

KARNATAKA LOKAYUKTA

NO: LOK/INQ/14-A/552/2014/ARE-9

M.S.Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru - 560 001.
Date: 13-8-2018

:: ENQUIRY REPORT ::

:: Present ::

**(Lokappa N.R)
Additional Registrar of Enquiries-9
Karnataka Lokayukta,
Bangalore**

Sub: Departmental Inquiry Sri. A.M. Manjunath-
the then Assistant Engineer, BBMP Ward No.
83, Whitefield sub division at Bangalore - reg.

Ref: 1.G.O.No.UDD 551 MNY 2014 dt:18.10.2014
2. Nomination Order No:LOK/INQ/14-A/
552/2014, Bangalore dated 28/10/2014.

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This Departmental Enquiry is initiated against Sri. A.M. Manjunath-the then Assistant Engineer, BBMP Ward No. 83, Whitefield sub division at Bangalore (hereinafter referred to as the Delinquent Government Official for short "DGO").

In view of the Government Order cited above at reference No.1, Hon'ble Upalokayukta-1 vide order dated 28/10/2014 cited above at reference No.2 has Nominated Addl. Registrar of Enquiries-9 to frame the charges and to conduct the enquiry against the aforesaid DGO. Addl. Registrar of Enquiries-9 has prepared Articles of charges, statement of imputations of

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misconduct, list of witnesses proposed to be examined in support of the charges and list of documents proposed to be relied on in support of the charges. The copies of the same were issued to the DGO calling upon him to appear before the Enquiry Officer and to submit his written statement of defence.

As per order No.UPLOK-1/DE/2016 Bengaluru Dated 3/8/2016 of Hon'ble Upalokayukta-1 this file is transferred to ARE-9.

The Article of charges framed by the ARE-5 against the DGO is as under :

ANNEXURE-I
CHARGE

2. *That you DGO by name A.M. Manjunath while working as Assistant Engineer in BBMP Ward No. 83, Whitefield sub division, Bangalore in spite of filing Complaint by the Complainant Sri. N. Srinivas Naidu R/o Kadugodi Bangalore alleging that his neighbour Sri.B.R.Sudhakar, without obtaining the plan and permission from the BBMP as per Rules started constructing a building without leaving setback, and this fact was brought to your notice on 18.1.2011; but you DGO did not make periodical visits and inspect whether the ongoing construction was with permission and plan and, if that be so, whether it was in accordance with such plan; and has not taken any action till 24.10.2011; and thereby you DGO has failed to maintain absolute integrity and devotion to duty, and caused dereliction of duty, the said acts of you were unbecoming of a Government Servant and*

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thereby committed misconduct as enumerated u/s 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

ANNEXURE-II
STATEMENT OF IMPUTATION OF MISCONDUCT:

3. On the basis of the complaint filed by Sri. N. Srinivas Naidu R/o Kadugodi in Bangalore (hereinafter referred to as 'complainant' for short), against (1) The Assistant Executive Engineer and, (2) The Assistant Revenue Officer, both working in BBMP Ward No. 83, Whitefield at Bangalore, alleging that the above officers, being Government servants, have committed misconduct.

4. According to the complainant: His neighbour Sri. B.R. Sudhakar, without obtaining the plan and permission from the BBMP, as per Rules started constructing a building without leaving setback, So, this fact was brought to the notice of the jurisdictional Engineers on 18.1.2011. As the engineers failed to take action, this complaint is filed on 30.4.2011 started constructing a building

5. Complaint notice was sent to the DGO jurisdictional Engineer. It is received by the Assistant Engineer -Sri. A. M. Manjunath DGO and he prayed for one month's time to file his comments by addressing a letter on 24.10.2011. Thereafter he failed to file his comments. It appears the DGO has nothing to say.

5. Assistant Revenue Officer filed his comments mainly contending that the unauthorized construction will not come under his purview. Hence, no fault lies with him and prayed to close the complaint.

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6. On perusal of the record, there was no material to proceed against Assistant Revenue Officer. Hence, further investigation was dropped against him.

7. Consideration of the material on record shows that :

- i. Sri. B.R. Sudhakar started construction of a building without plan from BBMP, that too, in violation of building byelaws. But that was not noticed by DGO which shows that DGO did not make periodical visits and inspect whether the ongoing construction was with permission and plan and, if that be so, whether it was in accordance with such plan;
- ii. The DGO has failed to file his comments though took one month's time to file his comments through a letter on 24.10.2011;
- iii. Though the DGO received the complaint on 18.1.2011 about unauthorized construction, he has not taken any action till 24.10.2011;
- iv. The say of the complainant dt. 2.9.2011 discloses that construction was in progress then, which shows that the inaction of the DGO had encouraged the builder to proceed with construction.

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

9. 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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10. 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, recommendation was made to the Competent Authority under section 12(3) of the Karnataka Lokayukta Act, to initiate disciplinary proceedings against DGO and to entrust the inquiry to this Authority under Rule 14-A of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.

11. Accordingly, the Competent Authority has initiated Disciplinary Proceedings against DGO and entrusted the enquiry to the Hon'ble Upalokayukta-1 u/s 14-A of KCS (CC&A) Rules 1957. Hence the charge.

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The DGO has appeared on 23/3/2015 before this enquiry authority in pursuance to the service of the Article of charges.

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

The DGO filed his written statement and submitted that, the complainant had not brought to his notice anything pertaining to the issues in question and he had complained to the AEE on the same. He has further submitted that, he has no knowledge about the said facts. Since, the complainant was claiming that his neighbor had encroached upon his site it was a civil issue involving the order of the court and absolutely he could not interfered in the same. Further submitted that, he has not received any complaint from the complainant. The said B.R. Sudhakar was asked to submit the documents pertaining to the said property and the construction, by way of notice dated 16/7/2014 which was

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addressed by the AEE and not by the DGO. All the correspondence has been addressed by the AEE and not by the DGO. Further submitted that, AEE deputed him to go to office of the Addl. Registrar of Enquiries on the basis of the complaint lodged by the complainant and seek time of one month to submit reply. For that reason he has given the said letter by referring the said notice issued by the Addl. Registrar of Enquiries and seek time to file the reply. He has not written the said letter on his personal capacity. Further he deposed that he had not received any complaint from office of the Lokayukta in any point of time. Hence, question of he had failed to give the reply as prayed for does not arise.

Further he deposed that during the period of his service in the said ward the construction activity has been stopped on the direction of his higher officials and subsequently he was transferred from the said place. The enquiry proceedings initiated against him or one without any basis and on a mistaken belief of fact or mistaken identity and nothing else. He has not committed any wrong in the matter complained of and he has exposed himself to any kind of misconduct nor any act of encouraging the building to carry on illegal construction and the one that is work any action in terms of the departmental rules. Hence, prayed to drop the proceedings against him.

The disciplinary authority has examined the complainant Sri N. Srinivas Naidu, Kadugodi, Bangalore as Pw.1 and Ex.P1 to 8 are got marked. The DGO himself examined as Dw.1 and Ex.D.1 to 10 are got marked.

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The disciplinary authority and the DGO have filed written arguments. Heard the submissions of the disciplinary authority and DGO's side. 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 that are leveled against the DGO/s.
- 4) The disciplinary authority has examined PW.1- the complainant Sri N. Srinivas Naidu, Kadugodi, Bangalore deposed in his chief examination that, the DGO was working as Asst. Engineer in white field sub division BBMP, Bangalore during the year 2011. Further he deposed that, his father had a old house and vacant site in khata No.400 measuring 34 ½ x 63½ ft., in Kadugodi within the limits of White Field sub division. Towards the eastern side of the said property one B.R Sudhakar has a site, he was constructing the residential house in the said site by encroaching 1 ½ ft., of his property and also without obtaining sanctioned plan and license from the BBMP and without leave set back. Further deposed that, he made a complaint regarding the said fact before Revenue Officer, BBMP and AEE of the said sub division on 18/1/2011. Further he deposed that, on 29/1/2011 once again made a complaint before the AEE of the said sub division. Even though that they have not taken any action against the said building owner for that reason he filed the complaint before the Lokayutka Office on 30/4/2011 as per Ex.P1 with documents and photographs. Further he deposed in his cross examination that, after filing complaint before

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AEE, sub division White Field on 8/1/2011 the DGO visited the spot one time but not taken any action. DGO himself examined as Dw.1 by filing his affidavit as Chief Examination. In his chief examination he deposed that he has not aware of the complaint filed by the Pw.1 and further deposed that he has not committed any misconduct or dereliction of the duty. Pw.1 filed the complaint before the AEE of the said sub division and all correspondence made by the Pw.1 with the AEE only. Further he deposed that he sought time before the Addl. Registrar of Enquiries on behalf of the AEE to submit comments.

5) Dw.1 further deposed in his cross examination that, he was working as AE in ward No.83 White Field sub division BBMP, Bangalore from August 2009 to May 2012. Further he admitted that, in Ex.P4 page No.67, 68 and 69 complaints received by his office during his tenure. Further he deposed that on 16/7/2011 the AEE issued notice to the disputed building owner by name Sri Sudhakar, but he has not submitted any documents. Further deposed that, after one month he visited the spot along with AEE and know the fact that the said owner of the building constructed the building without approved plan. For that reason they have stopped building construction work. Further he deposed that, when they have visited the spot at the time the said building was already constructed upto 1st floor level. Further he deposed that, before above said date when they have

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visited the spot he never visited the said site. Further he deposed that, he has not taken any action against the owner of the building except to stop the construction work. Further deposed that, he himself written the Ex.P8 letter to the Addl. Registrar of Enquiries-10 and requesting the one month time to file the comments. Further he admitted in his cross examination that in Ex.P8 he has nowhere stated that he sought time on behalf of the AEE of said sub division.

6) Ex.P1 is the complaint filed by the Pw.1 before the Lokayukta office on 30/4/2011 along with Ex.P2, 3 and P4 along with documents. Ex.P5, it includes 14 photographs of disputed building which belongs to one Sudhakar. Ex.P6 is the comments submitted by the Asst. Revenue Officer, White Field sub division, BBMP. Ex.P7 is the rejoinder filed by the complainant on 2/9/2011. Ex.P8 is the letter dated 24/10/2011 submitted by the DGO to the ARE-10 and seeking one month time to submit his comments. Ex.D1 notice dated 27/6/2011 issued by the ARE-10 to AEE, White Field sub division to submit report on or before 4/7/2011. Ex.D2 is the comments submitted by the Asst. Revenue Officer, White Field sub division, Ex.D5 the notice dated 21/7/2011 issued by the Asst. Executive Engineer, White Field sub division to B.R. Sudhakar s/o Ramaiah, Kadugodi who is none other than the owner of the disputed building. Ex.D4 reminder dated 1/10/2011 issued by the

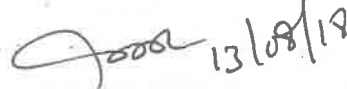
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ARE-10 to the Asst. Executive Engineer, BBMP. Ex.D5 letter dated 23/6/2014 submitted by the AEE, White Field sub division to ARE-10. Ex.D6 notice dated 28/6/2014 issued by the AEE, White field sub division to the B.R. Sudhakar s/o Ramaiah. Ex.D7 is the endorsement dated 28/6/2014 issued by the AEE to the complainant. Ex.D8 is the notice dated 16/7/2014 issued by the AEE, White field sub division to B.R Sudhakar s/o Ramaiah. Ex.D9 is the show cause notice dated 21/7/2014 issued by the ARE-10 to the AEE, Ward No.83 White Field sub division. Ex.D10 is the letter dated 26/7/2014 submitted by the AEE, White field sub division to the ARE-10. Perused the evidence of the Pw.1 and Dw.1 and above said documents clearly reveals that the DGO having the knowledge of complaint filed by the Pw.1 on 18/1/2011. Even though the said complaint addressed to the AEE of the said sub division. Also the AEE issued the notice to the owner of the building on 16/7/2011 then after the DGO has visited the spot after one month along with AEE. Further as per his evidence, when he had visited the spot along with AEE the construction work completed upto 1st floor level. Duty of the DGO as AE he shall make periodical visits and inspect whether ongoing construction was within permission or plan in his area. Further responsibility of the DGO as AE to make periodical inspection upto ground floor level and report the said to the AEE if the owner of the building constructed the house without permission or without sanctioned plan or deviating

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the sanctioned plan. In the present case the DGO has not made any such efforts during his tenure, he failed to inspect the spot by making periodical visits to verify whether ongoing construction was with permission and plan. There is no sufficient and clear material from the side of the DGO to disprove the charge leveled against him, even though he produced some documents to show all correspondences made in the name of AEE in the said sub division. Thereby the disciplinary authority succeeded to prove the charge leveled against the DGO.

7) In the above said facts and circumstances, the charge leveled against the DGO is proved. Hence, this report is submitted to Hon'ble Upalokayukta for further action.

 13/08/19

(Lokappa N.R)

Additional Registrar Enquiries-9
Karnataka Lokayukta,
Bangalore

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

Pw.1	Sri N. Srinivas Naidu, Kadugodi, Bangalore dated 28/6/2017 (Original)
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ii) List of Documents marked on behalf of Disciplinary Authority.

Ex.P1	Complaint dated 30/4/2011 (original)
Ex.P1(a)	Signature
Ex.P2&3	Complaint Form No.I&II dated 30/4/2011 (Original)
Ex.P2(a)3(a)	Signatures

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Ex.P4	Documents submitted along with the complaint (Xerox)
Ex.P5	Photographs
Ex.P6	Comments of the Asst. Revenue officer dated 5/7/2011 (Original)
Ex.P7	Rejoinder of the complainant dated 2/9/2011 (Original)
Ex.P7(a)	Signature
Ex.P8	Letter dated 24/10/2011 written by the DGO to the ARE-10 (Original)
Ex.P8(a)	Signature

iii) List of witnesses examined on behalf of DGO.

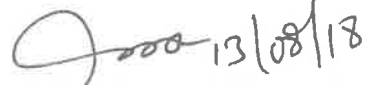
Dw.1	Sri A.M. Manjunath, Asst. Engineer, MCC, Mysore dated 6/3/2018 (original)
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iv) List of documents marked on behalf of DGO

Ex.D1	Copy of Notice dated 27/6/2011 issued by the ARE-10 to Assistant Executive Engineer, BBMP, Nanjundeshwara Temple Road, Kadugodi, Bangalore (Attested true copy)
Ex.D2	Copy of Letter dated 5/7/2011 written by the Assistant Revenue Officer, BBMP while field Sub division, Bangalore to ARE-10 (Attested true copy)
Ex.D3	Copy of Notice dated 21/7/2011 issued to Sri B.R. Sudhakar, Ishwara Temple road, Kadugodi, Bangalore by the AEE, BBMP white field, sub division, Bangalore (Attested true copy)
Ex.D4	Reminder dated 1/10/2011 issued by ARE-7 to the AEE, BBMP, Ward No.83, Whitefield, Bangalore (Attested true copy)
Ex.D5	Copy of application dated 23/6/2014 written by the AEE, BBMP, Whitefield sub division to ARE-1 (Attested true copy)
Ex.D6	Copy of Notice dated 28/6/2014 issued to Sri B.R. Sudhakar, Ishwara Temple road, Kadugodi, Bangalore by the AEE, BBMP white field, sub division, Bangalore (Attested true copy)

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Ex.D7	Copy of Notice dated 28/6/2014 issued to Sri M. Srinivas Naidu, Nanjundeswara Temple road, Kadugodi, Bangalore by the AEE, BBMP whitefield, sub division, Bangalore (Attested true copy)
Ex.D8	Copy of Notice dated 16/7/2014 issued to Sri B.R. Sudhakar, Ishwara Temple road, Kadugodi, Bangalore by the AEE, BBMP white field, sub division, Bangalore (Attested true copy)
Ex.D9	Show cause notice dated 21/7/2014 issued by the ARE-10 to AEE, white field division, BBMP, Bangalore (Attested true copy)
Ex.D10	Copy of Application dated 26/7/2014 submitted by the AEE, BBMP, White field, Bangalore to the ARE-1. (Attested true copy)

 13/08/18

(Lokappa N.R)

Additional Registrar Enquiries-9
Karnataka Lokayukta,
Bangalore

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No:LOK/INQ/14-A/552/2014/ARE-9

Multi Storied Building,
Dr.B.R.Ambedkar Veedhi,
Bengaluru-560 001,
Date: 16/08/2018

RECOMMENDATION

Sub:- Departmental inquiry against Sri A.M. Manjunath,
the then Assistant Engineer, Bruhat Bengaluru
Mahanagara Palike, Bengaluru – Reg.

Ref:- 1) Government Order No.ನಲಇ 551 ಎಂಎಸ್‌ವೈ 2014
Bengaluru dated 18/10/2014

- 2) Nomination order No.LOK/INQ/14-A/552/2014,
Bengaluru dated 28/10/2014 of Upalokayukta-1,
State of Karnataka, Bengaluru
- 3) Inquiry Report dated 13/08/2018 of Additional
Registrar of Enquiries-9, Karnataka Lokayukta,
Bengaluru

The Government by its Order dated 18/10/2014, initiated the disciplinary proceedings against Sri A.M. Manjunath, Assistant Engineer, Bruhat Bengaluru Mahanagara Palike, 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/552/2014 dated 28/10/2014, nominated Additional Registrar of Enquiries-5, 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 03/08/2016, the Additional Registrar of

Enquiries-9 was re-nominated as Inquiry Officer to conduct Departmental Inquiry against DGO.

3. The DGO Sri A.M. Manjunath, Assistant Engineer, Bruhat Bengaluru Mahanagara Palike, Bengaluru was tried for the following charge:-

“That you DGO by name A.M. Manjunath while working as Assistant Engineer in BBMP Ward No.83, Whitefield sub division, Bangalore inspite of filing Complaint by the Complainant Sri.N. Srinivas Naidu R/o Kadugodi Bangalore alleging that his neighbour Sri.B.R. Sudhakar, without obtaining the plan and permission from the BBMP as per Rules started constructing a building without leaving setback, and this fact was brought to your notice on 18.1.2011; but you DGO did not make periodical visits and inspect whether the ongoing construction was with permission and plan and, if that be so, whether it was in accordance with such plan; and has not taken any action till 24.10.2011; and thereby you DGO has failed to maintain absolute integrity and devotion to duty, and caused dereliction of duty, the said acts of you were unbecoming of a Government Servant and thereby committed misconduct as enumerated u/s 3(1)(i) to (iii) of Karnataka Civil Service (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 A.M. Manjunath, Assistant Engineer, Bruhat Bengaluru Mahanagara Palike, Bengaluru.


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 DGO, he has retired from service on 31/05/2018 (during the pendency of enquiry).

7. Having regard to the nature of charge proved against DGO Sri A.M. Manjunath it is hereby recommended to the Government for imposing penalty of withholding 10% of pension payable to DGO Sri A.M. Manjunath, Assistant Engineer, Bruhat Bengaluru Mahanagara Palike, Bengaluru for a period of 5 years.

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

Connected records are enclosed herewith.


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

