

BEFORE THE ADDITIONAL REGISTRAR, ENQUIRIES-11

KARNATAKA LOKAYUKTA, BENGALURU

ENQUIRY NUMBER: LOK/INQ/14-A/508/2013

ENQUIRY REPORT Dated: 20/05/2019

Enquiry Officer: V.G.Bopaiah
Additional Registrar Enquiries-11
Karnataka Lokayukta, Bengaluru.

Delinquent Government Official Number 1: Sri. M. Siddiqui

(name written by him as
Mohammed Siddique on the
second oral statement dated
30/10/2019)

Discharged duties as Junior
Engineer, Panchayath Raj
Engineering Sub-Division,
Surapura, Yadagiri District from
the year 2005 to 2007.

Retired on superannuation on
31/01/2012.

Delinquent Government Official Number 2: Sri. Sathyanarayana

Discharged duties as in-charge
Assistant Executive Engineer,
Panchayath Raj Engineering Sub-
Division, Surapura, Yadagiri
District.

Retired on superannuation on
31/07/2016.

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1. Delinquent Government Official number 1 (in short, "DGO 1") was working as Junior Engineer attached to Panchayath Raj Engineering Sub-Division, Surapura, Yadagiri District from the year 2005 to 2007. He retired on superannuation on 31/01/2012. Delinquent Government Official number 2 (in short, "DGO 2") was working as in-charge Assistant Executive Engineer, Panchayath Raj Engineering Sub-Division, Surapura, Yadagiri District. He retired on superannuation on 31/07/2016.
2. Background for initiating the present inquiry against DGOs 1 and 2 needs to be set out in brief. One Sri. Linganagouda (hereinafter will be referred to as "complainant") is the resident of a place called Malahalli, Surapura Taluk, Kalaburagi District. Complaint dated 31/01/2007 in FORM No.I of the complainant against the Assistant Executive Engineer, Panchayath Raj Engineering Sub-Division, Surapura and against the Assistant Engineer attached to Panchayath Raj Engineering Sub-Division, Surapura came to be registered in COMPT/UPLOK/GLB/332/2007/ARE-6. According to the complainant, amount is released by Hyderabad-Karnataka Development Board for execution of civil works at Malahalli Village, Surapura Taluk. The complainant has alleged that pipeline of total length of 950 meters is shown in the estimate touching mini water supply in Malahalli village but pipeline of the length of 500 meters is installed. It is alleged that foundation for C.D. work and bed concrete are of sub standard.
3. In exercise of the powers conferred upon under section 9 of The Karnataka Lokayukta Act, 1984 Hon'ble Upalokayukta-1,


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Karnataka entrusted the matter for investigation to the Assistant Engineer (in short, "Investigating Officer") attached to Technical Audit Cell, Karnataka Lokayukta, Bengaluru. Thereafter, the Investigating Officer visited the spot on 05/03/2009 for conducting investigation during which time the complainant, DGOs 1 and 2, Sri. Ganesh who was working as Assistant Executive Engineer, Panchayath Raj Engineering Sub-Division, Surapura, Sri. C. Anwar Patel who was working as Secretary attached to the jurisdictional Grama Panchayath were present. Investigation disclosed that the civil work was at the approved estimate of Rs. 5 lakhs. It came into light that contractor by name Sri. G.N. Kelli executed the work. Investigation disclosed that bed concrete was found below the hume pipe but not below the walls. Investigation revealed that RCC hume pipes of the length of 7.5 meters and of the diameter of 900 millimeters were found installed. Investigation revealed that at the time of execution of the above works DGO 1 was working as Junior Engineer and DGO 2 was working as in-charge Assistant Executive Engineer attached to Panchayath Raj Engineering Sub-Division, Surapura. Investigation revealed that measurements were found entered in page numbers 2 to 9 of measurement book number 10591 and a sum of Rs.4,56,701/- has been released. Investigation unearthed that without laying foundation on C.D. walls DGOs 1 and 2 have mentioned in the measurement book that foundation is laid on C.D. walls and caused loss of Rs.91,132/- to the Government.

4. On the basis of the report of the Investigating Officer including the materials on record Hon'ble Upalokayukta-1, Karnataka prima facie arrived at conclusion that DGOs 1 and 2

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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 the disciplinary proceedings against DGOs 1 and 2 and to entrust the inquiry to the Hon'ble Upalokayukta-1, Karnataka under Rule 14-A of The Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.

5. Subsequent to the report dated 25/10/2013 under section 12(3) of The Karnataka Lokayukta Act, 1984, Government order bearing number ಗ್ರಾಅಪ 40 ಇಎನ್‌ಕೂ 2013 ಬೆಂಗಳೂರು ದಿನಾಂಕ: 09/12/2013 has been issued by the Under Secretary (Services-A), Department of Rural Development and Panchayath Raj, Government of Karnataka entrusting the inquiry against DGOs 1 and 2 to the Hon'ble Upalokayukta-1, Karnataka under Rule 14-A of The Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.
6. Subsequent to the report under section 12(3) of The Karnataka Lokayukta Act, 1984, Order number LOK/INQ/14A/508/2013 Bengaluru dated 19/12/2013 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 against DGOs 1 and 2.
7. Articles of charge dated 04/01/2014 at Annexure-I which includes statement of imputation of misconduct at Annexure-II framed by the then Additional Registrar, Enquiries-4, Karnataka Lokayukta, Bengaluru is the following:

2015-10-20

“ಅನುಬಂಧ-1ದೋಷಾರೋಪಣೆ-1

2. ನೀವು 1ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಶ್ರೀ ಎಂ.ಸಿದ್ದಿಕ್, ಹಿಂದಿನ ಕಿರಿಯ ಅಭಿಯಂತರರು, ಪಂಚಾಯತ್ ರಾಜ್ ಇಂಜಿನಿಯರಿಂಗ್ ಉಪ ವಿಭಾಗ, ಸುರಪುರ ಮತ್ತು ನೀವು 2ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಶ್ರೀ ಸತ್ಯನಾರಾಯಣ, ಹಿಂದಿನ ಪ್ರಭಾರಿ ಸಹಾಯಕ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರು, ಪಂಚಾಯತ್ ರಾಜ್ ಇಂಜಿನಿಯರಿಂಗ್ ಉಪ ವಿಭಾಗ, ಸುರಪುರ ನಿಮ್ಮ ವಿರುದ್ಧ ಆಪಾದಿಸುವುದೇನೆಂದರೆ, ನೀವು ಮಾಲಳ್ಳಿ ಗ್ರಾಮದ ಸಿ.ಡಿ. ಕಾಮಗಾರಿಯ ಪೌಂಡೇಷನ್ ನಿರ್ಮಿಸಲು ರೂ.5.00 ಲಕ್ಷಗಳ ಅಂದಾಜು ಪಟ್ಟಿಗೆ ಅನುಮೋದನೆ ಪಡೆದಿದ್ದು, ಸದರಿ ಕಾಮಗಾರಿಯನ್ನು ಶ್ರೀ ಜಿ.ಎನ್.ಕೆಲ್ಲಿ 1ನೇ ದರ್ಜೆ ಗುತ್ತಿಗೆದಾರರಿಗೆ ಆದೇಶ ಸಂಖ್ಯೆ. ಪಿಡಬ್ಲ್ಯೂಎ ಸಂಖ್ಯೆ ಸಿಇಆರ್‌ಡಿಇಡಿ ಸಂ 2040, ದಿನಾಂಕ 15.11.2006ರನುಸಾರ ವಹಿಸಿದ್ದು, ನಿಮ್ಮ ಪೈಕಿ ಸದರಿ ಕಾಮಗಾರಿಯ ಅಳತೆಯನ್ನು 1ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ದಾಖಲಿಸಿದ್ದು, ಅಳತೆ ಪುಸ್ತಕ ಸಂಖ್ಯೆ. 10591ರ ಪುಟ 1ರಿಂದ 9ರವರೆಗೆ ನಮೂದಿಸಿ ರೂ.4,56,701/- ಗಳನ್ನು ಪಾವತಿಸಿದ್ದು, ಸದರಿ ಅಳತೆಯನ್ನು ನಿಮ್ಮ ಪೈಕಿ 2ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಸದರಿ ಅಳತೆಯನ್ನು ಕಾಮಗಾರಿಯ ಸ್ಥಳ ಪರಿಶೀಲಿಸದೇ ದೃಢೀಕರಿಸುತ್ತೀರಿ. ನೀವು 1ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು 27.27 ಘನ ಮೀಟರ್ ಅಳತೆಗೆ ರೂ.4,56,701/- ಗಳನ್ನು ಪಾವತಿಸಿದ್ದು, ತನಿಖಾಧಿಕಾರಿಯು ಸ್ಥಳದಲ್ಲಿ ಪರಿಶೀಲಿಸಲಾಗಿ, ಕೇವಲ 3.22 ಘನ ಮೀಟರ್ ಕಾಮಗಾರಿಯ ಪೌಂಡೇಷನ್ ಹಾಕಿದ್ದು, ಈ ರೀತಿಯಾಗಿ 24.50 ಘನ ಮೀಟರ್ ಬೆಡ್ ಕಾಂಕ್ರೀಟ್‌ಗೆ ರೂ.3,789.28 ದರದಲ್ಲಿ ರೂ.91,132/- ಗಳನ್ನು ಸಿ.ಡಿ. ವಾಲ್ ಪೌಂಡೇಷನ್ ಹಾಕದೇ ಪಾವತಿ ಮಾಡಿದ್ದು, ನೀವುಗಳು ಸರ್ಕಾರಕ್ಕೆ 91,132/- ಗಳ ನಷ್ಟವನ್ನುಂಟು ಮಾಡಿ ಕರ್ತವ್ಯ ಲೋಪವೆಸಗಿರುತ್ತೀರಿ. ನೀವುಗಳು ಸರ್ಕಾರಿ ಸೇವಕರಾಗಿದ್ದು, ಈ ರೀತಿ ಕರ್ತವ್ಯ ಲೋಪವೆಸಗಿದ್ದು, ನಿಮ್ಮ ಕರ್ತವ್ಯಪಾಲನೆಯಲ್ಲಿ ಪರಿಪೂರ್ಣ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ತೋರಿಸದೆ ಸ್ವಲಾಭಕ್ಕಾಗಿ ಸಾರ್ವಜನಿಕ ಸೇವಕರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡಿದ್ದು, ನೀವು ಕರ್ನಾಟಕ ಸರ್ಕಾರಿ ಸೇವಾ (ಸದ್ವರ್ತನೆ) ನಿಯಮಾವಳಿ 1966ರ (3) (i) ರಿಂದ (iii) ನೇ ನಿಬಂಧನೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿ ದುರ್ನಡತೆ ಎಸಗಿದ್ದೀರಿ. ಆದ್ದರಿಂದ ಈ ದೋಷಾರೋಪಣೆ.

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ಅನುಬಂಧ-2ದೋಷಾರೋಪಣೆಯ ವಿವರ

(ಸ್ಟೇಟ್‌ಮೆಂಟ್ ಆಫ್ ಇಂಪ್ಯೂಟೇಷನ್ ಆಫ್ ಮಿಸ್‌ಕಾಂಡೆಕ್ಟ್)

ಆಪಾದನೆಗಳ ವಿವರ:

ದೂರುದಾರರಾದ ಲಿಂಗನಗೌಡ ವೆಂಕನಗೌಡ ಪಾಟೀಲ್ ಮಾಲಳ್ಳಿ ಇವರು ಗುಲ್ಬರ್ಗಾ ಜಿಲ್ಲೆ ಸುರಪುರ ತಾಲ್ಲೂಕಿನ ಮಾಲಳ್ಳಿ ಗ್ರಾಮದಲ್ಲಿ ಹೈದರಾಬಾದ್ ಕರ್ನಾಟಕ ಪ್ರದೇಶ ಅಭಿವೃದ್ಧಿ ಮಂಡಳಿ ಅನುದಾನದ ಅಡಿಯಲ್ಲಿ ಕೈಗೊಂಡ ಈ ಕೆಳಕಂಡ ಕಾಮಗಾರಿಗಳಲ್ಲಿ ಸರ್ಕಾರದ ಹಣ ದುರುಪಯೋಗಪಡಿಸಿಕೊಂಡಿದ್ದಾರೆಂದು 1 ಮತ್ತು 2ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರುಗಳ ವಿರುದ್ಧ ಆರೋಪ ಮಾಡಿರುತ್ತಾರೆ.

- (1) ಸಿ.ಡಿ. ಕಾಮಗಾರಿಯ ಫೌಂಡೇಷನ್ ಸರಿಯಾಗಿ ನಿರ್ವಹಿಸದೇ, ನಿಗದಿತ ಆಳಕ್ಕೆ ತೆಗೆಯದೇ ಬೆಡ್ ಕಾಂಕ್ರಿಟ್ ಸಹ ಹಾಕದೇ ಕಳಪೆ ಕಾಮಗಾರಿ ನಿರ್ವಹಿಸಿರುತ್ತಾರೆ.
- (2) ಮಿನಿ ವಾಟರ್ ಸಪ್ಲೈ ಕಾಮಗಾರಿಯ ಪೈಪ್‌ಗಳನ್ನು ಒಂದು ಮೀಟರ್ ಆಳವಾಗಿ ಹಾಕಬೇಕಾಗಿದ್ದು, ಆದರೆ ಪೈಪುಗಳ ಮೇಲೆ ಕಾಣುವ ಹಾಗೆ ಹಾಕಿರುತ್ತಾರೆ.

3.00 ಅನುಸರಿಸಿದ ತನಿಖಾ ವಿಧಾನಗಳು:-

- 3.01 ದೂರಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಲೋಕಾಯುಕ್ತ ಸಂಸ್ಥೆಯಿಂದ ದಿನಾಂಕ 24.02.2009ರಂದು ಸಹಾಯಕ ಕಾರ್ಯನಿರ್ವಾಹಕ ಅಭಿಯಂತರರು, ಪಂಚಾಯತ್ ರಾಜ್ ಇಂಜಿನಿಯರಿಂಗ್ ಉಪವಿಭಾಗ, ಸುರಪುರ, ಗುಲ್ಬರ್ಗಾ ಜಿಲ್ಲೆ ಇವರಿಗೆ ಪತ್ರವನ್ನು ಬರೆದು, ಸದರಿ ಪತ್ರದಲ್ಲಿ ತನಿಖಾಧಿಕಾರಿಗಳು ಸ್ಥಳ ಪರಿವೀಕ್ಷಣೆಯನ್ನು ದಿನಾಂಕ 05.03.2009ರಂದು ಕೈಗೊಳ್ಳುವರೆಂದು, ಸದರಿ ಸ್ಥಳ ಪರಿವೀಕ್ಷಣೆ ಸಮಯದಲ್ಲಿ ಖುದ್ದಾಗಿ ಹಾಜರಿದ್ದು, ಜೊತೆಗೆ ದೂರಿನಲ್ಲಿ ಆಪಾದಿಸಿರುವ ಕಾಮಗಾರಿಯ ಅನುಷ್ಠಾನಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟಂತೆ, ಎಲ್ಲಾ ಅಧಿಕಾರಿಗಳು ಕೂಡ ಸ್ಥಳದಲ್ಲಿ ಹಾಜರಿರುವಂತೆ ನೋಡಿಕೊಂಡು, ದೂರಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಎಲ್ಲಾ ದಾಖಲಾತಿಗಳನ್ನು ಸ್ಥಳದಲ್ಲಿ ಒದಗಿಸಲು ತಿಳಿಸಲಾಗಿತ್ತು.

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3.02 ಮುಂದುವರಿದು, ಲೋಕಾಯುಕ್ತ ಸಂಸ್ಥೆಯಿಂದ ದಿನಾಂಕ 24.02.2009ರಂದು ದೂರುದಾರರಾದ ಶ್ರೀ ಲಿಂಗನಗೌಡ ವೆಂಕನಗೌಡ ಮಾಲಳ್ಳಿ ಇವರಿಗೆ ಪ್ರತ್ಯೇಕ ಪತ್ರವನ್ನು ಬರೆದು, ಸದರಿ ಪತ್ರದಲ್ಲಿ ದೂರಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಹೆಚ್ಚುವರಿ ಮಾಹಿತಿಗಳು ಏನಾದರೂ ಇದ್ದರೆ ದಿನಾಂಕ 05.03.2009ರ ಸ್ಥಳ ಪರಿವೀಕ್ಷಣಾ ಸಮಯಲ್ಲಿ ಹಾಜರುಪಡಿಸಿ ತನಿಖೆಯಲ್ಲಿ ಸಹಕರಿಸಲು ತಿಳಿಸಲಾಗಿತ್ತು.

3.03 ಅದರಂತೆ, ದಿನಾಂಕ 05.03.2009ರಂದು ಸ್ಥಳ ಪರಿವೀಕ್ಷಣೆಯನ್ನು ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಮತ್ತು ದೂರುದಾರರ ಸಮ್ಮುಖದಲ್ಲಿ ನಡೆಸಿ ಪಂಚನಾಮೆ ಮಾಡಲಾಯಿತು. ಸ್ಥಳ ಪರಿಶೀಲನೆ ಸಮಯದಲ್ಲಿ ಈ ಕೆಳಕಂಡವರು ಹಾಜರಿದ್ದರು.

- 1) ಶ್ರೀ ಗಣೇಶ್, ಸಹಾಯಕ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರು, ಪಂಚಾಯತ್ ರಾಜ್ ಇಂಜಿನಿಯರಿಂಗ್ ಉಪ ವಿಭಾಗ, ಸುರಪುರ.
- 2) ಶ್ರೀ ಸತ್ಯನಾರಾಯಣ, ಹಿಂದಿನ ಪ್ರಭಾರ ಸಹಾಯಕ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರು, ಹಾಲಿ ಸಹಾಯಕ ಅಭಿಯಂತರರು, ಪಂಚಾಯತ್ ರಾಜ್ ಇಂಜಿನಿಯರಿಂಗ್ ಉಪ ವಿಭಾಗ, ಸುರಪುರ.
- 3) ಶ್ರೀ ಎಂ.ಸಿದ್ದಿಕೆ, ಕಿರಿಯ ಅಭಿಯಂತರರು, ಪಂಚಾಯತ್ ರಾಜ್ ಇಂಜಿನಿಯರಿಂಗ್ ಉಪ ವಿಭಾಗ, ಸುರಪುರ ಹಾಲಿ ಕಿರಿಯ ಅಭಿಯಂತರರು, ಪಂಚಾಯತ್ ರಾಜ್ ಇಂಜಿನಿಯರಿಂಗ್ ಉಪ ವಿಭಾಗ, ಗುಲ್ಬರ್ಗಾ.
- 4) ಶ್ರೀ ಸಿ.ಅನ್ವರ್ ಪಟೇಲ್, ಹಿಂದಿನ ಕಾರ್ಯದರ್ಶಿ, ಹಾಲಿ ಪರನಳ್ಳಿ ಗ್ರಾಮ ಪಂಚಾಯತ್.
- 5) ಶ್ರೀ ಲಿಂಗನಗೌಡ ವೆಂಕನಗೌಡ ಪಾಟೀಲ್-ದೂರುದಾರರು.

1. ಮಾಲಳ್ಳಿ ಗ್ರಾಮದ ಸಿ.ಡಿ. ಕಾಮಗಾರಿಯ ಫೌಂಡೇಷನ್ ಸರಿಯಾಗಿ ನಿರ್ವಹಿಸದೇ, ನಿಗದಿತ ಆಳದಲ್ಲಿ ಅಗೆಯದೇ ಬೆಡ್ ಕಾಂಕ್ರೀಟ್ ಹಾಕಿರುವುದಿಲ್ಲ ಎಂಬ ದೂರಿನ ಕುರಿತು.

ದೂರುದಾರರು ಫೌಂಡೇಷನ್ಗೆ ಬೆಡ್ ಕಾಂಕ್ರೀಟ್ ಹಾಕಿರುವುದಿಲ್ಲವೆಂದು ಆರೋಪಿಸಿರುವುದರಿಂದ ಬೆಡ್ ಕಾಂಕ್ರೀಟ್ ಹಾಕಿದೆಯೇ ಅಥವಾ ಇಲ್ಲವೇ ಎಂಬುದನ್ನು

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ತಿಳಿಯಲು 3 ಜಾಗದಲ್ಲಿ ಗುಂಡಿಗಳನ್ನು ತೆಗೆದು ಪರಿಶೀಲಿಸಿ, ಕಂಡುಬಂದ ಅಳತೆಗಳನ್ನು ಈ ಕೆಳಕಂಡಂತೆ ಪಂಚನಾಮೆಯಲ್ಲಿ ನಮೂದಿಸಲಾಗಿದೆ.

ಬೆಡ್ 1x7.15x0.75x0.30 ಮೀ.

ಕಾಂಕ್ರೀಟ್ 1x7.15x0.75x0.30 ಮೀ.

ಅಳತೆಗಳ ಬೆಡ್ ಕಾಂಕ್ರೀಟ್‌ನ್ನು ಪೈಪ್ ಕೆಳಗೆ ಮಾತ್ರ ಹಾಕಲಾಗಿದ್ದು, ವಾಲ್‌ಗಳ ಕೆಳಗೆ ಕಾಂಕ್ರೀಟ್‌ನ್ನು ಹಾಕಿರುವುದಿಲ್ಲ.

2) 900 ಮೀ.ಮೀ. ವ್ಯಾಸದ ನಾಲ್ಕು ಕಣ್ಣಿನ ಆರ್.ಸಿ.ಸಿ. ಹ್ಯೂಮ್‌ಪೈಪ್ ಗಳನ್ನು 7.5 ಮೀ ಉದ್ದಕ್ಕೆ ಹಾಕಲಾಗಿದೆ.

3) ಹೆಡ್ ವಾಲ್

ಬಲಭಾಗ 50.00 x 0.53 x 1.50 ಮೀ.

ಎಡ ಭಾಗ 50.00 x 0.53 x 1.50 ಮೀ.

4) ಕೋಪಿಂಗ್ ಕಾಂಕ್ರೀಟ್ ಹೆಡ್‌ವಾಲ್‌ಗಳ ಮೇಲೆ

ಬಲಭಾಗ 50.00 x 0.53 x 0.10 ಮೀ.

ಎಡ ಭಾಗ 50.00 x 0.53 x 0.10 ಮೀ.

5) ಸಿ.ಡಿ. ಮೇಲೆ ಕಾಂಕ್ರೀಟ್

50.00 x 6.45 x 0.10 ಮೀ.

6) ಪಿಚ್ಚಿಂಗ್

15.00 x 9.80 ಮೀ.

8.50 x (11.80 x 6.50) ಮೀ.

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7) ಆರ್.ಸಿ.ಸಿ. ಹ್ಯೂಮ್ ಪೈಪ್ ಮಲೆ 0.60 ಮೀ ಎತ್ತರಕ್ಕೆ ಸ್ಟೋನ್ ಮೆಸನರಿ ಗೋಡೆ ಕಟ್ಟಲಾಗಿದೆ.

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ಹಾಜರುಪಡಿಸಿದ ದಾಖಲೆಗಳನ್ನು ಪರಿಶೀಲಿಸಿದಾಗ, ಮೇಲ್ಕಂಡ ಕಾಮಗಾರಿಯ ಅಂದಾಜು ಪಟ್ಟಿಯು ರೂ.5.00 ಲಕ್ಷಕ್ಕೆ ಅನುಮೋದನೆಯಾಗಿದ್ದು, ಸದರಿ ಕಾಮಗಾರಿಯನ್ನು ಶ್ರೀ ಜಿ.ಎನ್.ಕೆಲ್ಲಿ 1ನೇ ದರ್ಜೆ ಗುತ್ತಿಗೆದಾರರಿಗೆ ಆದೇಶ ಸಂಖ್ಯೆ. ಪಿ.ಡಬ್ಲ್ಯೂ.ಎ. ಸಂಖ್ಯೆ. ಸಿ.ಇ.ಆರ್.ಡಿ.ಇ.ಡಿ.ಸಂ. 2040, ದಿನಾಂಕ 15.11.2006ರ ಅನುಸಾರ ವಹಿಸಿರುತ್ತಾರೆ. ಸದರಿ ಕಾಮಗಾರಿಯ ಅಳತೆಗಳನ್ನು 1ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ನಮೂದಿಸಿದ್ದು, ಸದರಿ ಅಳತೆಗಳನ್ನು 2ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಪರಿಶೀಲಿಸಿ ದೃಢೀಕರಿಸಿರುತ್ತಾರೆ.

ಸದರಿ ಅಳತೆಗಳನ್ನು ಅಳತೆ ಪುಸ್ತಕ ಸಂಖ್ಯೆ. 10591 ಪುಟ 2ರಿಂದ 9ರವರೆಗೆ ನಮೂದಿಸಿ, ರೂ.4,56,701/- ಗಳನ್ನು ಪಾವತಿಸಿರುತ್ತಾರೆ. ಸ್ಥಳ ಪರಿಶೀಲನೆಯಿಂದ ಫೌಂಡೇಷನ್ ಬೆಡ್ ಕಾಂಕ್ರೀಟ್ ಹೊರತಾಗಿ ಇನ್ನಿತರ ಕಾಮಗಾರಿಯ ಅಳತೆಗಳಲ್ಲಿ ವ್ಯತ್ಯಾಸ ಕಂಡುಬಂದಿರುವುದಿಲ್ಲ. ಬೆಡ್ ಕಾಂಕ್ರೀಟ್ ಅಳತೆ ಮತ್ತು ಪರಿಮಾಣ ಅಳತೆ ಪುಸ್ತಕದಲ್ಲಿ ನಮೂದಿಸಿ ಪಾವತಿಸಿರುವುದು ಮತ್ತು ವಾಸ್ತವವಾಗಿ ಕಂಡುಬಂದ ಅಳತೆ ಮತ್ತು ಪರಿಮಾಣ ಈ ಕೆಳಕಂಡಂತೆ ಇರುತ್ತದೆ.

ಕ್ರ. ಸಂ.	ಅಳತೆ ಪುಸ್ತಕದಲ್ಲಿ ನಮೂದಿಸಿರುವುದು	ವಾಸ್ತವವಾಗಿ ಕಂಡುಬಂದ ಅಳತೆಗಳು	ಹೆಚ್ಚುವರಿ ಪರಿಮಾಣ (ಫ.ಮೀ.) 2.3	ದರ ರೂ. ಒಂದು ಫ.ಮೀ.ಗೆ	ಆರ್ಥಿಕ ನಷ್ಟ
1	2	3	4	5	6
1	1x2x30.00x0.90x0.30 ಮೀ. =16.20 ಮೀ.	7.15x0.75x0.30 ಮೀ. =1.61 ಫ.ಮೀ.			
2	1x2x20.50x0.90x0.30 ಮೀ. =11.07 ಮೀ.	7.15x0.75x0.30 ಮೀ. =1.61 ಫ.ಮೀ.	24.50	3789.28	ರೂ.91.132/-
	ಒಟ್ಟು = 27027 ಫ.ಮೀ.	ಒಟ್ಟು=3.22 ಫ.ಮೀ.			

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1ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಬೆಡ್ ಕಾಂಕ್ರೀಟ್‌ನ್ನು ಸಿ.ಡಿ. ವಾಲ್‌ಗಳ ಫೌಂಡೇಷನ್ ಹಾಕದೇ, ಹಾಕಿರುವುದಾಗಿ ಅಳತೆ ಪುಸ್ತಕದಲ್ಲಿ ನಮೂದಿಸಿ ರೂ.91,132/- ಗಳ ಸರ್ಕಾರದ ಹಣವನ್ನು ಆರ್ಥಿಕ ನಷ್ಟ ಉಂಟುಮಾಡಿರುತ್ತಾರೆ ಎಂಬುದು ದೂರುದಾರರ ಆಪಾದನೆಯಿಂದ ಸಾಬೀತಾಗಿರುತ್ತದೆ.

4.00 ತನಿಖಾ ಫಲಿತಾಂಶಗಳು:-

ದೂರಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ, ದಿನಾಂಕ 05.03.2009ರ ಸ್ಥಳ ಪರಿವೀಕ್ಷಣೆಯಿಂದ, ದೂರುದಾರರು ಆಪಾದಿಸಿರುವ ಎರಡು ಕಾಮಗಾರಿಗಳಲ್ಲಿ ಒಂದು ಕಾಮಗಾರಿಯಾದ ಮಾಲಳ್ಳಿ ಗ್ರಾಮದಲ್ಲಿ ಸಿ.ಡಿ. ನಿರ್ಮಾಣದ ಕಾಮಗಾರಿಯಲ್ಲಿ ಬೆಡ್ ಕಾಂಕ್ರೀಟ್‌ನ್ನು ಫೌಂಡೇಷನ್ ಹಾಕದೇ, ಬೆಡ್ ಕಾಂಕ್ರೀಟ್‌ನ್ನು ಹಾಕಿರುವುದಾಗಿ ಅಳತೆಗಳನ್ನು ನಮೂದಿಸಿ ರೂ.91,132/- ಗಳ ಹಣವನ್ನು ಸರ್ಕಾರದ ಬೊಕ್ಕಸಕ್ಕೆ ನಷ್ಟ ಉಂಟು ಮಾಡಿದ್ದು, ಸದರಿ ನಷ್ಟಕ್ಕೆ 1 ಮತ್ತು 2ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಕಾರಣಕರ್ತರಾಗಿರುತ್ತಾರೆ.

ಮೇಲ್ಕಂಡ ಸಂಗತಿಗಳು, ಮಾಹಿತಿ, ದಾಖಲಾತಿ ಹಾಗೂ ಆಧಾರಗಳಿಂದ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಸಾರ್ವಜನಿಕ ನೌಕರರಾಗಿದ್ದುಕೊಂಡು ತಮ್ಮ ಕರ್ತವ್ಯ ಪಾಲನೆಯಲ್ಲಿ ಸಂಪೂರ್ಣ ಪ್ರಾಮಾಣಿಕತೆ ಹಾಗೂ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ಪಾಲಿಸದೇ ಮತ್ತು ಸರ್ಕಾರಿ ನೌಕರರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡು, ದುರ್ನಡತೆ/ದುರ್ವರ್ತನೆಯಿಂದ ವರ್ತಿಸಿ, ಶಿಸ್ತುಕ್ರಮಕ್ಕೆ ಬಾಧ್ಯರಾಗಿದ್ದಾರೆಂದು ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡುಬಂದಿದ್ದರಿಂದ, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರ ವಿರುದ್ಧ ತನಿಖೆ ಕೈಗೊಂಡು ವೀಕ್ಷಣಾ ಟಿಪ್ಪಣಿಯನ್ನು ಅವರುಗಳಿಗೆ ಕಳುಹಿಸಿಕೊಟ್ಟು, ಅವರ ವಿರುದ್ಧ ಇಲಾಖಾ ವಿಚಾರಣೆಗಾಗಿ ಶಿಫಾರಸ್ಸು ವರದಿಯನ್ನು ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಏಕೆ ಕಳುಹಿಸಿಕೊಡಬಾರದೆಂದು ಕಾರಣ ಕೇಳಿಕೊಂಡಿತ್ತು. ಅದಕ್ಕೆ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಜವಾಬು ಕೊಟ್ಟಿದ್ದು, ಅದರಲ್ಲಿ ಅವರು ತಮ್ಮ ವಿರುದ್ಧದ ತನಿಖೆಯನ್ನು ಕೈಬಿಡಲು ಸಮಂಜಸ/ಸೂಕ್ತವಾದ ಆಧಾರಗಳು ಇವೆಯೆಂದು ತೋರಿಸಿಲ್ಲ.

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ಈ ಮೇಲ್ಕಂಡ ಕಾರಣಗಳಿಂದಾಗಿ, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನಿಮ್ಮ ವಿರುದ್ಧ ಇಲಾಖಾ ವಿಚಾರಣೆ ನಡೆಸುವ ಸಂಬಂಧ ಮುಂದುವರೆಯುವುದು ಅಗತ್ಯ ಎಂದು ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡುಬಂದಿದ್ದು, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನೀವು ಸರ್ಕಾರಿ ಸೇವಕರಾಗಿದ್ದು, ತಮ್ಮ ಕರ್ತವ್ಯ ಪಾಲನೆಯಲ್ಲಿ ಪರಿಪೂರ್ಣ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ತೋರಿಸದೇ ಮತ್ತು ಸಾರ್ವಜನಿಕ ಸೇವಕರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡಿರುವುದು ವೇದ್ಯವಾಗುತ್ತದೆ. ಆದುದರಿಂದ, ಮೇಲಿನ ಕಾರಣ ಹಾಗೂ ಕಡತದಲ್ಲಿನ ಸಾಕ್ಷ್ಯದ ಆಧಾರಗಳಿಂದ ನೀವು ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವಾ (ನಡತೆ) ನಿಯಮಗಳು, 1966ರ (3) (i) (ii) ಮತ್ತು (iii) ರಲ್ಲಿ ಹೇಳಿದಂತೆ ದುರ್ನಡತೆ/ದುರ್ವರ್ತನೆಯಿಂದ ವರ್ತಿಸಿ ಶಿಸ್ತು ಕ್ರಮಕ್ಕೆ ಬಾಧ್ಯರಾಗಿದ್ದಾರೆಂದು ಕಂಡುಬಂದಿದ್ದರಿಂದ, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯ್ದೆಯ ಕಲಂ 12(3) ರಡಿಯಲ್ಲಿ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರದಡಿಯಲ್ಲಿ, ಈ ಮೂಲಕ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನಿಮ್ಮ ವಿರುದ್ಧ ಶಿಸ್ತು ನಡವಳಿಕೆ ಹೂಡಲು ಮತ್ತು ಹಾಗೆಯೇ ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವಾ (ಪರ್ಗೀಕರಣ, ನಿರ್ಬಂಧ ಮತ್ತು ಮೇಲ್ಮನವಿ) ನಿಯಮಗಳು, 1957ರ ನಿಯಮ 14-ಎ ಅಡಿಯಲ್ಲಿ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರ ವಿರುದ್ಧ ಇಲಾಖಾ ವಿಚಾರಣೆಗೆ ಶಿಫಾರಸ್ಸು ಮಾಡಲಾಗಿ, ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರವು ಉಲ್ಲೇಖ ಒಂದರಂತೆ ಈ ಸಂಸ್ಥೆಯಿಂದ ವಿಚಾರಣೆ ಮಾಡಲು ಕೋರಲಾಗಿರುವ ಕಾರಣ ನಿಮ್ಮ ವಿರುದ್ಧ ಈ ಆಪಾದನೆ.”

8. In response to due services of articles of charge, DGOs 1 and 2 appeared before the then Additional Registrar, Enquiries-4, Karnataka Lokayukta, Bengaluru on 03/02/2014. In the course of first oral statement of DGOs 1 and 2 recorded on 03/02/2014 they pleaded not guilty.

9. As per Order number LOK/INQ/14-A dated 14/03/2014 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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10. Subsequently DGOs 1 and 2 have engaged Advocate for their defence.
11. In the course of written statement of DGO 1 filed on 17/10/2016 reference is made to the articles of charge and to the report of the Investigating Officer. It is contended that presence of expert is necessary during excavation of pits during investigation conducted by the Investigating Officer and that assistance of the expert has not been availed by the Investigating Officer. It is contended that the Investigating Officer has not made available records touching photographs and video recording. It is contended that investigation is barred by section 8(1)(b) of The Karnataka Lokayukta Act, 1984. It is contended that investigation is equally not permissible under Rule 214(2)(b)(ii) of The Karnataka Civil Services (Conduct) Rules, 1966. Decision in K.Satyanarayana V/s State reported in AIR 1973 AP 283 CFV, State of Rajasthan V/s Sardar Ram reported in 1979 L&I cases 1017 and State of Uttar Pradesh V/s Aditya Naraiya reported in SLR 1973 (1) A11679 are cited in the written statement.
12. DGO 2 has not filed written statement despite opportunity. Subsequent to 24/04/2014 DGO 2 remained absent.
13. The disciplinary authority has examined the complainant by name Linganagouda Venkanagouda Patil Malalli as PW 1 and the Investigating Officer Sri.Pranesh Kumar who was working as Assistant Engineer attached to Technical Audit Cell, Karnataka Lokayukta, Bengaluru from the year 2001 to 2013 as PW 2. During evidence of the complainant xerox copy of his petition dated 08/01/2007 in a single sheet addressed to the Chief Executive Officer, Zilla Panchayath, Kalaburagi is marked as per

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Ex P1, xerox copy of his petition dated 17/01/2007 in a single sheet addressed to the Chief Secretary, Hyderabad-Karnataka Development Board, Kalaburagi is marked as per Ex P2, his original complaint dated 31/01/2007 in a single sheet in FORM No. 1 is marked as per Ex P3, his original affidavit dated 31/01/2007 in a single sheet in FORM No II is marked as per Ex P4, a student note book in which original mahazar in five sheets is drawn is marked as per Ex P5, his signature found on sheet number 5 of Ex P5 is marked as per Ex P5(a). During evidence of PW 2, his original report dated 25/03/2013 in seven sheets is marked as per Ex P6, his signature found on sheet number 7 of Ex P6 is marked as per Ex P6(a), original measurement book bearing number 10591 is marked as per Ex P7.

14. Subsequent to examination-in-chief of PW 2, DGO 1 has engaged Defence Assistant for his defence.
15. During second oral statement of DGO 1 recorded on 03/10/2019 he has stated that he would get himself examined as defence witness. He has stated that he does not intend to examine defence witness.
16. Since DGO 2 remained absent from 21/06/2014 his second oral statement could not be recorded.
17. DGO 1 got himself examined as DW 1. No documents are tendered in evidence during evidence of DGO 1.
18. Since DGO 1 got himself examined as defence witness incriminating circumstances which appeared against him in the evidence of PWs 1 and 2 are not put to him by way of questionnaire. Since DGO 2 remained absent from 21/06/2014 incriminating circumstances which appeared against him could not be put to him by way of questionnaire.

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19. In the course of written argument of the Presenting Officer she has referred to articles of charge and evidence on record. It is sought to contend that nothing is found to disbelieve the evidence of PW 2. It is sought to contended that during evidence DGO 1 has admitted that as found in Ex P7 concrete bed is put below the CD walls. It is sought to contend that evidence on record establishes the charge against DGOs 1 and 2.

20. In the course of written argument signed by the Defence Assistant of DGO 1 filed on 07/03/2020 reference is made to the articles of charge and evidence adduced by either side. It is contended that evidence of PW 1 does not point out the alleged misconduct. It is contended that the spot mahazar drawn by PW 2 does not find place excavation of three pits and that measurement of each pit is not found in Ex P5. It is contended that photographs and videos are not made available. It is contended that estimate and Ex P7 do not contain bed concrete below hume pipes. It is contended that PW 2 has not properly appreciated the entries in the measurement book and also estimate. With reference to evidence of DGO it is contended that DGO executed the work as per estimate and that the complainant has filed false complaint. It is contended that on the day of spot inspection PW 2 and the complainant had discussion in the inspection bungalow keeping DGOs 1 and 2 outside the inspection bungalow. It is contended that with the help of two labourers the Investigating Officer got dug three pits of the depth of two feet each twelve inches away from the head wall. It is contended that the mahazar at Ex P5 is drawn at a distance of half kilometre from the work spot. It is contended


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that the Investigating Officer has not properly conducted investigation. It is contended that since three pits are dug twelve inches away from the head wall bed concrete which extends three inches from the head wall cannot be seen. It is contended that depth of each pit should have been four and half feet and since pits of the depth of two feet are dug bed concrete could not be seen. It is contended that measurement as mentioned by the Investigating Officer is not correct. It is contended that articles of charge has been issued against DGO 1 eight years after the date of the alleged incident and therefore departmental proceedings are barred as contemplated under Rule 214 (2)(b) (ii) of The Karnataka Civil Services Rules and therefore articles of charge cannot sustain. It is thus sought to contend that the alleged misconduct is not proved.

21. In tune with the articles of charge, points which arise for consideration are the following:

Point number 1:- Whether it stands established that the contractor by name Sri. G.N.Kelli to whom C.D civil work at Malahalli Village, Surapura Taluk was entrusted executed the said work only of the volume of 3.22 cubic meters in the year 2006 which was very much within the knowledge of DGO 1 who then was working as Junior Engineer attached to Panchayath Raj Engineering Sub-Division, Surapura and despite the same DGO 1 has caused entry in the measurement book that work of the volume of 27.27 cubic meters was found executed and thereby DGO 1 is guilty of misconduct within purview of Rule 3(1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966?

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Point number 2:- Whether it stands established that during the year 2006 DGO 2 while discharging duties as in-charge Assistant Executive Engineer attached to Panchayath Raj Engineering Sub-Division, Surapura attested the entries caused by DGO 1 in the measurement book without actually conducting spot inspection and thereby DGO 2 is guilty of misconduct within purview of Rule 3(1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966?

Point number 3:- Whether it stands established that DGOs 1 and 2 are jointly and severally liable for financial loss of Rs.91,132/- to the Government?

22. Regarding point number 1:- During evidence PW 1 who is the complainant has referred to Exs P1 to P5. His evidence that at the relevant point of time DGOs 1 and 2 were working as Junior Engineer and In-charge Assistant Executive Engineer respectively attached to Panchayath Raj Engineering Sub-Division, Surapura is not under challenge. He has stated that despite lodging complaint with Zilla Panchayath and Hyderabad-Karnataka Development Authority no action is initiated. He has admitted during cross examination that he has no technical knowledge. Thus, it can be gathered that his evidence is confined to setting law into motion.

23. Evidence of PW 2 who conducted investigation that in the presence of the complainant, DGOs 1 and 2, Anwar Patel and Ganesh he visited the spot and verified is not under challenge. It is in his evidence that he dug up three pits and found that bed concrete was applied below the hume pipe. He has stated that concrete was not found applied below the walls. On the day of


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his evidence there was no representation from the side of DGO 2. DGO 2 has not evinced interest to subject PW 2 for cross examination. Defence Assistant of DGO 1 subjected PW 2 for cross examination. During cross examination of PW 2 it is brought out that he conducted investigation by looking into the upstream. Though he has stated during cross examination that he has not mentioned in the spot mahazar at Ex P5 that he got dug up pits it is brought out during his cross examination that man power for digging pits has been provided by then Assistant Executive Engineer, Surapura. It is brought out during his cross examination that two persons dug up the pits. Therefore, though PW 2 has not mentioned about the pits in Ex P5 his evidence touching digging the pits cannot be disbelieved. Though it is in the cross examination of PW 2 that he has not mentioned the measurement of pits the same will not lend support to the defence. Though it is brought out during his cross examination that he has not executed the task of digging the external surface by digging the surface of the road the same will not drive to hold that his inspection was superficial. It is in his cross examination that pipe was visible below the road at the margin. It is also in his cross examination that pipe was confined to the breadth of the road. It is in his cross examination that four pipes noticed by him were confined to the breadth of the road. It is in his cross examination that he noticed the work upto the depth. It is in his cross examination that thickness of concrete provided below the hume pipes was visible. In the presence of the said answer it needs to be gathered that PW 2 could find out the ground reality. It is in his cross examination that head wall was upto the depth of 1.7

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meters from the ground level. His answer during his cross examination that bed concrete has nothing to do with load bearing and stability of the structure the said answer is of no relevance touching the actual volume of work executed by the contractor.

24. Evidence of PW 2 that RCC hume pipes of the diameter of 900 millimeters and of the length of 7.5 meters were found placed and that wall of the height of 0.60 meter was found built on those pipes is not under challenge. His evidence that the above work is executed by the contractor by name G.N.Kelli is not under challenge. His evidence that estimate for Rs. 5,00,000/- was approved is not under challenge. His evidence that DGO 1 noted the volume of work in the measurement book in page numbers 2 to 9 of the measurement book number 10591 which is approved by DGO 2 is not under challenge. This portion of his evidence is in conformity with Ex P7 which is the original measurement book. His evidence that payment of a sum of Rs.4,56,701/- is found in page number 8 of Ex P7 is not under challenge which is supported by page number 8 of Ex P7. Suggestion posed to PW 2 during cross examination that on the basis of sole pit volume of work cannot be ascertained has been denied by him. Suggestion posed to PW 2 that without conducting proper inspection he prepared the report on the basis of the information furnished by the complainant is denied by him. It needs to be remembered that evidence of the complainant during his cross examination shows that he is not technically skilled. Therefore, furnishing technical information by the complainant to PW 2 will not arise.

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25. PW 2 has referred to his report at Ex P6 during his evidence. It is in paragraph number 3.04 of Ex P6 that volume of bed concrete is $7 \times 7.15 \times 0.75 \times 0.30$ meters. This portion of Ex P6 has not been assailed during his cross examination in its true letter and spirit. PW 2 has noted in paragraph number 3.04 of Ex P6 that bed concrete of the above volume was found below the hume pipe but concrete was not found applied below the walls. This portion noted by PW 2 in paragraph number 3.04 of Ex P6 is also not assailed in its true letter and spirit during his cross examination. It is noted in paragraph number 3.04 of Ex P6 that RCC hume pipes of the length of 7.5 meters and diameter of 900 centimeters and that dimension of head wall at right side and also at left side is $5.00 \times 0.53 \times 1.50$ meters respectively. This is not under challenge. It is noted in paragraph number 3.04 of Ex P6 that dimension of coping concrete on the head walls at right and left side is $50.00 \times 0.53 \times 0.10$ meters respectively, dimension of concrete over the C.D is $5.00 \times 6.45 \times 0.10$ meters, dimension of pitching is 15.00×9.80 meters, 8.50 (11.80×6.50) and the height of RCC hume pipe

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over the wall is 0.60 meters. The said volume of measurement noted in paragraph number 3.04 of Ex P6 equally has not been assailed during cross examination of PW 2. It is seen in paragraph number 3.04 at sheet number 5 of Ex P6 that actual work executed is 3.22 cubic meters and that measurement book shows entry of 27.27 cubic meters. This portion of entry has not been assailed in its true letter and spirit during cross examination of PW 2.

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26. DGO 1 has stated during evidence that he executed minor water supply and drainage work in Malahalli Village. He has stated that estimate was at Rs. 5 lakhs. His evidence is that a contractor executed the said work and that name of the contractor is not known to him. Though he has stated that the contractor executed the work as per the stipulations of the estimate the said portion of his evidence cannot be accepted in the presence of evidence of PW 2 coupled with what is found mentioned in paragraph number 3.04 of Ex P6 as discussed above. DGO 1 admits during evidence that contents of the measurement book at Ex P7 are in his hand writing. It is also in his evidence that the Assistant Executive Engineer and Executive Engineer verified the works and signed Ex P7. This portion of his evidence establishes that DGO 2 verified the entries and subscribed the signature.

27. During evidence DGO 1 has stated that he was present during inspection conducted by PW 2. Though DGO has stated that instead of digging pits three inches away from the main wall pits are dug up at a distance of twelve inches away from the main wall he has not stated that it is mandatory to dig up pits at a distance of three inches away from the main wall and therefore latches cannot be attributed to PW 2. It is not in the evidence of DGO 1 that depth of pits should have been more than two feet and therefore his evidence that depth of pits were approximately two feet cannot be believed. Though DGO 1 has stated that application of concrete below the pipe is not stipulated in the estimate nothing is suggested to PW 2 during cross examination that nothing is found so in the estimate. Nothing had prevented DGO 1 to produce the copy of the estimate in support of his

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evidence. Evidence of DGO 1 that concrete bed is built upto the depth of four and half feet cannot be accepted in the absence of suggestion to PW 2 suggesting the same. Though DGO 1 has stated that status of the work executed is intact nothing had prevented DGO 1 to establish the same either with photographs or with any other documents. In his cross examination DGO 1 has stated that he has not asked PW 2 to excavate pits of specific dimension. He admits during cross examination that entry is caused in Ex P7 that bed concrete is applied below the wall. Evidence of PW 2 establishes that bed concrete was not found applied below the wall. Therefore, it is clear that in the absence of application of concrete below the wall DGO 1 caused false entry in the measurement book at Ex P7 that concrete is applied below the wall. Upon meticulous appreciation of the entire oral and documentary evidence on record I have no hesitation whatsoever to hold that being very much aware that the contractor by name G.N.Killy executed work of the volume of 3.22 cubic meters only, DGO 1 caused wrong entry in the measurement book that the contractor executed work of the volume of 27.27 cubic meters and accordingly I hold point number 1 in the affirmative.

28. Regarding point number 2:- Evidence as discussed above would show that the volume of work executed by the contractor was only 3.22 cubic meters but not of the volume of 27.27 cubic meters. Evidence of PW 2 and DGO 1 shows that DGO 2 certified the entries found in the measurement book at Ex P7. It is apparent that without holding spot inspection DGO 2 attested the entries caused by DGO 1 in the measurement book at Ex P7 and therefore I hold point number 2 in the affirmative.

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29. Regarding point number 3:- Evidence of PW 2 establishes that without laying foundation for C.D walls it is found mention in the measurement book that bed concrete is applied after laying foundation and by causing wrong entries DGOs 1 and 2 caused financial loss of a sum of Rs. 91,132/- to the Government. This portion of evidence of PW 2 is acceptable. Measurement book at Ex P7 shows that such a wrong entry is caused by DGO 1. The said wrong entry caused by DGO 1 is nothing but the act of misconduct. DGO 2 was bound to visit the spot and then to certify in case entries in the measurement book at Ex P7 are in conformity with the actual volume of work executed. Evidence on record establishes that without visiting the spot DGO 2 attested entries found in the measurement book which act of DGO 2 amounts to misconduct. Therefore, I hold that DGOs 1 and 2 are jointly and severally liable for the loss of Rs. 91,132/- caused to the Government. Financial loss caused by DGOs 1 and 2 is quantified at Rs. 45,566/- each. Accordingly, I hold point number 3 in the affirmative.

30. Considering the nature of allegations, DGOs 1 and 2 cannot take shelter under section 8(1)(b) of The Karnataka Lokayukta Act, 1984. Work is executed in the month of November 2016. Complaint at Ex P3 is lodged on 31/01/2007. PW 2 conducted investigation on 15/03/2009. Report under section 12(3) of The Karnataka Lokayukta Act, 1984 is dated 25/10/2013. Government order bearing number ಗ್ರಾಅಪ 40 ಇಎನ್‌ಕ್ಯೂ 2013 ಬೆಂಗಳೂರು is dated 09/12/2013. DGO 1 retired from service on superannuation on 31/01/2012. DGO 2 retired from service on superannuation on 31/07/2016. Therefore, contention of DGO 1 that the present proceedings are barred under Rule

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214(2)(b)(ii) of The Karnataka Civil Services Rules cannot be accepted.

31. In the presence of oral and documentary evidence on record I am not persuaded to accept the defence put forward in the course of written statement of DGO 1 and equally not persuaded to accept the contentions put forward in the written argument filed on behalf of DGO 1.

32. In view of my findings on point numbers 1 to 3, I proceed with the following:

REPORT

It stands established that the contractor by name Sri. G.N.Kelli to whom C.D civil work at Malahalli Village, Surapura Taluk was entrusted executed the said work only of the volume of 3.22 cubic meters in the year 2006 which was very much within the knowledge of DGO 1 who then was working as Junior Engineer attached to Panchayath Raj Engineering Sub-Division, Surapura and despite the same DGO 1 has caused entry in the measurement book that work of the volume of 27.27 cubic meters was found executed and thereby DGO 1 is guilty of misconduct within purview of Rule 3(1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 is proved.

It stands established that during the year 2006 DGO 2 while discharging duties as in-charge Assistant Executive Engineer attached to Panchayath Raj Engineering Sub-Division, Surapura attested the entries caused by DGO 1 in the measurement book without actually conducting spot inspection and thereby DGO 2 is guilty of misconduct

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within purview of Rule 3(1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 is proved.

It stands established that DGOs 1 and 2 are jointly and severally liable for financial loss of Rs.91,132/- to the Government.

Financial loss caused to the Government by DGO 1 is quantified at Rs. 45,566/-. Financial loss caused to the Government by DGO 2 is quantified at Rs. 45,566/-.

DGO 1 retired on superannuation on 31/01/2012.

DGO 2 retired on superannuation on 31/07/2016.

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


(V.G. Bopaiah)

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

ANNEXURE

List of witnesses examined on behalf of the disciplinary authority:-

1. PW 1 :- Sri.Linganagouda Venkanagouda Patil
Malahalli.
2. PW 2 :-Sri.Pranesh Kumar.

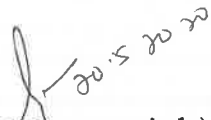
List of witnesses examined on behalf of DGOs 1 and 2:-

1. DW 1:-Sri.Mohammed Siddique (DGO 1).

List of documents marked on behalf of the disciplinary authority:-

- Ex P1 Xerox copy of the complaint dated 08/01/2007 in a single sheet of PW 1 lodged with the Chief Executive Officer, Zilla Panchayath, Kalaburagi.
- Ex P2 Xerox copy of the complaint dated 07/01/2007 in a single sheet of PW 1 lodged with the Chief Secretary, Hyderabad-Karnataka Development Board, Kalaburagi.
- Ex P3 Original complaint dated 31/01/2007 of PW 1 in FORM No.I.
- Ex P4 Original affidavit dated 31/01/2007 of PW 1 in FORM No.II.
- Ex P5 A student note book in which original mahazar in five sheets drawn by PW 2.
- Ex P6 Original report dated 25/03/2013 in seven sheets of PW 2.
- Ex P 7 One Original measurement book bearing number 10591.

List of documents marked on behalf of DGOs 1 and 2:- Nil.


(V.G.Bopaiah)

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

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No. LOK/INQ/14-A/508/2013/ARE-11

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001,
Date: **22/05/2020**

RECOMMENDATION

Sub:- Departmental inquiry against;

- 1) Sri M. Siddiqui, the then Junior Engineer, Panchayath Raj Engineering Sub Division, Surpur. Yadgir District
- 2) Sri Sathyanarayana, the then incharge Assistant Executive Engineer, Panchayath Raj Engineering Sub Division, Surpur. Yadgir District- Reg.

Ref:- 1) Government Order No. ಗ್ರಾಒಪ 40 ಇಎನ್‌ಕ್ಯೂ, 2013,
Bengaluru dated 9/12/2013

2) Nomination order No.LOK/INQ/14-A/508/2013,
Bengaluru dated 19/12/2013 of Upalokayukta-1,
State of Karnataka, Bengaluru

3) Report dated 20/5/2020 of Additional Registrar of
Enquiries-11, Karnataka Lokayukta, Bengaluru.

The Government by its Order dated 9/12/2013, initiated the disciplinary proceedings against (1) Sri M. Siddiqui, the then Junior Engineer, Panchayath Raj Engineering Sub Division, Surpur. Yadgir District and (2) Sri Sathyanarayana, the then incharge Assistant Executive Engineer, Panchayath Raj Engineering Sub Division, Surpur. Yadgir District (hereinafter referred to as Delinquent Government Officials 1 & 2, for short as DGO-1 and DGO-2 respectively) and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.LOK/INQ/14-A/508/2013, Bengaluru dated 19/12/2013 nominated Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru, as the

Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGOs 1&2 for the alleged charge of misconduct, said to have been committed by them. Subsequently, by order No. LOK/INQ/14-A/2014 dated 14/3/2014, the Additional Registrar of Enquiries-11, Karnataka Lokayukta, Bengaluru was re-nominated as inquiry officer to conduct inquiry against DGOs 1 & 2.

3. The DGO-1 Sri M. Siddiqui, the then Junior Engineer, Panchayath Raj Engineering Sub Division, Surpur. Yadgir District and DGO-2 Sri Sathyanarayana, the then incharge Assistant Executive Engineer, Panchayath Raj Engineering Sub Division, Surpur. Yadgir District were tried for the following charge:-

“ನೀವು 1ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಶ್ರೀ ಎಂ.ಸಿದ್ದಿಕ್, ಹಿಂದಿನ ಕಿರಿಯ ಅಭಿಯಂತರರು, ಪಂಚಾಯತ್ ರಾಜ್ ಇಂಜಿನಿಯರಿಂಗ್ ಉಪ ವಿಭಾಗ, ಸುರಪುರ ಮತ್ತು ನೀವು 2ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಶ್ರೀ ಸತ್ಯನಾರಾಯಣ, ಹಿಂದಿನ ಪ್ರಭಾರಿ ಸಹಾಯಕ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರು, ಪಂಚಾಯತ್ ರಾಜ್ ಇಂಜಿನಿಯರಿಂಗ್ ಉಪ ವಿಭಾಗ, ಸುರಪುರ ನಿಮ್ಮ ವಿರುದ್ಧ ಅಪಾದಿಸುವುದೇನೆಂದರೆ, ನೀವು ಮಾಲಿನ್ಯ ಗ್ರಾಮದ ಸಿ.ಡಿ ಕಾಮಗಾರಿಯ ಫೌಂಡೇಷನ್ ನಿರ್ಮಿಸಲು ರೂ.5.00 ಲಕ್ಷಗಳ ಅಂದಾಜು ಪಟ್ಟಿಗೆ ಅನುಮೋದನೆ ಪಡೆದಿದ್ದು, ಸದರಿ ಕಾಮಗಾರಿಯನ್ನು ಶ್ರೀ ಜಿ.ಎನ್.ಕೆ.ಲಿ, 1ನೇ ದರ್ಜೆ ಗುತ್ತಿಗೆದಾರರಿಗೆ ಆದೇಶ ಸಂಖ್ಯೆ ಪಿಡಬ್ಲ್ಯುಎ ಸಂಖ್ಯೆ ಸಿಇಆರ್‌ಡಿಇಡಿ ಸಂ.2040, ದಿನಾಂಕ 15/11/2006ರನುಸಾರ ವಹಿಸಿದ್ದು, ನಿಮ್ಮ ಪೈಕಿ ಸದರಿ ಕಾಮಗಾರಿಯ ಅಳತೆಯನ್ನು 1ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ದಾಖಲಿಸಿದ್ದು, ಅಳತೆ ಪುಸ್ತಕ ಸಂಖ್ಯೆ 10591ರ ಪುಟ 1ರಿಂದ 9ರವರೆಗೆ ನಮೂದಿಸಿ ರೂ.4,56,701/-ಗಳನ್ನು ಪಾವತಿಸಿದ್ದು, ಸದರಿ ಅಳತೆಯನ್ನು ನಿಮ್ಮ ಪೈಕಿ 2ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಸದರಿ ಅಳತೆಯನ್ನು ಕಾಮಗಾರಿಯ ಸ್ಥಳ ಪರಿಶೀಲಿಸದೇ ದೃಢೀಕರಿಸಿರುತ್ತೀರಿ. ನೀವು 1ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು 27.27 ಘನ ಮೀಟರ್ ಅಳತೆಗೆ ರೂ.4,56,701/-ಗಳನ್ನು ಪಾವತಿಸಿದ್ದು, ತನಿಖಾಧಿಕಾರಿಯು ಸ್ಥಳದಲ್ಲಿ ಪರಿಶೀಲಿಸಲಾಗಿ, ಕೇವಲ 3.22 ಘನ ಮೀಟರ್ ಕಾಮಗಾರಿಯ ಫೌಂಡೇಷನ್ ಹಾಕಿದ್ದು, ಈ ರೀತಿಯಾಗಿ 24.50 ಘನ ಮೀಟರ್ ಬೆಡ್ ಕಾಂಕ್ರೀಟ್‌ಗೆ ರೂ.3,789.28 ದರದಲ್ಲಿ ರೂ.91,132/-ಗಳನ್ನು ಸಿ.ಡಿ.ವಾಲ್ ಫೌಂಡೇಷನ್ ಹಾಕದೇ ಪಾವತಿ ಮಾಡಿದ್ದು, ನೀವುಗಳು ಸರ್ಕಾರಕ್ಕೆ 91,132/-ಗಳ ನಷ್ಟವನ್ನುಂಟು ಮಾಡಿ ಕರ್ತವ್ಯತೋಪವೆಸಗಿರುತ್ತೀರಿ. ನೀವುಗಳು ಸರ್ಕಾರಿ ಸೇವಕರಾಗಿದ್ದು, ಈ ರೀತಿ

ಕರ್ತವ್ಯ ಲೋಪವೆಸಗಿದ್ದು, ನಿಮ್ಮ ಕರ್ತವ್ಯ ಪಾಲನೆಯಲ್ಲಿ ಪರಿಪೂರ್ಣ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ತೋರಿಸದೆ ಸ್ವಲಾಭಕ್ಕಾಗಿ ಸಾರ್ವಜನಿಕ ಸೇವಕರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡಿದ್ದು, ನೀವು ಕರ್ನಾಟಕ ಸರ್ಕಾರಿ ಸೇವಾ (ಸದ್ವರ್ತನೆ) ನಿಯಮಾವಳಿ 1966ರ 3(1) (i)ರಿಂದ (iii)ನೇ ನಿಬಂಧನೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿ ದುರ್ನಡತೆ ಎಸಗಿದ್ದೀರಿ.”

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

(i) it stands established that the contractor by name Sri G.N.Kelli to whom the C.D. Civil work at Malahalli Village, Surapura Taluk was entrusted, executed the said work only of the volume of 3.22 cubic meters in the year 2006 which is very much within the knowledge of DGO-1 who then was working as Junior Engineer attached to Panchayath Raj Engineering Sub Division, Surapura and despite the same DGO 1 has caused entry in the measurement book that work of the volume of 27.27 cubic meters was found executed and thereby DGO1 is guilty of misconduct within the purview of Rule 3(1)(i) to (iii) of the Karnataka Civil Services (Conduct) Rules, 1966 is proved;

(ii) it stands established that during the year 2006 DGO2 while discharging duties as in-charge Assistant Executive Engineer attached to Panchayath Raj Engineering Sub Division, Surapura attested the entries caused by DGO 1 in the measurement book without actually conducting spot inspection 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;

(iii) it stands established that DGOs 1 and 2 are jointly and severally liable for financial loss of Rs.91,132/ to the Government;

(iv) Financial loss caused to the Government by DGO-1 is quantified at Rs.45,566. Financial loss caused to the Government by DGO-2 is quantified at Rs.45,566/-.

5. 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.

6. As per the First Oral Statement submitted by DGOs 1 & 2

(i) DGO-1 Sri M. Siddiqui has retired from service on 31/1/2012;

(ii) DGO-2 Sri Sathyanarayana has retired from service on 31/7/2016 (during the pendency of inquiry)

7. Having regard to the nature of charge proved against DGO-1 Sri M. Siddiqui and DGO-2 Sri Sathyanarayana;


(i) it is hereby recommended to Government for imposing penalty of recovering a sum of Rs.45,566/- from the pension payable to DGO-1 Sri M. Siddiqui, the then Junior Engineer, Panchayath Raj Engineering Sub Division, Surpur. Yadgir District;

(ii) it is hereby recommended to Government for imposing penalty of recovering a sum of Rs.45,566/- from the pension payable to DGO-2

Sri Sathyanarayana, the then incharge Assistant
Executive Engineer, Panchayath Raj Engineering
Sub Division, Surpur. Yadgir District.

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

Connected records are enclosed herewith.


(JUSTICE N. ANANDA) 22/5
Upalokayukta-1,
State of Karnataka,
Bengaluru

