

## **KARNATAKA LOKAYUKTA**

No.LOK/INQ/14-A/48/2014/ARE-4

M.S.Building  
Dr.B.R.Ambedkar Road  
Bangalore-560 001  
Date: 14/07/2021

### **:: INQUIRY REPORT ::**

**Sub:** Departmental Inquiry against,

- 1) Sri Prakash s/o Mallaiah Hirematha  
Secretary  
Karatagi Grama Panchayathi  
Gangavathi Taluk  
**Koppal District**

**Ref:**

- 1) Report u/s 12(3) of the K.L Act, 1984 in  
Compt/Uplok/GLB/266/2011/ARE-6  
dated: 05/10/2013
- 2) Govt. Order. No.RDP 448 GraPamKa  
2013, Bengaluru, dated: 18/01/2014
- 3) Order No.LOK/INQ/14-A/48/2014  
Dtd.30/01/2014 of the Hon'ble  
Upalokayukta

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1. This Departmental Enquiry is directed against Sri Prakash s/o Mallaiah Hirematha, Secretary, Karatagi Grama Panchayathi, Gangavathi Taluk, Koppal District, (herein after referred to as the Delinquent Government Official in short "DGO")

2. After completion of the investigation a report u/sec. 12(3) of the Karnataka Lokayukta Act was sent to the Government as per Reference No.1.

3. In view of the Government Order cited above at reference-2, the Hon'ble Upalokayukta, vide order dated: 30/01/2014 cited above at reference-3, nominated Additional Registrar of Enquiries-4 of the office of the Karnataka Lokayukta as the Enquiry Officer to frame charges and to conduct Inquiry against the aforesaid DGO. Additional Registrar Enquires-4 prepared Articles of Charge, Statement of Imputations of mis-conduct, list of documents proposed to be relied and list of witnesses proposed to be examined in support of Article of Charges. Copies of same were issued to the DGO calling upon him to appear before this Authority and to submit written statement of his defence.

4. The Articles of Charges framed by ARE-4 against the DGO is below:

**ANNEXURE NO.I**  
**CHARGE**

*That, you-DGO Sri Prakash while working as Secretary, Karatagi Gram Panchayathi, Gangavathi Taluk, Koppal District during the year 2010 issued a false building completion certificate dated 13/03/2010 in connection with the complaint filed by Sri Narayan S/o Sri Ramanna R/o Hirejantakal near Kannikaparameshwari Temple in Gangavathi Taluk, Koppal District, thereafter the matter was referred to the Excise Inspector, Gangavathi, Koppal District, who has inspected the spot and found that building in question was not complete. Hence, C.L. 7 was not issued for the liquor license of Sri Kalyanappa Pampanna Javali R/o Karatagi to run his liquor business in the said Building. Thereby, you DGO being a Government Servant failed 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**

*On the basis of complaint filed by Sri Narayan S/o Sri Ramanna R/o Hirejantakal near Kannikaparameshwari Temple in Gangavathi Taluk, Koppal District (herein after referred to as complainant to short) against Panchayath Development Officer of Karatagi Gram Panchayathi in Gangavathi Taluk, Koppal District and Excise Inspector in Gangavathi Taluk, Koppal District alleging that they are involved in issuing C.L.7 license in violation of rules for a building in Gangavathi-Sindanur Main road still under construction, investigation was taken up after invoking Sec.9 of the Karnataka Lokayukta Act, 1984.*

*After taking up investigation, comments were called for on the complaint from Panchayath Development Officer of Karatagi Gram Panchayathi in Gangavathi Taluk, Koppal District and Excise Inspector in Gangavathi Taluk, Koppal District. For that, they submitted their comments denying the allegations.*

*The comments of Excise Inspector in Gangavathi of Koppal District disclosed that the building was inspected by him along with the Excise Deputy Superintendent and it was found that the building was incomplete and therefore C.L.7 license was not issued.*

*After receiving the comments of Excise Inspector in Gangavathi Taluk, Koppal District, as it is found that the DGO*

*has issued Building Completion Certificate on 13/03/2010 though the building was not complete. Complaint has been registered against the DGO and reply was called for from the DGO on the complaint. For that, the DGO has not given reply. Therefore, it is taken that he has nothing to say in the matter and proceeded.*

*A careful consideration of the material on record, including report of I.O., prima facie shows that the DGO has failed to maintain absolute devotion to duty and acted in a manner unbecoming of public/government servant and thereby committed misconduct as per Rule 3(1) of KCS (Conduct) Rules, 1966 and made himself liable for disciplinary action. Since said facts and material on record prima facie show that the DGO has committed misconduct, now, action U/sec. 12(3) of Karnataka Lokayukta Act, was sent to the Competent Authority with a recommendation to initiate disciplinary proceedings Under Rule 14-A of Karnataka Civil Services (Classification, Control and Appeal) Rules 1957 against you. In turn Competent Authority initiated disciplinary proceedings against you-DGO and entrusted the Enquiry to this institution vide Reference No.1 and Hon'ble Upalokayukta-1 nominated this Enquiry Authority, to conduct enquiry and report Vide reference No. 2. Hence, this charge.*

5. DGO appeared before this Enquiry Authority on 21/05/2014 and on the same day his First Oral statement was recorded U/R 11(9) of KCS (CC & A) Rules 1957. The DGO pleaded not guilty and claims to hold an enquiry.

6. DGO has filed his written statement as follows:-

On 13/03/2010 the Assistant Engineer on the request of the owner has given the certificate that, the commercial construction in Plot No. 3/6/11 and 3/6/12 has been completed as per the approved plan. On 14/05/2011 the certificate has been given by the DGO to the effect that, the construction of the commercial building is completed in the above said plot and that certificate is signed by the Panchayath President also. In the letter of the Excise Inspector dated; 28/11/2011 it is only stated that, the Excise Inspector and the Deputy Superintendent of Excise, Koppal Sub-Division, jointly inspected the spot and that the building is not completed and in the same it is not stated on which date the spot inspection was done. In that letter it is not mentioned that, the local residents have been examined nor it is mentioned that, the statement of the owner is taken. The DGO after spot inspection has given the certificate to the effect that, the construction is completed which is correct and the allegations made in the complaint are all false. Along with the report no document is produced by the Excise Inspector, Gangavathi Range to show that, the construction of the building is not completed. The complainant should have complained to the higher officer of the DGO and this complaint is not maintainable as per Sec. 8(1)(b) of the Karnataka Lokayukta Act 1984. Hence, the DGO prays to exonerate him from the charges leveled against him in this case.

7. In order to substantiate the charge leveled against the DGO, the Disciplinary Authority examined in all three witnesses as PW1 to PW3 and got marked documents at Ex.P1 to P9. After closing the evidence of the Disciplinary Authority,

the Second Oral Statement of DGOs was recorded as required u/Rule 11(16) of KCS (CC & A) Rules, 1957. The DGO has not adduced any evidence on his side. Hence, questioning of this DGO is recorded as required u/Rule 11(18) of KCS (CC&A) Rules, 1957.

8. In the same the DGO admits that, he has issued the Ex.P5 and it has been issued after spot inspection and it is signed by the President of the Panchayath also.

9. Oral arguments of the Presenting Officer and the learned Advocate for the DGO was heard. Written brief also filed on behalf of the DGO.

The Disciplinary Authority as well as the DGO have not filed any written brief. Oral arguments of the P.O. was heard.

10. Upon consideration of the oral and documentary evidence placed on record, the defence of DGO, the only points, that arises for the consideration of this enquiry authority is:-

1) Whether the Disciplinary Authority satisfactorily has proved the charge framed against DGO?

2) What order?

11. My finding on the above points are as follows

Point No.1: In the “**AFFIRMATIVE**”

Point No.2: As per the final order for the following:

**:: REASONS ::**

**12. Point NO.1:** It is the case of the Disciplinary Authority that, the DGO while working as Secretary, Karatagi

Gram Panchayathi, Gangavathi Taluk, Koppal District, on 13/03/2010 issued the false building completion certificate in connection with the complaint filed by the complainant and thereafter the matter was referred to the Excise Inspector, Gangavathi who inspected the spot and found the building in question was not completed and CL-7 license sought by Sri Kalyanappa Pampanna Javali, to run his liquor business in the said building was not issued and thereby the DGO being a Government Servant failed to maintain absolute integrity and devotion to duty, the act of which was unbecoming of a Government Servant and thereby committed misconduct.

13. By going through the questionnaire and the cross-examination of PW2 and PW3 it is not in dispute that, the DGO has issued the Building Completion Certificate dated:13/03/2010 (Ex.P5). In Ex.P5 it is mentioned that, in Plot No. 03/01/06/11/12 belonging to Sri Kalyanappa Pampanna Javali situated in the limits of Karatagi Grama Panchyath the construction of the commercial building has been completed as per the approved plan and the said certificate is issued at the request of the owner of the plot and also on the basis of the certificate issued by the Assistant Engineer. Ex.P5 is not signed by the President of the Panchayath and it is signed by the DGO only.

14. The complainant has been examined as PW1 and the Form No.1 is at Ex.P1 and Form No.2 is at Ex.P2. The gist of Ex.P2 is to the effect that, the DGO has issued the false completion certificate in respect of incomplete building so as to help the owner of the building to obtain the CL-7 Excise license.

15. Thus the complaint is to the effect that, the DGO has issued the false certificate as per Ex.P5 even though the construction of the building was not completed.

16. PW1 has deposed that, Ex.P1 and P2 do not contain his signatures. He has deposed that, he was not at all knowing the DGO prior to lodging the complaint in the Lokayukta office and he has not given any complaint against the DGO. He admits that, Ex.P3 contains his signature and he does not know the contents of Ex.P3. Ex.P3 is the rejoinder of the complainant in which he has stated that, he has lodged the complaint without correct information and he has no objection for issuing Excise license to the owner of the building constructed in plot No. 3/1/6/11/12.

17. PW1 has been treated as hostile witness and cross-examined by the learned Presenting Officer. In his cross-examination he admits that, he has studied up to 7<sup>th</sup> standard and there is no other person in his village by name Sri Narayana s/o Ramanna, except himself. He has deposed that, he does not know Sri Kalyanappa s/o Pampanna Javali. He has deposed that, his house is near Kanikaparameshwari temple. Ex.P2 is the affidavit of the complainant which has been sworn before the notary. As stated above, after filing the complaint, the complainant has rescinded his complaint by filing the rejoinder as per Ex.P3. Even in his evidence, he has denied Ex.P1 and P2. It is pertinent to note that, Sri Narayana s/o Ramanna residing near Kanikaparameshwari temple mentioned in Ex.P1 and P2 refers to the complainant only (PW1) and it can only be said that, after lodging of the complaint, he has been won over by DGO and hence, he has



filed his rejoinder as per Ex.P3 and given his evidence as stated above.

18. PW2 is Sri D.D. Malagi and he has deposed that, from 06/08/2012 to 25/07/2013 he was working as Dy.S.P., in Lokayukta Police Station, Koppal. He has deposed that, Ex.P5 certificate was referred to him to ascertain the name and address of the person who has issued the same. He has deposed that, accordingly on 18/08/2012 he had been to Karatagi Grama Panchayath office and met one Sri Suresh who was working as Panchayath Development officer of the above said panchayath and showed him Ex.P5 and enquired him in that respect and the above said Sri Suresh after going through Ex.P5 and the signature found in the same told him that, it was the certificate issued by the DGO the then Secretary of Karatagi Panchayath. He has also deposed that, in that respect the above said Sri Suresh has given him the letter as per Ex.P6. He has deposed that, as per his investigation Ex.P5(a) is the signature of the DGO and he has given his report in that regard as per Ex.P7 and Ex.P7(a) is his signature. As stated above, the DGO himself admits that, Ex.P5(a) is his signature and he has issued the certificate as per Ex.P5. In his cross-examination he has denied the suggestion of the learned counsel for the DGO to the effect that, as the construction of the building was completed the DGO has issued the certificate to that effect as per Ex.P5. No doubt, he has deposed that, he had not been to the spot and inspected whether the construction of the building mentioned in Ex.P5 had been completed or not and it is for the DGO to

prove that, as on the date Ex.P5 the construction of the building had been completed as mentioned in Ex.P5.

19. PW3 is Sri Vajendrachar, and he has deposed that, from 12/10/2011 to 09/04/2013 he was working as Excise Inspector of Gangavathi Range. He has deposed that, from the office of Excise Deputy Commissioner, he was asked to give his comments in respect of the complaint given by the complainant and himself and Excise Deputy Superintendent of Police, Koppal inspected the building of Sri Kalyanappa Pampanna Javali and the construction of the building was not completed. He has also deposed that, Sri Kalyanappa Pampanna Javagli had sought for C.L.-7 license in respect of that building and in view of the construction of the building not completed that application was not proceeded. He has deposed that, he has intimated to this institution as per Ex.P8 and also produced the photo of the building which is at Ex.P9. Ex.P8 is dated: 28/11/2011 which is long after the date of Ex.P5 in which it is clearly mentioned that, PW3 along with Excise Deputy Superintendent of Police, Koppal Sub-division inspected the building of Sri Kalyanappa Pampanna Javali who had sought for C.L.-7 license and found that, the construction of the building was not completed and hence, the application of the owner stated above for C.L.-7 license was not proceeded further. In the same it is also mentioned that, the report as stated above is already given to Excise Deputy Superintendent of Excise, Koppal. He has clearly deposed that Ex.P9 is the photo of the building in respect of which the DGO has issued Ex.P5 dated: 13/03/2010 even though the construction of the building was not completed. It is also the

case of the Disciplinary Authority that, the DGO had issued Ex.P5 to see that, the owner of the building stated above can get the C.L. 7 license even though the construction of the building was not completed.

20. PW3 has been cross-examined at length. But nothing is made out in his cross-examination to discard his evidence. He has denied the suggestion of the learned counsel for the DGO to the effect that, the building seen in Ex.P5 is completely different from the building in respect of which Sri Kalynappa Pampanna Javali had sought for C.L.-7 license.

21. In the Departmental Enquiry, the burden also lies on the DGO to prove that the construction of the building mentioned in Ex.P5 had been completed as on the date of Ex.P5. The DGO has not entered into the witness box nor examined any witness to prove that, the construction of the commercial building in Plot No. 3/1/6/11/12 had been completed as on 13/03/2010. The DGO has mentioned in his written statement that, the Assistant Engineer, on 13/03/2010 had issued the certificate to the effect that, construction of the building was completed in the above said plot. Copy of that certificate is also not produced by the DGO. In the written statement the DGO has contended that, on 14/05/2011 building completion certificate was issued by him and it was signed by the President of the panchayath also. The DGO has also not produced the copy of the said certificate on his behalf. As stated above, Ex.P5 is issued on 13/03/2010 itself and the DGO has not given any reason as to why the certificate is again issued regarding completion of the building on 14/05/2011 as mentioned in his written statement. When the

DGO admits that he issued the certificate as per Ex.P5 it is for the DGO to prove that the contents of Ex.P5 were true and correct. The DGO has not discharged his burden. No doubt the Excise Inspector, Gangavathi was one of the respondents as per the complaint of the complainant and he has filed his comments as per Ex.P8. He has lead evidence as PW3. Ex.P8 cannot be discarded on the ground that the Excise Inspector was one of the respondents at the complaint stage.

22. As stated above, the evidence of PW3 is believable and there is no reason to discard the evidence of PW3. As stated above, there is no evidence on the side of the DGO to substantiate the certificate issued by the DGO as per Ex.P5. The facts and circumstance of this case stated above only probabalise the case of the Disciplinary Authority to the effect that, the DGO has issued incorrect building completion certificate as per Ex.P5 with an intention to see that, the owner of the building mentioned in Ex.P5 could get the C.L.-7 license to run the liquor shop in the building mentioned in Ex.P5.

23. Thus the DGO has failed to maintain absolute integrity, devotion to duty and acted in a manner of unbecoming of a Government Servant. Hence, I answer this point in the **AFFIRMATIVE**.

24. **Point NO.2:-** For the reasons discussed above, I proceed to record the following:-

**:: FINDINGS ::**

*The Disciplinary Authority has satisfactorily proved the charge that the DGO-Sri Prakash s/o Mallaiah Hirematha, Secretary, Karatagi Grama Panchayathi, Gangavathi Taluk, Koppal District, has issued the incorrect building completion certificate as per Ex.P5 even though the construction of the building was not completed and thereby committed misconduct under Rule 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules, 1966.*

25. Hence this report is submitted to Hon'ble Upalokayukta -1 for kind perusal and for further action in the matter.

Dated this the 14<sup>th</sup> day of July, 2021

-Sd/-  
(Somaraju)  
Additional Registrar Enquiries-4,  
Karnataka Lokayukta,  
Bangalore.

**ANNEXURE****LIST OF WITNESSES EXAMINED ON BEHALF OF DISCIPLINARY AUTHORITY:**

PW-1 :Sri H. Narayana  
PW-2:Sri D.D. Malagi  
PW-3:Sri Vajendrachar

**LIST OF WITNESSES EXAMINED ON BEHALF OF THE DEFENCE:**

NIL

**LIST OF EXHIBITS MARKED ON BEHALF OF DISCIPLINARY AUTHORITY**

Ex.P-1: Form No.1 (original)  
Ex.P-2: FormNo.2 (original)  
Ex.P3: Letter from complainant to ARE-6 (original)  
Ex.P3(a): Signature  
Ex.P-4:Letter from ARE-6 to Dy.S.P., Karnataka Lokayuykta, Koppal (original)  
Ex.P5: Certified copy of certificates related to building completion  
Ex.P5(a): Signature  
Ex.P6: Letter from PDO, to Dy.S.P., KLA, Koppal (original)  
Ex.P7:Letter from Dy.S.P., to ARE-6 (original)  
Ex.P7(a); Signature  
Ex.P8:Letter of Revenue Inspector, Gangavathi Division (original)  
Ex.P8(a): Signature  
Ex.P9:Original Photo

**LIST OF EXHIBITS MARKED ON BEHALF OF DGO:**

NIL

Dated this the 14<sup>th</sup> day of July, 2021

-Sd/-  
(Somaraju)  
Additional Registrar Enquiries-4,  
Karnataka Lokayukta,  
Bangalore.