

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No. LOK/INQ/14-A/481/2014/ARE-7

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001
Date: **18/01/2021**

RECOMMENDATION

Sub:- Departmental inquiry against;

- 1) Sri Gurunath, Executive Engineer, Bruhat Bengaluru Mahanagara Palike, Bengaluru.
- 2) Sri A.M. Shivashankar, Assistant Executive Engineer, Bruhat Bengaluru Mahanagara Palike, Bengaluru;
- 3) Sri M.K.Mahadevappa, Assistant Executive Engineer, Bruhat Bengaluru Mahanagara Palike, Bengaluru;
- 4) Sri M.G. Nagaraju, Assistant Executive Engineer, Bruhat Bengaluru Mahanagara Palike, Bengaluru;
- 5) Sri S.N. Maheshwarappa, Assistant Engineer, Bruhat Bengaluru Mahanagara Palike, Bengaluru;
- 6) Sri S.T. Srinivas, Assistant Engineer, Bruhat Bengaluru Mahanagara Palike, Bengaluru – Reg.

Ref:- 1) Govt. Order No. ಸಲಇ 373 ಎಂಎನ್‌ಯು 2014, Bengaluru dated 13/8/2014

2) Nomination order No.LOK/INQ/14-A/481/2014, Bengaluru dated 1/9/2014 of Upalokayukta-1, State of Karnataka, Bengaluru

3) Inquiry Report dated 12/01/2021 of Additional Registrar of Enquiries-7, Karnataka Lokayukta, Bengaluru

The Government by its order dated 13/8/2014 initiated the disciplinary proceedings against (1) Sri Gurunath, Executive Engineer; (2) Sri A.M. Shivashankar, Assistant Executive Engineer; (3) Sri M.K. Mahadevappa, Assistant Executive Engineer; (4) Sri M.G. Nagaraju, Assistant Executive Engineer; (5) Sri

S.N.Maheshwarappa, Assistant Engineer; and (6) Sri S.T. Srinivas, Assistant Engineer – All of Bruhat Bengaluru Mahanagara Palike, Bengaluru (hereinafter referred to as Delinquent Government Officials 1 to 6, for short as DGO-1, DGO-2, DGO-3, DGO-4, DGO-5 and DGO-6 respectively) and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.LOK/INQ/14-A/481/2014, Bengaluru dated 1/9/2014 nominated Additional Registrar of Enquiries-7, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGOs 1 to 6 for the alleged charge of misconduct, said to have been committed by them.

3. The DGO-1 Sri Gurunath, Executive Engineer; DGO-2 Sri A.M. Shivashankar, Assistant Executive Engineer; DGO-3 Sri M.K. Mahadevappa, Assistant Executive Engineer; DGO-4 Sri M.G. Nagaraju, Assistant Executive Engineer; DGO-5 Sri S.N.Maheshwarappa, Assistant Engineer; and DGO-6 Sri S.T. Srinivas, Assistant Engineer – All of Bruhat Bengaluru Mahanagara Palike, Bengaluru was tried for the following charges:-

“That you – DGO Nos. 1) Sri Gurunath, Executive Engineer; 2) Sri A.M. Shivashankar, Assistant Executive Engineer; 3) Sri M.K. Mahadevappa, Assistant Executive Engineer; 4) Sri M.G. Nagaraju, Assistant Executive Engineer; 5) Sri S.N.Maheshwarappa, Assistant Engineer; and 6) Sri S.T. Srinivas, Assistant Engineer, all are working in BBMP, Bangalore, while discharging your duties:

- a) Plan was sanctioned on 26/12/2008 to the owner for construction of residential building at property No.24 of Agrahara Dasarahalli;
- b) The owner has violated the sanctioned plan of a residential building and constructed a building, which is partly residential and partly commercial building;
- c) The setbacks allowed as per sanctioned plan have not been followed by not leaving setbacks shown in the sanctioned plan;
- d) A portion of vacant land on the eastern side and northern side of the building has been encroached by the owner.
- e) Complaint was given on 31/3/2009 to the Commissioner of BBMP by the complainant stating that the owner of building at No.24 of Agrahara Dasarahalli is constructing building unauthorisedly by encroaching main road;
- f) Provisional order has been issued on 28/3/2009 and Confirmation order was issued on 9/4/2009 to the owner of the building and thereafter, the owner of the building has brought stay order in Appeal NO.336/2010 from K.A.T on 1/6/2010 staying the operation of the Confirmation Order;
- g) There is negligence on the part of you - DGO Nos. 1 to 6 in not preventing construction of building against sanctioned plans and/or not taking steps till 18/5/2010 for demolition of construction made in violation of sanctioned plan.

And thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of Government Servants and thus you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules, 1966.”

4. The Inquiry Officer (Additional Registrar of Enquiries-7) on proper appreciation of oral and documentary evidence has held that the Disciplinary Authority has proved the above charges against DGO-1 Sri Gurunath, Executive Engineer; DGO-2 Sri A.M. Shivashankar, Assistant Executive Engineer; DGO-3 Sri M.K. Mahadevappa, Assistant Executive Engineer; DGO-4 Sri M.G. Nagaraju, Assistant Executive Engineer; DGO-5 Sri S.N.Maheshwarappa, Assistant Engineer; and DGO-6 Sri S.T. Srinivas, Assistant Engineer – All of Bruhat Bengaluru Mahanagara Palike, Bengaluru.

5. On re-consideration of report of inquiry and considering the totality of circumstances, I do not find any reason to interfere with the findings recorded by the Inquiry Officer. It is hereby recommended to the Government to accept the report of Inquiry Officer.

6. As per the First Oral Statement submitted by DGOs

- (1) DGO-1 Sri Gurunath, Executive Engineer has retired from service on 30/4/2015;
- (2) DGO-2 Sri A.M. Shivashankar, Assistant Executive Engineer has retired from service on 31/5/2016;
- (3) DGO-3 Sri M.K. Mahadevappa, Assistant Executive Engineer has retired from service on 31/8/2013;
- (4) DGO-4 Sri M.G. Nagaraju, Assistant Executive Engineer has retired from service on 30/6/2017;

- (5) DGO-5 Sri S.N.Maheshwarappa, Assistant Engineer has retired from service on 30/7/2020; and
(6) DGO-6 Sri S.T. Srinivas, Assistant Engineer is due to retire from service on 30/10/2026

7. As regards DGO-2 Sri A.M. Shivashankar, the then Assistant Executive Engineer is concerned, though he is found liable for his inaction, the fact remains that he has issued notice on 30/12/2008, soon after the construction commenced on 16/12/2008 and before he could take any further action he was transferred and relieved of his duties on 17/1/2009. Therefore, the omission, if any, on his part is very minimal. Hence, I do not find it just and fair, in the facts and circumstances of the case, to recommend imposition of any penalty against him, particularly having regard to the fact that he has retired from service long back on 31/5/2016 and had he been in service, he could have administered a warning to be careful in future. Therefore, it is recommended to the Government for exonerating the DGO-2 Sri A.M. Shivashankar, the Assistant Executive Engineer, Bruhat Bengaluru Mahanagara Palike, Bengaluru.

8. Having regard to the nature of charge proved against DGO-1 Sri Gurunath, the then Executive Engineer; DGO-3 Sri M.K. Mahadevappa, Assistant Executive Engineer; DGO-4 Sri M.G. Nagaraju, Assistant Executive Engineer; DGO-5 Sri S.N. Maheshwarappa, Assistant Engineer and DGO-6 Sri S.T. Srinivas, Assistant Engineer of Bruhat Bengaluru Mahanagara Palike, Bengaluru;

- (i) it is hereby recommended to the Government for imposing penalty of withholding 5% percent of

pension payable to DGO-1 Sri Gurunath, the then Executive Engineer for a period of 5 years;

(ii) it is hereby recommended to the Government for imposing penalty of withholding 5% percent of pension payable to DGO-3 Sri M.K. Mahadevappa, the then Assistant Executive Engineer for a period of 5 years;

(iii) it is hereby recommended to the Government for imposing penalty of withholding 5% percent of pension payable to DGO-4 Sri M.G. Nagaraju, the then Assistant Executive Engineer, for a period of 5 years;

(iv) it is hereby recommended to the Government for imposing penalty of withholding 5% percent of pension payable to DGO-5 Sri S.N. Maheshwarappa, the then Assistant Engineer for a period of 5 years; and

(v) it is hereby recommended to the Government for imposing penalty of withholding three annual increments payable to DGO-6 Sri S.T. Srinivas, the then Assistant Engineer with cumulative effect;

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

Connected records are enclosed herewith.


(JUSTICE B.S.PATIL)

Upalokayukta,
State of Karnataka,
Bengaluru