

BEFORE THE ADDITIONAL REGISTRAR, ENQUIRIES-11

KARNATAKA LOKAYUKTA, BENGALURU

ENQUIRY NUMBER: LOK/INQ/14-A/433/2013

ENQUIRY REPORT Dated: 05/05/2020

Enquiry Officer: V.G.Bopaiah
Additional Registrar Enquiries-11
Karnataka Lokayukta, Bengaluru.

Delinquent Official Number 1: Smt. Rajashree Jayavantha Kulli

(name written by her as
Rajashree Jayavanth Kulli in the
second oral statement recorded on
12/06/2019)

Discharged duties as Deputy
Environmental Officer, Karnataka
State Pollution Control Board
Office, Vijayapura in the year
2006.

Due for retirement on
superannuation on 30/06/2025.

Delinquent Official Number 2: Sri.Somashekara.V.Hiregowdar

(name written by him as Somashekhargouda.V.
Hiregowdar on the note sheet on 25/10/2016)

Discharged duties as Assistant Environmental
Officer, Karnataka State Pollution Control Board
Office, Vijayapura in the year 2006.

Due for retirement on superannuation on
30/04/2033.

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Background for initiating the present inquiry against delinquent officials 1 and 2 needs to be set out in brief. One Sri.Prakash Gurulingappa Thoravi (hereinafter will be referred to as "complainant") is the resident of a place called Hittinahalli, Vijayapura Taluk, Vijayapura District. According to the complainant, he is managing the concern called "Gurukrupa Products" at Hittinahalla, Vijayapura Taluk. The said concern is owned by the father of the complainant and since the father of the complainant is aged the complainant is managing the said concern. The license issued to the said concern requires to be renewed every year. Application was filed for renewal on 19/10/2005. Some modifications are effected as per Rules. On 16/01/2006 the complainant has filed application afresh. On the same day, according to the complainant, he approached delinquent official number 1 in the office of Pollution Control Board, Vijayapura and requested to do the needful. According to the complainant, delinquent official number 1 demanded illegal gratification of Rs. 3,000/-. On 21/01/2006 the complainant again approached the delinquent official number 1. Delinquent official number 1 again insisted for illegal gratification. On 23/01/2006 once again the complainant approached the delinquent official number 1 and requested to do the needful. Delinquent official number 1 asked to arrange for a sum of Rs. 3,000/- and to approach on the next day. The complainant appeared before the Police Inspector (hereinafter will be referred to as "Investigating Officer") attached to Lokayukta Police Station, Vijayapura and lodged complaint in writing against delinquent official number 1. On the basis of the complaint the

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Investigating Officer registered case against delinquent official number 1 in crime number 3/2006 of Lokayukta Police Station, Vijayapura for the offence punishable under section 7, for the offence defined under section 13(1)(d) which is punishable under section 13(2) of The Prevention of Corruption Act, 1988 and submitted FIR to the Special Court at Vijayapura. Afterwards, the Investigating Officer secured shadow witness by name B.P.Prakash and panch witness by name Yallamma Rahunaba Kale to Lokayukta Police Station, Vijayapura and informed them the purpose for which they are secured and informed them to appear on 24/01/2006. On 24/01/2006 the complainant, shadow witness and panch witness appeared before the Investigating Officer in Lokayukta Police Station, Vijayapura. The complainant placed cash of Rs. 3,000/- which consisted of four currency notes of denomination of Rs. 500/- each and ten currency notes of denomination of Rs. 100/- each before the Investigating Officer. The Investigating Officer got applied phenolphthalein powder on those currency notes. On the instructions of the Investigating Officer, the panch witness placed the tainted cash at the hands of the complainant. The Investigating Officer instructed the complainant to approach delinquent official number 1 and to give the tainted cash in case of demand by delinquent official number 1. The Investigating Officer also instructed the complainant that in case of acceptance of tainted cash by delinquent official number 1 the same has to be communicated by way of signal. The Investigating Officer instructed the shadow witness to accompany the complainant and to observe as to what transpires between the complainant and delinquent official

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- number 1. The Investigating Officer got prepared solution with water and sodium carbonate powder. On the instructions of the Investigating Officer, the panch witness immersed fingers of hands in the said solution. Finger wash of hands of panch witness turned to pink colour. The Investigating Officer seized the said wash in a bottle. With the said process the Investigating Officer conducted pre-trap mahazar as primitive step of investigation.
2. Subsequent to pre-trap mahazar, the Investigating Officer along with his staff, complainant, shadow witness and panch witness left Lokayukta Police Station, Vijayapura and reached near the office of delinquent official number 1 and 2 which is at Jalanagara, Vijayapura. It was then 11:00 A.M. The complainant and shadow witness entered the office of delinquent officials 1 and 2. The complainant along with the shadow witness approached the delinquent official number 1 in the office of delinquent officials 1 and 2. Delinquent official number 1 told the complainant that she will be leaving the office and asked to meet at 4:00 P.M. Afterwards, the Investigating Officer along with his staff, complainant, shadow witness and panch witness returned to Lokayukta Police Station, Vijayapura. Afterwards, on the same day the Investigating Officer along with his staff, complainant, shadow witness and panch witness left Lokayukta Police Station, Vijayapura at 4:15 P.M and reached near the office of delinquent officials 1 and 2 at 4:30 P.M. Afterwards, the complainant along with shadow witness went to the office of delinquent officials 1 and 2 and met delinquent official number 1 and asked about the application and requested to accord permission for new

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projects. Delinquent official number 1 asked whether cash of Rs. 3,000/- as told earlier is brought or not. The complainant responded in the affirmative and offered tainted cash of Rs. 3,000/-. Delinquent official number 1 instructed the complainant to hand over the said cash to delinquent official number 2. Afterwards, the complainant along with shadow witness entered the chamber of delinquent official number 2 and told that he was instructed by delinquent official number 1 to give cash of Rs. 3,000/- and offered the tainted cash to delinquent official number 2. Delinquent official number 2 asked the complainant to remain in his chamber and entered the chamber of delinquent official number 1 and spoke with delinquent official number 1. Afterwards, delinquent official number 2 returned to his chamber and told that delinquent official number 1 instructed to receive cash of Rs. 3,000/- and asked to hand over cash of Rs. 3,000/- in case the said amount is brought. In response, the complainant gave the tainted cash to delinquent official number 2. Delinquent official number 2 accepted the tainted cash with right hand and placed the same in a file and told that needful would be done. Afterwards, the complainant gave signal to the Investigating Officer. It was then 4:45 P.M.

3. Afterwards, the Investigating Officer along with his staff and panch witness entered the office of delinquent officials 1 and 2. The complainant pointed out delinquent official number 2 and told that delinquent official number 2 received tainted cash. The Investigating Officer disclosed his identity to delinquent official number 2 and informed the purpose of his visit. The Investigating Officer got prepared solution with water and

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sodium carbonate powder in two containers and obtained sample of the said solution in a bottle. On the instructions of the Investigating Officer, delinquent official number 2 immersed fingers of right hand in the residual solution placed in a container and immersed fingers of left hand in the residual solution placed in another container. Finer wash of right hand of delinquent official number 2 turned to pink colour. Finger wash of fingers of left hand of delinquent official number 2 has not turned to any colour. The Investigating Officer seized those wash in separate bottles. The Investigating Officer seized the tainted notes which were found kept inside a file. With the help of cotton the Investigating Officer got rubbed portion of the file where tainted notes were found and got washed the said cotton in the separate solution. The said wash turned to pink colour. The Investigating Officer seized the said wash in a bottle and also seized the cotton and the file inside which tainted notes were found placed. On being questioned by the Investigating Officer delinquent official number 2 offered explanation in writing. Delinquent official number 1 who was in that office was questioned by the Investigating Officer. Delinquent official number 1 offered explanation in writing before the Investigating Officer. The Investigating Officer obtained xerox copies of sheets of the file pertaining to the complainant and after getting those sheets attested seized those sheets. The Investigating Officer obtained xerox copy of single sheet of attendance register maintained in the office of delinquent officials 1 and 2 and after getting those sheets attested seized those sheets. The Investigating Officer obtained the attested copy of inward register and also attested copy of log book of the vehicle. The



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Investigating Officer got prepared rough sketch of the place of trap. The Investigating Officer arrested delinquent officials 1 and 2 and released on bail. The Investigating Officer conducted trap mahazar in the office of delinquent officials 1 and 2. In the course of further investigation the Investigating Officer consigned the seized items to the chemical examiner attached to Public Health Institute, Government of Karnataka at Bengaluru and obtained report from the chemical examiner. The Investigating Officer obtained sketch of the place of trap from the Assistant Engineer, Department of Public Works, Port and Inland Water Transport, Vijayapura. After obtaining sanction for prosecution of delinquent officials 1 and 2 the Investigating Officer filed charge sheet against delinquent officials 1 and 2 in the Special Court, Vijayapura.

4. On the basis of the report of the Additional Director General of Police, Karnataka Lokayukta, Bengaluru along with the investigation papers made available by the Police Inspector attached to Lokayukta Police Station, Vijayapura, Hon'ble Upalokayukta, Karnataka, in exercise of the powers conferred upon under section 7(2) of The Karnataka Lokayukta Act, 1984 took up investigation which, on the basis of records prima facie unearthed that delinquent officials 1 and 2 have committed misconduct within the purview of Rule 3(1) of The Karnataka Civil Services (Conduct) Rules, 1966 and accordingly, in exercise of the powers conferred upon under section 12(3) of The Karnataka Lokayukta Act, 1984 recommended the competent authority to initiate disciplinary proceedings against delinquent officials 1 and 2 and to entrust the inquiry to the Hon'ble Upalokayukta, Karnataka under Rule 14-A of The

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Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.

5. Subsequent to the report dated 26/10/2012 under section 12(3) of The Karnataka Lokayukta Act, 1984, Order number ಮಾನಿಮ 311 ಆಡವ 07/532 ದಿನಾಂಕ 28/09/2013 has been issued by the Chairman of Karnataka State Pollution Control Board, Bengaluru who is the disciplinary authority entrusting the inquiry against the delinquent officials 1 and 2 under Rule 14-A of The Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.
6. Subsequent to the Order ಮಾನಿಮ 311 ಆಡವ 07/532 ದಿನಾಂಕ 28/09/2013 Order number LOK/INQ/14-A/433/2013 Bengaluru dated 26/10/2013 has been ordered by the Hon'ble Upalokayukta-1, Karnataka nominating the Additional Registrar, Enquiries-3, Karnataka Lokayukta, Bengaluru as Inquiry Officer to frame charges and to conduct departmental inquiry against delinquent officials 1 and 2.
7. As per Order number LOK/INQ/14-A/2014 dated 14/03/2014 of the Hon'ble Upalokayukta, Karnataka this file has been entrusted to the Additional Registrar, Enquiries-11, Karnataka Lokayukta, Bengaluru to conduct departmental inquiry against delinquent officials 1 and 2.
8. Articles of charge dated 21/05/2014 at Annexure-I which includes statement of imputation of misconduct at Annexure-II framed by the then Additional Registrar, Enquiries-11, Karnataka Lokayukta, Bengaluru is the following:


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“ANNEXURE-1**CHARGE:**

That you DGO No.1, Smt.Rajashree Jayavantha Kulli daughter of Jayavantha Kulli, Deputy Environmental Officer, Karnataka State Pollution Control Board, Bijapur and you DGO No. 2, Sri.Somashekara V. Hiregowdar, Assistant Environmental officer, Karnataka State Pollution Control Board, Bijapur while discharging your duties:

- (a) For Gurukrupa Products Food processing unit at Hittinally village in Bijapur Taluk and District started by his father in the year 2004, every year permission for that unit was required from the Pollution Control Board under Water and Air Pollution Control Act. Accordingly, he had given application on 19/10/2005 for permission for that year and had received order on 23/11/2005 with certain modifications, which he did and filed fresh application on 16/01/2006 for an orders to boil gooseberry (ನೆಲ್ಲಿಕಾಯಿ). And on the same day, he met you DGO No. 1 and requested you to give permission for old and new scheme at the earliest. For that, you DGO No. 1 told him that as they have many expenses, if Rs.3,000/- is paid, permission will be given immediately, otherwise you can find different lacunas and make him wander for a number of times.
- (b) Thereafter, on 21/01/2006 you DGO No. 1 made a call to his mobile cell telling that he did not turn up though he told that he would come in 2 or 3 days and asked him to arrange for the amount demanded by you and take the permission.

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- (c) For that, when he pleaded several times about his difficulties and requested for permission, you DGO No. 1 asked him to come and meet you personally telling that he has to make some arrangement.
- (d) Again on 23/01/2006 when he met and personally requested, you DGO No. 1 asked him to take one day time and come on the next day after arranging Rs.3,000/-.
- (e) Even after approachin Lokayukta police at Bijapur, when he met you DGO No. 1 at your office on 24/01/2006, then also you DGO No. 1 got confirmed from him about bringing Rs.3,000/- by him.
- (f) Added to that, you DGO No. 1, took the tainted (bribe) amount through DGO No. 2 on said date at the said office and the same was seized under a mahazar by the said I.O. then.
- (g) That then you DGOs were caught hold when thus found in possession of custody the tainted (bribe) amount on the said date and place, about which mahazar was also made.

and thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbemong of Government Servants and thus you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966.

ANNEXURE-11

STATEMENT OF IMPUTATION OF MISCONDUCT

On the basis of a report of the Additional Director General of Police in Karnataka Lokayukta at Bangalore, filed with papers of investigation made by the Police Inspector in


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Karnataka Lokayukta at Bijapur District (herein after referred to as Investigating Officer-'I.O.' for short), stated that Smt.Rajashree Jayavantha Kulli daughter of Jayavantha Kulli, Deputy Environmental Officer, Karnataka State Pollution Control Board, Bijapur and you DGO No. 2, Sri.Somashekara V.Hiregowdar, Assistant Environmental Officer, Karnataka State Pollution Control Board, Bijapur, being public/Government servants, have committed misconduct, when approached by Sri.Prakash Gurulingappa Toravi R/o Hittinahally in Bijapur Taluk & District (herein after referred to as 'Complainant' for short) an investigation was taken up u/s 9 of the Karnataka Lokayukta Act, after invoking power vested u/s 7(2) of that Act.

2. Brief facts of the case are:-

- (a) For Gurukrupa Products Food processing unit at Hittinally village in Bijapur Taluk and District started by his father in the year 2004, every year permission for that unit was required from the Pollution Control Board under Water and Air Pollution Control Act. Accordingly, he had given application on 19/10/2005 for permission for that year and had received order on 23/11/2005 with certain modifications, which he did and filed fresh application on 16/01/2006 for an orders to boil gooseberry (ನೆಲ್ಲಿಕಾಯಿ). And on the same day, he met the DGO No. 1 and requested her to give permission for old and new scheme at the earliest. For that, the

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DGO No. 1 told him that as they have many expenses, if Rs.3,000/- is paid, permission will be given immediately, otherwise she can find different lacunas and make him wander for a number of times.

- (b) Thereafter, on 21/01/2006 the DGO No. 1 made a call to his mobile cell telling that he did not turn up though he told that he would come in 2 or 3 days and asked him to arrange for the amount demanded by her and take the permission.
- (c) For that, when he pleaded several times about his difficulties and requested for permission, the DGO No. 1 asked him to come and meet her personally telling that he has to make some arrangement.
- (d) Again on 23/01/2006 when he met and personally requested, the DGO No. 1 asked him to take one day time and come on the next day after arranging Rs.3,000/-.
- (e) Even after approaching Lokayukta police at Bijapur, when he met the DGO No. 1 at her office on 24/01/2006, then also the DGO No. 1 got confirmed from him about bringing Rs.3,000/- by him.
- (f) Added to that, the DGO No. 1 took the tainted (bribe) amount through DGO No. 2 on said date at the said office and the same was seized under a mahazar by the said I.O. then.
- (g) That then the DGOs were caught hold when thus found in possession of custody the tainted (bribe)

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amount on the said date and place, about which mahazar was also made.

3. Said facts supported by the material on record show that the DGOs, being public servant, have failed to maintain absolute integrity besides devotion to duty and acted in a manner unbecoming of Government servants, and thereby committed misconduct and made themselves liable for disciplinary action.

4. Therefore, an investigation was taken up against the DGOs and an observation note was sent to them to show cause as to why recommendation should not be made to the Competent Authority for initiating departmental inquiry against them in the matter. For that, the DGOs gave their reply. However, the same has not been found convincing to drop the proceedings.

5. Since said facts and material on record prima facie show that the DGOs have committed misconduct under Rule 3(1) of the KCS Conduct Rules, 1966, recommendation is made under Section 12(3) of the Karnataka Lokayukta Act, to the Competent Authority to initiate disciplinary proceedings against the DGOs and to entrust the inquiry to this Institution under Rule 14-A of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.

6. The Government after considering the recommendation made in the report, entrusted the matter to the Hon'ble Upalokayukta to conduct departmental/disciplinary proceedings against the DGOs and to submit report. Hence the charge."

9. In response to due service of articles of charge, delinquent official number 2 entered appearance before this authority on

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27/06/2014. In the course of first oral statement of delinquent official number 2 recorded on 27/06/2014 he pleaded not guilty. On 30/07/2014 delinquent official number 1 entered appearance before this authority. In the course of first oral statement of delinquent official number 1 recorded on 30/07/2014 she pleaded not guilty. Delinquent officials 1 and 2 have subsequently engaged Advocate for their defence.

10. In the course of written statement of delinquent official number 1 filed on 30/07/2015 she has denied the charge levelled against her and contended that the complainant has not given illegal gratification of Rs. 3,000/- to her. It is contended that without the knowledge of delinquent official number 2 one Muddanna Ittangi placed the tainted cash inside the file in the chamber of delinquent official number 2 during absence of delinquent official number 2 and shook hands of delinquent official number 2. It is contended that in the background of enmity false case has been foisted. It is contended that official work of the complainant was not pending with delinquent official number 1. It is contended that proceedings are conducted on 21/01/2006 during the meeting of 15th District Level Consent Committee. It is contended that delinquent official number 1 faced trial on the similar set of charges in which she has been acquitted by the Special Court, Vijayapura on 20/01/2014. It is contended that the Investigating Officer concocted the trap mahazar. It is contended that all witnesses who were examined before the Special Court, Vijayapura turned hostile.
11. In the course of written statement of delinquent official number 2 he has stated he neither demanded not accepted

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illegal gratification. He has contended that money is not recovered from him. It is contended that work of the complainant was not pending with him. It is contended that report of the chemical examiner shows presence of phenolphthalein powder in the finger wash of both hands of delinquent official number 2 but statement of witnesses who are examined by the Investigating Officer show that finger wash of right hand of delinquent official number 2 turned to pink colour. It is contended that delinquent official number 2 faced trial in Special Case number 6/2006 on the file of Special Court at Vijayapura on the similar set of charges and that he has been acquitted in the said case. It is contended that on the date of trap he had not been to the chamber of delinquent official number 1 and that on the date of trap he was outside his chamber to attend call of the nature and in the mean time he noticed the complainant outside his chamber and that Muddanna Ittangi who was inside his chamber wished by shaking hand. It is contended that he is not aware of pointing out the amount by Muddanna Ittangi. It is contended that on the instructions of Lokayukta Police staff he took out the currency notes and thereafter process of hand wash has been conducted. It is contended that his statement has been obtained by force by Lokayukta Police staff.

12. The disciplinary authority has examined the shadow witness as PW 1, complainant as PW 2 and the Investigating Officer as PW 3.

13. During evidence of PW 1, the attested copy of pre-trap mahazar dated 24/01/2006 in four sheets is marked as per Ex P1, attested copy of statement in writing dated 24/01/2006 in a

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single sheet of delinquent official number 1 is marked as per Ex P2, attested copy of statement in writing dated 21/01/2006 in a single sheet of delinquent official number 2 is marked as per Ex P3, attested copy of trap mahazar dated 24/01/2006 in ten sheets is marked as per Ex P4. During evidence of PW 2, attested copy of his complaint dated 23/01/2006 in a single sheet is marked as per Ex P5. During evidence of PW 3 attested copy of FIR dated 23/01/2006 in a single sheet in crime number 3/2006 of Lokayukta Police Station, Vijayapura is marked as per Ex P6, attested copy of rough sketch dated 24/01/2006 in a single sheet is marked as per Ex P7, attested copy of report dated 14/03/2006 in two sheets of the chemical examiner attached to Public Health Institute, Government of Karnataka, Bengaluru is marked as per Ex P8, attested copy of sketch in a single sheet of the Assistant Engineer, Department of Public Works, Port and Inland Water Transport, Vijayapura is marked as per Ex P9.

14. In the course of second oral statement of delinquent official number 2 recorded on 09/05/2019 he has stated that he intends to get examined himself as defence witness and that he intends to examine a group 'D' official whose name is not known to him. In the course of second oral statement of delinquent official number 1 recorded on 12/06/2019 she has stated that she would get herself examined as defence witness and that she also would examine a defence witness.
15. On behalf of delinquent officials 1 and 2 defence witness by name Rajakumara Lakshmana Bilkara is examined as DW 1. Delinquent officials 1 and 2 have not chosen to get themselves examined as defence witness.

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16. Incriminating circumstances which appeared against delinquent official number 1 in the evidence of PWs 1 to 3 are put to her by way of questionnaire on 18/01/2020 and her answers are recorded. Incriminating circumstances which appeared against delinquent official number 2 in the evidence of PWs 1 to 3 are put to him by way of questionnaire on 02/01/2020 and his answers are recorded.
17. During questionnaire delinquent officials 1 and 2 have denied the incriminating circumstances and also pleaded ignorance over some incriminating circumstances. Delinquent official number 1 pleaded ignorance over the incriminating circumstances put to her in question numbers 1, 7, 8, 9, 10, 11, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 30, 31, 33, 34, 35, 36, 38, 40, 41, 42, 43, 44, 46, 47 and 49. She has stated that she has not demanded cash from anybody. Delinquent official number 2 pleaded ignorance over question numbers 8, 11, 12, 13, 14, 15, 16, 17, 18, 20, 24, 25, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 39, 40, 41, 46, 47, 48, 50, 51, 52 and 53. He has stated that his statement in writing has been obtained by force. He has admitted evidence of PW 1 touching seizure of cash. He has stated that finger wash of his hand has been conducted and that nature of colour is not known to him. He has stated that cash was inside the file. He has denied trap mahazar which was conducted in his office. He has denied the remaining incriminating circumstances.
18. In the course of written argument of the Presenting Officer filed on 18/01/2020 she has referred to the facts of the case and also evidence on record. It is contended that PWs 1 and 2 have turned hostile and not supported the case of the

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disciplinary authority. With reference to the evidence of PW3 it is contended that nothing worthy is found in his evidence to disbelieve his testimony. It is contended that evidence of PW3 coupled with the trap mahazar and report of the chemical examiner establishes the charge.

19. On 18/01/2020 time was sought on behalf of delinquent officials 1 and 2 to file written argument. Time was granted till 15/02/2020. On 15/02/2020 time was sought by the Advocate for delinquent officials 1 and 2. On that day Advocate for delinquent officials 1 and 2 has specifically chosen that time may be granted till 07/03/2020. On 07/03/2020 delinquent officials 1 and 2 remained absent. There was no representation from the side of delinquent officials 1 and 2 and 07/03/2020. Written statement dated 20/03/2020 on behalf of delinquent officials 1 and 2 signed by Advocate for delinquent officials 1 and 2 is placed in the office which is taken on the file. It is contended in the course of written argument filed on behalf of delinquent officials 1 and 2 that delinquent officials 1 and 2 were not in a position to extend official favour and therefore the question of demand and acceptance of illegal gratification will not arise. It is contended that delinquent officials 1 and 2 have neither demanded nor accepted illegal gratification. It is contended that true facts are not depicted in the compliant and that the complaint is not voluntary. It is contended that mahazars are concocted. It is contended that documents marked on behalf of disciplinary authority do not suggest misconduct. It is contended that the shadow witness has not supported. It is contended that in the absence of evidence pointing out demand and acceptance it cannot be contended

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that charges are proved. It is contended that on the similar set of charges delinquent officials 1 and 2 who faced trial are acquitted by the Special Judge. It is contended that delinquent officials are sole earning member of family.

20. In tune with the articles of charge following points arise for consideration:

Point number 1:- Whether it stands established that in order to attend the application of the complainant by name Prakash Gurulingappa Thoravi for renewal of licence of his unit under the name and style "Gurukrupa Products" at Hittanahalli, Vijayapura Taluk, Vijayapura District, delinquent official number 1 who was discharging duties as Environmental Officer attached to the office of Karnataka State Pollution Control Board, Vijayapura demanded illegal gratification of Rs.3,000/- from the complainant on 24/01/2006 in the office of Karnataka State Pollution Control Board, Vijayapura between 4.30 P.M and 4.45 P.M and instructed the complainant to hand over cash of Rs.3,000/- to delinquent official number 2 intending to obtain the said cash subsequently from delinquent official number 2 and as per the instructions of delinquent number 1 the complainant handed over tainted cash of Rs.3,000/- to delinquent official number 2 and during investigation conducted in crime number 3/2006 of Lokayukta Police Station, Vijayapura by the Police Inspector attached to Lokayukta Police Station, Vijayapura delinquent official number 1 failed to offer satisfactory explanation in respect of tainted cash of Rs.3,000/- possessed by delinquent official number 2 between 4.30 P.M and 4.45 P.M in the chamber of delinquent official number 2 attached to the office of

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Karnataka State Pollution Control Board, Vijayapura and thereby delinquent official number 1 is guilty of misconduct within the purview of Rule 3(1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966?

Point number 2:- Whether it stands established that in connection with the application of the complainant by name Prakash Gurulingappa Thoravi for renewal of licence of his unit under the name and style "Gurukrupa Products" at Hittanahalli, Vijayapura Taluk, Vijayapura District, delinquent official number 2 who was discharging duties as Assistant Environmental Officer in the office of Karnataka State Pollution Control Board, Vijayapura demanded and accepted illegal gratification of Rs.3,000/- from the complainant on the instructions of delinquent official number 1 on 24/01/2006 between 4.30 P.M and 4.45 P.M in his chamber attached to the office of Karnataka State Pollution Control Board, Vijayapura and during investigation conducted in crime number 3/2006 of Lokayukta Police Station, Vijayapura by the Police Inspector attached to Lokayukta Police Station, Vijayapura delinquent official number 2 failed to offer satisfactory explanation in respect of tainted cash of Rs.3,000/- possessed by him between 4.30 P.M and 4.45 P.M in his chamber attached to the office of Karnataka State Pollution Control Board, Vijayapura and thereby delinquent official number 2 is guilty of misconduct within the purview of Rule 3(1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966?

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21. Since matters in controversy involved in point numbers 1 and 2 are interlinked with each other let me dwell upon to consider point numbers 1 and 2 together.
22. During evidence the complainant (PW2) has stated that in connection with renewal of licence of the unit called "Gurukrupa Products" he had been to the office of delinquent officials in the month of January 2006. This portion of his evidence is not under challenge which establishes that he had been to the said office in connection with renewal of licence. His evidence that he sent the application for renewal of licence through his assistant by name Muddanna Ittangi is not under challenge. His evidence that Muddanna Hittangi told him that there was demand for illegal gratification of Rs.3,000/- in the office of Karnataka State Pollution Control Board, Vijayapura is not under challenge. He has stated that afterwards he along with his assistant went to Lokayukta Police Station, Vijayapura. This portion of his evidence is not under challenge. He has stated that his assistant wrote the complaint and that he subscribed signature. Ex P5 is the attested copy of his complaint. He has stated that one Prakash and a lady whose name is not known to him are secured to Lokayukta Police Station, Vijayapura. This portion of his evidence is not under challenge. His evidence that he placed cash of Rs.3,000/- in Lokayukta Police Station, Vijayapura is not under challenge. His evidence that PW3 placed cash in a envelope and handed over the said envelope to him is also not under challenge. Though he has not stated the details of proceedings of pre-trap mahazar the tenor of his evidence would show that he somehow intended to screen the

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truth. He has not supported the proceedings of pre-trap mahazar. From the tenor of his evidence it can be gathered that he intended to safeguard the interest of delinquent officials 1 and 2. After treating him hostile the Presenting Officer subjected to him for cross examination. Suggestion posed to him suggesting that proceedings of pre-trap mahazar are conducted in his presence is denied by him.

23. PW1 is the shadow witness. During evidence he has stated that on 23/01/2006 he along with the panch witness had been to Lokayukta Police Station, Vijayapura and that he was asked to appear on 24/01/2006 and accordingly he along with the panch witness had been to Lokayukta Police Station, Vijayapura at 9.30 A.M. This portion of his evidence is not under challenge which establishes his appearance before PW3 in Lokayukta Police Station, Vijayapura on 24/01/2006. He has stated during evidence that the complainant placed cash of Rs.4,000/- in Lokayukta Police Station, Vijayapura. He has stated that some powder was applied on the currency notes by Lokayukta Police staff and that after counting those notes the panch witness handed over those notes to the complainant. This portion of his evidence is not under challenge. He has stated that the panch witness washed fingers of hands in a solution and that consequently there was change of colour of the said finger wash. It is in his evidence that pre-trap mahazar has been conducted in his presence. His evidence though has been assailed during his cross examination I find nothing worthy to disbelieve his evidence touching the proceedings of pre-trap mahazar. After treating him hostile on the ground that he has not supported the alleged demand and

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acceptance he has been subjected to cross examination by the Presenting Officer. When subjected to cross examination by the Presenting Officer it is brought that the complainant placed cash of Rs.3,000/- before PW3.

24. Evidence of PW3 who is the Investigating Officer that he received complaint in writing from the complainant and on the basis of the same he registered case against delinquent official number 1 in crime number 3/2006 of Lokayukta Police Station, Vijayapura and submitted FIR to the Special Court, Vijayapura is not under challenge. Ex P6 is the attested copy of FIR. His evidence that he secured PW2 and panch witness to Lokayukta Police Station, Vijayapura is not under challenge. His evidence that he instructed the complainant, shadow witness and panch witness to appear before him in Lokayukta Police Station, Vijayapura on 24/01/2006 is also not under challenge.

25. Evidence of PW3 that on 24/01/2006 at 9.30 A.M the complainant , PW2 and panch witness appeared before him in Lokayukta Police Station, Vijayapura is not under challenge. His evidence that total cash of Rs.3,000/- was placed before him by the complainant on 24/01/2006 in Lokayukta Police Station, Vijayapura has been assailed during his cross examination suggesting that the complainant has not placed cash before him. It is in his evidence that he got applied phenolphthalein powder on the currency notes through his staff and that on his instructions the panch witness handed over the tainted cash to the complainant. It is in his evidence that he instructed the complainant to approach delinquent official number 1 and to give the tainted cash only in case of

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demand. It is in his evidence that he also instructed the complainant to offer signal in case of acceptance of tainted cash by delinquent official number 1. It is in his evidence that he instructed the shadow witness to accompany the complainant and to observe as to what transpires between the complainant and delinquent official number 1. He has stated during his evidence that the panch witness immersed hands in the solution prepared with water and sodium carbonate powder and consequently the said finger wash of panch witness turned to pink colour. He has thus stated that he conducted pre-trap mahazar in Lokayukta Police Station, Vijayapura. It is brought out during his cross examination that he conducted pre-trap mahazar on 24/01/2006. Suggestion posed to PW 3 that he has not conducted pre-trap mahazar has been denied by him. Upon appreciation of the evidence of PW 3 I find that his evidence is worthy of acceptance touching the proceedings of pre-trap mahazar. On the basis of the evidence of PWs 1 and 3 I have no hesitation whatsoever to hold that PW 3 conducted pre-trap mahazar as primitive step of investigation.

26. Evidence of the complainant (PW 2) that in connection with renewal of license he had been to the office of delinquent officials 1 and 2 in the month of January 2006 is not under challenge. His evidence that he sent the application for renewal of license through his assistant by name Muddanna Ittangi is not under challenge. His evidence that Muddanna Ittangi informed him that demand for illegal gratification of Rs.3,000/- was laid in the office of delinquent officials 1 and 2 equally is not under challenge and therefore the said portion of his



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evidence needs acceptance which establishes that demand was laid.

27. Evidence of PW 2 that he along with PW 1 reached the office of delinquent officials 1 and 2 at 4:00 P.M is not under challenge. His evidence that he handed over cash to Muddanna Ittangi with instructions to give the same to the person who demands cash is not under challenge. His evidence that he entered the office of delinquent officials 1 and 2 and came out of that office and afterwards delinquent official number 2 came out of that office is also not under challenge. His evidence that he was informed by Muddanna Ittangi that after entry to the chamber of delinquent official number 2 Muddanna Ittangi placed the envelope and came out of the chamber of delinquent official number 2 is equally not under challenge. His evidence that afterwards he conveyed message by way of signal is also not under challenge. He has not stated that after his entry to the chamber of delinquent official number 1 there was demand by delinquent official number 1. He equally has not stated that demand was made by delinquent official number 2 and that in response to demand he gave tainted cash to delinquent official number 2. He has turned hostile.

28. His evidence that after the entry of Lokayukta Police staff to the office of delinquent officials 1 and 2 Muddanna Ittangi pointed out delinquent official number 2 and told that delinquent official number 2 received cash is not under challenge which portion of his evidence establishes acceptance of tainted cash by delinquent official number 2. The tenor of his evidence would point out that he intended to safeguard delinquent officials 1 and 2 and therefore he attempted to make

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believe that Muddanna Ittangi told that delinquent official number 2 accepted cash. He has stated that delinquent official number 2 washed fingers of hands. This portion of his evidence is not under challenge. However, PW 2 has stated that he was told by Lokayukta Police staff that wash of fingers of hands of delinquent official number 2 turned to pink colour. It is in his evidence that PW 3 seized a envelope which was found inside a file which was on the table in the chamber of delinquent official number 2. This portion of his evidence is not under challenge. This portion of his evidence establishes that tainted cash was found placed inside the file which was on the table under the control of delinquent official number 2. PW 2 has stated that the file which was in the chamber of delinquent official number 1 has been seized by Lokayukta Police staff. This portion of his evidence is not under challenge. It thus stands established that the file pertaining to the complainant was in the custody of delinquent official number 1.

29. After treating PW 2 hostile he has been subjected to cross examine by the Presenting Officer. During cross examination by the Presenting Officer he has admitted that photographs are flashed in the office of delinquent officials 1 and 2 and that image of Muddanna Ittangi is not found in the photographs. In the presence of the said answer it becomes clear that in order to avoid to depose against delinquent officials 1 and 2 PW 2 has chosen to make believe that Muddanna Ittangi had accompanied him. Be that as it may, on the strength of his evidence it stands established that tainted cash was found inside the file which was on the table inside the chamber of delinquent official number 2. His evidence establishes change

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of colour of finger wash of hands of delinquent official number 2 which establishes that delinquent official number 2 handled the tainted cash.

30. Allegations of demand for illegal gratification by delinquent official number 1 are found in Ex P5 which is the attested copy of complaint of PW 2. During evidence PW 2 though has stated that the complaint is written by Muddanna Ittangi and that he signed the same it is not his evidence that contents of the complaint are not within his knowledge. Suggestion posed to him by the Presenting Officer during cross examination after treating hostile suggesting that before subscribing signature he used to ascertain the contents has been admitted by him. In the presence of the said admission it is clear that after going through the contents of the complaint he signed the same. It needs to be borne in mind that as stated by him during his examination-in-chief that after he sent the application through Muddanna Ittangi he was told by Muddanna Ittangi that demand for illegal gratification of Rs. 3,000/- was made in the office delinquent officials 1 and 2. In the presence of the said portion of his evidence it needs to be expressed that after coming to know of the fact that delinquent official number 1 demanded illegal gratification of Rs. 3,000/- he alleged in the complaint that there was demand by delinquent official number 1 and therefore he thought of setting law into motion and accordingly he lodged the complaint the copy of which is at Ex P5. It is brought out during his cross examination by the Presenting Officer that on the day of trap he was told by delinquent official number 1 to meet in the evening hours and therefore he along with others went to the office of delinquent

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officials 1 and 2 at 4.30 P.M. This portion of his answer elicited by the Presenting Officer during cross examination establishes that on the day of trap he had met delinquent official number 1 and at that time he was asked by delinquent official number 1 to meeting in the evening hours. Therefore, inference needs to be drawn that in order to receive cash of Rs.3,000/- delinquent official number 1 asked to PW2 to meet in the evening hours. PW2 admits during cross examination by the Presenting Officer that at the time of his entry to the office of delinquent officials 1 and 2 he found delinquent official 1 in that office. He admits the suggestion posed to him by the Presenting Officer that at the time of his entry to the office of delinquent officials 1 and 2 along with PW1 Lokayukta Police staff and panch witness were outside the office. He admits during cross examination by the Presenting Officer that delinquent official number 2 entered the office of delinquent official number 1. This portion of his evidence certainly would show that in connection with acceptance of tainted cash delinquent official number 2 entered the chamber of delinquent official number 1.

31. During cross examination from the side of delinquent officials 1 and 2 though PW2 has stated that he is not aware of the contents of the complaint that portion of his answer cannot be accepted for the reason that during cross examination by the Presenting Officer he has stated that after ascertaining the contents of documents he used to subscribe signatures. During cross examination from the side of delinquent officials 1 and 2 though he has stated that he had not approached delinquent officials 1 and 2 for renewal of

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licence and that delinquent officials 1 and 2 have not demanded money those answers, in my view, are aimed at safeguarding delinquent officials 1 and 2. However, PW2 has stated during cross examination from the side of delinquent officials 1 and 2 that his assistant informed Lokayukta Police staff that his assistant placed cash inside the file and pointed out the said cash. Upon appreciation of the evidence of PW2 it needs to be expressed that though he set law into motion with the aid of complaint alleging demand for illegal gratification by delinquent official number 1 he has resiled from the allegations found levelled in the complaint with the intention of safeguarding delinquent officials 1 and 2.

32. Evidence of PW1 who is the shadow witness that after he entered the office of delinquent officials 1 and 2 along with PW2 delinquent official number 1 was found inside is not under challenge and therefore the said portion of his evidence needs acceptance which establishes that he entered the chamber of delinquent official number 1 along with PW2 (complainant) where delinquent official number 1 was found. His evidence that the complainant entered the said office is not under challenge. His evidence that delinquent official number 1 instructed to approach delinquent official number 2 is not under challenge which portion of his evidence needs acceptance which establishes that with the intention of communicating the complainant for payment of illegal gratification delinquent official number 1 instructed the complainant to approach delinquent official number 2. Evidence of PW1 that the chamber of delinquent official number 1 was adjoining the chamber of delinquent official number 2 is not under challenge.

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Evidence of PW1 that the complainant entered the chamber of delinquent official number 2 is not under challenge. His evidence that at the time of entry of the complainant to the chamber of delinquent official number 2 delinquent official number 2 was found in that chamber is also not under challenge. PW1 has not referred to the presence of Muddanna Ittangi along with the complainant and therefore it can safely be concluded that as already mentioned earlier PW2 attempted to make believe that Muddanna Ittangi entered the chamber of delinquent official number 2. It is in the evidence of PW1 that he stood at the door of the chamber of delinquent official number 2 and that he could not hear the conversation between the complainant and delinquent official number 2. He has stated that the complainant told delinquent official number 2 saying "ಮೇಡಂ ಹೇಳಿದ್ದಾರೆ" and after coming out the complainant stated "ಆಯಿತು". This portion of his evidence has been assailed during his cross examination suggesting that the complainant has not stated so. The said suggestion has been denied by him. The above portion of evidence of PW1 unerringly establishes that after the complainant entered the chamber of delinquent official number 1 the complainant was told by delinquent official number 1 about the matter and therefore after coming out of the chamber of delinquent official number 1 the complainant responded so. The above portion of evidence of PW1 incriminates delinquent official number 1.

33. It is in the evidence of PW1 that after the complainant gave signal Lokayukta staff along with the panch witness arrived at there and after questioning the complainant as to to whom cash is given Lokayukta Police staff entered the chamber of


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delinquent official number 2. This portion of his evidence is not under challenge. It is in the evidence of PW1 that cash of Rs.3,500/- was found inside a file. Though he has referred to the quantum of cash of Rs.3,500/- the same alone will not lend support to the defence. Evidence of PW1 touching change of colour of finger wash of fingers of right hand of delinquent official number 2 is not under challenge. In the course of written statement of delinquent official number 2 it is found contended in paragraph number 3 that report of the chemical examiner shows that finger wash of both hands of delinquent official number 2 was found pink in colour. In order to ascertain the correctness or otherwise of such a statement Ex P8 which is the attested copy of report of the chemical examiner attached to Public Health Institute, Bengaluru needs to be looked into. Article number 6 mentioned in page number 2 of Ex P8 shows that the said article is the finger wash of right hand of delinquent official number 2. It is found in page number 3 (sheet number 2) of Ex P8 that presence of phenolphthalein and sodium carbonate was detected in the said wash. Article number 7 at page number 2 of Ex P8 again refers to right hand finger wash of delinquent official number 2. Corresponding result of the said article is found at article number 7 of page number 3 (sheet number 2) of Ex P8 in which it is found that presence of phenolphthalein and sodium carbonate was detected. Ex P8 nowhere shows finger wash of left hand of delinquent official number 2 and therefore the defence as put forward in paragraph number 3 of the written statement of delinquent official number 2 cannot be accepted.

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34. Evidence of PW1 that Lokayukta Police staff seized the tainted cash is not under challenge. It is in his evidence that after seizure of tainted cash Lokayukta Police staff entered the chamber of delinquent official number 1. This portion of his evidence is not under challenge. He has stated that delinquent official number 2 gave statement in writing the attested copy of which is at Ex P3. During questionnaire though delinquent official number 2 has stated his statement has been obtained by force no suggestion is posed to PW2 that the statement of delinquent official number 2 has been obtained by force. After treating PW1 hostile he has been subjected to cross examination by the Presenting Officer. PW1 admits during cross examination by the Presenting Officer that tainted cash of Rs.3,000/- was found inside the file. Though it is brought out during cross examination of PW1 from the side of delinquent officials 1 and 2 that after lifting tainted cash by delinquent official number 2 process of finger wash of hands of delinquent official number 2 is conducted. The said portion of his answer cannot be believed in the presence of evidence of PW3 who during his cross examination denied the suggestion that after placing cash before him by delinquent official number 2 he got washed fingers of hands of delinquent official number 2. Though PW1 has partly turned hostile his evidence points out the entry of the complainant to the chamber of delinquent official number 1 and what is expressed by the complainant after coming out of the chamber of delinquent official number 1. His evidence establishes change of colour of finger wash of right hand of delinquent official number 2 and


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also tainted cash which was found inside the file which was on the table in the chamber of delinquent official number 2.

35. Evidence of PW3 that the complainant give signal at 4.45 P.M on the date of trap is not under challenge. His evidence that after his entry to the office of delinquent officials 1 and 2 the complainant pointed out delinquent official number 2 and told that delinquent official number 2 received tainted cash is not under challenge which portion of his evidence incriminates delinquent official number 2. His evidence that finger wash of right hand of delinquent official turned to pink colour is not under change which establishes that delinquent official number 2 handled the tainted cash. Seizure of tainted cash which was found in the file in the chamber of delinquent official number 2 is stated by PW3. Seizure of tainted cash is not under serious challenge. It is in the evidence of PW3 that delinquent official number 2 gave statement in writing the attested copy of which is at Ex P3. Nothing is suggested to PW3 that he obtained the said statement by force and therefore it cannot be said that PW3 obtained the said statement by force. It is in the evidence of PW3 that on his instructions delinquent official number 1 placed the file before him. Production of file by delinquent official number 1 establishes that the file of the unit of the complainant was pending with delinquent official number 1.

36. During cross examination though PW3 has stated that he does not know the role of delinquent officials 1 and 2 touching licence the fact remains that the file was with delinquent official number 1. Though it is found in the cross examination of PW3 that licence will be issued in tune with the resolution of.. Karnataka State Pollution Control Board the fact remains

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that the file has to move through delinquent official number 1. It is brought out during cross examination of PW3 that tainted notes were found inside the file on the table in the chamber of delinquent official number 2. Suggestion posed to PW 3 during cross examination suggesting that on being questioned delinquent official number 2 pleaded ignorance has been denied by him. Though PW3 has stated during cross examination that he has not ventured upon to ascertain the correctness or otherwise of the statement in writing of delinquent official number 2 the same will not lend support to the defence in the background of the fact that the said statement is not the outcome of force.

37. During evidence DW1 has stated that during the years 2005-06 he was working as Assistant and Watchman in the office of delinquent officials 1 and 2 and that he was attending the works which were instructed to him by delinquent official number 1. He has stated that chamber of delinquent officials 1 and 2 were provided with automatic doors. He has stated that only with the permission of delinquent official number 1 he was allowing the visitors to the chamber of delinquent official number 1. He has stated that the activities inside the chamber of delinquent official number 1 were not visible from outside. He has stated that on 24/01/2006 delinquent official number 1 arrived at the office between 10.30 A.M and 11.00 A.M and left the office for inspection and returned at about 4.00 P.M. He has stated that nobody entered the chamber of delinquent official number after 4.00 P.M. In the presence of the evidence of PW1 the said portion of evidence of DW1 cannot be believed. His evidence will not lend support to the defence.

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38. As could be seen from paragraph number 6 of the written statement dated 19/02/2016 of delinquent official number 2, he was outside his chamber and during his absence Muddanna Ittangi was sitting in his chamber and that on seeing him the complainant wished and shook the hand. Such a defence is not posed to PW2 during cross examination of PW2 and therefore the said defence cannot be accepted. However, the said defence points out that according to delinquent official number 2 the complainant (PW2) entered his chamber.

39. Putting incriminating circumstances to delinquent officials 1 and 2 by way of questionnaire is in par with section 313 of The Code of Criminal Procedure, 1973. During questionnaire delinquent officials 1 and 2 have not offered any explanation touching tainted cash of Rs.3,000/- which was found inside the file on the table of the chamber of delinquent official number 2. In paragraph number 55 of the decision in Vinod Kumar V/S State of Punjab reported in (2015) 3 Supreme Court cases page 220 Hon'ble Supreme Court has been pleased to observe :

“ 55. The appellant was caught red-handed with those currency notes. In his statement recorded under Section 313 CrPC he has taken the plea that he is innocent and has been falsely implicated due to animosity. No explanation has been given as regards the recovery. Therefore, from the above facts, legitimately a presumption can be drawn that the appellant – accused

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had received or accepted the said currency notes on his own volition.”

40. In the above decision the complainant who was examined in the trial Court as PW5 turned hostile. Law is laid down in the said decision by the Hon'ble Supreme Court that evidence of hostile witness cannot be brushed aside. Keeping in mind the law laid down in the above decision evidence of PWs 1 and 2 needs to be appreciated. Answers elicited by the Presenting Officer during cross examination of PWs 1 and 2 after treating hostile unfolded the truth.
41. Ex P3 which is the attested copy of statement in writing of delinquent official number 1 shows that the complainant had arrived at the office of delinquent officials 1 and 2 at about 5.00 P.M on 24/01/2006 and offered cash and on the instructions of delinquent official number 2 the complainant placed the cash inside the file. This statement of delinquent official number 2 which is not the outcome of force establishes that as per the instructions of delinquent official number 2 the complainant placed cash. Though reference is made to cash of Rs.2,500/- in Ex P3 the fact remains that delinquent official number 2 admitted that on his instructions the complainant placed cash. Contents of Ex P3 incriminates delinquent official number 2.
42. In so far as delinquent official number 1 is concerned , evidence of PW2 establishes that he was told by Muddanna Ittangi that illegal gratification of Rs.3,000/- has been demanded in the office of delinquent officials 1 and 2. Ex P5 which is the attested copy of the complaint of PW2 points out that allegations are levelled against delinquent official

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number 1 alleging that demand for Rs.3,000/- was by delinquent official number 1. Evidence on record as discussed above establishes that on the day of trap the complainant entered the chamber of delinquent official number 1 and thereafter entered the chamber of delinquent official number 2 and afterwards delinquent official number 2 entered the chamber of delinquent official number 1 and subsequently received tainted cash from the complainant. Though evidence on record does not establish acceptance of tainted cash by delinquent official number 1 the fact that delinquent official number 2 accepted cash of Rs.3,000/- from the complainant after approaching delinquent official number 1 establishes that on the instructions of delinquent official number 1 tainted cash is accepted by delinquent official number 2. It is well settled that proof beyond reasonable doubt is not the yardstick to be applied while appreciating evidence in the inquiry proceedings in the case of this nature. Preponderance of probabilities is the yardstick which needs to be applied while appreciating evidence in the proceedings of this nature. Keeping this in mind when the evidence on record is appreciated it needs to be expressed that evidence is convincing to hold that on the instructions of delinquent official number 1 tainted cash of Rs.3,000/- is accepted by delinquent official number 2 on the day of trap. Nothing is found in the cross examination of PW3 that delinquent officials 1 and 2 offered satisfactory explanation touching tainted cash which was found in the custody of delinquent official number 2. In the presence of evidence as discussed above I am not persuaded to accept the

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contentions put forward in the course of written argument filed on behalf of delinquent officials 1 and 2. Failure to offer satisfactory explanation touching tainted cash of Rs.3,000/- amounts to misconduct within the purview of Rule 3(1) (i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 and being of this view I proceed with the following:

R E P O R T

It stands established that in order to attend the application of the complainant by name Prakash Gurulingappa Thoravi for renewal of licence of his unit under the name and style "Gurukrupa Products" at Hittanahalli, Vijayapura Taluk, Vijayapura District, delinquent official number 1 who was discharging duties as Environmental Officer attached to the office of Karnataka State Pollution Control Board, Vijayapura demanded illegal gratification of Rs.3,000/- from the complainant on 24/01/2006 in the office of Karnataka State Pollution Control Board, Vijayapura between 4.30 P.M and 4.45 P.M and instructed the complainant to hand over cash of Rs.3,000/- to delinquent official number 2 intending to obtain the said cash subsequently from delinquent official number 2 and as per the instructions of delinquent number 1 the complainant handed over tainted cash of Rs.3,000/- to delinquent official number 2 and during investigation conducted in crime number 3/2006 of Lokayukta Police Station, Vijayapura by the Police Inspector attached to Lokayukta Police Station, Vijayapura delinquent official number 1 failed to offer satisfactory explanation in respect of tainted cash of Rs.3,000/- possessed by delinquent official number 2 between 4.30 P.M and 4.45 P.M in the chamber of delinquent



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official number 2 attached to the office of Karnataka State Pollution Control Board, Vijayapura and thereby delinquent official number 1 is guilty of misconduct within the purview of Rule 3(1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 is proved.

It stands established that in connection with the application of the complainant by name Prakash Gurulingappa Thoravi for renewal of licence of his unit under the name and style "Gurukrupa Products" at Hittanahalli, Vijayapura Taluk, Vijayapura District, delinquent official number 2 who was discharging duties as Assistant Environmental Officer in the office of Karnataka State Pollution Control Board, Vijayapura demanded and accepted illegal gratification of Rs.3,000/- from the complainant on the instructions of delinquent official number 1 on 24/01/2006 between 4.30 P.M and 4.45 P.M in his chamber attached to the office of Karnataka State Pollution Control Board, Vijayapura and during investigation conducted in crime number 3/2006 of Lokayukta Police Station, Vijayapura by the Police Inspector attached to Lokayukta Police Station, Vijayapura delinquent official number 2 failed to offer satisfactory explanation in respect of tainted cash of Rs.3,000/- possessed by him between 4.30 P.M and 4.45 P.M in his chamber attached to the office of Karnataka State Pollution Control Board, Vijayapura and thereby delinquent official number 2 is guilty of misconduct within the purview of Rule 3(1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 is proved.

Delinquent official number 1 is due for retirement on superannuation on 30/06/2025.

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Delinquent official number 2 is due for retirement on superannuation on 30/04/2033.

Submit this report to Hon'ble Upalokayukta-1, Karnataka in a sealed cover forthwith along with the connected records.



(V.G. BOPAIAH)

Additional Registrar, Enquiries-11,
Karnataka Lokayukta, Bengaluru.

ANNEXURE

List of witness examined on behalf of the Disciplinary Authority

- PW 1:- Sri. Prakash B.P.
PW 2:- Sri. Prakash Gurulingappa Thoravi.
PW 3:- Sri. R.K.Patil.

List of witness examined on behalf of delinquent officials 1 and 2:-

- DW1:- Rajkumara Lakshmana Bilkara.

List of documents marked on behalf of Disciplinary Authority:-

- Ex P 1 Attested copy of pre-trap mahazar dated 24/01/2006 in four sheets.
Ex P 2 Attested copy of statement in writing dated 24/01/2006 in a single sheet of delinquent official number 1.
Ex P 3 Attested copy of statement in writing dated 24/01/2006 in a single sheet of delinquent official number 2.

- Ex P 4 Attested copy of trap mahazar dated 24/01/2006 in ten sheets.
- Ex P5 Attested copy of his complaint dated 23/01/2006 in a single sheet.
- Ex P6 Attested copy of FIR dated 23/01/2006 in a single sheet in crime number 3/2006 of Lokayukta Police Station, Vijayapura.
- Ex P7 Attested copy of rough sketch dated 24/01/2006 in a single sheet.
- Ex P8 Attested copy of report dated 14/03/2006 in two sheets of the chemical examiner attached to Public Health Institute, Government of Karnataka, Bengaluru.
- Ex P9 Attested copy of sketch in a single sheet of the Assistant Engineer, Department of Public Works, Port and Inland Water Transport, Vijayapura.

List of documents marked on behalf of delinquent officials 1 and 2:- Nil.



(V.G. BOPALIAH)

Additional Registrar, Enquiries-11,
Karnataka Lokayukta, Bengaluru.....

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No.LOK/INQ14-A/433/2013/ARE-11

Multi Storied Buildings,
Dr.B.R.Ambedkar Veedhi,
Bengaluru-560 001,
Date:07/05/2020

RECOMMENDATION

Sub:- Departmental inquiry against;

- 1) Smt. Rajashri Jayavant Kulli D/o Jayavantha Kulli, the then Deputy Environmental Officer, Karnataka State Pollution Control Board, Regional Office, Vijayapura;
- 2) Sri Somashekar V. Hiregoudar S/o Vasanth Hiregoudar, the then Assistant Environmental Officer, Karnataka State Pollution Control Board, Regional Office, Vijayapura - Reg.

- Ref:-1) Order No. ಮಾನಿಮ 311 ಆಡವ 07/532 Bengaluru dated 28/09/2013 of the President, Karnataka State Pollution Control Board, Bengaluru
- 2) Nomination order No.LOK/INQ/14-A/433/2013 Bengaluru dated 26/10/2013 of Upalokayukta-1, State of Karnataka, Bengaluru.
 - 3) Inquiry Report dated 05/05/2020 of Additional Registrar of Enquiries-11, Karnataka Lokayukta, Bengaluru

The President, Karnataka State Pollution Control Board, Bengaluru by Order dated 28/09/2013 initiated the disciplinary proceedings against (1) Smt. Rajashri Jayavant Kulli D/o Jayavant Kulli, the then Deputy Environmental Officer, Karnataka State Pollution Control Board, Regional Office, Vijayapura and (2) Sri Somashekar V. Hiregoudar S/o Vasanth Hiregoudar, the then Assistant Environmental Officer, Karnataka State Pollution Control Board, Regional Office, Vijayapura (hereinafter referred to as Delinquent Government Officials 1 and 2 for short as 'DGO-1 and

DGO-2 respectively) and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No. LOK/INQ/14-A/433/2013 dated 26/10/2013 nominated Additional Registrar of Enquiries-3, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGOs 1 and 2 for the alleged charge of misconduct, said to have been committed by them. Subsequently by Order No. LOK/INQ/14A/2014 dated 14/3/2014 the Additional Registrar of Enquiries-11 was re-nominated as Inquiry Officer to conduct Departmental inquiry against DGOs 1 and 2.

3. The DGO-1 Smt. Rajashri Jayavant Kulli D/o Jayavantha Kulli, the then Deputy Environmental Officer, Karnataka State Pollution Control Board, Regional Office, Vijayapura and DGO-2 Sri Somashekar V Hiregoudar S/o Vasanth Hiregoudar, the then Assistant Environmental Officer, Karnataka State Pollution Control Board, Regional Office, Vijayapura were tried for the following charges:-

“That you DGO No.1, Smt. Rajashree Jayavantha Kulli daughter of Jayavantha Kulli, Deputy Environmental Officer, Karnataka State Pollution Control Board, Bijapur and you DGO No.2, Sri.Somashekara V. Hiregowdar, Assistant Environmental Officer, Karnataka State Pollution Control Board, Bijapur while discharging your duties:

(a) For Gurukrupa Products Food processing unit at Hittinally village in Bijapur Taluk and District started by his father in the year 2004, every year

permission for that unit was required from the Pollution Control Board under Water and Air Pollution Control Act. Accordingly, he had given application on 19/10/2005 for permission for that year and had received order on 23/11/2005 with certain modifications, which he did and filed fresh application on 16/01/2006 for an orders to boil gooseberry (ನೆಲ್ಲಿಕಾಯಿ). And on the same day, he met you DGO No.1 and requested you to give permission for old and new scheme at the earliest. For that, you DGO No.1 told him that as they have many expenses, if Rs.3,000/- is paid, permission will be given immediately, otherwise you can find different lacunas and make him wander for a number of times.

(b) Thereafter, on 21/01/2006 you DGO No.1 made a call to his mobile cell telling that he did not turn up though he told that he would come in 2 or 3 days and asked him to arrange for the amount demanded by you and take the permission.

(c) For that, when he pleaded several times about his difficulties and requested for permission, you DGO No.1 asked him to come and meet you personally telling that he has to make some arrangement.

(d) Again on 23/01/2006 when he met and personally requested, you DGO No.1 asked him to take one day time and come on the next day after arranging Rs.3,000/-

(e) Even after approaching Lokayukta police at Bijapur, when he met you DGO No.1 at your office on 24/01/2006, then also you DGO No.1 got

confirmed from him about bringing Rs.3,000/- by him.

(f) Added to that, you DGO No.1 took the tainted (bribe) amount through DGO No.2 on said date at the said office and the same was seized under a mahazar by the said I.O. then.

(g) That then you DGOs were caught hold when thus found in possession of custody the tainted (bribe) amount on the said date and place, about which mahazar was also made.

and thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of Government Servants 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-11) on proper appreciation of oral and documentary evidence has held that,

(i) it stands established that in order to attend the application of the complainant by name Prakash Gurulingappa Thoravi for renewal of licence of his unit under the name and style "Gurukrupa Products" at Hittanahalli, Vijayapura Taluk, Vijayapura District, delinquent official number 1 who was discharging duties as Environmental Officer attached to the office of Karnataka State Pollution Control Board, Vijayapura demanded illegal gratification of Rs.3,000/- from the complainant on 24/01/2006 in the office of Karnataka State Pollution Control Board, Vijayapura between 4.30 P.M and 4.45 P.M and instructed the complainant to hand over cash of Rs.3,000/- to delinquent

official number 2 intending to obtain the said cash subsequently from delinquent official number 2 and as per the instructions of delinquent number 1, the complainant handed over tainted cash of Rs.3,000/- to delinquent officer number 2 and during investigation conducted in crime number 3/2006 of Lokayukta Police Station, Vijayapura by the Police Inspector attached to Lokayukta Police Station, Vijayapura delinquent official number 1 failed to offer satisfactory explanation in respect of tainted cash of Rs.3,000/- possessed by delinquent official number 2 between 4.30 P.M and 4.45 P.M in the chamber of delinquent official number 2 attached to the office of Karnataka State Pollution Control Board, Vijayapura and thereby delinquent official number 1 is guilty of misconduct within the purview of Rule 3(1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 is proved.

(ii) It stands established that in connection with the application of the complainant by name Prakash Gurulingappa Thoravi for renewal of licence of his unit under the name and style "Gurukrupa Products" at Hittanahalli, Vijayapura Taluk, Vijayapura District, delinquent official number 2 who was discharging duties as Assistant Environmental Officer in the office of Karnataka State Pollution Control Board, Vijayapura demanded and accepted illegal gratification of Rs.3,000/- from the complainant on the instructions of delinquent official number 1 on 24/01/2006 between 4.30 P.M and 4.45 P.M in his chamber attached to the office of Karnataka State Pollution Control Board, Vijayapura and during investigation conducted in crime number 3/2006 of Lokayukta Police Station, Vijayapura by the Police Inspector attached to Lokayukta Police Station, Vijayapura

delinquent official number 2 failed to offer satisfactory explanation in respect of tainted cash of Rs.3,000/- possessed by him between 4.30 P.M and 4.45 P.M in his chamber attached to the office of Karnataka State Pollution Control Board, Vijayapura and thereby delinquent official number 2 is guilty of misconduct within the purview of Rule 3(1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 is proved.

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 DGOs 1 and 2;

(i) DGO-1 Smt. Rajashri Jayavant Kulli D/o Jayavantha Kulli is due to retire from service on 30/06/2025.

(ii) DGO-2 Sri Somashekar V Hiregoudar S/o Vasanth Hiregoudar is due to retire from service on 30/04/2033.


7. Having regard to the nature of charge (demand and acceptance of bribe) proved against DGO-1 Smt. Rajashri Jayavant Kulli and DGO-2 Sri Somashekar V Hiregoudar;

i. it is hereby recommended to the Government for imposing penalty of Compulsory Retirement from service on DGO-1 Smt. Rajashri Jayavant Kulli D/o Jayavantha Kulli, the then Deputy Environmental Officer, Karnataka State Pollution Control Board, Regional Office, Vijayapura and also for imposing penalty of permanently withholding 20% of pension payable to DGO-1 Smt. Rajashri Jayavant Kulli;

ii. it is hereby recommended to the Government for imposing penalty of compulsory retirement from service on DGO-2 Sri Somashekar V Hiregoudar S/o Vasanth Hiregoudar, the then Assistant Environmental Officer, Karnataka State Pollution Control Board, Regional Office, Vijayapura.

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

Connected records are enclosed herewith.


(JUSTICE N. ANANDA)
Upalokayukta-1, 2/5
State of Karnataka,
Bengaluru

