

**KARNATAKA LOKAYUKTA**

NO:LOK/INQ/14-A/538/2014/ARE-9

M.S. Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru - 560 001.  
Date: 14-08-2017**:: ENQUIRY REPORT ::**

Sub: Departmental Enquiry against Sri.T.Thammaiah, Assistant Engineer, BBMP, Bangalore (then working in Yadiyuru ward, Banashankari Sub Division, BBMP, Bangalore) - reg.

Ref: 1) Government Order No.ನಆಇ 526 ಎಂಎನ್‌ವೈ 2014, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 14/10/2014.

2) Nomination Order No: Lok/INQ/14-A/538/2014, Bangalore dated 21/10/2014 of Hon'ble Upalokayukta-1, has nominated Addl.Registrar of Enquiries-6 to frame the charges and to conduct departmental enquiry. As per order No.Uplok-1/DE/2016 Bangalore, dated: 3.8.2016 this file is transferred from ARE-6 to ARE-9 section.

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This Departmental Enquiry is initiated against Sri.T.Thammaiah, Assistant Engineer, BBMP, Bangalore (then working in Yadiyuru ward, Banashankari Sub Division, BBMP, Bangalore) (hereinafter referred to as the "Delinquent Government Official" in short "DGO").

In view of the Government Order cited above at reference No.1 and Nomination Order at reference No.2 has nominated Addl. Registrar of Enquiries-6 to frame the charges and to conduct departmental enquiry:

14/08/2017

**ANNEXURE-I****CHARGE**

That, you – D.G.O. T.Thammaiah, while working as Assistant Engineer of Yadiyuru ward in Banashankari Sub Division of BBMP, Bengaluru (herein after referred to as Delinquent Government official 'DGO' for short), you did not visit the premises of New Shanthi Hotel near Sri.Ganesh Temple in Yadiyuru Ward of BBMP, Bengaluru to verify and inspect whether the owner of the building had taken required permission and sanction to undertake renovation of the building and work of construction of staircase, till receipt of notice dated: 6/1/2011 and replied that no renovation work was noticed at the said hotel premises and even after directed by AEE on 29/01/2011 to take action against the owner of the building you failed to take action till your transfer on 21/12/2011 from the said post to KIADB and thereby committed an act which unbecoming of a government servant and thus you are guilty of misconduct under u/s 3(1)(i)(ii) & (iii) of Karnataka Civil Service (conduct) Rules, 1966.

**ANNEXURE-II****STATEMENT OF IMPUTATION OF MISCONDUCT:**

An investigation was taken up under section 9 of Karnataka Lokayukta Act 1984, on the complaint filed by Sri.Ramesh S/o Venkataramanappa R/o No.612, S.Kariyappa road in Jayanagar 7<sup>th</sup> Block at Bangalore (hereinafter referred to as complainant for short), against Sri.T.Thammaiah- Assistant Engineer in Yadiyuru ward,

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Banashankari Sub Division of BBMP at Bangalore, (presently working as DGO for short), alleging that the DGO, being a government servant, has committed misconduct.

2. According to the complainant: With connivance of the DGO, the owner of New Shanthi hotel situated on S.Kariyappa road near Ganesh temple in Yadiyuru ward at Bangalore unauthorisedly renovated the said hotel building and also put up concrete staircase at southern side of the said hotel building, without obtaining permission from the BBMP. Further, for the convenience of said hotel, two mercury bulbs have been fixed to single electric pole in front of said hotel. Hence, the complaint.

3. DGO has submitted his comments contending that, on receipt of notice for comments, he visited the said hotel building and noticed no any renovation work going on. On the said staircase existed already inside the said building, new tiles have been fixed, as the old tiles were broken. He has further contended that the allegation of fixing two mercury bulbs to single electric pole in front of the said hotel and nonpayment of building tax by the owner of the said hotel, are not concerned to his duty. However, he will take action under KMC Acct, after receipt of the approved plan of said hotel building.

4. Consideration of material on record shows that:

a) Though DGO visited the said hotel building after receipt of the notice (dated: 6/1/2011) calling upon him to submit comments, he did not notice alleged renovation work going on there. However, on 24/1/2011, Assistant Executive

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Engineer issued a notice under section 308 of Karnataka Municipal Corporation Act 1976 to Smt.Nagaveni- the owner of said hotel building, calling upon her to produce sanctioned plan of said building to ascertain the allegations made in the complaint;

b) In response to the said notice (dated: 24/1/2011), said Smt.Nagaveni gave reply dated: 29/1/2011 denying the allegations made in the complaint, requesting for time to produce sanctioned plan of said building;

c) In spite of the contention of the DGO that he will take action under KMC Act, after submission of sanctioned plan by the owner of said hotel building, no further action was taken by him under KMC Act 1976, against the owner of said hotel building for having not submitted the approved plan, till he was transferred on 12/12/2011 to KIADB office;

d) Thus, there was inaction for 11months, in respect of alleged unauthorized renovation of said hotel building, till he was transferred, though he was directed by the Assistant Executive Engineer on 29/1/2011 itself to submit report by inspecting the spot.

5. In view of the facts stated above and on consideration of the material on record, reply of the DGO has not been found satisfactory to drop the proceedings.

6. The facts supported by the material on record prima facie show that the DGO, being a Government servant, has failed to maintain absolute devotion to duty and also acted in a manner unbecoming of a Government servant, and thereby committed misconduct and made himself liable for disciplinary action.

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7. Since, the said facts and material on record prima-facie show that DGO has committed misconduct as per Rule 3(1)(ii) & (iii) of the KCS (Conduct) Rules, 1966. Hence, report u/s 12(3) of the Karnataka Lokayukta Act was sent to the Competent Authority to initiate disciplinary proceedings against the DGO and to entrust the inquiry to this authority under Rule 14-A of the Karnataka Civil Services (Classification, control and Appeal) Rules, 1957. Hence this Charge.

Plea of DGO has been recorded. He has not pleaded guilty and claimed for holding enquiry.

The DGO has filed his written statement. He has submitted in the contents of the complaint that, he was working as Assistant Engineer, BBMP, Bengaluru from 7/10/2010 to 27/12/2012 in ward No.167. Thereafter, he was transferred. Soon after his transfer, the Asst. Engineer to whom he has handed over the charge and Asst. Executive Engineer, BBMP have to take further course of action.

As per section 8(1) (b) of KL Act, the matter cannot be investigated when the complaint involving the grievance in respect of any action. He has a remedy by way of appeal, revision, review or other proceedings before any tribunal, the court officer or other authority and has not availed the same. The complaint is false.

During the tenure of his service as an Asst. Engineer in ward No.167 he has called upon the owner of the hotel to produce the document but has not produced the same for further course of action. When there is no sanctioned plan he has not initiated any further proceedings to meet the allegations of the complaint. Hence, he has not violated any rules and

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regulations of the KMC Act when discharging the duty as an AE in Ward No.167 of Yadiyuru Sub Division, BBMP, Bangalore.

The disciplinary authority has examined the scrutiny officer Sri.Suresh Turumuri, the then ARE-11 of KL, Bangalore who worked from 9/6/11 till 8/6/2015 as PW.1 and Ex.P1 to P9 are got marked. The DGO has been examined as DW.1 and Ex.D1 is got marked.

The disciplinary authority and DGO have filed the written in brief and heard the submissions. I answer the above charges in **AFFIRMATIVE** for the following:

### REASONS

3. It is the prime duty of the disciplinary authority to prove the charges substantially that are leveled against the DGO.
4. The complainant Sri. Ramesh V. could have been examined by the disciplinary authority. This authority has issued the summons to him but the PSI has submitted an endorsement on 18/5/2017 that there is no such person detailed in the summons for due service of summons enclosed in an endorsement.
5. For the above said reasons the disciplinary authority has examined the Scrutiny Officer - Sri.Suresh Turumure, the then ARE-11 of KL, Bangalore who worked from 9/6/11 till 8/6/2015 as PW.1. Who deposes that the complainant Sri.Ramesh V. S/o Venkatarangappa has filed the complaint against DGO with the allegations that, he was colluded with the owner for the hotel and permitting to carry out the renovation in the hotel and put up the staircase towards the southern side of

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the hotel and also permitted to install two mercury lights to single electrical pole in front of the hotel. Thus, he has filed the complaint to this Lokayukta as per Ex.P1 to 3 and two photographs as per Ex.P4 and P5.

6. He deposes the respondent/DGO has submitted his comments to the complaint on 4/2/11 and 14/7/2014 calling upon the owner of the hotel to furnish the sanction plan and the license as per Ex.P6 and 7. As per Ex.P6 the DGO has visited the hotel building at No.164/20/43, 24<sup>th</sup> cross, 6<sup>th</sup> block, Jayanagar, Bangalore-82 and further states that he has noticed no such alleged renovation work executed in the alleged hotel building. But only noted the removal of tiles in staircase which were tried to replace. However, he has issued the notice u/s 308 of KMC Act to the owner of the alleged building calling upon him to produce the sanction plan of alleged building to ascertain the allegations of the complaint. The owner of the building had given the replies stating that, building was constructed about 10 years back and she has also lost the sanction plan. Soon after the receipt of these replies from the owner of the hotel nothing prevented the DGO to secure the sanction plan from the town planning authority of the BBMP when he is not in a position of proceed further under the provision of KMC Act. As per his own statement for a period of 11 months he has not acted upon in taking steps. It is pertinent to note he was transferred on 21/12/11 to KIADB till he is transferred he has not taken cohesive steps to show that, he has acted as an Asst. Engineer to stop the execution of renovation of the building. It is elicited in the cross examination to the effect that, the complainant-

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Ramesh has not appeared before him and lodged the complaint. So also, no obtained any report from the technical wing. Much before filing the complaint to Lokayukta as per Ex.P1 to 3 he has not approached the EE, Commissioner, Technical Officers of the BBMP, Bangalore for their active role. It is not necessary to bring it to their knowledge before filing the complaint to the Lokayukta. He himself admits that, after filing the complaint to the Lokayukta he has filed the complaint to the Commissioner, BBMP. When this is the course of the action nothing prevented the DGO to take the appropriate steps but has not taken.

7. The DW.1 has deposed that, the owner of the hotel has not produced the sanction plan, thus after some time AEE, Banashankari Sub Division, BBMP has addressed a letter to Additional Director of Town Planning South, BBMP, Bangalore dated; 3/2/2011 to produce the sanctioned license as per Ex.D1. Thereafter, he was transferred. It is elicited in the cross examination he was directed by the AE on 29/1/11 to take action against the owner of the building and failed to take action till his transfer from the post to KIADB. Nothing prevented to follow the direction of AEE, BBMP to take action in the span of 11 months. So also, under taken to take action under provisions of the KMC Act specified in notice issued as per Ex.P8. But, for the reasons best known to him there is an inaction for 11 months by the DGO against the owner of the alleged building for having not submitted the approved plan. Further, it is argued there is an every opportunity for the complainant to redress his grievance in urging before the court of law relying upon the ruling WP No.25078-80/2016 on the file of Hon'ble High Court of

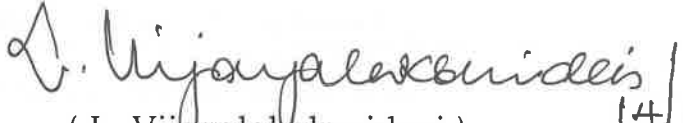
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Karnataka, Bangalore dated: 15/7/2016. The facts and circumstances are not applicable for the reasons, the relevant provision of section 8(1) of KL Act 1984 is relied upon for quashing the 12(3) of KL Act and not for Enquiring in this case on hand.

8. Therefore, having regard to these circumstances, it is very clear that, from the evidence of PW.1 and documents it can be safely concluded that the disciplinary authority has proved the charges against the DGO. In the result, I answer the charge in Affirmative.

9. In view of my answering the charge in affirmative this matter is submitted to Hon'ble Upalokayukta-1 for further action.

  
( L. Vijayalakshmi )  
Additional Registrar Enquiries-9  
Karnataka Lokayukta,  
Bangalore. 14/8/2013

**List of witnesses examined on behalf of Disciplinary Authority.**

PW.1	Sri.Suresh Basalingappa Turamuri, Mysuru
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**List of Documents marked on behalf of Disciplinary Authority.**

Ex.P1	Typed Complaint dated: 11/12/2010
Ex.P2	Complaint Form No.I
Ex.P.3	Complaint Form No.II

Ex.P.4 & 5	Colour print Photographs
Ex.P.6	Comments of the DGO dated: 4/2/2011
Ex.P.7	Comments of the DGO dated: 14/7/2014
Ex.P.8	Notice copy dated: 24/1/2011
Ex.P.9	Copy of letter dated: 29/1/2011 of Smt.Nagaveni

**List of witnesses examined on behalf of DGO.**

DW.1	Sri.T.Thammaiah, Assistant Engineer, Kengeri Sub Division, Bangalore
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**List of documents marked on behalf of DGO**

Ex.D1	Letter dated: 3/2/2011 of AEE, Banashankari Sub Division, BBMP Bangalore addressed to the Assistant Director, Town Planning (South) BBMP, Bangalore
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*L. Vijayalakshmi Devi* | 14/8/2013  
 ( L. Vijayalakshmi Devi)  
 Additional Registrar Enquiries-9  
 Karnataka Lokayukta,  
 Bangalore.

**GOVERNMENT OF KARNATAKA**



**KARNATAKA LOKAYUKTA**

NO: LOK/INQ/14-A/538/2014/ARE-9

Multi Storied Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru-560 001,  
Date: 17/8/2017

**RECOMMENDATION**

Sub:- Departmental inquiry against Sri T. Thammaiah, the then Assistant Engineer, Bruhat Bengaluru Mahanagara Palike, Yadiyuru Ward, Banashankari Sub Division, Bengaluru - Reg.

Ref:- 1) Government Order No. ಸಲಇ 526 ಎಂಎನ್‌ವೈ 2014,  
Bengaluru, dated 14/10/2014

2) Nomination order No.LOK/INQ/14-A/538/2014  
Bengaluru dated 21/10/2014 of Upalokayukta-1,  
Bengaluru

3) Inquiry Report dated 14/8/2017 of Additional  
Registrar of Enquiries-9, Karnataka Lokayukta,  
Bengaluru

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The Government by its Order dated 14/10/2014 initiated the disciplinary proceedings against Sri T.Thammaiah, the then Assistant Engineer, Bruhat Bengaluru Mahanagara Palike, Yadiyuru Ward, Banashankari Sub Division, Bengaluru (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.LOK/INQ/14-A/538/2014 dated 21/10/2014, nominated Additional Registrar of Enquiries-6, 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. Subsequently, by Order No. UPLOK-1/

DE/2016, dated 3/8/2016, the Additional Registrar of Enquiries-9 was re-nominated as Inquiry officer to conduct departmental inquiry against DGO.

3. The DGO was tried for the following charge:-

“That, you – D.G.O T. Thammaiah, while working as Assistant Engineer of Yadiyuru Ward in Banashankari Sub Division of BBMP, Bengaluru (hereinafter referred to as Delinquent Government official ‘DGO for short), you did not visit the premises of New Shanthi Hotel near Sri Ganesh Temple in Yadiyuru Ward of BBMP, Bengaluru to verify and inspect whether the owner of the building had taken required permission and sanction to undertake renovation of the building and work of construction of staircase, till receipt of notice dated 6/1/2011 and replied that no renovation work was noticed at the said hotel premises and even after directed by AEE on 29/01/2011 to take action against the owner of the building, you failed to take action till your transfer on 21/12/2011 from the said post to KIADB and thereby committed an act which is unbecoming of a Government Servant and thus you are guilty of misconduct under u/s. 3(1)(i), (ii) & (iii) of Karnataka Civil Services (Conduct) Rules, 1966.”

4. The Inquiry Officer (Additional Registrar of Enquiries-9) on proper appreciation of oral and documentary evidence has held that the Disciplinary Authority has proved the above charge against DGO Sri T. Thammaiah.

5. On re-consideration of the evidence, I do not find any reason to interfere with the findings recorded by the Inquiry Officer. It is

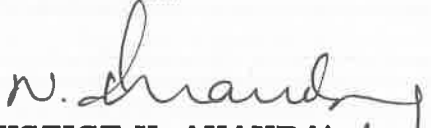
hereby recommended to the Government to accept the report of Inquiry Officer.

6. As per the First Oral Statement submitted by DGO, he is due to retire from service on 31/7/2021.

7. Having regard to the nature of charge proved against DGO Sri T. Thammaiah it is hereby recommended to the Government to impose penalty of withholding two annual increments payable to DGO Sri T. Thammaiah with cumulative effect.

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

Connected records are enclosed herewith.

  
(JUSTICE N. ANANDA) *W/S*  
Upalokayukta-1,  
State of Karnataka,  
Bengaluru

