

KARNATAKA LOKAYUKTA

NO:UPLOK-1/DE/441/2018/ARE-9

M.S.Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru - 560 001.
Date: 19.12.2022

:: ENQUIRY REPORT ::**:: Present ::****(S.GOPALAPPA)**

**I/c Additional Registrar of Enquiries -9
Karnataka Lokayukta,
Bengaluru**

Sub: Departmental Enquiry against DGO Sri.Shrimanth, S/o Sharanappa Patil, the then Panchayath Development Officer, Mashala Grama Panchayath, Afzalpur Taluk, Kalaburagi District (Now Retired) - reg.

Ref: 1. G.O.No.ಗ್ರಾಅಪ /34/ ಗ್ರಾಪಂಕಾ /2018 ಬೆಂಗಳೂರು ದಿ: 11.8.2018

2. Nomination Order No: UPLOK-1/DE/441/2018/ARE-9
Bangalore dated: 29.9.2018 of Hon'ble Upalokayukta-1

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This Departmental Enquiry is initiated against DGO Sri.Shrimanth, S/o Sharanappa Patil, the then Panchayath Development Officer, Mashala Grama Panchayath, Afzalpur Taluk, Kalaburagi District (Now Retired) (hereinafter referred to as the Delinquent Government Official for short "DGO ").

2. In pursuance of the Government Order cited above at reference No.1, Hon'ble Upalokayukta vide order dated 29.9.2018 cited above at reference No.2 has nominated Additional Registrar of

Enquiries-9 to frame the charges and to conduct the enquiry against the aforesaid DGO.

3. Additional Registrar of Enquiries-9 has issued the Articles of charges to the DGO, enclosing statement of imputations of misconduct, list of witnesses proposed to be examined in support of the charges and list of documents proposed to be relied in support of the charges and called him to appear before the Enquiry Officer.

4. The Article of charges issued by the ARE-9 against the DGO is as under :

ANNEXURE-I
CHARGE

Regarding the work under MGNREG scheme for the year 2009-10 you-DGO without calling the quotation, bills have been paid towards the rents of tractor and JCB by violating the rule 55 sub rule 49(a) of Manual of contingent expenditure-1958 and also notification vide G.O No.ಆಇ 02 ಟಿಸಇ 2012, ಬೆಂಗಳೂರು ದಿನಾಂಕ: 21/06/2012

As per the MGNREG guideline Nos. 6(4), contractors and machineries cannot be utilized for the works which can be executed through labourers. But, as per the task work statements/Form PWG 35 in respect of the work under MGNREG for the year 2009-10 JCBs have been utilized for de-silting of tank and other works which is against to the guidelines of MGNREG and thereby public funds have been misappropriated.

The formation of road in Sy. No. 184 to 186 of Mashala Village under MGNREG scheme 2009-10 has not been included in the action plan but executed the said work and bills have been paid without obtaining the previous sanction of higher authorities as per the MGNREG guidelines No.6(5), thereby public funds have been misappropriated.

Thereby you -DGOs have failed to maintain absolute integrity, devotion to duty and committed an act which is unbecoming of a government servant and thus you are guilty of misconduct u/r 3 (1) (i) to (iii) of Karnataka Civil Service (conduct) Rules 1966.

ANNEXURE-2

STATEMENT OF IMPUTATIONS OF MISCONDUCT

An investigation was taken up under Section 9 of The Karnataka Lokayukta Act, 1984, on the basis of complaint filed by Sri Vishwanath S/o Shivappa Revoor, Mashal Village, Afzalpur Taluk, Kalaburgi District (hereinafter referred to as complainant for short) against Sri Dhulappa S/o Rayappa Raja, President, Mashala Grama Panchayath, Afzalpur Taluk, Kalaburgi District and DGO-2-Shrimanth S/o Sharanappa Patil, Panchayath Development Officer, Mashala Grama Panchayath, Afzalpur Taluk, Kalaburgi District.

The complainant alleges that:

The President of Grama Panchayath/Sri Dhuleappa Rayappa Raja and the Panchayath Development Officer/DGO have misappropriated the public funds at Mashala Grama Panchayath, Afzalpur Taluk, Kalaburgi District without there being actual work done.

It is also alleged that under MGNREG Scheme, money has been drawn in the name of Sri Dathappa Shivappa Pyati who is the Pump Operator of Grama Panchayath and in the name of Sri Siddappa Gurusiddappa Avatagi who is the member of Panchayath by preparing bogus bills.

An amount of Rs.4,93,810/- is drawn in the name of Sri Rajashekhar Sanadani and Rs.6,27,588/- in the name of Sri Santhosh Basanna Marate even though they are labourers and do not possess any vehicle or agency.

Even though the formation of road at Sy. No. 184 to 186 is not included in the action plan for the year 2009-10, they have created bogus bills to the tune of Rs.93,294/-.

They have drawn Rs.81,600/-, Rs.68,800/- and Rs.1,11,684 with respect to the works undertaken in Sy. No. 72, Sy. No. 396 and Sy. No. 176 respectively without doing any work in the said lands.

False bills have been drawn without forming Bunds, Agricultural Ponds and without providing irrigation facilities and thereby mis-utilised the public fund. He has also produced some documents in support of the complaint allegations.

Sri Dhulappa S/o Rayappa Raja, President, Mashala Grama Panchayath, Afzalpur Taluk, Kalaburgi District has submitted his comments dated 16/07/2015 by denying the complaint allegations and has stated that the complaint is made due to political rivalry.

The DGO has submitted his comments dated 17/07/2015 stating that MLA of Afzalpur had complained to Chief Executive Officer with respect to misuse of funds under MGNREG Scheme.

The complaint was entrusted to Ombudsmen, MGNREG, Kalburgi. The technical wing of Ombudsmen has observed that about 85% to 95% of works are still existing even after 2 years of completion of the work.

Further states that Dathappa Shivappa Pyati, Pump Operator is a temporary employee and his working hours is between 7:00 a.m. to 9:00 a.m. During the remaining hours, he has registered under MGNREG Scheme and he is working as a labourer. No bogus bills have been drawn as alleged.

Similarly, Siddappa Gurusiddappa Avatagi and Shivappa Sidramappa Pyati are the Members of the Grama Panchayath and have worked under MGNREG Scheme. No bogus bills are drawn as alleged.

Rajashekhara Sanadanni and Santhosh Basanna Marati have supplied tractors and materials. Therefore the rent towards tractor has been paid to them. No such bogus bills have been drawn.

For the year 2009-10, the Grama Panchayath Mashala was selected as a best performing Grama Panchayath under MGNREG Scheme. Further states that he had retired in the month of August-2012 and 5 years have already been lapsed after execution of the work. By stating that the present complaint is filed due to vengeance has prayed to drop him from the proceedings.

The DGO has also submitted further comments (undated) before the IO of Technical Audit Cell of this institution in which he has stated that after preparation of plan of action of the year 2009-10,

road work in Sy. No. 184 to 186 was taken up due to pressure of the farmers. The same has been brought to the notice of his higher authorities and thereafter bills have been drawn.

Later the matter was referred to Chief Engineer, Technical Audit Cell for investigation, who in turn has submitted report dated 01/03/2017 along with report of IO Sri H.S.Sudeendra, Assistant Executive Engineer-2, TAC dated 28/02/2017. The IO by conducting spot inspection on 31/12/2016 has submitted report stating that the allegations made in the complaint are not established. It is also stated that the complainant has withdrawn the complaint.

Perused the entire materials on record. The following discrepancies have been observed in the execution of the work taken up under Mashala Grama Panchayath for the year 2009-10.

I.O along with his report has produced some documents pertaining to the alleged works. FORM PWG 35, TASK WORK STATEMENT of various works produced by the IO along with his report show that hire charges for tractor and also for JCB is paid and all the amounts mentioned are beyond Rs.5,000/-.

Guideline No. 6(4) ಮತ್ತು (5) of MGNREG Scheme notified vide No. ಗ್ರಾಅಪ:41:ರಾಗ್ರಾಉ:06, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 01/02/2007 reads as follows:

6 : ಸಂದಾನ ಮಾಡಲು ಬಾರದ ವಿಷಯಗಳು:

(4) ಗುತ್ತಿಗೆದಾರರನ್ನು ಮತ್ತು ಜನರು ಮಾಡಬಹುದಾದ ಕೆಲಸಗಳಿಗೆ ಯಂತ್ರಗಳನ್ನು ಬಳಸತಕ್ಕದ್ದಲ್ಲ.

(5) ಗ್ರಾಮದ ಹಂತದಲ್ಲಿ, ಗರಾಮಸಭೆ ಗುರುತಿಸಿ ಗ್ರಾಮಪಂಚಾಯತಿ ಅನುಮೋದಿಸುವ; ತಾಲ್ಲೂಕು ಮಟ್ಟದಲ್ಲಿ, ತಾಲ್ಲೂಕು ಪಂಚಾಯತಿ ಅನುಮೋದಿಸುವ;

ಜಿಲ್ಲಾ ಮಟ್ಟದಲ್ಲಿ ಜಿಲ್ಲಾ ಪಂಚಾಯತಿ ಅನುಮೋದಿಸುವ; ಕಾಮಗಾರಿಗಳನ್ನು ಮಾತ್ರ ತೆಗೆದುಕೊಳ್ಳತಕ್ಕದ್ದು.

Guideline No. 15 of MGNREG Scheme notified vide No. ಗ್ರಾಅಪ:41:ರಾಗ್ರಾ:06, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 01/02/2007 reads as follows:

“15:ಅಂದಾಜು ಪಟ್ಟಿ ಮತ್ತು ತಾಂತ್ರಿಕ ಮಂಜೂರಾತಿಗಳು

ಅಂದಾಜುಗಳ ತಯಾರಿಕೆ, ಆಡಳಿತಾತ್ಮಕ ಮತ್ತು ತಾಂತ್ರಿಕ ಮಂಜೂರಾತಿಗಳು, ಕೆಲಸದ ಅಳತೆ, ಇತ್ಯಾದಿಗಳು, ಗ್ರಾಮ ಪಂಚಾಯತಿ, ತಾಲ್ಲೂಕು ಪಂಚಾಯತಿ, ಜಿಲ್ಲಾ ಪಂಚಾಯತಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ರಚಿಸಲ್ಪಟ್ಟಿರುವ ಕರ್ನಾಟಕ ಪಂಚಾಯತ್ ರಾಜ್ (ಆಯವ್ಯಯ ಮತ್ತು ಲೆಕ್ಕಗಳ ನಿಯಮಗಳು), ಪ್ರಕಾರ ಇರತಕ್ಕದ್ದು”.

Rule 84 of Karnataka Panchayath Raj (Grama Panchayath, Budgeting and Accounting) Rules, 2006 reads as follows:

“Rule 84: Contract for supply of materials and execution of work:

All contracts for supply of materials or execution of works shall be signed on behalf of the Grama Panchayath by the Adhyaksha. Before entering into any contract of supply of materials or execution of any works, the Secretary shall ensure that the purchase or work contract is decided on the basis of the rules and regulations made by the Government from time to time”

The Government of Karnataka has revised the rates specified in Rule 55, Sub Rule 49-A of manual of Contingent Expenditure-1958 and has published notification vide G.O. No. ಅಇ 02 ಟಿಇಇ 2012, ಬೆಂಗಳೂರು ದಿನಾಂಕ: 21/06/2012 (copy enclosed) which reads as follows:

“ಸರ್ಕಾರದ ವಿವಿಧ ಇಲಾಖೆಯಲ್ಲಿನ ಕಛೇರಿಗಳಲ್ಲಿ ಅಗತ್ಯವಿರುವ ಸರಕು ಸಾಮಗ್ರಿಗಳನ್ನು ಮುಕ್ತ ಮಾರುಕಟ್ಟೆಯಲ್ಲಿ ಖರೀದಿಸುವ ಸಲುವಾಗಿ ಸಾದಿಲ್ವಾರು ವೆಚ್ಚದ ಕೈಪಿಡಿ 1958 ನಿಯಮಗಳ ನಿಯಮ 55 (49)(ಎ ರಲ್ಲಿನ ರೂ. 500/-ಗಳ ಮಿತಿಯನ್ನು ರೂ.5,000/- ಗಳಿಗೆ ಹೆಚ್ಚಿಸಿ ಆದೇಶಿಸಲಾಗಿದೆ. ರೂ.5,000/- ಮೀರಿದ ರೂ. 1.00 ಲಕ್ಷಗಳವರೆಗಿನ ಖರೀದಿಗಳನ್ನು ಸ್ಪರ್ಧಾತ್ಮಕ ಕೋಟೇಶನ್ (ದರಪಟ್ಟಿ ಕರೆಯುವುದರ ಮೂಲಕ ಖರೀದಿಸತಕ್ಕದ್ದು. ರೂ 1.00 ಲಕ್ಷ ಮೀರಿದ ಖರೀದಿಗೆ ಕೆ.ಟಿ.ಪಿ.ಪಿ. ನಿಯಮ ಅನ್ವಯವಾಗುವುದು. ಸದರಿ ಆದೇಶವು ಹೊರಡಿಸಿದ ದಿನಾಂಕದಿಂದ ಜಾರಿಗೆ ಬರುತ್ತದೆ.

ಇದನ್ನು ಹೊರತುಪಡಿಸಿ ಸರಕು ಖರೀದಿಗಾಗಿ ನಿಯಮಗಳಲ್ಲಿ ಯಾವುದೇ ಬದಲಾವಣೆ ಇರುವುದಿಲ್ಲ. ಈ ಬಗ್ಗೆ ಸಾದಿಲ್ವಾರು ವೆಚ್ಚದ ಕೈಪಿಡಿ 1958 ನಿಯಮಗಳು ನಿಯಮ 55(49) (ಎ) ಗೆ ತಿದ್ದುಪಡಿ ತರಲು ಪ್ರತ್ಯೇಕವಾಗಿ ಕ್ರಮ ತೆಗೆದುಕೊಳ್ಳಲಾಗುವುದು”.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆಜ್ಞಾನುಸಾರ
ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

(ಸಿ.ಶಾಮರಾವ್)

ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ

ಆರ್ಥಿಕ ಇಲಾಖೆ,

(ಆರ್ಥಿಕ ನಿಯಮಗಳು, ಆಯವ್ಯಯ

ಸಂಕಲನ ಮತ್ತು ಸಮಿತಿ ಶಾಖೆ)

As per the above notification, supply of materials or execution of any works with expenditure of more than Rs. 5,000/- is to be only through calling quotations. If at all the services of tractor is to be availed, quotations are to be called. But no such quotations have been called by the respondents and bills have been paid towards rents of the tractor and JCB against the above said rules.

As per the MGNREG guideline Nos. 6(4), contractors and machineries cannot be utilized for the works which can be executed through labourers. But the task work statements/Form PWG 35 clearly go to show that JCBs have been utilized for de-silting of tank and other works which is against to the guidelines of MGNREG and thereby public funds have been misappropriated.

In the further comments of DGO submitted to the IO, at Sl. No. 8 he has clearly stated that the formation of road in Sy. No. 184 to 186 of Mashala Village has not been included in the action plan. It is stated that due to pressure of farmers, the said work was executed after preparation of plan of action by bringing it to the notice of higher authorities. Further states that the bills have been paid in accordance with the rules.

But no such previous sanction of the higher authorities is shown to be obtained for executing the said road work as per MGNREG guideline No. 6(5). The respondents by executing the alleged road work which was not included in the action plan have committed misappropriation of public funds.

In view of the above discrepancies, the comments of Sri Dhulappa S/o Rayappa Raja, President, and DGO cannot be accepted at this stage. Also the report of Chief Engineer, TAC cannot be relied upon. There are prima-facie materials against Sri Dhulappa S/o Rayappa Raja and the DGO for the above said misconduct.

Sri Dhulappa S/o Rayappa Raja was the then President of Mashala Grama Panchayath, Afzalpura Taluk. It is ascertained that for the present he is not the Member of the Grama Panchayath and therefore no action can be taken against him under the provisions of Panchayath Raj Act.

The DGO is stated to be retired on 31/08/2012. Since the DGO is found to have misappropriated public funds, the limitation prescribed under Rule 214(2)(b) is not attracted for the reason that

misappropriation gives rise to continuous cause of action. Therefore action can be initiated against the DGO for the above said misconduct.

Since said facts and material on record prima-facie show that the DGO has committed misconduct, now, acting under section 12(3) of Karnataka Lokayukta Act, recommendation is made to the Competent Authority to initiate disciplinary proceedings against the DGO and to entrust the inquiry to this Authority under Rule 14-A of Karnataka Civil Service (Classifications, Control and Appeal) Rules, 1957 and 214(2)(b) of KCSRs. In response to the report of Karnataka Lokayukta the Government has sanctioned to initiate departmental enquiry against the said DGOs. Hence the charge.

5. First Oral Statement of DGO was recorded. At the stage of submitting written statement DGO has filed the application in A.No. 1760/2019 of KAT and had obtained stay.

6. Hon'ble KSAT passed orders on 22.10.2021 in Application No. 1760/2019 filed by **DGO** which is as under;

“ORDER

Accordingly, the application is allowed and the impugned order bearing No. Gra.Aa.Pa/34/Gra.Pam.Kaa/2018, dated: 11.8.2018 passed by the 1st respondent at Annexure-A6 and the charge memo bearing No. UPLOK-1/DE 441/2018 /ARE-9, dated: 25.10.2018 issued by the 3rd respondent at Annexure-A7 are quashed. ”

7. On receipt of the above orders in application No. 1760/2019 of the Hon'ble KSAT, opinion of CLC was sought and it is opined that

the order of the Hon'ble KSAT is not fit to be challenged. **Therefore, further proceedings against DGO is discontinued and inquiry is closed.**

8. Hence, report is submitted to Hon'ble Upalokayukta for further action.

sdt

(S.GOPALAPPA)

I/c Additional Registrar Enquiries-9
Karnataka Lokayukta,
Bengaluru.

i) List of documents

1	Note dated: 21.11.2022 from Chairman, Legal Cell-2 Karnataka Lokayukta Bengaluru along with legal opinion dated: 25.8.2022 and order dtd: 22.10.2021 of Hon'ble KSAT in application No. 1760/2019 filed by DGO
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**(S.GOPALAPPA)**

I/c Additional Registrar Enquiries-9
Karnataka Lokayukta,
Bengaluru.



KARNATAKA LOKAYUKTA

No.UPLOK-1/DE.441/2018/ARE-9

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001.
Dated 29.12.2022.

RECOMMENDATION

Sub:- Departmental inquiry against Sri Shrimanth S/o Sharanappa Patil, (retired), the then Panchayath Development Officer, Mashala Grama panchayath, Afzalpur Taluk, Kalaburgi District- reg.

Ref:- 1) Government Order No. RDP 34 GPS 2018 dated 11.08.2018.

2) Nomination order No. UPLOK-1/DE.441/2018 dated 29.09.2018 of Upalokayukta, State of Karnataka.

3) Inquiry report dated 19.12.2022 of Additional Registrar of Enquiries-9, Karnataka Lokayukta, Bengaluru.

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The Government by its order dated 11.08.2018 initiated the disciplinary proceedings against Sri Shrimanth S/o Sharanappa Patil, (retired), the then Panchayath Development Officer, Mashala Grama panchayath, Afzalpur Taluk, Kalaburgi District, [hereinafter referred to as Delinquent Government Official, for

short as 'DGO' ] and entrusted the departmental inquiry to this Institution.

2. This Institution by Nomination Order No. UPLOK-1/DE.441/2018 dated 29.09.2018 has nominated Additional Registrar of Enquiries-9, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct departmental inquiry against DGO for the alleged charge of misconduct, said to have been committed by him.

3. The DGO was tried for the charge of committing several irregularities in the execution of works under MGNREG scheme for the year 2009-10 and thereby committing misconduct.

4. The Inquiry Officer (Additional Registrar of Enquiries- 9) has reported that, the DGO preferred A.No.1760/2019 before KAT and the KAT vide order dated 22.10.2021, has quashed the Government Order and the subsequent Article of charges framed against the DGO. Further, this Institution has taken a decision not to challenge

the said orders of KAT and hence the present enquiry proceeding needs to be discontinued.

5. On re-consideration of the materials on record, it is hereby recommended to the Government to accept the report of Inquiry Officer and the departmental enquiry proceedings against DGO Sri Shrimanth S/o Sharanappa Patil, (retired), the then Panchayath Development Officer, Mashala Grama panchayath, Afzalpur Taluk, Kalaburgi District, stands closed.

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

Connected records are enclosed herewith.



(JUSTICE K.N.PHANEENDRA)  
Upalokayukta,  
State of Karnataka.

