

KARNATAKA LOKAYUKTA

NO:UPLOK-1/DE/48/2017/ARE-9

M.S.Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru - 560 001.
Date:28.2.2022**:: ENQUIRY REPORT ::****:: Present ::**
(PUSHPAVATHI.V)
Additional Registrar of Enquiries -9
Karnataka Lokayukta,
BengaluruSub: Departmental Inquiry against Sri.
Ambanna, Secretary, Banapura Grama
panchayath, Yalburga Taluk, Koppal
District - reg.Ref: 1. G.O.No. RDP 751 GraPamKa/2016
5.1.2017
2.Nomination Order No: UPLOK-
1/DE/48/2017/ARE-9 Bangalore
dated:12.1.2017 of Hon'ble
Upalokayukta-1
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This Departmental Inquiry is initiated against Sri.
Ambanna, Secretary, Banapura Grama panchayath, Yalburga
Taluk, Koppal District (hereinafter referred to as the
Delinquent Government Official for short "DGO").

2. In pursuance of the Government Order cited above at
reference No.1, Hon'ble Upalokayukta vide order dated
12.1.2017 cited above at reference No.2 has nominated
Additional Registrar of Enquiries-9 (in short ARE-9) to frame
Articles of charges and to conduct the inquiry against the
aforesaid DGO.

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3. This Authority (ARE-9) has issued the Articles of charges, Statement of imputations of misconduct, list of witnesses proposed to be examined in support of the charges and list of documents proposed to be relied in support of the charges.

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

ANNEXURE-I
CHARGE

You-DGO – the estimate appears to have been prepared subsequently and even entry in the muster roll and in the measurement book appears to have been made subsequently for the purpose of the drawing bill. On considering these entries it is noticed that there is no correlation in dates, with reference to the date of commencement of the work and the date of work order issued. In the construction of check dam under in Sy.No.392/2 situated at Talakal village under MGNREGA scheme- for year 2014-15,

thereby you have failed to maintain absolute integrity, devotion to duty and committed an act which is unbecoming of a Government Servant and thus you-DGO have guilty of misconduct under Rule 3(1) (i) to (iii) of KCS (Conduct) Rules 1966.

ANNEXURE - 2
STATEMENT OF IMPUTATIONS OF MISCONDUCT

According to the Complainant, Sy.No. 329/2 situated at Talakal village within the jurisdiction of Banapura Grama Panchayath belongs to him. During 2013-14, construction of

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check dam was sanctioned at an estimated cost of Rs. 4 lakhs under MGNREGA scheme. According to the Complainant, prior to sanction of the said project, he being the owner of the said land, has himself constructed the check dam in his land. It is his allegation that, after he constructed the check dam, You-DGO have prepared an estimate for construction of the check dam in Sy.No. 329/2 and Rs. 4 lakhs was got sanctioned towards execution of the said project. It is his further allegation that, having drawn Rs.4 lakhs by creating false bills, by making false entries in the measurement book, You-DGO have paid him/Complainant Rs. 1 lakh and the remaining amount of Rs.3 lakhs has been misappropriated by you-DGO. According to the complainant, you-DGO never taken up construction of check dam in the land belonging to him but, the check dam he has constructed has been made use of by you-DGO and by creating false bills, you-DGO have drawn the estimated cost of Rs.4 lakhs have paid him only Rs.1 lakh and misappropriated the rest of the amount and hence requested to take action against them.

In this regard, the comments of you -DGO have been called for. You-DGO have denied the allegations made against you-DGO by the Complainant and contended that, as per the estimate prepared, the project was executed by constructing check dam and by utilizing the services of labourers under the MGNREGA scheme and the entire amount of Rs.4 lakhs has been spent towards the said construction. You-DGO have taken up specific contention that, you-DGO never created any false documents and no amount has been misappropriated and the allegations being made against you-DGO by the

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Complainant are all false and requested this authority to close the complaint. You-DGO have produced the copy of the estimate, estimate and plan, copy of the muster roll, relevant pages of the measurement book where the entries have been made with respect to construction of this check dam in the land of the Complainant and other documents to show that, they have executed the project and constructed the check dam as per the estimate prepared.

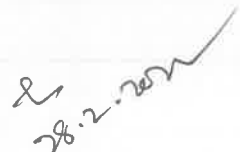
The Complainant has filed his rejoinder reiterating his allegations made against you-DGO and further reiterated his contention that it was he who constructed the check dam in his land by spending his own money. According to him, you-DGO have subsequently prepared a false estimate and prepared false bill to show that, the check dam that was constructed in his land is under the MGNREGA scheme at a cost of Rs.4 lakhs and drawn the amount. In his complaint he has initially stated that you-DGO have paid him Rs.1 lakh and the balance amount of Rs.3 lakhs have been misappropriated by you-DGO. But in his rejoinder it is his contention that, you-DGO have paid him Rs.1, 70,000/- and the balance of Rs. 2,30,000/- has been misappropriated by you-DGO.

On considering the materials produced, Sy.no. 329/2 of Talakal village is standing in the name of the Complainant and he is the owner of the said land. The Complainant has produced the photographs and also certain documents to show that, he has constructed the check dam at his own cost. One receipt is also produced dated 4.12.2013 to show that, he has purchased 100 bags of cement from M/s. Shanthi

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Agencies, Kukanoor for the purpose of constructing check dam in his land.

On perusing the documents produced by you-DGO, an estimate for constructing check dam in sy.no.329/2 of Talakal Grama Panchayath was prepared at an estimated cost of Rs.4 lakhs and the work was sanctioned during 2013-14 under MGNREGA scheme. Assistant Executive Engineer of PRE-Sub-Division Yelburga sanctioned the estimate and work order was issued on 1.4.2014 by you-DGO for which Sri.Bheemanna, President, Banapura Gram Panchayath, Elburga taluk, Koppal district was also a signatory. As per the entries in the muster roll, the services of unskilled labourers were shown to have been obtained from 5.3.2014 to 19.3.2014 and from 1.4.2014 to 10.4.2014 and also from 11.4.2014 to 26.4.2014. In the measurement book there is no mention about the date of commencement of the work and date of completion of the work but, the measurement book has been written by making necessary entries as per the estimate prepared. Certain copies of the quotations have also been produced to show that quotations have been called for purchase of cement from M/s. Banashankari Traders, Kukanoor, M/s. Suraj Hardware, Kukanoor and M/s. Sangameshwara Hardware, Yelburga. But all these quotations were dated 25.4.2013. But as per the entries in the muster roll, though the work order was issued on 1.4.2014, the services of the workers have been engaged towards execution of this check dam in sy.no. 329 from 5.3.2014 itself and till 26.4.2014. But, the quotations have been called for subsequent to completion of the work.


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On considering these documents, the estimate appears to have been prepared subsequently and even the entries in the muster roll and in the measurement book appears to have been made subsequently for the purpose of drawing the bill amount. On considering these entries, it is noticed that, there is no correlation in dates, with reference to date of commencement of the work and the date of work order issued. Therefore, the allegations being made by the Complainant appears to be true and if the work was executed by you-DGO as claimed by them, the cement purchase receipt dated 4.12.2013 in the name of the Complainant would not have been there. Therefore, the allegations being made by the Complainant that, it was he who constructed the check dam in his land and you-DGO have subsequently having prepared the bill drawn the amount of Rs. 4 lakhs and misappropriated the same appears to be true.

In view of the said facts and the material on record, the explanation offered by you-DGO have not found satisfactory and not acceptable to drop the proceedings against you.

Since the said facts and materials on record prima facie show that you-DGO have committed misconduct under Rule 3(1) (i) to (iii) of KCS (Conduct) Rules, 1966 and under Rule 14-A of Karnataka Civil Service (Classifications, control and Appeal) Rules, 1957.

5. The Article of charge was issued to the DGO calling upon him to appear before this authority and to submit written statement.

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6. The DGO appeared before this inquiry authority in pursuance to the service of the Article of charges. Plea of the DGO has been recorded and he pleaded not guilty and claimed for holding inquiry. Thereafter, he submitted written statement.

7. DGO has submitted written statement. In his written statement, he has denied the charge made against him. Further he has stated that along with him, the President, Engineer, Contractor had worked with him in the alleged project. He has released amount on perusal of estimation, plan, measurement book and the stage wise work. He has further stated that the amount is released stage wise on every stage of the project. He has further stated that he has not committed any misconduct as alleged. With these grounds, he prayed to drop the charges leveled against him.

8. The disciplinary authority has examined the scrutiny officer Sri.S.Renuka Prasad as PW.1, and got marked documents as **Ex.P-1 to ExP-6**.

9. Thereafter, second oral statement of DGO has been recorded. DGO submitted that he has got evidence. So, opportunity was provided to him to adduce evidence. Accordingly, DGO has got examined himself as DW-1 and got marked one document as **Ex.D-1**.

10. Heard submissions of Presenting Officer and DGO. Perused the entire records, the only point that arise for my consideration is:

**Whether the Disciplinary Authority proves
the charge framed against the DGOs ?**

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

REASONS

11. Complainant is reported to be dead and hence he has not been examined. Scrutiny officer has been examined as PW-1, he has stated that as per the allegation made by the complainant, though the complainant himself constructed the check dam in his land bearing Sy. No. 329/2 of Talakal village of Bhanapura grama panchayath on his own by spending amount out of his pocket, respondents have drawn Rs.4 lakhs by creating false bills and making false entries in the measurement book. In this regard the respondents have paid Rs.1,00,000/- to him and misappropriated the remaining amount of Rs.3 Lakhs. He has also stated that, while submitting his rejoinder the complainant claimed that respondents have paid Rs.1,70,000/- and the remaining amount of Rs.2,30,000/- has been misappropriated by them.

12. He has further stated that, having verified the documents produced by the complainant and respondent and on going through the same, he has put up his final scrutiny note on which report u/s 12(3) of KL Act is submitted.

13. During the cross examination, he has admitted that he has verified report of DSP, Karnataka Lokayukta Koppal but said report is not referred in the 12 (3) report. He has also admitted that he has not obtained any report from the Executive officer, Taluk panchayath, Yelaburga, and also from CEO, Zilla Panchayath, Koppal district. He has further

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admitted that he had received a letter dtd: 4.1.2018 from CEO Zilla Panchayath, Koppal which is marked at Ex.D-1. Remaining suggestions have been denied.

14. DGO in his chief examination has reiterated the contention taken in the objections. During the cross examination he has admitted as follows;

“ಎಂ.ಬಿ.ಪುಸ್ತಕದ ಕ್ರ.ಸಂ: 2 ರಲ್ಲಿ ತಿದ್ದುಪಡಿ ಆಗಿದೆ ಎಂದರೆ ಸರಿ. ಕ್ರ.ಸಂ: 2 ನ್ನು ಯಾವ ದಿನಾಂಕದಂದು ಬರೆಯಲಾಗಿದೆ ಎಂದು ದಿನಾಂಕ ಬರೆದಿಲ್ಲ ಎಂದರೆ ಸರಿ. ಕೂಲಿಕಾರರ ಹೆಸರು ಮತ್ತು ಸಹಿ ಹಾಗೂ ಫಲಾನುಭವಿಗಳ ಹೆಸರು ಮತ್ತು ಸಹಿ ತೆಗೆದುಕೊಂಡಿಲ್ಲ ಎಂದರೆ ಸರಿ. ಕ್ರ.ಸಂ: 3ರಲ್ಲಿ ತಿದ್ದುಪಡಿ ಆಗಿದೆ ಎಂದರೆ ಸರಿ. ಕ್ರ.ಸಂ: 3 ನ್ನು ಯಾವ ದಿನಾಂಕದಂದು ಬರೆಯಲಾಗಿದೆ ಎಂದು ದಿನಾಂಕ ಬರೆದಿಲ್ಲ ಎಂದರೆ ಸರಿ. ಕೂಲಿಕಾರರ ಹೆಸರು ಮತ್ತು ಸಹಿ ಹಾಗೂ ಫಲಾನುಭವಿಗಳ ಹೆಸರು ಮತ್ತು ಸಹಿ ತೆಗೆದುಕೊಂಡಿಲ್ಲ ಎಂದರೆ ಸರಿ. ಕ್ರ.ಸಂ: 4 ಸಹ ತಿದ್ದುಪಡಿ ಆಗಿದೆ ಎಂದರೆ ಸರಿ. ತಿದ್ದುಪಡಿ ಆದ ಜಾಗದಲ್ಲಿ ಸಹಿ ಮಾಡಿಲ್ಲ ಎಂದರೆ ಸರಿ. ಕೂಲಿಕಾರರ ಹೆಸರು ಮತ್ತು ಸಹಿ ಹಾಗೂ ಫಲಾನುಭವಿಗಳ ಹೆಸರು ಮತ್ತು ಸಹಿ ತೆಗೆದುಕೊಂಡಿಲ್ಲ ಎಂದರೆ ಸರಿ. ಕ್ರ.ಸಂ:5 ರಲ್ಲಿ ಸಹ ತಿದ್ದುಪಡಿ ಆಗಿದೆ ಎಂದರೆ ಸರಿ. ತಿದ್ದುಪಡಿ ಆದ ಜಾಗದಲ್ಲಿ ಸಹಿ ಮಾಡಿಲ್ಲ ಎಂದರೆ ಸರಿ. ಕೂಲಿಕಾರರ ಹೆಸರು ಮತ್ತು ಸಹಿ ಹಾಗೂ ಫಲಾನುಭವಿಗಳ ಹೆಸರು ಮತ್ತು ಸಹಿ ತೆಗೆದುಕೊಂಡಿಲ್ಲ ಎಂದರೆ ಸರಿ. ಕ್ರ.ಸಂ: 6 & 7 ರಲ್ಲಿಯೂ ಸಹ ತಿದ್ದುಪಡಿಗಳಾಗಿವೆ ಎಂದರೆ ಸರಿ. ತಿದ್ದುಪಡಿ ಆದ ಜಾಗದಲ್ಲಿ ಸಹಿ ಮಾಡಿಲ್ಲ ಎಂದರೆ ಸರಿ. ಕೂಲಿಕಾರರ ಹೆಸರು ಮತ್ತು ಸಹಿ ಹಾಗೂ ಫಲಾನುಭವಿಗಳ ಹೆಸರು ಮತ್ತು ಸಹಿ ತೆಗೆದುಕೊಂಡಿಲ್ಲ ಎಂದರೆ ಸರಿ. ತಾಂತ್ರಿಕ ಸಹಾಯಕರ ಸಹಿ ಸಹ ಆಗಿಲ್ಲ ಎಂದರೆ ಸರಿ. ಸಹಾಯಕ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರು ಸಹಿ ಮಾಡಿದ ದಿನಾಂಕ ನಮೂದಿಸಿಲ್ಲ ಎಂದರೆ ಸರಿ. ಗ್ರಾಮ ಪಂಚಾಯಿತಿ ಅಧ್ಯಕ್ಷರು ಸಹಿ ಮಾಡಿದ ದಿನಾಂಕ ನಮೂದಿಸಿಲ್ಲ ಎಂದರೆ ಸರಿ. ಹಳೆ

(Handwritten signature)
28.2.2018

ಬಿಲ್ಲನ್ನು ಉಪಯೋಗಿಸಿ ಕಾಮಗಾರಿಯನ್ನು ಮಾಡದಿದ್ದರೂ ಸಹ ಕಾಮಗಾರಿಯನ್ನು ಮಾಡಲಾಗಿದೆ ಎಂದು ದಾಖಲೆಗಳನ್ನು ಸೃಷ್ಟಿ ಮಾಡಲಾಗಿದೆ ಎಂದರೆ ಸರಿಯಲ್ಲ. ದಾಖಲೆಗಳನ್ನು ಪರಿಶೀಲನೆ ಮಾಡದೇ ನಾನು ಹಣ ಪಾವತಿ ಮಾಡಿ ಕರ್ತವ್ಯ ಲೋಪ ಎಸಗಿದ್ದೇನೆ ಎಂದರೆ ಸರಿಯಲ್ಲ.”

15. This way, he has admitted that, in the estimation the date of estimation submitted to him is not written. He has also admitted that in the MB book, the signatures of labourers, president of concerned grama panchayath, signatures of beneficiaries are not taken. He has also admitted that, the date of check measurement is not written. He has further admitted that in the Sl. No. 2 to 7 corrections have been made without initials. The DGO does not give satisfactory explanation for all these dereliction. All these facts demonstrate that the MB book and other documents have been created to suite the convenience.

16. Thus, overall examination of the evidence on record shows that the disciplinary authority has established the charge leveled against DGO. Hence I proceed to record the following:-

FINDINGS

17. The Disciplinary Authority has proved the charges leveled against DGO. Hence, this report is submitted to Hon'ble Upalokayukta for further action.

18. Date of retirement of DGO-1.6.2026.

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Additional Registrar Enquiries-9
Karnataka Lokayukta, Bengaluru.

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

PW.1	Sri. S.Renuka Prasad, S/o M.Shivabasappa, Additional Registrar of Enquiries-3, Karnataka Lokayukta Bengalore
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ii) List of Documents marked on behalf of Disciplinary Authority.

Ex.P1	Ex.P-1 is the complaint submitted by Sri. Chenappa R/o Komalapura, Yalaburgi Taluk Koppal District (complainant)to this office
Ex.P 2 and 3	Ex.P-2 and 3 are the complaint in form No. 1 and 2 submitted by Sri. Chenappa to this office.
Ex.P-4	Ex.P-4 is the document submitted to this office by Sri. Chenappa along with the complaint .
Ex.P-5	Ex.P-5 is the comments of DGO and president of Komalapura Grama panchayath along with supporting documents
Ex.P 6	Ex.P-6 is the rejoinder and photographs filed by complainant

iii) List of witnesses examined on behalf of DGO

DW-1	DGO Sri.Ambanna, Secretary, Banapura Grama panchayath, Yalburga Taluk, Koppal District
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iv) List of documents marked on behalf of DGO

Ex.D-1	Ex.D-1 is the letter No. ಜಿಪಂಕೊ/ಸಿ.ಸಿ.ಎ/ ಲೋಕಾಯುಕ್ತ/ ಸಿ.ಆರ್-28/ 2016-17 dated: 2.1.2018 from CEO Zilla panchayath, Koppal to the Principal Secretary to Government (zilla panchayath)RDPR Bangalore and Additional Registrar of Enquiries-3, Karnataka Lokayukta Bengaluru
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(PUSHPAVATHI.V)

Additional Registrar Enquiries-9
Karnataka Lokayukta,
Bengaluru.



KARNATAKA LOKAYUKTA

No.UPLOK-1/DE.48/2017/ARE-9

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001.
Dated 03.03.2022

RECOMMENDATION

Sub:- Departmental inquiry against Sri Ambanna,
Secretary, Banapura Grama Panchayath,
Yalburga Taluk, Koppal District - reg.

Ref:- 1) Government Order No.RDP 751 GPS 2016
dated 05.01.2017.

2) Nomination order No. UPLOK-1/DE.48/2017
dated 12.01.2017 of Hon'ble Upalokayukta,
State of Karnataka.

3) Inquiry report dated 28.02.2022 of Additional
Registrar of Enquiries-9, Karnataka Lokayukta,
Bengaluru.

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The Government by its order dated 05.01.2017 initiated the disciplinary proceedings against Sri Ambanna, Secretary, Banapura Grama Panchayath, Yalburga Taluk, Koppal District, [hereinafter referred to as Delinquent Government Official, for short as 'DGO'] and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No. UPLOK-1/DE.48/2017 dated 12.01.2017 nominated Additional Registrar of Enquiries-9, 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 creating documents for drawing bills without making proper entries of measurement, muster roll and date of commencement etc., and thereby committed misconduct.
4. The Inquiry Officer (Additional Registrar of Enquiries-9) on proper appreciation of oral and documentary evidence has held that, the above charge against the DGO Sri Ambanna, Secretary, Banapura Grama Panchayath, Yalburga Taluk, Koppal District, is '*proved*'.
5. On re-consideration of report of inquiry, I do not find any reason to interfere with the findings recorded by the

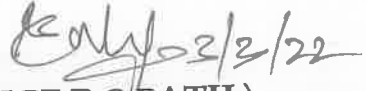
Inquiry Officer. Therefore, it is hereby recommended to the Government to accept the report of Inquiry Officer.

6. As per the First Oral Statement of DGO furnished by the Enquiry Officer, DGO is due to retire from service on 31.05.2026.

7. Having regard to the nature of charge 'proved' against the DGO and considering the totality of circumstances, it is hereby recommended to the Government to impose penalty of 'withholding one annual increment payable to DGO Sri Ambanna, Secretary, Banapura Grama Panchayath, Yalburga Taluk, Koppal District, with cumulative effect.

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

Connected records are enclosed herewith.

  
(JUSTICE B.S. PATIL)  
Upalokayukta-2,  
State of Karnataka.

