

**KARNATAKA - LOKAYUKTA**

BEFORE ADDITIONAL REGISTRAR (ENQUIRIES -10)

PRESENT :

**SMT. H.G. NAGARATHNA, B.A. L.L.B**  
 ADDITIONAL REGISTRAR ENQUIRIES-10,  
 M.S. BUILDING,  
 KARNATAKA LOKAYUKTA,  
 BANGALORE - 560 001.

DEPARTMENTAL ENQUIRY NO. UPLOK-1/DE-792/2016 &amp; 862/2017/ARE-10

COMPLAINANT	SRI. SHANKAR LAKSHMAN PATTED
DISCIPLINARY AUTHORITY	GOVERNMENT OF KARNATAKA PUBLIC WORKS, PORTS & INLAND WATER TRANSPORT DEPARTMENT & URBAN DEVELOPMENT DEPARTMENT, <i>(Through the Presenting Officer)</i>
<b>V/s</b>	
DELINQUENT GOVERNMENT OFFICIALS	1. SRI <b>I.A. KAKOLA (Irappa Adivappa Kakola)</b> the then Junior Engineer, Town Municipal Council, Sankeshwar, Hukkeri Taluk.  2. SRI. <b>GANAPATHI J. PATIL,</b> Chief Officer, Town Municipal Corporation, Sankeshwar (Presently Planning Director, District Urban Development Cell, Bagalkot District).  <i>(DGO-1 represented by Sri. G. Balakrishna Shastry, &amp; DGO-2 represented by Sri. N.K. Harish, Advocates).</i>

**Subject** : Departmental Inquiry against DGOs as noted in the cause title -reg.

- Reference/s** :
1. Report u/S 12(3) of the Karnataka Lokayukta Act, 1984 in Compt/Uplok/BGM/867/2015/PP dated 02.11.2016.
  2. Government Order No. LoE 138 SeVE 2016 Bengaluru dated 17.12.2016 in respect of DGO-1.
  3. Government Order No. UDD 156 DMK 2016, Bengaluru dated 20.03.2017 in respect of DGO-2.

4. *Nomination Order* No.Uplok-1/DE/792/2016  
Bengaluru dt. 31.12.2016 of Hon'ble  
Uplokayukta-1 in respect of DGO-1.

5. *Nomination Order* No.Uplok-1/DE/862/2017  
Bengaluru dt. 07.07.2017 of Hon'ble  
Uplokayukta-1 in respect of DGO-2.

\*\*\*\*\*

- i. Nature of the Case : Departmental Enquiry
- ii Provision of law under which article of charge/s framed. : U/R 3 (1) Karnataka Civil Services(Conduct) Rules, 1966.
- iii Date of Submission of report : 16th July 2019.

**:- DEPARTMENTAL - ENQUIRY - REPORT :-**

1. This is the departmental enquiry initiated and held against DGOs 1 & 2 as the complainant by name Sri. *Kiran Narayan Prabhu* has filed a complaint in Lokayukta Office against the Delinquent Government Officials alleging their dereliction of duty and misconduct.
2. Comments of the DGOs-1 & 2 called and unsatisfied with the comments of the DGOs-1 & 2, a **common Report** was sent to the Government u/S 12(3) of the Karnataka Lokayukta Act, 1984 as per reference No. 1. In pursuance of the report, Government was pleased to issue the **Government Order** (G.O.) dated 17.12.2016 in respect of DGO-1 and **another Government Order** (G.O.) dated 20.03.2017 in respect of DGO-2, authorizing

Hon'ble Upalokayukta-1 to hold an enquiry as per reference no. 2 & 3.

3. In pursuance of the Government Orders, two separate **nomination orders** were issued by Hon'ble Upalokayukta-1 on 31.12.2016 and 07.07.2017 in respect of DGOs-1 & 2 respectively, authorizing ARE-10 to frame Article of Charge against DGOs 1 & 2 and to hold an enquiry to find out truth and to submit a report as per reference No. 4 & 5.
4. Accordingly, *Article of charge* in respect of DGOs-1 & 2 framed/prepared under Rule 11(3) of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957, separately and sent to the Delinquent Government Officials on 08.06.2017 & 12.04.2018 respectively.
5. The article of **charge/s** and the statement of imputations of misconduct framed/prepared and leveled against the DGOs-1 & 2 are **reproduced as hereunder :-**

ANNEXURE NO. 1  
CHARGE

5(1) That, you DGO-1 I.A. Kakola (Irappa Adivappa Kakola), the then Junior Engineer, Town Municipal Council, Sankeshwar, Hukkeri Taluk, Belgavi District and DGO-2 Sri. Ganapathi J

patil, Chief Officer, Town Municipal Corporation, Sankeshwar, have committed following dereliction of duty/misconduct:-

5(2) You DGOs-1 & 2 have not taken any steps to stop illegal construction abutting to highway made by Sri Davala Malik Mohammed Anif Naikwadi. Due to your inaction there was unauthorized construction in the town limits of Sankeshwar abutting to highway.

5(3) Thus you DGOs-1 & 2, being Government /public servants have failed to maintain absolute integrity besides devotion to duty and acted in a manner unbecoming of a Government servant and thus committed misconduct as enumerated U/R 3(1) of Karnataka Civil Service (Conduct) Rules 1966.

ANNEXURE NO. II  
STATEMENT OF IMPUTATIONS OF MISCONDUCT

5(4) The complainant of this case Sri **Shankar Lakshman Patted** had filed a complaint alleging that one Sri Davala

Mallik Mohammed Anif Naikwadi had made unauthorized construction in Sy.No.3673A/3, 3674, 3768 and 3679 within the Town Municipal limits of Sankeshwar and in this regard requested DGO-1 and Sri. **I.A. Kakola**, the then Junior Engineer, TMC, Sankeshwar, Hukkeri Taluk, Belagavi District and DGO-2 Sri. **Ganapathi J. Patil**, Chief Officer, Town Municipal Sankeshwar, Hukkeri Taluk, Belgavi District, to take action against the said Sri Davala Mallik Mohammed Anif Naikwadi. Thereby, DGOs-1 & 2 committed misconduct, an investigation was taken up on the said complaint after invoking Sec.9 of Karnataka Lokayukta Act.

5(5) On the said complaint, the comments of the DGOs-1 & 2 were called for. The DGOs-1 & 2 have offered the comments stating that notice was issued to the said Sri Davala Mallik Mohammed Anif Naikwadi, stating that he has violated the Provisions of Karnataka State Highway Rules. However, under

the said rules it is for the PWD to take action for the said violation. At this stage, the matter was referred to Superintendent of Police, Karnataka Lokayukta, Belagavi to investigate and to report. He has submitted the report dtd.3/10/2015. In the said report, it is stated that the alleged construction by the said Sri Davala Mallik Mohammed Anif Naikwadi are abutting to Karnataka State Highway and constructions are made without ascertaining the margin to be maintained from the State Highway. On the said report of the I.O. the reply of the DGOs-1 & 2 were called for, the DGOs-1 & 2 reiterated the averments of the comments.

5(6)The material on record shows that the DGOs-1 & 2 have granted permission to put up one of the buildings in the said survey number. The DGOs-1 & 2 have stated that the Highway has not been handed over to the Town Municipality, therefore taking action for the alleged illegal construction doesn't fall within their purview. DGOs-1 & 2 have not

taken any steps to stop the constructions. However, after the completion of constructions, he has informed that he would take steps to remove the constructions. The fact remains that due to inaction of DGOs-1 & 2, there was unauthorized constructions in the town municipal limits of Sankeshwar abutting to highway. Therefore, there is prima facie material against the DGOs-1 and 2 to show that there is dereliction of duty on their part.

5(7) Since, the DGO-1 and Sri. I.A. Kakola & DGO-2 Sri. Ganapathi J Patil are the Government Servants and the material on record prima facie shows that they have committed misconduct as per Rule 3(1) of KCS (Conduct) Rules, 1966 and therefore, acting u/s 12(3) of Karnataka Lokayukta, Act,1984, recommendation was made against the DGOs-1 & 2 for initiation of departmental proceedings and also to entrust the enquiry to this Authority

under Rule 14-A of Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 to conduct enquiry.

5(8) In turn, Competent Authority initiated disciplinary proceedings against DGOs-1 and 2 and entrusted the enquiry to this Institution and Hon'ble Upalokayukta nominated this enquiry Authority to conduct enquiry and to submit a report. Hence, the above said **charge.**

6. The aforesaid *article of charge/s* served upon the DGOs 1 & 2 and they appeared before this enquiry authority and their **first oral statement/s** under Rule 11(9) of KCS (CCA) Rules, 1957 recorded. The DGOs 1 & 2 have pleaded not guilty and claimed to be enquired about the charge/s.
7. Then, departmental enquiry No. 792/2016 & 962/2017 are clubbed together with the approval of Hon'ble Upalokayukta by the order dated 24.09.2018.
8. *Thereupon*, DGOs-1 & 2 have filed their **Written statement of defense** stating that they have not committed dereliction of duty/misconduct.



9. The DGOs have been given an opportunity by this Enquiry Authority for verification / inspection of records/documents and for discoveries, if any.
10. *In this enquiry*, to establish the *common charge* against DGOs 1 & 2, the presenting officer has examined (1) Sri Shankar 1 Patted (complainant) as ***pw-1*** and (2) Sri. Rakendra Rudrappa Ambalagatti (Deputy Supdt. Of Police, Lokayukta, Belgavi & Investigation Officer) produced and got marked, in all, **27** documents as Ex P1 to 27 on behalf of Disciplinary Authority.
11. After the closure of the evidence of the Disciplinary Authority, *second oral statement* of DGOs-1 & 2 as per Rule 11(16) of Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 recorded. The DGOs-1 & 2 have submitted that they will examine themselves. Accordingly, the delinquent government official-1 Sri. Irappa Adivappa Kakola is examined himself as DW1 and Sri. Ganapathi J patil is examined himself as DW2 and got marked the documents as Ex. D-1 to 4, and closed their side. As such, the *questionnaire* of DGOs 1 & 2 u/R 11(18) of KCS (CCA) Rules, 1957 is *dispensed with* as they examined themselves.
12. I have heard learned Presenting Officer and defense assistants/Advocates appearing for DGOs 1 & 2.

13. Now, the points that emerge for my consideration and conclusion are *as follows* :-

1 : Whether the common charge against DGOs 1 & 2 as noted at para No. **5(2)** is proved by the Disciplinary Authority through its presenting officer?

2 : What finding / conclusion ?

14. I have heard and carefully perused the enquiry papers and analyzed and appreciated the oral and documentary evidence placed on record.

15. My *findings* on aforesaid points are *as under*:

POINT No. 1 : IN THE AFFIRMATIVE

POINT No. 2 : As per my

*FINDING/CONCLUSION*

for the following ;

**\* REASONS \***

16. **POINT NO. 1** : *It is the case of the Disciplinary Authority that DGO-1 being the then Junior Engineer in Town Municipal Council, Sankeshwar and DGO-2 being Chief Officer, Town Municipal Corporation, Sankeshwar, have committed dereliction of duty amounting to*

misconduct as mentioned in the charge at para 5(2) of the report.

17. *In order to prove the common charge leveled against DGOs 1 & 2, the presenting officer has examined 2 witness and got marked 27 documents and closed the side.*
18. *Now, I shall proceed to appreciate and analyze the oral and documentary evidence of the disciplinary authority viz.,(PW1, PW2 and Ex P1 to 27) which are as follows:-*
19. *PW- 1 SRI SHANKAR L PATTED (complainant) he deposes that, from the year 2011 to 15 DGO-1 was working as Junior Engineer in TMC, Sankeshwara and DGO-2 Sri Ganapathi J Patil, who was working as Chief Officer in TMC, Sankeswara, and he is the president of Samskruthi Vividoddesha Sahakari Niyamitha, bearing shop No.7,8 & 9. During March 2013 they purchased the building property on behalf of our society and at the time of purchase the front portion was vacant.*
20. *PW-1 further deposes that, during the year 2015 their seller Sri.Davalamalika Mahamed Anif Nayakwadi started to put up construction in front of their society building which was reserved for parking. Therefore, they submitted representations to TMC, DC, Police & PWD to stop illegal construction. Subsequently, TMC issued notice to*

Nayakawadi to stop the construction. But, the construction was not stopped and the DGOs have not taken any steps to stop the construction.

21. *PW-1 says that,* Now the construction is already completed. But, till today no action is taken Therefore, he filed complaint to Lokayukta office along with form no.1 to 2 as per Ex. P -1 to 3. Copy of sale deed, Copy of property register extract, Copy of demand register extract, Copy of TMC notice, Copy of representation given to Chief Officer, Copy of direction given by DC to TMC, Copy of notice issued by TMC, Complainant rejoinder, and Copy of requisition of Nayakwadi are at Ex. P-4 to 12.
22. *PW-1 further says that,* DGOs are responsible officials for not taking action to stop illegal construction and after filing the complaint Lokayukta official came and inspected the spot and at that time complainant was present and shown the spot and narrated the facts.
23. PW-2 SRI RAJENDRA RUDRAPPA AMBALAGATTI  
( Deputy Supdt. of Police, Lokayukta, Belgavi & Investigation Officer ) he deposes that, on 05.9.2015 he received copies of complaint file from his Superintendent of Police, Belagavi to investigate and to submit a report in respect of allegation made against DGOs and he perused complaint and other relevant documents. On 16.9.2015 he visited spot viz., Sankeshwar to the complained spot along with concerned officials. On inspection he found that there was illegal construction made by Davala Malik Mahamed Anif Naikwadi.

24. *PW-2 further deposes that, the complainant had purchased three shops in CTS No.3673/A/2. Then, Davala Malik filed an application to CMC, Sankeshwar on 6.9.2014 seeking permission to construct buildings/extension in front of said shops and then, DGO-1, I.A.Kakola inspected the spot and submitted note is at Ex P-14. On the basis of Ex P-14, DGO-2 issued a letter dt:20.9.2014 as per Ex. P-15. Then, DGO-2 (Chief Officer) issued a notice dt:7.10.2014 to Davala Mallik as per Ex. P-16 and thereafter, DGO-2 issued second notice dt:31.10.2014 to Davala Mallik as per Ex. P-17. Thereafter, DGOs did not take steps and further steps to stop illegal construction aborting to High Way and to demolish it.*
25. *PW-2 says that, in respect of illegal construction one sketch is prepared by DGO-1 as per Ex. P-18 and 6 photos of spot inspection are at Ex. P-19 and on 17.3.2015 DGO-2 (Chief Officer) wrote a letter dt:17.3.2015 to Assistant Executive Engineer as per Ex. P-20. Then on 4.4.2015, DGO-2 wrote another letter to Assistant Executive Engineer as per Ex. P-21 and for that Assistant Executive Engineer wrote reply to DGO-2 as per Ex. P-22. Prior to that a letter dt:29.10.2013 was sent by Assistant Executive Engineer to Chief Officer, Sankeshwar along with circular dt:3.10.2013 as per Ex. P-23, then he recorded the statements of Ganapathi J.P, (DGO-2), Veerappa, Vadiraj are at Ex. P-24.*
26. *PW-2 further says that, in his opinion DGOs did not make best effort to stop illegal construction and to demolish it, although, they were having the power to do the same. Accordingly,*

Investigation Officer has submitted investigation report dt:29.9.2015 as per Ex. P-25 and forwarding letter/report dt:3.10.2015 of Superintendent of Police, Belgaum is at Ex. P-26 and statement of Assistant Executive Engineer Sri. Vadiraj N Patil as per Ex. P-27.

27. PW-1 & 2 are not cross-examined by DGO-1 who is placed exparte; *Whereas*, PW-1 & 2 have stated in their cross-examination that, DGO-2 did not work at relevant period and there is no allegation and nexus between DGO-2 and the case/departmental enquiry.
28. It is the case of DGOs-1 & 2/Defense *that* they did not commit dereliction of duty amounting to misconduct.
29. *In this regard*, SRI Irappa Adiveppa Kakola (the then Junior Engineer/DGO-1) and Sri. Ganapathi.J. Patil (Chief Officer/DGO-2) have examined themselves as DW-1 & 2 respectively, by filing affidavit evidence and stated by reiterating his defence case.
30. *In the cross examination of DW 1 & 2* made by the learned presenting officer, I find that nothing worth mentioning points are elicited to disbelieve the depositions of DW-1 & DW-2.
31. In so far as **argument/s** in this enquiry is oncerned, the learned presenting officer has submitted that PW-1 and 2 are examined and Ex. P-1 to 27 have

been got marked and on the basis of depositions of PW-1 and 2 and relevant documents, affirmative finding can be given as *charges against the DGOs-1 and 2 is proved.*

32. *Per contra*, the defense assistant/Advocate for DGOs-1 & 2 argued and prayed to give finding as charge *not proved.*
33. *Having heard* on both sides and on careful perusal and appreciation of oral and documentary evidence of disciplinary authority placed on record, it is *obviously clear that, in this departmental enquiry, although* PW1 & 2 have been examined by disciplinary authority to prove the case/departmental enquiry, they have stated against DGOs-1 & 2, the same are corroborated and fortified by the relevant documents i.e. Ex. P -1 to 27.
34. *In my considered opinion*, there is material/s to show that the DGOs-1 & 2 have committed dereliction of duty amounting to misconduct, attracting the essential ingredients of charge framed under Rule 3(1) of Karnataka Civil Services (Conduct) Rules, 1966.
35. *Above all*, the oral and documentary evidence placed on record by the disciplinary authority is highly sufficient and satisfactory to warrant my finding in the affirmative and to come to the conclusion that the DGOs-1 & 2 have committed dereliction of duty as alleged in the misconduct.

36. On careful perusal of depositions of PW1 Sri. Shankar L Patted (complainant) & PW-2 Sri. Rajendra Rudrappa Ambalagatti (Investigation Officer), *it can be seen that they have fully supported the case of disciplinary authority and the DGOs-1 & 2 have worked at the relevant period.*
37. *Having heard and on careful perusal and appreciation of oral and documentary evidence of disciplinary authority placed on record, it is obviously clear that the disciplinary authority has placed sufficient and satisfactory oral and documentary evidence to prove its case/enquiry against the DGOs 1 & 2 as per the standard of preponderance of probabilities to warrant my finding on the charge against DGOs-1 & 2 in the affirmative as proved.*
38. *It is significant to note that, nothing worth mentioning points are elicited from the evidence/depositions of PW-1 & 2 by the learned defense assistant/Advocates appearing for Delinquent Government Officials 1 & 2. As such, the depositions of PW-1 & 2 are worthy of acceptance, believable and reliable against DGOs 1 & 2.*
39. *It is relevant to note that, the depositions of Pw-1 & 2 are consistent, corroborative and same are strengthened by the relevant documents i.e. Ex P -1 to 27.*
40. I don't find any substance and considerable force in the line of argument/contention/s taken by the learned defense



assistant appearing for DGOs 1 & 2 in the *Written Brief/s* and in my considered opinion, those are devoid of merits, irrelevant and unacceptable.

41. *Further*, the depositions of DGOs 1 & 2 /DW-1 and DW-2 are inconsistent and nothing, but, mere denial of case of disciplinary authority and they are highly interested, to disbelieve their versions and they have purposefully denied the suggestions posed by the Presenting Officer.
42. *It is worthwhile to note that, the depositions* of PW-1 and 2 *reveal that*, DGOs-1 & 2 did not take steps and further steps to stop illegal construction aborting to High Way and to demolish it. So, it is clear that, the DGOs 1 & 2 have committed dereliction of duty amounting to misconduct. *Hence*, I don't find any substance in the contention/plea taken by the DGOs 1 and 2 that they have not committed misconduct and it is unacceptable and unsustainable.
43. *On bare reading of relevant contents of* Ex. P-1 to 27 coupled with depositions of PW-1 & 2 and admission of DGOs to some extent, *it is very clear that*, DGOs-1 & 2 have committed dereliction of duty amounting to misconduct as mentioned in the *charge* at para 5(2) of the report.

44. The complainant PW-1 Sri. Shankar Patel has deposed before this enquiry that, he had purchased a portion of the vacant land on behalf of society name and style as Samskruthi Vividodesha Sahakari Niyamitha. He purchased the property in the name of the society during the year 2013, when he has purchased the same, at that time the front portion of the site was vacant. But, during the year 2015 one Sri. Davala Malika Mohamed Ali Nayakwad started construction work in front of their society which was reserved for parking purpose. PW-1 has raised the objection before the statutory authority and filed the complaint before Town Municipal Council, Deputy Commissioner, PWD and Police authority to stop the illegal construction going on in front of their society which was reserved for parking purpose. But, the construction work was not stopped by the DGOs in spite of the complaints. Therefore, PW-1 lodged the complaint before this authority which are respectively marked as Ex. P -1 to 3.
45. Copy of the sale deed Ex. P -4, property extract Ex. P -5, Copy of the register extract at Ex. P -6, copy of the T.M.C. notice Ex. P -7, copy of the representation given to Chief Officer Ex. P -8, direction issued by Deputy Commissioner to TMC is at Ex. P -9, copy of the TMC is Ex. P -10, rejoinder filed by PW-1 Ex. P -11. The requisition of Nayakwadi is at Ex. P -12.

46. In the Cross-examination of PW-1, it is suggested by the DGOs counsel that the right of parking is not given to him and he admitted that, the Chief Officer and DGO together issued a notice to the Nayakawadi not to make construction. The Chief Officer and DGO were personally visited spot 8 to 10 times and warned the Nayakwadi to construct the shed. But, the said Nayakwadi use to construct the building on the holidays on Sundays etc. The DGOs did not demolish the shed and PW-1 agreed that the shed is near to the highway road the state highway authorities has a power to demolish the shed if the construction is encroached in the highway.
47. PW-2 Deputy Supdt. of Police, lokayukta, Belgavi and Investigation officer has stated that, he received the complaint from the Supdt. of Police, Lokayukta, Belgaum to investigate the allegation made against the DGOs. In pursuance of the complaint, he visited the spot with other officials and on inspection he found that there was illegal construction made by Sri. Nayakwadi and the complainant had purchased the shop in CTS No. 3673(a)(ii). Mr. Nayakwadi filed an application before the CMC in the year 2014 seeking permission to construct the building extension of the front of the shop. Ex. P -14 is the spot inspection report. He also stated that, on the spot inspection discloses that, the DGOs did not make any efforts to stop illegal construction to demolish the said shed.

48. On perusal of Ex. P -23 the letter issued by Assistant Executive Engineer, Public Works Department, to Chief Officer Sankeswar dated 29.10.2013 clearly states that, State High way and District High ways and main roads are handed over to Local Bodies by the PWD department. Therefore, the division in which the case arose and the State High way and District main roads are under the control of the local bodies in otherwise, the City Municipal Council. Having received the said letter it is the bounded duty of the DGOs to maintain the state highways and district main road which are come within their jurisdiction. Accordingly, the construction of the shed by the Nadawad is also under the control of the purview of the DGOs. The entire evidence of record and documentary evidence clearly demonstrate, the DGOs have failed to take proper action against illegal construction of the sheds near to highway.
49. Absolutely, there is no documents filed by the owner of the disputed shed to say that he was having valid license to built up the shed in that area. Ex. Ex P -16 Chief Officer, DGO had issued a notice to owner of the shed to Sri. Nalawade that there is a illegal construction going on without obtaining the valid license and also it is stated that they have orally informed the said owner. But, in spite of it the said owner started construction in the holidays. Ex. P -16 issued by the DGO itself clearly speaks that, they have not taken any action against the

construction of illegal shed. Though, they know that illegal construction was going on in the said property, they have failed to take action. The act of the DGOs clearly establishes knowing fully well that illegal construction is going on but, kept silent without taking action to remove the shed.

50. It is the repeated argument of DGOs counsel that the DGOs are not responsible to take action against the illegal construction, as the State High Way authorities or National High Way authorities have to take action and complainant has to file the complaint before the proper forum. But, on perusal of Ex. P-16 which is a letter issued by PWD handing over the State High Way and District Main road are under the control of local civil bodies i.e. C.M.C./T.M.C. Therefore, the argument by counsel for DGOs cannot be accepted as, it is nothing but a passing the bucks to other.

51. *On careful analysis and appreciation of oral and documentary evidence placed on record, it is manifestly clear that the depositions of PW-1 & 2 are fully corroborated, consistent and fortified by relevant exhibits/documents and the same are inspiring confidence of this enquiry authority to rely and to act upon against DGOs and there is nothing brought on record to disbelieve the same. In my considered view, the case of Disciplinary Authority is acceptable.*

52. *For the reasons stated above and observations made in the light of depositions of PW-1 and 2, DW-1 & 2 and Ex. P -1 to 27 and Ex. D-1 to 4 and provision of law and under the given set of facts and circumstances of this enquiry, I have arrived at inevitable conclusion to hold that, the Disciplinary Authority through its Presenting Officer is **successful** in proving the charge framed and leveled against DGOs 1 & 2, up to the standard of preponderance of probabilities and to the satisfaction of this enquiry authority, to record my finding in the affirmative as proved.*
53. POINT NO.2 : *In view of my finding on point No. 1/charge, for foregoing reasons and discussions, I proceed to submit the enquiry report as under :-*

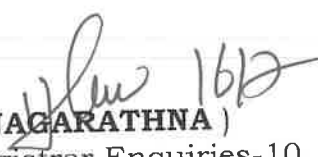
**:: ENQUIRY - REPORT ::**

- i. From the oral and documentary evidence and materials placed on record, I hold and record my finding/s that the Delinquent Government Official-1 Sri. **I.A. Kakola (Irappa Adivappa Kakola)**, the then Junior Engineer, Town Municipal Council, Sankeshwar, Hukkeri Taluk, Belgavi District and presently Assistant Engineer, Public Works Department, Chikkodi sub Division, Belgavi District and **DGO-2 Sri. Ganapathi J Patil**, Chief Officer, Town Municipal Corporation, Sankeshwar (presently

Planning Director, District Urban Development Cell, Bagalkot District, have *failed* to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government servants and they are *found guilty* of misconduct under Rule 3(1) of Karnataka Civil Service (Conduct) Rules, 1966.

- ii. *Accordingly*, I hold and record/assign my finding/s on point No.1/ the common *charge* leveled by the disciplinary authority *against DGOs-1 & 2 as proved.*
- iii *Hence*, this Enquiry Report is submitted /placed before Hon'ble Upalokayukta-1 for kind *consideration.*

Dated 16th **July** 2019

  
( **H.G. NAGARATHNA** )  
Additional Registrar Enquiries-10  
Karnataka Lokayukta  
Bangalore.

Date : 16.07.2019  
Place : Bangalore.

**::ANNEXURE: :****I. LIST OF WITNESS/S EXAMINED ON BEHALF OF DISCIPLINARY AUTHORITY:**

PW-1 :- Sri. Shankar L Patted (Complainant)

PW-2 :- Sri. Rajendra rudrappa Ambalagatti  
(Deputy Supdt. Of Police, Lokayukta, Belgavi and  
Investigation Officer)

**II. LIST OF DOCUMENTS MARKED/EXHIBITED ON BEHALF OF DISCIPLINARY AUTHORITY :**

- Ex.P-1 : complaint  
Ex.P-2 : Form No. I (complaint) dated  
02.03.2015  
Ex.P-3 : Form No. II (affidavit) dated  
02.03.2015.  
Ex.P-4 : Copy of Sale Deed (5 sheets)  
Ex.P-5 : Copy of property register extract  
Ex P-6 : Copy of demand register extract  
Ex.P-7 : Copy of TMC Notice  
Ex P 8 : Copy of representation given to  
Chief Officer.  
Ex P 9 : Copy of direction given by DC to  
TMC  
Ex P 10 : Copy of notice issued by TMC  
Ex P 11 : Rejoinder of the complainant  
Ex.P-12 : Copy of requisition of Nayakwadi  
Ex.P-13 : Letter dated 07.04.2015 from AEE  
to Chief Officer.  
Ex.P-14 : Note of DGO-1.  
Ex.P-15 : letter of DGO-2 dated 20.09.2014  
Ex.P-16 : Chief Officer (DGO-2) issued  
notice dated 07.10.2014 to Davala  
Mallik.  
Ex.P-17 : DGO issued second notice dated  
31.10.2014



- Ex.P-18 : sketch prepared by DGO-1.  
Ex.P-19 : 6 photos of spot inspection.  
Ex.P-20 : DGO-2 wrote letter dated  
17.03.2015 to AEE  
Ex.P-21 : DGO-2 wrote another letter dated  
04.04.2015 to AEE  
Ex.P-22 : AEE wrote reply to DGO-2.  
Ex.P-23 : Letter dated 29.10.2013 was sent  
to AEE to Chief Officer,  
Sankeshwar along with circular  
dated 03.10.2013 and distance.  
Ex.P-24 : Statement of Sri. Ganapathi J. P  
(DGO-2), Veerappa, Vadiraj.  
Ex.P-25 : Investigation Report dated  
29.09.2015.  
Ex.P-26 : Forwarding letter/report dated  
03.10.2015 of Superintendent of  
Police, Belgaum.  
Ex.P-27 : Statement of AEE Sri. Vadiraj N  
Patil.


III. LIST OF WITNESS/S EXAMINED ON BEHALF OF THE  
DGOS/DEFENCE:

- DW-1 : Sri. Irappa Adievappa Kakola  
(the then Junior Engineer/DGO-1)  
DW-2 : Sri. Ganapathi J Patil,  
(Chief Officer/DGO-2)

IV. LIST OF DOCUMENTS EXHIBITED/MARKED ON BEHALF  
OF DGO-2/DEFENCE:

- Ex. D-1 : Letter dated 13.10.2014 addressed to  
PW-1 complainant.  
Ex. D-2 : Letter dated 04.04.2015 by Chief Officer  
addressed to AEE.

Ex.D-3 : Gazatte Notification dated 18.10.2004  
Ex. D-4 : Resolution No. 141 dated 26.05.2015

  
( **H.G. NAGARATHNA** )  
Additional Registrar Enquiries-10  
Karnataka Lokayukta  
Bangalore.

Date : 16.07.2019  
Place : Bangalore.

**GOVERNMENT OF KARNATAKA**



**KARNATAKA LOKAYUKTA**

No.UPLOK-1/DE/792/2016/ARE-10  
No.UPLOK-1/DE/862/2017/ARE-10

Multi Storied Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru-560 001  
Date: 18/07/2019

**RECOMMENDATION**

Sub:- Departmental inquiry against;

- 1) Sri I.A Kakola (Irappa Adivappa Kakola) the then Junior Engineer, Town Municipal Council, Sankeshwar, Hukkeri Taluk, Belagavi District (Presently Assistant Engineer, Public Works Sub Division, Chikkodi, Belagavi District)
- 2) Sri Ganapathi J. Patil, the then Chief Officer, Town Municipal Council, Sankeshwar, Hukkeri Taluk, Belagavi District (Presently Project Director, District Urban Development Cell, Bagalkot District, Bagalkot) - Reg.

Ref:- 1) Government Order No. 138 ಸೇವೆ 2016 Bengaluru dated 17/12/2016 entrusting inquiry against Sri I.A. Kakola.

2) Government Order No. 156 ಡಿವಿಷನ್ 2016, Bengaluru dated 20/3/2017 entrusting inquiry against Sri Ganapathi J. Patil.

3) Nomination order No. UPLOK-1/DE/792/2016, Bengaluru dated 31/12/2016 of Upalokayukta-1, State of Karnataka, Bengaluru in relation to Sri I.A. Kakola.

4) Nomination order No.UPLOK-1/DE/862/2017, Bengaluru dated 7/7/2017 of Upalokayukta-1, State of Karnataka, Bengaluru in relation to Sri Ganapathi J Patil

5) Inquiry Report dated 16/7/2019 of Additional Registrar of Enquiries-10, Karnataka Lokayukta, Bengaluru

The Government in Public Works, Ports and Inland Water Transport Department by its Order dated 17/12/2016, initiated the disciplinary proceedings against Sri I.A. Kakola (Irappa

Adivappa Kakola), the then Junior Engineer, Town Municipal Council, Sankeshwar, Hukkeri Taluk, Belagavi District (Presently working as Assistant Engineer, Public Works Sub Division, Chikkodi, Belagavi District (hereinafter referred to as Delinquent Government Official-1, for short as DGO-1) and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.UPLOK-1/DE/792/2016, Bengaluru dated 31/12/2016 nominated Additional Registrar of Enquiries-10, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGO-1 for the alleged charge of misconduct, said to have been committed by him.

3. The Government in Urban Development Department by its Order dated 20/3/2017, initiated the disciplinary proceedings against Sri Ganapathi J. Patil, the then Chief Officer, Town Municipal Council, Sankeshwar, Hukkeri Taluk, Belagavi District (Presently working as Project Director, District Urban Development Cell, Bagalkot District, Bagalkot) (hereinafter referred to as Delinquent Government Official-2, for short as DGO-2) and entrusted the Departmental Inquiry to this Institution.

4. This Institution by Nomination Order No.UPLOK-1/DE/862/2017, Bengaluru dated 7/7/2017 nominated Additional Registrar of Enquiries-10, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGO-1 for the alleged charge of misconduct, said to have been committed by him

5. The DGO-1 Sri I.A. Kakola (Irappa Adivappa Kakola), the then Junior Engineer, Town Municipal Council, Sankeshwar, Hukkeri Taluk, Belagavi District and DGO-2 Sri Ganapathi J. Patil, the then Chief Officer, Town Municipal Council, Sankeshwar, Hukkeri Taluk, Belagavi District were tried for the following charge:-

“That, you DGO-1 I.A. Kakola (Irappa Adivappa Kakola), the then Junior Engineer, Town Municipal Council, Sankeshwar, Hukkeri Taluk, Belagavi District and DGO-2 Sri Ganapathi J Patil, Chief Officer, Town Municipal Council, Sankeshwar, have committed following dereliction of duty/misconduct:-

You DGOs 1 & 2 have not taken any steps to stop illegal construction abutting to highway made by Sri Davala Malik Mohammed Anif Naikwadi. Due to your inaction there was unauthorised construction in the town limits of Sankeshwar abutting to highway.

Thus you DGOs 1 & 2 being Government/Public servants have failed to maintain absolute integrity besides devotion to duty and acted in a manner unbecoming of a Government Servant and thus committed misconduct as enumerated U/R 3(1) of the Karnataka Civil Services (Conduct) Rules, 1966.”

6. The Inquiry Officer (Additional Registrar of Enquiries-10) on proper appreciation of oral and documentary evidence has held that the Disciplinary Authority has proved the above charge against DGO-1 Sri I.A. Kakola (Irappa Adivappa Kakola), the then Junior Engineer, Town Municipal Council, Sankeshwar, Hukkeri Taluk, Belagavi District and DGO-2 Sri Ganapathi J. Patil, the

then Chief Officer, Town Municipal Council, Sankeshwar, Hukkeri Taluk, Belagavi District.

7. 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.

8. As per the First Oral Statement submitted by DGOs 1 & 2,
- (i) DGO-1 Sri I.A. Kakola (Irappa Adiveppa Kakola) is due to retire from service on 31/5/2025;
  - (ii) DGO-2 Sri Ganapathi J Patil is due to retire from service on 30/9/2044.

9. Having regard to the nature of charge proved against DGO-1 Sri I.A. Kakola (Irappa Adiveppa Kakola) and DGO-2 Sri Ganapathi J. Patil;


(i) it is hereby recommended to the Government for imposing penalty of withholding four annual increments payable to DGO-1 Sri I.A. Kakola (Irappa Adiveppa Kakola), the then Junior Engineer, Town Municipal Council, Sankeshwar, Hukkeri Taluk, Belagavi District with cumulative effect and also for deferring the promotion of DGO-1 Sri I.A. Kakola (Irappa Adiveppa Kakola) for a period of two years, whenever he becomes due for promotion.

(ii) it is hereby recommended to the Government for imposing penalty of withholding four annual

increments payable to DGO-2 Sri Ganapathi J. Patil, the then Chief Officer, Town Municipal Council, Sankeshwar, Hukkeri Taluk, Belagavi District with cumulative effect and also for deferring the promotion of DGO-2 Sri Ganapathi J Patil for a period of two years, whenever he becomes due for promotion.

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

Connected records are enclosed herewith.

  
(JUSTICE N. ANANDA) 18/8  
Upalokayukta-1,  
State of Karnataka,  
Bengaluru

