

ಕರ್ನಾಟಕ ಸರ್ಕಾರ



ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ

ನಂ.ಉಪಲೋಕ್-1/ಡಿ.ಇ/1096/2017/ಎ.ಆರ್.ಇ-11

ಬಹುಮಹಡಿಗಳ ಕಟ್ಟಡ,
ಡಾ:ಬಿ.ಆರ್.ಅಂಬೇಡ್ಕರ್ ವೀದಿ,
ಬೆಂಗಳೂರು-560001.
ದಿನಾಂಕ: 26ನೇ ಸೆಪ್ಟೆಂಬರ್ 2023.

-:: ಶಿಫಾರಸ್ಸು ::-

ವಿಷಯ: ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ಶ್ರೀ. ಬಿ. ದಿವಾಕರ್, ರಾಜಸ್ವ ನಿರೀಕ್ಷಕರು, ನಾಡ ಕಚೇರಿ, ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು, ನಾಗರಬಾವಿ ವೃತ್ತ, ಬೆಂಗಳೂರು ಇವರ ವಿರುದ್ಧದ ಇಲಾಖಾ ವಿಚಾರಣೆ ಕುರಿತು.

- ಉಲ್ಲೇಖ: (1) ಸರ್ಕಾರಿ ಆದೇಶ ಸಂಖ್ಯೆ: ಕಂಇ 68 ಬಿಡಿಪಿ 2017, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 30/10/2017.
(2) ಉಪಲೋಕಾಯುಕ್ತರು, ಕರ್ನಾಟಕ ರಾಜ್ಯ, ಬೆಂಗಳೂರು ರವರ ನಾಮನಿರ್ದೇಶನ ಆದೇಶ ಸಂಖ್ಯೆ ಉಪಲೋಕ್-1/ಡಿಇ/1096/2017, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 13/11/2017.
(3) ಅಪರ ನಿಬಂಧಕರು ವಿಚಾರಣೆಗಳು-11, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಬೆಂಗಳೂರು ರವರ ವಿಚಾರಣಾ ವರದಿ ದಿನಾಂಕ: 21/09/2023.

ಸರ್ಕಾರದ ಆದೇಶ ದಿನಾಂಕ: 30/10/2017 ರಂತೆ ಶ್ರೀ. ಬಿ. ದಿವಾಕರ್, ರಾಜಸ್ವ ನಿರೀಕ್ಷಕರು, ನಾಡ ಕಚೇರಿ, ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು, ನಾಗರಬಾವಿ ವೃತ್ತ, ಬೆಂಗಳೂರು (ಇನ್ನು ಮುಂದೆ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಅಂದರೆ ಚಿಕ್ಕದಾಗಿ 'ಆ.ಸ.ನೌಕರರು ಎಂದು ಸಂಭೋದಿಸಲಾಗುವುದು) ರವರ ವಿರುದ್ಧ ಶಿಸ್ತು ಪ್ರಕ್ರಿಯೆಯನ್ನು ಕೈಗೊಂಡು ವಿಚಾರಣೆ ಮಾಡಿ, ವರದಿ ಸಲ್ಲಿಸುವಂತೆ ಈ ಸಂಸ್ಥೆಗೆ ಇಲಾಖಾ ವಿಚಾರಣೆಯನ್ನು ವಹಿಸಿರುತ್ತದೆ.

2. ಈ ಸಂಸ್ಥೆಯ ನಾಮನಿರ್ದೇಶನ ಆದೇಶ ಸಂಖ್ಯೆ:ಉಪಲೋಕ್-1/ಡಿಇ/1096/2017, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 13/11/2017ರ ರೀತ್ಯಾ ಅಪರ ನಿಬಂಧಕರು ವಿಚಾರಣೆಗಳು-11 ರವರಿಗೆ ಆ.ಸ.ನೌಕರರ ವಿರುದ್ಧ ದೋಷಾರೋಪಣಾ ಪಟ್ಟಿ ತಯಾರು ಮಾಡಿ, ವಿಚಾರಣೆ ನಡೆಸಿ, ಪರದಿ ಸಲ್ಲಿಸುವಂತೆ ಆದೇಶ ಹೊರಡಿಸಲಾಗಿರುತ್ತದೆ.

3. ಆ.ಸ.ನೌಕರರಾದ ಶ್ರೀ. ಬಿ. ದಿವಾಕರ್, ರಾಜಸ್ವ ನಿರೀಕ್ಷಕರು, ನಾಡ ಕಚೇರಿ, ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು, ನಾಗರಬಾವಿ ವೃತ್ತ, ಬೆಂಗಳೂರು ರವರ ವಿರುದ್ಧ ಈ ಕೆಳಗಿನ ದೋಷಾರೋಪಣೆಗಾಗಿ ಇಲಾಖಾ ವಿಚಾರಣೆಯನ್ನು ನಡೆಸಲಾಯಿತು.

ಅನುಬಂಧ-1 ದೋಷಾರೋಪಣೆ

ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ಬಿ. ದಿವಾಕರ್ ಆದ ನೀವು ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕಿನ ನಾಗರಬಾವಿ ವೃತ್ತದ ನಾಡ ಕಚೇರಿಯಲ್ಲಿ ರಾಜಸ್ವ ನಿರೀಕ್ಷಕರಾಗಿ 2015ನೆಯ ಇಸವಿಯಲ್ಲಿ ಕಾರ್ಯ ನಿರ್ವಹಿಸಿಕೊಂಡಿದ್ದ ಅವಧಿಯಲ್ಲಿ ಫಿರ್ಯಾದಿಯಾದ ಬೆಂಗಳೂರಿನ ತಿಮ್ಮಪ್ಪನ ಪಾಳ್ಯ ನಿವಾಸಿಯಾದ ಲಕ್ಷ್ಮಯ್ಯ ರವರ ಮಗ ರಂಗಸ್ವಾಮಿ ಅಲಿಯಾಸ್ ರಾಜು ರವರ ಅತ್ತೆಯಾದ ಪೌತಿ ಚೆನ್ನಮ್ಮ ರವರ ಹೆಸರಿನಲ್ಲಿದ್ದ ಶ್ರೀಗಂಧದ ಕಾವಲು ಮೋಜಣಿ ಸಂಖ್ಯೆ: 24/3ಎ ರಲ್ಲಿನ 1 ಎಕರೆ 25 ಗುಂಟೆ ಜಮೀನಿನ ಅಳತೆ (ಮೋಜಣಿ) ಬಗ್ಗೆ ನಿಮ್ಮನ್ನು ಬಂದು ಫಿರ್ಯಾದಿಯು ನಾಗರಬಾವಿಯಲ್ಲಿರುವ ನಿಮ್ಮ ಕಚೇರಿ ಎಂದರೆ ನಾಡ ಕಚೇರಿಗೆ ಬಂದು ಭೇಟಿಯಾಗಿ ವಿಚಾರಿಸಲಾಗಿ ನೀವು ಸದರಿ ಕೆಲಸದ ಬಗ್ಗೆ ಕಾನೂನು ಬಾಹಿರವಾಗಿ ರೂ. 1,50,000/-ಗಳನ್ನು ಕೊಡುವಂತೆ ಒತ್ತಾಯಿಸಿ ತರುವಾಯ ದಿನಾಂಕ: 06/05/2015 ರಂದು ಮದ್ಯಾಹ್ನ ಸುಮಾರು 3-55 ಗಂಟೆಯಿಂದ 4-10 ಗಂಟೆಯ ಅವಧಿಯಲ್ಲಿ ನಿಮ್ಮ ಕಚೇರಿಯಲ್ಲಿ ನಿಮ್ಮನ್ನು ಫಿರ್ಯಾದಿಯು ನಿಮ್ಮ ಅನುಪಸ್ಥಿತಿಯಲ್ಲಿ ಮೊಬೈಲ್ ಫೋನ್ ಮುಖಾಂತರ ಸಂಪರ್ಕಿಸಿದಾಗ ನೀವು ಲಂಚದ ಹಣವನ್ನು ನಿಮ್ಮ ಕಚೇರಿಯಲ್ಲಿದ್ದ ಆನಂದ್ ಎಂಬವರಿಗೆ ಕೊಡುವಂತೆ ಸೂಚಿಸಿ ನಿಮ್ಮ ಸೂಚನೆಯಂತೆ ನಿಮ್ಮ ಕಚೇರಿಯ ಕಟ್ಟಡದ ನೆಲ ಅಂತಸ್ತಿನ ಬೃಹತ್ ಬೆಂಗಳೂರು ಮಹಾನಗರ ಪಾಲಿಕೆ ಕಚೇರಿಯ ಕರ ವಸೂಲಿಗಾರರ ಕೊಠಡಿಯಲ್ಲಿ ಫಿರ್ಯಾದಿಯು ನಿಮಗೆ

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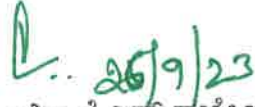
ತಲುಪಿಸಲೆಂದು ಆನಂದ್ ರವರಿಗೆ ರೂ. 50,000/- ಗಳನ್ನು ಲಂಚವಾಗಿ ಕೊಟ್ಟು ಸದರಿ ಹಣವನ್ನು ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ನಗರ ವಿಭಾಗದ ಆರಕ್ಷಕ ಠಾಣೆಯ ಆರಕ್ಷಕ ನಿರೀಕ್ಷಕರು ಎಂದರೆ ತನಿಖಾಧಿಕಾರಿಯವರು ಆನಂದ್ ರವರಿಂದ ವಶಪಡಿಸಿಕೊಂಡಿದ್ದು ಆ ಬಗ್ಗೆ ನೀವು ತನಿಖಾ ಕಾಲದಲ್ಲಿ ಸೂಕ್ತ ಸಮಜಾಯಿಷಿಯನ್ನು ನೀಡಲು ವಿಫಲರಾಗಿ ಆ ಮೂಲಕ ನೀವು ಕರ್ತವ್ಯಲೋಪನೆಸಗಿ ಸರ್ಕಾರಿ ನೌಕರನಿಗೆ ತಕ್ಕುದಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡು ದುರ್ನಡತೆಯಿಂದ ವರ್ತಿಸಿ, ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ ನಿಯಮಗಳು (ನಡತೆ) 1966 ನಿಯಮ 3(1)(i) ರಿಂದ (iii)ರಡಿಯಲ್ಲಿ ದುರ್ನಡತೆಯನ್ನೆಸಗಿರುತ್ತೀರಿ.

4. ವಿಚಾರಣಾಧಿಕಾರಿಯಾದ (ಅಪರ ನಿಬಂಧಕರು ವಿಚಾರಣೆಗಳು-11), ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ, ಬೆಂಗಳೂರು ರವರು ಮೌಖಿಕ ಮತ್ತು ದಾಖಲಾತಿಗಳ ಸಂಕ್ಷೇಪಗಳನ್ನು ಕೂಲಂಕುಷವಾಗಿ ಪರಿಶೀಲಿಸಿ, ಆ.ಸ.ನೌಕರರಾದ ಶ್ರೀ. ಬಿ. ದಿವಾಕರ್, ರಾಜಸ್ವ ನಿರೀಕ್ಷಕರು, ನಾಡ ಕಚೇರಿ, ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು, ನಾಗರಬಾವಿ ವೃತ್ತ, ಬೆಂಗಳೂರು ರವರ ವಿರುದ್ಧ ಮೇಲ್ಕಾಣಿಸಿದ ದೋಷಾರೋಪಣೆಯನ್ನು ರುಜುವಾತುಪಡಿಸುವಲ್ಲಿ ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರವು 'ವಿಫಲವಾಗಿರುತ್ತದೆ' ಎಂದು ಅಭಿಪ್ರಾಯಿಸಿದ್ದಾರೆ.
5. ವಿಚಾರಣಾಧಿಕಾರಿಗಳು ಸಲ್ಲಿಸಿರುವ ವಿಚಾರಣಾ ವರದಿಯನ್ನು ಪರಿಶೀಲಿಸಲಾಗಿ, ವಿಚಾರಣಾಧಿಕಾರಿಗಳು ಆ.ಸ.ನೌಕರರ ವಿರುದ್ಧ ದೋಷಾರೋಪಣೆಯನ್ನು ರುಜುವಾತುಪಡಿಸಲು ನಾಲ್ವರು ಸಾಕ್ಷಿಯನ್ನು ಅಂದರೆ ಪಿ.ಡಬ್ಲ್ಯೂ-1 ರಿಂದ ಪಿ.ಡಬ್ಲ್ಯೂ-3 ರವರುಗಳನ್ನು ವಿಚಾರಣೆಗೆ ಒಳಪಡಿಸಿ ಹಾಗೂ ನಿಶಾನೆ ಪಿ-1 ರಿಂದ ಪಿ-23 ರಂತೆ ದಾಖಲಾತಿಗಳನ್ನು ಗುರುತಿಸಲಾಗಿದೆ. ಆ.ಸ.ನೌಕರರು ಸ್ವತಃ ಡಿ.ಡಬ್ಲ್ಯೂ-1 ರಿಂದ ಆಗಿ ವಿಚಾರಣೆಗೆ ಒಳಪಡಿಸಿಕೊಂಡು ನಿಶಾನೆ ಡಿ-1 ರಿಂದ ಡಿ-6 ರಂತೆ ದಾಖಲಾತಿಗಳನ್ನು ಗುರುತಿಸಿಕೊಂಡಿರುತ್ತಾರೆ.
6. ಆ.ಸ.ನೌಕರರ ವಿರುದ್ಧ ಆಪಾದಿಸಿದ ಆರೋಪಗಳ ಬಗ್ಗೆ ವಿಚಾರಣಾಧಿಕಾರಿಗಳು ಸಲ್ಲಿಸಿರುವ ವಿಚಾರಣಾ ವರದಿ ಹಾಗೂ ಅದಕ್ಕೆ ಪೂರಕವಾಗಿ ಸಲ್ಲಿಸಿರುವ ದಾಖಲಾತಿಗಳನ್ನು ಕೂಲಂಕುಷವಾಗಿ ಪರಿಶೀಲಿಸಲಾಗಿ, ವಿಚಾರಣಾಧಿಕಾರಿಗಳು ಸಲ್ಲಿಸಿರುವ ವಿಚಾರಣಾ

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ನಗದಿಯಲ್ಲಿ ಹಸ್ತಕ್ಷೇಪ ಮಾಡಲು ಯಾವುದೇ ಸಕಾರಣಗಳು ಕಂಡುಬಂದಿರುವುದಿಲ್ಲ. ಆದ್ದರಿಂದ, ವಿಚಾರಣಾಧಿಕಾರಿಗಳು ಸಲ್ಲಿಸಿರುವ ವಿಚಾರಣಾ ವರದಿಯನ್ನು ಅಂಗೀಕರಿಸಿ ಆ.ಸ.ನೌಕರರಾದ ಶ್ರೀ. ಬಿ. ದಿವಾಕರ್, ರಾಜಸ್ವ ನಿರೀಕ್ಷಕರು, ನಾಡ ಕಚೇರಿ, ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು, ನಾಗರಬಾವಿ ವೃತ್ತ, 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. UPLOK-1/DE/1096/2017/ARE-11

M.S.Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001,
Date: 21/09/2023.**:: ENQUIRY REPORT ::**


Sub: Departmental Enquiry against
Sri. B.Diwakar, Revenue Inspector, Nada
Kacheri, Nagarabhavi Circle, Bengaluru North
Taluk, Bengaluru District -reg.

Ref: 1. Report under section 12(3) of the KLA Act.
1984 in No.Compt/Uplok/BCD/1699/
2017/DRE-2, dated:31/08/2017.

2. Order No. ಕಂಇ 68 ಬಿಡಿಪಿ 2017, ಬೆಂಗಳೂರು,
ದಿ:30/10/2017.

3. Nomination Order No. UPLOK-
1/DE/1096/2017, Bengaluru, dated
13/11/2017.

1. The Departmental Enquiry is initiated against Sri. B.Diwakar, Revenue Inspector, Nada Kacheri, Nagarabhavi Circle, Bengaluru North Taluk, Bengaluru District (hereinafter referred to as the Delinquent Government Officials, in short DGO) on the basis of the complaint dated 06/05/2015. The allegation in the complaint is that Sri. B.Diwakar while working as Revenue Inspector in Nada Kacheri, Nagarabhavi Circle, Bengaluru North Taluk, Bengaluru


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District in the year 2015, the complainant's mother-in-law Smt.Chennamma was the owner of land bearing Sy.No.24/3 measuring 1 acre 25 guntas situated at Srigandhakaval and the said land was encroached by the 'D' Group Society. So application was submitted to Bengaluru North Taluk Office for conducting survey. On 23/02/2015 Smt.Chennamma expired and complainant has met DGO in this regard several times in his office for doing survey and submitting report and the DGO has dodged the matter. That on 05/05/2014 complainant along with his friend M.Hyder met DGO in his office and DGO demanded Rs.1.5 lakhs bribe amount for the said work and inspite of bargain he has not reduced it and the complainant agreed to pay Rs.50,000/- on the next day and the same conversation is recorded by complainant in his mobile.

2. As the complainant was not willing to pay the amount, after contacting Lokayukta Police, Bengaluru City Division, Bengaluru District lodged complaint before Police Inspector, Karnataka Lokayukta Police Station, Bengaluru City Division, Bengaluru District (hereinafter referred to as "Investigating Officer". On the said complaint Investigating Officer registered case in Cr.No.28/2015 against the DGO 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 06/05/2015 at 3.55 to 4.10 p.m. the complainant contacted DGO over phone and DGO told that since he is coming late to the office to give the


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brIBE amount to his private assistant one Sri.Anand and on the same day the said Sri.Anand was caught red handed while demanding and accepting illegal gratification of Rs.50,000/- from the complainant in the office of DGO on behalf of DGO and the said amount was seized under a mahazar after following post trap formalities by the Investigating Officer, Karnataka Lokayukta, Bengaluru City Division, Bengaluru District. That DGO and the said Anand have failed to give satisfactory or convincing explanation in this regard, when questioned by the said I.O. After completion of investigation the investigating officer has filed charge sheet against the DGO 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, and other documents, found prima facie case and forwarded report dated 31/08/2017 U/s 12(3) of Karnataka Lokayukta Act, 1984 recommended the competent authority to initiate disciplinary proceedings against the DGO 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 30/10/2017 entrusted the matter to the Hon'ble Upalokayukta.
5. The Hon'ble Upalokayukta by order dated 13/11/2017, nominated Additional Registrar Enquiries-11 to conduct the enquiry.


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6. The Articles of charge as framed by Additional Registrar Enquiries-11 is as follows:

ಅನುಬಂಧ-1

ದೋಷಾರೋಪಣೆ

ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ಬಿ. ದಿವಾಕರ್ ಆದ ನೀವು ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕಿನ ನಾಗರಬಾವಿ ವೃತ್ತದ ನಾಡ ಕಛೇರಿಯಲ್ಲಿ ರಾಜಸ್ವ ನಿರೀಕ್ಷಕರಾಗಿ 2015ನೆಯ ಇಸವಿಯಲ್ಲಿ ಕಾರ್ಯ ನಿರ್ವಹಿಸಿಕೊಂಡಿದ್ದ ಅವಧಿಯಲ್ಲಿ ಫಿರ್ಯಾದಿಯಾದ ಬೆಂಗಳೂರಿನ ತಿಮ್ಮಪ್ಪನ ಪಾಳ್ಯ ನಿವಾಸಿಯಾದ ಲಕ್ಷ್ಮಯ್ಯ ರವರ ಮಗ ರಂಗಸ್ವಾಮಿ ಅಲಿಯಾಸ್ ರಾಜು ರವರ ಅತ್ತೆಯಾದ ಪೌತಿ ಚೆನ್ನಮ್ಮ ರವರ ಹೆಸರಿನಲ್ಲಿದ್ದ ಶ್ರೀಗಂಧದ ಕಾವಲು ಮೋಜಣಿ ಸಂಖ್ಯೆ: 24/3ಎ ರಲ್ಲಿನ 1 ಎಕರೆ 25 ಗುಂಟೆ ಜಮೀನಿನ ಅಳತೆ (ಮೋಜಣಿ) ಬಗ್ಗೆ ನಿಮ್ಮನ್ನು ಬಂದು ಫಿರ್ಯಾದಿಯು ನಾಗರಬಾವಿಯಲ್ಲಿರುವ ನಿಮ್ಮ ಕಛೇರಿ ಎಂದರೆ ನಾಡ ಕಛೇರಿಗೆ ಬಂದು ಭೇಟಿಯಾಗಿ ವಿಚಾರಿಸಲಾಗಿ ನೀವು ಸದರಿ ಕೆಲಸದ ಬಗ್ಗೆ ಕಾನೂನು ಬಾಹಿರವಾಗಿ ರೂ. 1,50,000/-ಗಳನ್ನು ಕೊಡುವಂತೆ ಒತ್ತಾಯಿಸಿ ತರುವಾಯ ದಿನಾಂಕ: 06/05/2015 ರಂದು ಮದ್ಯಾಹ್ನ ಸುಮಾರು 3-55 ಗಂಟೆಯಿಂದ 4-10 ಗಂಟೆಯ ಅವಧಿಯಲ್ಲಿ ನಿಮ್ಮ ಕಛೇರಿಯಲ್ಲಿ ನಿಮ್ಮನ್ನು ಫಿರ್ಯಾದಿಯು ನಿಮ್ಮ ಅನುಪಸ್ಥಿತಿಯಲ್ಲಿ ಮೊಬೈಲ್ ಫೋನ್ ಮುಖಾಂತರ ಸಂಪರ್ಕಿಸಿದಾಗ ನೀವು ಲಂಚದ ಹಣವನ್ನು ನಿಮ್ಮ ಕಛೇರಿಯಲ್ಲಿದ್ದ ಆನಂದ್ ಎಂಬವರಿಗೆ ಕೊಡುವಂತೆ ಸೂಚಿಸಿ ನಿಮ್ಮ ಸೂಚನೆಯಂತೆ ನಿಮ್ಮ ಕಛೇರಿಯ ಕಟ್ಟಡದ ನೆಲ ಅಂತಸ್ತಿನ ಬೃಹತ್ ಬೆಂಗಳೂರು ಮಹಾನಗರ ಪಾಲಿಕೆ ಕಛೇರಿಯ ಕರ ವಸೂಲಿಗಾರರ ಕೊಠಡಿಯಲ್ಲಿ ಫಿರ್ಯಾದಿಯು ನಿಮಗೆ ತಲುಪಿಸಲೆಂದು ಆನಂದ್ ರವರಿಗೆ ರೂ. 50,000/- ಗಳನ್ನು ಲಂಚವಾಗಿ ಕೊಟ್ಟು ಸದರಿ ಹಣವನ್ನು ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ನಗರ ವಿಭಾಗದ ಆರಕ್ಷಕ 'ತಾಣೆಯ ಆರಕ್ಷಕ ನಿರೀಕ್ಷಕರು ಎಂದರೆ ತನಿಖಾಧಿಕಾರಿಯವರು ಆನಂದ್ ರವರಿಂದ ವಶಪಡಿಸಿಕೊಂಡಿದ್ದು ಆ ಬಗ್ಗೆ ನೀವು ತನಿಖಾ ಕಾಲದಲ್ಲಿ ಸೂಕ್ತ ಸಮಜಾಯಿಷಿಯನ್ನು ನೀಡಲು ವಿಫಲರಾಗಿ ಆ ಮೂಲಕ ನೀವು ಕರ್ತವ್ಯಲೋಪನೆಸಗಿ ಸರ್ಕಾರಿ ನೌಕರನಿಗೆ ತಕ್ಕುದಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡು


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ದುರ್ನಡತೆಯಿಂದ ವರ್ತಿಸಿ, ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ ನಿಯಮಗಳು (ನಡತೆ) 1966 ನಿಯಮ 3(1)(i) ರಿಂದ (iii)ರಡಿಯಲ್ಲಿ ದುರ್ನಡತೆಯನ್ನೆಸಗಿರುತ್ತೀರಿ.

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

ANNEXURE-II

STATEMENT OF IMPUTATION OF MISCONDUCT:

ದೂರುದಾರರಾದ ಶ್ರೀ ರಂಗಸ್ವಾಮಿ ಅಲಿಯಾಸ್ ರಾಜು ಬಿನ್ ಲೇಟ್ ಲಕ್ಷ್ಮಯ್ಯ, ತಿಮ್ಮಪ್ಪನಪಾಳ್ಯ, ವಿಶ್ವನೀಡಂ ಅಂಚೆ, ಬೆಂಗಳೂರು ರವರ ಅತ್ತೆಯಾದ ಶ್ರೀಮತಿ ಚೆನ್ನಮ್ಮ ರವರ ಹೆಸರಿನಲ್ಲಿ ಶ್ರೀಗಂಧದ ಕಾವಲಿನ ಸರ್ವೆ ನಂ.24/3ಎರಲ್ಲಿ 1.25 ಗುಂಟೆ ಜಮೀನಿದ್ದು ಸದರಿ ಜಮೀನನ್ನು ಡಿ-ಗ್ರೂಪ್ ಸಂಘದವರು ಒತ್ತುವರಿ ಮಾಡಿಕೊಂಡ ಕಾರಣ ಸರ್ವೆ ಮಾಡಿ ಕೊಡಲು ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು ಕಛೇರಿಗೆ ಅರ್ಜಿ ಸಲ್ಲಿಸಿದ್ದು, ದಿನಾಂಕ 23-02-2015ರಂದು ಶ್ರೀಮತಿ ಚೆನ್ನಮ್ಮರವರು ನಿಧನ ಹೊಂದಿದ ಕಾರಣ ದೂರುದಾರರು ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನಿಮ್ಮನ್ನು ನಿಮ್ಮ ಕಛೇರಿಯಲ್ಲಿ ಹಲವಾರು ಭೇಟಿ ಮಾಡಿ ಜಮೀನನ್ನು ಸರ್ವೆ ಮಾಡಿ ವರದಿ ಕೊಡುವಂತೆ ವಿನಂತಿಸಿಕೊಂಡರೂ ಸಹ ನೀವು ಸರ್ವೆ ಮಾಡಿ ವರದಿ ಕೊಡಲು ಯಾವುದೇ ಆಸಕ್ತಿಯನ್ನು ತೋರಿರುವುದಿಲ್ಲ. ದಿನಾಂಕ 05-05-2015ರಂದು ದೂರುದಾರರು ಹಾಗೂ ಸದರಿಯವರ ಸ್ನೇಹಿತ ಎಂ.ಹೈದರ್‌ರವರು ನಿಮ್ಮನ್ನು ನಿಮ್ಮ ಕಛೇರಿಯಲ್ಲಿ ಭೇಟಿ ಮಾಡಿದಾಗ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನೀವು ರೂ. 1.5 ಲಕ್ಷ ಲಂಚ ಕೊಡಲು ಒತ್ತಾಯಿಸಿದ್ದು, ದೂರುದಾರರು ಕಡಿಮೆ ಮಾಡಿಕೊಳ್ಳಲು ವಿನಂತಿಸಿದಾಗ ನೀವು ರೂ. 1.5 ಲಕ್ಷಕ್ಕಿಂತ ಕಡಿಮೆ ಆಗುವುದಿಲ್ಲವೆಂದು ತಿಳಿಸಿದ್ದರ ಮೇರೆಗೆ ದೂರುದಾರರು ಮರುದಿನ ರೂ.50,000/- ತಂದು ಕೊಡುವುದಾಗಿ ತಿಳಿಸಿರುವ ಅಂಶಗಳನ್ನು ದೂರುದಾರರು ಮೊಬೈಲ್‌ನಲ್ಲಿ ಧ್ವನಿಮುದ್ರಿಸಿಕೊಂಡಿದ್ದು ಲಂಚ ಕೊಟ್ಟು ಕೆಲಸ ಮಾಡಿಸಿಕೊಳ್ಳಲು ಇಷ್ಟವಿಲ್ಲದ ಕಾರಣ, ಬೆಂಗಳೂರು ನಗರ ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸರನ್ನು ದಿನಾಂಕ 6-5-2015 ರಂದು ಭೇಟಿ ಮಾಡಿದೂರನ್ನು ಸಲ್ಲಿಸಿರುತ್ತಾರೆ.


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ದೂರುದಾರರು ಸಲ್ಲಿಸಿದ ದೂರನ್ನು ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸರು ಬೆಂಗಳೂರು ನಗರ ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸ್ ಠಾಣೆಯ ಮೊಕದ್ದಮೆ ಸಂಖ್ಯೆ.28/2015ರಲ್ಲಿ ಲಂಚ ಪ್ರತಿಬಂಧಕ ಕಾಯ್ದೆ ವಿಧಿ 7 ರಡಿಯಲ್ಲಿ ಪ್ರಕರಣ ನೊಂದಾಯಿಸಿ ಪ್ರಥಮ ವರ್ತಮಾನ ವರದಿಯನ್ನು ಸಂಬಂಧಪಟ್ಟ ನ್ಯಾಯಾಲಯಕ್ಕೆ ಸಲ್ಲಿಸಿರುತ್ತಾರೆ.

ದೂರು ದಾಖಲಾದ ಬಳಿಕ ತನಿಖಾಧಿಕಾರಿಯವರು ಇಬ್ಬರು ಪಂಚರನ್ನು ಬರಮಾಡಿಕೊಂಡು ದೂರುದಾರರಿಗೆ ಪರಿಚಯ ಮಾಡಿಕೊಟ್ಟು, ದೂರಿನ ಸಾರಾಂಶವನ್ನು ತಿಳಿಸಿ ಪಂಚರ ಸಮಕ್ಷಮ ದೂರುದಾರರು ಐದುನೂರು ರೂಪಾಯಿಯ ಮುಖಬೆಲೆಯುಳ್ಳ 100 ನೋಟುಗಳನ್ನು ಹಾಜರುಪಡಿಸಿದ್ದು, ನೋಟಿನ ಸಂಖ್ಯೆಗಳನ್ನು ಒಂದು ಬಿಳಿ ಹಾಳೆಯ ಮೇಲೆ ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸರು ದಾಖಲು ಮಾಡಿಕೊಂಡಿದ್ದು ನಂತರ ಪಂಚರ ಸಮಕ್ಷಮ ಪ್ರಾಯೋಗಿಕ ಪಂಚನಾಮೆಯನ್ನು ಸಿದ್ಧಪಡಿಸಿ ನಿಮ್ಮನ್ನು ಬಲೆಗೆ ಕೆಡವಲು ಹೋಗಿದ್ದು ದಿನಾಂಕ:6-05-2015ರಂದು ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನಿಮ್ಮ ಮೊಬೈಲ್‌ಗೆ ದೂರುದಾರರು ಕರೆ ಮಾಡಿದಾಗ ನೀವು ನಿಮ್ಮ ಕಛೇರಿಯಲ್ಲಿನ ನಿಮ್ಮ ಸಹಾಯಕ ಆನಂದ್ ರವರ ಬಳಿ ಕೊಡಲು ತಿಳಿಸಿದ ಮೇರೆಗೆ ನಾಗರಬಾವಿಯಲ್ಲಿರುವ ಉಪ ತಹಸೀಲ್ದಾರ್ ಕಛೇರಿಯ ನೆಲ ಅಂತ್ಯಸ್ಥನಲ್ಲಿರುವ ಬಿ.ಬಿ.ಎಂ.ಪಿ. ಕರ ವಸೂಲಿಗಾರರ ಕಛೇರಿಯಲ್ಲಿ ನಿಮ್ಮ ಸೂಚನೆಯ ಮೇರೆಗೆ ಆನಂದ್ ರವರು ಲಂಚದ ಹಣ ರೂ.50,000/-ಗಳನ್ನು ನೆರಳು ಸಾಕ್ಷಿದಾರರ ಸಮಕ್ಷಮ ಸಂಜೆ 3-55 ರಿಂದ 4-10 ಗಂಟೆಯ ಅವಧಿಯಲ್ಲಿ ಪಡೆದುಕೊಂಡಿರುವುದನ್ನು ತನಿಖಾಧಿಕಾರಿಯವರು ಆನಂದ್ ರವರಿಂದ ವಶಪಡಿಸಿಕೊಂಡು ಪಂಚ ಸಾಕ್ಷಿದಾರರ ಸಮಕ್ಷಮದಲ್ಲಿ ಜಪ್ತಿ ಪಂಚನಾಮೆಯನ್ನು ಜರುಗಿಸಿರುತ್ತಾರೆ. ತನಿಖಾ ಕಾಲದಲ್ಲಿ ತನಿಖಾಧಿಕಾರಿಯವರು ದೂರುದಾರರ, ಪಂಚರ ಹಾಗೂ ಇತರ ಸಾಕ್ಷಿದಾರರ ಹೇಳಿಕೆಗಳನ್ನು ಹಾಗೂ ನಿಮ್ಮ ಹಾಗೂ ಆನಂದ್ ರವರ ಹೇಳಿಕೆಗಳನ್ನು ಸಹ ದಾಖಲು ಮಾಡಿಕೊಂಡಿರುತ್ತಾರೆ. ತನಿಖಾ ಕಾಲದಲ್ಲಿ ವಶಪಡಿಸಿಕೊಂಡ ಮುದ್ದೆಮಾಲುಗಳನ್ನು ತನಿಖಾಧಿಕಾರಿಯವರು ರಾಸಾಯನಿಕ ತಜ್ಞರಿಗೆ ಕಳುಹಿಸಿ ಕೊಟ್ಟಿರುತ್ತಾರೆ.

ತನಿಖಾಧಿಕಾರಿಯವರು ತನಿಖಾ ಕಾಲದಲ್ಲಿ ವಶಪಡಿಸಿಕೊಂಡ ಎಲ್ಲಾ ದಾಖಲಾತಿಗಳ ಪ್ರಕಾರ ನೀವು ದೂರುದಾರರ ಕೆಲಸವನ್ನು ಮಾಡಿ ಕೊಡಲು ದಿನಾಂಕ:6-5-2015ರಂದು ರೂ.50,000/- ಲಂಚದ ಹಣವನ್ನು ಆನಂದ್ ರವರ ಮುಖಾಂತರ ಪಡೆದುಕೊಳ್ಳುವ ಪ್ರಕ್ರಿಯೆಯಲ್ಲಿ ಆನಂದ್ ರವರು ನೆರಳು ಸಾಕ್ಷಿದಾರರ ಸಮಕ್ಷಮದಲ್ಲಿ ಸಿಕ್ಕಿ ಬಿದ್ದಿದ್ದು ಆ

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ರೀತಿಯಾಗಿ ನೀವು ಕರ್ತವ್ಯಲೋಪವನ್ನೆಸಗಿ ಸರ್ಕಾರಿ ನೌಕರನಿಗೆ ತಕ್ಕುದಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡು ದುರ್ನಡತೆಯಿಂದ ವರ್ತಿಸಿ, ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ ನಿಯಮಗಳು (ನಡತೆ) 1966 ನಿಯಮ 3(1)(i) ರಿಂದ (iii) ರಡಿಯಲ್ಲಿ ದುರ್ನಡತೆಯನ್ನೆಸಗಿರುವುದು ಮೇಲ್ನೋಟಕ್ಕೆ ಸಾಬೀತಾಗಿರುತ್ತದೆ.

ಸದರಿ ದೂರಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ನಿಮಗೆ ಪರಿಶೀಲನಾ ಟಿಪ್ಪಣಿಯನ್ನು ಕಳುಹಿಸಿ, ಉತ್ತರವನ್ನು ಸಲ್ಲಿಸುವಂತೆ ಸೂಚಿಸಿದ್ದು, ಅದರಂತೆ ನೀವು ಉತ್ತರವನ್ನು ಸಲ್ಲಿಸಿದ್ದು, ಸದರಿ ಉತ್ತರವನ್ನು ಒಪ್ಪಲು ಬಾರದ ಕಾರಣ, ನಿಮ್ಮ ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸರು ಕಾಯ್ದೆ ಕಲಂ 12(3) ರಡಿಯಲ್ಲಿ ವರದಿಯನ್ನು ಸಲ್ಲಿಸಿ, ನಿಮ್ಮ ವಿರುದ್ಧ ಶಿಸ್ತು ಕ್ರಮವನ್ನು ಜರುಗಿಸಲು ಆದೇಶವನ್ನು ಕೋರಲಾಗಿತ್ತು. ಅದರಂತೆ ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರವು ಈ ಸಂಸ್ಥೆಯಿಂದ ಮಾಡಿರುವ ಶಿಫಾರಸ್ಸನ್ನು ಒಪ್ಪಿ ನಿಮ್ಮ ವಿರುದ್ಧ ಶಿಸ್ತು ಕ್ರಮಕೈಗೊಂಡು ವರದಿಯನ್ನು ಸಲ್ಲಿಸುವಂತೆ ಗೌರವಾನ್ವಿತ ಉಪಲೋಕಾಯುಕ್ತ ರವರಿಗೆ ವಹಿಸಲಾಗಿರುತ್ತದೆ. ಆದ್ದರಿಂದ ನಿಮ್ಮ ಮೇಲೆ ಈ ದೋಷಾರೋಪಣೆ.

8. Notice of Articles of charge, statement of imputation of misconduct with list of witnesses and documents was served upon the DGO. In response to the service of articles of charge, DGO entered appearance before the ARE-11 on 13/03/2018 and engaged advocate for defence on 26/02/2018. In the course of first oral statement of the DGO recorded on 13/03/2018 he pleaded not guilty and claimed to be enquired. **The date of Retirement of DGO is 31/07/2033.**

9. The DGO has filed his written statement denying the allegations made in the articles of charge and statement of imputations of misconduct. DGO has further contended that, the complainant is a stranger to the DGO. The complainant is no way connected to

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the application said to have been filed by deceased Chenamma. There is no document placed by the complainant to show that he is son-in-law of late.Chenmma. The said complainant has no authority or no locus standi to file complaint against the DGO. The DGO on enquiry came to know that the complainant and his friend Hyder are the land grabbers and doing real estate business. They are habitual offenders, harassing the public servant for the sake of wrongful gain. Further there is no application filed by the complainant in the office of DGO for conducting the survey in respect of land bearing Sy.No.24/3A. The DGO is working as Revenue Inspector. The duty of conducting survey of land was not within the scope or jurisdiction of DGO. If at all he is required to give the application for survey, it is to be given to the Tahasildar and the same will be routed through Survey supervisor and survey will be conducted by the survey department. Such being the case, there is absolutely no work pending with the DGO. If there is no work pending with DGO, then the question of demanding money would not arise. The complainant has made a false allegation that he has approached DGO on several occasions for conducting the survey and issuance of report and DGO has demanded bribe amount. The DGO has not at all demanded any bribe from the complainant.

DGO has further contended that, there is dispute in respect of Sy.No.24/3A measuring 1 acre 25 guntas situated at Srigandakavalu village, Yashwanthpur Hobli, Bangalore, between K N Nanjundiah and Smt. Chenamma and in this regard the endorsement has been issued and there is no occasion to consider

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the application of Smt.late Chenamma. The said fact has been very well known by the complainant and his friend Hyder. That they hatched a plan to file a complaint to Lokayuktha against the DGO and in furtherance of conspiracy they filed a case before the lokayuktha for wrongful gain. The friend of the complainant Sri.Hyder has filed a several complaint against the public servant namely Sri. Prakash in Spl C.C No.372/2014 and said case is ended in acquittal. The DGO came to know that the friend of the Complainant is a stock complainant and the witness to the Lokayukta. That he has filed a similar complaint against one Sri.Narayana Gowda. The case was pending before this Hon'ble court in Spl.C.C No.150/2012. In the said case, on the same set of allegation he has given the complainant against Narayana Gowda. There also he has given the evidence that the amount has been given to Mr.Suresh, who is running petty shop, on the instruction of Narayanagowda. Therefore, the entire story in this case also is a created story in the manner best known to the complainant. Further he has given complaint to the district registrar and other public servants. That he is in the habit of exploiting the public servant. In the year 2017, he has been arrested by the Jayanagar Police in Crime No.353/2017, in connection of illegal demand of amount from the public servant Sri.Shivaumar, who was working as FDA, in the office of Regional Transport. In the said case, Hyder was in judicial custody for 4 days. Therefore, complaint of the complainant is created story for the purpose of wrongful gain. The act of the complainant and his friend categorically establishes the

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fact that they are misusing the lokayuktha machinery in the guise of false complaint for the purpose of wrongful gain.

DGO has further contended that, there is no person working as assistant of the DGO. The person who was in possession of the amount said to have been recovered from Anand is totally stranger to DGO. There is no live link between the DGO and Mr. Anand. The complainant by placing the amount in 3rd parties hand created the story that DGO has demanded the bribe. Therefore the case of the complainant is a created story and their version is also unbelievable. The entire prosecution has been launched on the direction of Sri Hyder who is stock complainant of the lokayuktha police. Therefore, the allegations made in the article of charges are not genuine and the initiation of enquiry would cause irreparable damage to the service conditions of the DGO.

DGO has further contended that, there is no conversation of demand of bribe between DGO and the complainant. The complainant has created a story that he has recorded the conversation of demand of bribe in his mobile phone which is a false story created by the complainant.

DGO has further contended that, there is no recovery of amount from the possession of DGO and he has not even touched the currency notes. If at all the amount recovered from Sri Anand would be bribe amount which is said to have been received on the instructions of DGO then the DGO would have collected the same


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from Sri. Anand. Therefore, the allegation made against the DGO is based on the conjectures and surmise. The DGO is the victim of the circumstances.

DGO has further contended that, it is crystal clear that the amount is planted in possession of Sri. Anand, to suit their convenience of false story cooked for wrongful gain. Therefore the continuation of enquiry would cause serious injustice to DGO. It is submitted that trap mahazar, recovery mahazar and statement of witnesses have been cooked up for the purpose of implicating the DGO in this false case.

DGO has further contended that, the complaint filed the Complainant is ill motivated and with an intention to harass the DGO. The DGO has not demanded any amount from the Complainant. To take revenge against the DGO, the complainant has lodged the false case against the DGO.

DGO has further contended that, on the same set of allegation the criminal case had been registered against the DGO in Crime No.28/2015. After investigation, the complainant Police have filed the charge sheet against the DGO and another in Spl.C.C No.107/2017, before the Hon'ble 23rd Additional City Civil and Session Judge and Special Judge for Lokayukta cases, Bangalore Urban District, for the offences punishable under Section 7, 13(1)(d) r/w Section 13(2) of Prevention of Corruption Act, 1988. The case is set down for judgment on 23.5.2018.


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DGO has further contended that, under the circumstances explained above, the DGO has put 24 years of service period and earned good name in the service. Throughout his service, he has good reputation and recognition. This false case has made him to suffer a lot. The DGO has not demanded or accepted any bribe amount from the complainant. The DGO has not committed any misconduct as alleged in the charge sheet and hence prays to exonerate him from the imputation of charges levelled against him in the interest of justice and equity.

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

- 1. Whether the disciplinary authority proves that the DGO while working as Revenue Inspector in Nada Kacheri, Nagarabhavi Circle, Bengaluru North Taluk, Bengaluru District in the year 2015, the complainant's mother-in-law Smt.Chennamma was the owner of land bearing Sy.No.24/3 measuring 1 acre 25 guntas situated at Srigandhakaval and the said land was encroached by the 'D' Group Society, so application was submitted to Bengaluru North Taluk Office for conducting survey and on 23/02/2015 Smt.Chennamma expired and complainant has met DGO in this regard several times in his office for doing survey and**


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submitting report and the DGO has dodged the matter. That on 05/05/2014 complainant along with his friend M.Hyder met DGO in his office and DGO demanded Rs.1.5 lakhs bribe amount for the said work and inspite of bargain he has not reduced it and the complainant agreed to pay Rs.50,000/- on the next day and the same conversation is recorded by complainant in his mobile and the complainant not willing to pay the said amount, lodged complaint before Police Inspector, Karnataka Lokayukta Police Station, Bengaluru City Division, Bengaluru District, who registered case in Cr.No.28/2015 and took up investigation and on 06/05/2015 the complainant contacted DGO over phone and DGO told that since he is coming late to the office to give the bribe amount to his private assistant one Sri.Anand and on the same day the said Sri.Anand was caught red handed while demanding and accepting illegal gratification of Rs.50,000/- from the complainant as per the instructions of DGO in the office of DGO. DGO and Anand have failed to give satisfactory or convincing explanation in this regard, when questioned by the said I.O. and by this the DGO has committed misconduct, dereliction of duty, acted in a manner unbecoming of a Government


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Servant and not maintained absolute integrity, violating Rule 3(1)(i) to (iii) of K.C.S.(conduct) Rules, 1966?

2. What findings?

11. (a) The disciplinary authority has examined Sri.Rangaswamy/Complainant as PW-1, Sri.Guruprasanna H.L./ Shadow Witness as PW-2 and Sri.K.P.Vishnuvardhan/ Investigating Officer as PW-3 and got exhibited Ex.P-1 to 23 on it's behalf.
- (b) The DGO has examined himself as DW-1 and got exhibited Ex.D-1 to 6.
- (c) Since DGO has adduced evidence by examining himself incriminating circumstances which appeared against him in the evidence of PWs 1 to 3 are not put to him by way of questionnaire and the same is dispensed.
12. Heard both side arguments and perused the written argument filed by the counsel for the DGO and all the documents.
13. The answers to the above points are:
1. In the Negative.
 2. As per final findings for the following:-

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REASONS

14. **Point No.1:-** (a) PW-1/Complainant, Sri.Rangaswamy has deposed in his evidence that, land bearing Sy.No.24/3A of Srigandhakaval, Bengaluru was standing in the name of his Mother-in-law Smt.Chennamma measuring 1 acre 34 guntas. But, in the RTC it was showing 1 acre 25 guntas and 'D' Group Society have encroached 9 guntas of the land. That his Mother-in-law had filed application in this regard in the Taluk Office Bengaluru North and she has expired and so he went to Taluk Office and asked for conducting survey and the Thasildar of Bengaluru North told him to contact the Revenue Inspector of Nagarabhavi Circle.

PW-1 further deposed that, in the year 2015 he met DGO in his office of Nagarabhavi and he told that he has sent the report. But, he had not sent the report. That DGO demanded Rs.3.00 lakh bribe amount and asked him to pay Rs.50,000/- as advance amount and to pay the remaining amount after the work has been done. That he has recorded the conversation in his mobile.

PW-1 further deposed that, he went to lokayukta police station and informed the same and gave the voice recorder, the I.O. played the voice recorder and burnt it to CD and he has lodged the complaint as per Ex.P-1. The I.O. called for Guruprasanna and Rajkumar witnesses and played the recordings in the CD before them and made them hear the conversation. That he produced 50 notes of Rs.1,000/- denomination and I.O. got the

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number of the notes noted in a sheet as per Ex.P-2. That I.O. got phenolphthalein powder smeared on the currency notes and among the two witnesses one of the witness kept the notes in his right side front pant pocket and later on his hands were washed in solution and it turned to pink colour and I.O. has seized the sample of the same. That I.O. instructed him to go to DGO office and give the amount only on demand and after acceptance to give signal by wiping his head with his right hand and the I.O. instructed Hyder and another person to accompany him and has drawn mahazar with respect to the above proceedings as per Ex.P-3.

PW-1 further deposed that, all of them left the lokayukta police station at 1.30 p.m. and reached Nada Kacheri, Nagarabhavi at 2.30 p.m. and he and Hyder went inside the office of DGO, Guruprasanna also came inside the office of DGO and DGO was not present. That he contacted DGO through his mobile and he told that he is outside and he would come. That one Anand was there and DGO contacted Anand and instructed him to receive the amount from him. That Anand took him to the Ground Floor of Nada Kacheri Building and received the tainted notes from him and he has given signal by wiping his head with his right hand and I.O. and Rajkumar came there and he showed Anand to the I.O. and I.O. has caught hold of him and I.O. has seized tainted notes from Anand and the I.O. got washed the hand of Anand separately in the solution and the solution turned to pink colour and I.O. has seized the sample in the bottle.


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PW-1 further deposed that, I.O. has seized the pant of Anand by making alternate arrangement and got the right side pant pocket dipped in the solution and solution turned to pink colour and I.O. has seized the solution. That I.O. has taken the explanation of Anand as per Ex.P-4. That DGO came to the office at 3.30 p.m. and I.O. has enquired DGO and taken his explanation as per Ex.P-5. That he was instructed by the I.O. to record the conversation between him and DGO after the DGO reached the office. That he had recorded conversation when he went to the office of DGO in his mobile and he has given mobile to the I.O. That I.O. has got the recordings burnt to CD and got it transcribed. That I.O. has seized the documents pertaining to him from the higher officer of DGO and has conducted mahazar with respect to the above proceedings as per Ex.P-6. That higher officer of DGO has identified the voice of DGO in the recordings in the CD which was played before him. That I.O. has drawn mahazar in this regard. Later on I.O. has brought all of them along with DGO to lokayukta police station, Bengaluru and after some time he left to his home.

15. (a) PW-2/Shadow Witness, Sri.Guruprasanna H.L. has deposed in his evidence that, he was working as FDA in Joint Director Office, BBMP, Bengaluru in the year 2015. On 06/05/2015 he and his colleague Rajkumar were called to lokayukta police station, Bengaluru City Division and they reported before I.O. at 12.00 p.m. and complainant

A handwritten signature in blue ink, followed by the date '21/9' written below it.

was present there. That complainant had lodged complaint that DGO had demanded bribe for measuring the land. That I.O. made them hear the voice recordings containing conversation of demand of bribe. That complainant produced 50 notes of Rs.1,000/- denomination totally Rs.50,000/- to the I.O. That I.O. got the number of notes noted in a sheet through his staff as per Ex.P-2. That I.O. got phenolphthalein powder smeared on the currency notes and got it kept in the right side pant pocket of complainant through Rajkumar and the I.O. got the hands of Rajkumar washed in sodium carbonate solution and the solution turned to pink colour and I.O. has seized the solution in the bottle.

PW-2 further deposed that, I.O. has instructed complainant to give the amount only on demand and after acceptance to give signal by wiping his head with his right hand. That I.O. has given one voice recorder to the complainant and asked him to switch it on while meeting the DGO. That I.O. instructed him to accompany the complainant and watch what transpires between complainant and DGO. That I.O. has drawn pre trap mahazar in this regard with respect to the above proceedings as per Ex.P-3.

PW-2 further deposed that, on the same day all of them left the lokayukta police station and reached Nada Kacheri office of DGO at 2.45 p.m. That the complainant with the permission of the I.O. contacted DGO through his mobile and DGO told that he is not in the office and he would come little late. That after some time

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complainant and Hyder went inside the office of DGO at Nada Kacheri and one Anand was there and DGO was not present. That complainant contacted DGO through his mobile and DGO told that he is not in the office and asked him to pay amount to Anand. That later on Anand took the complainant to the ground floor of the office building and he was 15 feet away from complainant and Anand. That the complainant gave the tainted notes to Anand and he received it and kept it in the left side pant pocket. Later on the complainant came out and gave signal by wiping his head with his right hand.

PW-2 further deposed that, immediately I.O., his staff and Rajkumar came there and complainant showed Anand to I.O. That I.O. caught hold of him. That I.O. showed his I.D. card to Anand and introduced himself to him. That I.O. got prepared sodium carbonate solution in two bowls and got both the hands of Anand washed separately in two bowls and the solution in both the bowls turned to pink colour. That I.O. has seized the sample of the solution and enquired Anand about the tainted notes for which Anand replied that the tainted notes is in his left side pant pocket. That he removed the tainted notes from the left side pant pocket and Anand and the number of notes were tallying with number of the notes mentioned in Ex.P-2 sheet. That I.O. seized pant of Anand by making alternate arrangement and he does not remember what I.O. has done to the pant. That I.O. called the DGO through Anand and asked him to come to the office. That I.O.

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has taken the explanation of Anand and DGO separately and they were false. That the I.O. called the higher officer of the DGO and seized the file pertaining to complainant and has received the voice recorder given to the complainant and got it burnt to CD and got it transcribed as per Ex.P-7 and ExP8. That I.O. has drawn mahazar with respect to the above proceedings as per Ex.P-6. That he has signed Ex.P-6, 7 and 8. It was 11.00 p.m. when the mahazar was concluded. Later on I.O. arrested Anand and DGO and he left to his house from the office.

PW-2 further deposed that, the I.O. had called him, Rajkumar, complainant and DGO to Lokayukta Police Station, Bengaluru City Division and has taken the sample voice of complainant and DGO and has drawn mahazar in this regard as per Ex.P-9.

16. (a) PW-3/Investigating Officer, Sri.K.P.Vishnuvardhan has deposed in his evidence that, he has served as Police Inspector in Lokayukta, Bengaluru City Division, Bengaluru from 17/02/2014 to 31/10/2022. On 06/05/2015, at 1:00 p.m. complainant/PW-1 came to his police station, and told that one N.Diwakar/DGO working in Nada Kacheri, Survey department is demanding bribe of Rs.50,000/- for doing survey of his land bearing Sy.No.24 measuring 1A 25G in Thimmappanahalli, Sunkadakatte, Srigandhadakavalu, Bengaluru and told that he has recorded conversation between him and DGO while demanding the bribe.

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PW-3 further deposed that, PW-1 gave written complaint as per Ex.P-1 and he registered the same as crime number 28/2015 for offences u/s 7 of P.C. Act, 1988 and the FIR as per Ex.P-10. That he sent the said complaint and FIR along with the documents in closed envelope to the jurisdictional court. He secured 2 panch witnesses, PW-2 and CW-3, who were in the office of Dy.S.P., Lokayukta, Bengaluru city division. The panch witnesses reported before him within 10 minutes. That he introduced himself and PW-1 to them and also briefed them about the contents of the complaint and gave copy of complaint to them to read and verify the same.

PW-3 further deposed that, he 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-11. PW-3 further deposed that, PW-2 and CW-3 have agreed to act as witnesses. PW-1 gave him 50 notes of Rs.1,000/- each i.e., total Rs.50,000/- to lay the trap. That he got the number of the currency notes noted by his staff as per Ex.P-2 and got phenolphthalein powder applied to both sides of the currency notes through his staff and got the same kept in the front right side pant pocket of PW-1 through CW-3. That he got sodium carbonate solution prepared through his staff and took sample of the same and got the hands of CW-3 washed in sodium carbonate solution and the solution turned to pink colour and he took sample of the same. That he told PW-1 and 2 and CW-3 about

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the reaction between phenolphthalein powder and sodium carbonate solution.

PW-3 further deposed that, he gave voice recorder to PW-1, and instructed him to switch on while meeting the DGO and instructed him to pay the amount only on demand by DGO and after acceptance, give signal by wiping his head. That he instructed PW2 to follow PW-1 and act as shadow witness. All of them washed their hands thoroughly with soap and he got photographs taken of entire proceedings and has drawn pre-trap mahazar as per Ex.P-3 and all of them left near the office of DGO from his police station.

PW-3 further deposed that, they reached there at about 03:55 p.m, and stopped at a distance from office of DGO and he repeated his instructions to PW-1 and PW-2. That he sent PW-1 to the office of DGO. After sometime at 4:30 p.m, PW-1 came out of the office and gave signal by wiping his head. All of them went near PW-1 and PW-1 took them to Bill Collector office which was in the ground floor of Nada Kacheri and PW-1 showed them one Anand and told that when he went to the office of DGO, DGO was not present so he called him and DGO told to give the amount to one Anand who was his Assistant. So, PW-1 gave him the money and the said Anand received the tainted money with his right hand and counted it with both hands and kept it in his left side pant pocket.

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PW-3 further deposed that, he showed his identity card to Anand and told him the purpose for coming, and asked him to cooperate. He collected the name, designation and address of Anand. He asked PW-2 about the happenings, and he too told the same and that he watched from a distance from PW-1.

PW-3 further deposed that, he got sodium carbonate solution prepared in 2 bowls through his staff and took sample of the same and got both hands of Anand dipped separately in the solution and the solution in both the bowls turned to pink colour and he took sample of the same. That he got the amount removed from the left side pant pocket of Anand through PW-2. The said notes were tallying with the numbers of the notes mentioned in pre-trap panchanama, Ex.P-3 and he seized the tainted notes.

PW-3 further deposed that, he seized the pant of Anand, after having made arrangement of alternate pant to Anand. He took the statement of one Basavaraj who was working as outsource staff in the DGO's office.

PW-3 further deposed that, he asked Anand to call DGO and Anand called DGO and DGO told to give the amount to one Harish. When enquired where this Harish was, DGO told that he is standing in front of Nada Kacheri. He had brought Harish from the tea shop to the DGO's office and taken the statements of Harish and Basavaraj as per Ex.P-12 and Ex.P-13 respectively. He called DGO to the office. DGO came at 6:30 p.m.

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PW-3 further deposed that, he asked the DGO about the file of PW-1. The DGO gave the documents and he seized the same after obtaining the copies as per Ex.P-14.

PW-3 further deposed that, he took the voice recorder from PW-1 and he got the same played in presence of panch witnesses, transcribed the same and transferred to CD as per Ex.P-15. In the conversation at the time of trap, there was demand and acceptance of bribe. That he called Sri.A.T.Krishnaswamy, Deputy Tahasildar to the office of DGO and informed him about the trap and got the documents seized certified through him and returned the original documents to him and played the voice recordings recorded by PW-1 at the time of trap proceedings and prior to trap proceedings. The said Sri.A.T.Krishnaswamy, Deputy Tahasildar identified the voice of DGO and gave statement in this regard. He took the explanation from DGO and Anand as per Ex.P-4 and Ex.P-5 respectively. PW-1 and 2 on seeing the explanation, said that it is false. That he drew trap mahazar as per Ex.P-6 and arrested the DGO and followed the arrest procedure. That he took all of them along with DGO and Anand to the police station.

PW-3 further deposed that, he got the sketch prepared from PWD Engineer as per Ex.P-16. He sent the articles for chemical examination and received the report dated 16/04/2016 as per Ex.P-17. He has taken the statement of the witnesses. He collected


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the service details and attendance register extract of DGO as per Ex.P-18 and Ex.P-19 respectively.

PW-3 further deposed that, on 25/06/2015, he called PW-2 and CW-3 and DGO to his police station and recorded the voice of DGO by making him read the transcription and recorded it in a CD and seized the CD and sent it to FSL for voice test analysis and he has drawn mahazar in this regard as per Ex.P-9. He received the voice analysis test report on 17/05/2016 as per Ex.P-20. He has received the work distribution report from Tahasildar, Bengaluru North Taluk as per Ex.P-21.

PW-3 further deposed that, on 17/11/2015 he has received CDRs of complainant and DGO as per Ex.P-22. He has taken 65(B) certificate from the Nodal officer of Airtel company as per Ex.P-23. He filed the charge sheet against the DGO after obtaining sanction.

17. The DGO has got himself examined as DW-1 and has filed his affidavit in lieu of his chief examination, wherein he has reiterated the averments of written statement and further in support of his contention he has got exhibited certified copy of the deposition of PW-9 in Special CC.No.107/2017 as per Ex.D-1. Certified copy of the deposition of PW-2 in Special CC.No.107/2017 as per Ex.D-2. Certified copy of the deposition of PW-3 in Special CC.No. 107/2017 as per Ex.D-3. Certified copy of the deposition of PW-4 in Special CC.No. 107/2017 as per Ex.D-4. Certified copy of the

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deposition of PW-5 in Special CC.No. 107/2017 as per Ex.D-5. Certified copy of the judgment in Special CC.No. 107/2017 as per Ex.D-6.

18. On over all evaluation of the oral and documentary evidence adduced by both the parties, PW-1/complainant, PW-2/shadow witness and PW-3/I.O. have deposed in their evidence that PW-1 had lodged complaint before PW-3 on 06/05/2015 stating that DGO was working in Nada Kacheri Survey Department as Revenue Inspector and demanding bribe of Rs.50,000/- for doing survey of land bearing Sy.No.24 measuring 1 acre 25 guntas in Thimmappanahalli, Sunkadakatte, Sriganthadakavalu, Bengaluru belonging to his mother-in-law Chenamma as per Ex.P-1 and produced voice recordings with respect to the conversation between himself and DGO while demanding bribe and PW-3 received the same and registered case and has called for two panchas i.e., PW-2 and CW-3, 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-1 produced 50 notes of Rs.1,000/- denomination total Rs.50,000/- to lay the trap and CW-3 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 side pant pocket of PW-1 through CW-3 and got sodium carbonate solution prepared in bowl and got the hands of CW-3 washed in it and it turned to pink colour and he

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took the sample of the same. Further their evidence reveals that PW-3 has given one voice recorder to PW-1 and instructed him to switch it on while meeting the DGO and to pay the amount on demand to DGO and after acceptance to give signal by wiping his head and further instructed PW-2 to accompany PW-1 and act as shadow witness and has drawn pre-trap mahazar with respect to the above proceedings as per Ex.P-3. Further their evidence reveals that all of them left the lokayukta police station and reached the office of DGO.

20. PW-1/complainant has deposed that after reaching the office he, Hyder and PW-2 went inside the office of DGO and found that DGO was not present. That he contacted DGO through his mobile, he told that he is outside and he would come. That one Anand was there and DGO contacted Anand and instructed him to receive the amount. So the said Anand took him to ground floor of the Nada Kacheri and received the amount from him and later on he came out and gave signal to PW-3.

21. PW-2/shadow witness has deposed in his chief examination that he, Hyder and complainant went inside the Nada Kacheri and one Anand was present there and DGO was not present. So complainant called DGO and DGO instructed him to give the amount to Anand. So Anand took complainant to the ground floor of Nada Kacheri and gave the tainted notes to Anand who received it and kept it in the left side pant pocket. The evidence of PW1/complainant and PW-2/shadow witness is inconsistent to each other. According to PW-1/complainant the DGO has called

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Anand and told him to receive the amount. But, PW-2/shadow witness says that when PW-1/complainant contacted DGO he told PW-1 to give the amount to Anand.

22. PW-2 in his cross examination has stated that he does not know to which number PW-1 has called before leaving the lokayukta police station and after reaching Nada Kacheri. There is no definite evidence of PW-2 to decisively say that the person on the other side of the phone who had talked to PW-1 was DGO alone. Hence, the oral evidence of the PW-2 that DGO demanded bribe from PW1 when he contacted him and he told PW-1 to hand over the bribe amount to Anand stands as such without any corroboration as he could not say precisely with whom PW-1/complainant was talking and does not remember the mobile number. Further in his cross examination he has admitted that complainant and Anand went to the ground floor of the office and he has not seen the complainant giving the amount to Anand and further admitted that after the complainant gave signal he, panch witness and I.O. have gone there. So this clearly goes to show that PW-2 was not present and has not accompanied PW-1 at the time of giving the tainted notes and he came into picture along with I.O. and panch witness. So he cannot be termed as shadow witness or independent eye witness who watched the entire proceedings. As such the evidence of PW-2 with respect to demand of bribe by DGO through phone from PW-1 and receipt of the same through one Anand cannot be relied upon.

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23. Further the evidence of PW-1 to 3 reveals that after giving signal by PW-1, PW-3 and CW-3 entered the office of DGO and have caught hold of Anand and recovered tainted notes from his pant pocket and washed the hands of Anand in sodium carbonate solution and it turned to pink colour and PW-3 has taken the sample of the same and seized the pant of Anand and dipped it in the sodium carbonate solution and it turned to pink colour and PW-3 has seized the solution and pant. Further their evidence reveals that PW-3 has seized the tainted notes from the possession of Anand and conducted trap mahazar with respect to the above proceedings as per Ex.P-6.
24. On perusal of the statement of Anand Ex.P-4 it reveals that he was appointed by DGO as a private assistant and he was working at the office of the DGO for the last 5 months as on date of trap and on 06-05-2015 a person came to his office when DGO was not there in the office and informed him that DGO had told that man to hand over the money that man had brought with him. Hence, he tried to contact DGO over phone but he could not connect DGO through phone and as he had some work at the BBMP Tax collection centre situated near the office of DGO, he had left the office and then the man also followed him and handed over the money which he received and kept it in his pocket. Suddenly the Lokayukta police came and caught hold of him and recovered the money from his pocket. Later in the presence of the Investigating Officer when DGO called him in his mobile phone and when he enquired as to what to do with the money he had received, DGO told him to hand over the money to one Harish. Therefore, from

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the line of cross-examination conducted by the learned counsel for Anand and from the explanation offered by Anand to the Investigating Officer soon after his arrest, the receipt of the tainted money by him is not disputed. Since, section 20 of the PC Act is not applicable to a private person presumption cannot be raised against Anand. As demand of bribe by DGO is also not proved by the prosecution section 20 presumption cannot be raised against him either. The burden is still on the disciplinary authority to prove that the money received by Anand is the illegal gratification he received for and on behalf of DGO. It is pertinent to note that the disciplinary authority has not examined the said Anand or Harish to prove it's case that they have received the amount as illegal gratification as per the instruction of DGO.

25. The defence taken by the DGO is that there was no work of mother-in-law of complainant pending before him and he has given explanation as per Ex.P-5 which reveals that on 7.4.2015 he received an application from Nadakacheri and due to Government holidays and other urgent work, delay was caused in considering the application of PW-1. He further states that he asked PW-1 to furnish the certified copies of RTC and Mutations with respect to the land in question, but PW-1 produced only certified copy of RTC and hence the application could not be considered. He further stated that a complaint was lodged by one Nanjundappa and one C.Ariand against PW-1 alleging that PW-1 was demanding Rs 50 lakhs from them after raising a temporary shed in the property sold to them by his father-in-law. The owner of the property

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bearing Sy.No.24/3A by name Munivenkatappa, who is none other than the father-in-law of PW-1, sold the aforesaid property to 'D' Group Employees Association and Smt.Channamma illegally got mutated 1 acre 25 guntas of land in the said survey number causing trouble to the vendees of the said property. Therefore, in order to solve the dispute and to submit the report in this regard, he kept the said application with him. He further stated that on 6.5.2015 when he was away from his office on other official work, PW-1 contacted him over phone and informed him that the certified copies of mutation pertaining to the property is ready with him and hence he instructed PW-1 to hand over to the same to Anand, but instead PW-1 paid the bribe amount to Anand only to harass him and to get the work done.

26. Again the learned counsel for DGO produced decision in R.Malini's case (supra) with respect to necessity of pendency of work with the DGO to hold him guilt for demand of bribe to complete the pending official work. It is held by the Hon'ble High Court of Karnataka that-

"when the certificate was kept ready much before lodging of the complaint the question of DGO demanding bribe amount for doing any work does not arise as no work was pending at the time of lodging the complaint".


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As far as facts of this case is considered it can be seen that an application pertaining to Smt. Channamma was pending before DGO and PW-1 was making a follow up of the said application.

27. On perusal of the evidence of PW-1/complainant who has given his evidence in Spl.CC.No.107/2017 on the file of Special Judge CCH24 as per Ex.D-2 in his cross examination he has admitted that earlier in the year 2010, 2012 and 2014 his mother-in-law had filed applications for survey of the same land which were rejected. Once again on the same set of facts, another application was filed in the year 2015. He further admits that he did not file any application for survey of the said land after the death of his mother-in-law nor he filed any letter to consider the said application of his mother-in-law and continue the survey work on his behalf. He also admits that after he lodged the complaint before the Lokayuktha police, he did not make any follow up of the said application. It is his evidence that there were many civil and criminal cases pending before courts with respect to the said land. He further admits that he had filed many cases against the possessor of the said land and later compromised the cases after receiving compensations. He also admits in his cross examination that the Tahsildar and Revenue Inspector have informed him as per the previous applications filed by his mother-in-law permission was granted to 'D' Group Employees Association to purchase 11.09 acres of land in Sy.No.24/3A under Section 109(4) of Karnataka Land Reforms Act as per Order dated 10.12.2002. He further admits that his father-in-law Munivenkatappa informed him about

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the delivery of possession of the aforesaid property to 'D' Group Employees Association through General Power of Attorney dated 11.03.2002. The above evidence of PW1/complainant in in Spl.CC.No.107/2017 on the file of Special Judge CCH24 corroborates the Ex.P-5 explanation given by DGO to the Investigating Officer. Therefore, as far as DGO is considered there was no work pending before him as it was PW-1, who had to furnish necessary documents before the DGO so that he could consider the application.

28. PW3/I.O. has deposed that he played the voice recorder using computer and got the conversation heard in presence of the panch witnesses. He got the said conversation burnt to CD and transcribed the same and after trap he took the voice recorder from PW-1. He got the same played in presence of panch witnesses, transcribed the same and transferred to CD. Further he has produced CDR as per Ex.P-22 with respect to the call details of complainant and DGO and also produced 65(B) certificate as per Ex.P-23 issued by Nodal Officer of M/s Bharathi Airtel Limited. Further PW3/I.O. has deposed that on 25/06/2015, he called PW-2 and CW-3 and DGO to his police station and recorded the voice of DGO by making him read the transcription and recorded it in a CD and seized the CD and sent it to FSL for voice test analysis and he has drawn mahazar in this regard as per Ex.P-9. He received the voice analysis test report on 17/05/2016 as per Ex.P-20.


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29. Further there is no section 65 (B) Certificate issued by PW1/complainant with respect to the above C.D. 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-3, 6 and 9, it is contended that the DGO 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 PW1/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. In respect of collection of sample voice of DGO and burnt it to C.D., Certificate under section 65 (B) of Indian Evidence Act is not issued by PW-3/I.O. and PW-3/I.O. has not produced the above CD's before this Authority as such the above CD's without such certificate is not admissible in evidence.
30. 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


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obtained at the time of taking the document, without which, the secondary evidence pertaining to the electronic record, is inadmissible”.

31. In respect of CD's as there is no 65(B) certificate, it is inadmissible and FSL report given as per Ex.P-20 on the basis of above CD is also inadmissible. For all these reasons, recordings in CD and report of FSL as per Ex.P-20 and transcriptions as per Exp7, Exp8 and Exp11 are not helpful to disciplinary authority case to prove alleged demand of bribe by DGO on 05/05/2015 and 06/05/2015. As such the disciplinary authority has failed to prove the demand of bribe by DGO from PW-1 for his official favour and has received the same through one Anand by placing clear, cogent and convincing evidence.
32. Thus, this Additional Registrar Enquiries, finds that, evidence of P.Ws1 to 3, Ex.P-1 to P-23, as reasoned above, not proved that the DGO had demanded and accepted bribe of Rs.50,000/- from the complainant on 06/05/2015 through one Anand. The disciplinary authority has not proved the charges against the DGO. Accordingly, this point is answered in the **Negative**.
33. **Point No.2** :- For the aforesaid reasons, this Additional Registrar (Enquiries) proceeds to record the following.


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FINDINGS

The disciplinary authority has not proved the charges against the DGO.

The date of retirement of DGO is 31/07/2033.

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. Rangaswamy
PW2:- Sri. Guruprasanna H.L.
PW3:- Sri. K.P.Vishnuvardhan

List of witnesses examined on behalf of the Defence:-

DW1:- Sri. B.Diwakar (DGO)

List of documents marked on behalf of Disciplinary Authority:-

Ex P1	Attested copy of complaint dated 06/05/2015.
Ex P2	Attested copy of list of currency notes.
Ex P3	Attested copy of pre-trap mahazar dated 06/05/2015.
Ex P4	Attested copy of statement of Anand dated


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	06/05/2015.
Ex P5	Attested copy of statement of DGO dated 06/05/2015.
Ex P6	Attested copy of trap mahazar dated 06/05/2015.
Ex P7	Attested copy of Transcription.
Ex P8	Attested copy of Transcription.
Ex P9	Attested copy of mahazar dated 25/06/2015.
Ex P10	Attested copy of FIR in Cr.No.28/2015
Ex P11	Attested copy of Transcription.
Ex P12	Attested copy of statement of Harish dated 06/05/2015.
Ex P13	Attested copy of statement of Basavaraj dated 06/05/2015.
Ex P14	Attested copy of documents pertaining to Complainant.
Ex P15	Attested copy of Transcription.
Ex P16	Attested copy of sketch prepared by PWD Engineer.
Ex P17	Attested copy of Chemical Examiner's report.
Ex P18	Attested copy of service particulars of DGO.
Ex P19	Attested copy of Attendance register of DGO.
Ex P20	Attested copy of FSL report.
Ex P21	Attested copy of work distribution report.
Ex P22	Attested copy of CDRs of DGO and complainant.
Ex P23	Attested copy of 65(B) certificate.

List of documents marked on behalf of Defence:-

Ex D1	Certified copy of the deposition of PW-9 in Special CC.No. 107/2017
Ex D2	Certified copy of the deposition of PW-2 in Special CC.No. 107/2017
Ex D3	Certified copy of the deposition of PW-3 in Special CC.No. 107/2017


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Ex D4	Certified copy of the deposition of PW-4 in Special CC.No. 107/2017
Ex D5	Certified copy of the deposition of PW-5 in Special CC.No. 107/2017
Ex D6	Certified copy of the judgment in Special CC.No. 107/2017


(J.P. Archana) 21/9/2023

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