



KARNATAKA LOKAYUKTA

No.UPLOK-1/DE/470/2018/ARE-8

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001.
Dated 30.11.2022.

RECOMMENDATION

Sub:- Departmental inquiry against Sri A.B.Upadhya, the then Junior Engineer, Krishna Bhagya Jala Nigama Limited, ALBC Sub-division No.1, Seethimani Camp, Alamatti- reg.

Ref:- 1) Government Order No.PWD 35 SEV 2018 dated 28.09.2018.

2) Nomination order No. UPLOK-1/DE/470/2018 dated 10.10.2018 of Hon'ble Upalokayukta, State of Karnataka.

3) Inquiry report dated 25.11.2022 of Additional Registrar of Enquiries-8, Karnataka Lokayukta, Bengaluru.

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The Government by its orders dated 28.09.2018 initiated the disciplinary proceedings against Sri A.B.Upadhya, the then Junior Engineer, Krishna Bhagya Jala Nigama Limited, ALBC Sub-division No.1, Seethimani Camp, Alamatti, [hereinafter referred to as Delinquent Government Official, for short as '

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DGO ' ] and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No. UPLOK-1/DE/470/2018 dated 10.10.2018 nominated Additional Registrar of Enquiries-8, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct departmental inquiry against DGO for the alleged charge of misconduct said to have been committed by him.

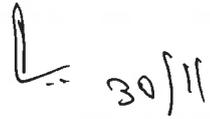
3. The DGO was tried for the charge of committing several irregularities in road improvement works and thereby committing misconduct.

4. The Inquiry Officer (Additional Registrar of Enquiries- 8) on proper appreciation of oral and documentary evidence has held that, the Disciplinary Authority has '*not proved*' the above charge against the DGO Sri A.B.Upadhya, the then Junior Engineer, Krishna Bhagya Jala Nigama Limited, ALBC Sub-division No.1, Seethimani Camp, Alamatti.

5. On perusal of the entire materials on record, I do not find any reason to deviate from the opinion expressed by the Inquiry Officer. Hence, it is hereby recommended to the Government to accept the report of Inquiry Officer and exonerate the DGO Sri A.B.Upadhya, the then Junior Engineer, Krishna Bhagya Jala Nigama Limited, ALBC Sub-division No.1, Seethimani Camp, Alamatti, of the charges leveled against him.

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

Connected records are enclosed herewith.

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



**KARNATAKA LOKAYUKTA**

No: Uplok-1/DE/470/2018/ARE-8

M.S.Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru - 560 001.  
Dated: 25/11/2022

**ENQUIRY REPORT**

**Present :** Rajashekar.V.Patil  
Addl. Registrar of Enquiries-8,  
Karnataka Lokayukta,  
Bengaluru.

**Sub:-**The departmental enquiry against Sri. A.B. Upadhya, the then Junior Engineer, Krishna Bhagya Jala Nigam Limited, ALBC Sub-Division No.1, Seethimani Camp, Almatti (presently working at PWD Sub-Division, Muddebihal, Vijayapura District - reg.

**Ref:-** 1) Report U/Sec 12(3) of the Karnataka Lokayuktha Act, 1984, in Complt/Uplok/BGM/131/2009/ARE-5, dtd.18/01/2018.  
2) Government Order No. ಲೋಇ/35/ಸೇಇವಿ/2018, ಬೆಂಗಳೂರು, dtd.28/09/2018.  
3) Nomination Order No.UPLOK-1/DE-470/2018, Bangalore, dtd.10/10/2018.

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Present Departmental Enquiry is initiated on the basis of the complaint lodged by Sri. Sangamesha Tukarama Nayaka R/o Nebageri, Muddebihal Taluk,

*Rajashakar V. Patil*  
25/11/2022

Bijapura District, (herein after referred as 'Complainant') against Sri. A.B. Upadhyya, the then Junior Engineer, Krishna Bhagya Jala Nigam Limited, ALBC Sub-Division No.1, Seethimani Camp, Almatti (presenting working at PWD Sub-Division, Muddebihal, Vijayapura District, (herein after referred to as the Delinquent Government Official in short 'DGO').

2. Brief allegations made in the complaint are that:

Complainant Sri. Sangamesha Tukarama Nayaka R/o Nebageri, Muddebihal Taluk, Bijapura District, has lodged a complaint alleging that DGO while working as Junior Engineer at PWD Sub-Division, Muddebihal, Vijayapura, executed the road improvement works from Alur to Nallathwad road at 0.00 km to 4.30 km without using the required quantity of metals. The actual weight of Grade-II and III metals was only 38-43 kgs as against 64.77 kgs. The quantity of metal used was less by 40.67% and thereby excess amount of Rs.9,71,406/- was paid for the work. In the course of preliminary enquiry I.O. report was called for like A.E. III -G. Ramesh, and another report of I.O., R.D. Kattimani, E.E. and after assessing their report three more DGOs were impleaded as respondents in the proceedings and their comments were called for respondent No.1 to 3 and respondent No.1 and 2 were dead. Only respondent No.3 filed his comments and after assessing the

  
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comments and the I.O. report Departmental Inquiry was recommended to be initiated only against respondent No.3 present DGO A.V. Upadyaya.

**3.** An investigation was undertaken by invoking Section 7 (2) of the Karnataka Lokayuktha Act, DGO submitted his comments. Based on the allegations of the complaint and preliminary notes, Hon'ble Upa-Lokayktha had sent the report U/Sec. 12(3) of Karnataka Lokayuktha Act on 18/01/2018 as per Ref. No.1-Complt/Uplok/BGM/131/2009/ARE-5, Dtd.18/01/2018.

**4.** The Competent Authority/State Government after verifying the materials accorded permission and entrusted the enquiry by issuing notification as per Ref.No.2 Government Order No. ಲೋಇ/35/ಸೇಇವಿ/2018, ಬೆಂಗಳೂರು, dtd.28/09/2018.

**5.** Hon'ble Lokayuktha nominated ARE-8 as per Ref. No.3- Order No. No.UPLOK-1/DE-470/2018, Bangalore, dtd.10/10/2018.

**6.** On the basis of the nomination, Article of Charge was prepared under 11(3) of KCSR & CCA Rules and concerned DGO.

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**ANNEXURE No.I**  
**CHARGE**

2. You DGO while working as Junior Engineer at PWD sub-divisions, Muddebihal, Vijayapura executed the road improvement works from Alur to Nallathawad road at 0.00 km to 4.30 km without using the required quantity of metals. The actual weight of grade-II and III metals was only 38-43 kgs as against 64.77 kgs. The quantity of metal used was less by 40.67% and thereby excess amount of Rs.9,71,406/- was paid for the work; and thereby, you have committed dereliction of duty and have failed to maintain absolute integrity and devotion to duty, the act of which is unbecoming of a Government Servant and you have committed misconduct as enumerated under Rule 3(1) of Karnataka Civil Services (Conduct) Rules, 1966.

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

3. On the basis of complaint filed by Sri. Sangamesha Tukarama Nayaka R/o Nebageri, Muddebihal Taluk, Bijapur Distirct, (hereinafter referred to as 'complainant' for short) against Asst. Executive Engineer, PWD, Port and Inland Water Transport Department, Muddebihal, Bijapur District alleging that he has committed misconduct, an investigation was taken up after invoking Section 9 of Karnataka Lokayukta.

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4. According to the Complainant: -

The road formed from Alur Village to Nallathawad junction is of substandard and an amount of Rs.87 lakhs is spent for the work and the work is not executed in accordance with action plan.

5. Complaint was referred to CE, TAC, Karnataka Lokayukta. Investigation was earlier conducted by G.Ramesh, A.E.III on the instructions of C.E., and thereafter investigation is conducted by AE-5, TAC, Karnataka Lokayukta (I.O. for short) on the instructions of CE, TAC, Karnataka Lokayukta.

6. The report of I.O. show that:

(i) The spot was inspected by the then A.E.III – G.Ramesh on 20.5.2010 and I.O. secured records from Executive Engineer – II, H.S.Kattimani on 21.1.2017 and I.O. prepared the report on the basis of the records.

(ii) The work complained is in respect of improvement to road from Alur to Nallathawad road in km. 0.00 to 4.30, Muddebihal Taluk, Village road.

(iii) Actual average Weight of road metal (Grade II + Grade III) is found 38.43 kgs. But the quantity of metal that should have been used is less by 40.67% and excess amount of Rs.9.71, 406 is paid for the work.

(iv) The officers responsible for the excess amount paid are:

(a) R.D.Kattimani, Executive Engineer- 25 % Rs.2,42,852/-

(b) K.K.Jainapura-AEE, 37.5% Rs.3,64,277/-

(c) A.B.Updya-J.E, 37.5% Rs.3,64,277/-

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7. After receiving report of I.O., R.D.Kattimani, Executive Engineer, K.K.Jainapura, Asst.Executive Engineer and A.B.Upadya, J.E have been impleaded as Respondents 1 to 3 respectively and copy of report of I.O. was sent to them for their comments.

8. Respondent No.1 and Respondent No.2 are reported to be dead and their death certificates are produced.

9. Respondent No.3 has submitted comments stating that he has executed the work promptly. His higher officers Asst. Executive Engineer and Executive Engineer have verified the work and recorded the measurement in the measurement book. The quality of the materials used for the work were verified after executing the work and recorded in the M.B. Weight of road metal used is proper and no excess payment is made. Grade II and Grade -III jelly used are in accordance with the estimate specification.

10. In view of the report of I.O. which prima facie show that the average metal weight that is grade II and Grade III jelly was only 38.43 kgs as against 64.77 kgs and excess payment is made for the difference rate of 40.67 % amounting to Rs.9,57,340/-, comments submitted by Respondent No.3 is not acceptable to drop the proceedings against him.

11. Since the said facts and materials on record prima facie show that the Respondent No. 3)-A.B.Upadhy, Junior Engineer, KBJNL, ALBC Sub.Divn, NO.1, Seethimani Camp, Alamatti presently at PWD Sub.Divn, Muddebihal, Vijayapura

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complainant on 13/04/2019 is belated one and there is a huge delay of two years in lodging the complaint as the construction of road work in question was completed two years back and no application is filed to condone the said delay and there is a delay of 8-years in investigation from the date of event of construction. Further the report submitted by A.E.E. I.O. is based on the documents and evidence collected by one Sri. G. Ramesh A.E.E. of Karnataka Lokayuktha, Bangalore, who is said to have inspected the road and prepared mahazar on 20/05/2010 and the said I.O. G. Ramesh has not at all visited the disputed road of Aluru-Nalathwad village, and the said report is submitted not based on any Quality Control Report collected by him. Further contended that much prior to that the said construction of road is in dispute was examined by the Quality Control Officer with the involvement of three Engineers, R.D. Kattimani, A.V. Upadhyaya and the total construction of work estimation and use of material was found to be correct and other allegations made and report of I.O. containing observation that proportionate required Jelly material were not used for construction of the road has been denied and I.O. G. Ramesh and another Engineer though they have looked into earlier estimation records and quality control report which was found to be satisfactory still they have submitted a contrary report ignoring the examined reports like Quality Control Reports, which was consistent

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District has committed misconduct under Rule 3(1) of KCS (Conduct) Rules 1966, recommendation is made under section 12(3) of Karnataka Lokayukta Act, 1984 to the Competent Authority to initiate disciplinary proceedings against Respondent No.3-A.B.Upadhyaya, Junior Engineer, KBJNL, ALBC Sub.Divn, NO.1, Seethimani Camp, Alamatti and to entrust the inquiry to this Authority under Rule 14-A of Karnataka Civil Service (Classifications, control and Appeal) Rules, 1957 against him. Further it is also recommended to take action against legal representatives of Respondent No.1 to recover Rs. 2,42,852/- towards loss caused by Respondent No.1 and to take action against legal representatives of Respondent No.2 to recover Rs.3,64,277/- towards loss caused by Respondent No.2. Accordingly, the Competent Authority initiated Disciplinary Proceedings against the DGO only in respect of allegations no.2 and 3 and entrusted the enquiry to the Hon'ble Upalokayukta under Rule 14-A of KCS (CCA) Rules. Hence, the charge.

**7.** Summons was issued along with copy of Article of Charge DGO appeared through GHS advocate and FOS was recorded. DGO has denied the charges, pleaded not guilty and claimed to be tried. Enquiry was posted to file his objections/WS.

**8.** DGO has filed his objections/written statement and denying the entire allegations appeared in the complaint and specifically contended that the complaint lodged by

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13. Following point arise for my consideration;

Whether the Charge leveled against DGO Sri. A.B. Upadhya, the then Junior Engineer, Krishna Bhagya Jala Nigam Limited, ALBC Sub-Division No.1, Seethimani Camp, Almatti (presently working at PWD Sub-Division, Muddebihal, Vijayapura District, is proved by the Disciplinary Authority?

14. My answer to the above point is in the '**Negative**' for the following:

#### REASONS

15. P.O. in order to substantiate the allegations made in the complaint has examined complainant as PW.1 and has stated that he being resident of Nebageri village of Muddebihal Taluk, he lodged a complaint before Lokayuktha office against DGO and making other allegation about carrying out the sub-standard construction work relating to improvement of road between Aluru-Nallathawad with a distance of 0.00 to 4.3 kms., and he has produced his complaint marked at Ex.P.1 to Ex.P.3 and I.O. has visited the spot and he has signed Panchanama, prepared by I.O. relating to construction of the said road in question. Except this, nothing is stated by PW.1 about the quantity of substandard work carried out by DGOs.

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with estimation cost, measurement and material used like Jelly stone, cement and other required material.

**9.** Further contended that project work was completed in the year on 23/01/2007 and inspection of road was conducted on 12/05/2010 and complaint is lodged in the year 2017. So there is an inordinate delay in conducting investigation as well as submitted the report. In between this period said road has been used by the public for running the vehicles on it and for other purpose. Hence, prays to drop the proceedings.

**10.** After receiving the objections/written statement, enquiry was proceeded with VOR was complied and enquiry was proceeded with.

**11.** In order to prove the allegations made in the Article of Charges, the Disciplinary Authority has examined complainant as PW.1 and two witnesses as PW.2 and 3 and through them got marked Ex.P.1 to Ex.P.7. Through the evidence of PW.3 defence got marked three documents as Ex.D.1 to Ex.D.3. SOS recorded and further questionnaire was recorded of DGO on 22/12/2021. DGO filed written arguments.

**12.** Heard the arguments of P.O., and case was posted for submitting final report.

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complainant Sangamesh Tukaram. At the time of inspection, he prepared a panchanama marked at Ex.P.5.

**20.** This witness has been cross examined and he has stated that construction work of the road was completed in the year 2007 and he visited the spot on 20/05/2010. Further he stated that he was able to see the said constructed road in satisfactory condition and further admits that jelly width if it is 12.93 cms., then the density of the jelly will be with the average of 1427.5, then total weight of jelly stone will be 64.77 kgs.

**21.** Close assessment of evidence of PW.2 would make out the fact relating to his visiting the spot and preparing panchanama in the presence of complainant, two panchas, in the presence of DGOs, villagers and Quality Control officers. The contents of Ex.P.5 would reveal that he handed over the extraction pieces of constructed road to Quality Control officers of Sub-Division, Belagum, like jelly stone and its density etc. In the end, he is of the opinion that, all the four CD construction of the road were found to be in existence, is of usable quality conditions and upper layer of the road was seen to have been undergone evolution. Further it is seen that Ex.P.5 is signed by villagers, DGOs including complainant. With the available evidence of PW.2, it is too difficult to make out distinct misconduct committed

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**16.** In his cross examination defence has elicited the following facts such as project was sanctioned in the year 2006-07 and he lodged a complaint as per Ex.P.1 on 13/04/2009 and no reason is assigned relating to delay in lodging complaint after three years. He has further admitted that the panchanama prepared by I.O. at Ex.P.5 contains a statement about the constructed road was found to be in good condition.

**17.** The evidence of PW.1 is cryptic and it is not sufficiently make out the quantity and quality of substandard work carried out by DGO as per the sanction of project norms.

**18.** Disciplinary Authority has relied on report submitted by two Engineers PW.2, A.E.E. working in Lokayuktha office from 2008-2010 and PW.3-Dinesh Kumar A.E.E. working in Lokayuktha office from 2016-2018.

**19.** PW.2 G. Ramesh, then working as A.E.E. in Lokayuktha Technical Section was entrusted with the records at the time of investigation. Accordingly, he visited the said Alluru-Nalathawad road and inspected the same in the presence of DGO and other A.E.E. etc., and also in the presence of Sri. V.C. Godvee, A.E.E. Quality Control Officer, Sub-Division, Belagum, and S.N. Bhaladar, A.E.E., PWD., Quality Control Officer, Sub-Division, Belagum and the

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provider and the jelly stone supplied is 40.67% if multiplied the total amount of jelly stone used will be Rs.9,71,406/- and 40.67% of quantity of jelly was not used and as a result one R.B. Kattimani, Engineer, who is responsible for using 25% jelly with difference amount assessed at Rs.2,42,852/- and K.K. Jainapur, Engineer, is liable for using 37.5% jelly stone with difference amount assessed at Rs.3,64,277/- and Sri. A.B. Upadhya (DGO), Engineer, is liable for using 37.5% jelly stone with difference amount assessed at Rs.3,64,277/- and the report marked at Ex.P.6 and the documents enclosed along with Ex.P.7.

**23.** After assessing the evidence of PW.2 and 3, it is made clear that PW.2-G. Ramesh, then A.E.E. Lokayuktha Office, has only visited the disputed road and he has not submitted the detailed report enclosing the same with panchanama prepared by him. It is in this context again at the preliminary stage complaint No.Up-Lokayuktha/Complt. 131/2009, PW.3 was appointed to assess the quality construction of road and PW.3 has only submitted the report on the basis of available records collected by PW.2 and Quality Control Officers of Sub-Division, Belgum.

**24.** After hearing both sides, it is crystallized now that evidence of PW.1 is cryptic, he is not a technical expert in assessing the construction of road and he himself has admitted that project was completed in 2007 and PW.2

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by DGO along with other officials with the ascertainment of exact quality and quantity deficiency in construction of road.

**22.** In order to substantiate the allegations of Article of Charges Disciplinary Authority has relied on the evidence of PW.3, the then working as A.E.E. at Lokayuktha office Technical Section. He has stated before the court that, on 21/01/2017 he received the records pertaining to the allegations made in this case and was directed to submit the report of quality construction of road in question and Chief Engineer, Lokayuktha, have already received report of PW.2 dtd.20/05/2010. But the said report was not comprehensively concluded in distinct note of I.O. report. Accordingly, he was directed to collect the explanation of concerned Engineers, who were entrusted with road construction work like K.K. Jainapur, A.B. Updhaya (DGO) and also G. Ramesh-PW.2. Further he asked the Chief Engineer that whether he should visit the spot again with the available records or should he submit the report on the basis of already collected records from the earlier officers. Chief Engineer then ordered to assess the opinion on the basis of the records available already and there was no need to visit the road in question. Accordingly, he verified final bills, Measurement Book, records of supplying Grade-II and III jelly stones and payment made out Rs.23,88,506/-. If that amount is taken as paid jelly stone supplied by the

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construction. Further admits that the Quality Control Report submitted by Belgaum sub-division discloses about using jelly stones weighing 65.38 kgs and less jelly stones are not used for the proportionate construction.

**26.** Further PW.3 has been confronted with test report submitted by MIQC marked at Ex.D.1 consisting of five pages and further admits that he has examined Ex.D.1 before submitting his final report at Ex.P.6. Further he is confronted with Ex.D.2 report submitted by PWD Department Sub-division, Belgum dtd.09/06/2010 consisting of four pages along with relevant records marked at Ex.D.3 and further admits that he has examined the contents of these Quality Control Reports of Sub-division, Belgum and Vijayapura PWD office before submitting his final report in Ex.P.6. Further admits that PW.2 Ramesh Kumar has submitted the earlier report marked at Ex.P.5, without conducting quality control report through proper agencies.

**27.** In support of the defence of DGO that the Quality Control Report was submitted disclosing the quantity of materials used while constructing the road. Ex.D.1 discloses the detail, size, test value, density of road material in kgs chainage items etc., including the calculation sheet. This quality control report is found to be in contradictory to the report submitted by PW.3 marked at Ex.P.6 submitted

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inspected the road in the year 2010 and the roads in dispute were found to be in good condition.

**25.** It is relevant to note that usable condition of the road is not matter in dispute. What is the matter in controversy is whether the road was constructed with the proportionate material using the same as per the estimation and quantity of jelly stone said to have been used was in less proportionate with regard to proposal made in estimation. In this regard, the document like Ex.P.6 marked through PW.3 at Ex.P.6 is to be carefully seen and it is to be found out from the report and facts elicited in cross examination of PW.3. Ex.P.5 prepared by earlier PW.2 report discloses that the Quality Control Officer of Belagavi has conducted the inspection at 4 to 5 places and has also collected the asphalt upper layer of the road and the same were sent for quality inspection to Sub-Division of Belagum, PWD Department and the said inspection report is submitted stating that no sub-standard work has been carried out. PW.3 further admits that he has examined the said report submitted by Sub-Division office of Belgum in which it is mentioned that the road construction was qualitative. And further admits that the sub-division of PWD Vijaypur have examined the road and have reported that the road is found to be in usable condition. Further he admits that he has mentioned about the existence of standard condition of worthy of road

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as per Ex.P.5, he has submitted his final report on 21.01.2017. It is obvious to note that PW.3 has submitted final report has not visited or inspected the disputed road, he only relying on collection of evidence by PW.2, submitted his report only with regard to suspected utilization of jelly stones relating to Grade-II and III and with its average weight of 38.43 kgs., mentioned in column No.4 of the table, and he has not considered in detail about the earlier inspection report and quality control report submitted by Sub-Division office of Vijayapura and Belgum. It is relevant to note that the quality control report submitted by subdivision Belagum and Vijayapura were consistent with the estimation and use of Grade 2 and 3 jelly stones with proper weight and the quality control report was submitted after digging a pit and collecting constructed material of road. It is relevant to note the quality control report of the constructed road with the sanctioned estimation of 64.77 kgs quantity of jelly stone used in the work was proportionate to the estimation prepared earlier and the report is dated:08/10/2010 and got marked in D series.

**29.** After assessment of all these available records following points cannot be lost sight before accepting the report of PW.3.

- (1) Project work was completed in December 2007, completed in April 2009 and later complaint was

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based on the investigation records and evidence collected by PW.2. Engineer appointed through Lokayuktha. Ex.D.3 is the test report of metalling density disclosing the particulars of value of density of box, weight in kgs, average weight density of road material. The contents of Ex.D.1 to Ex.D.3 would disclose that, the road construction was conducted as per the specifications made in contract and it is relevant to note that the improvement of road work took place and completed on 23/01/2007 and complaint submitted to Lokayuktha on 13/04/2009. There is a delay of two years in between completion of construction of road and lodging of complaint. No application was filed U/Sec. 8(1) (c) of K.L.Act, 1984 to condone the delay and delay is not explained.

**28.** It is relevant to note that PW.2-Executive Engineer, Karnataka Loakyuktha has inspected the road conducted mahazar as per Ex.P.5, dtd.20/05/2010 and submitted opinion that, he inspected the road only prepared mahazar. But did not prepare any final report as to the quality of work completed. Then PW.3 Denishkumar Viboothy, Engineer, was entrusted with the work to submit final report based on the inspection records of PW.2. This PW.3 has not at all conducted physical inspection of the road with the available documents based on the panchanama prepared by his earlier officer from seven years of date of inspection of road



- (6) PW.3 who has submitted his final report based on the collection of evidence by PW.2 has admitted in his cross examination that he has mentioned about the weight of the jelly stones at 65.38 kgs as per the report of Quality Control Subdivision, Belgum and admits the contents of Ex.P.3 Quality Control Officer mentioned with weight of jelly stones as 64.77 kgs is correct and the earlier report of PW.2 mentioning the jelly weight at 38.43 kgs was submitted without conducting Quality Control Test.
- (7) The document produced by the DGO marked at Ex.D.1 to 3 disclose about the weight of jelly to the extent of 64.77 kgs, which has not been taken into consideration that PW.3 by preparing Ex.P.6 and the P.O. has not disputed this document.
- (8) It becomes crystal clear that PW.3 has submitted report only on the available document without looking to the contents of Quality Control Report which was in favour of DGOs.

**30.** Further it is relevant to note that, there is a huge delay in completion of the project work of road construction from 2007 to 2009, the delay of two years four months in lodging complaint and in May 2010 for the first time the disputed road was inspected and it is existing between Alur-



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lodged on 13/04/2009 and the delay in lodging complaint is not explained. Though the work is completed in the year 2007 D.E. initiated in the year 2018.

- (2) First spot mahazar was conducted on 20/05/2010. However, final report was submitted on 21/01/2017 and Articles of Charge were framed on 31/10/2018.
- (3) Final report submitted by PW.3 is based on the earlier report submitted by PW.2 who had prepared the spot mahazar of local inspection on 20/05/2010.
- (4) Evidence of PW.1 is not of any significance, he has only made allegations about road bad conditions. But in cross examination he has admitted that roads were in good condition.
- (5) PW.2 Ramesh, who has inspected the road conducted the spot mahazar has admitted in the cross examination that constructed road was in good condition and the weight of the jelly would be 64.77 kgs when average thickness of jelly is 12.93 cm. and density of jelly is 142.7 and clearly admits that the average weight of jelly at 38.43 kg stated in his report Ex.P.5 is not correct.

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Nalavathwad joining road. Furthermore, PW.2 and 3 being Engineers of same department of Lokayuktha were submitted reports. PW.2 submitting only mahazar prepared by him are not consistent with what is reported by PW.3 based on only the records available marked at Ex.P.6. And witnesses have admitted that road was in good condition for use by vehicles and pedestrians. Consisting these aspects, it is too difficult to arrive at a conclusion that what was the exact amount of misconduct attributed by DGO along with two others who have not been considered for departmental enquiry at the initial stage.

**31.** In view of the elaborate discussion made above, this enquiry authority is constrained to hold that, the charge framed against DGO is not established. In the result above Point is answered in the '**NEGATIVE**' and I proceed to record the following;

### **FINDINGS**

The Disciplinary Authority has not proved the charges leveled against the Delinquent Government Official Sri. A.B. Upadhya, the then Junior Engineer, Krishna Bhagya Jala Nigam Limited, ALBC Sub-Division No.1, Seethimani Camp, Almati (presently working at PWD Sub-Division, Muddebihal, Vijayapura District.



Submitted to Hon'ble Upa-  
Lokayuktha, Karnataka Lokayukta,  
Bengaluru for further action in the matter.

 25/11/2018

(RAJASHEKAR.V.PATIL)

Additional Registrar Enquiries-8  
Karnataka Lokayukta, Bengaluru.

## ANNEXURES

### 1. LIST OF WITNESSES EXAMINED ON BEHALF OF DISCIPLINARY AUTHORITY:

|      |                                                                                                         |
|------|---------------------------------------------------------------------------------------------------------|
| PW1  | Sri. Sangamesh Tukarama Nayaka S/o Tukarama, aged about 33 years, r/o Muddebihal Taluk, dtd.25/04/2019. |
| PW.2 | Sri. G. Ramesh S/o Govinda, 39 years, A.E.E. r/o Bangalore, dtd.09/08/2019                              |
| PW.3 | Sri. Dinesh Kumar Vibhooti, S/o Siddaramappa Vibhooti, 51 years, r/o Bangalore, dtd.17/08/2021.         |

### LIST OF DOCUMENTS MARKED ON BEHALF OF DISCIPLINARY AUTHORITY:

|           |                                                                                            |
|-----------|--------------------------------------------------------------------------------------------|
| Ex.P.1    | Form No.1- complaint submitted before Hon'ble Lokayuktha by the complainant-PW1.(Original) |
| Ex.P.1(a) | Signature of PW.1                                                                          |
| Ex.P2     | Form-II (complainant's Affidavit) submitted to Lokayuktha (Original copy)                  |
| Ex.P.2(a) | Signature of PW.1                                                                          |
| Ex.P.3    | Complaint submitted by complainant to Lokayuktha office, Bijapura, dtd.12/03/2019          |
| Ex.P.3(a) | Signature of PW.1                                                                          |
| Ex.P. 4   | Photograph of disputed road in question (xerox copy)                                       |
| Ex.P.5    | Mahazar dtd. 20/05/2010 (original copy)                                                    |
| Ex.P.6    | Report submitted by I.O./AEE, PW.3. dtd.06/09/2017.                                        |
| Ex.P.6(a) | Signature of PW.3                                                                          |

*[Handwritten Signature]*

|        |                                                                                                                                                |
|--------|------------------------------------------------------------------------------------------------------------------------------------------------|
| Ex.P.7 | Report submitted by I.O./AEE, PW.3. dtd.06/09/2017, along with enclosures. (273-387 pages) (Original copies, xerox copies and attested copies) |
|--------|------------------------------------------------------------------------------------------------------------------------------------------------|

**3. LIST OF DOCUMENTS EXAMINED ON BEHALF OF DGO:**

|        |                                                                                  |
|--------|----------------------------------------------------------------------------------|
| Ex.D.1 | Test report of M.I.Q.C., Bijapura, (5-pages)                                     |
| Ex.D.2 | Letter dtd.09/06/2010 submitted to Lokayuktha, Bangalore.                        |
| Ex.D.3 | Letter dtd.09/06/2010 submitted to Lokayuktha, Bangalore with four pages report. |

  
(RAJASHEKAR.V.PATIL)

Additional Registrar Enquiries-8  
Karnataka Lokayukta,  
Bengaluru.