

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

NO: LOK/INQ/14-A/44/2012/ARE-11

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001,
Date: 21/12/2018

RECOMMENDATION

Sub:- Departmental inquiry against Sri Virupakshayya S/o. Gurulingayya Hiremath, the then Forester, Hanapura Section, Badami Range, Bagalkot District (Presently retired) – Reg. .

Ref:- 1) Government Order No.ಅಪಜೀ 100 ಆಇವಿ 2011, Bengaluru dated 9/1/2012

2) Nomination order No.LOK/INQ/14-A/44/2012, Bengaluru dated 21/1/2012 of Upalokayukta-1, State of Karnataka, Bengaluru

3) Inquiry Report dated 19/12/2018 of Additional Registrar of Enquiries-11, Karnataka Lokayukta, Bengaluru

The Government by its Order dated 9/1/2012, initiated the disciplinary proceedings against Sri Virupakshayya S/o. Gurulingayya Hiremath, the then Forester, Hanapura Section, Badami Range, Bagalkot District (Presently Retired) (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.LOK/INQ/14-A/44/2012, Bengaluru dated 21/1/2012 nominated Additional Registrar of Enquiries-4, 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. Subsequently, as per Order No.LOK/

INQ/14-A/2014, dated 14/3/2014, the Additional Registrar of Enquiries-5, Karnataka Lokayukta, Bengaluru was re-nominated as inquiry officer to conduct departmental inquiry against DGO. Again, by Order No. UPLOK-1/DE/2016, Bengaluru dated 3/8/2016, the Additional Registrar of Enquiries-11, Karnataka Lokayukta, Bengaluru was re-nominated as inquiry officer to conduct departmental inquiry against DGO.

3. The DGO Sri Virupakshayya S/o. Gurulingayya Hiremath, the then Forester, Hanapura Section, Badami Range, Bagalkot District (Presently Retired) was tried for the following charge:-

“ಶ್ರೀ ವಿರೂಪಾಕ್ಷಯ್ಯ ಬಿನ್ ಗುರುಲಿಂಗಯ್ಯ ಹಿರೇಮಠ, ಆದ ನೀವು ಬಾಗಲಕೋಟೆ ಜಿಲ್ಲೆ, ಬಾದಾಮಿ ಅರಣ್ಯ ವಲಯದ ಹಾನಾಪುರ ಶಾಖೆಯಲ್ಲಿ ವನಪಾಲಕರಾಗಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿದ್ದಾಗ, ಫಿಯಾದುದಾರರಾದ ಬಾದಾಮಿ ತಾಲ್ಲೂಕು ಕಟಗೇರಿ ಗ್ರಾಮದ ಶ್ರೀ ತುಳಸಿಗರಪ್ಪ ಹಣಮಪ್ಪ ಮೊಕಾಶಿಯವರು ತಮ್ಮ ಗ್ರಾಮದ ಕೆಂಚಮ್ಮ ದೇವಿ ಕೆರೆಯ ಸುತ್ತಿಲಿನ ಒಂಡಿಗೆ ಕಲ್ಲಿನ ಪಿಚ್ಚಂಗಿ ಮಾಡಲು ಮುರುಡಿ ಗ್ರಾಮದ ಗುಡ್ಡದಿಂದ ಕಲ್ಲುಗಳನ್ನು ತರಲು ಟ್ರಾಕ್ಟರುಗಳನ್ನು ಕಳಿಸಿದಾಗ ನೀವು ಅವರನ್ನು ತಡೆದು, ಪ್ರಕರಣ ದಾಖಲಿಸಿ ದಂಡ ವಿಧಿಸುವುದಾಗಿ ಬೆದರಿಸಿ, ಮೊದಲು ರೂ.9,000/- ಲಂಚ ಕೇಳಿ ನಿಮ್ಮ ಇಲಾಖೆಯಲ್ಲಿ ದಿನಗೂಲಿ ನೌಕರರಾದ ಶ್ರೀ ರಾಮಪ್ಪ ಅಲಿಯಾಸ್ ರಾಮಣ್ಣ ಹಣಮಪ್ಪ ಗಾಣಿಗೇರಿ ಇವರ ಮೂಲಕ ರೂ.9,000/- ಲಂಚಕ್ಕೆ ಪದೇ ಪದೇ ಪೀಡಿಸಿದ್ದು ಅಷ್ಟು ಹಣ ಕೊಡಲು ಸಾಧ್ಯವಿಲ್ಲ, ರೂ.5,000/- ಇದೆ ಎಂದಾಗ ಆ ಹಣವನ್ನು ರಾಮಪ್ಪ ಅಲಿಯಾಸ್ ರಾಮಣ್ಣ ಗಾಣಿಗೇರಿ ಮುಖಾಂತರ ತಾ.20-04-2011ರಂದು ಫಿಯಾದುದಾರರಿಂದ ಲಂಚವಾಗಿ ಪಡೆದು, ಸಾರ್ವಜನಿಕ ನೌಕರರಾಗಿ ಸಂಪೂರ್ಣ ಪ್ರಾಮಾಣಿಕತೆ ಮತ್ತು ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ಪಾಲಿಸದೆ ಸರ್ಕಾರಿ ನೌಕರರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡು ಕರ್ನಾಟಕ ಸರ್ಕಾರಿ ಸೇವಾ (ಸದ್ವರ್ತನೆ) ನಿಯಮಾವಳಿ, 1966ರ 3(1)(i) ಮತ್ತು (iii) ನೇ ನಿಬಂಧನೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿ ದುರ್ನಡತೆ ಎಸಗಿದ್ದೀರಿ.”

4. The Inquiry Officer (Additional Registrar of Enquiries-11) on proper appreciation of oral and documentary evidence has held that the charge against the DGO by name Sri Virupakshaiiah (name written by DGO as Virupakshayya on the note sheet on

13/04/2017) that during his tenure as Forester attached to Hanapura section within the limits of Badami Range, Bagalkot District during year 2011, earlier to 20/04/2011 DGO demanded illegal gratification of Rs.9,000/- from the complainant and ultimately scaled down the said demand at Rs.5,000/- and thereafter, on the instructions of DGO one Ramanna accepted illegal gratification of Rs.5,000/- from the complainant near the bus stand of Katageri for and on behalf of DGO and during investigation of the case in crime number 04/2011 of Lokayukta Police Station, Bagalakote, DGO failed to offer satisfactory explanation before the Police Inspector attached to Lokayukta Police Station, Bagalakote touching acceptance of tainted cash of Rs.5,000/- from the complainant and thereby DGO 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 DGO, he has retired from service on 31/7/2011.

7. Having regard to the nature of charge proved against DGO Sri Virupakshayya S/o. Gurulingayya Hiremath, it is hereby recommended to the Government for imposing penalty of permanently withholding 50% of pension payable to DGO Sri Virupakshayya S/o. Gurulingayya Hiremath, the then forester, Hanapura Section, Badami Range, Bagalkot District (presently retired).

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

Connected records are enclosed herewith.


(JUSTICE N. ANANDA)
Upalokayukta-1, 21/12
State of Karnataka,
Bengaluru

BEFORE THE ADDITIONAL REGISTRAR, ENQUIRES-11

KARNATAKA LOKAYUKTA, BENGALURU

ENQUIRY NUMBER: LOK/INQ/14-A/44/2012/ARE-11

ENQUIRY REPORT Dated: 19/12/2018

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

Delinquent Government Official : Sri. Virupakshaiah (Name written by him as Virupakshayya on the note sheet on 13/04/2017).

Discharged duties as Forester,
Hanapura section, Badami
Range, Bagalakote District in the
year 2011.

Retired on superannuation on
31/07/2011.

1. Delinquent Government Official (in short "DGO") by name Sri.Virupakshaiah (name written by DGO as Virupakshayya on the note sheet on 13/04/2017) was working as Forester, Hanapura Section, Badami Range, Bagalakote District in the year 2011. He retired on superannuation on 31/07/2011.
2. Background of initiation of the present inquiry proceedings needs to be narrated in brief. In the year 2011 one Tulasigerappa Hanamappa Mokhashi (hereinafter will be referred to as "complainant" was residing at a place called Katageri, Badami Taluk, Bagalakote District. According to

19.12.2018

the complainant, he is the President of "Kenchamma Devi Kere Abhivruddi Samithi" at Katageri. In the year 2011, on the instructions of the complainant stones were shifted to the said tank for which the DGO raised objection and demanded illegal gratification of Rs. 9,000/- few days earlier to 20/04/2011 stating that in the event of fulfilment of the said demand the matter will not be communicated to the higher officer of DGO. DGO also told the complainant that in case the matter is communicated to his higher officer, then, penalty of higher quantum will be levied. Thereafter, on the instructions of DGO, his staff by name Ramanna very often visited the village of the complainant and insisted for fulfilment of illegal gratification. Thereafter, when the complainant contacted the DGO over cell phone number 7760330416 of DGO and pleaded inability to fulfil the entire demand of Rs. 9,000/- DGO scaled down the said demand at Rs. 5,000/-. The complainant recorded the said demand in the mobile hand set and thereafter approached the Police Inspector (hereinafter will be referred to as "Investigating Officer") attached to Lokayukta Police Station, Bagalakote and lodged complaint on 20/04/2011 on the basis of which the Investigating Officer registered case against the DGO and his staff by name Ramanna in crime number 4/2011 of Lokayukta Police Station, Bagalakote for the offence punishable under section 7 of The Prevention of Corruption Act, 1988 and submitted FIR to the jurisdictional Special Court at Bagalakote. The Investigating Officer secured the shadow witness by name Mahanthesha Mallaiah Malimatha and panch witness by name Rajeeva to Lokayukta Police Station, Bagalakote and informed them the purpose for which

07.12.2018


they are secured. The complainant placed ten currency notes of denomination of Rs. 500/- each before the Investigating Officer. The Investigating Officer got applied phenolphthalein powder on the above notes through his staff. On the instructions of the Investigating Officer the panch witness placed those tainted notes in the pocket of shirt of the complainant. The Investigating Officer got prepared solution with water and sodium carbonate powder and obtained sample of the said solution in a bottle. Thereafter, the panch witness immersed fingers of both hands in the residual solution. The said solution turned to pink colour. The Investigating Officer seized the said solution in a bottle. The complainant placed the voice recorder which contained the conversation between the complainant and DGO. The Investigating Officer got transmitted the contents of mobile hand set into a sheet of paper. The Investigating Officer placed a voice recorder at the hands of the complainant with instructions to keep the same live at the time of approaching the DGO. The Investigating Officer instructed the complainant to approach the DGO and to give the tainted notes only in case of demand by DGO. The Investigating Officer further instructed the complainant to communicate in case of acceptance of tainted notes by DGO. The Investigating Officer instructed shadow witness to accompany the complainant and to observe as to what transpires between the complainant and DGO. With the said process the Investigating Officer conducted pre-trap mahazar as primitive step of investigation.

Subsequent to pre-trap mahazar, the Investigating Officer along with his staff, complainant, shadow witness

19.12.2018 3.

100

and panch witness left Lokayukta Police Station, Bagalakote and reached near bus stand of Katageri at 4:50 P.M. where Ramanna was found. Afterwards, the complainant and shadow witness approached Ramanna. Ramanna asked the complainant to give cash of Rs. 5,000/- as informed earlier by DGO. In response, the complainant handed over the tainted cash to Ramanna who in turn accepted those tainted notes. It was then 5:00 P.M. Afterwards, the complainant communicated the Investigating Officer conveying message of acceptance of tainted cash. Immediately thereafter the Investigating Officer along with his staff and panch witness proceeded to the place where Ramanna was found. The staff of Investigating Officer caught hold of Ramanna. On being questioned by the Investigating Officer about the tainted cash, Ramanna responded that on the instructions of DGO he accepted cash. The Investigating Officer along with his staff, complainant, shadow witness and panch witness proceeded near a hotel at Heruru village along with Ramanna where DGO was found. The Investigating Officer disclosed his identity to DGO. The Investigating Officer seized the motorcycle bearing number KA-28-J 1259 which was possessed by DGO. Since the Investigating Officer felt that the said place is not suitable for further proceedings the Investigating Officer brought Ramanna and DGO to Lokayukta Police Station, Bagalakote along with staff of Investigating Officer, complainant, shadow witness and panch witness. On the instructions of the Investigating Officer, his staff prepared solution with water and sodium carbonate in two containers and obtained sample of the

 09.12.2018

said solution in a bottle. On the instructions of the Investigating Officer, Ramanna immersed fingers of right hand in the solution kept in a container and immersed fingers of left hand in the solution kept in another container. Finger wash of both hands of Ramanna turned to pink colour. On being asked by the Investigating Officer, Ramanna disclosed that tainted cash is inside the front pocket of baniyan. On the instructions of the Investigating Officer, panch witness lifted tainted cash from the front side pocket of baniyan of Ramanna. The Investigating Officer got prepared solution with water and sodium carbonate powder and after providing alternate baniyan to Ramanna got removed the baniyan of Ramanna and immersed the front side pocket of the baniyan of Ramanna in the solution. The said wash turned to light pink colour. The Investigating Officer seized said wash in a bottle and also seized the baniyan of Ramanna. DGO and Ramanna placed their statement in writing before the Investigating Officer. The complainant handed over the voice recorder to the Investigating Officer which contained the conversation between the complainant, DGO and Ramanna. The Investigating Officer got transmitted the contents of the said conversation to a sheet of paper. The Investigating Officer conducted trap mahazar in Lokayukta Police Station, Bagalakote. The Investigating Officer caused arrest of DGO and Ramanna. On the instructions of the Investigating Officer his staff produced the DGO and Ramanna before the Special Court, Bagalakote. Further investigation conducted by the Investigating Officer disclosed prima facie case against DGO and Ramanna and

1/12/2014

accordingly, the Investigating Officer submitted charge sheet against the DGO and Ramanna before the Special Court, Bagalakote.

4. In exercise of the powers conferred upon under section 7(2) of The Karnataka Lokayukta Act, 1984, Hon'ble Upalokayukta-1, Karnataka took up investigation and on the basis of records prima facie felt that DGO has 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 the DGO and to entrust the inquiry to the Hon'ble Upalokayukta, Karnataka with permission under Rule 214(2)(b)(i) of The Karnataka Civil Services Rules since DGO already retired from service.
5. Subsequent to the report under section 12(3) of The Karnataka Lokayukta Act, 1984, Government Order bearing number ಅಪಜೀ 100 ಅಇವಿ 2011 ಬೆಂಗಳೂರು, ದಿನಾಂಕ 09/01/2012 has been issued by the Under Secretary to the Government of Karnataka, Department of Forest, Environment and Ecology entrusting the inquiry against the DGO to the Hon'ble Upalokayukta, Karnataka under Rule 14-A of The Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 with permission under Rule 214(2)(b)(i) of The Karnataka Civil Services Rules.
6. Subsequent to the Government Order ಅಪಜೀ 100 ಅಇವಿ 2011 ಬೆಂಗಳೂರು, ದಿನಾಂಕ 09/01/2012, Order number LOK/INQ/14-A/44/2012 Bengaluru dated 21/01/2012 has been

 9.12.2012

ordered by the Hon'ble Upalokayukta-1, Karnataka nominating the Additional Registrar, Enquiries-4, Karnataka Lokayukta, Bengaluru as Inquiry Officer to frame charges and to conduct departmental inquiry against the DGO.

7. Articles of charge dated 28/01/2012 at Annexure-I which includes statement of imputation of misconduct at Annexure-II framed by the then Additional Registrar, Enquiries-4, Karnataka Lokayukta, Bengaluru is the following:

“ಅನುಬಂಧ-1

ದೋಷಾರೋಪಣೆ-1

ಶ್ರೀ ವಿರೂಪಾಕ್ಷಯ್ಯ ಬಿನ್ ಗುರುಲಿಂಗಯ್ಯ ಹಿರೇಮಠ, ಆದ ನೀವು ಬಾಗಲಕೋಟೆ ಜಿಲ್ಲೆ, ಬಾದಾಮಿ ಅರಣ್ಯ ವಲಯದ ಹಾನಾಪುರ ಶಾಖೆಯಲ್ಲಿ ವನಪಾಲಕರಾಗಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿದ್ದಾಗ, ಪಿಯಾದುದಾರರಾದ ಬಾದಾಮಿ ತಾಲ್ಲೂಕು ಕಟಗೇರಿ ಗ್ರಾಮದ ಶ್ರೀ ತುಳಸಿಗೇರಪ್ಪ ಹಣಮಪ್ಪ ಮೊಕಾಶಿಯವರು ತಮ್ಮ ಗ್ರಾಮದ ಕೆಂಚಮ್ಮ ದೇವಿ ಕೆರೆಯ ಸುತ್ತಲಿನ ಒಂಡಿಗೆ ಕಲ್ಲಿನ ಪಿಚ್ಚಂಗಿ ಮಾಡಲು ಮುರುಡಿ ಗ್ರಾಮದ ಗುಡ್ಡದಿಂದ ಕಲ್ಲುಗಳನ್ನು ತರಲು ಟ್ರಾಕ್ಟರುಗಳನ್ನು ಕಳಿಸಿದಾಗ ನೀವು ಅವರನ್ನು ತಡೆದು, ಪ್ರಕರಣ ದಾಖಲಿಸಿ ದಂಡ ವಿಧಿಸುವುದಾಗಿ ಬೆದರಿಸಿ, ಮೊದಲು ₹9,000/- ಲಂಚ ಕೇಳಿ ನಿಮ್ಮ ಇಲಾಖೆಯಲ್ಲಿ ದಿನಗೂಲಿ ನೌಕರಾದ ಶ್ರೀ ರಾಮಪ್ಪ ಅಲಿಯಾಸ್ ರಾಮಣ್ಣ ಹಣಮಪ್ಪ ಗಾಣಿಗೇರ ಇವರ ಮೂಲಕ ₹9000 ಲಂಚಕ್ಕೆ ಪದೇ ಪದೇ ಪೀಡಿಸಿದ್ದು ಅಷ್ಟು ಹಣ ಕೊಡಲು ಸಾಧ್ಯವಿಲ್ಲ ₹5000 ಹಣ ಇದೆ ಎಂದಾಗ ಆ ಹಣವನ್ನು ರಾಮಪ್ಪ ಅಲಿಯಾಸ್ ರಾಮಣ್ಣ ಗಾಣಿಗೇರ ಮುಖಾಂತರ ತಾ.20-04-2011 ರಂದು ಪಿಯಾದುದಾರರಿಂದ ಲಂಚವಾಗಿ ಪಡೆದು, ಸಾರ್ವಜನಿಕ ನೌಕರರಾಗಿ ಸಂಪೂರ್ಣ ಪ್ರಾಮಾಣಿಕತೆ ಮತ್ತು ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ಪಾಲಿಸದೆ ಸರ್ಕಾರಿ ನೌಕರರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡು ಕರ್ನಾಟಕ ಸರ್ಕಾರಿ ಸೇವಾ (ಸದ್ಭರ್ತನೆ) ನಿಯಮಾವಳಿ 1966 ರ (3) (i) ಮತ್ತು (iii) ನೇ ನಿಬಂಧನೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿ ದುರ್ನಡತೆ ಎಸಗಿದ್ದೀರಿ.

9-12-2012

ಆದ್ದರಿಂದ ಈ ದೋಷಾರೋಪಣೆ.

ಅನುಬಂಧ-2

ದೋಷಾರೋಪಣೆಯ ವಿವರ

(ಸ್ಪೆಟ್‌ಮೆಂಟ್ ಆಫ್ ಇಂಪ್ಯೂಟೇಷನ್ ಆಫ್ ಮಿಸ್‌ಕಾಂಡೆಕ್ಟ್)

- 1) 2011ನೇ ಇಸವಿಯಲ್ಲಿ ಆರೋಪಿತ ನೌಕರರಾದ ಶ್ರೀ ವಿರೂಪಾಕ್ಷಯ್ಯ ಗುರುಲಿಂಗಯ್ಯ ಹಿರೇಮಠ್ ರವರು ಬಾಗಲಕೋಟೆ ಜಿಲ್ಲೆಯ ಬಾದಾಮಿ ಅರಣ್ಯ ವಲಯದ ಹಾನಾಪುರ ಅರಣ್ಯ ಶಾಖೆಯಲ್ಲಿ ವನಪಾಲಕರಾಗಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿದ್ದರು. ಬಾದಾಮಿ ತಾಲ್ಲೂಕಿನ ಕಟಗೇರಿ ಗ್ರಾಮದ ವಾಸಿ ತುಳಸಿಗೇರಪ್ಪ ಹಣಪಮ್ಮ ಮೊಕಾಶಿಯವರು (ಇನ್ನು ಮುಂದೆ ಪಿಯಾರ್‌ದಿ ಎಂದು ಕರೆಯಲ್ಪಡುತ್ತಾರೆ) ಅವರ ಗ್ರಾಮದ ಕೆಂಚಮ್ಮ ದೇವಿ ಕೆರೆ ಅಭಿವೃದ್ಧಿ ಸಂಘದ ಅಧ್ಯಕ್ಷರಾಗಿದ್ದು, ದಿನಾಂಕ 20-04-2011ರ ಕೆಲವು ದಿನಗಳ ಮೊದಲು ಸದರಿ ಕೆರೆಯ ಸುತ್ತಲಿನ ಒಂಡಿಗೆ ಕಲ್ಲಿನ ಪಿಚ್ಚಂಗಿ ಮಾಡಲು ಶ್ರೀ ರಾಮಣ್ಣ ಬಗಲಿ ಮತ್ತು ಇತರರು ಟ್ರಾಕ್ಟರುಗಳಲ್ಲಿ ಮುರಡಿ ಗ್ರಾಮದ ಗುಡ್ಡದಿಂದ ಕಲ್ಲುಗಳನ್ನು ತರುವಾಗ, ಆರೋಪಿತ ನೌಕರರು ತಡೆದು ಗಲಾಟೆ ಮಾಡಿ, ಅವರಿಗೆ ವೈಯುಕ್ತಿಕವಾಗಿ ರೂ.₹9,000/- ಕೊಟ್ಟರೆ ಯಾವುದೇ ರೀತಿ ಕ್ರಮ ಕೈಗೊಳ್ಳುವುದಿಲ್ಲ ಎಂದು ಹೇಳಿದ ವಿಚಾರವನ್ನು ಶ್ರೀ ರಾಮಣ್ಣ ಬಗಲಿಯವರು ಪಿಯಾರ್‌ದುದಾರರಿಗೆ ತಿಳಿಸಿದ್ದು, ಆ ಬಗ್ಗೆ ಪಿಯಾರ್‌ದುದಾರರು ಆರೋಪಿತ ನೌಕರರಲ್ಲಿ ವಿಚಾರಿಸಿದಾಗ, ಕಾನೂನಿನಂತೆ/ನಿಯಮಗಳನುಸಾರ ಕ್ರಮ ಕೈಗೊಳ್ಳಲಾಗುತ್ತದೆ ಎಂದಾಗಲೀ ಅಥವಾ ಮೇಲಧಿಕಾರಿಗಳಿಗೆ ತಿಳಿಸಲಾಗುತ್ತದೆ ಎಂದಾಗಲೀ ಹೇಳದೇ, ಮೇಲಧಿಕಾರಿಗಳಿಗೆ ತಿಳಿಸಿದ್ದಲ್ಲಿ ಹೆಚ್ಚಿಗೆ ದಂಡ ಹಾಕುತ್ತಾರೆ, ಅದನ್ನು ತಪ್ಪಿಸಲು ರೂ.₹9,000/- ಕೊಟ್ಟರೆ ಯಾವುದೇ ರೀತಿ ಕ್ರಮ ಕೈಗೊಳ್ಳುವುದಿಲ್ಲವೆಂದು ಪಿಯಾರ್‌ದುದಾರರಿಗೆ ತಿಳಿಸಿದ್ದು, ನಂತರ ಅರಣ್ಯ ಇಲಾಖೆಯ ದಿನಗೂಲಿ ನೌಕರರಾದ ಶ್ರೀ ರಾಮಪ್ಪ ಅಲಿಯಾಸ್ ರಾಮಣ್ಣ ಹಣಮಪ್ಪ ಗಾಣಿಗೇರರ ಮೂಲಕ ಪದೇ ಪದೇ ರೂ.₹9,000/- ಕೊಡುವಂತೆ ಪೀಡಿಸಿದ್ದು, ಅದಕ್ಕೆ ಪಿಯಾರ್‌ದುದಾರರು ಅಷ್ಟೊಂದು ಹಣ ಇಲ್ಲ ಕೇವಲ ₹5,000/- ಇದೆ ಎಂದಾಗ ಆರೋಪಿತ ನೌಕರರು ಆ ಹಣವನ್ನೇ ಶ್ರೀ ರಾಮಪ್ಪ ಅಲಿಯಾಸ್ ರಾಮಣ್ಣ ಹಣಮಪ್ಪ ಗಾಣಿಗೇರವರ ಕೈಯಲ್ಲಿ ಕೊಡುವಂತೆ ಹೇಳಿದ್ದಿರುತ್ತದೆ. ಪಿಯಾರ್‌ದುದಾರರು ದಿ: 20-04-2011 ರಂದು ಬಾಗಲಕೋಟೆಯ

9.12.2018


ಪೋಲೀಸ್ ನಿರೀಕ್ಷಕರಲ್ಲಿ (ಇನ್ನು ಮುಂದೆ ತನಿಖಾಧಿಕಾರಿ ಎಂದು ಕರೆಯಲ್ಪಡುತ್ತಾರೆ) ದೂರನ್ನು ಕೊಟ್ಟಿರುತ್ತಾರೆ. ತನಿಖಾಧಿಕಾರಿಗಳು ದೂರನ್ನು ಅಪರಾಧ ಕ್ರಮಾಂಕ 4/2011ರಲ್ಲಿ ದಾಖಲಿಸಿಕೊಂಡು ಅದೇ ದಿನ ಕಟಗೇರೆ ಗಾಮದ ಕೆಂಪಮ್ಮ ದೇವಿ ಕೆರೆಯ ಹತ್ತಿರ ಪಿಯಾದಿಯವರಿಂದ ಆರೋಪಿತ ನೌಕರರ ಸೂಚನೆಯಂತೆ ಅವರ ಪರವಾಗಿ ಶ್ರೀ ರಾಮಪ್ಪ ಅಲಿಯಾಸ್ ರಾಮಣ್ಣ ಹನುಮಪ್ಪ ಗಾಣಿಗೇರ ರವರು ₹5,000/- ಲಂಚದ ಹಣ ಪಡೆದುಕೊಂಡ ನಂತರ ಹಣವನ್ನು ತನಿಖಾಧಿಕಾರಿಯವರು ಪಿಯಾದಿ ಹಾಗೂ ಪಂಚರು ಮತ್ತು ಇತರೆಯವರ ಸಮಕ್ಷಮ ವಶಪಡಿಸಿಕೊಂಡು ಪಂಚನಾಮೆ ಮಾಡಿರುತ್ತಾರೆ. ತನಿಖಾಧಿಕಾರಿಗಳು ಪಂಚರು ಮತ್ತು ಇತರರ ಹೇಳಿಕೆಯನ್ನು ಪಡೆದುಕೊಂಡು ತನಿಖಾ ವರದಿಯನ್ನು ಸಂಬಂಧ ಪಟ್ಟವರಿಗೆ ಸಲ್ಲಿಸಿರುತ್ತಾರೆ. ಸಂಗ್ರಹವಾಗಿರುವ ದಾಖಲೆ ಮತ್ತು ಮಾಹಿತಿಗಳ ಆಧಾರದಿಂದ ಆರೋಪಿತ ನೌಕರರು ಸಾರ್ವಜನಿಕ ನೌಕರರಾಗಿದ್ದುಕೊಂಡು ಪೂರ್ಣ ಪ್ರಾಮಾಣಿಕತೆ ಮತ್ತು ಕರ್ತವ್ಯನಿಷ್ಠೆಯನ್ನು ಪಾಲಿಸದೇ ಸರ್ಕಾರಿ ನೌಕರರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡು ದುರ್ವರ್ತನೆಯಿಂದ ವರ್ತಿಸಿ ಶಿಸ್ತು ಕ್ರಮಕ್ಕೆ ಭಾದ್ಯರಾಗಿರುವುದು ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡು ಬಂದಿದ್ದರಿಂದ ಆರೋಪಿತ ನೌಕರರ ವಿರುದ್ಧ ತನಿಖೆ ಕೈಗೊಂಡು ವೀಕ್ಷಣಾ ಟಿಪ್ಪಣಿಯನ್ನು ಕಳುಹಿಸಿದ್ದು, ಆರೋಪಿತ ನೌಕರರು ಲಿಖಿತ ಜವಾಬು ಕೊಟ್ಟಿದ್ದು ಅವರ ವಿರುದ್ಧ ತನಿಖೆಯನ್ನು ಕೈ ಬಿಡಲು ಸಮಂಜಸ ಅಥವಾ ಸೂಕ್ತ ಆಧಾರಗಳು ಕಂಡು ಬಂದಿರುವುದಿಲ್ಲ. ಸಂಗ್ರಹವಾಗಿರುವ ಸಂಗತಿಗಳು ಮತ್ತು ದಾಖಲಾತಿಗಳಿಂದ ಆರೋಪಿತ ನೌಕರರು ನಾಗರೀಕ ಸೇವಾ ನಿಯಮಗಳು (ನಡತೆ) 1966 ನಿಯಮ 3(1) ರಡಿಯಲ್ಲಿ ಉಕ್ತವಾದ ದುರ್ನಡತೆ ಎಸಗಿದ್ದಾರೆಂದು ಹಾಗೂ ಅವರ ವಿರುದ್ಧ ಶಿಸ್ತು ಕ್ರಮ ಕೈಗೊಳ್ಳಬಹುದೆಂದು ಕಂಡು ಬಂದ ಕಾರಣ ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯ್ದೆಯ ಕಲಂ 12(3) ರಡಿಯಲ್ಲಿ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರದಡಿಯಲ್ಲಿ ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಆರೋಪಿತ ನೌಕರರ ವಿರುದ್ಧ ಶಿಸ್ತು ನಡವಳಿಕೆಗಳನ್ನು ಹೂಡಲು ಮತ್ತು ನಾಗರೀಕ ಸೇವಾ ನಿಯಮ (ವರ್ಗೀಕರಣ, ನಿರ್ಬಂಧ ಮತ್ತು ಮೇಲ್ಮನವಿ)1957ರ ನಿಯಮ 14-ಎ ರಂತೆ ತನಿಖೆಯನ್ನು ಮಾನ್ಯ ಉಪಲೋಕಾಯುಕ್ತರು-1 ಇವರಿಗೆ ಒಪ್ಪಿಸಲು ಶಿಫಾರಸ್ಸು ಮಾಡಲಾಗಿದ್ದು, ಶಿಫಾರಸ್ಸಿನ ಪ್ರಕಾರ ಆರೋಪಿತ ನೌಕರರ ವಿರುದ್ಧ ಶಿಸ್ತು ನಡವಳಿಗೆ ಹೂಡಲು ಈಗಾಗಲೇ ನೌಕರರು ನಿವೃತ್ತಿ ಹೊಂದಿರುವುದರಿಂದ ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವಾ ನಿಯಮಾವಳಿ

19-12-2018

ನಿಯಮ 1957 ರಂತೆ ಶಿಸ್ತು ಕ್ರಮಕ್ಕೆ ನಿಯಮ 214(2) (ಬಿ) (i) ರಂತೆ ಮಂಜೂರಾತಿ ಸಹ ನೀಡಿದ್ದು, ತನಿಖೆಯನ್ನು ಗೌರವಾನ್ವಿತ ಉಪಲೋಕಾಯುಕ್ತರಿಗೆ ಒಪ್ಪಿಸಲಾಗಿರುತ್ತದೆ. ಆದ್ದರಿಂದ ಈ ದೋಷಾರೋಪಣೆ ವಿವರ".

8. In response to due service of articles of charge, DGO entered appearance before the Additional Registrar, Enquiries-4, Karnataka Lokayukta, Bengaluru on 29/02/2012. During first oral statement of DGO recorded on 29/02/2012 he pleaded not guilty.
9. In the course of written statement of DGO filed on 14/12/2012 he denied the alleged charge. Subsequently DGO engaged advocate for his defence.
10. The complainant is examined before the then Additional Registrar, Enquiries-4, Karnataka Lokayukta, Bengaluru as PW1 on 23/09/2013. During evidence of complainant, xerox copy of his complaint dated 20/04/2011 in a single sheet is marked as per Ex P1, certified copy of pre-trap mahazar dated 20/04/2011 in four sheets is marked as per Ex P2, certified copy of statement in writing dated 20/04/2011 in two sheets of DGO is marked as per Ex P3, xerox copy of statement in writing dated 20/04/2011 in a single sheet of Ramappa Ganigera (name mentioned as Ramanna in the trap-mahazar) is marked as per Ex P4.
11. As per Order number LOK/INQ/14-A/2014 dated 14/03/2014 of the Hon'ble Upalokayukta-1, Karnataka this filed has been transferred to the Additional Registrar, Enquiries-5, Karnataka Lokayukta, Bengaluru.
12. Thereafter, the disciplinary authority has examined the panch witness by name Rajiv as PW2. During evidence of PW2

9.12.2014



his signature found on Ex P2 is marked as per Ex P2(a), his signature found on Ex P3 is marked as per Ex P3(a), his signature found on Ex P4 is marked as per Ex P4(a), certified copy of trap-mahazar dated 20/04/2011 in seven sheets is marked as per Ex P5, his signature found on Ex P5 is marked as per Ex P5(a).

13. As per Order UPLOK-1/DE/2016, Bengaluru dated 03/08/2016 of the Hon'ble Upalokayukta-1, Karnataka this filed has been transferred to this section, i.e., Additional Registrar, Enquiries-11, Karnataka Lokayukta, Bengaluru.
14. Subsequently, PW2 is recalled and subjected to further cross examination from the side of DGO. The disciplinary authority has examined the shadow witness by name Sri. Mahanthesh Mallaiah Malimath as PW3 and the Investigating Officer Sri. B.S. Nemagouda as PW4.
15. During evidence of PW4 certified copy of a single sheet dated 20/04/2011 containing the numbers of currency notes is marked as per Ex P6, xerox copy of FIR dated 20/04/2011 in a single sheet in crime number 04/2011 of Lokayukta Police Station, Bagalakote is marked as per Ex P7, xerox copy of transmitted version in a single sheet containing the conversation between the complainant and DGO earlier to registration of case is marked as per Ex P8, certified copy of a single sheet containing two xerox impressions of photographs flashed during pre-trap mahazar is marked as per Ex P9, certified copy of a single sheet containing two xerox impressions of photographs flashed during pre-trap mahazar is marked as per Ex P10, certified copy of a single sheet containing two xerox impressions of photographs flashed during pre-trap mahazar is marked as per Ex P11, certified copy of a single sheet containing two xerox

17/9/2018

impressions of photographs flashed during pre-trap mahazar is marked as per Ex P12, certified copy of a single sheet containing two xerox impressions of photographs flashed during pre-trap mahazar is marked as per Ex P13, xerox copy of a single sheet containing the conversation between the complainant, DGO and Ramanna during trap is marked as per Ex P14, certified copy of a single sheet containing two xerox impressions of photographs flashed during trap mahazar is marked as per Ex P15, certified copy of a single sheet containing two xerox impressions of photographs flashed during trap mahazar is marked as per Ex P16, certified copy of a single sheet containing xerox impression of a photograph is marked as per Ex P17, certified copy of report dated 30/04/2011 in a single sheet of the Assistant Chemical Examiner, Public Health Institute, Bengaluru is marked as per Ex P18, certified copy of rough sketch dated 20/04/2011 in a single sheet drawn by the Investigating Officer during trap is marked as per Ex p19, xerox copy of sketch in a single sheet drawn by the Assistant Engineer, Public Works Department, Sub-Division, Badami is marked as per Ex P20, xerox copy of seventeen sheets containing the particulars of mobile phone conversation between the complainant and DGO are together marked as per Ex P21, xerox copies of forty five sheets of the certificate of registration and certificate of fitness books of the tractors are together marked as per Ex P22.

16. During second oral statement of DGO recorded on 27/07/2018 he has stated that he would get himself examined as defence witness and that he would also examine defence witness.

21/08/18

17. One defence witness by name Sri. Vithal Mallappa Kathi is examined on behalf of DGO as DW1 and another defence witness by name Sri. Suresh Tulasigerappa Gachannavar is examined as DW2 on behalf of DGO. DGO got himself examined as DW3. During evidence of DGO xerox copy of certificate dated 26/03/2012 in a single sheet of Panchayath Development Officer, Grama Panchayathi, Katageri is marked as per Ex D1, xerox copy of letter dated 13/04/2015 in a single sheet of Ramappa Hanamappa Ganigera addressed to Deputy Conservator of Forests, Bagalakote is marked as per Ex D2, xerox copy of letter dated nil in a single sheet of the President, Taluk Panchayath, Badami addressed to the Deputy Conservator of Forests, Bagalakote is marked as per Ex D3, xerox copy of mahazar dated 04/02/2015 in a single sheet is marked as per Ex D4, xerox copy of letter dated 05/05/2011 in a single sheet of DGO addressed to the Deputy Conservator of Forests, Bagalakote is marked as per Ex D5, xerox copy of letter in a single sheet of the Deputy Conservator of Forests, Bagalakote addressed to the Range Forest Officer, Badami is marked as per Ex D6, xerox copy of paper cutting in a single sheet is marked as per Ex D7, xerox copy of letter dated 02/11/2011 of DGO in a single sheet addressed to the Deputy Conservator of Forests, Bagalakote is marked as per Ex D8, xerox copy of letter dated 20/07/2015 in a single sheet of DGO addressed to the Chief Conservator of Forests, Belagavi Circle, Belagavi is marked as per Ex D9, xerox copy of letter dated 01/06/2016 in two sheets of DGO addressed to the Chief Conservator of Forests is marked as per Ex D10, xerox copy of letter dated 09/01/2010 in a single sheet of DGO addressed to the Range Forest Officer, Badami is marked as per Ex D11,

19.12.2018

xerox copy of the letter dated 29/10/2007 in a single sheet of DGO addressed to the Range Forest Officer, Badami is marked as per Ex D12, xerox copy of letter dated 01/11/2006 in a single sheet of DGO addressed to the Range Forest Officer, Badami is marked as per Ex D13, xerox copy of letter dated 24/01/2005 in a single sheet of DGO addressed to the Range Forest Officer, Badami is marked as per Ex D14, xerox copy of the letter dated 02/11/2006 in a single sheet of DGO addressed to the Deputy Conservator of Forests, Bagalakote is marked as Ex D15, xerox copy of the letter dated 01/11/2006 in a single sheet of DGO addressed to the Range Forest Officer, Badami is marked as per Ex D16, xerox copy of the letter dated 08/08/2005 in a single sheet of DGO addressed to the Ranger Forest Officer, Badami is marked as per Ex D17, xerox copy of the letter dated 12/05/2015 in a single sheet of the Deputy Conservator of Forests, Bagalakote addressed to the Chief Conservator of Forests, Belagavi Circle, Belagavi is marked as per Ex D18, xerox copy of endorsement dated 11/08/2015 of the Deputy Conservator of Forests, Bagalakote marked to the DGO is marked as per Ex D19, xerox copy of the letter dated 05/06/2015 in a single sheet of the Deputy Conservator of Forests, Bagalakote addressed to the Assistant Conservator of Forests, Jamakhandi is marked as per Ex D20, xerox copy of letter by way of reminder dated 20/02/2011 in a single sheet of the Range Forest Officer, Badami marked to the DGO is marked as per Ex D21, xerox copy of the letter dated 22/06/2011 in a single sheet of the Deputy Conservator of Forests, Bagalakote addressed to the Additional Director General of Police, Karnataka Lokayukta, Bengaluru is marked as per Ex D22, xerox copy of letter dated 07/10/2011 in a single sheet of DGO

9.12.2018

addressed to the Additional Registrar of Enquiries-8, Karnataka Lokayukta, Bengaluru is marked as per Ex D23, xerox copy of letter dated 27/07/2015 in a single sheet of DGO addressed to the District and Sessions Judge, Bagalakote is marked as per Ex D24, xerox copy of letter dated 14/06/2016 in a single sheet of DGO addressed to the Deputy Conservator of Forests, Bagalakote is marked as per Ex D25.

18. In the course of written argument of the Presenting Officer filed on 10/10/2018 she has referred to evidence on record and sought to contend that the charge stands established.
19. Statement under section 313 of the Code of Criminal Procedure is filed by DGO on 22/09/2018 which needs to be taken as the statement of defence in which it is contended that throughout the service DGO has not committed any act of misconduct and has not demanded illegal gratification. It is contended that he has not demanded illegal gratification from the complainant and as such the question of instructing to give illegal gratification to Ramanna does not arise. It is contended that while he was in service he was informing his higher officers about the illegal transportation of stones and in that background he has been falsely implicated. It is contended that he has submitted report to his higher officers and also the concerned authorities of his association who have not evinced interest to set at things right. He has contended that he spent his savings for defending in the Court and also in the offices and that he along with members of his family suffered mental torture.
20. In the course of written argument of DGO filed on 28/11/2018 it is contended that he retired from service on 31/07/2011. It is contended that the complainant was the

19.12.2018

106

President of "Kere Abhivrudhi Sangha" of Katageri village and that it came into his knowledge that on 31/07/2011 stones are illegally transported in nine tractors without the permission of Forest Department and thereafter he secured the elders of Katageri village and proceeded to conduct mahazar and initiated action to unload nine tractors which were loaded with stones. It is contended that he was requested to permit transportation of stones for which he has not obliged. It is contended that on the request of elders of the village he released nine tractors. It is contended that on 20/04/2011 at 3.30 P.M. while he was taking meals he was taken into custody by Lokayukta Police staff and falsely implicated. It is contended that he was remanded to judicial custody and thereafter suspension order has been issued. It is contended that he placed report with the higher officers of his department. It is contended that he has been reinstated to service. He has referred to his evidence and the evidence of DWs 1 and 2 and sought to contend that he is not guilty of the alleged misconduct.

21. In tune with the articles of charge point which arises for consideration is whether during the tenure of DGO as Forester attached to Hanapura section within the limits of Badami Range, Bagalakote District during year 2011, earlier to 20/04/2011 DGO demanded illegal gratification of Rs.9,000/- from the complainant and ultimately scaled down the said demand at Rs.5,000/- and thereafter, on the instructions of DGO one Ramanna accepted illegal gratification of Rs.5,000/- from the complainant near the bus stand of Katageri for and on behalf of DGO and during investigation of the case in crime number 04/2011 of Lokayukta Police Station, Bagalakote, DGO

19.12.2018

failed to offer satisfactory explanation before the Police Inspector attached to Lokayukta Police Station, Bagalakote touching acceptance of tainted cash of Rs.5,000/- from the complainant and thereby DGO is guilty of misconduct within the purview of Rule 3 (1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966?

22. During evidence the complainant who is examined as PW1 has spoken to that DGO was found near the tank at Katageri and instructed to pay penalty of Rs.5,000/- and subsequently, Ramanna was repeatedly insisting for illegal gratification for and on behalf of DGO. He has spoken to the proceedings of pre-trap mahazar. He has spoken to that subsequent to pre-trap mahazar, Ramanna demanded illegal gratification for and on behalf of DGO and in response he handed over tainted cash to Ramanna and subsequently fingers of hands of Ramanna are got washed in the solution which turned to red colour. He has spoken to attested copy of statement at Ex P3 of DGO and xerox copy of statement at Ex P4 of Ramanna. On the day on which the complainant was examined as PW1 before the then Additional Registrar, Enquiries-4, Karnataka Lokayukta, Bengaluru further examination of the complainant was deferred on the ground that some documents are not available. Subsequently, it is reported that the complainant (PW1) passed away on 20/02/2014. In view of death of PW1 his evidence which is recorded in part cannot be taken into consideration.

23. PW2 Rajiv who is the panch witness has spoken to during evidence that he was summoned to Lokayukta Police Station, Bagalakote on 20/04/2011 on which day ten currency notes of denomination of Rs.500/- each are obtained by Lokayukta Police staff and after noting down numbers of those notes

19.12.2014

phenolphthalein powder applied on those notes. It is in his evidence that PW3 placed those tainted notes in the pocket of shirt of the complainant and thereafter washed fingers of hands in the solution and consequently the solution turned to pink colour. It is in his evidence that the complainant produced voice recorder in which conversation was found recorded. It is in his evidence that with the above process pre-trap mahazar has been conducted. Suggestion made to him during cross examination from the said of DGO suggesting that pre-trap mahazar has not been conducted has been denied. Material portion of his evidence touching the proceedings of pre-trap mahazar has not been assailed during his cross examination and therefore his evidence touching the proceedings of pre-trap mahazar needs to be accepted.

24. It is in the evidence of PW3 who is the shadow witness stated that he had been to Lokayukta Police Station, Bagalakote at about 4.30 P.M on 20/04/2011. It is in his evidence that PWs 1 and 2 were found in Lokayukta Police Station, Bagalakote. It is in his evidence that PW1 placed ten currency notes of denomination of Rs.500/- each and that he noted numbers of those notes on a sheet of paper. It is in his evidence that PW2 placed those notes in the left side pocket of the shirt of PW1 and thereafter washed both hands in the solution and consequently the said solution turned to pink colour. It is in his evidence that voice touching demand for illegal gratification was found recorded in the mobile hand set in which the voice of DGO was found recorded. It is in his evidence that a voice recorder was handed over to the complainant by Lokayukta Police staff and with the above process pre-trap mahazar has been conducted. It is elicited during his cross examination that on

19.12.2014

20/04/2011 at about 4.30 P.M. he had been to Lokayukta Police Station, Bagalakote. Suggestion made to him during his cross examination suggesting that he has not heard the voice touching demand for illegal gratification which was recorded in the mobile hand set has been denied by him. Material portion of his evidence touching the proceedings of pre-trap mahazar has not been assailed during his cross examination and therefore his evidence touching the proceedings of pre-trap mahazar needs acceptance.

25. Evidence of PW4 B.S. Nemagouda who is the Investigating Officer that the complainant placed complaint in writing before him at 2.30 P.M. on 20/04/2011 in Lokayukta Police Station, Bagalakote has not been assailed during his cross examination. His evidence that on the basis of the complaint he registered case against the DGO and Ramanna in crime number 04/2011 of Lokayukta Police Station, Bagalakote for the offence punishable under section 7 of The Prevention of the Corruption Act and submitted FIR to the jurisdictional Court is not under challenge. His evidence that he secured PWs 2 and 3 to Lokayukta Police Station, Bagalakote is not under challenge. His evidence that the complainant placed ten currency notes of denomination of Rs.500/- each before him and that he got applied phenolphthalein powder on those notes is not under challenge. His evidence that he got prepared solution with water and sodium carbonate powder and obtained sample of the said solution is not under challenge. His evidence that on his instructions PW2 placed the tainted notes in the left side pocket of the shirt of the complainant and thereafter immersed fingers of hands in the residual solution and consequently the said wash turned to pink colour is not under challenge. His evidence

79.12.2018

108

that the complainant produced mobile hand set in which voice touching demand for illegal gratification was found recorded and that he got transmitted the contents of voice recorder to a sheet of paper the xerox copy of which is at Ex P8 is not under challenge. His evidence that he handed over voice recorder to the complainant with instructions to keep the same live at the time of approaching the DGO and Ramanna is also not under challenge. Thus he has spoken to that with the above process he conducted pre-trap mahazar. Sole suggestion made by the DGO to PW4 suggesting that his evidence during examination-in-chief is false is denied by him. His evidence touching the proceedings of pre-trap mahazar has not been assailed in its true letter and spirit and therefore I have no hesitation whatsoever to accept his evidence. On the strength of the evidence of PWs 2 to 4 proceedings of pre-trap mahazar has remained established.

26. It is in the evidence of PW3 who is the shadow witness that subsequent to pre-trap mahazar he along with the complainant, PW2 and Lokayukta Police staff left Lokayukta Police Station, Bagalakote and reached near the bus stand of Katageri at about 5.15 P.M where the complainant identified one Ramanna the staff of Forest Department. This portion of his evidence is not under challenge. Evidence of PW3 that he along with the complainant, Ramanna and a Lokayukta Police staff reached near Kenchammadevikere at about 5.30 P.M is not under challenge. It is in the evidence of PW3 that after he along with the complainant, Ramanna and a Lokayukta Police staff reached near Kenchammadevikere at about 5.30 P.M Ramanna demanded a sum of Rs.5,000/- for the purpose of handing over the said cash to DGO. This portion of his evidence has not been

79.12.2018

specifically assailed during his cross examination except posing suggestion that he has not heard the conversation between the complainant and DGO. The said suggestion has been denied. Evidence of PW3 touching demand made by Ramanna for and on behalf of DGO needs acceptance which establishes that Ramanna demanded a sum of Rs.5,000/- as per the instructions of DGO. It is in the evidence of PW3 that in response to the demand of Ramanna the complainant handed over tainted cash of Rs.5,000/- to Ramanna who in turn accepted the same and placed the said cash in the pocket of baniyan. This portion of his evidence has not been specifically challenged during his cross examination and therefore the said portion of his evidence needs acceptance which establishes that Ramanna received tainted cash and placed the same in the pocket of the baniyan.

27. It is in the evidence of PW3 that after Ramanna placed tainted cash in the pocket of baniyan the complainant conveyed message to Lokayukta Police staff and in response Lokayukta Police staff arrived at there with whom the complainant told that Ramanna received cash. This portion of his evidence is not under challenge. Evidence of PW3 that after apprehension of Ramanna by Lokayukta Police staff Ramanna informed that DGO is near the bus stand and thereafter Ramanna pointed out the DGO in the bus stand and thereafter Lokayukta Police staff brought Ramanna and DGO to Lokayukta Police Station, Bagalakote. This portion of his evidence is not under challenge.

28. Evidence of PW3 that finger wash of both hands of Ramanna in the solution conducted in Lokayukta Police Station, Bagalakote turned to pink colour equally has not been assailed during his cross examination which further lends assurance to the fact that Ramanna came in contact with tainted notes. PW3

9.12.2018

has spoken to that Ramanna produced tainted cash from the pocket of baniyan. This portion of his evidence is also not under challenge. Evidence of PW3 that Lokayukta Police staff seized the tainted cash is equally not under challenge. It is in the evidence of PW3 that Ramanna gave statement in writing the attested copy of which is at Ex P4. Suggestion made to him during cross examination that statement of Ramanna has been obtained by force has been denied by him. Relevant portion of Ex P4 is worthy to be reproduced which reads:-

“ ವಿಷಯ:- ಇವತ್ತು ಹಣ ಪಡೆದ ಬಗ್ಗೆ ನಾನು ಇವತ್ತು ವಿರುಪಾಕ್ಷಯ್ಯ ಹಿರೇಮಠ ಪಾರೆನ್ಟ ಸಾಹೇಬರು ತುಳಿಸಿಗೇರಪ್ಪ ಮೊಖಾಸಿ ಇವರ ಹಣ ಕೊಡುತ್ತಾರೆ ತೆಗೆದುಕೊಂಡ ಬಾ ಅಂತಾ ಹೇಳಿದರು ಅದನ್ನೂ ಇಸಿದುಕೊಂಡು ಬರುವಾಗ ನೀವು ನನ್ನನ್ನು ಕರೆದುಕೊಂಡು ಬಂದಿರುತ್ತೀರಿ ಅಂತಾ ಬರೆದು ಕೊಟ್ಟಿರುತ್ತೀನಿ.”

The portion as excerpted hereinabove unerringly would point out that on the instructions of the DGO Ramanna accepted tainted cash from the complainant. It is in the evidence of PW3 that DGO also placed statement in writing the xerox copy of which is at Ex P3. It is in the evidence of PW3 that voice of the complainant and DGO were found recorded in the voice recorder. Suggestion made to PW3 during cross examination that he has not heard the demand for illegal gratification which was recorded in the mobile hand set has been denied by him. Suggestion made to him during cross examination suggestions that voice of DGO was not found recorded in the mobile hand set has been denied by him.

29. Evidence of PW2 that he along with the complainant, PW3, PW4 and staff of PW4 went near the tank at Katageri village is not under challenge. His evidence that Ramanna was found

 09.12.2018

there and thereafter the complainant and PW3 proceeded near Ramanna and afterwards Ramanna spoke to DGO over mobile is not under serious challenge and therefore that portion of his evidence needs acceptance which establishes that there was pre-consorted union of guilty mind of Ramanna and DGO. It is in the evidence of PW2 that thereafter Ramanna pointed out the DGO and told that amount is received at the instance of DGO. Suggestion made to him during cross examination suggesting that DGO has not demanded bribe amount from the complainant through Ramanna has been denied by him. It is in the evidence of PW2 that DGO was taken to Lokayukta Police Station at Bagalakote where Ramanna produced tainted cash. This portion of his evidence is not under serious challenge and therefore needs acceptance. It is in the evidence of PW2 that hand wash of Ramanna in the solution turned to pink colour. This portion of his evidence is not under challenge which establishes production of tainted cash by Ramanna. Evidence of PW2 that baniyan of Ramanna has been seized is also not under challenge. PW2 has spoken to that Ramanna and DGO gave their respective statement in writing. Suggestion made to PW2 suggesting that DGO imposed penalty of Rs.1,000/- each on the seized tractors and directed to pay penalty has been denied by them. Further suggestion made to PW2 that cash of Rs.5,000/- is paid to Ramanna towards penalty and thereafter DGO was caught hold of with the allegation that DGO demanded bribe amount and accordingly the same was paid has been denied by him. It is significant to mention that nothing worthy is placed on record to hold that DGO was empowered to assess the quantum of penalty and to impose penalty and therefore defence as could be seen from the tenor of suggestion cannot be

9.12.2018

accepted. Suggestion made to him during cross examination suggesting that by imposing pressure statement of Ramanna has been obtained has been denied by him.

30. It is in the evidence of PW4 that subsequent to pre-trap mahazar he along with his staff, complainant, shadow witness and panch witness reached near the bus stand of Katageri at 5.15 P.M where the complainant identified Ramanna and thereafter he along his staff, complainant, PWs 2 and 3 took Ramanna towards Kenchammagerikere. This portion of his evidence is not under challenge. His evidence that after he received communication from the complainant he along with the staff apprehended Ramanna at 5.10 P.M and thereafter on being questioned by him the complainant told that on the instructions of DGO Ramanna requested for payment and in response tainted notes are given to Ramanna has not been challenged and therefore that portion of his evidence needs acceptance. His evidence that on being questioned by him Ramanna told that on the instructions of DGO cash is received has not been assailed and therefore that portion of his evidence needs acceptance which is in conformity with the portion as excerpted as hereinbefore. His evidence that afterwards Ramanna led him, his staff, complainant, PWs 2 and 3 near the hotel and pointed out the DGO at 5.30 P.M is not under challenge. His evidence that he apprehended the DGO and seized the motor cycle bearing registration number KA 28J 1259 which was possessed by DGO is not under challenge. His evidence that afterwards he along with his staff PWs 2 and 3 brought the DGO and Ramanna to Lokayukta Police Station, Bagalakote is not under challenge.

 9,12-2018

31. Evidence of PW4 that he got prepared solution with water and sodium carbonate powder in two containers and obtained sample of the said solution in a bottle is not under challenge. His evidence that on his instructions DGO immersed fingers of right hand in the solution kept in a bowl and immersed fingers of left hand in the solution kept in another bowl and the respective finger wash turned to light pink colour is not under challenge which establishes that Ramanna accepted tainted cash. His evidence that thereafter when he questioned the complainant he was told by the complainant that as a token of reward for release of tractor Ramanna demanded and accepted cash as per the instructions of DGO is also not under challenge. His evidence that on being questioned about cash Ramanna responded that the cash is pocket of baniyan and on his instructions PW3 took out the tainted notes from the pocket of baniyan and he seized the said cash is also not under challenge. His evidence that after providing alternate baniyan to Ramanna he got removed the baniyan of Ramanna and afterwards he got washed the inner portion of pocket of baniyan in the solution against prepared with water and sodium carbonate powder is not under challenge. His evidence that the said wash turned to pink colour is also not under challenge which further lends assurance that Ramanna had kept tainted notes in the pocket of his baniyan.

32. Evidence of PW4 that Ramanna and DGO placed their respective statement in writing is not under challenge. Though Ex P3 which is the certified copy of the statement of DGO does not implicate the DGO the statement of Ramanna the relevant portion of which is as excerpted hereinbefore incriminates the


9.12.2012

DGO. Evidence of PW4 that he conducted trap mahazar is not under challenge.

33. Ex P8 is the transmitted version of the conversation between the DGO and complainant earlier to trap. Ex P14 is the transmitted version of conversation between the complainant, DGO and Ramanna. Evidence of PW4 touching Exs P8 and P14 is not under challenge. Perusal of Ex P8 would show that DGO demanded cash from the complainant. Last line in bottom portion of sheet number 1 (page number 1) of Ex P8 would show that DGO communicated the complainant that cash has to be placed with a person whom he intends to send. This would communicate meaning that DGO intended to refer to the name of Ramanna. Ex P14 would show that on the instructions of DGO Ramanna accepted tainted cash. Though Exs P8 and P14 are not covered by section 65-B of The Indian Evidence Act, 1872, contents of Exs P8 and P14 can very well be pressed into service for the reason that in the inquiry of this nature strict rules of The Indian Evidence Act, 1872 are not applicable. Entire evidence of PW4 has been assailed by DGO during cross examination posing a lone suggestion suggesting that his evidence in his examination in chief is false. Except the said suggestion nothing is attempted to assail his evidence.

34. During evidence DGO has stated that he noticed illegal transportation of stones to the tank at Katageri village and since the elders of village have come forward to pay penalty he released nine tractors and in that connection he has not received illegal gratification. He has referred to Exs D1 to D25 the contents of which are not relevant to establish his defence. Evidence of DGO is nothing but self serving testimony which will not uproot the credibility of the testimony of PWs 2 to 4.

9.12.2018




Evidence of DW1 is that in order to wreck vengeance the complainant has lodged a complaint. What prompted the complainant for false implication of DGO is not forthcoming in the evidence of DW1 and therefore his evidence will not establish the innocence claimed by the DGO. DW2 has spoken to during his evidence that DGO had asked to pay a penalty of Rs.1000/- each per load of stones and he has attested the resolution touching the same. The resolution as spoken to by him has not been seen in the light of the day and therefore no credence can be attached to his evidence.

35. Evidence of PWs 1 to 4 unerringly establishes the charge against the DGO. The demand by DGO for illegal gratification and his attempt to accept illegal gratification of Rs.5,000/- through Ramanna stands established which act of DGO 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

Charge against the DGO by name Sri. Virupakshaiah (name written by DGO as Virupakshayya on the note sheet on 13/04/2017) that during his tenure as Forester attached to Hanapura section within the limits of Badami Range, Bagalakote District during year 2011, earlier to 20/04/2011 DGO demanded illegal gratification of Rs.9,000/- from the complainant and ultimately scaled down the said demand at Rs.5,000/- and thereafter, on the instructions of DGO one Ramanna accepted illegal gratification of Rs.5,000/- from the complainant near the bus stand of Katageri for and on behalf of DGO and during investigation of the case in crime number 04/2011 of Lokayukta Police Station, Bagalakote, DGO failed to

9.12.2018



LOK/INQ/14-A/44/2012/ARE-11

offer satisfactory explanation before the Police Inspector attached to Lokayukta Police Station, Bagalakote touching acceptance of tainted cash of Rs.5,000/- from the complainant and thereby DGO is guilty of misconduct within the purview of Rule 3 (1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 is proved.

Submit this report to the Hon'ble Upalokayukta-1, Karnataka in a sealed cover forthwith along with 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. Tulasigerappa Hanumappa Mokashi |
| PW 2:- | Sri. Rajiv |
| PW 3:- | Sri. Mahanthes Mallaiah Malimath |
| PW 4:- | Sri. B.S. Nemagouda |


List of witness examined on behalf of DGOs 1 and 2:-

- | | |
|--------|--|
| DW 1:- | Sri. Vithal Mallappa Kathi |
| DW 2:- | Sri. Sri. Suresh Tulasigerappa Gachannavar |
| DW 3:- | Sri. Sri. Virupakshaiah Gurulingaiah Hiremath (DGO) |

List of documents marked on behalf of DisciplinaryAuthority:-

- Ex P 1 Xerox copy of complaint dated 20/04/2011 in a single sheet.
- Ex P 2 Certified copy of pre-trap mahazar dated 20/04/2011 in four sheets.
- Ex P 2(a) Signature of PW2 found on Ex P2.
- Ex P 3 Certified copy of statement in writing dated 20/04/2011 in two sheets of DGO.
- Ex P 3(a) Signature of PW2 found on Ex P3.
- Ex P 4 Xerox copy of statement in writing dated 20/04/2011 in a single sheet of Ramappa Ganigera (name mentioned as Ramanna in the trap-mahazar).
- Ex P 4(a) Signature of PW 2 found on Ex P4.
- Ex P 5 Certified copy of trap-mahazar dated 20/04/2011 in seven sheets.
- Ex P5(a) Signature of PW2 found on Ex P5.
- Ex P 6 Certified copy of report dated 30/04/2011 in a single sheet of the Assistant Chemical Examiner.
- Ex P 7 Certified copy of report dated 30/04/2011 in a single sheet of the Assistant Chemical Examiner.
- Ex P 8 Certified copy of report dated 30/04/2011 in a single sheet of the Assistant Chemical Examiner.
- Ex P 9 Certified copy of report dated 30/04/2011 in a single sheet of the

19.12.2018



Assistant Chemical Examiner.

- Ex P 10 Certified copy of a single sheet containing two xerox impressions of photographs flashed during pre-trap mahazar.
- Ex P 11 Certified copy of a single sheet containing two xerox impressions of photographs flashed during pre-trap mahazar.
- Ex P 12 Certified copy of a single sheet containing two xerox impressions of photographs flashed during pre-trap mahazar.
- Ex P 13 Certified copy of a single sheet containing two xerox impressions of photographs flashed during pre-trap mahazar.
- Ex P 14 Xerox copy of a single sheet containing the conversation between the complainant, DGO and Ramanna during trap.
- Ex P 15 Certified copy of a single sheet containing two xerox impressions of photographs flashed during trap mahazar.
- Ex P 16 Certified copy of a single sheet containing two xerox impressions of photographs flashed during trap mahazar.
- Ex P 17 Certified copy of a single sheet containing xerox impression of a photograph.
- Ex P 18 Certified copy of report dated 30/04/2011 in a single sheet of the Assistant Chemical Examiner, Public Health Institute, Bengaluru.
- Ex P 19 Certified copy of rough sketch dated 20/04/2011 in a single sheet drawn by

19.12.2018

the Investigating Officer during trap.

- Ex P 20 Xerox copy of sketch in a single sheet drawn by the Assistant Engineer, Public Works Department, Sub-Division, Badami.
- Ex P 21 Xerox copy of seventeen sheets containing the particulars of mobile phone conversation between the complainant and DGO.
- Ex P 22 Xerox copies of forty five sheets of the certificate of registration and certificate of fitness books of the tractors.

List of documents marked on behalf of DGO:-

- Ex D1 Xerox copy of certificate dated 26/03/2012 in a single sheet of Panchayath Development Officer, Grama Panchayathi, Katageri.
- Ex D2 Xerox copy of letter dated 13/04/2015 in a single sheet of Ramappa Hanamappa Ganigera addressed to Deputy Conservator of Forests, Bagalakote.
- Ex D3 Xerox copy of letter dated nil in a single sheet of the President, Taluk Panchayath, Badami addressed to the Deputy Conservator of Forests, Bagalakote.
- Ex D4 Xerox copy of mahazar dated 04/02/2015 in a single sheet.
- Ex D5 xerox copy of letter dated 05/05/2011 in a single sheet of DGO addressed to the Deputy Conservator of Forests, Bagalakote.
- Ex D6 Xerox copy of letter in a single sheet of the Deputy Conservator of Forests, Bagalakote addressed to the Range Forest Officer, Badami .
- Ex D7 Xerox copy of paper cutting in a single sheet.
- Ex D8 Xerox copy of letter dated 02/11/2011 of DGO in a single sheet addressed to the...

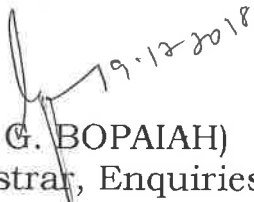
[Handwritten signature]
19.12.2014

Deputy Conservator of Forests, Bagalakote.

- Ex D9 Xerox copy of letter dated 20/07/2015 in a single sheet of DGO addressed to the Chief Conservator of Forests, Belagavi Circle, Belagavi.
- Ex D10 Xerox copy of letter dated 01/06/2016 in two sheets of DGO addressed to the Chief Conservator of Forests.
- Ex D 11 Xerox copy of letter dated 09/01/2010 in a single sheet of DGO addressed to the Range Forest Officer, Badami.
- Ex D12 Xerox copy of the letter dated 29/10/2007 in a single sheet of DGO addressed to the Range Forest Officer, Badami.
- Ex D13 Xerox copy of letter dated 01/11/2006 in a single sheet of DGO addressed to the Range Forest Officer, Badami.
- Ex D14 Xerox copy of letter dated 24/01/2005 in a single sheet of DGO addressed to the Range Forest Officer, Badami.
- Ex D15 Xerox copy of the letter dated 02/11/2006 in a single sheet of DGO addressed to the Deputy Conservator of Forests, Bagalakote.
- Ex D16 Xerox copy of the letter dated 01/11/2006 in a single sheet of DGO addressed to the Range Forest Officer, Badami.
- Ex D17 Xerox copy of the letter dated 08/08/2005 in a single sheet of DGO addressed to the Ranger Forest Officer, Badami.
- Ex D18 Xerox copy of the letter dated 12/05/2015 in a single sheet of the Deputy Conservator of Forests, Bagalakote addressed to the Chief Conservator of Forests, Belagavi Circle, Belagavi.

19-12-2018

- Ex D19 Xerox copy of endorsement dated 11/08/2015 of the Deputy Conservator of Forests, Bagalakote marked to the DGO.
- Ex D20 Xerox copy of the letter dated 05/06/2015 in a single sheet of the Deputy Conservator of Forests, Bagalakote addressed to the Assistant Conservator of Forests, Jamakhandi.
- Ex D21 Xerox copy of letter by way of reminder dated 20/02/2011 in a single sheet of the Range Forest Officer, Badami marked to the DGO.
- Ex D22 Xerox copy of the letter dated 22/06/2011 in a single sheet of the Deputy Conservator of Forests, Bagalakote addressed to the Additional Director General of Police, Karnataka Lokayukta, Bengaluru.
- Ex D23 Xerox copy of letter dated 07/10/2011 in a single sheet of DGO addressed to the Additional Registrar of Enquiries-8, Karnataka Lokayukta, Bengaluru.
- Ex D24 Xerox copy of letter dated 27/07/2015 in a single sheet of DGO addressed to the District and Sessions Judge, Bagalakote.
- Ex D25 Xerox copy of letter dated 14/06/2016 in a single sheet of DGO addressed to the Deputy Conservator of Forests, Bagalakote.


(V.G. BOPALAH)
Additional Registrar, Enquiries-11,
Karnataka Lokayukta, Bengaluru.

