

ಕರ್ನಾಟಕ ಸರ್ಕಾರ



ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ

ನಂ: ಲೋಕ್/ಐಎನ್‌ಕ್ಯೂ/14-ಎ/72/2014/ಎ.ಆರ್.ಇ-11

ಬಹುಮಹಡಿಗಳ ಕಟ್ಟಡ,
ಡಾ: ಬಿ.ಆರ್.ಅಂಬೇಡ್ಕರ್ ವೀಧಿ,
ಬೆಂಗಳೂರು-560001.
ದಿನಾಂಕ: 20ನೇ ಜೂನ್ 2024.

-:: ಶಿಫಾರಸ್ಸು ::-

ವಿಷಯ: ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ (1) ಶ್ರೀ. ಬಿ. ಆರ್. ರಾಜೇಂದ್ರ ಪ್ರಸಾದ್, ಮೌಲ್ಯ ಮಾಪಕ, ಸಹಾಯಕ ಕಂದಾಯ ಅಧಿಕಾರಿ, ಶಿವಾಜಿನಗರ ಉಪವಿಭಾಗ, ಬೃಹತ್ ಬೆಂಗಳೂರು ಮಹಾನಗರಪಾಲಿಕೆ, ಬೆಂಗಳೂರು ಮತ್ತು (2) ಶ್ರೀ ಕೆ. ನಾಗರಾಜು, ಕಂದಾಯ ನಿರೀಕ್ಷಕರು, ಶಿವಾಜಿನಗರ ಉಪವಿಭಾಗ, ಬೃಹತ್ ಬೆಂಗಳೂರು ಮಹಾನಗರಪಾಲಿಕೆ, ಬೆಂಗಳೂರು ಇವರ ವಿರುದ್ಧದ ಇಲಾಖಾ ವಿಚಾರಣೆ ಕುರಿತು.

ಉಲ್ಲೇಖ:(1) ಸರ್ಕಾರದ ಆದೇಶ ಸಂ: ನಅಇ 485 ಎಂಎನ್‌ವೈ 2013, ಬೆಂಗಳೂರು ದಿನಾಂಕ: 27/12/2013.

(2) ಉಪಲೋಕಾಯುಕ್ತರು, ಕರ್ನಾಟಕ ರಾಜ್ಯ, ಬೆಂಗಳೂರು ರವರ ನಾಮ ನಿರ್ದೇಶನ ಆದೇಶ ಸಂಖ್ಯೆ: ಲೋಕ್/ಐಎನ್‌ಕ್ಯೂ/14-ಎ/72/2014, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 06/02/2014.

(3) ಅಪರ ನಿಬಂಧಕರು ವಿಚಾರಣೆಗಳು-11, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ, ಬೆಂಗಳೂರು ರವರ ವಿಚಾರಣಾ ವರದಿ ದಿನಾಂಕ: 14/06/2024.

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ಸರ್ಕಾರದ ಆದೇಶ ದಿನಾಂಕ: 27/12/2013 ರಂತೆ (1) ಶ್ರೀ. ಬಿ. ಆರ್. ರಾಜೇಂದ್ರ ಪ್ರಸಾದ್, ಮೌಲ್ಯ ಮಾಪಕ, ಸಹಾಯಕ ಕಂದಾಯ ಅಧಿಕಾರಿ, ಶಿವಾಜಿನಗರ ಉಪವಿಭಾಗ, ಬೃಹತ್ ಬೆಂಗಳೂರು ಮಹಾನಗರಪಾಲಿಕೆ, ಬೆಂಗಳೂರು ಮತ್ತು (2) ಶ್ರೀ ಕೆ. ನಾಗರಾಜು, ಕಂದಾಯ ನಿರೀಕ್ಷಕರು, ಶಿವಾಜಿನಗರ ಉಪವಿಭಾಗ, ಬೃಹತ್ ಬೆಂಗಳೂರು ಮಹಾನಗರಪಾಲಿಕೆ, ಬೆಂಗಳೂರು ರವರುಗಳ (ಇನ್ನು ಮುಂದೆ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು 1 ಮತ್ತು 2 ಅಂದರೆ ಚಿಕ್ಕದಾಗಿ 'ಆ.ಸ.ನೌಕರರು 1 ಮತ್ತು 2' ಎಂದು ಸಂಭೋದಿಸಲಾಗುವುದು) ವಿರುದ್ಧ ಶಿಸ್ತು ಪ್ರಕ್ರಿಯೆಯನ್ನು ಕೈಗೊಂಡು ವಿಚಾರಣೆ ಮಾಡಿ, ವರದಿ ಸಲ್ಲಿಸುವಂತೆ ಈ ಸಂಸ್ಥೆಗೆ ಇಲಾಖಾ ವಿಚಾರಣೆಯನ್ನು ವಹಿಸಿರುತ್ತದೆ.

2. ಈ ಸಂಸ್ಥೆಯ ನಾಮನಿರ್ದೇಶನ ಆದೇಶ ಸಂಖ್ಯೆ: ಲೋಕ್/ಐಎನ್‌ಕ್ಯೂ/14-ಎ/72/2014, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 06/02/2014ರ ರೀತ್ಯಾ ಅಪರ ನಿಬಂಧಕರು ವಿಚಾರಣೆಗಳು-4 ರವರಿಗೆ ಆ.ಸ.ನೌಕರರುಗಳ ವಿರುದ್ಧ ದೋಷಾರೋಪಣಾ ಪಟ್ಟಿ ತಯಾರು ಮಾಡಿ, ವಿಚಾರಣೆ ನಡೆಸಿ, ವರದಿ ಸಲ್ಲಿಸುವಂತೆ ಆದೇಶ ಹೊರಡಿಸಲಾಗಿರುತ್ತದೆ. ತದನಂತರ ಆದೇಶ ಸಂಖ್ಯೆ: ಲೋಕ್/ಐಎನ್‌ಕ್ಯೂ/14-ಎ/2014, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 14/03/2014ರ ರೀತ್ಯಾ ಅಪರ ನಿಬಂಧಕರು ವಿಚಾರಣೆಗಳು-11, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ, ಬೆಂಗಳೂರು ರವರನ್ನು ಆ.ಸ.ನೌಕರರ ವಿರುದ್ಧ ನಡೆದಿದೆ ಎನ್ನಲಾದ ದುರ್ನಡತೆ ಆರೋಪಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ವಿಚಾರಣೆ ನಡೆಸಲು ವಿಚಾರಣಾಧಿಕಾರಿಯನ್ನಾಗಿ ಮರುನಾಮಕರಣಗೊಳಿಸಿದೆ.

3. ಆ.ಸ.ನೌ (1) ಶ್ರೀ. ಬಿ. ಆರ್. ರಾಜೇಂದ್ರ ಪ್ರಸಾದ್, ಮೌಲ್ಯ ಮಾಪಕ, ಸಹಾಯಕ ಕಂದಾಯ ಅಧಿಕಾರಿ, ಶಿವಾಜಿನಗರ ಉಪವಿಭಾಗ, ಬೃಹತ್ ಬೆಂಗಳೂರು ಮಹಾನಗರಪಾಲಿಕೆ, ಬೆಂಗಳೂರು ಮತ್ತು (2) ಶ್ರೀ ಕೆ. ನಾಗರಾಜು, ಕಂದಾಯ ನಿರೀಕ್ಷಕರು, ಶಿವಾಜಿನಗರ ಉಪವಿಭಾಗ, ಬೃಹತ್ ಬೆಂಗಳೂರು ಮಹಾನಗರಪಾಲಿಕೆ, ಬೆಂಗಳೂರು ರವರುಗಳ ವಿರುದ್ಧ ಈ ಕೆಳಗಿನ ದೋಷಾರೋಪಣೆಗಾಗಿ ಇಲಾಖಾ ವಿಚಾರಣೆಯನ್ನು ನಡೆಸಲಾಯಿತು.

ANNEXURE-1
CHARGE

That you DGO No.1, Sri.B.R.Rajendra Prasad,
Evaluator in charge ARO, Bruhath Bangalore



Mahanagara Palike, Bangalore and you DGO No.2, Sri.K.Nagaraju, Revenue Inspector, Shivajinagar Sub-Division, Bruhath Bangalore Mahanagara Palike, Bangalore while discharging your duties:

- (a) In view of the registered gift deed made in the year 2008 by his father for the ground floor and second floor of the house in Sy.No. 26 situated near Doddakaatappa Road in the possession of complainant, the complainant made an application on 21/3/2011 in Shivajinagar Sub-Division of B.B.M.P. at Bangalore, along with documents and D.D. for Rs.500/- for change of khatha in his name. On receiving said application, you DGO No.2 had taken Rs.5,000/ from him after demand in that regard.
- (b) 2-3 months thereafter, you both DGOs inspected the said property. About 15 days thereafter, when he met you DGO No.2 and enquired, you DGO No.2 told that documents are not proper. So, on getting proper documents as told by you DGO No. 2, he filed the same in the said office with affidavit on 29/2/2012 About a month thereafter, he met you DGO No.2 and enquired about said matter. But, you DGO No. 2 was dragging days on one or the other reason/pretext.

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- (c) As such, on a day in the said office, when he enquired with you both DGOs, he was asked to pay Rs.20,000/- to get his work done (by both DGOs).
- (d) Even two days thereafter also, when he enquired with you both DGOs in the said office, same was reiterated by you both DGOs.
- (e) So, after approaching Lokayukta Police on 27/8/2012 when he came to you both DGOs on the same day and enquired about said work, then also, you both DGOs reiterated the said demand again for doing his said work.
- (f) Added to that, on 28/8/2012 when he met and enquired with you DGO No. 2 in B.B.M.P. Help Centre on St. Marks Road at Bangalore, you DGO No. 2 told him to go to DGO No.1 in the B.B.M.P. office on Dispensary Road at Shivajinagar and give bribe amount to DGO No.1.
- (g) As such, when he met you DGO No.1 in the said office on Dispensary Road, on behalf of DGO No. 2 and for self, you DGO No.1 had taken the tainted (bribe) amount (of Rs.19,500/-) from him in connection with his said work, but after some conversation.



(h) Not only that, when you DGO No.1 was caught hold in Maruti Van with said amount in front of said office and enquired, you DGO No.1 failed to give any satisfactory reply or account for the said amount found.

(i) Thereafter, said tainted (bribe) amount was seized from you DGO No.1 on said date under a mahazar in the presence of panchas.

(j) Even there are statements of witnesses, including complainant, besides collected records and material filed by the I.O., which show said repeated misconduct of you DGOS.

and thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of Government Servants and thus you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966.

4. ವಿಚಾರಣಾಧಿಕಾರಿಗಳು (ಅಪರ ನಿಬಂಧಕರು ವಿಚಾರಣೆಗಳು-11), ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ, ಬೆಂಗಳೂರು ರವರು ಮೌಖಿಕ ಮತ್ತು ದಾಖಲಾತಿಗಳ ಸಾಕ್ಷ್ಯಗಳನ್ನು ಕೂಲಂಕುಷವಾಗಿ ಪರಿಶೀಲಿಸಿ, ಆ.ಸ.ನೌಕರರುಗಳಾದ (1) ಶ್ರೀ. ಬಿ. ಆರ್. ರಾಜೇಂದ್ರ ಪ್ರಸಾದ್, ಮೌಲ್ಯ ಮಾಪಕ, ಸಹಾಯಕ ಕಂದಾಯ ಅಧಿಕಾರಿ, ಶಿವಾಜಿನಗರ ಉಪವಿಭಾಗ, ಬೃಹತ್ ಬೆಂಗಳೂರು ಮಹಾನಗರಪಾಲಿಕೆ, ಬೆಂಗಳೂರು ಮತ್ತು (2) ಶ್ರೀ ನಾಗರಾಜು, ಕಂದಾಯ ನಿರೀಕ್ಷಕರು, ಶಿವಾಜಿನಗರ ಉಪವಿಭಾಗ, ಬೃಹತ್ ಬೆಂಗಳೂರು



ಮಹಾ ನಗರಪಾಲಿಕೆ, ಬೆಂಗಳೂರು ರವರ ವಿರುದ್ಧ ಮೇಲ್ಕಾಣಿಸಿದ ದೋಷಾರೋಪಣೆಯನ್ನು ರುಜುವಾತುಪಡಿಸುವಲ್ಲಿ ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರವು 'ವಿಫಲವಾಗಿರುತ್ತದೆ' ಎಂದು ಅಭಿಪ್ರಾಯಿಸಿದ್ದಾರೆ.

5. ವಿಚಾರಣಾಧಿಕಾರಿಗಳು ಸಲ್ಲಿಸಿರುವ ವಿಚಾರಣಾ ವರದಿಯನ್ನು ಪರಿಶೀಲಿಸಲಾಗಿ, ವಿಚಾರಣಾಧಿಕಾರಿಗಳು ಆ.ಸ.ನೌಕರರುಗಳ ವಿರುದ್ಧ ದೋಷಾರೋಪಣೆಯನ್ನು ರುಜುವಾತುಪಡಿಸಲು ನಾಲ್ವರು ಸಾಕ್ಷಿಗಳನ್ನು ಅಂದರೆ ಪಿ.ಡಬ್ಲ್ಯೂ-1 ರಿಂದ ಪಿ.ಡಬ್ಲ್ಯೂ-4 ರವರನ್ನು ವಿಚಾರಣೆಗೆ ಒಳಪಡಿಸಿ ಹಾಗೂ ನಿಶಾನೆ ಪಿ-1 ರಿಂದ ನಿಶಾನೆ ಪಿ-17ರ ರೆಗಿನ ದಾಖಲಾತಿಗಳನ್ನು ಗುರುತಿಸಲಾಗಿದೆ.

6. ಆ.ಸ.ನೌಕರರುಗಳಾದ (1) ಶ್ರೀ. ಬಿ. ಆರ್. ರಾಜೇಂದ್ರ ಪ್ರಸಾದ್, ಮತ್ತು (2) ಶ್ರೀ ನಾಗರಾಜು, ರವರುಗಳ ವಿರುದ್ಧ ಆಪಾದಿಸಿದ ಆರೋಪಗಳ ಬಗ್ಗೆ ವಿಚಾರಣಾಧಿಕಾರಿಗಳು ಸಲ್ಲಿಸಿರುವ ವಿಚಾರಣಾ ವರದಿ ಹಾಗೂ ಅದಕ್ಕೆ ಪೂರಕವಾಗಿ ಸಲ್ಲಿಸಿರುವ ದಾಖಲಾತಿಗಳನ್ನು ಕೂಲಂಕುಷವಾಗಿ ಪರಿಶೀಲಿಸಲಾಗಿ, ವಿಚಾರಣಾಧಿಕಾರಿಗಳು ಸಲ್ಲಿಸಿರುವ ವಿಚಾರಣಾ ವರದಿಯಲ್ಲಿ ಹಸ್ತಕ್ಷೇಪ ಮಾಡಲು ಯಾವುದೇ ಸಕಾರಣಗಳು ಕಂಡುಬಂದಿರುವುದಿಲ್ಲ. ಆದ್ದರಿಂದ, ವಿಚಾರಣಾಧಿಕಾರಿಗಳು ಸಲ್ಲಿಸಿರುವ ವಿಚಾರಣಾ ವರದಿಯನ್ನು ಅಂಗೀಕರಿಸಿ, (1) ಶ್ರೀ. ಬಿ. ಆರ್. ರಾಜೇಂದ್ರ ಪ್ರಸಾದ್, ಮಾಲ್ಯ ಮಾಪಕ, ಸಹಾಯಕ ಕಂದಾಯ ಅಧಿಕಾರಿ, ಶಿವಾಜಿನಗರ ಉಪವಿಭಾಗ, ಬೃಹತ್ ಬೆಂಗಳೂರು ಮಹಾ ನಗರಪಾಲಿಕೆ, ಬೆಂಗಳೂರು ಮತ್ತು (2) ಶ್ರೀ ನಾಗರಾಜು, ಕಂದಾಯ ನಿರೀಕ್ಷಕರು, ಶಿವಾಜಿನಗರ ಉಪವಿಭಾಗ, ಬೃಹತ್ ಬೆಂಗಳೂರು ಮಹಾ ನಗರಪಾಲಿಕೆ, ಬೆಂಗಳೂರು ರವರ ವಿರುದ್ಧ ಹೊರಿಸಲಾದ ಆರೋಪಗಳಿಂದ 'ದೋಷಮುಕ್ತಗೊಳಿಸಲು' ಈ ಮೂಲಕ ಸರ್ಕಾರಕ್ಕೆ ಶಿಫಾರಸ್ಸು ಮಾಡಿದೆ.

7. ಸದರಿ ವಿಷಯದಲ್ಲಿ ತೆಗೆದುಕೊಂಡ ಕ್ರಮವನ್ನು ಈ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ತಿಳಿಸತಕ್ಕದ್ದು.

ಸಂಬಂಧಪಟ್ಟ ದಾಖಲೆಗಳನ್ನು ಇದರೊಂದಿಗೆ ಲಗತ್ತಿಸಿದೆ.


(ನ್ಯಾಯಮೂರ್ತಿ ಕೆ.ಎನ್.ಫಣೀಂದ್ರ)

ಉಪಲೋಕಾಯುಕ್ತ-1,

ಕರ್ನಾಟಕ ರಾಜ್ಯ.

KARNATAKA LOKAYUKTA

NO.LOK/INQ/14-A/72/2014/ARE-11

M.S.Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001,
Date:14/06/2024.**:: ENQUIRY REPORT ::**

Sub: Departmental Enquiry against
(1) B.R.Rajendra Prasad, Evaluator in charge
ARO and (2) K.Nagaraju, Revenue Inspector,
Shivajinagar Sub-Division, Bruhath Bengaluru
Mahanagara Palike, Bengaluru -reg.

Ref: 1. Report under section 12(3) of the KLA Act.
1984 in No.Compt/Uplok/BCD/1015/
2013/ARE-10, dated:30/09/2013.

2. Order No. ನಅಇ 485 ಎಂಎನ್‌ವೈ 2013, ಬೆಂಗಳೂರು,
ದಿ:27/12/2013.

3. Nomination Order No. LOK/INQ/14-
A/72/2014, Bengaluru, dated
06/02/2014.

1. The Departmental Enquiry is initiated against (1) B.R.Rajendra Prasad, Evaluator in charge ARO and (2) K.Nagaraju, Revenue Inspector, Shivajinagar Sub-Division, Bruhath Bengaluru Mahanagara Palike, Bengaluru (hereinafter referred to as the Delinquent Government Officials, in short DGO No.1 & 2 respectively) on the basis of the complaint dated 27/08/2012. The



allegation in the complaint is that, in view of the registered gift deed made in the year 2008 by the father of the complainant for the ground floor and second floor of the house in Sy.No. 26 situated near Doddakaatappa Road in the possession of complainant, the complainant made an application on 21/3/2011 in Shivajinagar Sub-Division of B.B.M.P. at Bangalore, along with documents and D.D. for Rs.500/- for change of khatha in his name. On receiving said application, DGO No.2 had taken Rs.5,000/ from him after demand in that regard. That 2-3 months thereafter, both DGOs inspected the said property. About 15 days thereafter, when the complainant met DGO No.2 and enquired about the work, DGO No.2 told that documents are not proper. So, on getting proper documents as told by DGO No. 2, he filed the same in the said office with affidavit on 29/2/2012. That after a month the complainant met DGO No.2 and enquired about the said matter. But, DGO No. 2 was dragging the matter for one or the other reason/pretext. That when the complainant enquired with both DGOs, he was asked to pay Rs.20,000/- to get his work done. Even two days thereafter also, when the complainant enquired with both DGOs in the said office, same was reiterated by both DGOs.

2. As the complainant was not willing to pay the amount, after contacting Lokayukta Police, Bengaluru lodged complaint before Police Inspector, Karnataka Lokayukta Police Station, and Bengaluru (hereinafter referred to as "Investigating Officer". On the said complaint Investigating Officer registered case in

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Cr.No.73/2012 against the DGOs 1 and 2 for the offences punishable under section 7,13(1)(d) r/w 13(2) of P.C. Act, 1988.

3. The Investigating Officer took up investigation and on 28/08/2012, DGO-1 was caught red handed while demanding and accepting illegal gratification of Rs.19,500/- from the complainant in Maruthi Van in front of DGOs office for himself and on behalf of DGO-2 and the said amount was seized under a mahazar after following post trap formalities by the Investigating Officer, Karnataka Lokayukta, Bengaluru. The DGOs have failed to give satisfactory or convincing explanation for the said tainted amount found then, when questioned by the said I.O. After completion of investigation the investigating officer has filed charge sheet against the DGOs in the concerned jurisdictional Court.
4. The Hon'ble Upalokayukta invoking power vested under section 7(2) of the Karnataka Lokayukta Act, 1984, took up investigation and on perusal of complaint, FIR, Mahazars, FSL report and other documents, found prima facie case and forwarded report dated 30/09/2013 U/s 12(3) of Karnataka Lokayukta Act, 1984 recommended the competent authority to initiate disciplinary proceedings against the DGO-1 & 2 and to entrust the enquiry to the Hon'ble Upalokayukta, Karnataka under Rule 14-A of the KCS (CC& A) Rules 1957. The Competent Authority by order dated 27/12/2013 entrusted the matter to the Hon'ble Upalokayukta.


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5. The Hon'ble Upalokayukta by order dated 06/02/2014, nominated Additional Registrar Enquiries-4 to conduct the enquiry. As per order of Hon'ble Upalokayukta-1 dated 14/03/2014 this file was transferred to ARE-11.
6. The Articles of charge as framed by Additional Registrar Enquiries-11 is as follows:

ANNEXURE-1

CHARGE

That you DGO No.1, Sri.B.R.Rajendra Prasad, Evaluator in charge ARO, Bruhath Bangalore Mahanagara Palike, Bangalore and you DGO No.2, Sri.K.Nagaraju, Revenue Inspector, Shivajinagar Sub-Division, Bruhath Bangalore Mahanagara Palike, Bangalore while discharging your duties:

- (a) In view of the registered gift deed made in the year 2008 by his father for the ground floor and second floor of the house in Sy.No. 26 situated near Doddakaatappa Road in the possession of complainant, the complainant made an application on 21/3/2011 in Shivajinagar Sub-Division of B.B.M.P. at Bangalore, along with documents and D.D. for Rs.500/- for change of khatha in his name. On receiving said application, you DGO No.2 had taken Rs.5,000/ from him after demand in that regard.


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- (b) 2-3 months thereafter, you both DGOs inspected the said property. About 15 days thereafter, when he met you DGO No.2 and enquired, you DGO No.2 told that documents are not proper. So, on getting proper documents as told by you DGO No. 2, he filed the same in the said office with affidavit on 29/2/2012 About a month thereafter, he met you DGO No.2 and enquired about said matter. But, you DGO No. 2 was dragging days on one or the other reason/pretext.
- (c) As such, on a day in the said office, when he enquired with you both DGOs, he was asked to pay Rs.20,000/- to get his work done (by both DGOs).
- (d) Even two days thereafter also, when he enquired with you both DGOs in the said office, same was reiterated by you both DGOs.
- (e) So, after approaching Lokayukta Police on 27/8/2012 when he came to you both DGOs on the same day and enquired about said work, then also, you both DGOs reiterated the said demand again for doing his said work.
- (f) Added to that, on 28/8/2012 when he met and enquired with you DGO No. 2 in B.B.M.P. Help Centre on St. Marks Road at Bangalore, you DGO No. 2 told him to go to DGO


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No.1 in the B.B.M.P. office on Dispensary Road at Shivajinagar and give bribe amount to DGO No.1.

- (g) As such, when he met you DGO No.1 in the said office on Dispensary Road, on behalf of DGO No. 2 and for self, you DGO No.1 had taken the tainted (bribe) amount (of Rs.19,500/-) from him in connection with his said work, but after some conversation.
- (h) Not only that, when you DGO No.1 was caught hold in Maruti Van with said amount in front of said office and enquired, you DGO No.1 failed to give any satisfactory reply or account for the said amount found.
- (i) Thereafter, said tainted (bribe) amount was seized from you DGO No.1 on said date under a mahazar in the presence of panchas.
- (j) Even there are statements of witnesses, including complainant, besides collected records and material filed by the I.O., which show said repeated misconduct of you DGOS.

and thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of Government Servants and thus you are guilty of

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misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966.

7. The statement of imputations of misconduct as framed by Additional Registrar Enquiries-11 is as follows:-

ANNEXURE-1

STATEMENT OF IMPUTATION OF MISCONDUCT

On the basis of a report of the Additional Director General of Police in Karnataka Lokayukta at Bangalore, filed with papers of investigation made by the Police Inspector in ij Karnataka Lokayukta at Bangalore (herein after referred to as Investigating Officer I.O.' for short), stated that Sri.B.R.Rajendra Prasad, Evaluator in charge ARO Bruhath Bangalore Mahanagara Palike, Bangalore and, Sri.K.Nagaraju, Revenue Inspector, Shivajinagar Sub-Division, Bruhath, Bangalore Mahanagara Palike, Bangalore being public/Government servants, have committed misconduct, when approached by Sri. N. Suryaprakash S / o M. Narayanaswamy R / o Doddakaatappa Road in Halasur at Bangalore (herein after referred to as 'Complainant for short) an investigation was taken up u/s 9 of the Karnataka Lokayukta Act, after invoking power vested u/s 7(2) of that Act.


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2. Brief facts of the case are :-

(a) In view of the registered gift deed made in the year 2008 by his father for the ground floor and second floor of the house in Sy.No. 26 situated near Doddakaatappa Road in the possession of complainant, the complainant made an application on 21/3/2011 in Shivajinagar Sub-Division of B.B.M.P. at Bangalore, along with documents and D.D. for Rs.500/- for change of khatha in his name. On receiving said application, you DGO No. 2 had taken Rs.5,000/- from him after demand in that regard.

(b) 2-3 months thereafter, you both DGOs inspected the said property. About 15 days thereafter, when he met you DGO No.2 and enquired, you DGO No.2 told that documents are not proper. So, on getting proper documents as told by you DGO No. 2, he filed the same in the said office with affidavit on 29/02/2012. About a month thereafter, he met you DGO No.2 and enquired about said matter. But, you DGO No. 2 was dragging days on one or the other reason/pretext.

(c) As such, on a day in the said office, when he enquired with you both DGOs, he was asked to pay 20000 // to get his work done (by both DGOs).


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(d) Even two days thereafter also, when he enquired with you both DGOs in the said office, same was reiterated by you both DGOs.

(e) So, after approaching Lokayukta Police on 27/8/2012 when he came to you both DGOs on the same day and enquired about said work, then also, you both DGOs reiterated the said demand again for doing his said work.

(f) Added to that, on 28/8/2012 when he met and enquired with you DGO No. 2 in B.B.M.P. Help Centre on St. Marks Road at Bangalore, you DGO No. 2 told him to go to DGO No.1 in the B.B.M.P. office on Dispensary Road at Shivajinagar and give bribe amount to DGO No. 1.

(g) As such, when he met you DGO No.1 in the said office on Dispensary Road, on behalf of DGO No. 2 and for self, you DGO No.1 had taken the tainted (bribe) amount (of Rs.19,500/-) from him in connection with his said work, but after some conversation.

(h) Not only that, when you DGO No.1 was caught hold in Maruti Van with said amount in front of said office and enquired, you DGO No.1 failed to give any satisfactory reply or account for the said amount found.


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- (i) Thereafter, said tainted (bribe) amount was sei was seized from you DGO No.1 on said date under a mahazar in the presence of panchas.
- (j) Even there are statements of witnesses, including complainant, besides collected records and material filed by the I.O., which show said repeated misconduct of you DGOs.
3. Said facts supported by the material on record show that the DGOS, being public servant, have failed to maintain absolute integrity besides devotion to duty and acted in a manner unbecoming of Government servants, and thereby committed misconduct and made themselves liable for disciplinary action.
4. Therefore, an investigation was taken up against the DGOs and an observation note was sent to them to show cause as to why recommendation should not be made to the Competent Authority for initiating departmental inquiry against them in the matter. For that, the DGOs gave their reply. However, the same has not been found convincing to drop the proceedings.
5. Since said facts and material on record prima facie show that the DGOS have committed misconduct under Rule 3 (1) of the KCS Conduct Rules, 1966, recommendation is made under Section 12(3) of the Karnataka Lokayukta Act, to the


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Competent Authority to initiate disciplinary proceedings against the DGOs and to entrust the inquiry to this Institution under Rule 14-A of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.

6. The Government after considering the recommendation made in the report, entrusted the matter to the Hon'ble Upalokayukta to conduct departmental/disciplinary proceedings against the DGOs and to submit report. Hence the charge.
8. Notice of Articles of charge, statement of imputation of misconduct with list of witnesses and documents was served upon the DGOs 1 & 2. In response to the service of articles of charge, DGOs 1 & 2 entered appearance before this authority on 17/07/2014, DGOs 1 and 2 engaged advocate for defence. In the course of first oral statement of the DGOs 1 and 2 recorded on 17/07/2014, they pleaded not guilty and claimed to be enquired. **The date of Retirement of DGO No.1 is 31/01/2030 and DGO No.2 is 31/10/2020.**
9. The DGO-1 and 2 have filed their written statement denying the allegations made in the articles of charge and statement of imputations of misconduct. DGO-1 and 2 further contended that, on the recommendation made by the Hon'ble Upalokayuktha the Government has passed an order, authorizing the Upalokayuktha to conduct the enquiry, the said order is neither legal nor proper,


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since no power is vested under the Lokayuktha Act for the Hon'ble Upalokayuktha to make any recommendation nor on such recommendation, government is vested with the power to authorize the Hon'ble Upalokayuktha to hold an enquiry and in turn the Hon'ble Upalokayuktha referring ARE-11 to conduct the enquiry. Hence the entire process of conducting the enquiry is illegal and not clothed with the legal authority to frame the article of charges.

DGO-1 and 2 further submitted that, the Hon'ble Upalokayukta has no power under the Act of the Karnataka Lokayuktha to make any recommendation regarding departmental enquiry or direct the enquiry officer to conduct the enquiry, hence the present enquiry is illegal without authority of law and the Lokayuktha police just for statistical purpose have registered the case and concocted trap panchanama for the purpose of the case.

DGO-1 and 2 further submitted that, they have been made a scapegoat and victim of circumstance for no fault of their's and even though the material collected by the I.O. clearly shows that the DGO-1 and 2 never abused their position in discharge of duty, the said fact has been deliberately suppressed only for statistical purpose and concocted story has been built up knowing fully well that at no point of time the DGO-1 and 2 demanded any money nor there was any occasion to demand and accept amount from the complainant.

DGO-1 and 2 further submitted that, the trap mahazar discloses that there is no clinching evidence placed by the prosecution department to show that the DGO-1 and 2 have

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demanding or accepted any illegal gratification to show official favour, there is absolutely no any criminal intent or mensrea or dishonest intention made out against the DGO-1 and 2.

DGO-1 and 2 further submitted that, they never committed any misconduct they have got a very clean service record they had always maintained absolute integrity and devotion to duty and always acted in a manner which is becoming of a government servant. Further submitted that DGO-2 was on leave on 28/08/2012. Hence, question of DGO-2 directing the complainant to meet him is false and fabricated and the complainant never met him in connecting with official work as alleged nor never work of the complainant was pending with DGO-1. Since DGO-2 was on leave on 28/08/2012, question of complainant meeting DGO-2 and DGO-2 directing complainant to meet DGO-1 legally and factually does not arise. Since DGO-2 was on leave and never met the complainant as alleged in the brief facts of the case. DGO-2 was not at all present during the trap and he was not demanded or accepting neither any money nor any money received from the possession of DGO-2 and the allegation of demand and acceptance of bribe for all cooked up and entire entrustment and trap panchanama are concocted for the purpose of the case.

DGO-1 and 2 further submitted that, no official favour was pending with and they had no power and no work of the complainant for which he could have shown official favour, hence there was absolutely no motive on the part of the DGO-1 and 2, when such is the case, abusing position of public servant is


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lacking, question of misconduct under the facts of the case and in view of the law on the point legally and factually does not arise absolutely no case of misconduct would ever be made out against the DGO-1 and 2.

DGO-1 and 2 further submitted that, no case of misconduct at all is made out and the present departmental enquiry is not clothed with the legal authority to conduct the enquiry, more over since the DGO-1 and 2 have always acted with absolutely integrity and devotion to duty and never behaved in a manner unbecoming of a Government servant, hence question of committing misconduct much less under rule 3(1)(1) & (III) of KCS (CONDUCT) Rules, 1966 or any other rules will not arise.

DGO-1 and 2 further submitted that, since the Lokayuktha police have investigated the case, question of conducting suo moto enquiry into an investigation already done by Lokayuktha police in law under facts does not arise and no such power is vested under the Karnataka Lokayuktha Act.

DGO-1 and 2 further submitted that, since the case is registered by the Lokayuktha police the investigation, trap mahazar everything is prepared by the Lokayuktha police only to a make out a case, the departmental enquiry is also conducting by the officers of the Lokayuktha and also in the office of the Lokayuktha the atmosphere and the surrounding circumstances. Since the entire enquiry including service of the summons to witness are by constable of the Lokayuktha police and Lokayuktha officials it is hard to expect fair enquiry and principles of natural

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justice and fair enquiry will be violated. Hence the DGO-1 and 2 does not have confidence in the manner in which an incompetent officer who ordered an enquiring and the circumstances and the manner in which enquiry is started and going to proceed does not at all inspire any confidence in the mind of DGO-1 and 2.

DGO-1 and 2 further submitted that, since Spl. C.C. No. 78/2013 on the file of the 23rd Addl City Civil and Session Judge at Bangalore, regarding the very same charge is pending, if the DGO-1 and 2 were to disclose all the defense there is every likelihood of tampering with the evidence and threatening the DGO-1 and 2 with a fear of departmental enquiry and also prevent him from disclosing the truth. Hence there is no congenial atmosphere to conduct a fair and impartial departmental enquiry, which may ultimately effect the ongoing trial and future of DGO-1 and 2 will be affected and he will be prevented from proving his defense.

DGO-1 and 2 further submitted that, moreover as per the Karnataka Civil Service Rules to hold or not to hold an enquiry completely vests with the Government no power is vested in the Lokayuktha act, to step into the shoes of disciplinary authority and tried to clutch at the jurisdiction not vested in the act, which is legally impermissible. That the complainant has made few baseless and concocted allegations. That there is no misconduct on their part and they prayed that they may be exonerated from the imputation of charges leveled against them in the interest of justice and equity.


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10. The points that arise for consideration are as follows:-

1. Whether the disciplinary authority proves that the DGO-1 B.R.Rajendra Prasad while working as Evaluator in charge ARO and DGO-2 K.Nagaraju, while working as Revenue Inspector, Shivajinagar Sub-Division, Bruhath Bengaluru Mahanagara Palike, Bengaluru that complainant in the year 2012. in view of the registered gift deed made in the year 2008 by the father of the complainant for the ground floor and second floor of the house in Sy.No. 26 situated near Doddakaatappa Road in the possession of complainant, the complainant made an application on 21/3/2011 in Shivajinagar Sub-Division of B.B.M.P. at Bangalore, along with documents and D.D. for Rs.500/- for change of khatha in his name. On receiving said application, DGO No.2 had taken Rs.5,000/ from him after demand in that regard. That 2-3 months thereafter, both DGOs inspected the said property. About 15 days thereafter, when the complainant met DGO No.2 and enquired about the work, DGO No.2 told that documents are not proper. So, on getting proper documents as told by DGO No. 2, he filed the same in the said office with affidavit on 29/2/2012. That after a month the complainant met DGO No.2 and


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enquired about the said matter. But, DGO No. 2 was dragging the matter for one or the other reason/pretext. That when the complainant enquired with both DGOs, he was asked to pay Rs.20,000/- to get his work done. Even two days thereafter also, when the complainant enquired with both DGOs in the said office, same was reiterated by both DGOs and the complainant not willing to pay the said amount, lodged complaint before Police Inspector, Karnataka Lokayukta Police Station, Benglauru, who registered case in Cr.No.73/2012 and took up investigation and on 28/08/2012, DGO-1 was caught red handed while demanding and accepting illegal gratification of Rs.19,500/- from the complainant in Maruthi Van in front of DGOs office for himself and on behalf of DGO-2 and the said amount was seized by the Investigating Officer and the DGOs 1 and 2 have failed to give satisfactory or convincing explanation for the said tainted amount found them, when questioned by the said I.O, and by this the DGOs 1 and 2 have committed misconduct, dereliction of duty, acted in a manner unbecoming of a Government Servant and not maintained absolute integrity, violating Rule 3(1)(i) to (iii) of K.C.S.(conduct) Rules, 1966?

2. What findings?

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11. (a) The disciplinary authority has examined Sri.Surya Prakash/Complainant as PW-3, Sri.Chidananda B.G./Shadow Witness as PW-1, Sri.Chandrababu/Panch Witness as PW-2 and Sri.Sanjeerayappa T./Investigating Officer as PW-4 and got exhibited Ex.P-1 to 17 on it's behalf.
- (b) The DGO-1 and 2 have not examined themselves and not got marked any documents on their behalf.
- (c) Since DGO-1 and 2 have not adduced evidence by examining themselves or anybody, incriminating circumstances which appeared against them in the evidence of PWs 1 to 4 are put to them by way of questionnaire.
12. Heard both side arguments and perused the written argument filed by the counsel for the DGO No.1 and 2 and all the documents.
13. The answers to the above points are:
1. In the Negative.
 2. As per final findings for the following:-

REASONS

14. **Point No.1:-** (a) PW-3/Complainant Sri.Surya Prakash has deposed in his evidence that, he had gone to BBMP office, Shivajinagar, Bengaluru for change of khatha of his house which was gifted to him by his father in the year 2011. That his friend

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had taken him to Lokayukta Office saying that the khata work will be done. That he does not know about the contents of the complaint. Further he has deposed that he has signed Ex.P-9.

PW-1 further deposed that, he has not given any money to the police to lay the trap. The police have not conducted any proceedings before him. That he has not given any money to DGO-1 and none of the DGOs have demanded any money from him. The police has taken his signature on some documents. That he does not know the contents of those documents. Further he has deposed that he has signed Ex.P-2 pre-trap mahazar and Ex.P-3 trap mahazar.

(b) At this stage learned Presenting Officer treated PW-3 as hostile and cross examined him suggesting the Disciplinary Authority case, but he has denied all the suggestion put forth by the learned Presenting Officer. Nothing is elicited from PW-3 by the learned Presenting Officer in support of the Disciplinary Authority case.

15. (a) PW-1/Shadow Witness Sri.Chidananda B.G. has deposed in his evidence that, he was working as First Division Assistant in Municipality Head Office, Bengaluru in the year 2012. That on 28/08/2012 at 11.00 a.m. he reported before lokayukta police along with one Chandrababu and complainant was present. The complainant had lodged complaint that DGO-1 demanded bribe for change of khata. The complainant produced 19,500/- before I.O. and I.O. got the number of notes noted in a sheet as per Ex.P-1 and got applied phenolphthalein powder on either side of the

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notes. That Chandrababu kept those tainted notes in left side shirt pocket of complainant and his hands were washed in some solution and the solution turned to pink colour. That the I.O. has seized the solution. Further he has deposed that the I.O. has not given any object to complainant and the I.O. has not made them heard any conversation in the police station. The I.O. has drawn mahazar with respect to the above proceedings as per Ex.P-2.

PW-1 further deposed that, later on all of them left Lokayukta Police Station in a car and maruthi omni van to BBMP office situated in Dhanvanthri road and reached there by 1.00 p.m. That he and complainant went inside the office and DGO-1 was present. That he was 100 mtrs away from the chamber of DGO-1. The complainant was talking with DGO-1, but it was not audible for him. That when the complainant went to give the amount to DGO-1 he has not received it. The complainant told that DGO-1 has taken the amount after coming out of his chamber and has given signal by combing his hair. That DGO-1 came with complainant outside his chamber and sat in the maruthi van belonging to complainant, which was parked in front of the office. Then the lokayukta police surrounded them and the complainant told that DGO-1 has asked the amount and he has given it to DGO-1. The I.O. got prepared solution in glass bowl and got right hand of DGO-1 washed in it and it turned to pink colour and I.O. has seized the solution. That he removed the notes from the left side shirt pocket of DGO-1 and Chandrababu has counted it, the said notes were tainted notes and I.O. has seized them. The I.O.

has brought DGO-1 to Lokayukta Police Station and has drawn trap mahazar in this regard as per Ex.P-3.

PW-1 has further deposed that, after washing the right hand of DGO-1 the I.O. went inside the office and found that the almerah in which the records were kept was locked by the case worker. So, they could not recover the documents. The I.O. has seized attendance register extract. The I.O. has called DGO-2 to come to the Lokayukta Police Station.

(b) At this stage learned Presenting Officer treated PW-1 as partly hostile and cross examined him, wherein he has admitted that the I.O. has given one Button Camera and Voice Recorder to complainant and further admitted that the I.O. had instructed him to watch what transpires between the complainant and DGO-1.

Further PW-1 has deposed that 'D' group employee has not allowed him to enter DGO-1 chamber.

Further PW-1 has admitted that I.O. has seized the shirt of DGO-1 and he has signed the explanations given by DGO-1 and 2.

Further PW-1 has denied the suggestion put forth by the learned Presenting Officer that DGO-1 has told the complainant to give the bribe amount to one Lokesh and complainant told that Lokesh is not there for which DGO-1 has asked complainant to keep the amount in his left side shirt pocket and complainant has


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kept the notes in the left side shirt pocket of DGO-1. Further he has denied that I.O. has washed the hands of DGO-1 in sodium carbonate solution and it has turned to pink colour and I.O. has seized the sample of the solution. Further he has denied that the I.O. has seized the Attendance Register of DGO-1.

16. (a) PW-2/Sri.Chandrababu, Panch Witness has deposed in his evidence that, he was working as First Division Assistant in Directorate of Municipal Office, Bengaluru from 2012 to 2015. On 28/08/2012 he and PW-1 reported before I.O. Lokayukta Police Station at 10.00 a.m. and complainant was present there and I.O. introduced him to them. That he came to know from the complainant that the Revenue Inspector working in BBMP office situated in Dispensary road, Bengaluru has demanded Rs.20,000/- bribe from him and the complainant has already given Rs.5,000/- bribe to him. Further he came to know that complainant went a day before and contacted the Revenue Inspector and has recorded the conversation between them and has produced voice recorder before them. The I.O. has played the voice recorder before them and made them hear the same. That there was demand of bribe in the voice recorder. The I.O. got the voice recordings burnt to CD and got it transcribed as per Ex.P-4. The complainant produced 8 notes of Rs.1,000/- denomination and 23 notes of Rs.500/- denomination before the I.O. and I.O. got the number of the notes noted through computer as per Ex.P-1 and he has signed in it.


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PW 2 further deposed that, the I.O. got phenolphthalein powder smeared on the notes and he counted the notes and kept it in left side shirt pocket of complainant. Later on all of them left to BBMP office and I.O. instructed to give the amount only on demand by the DGO and after acceptance to give signal by wiping his head and instructed PW-1 to go with the complainant and see what transpires between DGO and complainant and to act as shadow witness.

PW-2 further deposed that, the I.O. has put one voice recorder and spy camera to the shirt of the complainant and got prepared sodium carbonate solution and has taken sample of the same and got his hands washed in the remaining solution and the solution turned to pink colour. The I.O. has drawn pre trap mahazar with respect to the above proceedings as per Ex.P-2. That I.O. has taken all of them and left Lokayukta Police Station in a jeep and complainant and Chidananda came in rickshaw following them and reached BBMP office ward no.90 Health Center at 12.00 p.m.

PW-2 further deposed that, the complainant and Chidananda went inside the office of DGO and complainant came out at 1.00 p.m. and told that Revenue Inspector is not there and he has gone to Shivajinagar main office of BBMP and he came to know this from one Nagaraj, Revenue Inspector i.e., DGO-2. That the I.O. has made his staff sit there thinking that DGO-2 may go outside. Later on all of them left the BBMP office with remaining staff in the

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maruthi omni van and complainant and Chidananda came in rickshaw and reached the BBMP main office of Shivajinagar at 1.30 p.m. The complainant and Chidananda went inside the office and after half an hour the complainant came out and gave signal by wiping his head in his left hand. That all of them went to him and on enquiry complainant told that DGO-1 has received the tainted notes in his office. That DGO-1 came out and got into his car and was starting it and the I.O. and his other staffs surrounded him and taken him to the custody and brought him inside the office. The I.O. got prepared sodium carbonate solution in two separate bowls and took sample of the same and got both hand of DGO-1 washed separately in the bowls and the solution in both bowls turned to pink colour and I.O. has seized the sample of the solution.

PW-2 further deposed that, the I.O. enquired DGO-1 about the tainted notes and DGO-1 removed it from his left side shirt pocket and gave it to I.O., the notes were tallying with the number of the notes in Ex.P-1 and I.O. has seized those notes. The I.O. called the staffs who were in ward no.90 of BBMP office Health Center and asked them to bring DGO-2 to BBMP office Shivajinagar. The staff brought DGO-2 to BBMP office Shivajinagar. The I.O. enquired about the documents to DGO-1 and he told that it is in the almerah and key of almerah is with SDA and the said SDA was not there. The I.O. has sealed the portion of almerah where key is put. That later on I.O. has got all of them along with DGO-1 and DGO-2 to Lokayukta Police Station,


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Bengaluru City. The I.O. has received the spy camera and voice recorder which was fixed to the shirt of complainant. I.O. has seized the shirt of DGO-1. The I.O. has played the voice recorder and spy camera and got it transcribed as per Ex.P-4 and has drawn mahazar in this regard as per Ex.P-3. The I.O. played the voice recorder and one Nagaraj staff who was brought with them has identified the voice of DGO-1 and DGO-2 and he has given statement in this regard as per Ex.P-5. DGO-1 and DGO-2 have given their explanation as per Ex.P-6 and 7 respectively. The I.O. has seized attendance register extract.

PW-2 further deposed that, on 31/08/2012 the I.O. had called him and PW-1 to Lokayukta Police Station, Bengaluru City and has taken them to BBMP office Shivajinagar. That the I.O. has removed the seal put to the almerah and I.O. has seized the documents and got attested copy of the same and has drawn mahazar in this regard as per Ex.P-8 to which he has signed.

17. (a) PW-4/Sri.Sanjeevarayappa T., Investigating Officer has deposed in his evidence that, he had worked as Police Inspector, Bengaluru City Division, Bengaluru from 2011 to 2013. On 27/08/2012, PW-3 came to the Lokayukta police station and told that BBMP officials are demanding bribe from him, so, he gave him a voice recorder.

PW-4 further deposed that, on 28/08/2012, PW-3/complainant came to the Lokayukta police station and

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produced the voice recorder and told that when he went to BBMP office for getting the Khatha of his property changed from the name of his father to his name; DGO-1 who was working as ARO and DGO-2 who was working as Revenue Inspector demand bribe of Rs.20,000/- and lodged complaint in this regard as per Ex.P-9. He registered the same as crime number 73/2012 for offences u/s 7, 13(1)(d) r/w 13(2) of P.C.Act, 1988, after confirming the contents of the voice recorder. The attested copy of the FIR is as per Ex.P-10. He sent the said complaint and FIR along with the documents in closed envelope to the jurisdictional court. He secured 2 panch witnesses, PW-1 and 2, by sending requisition to Director, Directorate of Municipal Administration, Bengaluru. The panch witnesses reported before him at about 10:40 a.m. He introduced himself to them and PW-3 to them. He also briefed them about the contents of the complaint, and gave copy of complaint to them to read and verify the same. The said witnesses, PW-1 and PW-2 have agreed to act as witnesses. PW-3 gave him 8 notes of Rs. 1,000/- and 23 notes of Rs. 500/- each i.e., total Rs. 19,500/- to lay the trap. He got the number of the currency notes noted by his staff in a sheet as per Ex.P-1. He got phenolphthalein powder applied to both sides of the currency notes through his staff. He got the same kept in the front left side shirt pocket of PW-3 through PW-2. That he got sodium carbonate solution prepared through his staff and took sample of the same got the hands of PW-2 washed in sodium carbonate solution. The solution turned to pink colour and he took sample of the same. That he


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told PW-1 to PW-3 about the reaction between phenolphthalein powder and sodium carbonate solution.

PW-4 further deposed that, he played the voice recorder containing conversation between PW-3 and DGO on 27/08/2012 and played the voice recorder using computer and got the conversation heard in presence of the panch witnesses and got the said conversation burnt to CD and transcribed the same as per Ex.P-4.

PW-4 further deposed that, he gave voice recorder with button camera to PW-3 and instructed him to switch it on while meeting the DGOs. That he also instructed him to pay the amount only on demand by DGOs and after acceptance to give signal by wiping his head with his left hand. That he instructed PW-1 to follow PW-3 and act as shadow witness. That all of them washed their hands thoroughly with soap and he got photographs taken of the entire proceedings and drew pre-trap mahazar as per Ex.P-2 and all of them left near the office of DGOs from his police station.

PW-4 further deposed that, they reached Health centre BBMP Ward No. 90 at St.Jhons road at about 12:20 p.m, and stopped at a distance from office of DGOs. That he repeated his instructions to PW-1 and 3 and sent PW-3 to the office of DGO-1 and DGO-2. After sometime at 01:00 p.m, PW-3 came out of the office and told him that DGO-2 told that DGO-1 is in ARO, BBMP office at Dispensary road and told him to give the amount to DGO-


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1. So, all of them left with his staff and panchas leaving behind S.T.Yogish, PI and S.T.Wodeyar, PI to watch DGO-2. That all of them reached ARO, BBMP office at Dispensary road at 1:00 p.m. PW-1 and PW-3 went inside the office of DGO-1 and they were waiting outside. That at about 01:20 p.m PW-3 came out and gave signal by wiping his head with left hand. All of them went near PW-3, and PW-3 showed them a person sitting in Maruthi van and told that he is DGO-1 and he has received bribe amount from him. He has caught hold of DGO-1 and informed the Police Inspectors who were waiting in the office of DGO-2 to take him to custody and bring him to BBMP office at Dispensary road.

PW-4 further deposed that, he showed his identity card to you DGO-1 and DGO-2 and told them the purpose for coming, and asked them to co-operate. That he collected the name, designation and address of you DGO-1 and DGO-2. That he asked PW-1 and PW-3 about the happenings and they told that DGO-1 has received the bribe amount from his both hands and kept it in the left side shirt pocket.

PW-4 further deposed that, he got sodium carbonate solution prepared separately in 2 bowls through his staff. He took sample of the same. He got both the hands of DGO-1 dipped in the solution separately. The solution in both bowls turned to light pink colour. That he took sample of the same and enquired DGO-1 about the amount and he told that it is in his shirt pocket. That he got the said notes removed. The said notes were tallying with the

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numbers of the notes mentioned in Ex.P-1 and he seized the said notes. That he asked DGO-1 and DGO-2 about the file of PW-3 and DGO-1 and DGO-2 told that it is with SDA, Gowramma and she has gone to hospital. So, he has sealed two almerahs which was in the possession of Gowramma by putting paper and has drawn rough sketch of the spot as per Ex.P-11.

PW-4 further deposed that, he took all of them to Lokayukta police station and has arrested DGO-1 and DGO-2 in the Lokayukta police station and followed the arrest procedures. That he seized the shirt, after having made arrangement of alternate shirt to DGO-1 and has taken the explanation of DGO-1 and DGO-2 as per Ex.P-6 and Ex.P-7 respectively. That PW-1 and 3 on seeing the explanations, said that it is false.

PW-4 further deposed that, he took the voice recorder and button camera from PW-3 and got the same played in presence of panch witnesses, transcribed the same as per Ex.P-12 and transferred to CD. That in the conversation at the time of trap, there was demand and acceptance of bribe. That he took photographs and got the video recordings of the trap proceedings. That he has seized the attendance register extract in the office of DGO-1 and DGO-2 as per Ex.P-13 and has drawn trap mahazar as per Ex.P-3.

PW-4 further deposed that, on 31/08/2012, he had called the panchas PW-1 and PW-2 and complainant PW-3 to the office of

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DGO-1 and DGO-2. That Gowramma was present in the office and he asked the panchas to open the almerahs which was in the custody of Gowramma and after opening it he seized the documents pertaining to PW-3 from the said almerahs as per Ex.P-14 and has drawn mahazar in this regard as per Ex.P-8.

PW-4 further deposed that, on the same day he had called for P.D.Nagaraj, FDA, ARO office, BBMP where DGO-1 and DGO-2 are working to the police station. That he played the voice recorder given by PW-3 at the time of pre-trap and voice recorder and button camera received from PW-3 after trap which was converted into CD in front of him and he has identified the voice of DGO-1 and DGO-2 in the conversation which was recorded in the said voice recorders and button camera. That he recorded statements of witnesses.

PW-4 further deposed that, on 01/09/2012, he got the sketch prepared from PWD Engineer as per Ex.P-15. He sent the articles for chemical examination and received the report dated 17/09/2012 as per Ex.P-16. He has taken the service details of DGO-1 and DGO-2 as per Ex.P-17. He filed the charge sheet against DGO-1 and DGO-2 after obtaining sanction.

18. On over all evaluation of the oral and documentary evidence adduced by both the parties, PW-1/shadow witness, PW-2/panch witness and PW-4/I.O. have deposed in their evidence that PW-3/complainant came to the Lokayukta police station and told that


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BBMP officials are demanding bribe from him. on 28/08/2012, PW-3/complainant came to the Lokayukta police station and produced the voice recorder and told that when he went to BBMP office for getting the Khatha of his property changed from the name of his father to his name, DGO-1 who was working as ARO and DGO-2 who was working as Revenue Inspector demand bribe of Rs.20,000/- and lodged complaint in this regard as per Ex.P-9. PW-4 received the same and registered case and has called for two panchas i.e., PW-1 and PW-2, briefed them about the case and played voice recorder before them and made them hear the conversation and got it burnt to CD and transcribed it.

19. Further their evidence reveals that, PW-3 produced 8 notes of Rs.1,000/- and 23 notes of Rs. 500/- each i.e., total Rs.19,500/- to lay the trap. PW-2 got the number of notes noted in a sheet and got phenolphthalein powder applied to both sides of the notes and got the same kept in the front left side shirt pocket of PW-3 through PW-2 and got sodium carbonate solution prepared in bowl and got the hands of PW-2 washed in it and it turned to pink colour and he took the sample of the same. Further their evidence reveals that PW-4 has given one voice recorder with button camera to PW-3 and instructed him to switch it on while meeting the DGOs and to pay the amount on demand to DGOs and after acceptance to give signal by wiping his head and further instructed PW-1 to accompany PW-3 and act as shadow witness and has drawn pre-trap mahazar with respect to the above proceedings as


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per Ex.P-2. Further their evidence reveals that all of them left the lokayukta police station and reached the office of DGOs.

20. PW-3/complainant has completely turned hostile and not supported the Disciplinary Authority case. Further he has not deposed anything about demand and acceptance of bribe by DGO-1 and 2 for change of khata of his property. Further PW-3/complainant has specifically stated that DGO-1 and 2 have not demanded any money from him for his work and I.O. has taken his signature in some documents and I.O. has not drawn pre-trap mahazar as per Ex.P-2 and trap mahazar as per Ex.P-3 in his presence.
21. PW-1/shadow witness has deposed in his chief examination as follows:
- “ನಾನು 1ನೇಯ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಕುಳಿತಿದ್ದ ಕೊಠಡಿಯಿಂದ ಸುಮಾರು 100 ಮೀಟರ್ ದೂರದಲ್ಲಿದ್ದೆನು. ಆ ಕೊಠಡಿಯ ಒಳಗೆ ಫಿರ್ಯಾದಿಯು 1ನೇಯ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರ ಜೊತೆ ಮಾತನಾಡುತ್ತಿದ್ದರು. ಆದರೆ ಆ ಮಾತುಗಳು ಸ್ಪಷ್ಟವಾಗಿ ಕೇಳುತ್ತಿರಲಿಲ್ಲ. ಫಿರ್ಯಾದಿಯು ಹಣ ಕೊಡಲು ಹೋದಾಗ 1ನೇಯ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ತೆಗೆದುಕೊಳ್ಳಲಿಲ್ಲ. ಹಣ ಕೊಟ್ಟು ಬಂದಿರುವುದಾಗಿ ಆ ಕಟ್ಟಡದಿಂದ ಹೊರ ಬಂದು ಫಿರ್ಯಾದಿಯು ಹೇಳಿದರು. ಫಿರ್ಯಾದಿ ತಲೆಯನ್ನು ಬಾಚಿಕೊಂಡರು.”
22. From the above evidence of PW-1/shadow witness he has deposed in his chief examination that he was standing 100 meters away from the chamber of the DGO-1 and they were not audible to him. Further he has gone to extent of deposing that when complainant went to give the amount to DGO-1, he has refused it and

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complainant came out and told that he has given the amount, which is contrary to the case of the Disciplinary Authority.

23. PW-1/shadow witness who has an independent eye witness has not deposed anything about demand and acceptance of bribe by DGO-1 and 2. Further PW-1 has deposed that after they returned to Lokayukta Police Station he was asked to sit and the I.O. has drawn the mahazar and taken his sign and I.O. has not enquired anything from him in the office of DGO-1 and he does not know why DGO-2 was called and I.O. has not enquired him about the explanations given by DGOs. As such the Disciplinary Authority has not placed iota of evidence to show that there was demand and acceptance of bribe by DGO-1 and 2 from the complainant to do his official work.
24. Further the evidence of PW-1 to 4 reveals that after giving signal by PW-3, PW-1, 2 and 4 went near PW-3, PW-3 showed them a person sitting in Maruthi van and told that he is DGO-1 and he has received bribe amount from him and have caught hold of DGO-1 and recovered tainted notes from his left side shirt pocket and washed the hands of DGO-1 in sodium carbonate solution and it turned to pink colour and PW-4 has taken the sample of the same and seized the shirt of DGO-1 and dipped it in the sodium carbonate solution and it turned to pink colour and PW-4 has seized the solution and shirt. Further their evidence reveals that PW-4 has seized the tainted notes from the possession of DGO-1 and conducted trap mahazar with respect to the above proceedings

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as per Ex.P-3. But, as far as demand and acceptance of bribe by DGO-1 & DGO-2 is concerned no iota of evidence is placed by the disciplinary authority. As such the Disciplinary Authority has failed to prove the demand and acceptance of bribe by DGO-1 & 2 from PW-1. It is well settled that mere recovery of tainted notes from the possession of DGO-1, itself will not prove the demand and acceptance of bribe by DGO1.

25. It is well settled that mere recovery of tainted currency notes and positive result of phenolphthalein test is not sufficient to establish the guilt of the DGOs, unless there is corroboration of testimony of complainant, regarding demand and acceptance of bribe by the accused. In the present case, demand and acceptance of illegal gratification by the DGo-1 and 2, has not been established.
26. The specific defence taken by DGO-1 that the complainant had filed application for change of khata with respect to property bearing residential site No.26 situated near Doddakaatappa Road, which he has acquired by Gift Deed and the schedule of the property in the Gift Deed was wrong. So, he asked him to get it rectified and endorsement was given in this regard. But since he had not got the rectified document the work was kept pending, but the complainant on 28/08/2012 at 12.30 p.m. suddenly entered his chamber and forcibly thrust the amount to his pocket and when he refused it and went to give it back, he has pushed him and forcibly thrust the amount to his pocket and by that time

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the lokayukta police came and surrounded him. DGO-1 has given explanation in this regard as per Ex.P-6.

27. PW-3/complainant in his chief examination has not stated anything about the demand of bribe and acceptance of the same by DGO-1 to do his official work. Further PW-1/shadow witness has deposed in his chief examination that DGO-1 refused to receive the amount given by PW-3/complainant. This evidence corroborates the defence of DGO-1. Nothing is elicited from the cross examination of PW-3/complainant and PW-1/shadow witness by the learned Presenting Officer to discredit their testimony or in support of the Disciplinary Authority case. As such their evidence probablise the defence of DGO-1 as per Ex.P-6.
28. The specific defence of DGO-2 is that he is working in the office and his work is related to election and census and his work is no way related to change of khata. That he had put leave on that day and when he was near ration card office he was taken to the office at dispensary road by the police. He has given explanation in this regard as per Ex.P-7.
29. PW-3/complainant and PW-1/shadow witness have not deposed anything against DGO-2 with respect to demand of bribe. As such there is no iota of evidence placed against DGO-2 that he had demanded and accepted bribe amount for the official work of PW-3/complainant.

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30. PW-4/I.O. in his cross examination by the DGO-1 and 2 counsel has admitted that in his investigation he came to know that the sister of PW-3, complainant had filed suit in O.S. 26593/2011 in Civil Court. PW-3 has not stated about the said case at the time of lodging the complaint. That as per the documents Ex.P-14 page no.128 DGO-1 has issued notice to PW-3 to produce documents with respect to the property. That he has not enquired PW-3 about case filed by his sister against him with respect to the property seeking change of khatha. That he does not know that DGO-1 has worked as in-charge ARO up to 14/05/2012 and regular ARO continued the proceedings from 24/05/2012. That he has not done investigation in this regard.
31. Further PW-4/I.O. has admitted that, if there is stay order passed by the Court then officials cannot proceed in the proceedings and if they proceed it amount to contempt of court. That he has seized the copy of the order sheet in O.S.26593/2011, in the said case PW-3 is defendant no.3 and he has not enquired PW-3 in this regard.
32. It is relevant to note that the complainant in his evidence has categorically stated that he has not given complaint against DGO No.1 & 2. He has further stated that DGO No.1 & 2 never demanded money from him. The complainant has disowned what he has stated in the complaint and has not supported the disciplinary authority case in so far as demand of illegal gratification by the DGO-1 and 2. Investigating Officer admits that complaint was not given against DGO No.1 & 2. Further the

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evidence on record reveals that the application for change of khata was given to Commissioner of BBMP u/s 114 of the Karnataka Municipal Corporation Act. The power of transfer of khata or bifurcation of khata vests with the Joint Commissioner & Revenue Officer. Further the evidence on record reveals that, Smt.Saraswathi N. has filed the suit in O.S.26593/2011 on the file of City Civil & Sessions Judge Court, against Uma Devi N. & others for the relief of partition & separate possession. The property in respect of which transfer of khata sought for was one of the suit schedule properties in O.S.26593/2011. The complainant-N.Suryaprakash was one of the defendants in the said suit. The order sheet in O.S.No.26593/2011 reveals that, there was an order of status quo passed by the Court in O.S.No.26593/2011. The complainant has suppressed the fact of pending of civil litigation in respect of property for which change of khata sought for. The evidence on record further reveals that, the Assistant Revenue Officer has issued notice on 15.9.2012 to Mr.L.Suryapakash(complainant) & Smt.N.Saraswathi to appear before him on 25.9.2012 for enquiry in the matter of transfer of khata. Smt.Saraswathi has filed objection for change of khata before ARO-BBMP. In view of these facts there was delay in transfer of khata. Further DGO No.1 & 2 being the Assessor & Revenue Inspector respectively, had no competency or empowered in the matter of change of khata. As such it can be assumed that the DGO-1 has not deliberately kept the work pending and it was due to pendency of case in the court.

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33. It is forth coming from the evidence of PW-4/I.O. that PW3/complainant came to the Lokayukta police station and produced the voice recorder. He played the voice recorder containing conversation between PW-3 and DGO on 27/08/2012 and played the voice recorder using computer and got the conversation heard in presence of the panch witnesses and got the said conversation burnt to CD and transcribed the same as per Ex.P-4. He gave voice recorder with button camera to PW-3 and instructed him to switch it on while meeting the DGOs. Further PW-4/I.O. has deposed in his evidence that, he took the voice recorder and button camera from PW-3 and got the same played in presence of panch witnesses, transcribed the same as per Ex.P-12. PW3/Complainant has not stated anything about giving voice recordings to PW4/I.O.
34. Further PW-4/I.O. has deposed in his evidence that, on 31/08/2012 he had called for P.D.Nagaraj, FDA, ARO office, BBMP where DGO-1 and DGO-2 are working to the police station. That he played the voice recorder given by PW-3 at the time of pre-trap and voice recorder and button camera received from PW-3 after trap which was converted into CD in front of him and he has identified the voice of DGO-1 and DGO-2 in the conversation which was recorded in the said voice recorders and button camera.
35. Further there PW-4/I.O. has not produced CD, Pendrive and 65 (B) Certificate in this regard. In the absence of compliance of section 65 (B) of Evidence Act the same is not admissible and cannot be

relied upon. On the basis of the transcription at Ex.P-4 and 12, it is contended that the DGOs had demanded bribe from complainant during his talk with complainant. In respect of C.D which was transmitted from voice recorder, no certificate under section 65 (B) of Indian Evidence Act is obtained. Further there is no section 65 (B) Certificate issued by PW-3/complainant with respect to the above C.D.'s. In the absence of compliance of section 65 (B) of Evidence Act the same is not admissible and cannot be relied upon. PW-4/I.O. has not produced the above CD's before this Authority as such the ExP4 & 12 transcriptions without CD's and certificate is not admissible in evidence.

36. In a decision reported in 2014 AIR SCW 5696 (Anvar P.V. V/s P.K. Bhasheer and others) Hon'ble Supreme Court in para No.22 has held as under:

22.... An electronic record by way of secondary evidence shall not be admitted in evidence unless the requirements under section 65B are satisfied. Thus, in the case of CD VCD Chip etc., the same shall be accompanied by the certificate in term of section 65B obtained at the time of taking the document, without which, the secondary evidence pertaining to the electronic record, is inadmissible”.

37. Relying on the above decision, in the instant case CD's as they are not produced and 65(B) certificate is also not produced, recordings

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in CD and transcriptions as per ExP-4 and ExP-12 are not admissible and helpful to disciplinary authority case to prove alleged demand of bribe by DGO-1 and 2 on 27/08/2012 and 28/08/2012. As such the disciplinary authority has failed to prove the demand of bribe by DGO-1 and 2 from PW-3 for his official favour and has received the same by placing clear, cogent and convincing evidence.

38. Thus, this Additional Registrar Enquiries, finds that, evidence of P.Ws 1 to 4, Ex.P-1 to P-17, as reasoned above, not proved that the DGO No.1 and 2 have demanded and accepted bribe of Rs.19,500/- from the complainant on 28/08/2012. The disciplinary authority has not proved the charges against the DGO No.1 and 2. Accordingly, this point is answered in the **Negative**.
39. **Point No.2** :- For the aforesaid reasons, this Additional Registrar (Enquiries) proceeds to record the following.

FINDINGS

The disciplinary authority has not proved the charges against the DGO-1 B.R.Rajendra Prasad, Evaluator in charge ARO and DGO-2 K.Nagaraju, Revenue Inspector, Shivajinagar Sub-Division, Bruhath Bengaluru Mahanagara Palike, Bengaluru.

The date of Retirement of DGO No.1 is 31/01/2030 and DGO No.2 is 31/10/2020.


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Submitted to Hon'ble Upalokayukta for kind approval,
and necessary action in the matter.


(J.P. Archana)

Additional Registrar (Enquiries-11),
Karnataka Lokayukta,
Bangalore.

ANNEXURES

List of witnesses examined on behalf of the Disciplinary
Authority:-

PW1:- Sri. T.Bhimalingaiah
PW2:- Sri. Mallikarjun
PW3:- Sri. T.R.Raghavendra
PW4:- Sri. James Minejas

List of witnesses examined on behalf of the Defence:-

Nil

List of documents marked on behalf of Disciplinary Authority:-

Ex P1	Attested copy of list of currency notes.
Ex P2	Attested copy of pre-trap mahazar dated 28/08/2012.
Ex P3	Attested copy of trap mahazar dated 28/08/2012.
Ex P4	Attested copy of transcription.
Ex P5	Attested copy of statement of Nagaraj dated 28/08/2012.
Ex P6	Attested copy of statement of DGO-1 dated 28/08/2012.
Ex P7	Attested copy of statement of DGO-2 dated 28/08/2012.


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Ex P8	Attested copy of mahazar dated 31/08/2012.
Ex P9	Attested copy of complaint dated 28/08/2012.
Ex P10	Attested copy of FIR in Cr.No.73/2012
Ex P11	Attested copy of rough sketch of the spot.
Ex P12	Attested copy of transcription.
Ex P13	Attested copy of attendance register of DGO-1 and 2.
Ex P14	Attested copy of documents pertaining to PW-3.
Ex P15	Attested copy of sketch prepared by PWD Engineer.
Ex P16	Attested copy of Chemical Examiner's Report.
Ex P17	Attested copy of service details of DGO-1 and 2

List of documents marked on behalf of Defence:-

Nil


14/6/2024

(J.P. Archana)

Additional Registrar (Enquiries-11),
Karnataka Lokayukta, Bangalore.