

**KARNATAKA LOKAYUKTA**

NO:UPLOK-1/DE/44/2018/ARE-9

M.S.Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru - 560 001.  
Date:31.12.2021

**:: ENQUIRY REPORT ::**

**:: Present ::**

**( PUSHPAVATHI.V )**

**Additional Registrar of Enquiries -9  
Karnataka Lokayukta,  
Bengaluru**

Sub: Departmental Inquiry against (1)  
Sri.M.P.Kalas, Assistant Engineer,  
Minor Irrigation Sub Division, Karwar,  
Uttara Kannada District (2) Sri. Vasant  
V Naik, Assistant Executive Engineer,  
Minor Irrigation Sub division, Karwar,  
Uttara Kannada District - reg.

Ref: 1. G.O.No.ಸನೀಚ 80 ಸೇವೆ 2017 ದಿ: 4.1.2018

2.Nomination Order No: UPLOK-  
1/DE/44/2018/ARE-9 Bangalore  
dated:29.1.2018 of Hon'ble  
Upalokayukta-1

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This Departmental Inquiry is initiated against (1)  
Sri.M.P.Kalas, Assistant Engineer, Minor Irrigation Sub  
Division, Karwar, Uttara Kannada District (2) Sri. Vasant V  
Naik, Assistant Executive Engineer, Minor Irrigation Sub  
Division, Karwar, Uttara Kannada District (hereinafter  
referred to as the Delinquent Government Officials No. 1 and 2  
for short "**DGO No.1 & 2**").

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2. In pursuance of the Government Order cited above at reference No.1, Hon'ble Upalokayukta vide order dated 29.1.2018 cited above at reference No.2 has nominated Additional Registrar of Enquiries-9 (in short ARE-9) to frame and issue Articles of charges and to conduct the inquiry against the aforesaid DGOs.

3. This Authority (ARE-9) has issued the Articles of charges, 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.

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

**ANNEXURE-I**  
**CHARGE**

The background of the scheme in respect of the construction of Hankon KLS in Karwar Taluk was proposed in Appendix E 2011-12 under Kindi Anicuts and pickups for the year 2011-12 amounting to Rs.50.00 lakhs. The sanctioned amount for the above work is Rs.50.00 lakh and Technical sanction was granted by Superintending Engineer, Belagavi Circle, Belagavi by order SER No.482-02/2012. The above work was entrusted to the Contractor Sri Madhava Naik. The Tender Agreement was signed on 31/10/2012 and the work spot was handed over to the contractor on 1/12/2012 with a condition to complete the work within a period of 9 months. As on 17/3/2014, the contractor has completed 55% of the work and he has submitted

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proposal for extension of time and the contractor was to complete the work before 30/5/2014.

In relation to the above work, copy of the R.A Bill No.III & part is produced by the complainant along with his complaint. The Bill was passed for a sum of Rs.4,39,602/-. The details of the work appended to the Bill are reiterations of estimate. There is no document in respect of stage-wise inspection of work. The date of inspection of work is not available in the file. You- DGOs have not furnished the copies of the bills passed in relation to the above work along with connected documents. You - DGOs have withheld the necessary documents such as, work order, acceptance of tender, contract certificate, measurement books, running bills, documents in support of running bills, etc.

It is relevant to note that, the work was not completed by the contractor within the time stipulated in the contract. No action is taken on the contractor for delayed execution of work. There is no explanation by you-DGOs for the delay in execution of work.

The photographs show that some of the automatic shutters are damaged and some of them are not functional, for which there is no explanation by you-DGOs. The revetment of bund is also damaged for which there is no explanation by you- DGOs. Due to the damage of automatic shutters, the purpose for which automatic shutters were fixed is not achieved.

Thereby you - DGO/s have failed to maintain absolute integrity, devotion to duty and committed an act

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which is unbecoming of government servant/s 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**

On 6/12/2013, one Sri Rajesh Kashinath Naik resident of Patnikere, Baad, Karwar (hereinafter referred to as 'Complainant' for short) has filed a complaint in this institution against 1) Sri M.P.Kalas, Assistant Engineer, Minor Irrigation Sub Division, Karwar, UttKannada district and 2) Sri Vasanath Valappa Naik, Assistant Executive Engineer, Minor Irrigation Sub Division, Karwar, Uttara Kannada district (hereinafter referred to as DGO No.1 & 2 for short) and also against Mahadev B. Naik, Contractor, Karwar. On the basis of the said complaint, an investigation under section 9 of the Karnataka Lokayukta Act, 1984 was taken up.

The complainant Sri Rajesh Kashinath Naik, in his complaint has alleged that in the execution of work under Kharland scheme (KLS) at Hankon village in Karwar Taluk was taken up at an estimated cost of Rs.50.00 lakh. Even though an amount of Rs.20,53,492/- is shown to have been spent for the scheme but not even work worth of Rs.2,00,000/- is executed. The DGOs have misused and misappropriated the funds sanctioned for the scheme.

As per the General Report submitted by Assistant Executive Engineer, Minor Irrigation Sub Division, Karwar,

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the background of the scheme in respect of the construction of Hankon KLS in Karwar Taluk was proposed in Appendix E 2011-12 under Kindi Anicuts and pickups for the year 2011-12 amounting to Rs.50.00 lakh.

Construction of Hankon KLS in Karwar taluk was an oldest Kharland constructed during 1983-84. The total length of Kharland was 6 km having different vents without shutters. The present estimate was for selected stretches, bund is to be rectified and new semi-previous murrum is to be added and revetment work is to be carried out. On the openings of the KLS vents automatic fibre shutters are to be provided to stop the salt water entering into the paddy fields and drinking water wells of Village. The following provisions are made in the scheme.

- 1) Jungle clearance all along with bund portion on Left side and Right side.
- 2) Providing semi-previous materials in on selected stretches of the bund.
- 3) Providing granite revetment materials in on selected stretches of the bund.
- 4) Providing M.S./Fiber automatic shutters on KLS.
- 5) Providing C.D retaining walls with CC 40 mm down size fir bed concrete & 20 mm down size for retaining walls.
- 6) Providing diversation of water course on the river side and nala side.
- 7) Providing approach road for the work site.
- 9) Providing clearing of KLS vents & C.D work.

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The estimate was prepared by adopting M.I. CSR of Belgaum Circle for the year 2011-12 for a sum of Rs.50.00 lakh.

As per the measurement sheet prepared, the following works are included :

- 1) Clearing thick jungle growth ; 5000 meters on the right side bund and 5000 meters on the bund left side with width of 10 meters on either side;
- 2) Excavation in all kinds of soil including boulders for foundation of canal cross drainage and other appurtenant structures;
- 3) Excavating grip trenches in all kinds of soil in existing bund for abutting fresh embankment to strengthen the existing bund
- 4) Providing semi-pervious/pervious casing embankment with soil from approved borrow areas in layers of 250 to 300 mm before compaction.
- 5) Providing and construction of 450 mm thick dry rubble stone pitching/revt. With pin headers.
- 6) Providing and laying institu vibrated M15 grade cement concrete using 40 mm down size approved, clean, hard graded course aggregates for foundation filling /bed concreting.
- 7) Providing and laying institu vibrated M15 grade cement concrete using 20 mm down size approved clean, hard graded aggregates for sub-structure works.
- 8) Supplying and fabricating providing fibre automatic shutters with iron hingers, bolt nuts of size 6'x6' as per design & drawing, fixing at the KLA site, etc.
- 9) Supplying 1200 mm NP2 pipe including loading and unloading & conveyance at the site PWD SR Dharwad Circle 2010-11.

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Cross sections were drawn for construction of Bund Section at the following phases;

- 1) Ch. 0.250 Kms
- 2) Ch. 0.495 Kms
- 3) Ch. 0.650 Kms
- 4) Ch. 1.250 Kms
- 5) Ch. 1.950 Kms and
- 6) Ch. 1.950 Kms

Cross section was also drawn for construction of concrete retaining wall.

As per the report submitted by Technical Wing, the sanctioned amount for the above work is Rs.50.00 lakh and technical sanction was granted by Superintending Engineer, Belagavi Circle, Belagavi by order SER No.482-02/2012. The above work was entrusted to the Contractor Sri Madhava Naik. The Tender Agreement was signed on 31/10/2012 and the work spot was handed over to the contractor on 1/12/2012 with a condition to complete the work within a period of 9 months. Sri H.S. Sudhindra, Asst. Executive Engineer-2, Technical Audit Cell of Karnataka Lokayukta, Bengaluru submitted report and photographs to show that he had visited the spot. But, he has not verified any of the work in question.

The object of taking up of Karwar KLS work in Hankon village was to prevent flow of back water to agricultural lands. The photographs taken at the time of spot inspection show that the supporting walls constructed near the gates are in damaged condition.

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As per the photographs submitted by the complainant along with his rejoinder, the gates (shutters) are damaged and the back water is flowing into the agricultural lands.

The main grievance of the complainant is, improper execution of work and the automatic shutter are not working, as a result, the backwater is following into the agricultural lands. In support of the said contention, the complaint submitted photographs, which depicts the inferior quality of work.

The estimate was prepared for providing, supply and fixing of automatic gates. As per the information furnished by the complainant, the work was not completed within a period of 9 months. Finally, the time for completion of work was extended to 31/5/2014.

The DGO No.1 has offered his comments dated 17/3/2014. As per his comments, the estimated cost for construction of KLS Hankon in Karwar taluk was Rs.50.00 lakh. The sanction was granted vide SER No.482/2012-13 February 2012. The work was entrusted through Tender to the contractor Sri Madhava B Naik, Class I Contractor, Karwar for a sum of Rs.44.15 lakh. As aforesaid, the agreement was entered into between contractor and department on 31/10/2012. The work spot was handed over to the contractor on 1/11/2012, with a condition to complete the work within a period of 9 months. As on 17/3/2014, the

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contractor has completed 55% of the work and he has submitted proposal for extension of time and the contractor was to complete the work before 30/5/2014.

The DGO No.2 has offered comments on 23/4/2014. As per the comments of DGO No.2, the contractor has fixed 7 automatic shutters and they have obtained certificate from the Quality Control Department and the work is still under progress.

As per the photographs produced by the DGO No.1, the work was not completed and the shutters fixed as on the date of comments, were not effectively working. The photographs were taken during inspection by the Quality Control Division at Karwar. However, the report of the Quality Control Department is not submitted. Some of the photographs show that the automatic shutters are not effectively functioning and the backwater is flowing into the agricultural lands and thus the object of the work is not achieved. Two automatic shutters are in damaged condition.

In relation to the above work, copy of the R.A Bill No.III & part is produced by the complainant along with his complaint. The Bill was passed for a sum of Rs.4,39,602/-. The details of the work appended to the Bill are reiterations of estimate. We do not find stage-wise inspection of work. The date of inspection of work is not available in the file. The DGOs have not furnished the copies of the bills passed in relation to the above work along with connected documents. The DGOs have withheld the necessary documents such as,

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work order, acceptance of tender, contract certificate, measurement books, running bills, documents in support of running bills, etc.

It is relevant to note that the work was not completed by the contractor within the time stipulated in the contract. No action is taken on the contractor for delayed execution of work. There is no explanation by the DGOs for the delay in execution of work.

The photographs show that some of the automatic shutters are damaged and some of them are not functional, for which there is no explanation by the DGOs. The revetment of bund is also damaged for which there is no explanation by the DGOs. Due to the damage of automatic shutters, the purpose for which automatic shutters were fixed is not achieved.

The above facts and material on record prima facie show that the DGO 1 and 2, being government servants have committed dereliction of duty and committed misconduct under Rule 3(1)(i) to (iii) of Karnataka Civil Services (Conduct) Rules, 1966.

Since said facts and material on record prima-facie show that the DGOs 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 DGOs and to

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entrust the inquiry to this Authority under Rule 14-A of Karnataka Civil Service (Classifications, Control and Appeal) Rules, 1957. Hence the charge.

5. The copies of the same were issued to the DGOs calling upon them to appear before this authority and to submit written statement.

6. The DGO No.1 and 2 appeared on 17.3.2018 before this inquiry authority in pursuance to the service of the Article of charges. Plea of the DGO No.1 and 2 have been recorded and they had pleaded not guilty and claimed for holding inquiry. Thereafter, they submitted written statement.

7. DGO No.1 & 2 in their written statement have denied the charges leveled against them. DGO No.1 has stated that the allegations made against him are not with clarity, it is infirmity and without any basis. There is no clarity with regard to which order has been violated by this DGO No.1. Further there is no clarity during which period DGO No.1 has violated the rules. There is no clarity to what extent the DGO No.1 is responsible. The charge is with confusion. Fixing DE against this DGO is not in accordance with law. There is no proof to show that the DGO has committed misconduct by violating rule 3 (1) (i) to (iii) of KCSR. Further there is no proof to show that the DGO has committed an act which is unbecoming of government servant.

8. **DGO No. 2** has stated that Investigating officer has given opinion that no allegation has been proved against DGOs. The Investigating officer has also given opinion that

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the DGOs have not done sub standard work in the alleged project. He has further stated that Investigating officer has reported that the work is standard even after 2 years. He has also reported that due to reflux of sea water and due to ನಿರೀಕ್ಷಿಸಿದ ಅಭ್ಯರ್ಥಿ of Kali river project work could not be completed within fixed time. Hence time was extended upto 30.5.2014. It is also reported that by 9.11.2016 project was completed. Investigating officer has also filed report that entire project is in accordance with rules. With these both DGO No.1 and 2 prays to drop the charges leveled against them.

9. The disciplinary authority has examined the complainant Sri. Rajesh Kashinath Naik, as PW.1. Sri. H.S.Sudeendra S/o H.R.Subbaraya as PW-2 and got marked documents as **Ex.P-1 to ExP-6**.

10. Thereafter, second oral statement of DGO No.1&2 have been recorded. DGOs submitted that they have got their evidence. So, opportunity was provided to them to adduce evidence. Accordingly, DGO No. 1 Sri.M.P.Kalas, Assistant Engineer, got examined himself as DW-1 and DGO No.2 Sri. Vasant V Naik, Assistant Executive Engineer, got examined himself as DW-2, got marked documents as **Ex.D-1 to Ex.D7**.

11. Heard submissions of Presenting Officer. The DGO No. 2 filed his written brief and DGO No. 1 has not filed written brief. Perused the entire record. The only point that arise for my consideration is:

**Whether the Disciplinary Authority is able to establish the charge framed against the DGOs?**

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My finding on the above point is in the **NEGATIVE** for the following:

### REASONS

**12.** The charges against the DGOs are that In respect of the construction of Hankon KLS in Karwar taluk, there was no document in respect of stage wise inspection of the work. The date of inspection of work was not available in the file. The DGOs have not furnished the copies of the bills passed in relation to the above work. The DGOs withheld the documents such as work order of tender, contract certificate, MB book, running bills, documents in support of running bills etc., It is also alleged that though the project was to be completed within 9 months from 1.12.2012, the contractor had completed the 75% of work as on to 17.3.2014. Though time was extended to complete the work before 30.5.2014, the contractor did not complete the work within the stipulated period. But no action has been taken against the contractor for delay in execution of work. Further there is no explanation of DGOs for delay in execution of the said work. It is also alleged that the photographs produced were showing some of the automatic shelters being damaged and some of them being not functioning, as same revetment bund was also damaged. But DGOs have not explained in this regard.

**13. PW-1** the complainant has deposed that he has given complaint to the Karnataka Lokayukta office alleging that the above said project was sub standard. During the cross examination, he admits that the quality control officers inspected the work and have given certificate of satisfaction

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and thereafter the amount of bill was released. Of course, he has stated that the quality control report itself is not proper. But, actually the charge is based on the report under section 12(3) of the Karnataka Lokayukta Act. The report under section 12(3) of the Karnataka Lokayukta Act is sent after obtaining a report from the Investigating officer. PW-2, who was working as Assistant Executive Engineer in Karnataka Lokayukta, TAC, between 2015 and 2018. PW-2 has stated before this authority during inquiry that no allegations have been established against the DGOs. He has also identified the report at per Ex.P-4. In evidence and also in Ex.P-4 he has stated as follows; “ ಸದರಿ ದೂರು ಅರ್ಜಿಯಲ್ಲಿ ಕೆಳಕಂಡ ಆರೋಪಗಳನ್ನು ಮಾಡಲಾಗಿದ್ದು, ಕಾಮಗಾರಿ ಸ್ಥಳದಲ್ಲಿ ಗಮನಿಸಿದಂತೆ ಹಾಗೂ ಆ.ಸ.ನೌ.ರವರು ನೀಡಿರುವ ಸಮಜಾಯಿಷಿಯಂತೆ ಕೆಳಕಂಡ ಅಂಶಗಳನ್ನು ಗಮನಿಸಿರುತ್ತೇನೆ.

ಕ್ರ. ಸಂ:	ದೂರುದಾರರ ಆರೋಪ	ಪರಿಶೀಲನೆ ದಿನದಂದು ಗಮನಿಸಿದ ವಿಷಯ ಮತ್ತು ಆ.ಸ.ನೌ.ರವರ ಸಮಜಾಯಿಷಿ
1	ಆಪಾದಿತ ಕಾಮಗಾರಿಗೆ ಅಳವಡಿಸಲಾಗಿದ್ದ ಹಳೆಯ ಪೈಪುಗಳನ್ನು ತೆಗೆದು ಹೊಸದಾಗಿ ಬೇಸ್‌ಮೆಂಟ್ ತಯಾರಿಸಿ ಕವಾಟಗಳನ್ನು ಜೋಡಿಸಬೇಕಾಗಿತ್ತು. ಆದರೆ ಹಳೆಪೈಪುಗಳ ಮೇಲೆ ಹಳೆ ಕಾಮಗಾರಿಯ ಮೇಲೆ ಹಳೆ ಹೊಸದಾಗಿ ಕಳಪೆ ಮಾಡಿರುತ್ತಾರೆ.	ಅಂದಾಜುಪಟ್ಟಿಯಲ್ಲಿ ಕಂಡುಬಂದಂತೆ ಈ ಕಾಮಗಾರಿಗೆ ಹೊಸಪೈಪುಗಳನ್ನು ಅಳವಡಿಸಲು ಅವಕಾಶ ಮಾಡಿಕೊಳ್ಳಲಾಗಿರುತ್ತದೆ. ಆದರೆ ಹಳೆ ಪೈಪುಗಳು ಸುಸ್ಥಿತಿಯಲ್ಲಿರುವುದನ್ನು ಗಮನಿಸಿ ಅವುಗಳನ್ನು ಹಾಗೆ ಉಳಿಸಿಕೊಳ್ಳಲಾಗಿರುತ್ತದೆ. ಹೊಸ ಪೈಪಿಗೆ ಗುತ್ತಿಗೆದಾರರಿಗೆ ಪಣ ಪಾವತಿಸಿರುವುದಿಲ್ಲ.
2	ಕವಾಟಗಳ ಕೆಲಸಗಳನ್ನು ಅರ್ಧಂಬರ್ಧ ಮಾಡಲಾಗಿದೆ. ಕಳಪೆ ದರ್ಜೆಯ	ದೂರು ದಾಖಲಾದ ಸಂದರ್ಭದಲ್ಲಿ ಸದರಿ ಕಾಮಗಾರಿಯು ಪ್ರಗತಿಯಲ್ಲಿದ್ದ ಕಾರಣ, ಕವಾಟಗಳ

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	<p>ಕವಾಟಗಳನ್ನು ಅಳವಡಿಸಲಾಗಿದೆ. ಇದರಿಂದ ಯೋಜನೆಯ ಉದ್ದೇಶ ಫಲಿಸದೇ ಮೊದಲಿನಂತೆ ನದಿಯಿಂದ ಉಪ್ಪು ನೀರು ಹೊಲಗಳಿಗೆ ನುಗ್ಗಿ ಬೆಳೆಗಳು ಹಾಳಾಗುವುದು ಮುಂದುವರೆದಿರುತ್ತದೆ.</p>	<p>ಕೆಲಸವು ಅರ್ಧಂಬರ್ಧ ಎಂಬ ಅಂಶವು ವಾಸ್ತವವಾಗಿದ್ದರೂ ಕಾಮಗಾರಿಯು ಪೂರ್ಣಗೊಂಡ ನಂತರ ನದಿಯಿಂದ ಸಮುದ್ರದ ಉಪ್ಪುನೀರು ಹೊಲಗಳಿಗೆ ನುಗ್ಗುವುದು ನಿಯಂತ್ರಣದಲ್ಲಿ ಇರುತ್ತದೆ. ಕಾಮಗಾರಿಗೆ ಅಳವಡಿಸಿರುವ ಕವಾಟಗಳು ಅಂದಾಜುಪಟ್ಟಿಯಲ್ಲಿ ನಮೂದಿಸಿರುವ ಗುಣಮಟ್ಟದ್ದಾಗಿದ್ದು, ಕಳಪೆ ಆಗಿರುವುದಿಲ್ಲ. ಕಾಮಗಾರಿಗೆ ಅಳವಡಿಸಿರುವ ಕವಾಟಗಳನ್ನು ಪರಿಶೀಲನೆ ದಿನದಂದು ದೂರುದಾರರು ಗಮನಿಸಿದ್ದು, ಮೊದಲನೇ ಮತ್ತು ಐದನೇ ಕವಾಟಗಳು ಮಧ್ಯದಲ್ಲಿ ಸೀಳಿರುತ್ತದೆ.</p>
3	<p>ಗುಣಮಟ್ಟ ಪರೀಕ್ಷೆಗಳು ಸರಿಯಾಗಿ ಆಗಿರುವುದಿಲ್ಲ.</p>	<p>ಗುಣಮಟ್ಟ ಪರೀಕ್ಷೆಗಳು ಸರಿಯಾಗಿ ನಡೆದಿದ್ದು, ಫಲಿತಾಂಶ ವರದಿಯ ಪ್ರತಿಯನ್ನು ಸಲ್ಲಿಸಿರುವುದಾಗಿ ತಿಳಿಸಿರುತ್ತಾರೆ.</p>
4	<p>ಉಪ್ಪು ನೀರು ಷೆಟರ್‌ಗಳ ಮೂಲಕ ಹಾದುಹೋಗುತ್ತಿದ್ದು, ಗ್ರಾಮಸ್ಥರಿಗೆ ಪ್ರಯೋಜನ ಆಗಿರುವುದಿಲ್ಲ. 9 ತಿಂಗಳಿಗೆ ಮುಗಿಸಬೇಕಾಗಿದ್ದ ಕಾಮಗಾರಿಯು 2 ವರ್ಷ ಆದರೂ ಮುಗಿದಿರುವುದಿಲ್ಲ.</p>	<p>ಪರಿಶೀಲನೆ ಸಂದರ್ಭದಲ್ಲಿ ಕವಾಟಗಳು ಸೀಳಿರುವ ಭಾಗದಿಂದ ಉಪ್ಪುನೀರು ಹಾಯುತ್ತಿರುವ ಬಗ್ಗೆ ಪ್ರಸ್ತುತ ಅಧಿಕಾರಿಗಳ ಗಮನ ಸೆಳೆಯಲಾಗಿದೆ. ಕಾಮಗಾರಿಯನ್ನು ಟೆಂಡರ್ ಅವಧಿಯೊಳಗೆ ಪೂರ್ಣಗೊಳಿಸಲು ಸಾಧ್ಯವಾಗದ ಕಾರಣ, ಕಾಲಾವಧಿ ವಿಸ್ತರಣೆಯನ್ನು ಪಡೆದುಕೊಂಡು ನಿಯಮಾನುಸಾರ ಕಾಮಗಾರಿಯನ್ನು ಪೂರ್ಣಗೊಳಿಸಿ ಇಲಾಖೆಗೆ ಹಸ್ತಾಂತರಿಸಿರುವುದಾಗಿ ಅಧಿಕಾರಿಗಳು ತಿಳಿಸಿರುತ್ತಾರೆ.</p>

ಕಾಮಗಾರಿಯ ಪರಿಶೀಲನೆ ನಡೆಸುತ್ತಿದ್ದ ಸಂದರ್ಭದಲ್ಲಿ ಸ್ಥಳಕ್ಕೆ ಹಾಜರಾಗಿದ್ದ ಪಣಕೋಣ ಗ್ರಾಮ ಪಂಚಾಯಿತಿಯ ಅಧ್ಯಕ್ಷ ಶ್ರೀಮತಿ. ಚಿತ್ರಾಂಗಿ ಜಿ. ನಾಯಕ

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ರವರು ಹಾಗೂ ಸ್ಥಳೀಯರಾದ ಶ್ರೀ.ಸುನೀಲ್ ನಾಯಕ, ಮಹೇಶ್ ನಾಯಕ, ಗೌರೀಶ್ ಬಂದೀಕರ್, ಹಾಗೂ ಕಿರಣ್ ಹಣಕೋಣಕರ್ ಮತ್ತಿತರು ಈ ಕಾಮಗಾರಿಯು ಪೂರ್ಣಗೊಂಡ ನಂತರ ಕೆಲವು ಸಮಾಜಘಾತುಕ ವ್ಯಕ್ತಿಗಳು ನೀರಿನಲ್ಲಿರುವ ದೊಡ್ಡ ಮೀನುಗಳನ್ನು ಕೊಲ್ಲುವ ಉದ್ದೇಶದಿಂದ ನೀರಿನಲ್ಲಿ ಸ್ಫೋಟಕಗಳನ್ನು ಹಾಕಿ ಕಾಮಗಾರಿಗೆ ಧಕ್ಕೆ ಉಂಟುಮಾಡಿರುವುದಾಗಿ ತಿಳಿಸಿರುತ್ತಾರೆ. ಈ ಬಗ್ಗೆ ಸ್ಥಳೀಯ ತಾಣೆಯಲ್ಲಿ ದೂರು ದಾಖಲಿಸಿರುವುದನ್ನು ಉಲ್ಲೇಖಿಸಿರುತ್ತಾರೆ.

ಸದರಿ ದೂರು ಪ್ರಕರಣದಲ್ಲಿ ದೂರುದಾರರು ಮಾಡಿದ್ದ ಆರೋಪಗಳು ಪರಿಶೀಲನೆ ಸಂದರ್ಭದಲ್ಲಿ ಸಾಬೀತಾಗಿರುವುದಿಲ್ಲವೆಂದು ವರದಿಯನ್ನು ಕೊಟ್ಟಿರುತ್ತೇನೆ.”

**14.** During the cross examination also, he has admitted that the officers and persons who were present at the spot had informed that some miscreants had put blasts in the river to kill the big fish. He has further admitted that the allegations against the DGOs were not established. The facts which he came to know during spot inspection are in the photographs produced by him. He has further admitted that there were no circumstances of DGOs committed misconduct.

**15.** DGO No. 1 has given evidence by stating that the contractor had completed the work by 30.5.2014 within stipulated period in accordance with Rules. The gates were damaged due to ill evil persons had put blasts in the water to accommodate themselves for fishing. He has produced Ex.D-1.

**16.** During further chief examination, he has stated that Executive Engineer has got power to take action against the contractor for not completed work within stipulated

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period. During the cross examination, he has admitted that it was the duty of DGO No. 2 and himself to inspect the work stage by stage. He has denied that he has not produced any documents to show that they had inspected work stage by stage. He has also denied that he had not produced documents showing bills have been passed stage by stage. He has further denied that they have not produced work order, tender acknowledgement, contractor certificate, MB books, running bills. He has further admitted that two revetments bunds were damaged. He has stated that they were damaged after one year. Further stated that no notice were issued to contractor and no action has been taken against him for two revetments bunds damaged. But he has stated that due to blast the said bunds were damaged. During further cross examination he has admitted that himself and DGO No. 2 did not report to EO with regard to work was not completed within time.

17. During further chief examination, this witness produced Ex.D-6 the copy of the complaint given to Chithapura police station and a form seeking extension of time to complete project at Ex.D-7. During further cross examination, he has stated that he does not know whether acknowledgment is given for filing complaint at Ex.D-7 and whether FIR is registered on the said complaint.

18. DW-2 (DGO No.2) has stated that as per Ex.D-1, time was extended to complete the project till 30.5.2014. PW-2 has submitted report that even after two years, the project is remained standard, he has also reported that work is

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completed by 9.11.2016 and no allegations are established against the DGOs. The project is carried out and completed in accordance with Rules. The project is standard. He has submitted bills at Ex.D-4, completion report at Ex.D-5. He has also produced Ex.D-2 the work order, contract agreement and the documents in connection to tender. He has also produced Ex.D-3 Running bill and MB book in connection to project. He has produced documents in connection to his transfer at Ex.D-4. He has further produced Ex.D-5 in connection to completion of work. During the cross examination, he has admitted that the work was not completed within 9 months and time was extended till 30.5.2014. He has admitted that he had not given notice to contractor for not completed work within stipulated period. But he has stated that since river was full, the work was slow. Hence, he himself did not give notice to contractor.

19. He has further submitted that the responsibility of inspecting the work, stage by stage was on him and DGO No.1. He has denied that they did not inspect the work stage by stage. He has admitted that they did not submit report with regard to stage by stage inspection. But, he says that there was no necessity to submit report. He has denied that the shutters attached to gates were damaged during his period. He has stated that the damage was not within his tenure, for the suggestion that due to contractors sub standard work, the shutters were damaged. He admits that it was his duty to report with regard to irregularities in the project by giving notice to contractors. But he says that such

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irregularities were not there during his period. He has further denied that he has not committed misconduct.

**20.** On perusal of the entire evidence, it is forthcoming that PW-2 has submitted report that no allegations are proved. But charge is framed on the basis of the photographs produced by him and on his report that two shutters were damaged. Further the charge is framed on the basis of his report that the contractor was not completed the work within 9 months from the date of work entrusted to him. It was further observed that the DGOs were not produced documents work order, acknowledgment of tender, contract certificate, MB book, Running bills, documents in support of running bills etc. In the evidence, the DGO No. 2 has produced the above said documents at Ex.D-2, 3, and 5. Of course, this documents were not produced before PW-2 when he investigated the case. But PW-2 do not say that he had called for such documents and DGOs did not produce the said documents. So in view of DGO No.2 produced these documents before this authority and in view of no notice was issued by PW-2 to DGOs to produce these documents during investigation, it can be said that the disciplinary authority have not proved this charge.

**21.** In connection to the allegation that the DGOs have not produced the documents showing they inspected the spot stage by stage, the disciplinary authority have not placed materials before the court showing the DGOs had to maintain documents with regard to they inspected the spot stage by stage.

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**22.** With regard to allegations that they have not taken steps against contractor who had not completed the work within stipulated period, i.e., 9 months from the date of entrustment of the work. They say that due to river was full, the work was slow hence they did not take steps appears satisfactory. The disciplinary authority do not say that this is false.

**23.** With regard to allegation that the damage of shettters was due to sub standard work, admittedly quality control certificate was obtained before passing of bills. Further PW-2 also says that the officers and the persons who were present at the time of inspection of spot had said that some ill evil persons had put blast in the water to accommodate themselves for fishing. Even DGOs have stood on the same defence. In support of which, they have produced copy of the complaint said to be filed before Chithapura Police Station. Of course, the said complaint does not have acknowledgement and these DGOs have not produced copy of the FIR. PW-2 says he does not know whether FIR is registered. But the disciplinary authority do not say specifically that the complaint produced by DGO No.1 at Ex.D-6 is false and created. Thus, I am of the opinion that no allegation of charge have been proved against DGOs

**24.** Overall examination of the evidence on record does not established the charge leveled against DGOs. Hence I proceed to record the following:-

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**FINDINGS**

25. The Disciplinary Authority has not proved the charges leveled against DGOs.

DGO No. 1 has already retired on 25.11.2000 Date of retirement of DGO No.2 is 31.4.2035.

*Pushpa V  
31.12.2017*

(PUSHPAVATHI.V)

Additional Registrar Enquiries-9  
Karnataka Lokayukta, Bengaluru.

i) **List of witnesses examined on behalf of Disciplinary Authority.**

PW.1	Rajesh Kashinath Naik R/o Patnikere, Karwar Original
PW-2	H.S.Sudeendra S/o H.R.Subbaraya, the then Assistant Executive Engineer, Karnataka Lokayukta Bengaluru Original

ii) **List of Documents marked on behalf of Disciplinary Authority.**

Ex.P1 & 2	Ex.P-1 and 2 are the complaint in form No. 1 and 2 filed by PW-1 in Karnataka Lokayukta office.
Ex.P 3	Ex.P-3 are the documents submitted by PW-1 along with the complaint.
Ex.P-4	Ex.P-4 is the investigation report dated: 13.4.2017 submitted by PW-2
Ex.P-5	Ex.P-5 are photos taken at the time of investigation.
Ex.P 6	Ex.P-6 is the letter dated: 17.7.2017 along with photographs

iii) **List of witnesses examined on behalf of DGO.**

DW-1	(1) Sri.M.P.Kalas, Assistant Engineer, Minor Irrigation Sub Division, Karwar, Uttara Kannada District Original
DW-2	(2) Sri. Vasant V Naik, Assistant Executive Engineer, Minor Irrigation Sub division, Karwar, Uttara Kannada District Original

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31.12.2017

iv) **List of documents marked on behalf of DGO**

Ex.D-1	Ex.D-1 is the comments dated: 17.3.2014 of DGO No. 1 along with photographs
Ex.D-2	Ex.D-2 is the work order dtd: 31.10.2012
Ex.D-3	Ex.D-3 is the account bill dated: 14.12.2012 and measurement book.
Ex.D-4	Ex.D-4 is the letter dated: 1.8.2015 of AEE, Minor Irrigation to CE, PWD Bangalore.
Ex.D-5	Ex.D-5 is the letter dtd: 3.11.2014 of AEE Minor Irrigation, Karwar to EE Minor Irrigation Sirsi
Ex.D-6	Ex.D-6 is the letter dated: 29.7.2016 of AEE Minor Irrigation Karwar to Sub Inspector, Chittakula Police Station, Karwar
Ex.D-7	Ex.D-7 is the form of T ME Extension for improval/construction of Hankon KLS in Karwar Taluk.

*Pushpa V*  
31.12.2014

(PUSHPAVATHI.V)  
Additional Registrar Enquiries-9  
Karnataka Lokayukta,  
Bengaluru.



KARNATAKA LOKAYUKTA

No.UPLOK-1/DE/44/2018/ARE-9

Multi Storied Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru-560 001.  
Dated 04.01.2022.

RECOMMENDATION

Sub:- Departmental inquiry against (1) Shri M.P.Kalas, Assistant Engineer, Minor Irrigation Sub-division, Karwar and (2) Sri Vasant V.Naik, Assistant Executive Engineer, Minor Irrigation Sub-division, Karwar, Uttara Kannada District - reg.

Ref:- 1) Government Order No.MID 80 SDE 2017 dated 04.01.2018.

2) Nomination order No. UPLOK-1/DE/44/2018 dated 29.01.2018 of Upalokayukta, State of Karnataka.

3) Inquiry report dated 31.12.2021 of Additional Registrar of Enquiries-9, Karnataka Lokayukta, Bengaluru.

The Government by its order dated 04.01.2018 initiated the disciplinary proceedings against (1) Shri M.P.Kalas, Assistant Engineer, Minor Irrigation Sub-division, Karwar and (2) Sri Vasant V.Naik, Assistant Executive Engineer, Minor Irrigation Sub-division, Karwar, Uttara Kannada District, [hereinafter referred to as Delinquent Government Officials, for short as



'DGOs 1 and 2 ' respectively] and entrusted the departmental inquiry to this Institution.

2. This Institution by Nomination Order No. UPLOK-1/DE/44/2018 dated 29.01.2018 nominated Additional Registrar of Enquiries-9, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct departmental inquiry against DGOs for the alleged charge of misconduct, said to have been committed by them.

3. The DGOs were tried for the charge of executing sub-standard work in respect of construction of Hankon KLS in Karwar Taluk under Kindi Anicuts and pickups for the year 2011-12 and thereby committed misconduct.

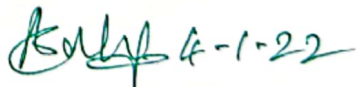
4. The Inquiry Officer (Additional Registrar of Enquiries- 9) on proper appreciation of oral and documentary evidence has held that, the above charge against the DGO 1 Shri M.P.Kalas, Assistant Engineer, Minor Irrigation Sub-division, Karwar and DGO 2 Sri Vasant V.Naik, Assistant Executive Engineer, Minor

Irrigation Sub-division, Karwar, Uttara Kannada District, is 'not proved'.

5. On re-consideration of report of inquiry and all other materials on record, I do not find any reason to interfere with the findings recorded by the Inquiry Officer. Therefore, it is hereby recommended to the Government to accept the report of Enquiry Officer and exonerate DGO 1 Shri M.P.Kalas, Assistant Engineer, Minor Irrigation Sub-division, Karwar and DGO 2 Sri Vasant V.Naik, Assistant Executive Engineer, Minor Irrigation Sub-division, Karwar, Uttara Kannada District, of the charges leveled against them.

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

Connected records are enclosed herewith.

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