

KARNATAKA LOKAYUKTA

No.UPLOK-1/DE/56/2016/ARE-13

M.S. Building,
Dr. B.R.Ambedkar Road,
Bangalore-56001,
Date: 27/02/2020.**: Present:****Patil Mohankumar Bhimanagouda**
Additional Registrar Enquiries-13,
Karnataka Lokayukta,
Bangalore.**:: ENQUIRY REPORT ::****Sub:-** Departmental Enquiry against,

1. Sri Venkatesh, Chief Officer
Town Municipal Council, Manvi,
District Raichur and
2. Sri Amaresh, Junior Engineer,
Town Municipal Council, Manvi,
District Raichur.

Ref : 1) Report u/s 12(3) of the K.L Act, 1984 in
Compt/Uplok/GLB-3617/2014/ARE-4,
dated:18/11/2015.2) Govt. Order No. ಸಅಇ/129/ಡಿಎಂಕೆ/2015.
Bengaluru, dated:22/02/2016.3) Nomination Order No.UPLOK-1/
DE/56/2016, Bengaluru dated:
08/03/2016.

1. This Departmental Enquiry is directed against 1) Sri Venkatesh, Chief Officer, Town Municipal Council, Manvi, District Raichur and 2) Sri Amaresh, Junior Engineer, Town

Municipal Council, Manvi, District Raichur (herein after referred to as the Delinquent Government Officials in short "DGOs").

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

3. In view of the Government Order cited above at reference-2, the Hon'ble Upa Lokayukta-1, vide order dated: 08/03/2016 cited above at reference-3, nominated Additional Registrar of Enquiries-1 of the office of the Karnataka Lokayukta as the Enquiry Officer to frame charges and to conduct Enquiry against the aforesaid DGOs. The Additional Registrar Enquiries-1 prepared Articles of Charges, Statement of Imputations of mis-conduct, list of documents proposed to be relied and list of witnesses proposed to be examined in support of Articles of Charges. Copies of same were issued to the DGOs calling upon them to appear before this Authority and to submit written statement of their defence. Thereafter the file was transferred from ARE-1 to ARE-7.

4. As per order of Hon'ble UPLOK-1 & 2/DE/Transfers/2018 dated 06/08/2018 this enquiry file was transferred from ARE-7 to ARE-13.

5. The Articles of Charges framed by ARE-1 against the DGO is as below:

ANNEXURE-1

CHARGE:

You DGO No.1 Sri Venkatesh, working as Chief Officer, Town Municipal Council, Manvi Town and you DGO No-2 Sri Amaresh M, working as Junior Engineer, Town Municipal Council, Manvi Town, floated a short term tender dated:19/03/2012 for supply of drinking water through registered tankers in Manvi Town and you DGO No.1 accepted the quotation submitted by Sri Ramanagowda S/o Shivabasappa Ballatagi even though he was not owning any registered tractor and tanker to supply water, contrary to the conditions of the short term tender, and further you DGOs 1 and 2 prepared bill and paid Rs.13,60,621/- to the contractors for supply water through tanker without obtaining photographs of each trip of the tanker as per the condition of the tender and thereby you the DGOs 1 and 2 have failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servant and therefore you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966. Hence, this charge.

ANNEXURE-II

STATEMENT OF IMPUTATION OF MISCONDUCT

6. Brief facts of the case are:-

ರಾಯಚೂರು ಜಿಲ್ಲೆಯ ಮಾನ್ವಿ ಪಟ್ಟಣದ ವಾರ್ಡ್ ನಂ.6ರ ಕೆ.ಜಿ. ರಸ್ತೆಯಲ್ಲಿರುವ ವಾಸ ಮಾಡಿಕೊಂಡಿರುವ ಶ್ರೀ ಹುಸೇನ್ ಪಾಷಾ (ಇನ್ನು ಮುಂದೆ "ದೂರುದಾರರು" ಎಂದು ಕರೆಯಲ್ಪಡುವ) ರವರು ರಾಯಚೂರು ಜಿಲ್ಲೆಯ ಮಾನ್ವಿ ಪುರಸಭೆಯ ಮುಖ್ಯಾಧಿಕಾರಿ ಶ್ರೀ ವೆಂಕಟೇಶ್ 2) ಮಾನ್ವಿ ಪುರಸಭೆಯ ಕಿರಿಯ ಅಭಿಯಂತರ ಶ್ರೀ ಅಮರೇಶ್ ಎಂ ಮತ್ತು 3) ಮಾನ್ವಿ ಪುರಸಭೆಯ ಹಿಂದಿನ ಅಧ್ಯಕ್ಷರಾಗಿದ್ದ ಶ್ರೀ ನಜೀರುದ್ದೀನ್ ಖಾದ್ರಿ (ಇನ್ನು ಮುಂದೆ "1, 2 ಮತ್ತು 3ನೇ ಎದುರುದಾರರು" ಎಂದು ಕರೆಯಲ್ಪಡುವ) ಯವರ ವಿರುದ್ಧ ಈ ದೂರನ್ನು ಸಲ್ಲಿಸಿದ್ದು, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯ್ದೆ 1984 ರ ಕಲಂ 9 ರಡಿ ತನಿಖೆಗೆ ಕೈಗೆತ್ತಿಕೊಂಡಿದ್ದಿದೆ.

ಎದುರುದಾರರು ಮಾನ್ವಿ ಪಟ್ಟಣದಲ್ಲಿ ಟ್ಯಾಂಕರ್‌ಗಳಲ್ಲಿ ನೀರು ಸರಬರಾಜು ಮಾಡಲು ದಿನಾಂಕ 19/03/2012 ರಂದು ಟೆಂಡರ್ ಕರೆದಿದ್ದು, ಸದರಿ ಟೆಂಡರ್ ಷರತ್ತುಗಳ ಪ್ರಕಾರ:-

ಅ) ಟೆಂಡರ್ ಸಲ್ಲಿಸುವವರು ನೋಂದಾಯಿತ ಗುತ್ತಿಗೆದಾರರಾಗಿದ್ದು, ಆದಾಯ ತೆರಿಗೆ ಮತ್ತು ಮಾರಾಟ ತೆರಿಗೆಯನ್ನು ಪಾವತಿ ಮಾಡಿರಬೇಕು.

ಆ) ಟೆಂಡರ್‌ದಾರರು ಟ್ರಾಕ್ಟರ್ ಮತ್ತು ಟ್ಯಾಂಕರ್ ಹೊಂದಿದ ಬಗ್ಗೆ ಆರ್.ಸಿ ಪುಸ್ತಕದ ಜೆರಾಕ್ಸ್ ಪ್ರತಿಯನ್ನು ಹಾಜರುಪಡಿಸಬೇಕು.

ಇ) ಯಶಸ್ವಿ ಗುತ್ತಿಗೆದಾರರು ಮಾನ್ವಿ ಪಟ್ಟಣಕ್ಕೆ ಟ್ರಾಕ್ಟರ್ ಮತ್ತು ಟ್ಯಾಂಕರ್ ಮೂಲಕ ನೀರು ಸರಬರಾಜು ಮಾಡಿದ ಬಗ್ಗೆ ಪ್ರತಿ ಟ್ರಾಪ್‌ನ ಫೋಟೋಗಳನ್ನು ಸ್ವಂತ ಖರ್ಚಿನಲ್ಲಿ ತೆಗೆದು ಹಾಜರುಪಡಿಸಬೇಕು.

ಪುರಸಭೆಯು ಹಂತಹಂತವಾಗಿ ಹಣವನ್ನು ಐಡುಗಡೆ ಮಾಡುವುದು ಎಂದು ಇದ್ದು, ಗುತ್ತಿಗೆದಾರರು ಅನೇಕ ಟ್ರಾಕ್ಟರ್ ಮತ್ತು ಟ್ಯಾಂಕರ್‌ಗಳನ್ನು ಕೊಂಡುಕೊಂಡಿರುವುದಾಗಿ ಹಾಜರುಪಡಿಸಿದ ಸುಳ್ಳು ಪತ್ರಗಳನ್ನಾಧರಿಸಿ, ಒಬ್ಬ ರಾಮನಗೌಡ ಶಿವಬಸಪ್ಪ ಬಲ್ಲಟಗಿ, ಮಾನ್ವಿ

ತಾಲ್ಲೂಕು ರವರಿಗೆ ಗುತ್ತಿಗೆಯನ್ನು ನೀಡಿದ್ದು, ಮಾನ್ವಿ ಪಟ್ಟಣಕ್ಕೆ ನೀರು ಸರಬರಾಜು ಮಾಡದೇ ಹಾಜರುಪಡಿಸಿದ ರೂ.13,60,621/- ಗಳ ಬಿಲ್ಲನ್ನು ಪಾಸ್ ಮಾಡಿ ಕರ್ತವ್ಯಲೋಪ ಎಸಗಿರುತ್ತಾರೆ.

7. ಗೌರವಾನ್ವಿತ ಉಪಲೋಕಾಯುಕ್ತರ ಆದೇಶಾನುಸಾರ ದೂರನ್ನು ನಮ್ಮ ಲೋಕಾಯುಕ್ತ ಸಂಸ್ಥೆಯ ರಾಯಚೂರಿನ ಪೊಲೀಸ್ ಅಧೀಕ್ಷಕರಿಗೆ ತನಿಖೆ ಮಾಡಿ ವರದಿ ನೀಡಲು ಕಳುಹಿಸಿಕೊಡಲಾಗಿ, ಅವರು ಅವರ ಅಧೀನ ಅಧಿಕಾರಿಗಳಾದ ರಾಯಚೂರು ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸ್ ಉಪಾಧೀಕ್ಷಕರಿಗೆ (ಇನ್ನು ಮುಂದೆ "ತನಿಖಾಧಿಕಾರಿ" ಎಂದು ಕರೆಯಲ್ಪಡುವ) ತನಿಖೆ ಮಾಡಿ ವರದಿ ಸಲ್ಲಿಸಲು ವಹಿಸಿಕೊಟ್ಟಿದ್ದು, ತನಿಖಾಧಿಕಾರಿಗಳು ದಿನಾಂಕ 23/04/2015 ರಂದು ವರದಿಯನ್ನು ಸಲ್ಲಿಸುತ್ತಾ, 1, 2ನೇ ಆಪಾದನೆಗಳನ್ನು ಸಾಬೀತಾಗಿಲ್ಲವೆಂತಲೂ, ಆದರೆ, ಗುತ್ತಿಗೆದಾರರು ಮಾನ್ವಿ ನಗರದ ಯಾವುದೇ ಬಡಾವಣೆಗೆ ನೀರು ಸರಬರಾಜು ಮಾಡಿದ ಬಗ್ಗೆ ಛಾಯಾಚಿತ್ರಗಳನ್ನು ಸಲ್ಲಿಸಿಲ್ಲವಾದಾಗ್ಯೂ ಸಹ, ಎದುರುದಾರರು ಯಾವುದೇ ದಾಖಲೆಗಳನ್ನು/ಕಾಮಗಾರಿಗಳನ್ನು ಪರಿಶೀಲಿಸದೇ ರೂ.13,60,621/- ಗಳನ್ನು ಬಿಡುಗಡೆ ಮಾಡಿ ಅವ್ಯವಹಾರಕ್ಕೆ ಕಾರಣರಾಗಿರುತ್ತಾರೆಂದು ವರದಿ ನೀಡಿರುತ್ತಾರೆ.

8. ತನಿಖಾ ವರದಿಯಲ್ಲಿ ತನಿಖಾಧಿಕಾರಿಗಳು 1 ಮತ್ತು 2ನೇ ಆಪಾದನೆಗಳು ಸಾಬೀತಾಗಿಲ್ಲವೆಂದು, ಕೇವಲ 3ನೇ ಆಪಾದನೆ ಮಾತ್ರ ಸಾಬೀತಾಗಿದೆ ಎಂದು ವರದಿ ನೀಡಿದ ಕಾರಣ, ತನಿಖಾ ವರದಿಯ ಪ್ರತಿಯನ್ನು ದೂರುದಾರರಿಗೆ ಮತ್ತು ಎದುರುದಾರರಿಗೆ ಕಳುಹಿಸಿ, ಅವರ ಉತ್ತರವನ್ನು ಕೇಳಲಾಗಿ,

ಅ) ದೂರುದಾರರು ತಮ್ಮ ಪ್ರತ್ಯುತ್ತರದಲ್ಲಿ ತನಿಖಾಧಿಕಾರಿಗಳ ತನಿಖೆಯ ಕಾಲಕ್ಕೆ ಎದುರುದಾರರು ಮತ್ತು ಗುತ್ತಿಗೆದಾರ ಶ್ರೀ ರಾಮನಗೌಡ ರವರು ನೀಡಿರುವ ಹೇಳಿಕೆಯ ಪ್ರಕಾರ ಗುತ್ತಿಗೆದಾರರು ಟ್ರಾಕ್ಟರ್ ಮತ್ತು ಟ್ಯಾಂಕರ್‌ಗಳನ್ನು ಹೊಂದಿದ ಬಗ್ಗೆ ಯಾವುದೇ ದಾಖಲೆಗಳನ್ನು ಹೊಂದಿರಲಿಲ್ಲವೆಂದು ಒಪ್ಪಿಕೊಂಡಿದ್ದು, ಗುತ್ತಿಗೆದಾರರು 2011-12 ನೇ ಸಾಲಿನಲ್ಲಿ ಯಾವುದೇ ಗುತ್ತಿಗೆ ಕೆಲಸವನ್ನು ಮಾಡಿಲ್ಲದ ಕಾರಣ, ಆದಾಯ ತೆರಿಗೆ ಮತ್ತು ಮಾರಾಟ ತೆರಿಗೆಯನ್ನು ಪಾವತಿ ಮಾಡದಿದ್ದಲ್ಲಿ ಕಡೇ ಪಕ್ಷ ಅವರು ಪಾನ್‌ಕಾರ್ಡ್‌ನಾದರೂ ಹೊಂದಿರಬೇಕಾಗಿತ್ತೆಂತಲೂ, ವಿಚಾರಣೆಯ ಕಾಲಕ್ಕೆ ಎದುರುದಾರರು ಅನೇಕ ವಾರ್ಡ್‌ಗಳಲ್ಲಿ ನೀರು ಸರಬರಾಜು ಮಾಡಿದ್ದಾರೆಂದು ಸಾರ್ವಜನಿಕರಿಂದ ಕೊಡಿಸಿರುವ ಹೇಳಿಕೆಗಳು ಸೃಷ್ಟಿತ ಹೇಳಿಕೆಗಳಾಗಿದ್ದು,

ಅವ್ಯವಹಾರ ಸಾಬೀತಾಗಿರುವ ಕಾರಣ ಎದುರುದಾರರ ವಿರುದ್ಧ ಕ್ರಿಮಿನಲ್ ಮೊಕದ್ದಮೆಗೆ ಶಿಫಾರಸ್ಸು ಮಾಡಬೇಕೆಂದು ವಿನಂತಿಸಿಕೊಂಡಿರುತ್ತಾರೆ.

ಅ) 1ನೇ ಎದುರುದಾರರು ಅವರ ಆಕ್ಷೇಪಣೆಯಲ್ಲಿ ಟೆಂಡರ್ ಷರತ್ತು-3 ಪ್ರಕಾರ ಪ್ರತಿ ಟ್ರಪ್‌ಗೆ ಭಾವಚಿತ್ರವನ್ನು ತೆಗೆಸಬೇಕಾಗಿದ್ದು, ಒಂದೇ ದಿನದಲ್ಲ 15-20 ಟ್ಯಾಂಕರ್‌ಗಳು, ಪ್ರತಿ ಟ್ಯಾಂಕರ್ ದಿನದಲ್ಲ 5 ಟ್ರಪ್‌ನಂತೆ ನೀರು ಸರಬರಾಜು ಮಾಡಿದ್ದು, ಒಂದೇ ಸಮಯದಲ್ಲ ಎಲ್ಲಾ ವಾರ್ಡುಗಳಿಗೆ ನೀರು ಸರಬರಾಜು ಆಗುತ್ತಿದ್ದುದರಿಂದ, ಸುಮಾರು 3943 ಫೋಟೋಗಳನ್ನು ಕಡತದಲ್ಲಿ ಹಾಕುವುದು ಕಷ್ಟ ಸಾಧ್ಯವಾಗಿರುತ್ತದೆ ಎಂದು, ತಾವು ಕರ್ತವ್ಯದಲ್ಲಿ ಯಾವುದೇ ನಿರ್ಲಕ್ಷ್ಯತನ ತೋರದೇ ಮಾನ್ವಿ ಪಟ್ಟಣದ ಸಾರ್ವಜನಿಕರಿಗೆ ಕುಡಿಯುವ ನೀರು ಒದಗಿಸುವ ಹಿತದೃಷ್ಟಿಯಿಂದ ಕೈಗೊಂಡ ಕ್ರಮವು ತುರ್ತು ಸೇವೆಯೆಂದು ಪರಿಗಣಿಸಿ ದೂರನ್ನು ಮುಕ್ತಾಯಗೊಳಿಸಬೇಕೆಂದು ಕೋರಿರುತ್ತಾರೆ.

ಇ) 3ನೇ ಎದುರುದಾರರು ಅವರ ಆಕ್ಷೇಪಣೆಯಲ್ಲಿ ಮಾನ್ವಿ ಪುರಸಭೆಯು ದಿನಾಂಕ 19/03/2012 ರಂದು ಟ್ರಾಕ್ಟರ್ ಜೊತೆಗೆ ಟ್ಯಾಂಕರ್‌ಗಳಿಂದ ನೀರು ಸರಬರಾಜು ಮಾಡಲು ಅಲ್ಪಾವಧಿ ಕೊಟೇಷನ್ ಪ್ರಕಟಿಸಿದ್ದು, ತಾನು ದಿನಾಂಕ 07/09/2013 ರಂದು ಅಧ್ಯಕ್ಷ ಪದವಿಯನ್ನು ವಹಿಸಿಕೊಂಡಿದ್ದು, ಪ್ರಕರಣವು ತನಗೆ ಸಂಬಂಧ ಪಡುವುದಿಲ್ಲವೆಂದು ದೂರನ್ನು ಮುಕ್ತಾಯಗೊಳಿಸಬೇಕೆಂದು ವಿನಂತಿಸಿಕೊಂಡಿರುತ್ತಾರೆ.

ಈ) 2ನೇ ಎದುರುದಾರರಿಗೆ ನಮ್ಮ ರಾಯಚೂರು ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸರ ಮೂಲಕ ನೋಟೀಸಿನೊಂದಿಗೆ ತನಿಖಾ ವರದಿಯನ್ನು ಕಳುಹಿಸಿ, ಆಕ್ಷೇಪಣೆ ಇದ್ದಲ್ಲಿ ಸಲ್ಲಿಸಲು ನೋಟೀಸ್ ಕೊಟ್ಟಿದ್ದು, ಸದರಿ ನೋಟೀಸ್ ಅವರಿಗೆ ದಿನಾಂಕ 18/08/2015 ರಂದು ಜಾರಿಯಾದಾಗ್ಯೂ ಸಹ ಅವರು ತನಿಖಾ ವರದಿಗೆ ಯಾವುದೇ ಆಕ್ಷೇಪಣೆಯನ್ನು ಸಲ್ಲಿಸಿಲ್ಲ.

9. ಕಡತವನ್ನು ಕೂಲಂಕಷವಾಗಿ ಪರಿಶೀಲಿಸಲಾಗಿ ಕಂಡುಬಂದ ಅಂಶಗಳೆಂದರೆ:-

(i) ಮಾನ್ವಿ ಪುರಸಭೆಯವರು 2011-12ನೇ ಸಾಲಿನಲ್ಲಿ ಮಾನ್ವಿ ಪಟ್ಟಣಕ್ಕೆ ಕುಡಿಯುವ ನೀರು ಸರಬರಾಜು ಮಾಡಲು ಟ್ರಾಕ್ಟರ್ ಮತ್ತು ಟ್ಯಾಂಕರ್‌ಗಳ ಆರ್.ಸಿ ಹೊಂದಿದ ಗುತ್ತಿಗೆದಾರರಿಂದ ದಿನಾಂಕ 19/03/2012 ರಂದು ಅಲ್ಪಾವಧಿ ಕೊಟೇಷನ್ ಕರೆದಿರುತ್ತಾರೆ.

(ii) 1 ನೇ ಎದುರುದಾರರು ಯಾವುದೇ ಟ್ರಾಕ್ಟರ್ ಮತ್ತು ಟ್ರ್ಯಾಂಕರ್‌ಗಳ ಆರ್.ಸಿ ಹೊಂದಿರದ ಮಾನ್ವಿ ತಾಲ್ಲೂಕಿನ ಶ್ರೀ ರಾಮನಗೌಡ ತಂದೆ ಶಿವಬಸಪ್ಪ ಬಲ್ಲಟಿರವರ ಟೆಂಡರ್‌ನ್ನು ಅಲ್ಪಾವಧಿ ಕೊಟೇಷನ್ ಪ್ರಕಟಣೆಯ ಷರತ್ತಿಗೆ ವಿರುದ್ಧವಾಗಿ ಒಪ್ಪಿಕೊಂಡಿರುತ್ತಾರೆ.

(iii) 1 ಮತ್ತು 2ನೇ ಎದುರುದಾರರು ಗುತ್ತಿಗೆದಾರರು ಅಲ್ಪಾವಧಿ ಕೊಟೇಷನ್ ಪ್ರಕಟಣೆಯ ಪ್ರಕಾರ ಮಾನ್ವಿ ಪಟ್ಟಣದ ವಿವಿಧ ವಾರ್ಡುಗಳಿಗೆ ನೀರು ಸರಬರಾಜು ಮಾಡಿದ ಬಗ್ಗೆ ಪ್ರತಿ ಟ್ರಿಪ್‌ಗಳ ಫೋಟೋಗಳನ್ನು ಪಡೆಯದೇ ರೂ.13,60.621/-ಗಳ ಬಿಲ್ಲನ್ನು ಪಾವತಿ ಮಾಡುವ ಮೂಲಕ ಕರ್ತವ್ಯಲೋಪವೆಸಗಿದ್ದು, ಸದರಿ ಮೊತ್ತಕ್ಕೆ 1 ಮತ್ತು 2ನೇ ಎದುರುದಾರರು ಸಮಾನ ಹೊಣೆಗಾರರಾಗಿರುತ್ತಾರೆ.

10. 3ನೇ ಎದುರುದಾರರು ದಿನಾಂಕ 19/03/2012ರ ಅಲ್ಪಾವಧಿ ಕೊಟೇಷನ್ ಪ್ರಕಟಣೆಯ ಕಾಲಕ್ಕೂ ಮತ್ತು ನೀರು ಸರಬರಾಜು ಮಾಡಿದ 2012-13 ನೇ ಸಾಲನಲ್ಲ ಮಾನ್ವಿ ಪುರಸಭೆಯ ಅಧ್ಯಕ್ಷರಾಗಿರದೇ ಇರುವ ಕಾರಣ, ಅವರ ವಿರುದ್ಧ ವರದಿ ಮಾಡಿಲ್ಲ.

11. 1ನೇ ಎದುರುದಾರರು ತನಿಖಾ ವರದಿಗೆ ನೀಡಿರುವ ಉತ್ತರಗಳು ಅವರ ವಿರುದ್ಧದ ತನಿಖೆಯನ್ನು ಕೈಬಿಡಲು ತೃಪ್ತಿ/ಸಮಾಧಾನಕರವಾಗಿಲ್ಲ.

12. Since said facts and material on record prima-facie show that you DGOs 1 and 2 have committed misconduct under Rule 3(1)(ii) & (iv) of KCS (Conduct) Rules, 1966, acting under section U/s 12(3) of Karnataka Lokayukta Act, recommendation was made to the Competent Authority to initiate disciplinary proceedings against you DGOs 1 and 2. The Government after consideration of materials has entrusted enquiry to Hon'ble Upalokayukta. Hence, the charge.

13. The AOC was duly served on the DGO No-1 and 2. Initially the DGO No-1 and 2 appeared and the FOS of DGO No-2 was recorded on 16/04/2016. The FOS of DGO No-1 was recorded on 30/06/2016. However, later on they remained absent, hence they were placed Ex-parte. Since the DGO No-1 and 2 later on remained Ex-parte, the question of recording SOS, defence evidence and Questionnaire does not arise.

14. In order to substantiate the charge, the Disciplinary Authority examined two witnesses as PW-1 and PW-2, got marked the documents at Ex.P-1 to P-12 and closed their side. Since the DGO No-1 and 2 had later on remained Ex-parte, the question of recording SOS, defence evidence and questionnaire as provided U/Rule 11(9), 11(16), 11(17) and Rule 11(18) of Karnataka Civil Services (CC & A) Rules 1957 does not arise.

15. Upon consideration of the charge leveled against the DGOs No-1 to 2, the evidence led by the Disciplinary Authority by way of oral and documentary evidence, the only point that arises for my consideration is as under:

Point No-1) Whether the Disciplinary Authority has satisfactorily proved that, the DGO No-1 Sri Venkatesh, working as Chief Officer, Town Municipal Council,

Manvi Town and DGO No-2 Sri Amaresh M, working as Junior Engineer, Town Municipal Council, Manvi Town, floated a short term tender dated 19/03/2012 for supply of drinking water through registered tankers in Manvi Town and the DGO No-1 accepted the quotation submitted by Sri Ramanagouda S/o Shivabasappa Ballatagi even though he was not owning any registered tractor and tanker to supply water, contrary to the conditions of the short term tender, and further the DGOs No-1 and 2 prepared the bills and paid Rs.13,60,621/- to the contractors for supply of water through tankers without obtaining photographs of each trip of the tanker as per the conditions of the tender and thereby failed to maintain absolute integrity and devotion to duty, which act is unbecoming of a Government Servant and thus committed mis-conduct as enumerated U/R 3(1) (i) to (iii) of Karnataka Civil Service (Conduct) Rules, 1966.

16. My finding on the above point is held "**Partly in the Affirmative**" for the following:

:: REASONS ::

17. **Point No-1:-** The complainant Sri Hussain Pasha S/o R Noor Mehaboob, resident of Manvi has been examined as PW-1. He has reiterated the facts stated in the complaint. PW-1 states that, he knows the DGO No-1 and 2 and in the year 2011-12 they were working in TMC Manvi. In the year 2012 a tender was called for supply of water to Manvi Town in water tankers. He has produced the tender notification at Ex.P-1. The tender was awarded to one Sri Ramanagouda. He further states that, as per the tender conditions the person who had applied for tender should have been a registered contractor and he shall be assessed to Income Tax and he should produce documents to show his experience. The person who had applied for tender should own the tractors and the tankers. One of the conditions in the tender was that the photographs should be taken of every trip and it should be produced to the TMC. The payments had to be made stage by stage. PW-1 has produced the document at Ex.P-2. It is the information furnished by the TMC Manvi with regard to the tender. Ex.P-3 are the documents furnished by the contractor Sri Ramanagouda to the TMC Manvi. He has also produced the RC Books of the tractors and tankers which have been commonly marked as Ex.P-4 (Ex.P-4 consists of 11 sheets).

56/24

18. PW-1 further submits that, the DGOs have made payment of Rs.13,60,000/- to Sri Ramanagouda. However, water was not transported and supplied through tankers to Manvi Town. He further submits that the DGOs have colluded with Sri Ramanagouda and misappropriated the TMC funds. PW-1 further states that, the said Sri Ramanagouda was not qualified contractor to transport water through tankers, as per the conditions of the tender.

19. PW-1 further states that, in this regard he has lodged the complaint in the required format. Ex.P-5 is the complaint. Ex.P-6 is Form No-I. Ex.P-7 is Form No.II and Ex.P-8 is the affidavit of the complainant. Ex.P-9 is also the affidavit of the complainant submitted along the Form No-II. PW-1 has been cross examined at length by the advocate for DGOs, however, nothing material has been elicited so as to discredit his testimony.

20. After lodging of the complaint to this institution, the matter was referred for Investigation to Superintendent of Police, Karnataka Lokayukta, Raichur. The Superintendent of Police in turn directed the Deputy Superintendent of Police, Karnataka Lokayukta, Raichur Sri S.B.Patil to conduct the investigation. The I.O Sri S.B.Patil, Deputy Superintendent of Police has been examined as PW-2. He states that, from 2012 to 2015 he was working as Deputy Superintendent of Police in

Karnataka Lokayukta, Raichur. The complainant Sri Hussain Pasha resident of Manvi had lodged the complaint before the Hon'ble Lokayukta with regard to supply of water through water tankers to Manvi town in the year 2011-12. The complainant had alleged that, the contractor had not followed the conditions imposed in the tender document. He had further alleged the DGO No-1 and 2 had colluded with the contractor and they had released Rs.13,60,621/- to the contractor and committed irregularity.

21. PW-2 further states that, in this regard he personally visited TMC Manvi, recorded the statements and enquired the officials. He has also collected the documents from the TMC Manvi. PW-2 further states that, the complainant had totally made 4 allegations. Out of them the allegation No.1, 2 and 4 were not proved. The allegation No.3 was proved. He further states that, in the tender notification, there was a condition that while supplying water to the wards, photographs of the tanker should be taken for each trip. The DGO No-1 and 2 were supposed to collect these photographs, verify the photographs and then only pass the bills. However, on perusal of the files of TMC Manvi, it was observed that, the contractor had not furnished the photographs of each trip. PW-2 further states that, no photographs at all were collected by the DGO No-1 and 2. Hence, the DGO No-1 and 2 have committed dereliction of duty.

22. PW-2 further states that, in this regard he has submitted his report to the Superintendent of Police, Karnataka Lokayukta, Raichur on 23/04/2015. The Superintendent of Police, Karnataka Lokayukta, Raichur in turn has submitted his report to the Hon'ble Lokayukta on 26/04/2015. He identifies the report of Superintendent of Police, Karnataka Lokayukta, Raichur which is at Ex.P-11. He has also identified his report which is at Ex.P-12. The evidence of PW-2 has totally remained unchallenged. Initially the DGO No-1 and 2 had appeared. However, at later stage they remained absent and hence, they were placed Ex-Parte.

23. I have carefully gone through the oral evidence of PW- 2 and the report of the I.O at Ex.P-12. The relevant portions of the report of the I.O at Ex.P-12 is as follows.

ಅಪಾದನೆ ಕ್ರಮ ಸಂಖ್ಯೆ-3 ರ ತನಿಖಾ ವರದಿ

ಗುತ್ತಿಗೆದಾರನು ಮಾನವಿ ನಗರದ ಯಾವುದೇ ಬಡಾವಣೆಗಳಿಗೆ ನೀರು ಸರಬರಾಜು ಮಾಡಿದ ಬಗ್ಗೆ ಛಾಯಾ ಚಿತ್ರಗಳನ್ನು ಸಲ್ಲಿಸಿರುವುದಿಲ್ಲ. ಅನ್ನುವ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ (ದಾಖಲೆ-1) (ಪುಟ ಸಂಖ್ಯೆ.1 &2) ಟೆಂಡರ್ ನೋಟೀಫಿಕೇಷನ್ ಕ್ರ.ಸಂ. 4 ರಲ್ಲಿ ಟ್ಯಾಂಕರ್ ಮೂಲಕ ಬಡಾವಣೆಯಲ್ಲಿ ನೀರು ಸರಬರಾಜು ಮಾಡುವಾಗ ಪ್ರತಿ ಟ್ರಪ್‌ಗೆ 1 ಭಾವಚಿತ್ರವನ್ನು ತಮ್ಮ ಸ್ವಂತ ವೆಚ್ಚದಿಂದ ತೆಗೆಸಿ ಸಲ್ಲಿಸತಕ್ಕದ್ದು. ಅಂತಾ ಷರತ್ತು ಇದ್ದರೂ ಸಹ ಗುತ್ತಿಗೆದಾರರು ಮಾನವಿ ಪಟ್ಟಣದಲ್ಲಿ ಟ್ಯಾಂಕರ್ ಮೂಲಕ ನೀರು ಸರಬರಾಜು ಮಾಡಿದರೂ ಸಹ ನೆಪ ಮಾತ್ರಕ್ಕೆ ಕೆಲವು ಘೋಷಣೆಗಳನ್ನು ತೆಗೆಸಿ ಪುರಸಭೆ ಕಾರ್ಯಾಲಯಕ್ಕೆ ನೀಡಿದ್ದು, (ದಾಖಲೆ-11) (ಪುಟ ಸಂಖ್ಯೆ:92 ರಿಂದ 96) ಅಲ್ಲದೇ ನೀರು ಸರಬರಾಜು ಮಾಡುವ ಕಾಲಕ್ಕೆ ಪ್ರತಿ ಒಂದು ಟ್ರಪ್ಪಿಗೆ ಒಂದು ಭಾವಚಿತ್ರವನ್ನು ತೆಗೆಸಬೇಕು ಅಂತಾ ಪುರಸಭೆ ಕಾರ್ಯಾಲಯದ ಅಧಿಕಾರಿಗಳು ನಿಯಮಗಳನ್ನು

ಇಟ್ಟು ತಾವೇ ಸದರಿ ಷರತ್ತುಗಳನ್ನು ಪಾಲಿಸದೇ ನಿರ್ಲಕ್ಷಿತನ ತೋರಿದ್ದು ಕಂಡು ಬರುತ್ತದೆ. ಸದರಿ ಆಪಾದನೆಯು ದೃಢಪಟ್ಟಿರುತ್ತದೆ.

24. On careful perusal of the report of the I.O at Ex.P-12, it is observed that, the contractor who was awarded the contract to supply water to Manvi town, he was supposed to furnish the photographs of the tanker for each trip. However, the contractor has not produced the photographs of each trip. PW-2 in his evidence and in his report at Ex.P-12 has categorically stated that, the contractor has not produced the said photographs. The DGO No-1 and 2 who were the Chief Officer, and Junior Engineer of TMC Manvi were under an obligation to see that the contractor furnishes the photographs of each trip. The DGO No-1 and 2 had to pass the bills only after receiving the photographs of the water tankers for each trip. However, the DGO No-1 and 2 had not collected the photographs. The contractor had violated the tender conditions. The DGO No-1 and 2 had committed mis-conduct and dereliction of duty in releasing the funds to the contractor without obtaining the photographs of the tankers for each trip. Hence, on careful perusal of the report of the I.O at Ex.P-12 and the oral evidence of PW-2, I am of the opinion that, the Disciplinary Authority has proved that the DGO No-1 and 2 have committed misconduct by not following the tender condition No-4.

25. The tender at Ex.P-1 and also at Ex.D-2 has a specific condition in this regard and it is as follows,

Condition No-4

“ಆ್ಯಾಂಕರ್ ಬಡಾವಣೆಯಲ್ಲಿ ನೀರು ಸರಬರಾಜು ಮಾಡುವಾಗ ಪ್ರತಿ ಟ್ರಾಕ್ಟರ್/ಭಾವಚಿತ್ರವನ್ನು ತಮ್ಮ ಸ್ವಂತ ವೆಚ್ಚದಿಂದ ತೆಗೆಸಿ ಸಲ್ಲಿಸತಕ್ಕದ್ದು”.

26. On careful perusal of this condition, it is observed that the contractor was supposed to take photographs of each trip of the tanker while supplying the water in Manvi Town. The photographs have to be taken in the ward itself while supplying the water. However, the contractor has not produced the said photographs. The DGO No-1 and 2 should not have released the bills without the production of photographs of each trip of the tanker.

27. The contractor has not furnished the photographs of the tanker for each trip of water supplied. The DGO No-1 and 2 by not collecting the mandatory photographs of each trip before releasing the bills, have committed misconduct.

28. The complainant has also alleged that, the contractor did not own any tractors or tankers and he was ineligible to get the tender. However, this allegation of the complainant is not proved. The I.O in his report has submitted the details of the tractors and tankers used for supply of water in Manvi Town.

Several tractors and trailers have been taken by the contractor on hire basis. More over the tender does not stipulate that the contractor should be the owner of all the tractors and tankers. On careful perusal of the report of the I.O at Ex.P-12 it is observed that, the contractor had hired 18 tractors and trailers to supply water to Manvi Town in the year 2012. Since, there is no condition in the tender that the contractor should be the owner of all the tractors and tankers, I am of the opinion that, this allegation of the complainant is not proved.

29. For the reasons stated above the DGOs No-1 to 2, being the Government/Public Servants have failed to maintain absolute integrity besides devotion to duty and acted in a manner unbecoming of Government servants. On appreciation of entire oral and documentary evidence I hold that the charge leveled against the DGO No-1 to 2 are partly established. Hence, I answer point No.1 "***Partly in the Affirmative***".

:: ORDER ::

The Disciplinary Authority has proved the charge against the DGO No-1 Sri Venkatesh, Chief Officer Town Municipal Council, Manvi, District Raichur and DGO No-2 Sri Amaresh, Junior Engineer, Town Municipal Council, Manvi, District Raichur that they have not received the photographs

56/16

of the tankers for each trip of water supplied to Manvi Town during the year 2012 from the contractor before releasing the bills.

The Disciplinary Authority has failed to prove that the contractor Sri Ramanagouda S/o Shivabasappa Ballatagi was not owning any registered tractor and tanker to supply water, contrary to the conditions of the short term tender. There is no condition in the tender that the contractor should be the owner of all the tractors and tankers. The I.O in his report has reported that the contractor had hired the services of 18 tankers.

30. This report is submitted to Hon'ble Upa Lokayukta-1 in a sealed cover for kind perusal and for further action in the matter.

Dated this the 27th day of February 2020


(Patil Mohankumar Bhimanagouda)

Additional Registrar Enquiries-13

Karnataka Lokayukta

Bangalore

ANNEXURE

Witness examined on behalf of the Disciplinary Authority
PW-1: Sri Hussain Pasha (Original)
PW-2: Sri Shivakumar Patil (Original)
Witness examined on behalf of the DGO
Nil
Documents marked on behalf of the Disciplinary Authority
Ex.P-1: The tender notification published in Newspaper (True copy)
Ex.P-2: Endorsement given by Chief Officer, Purasabhe, Manvi (under RTI) (Original)
Ex. P-3: The documents furnished by Municipality Manvi along with Ex.P-2, page No. 48-57 True copy, page no.58-60 Certified copy, page no.61 True copy, page no.62 Original.
Ex.P-4: The RC Book details of tractors and Tankers furnished by the RTO, Koppal (Original)
Ex.P-5: Complaint (Original) Ex.P-5(a): Signature of the complainant.
Ex.P-6: Form No-1 (Original) Ex.P-6(a): Signature of the complainant.
Ex.P-7: Form No-II (Original) Ex.P-7(a): Signature of the complainant.
Ex. P-8: Affidavit (Original) Ex.P-8(a): Signature of the complainant.
Ex. P-9: Affidavit in Form No-2 (Original) Ex.P-9(a): Signature of the complainant.
Ex. P-10: Rejoinder of the complainant (Original) Ex.P-10(a): Signature of the complainant.
Ex. P-11: The Letter addressed to ARE-4 given by Superintendent, Karnataka Lokayukta, Raichur (Original)

56/12

Ex.P-11(a): Signature of the complainant.
Ex. P-12: Report of I.O (Original)
Ex.P-12(a): Signature of the complainant.
Documents marked on behalf of the DGO
Ex.D-1: Photograph (Original)
Ex.D-2: The tender notification published in the daily news paper Vijaya Karnataka (Original)

Dated this the 27th day of February 2020

Patil
27/2/2020
(Patil Mohankumar Bhimanagouda)
Additional Registrar Enquiries-13
Karnataka Lokayukta
Bangalore

GOVERNMENT OF KARNATAKA



56/16

KARNATAKA LOKAYUKTA

No.UPLOK-1/DE/56/2016/ARE-13

Multi Storied Buildings,
Dr.B.R.Ambedkar Veedhi,
Bengaluru-560 001,
Date: **29/02/2020.**

RECOMMENDATION

Sub:- Departmental inquiry against;

- 1) Sri Venkatesh, Chief Officer, Town Municipal Council, Manvi, Raichur District.
- 2) Sri Amaresh, Junior Engineer, Town Municipal Council, Manvi, Raichur District.

Ref:-1) Government Order No.ಸೃಇ 129 ಡಿಎಂಕೆ 2015 Bengaluru dated 22/02/2016.

2) Nomination order No. UPLOK-1/DE/56/2016 Bengaluru dated 08/03/2016 of Upalokayukta-1, State of Karnataka, Bengaluru.

3) Inquiry Report dated 27/02/2020 of Additional Registrar of Enquiries-13, Karnataka Lokayukta, Bengaluru

The Government by its Order dated 22/02/2016 initiated the disciplinary proceedings against (1) Sri Venkatesh, Chief Officer, Town Municipal Council, Manvi, Raichur District and (2) Sri Amaresh, Junior Engineer, Town Municipal Council, Manvi, Raichur District (hereinafter referred to as Delinquent Government Official's 1 and 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.UPLOK-1/DE/56/2016 dated 08/03/2016 nominated Additional Registrar of Enquiries-1, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGOs 1 and 2 for the alleged charge of misconduct, said to have been committed by them. Subsequently by Order No. UPLOK-

1/DE/2017 dated 6/7/2017 the Additional Registrar of Enquiries-7 was re-nominated as Inquiry Officer to conduct Departmental inquiry against DGOs 1 and 2. Again by order No. UPLOK-1 & 2/DE/Transfers/2018 dated 6/8/2018, the Additional Registrar of Enquiries-13 was re-nominated as Inquiry Officer to conduct Departmental Inquiry against DGOs 1 and 2.

3. The DGO-1 Sri Venkatesh, Chief Officer, Town Municipal Council, Manvi, Raichur District and DGO-2 Sri Amaresh, Junior Engineer, Town Municipal Council, Manvi, Raichur District were tried for the following charge:-

“You DGO No.1 Sri. Venkatesh, working as Chief Officer, Town Municipal Council, Manvi Town and you DGO No.2 Sri. Amaresh.M, working as Junior Engineer, Town Municipal Council, Manvi Town, floated a short term tender dated: 19/03/2012 for supply of drinking water through registered tankers in Manvi Town and you DGO No.1 accepted the quotation submitted by Sri. Ramanagowda S/o Shivabasappa Ballatagi even though he was not owing any registered tractor and tanker to supply water, contrary to the conditions of the short term tender, and further you DGOs 1 and 2 prepared bill and paid Rs.13,60,621/- to the contractors for supply of water through tanker without obtaining photographs of each trip of the tanker as per the condition of the tender and thereby you the DGOs 1 and 2 have failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servant and therefore you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966. Hence, this charge.

56/16

4. The Inquiry Officer (Additional Registrar of Enquiries-13) on proper appreciation of oral and documentary evidence has held that,

i) the Disciplinary Authority has proved the charge against the DGO No.1 Sri Venkatesh, Chief Officer, Town Municipal Council, Manvi, Raichur District and DGO No.2 Sri Amaresh, Junior Engineer, Town Municipal Council, Manvi, Raichur District that they have not received the photographs of the tankers for each trip of water supplied to Manvi Town during the year 2012 from the contractor before releasing the bills.

ii) the Disciplinary Authority has failed to prove that the contractor Sri Ramanagouda S/o Shivabasappa Ballatagi was not owing any registered tractor and tanker to supply water, contrary to the conditions of the short term tender. There is no condition in the tender that the contractor should be the owner of all the tractors and tankers. The I.O in his report has reported that the contractor had hired the services of 18 tankers.

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 and 2;

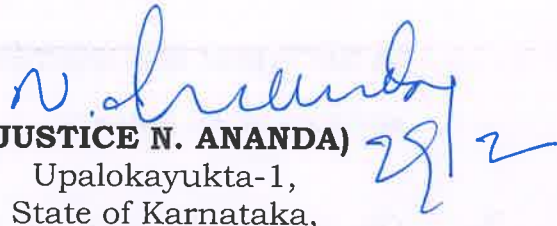
- i) DGO-1 Sri Venkatesh is due to retire from service on 31/07/2027.
- ii) DGO-2 Sri Amaresh is due to retire from service on 31/03/2028.

7. Having regard to the nature of charge proved against DGO-1 Sri Venkatesh and DGO-2 Sri Amaresh;

- i) it is hereby recommended to the Government for imposing penalty of withholding four annual increments payable to DGO-1 Sri Venkatesh, Chief Officer, Town Municipal Council, Manvi, Raichur District, with cumulative effect;
- ii) it is hereby recommended to the Government for imposing penalty of withholding four annual increments payable to DGO-2 Sri Amaresh, Junior Engineer, Town Municipal Council, Manvi, Raichur District, with cumulative effect.

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