

GOVERNMENT OF KARNATAKA**KARNATAKA LOKAYUKTA**

No.UPLOK-1/DE/64/2021/ARE-17

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560001Date: 25th August, 2022.**RECOMMENDATION**

Sub: Departmental Inquiry against Shri Srimantha Dhani, Junior Engineer, KBJNL (O & M), office of the Assistant Executive Engineer, Dorenahalli, Shahapur Taluk, Yadgir District-rcg.,

Ref: 1) Government Order No.ಜಸಂಇ 154 ನೇಇವಿ 2020, Bengaluru, dated: 12/03/2021.

2) Nomination Order No.UPLOK-1/DE/64/2021, Bengaluru, dated: 22/04/2021 of Upalokayukta, State of Karnataka, Bengaluru.

3) Inquiry Report dated: 19/08/2022 of Additional Registrar of Enquiries-17, Karnataka Lokayukta, Bengaluru.

The Government by its order dated: 12/03/2021 initiated the disciplinary proceedings against Shri Srimantha Dhani, Junior Engineer, KBJNL (O & M), office of the Assistant Executive Engineer, Dorenahalli, Shahapur Taluk, Yadgir District (hereinafter referred to as Delinquent Government Official, for short as DGO) and entrusted the Departmental Inquiry to this Institution.

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2. This Institution by Nomination Order No. UPLOK-1/DE/64/2021, Bengaluru, dated: 22/04/2021 nominated Additional Registrar of Enquiries-17, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGO for the alleged charge of misconduct, said to have been committed by him.
3. The DGO, Shri Srimantha Dhani, Junior Engineer, KBJNL (O & M), office of the Assistant Executive Engineer, Dorenahalli, Shahapur Taluk, Yadgir District was tried for the following charges:

ANNEXURE-I
Charge:-

That, you DGO have not intimated the sources of income for purchase of the immovable properties during the relevant years and failed to obtain prior permission from the prescribed authority and also not intimated the acquisition/sale of properties, as mandated under Rule 23(2) of the Karnataka Civil Services (Conduct) Rules, 1966.

You DGO have not obtained permission from the prescribed authority for raising the loan and also not intimated the raising of loan to the Prescribed Authority, as required under Rule 21(4) of the Karnataka Civil Services (Conduct) Rules, 1966 and

You DGO have not reported the purchase of vehicle to the prescribed authority as per Rule 23(3) of KCS (Conduct) Rules 1966.

Thereby you DGO have committed dereliction of duty and has failed to maintain absolute integrity and devotion to duty, the act of which is unbecoming of a Government Servant and violated Rules 21(4), 23(2) & 23(3) of the Karnataka Civil Service (Conduct) Rules, 1966 and you DGO has committed

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misconduct as enumerated under Rule 3(1) (i) to (iii) of Karnataka Civil Services (Conduct) Rules, 1966.

4. Notice of Articles of charge, Statement of Imputation of misconduct with list of witnesses and documents was served upon the DGO on 18/09/2021 and posted for appearance on 22/09/2021. But, inspite of service of notice, DGO was not present. Hence, DGO was placed exparte and case was posted on 13/10/2021.
5. In order to substantiate and prove the allegations, Disciplinary Authority has examined two witnesses as PW-1 and PW-2 and EX. P-1 to P-16 documents were got marked. Disciplinary authority heard evidence and posted for report.
6. During the pendency of the Inquiry, DGO preferred Application No.20886/2021 before the Hon'ble KSAT, Kalaburagi Bench. That on 07/12/2021, the Hon'ble KSAT, Kalaburagi Bench has allowed the Application filed by DGO and the impugned Articles of Charge bearing No.Uplok-1/DE-64/2021/ARE-17, dated: 30/08/2021 is quashed.
7. The file was referred to the Chairman, Legal Cell-1 & 2, Karnataka Lokayukta, Bengaluru. In turn the Chairman, Legal Cell-1 & 2, Karnataka Lokayukta, Bengaluru, dated: 17/05/2022, wherein it is stated that, it is decided not to challenge the order of the Hon'ble KSAT in KAT application No.20886/2021.

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8. On perusal of the judgement laid down by the Hon'ble KSAT in KAT Application No.20886/2021 and on consideration of the totality of circumstances, since, the Article of Charge against DGO is quashed vide order dated 07/12/2021 by Hon'ble KSAT in KAT Application No. 20886 of 2021 and the same is not challenged by the Chairman, Legal Cell, Karnataka Lokayukta, Bengaluru and to close this enquiry against DGO. Hence, the instant proceedings against the DGO do not survive for consideration.

"The proceedings initiated against DGO, Shri Srimantha Dhani, Junior Engineer, KBJNL (O & M), office of the Assistant Executive Engineer, Dorenahalli, Shahapur Taluk, Yadgir District stands closed on account of Articles of charge against the DGO is quashed by Hon'ble KSAT in KAT application No.20886/2021, dated: 07/12/2021.

9. Therefore, it is hereby recommended to the Government to accept the report of Inquiry Officer and to close the proceedings against DGO, Shri Srimantha Dhani, Junior Engineer, KBJNL (O & M), office of the Assistant Executive Engineer, Dorenahalli, Shahapur Taluk, Yadgir District in view of the fact that Articles of Charges being quashed as per the order of the Hon'ble KSAT, Kalaburagi



Bench in Application No.20886/2021, dated: 07/12/2021 and also decided, not fit to challenge the order passed by Hon'ble KSAT.

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

Connected records are enclosed herewith.


(JUSTICE K.N.PHANEENDRA)
UPALOKAYUKTA-2,
STATE OF KARNATAKA.

KARNATAKA LOKAYUKTA

No: UPLOK-1/DE/64/2021/ARE-17

M.S.Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru - 560 001.
Dated: 19/08/2022

ENQUIRY REPORT

Present : Rajakumar S. Amminabhavi
Addl. Registrar of Enquiries-17,
Karnataka Lokayukta,
Bengaluru.

Sub:-Departmental Inquiry against Sri. Srimantha Dhani, Junior Engineer, KBJNL (O and M), Office of the Assistant Executive Engineer, Dorenahalli Shahapura Taluk, Yadgiri District - reg.

Ref:- 1. Government Order No. ಜಸಂಇ 154 ಸೇಇವಿ 2020
Bengaluru, dated 12/03/2021.
2. Nomination Order No. Uplok-1/DE/64/2021
Bengaluru dated 22/04/2021 of Hon'ble Upalokayukta.

A suo-motu investigation was taken up under Section 7 read with section 9 of The Karnataka Lokayukta Act, 1984, against Sri. Srimantha Dhani, Junior Engineer, KBJNL (O&M), Office of the Assistant Executive Engineer, Dorenahalli, Shahapura Taluk, Yadgiri District (hereinafter referred to as 'DGO') on the basis of the material/copy of Charge sheet placed by the Dy.S.P, Karnataka Lokayukta, Yadgiri District in Cr. No. 03/2015 of Yadgiri Lokayukta Police Station.

2. On the basis of the report submitted by Investigating Officer, a report was sent to the Government u/s 12(3) of the Karnataka Lokayukta Act, 1984 against the DGO, as per reference No.1. Pursuant to the report, Government was pleased to issue the Government Order authorizing Hon'ble Upa-lokayukta to hold an enquiry against the DGO **Sri Srimantha Dhani**, Junior Engineer, KBJNL (O&M), office of Assistant Executive Engineer, Dorenalli, Shahapura Taluk, Yadgiri District, as per reference No. 1.
3. On the basis of the Government Order, nomination order was issued by Hon'ble Upalokayukta-1 on 22/04/2021 authorizing ARE-17 to frame Article of Charges against the DGO, and to hold an enquiry and to submit a report as per reference No.2. On the basis of the nomination order, the Article of Charges against **DGO** was framed and sent to the Delinquent Government Official on 30/08/2021.
4. The Article of charges and the statement of imputations of misconduct prepared and leveled against the DGO is reproduced here as under;

ANNEXURE NO. 1

CHARGE

That, you DGO have not intimated the sources of income for purchase of the immovable properties during the relevant years and failed to obtain prior permission from the prescribed authority and also not intimated the acquisition/sale of properties, as mandated under Rule

23(2) of the Karnataka Civil Services (Conduct) Rules, 1966.

You DGO have not obtained permission from the prescribed authority for raising the loan and also not intimated the raising of loan to the Prescribed Authority, as required under Rule 21(4) of the Karnataka Civil Services (Conduct) Rules, 1966 and

You DGO have not reported the purchase of vehicle to the prescribed authority as per Rule 23(3) of KCS (Conduct) Rules 1966.

Thereby you DGO have committed dereliction of duty and has failed to maintain absolute integrity and devotion to duty, the act of which is unbecoming of a Government Servant and violated Rules 21(4), 23(2) & 23(3) of the Karnataka Civil Service (Conduct) Rules, 1966 and you DGO has committed misconduct as enumerated under Rule 3(1) (i) to (iii) of Karnataka Civil Services (Conduct) Rules, 1966.

ANNEXURE NO. II
STATEMENT OF IMPUTATIONS OF MISCONDUCT

1. That the suo-motu investigation was taken up under Section 7 read with section 9 of The Karnataka Lokayukta Act, 1984, against Sri. Srimantha Dhani S/o.Revanappa Ahani, Junior Engineer, KBJNL (O&M), Office of the Assistant Executive Engineer, Shahapura Taluk, Yadgiri District (hereinafter referred to as 'DGO')

on the basis of the material/copy of Charge sheet placed by the Dy.S.P, Karnataka Lokayukta, Yadgiri District in Cr. No. 03/2015 of Yadgiri Lokayukta Police Station.

2. Crime Number 03/2015 of Yadgiri Lokayukta Police Station was registered against respondent on the basis of information that, he had amassed wealth disproportionate to his known sources of income. The Dy.S.P, Karnataka Lokayukta, Yadgiri, after investigation had filed a charge sheet before the Special Judge Court, Yadgiri.
3. On perusal of the charge sheet materials submitted by the Karnataka Lokayukta, Yadgiri, it is disclosed that, the respondent Sri.Srimantha Dhani S/o.Revanappa Dhani has joined Government service as Junior Engineer on 5/2/2004. On registration of the above case against the respondent, the Investigation Officer has taken 5/2/2004 to 12/6/2015 as check period for calculation of assets acquired, expenses incurred and income derived by the respondent.
4. The details of assets acquired by the respondent during the period from 5/2/2004 to 12/6/2015 are as follows:-
 - 1) On 7/11/2018, the respondent had purchased a site in his name bearing No.74 totally measuring 1400 Sq.ft situated at in approved layout of land bearing Sy.No.101/2 of Brahmpur Gulbarga Taluk and District situated at Bhavani layout, Shakthi Nagar, behind CID Colony,

Gulbarga for a sum of Rs.3,30,000/- which was registered at the office of the Sub Registrar, Kalburgi vide Document No.6425-2008-09 dt.7/11/2008 and having a own house property worth Rs.66,05,000/- as per valuation report submitted by a Assistant Executive Engineer, PWP & IWTD Sub-Division, Kalburgi.

5. In relation to the above purchase/acquisition immovable property, the respondent had not obtained prior permission from the prescribed authority and also not intimated the acquisition/sale of property, as mandated under Rule 23(2) of the Karnataka Civil Services (Conduct) Rules, 1966. And he has not intimated the sources of income for purchase of the immovable property during the relevant years.
6. It is further discloses that the respondent's wife Smt.Sarvamangala had purchased the following vehicles without obtaining the previous sanction from the prescribed authority and also not intimated the purchase/sale of said vehicles as required under Rule 23(3) of the Karnataka Civil Services (Conduct) Rules, 1966. And also not intimated the sources of income for purchase of the vehicles.

The details of vehicles as follows:-

- i) Four Wheeler vehicle bearing No.KA 32 N 2176 (Maruthi Zen VXi, Estello car)
- ii) Two wheeler vehicle bearing No. KA 32 X 3444 (Mahindra Rodeo)

7. As per the Bank Statement, Punjab National Bank, Gulbarga District in relation to A/c. No.019200NC401774 the respondent had raised housing loan of Rs.20,00,000/- and in relation to the A/c. No.019200NC9900000439 on 26/9/2014. In relation to the above stated, the respondent had not obtained permission from the prescribed authority for raising the loans, also not intimated the raising loans to the Prescribed Authority, as required under Rule 21(4) of the Karnataka Civil Services (Conduct) Rules, 1966.
8. As per the charge sheet materials, while conducting search and seizure at respondent's house No.74, GIS-50-2-584-379 situated at Shakthi Nagar, Bhavani Layout, Kalburgi, the following original deeds were found in his possession. However, the respondent has not satisfactorily accounted for its possession with him. The details of those documents are as follows:
- a) Original sale agreement dt.26/12/2009, executed by the M/s.Dhananjaya Developers, at shop No.UGF-16, KHB Complex, opposite Kharge petrol bunk, Ring Road, Gulbarga in favour of Smt.Sarvamangala W/o.Sreemantha Dhani with respect to the purchase of plot measuring 50x80, M/s Dhananjaya Developers which have decided to undertake project of making layout of plots at village Hagarga Srinivas Sardagi and Kalagnoor, Gulbarga Taluk and District.
 - b) Original sale agreement dt.26/12/2009, executed by the M/s.Dhananjaya Developers, at shop No.UGF-16,

KHB complex, opposite Kharge petrol bunk, Ring Road, Gulbarga in favour of Smt.Sarvamangala W/o.Sreemantha Dhani with respect to the purchase of plot measuring 50x80, M/s Dhananjaya Developers which have decided to undertake project of making layout of plots at village Hagarga Srinivas Sardagi and Kalagnoor, Gulbarga Taluk and District.

- c) 468 Numbers Cash Received Receipt received by Dhananjaya Developers, Gulbarga each receipts for Rs.3000/- towards the installment of Dhanavantaripuri Project.
 - d) Agreement of hand loan return dt.1/1/2011 executed by the Sri.Amith M Wagela S/o. M.Mohan Wagela, resident of Gulgarga in favour of Smt.Sarvamangala W/o.Smt.Dhani and hand loan receipt executed by the Amith M Wagela for Rs.4,08,000/-
 - e) Two share certificates of Navodaya SC Multi-purpose Co-operative Society Limited, for Rs.10,000/- each.
9. In connection to the investments on the properties and shares above stated in para No.20, the respondent has not obtained prior permission from the prescribed authority and also not intimated the sources of income for said investment as required u/s. 21 of Karnataka Civil Services (Conduct) Rules, 1966.
10. As per the charge sheet materials while conducting search and seizure at respondent's bank viz., Axis Bank, Jevargi Cross, Kalburgi. The gold ornaments totally measuring 100.850 milligrams worth Rs.2,91,241/- was

found. In relation to the movable properties/gold ornaments is concerned the respondent has not obtained previous sanction from the prescribed authority and also not intimated the purchase of said movable properties as required under Rule 23(3) of Karnataka Civil Services (Conduct) Rules, 1966.

11. In view of the above, the respondent being a Government servant has committed misconduct under Rule 3(1)(i) to (iii) of Karnataka Civil Services (Conduct) Rules, 1966 by not maintaining absolute integrity, devotion to duty and acted in a manner unbecoming of Government Servant and violated Rules 21, 21(4), of the Karnataka Civil Services (Conduct) Rules, 1966. Therefore, the notice was issued to the respondent along with observation note with a direction to show cause as to why recommendation shall not be made to the Competent Authority for initiating disciplinary proceedings against him in accordance with law.
12. The observation note prepared on the basis of charge sheet and documents in Cr.No.03/2015 of Karnataka Lokayukta Police Station, Yadgiri was duly served on the respondent, but the respondent has not submitted his comments.
13. It is important to note that the opportunity has been given to respondent to submit his explanation to the observation note, but he has not submitted any explanation or documents to establish his defence. It is

significant to note that, the matter under investigation in the present complaint pertains to the compliance of mandatory provisions of Karnataka Civil Services (Conduct) Rules 1966 as such the only aspect under consideration in this case is as to whether the respondent has acquired both movable and immovable properties in accordance with Rule 21 and 23 of Karnataka Civil Services (Conduct) Rules 1966 and whether the respondent has obtained previous permission from the prescribed authority for raising loans as required under Rule 21(4) of Karnataka Civil Services (Conduct) Rules 1966.

14. In the light of statutory provision, on perusal of materials placed on record, it is noticed that, the respondent has failed to submit acceptable defence. In the absence of acceptable defence, the only conclusion that can be reached is that the respondent has failed to obtain prior permission for acquisition or construction or sale of immovable and movable properties as stated in the observation note and that he has also failed to report acquisition and sale of immovable and movable properties to the prescribed authority as per law. It is further disclosed from the material placed on records that, the respondent has failed to obtain permission from the prescribe authority for raising loans as required under Rule 21(4) of Karnataka Civil Services (Conduct) Rules 1966.

15. It is relevant to note that, as per the provisions of Rule 21(4), 23(2) and 23(3) of KCS (Conduct) Rules 1966, the respondent is bound to obtain permission from the prescribed authority to purchase or sale of movable and immovable properties and also obtain prior permission from prescribed authority to raise loans from the any financial institution or private persons and he has bound to report the said acquisition or sale of movable and immovable properties to the prescribed authority as per law. In this regard the respondent has not offered any explanations to oppose the report submitted by the investigation officer in relation to acquisition or sale of movable and immovable properties as stated in the observation note. Therefore, it is very clear that the respondent has violated the Rules, 21, 21(4), 23(2) and 23(3) of Karnataka Civil Services (Conduct) Rues 1966.
16. The defence, if any, of the respondent is to be appreciated by conducting a detailed enquiry. Considering the material placed on record by way of charge-sheet, there exists prima-facie case to attribute misconduct on the part of respondent as defined in Rule 3 (1)(i) to (iii) of KCS (Conduct) Rules-1966. Therefore, a recommendation under section 12(3) of Karnataka Lokayukta Act-1984 is required to be made to the competent authority for initiating enquiry against the respondent and entrusting it to this authority.

17. The facts and materials on record prima-facie show that, the respondent has committed misconduct as per Rule 3 (1) (i) to (iii) of KCS (Conduct) Rules, 1966. Accordingly, now, acting under Section 12(3) of The Karnataka Lokayukta Act, 1984, recommendation is made to the Competent Authority to initiate disciplinary proceedings against **Sri. Srimantha Dhani**, Junior Engineer, KBJNL (O&M), Office of the Assistant Executive Engineer, Shahapura Taluk, Yadgiri District (Date of Retirement: 31/07/2031) and to entrust the inquiry to this Authority under Rule 14(A) of the Karnataka Civil Services (C.C.A) Rules, 1957.
18. *In turn*, the Competent Authority i.e. Water Resources Department initiated disciplinary proceedings against you DGO and entrusted the enquiry to this Institution vide reference no. 1 and Hon'ble Upalokayukta has nominated Additional Registrar of Enquiries-17, Karnataka Lokayukta, Bengaluru, to conduct an enquiry and to submit a report. **Hence, the above charge.**
5. The said Article of Charge was served upon DGO on 18/09/2021. Case was posted for appearance of DGO on 22/09/2021.
6. On 22/09/2021 case was called out. AOC sent to DGO was duly served. DGO called out absent. Hence, DGO is placed exparte and the case was posted on 13/10/2021.

7. In order to substantiate and prove the allegations, disciplinary authority has examined PW-1, Police Inspector, Karnataka Lokayukta, Yadgir and got marked **EX.P-1 to 5** PW-2, Deputy Superintendent of Police Inspector, Karnataka Lokayukta, Yadgir and got marked **EX.P-6 to 16**.
8. Disciplinary authority heard evidence on their side and posted for arguments. Heard the arguments of presenting officer and case was posted for report.
9. At this stage DGO has filed application No. 20886/2021 before Hon'ble KSAT, Kalaburgi bench. On perusal of the order passed by Hon'ble KSAT, Kalaburgi on 07/12/2021 which is as follows;

"The application is allowed and the impugned Articles of Charge bearing No. Uplok-1/DE-64/2021/ARE-17 dated 30/08/2021 issued by 3rd Respondent (Annexure-A5) is hereby quashed.

However, quashing of the impugned Articles of Charge does not come in the way of 1st Respondent initiating disciplinary action against the applicant for alleged violation of the conduct rules, if it considers it appropriate."

10. As per orders of Hon'ble Upalokayukta dated 03/06/2022 the present file was sent to Chairman, CLC, Karnataka Lokayukta for his opinion.

11. Chairman, CLC, Karnataka Lokayukta has made the following observations;

“On perusal of the judgment passed by the Hon’ble KSAT, it is observed that while passing such order, the Hon’ble KSAT has discussed about the judgment rendered by the Hon’ble Apex Court in the case of State of Karnataka Vs. Kempaiah wherein the Hon’ble Apex Court has stated that;

“while an allegation that a public servant has amassed, disproportionate to his known sources of income would amount to an offence of criminal misconduct under section 13(1)(e) as that allegation is not in respect of any particular action of the public servant may be correct, it cannot be said that the second respondent has no jurisdiction to make a preliminary inquiry in respect of such an allegation to find out whether such amassing of wealth can be traced to an administrative action which could be the subject matter of investigation under section 9”

12. Further, Chairman, CLC, Karnataka Lokayukta has opined that, **this is not a fit case to proceed.** The relevant portion of the letter dated 19/05/2022 is as follows;

“I write to inform you that, on 07/12/2021, the Hon’ble KSAT, Kalaburgi in Application No. 20886/2021 filed by Sri Shrimanth Dhani in connection with above

referred enquiry. Further, it is decided not to challenge the order of the Hon'ble KSAT, Kalaburgi."

13. Based on the observations made by Hon'ble KSAT in application No.20886/2021, and based on the opinion of Chairman, CLC, Karnataka Lokayukta, Bengaluru in letter dated 19/05/2022 Hon'ble Upalokayukta on 25/07/2022 ordered to close the present file.
14. Accordingly, further proceedings cannot be continued and present enquiry requires to be closed and proceed to pass the following order;

ORDER

Disciplinary Enquiry against DGO Sri. Srimantha Dhani, Junior Engineer, KBJNL (O&M), Office of the Assistant Executive Engineer, Dorenahalli, Shahapura Taluk, Yadgiri District cannot be continued and this enquiry is treated as 'closed', in view of order that, not fit to challenge the Hon'ble KSAT order.

Submitted to His Lordship Hon'ble Upalokayukta-2 for further action in the matter.



(RAJKUMAR.S.AMMINABHAVI)
Additional Registrar Enquiries-17
Karnataka Lokayukta, Bengaluru.

ANNEXURES

1. LIST OF WITNESSES EXAMINED ON BEHALF OF DISCIPLINARY AUTHORITY:

PW1	Sri B. Amaresh, S/o Bheemaraya, Police Inspector, Kalaburgi District.
PW2	Sri Prabhu.D.T., Deputy Superintendent Police, Chickmagaluru.

2. LIST OF DOCUMENTS MARKED ON BEHALF OF DISCIPLINARY AUTHORITY:

Ex.P1	Letter dated 29/05/2015 of Police Inspector, Karnataka Lokayukta, Yadgir addressed to Superintendent of Police, Karnataka Lokayukta, Yadgir.
Ex.P2	Xerox copy of Form No.10 dated 11/06/2015
Ex.P3	Copy of Mahazar dated 12/06/2015
Ex.P4	Xerox copy of FIR
Ex.P5	Statement of Siddappa. H. Kallera dated 13/10/2015
Ex.P6	Xerox copy of Form No.10 dated 11/06/2015
Ex.P7	Copy of Mahazar dated 12/06/2015
Ex.P8	Copy of Locker Mahazar dated 12/06/2015
Ex.P9	Copy of Mahazar dated 12/06/2015 (regarding ornaments)
Ex.P10	Copy of estimation of building given by AEE, PWD Sub-division, Kalaburgi
Ex.P11	Copy of sale deed dated 07/11/2008
Ex.P12	Letter dated 22/09/2015 of Dy.S.P. Karnataka Lokayukta, Yadgir addressed to Regional Transport officer, Kalaburgi
Ex.P13	Letter dated 06/10/2015 of Deputy Transport Commissioner and Senior Regional Transport Officer office addressed to Dy.S.P. Karnataka Lokayukta, Yadgir

Ex.P14	Copy of deed of agreement
Ex.P15	Copy of deed of agreement
Ex.P16	Copy of charge sheet dated 11/08/2017 submitted to Special District and Sessions Judge, Yadgir.

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(RAJKUMAR.S.AMMINABHAVI)
I/c Additional Registrar Enquiries-18
Karnataka Lokayukta,
Bengaluru.