

BEFORE THE ADDITIONAL REGISTRAR, ENQUIRES-11

KARNATAKA LOKAYUKTA, BENGALURU

ENQUIRY NUMBER: UPLOK-2/DE/102/2016

ENQUIRY REPORT Dated:28/03/2018

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

Delinquent Government Official No.1: Sri. V.H. Krishnamurthy.

Discharged duties as
Commissioner, City Municipal
Council, Hassan from the
month of April 2014 to the
year 2016.

Born on 17/05/1958. Died on
15/11/2017.

Delinquent Government Official No.2: Sri. Shivakumar.

Discharging duties as Revenue
Officer, City Municipal
Council, Hassan from the
month of December 2011.

Due for retirement on
superannuation on
31/08/2024.

Delinquent Government Official No.3:Sri. M. Shivakumar.

Discharged duties as Revenue
Inspector, City Municipal
Council, Hassan from the
month of February 2012 to
November 2015.

Due for retirement on
superannuation on
31/07/2032.

Handwritten signature and date: 28.3.2018

1. During 2014 and 2016 Delinquent Government Official No.1 (in short, "DGO 1") by name V.H. Krishnamurthy was working as Commissioner, City Municipal Council, Hassan. He died on 15/11/2017. Delinquent Government Official No.2 (in short, "DGO 2") by name Shivakumar is working as Revenue Officer in City Municipal Council, Hassan from the month of December 2011. He is due for retirement on superannuation 31/08/2024. Delinquent Government Official No.3 (in short, "DGO 3") by name M. Shivakumar was working as Revenue Inspector in City Municipal Council, Hassan from the month of month of February 2012 to November 2015. He is due for retirement on superannuation 31/07/2032.
2. Complaint dated 26/05/2014 in FORM NO.I of the complainant Sri. H.S. Dattathreya Prasad resident of EWS 655, 27th cross, Kuvempunagara, Hassan against Sri. T. P. Manjunath, Junior Engineer, City Municipal Council, Hassan came to be registered in COMPLAINT/UPLOK/MYS 6387/2014/DRE-5.
3. According to the complainant, drainage of the length of about ½ kilometers commencing from Manjunatha Kalyana Mantapa, Hassan has been formed. Some persons constructed residential houses on the above drainage encroaching the Government property and despite the same no action has been initiated. It is alleged that the concerned officers of Town Municipal Council, Hassan received illegal gratification from those persons who put up constructions. It is alleged that drainage by the side of 27th cross road is not kept clean and amount is misappropriated under the pretext that new drainage will be formed. It is alleged that cleaning process of drainage in between the Police quarters in Kuvmpunagara, Hassan is not undertaken. It is also alleged that inspite of pointing out of illegal water connection in 27th

Handwritten signature and date: 28/3/2018

cross road, Hassan the concerned engineer has not initiated any action but instead received illegal gratification of Rs.2600/- from some persons who availed illegal water connection.

4. Hon'ble Upalokayukta-2, Karnataka in exercise of the powers conferred upon under section 9 of The Karnataka Lokayukta Act, 1984 took up investigation and in order to ascertain the correctness or otherwise of the allegations levelled in the complaint referred the matter to the Chief Engineer, Technical Audit Cell, Karnataka Lokayukta, Bengaluru. The Chief Engineer in turn entrusted the matter to Sri. K.Subramanya Karanth (hereinafter will be referred to as "Investigating Officer") the then Assistant Executive Engineer attached to Technical Audit Cell, Karnataka Lokayukta, Bengaluru. The Investigating Officer conducted spot inspection on 05/03/2015 and found that about ten years ago some persons encroached the drainage and constructed twelve houses on either side of the drainage leading from Manjunatha Kalyana Mantapa, Kuvempunagara, Hassan. The Investigating Officer found that DGO 1 though issued notice dated 30/10/2014 to the owners of the above houses failed to initiate further action. The Investigating Officer arrived at conclusion that DGOs 1 to 3 are responsible for the above latches.
5. On the materials on record, Hon'ble Upalokayukta-2, Karnataka arrived at conclusion that there existed prima facie materials to show that DGOs 1 to 3 have failed to initiate action for removal of the above twelve unauthorised buildings which prima facie attracts misconduct within the purview of Rule 3 (1) of The Karnataka Civil Services (Conduct) Rules, 1966 and accordingly, in exercise of the powers conferred upon under section 12(3) of The Karnataka Lokayukta Act, 1984 recommended the competent

12-3-2018

authority to initiate disciplinary proceedings against DGOs 1 to 3 and to entrust the inquiry to Hon'ble Upalokayuta, Karnataka under Rule 14-A, of The Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.

6. Subsequent to the report dated 04/01/2016 under section 12(3) of The Karnataka Lokayukta Act, 1984, Government Order bearing number ನ ಅ ಇ 13 ಡಿ ಎಂ ಕೆ 2016, ಬೆಂಗಳೂರು ದಿನಾಂಕ 31/03/2016 has been issued by the Under Secretary to Government of Karnataka, Department of Urban Development entrusting the inquiry to the Hon'ble Upalokayukta-1, Karnataka under Rule 14-A of The Karnataka Civil Services (Classification, Control and Appeal) Rules, 1967.
7. Subsequently, corrigendum bearing number ನ ಅ ಇ 13 ಡಿ ಎಂ ಕೆ 2016, ಬೆಂಗಳೂರು ದಿನಾಂಕ 05/04/2016 has been issued by the Under Secretary to Government of Karnataka, Department of Urban Development stating that "ಮಾನ್ಯ ಉಪಲೋಕಾಯುಕ್ತರು - 1" as mentioned in the above Government Order may be read as "ಮಾನ್ಯ ಉಪಲೋಕಾಯುಕ್ತರು" and the words " ಅಪರ ನಿಬಂಧಕರು ವಿಚಾರಣೆಗಳು-6" may be read as "ಅಪರ ನಿಬಂಧಕರು ವಿಚಾರಣೆಗಳು-5" in the above Government Order.
8. Subsequent to the Government Order and Corrigendum, Order number UPLOK-2/DE/102/2016 Bengaluru dated has been ordered by the Hon'ble Upalokayukta, Karnataka nominating the Additional Registrar, Enquiries-11, Karnataka Lokayukta, Bengaluru to frame charges and to conduct departmental inquiry against DGOs 1 to 3.
9. Articles of charge dated 04/06/2016 at Annexure-I which includes statement of imputation of misconduct at Annexure-II framed by the then Additional Registrar, Enquireis-11, Karnataka Lokayukta, Bengaluru is the following:

Handwritten signature and date: 28/3/2016

“ಅನುಬಂಧ-1

ದೋಷಾರೋಪಣೆ

ನೀವುಗಳು ಹಾಸನ ನಗರಸಭೆಯಲ್ಲಿ ಸಾರ್ವಜನಿಕ/ಸರ್ಕಾರಿ ನೌಕರರಾಗಿ 2013-14ರಲ್ಲಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿರುವಾಗ ಹಾಸನ ಪಟ್ಟಣದಲ್ಲಿರುವ ಮಂಜುನಾಥ ಕಲ್ಯಾಣ ಮಂಟಪ ಕಟ್ಟಡದಿಂದ ಎಸ್.ಜೆ.ಪಿ. ರಸ್ತೆಯವರೆಗಿನ ಚರಂಡಿ ಮೇಲೆ 12 ಕಟ್ಟಡಗಳನ್ನು ಅನಧಿಕೃತವಾಗಿ ನಿರ್ಮಾಣ ಮಾಡಿದ್ದು, ಅವುಗಳನ್ನು ತೆಗೆದುಕೊಳ್ಳಲು ಕ್ರಮ ಕೈಗೊಳ್ಳದೇ ಕರ್ತವ್ಯ ಲೋಪ ಎಸಗಿ ಸರ್ಕಾರಿ ನೌಕರಿಗೆ ಉಚಿತವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡು ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸಿವಿಲ್ ನಿಯಮ (ನಡತೆ) 1966ರ ನಿಯಮ 3(1)(i)ರ ಅಡಿಯಲ್ಲಿ ದುರ್ನಡತೆ ಎಸಗಿದ್ದೀರಿ.

ಅನುಬಂಧ-2

ದೋಷಾರೋಪಣೆಯ ವಿವರ

ದೂರುದಾರರು ತಮ್ಮ ದೂರಿನಲ್ಲಿ ಹಾಸನ ನಗರಸಭೆಯ ಕುವೆಂಪು ನಗರದ ಮಂಜುನಾಥ ಕಲ್ಯಾಣ ಮಂಟಪದಿಂದ ಅರ್ಧ ಕಿ.ಮೀ. ದೊಡ್ಡ ಮೋರಿ ನಿರ್ಮಿಸಿದ್ದು, ಈ ಮೋರಿಯನ್ನು 15 ಅಡಿ ಅತಿಕ್ರಮಿಸಿಕೊಂಡು ಮನೆ ಮಾಲೀಕರು ಮನೆ ಕಟ್ಟಿರುತ್ತಾರೆ, 27ನೇ ಅಟ್ಟ ರಸ್ತೆ ಚರಂಡಿಯಲ್ಲಿ ಮಣ್ಣು ತುಂಬಿಕೊಂಡಿದ್ದು, ಇದನ್ನು ಸ್ವಚ್ಛ ಮಾಡದೇ, ರಿಪೇರಿ ಎಂದು ಮೂರು ಬಾರಿ ಹಣ ದುರುಪಯೋಗ ಮಾಡಿಕೊಂಡಿರುತ್ತಾರೆ, ಪೊಲೀಸ್ ಕ್ವಾಟ್ರಸ್ ಮತ್ತು ಕುವೆಂಪು ನಗರ ಮಧ್ಯೆ ಇರುವ ಮೋರಿಯಲ್ಲಿ ಕಸವನ್ನು ಒಂದು ಬಾರಿಯೂ ಸ್ವಚ್ಛಗೊಳಿಸಿಲ್ಲ, ಸದರಿ ರಸ್ತೆಯಲ್ಲಿ 10-15 ಅಕ್ರಮ ನೀರಿನ ಸಂಪರ್ಕವಿದ್ದು, ಸಂಬಂಧಪಟ್ಟ ಇಂಜಿನಿಯರ್‌ವರಿಗೆ ಖುದ್ದು ತೋರಿಸಿದ್ದರೂ ಸಹ ಯಾವುದೇ ಕ್ರಮ ಕೈಗೊಳ್ಳದೇ, ಅಕ್ರಮ ಕನ್ಸ್ಟ್ರಕ್ಷನ್ ರೂ.2,600-00 ಹಣವನ್ನು ಹಲವರು ಕೊಟ್ಟಿದ್ದಾರೆ ಎಂದು ಆಪಾದಿಸಿರುತ್ತಾರೆ.

ಸದರಿ ದೂರಿನಲ್ಲಿನ ಆಪಾದನೆಗಳಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಆಪಾದಿತ ನೌಕರರಿಗೆ ಆಕ್ಷೇಪಣೆ ಸಲ್ಲಿಸಲು ಸೂಚಿಸಿದ್ದು, ಅದರಂತೆ, ಆಪಾದಿತ ನೌಕರರು ಆಕ್ಷೇಪಣೆ ಸಲ್ಲಿಸಿ, ದೂರಿನಲ್ಲಿನ ಎಲ್ಲಾ ಅಂಶಗಳನ್ನು ನಿರಾಕರಿಸಿ, ದೂರನ್ನು ಮುಕ್ತಾಯಗೊಳಿಸಲು ವಿನಂತಿಸಿರುತ್ತಾರೆ.

ಆಪಾದಿತ ನೌಕರರು ಸಲ್ಲಿಸಿರುವ ಆಕ್ಷೇಪಣೆಗಳಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ, ದೂರುದಾರರು ತಮ್ಮ ಪ್ರತ್ಯುತ್ತರವನ್ನು ಸಲ್ಲಿಸಿ, ಆಪಾದಿತ ನೌಕರರ ವಿರುದ್ಧದ ಆಪಾದನೆಗಳಿಗೆ ಸ್ಥಳ ಪರಿವೀಕ್ಷಣೆ ಮಾಡಿದರೆ ಸತ್ಯಾಂಶ ಹೊರಬರುತ್ತದೆ ಎಂದು ತಿಳಿಸಿರುತ್ತಾರೆ.

ಅದರಂತೆ, ಸದರಿ ದೂರು ಪ್ರಕರಣವನ್ನು ಈ ಸಂಸ್ಥೆಯ ತಾಂತ್ರಿಕ ವಿಭಾಗದ ಮುಖ್ಯ ಇಂಜಿನಿಯರ್ ಇವರಿಗೆ ಕಳುಹಿಸಿ ತನಿಖೆ ಮಾಡಿ ವರದಿಯನ್ನು ಸಲ್ಲಿಸಲು ಸೂಚಿಸಲಾಗಿತ್ತು. ಸದರಿ ದೂರು ಪ್ರಕರಣಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಶ್ರೀ ಕೆ.ಸುಬ್ರಹ್ಮಣ್ಯ ಕಾರಂತ್, ಸಹಾಯಕ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರು, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಇವರು ತನಿಖಾಧಿಕಾರಿಯಾಗಿದ್ದು, ಸದರಿ ದೂರು ಪ್ರಕರಣದ ತನಿಖೆಯನ್ನು ಕೈಗೊಂಡು ತನಿಖಾ ವರದಿಯನ್ನು ಸಲ್ಲಿಸಿರುತ್ತಾರೆ. ಸದರಿ ತನಿಖಾ ವರದಿಯಲ್ಲಿ ಶ್ರೀ ಮಂಜುನಾಥ ಕಲ್ಯಾಣ ಮಂಟಪದಿಂದ ಎಸ್.ಜೆ.ಪಿ. ರಸ್ತೆಯವರೆಗೆ ಚರಂಡಿಯನ್ನು ಒತ್ತುವರಿ ಮಾಡಿ 12 ಕಟ್ಟಡಗಳನ್ನು ಕಟ್ಟಿರುವುದು ತೆರವುಗೊಳಿಸುವಲ್ಲಿ ವಿಫಲರಾಗುವ ಮೂಲಕ

Handwritten signature and date: 28/2/18

ಕರ್ತವ್ಯಲೋಪವೆಸಗಿರುತ್ತಾರೆ ಎಂದು ತಿಳಿಸಿರುತ್ತಾರೆ ಹಾಗೂ ಸಂಬಂಧಪಟ್ಟ ಆಪಾದಿತ ನೌಕರರ ವಿರುದ್ಧ ಸೂಕ್ತ ಕ್ರಮಕೈಗೊಳ್ಳಲು ವಿನಂತಿಸಿರುತ್ತಾರೆ.

ತನಿಖಾಧಿಕಾರಿಯವರ ತನಿಖಾ ವರದಿಯನ್ನು ಸಂಬಂಧಪಟ್ಟ ಆಪಾದಿತ ನೌಕರರಿಗೆ ಕಳುಹಿಸಿ ತಮ್ಮ ಆಕ್ಷೇಪಣೆಗಳನ್ನು ಸಲ್ಲಿಸಲು ಸೂಚಿಸಲಾಗಿತ್ತು.

ಆಪಾದಿತ ನೌಕರರು ತನಿಖಾ ವರದಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ, ತಮ್ಮ ಆಕ್ಷೇಪಣೆಗಳನ್ನು ಸಲ್ಲಿಸಿದ್ದು, ಸದರಿ ಆಕ್ಷೇಪಣೆಗಳಲ್ಲಿ ತನಿಖಾ ವರದಿಯಲ್ಲಿನ ಅಂಶಗಳನ್ನು ಅಲ್ಲಗಳೆದಿರುತ್ತಾರೆ ಮತ್ತು ಸದರಿಯವರುಗಳು ಒತ್ತುವರಿದಾರರನ್ನು ತೆರವುಗೊಳಿಸಲು ಕ್ರಮಕೈಗೊಂಡಿದ್ದು, ಈ ಬಗ್ಗೆ ಸಂಬಂಧಪಟ್ಟ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಸಿವಿಲ್ ಮೊಕದ್ದಮೆ ದಾಖಲಾಗಿರುವ ಕಾರಣ ಯಾವುದೇ ಕ್ರಮಗಳನ್ನು ಕೈಗೊಳ್ಳಲು ಸಾಧ್ಯವಾಗಿರುವುದಿಲ್ಲವೆಂದು ತಿಳಿಸಿರುತ್ತಾರೆ.

ಮೇಲಿನ ತನಿಖಾ ವರದಿ ಮತ್ತು ದಾಖಲಾತಿಗಳ ಪ್ರಕಾರ 1 ರಿಂದ 3ನೇ ಆಪಾದಿತ ನೌಕರರು ಅನಧಿಕೃತ ಕಟ್ಟಡಗಳನ್ನು ತೆರವುಗೊಳಿಸಲು ವಿಫಲರಾಗಿರುವುದು ಸ್ಪಷ್ಟವಾಗಿ ಕಂಡುಬರುತ್ತದೆ ಮತ್ತು ಸಂಬಂಧಪಟ್ಟ ಸಿವಿಲ್ ಮೊಕದ್ದಮೆಗೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ಯಾವುದೇ ತಡೆಯಾಜ್ಞೆ ಆದೇಶವನ್ನು ಹಾಜರುಪಡಿಸದೇ ಇರುವುದು ಮೇಲ್ನೋಟಕ್ಕೆ ಸಾಬೀತಾಗಿರುವುದರಿಂದ 1 ರಿಂದ 3ನೇ ಆಪಾದಿತ ನೌಕರರು ತಮ್ಮ ಕರ್ತವ್ಯವನ್ನು ನಿಷ್ಠೆಯಿಂದ ಮಾಡಿಲ್ಲವೆಂದು ಕಂಡುಬಂದಿದ್ದರಿಂದ ಮತ್ತು ಕೃತ್ಯ ಆ ದುರ್ನಡತೆ ಎಂಬ ಪರಿಭಾಷೆಯಲ್ಲಿ ಬರುವುದರಿಂದ ಕರ್ನಾಟಕ ಸಿವಿಲ್ ಸೇವಾ (ನಡತೆ) 1966ರಡಿಯ ನಿಯಮ 3(1)(i)ರ ಅಡಿಯಲ್ಲಿ ದುರ್ವರ್ತನೆ ಮಾಡಿದ್ದಾರೆಂದು ಕಂಡುಬಂದಿದ್ದರಿಂದ ಎದುರುದಾರರ ವಿರುದ್ಧ ಶಿಸ್ತಿನ ಕ್ರಮ ಕೈಗೊಳ್ಳಬೇಕೆಂದು ಗೌರವಾನ್ವಿತ ಉಪಲೋಕಾಯುಕ್ತರು ಸರ್ಕಾರಕ್ಕೆ ವರದಿಯನ್ನು ಸಲ್ಲಿಸಿದ ಮೇರೆಗೆ ಸರ್ಕಾರದವರು ಮೇಲೆ ಉಲ್ಲೇಖಿಸಿದ ಆದೇಶದಲ್ಲಿ ಇಲಾಖಾ ವಿಚಾರಣೆ ನಡೆಸಲು ಅನುಮತಿ ನೀಡಿತು. ನಂತರ ಅಪರ ನಿಬಂಧಕರು, ವಿಚಾರಣೆಗಳು-11 ರವರಿಗೆ ವಿಚಾರಣೆ ನಡೆಸಿ ವರದಿಯನ್ನು ಸಲ್ಲಿಸಲು ಗೌರವಾನ್ವಿತ ಉಪಲೋಕಾಯುಕ್ತರು ಆದೇಶಿಸಿದ್ದಾರೆ. ಆದ್ದರಿಂದ ನಿಮ್ಮ ಮೇಲೆ ಈ ದೋಷಾರೋಪಣೆ".

10. On 08/07/2016 DGO 1 has entered appearance before this authority on which day when first oral statement of DGO 1 was recorded he pleaded not guilty. On 25/08/2016 DGOs 2 and 3 have entered appearance before this authority on which day when first oral statement of DGOs 2 and 3 are recorded they pleaded not guilty. DGOs 1 to 3 have engaged defence assistant for their defence.

11. In the course of written statement dated 26/09/2016 of DGO1 he contended that he discharged duties as Commissioner, City Municipal Council, Hassan during 2014 and 2016 and that during his tenure he initiated action for removal of encroachment

[Handwritten signature]
26/9/2016

but since order of temporary injunction was passed by the Civil Court he could not proceed further. In the course of written statement of DGO 2 filed on 26/09/2016 it is contended that he is discharging duties as Revenue Officer in City Municipal Council, Hassan and denied the alleged charge. It is contended that since order of temporary injunction is passed by the Civil Court, DGO 1 could not proceed further. In the course of written statement dated 26/09/2016 of DGO 3 he contended that he discharged duties as Revenue Inspector, City Municipal Council, Hassan from the month of February 2012 to November 2015 and denied the charge levelled against him. He equally contended that since Civil Court has passed order of temporary injunction DGO 1 could not proceed further. In addition to the above contentions, DGOs 1 to 3 have contended that charge against them is hit by the provisions of section 8 (1)(b) of The Karnataka Lokayukta Act, 1984.

12. The disciplinary authority has been examined the complainant as PW1, the Investigating Officer as PW2. During evidence of complainant his original complaint dated 26/05/2014 in FORM NO.I in a single sheet is marked as per Ex P1, his original affidavit dated 26/05/2014 in a single sheet in FORM NO.II is marked as per Ex P2, original complaint in a single plain sheet of the complainant addressed to the Superintendent of Police, Karnataka Lokayukta, Hassan is marked as per Ex P3, original official memorandum dated 25/03/2014 in a single sheet of Public Information Officer and Office Superintendent, Town Municipal Council, Hassan is marked as per Ex P4, original official memorandum dated 28/04/2014 in a single sheet of Public Information Officer and Office Superintendent, Town Municipal Council, Hassan is marked as per Ex P5, xerox copy of

f
28.3.2018

letter dated 30/07/2014 in a single sheet addressed to the Deputy Registrar, Enquiries-5, Karnataka Lokayukta, Bengaluru addressed by Manjunath T.P. Junior Engineer, City Municipal Council, Hassan is marked as per Ex P6, original rejoinder in two sheets of complainant addressed to Deputy Registrar, Enquiries-5, Karnataka Lokayukta, Bengaluru is marked as per Ex P7, original spot mahazar dated 05/08/2015 in two sheets drawn by PW2 is marked as per Ex P8, signature of PW1 found on Ex P8 is marked as per Ex P8(a). During evidence of PW2 his signature found on Ex P8 is marked as per Ex P8(b), one DVD cassette is marked as per Ex P9, his investigation report in eight sheets is marked as per Ex P10, his signature found on Ex P10 is marked as per Ex P10(a).

13. During second oral statement of DGOs 2 and 3 recorded on 29/11/2017 they have stated that they neither intend to get themselves examined as defence witnesses nor intend to examine independent witnesses.
14. Incriminating circumstances which appeared against DGOs 2 and 3 in the evidence of PWs1 and 2 are put to them by way of questionnaire on 30/12/2017 and their answers are recorded. They have denied those incriminating circumstances and contended that at the relevant point of time they were not discharging duties in City Municipal Council, Hassan.
15. In the course of written argument filed on 05/02/2018 by the Presenting Officer it is contended that evidence of PWs 1 and 2 and also Exs P8 and P10 establishes the charge.
16. DGOs 2 and 3 have filed separate written argument the contents of which are one and the same. While denying the evidence adduced against them it is contended that order of temporary injunction passed by the Civil Court was in force.

[Handwritten signature]
28/3/2018

They have relied upon Rules 16. and 17 of The Karnataka Municipalities Manual and duties and responsibilities of officers and servants attached to Local Bodies.

17. In tune with articles of charge at Annexure I the sole point which arises for consideration in respect of DGOs 2 and 3 is that whether during the tenure of DGO 2 as Revenue Officer and during the tenure of DGO 3 as Revenue Inspector, City Municipal Council, Hassan they have failed initiate action for removal of unauthorised twelve buildings which were constructed on the drainage leading from Manjunatha Kalyana Mantapa, Hassan to SJP road, Hassan and thereby DGOs 2 and 3 are guilty of misconduct within the purview of Rule 3 (1)(i) of The Karnataka Civil Services (Conduct) Rules, 1966?
18. Existence of drainage and formation of twelve houses on the said drainage is not under challenge which is spoken to by PWs 1 and 2 during their evidence. It is in the evidence of the complainant that though he has filed applications with the officers of City Municipal Council, Hassan no action is initiated and therefore he set law into motion with the aid of Ex P1. He has spoken to Exs P2 to P8. During cross examination he pleads inability to state the tenure of DGOs 2 and 3. It is also in his evidence that nothing is found to show that copies of Exs P4 and P5 are sent to DGOs 2 and 3. Upon perusal of his evidence nothing is found to hold that during the tenure of DGOs 2 and 3 action was not initiated by them. His evidence does not establish the alleged misconduct of DGOs 2 and 3.
19. During evidence PW2 has stated that he conducted spot inspection on 05/03/2015 in the presence of DGOs 1 to 3 and PW1. His evidence would show that twelve houses were built about ten years ago and that at the time of construction and even

[Handwritten signature]
28/3/2018

subsequent to construction no action has been initiated by the concerned officers of City Municipal Council, Hassan. It is found in his report at Ex P10 that his investigation disclosed that DGOs 1 to 3 have not initiated any action to vacate those twelve houses. That portion of his evidence finds place in Ex P10. It is in his evidence that remaining allegations in the complaint are not established which portion of his evidence finds place in Ex P10. It is in his evidence that though DGO 1 has issued notices to the owners of those twelve houses on 30/10/2014 no action was found initiated.

20. During cross examination PW2 states that he has not ascertained the date on which DGOs 1 to 3 have assumed charge of their respective office. This would show that he has not ascertained whether DGOs 2 and 3 are responsible or not for the above latches. It is also in his cross examination that he has not recorded the statements of DGOs 1 to 3. It is in his cross examination that during investigation he has not focused attention to ascertain the duties and responsibilities of the staff attached to City Municipal Council, Hassan. This would further show that he has not ascertained in the manner expected of whether DGOs 1 to 3 are responsible or not. During cross examination he further states that he has not focused line of investigation to ascertain the responsibility and duty of Revenue officer of City Municipal Council, Hassan.
21. During cross examination PW3 has stated that he is not aware of the procedure for removal of unauthorised construction. Suggestion made to him during cross examination suggesting that it is not the duty of Revenue Officer to remove the unauthorised construction. At this juncture it is worthy to refer

 25.3.2018

to Rules 16 and 17 of The Karnataka Municipalities Manual.
Rules 16 and 17 are as hereunder:

“16. Powers and duties of Engineer:- (1) Where there is an engineer working in a Municipal Council, he shall subject to the general or special orders of the Municipal Commissioner or Chief Officer, be in immediate charge of the public works in the municipality and the municipal gardens and roadside trees, he shall be responsible for the preparation of all plans and estimates and execution of municipal works and their maintenance, and shall supervise the works and be responsible for the accounts, he shall also be responsible for the proper custody and efficient maintenance of every work or building and for the performance of all duties connected with the department under his control and for the punctual execution of orders issued by the Municipal Council. He shall have charge of all machinery, plant and stores, other than those belonging to the conservancy department.

17. Powers and duties of Revenue Officer:- (1) where the Municipal Council employs a Revenue Officer, the Revenue Officer shall subject to the general or special orders of the Municipal Commissioner or Chief Officer shall be responsible for the collection of all Municipal revenues including the property and vehicles

 28/3/2018

taxes, cesses, octroi dues, licence fees; rents from buildings and other miscellaneous items;
 (2) The Revenue Officer shall check each month five per cent of the original receipts issued in order to prevent and detect cases of fraud in tax collections”.

Upon perusal of the portion excerpted hereinabove it becomes clear that DGOs were not assigned with duty of removal of unauthorised construction and therefore the alleged misconduct cannot be fastened against them. Therefore, evidence of PW2 that DGOs 1 to 3 have failed to initiate suitable action cannot be accepted. In addition, since order or temporary injunction was in force DGO 2 and DGO 3 could not lay their hands to remove the unauthorised construction.

22. Contention put forward on behalf of DGOs that charge is barred in view of section 8(1) (b) of The Karnataka Lokayukta Act, 1984 cannot sustain for the reason that no remedy before any other forum was available touching the nature of allegations levelled in the complaint. Though charge is not barred in view of section 8(1)(b) of The Karnataka Lokayukta Act, 1984, DGOs 2 and 3 cannot be found fault with for the reason that in view of sections 16 and 17 as excerpted hereinabove coupled with order of temporary injunction. In addition to the same, evidence of PW2 does not inspire confidence to hold that DGOs 2 and 3 have not evinced interest for removal of unauthorised constructions.

23) 22. Since DGO 1 died on 15/11/2017 present proceedings against him stands abated.

24) 23. For the foregoing reasons I hold that charge against DGOs 2 and 3 is not proved and being of this view I proceed with the following:

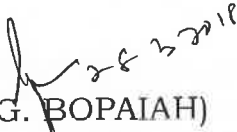
Handwritten signature and date: 28-3-2018

R E P O R T

The present inquiry proceedings against DGO 1 stands abated.

Charge against DGOs 2 and 3 that during the tenure of DGO 2 as Revenue Officer and during the tenure of DGO 3 as Revenue Inspector, City Municipal Council, Hassan they have failed initiate action for removal of unauthorised twelve buildings which were constructed on the drainage leading from Manjunatha Kalyana Mantapa, Hassan to SJP road, Hassan and thereby DGOs 2 and 3 are guilty of misconduct within the purview of Rule 3 (1)(i) of The Karnataka Civil Services (Conduct) Rules, 1966 is not proved.

Submit this report to the Hon'ble Upalokayukta-2, Karnataka in a sealed cover forthwith along with connected records.


(V.G. BOPALIAH)

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

ANNEXURE

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

1. PW 1:- Sri. Dattathreya Prasad
2. PW 2:- Sri. K. Subramanya Karanth

List of Witnesses examined on behalf of DGOs:- NilList of documents marked on behalf of Disciplinary Authority:-

1. Ex P 1 Original complaint dated 26/05/2014 in FORM NO.I in a single sheet.
2. Ex P 2 Original affidavit dated 26/05/2014 in a single sheet in FORM NO.II .
3. Ex P 3 Original complaint in a single plain sheet of the complainant addressed to the Superintendent of Police, Karnataka Lokayukta, Hassan.
4. Ex P 4 Original official memorandum dated 25/03/2014 in a single sheet of Public

- Information Officer and Office Superintendent, Town Municipal Council, Hassan
5. Ex P5 Original official memorandum dated 28/04/2014 in a single sheet of Public Information Officer and Office Superintendent, Town Municipal Council, Hassan.
6. Ex P6 Xerox copy of letter dated 30/07/2014 in a single sheet addressed to the Deputy Registrar, Enquiries-5, Karnataka Lokayukta, Bengaluru addressed by Manjunath T.P. Junior Engineer, City Municipal Council, Hassan.
7. Ex P7 Original rejoinder in two sheets of complainant addressed to Deputy Registrar, Enquiries-5, Karnataka Lokayukta, Bengaluru.
8. Ex P8 Original spot mahazar dated 05/08/2015 in two sheets drawn by PW2.
- Ex P8(a) Signature of PW1 found on Ex P8.
- Ex P8(b) Signature of PW2 found on Ex P8.
9. Ex P9 One DVD cassette.
10. Ex P10 Investigation report of PW2 in eight sheets
- Ex P10(a) Signature PW2 found on Ex P10.

List of documents marked on behalf of DGOs: NIL


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



KARNATAKA LOKAYUKTA

No.UPLOK-2/DE/102/2016/ARE-11

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001.
Dated: 02.04.2018

RECOMMENDATION

Sub:- Departmental inquiry against Sriyuths:- (1) V.H. Krishnamurthy, Commissioner, City Municipal Council, Hassan;
(2) Shivakumar, Revenue Officer, City Municipal Council, Hassan; and
(3) M. Shivakumar, Revenue Inspector, City Municipal Council, Hassan - reg.

Ref:- 1) Government Order No. UDD 13 DMK 2016 dated 31.03.2016 and its corrigendum dated 05.04.2016.
2) Nomination order No. UPLOK-2/DE/102/2016 dated 12.04.2016 of Upalokayukta-2, State of Karnataka.
3) Inquiry Report dated 28.03.2018 of Additional Registrar of Enquiries-11, Karnataka Lokayukta, Bengaluru.

~~~~~

The Government by its Order dated 31.03.2016 and its corrigendum dated 05.04.2016, initiated the disciplinary proceedings against Sriyuths:- (1) V.H. Krishnamurthy, Commissioner, City Municipal Council, Hassan; (2) Shivakumar, Revenue Officer, City Municipal Council, Hassan; and (3) M. Shivakumar, Revenue Inspector, City Municipal Council, Hassan [hereinafter referred to as Delinquent

Government Officials 1 to 3, for short as 'DGOs 1 to 3'] and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No. UPLOK-2/DE/102/2016 dated 12.04.2016 nominated Additional Registrar of Enquiries-11, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct departmental inquiry against DGOs 1 to 3 for the alleged charge of misconduct, said to have been committed by them.

3. The DGOs 1 to 3 - Sriyuths:- (1) V.H. Krishnamurthy, Commissioner, City Municipal Council, Hassan; (2) Shivakumar, Revenue Officer, City Municipal Council, Hassan; and (3) M. Shivakumar, Revenue Inspector, City Municipal Council, Hassan were tried for the following charge:-

“ನೀವುಗಳು ಹಾಸನ ನಗರಸಭೆಯಲ್ಲಿ ಸಾರ್ವಜನಿಕ/ಸರ್ಕಾರಿ ನೌಕರರಾಗಿ 2013-14ರಲ್ಲಿ ಕರ್ತವ್ಯನಿರ್ವಹಿಸುತ್ತಿರುವಾಗ ಹಾಸನ ಪಟ್ಟಣದಲ್ಲಿರುವ ಮಂಜುನಾಥ ಕಲ್ಯಾಣ ಮಂಟಪ ಕಟ್ಟಡದಿಂದ ಎಸ್.ಜೆ.ಪಿ ರಸ್ತೆಯವರೆಗಿನ ಚರಂಡಿ ಮೇಲೆ 12 ಕಟ್ಟಡಗಳನ್ನು ಅನಧಿಕೃತವಾಗಿ ನಿರ್ಮಾಣ ಮಾಡಿದ್ದು, ಅವುಗಳನ್ನು ತೆಗೆದುಕೊಳ್ಳಲು ಕ್ರಮ ಕೈಗೊಳ್ಳದೇ ಕರ್ತವ್ಯಲೋಪವೆಸಗಿ ಸರ್ಕಾರಿ ನೌಕರರಿಗೆ ಉಚಿತವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ಸರ್ಕಾರಿ ನಡೆದುಕೊಂಡು ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸಿವಿಲ್ ನಿಯಮ (ನಡತೆ) 1966ರ ನಿಯಮ (3)(1)(i) ರಡಿಯಲ್ಲಿ ದುರ್ನಡತೆ ಎಸಗಿದ್ದೀರಿ.”

4. The Inquiry Officer (Additional Registrar of Enquiries-11) on proper appreciation of oral and documentary evidence has held that:-



- (i) the DGO1 - Shri V.H. Krishnamurthy, Commissioner, City Municipal Council, Hassan died during the pendency of inquiry. Therefore, the Inquiry Officer has recorded the 'abatement' of inquiry proceedings against DGO1 - V.H. Krishnamurthy; and
- (ii) the Disciplinary Authority has 'not proved' the above charge against the DGOs 2 & 3 - Shri Shivakumar, Revenue Officer, City Municipal Council, Hassan; and Shri M. Shivakumar, Revenue Inspector, City Municipal Council, Hassan respectively.

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


(6) Having regard to the findings of the Inquiry Officer, it is hereby recommended to the Government :-

- (i) to record the 'abatement' of disciplinary proceedings against DGO 1 - H. Krishnamurthy, Commissioner, City Municipal Council, Hassan; and
- (ii) to 'exonerate' the DGOs 2 & 3 - Shri Shivakumar, Revenue Officer, City Municipal Council, Hassan; and Shri M. Shivakumar, Revenue Inspector, City Municipal

*Council, Hassan* respectively of the charge levelled against them.

(7) Action taken in the matter shall be intimated to this Authority.

Connected records are enclosed herewith.

  
(JUSTICE N. ANANDA) 2/4  
Upalokayukta,  
State of Karnataka.