk, Bengaluru Rural District (herein after referred to as the Delinquent Government Official in short "DGO").

2) One Shri. A.M.Venugopal S/o Munirajappa, Adigondanalli village, Muttanallur Post, Anekal Taluk (in short complainant) had filed complaint against the DGO in Compt/Uplok/BCD/230/2015/DRE-2. It was alleged in the said complaint that Smt. Venkatamma and Smt. Narayanamma, the grand-mothers of the complainant, had gifted the land in Sy.No.107/7 of Adigondanahalli measuring 0-02 guntas through gift deed dated 17-9-2000 in favour of parents of the complainant. But revenue records of the said land were not entered to the names of his parents as per the gift deed. Hence application was filed to the Taluk Office, Anekal, requesting to enter the names of his parents in the revenue records of the said land. Village Accountant, Revenue Inspector and Dy. Tahsildar, submitted their reports in the matter. Records were furnished to show that said land is not PTCL land and it does not come U/Sec.79 A and 79-B of Karnataka Land Reforms Act. Despite this fact, and though all arrangements were made by fixing date for the spot inspection by the DGO, but DGO did not hold spot inspection. DGO forced the complainant to give bribe of Rs.30,000/- to attend the work, through his office staff by name Smt. Chaitra.

3) After completion of the investigation, a report U/Sec. 12(3) of the Karnataka Lokayukta Act was sent to the Government as per above Reference No-1.

4) In view of the Government Order cited above at reference-2, the Hon'ble Upalokayukta-1, vide order dated: 17-08-2015 cited above at reference-3, nominated Additional Registrar of Enquiries-4 of the office of the Karnataka Lokayukta as the enquiry officer to frame charges and to conduct enquiry against the aforesaid DGO. The Additional Registrar Enquiries-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 Articles of Charge. Copies of same were issued on 31-8-2015 to the DGO calling upon him to appear before this authority and to submit written statement of his defence. Later on, the file was transferred from ARE-4 to ARE-13.

5) The Articles of Charge framed by ARE-4 against the DGO are as below:

ANNEXURE-I

CHARGE

6) That, you-DGO Sri. Shivakumar S.M. while working as Special Tahsildar, Anekal Taluk in Bengaluru Rural District demanded and accepted a bribe of Rs.15,000/- through a private person Sri. Siddegowda in your office at about 4.00 P.M. on 28/12/2013 from the complainant Sri. A.M. Venugopal to put your signature to the file for change of khatha of 0.02 guntas of

land in Sy.No.107/7 of Aadigondanahalli into the name of his parents from the name of his grandmother's viz., Smt. Venkatamma and Smt. Narayanamma. Thereby you being a Government Servant failed to maintain absolute integrity and devotion to duty, the act of which was un-becoming of a 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:

7) On the basis of a report of the Superintendent of Police in Karnataka Lokayukta at Bengaluru City Division, along with investigation papers filed by the Police Inspector in Karnataka Lokayukta at Bangalore Rural Division (hereinafter referred to as Investigation Officer-'I.O.' for short), alleging that, you DGO being Government Servant, has committed misconduct, when approached by Sri. A.M. Venugopal S/o Munirajappa, R/o No.46, Adigondanahalli of Muttanalluru Post, Anekal Taluk, Bengaluru Rural District (hereinafter referred to as 'complainant' for short), an investigation was taken up by invoking the power vested under Section 7(2) of the Karnataka Lokayukta Act, 1984.

8) **The brief facts of the case are:**

a) Complainant's grandmothers namely, Smt. Venkatamma and Smt. Naryanamma had gifted 2 guntas of land in Sy.No.107/7 of Adigondanahalli Village on 17/09/2000 under a registered deed to his parents, but their names had not been entered in the revenue records though 10 years had elapsed. As such, his father namely, Sri. Munirajappa had given an application in the Tahsildar Office at Anekal and after report made by the Village Accountant, Revenue Inspector and Deputy Tahsildar, said matter was pending with Special Tahsildar. Even record had been submitted to show that the said land does not come under PTCL or u/s 79 A or B of Karnataka Land Reforms Act and was not given to the possession of KHB. So, thereafter, when his said father met you-DGO on 02/12/2013, you-DGO had asked to come with Taxi Car on 09/12/2013 for spot inspection. But did not come on that day, though he took Taxi on 16/12/2013 the date fixed on you DGO for spot inspection.

b) So, on that date, when he (complainant) met you-DGO in your office, you-DGO demanded Rs.30,000/- as a bribe through Smt. Chaitra working under you for attending the file without submitting it to the Assistant Commissioner and Deputy Commissioner and without conducting any spot inspection;

c) Thereafter, when complainant met you-DGO on 27/12/2013, then also, you-DGO had put forward bribe of Rs.15,000/- ultimately, telling that if paid, you will put your signature, otherwise it will be rejected.

d) Not willing to pay bribe, complainant approached Lokayukta Police and met you-DGO in your office on 28/12/2013, at that time you-DGO had taken the tainted (bribe) amount of Rs.15,000/- through one Sri. Siddaraju a private person, who was present with you in your office.

e) Added to that, you-DGO failed to give any satisfactory reply or explanation or account for the said tainted (bribe) amount found then, when questioned by the I.O.,

f) So, I.O caught hold of you-DGO, when you-DGO found with the tainted (bribe) amount on the said date at said place;

g) Then the said tainted (bribe) amount was seized from you-DGO under a mahazar by the I.O in the presence of panchas on the said date and place;

h) Even there are statements of witnesses, including complainant, besides connected records and material filed by the I.O., which show his misconduct.

9) Said facts supported by the material on record show that you-DGO, being a Government/Public Servant, has failed to maintain absolute integrity besides devotion to duty and acted in a manner unbecoming of a Government Servant, and thereby repeatedly committed misconduct and liable for disciplinary action.

10) Therefore, investigation was taken up against you-DGO and an observation note was sent to you-DGO with a show cause as to why recommendation should not be made to the Competent Authority for initiating departmental inquiry against you-DGO in the matter. For that, you-DGO gave your reply. However, the same was not convincing to drop the proceedings as ordered in the file.

11) Since said facts and material on record prima-facie showed that you-DGO committed misconduct as per Rule 3(1)(i) to (iii) of KCS (Conduct) Rules, 1966, a report U/sec 12(3) of Karnataka Lokayukta Act, was sent to the Competent Authority with a recommendation to initiate disciplinary proceedings Under Rule 14-A of Karnataka Civil Services (Classification Control and Appeal) Rules 1957 against you. In turn Competent Authority initiated disciplinary proceedings against you-DGO and entrusted the Enquiry to this institution vide Reference No-1 and Hon'ble

Upalokayukta nominated this Enquiry Authority, to conduct enquiry and report vide reference No-2. Hence this charge.

12) The DGO appeared before this Enquiring Authority on 19-10-2015 and on the same day itself his First Oral Statement was recorded under Rule 11(9) of KCS (CCA) Rules-1957. The DGO pleaded not guilty and claimed to hold an enquiry. DGO has filed his written statement of defence by denying the articles of charge and statement of imputations contending that there was no such evidence to prove that he committed misconduct.

13) During the course of enquiry, on behalf of Disciplinary Authority, the Presenting Officer has examined 4 witnesses as PWs.1 to 4 and got marked records at Exs.P.1 to 13. After closing the case of the Disciplinary Authority, the Second Oral Statement of DGO was recorded as required U/Rule 11 (16) of KCS (CC & A) Rules, 1957, wherein he submitted that, the witnesses deposed falsely against him. The DGO himself has led evidence as DW-1.

14) Heard the oral arguments of both sides. I have gone through the written briefs submitted by both sides.

15) Upon consideration of the charge leveled against the DGO, the evidence led by the Disciplinary Authority by way of oral and

documentary evidence, the point that arises for my consideration is as under:

Point No-1:- Whether the Disciplinary Authority has proved the charge against the DGO.

Point No-2:- what order?

16) My finding on point No-1 is in the "**Negative**" for the following:

REASONS

17) **Point No-1:-** The complainant Sri. A.M. Venugopal has been examined as PW-1. At this stage itself it is trite to note that copy of report/complaint that was lodged by this complainant to the Lokayukta police is marked as Ex.P.1. Based on such report/complaint lodged by this P.W.1, the Lokayukta police i.e. Sri.Wazir Ali Khan, Police Inspector, Karnataka Lokayukta, Bengaluru Rural, registered Cr.No.18/2013 against the DGO.

18) In this report/complaint at Ex.P.1 it is stated that after application was filed by the complainant's father to the Taluk Office, Anekal, requesting to change khata and revenue records of land in Sy.No.107/7 to the names of donees on the basis of the gift deed dated 17-9-2000, Village Accountant, Revenue Inspector and

Deputy Tahsildar, visited and verified the spot, collected records to the effect that land was not acquired for KHB, it did not come under PTCL Act or under Sec.79-A and 79-B of Karnataka Land Reforms Act and accordingly those revenue officials forwarded their reports. Subsequently when complainant's father visited/met the Special Tahsildar, Anekal (DGO) on 2-12-2013, DGO told complainant's father to bring a taxi in the morning on 9-12-2013 to go to the spot for inspection. Accordingly complainant and his father brought the taxi on 9-12-2013 at 11-30 a.m. and requested the DGO to visit the spot. But the DGO told them that he could not visit the spot on that day due to busy work and he further told them that he would visit the spot on 16-12-2013. Therefore, again on 16-12-2013, complainant and his father brought taxi and met the DGO. At that time DGO called his staff Smt. Chaitra and DGO demanded bribe of Rs.30,000/- through the said Smt. Chaitra to complete the work in the office itself. But, complainant's father expressed his inability to pay that much of amount as bribe. Therefore, on 27-12-2013 complainant's father met the DGO and told that he was not able to pay that much amount as bribe. At that time DGO told complainant's father to pay minimum of Rs.15,000/- to put his signature to the file. This is the allegation made in the complaint at Ex.P.1.

19. As per above noted details shown in the complaint Ex.P.1, the following allegations were made against the DGO;

(a) **On 2-12-2013 when complainant's father visited/met the Spl.Tahsildar, Anekal (DGO)**, DGO told the complainant's father to bring a taxi in the morning on 9-12-2013 to go to the spot for inspection.

(b) Accordingly complainant and his father brought the taxi on 9-12-2013 at 11-30 a.m. **and met the DGO**, who told them that he could not visit the spot on that day as he was busy in the work and DGO further told them that he would visit the spot on 16-12-2013.

(c) Therefore again on 16-12-2013, complainant and his father brought taxi **and met the DGO**. At that time DGO called his staff Smt. Chaitra and DGO demanded the bribe of Rs.30,000/- to complete the work in the office itself.

(d) **On 27-12-2013 complainant's father met the DGO** and told that he was not able to pay that much of amount as bribe. At that time **DGO told the complainant's father** to pay minimum Rs.15,000/- to put his signature to the file. This is the allegation made in the complaint at Ex.P.1.

20) P.W-1 in his examination-in-chief itself has given a clear go by to the above noted allegations by deposing that it was the **assistant** of the Tahsildar who demanded to bring taxi for spot inspection and it was the **assistant** of the Tahsildar who told that Tahsildar would not visit the spot due to busy schedule and it was the **assistant** of the Tahsildar who told the complainant and his father to visit and talk with staff Smt. Chaitra to get their work done. Accordingly **they met said staff Smt. Chaitra** who

demanded Rs.30,000/-. After about one week again complainant and his father met the said Smt. Chaitra to enquire about their work and at that time she told them to pay minimum Rs.15,000/- to attend their work. It is not the evidence deposed by P.W.1 that himself and his father met the DGO on 16-12-2013 and on 27-12-2013. Further P.W.1 has not deposed that on 16-12-2013 DGO demanded through his staff Smt. Chaitra for bribe of Rs.30,000/-. Then again on 27-12-2013 DGO demanded from him and his father to pay minimum bribe of Rs.15,000/-. This is an major contradiction which goes to the root of the case.

21) It is also relevant to note that it is alleged in the complaint at Ex.P-1 that on 16-12-2013 both complainant and his father had met the DGO who demanded them bribe of Rs.30,000/- to attend their work and again on 27-12-2013 both of them had met the DGO who demanded Rs.15,000/-. But, it is the evidence of P.W-4/I.O that he enquired the father of the complainant during investigation and complainant's father gave statement to the effect that he does not know what had happened in the office of DGO on 16-12-2013 and on 27-12-2013 since he did not go to the office of DGO with the complainant. This is also a major contradiction.

22) Father of the complainant has not been examined to prove the alleged demand of bribe by the DGO. Similarly, Smt. Chaitra,

the staff of DGO, is also not examined. PW-1 is the only witness to prove the alleged demand made by the DGO for bribe. PWs-2 and 3 are sited as panch witnesses of the pre-trap mahazar and trap mahazar. They are not witnesses to the alleged demand made by the DGO for bribe. P.W-4 is the Investigating Officer. As noted above, evidence deposed by PW-1 in his examination in chief is totally contradictory to the allegations made in the complaint as per Ex.P-1 with regard to alleged demand.

23) PW-1 has been cross examined by the Presenting Officer by treating him as partly hostile witness. In the said cross examination it is his say that as per the instruction of somebody in the office of Lokayukta police station it was written in the complaint that DGO demanded bribe of Rs.30,000/- to attend the work and then DGO demanded to pay minimum Rs.15,000/- to attend their work. Thus, this evidence of PW-1 shows that main allegations of demand were inserted in the complaint at Ex.P.1 at the instructions of somebody in the office of Lokayukta police and not on the instruction of PW-1.

24) Apart from the above, it is also material to note that as admitted by PW-4 in his cross examination that in the year 2013, it was the practice followed to send voice recorders with the complainants with instructions to record the conversation of demanding bribe by the Government Servants. But, in the case on

hand no such voice recorder was given to the complainant by the Police Inspector to record the demand of bribe. Therefore, there is no reliable material to hold that DGO demanded from the complainant or his father bribe to attend their work.

25) Now it is necessary to find out from the materials on record as to whether Disciplinary Authority is able to prove the pendency of the work of the complainant to be attended by the DGO on the date of alleged trap. In this regard it is relevant to note that it is the evidence deposed by PW-1 in his cross examination as under;

“ ನಮ್ಮ ತಂದೆ ತಾಲ್ಲೂಕು ಕಛೇರಿಗೆ ಅರ್ಜಿ ಕೊಡುವ ಸಂದರ್ಭದಲ್ಲಿ ಆ.ಸ.ನೌ ರವರು ಆನೇಕಲ್ ತಹಶೀಲ್ದಾರ್ ಆಗಿರಲಿಲ್ಲ ಅನ್ನೋದು ನಿಜ. ನಾನು ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸರೊಂದಿಗೆ ಟ್ರ್ಯಾಪಿಗೆ ಹೋದಾಗ ಆ.ಸ.ನೌ ರವರು ನನ್ನ ಅರ್ಜಿಗೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ಎಲ್ಲಾ ಕೆಲಸವನ್ನು ಮುಗಿಸಿದ್ದರು ಅನ್ನೋದು ನಿಜ. ದಿನಾಂಕ : 28-12-2013 ರಂದು ನಾವು ತಹಶೀಲ್ದಾರ್ ಕಛೇರಿಗೆ ಹೋದಾಗ ಅಂದಿನ ದಿನಾಂಕದಂದು ಆ.ಸ.ನೌ ರವರು ನನ್ನ ಕಡತಕ್ಕೆ ಯಾವುದೇ ಕೆಲಸ ಬಾಕಿ ಉಳಿಸಿಕೊಂಡಿರಲಿಲ್ಲ ಅನ್ನೋದು ನಿಜ”.

26) As per this evidence of PW-1, DGO was not working as Tahasildar when father of the complainant had filed application to Taluk Office for change of khatha of the land and DGO had already attended his work prior to 28-12-2013 when the trap was

conducted and on that day there was no work pending to be attended by the DGO.

27) In the same way it is also the evidence deposed by P.W-4/I.O that during the course of investigation of the complaint, he obtained report at Ex.D-1 from Additional Deputy Commissioner relating to the file and work of the application filed by the complainant's father for change of khatha. In the said report at Ex.D-1 it is stated that DGO had already approved the file on 05-12-2013 itself. Further it is deposed by PW-4 in his cross examination that during the course of investigation of the complaint, one Sunil Kumar, who was working in Bhumi Kendra, gave statement to the effect that Tahasildar gave approval on 05-12-2013 to the file of complainant's father. However it is the further evidence of PW-4 that DGO had signed 'B' Form on 28-12-2013 and this fact is also shown in the report of Additional Deputy Commissioner at Ex.D-1.

28) It is the evidence of P.W.-1 and also of P.W-2 who is a shadow witness that on 28-12-2013 i.e., on the date of trap, both of them had gone inside the office of DGO and then P.W-1 enquired DGO relating to his file. At that time DGO searched in his office for the file of P.W-1. File was not traced out in the office of DGO. Hence DGO told P.W-1 to go and enquire in the computer section for the file. Hence, PWs-1 and 2 went to the

computer section and enquired with one Sunil Kumar for the file. Said Sunil Kumar searched for the file and he traced it and gave it to P.W-1 who carried it to the DGO who signed to 'B' Form of the file. It is shown in Ex.D-1, which is the report of Additional Deputy Commissioner and also it has come out from the evidence of witnesses that DGO was not working as Tahasildar when complainant's father had filed his application to the Taluk Office, Anekal for change of khatha of the land. DGO had approved said file on 05-12-2013. The only work pending was to move the file to the Assistant Commissioner by signing 'B' Form. It was suggested in the cross examination of P.W-4 that on behalf of Tahasildar, Office Shirastedar had to move the file to the Assistant Commissioner by signing 'B' Form as already Tahsildar had approved the file on 05-12-2013. No doubt PW-4 has denied this suggestion. But fact remains that DGO had already approved the file on 05-12-2013.

29) There are no reliable materials placed by the Disciplinary Authority to hold that after giving approval on 05-12-2013 to the file of complainant's father, DGO had unnecessarily held up the said file with him or in his chamber for extraneous reasons. After such approval was given on 5-12-2013, it appears file was sent to computer section. Sunil Kumar was the clerk in Bhumi Kendra section. It is the evidence of P.W-1 in his cross examination that Sunil Kumar told him and his father to meet the staff Smt. Chitra

to get their work done. Accordingly they met said Smt. Chitra who demanded them to give Rs.30,000/- to attend their work. Unwilling to pay the amount, again after one week, they met her. At that time she demanded minimum of Rs.15,000/-. For this reason it is deposed by P.W-1 in his cross examination as under.

“ ಈ ದೂರು ಸಲ್ಲಿಸುವ ಮೊದಲು ನನ್ನ ಕೆಲಸದ ವಿಚಾರವಾಗಿ ಚೈತ್ರ ಹಾಗೂ ಸುನೀಲ್ ಎನ್ನುವವರನ್ನು ಮಾತ್ರ ನಾನು ಭೇಟಿಯಾಗಿದ್ದೇನೆ ಅನ್ನೋದು ನಿಜ. ದೂರನ್ನು ಕೊಟ್ಟ ದಿನಾಂಕದಂದು ನಾನು ತಹಶೀಲ್ದಾರ್ ಕಚೇರಿಗೆ ನನ್ನ ಕೆಲಸದ ವಿಚಾರವಾಗಿ ಹೋದಾಗ, ಆ.ಸ.ನೌ ರವರೊಂದಿಗೆ ನಾನು ನನ್ನ ಕೆಲಸದ ವಿಷಯವಾಗಿ ಮಾತನಾಡಿಲ್ಲ ಅನ್ನೋದು ನಿಜ. ದಿನಾಂಕ: 28/12/2013 ರಂದು ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸರು ನನಗೆ ಯಾವುದೇ ವಾಯ್ಸ್ ರೆಕಾರ್ಡರ್ ಅಥವಾ ಪೆನ್ ಕ್ಯಾಮೆರಾ ನೀಡಿರಲಿಲ್ಲ. ದಿನಾಂಕ: 28/12/2013 ರಂದು ನಾವು ಆನೇಕಲ್ ತಹಶೀಲ್ದಾರ್ ಕಚೇರಿಗೆ ಹೋದಾಗ, ಆ.ಸ.ನೌ ರವರು ನನ್ನಿಂದ ಯಾವುದೇ ಹಣಕ್ಕೆ ಬೇಡಿಕೆ ಇಟ್ಟಿಲ್ಲ ಹಾಗೂ ಸ್ವೀಕರಿಸಿಲ್ಲ ಮತ್ತು ಅವರಿಂದ ಯಾವುದೇ ಹಣವನ್ನು ಅಮಾನತ್ತುಪಡಿಸಿಕೊಂಡಿಲ್ಲ ಅನ್ನೋದು ನಿಜ”.

30) From the above discussed material on record it is found that though DGO had signed 'B' Form on 28-12-2013, but he had given approval to the file on 05-12-2103 itself and then file

was forwarded to the computer section for generation of 'B' Form and as per the evidence of P.W-1 when said file was in the computer section he met staffs Sunil Kumar and Smt. Chitra only and not DGO to get the work done. Therefore there are no materials to hold that there was work pending to be attended by the DGO on 28-12-2013 and DGO had held up the file unnecessarily for extraneous reasons.

31) Now it is necessary to find out from the materials placed on record as to whether Disciplinary Authority is able to prove the acceptance of alleged bribe by the DGO and recovery of tainted bribe amount from him. In this regard it is material to note that it is the evidence of PW-1 and also PW-2 who is a shadow witness that after tracing the file in the computer section, PW-1 carried the said file to the office of DGO and at that time PW-2 followed PW-1. PW-1 gave said file to DGO. Already DGO had signed the said file. PW-1 told the DGO relating to the amount brought by him. At that time one private person by name Sri. Siddaraju was in the office. Some signal took place between DGO and said private person Sri. Siddaraju. The said private person took PW-1 by the side of the office and received tainted amount of Rs.15,000/- from him and after counting notes, he kept it in the pocket of his pant. PW-2 watched this incident by standing near the door. Subsequently PWs-1 and 2 gave signal to the police who entered inside the office

of DGO, where PWs 1 and 2 had shown the said private person stating he received amount. Further it is evidence of P.Ws-1 and 2 that police people had put the hands and the pocket of the pant of said private person Sri. Siddaraju in the Sodium Carbonate Solution prepared and said solution turned to pink colour. Police people recovered tainted amount of Rs.15,000/- from said Sri. Siddaraju and serial number of those notes found tallied with the serial numbers of notes recorded in the entrustment mahazar. Hence, police people seized the said solution, tainted notes and pant of said private person by preparing trap mahazar. I.O enquired DGO and the said private person had obtained their written statement as per Ex.P-4 and P-5 respectively. I.O collected copies of records of file of complainant's father.

32) It is also the evidence of PW-3 who is another panch witness and also PW-4 who is I.O that after receiving signal from PWs -1 and 2, they entered the office of the DGO where private person Sri Siddaraju was found and PWs -1 and 2 had shown the private person stating that as per the instruction of the DGO, PW-1 paid the amount to the said private person. Further PWs-3 and 4 have deposed that hands and pocket of the pant of said private person were put in the sodium carbonate solution which turned to pink colour and amount from said private person was recovered and serial numbers of tainted notes were found tallied with the serial numbers of notes entered in the entrustment mahazar and

therefore solution, pant and amount were seized by preparing Trap mahazar. Further they have deposed that DGO and said private person gave their written explanations as per Ex.P-4 and P-5.

33) It is stated by the DGO in his explanation at Ex.P-4 given to the I.O that applicant came and enquired about the application and as such he took steps to search for the file and further took steps to send it to the Assistant Commissioner by signing. It is shown in Ex.P-5 statement that the said private person received amount from the PW-1 as per the signal of DGO.

34) It is relevant to note that the above noted evidence of PWs-1 to 4 disclose that tainted amount was not paid to the DGO by PW-1. It is not the evidence of PW- 1 and 2 that DGO demanded PW-1 to give money on the date of trap when PWs-1 and 2 traced out the file in the computer section and then they took the file to the office of DGO. It is not the evidence of PWs-1 and 2 that PW-1 paid amount to the private person as per the say of DGO. It is the evidence of PW-1 that as per some signal of DGO, he paid the amount to the private person. It is not specifically stated by PW-1 as to what type of signal was given to him by the DGO to pay amount to the private person. Undisputedly I.O did not give voice recorder to PW-1 to record the voice conversation at the time of paying amount. It is found from the evidence PWs-1 and 2 that there was no demand made by the DGO at the time of alleged trap.

Amount was not paid to the DGO. Therefore from the materials placed on record it cannot be said that acceptance of alleged bribe amount is proved by the Disciplinary Authority.

35) DGO has been examined as DW-1 and he has produced certified copy of judgment dated: 6/2/2021 passed in Special Case No.182/2014 at Ex.D-4. It discloses that relating to the same incident of Trap, I.O had filed charge sheet to the court and as such Special Case No.182/2014 was registered and after trial, it has ended in acquittal of the two accused persons i.e DGO and Siddaraju.

36) It has come out in the cross examination of PW-4 that one Ashwini was Superintendent of Police, Bengaluru Rural Karnataka Lokayukta and one Smt. Shobha Rani, the wife of the DGO, was Additional Superintendent of Police, Bengaluru Rural Karnataka Lokayukta in the year 2013-14. It was suggested to PW-1 that marital relation ship of DGO and the said Smt. Shobha Rani was dissolved and the said Ashiwini and Shobha Rani were colleagues. PW-4 has not denied these suggestions. He has expressed his ignorance to these suggestions. It was also suggested to PW-4 that since there was marital dispute between Smt. Shobha Rani and DGO and since Smt. Shobha Rani and Smt. Ashwini were friends, it was managed to file false complaint to the Lokayukta Police station against the DGO with the help of Smt. Ashwini who was

the Police Superintendent, Bengaluru Karnataka Lokayukta. PW-4 has denied this suggestion. It appears Smt. Shobha Rani was working as Additional Superintendent of Police, Bengaluru Rural Karnataka Lokayukta in the year 2013-14 and she was the wife of the DGO. PW-4 has not denied that divorce took place between DGO and said Smt. Shobha Rani. But there are no materials placed by the DGO to show that complainant lodged false against him in the year 2013 at the influence of Superintendent of Police or Additional Superintendent of Police, Bengaluru Rural, Karnataka Lokayukta.

37) No doubt the nature of proof required in the Disciplinary proceedings is preponderance of probabilities and nature of proof required in the criminal case is proof beyond reasonable doubts. But even in Disciplinary Proceeding also it is required to show demand and acceptance of bribe by the Government Servant. As discussed above, it is shown in the complaint itself that DGO made demand, through staff Smt. Chaitra, to the complainant and his father for the bribe. It is the evidence of PW-1 in his examination in chief that the said Smt. Chaitra demanded from him and his father bribe. Despite this allegation made in the complaint itself, in the cross examination it is strangely deposed by PW-4 that there is no allegation of any nature made against Smt. Chaitra. The said

Smt. Chaitra and the father of complainant are not examined to prove the demand made by DGO for bribe and its acceptance.

38) The above discussed materials do not prove demand and acceptance of the bribe by the DGO. Further materials placed on record disclose that DGO had approved the file of the complainant's father on 5/12/2013 itself and subsequently he did not retain the file either with him or in his chamber till 28/12/2013. File was sent to the computer section for further action. DGO had to sign 'B' Form only on 28/12/2013 when complainant visited the office enquiring about the file. From these materials on record it is clear that Disciplinary Authority has failed to prove the charge against the DGO. Hence, Point No-1 is answered in the "**Negative**".

Point No-2:- As per the following:-

:: FINDINGS ::

The Disciplinary Authority has failed to prove the charge against the DGO Sri. S.M. Shivakumar, Tahsildar Grade-1, the then Special Tahsildar, Anekal Taluk, Bengaluru Rural District.

39) This report is submitted to Hon'ble Upa Lokayukta-1 in a sealed cover for kind perusal and for further action in the matter.

Dated this the 4th day of October 2021


(Jagadeeshwara M)

(I/c) Additional Registrar Enquiries-13
Karnataka Lokayukta
Bangalore

ANNEXURES

File 3	Witness examined on behalf of the Disciplinary Authority
	PW-1: Sri. A.M. Venugopal (Original)
	PW-2 : Sri. Raju Poojari (Original)
	PW-3: Sri. R. Pradeep (Original)
	PW-4: Sri. Vazeer Ali Khan (Original)
	Witness examined on behalf of the Defence
	DW-1: Sri. Shivakumar S.M (Original)
File 4	Documents marked on behalf of the Disciplinary Authority
	<p>Ex. P-1: Complaint (xerox copies). Ex. P-1(a): Signature of the complainant. Ex. P-1(b): Signature of the I.O.</p>
	<p>Ex.P-2: The details of serial numbers of bribe amount (Xerox copy).</p> <p>Ex. P-2(a): Signature of the complainant. Ex. P-2(b): Signature of the pancha. Ex. P-2(c): Signature of the I.O.</p>
	<p>Ex. P-3: Entrustment Mahazar, page no.275 true copy, page no.276 xerox copy, page no.277 true copy, page no.278 xerox copy, page no.279 true copy.</p> <p>Ex. P-3(a): Signature of the complainant. Ex. P-3(b): Signature of the pancha-2. Ex. P-3(c): Signature of the pancha-3. Ex. P-3(d): Signature of the I.O.</p>

	<p>Ex.P-4 : Explanation of DGO (attested copy)</p> <p>Ex. P-4(a): Signature of the complainant. Ex. P-4(b): Signature of the pancha-1. Ex. P-4(c): Signature of the I.O.</p>
	<p>Ex.P-5 : Explanation of DGO Assistant Sri. Siddaraju (Xerox)</p> <p>Ex. P-5(a): Signature of the complainant. Ex. P-5(b): Signature of the pancha-1. Ex. P-5(c): Signature of the I.O.</p>
	<p>Ex.P-6: The copy of the Sy. No.107/7 documents pertaining to the Complainant, page no. 283-293 attested Copy, page no.294 xerox copy, page no.295-298 attested copy.</p> <p>Ex. P-6(a): Signature of the complainant. Ex. P-6(b): Signature of the I.O.</p>
	<p>Ex.P-7: Trap Mahazar, page no.299-302 true copy, page no.303-305 attested copy, page no.306 true copy, page no.307 attested copy.</p> <p>Ex.P-7(a) : Signature of the panch-2. Ex.P-7(b): Signature of the panch-3. Ex.P-7(c): Signature of the I.O.</p>
	<p>Ex.P-8: Photographs (Xerox certified copies)</p>
	<p>Ex.P-9 : Statement of Raju Poojari (Xerox copies) Ex.P-9(a) : Marked in Ex.P-9. Ex.P-9(b) : Marked in Ex.P-9.</p>
	<p>Ex.P-10: Adhar card, D.L copies related to the complainant (Xerox copies)</p>
	<p>Ex.P-11: Sketch of the spot (certified copy) Ex.P-11(a): Signature of the I.O</p>

	Ex.P-12: FSL report dated:08/01/2014 and Chemical examiner report dated:13/03/2014 (Xerox copies)
	Ex.P-13: FSL report (Xerox copy)
	Documents marked on behalf of the DGO
	Ex.D-1: The Additional Deputy Commissioner, Bengaluru District written a letter to Police Inspector, Karnataka Lokayukta, Bengaluru Rural District dated: 14/5/2014 (Xerox copy)
	Ex.D-2: Judgement copy of Spl C.C. No.182/2014 (certified copies)
	Ex.D-3: The Special Deputy Commissioner, Bhoomi Monitoring Cell written a letter to Special Tahsildar, Anekal Taluk, Bengaluru Urban District dated: 21/01/2014, page no.369 xerox copy, page no.370 True copy.
	Ex.D-4: Judgement of Special C.C.No. 182/2014 (Certified copy)
	Ex.D-5: Deposition of PW-1 in Special CC No.182/2014 (certified copies)
	Ex.D-6: Deposition of PW-2 in Special CC No.182/2014 (certified copies)

Dated this the 4th day of October 2021


(Jagadeeshwara M)

(I/c) Additional Registrar Enquiries-13
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Bangalore.

