

BEFORE THE ADDITIONAL REGISTRAR, ENQUIRIES-11

KARNATAKA LOKAYUKTA, BENGALURU

ENQUIRY NUMBER: LOK/INQ/14-A/82/2012

ENQUIRY REPORT Dated: 15/07/2019

Enquiry Officer: V.G.Bopaiah  
Additional Registrar  
Enquiries-11  
Karnataka Lokayukta  
Bengaluru.

\*\*\*\*\*

Delinquent Government Official : Sri. Shivaputhra

Discharged duties as  
Panchayath Development  
Officer, Ballatagi Grama  
Panchayath, Manvi Taluk,  
Raichur District in the year  
2011.

Due for retirement on  
superannuation on  
31/05/2043.

\*\*\*\*\*

1. In the year 2011 Delinquent Government Official (in short, "DGO") was working as Panchayath Development Officer attached to Ballatagi Grama Panchayath, Manvi Taluk, Raichur District. He is due for retirement on superannuation on 31/05/2043.
2. Background for initiating the present inquiry against the DGO needs to be narrated in brief. One Sri. J. Mukkanna Ballatagi (hereinafter will be referred to as "complainant") is the resident of Ballatagi Village, Manvi Taluk, Raichur District. According to the complainant, he along with one Husenappa executed drainage from the house of one Ramaiah upto the house of one Jatteppa at

15-7-2019

463

Ballatagi Village during the year 2010-11 at Rs.3 lakhs under Mahathma Gandhi Rural Employment Guarantee Scheme under the oral instructions of DGO and one Narasingappa who then was working as Junior Engineer. Subsequent to the execution of work, Narasingappa measured the formation of drainage. Check measurement has been conducted by one Prakash who then was working as Assistant Executive Engineer. A sum of Rs.1,77,800/- is already paid towards labour charges through Pragathi Grameena Bank, Ballatagi. A sum of Rs.1,11,364/- is outstanding. According to the complainant, DGO demanded illegal gratification of Rs.30,000/- i.e., at the rate of 10% on the bill amount. On 16/03/2011 between 11.00 A.M and 11.30 A.M the complainant recorded the said demand of DGO in the mobile handset assigned with number 9900858013 which is assigned to him. The complainant approached the Police Inspector (hereinafter will be referred to as "Investigating Officer") attached to Lokayukta Police Station, Raichur on 21/03/2011 and orally complained against the DGO. The Investigating Officer got reduced the oral complaint of the complainant into writing with the help of computer between 12.15 P.M and 1.00 P.M and after obtaining the signature of the complainant on the complaint registered case against the DGO in crime number 7/2011 of Lokayukta Police Station, Raichur for the offence punishable under section 7, for the offence defined under section 13(1)(d) which is punishable under section 13(2) of The Prevention of Corruption Act, 1988 and submitted FIR to the Court of Principal District and Sessions Judge, Raichur. Thereafter, the Investigating Officer secured the shadow witness by name Tirupathi Dasar and panch witness by name Dawood to Lokayukta Police Station, Raichur. The complainant placed thirty currency notes of denomination of Rs.1000/- each before the

15-7-2019

Investigating Officer. On the instructions of the Investigating Officer, the panch witness entered the numbers of currency notes on a sheet of paper. The Investigating Officer got applied phenolphthalein powder on the above notes. On the instructions of the Investigating Officer the panch witness placed the tainted notes in the left side pocket of shirt of the complainant. The Investigating Officer got prepared solution with water and sodium carbonate powder and obtained sample of the same in a bottle. On the instructions of the Investigating Officer, the panch witness immersed fingers of his hands in the residual solution. The said finger wash of the panch witness turned to pink colour. The Investigating Officer seized the said wash in a bottle. The Investigating Officer instructed the complainant to approach the DGO and to give tainted notes to DGO in case of demand by any mode by DGO. The Investigating Officer further instructed the complainant to communicate by combing hair in case of acceptance of tainted cash by DGO. The Investigating Officer instructed the shadow witness to accompany the complainant and to observe as to what transpires between the complainant and DGO. With the above process the Investigating Officer conducted pre-trap mahazar.

3. Thereafter, on the same day i.e., on 21/03/2011 the Investigating Officer along with his staff, complainant, shadow witness and panch witness left Lokayukta Police Station, Raichur and reached a place called Manvi at 4.00 P.M. The complainant along with the shadow witness went to the office of DGO where DGO was not found and therefore the Investigating Officer along with his staff, complainant, shadow witness and panch witness returned to Lokayukta Police Station, Raichur where the complainant returned the tainted cash to the Investigating Officer. The Investigating

15-7-2019

Cpbk

Officer got removed phenolphthalein powder from the currency notes and instructed the complainant, panch witness and shadow witness to appear on the next day.

4. On 22/03/2011 the complainant, shadow witness and panch witness appeared before the Investigating Officer in Lokayukta Police Station, Raichur where the Investigating Officer again conducted pre-trap mahazar with the formalities which are followed while conducting the very first pre-trap mahazar dated 21/03/2011.
5. Subsequent to pre-trap mahazar dated 22/03/2011, the Investigating Officer along with his staff, complainant, shadow witness and panch witness left Lokayukta Police Station, Raichur at 9.15 A.M and reached a place called Manvi at 10.00 A.M. Afterwards, the complainant rang up to the cell phone of DGO. Since DGO has not picked up the call the complainant contacted the computer operator by name Devendra who in turn responded that DGO is in the residential room of DGO. Thereafter, the complainant along with shadow witness proceeded to the room in the building opposite to Mallikarjuna Film Talkies, Manvi. After reaching the said building, the complainant and shadow witness entered the room which was occupied by DGO. After the entry of the complainant and shadow witness to the residential room of DGO, DGO came out of the room and stepped down along with the complainant and proceeded with the complainant on the motor cycle and stopped the motor cycle in front of "S.S.Patil Computer" in front of Taluk Panchayath Office. The shadow witness arrived at the place. The complainant got down from the pillion of the motor cycle. The complainant questioned the DGO about the cheque. The DGO asked whether cash of Rs. 30,000/- as told earlier is brought or not. In response, the complainant replied in the

15-7-2019

affirmative and offered tainted cash of Rs. 30,000/-. The DGO accepted the tainted cash with both hands. The complainant combed the hair. At that time suspicion lingered in the mind of DGO and therefore, handed over the tainted cash to Devendra telling that he would receive the same later and saying so proceeded on the motor cycle towards I.B road. Devendra placed the tainted cash in the right side front pocket of his pant. It was then about 11:30 A.M.

6. Immediately thereafter, the Investigating Officer along with his staff and panch witness rushed there and apprehended Devendra. The Investigating Officer disclosed his identity to Devendra and thereafter got prepared solution with water and sodium carbonate powder in two glasses and obtained sample of the same in a bottle. On the instructions of the Investigating Officer, Devendra immersed fingers of right hand in the solution placed in a glass and immersed fingers of left hand in the solution placed in another glass. Finger wash of right hand of Devendra turned to pink colour. Finger wash of left hand of Devendra turned to light pink colour. The Investigating Officer seized those wash in separate bottles. On being questioned by the Investigating Officer about tainted cash, Devendra expressed that tainted cash is in the right side pant pocket of his pant. The Investigating Officer got lifted the said cash with the help of the shadow witness and panch witness. Numbers of currency notes corresponded with the numbers noted on the sheet of paper during pre-trap mahazar. The Investigating Officer seized the said tainted cash. The Investigating Officer provided alternate pant to Devendra and after getting removed the pant of Devendra got washed the right side pocket of pant in separate solution prepared with water and sodium carbonate powder. The said wash turned to pink colour.

15-7-2015

465

The Investigating Officer seized the said wash in a bottle and also seized the pant of Devendra. On being questioned by the Investigating Officer about the manner in which Devendra possessed the tainted cash, Devendra offered explanation in writing. In the course of the said statement in writing, Devendra stated that DGO placed a bundle of currency notes with him with instructions to keep the same and left the said place.

7. Afterwards, the staff of the Investigating Officer secured the DGO from the office of Ballatagi Grama Panchayath and brought before the Investigating Officer. The Investigating Officer got prepared solution with water and sodium carbonate powder in two glasses. On the instructions of the Investigating Officer, DGO immersed fingers of right hand in the solution kept in a glass and immersed fingers of left hand in the solution kept in another glass. Finger wash of right hand of DGO turned to pink colour. Finger wash of left hand of DGO turned to light pink colour. The Investigating Officer seized those wash in separate bottles. On being questioned by the Investigating Officer about what transpired, DGO offered explanation in writing. In the course of statement in writing, DGO stated that the complainant has been insisting for payment under NREGA Scheme stating that the complainant got executed the work through labourers after purchasing the raw materials and thereafter took to one Ex MLA by name Gangadhara Nayaka and thereafter on the permission of Junior Engineer paid the amount shown under nominal muster roll. It is stated that the Nodal Officers ordered payment after completion of work and thereafter the matter was brought into notice of the Executive Officer and also into the notice of Gangadhara Nayaka who instructed not to pay until the work is completed.

 15-7-2019

- Thereafter, there was threat for payment. Afterwards, the complainant insisted for purchase of materials through Devendra.
8. Explanation offered by DGO was found not satisfactory. The Investigating Officer conducted trap mahazar in the office of Executive Officer, Taluk Panchayath, Manvi.
  9. The Investigating Officer brought the DGO and Devendra to Lokayukta Police Station, Raichur. During investigation the Investigating Officer seized the records pertaining to the work executed. Investigation disclosed prima facie case against the DGO and Devendra. On completion of investigation, charge sheet came to be filed in the Court of Principal District and Sessions Judge, Raichur against DGO and Devendra.
  10. On the basis of the report of the Additional Director General of Police, Karnataka Lokayukta, Bengaluru along with the investigation papers made available by the Police Inspector attached to Lokayukta Police Station, Raichur, Hon'ble Upalokayukta -1, Karnataka in exercise of the powers conferred upon under section 7(2) of The Karnataka Lokayukta Act, 1984 took up investigation which, on the basis of the records prima facie unfolded that DGO has committed misconduct within the purview of Rule 3 (1) of The Karnataka Civil Services (Conduct) Rules, 1966 and accordingly, in exercise of the powers conferred upon under section 12(3) of The Karnataka Lokayukta Act, 1984, recommended the competent authority to initiate disciplinary proceedings against the DGO and to entrust the inquiry to the Hon'ble Upalokayukta under Rule 14-A of The Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.
  11. Subsequent to the report dated 21/01/2012 under section 12 (3) of The Karnataka Lokayukta Act, 1984, Government Order bearing

15.7.2019

466

number ಗ್ರಾಅಪ/62/ ಗ್ರಾಪಂಕಾ/2012 ಬೆಂಗಳೂರು, ದಿನಾಂಕ 13/02/2012 has been issued by the Under Secretary to the Government of Karnataka, Department of Rural Development and Panchayath Raj entrusting the inquiry to the Hon'ble Upalokayukta, Karnataka under Rule 14-A of The Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.

12. Subsequent to the Government Order ಗ್ರಾಅಪ/62/ ಗ್ರಾಪಂಕಾ/2012 ಬೆಂಗಳೂರು, ದಿನಾಂಕ 13/02/2012 Order number LOK/INQ/14-A/82/2012 Bengaluru dated 18/02/2012 has been ordered by the Hon'ble Upalokayukta-1, Karnataka nominating the Additional Registrar, Enquiries-4, Karnataka Lokayukta, Bengaluru as Inquiry Officer to frame charges and to conduct departmental inquiry against the DGO.

13. Articles of charge dated 27/06/2012 at Annexure-I which includes statement of imputation of misconduct at Annexure-II framed by the then Additional Registrar, Enquiries-4, Karnataka Lokayukta, Bengaluru is the following:

"ANNEXURE NO.1  
CHARGE

2. That, you DGO Sri. Shivaputra, the DGO while working as the Panchayath Development Officer at Ballatage Grama Panchayath in Manvi Taluk of Raichur district, the complainant namely Mukkanna s/o Durgappa along Sri Hussainappa s/o Kariappa of Ballattagi village had completed drainage work of two sides of Ballattagi village under Mahathma Gandhi National Rural Employment Guarntee Scheme for the year 2010-11 and in that connection, bill for Rs.1,77,800/- was passed and paid, but an amount of Rs.1,11,364/- the cost of other Bill was not paid and on request by complainant you asked for bribe of Rs.30,000/- and on

15-7-2019



22/03/2011 you received the said amount of Rs.30,000/-[ towards bribe to show official favour, failing to maintain absolute integrity and devotion to duty, the act of which was un-becoming of a Government Servant and thereby committed mis-conduct as enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules, 1966.

ANNEXURE NO.II

STATEMENT OF IMPUTATIONS OF MISCONDUCT

The complainant namely Mukkanna s/o Durgappa resident of Ballatagi village had completed drainage work as the work of Rs. 3lakh under Mahatma Gandhi National Rural Employment scheme for the year 2010-11 was sanctioned in his favour as per oral instructions of the DGO. After completion of the said work, Sri. Narasingappa, the Junior measured the work and Sri Prakash, the Assistant Executive Engineer check measured the same. The complainant submitted bill for Rs. 1,77,800/- and that bill was passed and payment was made. But, an amount of Rs.1,11,364/- for another bill was not passed and not paid. When the complainant approached the DGO and requested for payment, the DGO demanded bribe at the rate of 10% on the sanctioned amount of Rs.3 lakh amounting to Rs.30,000/-. Even on 16-03-2011, the complainant made request with the DGO. The complainant was not willing to pay bribe to the DGO. Complainant lodged complaint before the Lokayukta Police Inspector of Raichur (hereinafter referred to as the Investigating Officer, for short, "the I.O."). The I.O. registered the complaint in Cr. no.7/2011 for the offences punishable U/S 7, 13(1)(d) R/W 13(2) of the Prevention of Corruption Act 1988. During the course of investigation on 22-03-

15-7-2019

467

2011, the I.O. trapped the DGO at Manvi when he took bribe of Rs.30,000/- from the complainant in the presence of panch witnesses. The I.O. recorded the statement of the DGO, complainant and panch witnesses. The I.O. seized the tainted amount from the DGO under mahazar after following post-trap formalities. On enquiry by the I.O., the DGO gave his written explanation regarding possession of the said tainted amount. The record of investigation and the materials collected by the I.O. showed that, the DGO had committed mis-conduct failing to maintain absolute integrity and devotion to duty and acted in a matter un-becoming of a Government Servant. As the materials on record showed prima facie case about the DGO receiving bribe for discharging his official duty as a public servant a suo-moto investigation was taken up U/S 7(2) of The Karnataka Lokayukta Act against the DGO. An observation note was sent to the DGO calling for his explanation. The reply given by the DGO was not convincing and not satisfactory to drop the proceedings. As there was prima facie case showing that the DGO committed mis-conduct as per rule 3(1) of KCS (Conduct) Rules, 1966, a report U/S 12(3) of the Karnataka Lokayukta Act was sent to the Competent Authority with recommendation to initiate disciplinary proceedings against the DGO and to entrust the department enquiry to the Hon'ble Upalokayukta U/R 14-A of K.C.S. (CCA) Rules. Accordingly, the Competent Authority initiated disciplinary proceedings and entrusted the enquiry to the Hon'ble Upalokayukta. Hence, the charge".

14. In response to due service of articles of charge, DGO entered appearance before the Additional Registrar, Enquiries-4, Karnataka Lokayukta, Bengaluru on 14/08/2012. In the course

15-7-2017

of first oral statement of DGO recorded on 14/08/2012 he pleaded not guilty. Subsequently, DGO engaged advocate for his defence.

15. In the course of written statement of DGO filed on 05/03/2015, DGO referred to the articles of charge and contended that materials do not disclose prima facie case against him. It is contended that Devendra is a private individual who was entrusted with the task of computer operation who is not connected to the official duty of DGO. It is contended that tainted cash has been seized from the possession of Devendra. It is contended that at the instance of some interested persons tainted cash was given to Devendra in order to suit the convenience to initiate prosecution. It is contended that phenolphthalein test of DGO resulted in the negative. His statement in writing given before the Investigating Officer has been referred to. It is contended that on 23/03/2011 he reached Taluk Panchayath Office on the motorcycle at which point of time the complainant was near the computer shop in front of Taluk Panchayath office and there was attempt to place tainted cash at his hands by force but the said attempt ended in failure. It is stated that Devendra is the close associate of the complainant who was interested in the matter. It is contended that official work of the complainant was not pending with DGO. It is contended that the concerned Assistant Executive Engineer used to look after the task of payment. Thus, it is sought to contend that DGO not guilty of misconduct.

16. As per Order number LOK/INQ/14-A/2014 dated 14/03/2014 of Hon'ble Upalokayukta-2, Karnataka this file has been transferred to the Additional Registrar, Enquiries-5,

15-7-2019

468

Karnataka Lokayukta, Bengaluru. As per Order number UPLOK-1/DE/2016 Bengaluru dated 03/08/2016 of the Hon'ble Upalokayukta-1, Karnataka this file has been transferred to the Additional Registrar, Enquiries-11, Karnataka Lokayukta, Bengaluru.

17. The disciplinary authority has been examined the complainant as PW1, panch witness by name Sri. Dawood as PW2, shadow witness by name Sri. Tirupathi Dasar as PW3, Sri. Ramanna Karajagi who was working as Police Constable in Lokayukta Police Station, Raichur from the month of July 2008 till the month of April 2011 as PW4.
18. During evidence of PW1 attested copy of his complaint dated 21/03/2011 in a single sheet is marked as per Ex P1, his signature found on Ex P1 is marked as per Ex P1(a), attested copy of pre-trap mahazar dated 21/03/2011 in two sheets is marked as per Ex P2, his signature found on Ex P2 is marked as per Ex P2(a), attested copy of mahazar dated 21/03/2011 in two sheets is marked as per Ex P3, his signature found on Ex P3 is marked as per Ex P3(a), attested copy of subsequent pre-trap mahazar dated 22/03/2011 in two sheets is marked as per Ex P4, his signature found on Ex P4 is marked as per Ex P4(a), attested copy of photographs in a single sheet is marked as per Ex P5, his images found on Ex P5 are marked as per Exs P5(a) and P5(b), attested copy of photographs in a single sheet is marked as per Ex P6, his images found on Ex P6 are marked as per Exs P6(a) and P6(b), attested copy of photographs in a single sheet is marked as per Ex P7, his image found on Ex P7 is marked as per Ex P7(a), attested copy of photographs in a single sheet is marked as per Ex P8, his image found on Ex P8 is marked as per Ex P8(a), attested copy of photographs in a

15.7.2017

single sheet is marked as per Ex P9, his image found on Ex P9 is marked as per Ex P9(a), attested copy of trap mahazar dated 22/03/2011 in seven sheets is marked as per Ex P10, his signature found on Ex P10 is marked as per Ex P10(a). During evidence of PW2, attested copy of statement in writing dated 22/03/2011 of DGO in two sheets is marked as per Ex P11, attested copy of statement in writing dated 22/03/2011 of Devendra in a single sheet is marked as per Ex P12, fourteen attested sheets of the file of complainant are together marked as per Ex P13.

19. It is reported that the Investigating Officer is no more and therefore the disciplinary authority has examined PW4 who was with the Investigating Officer during pre-trap mahazars and trap mahazar.
20. During second oral statement of DGO recorded on 08/03/2019 he has stated that he would get himself examined as defence witness and that he would also examine defence witnesses by name Sri. Mudukappa and Sri. Shanthappa.
21. DGO got himself examined as DW1. During his evidence, certified copy of the judgment dated 31/10/2014 consisting of twenty three pages in Special (Corruption) case number 17/2011 passed by the Principal District and Sessions Judge, Raichur is marked as per Ex D1. DGO has examined a defence witness by name Sri. Shanthappa as DW2. During evidence of DW2 attested copy of attendance register in a single sheet maintained in the office of DGO is marked as per Ex D2.
22. Since DGO has adduced defence evidence incriminating circumstances which appeared against him are not put to him by way of questionnaire.

15.7.2019

23. In the course of written argument of the Presenting Officer filed on 19/06/2019 she has referred to the evidence on record. It can be gathered from the words employed in the course of written argument of the Presenting Officer that she intended to contend that the charge stands established.

24. In the course of written argument of DGO filed on 28/06/2019 reference is made to the facts and evidence on record. It is contended that PW1 has turned hostile and therefore his evidence does not establish the alleged demand and acceptance of illegal gratification. It is contended that evidence of PW2 is of hearsay in nature which does not establish the alleged demand and acceptance of illegal gratification. It is contended that evidence of PW3 equally does not establish the alleged demand and acceptance of illegal gratification. It is contended that evidence of PW4 is in the nature of circumstantial evidence which does not attract the alleged complicity of DGO. Referring to the evidence of DGO and the evidence of DW2 it is contended that their evidence would point out that DGO has been falsely implicated.

25. In tune with the articles of charge, point which arises for consideration is whether, during the tenure of DGO as Panchayath Development Officer, Ballatagi Grama Panchayath, Manvi Taluk, Raichur District in the year 2011, in connection with release of a sum of Rs.1,11,364/- which was due to the complainant by name Sri.Mukkanna Ballatagi, DGO demanded illegal gratification of Rs.30,000/- from the complainant at about 11.30 A.M on 22/03/2011 in front of "S.S.Patil Computer" near Mallikarjuna Film Talkies situated at Manvi, Raichur District and immediately thereafter placed the said cash with Sri. Devendra with instructions to keep the same for the time being and during

15-7-2019

investigation conducted by the Police Inspector attached Lokayukta Police Station, Raichur in crime number 7/2011 of Lokayukta Police Station, Raichur DGO failed to offer satisfactory explanation for having come in contact with tainted cash and touching recovery of tainted cash from Devendra and thereby DGO is guilty of misconduct within the purview of Rule 3 (1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966?

26. In the course of evidence the complainant who is examined as PW1 has not supported pre-trap proceedings and trap proceedings for the reasons well within his knowledge. He has stated that for the very first time he saw the DGO in the Court at Raichur and thereafter, for the second time he is looking at the DGO on the day of his evidence before this authority on 05/01/2017. It is his evidence that he has not lodged complaint against DGO. He admits his signature at Ex P1(a) found on the attested copy of his complaint at Ex P1. He also admits his signature found on Exs P2, P3 and P4. Exs P5, P6 and P7 are the attested copies of sheets in which xerox impressions photographs are found. He admits impressions his photographs at Ex P5(a), P5(b), P6(a)P6(b) and P7(a). He pleads inability to state the place at which originals of the above photographs are flashed. Upon going through his evidence it is crystal clear that he is mainly aimed at safeguarding the interest of DGO though initially he set law into motion against the DGO. During cross examination by the Presenting Officer after treating hostile he denies the suggestions posed to him suggesting the proceedings of pre-trap mahazar. Though he has denied those suggestions, on the basis of his impressions found on the photographs flashed during pre-trap mahazar it can be held that he was very much present during pre-trap proceedings. It needs to be expressed that his attempts to

15-7-2015

470

suppress the truth of pre-trap proceedings ultimately went in vain. It is in the evidence of PW2 that he along with PW3 appeared before the Investigating Officer in Lokayukta Police Station, Raichur on 21/03/2011 where the complainant was present. It is in his evidence that he came to know that complaint was lodged by the complainant with allegations that DGO demanded illegal gratification. It is in his evidence that the complainant placed thirty currency notes of denomination of Rs.1000/- each and that some powder was applied on the above notes by Lokayukta Police staff. It is in his evidence that he placed the tainted notes in the left side pocket of shirt of the complainant which is found in Ex P6(b). It is in his evidence that on the instructions of Lokayukta Police staff he immersed fingers of his hands in the solution and consequently the said solution turned to pink colour and with the above process pre-trap mahazar the attested copy of which is at Ex P2 has been drawn. He has spoken to that since DGO was not found in the office of DGO he along with the complainant, shadow witness, Investigating Officer and the staff of Investigating Officer returned to Lokayukta Police Station, Raichur where the complainant returned the tainted cash in token whereof a mahazar the attested copy of which is at Ex P3 has been drawn. He has spoken to that on the next day i.e., on 22/03/2011 he along with PW3 appeared before the Investigating Officer in Lokayukta Police Station, Raichur where subsequent pre-trap mahazar the attested copy of which is at Ex P4 has been drawn. Suggestions made to him during his cross examination assailing the proceedings found at Exs P2 to P4 are denied. Nothing worthy is brought out during his cross examination to disbelieve his testimony touching Exs P2 to P4 and therefore on the strength of

 15-7-2019



his evidence the proceedings as found in Exs P2 to P4 needs to be accepted.

27. The shadow witness who examined as PW3 has spoken in his evidence that the very first pre-trap mahazar has been conducted and thereafter on the very day the DGO was not found in the office of DGO and therefore on the next day he went to Lokayukta Police Station, Raichur where pre-trap mahazar the attested copy of which is at Ex P4 has been drawn. His evidence touching Exs P2 and P4 has remained unchallenged and therefore on the strength of his evidence Exs P2 and P4 needs to be accepted.
28. PW4 was working as Police Constable in Lokayukta Police Station, Raichur from the month of July 2008 to the month of April 2011. As could be seen from records, the Investigating Officer is no more. Evidence of PW4 would show that in the case on hand he assisted the Investigating Officer. It is in his evidence that on the strength of the complaint filed by the complainant before the Investigating Officer on 23/03/2011 case against the DGO has been registered by the Investigating Officer. It is in his cross examination that he typed the complaint with the help of computer in Lokayukta Police Station, Raichur. Suggestion made to him during cross examination suggesting that the Investigating Officer dictated the contents of complaint has been denied by him. Suggestion made to him suggesting that he has not typed the complaint equally has been denied by him. His evidence touching registration of case by the Investigating Officer has remained unchallenged.
29. In the course of evidence of PW4 has spoken to touching the presence of the panch witness and shadow witness in Lokayukta Police Station, Raichur and stated that the Investigating Officer conducted pre-trap mahazar. It is in his evidence that subsequent

15-7-2019

471

to pre-trap mahazar he along with the Investigating Officer, his colleagues, the complainant, PWs2 and 3 reached near the Taluk Panchayath Office at Manvi where DGO was not found and therefore returned to Lokayukta Police Station, Raichur where the Investigating Officer conducted mahazar the attested copy of which is at Ex P3. It is in his evidence that on the next day i.e., on 22/03/2011 the complainant, PWs2 and 3 appeared in Lokayukta Police Station, Raichur where the Investigating Officer conducted pre-trap mahazar the attested copy of which is at Ex P4. During cross examination attempts are made to challenge Exs P2 to P4. Upon appreciation of his entire cross examination touching Exs P2 to P4 I find no inherent infirmity in his evidence touching Exs P2 to P4 and therefore his evidence touching Exs P2 to P4 is worthy of acceptance. On the strength of the evidence as discussed above I hold that pre-trap proceedings are established.

30. In the course of evidence the complainant has stated that he has not filed complaint and that Devendra is not known to him. Though he has stated so, evidence of PW4 would show that complaint was lodged by the complainant before the Investigating Officer on 21/03/2011 which portion of his evidence establishes lodging of complaint by the complainant. In the course of evidence the complainant has identified his signature at Ex P10(a). Ex P10 is the attested copy of trap mahazar drawn on 22/03/2011. Though PW1 has turned hostile and not supported the alleged demand and acceptance suffice to mention that the tenor of his evidence would show that he intended to safeguard the interest of DGO and therefore, though he set law into motion with aid of the complaint he subsequently has not supported his own cause for the reasons well within his knowledge.

 15-7-2019

31. It is in the evidence of PW2 that on 22/03/2011 the complainant and PW3 entered the residential room of DGO and thereafter DGO came out of the room and moved on a motorcycle and afterwards the computer operator was apprehended near a computer shop and afterwards the said computer operator was brought to the office of Taluk Panchayath, Manvi. Upon perusal of his evidence it can be gathered that the computer operator who was apprehended is none other than Devendra who was working as computer operator on contract basis in the office of DGO. Suggestion made to PW2 during cross examination suggesting that he along with the complainant, PW2 and Lokayukta Police staff has not been to the office of Talulk Panchayath, Manvi has been denied by him. Though he has stated during cross examination that he has not seen the complainant giving cash to DGO his evidence during cross examination would show seizure of cash of Rs.30,000/- from the possession of Devendra. Evidence of PW2 would show that after Devendra was brought to Taluk Panchayath Office, Manvi fingers of hands of Devendra are subjected to wash with the help of solution and consequently the said wash turned to pink colour. The said portion of his evidence though has been assailed during cross examination I find nothing to disbelieve the evidence of PW2 touching change of colour of finger wash of Devendra. Since it is brought out during cross examination of PW2 that tainted notes are seized from the possession of Devendra nothing more is needed to hold that the Investigating Officer seized the tainted cash from the possession of Devendra. Evidence of PW2 establishes that finger wash of right side front pocket of pant of Devendra turned to pink colour which lends assurance to the fact that Devendra accepted tainted cash from the complainant.

15.7.2019

472

32. In the course of evidence PW2 has referred to Ex P11 which is the attested copy of statement of DGO given before the Investigating Officer. He equally has referred to Ex P12 which is the attested copy of statement of Devendra given before the Investigating Officer. Exs P11 and P12 are not hit by sections 24 to 26 of The Indian Evidence Act, 1872. Ex P12 would show that Devendra has stated in the course of the said statement before the Investigating Officer that cash has been handed over to him by DGO. The said statement establishes that he received tainted cash from DGO. In the course of evidence, DGO who got himself examined as DW1 has not attempted to dispute the correctness of Ex P12 and therefore contents of Ex P12 incriminates the DGO. Even during cross examination of PW2 nothing is suggested to PW2 denying the said statement of Devendra. No doubt, during cross examination though PW2 has stated that the contents of Ex P11 and P12 are not within his memory the said answer will not lend assurance to the defence.
33. PW3 who is the shadow witness though has not spoken to anything about the alleged demand and acceptance by DGO his silence, in the presence of recovery of tainted cash from the possession of Devendra coupled with the contents of Ex P12 will not lend assurance to the defence.
34. Evidence of PW4 would show that on the day of trap he noticed that at about 10.30 A.M. the complainant, shadow witness and DGO came out of the room of DGO. Suggestion made to him during cross examination suggesting that DGO was not in the residential room of DGO has been denied by him. It is brought out during his cross examination that soon after the complainant came out of the residential room of DGO he has not enquired the complainant as to what transpired between the complainant and

15-7-2019

DGO inside the room of DGO. The tenor of the said answer would lead to draw inference touching the presence of DGO in the residential room of DGO.

35. It is in the evidence of PW4 that after DGO came out of the residential room DGO proceeded on a motorcycle along with the complainant. This portion of his evidence has been assailed during his cross examination suggesting that DGO has not taken the complainant on the pillion of the motorcycle on 22/03/2011. The said suggestion has been denied by him. It is in the evidence of PW4 that he noticed the complainant giving cash to DGO and that DGO received the said cash and handed over the same to Devendra. This portion of his evidence has not been specifically assailed during his cross examination and therefore the said portion of his answer needs acceptance which unerringly establishes acceptance of tainted cash by DGO from the complainant and handing over the tainted cash to Devendra. It can be gathered from the evidence of PW4 that at the time of DGO accepting cash PW4 was very much present at that spot and therefore he had the occasion to witness as to what transpired. PW4 has spoken to finger wash hands of Devendra in the solution prepared with water and sodium carbonate powder and also wash of right side front pocket of pant of Devendra and the consequential change of colour of the said wash.

36. Upon meticulous appreciation of the evidence as discussed about it stands established that after coming out of the residential room of DGO, DGO accepted tainted cash and since suspicion lingered in his mind that he may be apprehended by Lokayukta Police staff he handed over the tainted cash to Devendra as a step of attempt to escape from the scene. Handing over of cash to Devendra with instructions to keep the same for the time being is

15/7/2015

423

suggestive of the fact that DGO intended to receive back the said cash from Devendra. Evidence on record as discussed above unerringly establishes that Devendra accepted tainted cash for and on behalf of DGO.

37. In the course of evidence DGO (DW1) has spoken to that at the relevant point of time he was working as in-charge Panchayath Development Officer attached to Ballatagi Grama Panchayath. It is in his evidence that he was secured to the office of the Executive Officer, Taluk Panchayath, Manvi on 22/03/2011 where he was introduced to Lokayukta Police staff. It is his evidence that he was told by Lokayukta Police staff and Executive Officer attached to Taluk Panchayath, Manvi that complaint with allegations of demand for illegal gratification is pending against him. It is his evidence that he told that on 25/05/2011 he paid wages to the labourers. He has stated that one Narasingappa who was then working as Junior Engineer was secured by the Executive Officer, Taluk Panchayath, Manvi. He has stated that Lokayukta Police staff got written some bills through Narasingappa. It is his evidence that he has given statement in writing before Lokayukta Police staff in which he has stated that he was receiving anonymous calls for preparing bills. He has stated that finger wash of his hands have not turned to any colour. He has spoken to Ex D1 in which nothing is specifically expressed that DGO was not found in possession of tainted cash. He has stated that since the work was not complete he has not prepared the bills. He has referred to Ex P11 which is the attested copy of his statement in writing given before the Investigating Officer. He has not spelt out the contents of Ex P11 in the course of his evidence. It is his evidence that he neither demanded nor accepted illegal gratification. Material suggestions posed to him by the Presenting

15-7-2019

Officer during his cross examination suggesting the incriminating circumstances are denied by him. He has referred to Ex D1 which is the certified copy of judgment in Special (Corruption) Case number 17/2011 on the file of the Principal District and Sessions Judge, Raichur in which it is seen that DGO who faced trial in the said case on the similar set of charges has been acquitted extending the benefit of reasonable doubt. Nothing is found in Ex D1 that DGO has been honourably acquitted and therefore acquittal of DGO in the said case will not lend support to the defence. Upon careful appreciation of the evidence of DGO I am not persuaded to hold that he has neither demanded nor accepted tainted cash.

38. It is in the evidence of DW2 that on 22/03/2011 he had been to the office of Ballatagi Grama Panchayath where he noticed DGO and one Mudukappa who then was working as Group-D official. He has stated that DGO had marked his attendance in the office on that day and that DGO left the office after 11.00 A.M. His evidence, in my view will not lend assurance to the defence.

39. Upon appreciation of the evidence as discussed above I am of the view that charge levelled against the DGO stands established which attracts misconduct within the purview of Rule 3 (1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 and being of this view I proceed with the following:

R E P O R T

Charge against the DGO by name Sri. Shivaputhra that during the tenure of DGO as Panchayath Development Officer, Ballatagi Grama Panchayath, Manvi Taluk, Raichur District in the year 2011, in connection with release of a sum of Rs.1,11,364/- which was due to the complainant by name Sri.Mukkanna Ballatagi, DGO demanded illegal gratification of

15.7.2019

224

Rs.30,000/- from the complainant at about 11.30 A.M on 22/03/2011 in front of "S.S.Patil Computer" near Mallikarjuna Film Talkies situated at Manvi, Raichur District and immediately thereafter placed the said cash with Sri. Devendra with instructions to keep the same for the time being and during investigation conducted by the Police Inspector attached Lokayukta Police Station, Raichur in crime number 7/2011 of Lokayukta Police Station, Raichur DGO failed to offer satisfactory explanation for having come in contact with tainted cash and touching recovery of tainted cash from Devendra and thereby DGO is guilty of misconduct within the purview of Rule 3 (1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 is proved.

Submit this report to the Hon'ble Upalokayukta-1, Karnataka in a sealed cover forthwith along with connected records.

  
(V.G. BOPALIAH)

Additional Registrar, Enquiries-11,  
Karnataka Lokayukta, Bengaluru.

#### ANNEXURE

##### List of witness examined on behalf of the Disciplinary Authority

- PW 1:- Sri. Mukkanna  
PW 2:- Sri. Dawood  
PW 3:- Sri. Tirupathi Dasar  
PW4:- Sri. Ramanna Karajagi

##### List of witness examined on behalf of DGO:-

- DW 1:- Sri. Shivaputhra (DGO)  
DW 2:- Sri. Shanthappa



List of documents marked on behalf of Disciplinary

Authority:-

- |                              |  |
|------------------------------|--|
| Ex P 1                       | Attested copy of complaint of PW1 dated 21/03/2011 in a single sheet.        |
| Ex P1(a)                     | Signature of PW1 found on Ex P1.   |
| Ex P 2                       | Attested copy of pre-trap mahazar dated 21/03/2011 in two sheets.            |
| Ex P2(a)                     | Signature of PW1 found on Ex P2.   |
| Ex P 3                       | Attested copy of mahazar dated 21/03/2011 in two sheets.                     |
| Ex P3(a)                     | Signature of PW1 found on Ex P3.   |
| Ex P 4                       | Attested copy of subsequent pre-trap mahazar dated 22/03/2011 in two sheets. |
| Ex P4(a),                    | Signature found on Ex P4.  |
| Ex P 5<br>Ex P5(a)&<br>P5(b) | Attested copy of photographs in a single. Images of PW1 found on Ex P5 .     |
| Ex P 6                       | Attested copy of photographs in a single sheet.                              |
| Ex P 7                       | Attested copy of photographs in a single sheet.                              |
| Ex P7(a),                    | Image of PW1 found on Ex P7.   |
| Ex P 8                       | Attested copy of photographs in a single sheet.                              |
| Ex P8(a),                    | Image of PW1 found on Ex P8.   |
| Ex P 9                       | Attested copy of photographs in a single sheet.                              |
| Ex P9(a),                    | Image of PW1 found on Ex P9.   |

15-7-2019

475

- Ex P 10 Attested copy of trap mahazar dated 22/03/2011 in seven sheets.
- Ex P10(a) Signature of PW1 found on Ex P10.
- Ex P 11 Attested copy of statement in writing dated 22/03/2011 of DGO in two sheets.
- Ex P 12 Attested copy of statement in writing dated 22/03/2011 of Devendra in a single sheet.
- Ex P 13 Fourteen attested sheets of the file of complainant.

List of documents marked on behalf of DGO:-

- Ex D1 Certified copy of the judgment dated 31/10/2014 consisting of twenty three pages in Special (Corruption) case number 17/2011 passed by the Principal District and Sessions Judge, Raichur.
- Ex D2 Attested copy of attendance register in a single sheet maintained in the office of DGO.

  
(V.G. BOPAIAH)

Additional Registrar, Enquiries-11,  
Karnataka Lokayukta, Bengaluru.

**GOVERNMENT OF KARNATAKA**



**KARNATAKA LOKAYUKTA**

No.LOK/INQ/14-A/82/2012/ARE-11

Multi Storied Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru-560 001  
Date: 17/07/2019

**RECOMMENDATION**

Sub:- Departmental inquiry against;  
Sri Shivaputhra S/o. Hanumanthappa, Panchayath  
Development Officer, Ballatagi Grama Panchayath,  
Manvi Taluk, Raichur District – Reg.

- Ref:- 1) Government Order No. ಗ್ರಾಅಪ/62/ಗ್ರಾಪಂಚ/2012 Bengaluru  
dated 13/2/2012
- 2) Nomination order No.LOK/INQ/14-A/82/2012 ,  
Bengaluru dated 18/2/2012 of Upalokayukta-1,  
State of Karnataka, Bengaluru
- 3) Inquiry Report dated 15/7/2019 of Additional  
Registrar of Enquiries-11 Karnataka Lokayukta,  
Bengaluru

-----

The Government by its Order dated 13/2/2012, initiated the disciplinary proceedings against Sri Shivaputhra S/o. Hanumanthappa, Panchayath Development Officer, Ballatagi Grama Panchayath, Manvi Taluk, Raichur District (hereinafter referred to as Delinquent Government Official, for short as DGO) and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.LOK/INQ/14-A/82/2012, Bengaluru dated 18/2/2012 nominated Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGO for the alleged charge of misconduct, said to have been committed by him. Subsequently, by Order No. LOK/

INQ/14-A/2014, dated 14/3/2014, the Additional Registrar of Enquiries-5, Karnataka Lokayukta, Bengaluru was re-nominated as inquiry officer to conduct departmental inquiry against DGO. Again, by Order No. UPLOK-1/DE/2016 dated 3/8/2016, the Additional Registrar of Enquiries-11, Karnataka Lokayukta, Bengaluru was re-nominated as inquiry officer to conduct departmental inquiry against DGO.

3. The DGO Sri Shivaputhra S/o. Hanumanthappa, Panchayath Development Officer, Ballatagi Grama Panchayath, Manvi Taluk, Raichur District was tried for the following charge:-

“That, you DGO Sri Shivaputra, the DGO while working as the Panchayath Development Officer at Ballatage Grama Panchayath in Manvi Taluk of Raichur District, the Complainant namely Mukkanna S/o. Durgappa along Sri Hussainappa S/o. Kariappa of Ballattagi Village had completed drainage work of two sides of Ballattagi Village under Mahatma Gandhi National Rural Employment Guarantee Scheme for the year 2010-11 and in that connection, Bill for ₹ 1,77,800/- was passed and paid, but an amount of ₹ 1,11,364/- the cost of other Bill was not paid and on request by Complainant, you asked for bribe of ₹ 30,000/- and on 22/3/2011, you received the said amount of ₹30,000/- towards bribe to show official favour, failing to maintain absolute integrity and devotion to duty, the act of which was unbecoming of a Government Servant and thereby committed misconduct as enumerated U/R 3(1)(i) to (iii) of the Karnataka Civil Services (Conduct) Rules, 1966.”

4. The Inquiry Officer (Additional Registrar of Enquiries-11) on proper appreciation of oral and documentary evidence has held that the charge against the DGO by name Sri Shivaputhra that during the tenure of DGO as Panchayath Development Officer, Ballatagi Grama Panchayath, Manvi Taluk, Raichur District in the year 2011, in connection with release of a sum of ₹1,11,364/- which was due to the Complainant by name Sri Mukkanna Ballatagi, DGO demanded illegal gratification of ₹30,000/- and accepted the same from Complainant at about 11.30 A.M on 22/03/2011 in front of "S.S. Patil Computer" near Mallikarjuna Film Talkies situated at Manvi, Raichur District and immediately thereafter placed the said cash with Devendra with instructions to keep the same for the time being and during investigation conducted by the Police Inspector attached to Lokayukta Police Station, Raichur in Crime Number 7/2011 of Lokayukta Police Station, Raichur, DGO failed to offer satisfactory explanation for having come in contact with tainted cash and touching recovery of tainted cash from Devendra and thereby DGO is guilty of misconduct within the purview of Rule 3(1)(i) to (iii) of the Karnataka Civil Services (Conduct) Rules, 1966 is proved.

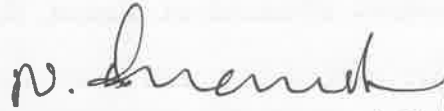
5. On re-consideration of inquiry report, I do not find any reason to interfere with the findings recorded by the Inquiry Officer. It is hereby recommended to the Government to accept the report of Inquiry Officer.

6. As per the First Oral Statement submitted by DGO, he is due to retire from service on 31/5/2043.

7. Having regard to the nature of charge (demand and acceptance of bribe) proved against DGO Sri Shivaputhra, it is hereby recommended to the Government for imposing penalty of Compulsory Retirement from service on DGO Sri Shivaputhra S/o. Hanumanthappa, Panchayath Development Officer, Ballatagi Grama Panchayath, Manvi Taluk, Raichur District.

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

Connected records are enclosed herewith.

  
(JUSTICE N. ANANDA) 17/7  
Upalokayukta-1,  
State of Karnataka,  
Bengaluru