

KARNATAKA LOKAYUKTA

No.LOK/INQ/14-A/102/2013/ARE-4

M.S. Building
Dr.B.R.Ambedkar Road
Bengaluru-560 001
Date:08/04/2021

:: INQUIRY REPORT ::

Sub: Departmental Inquiry against,

- 1) Sri Shashikantha Veerapura
Deputy Tahasildar
Hirehadagali Nadakacheri
Huvina Hadagali Taluk
Bellary District

Ref:

- 1) Report u/s 12(3) of the K.L
Act, 1984 in No.
Compt/Uplok/GLB/1666/2012
DRE-5 Dated:05/12/2012
- 2) G.Order No. KAM E 634 BMM
2012, Bengaluru Dated:
13/02/2013
- 3) Order No.LOK/INQ/14-
A/102/2013, Bengaluru
Dated:25/02/2013
of the Hon'ble Upalokayukta

This Departmental Inquiry is directed against Sri Shashikantha Veerapura, Deputy Tahasildar, Hirehadagali Nadakacheri, Huvina Hadagali Taluk, **Bellary District**

(herein after referred to as the Delinquent Government Official in short "DGO").

2. After completion of the investigation a report u/sec. 12(3) of the Karnataka Lokayukta Act was sent to the Government as per Reference No.1.
3. In view of the Government Order cited above at reference-2, the Hon'ble Upalokayukta, vide order dated: 25/02/2013 cited above at reference-3, nominated Additional Registrar of Enquiries-4 of the office of the Karnataka Lokayukta as the Inquiry Officer to frame charges and to conduct Inquiry against the aforesaid DGO. Additional Registrar Enquires-4 prepared Articles of Charge, Statement of Imputations of mis-conduct, list of documents proposed to be relied and list of witnesses proposed to be examined in support of Article of Charges. Copies of same were issued to the DGO calling upon him to appear before this Authority and to submit written statement of his defence.
4. The Articles of Charges framed by ARE-4 against the DGO is as follows:-

ANNEXURE NO.I
CHARGE

That, you Sri Shashikantha Veerapura-the DGO, while working as Deputy Tahasildar, Hirehadagali Nadakacheri, Huvina Hadagali Taluk, Bellary District, Sri Somashekar s/o Veerabhadrapa Vibhuthi r/o Kalyan Nagar at Dharwad (herein after referred to as

the 'complainant') approached you-DGO as his brother Sri Dhanashetty Vibhuthi, who served in Army as Captain, had been granted four acres land in Sy.No. 372/1 and six acres land in Sy.No. 372/4 of Mylaar Village in Hoovina Hadagali Taluk. He died on 31/01/2007. So, after his said brother's death, an application had been given in the office of you-DGO on 15/12/2010 for mutation of said lands in the name of his brother's son Rajesh. As such, before about a month of 28/04/2011, he had approached you-DGO and enquired about the said application. For that, you-DGO demanded Rs. 10,000/- from the complainant to attend that work. On 4th time of his visit to your office, you-DGO took Rs. 3,000/- from the complainant when given, but still demanded to pay Rs. 6,000/-. Even on approaching Lokayukta Police on 28/04/2011, when he contacted you-DGO from Hospet from his mobile No. 9620608906 to Mobile No. 8431095603 which was with you-DGO, you-DGO reiterated the said demand of Rs.6,000/- and asked the complainant to come to office and give balance of Rs. 6,000/-. On 29/04/2011, you-DGO took the tainted (bribe) amount from the complainant at your office after getting confirmed about bringing the balance bribe amount by him, thereby failing to maintain absolute integrity and devotion to duty, the act of which is unbecoming of a Government Servant and thereby committed misconduct as enumerated u/Rule 3(1) of Karnataka Civil Service (Conduct) Rules, 1966.

ANNEXURE NO. II
STATEMENT OF IMPUTATIONS OF MISCONDUCT

The complainant approached the DGO as his brother Sri Dhanashetty Vibhuthi, who served in Army

as Captain, had been granted four acres land in Sy.No. 372/1 and six acres land in Sy.No. 372/4 of Mylaar village in Hoovina Hadagli Taluk. He died on 31/01/2007. So, after his said brother's death, an application had been given in the office of the DGO on 15/12/2010 for mutation of said lands in the name of his brother's son Rajesh. As such, before about a month of 28/04/2011, he had approached the DGO and enquired about the said application. For that, the DGO demanded Rs. 10,000/- from the complainant to attend that work. On 4th time of his visit to the office of DGO, DGO took Rs. 3,000/- from the complainant when given, but still demanded to pay Rs. 6,000/-. Even on approaching Lokayukta Police on 28/04/2011, when he contacted the DGO from Hospet from his mobile No. 9620608906 to mobile No. 8431095603 which was with the DGO, the DGO reiterated the said demand of Rs. 6,000/- and asked the complainant to come to office and give balance of Rs. 6,000/-. The complainant was not willing to pay the bribe demanded by the DGO. Therefore, the complainant lodged a complaint before the Lokayukta police Inspector of Hospet (herein after referred to as the Investigating officer, for short "the I.O.") The I.O. registered the complaint in Crime No. 4/2011 for the offences punishable u/sec. 7, 13 (1)(d) r/w 13(2) of Prevention of Corruption Act 1988. The I.O. took up investigation and on 29/04/2011 the DGO received the tainted (bribe) amount of Rs. 6,000/- from the complainant at his office after getting confirmed about bringing the balance bribe amount by him. The I.O. seized the tainted (bribe) amount from the DGO under mahazar. The I.O. recorded statement of the complainant and panch witnesses. The record of

investigation and materials collected by the I.O. showed that the DGO has committed misconduct failing to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of Government Servant. As the materials on record showed prima facie case about DGO receiving bribe for discharging duty as Government Servant, a suo-motu investigation was taken up u/Sec. 7(2) of the Karnataka Lokayukta Act against the DGO. An Observation Note was sent to the DGO calling for his explanation. The DGO gave his reply and the same has not been found convincing to drop the proceedings. As there is a prima facie case showing that the DGO has committed misconduct as per Rule 3(1) of Karnataka Civil Service (Conduct) Rules, 1966, report u/sec. 12(3) of the Karnataka Lokayukta Act was sent to the Competent Authority with recommendation to initiate the disciplinary proceedings against the DGO. Accordingly, the Competent Authority initiated Disciplinary Proceedings against the DGO and entrusted the enquiry to the Hon'ble Upalokaykta u/Rule 14-A of Karnataka Civil Service (Classification, Control and Appeal) Rules, 1957. Hence, the charge.

5. DGO appeared before this Inquiry Authority on 27/05/2013 and on the same day his First Oral statement was recorded U/R 11(9) of KCS (CC & A) Rules 1957. The DGO pleaded not guilty and claims to hold an inquiry.

6. DGO has filed his written statement as follows:-

The charges leveled against the DGO are false, baseless and there is no materials to prove the misconduct

against him. The DGO neither demanded nor accepted any illegal gratification from anybody much less from the complainant. The DGO never demanded any illegal gratification from the complainant as no work of the complainant was pending with him. The complainant never met the DGO earlier to the date of alleged incident. The DGO is falsely implicated by the complainant. The recovery of money is doubtful and there was no application by the complainant to change the khatha. The DGO has no authority to change the khatha and the panchas, complaint, FIR etc., are concocted and created. Hence, prays to exonerate him from the charges leveled against him in this case.

7. In order to substantiate the charge leveled against the DGO, the Disciplinary Authority has examined three witnesses as PW1 to PW3 and got marked documents at Ex.P1 to P17. After closing the evidence of the Disciplinary Authority, the Second Oral Statement of the DGO was recorded as required u/Rule 11(16) of KCS (CC & A) Rules, 1957. After closing the evidence of the Disciplinary Authority, the DGO got himself examined as DW2 and got one witness examined as DW1 and got marked documents at Ex.D1 to D9 and closed his side. Hence, recording the answer of DGO to questionnaire u/Rule 11(18) of KCS (CC&A) Rules was dispensed with.

8. The Disciplinary Authority has not filed the written brief. Oral arguments of the Presenting Officer and the

advocate for DGO was heard. The points, that arise for the consideration of this inquiry authority are:-

1. Whether the Disciplinary Authority has satisfactorily proved the charges framed against the DGO?
2. What order?

9. My finding on the above points are as follows:-

Point No.1: In the “ **AFFIRMATIVE**”

Point No.2: As per the final order for the following:

:: REASONS ::

10. Point No.1: It is the case of the Disciplinary Authority that, the DGO while working as Deputy Tahasildar, Hirehadagali Nadakacheri, Huvina Hadagali Taluk, Bellary District, one Sri Somashekar (complainant) approached the DGO as his brother Sri Dhanashetty Vibhuthi, who served in the Army as Captain had been granted 4 acre of land in Sy.No. 372/1 and 6 acres of land in sy.No. 372/4 of Mylaar village, in Hoovina Hadagali Taluk and the brother of the complainant died on 31/01/2007. After the death of his brother an application had been given in the office of the DGO on 15/12/2010 for mutation of the above said lands in the name of Sri Rajesh, who is the son of the above said brother of the complainant. About a month earlier to 28/04/2011, the complainant approached the DGO and enquired about the said application for which the DGO demanded Rs. 10,000/- from

the complainant to attend the above said work. On fourth time of his visit to the office of the DGO, the DGO took Rs. 3,000/- from the complainant and still demanded to pay Rs. 6,000/-. The complainant approached the Lokayukta police on 28/04/2011 and when the complainant contacted the DGO over mobile phone, the DGO reiterated the said demand and on 29/04/2011 the DGO took the balance bribe amount of Rs. 6,000/- from the complainant and thereby committed misconduct.

11. The complainant has been examined as PW1 and the copy of the complaint lodged by him in Lokayukta police station is at Ex.P1. The gist of Ex.P1 is as follows:-

12. The brother of the complainant by name Sri Dhanashetty Vibhuthi, was granted totally 10 acre of land in Mylaar village and Sri Dhanashetty Vibhuthi died on 31/01/2007 leaving behind his wife, one son by name Sri Rajesh D. Vibhuthi and two daughters by name Anitha Vibhuthi, and Sunitha Vibhuthi. In view of the death of Sri Dhanashetty Vibhuthi, an application was given to change the khatha of the above said land to the name of the above said Sri Rajesh D. Vibhuthi s/o late Dhanashetty Vibhuthi and in that connection the complainant met the DGO four times and the DGO who was working as Deputy Tahasildar, demanded bribe of Rs. 10,000/-. While the complainant had gone for the fourth time to meet the DGO, the DGO received Rs. 3,000/- from him and asked the complainant to pay Rs. 6,000/- and not willing to pay the above said

amount, he approached the Lokayukta police and he was given the voice recorder and he called the DGO over mobile phone with speaker mode on and recorded the conversation in the voice-recorder and the DGO asked him to come on the next day and to pay the balance amount of Rs. 6,000/- and the voice-recorder was also returned along with the complaint. Ex.P1 has been lodged on 18/04/2011 at 1.30 p.m.

13. PW1 has reiterated all the averments made in Ex.P1 in his deposition and I feel it not necessary to reproduce the same. He has deposed that, the Police Inspector secured Sri Samarth Jadhav and Sri Khaja Ali, as two panchas and the copy of the complaint was given to them to go through the same. He has deposed that, he produced the amount of Rs. 6,000/- (Rs.500x12) and the panchas noted down the numbers of the notes in a separate sheet. He has deposed that the phenolphthalein powder was smeared to the notes and the panchas by name Sri Samarth Jadhav, counted the notes and kept them on the table and afterwards the hands of Sri Samarth Jadhav was washed in the sodium carbonate solution and that solution turned into pink colour. He has deposed that, the Entrustment Mahazar was also drawn and the copy of the same is at Ex.P2. He has deposed that, the Police Inspector asked him to come on the next day and accordingly he went to the police station on the next day and the panchas also came to the police station. He has deposed that, the tainted currency notes which were kept in the almirah on the previous day were kept in his shirt

pocket and the Police Inspector also gave him a voice-recorder and instructed him to record his conversation with the DGO. He has deposed that, the photographs were also taken and the mahazar was also drawn and the copy of the same is at Ex.P3.

14. He has further deposed that, afterwards all of them went to Hirehadagali in the police jeep and the police jeep was parked at a distance and himself and pancha witness Sri Khaja Ali went inside the office of the DGO. He has deposed that, the DGO came little late and he requested the DGO to attend to his work and the DGO asked him whether he has brought the amount and he gave the tainted currency notes and the DGO received it with his right hand and counted the notes and kept the same on his table. He has deposed that, he went out and gave the pre-instructed signal to the Police Inspector and Police Inspector came to the chamber of the DGO with his staff and another pancha witness. He has deposed that, he showed the DGO to the Police Inspector and also told that, the DGO demanded and received the bribe amount. He has deposed that, the hands of the DGO were washed in a solution and the solution turned to pink colour. He has deposed that, the bribe amount was on the table of the DGO and the panchas verified the notes and found that they were the same notes mentioned in Ex.P2 and the same was seized. He has deposed that, the place where the notes were found was swiped by using the cotton and the said cotton was washed in sodium carbonate solution and that solution colour

turned into pink colour. He has deposed that, the Trap Mahazar was drawn and the copy of the same is at Ex.P3 and Ex.P3(a) is his signature. [By mistake Ex.P3 has been marked twice and the mahazar drawn for entrusting the tainted currency notes to the complainant dated: 29/04/2011 is also Ex.P3 and the Trap Mahazar is also marked as per Ex.P3]. He has deposed that after the Trap Mahazar all of them went to the private office of the DGO at Hoovinahadagali and the DGO produced some documents concerning the complainant and certified copy of the same were prepared and seized and in that respect the mahazar was also drawn.

15. PW1 in his cross-examination admits that, Ex.D2 is the certified copy of his deposition in the criminal case. No omission or contradiction is made out in the evidence of PW1 with regard to Ex.D2 and hence mere production of Ex.D2 is of no help to the defence of the DGO. In his cross-examination PW1 admits that, Sri Rajesh D. Vibhuthi, had given the application for change of khatha. He has denied the suggestion that, the khatha had been changed to the name of Sri Rajesh D.Vibhuthi, on 21/12/2010 itself. He has deposed that one Sri Veerabhadrapa had given objection for change of khatha to the name of Sri Rajesh D. Vibhuthi. He has deposed that, he do not know whether Sri Peekalappa and Sri Govindappa had also given their objection for change of khatha. He has deposed that, before giving the complaint to the Lokayukta police he had met the DGO four times. He has deposed that, Ex.D3 is the copy of

the application given by Sri Rajesh D. Vibhuthi for change of khatha. He has denied the suggestion that, the khatha had been changed to the name of Sri Rajesh D. Vibhuthi on 21/12/2010 as per Ex.D4. In fact in Ex.D4 it is clearly mentioned by the Revenue Inspector on 25/01/2011 to the effect that, within the time given on 12/01/2011 itself Sri G. Veerabhadrappe, has given his objection for change of khatha and hence, the case is referred to Deputy Tahasildar as disputed case for decision. Hence, Ex.D4 cannot be said as the document which shows that, the khatha of the land mentioned in the complaint had been changed to the name of Sri Rajesh D. Vibhuthi on 21/12/2010. He has deposed that, Sri Rajesh D. Vibhuthi, was not present with him when he lodged the complaint in Lokayukta police station as per Ex.P1. He has deposed that, at that time, Sri Rajesh D. Vibhuthi was in Mumbai. He has deposed that, he had taken the voice-recorder to the office of the DGO at the time of trap but he had forgotten to switch on the same. He has deposed that, on the date of trap the DGO came to the office half an hour or one hour after himself and the shadow witness went to meet the DGO in the office of the DGO. He has denied the suggestion that, he had kept the tainted currency notes on the table of the DGO voluntarily. He has denied the suggestion that, the Lokayukta inspector told the DGO to take the amount which was kept on his table. He has denied the suggestion that, the DGO never demanded or accepted any bribe amount from him. He has denied the suggestion that, he has given the false complaint against the DGO. Thus PW1 in his cross-examination also

has given evidence in accordance with the case of the Disciplinary Authority.

16. PW2 is Sri Khaja Ali and he has deposed that, he was working as SDA in CMC at Hospet and on 28/04/2011 his office Manager directed him to go to Lokayukta police station at Hospet. He has deposed that, he went to Lokayukta police station at 1 p.m. and in Lokayukta police station, the complainant and another pancha witness were present and he was introduced to them. He has deposed that, he was told about the complaint lodged by the complainant and the complainant produced the voice-recorder and it was played and they heard the conversation recorded in the same. He has deposed that, the complainant produced the amount of Rs. 6,000/- consisting of 12 notes of the denomination of Rs. 500/- and himself and another pancha witness verified the currency notes and noted down the Sl.No. of the same in a separate sheet of paper and the copy of the same is at Ex.P4. He has deposed about all other proceedings mentioned in Ex.P2-Entrustment Mahazar as the procedures which took place in the Lokayukta station and I feel it not necessary to repeat the same. He has deposed that, Ex.P2(b) is his signature. He has deposed that, conversation recorded in the voice recorder was transcribed and the copy of the same is at Ex.P5. He has deposed that, the notes were kept in the almirah and they were asked to come on the next day. He has deposed that, on the next day morning he had been to Lokayukta police station and the complainant and another

pancha witness were also present and the mahazar was drawn and the copy of the same is at Ex.P3.

17. PW2 has further deposed that, after Entrustment Mahazar they went to the Nadakacheri and himself and PW1 were sent to meet the DGO. He has deposed that, the complainant (PW1) met the DGO and told that, he has brought the amount and before that, the DGO asked the complainant whether he has brought the amount. He has deposed that, PW1 gave the tainted currency notes and the DGO received the same with his right hand and kept the amount in his left side shirt pocket. He has deposed that, the hand wash of the DGO was positive and the Police Inspector also seized the documents. He has deposed that, the Trap Mahazar was drawn and the copy of the same is at Ex.P3 and he has signed the same. He has deposed that, they went to the Tahasildar office at Hadagali village where some documents were seized under the mahazar and the copy of the same is at Ex.P6. He has also deposed about Ex.P7 to P9 also. He has been treated as hostile witness and cross-examined by the learned Presenting Officer with regard to some of the averments made in the Entrustment Mahazar and Trap Mahazar.

18. In his cross-examination by the Presenting Officer he admits that, the averments made in the Entrustment Mahazar are correct and that proceedings took place in Lokayukta Police station as mentioned in the Entrustment Mahazar. He also admits that, when the complainant gave

the tainted currency notes, the DGO received it with his right hand, counted the notes with both hands and then kept the amount on the table. Thus he admits all the averments made in the Entrustment Mahazar and the Trap Mahazar as true and correct. He has deposed that, Ex.P10 are the copies of the photographs taken at the time of the Entrustment Mahazar and Trap Mahazar.

19. PW2 has been cross-examined at length by the learned counsel for the DGO and he has deposed that, Ex.D1 is the certified copy of his deposition in the criminal case and the evidence given by him in the criminal case is correct. He has deposed that, in the criminal case he has given his evidence as per Ex.D1(a) and Ex.D1(a) is the entire cross-examination of this witness in the criminal case. Even in his evidence before the criminal court PW2 has deposed about the entrustment mahazar and also about the trap mahazar and he has deposed that, the DGO received the amount with his right hand and kept it on his table. Ex.P3-Trap Mahazar discloses that, the hands of the DGO were washed separately and both hand wash gave positive result. As stated above, in this enquiry PW2 has clearly deposed that, the DGO asked PW1 whether he has brought the amount and PW1 told that, he has brought the amount and gave the tainted currency notes and the DGO received the same. Thus the evidence of PW2 substantially supports the case of the Disciplinary Authority. No material omission or contradiction is made out in the cross-examination of PW2 in connection with Ex.D1 which is the

certified copy of the deposition of PW2 in the criminal case. Thus PW2 has also supported the case of the Disciplinary Authority and there is no reason to disbelieve his evidence.

20. PW3 is Sri K. Srinivas and he has deposed that, from 20/09/2010 to 17/10/2012 he was working as Police Inspector in Lokayukta Police station, Hospet. He has deposed that, on 28/04/2011 at 10 a.m. PW1 came to Lokayukta police station and gave the oral complaint against the DGO and to confirm the same he gave the voice-recorder to PW1 and asked him to record the conversation. He has deposed that, afterwards PW1 came to the Lokayukta police station again on the same day and told that, he contacted the DGO over mobile phone with speaker mode on and recorded the conversation in the voice-recorder and gave the complaint as per Ex.P1. He has deposed that, on the basis of Ex.P1 he registered the case and sent the FIR to the concerned court and the copy of the FIR is at Ex.P11. He deposed that, PW1 returned the voice-recorder also. He has deposed that, he secured two panchas and introduced them to the complainant and also told the panchas about the complaint given by the complainant. He has deposed about all the proceedings mentioned in the Entrustment Mahazar-Ex.P2 and I feel it not necessary to repeat the same. He has deposed that, the tainted currency notes were kept in the almirah along with other seized articles mentioned in Ex.P2 and the panchas and the complainant were asked to come on the next day morning.

21. He has further deposed that, on the next day on 29/04/2011 panchas and the complainant came to Lokayukta police station and the tainted currency notes were removed from the almirah and entrusted to PW1 and the mahazar was also drawn in that respect in the Lokayukta police station and the copy of the same is at Ex.P3. He has further deposed that, afterwards they went to the office of the DGO and the vehicle was parked at a distance and PW1 and PW2 were sent inside the office of the DGO by reminding them of the instructions already given to them at the time of the entrustment mahazar. He has deposed that, PW1 and PW2 went inside the office of the DGO at about 11.30 a.m. and at about 12.30 p.m. PW1 came out of the Nadakacheri and gave the pre-instructed signal and immediately himself and his staff and another pancha went inside the office of the DGO and PW1 showed the DGO and the hands of the DGO were washed separately in the solution and both the solutions turned into pink colour. He has deposed that the tainted currency notes were on the table and the same was seized. He has deposed that, the DGO gave his explanation in writing and PW1 and PW2 denied the contents of the same. He has deposed that, the copy of the attendance register is at Ex.P8. PW3 has deposed that, at the time of the Trap Mahazar when the DGO was enquired about the file of Sri Rajesh Vibhuthi, the DGO told that, he has kept the file in his room situated in the third floor of the Tahasildar Office, Hadagali and accordingly after the Trap Mahazar the DGO took PW3 and the panchas and others to his room stated above and in the

presence of the Tahasildar, the DGO opened the lock of that room and produced 14 documents and the Xerox copy of the same was prepared and got the same attested by the Tahasildar and those attested copies were seized by writing the mahazar and the copy of the same is at Ex.P6. The copies of those documents are not marked in this enquiry. But in Ex.P6 the details of those documents are clearly mentioned and the same discloses that, those documents are nothing but the documents given by Sri Rajesh D. Vibhuthi s/o Late Dhanashetty Vibhuthi for change of khatha of the lands mentioned in the complaint and Ex.P6 is not denied by the DGO in the cross-examination of PW3.

22. Ex.P9 is the copy of the order sheet of the above said RRT case which is not in dispute and it discloses that, the case was reserved for orders by the DGO on 24/03/2011. The DGO in his evidence also admits that, he had not passed order in the above said disputed RRT case and hence it can be said that, the work alleged in the complaint was pending with the DGO as on the date of the trap. He has deposed that, Ex.P7 is the copy of the register of disputed RRT cases. He has deposed that, Ex.P10 are the copies of the photographs taken at the time of the Entrustment Mahazar and the Trap Mahazar. Ex.P10 and P7 are the same documents. He has deposed that, Ex.P5 is the copy of the transcription of the conversation between the DGO and PW1. He has deposed that, Ex.P12 is the copy of the rough sketch of the scene of occurrence and

Ex.P13 is the pakka sketch and Ex.P14 is the copy of the FSL report. The opinion given in Ex.P14 is to the effect that, presence of phenolphthalein is detected in the right and left hand washes of the DGO. Thus Ex.P14 also supports the case of the Disciplinary Authority. Ex.P5 and P16 are one and the same documents. (transcription of the conversation between the complainant and the DGO recorded prior to the registration of complaint-Ex.P1). As stated above, PW1 to PW3 have deposed that, DGO gave his explanation in writing at the time of the trap mahazar and the copy of the same is not marked on the side of the Disciplinary Authority, but marked on the side of DGO as Ex.D9. The contents of the explanation of the DGO is mentioned in Ex.P3-Trap Mahazar also. According to the same, the explanation given by the DGO in writing is as follows:-

“ನನಗೆ ಈ ದಿವಸ ಕೆಲಸ ನಿರ್ವಹಿಸುವಾಗ ಸಂಬಂಧವಿಲ್ಲದೆ ಮೋಸಮಾಡಿ ರೂ. 6000-00 ಗಳನ್ನು ಸೋಮಶೇಖರ್ ವಿಭೂತಿಯವರು ನನಗೆ ಗೊತ್ತಿಲ್ಲದೆ ನೀಡಿದ ಬಗ್ಗೆ ಪ್ರಸ್ತಾಪಿತ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟಂತೆ, ನನಗೆ ದಿನಾಂಕ: 29/04/2011 ರಂದು ಕಾರ್ಯಾಲಯದ ಕೆಲಸ ನಿರ್ವಹಿಸುವಾಗ ಸೋಮಶೇಖರ್ ವಿಭೂತಿ ಎನ್ನುವವರು ವಿನಾಕಾರಣ, ನನಗೆ ತಿಳಿಯದೆ ಬೇಡವೆಂದ ರೂ. 6000-00ಗಳನ್ನು ಮೋಸ ಮಾಡಿ ಕೊಟ್ಟಿರುತ್ತಾರೆ”.

23. According to the above said explanation the DGO admits that, he had received Rs. 6,000/-. But it was given by way cheating and without his knowledge. In the same it is not stated how the DGO was cheated and how the amount was given without his knowledge which only supports the case of the Disciplinary Authority.

24. PW3 has been cross-examined at length by the learned counsel for the DGO and even in his cross-examination he has given his evidence in accordance with the case of the Disciplinary Authority. He has deposed that, Ex.D5 is the certified copy of his deposition in the criminal case. No omission or contradiction is made out in the evidence of PW3 in respect of Ex.D5. Hence, mere production of Ex.D5 is not of any help to the case of the DGO.

25. DW1 is Sri M.S. Meti, and he has deposed that, in the year 2011 he was working as Village Accountant in the Taluk office of Hoovinahadagali and one Sri Vibhuthi Rajesh had given the application for change of khatha in respect of sy.No. 372/1 and 372/4 of Mylaar village and three or four persons gave objection to the above said application of Rajesh D. Vibhuthi. He has deposed that, Ex.D6 is the copy of the objection given by Sri Veerabhadrapa and Ex.D7 is the copy of the objection given by Sri Peekalappa and Sri Govindappa. He has deposed that, in view of the objections stated above, he sent the file of Sri Rajesh D. Vibhuthi to the Revenue Inspector. He has deposed that, if any objection is received, then the Deputy Tahasildar had to pass the order. He has deposed that, on 24/03/2011 Sri Veerabhadrapa had withdrawn his objection and copy of the document in that respect is at Ex.D8. In his cross-examination DW1 has deposed that, as per Ex.P9 on 24/03/2011 the DGO reserved the case of Sri Vibhuthi Rajesh for orders and in Ex.P9 there is no mention about the order being passed by the DGO. As stated above, even

before the DGO passed the order he has been trapped in this case on 29/04/2011.

26. DW2 is the DGO and he has deposed that, from 05/06/2006 to 08/06/2011 he has worked as Deputy Tahasildar, Nadakacheri Hirehadagali. He has deposed that, Sri Rajesh Vibhuthi had given an application for change of khatha on 15/12/2010 in respect of lands mentioned in the complaint. He has also deposed about the objections filed to the application of Sri Rajesh Vibhuthi. He has also deposed that, the Revenue Inspector had sent the file on 25/01/2011 to his office for decision. He has deposed that, he issued notice to both the parties and conducted the hearings between 11/03/2011 to 24/03/2011. He has deposed that, PW1 approached him 3 or 4 times and asked him to change the khahta into his name and he told PW1 that it cannot be done and that it will be illegal. It is pertinent to note that, even in the written statement there is no such contention and hence above said evidence of DGO cannot be given any weight. It is also pertinent to note that, even there is no cross-examination of PW1 in that respect. In the written statement the DGO has contended that PW1 never met him prior to the date of trap and in his evidence he has deposed that, PW1 had met him 3 or 4 times earlier to the date of trap which only supports the case of the Disciplinary Authority.

27. DW2 has further deposed that, on 29/04/2011 at about 12 p.m. when he was in his office 30 to 40 public

persons were present in his office and at that time somebody had kept the tainted currency notes on his table and he was not able to know who had kept that amount. He has deposed that, the Lokayukta police asked him to give the amount which was on his table and hence he gave the amount to the Lokayukta police and afterwards his hands were washed. He has deposed that, in the criminal case he has been acquitted and the copy of the judgment passed in the criminal case is at Ex.D8. He has deposed that, Ex.D9 is the copy of the explanation given by him to the I.O. in which it is mentioned that, PW1 gave the amount of Rs. 6,000/- by way of cheating and even though he refused to receive the amount. The above said explanation is also contrary to the evidence given by DW2 stated above. As stated above, DW2 has deposed that, somebody had kept the tainted currency notes on his table and he do not know who had kept the same.

28. DW2 in his cross-examination admits that, in the disputed case the Deputy Tahasildar has to pass orders and against the same the Appeal lies only to the Assistant Commissioner. He also admits that, as per Ex.P9 on 24/03/2011 he reserved the case for order and he had not passed the final order. He has deposed that, he had sent the file to the Tahasildar. The same cannot be accepted as he could not send the file to the Tahasildar without passing the order and as stated above the file was also in the room of the DGO as per the mahazar-Ex.P6.

29. As stated above, Ex.D8 is the copy of the judgment passed in Special Case No. 36/2012 by the 3rd Addl. District and Sessions Judge, Ballari (sitting at Hosapete) date: 21/08/2017. Ex.D8 discloses that, in the criminal case by the Lokayukta police, the DGO has been acquitted on the ground that, the prosecution has failed to establish the guilt of the accused (DGO) beyond all reasonable doubt and the accused is entitle for the benefit of doubt. In the departmental inquiry the evidence has to be scrutinised on the basis of the preponderance of probabilities. In the decision reported in **1997(2) SCC 699 in case of Depot Manager, APSRTC V/S Mohammed Yosuf Miya and others, (2005)7 SCC 764 between Ajit Kumar Nag v/s General manager (P) Indian Oil Corporation Limited, Haldia and others** it is made out very clearly that, the purpose of departmental inquiry and the prosecution are different and distinct aspects though the two proceedings relate to the same set of facts. The nature of evidence in criminal case is entirely different from the departmental proceedings and in the criminal case the prosecution is required to prove the guilt of the accused beyond all reasonable doubt on the touch-stone of human conduct and whereas the evidence required in a departmental inquiry is not regulated by such strict rules. Therefore, misconduct of the DGO is required to be taken into consideration on the basis of preponderance of probabilities and merely because the DGO has been acquitted in the criminal case by the judgment in criminal case, that itself is not sufficient to overlook the evidence placed on record by the Disciplinary Authority.

30. Further more, the above said decisions of the Hon'ble Supreme Court have been reiterated in the recent judgment by the **Hon'ble Supreme Court in Shashi Bhusan Prasad V/s Inspector General, Central Industrial Security Force and others decided on 01/08/2019**. Hence, Ex.D8 is not of any help to the DGO.

31. Except minor discrepancies which does not go to the root of the case of the Disciplinary Authority, the evidence of PW1 to PW3 supports the case of the Disciplinary Authority and there are no reasons to discard or disbelieve the evidence of PW1 to PW3. As stated above, the work of the complainant stated in the complaint was pending with the DGO as on the date of the trap and PW1 and PW2 have clearly deposed that, the DGO on 29/04/2011 demanded and received Rs. 6,000/- in his office from PW1. PW1 has also deposed that, earlier to the filing of the complaint he had given Rs. 3,000/- to the DGO. There is no reason as to why PW1 has given the false complaint against the DGO and deposed falsely against the DGO. Hence, the case of the complainant (PW1) to the effect that, earlier to the filing the complaint he had given bribe of Rs. 3,000/- to the DGO can be believed.

32. The facts and circumstances of this case stated above only probabalises the case of the Disciplinary Authority and not the case of the DGO.

33. Thus the charge that the DGO has failed to maintain absolute integrity, devotion to duty and acted in a manner

unbecoming of a Government Servant is proved. Hence, I answer the above point No.1 in the **AFFIRMATIVE**.

34. Point NO.2:- For the reasons discussed above, I proceed to give the following Report:

:: REPORT ::

*The Disciplinary Authority has satisfactorily proved the charge against the DGO-Sri Shashikantha Veerapura, Deputy Tahasildar, Hirehadagali Nadakacheri, Huvina Hadagali Taluk, **Bellary District**, that he demanded and accepted bribe of Rs. 6,000/- from the complainant on 29/04/2011 and earlier to that the DGO had received the bribe amount of Rs. 3,000/- from the complainant for doing an official act and thereby committed misconduct under Rule 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules, 1966.*

35. Hence this report is submitted to Hon'ble Upalokayukta-2 for kind perusal and for further action in the matter.

Dated this the 8th day of April, 2021

-Sd/-
(Somaraju)
Additional Registrar Inquiries-4,
Karnataka Lokayukta,
Bengaluru.

:: ANNEXURE ::**LIST OF WITNESSES EXAMINED ON BEHALF OF DISCIPLINARY AUTHORITY:**

PW-1: Sri Somashekar
PW-2: Sri Khaja Ali
PW-3: Sri K. Srinivasa

LIST OF WITNESSES EXAMINED ON BEHALF OF THE DEFENCE:

DW-1: Sri M.S. Meti
DW-2: Sri Shashikanth Veerapura (DGO)

LIST OF EXHIBITS MARKED ON BEHALF OF DISCIPLINARY AUTHORITY

Ex.P-1: Certified copy of the complaint
Ex.P-1(a),(b): Relevant entries in Ex.P1
Ex.P-2: Certified copy of the Entrustment Mahazar
Ex.P-2(a to d): Relevant entries in Ex.P2
Ex.P-3: Certified copy of the another Entrustment Mahazar
and Certified copy of the Trap Mahazar
Ex.P-3(a to d): Relevant entries in Ex.P3
Ex.P-4: Certified copy of the notes denomination and
number mentioned white sheet
Ex.P-4(a to c): Relevant entries in Ex.P4
Ex.P-5: Xerox copy of the conversation that took place
between DGO and the complainant
Ex.P-5(a,b); Relevant entries in Ex.P5
Ex.P-6: Xerox copy of the Trap Mahazar
Ex.P-6(a); Relevant entry in Ex.P6
Ex.P-7: Certified copy of the register
Ex.P-7(a to c): Relevant entries in Ex.P7
Ex.P-8: Certified copy of the attendance register book
Ex.P-8(a to c): Relevant entries in Ex.P8
Ex.P-9: Certified copy of the file pertaining to khata
application
Ex.P9(a to c); Relevant entries in Ex.P9
Ex.P-10: Xerox copy of the photos on the white sheet
Ex.P-10(a to c): Relevant entries in Ex.P10
Ex.P-11: Certified copy of the FIR
Ex.P-12: Certified copy of the rough sketch
Ex.P13: Certified copy of the sketch of scene of occurrence
Ex.P14: Certified copy of the chemical examination report
Ex.P-15: One C.D.

- Ex.P-16: Certified copy of the conversation copy that took place between DGO and the complainant
Ex.P-17: Certified copy of the photos

LIST OF EXHIBITS MARKED ON BEHALF OF DGOs:

- Ex.D-1:-Certified copy of the Chief examination of Sri S. Khaja Alli in Special Case No.43/2011
Ex.D-2:-Certified copy of the Chief examination of Sri S. Somashekhar in Special Case No.43/2011
Ex.D-3: Certified copy of the letter of Sri Rajesh Veebhuthi addressed to the Tahasildar, Huvina Hadagali
Ex.D-4: Certified copy of the mutation extract
Ex.D-5: Certified copy of the Chief examination of Sri S. K.Srinivasa in Special Case No.36/2012
Ex.D-6: Xerox copy of the objection to the application for not made the khatha change and with Xerox copy of the enclosure
Ex.D-7: Xerox copy of the objection to the application for not made the khatha change dated: 10/01/2011
Ex.D-8: Xerox copy of the notice dated: 17/03/2011
Ex.D-8: Certified copy of judgment in Special Case No.36/2012
Ex.D-9: Xerox copy of Explanation from Sri Shashikanth Veerapura

Dated this the 8th day of April, 2021

-Sd/-
(Somaraju)
Additional Registrar Inquiries-4,
Karnataka Lokayukta,
Bengaluru.

