

BEFORE THE ADDITIONAL REGISTRAR, ENQUIRIES-11

KARNATAKA LOKAYUKTA, BENGALURU

ENQUIRY NUMBER: LOK/INQ-14-A/458/2011

ENQUIRY REPORT Dated: 31/01/2020

Enquiry Officer: V.G.Bopaiah

Additional Registrar Enquiries-11

Karnataka Lokayukta Bengaluru.

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Delinquent Government Official No.1: Sri Y.Muniyappa.

Discharged duties as Executive Officer (First Division Assistant) attached to Sri. Anjaneyaswamy Temple, Banasawadi, Bengaluru in the year 2010.

Died on 27/10/2017.

Delinquent Government Official No.2: Sri A.Sundar Raj.


Driver attached to Karnataka State Silk Research and Development Corporation, Bengaluru.

Discharged duties as Driver on deputation to the office of Joint Secretary, Department of Personnel and Administrative Reforms, Karnataka Government Secretariat, Bengaluru in the year 2010.

Due for retirement on superannuation on 31/03/2024.

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1. In the year 2010 Delinquent Government Official number 1 (in short, "DGO 1") by name Y.Muniyappa was working as

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Executive Officer (First Division Assistant) attached to Anjaneyaswamy Temple, Banasawadi, Bangaluru. He died on 27/10/2017. Delinquent Government Official number 2 by name A. Sundar Raj is the driver attached to Karnataka State Silk Research and Development Corporation. In the year 2010 DGO 2 was working on deputation to the office of Joint Secretary, Department of Personnel and Administrative Reforms, Karnataka Government Secretariat, Bengaluru.

2. Background for initiating the present inquiry against DGOs 1 and 2 needs to be narrated in brief. In the year 2010 one Sri. M.H. Ananda Kumar (hereinafter will be referred to as "complainant") was working as Assistant Priest attached to Banashankaramma Temple, Kanakapura road, Banashankari, Bengaluru. According to the complainant, on 16/12/2010 at about 4.30 P.M DGO 1 arrived at the residence of the complainant and informed that complaint is received by the Deputy Commissioner, Bengaluru Urban District and also by the Muzarai Minister against the complainant with allegations that the complainant is participating in television channels and also unlawfully earning money and in that background there is every chance of keeping the complainant under suspension and also dismissal from service and therefore the same has to be avoided. DGO 1 told that the file of the complainant has been assigned with file number 137 and asked the complainant to accompany him in order to see that the file disappears. Immediately thereafter the complainant and DGO 1 left the residence of the complainant. On the way DGO 1 picked up DGO 2 in the car. DGO 2 pointed out the identity card and told that he is discharging duties as car driver of one Nandakumar who is working as Personal Secretary to the Chief

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Minister of Karnataka. DGO 2 told the complainant that Nandakumar is very close to DGO 2 and that he can manage the things. Afterwards, the complainant parked his car near the office of City Corporation, Bengaluru from where DGO 2 picked up the complainant and DGO 1 in a Government car and took near the residence of the then Minister by name Sri. V.S.Acharya. After reaching the said residence DGO 2 summoned a Police Constable who was on guard duty and furnished the name and cell phone number of the complainant to the said Police Constable. Afterwards, DGO 2 told the complainant that expenses may work out at Rs.10,00,000/- and saying so demanded Rs.3,00,000/- in four instalments of Rs.75,000/- each. The complainant pleaded inability to fulfil that much of demand and responded that he can fulfil to some extent. Thereafter, DGO 2 frequently contacted the complainant over cell phone and insisted to fulfil the said demand. On 21/12/2010 DGO 1 met the complainant and took the complainant near SLV hotel. DGO 2 contacted the complainant over cell phone and told that the complaint which was filed against the complainant will be brought. Sometime thereafter, DGO 2 arrived at near SLV hotel and shown the anonymous petition and torn the said petition and asked to arrange for money. Thereafter, very often DGOs 1 and 2 used to contact the complainant over cell phone and used to insist for payment of money. Therefore, according to the complainant, he approached the Police Inspector (hereinafter will be referred to as "Investigating Officer") attached to Lokayukta Police Station, City Division, Bengaluru on 29/12/2010 and orally informed the matter. The Investigating Officer handed over a voice recorder to the complainant with instructions to record the

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conversation between the complainant and DGO2. The complainant contacted DGO 2 over the cell phone of DGO 2 at about 8.30 A.M on 30/12/2010 and recorded the conversation. Again, DGO 2 contacted the complainant over cell phone and told that one Ravi who is the auto driver would be sent and that cash of Rs.35,000/- has to be placed at the hands of Ravi. On 30/12/2010 at 2.00 P.M the complainant appeared before the Investigating Officer in Lokayukta Police Station City Division, Bengaluru and lodged complaint on the basis of which the Investigating Officer registered case against DGOs 1 and 2 in crime number 69/2010 of Lokayukta Police Station, City Division, Bengaluru for the offence punishable under section 7, for the offence defined under section 13(1)(d) which is punishable under 13(2) of The Prevention of Corruption Act, 1988 and submitted FIR to the Court of 23<sup>rd</sup> Additional City Civil and Sessions Judge, Bengaluru. Afterwards, the Investigating officer secured shadow witness by name P.L. Sunil and panch witness by name R.Siddalingappa and asked them to assist during investigation. The complainant placed cash of Rs.35,000/- which consisted of eighteen currency notes denomination of Rs.1,000/- each and thirty four currency notes of denomination of Rs.500/- each. The Investigating Officer got entered numbers of the above notes on a sheet of paper and afterwards got applied phenolphthalein powder on those notes. On the instructions of the Investigating Officer, the panch witness placed those tainted notes in the pocket of the underwear of the complainant. The Investigating Officer got prepared solution with water and sodium carbonate powder and after obtaining sample of the said solution in a bottle got immersed the fingers of hands of panch witness in the residual

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solution. Finger wash of hands of the panch witness turned to pink colour. The Investigating Officer seized the said wash in a bottle. The complainant handed over the voice recorder before the Investigating Officer. The Investigating Officer got transmitted the contents of the voice recorder to a compact disc and also to sheet of papers. One Yashawanth who is the friend of the complainant produced a compact disc. The Investigating Officer got transmitted the contents of the said compact disc into sheet of papers. The Investigating Officer instructed the complainant to approach DGOs and to give tainted cash only in case of demand and further instructed to convey message in case of acceptance of tainted cash by DGOs. The Investigating Officer handed over a button camera to the complainant with instructions to keep the same live at the time of approaching the DGOs. DGO 2 contacted the complainant over cell phone and instructed to arrive at near the temple which is near the Central Office of Bruhath Bengaluru Mahanagara Palike, Bengaluru. With the above process the Investigating Officer conducted pre-trap mahazar as primitive step of investigation.

3. Subsequent to pre-trap mahazar, the Investigating Officer along with his staff, the then Police Inspector by name Sri. K.C. Lakshminarayana attached to Lokayukta Police Station, City Division, Bengaluru, complainant, Yashawantha, shadow witness and panch witness left Lokayukta Police Station, City Division, Bengaluru and reached near Central Office of Bruhath Bengaluru Mahanagara Palike at 4.30 P.M. The complainant along with his friend Yashawanth remained in the premises of Navashakthi Temple which is near the central office of Bruhath Bengaluru Mahanagara Palike, Bengaluru. At about 4.40 P.M DGO 2 arrived at the main gate of Navashakthi Temple on a

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motorcycle along with a person by name Hanumantha. Afterwards, DGO 2 came near the complainant and Yashawanth and spoke for some time and demanded cash by way of signs. In response, the complainant gave the tainted cash to DGO 2. After accepting the tainted cash with right hand DGO 2 placed the tainted cash in the right side front pocket of pant and thereafter took out the same and placed the same inside the helmet. Afterwards, DGO 2 handed over the helmet which contained tainted cash to Hanumantha. Afterwards, the complainant conveyed message in response to which the Investigating Officer along with his staff, shadow witness and panch witness arrived at there. It was then 4.40 P.M. The complainant pointed out DGO 2 to the Investigating Officer and narrated as to what transpired.

4. The Investigating Officer got prepared solution with water and sodium carbonate powder in two containers and after obtaining sample of the same in a bottle got immersed fingers of right hand of DGO 2 in the residual solution placed in a container and got immersed fingers of left hand in the residual solution placed in another container. Finger wash of both hands of DGO 2 turned to pink colour. The Investigating Officer seized those wash in separate bottles. On being questioned by the Investigating Officer about cash, DGO 2 responded that cash which is placed in the helmet has been handed over to Hanumantha along with helmet. On the instructions of the Investigating Officer shadow witness took out the tainted cash from the helmet. The Investigating Officer seized the tainted cash. Afterwards, the Investigating Officer got prepared solution with water and sodium carbonate powder in two containers. On the instructions of the Investigating Officer Hanumantha

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immersed fingers of right hand in the solution placed in a container and immersed fingers of left hand in the solution placed in another container. Finger wash right hand of Hanumantha turned to pink colour. Finger wash of left hand of Hanumantha has not turned to any colour. The Investigating Officer seized the said wash in separate bottles. The Investigating Officer prepared rough sketch of the said place. Afterwards, the Investigating Officer sent DGO 2 and Hanumantha to Lokayukta Police Station, City Division, Bengaluru under the escort of Sri. K.C. Lakshminarayana. Afterwards, the Investigating Officer proceeded to the office of DGO 1 where DGO 1 was not found. The Investigating Officer proceeded to the residence of DGO 1 and after causing arrest of DGO 1 brought DGO 1 to Lokayukta Police Station, City Division, Bengaluru. Thereafter, the Investigating Officer caused arrest of DGO 2. By providing alternate pant to DGO 2 the Investigating Officer seized that pant of DGO 2. The Investigating Officer got transmitted the contents of voice recorder which was with Yashawantha to compact disc. The Investigating Officer obtained sample voice of DGOs 1 and 2. The Investigating Officer got transmitted the contents of voice recorder which was given to Yashawantha to sheet of papers. DGOs 1 and 2 placed their independent statement in writing. The Investigating Officer seized the motorcycle and also seized the identity card of DGO 2 and Hanumantha. The Investigating Officer conducted trap mahazar in Lokayukta Police Station, City Division, Bengaluru. On the instructions of the Investigating Officer his staff produced DGOs 1 and 2 in the home office of the jurisdictional 23<sup>rd</sup> Additional City Civil and Sessions Judge, Bengaluru. Further investigation conducted by

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the Investigating Officer unearthed prima facie case against DGOs 1 and 2 and on completion of investigation the Investigating Officer obtained sanction for prosecution of DGOs 1 and 2 through the official superior of the Investigating Officer and afterwards submitted charge sheet against DGOs in the Court of 23<sup>rd</sup> Additional City Civil and Sessions Judge, Bengaluru.

5. On the basis of the materials placed by the Superintendent of Police attached to Karnataka Lokayukta, City Division, Bengaluru, Hon'ble Upalokayukta, Karnataka, in exercise of the powers conferred upon under section 7(2) of The Karnataka Lokayukta Act, 1984 probed into the matter which on the basis of the records prima facie disclosed that DGOs 1 and 2 have committed misconduct within the purview of Rule 3(1) of The Karnataka Civil Services (Conduct) Rules, 1966 and accordingly in exercise of the powers conferred upon under section 12(3) of The Karnataka Lokayukta Act, 1984 recommended the competent authority to initiate disciplinary proceedings against DGOs 1 and 2 and to entrust the inquiry against DGOs 1 and 2 to the Hon'ble Upalokayukta, Karnataka under Rule 14-A of The Karnataka Civil Services (Classification Control and Appeal) Rules 1967.
6. Subsequent to the report dated 14/09/2011 under section 12(3) of The Karnataka Lokayukta Act, 1984, Government Order bearing number ಕಂಇ 149 ಮುಸೇವಿ 2011, ಬೆಂಗಳೂರು ದಿನಾಂಕ 04/11/2011 has been issued by the Desk Officer attached to Department of Revenue (Muzarai) entrusting the inquiry against DGO 1 to the Hon'ble Upalokayukta, Karnataka under Rule 14-A of The Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957. Likewise, subsequent to the report dated

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14/09/2011 under section 12(3) of The Karnataka Lokayukta Act, 1984, Order bearing number ಕರಾರೇಸಂಅಸಂ/ಸಿಬ್ಬಂದಿ-2/ವೈಆ/ಎಎಸ್/9/2010-11 ದಿನಾಂಕ 28/11/2011 has been issued by the Director, Karnataka State Silk Research and Development Corporation who is the competent authority entrusting the inquiry against DGO 2 to the Hon'ble Upalokayukta, Karnataka under Rule 14-A of The Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.

7. Subsequent to the Government Order bearing number ಕಂಇ 149 ಮುಸೇವಿ 2011, ಬೆಂಗಳೂರು ದಿನಾಂಕ 04/11/2011 and the Order bearing number ಕರಾರೇಸಂಅಸಂ/ಸಿಬ್ಬಂದಿ-2/ವೈಆ/ಎಎಸ್/9/2010-11 ದಿನಾಂಕ 28/11/2011, Order number LOK/INQ/14-A/458/2011 Bengaluru dated 13/12/2011 has been 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 DGOs 1 and 2.

Articles of charge dated 25/08/2012 at Annexure-1 which includes statement of imputation of misconduct at Annexure-II framed by the then Additional Registrar, Enquiries-4, Karnataka Lokayukta,

Bengaluru is the following:

### **“ANNEXURE NO. I**

#### **CHARGE:**

2. That, you DGO-1 Sri.Y.Muniyappa and you DGO-2 Sri.A.Sundar Raj while working as Executive Officer (FDA) at Sri Anjaneyaswamy temple of Banasawadi in Bangalore and Driver in the office of the Joint Secretary to Hon'ble Chief Minister's section respectively, met the complainant namely Sri M.H.Anandakumar, s/o

*Handwritten signature and date: 21.12.20*

Late Hanumantharao, the Assistant Priest of Banashankari temple in Bangalore and demanded bribe of Rs.3 lakhs in 4 instalments @ Rs. 75,000/- for closing the complaint said to have been given by 4-5 ladies against the complainant and on 30-12-2010 you DGO-2 received bribe amount of Rs.35,000/- for yourself and on behalf of you DGO-1 from the complainant in the premises of B.B.M.P. offices failing to maintain absolute integrity and devotion to duty, the act of which was un-becoming of a Government Servant and thereby committed mis-conduct as enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

**ANNEXURE NO.II**  
**STATEMENT OF IMPUTATIONS OF MISCONDUCT**


The complainant namely Sri M.H.Ananda Kumar is working as Assistant Archak, at Banashankaramma temple in Bangalore. On 16-12-2010, DGO-1 and DGO-2 met the complainant and informed him that a complaint has been filed by 4 or 5 ladies against him (complainant) stating that he is giving programme in private T.V.Channels and earning money at Banashankari temple. The DGOs also told the complainant that he may loose job by such complaint. Then, they asked the complainant to give bribe of Rs.3 lakh so as to give the amount to higher officers as the complaint was in Mujarai Secretary. The complainant pleaded in-ability to pay so much of the amount. Then DGO-1 and DGO-2 told the complainant to give such amount in four instalments at the rate of Rs.75,000/-. Further, DGO-1 and 2 contacted the complainant over his mobile phone every day and insisted for payment of bribe amount. On 21-12-2010, a complaint typed on 20-11-2010 was shown to the complainant and torn the same saying that he is free now. Thereafter, the DGO presssurised to pay bribe amount. The complainant was not willing to pay bribe money to DGO-1 and DGO-2. Therefore, the complainant

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approached the Lokayukta Police Inspector of Bangalore City Division (herein after referred to as the Investigating Officer, for short, "the I.O.") and lodged a complaint. The I.O. registered the complaint in Cr.no.09/2010 for the offences punishable U/S 7, 13(1)(d) R/W 13(2) of the Prevention of Corruption Act 1988. The I.O. took up investigation and on 30/12/2010 the I.O. trapped DGO-2 when received bribe amount of Rs.35,000/- for himself and on behalf of DGO-1 in the premises of BBMP offices near Navashakthi temple at Bangalore. The I.O. seized tainted amount from DGO-2 under mahazar after following post-trap formalities. The I.O. took the statement of the DGO in writing. The record of investigation and the materials collected by the I.O. showed that DGO-1 and 2 have committed mis-conduct failing to maintain absolute integrity and devotion to duty and acted in a manner un-becoming of a Government servant. As the materials on record showed prima facie case about DGO-1 & 2 receiving bribe for discharging official duty as a public servants a Suo-moto investigation was taken up U/S 7(2) of Karnataka Lokayukta Act against DGO-1&2. An observation note was sent to the DGO -1 & 2 calling for their explanation. Replies submitted by DGO-1 & 2 was not convincing and acceptable. As there was prima facie case showing that DGOs committed mis-conduct as per rule 3(1) of KCS (Conduct) Rules, 1966, a report U/S 12(3) of the Karnataka Lokayukta Act was sent to the Competent Authority with recommendation to initiate disciplinary proceedings against the DGO-1 & 2 and to entrust enquiry to the Hon'ble Upalokayukta U/R 14-A of K.C.S. (CCA) Rules. Accordingly, the Competent Authority initiated disciplinary proceedings and entrusted the enquiry to the Hon'ble Upalokayukta. Hence, the charge."

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8. In response to due service of articles of charge, DGOs 1 and 2 have appeared before the then Additional Registrar, Enquiries-4, Karnataka Bengaluru on 25/09/2012. In the course of first oral statement of DGOs 1 and 2 recorded on 02/11/2012 they pleaded not guilty. DGOs 1 and 2 have engaged Advocate for their defence on 02/11/2012.
9. In the course of written statement of DGO 1 filed on 13/06/2013 it is contended that as laid down in the decision in Kusheshwar Dubey V/S M/s Bharat Coking Coal Limited and Others reported in AIR 1998 SC page 2118 there cannot be parallel proceedings and therefore till the conclusion of criminal trial the present inquiry needs to be stayed. It is contended that DGO 1 was not present at the spot and nothing is found that DGO 1 demanded and accepted illegal gratification and as such no prima facie case is made out against DGO 1.
10. In the course of written statement of DGO 2 filed on 13/06/2013 it is contended that as laid down in the decision in Kusheshwar Dubey V/S M/s Bharat Coking Coal Limited and Others reported in AIR 1998 SC page 2118 there cannot be parallel proceedings and therefore till the conclusion of criminal trial the present inquiry needs to be stayed. DGO 2 has denied his alleged complicity and contended that since nothing is brought out to establish that official work of the complainant was pending with DGO 2 section 7, section 13(1)(d) read with section 13(2) of The Prevention of Corruption Act, 1988 are not attracted.
11. As per Order number LOK/INQ/14-A/2014 dated 14/03/2014 of Hon'ble Upalokayukta-1, Karnataka this file has

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been transferred to Additional Registrar, Enquiries-5, Karnataka Lokayukta, Bengaluru.

12. During the pendency of this file before the then Additional Registrar, Enquiries-5, Karnataka Lokayukta, Bengaluru the disciplinary authority has examined the complainant as PW1 and shadow witness as PW2. During evidence of the complainant, attested copy of his complaint in three sheets is marked as per Ex P1, his signature found on sheet number 3 of Ex P1 is marked as per Ex P1(a), attested copy of trap mahazar dated 30/12/2010 in thirteen sheets is marked as per Ex P2, his signature found on sheet number thirteen of Ex P2 is marked as per Ex P2(a), attested copy of pre- trap mahazar dated 30/12/2010 in seven sheets is marked as per Ex P3, his signature found on sheet number 7 of Ex P3 is marked as per Ex P3(a), attested copy of statement dated 31/12/2010 in eight sheets recorded by PW4 under section 162 of The Code of Criminal Procedure, 1973 is marked as per Ex P4. During evidence of PW2 his signature found on sheet number 13 of Ex P2 is marked as per Ex P2(b), his signature found on sheet number 7 of Ex P3 is marked as per Ex P3(b), attested copy of statement in writing dated 30/12/2010 in a single sheet of DGO 2 given before PW4 is marked as per Ex P5, signature of PW2 found on Ex P5 is marked as per Ex P5(a), attested copy of statement in writing dated 30/12/2010 in a single sheet of Hanumantha given before PW4 is marked as per Ex P6, his signature found on Ex P6 is marked as per Ex P6(a).

13. As per Order number UPLOK-1/DE/2016, Bengaluru dated 03/08/2016 of Hon'ble Upalokayukta-1, Karnataka this file has been transferred to this section i.e., Additional Registrar, Enquiries-11, Karnataka Lokayukta, Bengaluru.

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14. Thereafter, the disciplinary authority has examined the panch witness as PW3 and the Investigating Officer as PW4. PW2 has been further subjected to cross examination by the Presenting Officer on 01/09/2016. During cross examination of PW2 by the Presenting Officer three attested sheets of transmitted version of the voice recorder are together marked as per Ex P7. During evidence of PW4, attested copy of FIR dated 30/12/2010 in a single sheet in crime number 69/2010 of Lokayukta Police Station, City Division, Bengaluru is marked as per Ex P8, attested copy of a single sheet dated 30/12/2010 containing numbers of currency notes is marked as per Ex P9, three attested sheets of transmitted version of the conversation between the complainant and DGOs 1 and 2 are together marked as per Ex P10, two attested sheets of transmitted version of the conversation between the complainant and DGO1 are marked as per Ex P11, two attested sheets of transmitted version of the conversation between the complainant, DGO2 and another person are marked as per Ex P12, a single attested sheet of the transmitted version of the conversation between the complainant and DGO 1 is marked as per Ex P13, two attested sheets of transmitted version of the conversation between the complainant DGO 2 are marked as per Ex P14, attested copy of a single sheet containing the transmitted version of sample voice of DGO 2 is marked as per Ex P15, a attested copy of a single sheet containing the transmitted version of sample voice of DGO 1 is marked as per Ex P16, attested copy of rough sketch in a single sheet dated 31/12/2010 of the place of trap is marked as per Ex P17, a single attested sheet of the transmitted version of the voice of the voice recorded in the voice recorder produced by Yashawanth is marked as per Ex P18, attested

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copy of statement in writing dated 30/12/2010 in two sheets of DGO 1 given before PW4 is marked as per Ex P19, attested copy of identity card dated 29/12/2008 in a single sheet of DGO 2 is marked as per Ex D20, attested copy of identity card dated 30/08/2010 in a single sheet of T. Hanumantha is marked as per Ex P21, attested copy of report dated 07/01/2011 in a single sheet of the Chemical Examiner attached to Public Health Institute, Bengaluru is marked as per Ex P22, attested copy of letter dated 06/01/2011 in a single sheet of the Sheristedar attached to Krishnarajapura, Bengaluru is marked as per Ex P23, attested copy of attendance register in a single sheet maintained in the office of Executive Officer, Anjaneyaswamy Temple, Doddabanaswadi, Bengaluru is marked as per Ex P24, attested copy of a single sheet of attendance register maintained in the office of DGO 2 is marked as per Ex P25.

15. In the course of second oral statement of DGO 2 recorded on 09/09/2019 he has stated that he would get himself examined as defence witness and that he does not intend to examine defence witness.

16. DGO 2 got himself examined as defence witness. No documents are tendered in evidence during evidence of DGO 2. Since DGO 2 got examined himself as defence witness incriminating circumstances which appeared against him in the evidence of PWs 1 to 4 are not put to him by way of questionnaire.

17. In the course of written argument of the Presenting Officer filed on 18/01/2020 she has referred to the articles of charge and evidence on record. It is sought to contend on the basis of the evidence of PWs 1 to 4 that their evidence establishes the

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charge. It is sought to contend that evidence of PWs 1 to 4 is worthy of trust. With reference to the evidence of DGO 2 it is sought to contend that DGO 2 has admitted that at the time of the alleged incident DGO 2 was working as official car driver of the then Chief Minister of Karnataka and admitted seizure of cash and helmet. It is thus sought to contend that charge against DGO 2 stands established.

18. In the course of written argument of DGO 2 filed on 27/01/2020 reference is made to the charge levelled against DGO 2. It is contended that cross examination of PW 1 shows that PW 1 admitted that several complaints were filed against him before Muzari Department in connection with programs in TV channels and notices were issued to him. It is stated that during cross examination PW 1 has admitted that he was at a distance of 8 feet from the place where Lokayukta Police staff were observing and that in that background it stands established that DGO 2 has not demanded money from the complainant. It is contended that cross examination of PW 1 points out that he has not demanded money. It is contended that during cross examination PW 2 has admitted that after he reached the office of Bruhath Bengaluru Mahanagara Palike he was at a distance of fifty meters from the place where PW 1 and DGO 2 were found talking. It is contended that cross examination of PW 2 establishes that he could not hear conversation which took place between PW 1 and DGO 2. It is contended that PW 3 turned hostile and as such his evidence is of no avail to the disciplinary authority. It is contended that evidence of PW 3 would show that he was at a distance of about hundred feet from the office of Bruhath Bengaluru Mahanagara Palike. It is contended that during cross examination PW 4 has

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admitted pendency of several complaints against PW 1 touching TV programs. It is contended that PW 4 has admitted that he has not recorded the statement of any staff of Muzari Department and that has not seized mobile hand set said to have contained conversation between PW 1 and DGO 2. It is contended that PW 4 has not complied with the requirement of section 64-B of The Indian Evidence Act, 1872. It is contended that PW 4 has admitted during cross examination that he has not recorded the statement of the then Minister Sri.V.S.Acharya and also not recorded statement of security guards and also not enquired in SLV hotel. It is contended that evidence of PWs 1 to 4 nowhere would show that official work of PW 1 was pending with DGO 2. It is contended that records would show that DGO 2 was working as driver and was not authorised to attend official work in Muzari Department. It is contended that it is not the say of the complainant that at the time of trap DGO 2 demanded illegal gratification. It is contended that there is no evidence to show that DGO 2 demanded illegal gratification from the complainant. It is contended that electronic mode of evidence is not proved with the aid of section 65-B of The Indian Evidence Act, 1872. It is contended that evidence of DGO 2 points out that when he reached near the office of Bruhath Bengaluru Mahanagara Palike along with Hanumantha the complainant forcibly kept cash in the helmet and despite resistance he was apprehended and has been falsely implicated. It is contended that statement of DGO 2 has been obtained by force and that compact discs are concocted and that sample voice of DGO 2 has not been obtained. It is contended that defence of DGO 2 is more probable. Decision in State by Lokayukta Police, Mandya v/s K.M.Gangadhar reported in 2008 (2) KCCR page 985 and the

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decision in Sardar v/s State of Karnataka reported in 2016 (4) AKR page 82 are relied upon on behalf of DGO 2.

19. In tune with the articles of charge point which arises for consideration with reference to DGO 2 is that whether DGO 2 being public servant as driver on deputation to the office of Joint Secretary, Department of Personnel and Administrative Reforms, Government of Karnataka Secretariat, Bengaluru in the year 2010, in collusion with DGO 1 who then was working as Executive Officer (First Division Assistant) attached to Anjaneyaswamy Temple, Banasawadi, Bengaluru demanded illegal gratification of Rs.3,00,000/- in four instalments of Rs.75,000/- each from the complainant for himself and on behalf of DGO 1 near the official residence of Sri. V.S.Acharya who then was the Minister in the Cabinet of the then Chief Minister of Karnataka pretending that favour will be extended to the complainant in the matter of complaint which was lodged against the complainant by some public concerning the acts of the complainant in participating programmes in television channels and thereafter, on 30/12/2010 between 4.40 P.M and 4.45 P.M DGO 2 demanded and accepted illegal gratification of Rs.35,000/- from the complainant in front of Navashakthi Temple near Central Office of Bruhath Bengaluru Mahanagara Palike, Bengaluru with assurance of extending official favour and during investigation in crime number 69/2010 of Lokayukta Police Station, City Division, Bengaluru conducted by the Police Inspector attached to Lokayukta Police Station, City Division, Bengaluru DGO 2 failed to offer satisfactory explanation for possession of tainted cash of Rs.35,000/- possessed by DGO 2 between 4.40 P.M and 4.45 P.M in front of Navashakthi Temple near Central Office of Bruhath Bengaluru Mahanagara Palike,

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Bengaluru and thereby DGO 2 is guilty of misconduct within the purview of Rule 3(1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966?

20. Evidence of the complainant that during the year 2010 he was working as Priest in Banashankari Temple which is under the control of Muzarai Department is not under challenge. During his cross examination the same is also elicited. Evidence of the complainant that DGO 2 made him to believe that DGO 2 is the official driver attached to Sri. Nandakumar who then was working as Muzarai Commissioner and also DGO 2 is attached to the official car of the then Chief Minister of Karnataka has not be assailed during his cross examination and therefore that portion of his evidence needs acceptance. In the background of the same it needs to be held that the complainant had believed the then position of DGO 2. It is in the evidence of the complainant that on a day in the month of December 2010 he received phone call from DGO 1 during which time it was communicated that he may have to face problem on account of complaint lodged against him. It is in his evidence that DGO 2 informed that in the background of the complaint against the complainant the complainant may have to run risk.

21. It is in the evidence of the complainant that he was taken by DGO 2 in the Government car to the residence of the then Minister for Muzarai where the Minister was not present. It is in his evidence that thereafter DGO 2 took him in the Government car and after reaching near Chalukya Hotel at Bengaluru DGO 2 informed that the concerned file is with the Minister and in order to resolve the issue a sum of Rs.10,00,000/- needs to be spent towards bribe. This portion of his evidence has not been assailed during his cross examination

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in its true letter and spirit. It is in the evidence of the complainant that since he has not agreed to fulfil the said demand the said quantum has been scaled down at Rs.3,00,000/- by way of instalments. This portion of his evidence has not been assailed in its true letter and spirit during cross examination. In the course of evidence DGO though has stated that the complainant was a stranger to him and that he never had spoken with the complainant through any mode evidence of the complainant lends assurance to hold that DGO 2 had contacted him. Though it is spoken to by DGO 2 during evidence that he had not taken the complainant to the residence of the then Minister Sri. V.S. Acharya evidence of the complainant to that extent is worthy of trust. It is in the evidence of the complainant that DGO 1 met him about twice or thrice and asked to get the matter cleared by paying the amount demanded. This portion of his evidence has not been assailed in its true letter and spirit during his cross examination. The complainant has spoken to that thereafter he approached Lokayukta Police and lodged complaint the attested copy of which is at Ex P1. Lodging of complaint as spoken to by him is not under challenge.

22. Evidence of PW 4 that on the basis of the complaint lodged by the complainant before him at 2:00 P.M on 30/12/2010 in Lokayukta Police Station, City Division, Bengaluru and registration of case on the basis of the said complaint in crime number 69/2010 for the offence punishable under section 7, for the offence defined under section 13(1)(d) which is punishable under section 13(2) of The Prevention of Corruption Act, 1988 is not under challenge. His evidence touching submission of FIR

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to the Court of 23<sup>rd</sup> Additional City Civil and Sessions Judge is not under challenge.

23. During examination in chief the complainant has spoken to that he placed eighteen currency notes of denomination of Rs.1,000/- each and thirty four currency notes of denomination of Rs.500/- each in Lokayukta Police Station and that after application of powder on those notes PW3 placed those tainted notes in the pocket of his underwear. He has spoken to that he was informed by Lokayukta Police staff to place those notes at the hands of DGO 2 and thereafter to convey message. He has not spoken to the minute particulars of pre-trap mahazar and therefore the Presenting Officer subjected him for cross examination after getting the complainant treated hostile. When subjected to cross examination by the Presenting Officer the complainant admits the proceedings of pre-trap mahazar. It is in his evidence that shadow witness and panch witness are secured and that voice recorder was handed over to Yashawantha to record the conversation between him and DGO 2.

24. In the course of evidence PWs 2 and 3 have spoken to touching the proceedings of pre-trap mahazar. Evidence of PWs 2 and 3 that they appeared before PW4 in Lokayukta Police Station, City Division, Bengaluru on the day of trap is not under challenge. It is in the evidence of PWs 2 and 3 that they were informed about the alleged demand for illegal gratification. It is in the evidence of PWs 2 and 3 that the complainant placed cash of Rs.35,000/- which consisted of eighteen currency notes of denomination of Rs.1000/- each and thirty four currency notes of denomination of Rs.500/- each in Lokayukta Police Station, City Division, Bengaluru. PWs 2 and 3 have spoken to

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touching application of phenolphthalein powder on those currency notes and keeping of tainted cash in the pocket of the underwear of the complainant. They have thus categorically spoken to touching the proceedings of pre-trap mahazar. Evidence of PWs 2 and 3 touching the proceedings of pre-trap mahazar is not under challenge.

25. During evidence PW4 has spoken to that the complainant placed total cash of Rs.35,000/- before him in Lokayukta Police Station, City Division, Bengaluru soon after registration of case in crime number 69/2010 of Lokayukta Police Station, City Division, Bengaluru. His evidence would show that he secured PWs 2 and 3 and asked them to assist during investigation. It is in his evidence that he got applied phenolphthalein powder on the above notes and that he got entered numbers of the above currency notes on a sheet of paper the attested copy of which is at Ex P9. He has spoken to that PW3 placed the tainted cash in the pocket of underwear of the complainant. It is in his evidence that he got prepared solution with water and sodium carbonate powder. It is in his evidence that PW2 immersed fingers of hands in the solution which turned to pink colour and that he seized the said finger wash and sample of the solution. It is in his evidence that the complainant placed the voice recorder and thereafter he got transmitted the contents of the same to a compact disc and also got transmitted those contents to sheet of papers and also spoken to that Yashwantha produced a compact disc and that he also got transmitted the contents of the same to sheet of papers. He has spoken to touching Exs P10 to P16 which are the attested copies of transmitted sheets. It is in his evidence that he instructed the complainant to give tainted cash to DGO 2 and to convey

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message in case of acceptance of tainted cash by DGO 2. It is in his evidence that he handed over button camera to Yashawantha with instructions to keep the same live at the time of approaching DGO 2. He has thus spoken to the proceedings of pre-trap mahazar the attested copy of which is at Ex P3. His evidence touching the proceedings of pre-trap mahazar has remained unchallenged and therefore on the strength of his evidence coupled with the evidence of PWs 1 to 3 I have no hesitation whatsoever to hold that pre-trap mahazar has been conducted as primitive step of investigation. Evidence of PW4 that during the proceedings of pre-trap mahazar DGO 2 contacted the complainant over mobile phone and instructed to arrive at near the temple which is near Central Officer of Bruhath Bengaluru Mahanagara Palike, Bengaluru has not been seriously assailed during his cross examination.

26. It is spoken to by the complainant during evidence that he was told by DGO 2 to meet near Ganapathi Temple and Navashakthi Temple near the office of City Corporation, Bengaluru earlier to the day of trap. This portion of his evidence has not been assailed in his true letter and spirit during his cross examination.

27. Evidence of the complainant that subsequent to pre-trap mahazar he along with Yashawantha reached near Ganapathi temple which is near the office of City Corporation, Bengaluru and arrival of Lokayukta Police staff to that place is not under serious challenge. It is in the evidence of the complainant that at about 4.30 P.M DGO 2 and friend of DGO 2 arrived at there. It can be gathered from his evidence that he has referred to Hanumantha who is the friend of DGO 2. Arrival of DGO 2 and

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Hanumantha to the said place has not been assailed in its true letter and spirit during cross examination of the complainant.

28. In the course of evidence the complainant has stated that after the arrival of DGO 2 and Hanumantha at about 4.30 P.M near Ganapathi Temple he lifted tainted cash of Rs.35,000/- from the pocket of his underwear and gave the same to DGO 2. Suggestion made to him during his cross examination suggesting that DGO2 never demanded cash has been denied by him. Suggestion made to him suggesting that he himself paid amount to DGO 2 and managed to implicate DGO 2 has been denied by him. Suggestion made to the complainant during cross examination suggesting that even though DGO 2 had informed that DGO 2 will not take up any efforts for closing of complaint but after securing DGO 2 cash is paid voluntarily has been denied by him. Further suggestion made to the complainant suggesting that even though DGO 2 refused to receive cash he forcibly paid the amount to DGO 2 has been denied by him. In order to appreciate the said defence as formulated with the aid of the above suggestions evidence of DGO 2 needs to be appreciated. It is in the evidence of DGO 2 that on a day some persons summoned him to arrive at near the office of Bruhath Bengaluru Mahanagara Palike, Bengaluru and therefore he along with his friend proceeded and reached near the office of Bruthath Bengaluru mahanagara Palike, Bengaluru. At this juncture it needs to be remembered that any person of ordinary prudence will not oblige the call of any unknown person. Keeping this in mind it needs to be expressed that in response to the call of the complainant DGO 2 along with Hanumantha met the complainant near the temple which is near the Central office of Bruhath Bengaluru Mahanagara

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Palike, Bengaluru. It is spoken to by DGO 2 during evidence that after reaching the above place a priest forcibly placed cash inside the left side front pocket and thereafter he lifted the said cash and handed over to his friend Hanumantha. It is worthy to make mention that according to DGO 2, as could be seen from his evidence the complainant is not known to him. When such being his defence the manner in which he could identify the complainant as Priest would show that his evidence that the complainant is stranger to him cannot be believed. It is the evidence of DGO 2 that after forcibly placing the cash into his left side front pocket of pant he handed over the same to the driver by name Hanumantha. It needs to be expressed at this juncture that if really currency notes are forcibly placed in the left side front pocket of pant, naturally DGO 2 would have either strongly retorted or thrown out the cash. Handing over of cash by DGO 2 to Hanumantha as spoken to by DGO 2 during his evidence unerringly establishes that only with the intention of enriching himself by resorting to unlawful ways DGO 2 had brought Hanumantha near the temple. Therefore, defence of DGO 2 that the complainant was stranger to him and that cash was forcibly placed into the left side pocket of pant is nothing but an attempt to resort to lame excuse.

29. Evidence of the complainant that he offered communication is not under challenge. Evidence of PW4 that on the day of trap he along with his staff, complainant, shadow witness and panch witness proceeded from Lokayukta Police Station and reached near the premises of Central Office of Bruhath Bengaluru Mahanagara Palike at 4.30 P.M is not under challenge. His evidence that afterwards DGO 2 and Hanumantha arrived at there on a motorcycle and that the

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complainant, shadow witness and Yashawantha were near the temple at that time is not under challenge. His evidence that he noticed the complainant and DGO 2 talking with each other has not been specifically assailed during his cross examination and therefore it stands established that DGO 2 had talks with the complainant and as such inference can be drawn that the said talk was in connection with illegal gratification. During cross examination PW4 has stated that he was at a distance of about ten meters from the place where the complainant and DGO 2 were found talking to each other. Since PW4 has not stated anything about the conversation between the complainant and DGO 2 his evidence that he was at a distance of about ten meters will not lend support to the defence. It is elicited during cross examination of PW4 that Hunumantha was with the complainant and DGO 2 at the time of conversation between the complainant and DGO 2.

30. Evidence of the complainant that subsequent to communication DGO2 was apprehended by Lokayukta Police staff is not under challenge. Evidence of PW4 that after the communication by the complainant he along with his staff, PWs 2 and 3 proceeded to the place where the complainant, DGO 2 and Hanumantha were found is not under challenge. It is in the evidence of the complainant that DGO 2 delivered cash to Hanumantha who thereafter placed the cash in the helmet. Handing over of tainted cash to Hanumanth by DGO 2 is spoken to by DGO 2 during his evidence as already referred to above.

31. It is in the evidence of PW2 that subsequent to pre-trap proceedings he along with others reached near the office of Bruhath Bengaluru Mahanagara Palike, Bengaluru. This portion of his evidence is not under challenge. Though it is in

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his cross examination that he could not hear the conversation between the complainant and DGO 2 that portion of this answer will not lend assurance for the reason that he had not accompanied the complainant to the place where DGO 2 and Hanumantha arrived at. Evidence of PW3 that he reached near the temple at about 4.30 P.M subsequent to pre-trap mahazar is not under challenge. His evidence that the complainant was found near the temple and that DGO 2 contacted the complainant over phone is not under challenge. Though it is in his evidence that nobody was with the complainant the said portion of his evidence would not assume importance in the background of the fact that according to DGO 2 he handed over cash to Hanumantha. Evidence of PW3 that DGO 2 along with a person arrived at near the temple on a scooter is not under challenge. It needs to be gathered that the person who arrived at on the scooter is none other than Hanumantha. Evidence of PW3 that he noticed cash of Rs.35,000/- in the helmet which was possessed by the person who arrived at that place on the scooter is not under challenge. Though it is brought out during cross examination of PW3 that he does not know the manner in which cash was found in the helmet ignorance of the same as spoken to by PW3 is of no assistance to the defence for the reason that evidence of DGO 2 would show that he handed over cash to Hanumantha.

32. It is in the evidence of PW4 that he got prepared solution with water and sodium carbonate powder in two containers and after obtaining sample of the said solution he got immersed fingers of right hand of DGO 2 in the residual solution placed in a container and got immersed fingers of left hand of DGO 2 in

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the residual solution placed in another container. PW4 has spoken to that on being questioned by him about tainted cash DGO 2 responded that he handed over cash to Hanumantha after keeping the same in the helmet. This portion of his evidence has not been assailed in its true letter and spirit during his cross examination. In the course of evidence PW4 has spoken to that PW2 lifted cash from the helmet. Though PW2 has not specifically stated during evidence that he lifted tainted cash and placed before PW4 evidence of PWs 1,3 and 4 would establish seizure of tainted cash.

33. During evidence PW4 has spoken to that after production of tainted cash he seized tainted cash. He has spoken to that afterwards, he got prepared solution with water and sodium carbonate powder in two containers and got immersed fingers of right hand of Hanumantha in the solution placed in a container and got immersed fingers of left hand of Hanumantha in the solution placed in another container. Process of finger wash of hands of DGO 2 and also hands of Hanumantha as spoken to by PW4 is not under challenge. Process of wash of fingers of hands of DGO 2 and also wash of fingers of hands of Hanumantha is equally spoken to by PWs 1 to 3. Evidence of PWs 1 to 4 would show that finger wash of both hands of DGO 2 turned to pink colour and that finger wash of right hand of Hanumantha turned to pink colour and that finger wash of left hand of Hanumantha has not turned to any colour. Evidence of PWs 1 to 4 touching change of colour of finger wash of both hands of DGO 2 and change of colour of finger wash of right hand of Hanumantha is not under serious challenge. It needs to be expressed that in the presence evidence of DGO 2 that he handed over cash to Hanumantha the disciplinary authority

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need not establish change of colour of finger wash of both hands of DGO 2 and also change of colour of finger wash of right hand of Hanumantha. Be that as it may, evidence of PWs 1 to 4 establishes change of colour of finger wash of both hands of DGO 2 and also change of colour of finger wash of right hand of Hanumantha.

34. It is brought out during cross examination of the complainant that at the time of payment of cash to DGO 2 Yashawantha and Hanumantha were present. This portion of his answer during his cross examination instead of lending assurance to the defence supports the alleged complicity of DGO 2. It is brought out during cross examination of the complainant that amount has been recovered from the possession of Hanumantha. It is also elicited during cross examination of the complainant that on the day of trap he informed DGO 2 to arrive at near the temple situated in the premises of the office of Bruhath Bengaluru Mahanagara Palike, Bengaluru. Suggestion made to the complainant during his cross examination suggesting that DGO 1 and 2 have not demanded illegal gratification has been denied by him. Suggestion made to the complainant during his cross examination suggesting that there were many complaints pending against him in Muzarai Department and that in order to prevent further action on those complaints he has falsely implicated DGOs 1 and 2 has been denied by him. The said tenor of suggestion instead of lending support to DGO 2 leads to draw inference that since DGOs 1 and 2 made the complainant to believe that complaint is pending in the Department Muzarai the complainant must have thought of getting rid of the complaints must have developed mind to seek

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help from DGOs 1 and 2. Upon appreciation of entire cross examination of the complainant I find nothing worthy to disbelieve the evidence of the complainant and therefore it needs to be expressed that initially DGO 1 made the complainant to believe that complaint is pending against the complainant in Muzarai Department and attempted to extract money from the complainant. Evidence of the complainant establishes that DGO 2 joined hands with DGO 1 and on the instructions of DGO 1, DGO 2 demanded and accepted illegal gratification of Rs.35,000/- from the complainant on the day of trap as alleged in the articles of charge.

35. Evidence of PW4 that he caused arrest of DGO 1 from the residence of DGO 1 and brought DGO 1 to Lokayukta Police Station, City Division, Bengaluru is not under challenge. PW4 has spoken to Exs P7, P10, P11, P12, P13, P14 and P15. Though it is brought out during cross examination of PW4 that he has not complied with the mandate of section 65 B of The Indian Evidence Act, 1872 it needs to be expressed that in the proceedings of this nature strict rules of The Indian Evidence Act need not be followed and therefore contents of Exs P7, P10 to P15 can be very well pressed into service which lends assurance to the evidence of the complainant. Even for a while if it is taken into consideration that Exs P7, P10 to P15 are of no assistance to support the alleged misconduct it needs to be expressed that primary evidence as already discussed above is overwhelming and therefore even in the absence of Exs P7, P10 to P15 evidence of the complainant and equally the defence put forward by DGO 2 during evidence as already discussed earlier unerringly establishes that DGO 2 attempted to extract

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illegal gratification by pretending that his words will prevail to safeguard the complainant.

36. PW4 has spoken to during evidence touching further investigation and submission of charge sheet against DGOs 1 and 2 in the jurisdictional 23<sup>rd</sup> Additional City Civil and Sessions Judge, Bengaluru. Though it is brought out during cross examination of PW4 that reference is made in the charge sheet filed before the Court about petitions filed against the complainant to Muzarai Department and Deputy Commissioner touching the participation of the complainant in television programmes the said answer of PW4 instead of lending assurance to the defence lends assurance to hold that DGO 2 attempted to encash the said situation by demanding illegal gratification with assurance to safeguard the interest of the complainant.

37. Ex P5 is the attested copy of statement of DGO 2 given before PW4 on the day of trap. Ex P6 is the attested copy of statement of Hanumantha given before PW4 on the day of trap. PW2 has spoken to during evidence touching Exs P5 and P6. Exs P5 and P6 are not assailed during cross examination of PW2. PW4 equally has spoken to Exs P5 and P6 during his evidence. Though it is brought out during cross examination of PW4 that DGO 2 has given statement before him that the Priest secured DGO 2 by contacting over phone and implicated DGO 2 it is worthy to mention at this juncture that nothing is elicited during cross examination of PW4 that the said statement given before him by DGO 2 is true and correct. Therefore, It cannot be believed that such a statement of DGO 2 has unearthed the defence. During evidence DGO 2 has stated that contents of Ex P5 are to the dictation of Lokayukta

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Police staff. Nothing worthy is elicited during cross examination of PW4 touching the said evidence of DGO 2 that contents of Ex P5 are to the dictation of Lokayukta Police staff and therefore the said portion of evidence of DGO 2 cannot be accepted. Nothing worthy is found in the evidence of PW4 to hold that original of Ex P5 is the outcome of force, promise or coercion. It is found in Ex P5 that few days ago one Raju who is working as driver in Muzarai Department filed anonymous petition against the complainant which is brought into the notice of DGO 1 and thereafter DGO 1 asked DGO 2 to destroy the anonymous petition accepting cash from the complainant. It is found further stated in Ex P5 that on a day DGO 1 contacted and enquired about the anonymous petition and asked to destroy the same and therefore he destroyed the same. It is further found mentioned in Ex P5 that on 30/12/2010 the complainant contacted DGO 2 over phone and asked to meet near the office of Bruhath Bengaluru Mahanagara Palike, Bengaluru and thereafter placed cash in the helmet and implicated DGO 2. Ex P6 which is the attested copy of statement of Hanumantha would show that DGO 2 placed the helmet containing cash at his hands. Ex P5 and P6 when appreciated would not lend assurance to the defence of DGO 2.

38. Suggestions made to DGO 2 during his cross examination suggesting the incriminating circumstances though are denied by DGO 2 he has admitted finger wash of hands and seizure of cash including the helmet.

39. Much is attempted to be canvassed on behalf of DGO 2 that official work of the complainant was not pending with DGO 2 and therefore charge levelled against DGO 2 cannot sustain. It needs to be expressed that evidence as discussed above

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particularly the evidence of the complainant establishes that DGO 2 made the complainant to believe that petitions are pending against the complainant and therefore DGO 2 will see that relief is moulded and with that assurance DGO 2 in collusion with DGO 1 attempted extract cash from the complainant. What kind of act of any Government Servant attracts misconduct though is not specified, Rule 3(1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 conveys affirmative meaning that any act of any Government Servant which is unbecoming of Government Servant amounts to the act of misconduct. Therefore, attempt of DGO 2 to extract cash from the complainant making the complainant to believe that petition against the complainant is pending in Muzarai Department amounts to the act of misconduct.

40. In the presence of overwhelming evidence against DGO 2 I am not persuaded to accept the defence set out in the course of written statement of DGO 2 and equally I am not persuaded to accept the contentions put forward in the course of written argument of DGO 2. Law laid down in the decisions relied upon on behalf of DGO 2 are touching the offences punishable under section 7 and 13(2) of The Prevention of Corruption Act, 1988. Law is not laid down in the above decisions as to what kind of act of public servant amounts to misconduct.

41. To sum up, evidence on record placed by the disciplinary authority establishes that DGOs 1 and 2 colluded together and made the complainant to believe that anonymous petition is pending against the complainant and in order to extend favour DGOs 1 and 2 hatched conspiracy and in furtherance of the said conspiracy DGO 2 demanded and accepted illegal gratification of Rs.35,000/- from the complainant on the day of

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trap. Evidence of DGO 2 establishes that he accepted tainted cash of Rs.35,000/- from the complainant knowing fully well that such an act is unbecoming of a Government Servant and after accepting the said tainted cash handed over the same to Hanumantha keeping the tainted cash inside the helmet. It stands established that during investigation conducted by PW4 DGP 2 failed to offer satisfactory explanation for possession of tainted cash soon after trap. Failure to offer satisfactory explanation for possession of tainted cash amounts to misconduct and being of this view I proceed with the following:

#### R E P O R T

Charge against DGO 2 by name Sri. A. Sundar Raj that DGO 2 being public servant as driver on deputation to the office of Joint Secretary, Department of Personnel and Administrative Reforms, Government of Karnataka Secretariat, Bengaluru in the year 2010, in collusion with DGO 1 who then was working as Executive Officer (First Division Assistant) attached to Anjaneyaswamy Temple, Banasawadi, Bengaluru demanded illegal gratification of Rs.3,00,000/- in four instalments of Rs.75,000/- each from the complainant for himself and on behalf of DGO 1 near the official residence of Sri. V.S.Acharya who then was the Minister in the Cabinet of the then Chief Minister of Karnataka pretending that favour will be extended to the complainant in the matter of complaint which was lodged against the complainant by some public concerning the acts of the complainant in participating programmes in television channels and thereafter, on 30/12/2010 between 4.40 P.M and 4.45 P.M DGO 2 demanded and accepted illegal gratification of Rs.35,000/- from the complainant in front of Navashakthi Temple near Central Office

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of Bruhath Bengaluru Mahanagara Palike, Bengaluru with assurance of extending official favour and during investigation in crime number 69/2010 of Lokayukta Police Station, City Division, Bengaluru conducted by the Police Inspector attached to Lokayukta Police Station, City Division, Bengaluru DGO 2 failed to offer satisfactory explanation for possession of tainted cash of Rs.35,000/- possessed by DGO 2 between 4.40 P.M and 4.45 P.M in front of Navashakthi Temple near Central Office of Bruhath Bengaluru Mahanagara Palike, Bengaluru and thereby DGO 2 is guilty of misconduct within the purview of Rule 3(1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 is proved.

Since DGO 1 died on 27/10/2017 proceedings against DGO 1 shall stand abated.

DGO 2 is due for retirement on superannuation on 31/03/2024.

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

  
(V.G. BOPAI AH)

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

#### ANNEXURES

List of witnesses examined on behalf of the Disciplinary Authority:-

PW1:-	Sri. M.H.Anandkumar.
PW2:-	Sri. P.L.Sunil.
PW3:-	Sri. R.Siddagangppa.
PW4:-	Sri. N.G.Shivashankar.

List of witnesses examined on behalf DGO 2:-


DW1:- Sri. A.Sundar Raj (DGO 2).

List of documents marked on behalf of Disciplinary Authority:-

1. Ex P1 Attested copy of the complaint in three sheets.  
Ex P1(a) Signature of PW1 found on sheet number 3 of Ex P1.
2. Ex P2 Attested copy of trap mahazar dated 30/12/2010 in thirteen sheets.  
Ex P2(a) Signature of PW1 found on sheet number thirteen of Ex P2.  
Ex P2(b) Signature found on sheet number 13 of Ex P2.
3. Ex P3 Attested copy of pre-trap mahazar dated 30/12/2010 in seven sheets.  
Ex P3(a) Signature of PW1 found on sheet number 7 of Ex P3.  
Ex P3(b) Signature found on sheet number 7 of Ex P3.
4. Ex P4 Attested copy of statement dated 31/12/2010 in eight sheets recorded by PW4 under section 162 of The Code of Criminal Procedure, 1973.
5. Ex P5 Attested copy of statement in writing dated 30/12/2010 in a single sheet of DGO 2 given before PW4.  
Ex P5(a) Signature of PW2 found on Ex P5.
6. Ex P6 Attested copy of statement in writing dated 30/12/2010 in a single sheet of Hanumantha given before PW4.  
Ex P6(a) Signature of Hanumantha found on Ex P6.
7. Ex P7 Three attested sheets of transmitted version of the voice recorder are together.

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8. Ex P8 Attested copy of FIR dated 30/12/2010 in a single sheet in crime number 69/2010 of Lokayukta Police Station, City Division, Bengaluru.
9. Ex P 9 Attested copy of a single sheet dated 30/12/2010 containing numbers of currency notes.
- 10 Ex P 10 Three attested sheets of transmitted version of the conversation between the complainant and DGOs 1 and 2.
- 11 Ex P 11 Two attested sheets of transmitted version of the conversation between the complainant and DGO1.
- 12 Ex P 12 Two attested sheets of transmitted version of the conversation between the complainant, DGO2 and another person.
- 13 Ex P 13 A single attested sheet of the transmitted version of the conversation between the complainant and DGO 1.
- 14 Ex P 14 Two attested sheets of transmitted version of the conversation between the complainant DGO 2.
- 15 Ex P 15 Attested copy of a single sheet containing the transmitted version of sample voice of DGO 2.
- 16 Ex P 16 Attested copy of a single sheet containing the transmitted version of sample voice of DGO 1.
- 17 Ex P 17 Attested copy of rough sketch in a single sheet dated 31/12/2010 of the place of trap.
- 18 Ex P 18 A single attested sheet of the

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transmitted version of the voice recorded in the voice recorder returned by Yashawanth to PW 4.

- 19 Ex P 19 Attested copy of statement in writing dated 30/12/2010 in two sheets of DGO 1 given before PW4.
- 20 Ex P 20 Attested copy of identity card dated 29/12/2008 in a single sheet of DGO 2.
- 21 Ex P 21 Attested copy of identity card dated 30/08/2010 in a single sheet of T. Hanumantha.
- 22 Ex P 22 Attested copy of report dated 07/01/2011 in a single sheet of the Chemical Examiner attached to Public Health Institute, Bengaluru.
- 23 Ex P 23 Attested copy of letter dated 06/01/2011 in a single sheet of the Sheristedar attached to Krishnarajapura, Bengaluru.
- 24 Ex P 24 Attested copy of attendance register in a single sheet maintained in the office of Executive Officer, Anjaneyaswamy Temple, Doddabanaswadi, Bengaluru.
- 25 Ex P 25 Attested copy of a single sheet of attendance register maintained in the office of DGO 2.

List of documents marked on behalf of DGO 2: - Nil.

  
(V.G. BOPAI AH)

Additional Registrar, Enquiries-11,  
Karnataka Lokayukta, Bengaluru

**GOVERNMENT OF KARNATAKA**



**KARNATAKA LOKAYUKTA**

No. LOK/INQ/14-A/458/2011/ARE-11

Multi Storied Building,  
Dr. B.R. Ambedkar Veedhi,

Bengaluru-560 001

Date: **03/02/2020**

**RECOMMENDATION**

Sub:- Departmental inquiry against;

- (1) Sri Y. Muniyappa, First Division Assistant, then working as Executive Officer at Sri Anjaneyaswamy Temple, Banasawadi, Bengaluru;
- (2) Sri A. Sundar Raj, Driver, Karnataka State Silk Research and Development Institute, Bengaluru (then working on deputation as Driver in the office of the Joint Secretary, Department of Personnel and Administrative Reforms, Karnataka Govt. Secretariat, Bengaluru) – Reg.

- Ref:- 1) Government Order No. ಕಂಇ 149 ಮುಸೇವಿ 2011 Bengaluru dated 04/11/2011 entrusting departmental inquiry against Sri Y.Muniyappa.
- 2) Order No. ಕರಾರೇಸಂಅಸಂ/ಸಿಬ್ಬಂದಿ-2/ವೈಕ/ಎಎಸ್/09/2010-11 dated 26/11/2011 of the Director, Karnataka State Sericulture Research and Development Institute, Thalaghattapura, Bengaluru entrusting departmental inquiry against Sri A.Sundar Raj.
- 3) Nomination order No.LOK/INQ/14-A/458/2011, Bengaluru dated 13/12/2011 of Upalokayukta-1, State of Karnataka, Bengaluru
- 4) Inquiry Report dated 31/01/2020 of Additional Registrar of Enquiries-11, Karnataka Lokayukta, Bengaluru

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The Government by its Order dated 4/11/2011, initiated the disciplinary proceedings against Sri Y. Muniyappa, First Division Assistant, then working as Executive Officer at Sri Anjaneyaswamy Temple, Banasawadi, Bengaluru (hereinafter referred to as Delinquent Government Official-1, for short as DGO-1) and entrusted the Departmental Inquiry to this Institution.

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2. The Director, Karnataka State Sericulture Research & Development Institute, Thalaghattapura, Bengaluru by Order dated 26/11/2011, initiated departmental inquiry against Sri A. Sunder Raj, Driver, Karnataka State Sericulture Research & Development Institute, Bengaluru, (then working as Driver in the office of the Joint Secretary, Department of Personnel and Administrative Reforms, Karnataka Govt. Secretariat, Bengaluru) (hereinafter referred to as Delinquent Government Official-2, for short as DGO-2) and entrusted the Departmental Inquiry to this Institution.

3. This Institution by Nomination Order No.LOK/INQ/14-A/458/2011, Bengaluru dated 13/12/2011 nominated Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGOs 1 and 2 for the alleged charge of misconduct, said to have been committed by him. Subsequently, by 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 DGOs 1 & 2. Again, by Order No. UPLOK-1/DE/2016 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.

4. The DGO-1 Sri Y. Muniyappa, First Division Assistant, then working as Executive Officer at Sri Anjaneyaswamy Temple, Banasawadi, Bengaluru and DGO-2 Sri A. Sunder Raj, Driver, Karnataka State Sericulture Research & Development Institute,



Bengaluru, (then working as Driver in the office of the Joint Secretary, Department of Personnel and Administrative Reforms, Karnataka Govt. Secretariat, Bengaluru) were tried for the following charge:-

“That, you DGO-1 Sri Y. Muniyappa and you DGO-2 Sri A. Sundar Raj, while working as Executive Officer (FDA) at Sri Anjaneyaswamy Temple of Banasawadi in Bangalore and Driver in the office of the Joint Secretary to Hon’ble Chief Minister’s Section respectively, met the Complainant namely Sri M.H. Anandakumar S/o. Late Hanumatharao, the Assistant Priest of Banashankari Temple in Bangalore and demanded bribe of Rs.3 Lakhs in 4 instalments @ Rs.75,000/- for closing the complaint said to have been given by 4 – 5 ladies against the Complainant; and on 30/12/2010 you DGO-2 received bribe amount of Rs.35,000/- for yourself and on behalf of you DGO-1 from the Complainant in the premises of B.B.M.P offices failing to maintain absolute integrity and devotion to duty, the act of which was unbecoming of a Government Servant, and thereby committed misconduct as enumerated U/R. 3(1)(i) to (iii) of the Karnataka Civil Services (Conduct) Rules, 1966.”


5. The DGO-1 Sri Y.Muniyappa, died on 27/10/2017 (during the pendency of inquiry). Hence, the Inquiry officer has recorded the abatement of disciplinary proceedings against DGO-1 Sri Y. Muniyappa, First Division Assistant, then working as Executive Officer at Sri Anjaneyaswamy Temple, Banasawadi, Bengaluru.

6. The Inquiry Officer (Additional Registrar of Enquiries-11) on proper appreciation of oral and documentary evidence has held

that the charge against DGO-2 by name Sri A. Sundar Raj that DGO-2 being public servant as driver on deputation to the office of Joint Secretary, Department of Personnel and Administrative Reforms, Government of Karnataka Secretariat, Bengaluru in the year 2010, in collusion with DGO 1 who then was working as Executive officer (First Division Assistant) attached to Anjaneyaswamy Temple, Banasawadi, Bengaluru demanded illegal gratification of Rs.3,00,000/- in four instalments of Rs.75,000/- each from the Complainant for himself and on behalf of DGO-1 near the official residence of Sri V.A. Acharya who then was the Minister in the Cabinet of the then Chief Minister of Karnataka pretending that favour will be extended to the Complainant in the matter of complaint which was lodged against the Complainant by some public concerning the acts of the Complainant in participating programmes in television channels and thereafter, on 30/12/2010 between 4.40 P.M. and 4.45 P.M., DGO 2 demanded and accepted illegal gratification of Rs.35,000/- from the Complainant in front of Navashakthi temple near Central Office of Bruhath Bengaluru Mahanagara Palike, Bengaluru with assurance of extending official favour and during investigation in crime number 69/2010 of Lokayukta Police Station, City Division, Bengaluru conducted by the Police Inspector attached to Lokayukta Police Station, City Division, Bengaluru DGO 2 failed to offer satisfactory explanation for possession of tainted cash of Rs.35,000/- possessed by DGO-2 between 4.40 P.M. and 4.45 P.M in front of Navashakthi Temple near Central Office of Bruhath Bengaluru Mahanagara Palike, Bengaluru and thereby DGO 2 is guilty of misconduct within the purview of Rule 3(1)(i) to (iii) of the Karnataka Civil Services (Conduct) rules, 1966 is proved.

7. 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.
8. As per the First Oral Statement submitted by DGO-2, he is due to retire from service on 31/3/2024.
9. It is recommended to accept the report of inquiry officer and to record the abatement of disciplinary proceedings against DGO-1 Sri Y. Muniyappa, then working as Executive Officer (First Division Assistant) at Sri Anjaneyaswamy Temple, Banasawadi, Bengaluru.
10. Having regard to the nature of charge (demand and acceptance of bribe) proved against DGO - 2 Sri A. Sundar Raj, it is hereby recommended to the Government for imposing penalty of compulsory retirement from service on DGO-2 Sri A. Sundar Raj, Driver, Karnataka State Silk Research and Development Corporation, Bengaluru (then working as Driver in the office of the Joint Secretary, Department of Personnel and Administrative Reforms, Karnataka Govt. Secretariat, Bengaluru) and also for withholding 50% of the pensionary benefits payable to DGO-2 Sri A. Sundar Raj.
11. Action taken in the matter shall be intimated to this Authority.

Connected records are enclosed herewith.

  
**(JUSTICE N. ANANDA)**  
Upalokayukta-1,  
State of Karnataka,  
Bengaluru

