



KARNATAKA LOKAYUKTA

No.LOK/ARE-4/14-A/Enq.110/2011

M.S.Buildings,
Bangalore,
Dated 26/9/2017

RECOMMENDATION

Sub: Departmental Enquiry against Sri P.Mahesh,S/o
Hanumanthappa, Village Accountant,
Kuriganuru, Siraguppa Taluk, Bellary District -
reg.

Ref: 1.Government Order No. RD/57/BDP/2011
Bengaluru, Dated 8/6/2011

2.Nomination order by Hon'ble Upalokayukta-
dtd.24/6/2011

Government, by order dtd.8/6/2011 initiated the disciplinary proceedings against one Sri P.Mahesh, S/o Hanumanthappa, Village Accountant, Kuriganuru, Siraguppa Taluk, Bellary District (hereinafter referred to as 'DGO' in short) and entrusted the disciplinary proceedings to this institution.

This institution, by nomination order dtd.24/6/2011 nominated the Additional Registrar Enquiries-4, to conduct departmental enquiry against the DGO.

The Additional Registrar Enquiries-4, after completing the departmental enquiry, has submitted his report dtd 25/9/2017,

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inter-alia, holding that, the disciplinary authority has proved the charge of misconduct alleged against the DGO.

The charge alleged against the DGO was that, while he was working as Village Accountant, Kuriganuru, Siraguppa Taluk, Bellary District, he demanded Rs.15,000/- as bribe from one Sri Madhavaiah Swamy s/o Rangaiah swamy (hereinafter referred to as 'complainant') for the purpose of sending his application which was filed before the tahsildar to the Assistant Commissioner for permission to sell the land measuring 3 acres 94 cents out of total extent of 7 acre 94 cents in Sy.No.160 which was in the name of complainant's father and his two brothers being the Archakas as the said land was granted for maintenance of Venkateshwaraswamy temple. In consideration of the bribe amount the DGO demanded and accepted Rs.2,000/- and Rs.5,000/- on 11/8/2009 and on 21/8/2009, further received Rs.8,000/- , thereby, failed to maintain absolute integrity and devotion to the duty, the act of which is unbecoming of Government servant and thereby has committed misconduct under Rule 3(1) (i) to (iii) of KCS (Conduct) Rules, 1966".

The Disciplinary authority, to prove the charge of misconduct alleged against the DGO, has examined 4 witnesses, namely, complainant as PW1, shadow witness as PW2, panch witness as PW3 and the IO as PW4 and got marked Ex.P1 to P10 in their evidence. Whereas, the DGO neither entered the witness box nor chose to lead any oral or documentary evidence.

The enquiry officer, after considering the evidence on record, has given a detailed finding, inter-alia holding that, though PW1 turned hostile was subjected by cross examination by the disciplinary authority, the evidence of PW2 and PW3 independent witnesses

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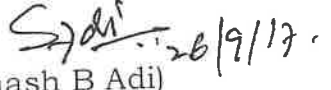
coupled with the evidence of PW3 the IO, it clearly proves the charge of misconduct. To rebutt the evidence led by the disciplinary authority, the DGO except filing his defence has not chosen to enter the witness box nor chose to lead any oral or documentary evidence.

The enquiry officer, after thoroughly considering the entire evidence on record, has found that, the disciplinary authority has proved the charge of misconduct and the evidence laid by the DGO does not disprove the charge of misconduct.

In view of the findings of the enquiry officer and also having regard to the nature and gravity of misconduct, committed by the DGO, as required under Rule 14-A(d) of the KCS (CCA) Rules, 1957, it is hereby recommended to the Government that, the DGO **Sri P.Mahesh,S/o Hanumanthappa, Village Accountant, Kuriganuru, Siraguppa Taluk, Beelary District may be punished with order of dismissal from government service** in exercise of power under Rule 8(viii) of the KCS (CCA) Rules, 1957.

Connected records are enclosed herewith.

Action taken in the matter is to be intimated to this Authority.


(Justice Subhash B Adi)
Upalokayukta
Karnataka State, Bangalore

KARNATAKA LOKAYUKTA

No.LOK/ARE-4/ENQ-110/2011

M.S.Building,
Dr.B.R.Ambedkar Road
Bangalore-560 001
Date: 25/09/2017

ENQUIRY REPORT

Sub: Departmental Enquiry against,

Sri P. Mahesh
s/o Hanumanthappa
Village Accountant
Kuriganuru, Siraguppa Taluk
Bellary District

- Ref:**
- 1) Govt. Order. No. R.D. 57 BDP 2011,
Bangalore, dated: 08/06/2011
 - 2) Order No.LOK/INQ/14-A/110/2011
Dtd. 24/06/2011 of the Hon'ble
Upalokayukta

1. This Departmental Enquiry is directed against Sri P. Mahesh s/o Hanumanthappa, Village Accountant, Kuriganuru, Siraguppa Taluk, Bellary District (herein after referred to as the Delinquent Government Official in short "DGO")

2. In view of the Government Order cited above at reference-1, the Hon'ble Upalokayukta, vide order dated: 24/06/2011 cited above at reference-2, nominated Additional Registrar of Enquiries-4 of the office of the Karnataka Lokayukta as the Enquiry 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.

3. The Articles of Charges framed by ARE-4 against the DGO is as below;

ANNEXURE-I

CHARGE:-

That you Sri P. Mahesh, the DGO, while working as Village Accountant at Kuriganuru in Siraguppa Taluk of Bellary District demanded bribe of Rs. 15,000/- from the complainant namely Madhavaiah swamy s/o Rangaiah swamy for the purpose of sending his application which was filed before the Tahasildar to the Assistant Commissioner for permission to sell the land measuring 3 acres 94 cents out of total extent of 7 acre 94 cents in sy. No. 160 which was in the name of complainant's father and his two brothers being the Archaks as the said land was granted for maintenance of Venkateshwaraswamy temple and you received advance bribe of Rs.2,000/- and further received another installment of Rs. 5,000/- on 11/08/2009 and further on 21/08/2009 you received remaining bribe amount of Rs. 8,000/-, failing to maintain absolute integrity and devotion to duty which act is unbecoming of a Government Servant and thereby committed misconduct as enumerated under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules, 1966.

ANNEXURE-II**STATEMENT OF IMPUTATION OF MISCONDUCT**

About 50 years ago the Government had granted 7 acres 94 cents of land in sy.No. 160 of Koriganuru village for maintenance of Sri Venkateshwaraswamy temple and for pooja etc. at the said temple. In the year 1986 the name of the complainant's father and names of his two brothers came to be entered in respect of the said land as they were the Archaks of the above said temple. In order to develop the said land, the complainant intended to sell 3 acres 94 cents of land. Hence, on 23/09/2008, he filed an application before the Tahasildar to recommend for permission of the Assistant Commissioner to sell the same. In that connection, the complainant approached the DGO requesting to attend that work. But the DGO did not attend that work. On the other hand, the DGO demanded bribe of Rs. 15,000/- and received an advance bribe of Rs.2,000/- asking the complainant to pay the balance amount in two installments. On 11/08/2009 the DGO received first installment of Rs. 5,000/- and fixed the dated: 21/08/2009 for payment of remaining bribe amount of Rs. 8,000/-. The complainant was not willing to get his work done by paying bribe. Hence, he lodged a complaint before the Lokayukta Police Inspector of Bellary (hereinafter referred to as the Investigating Officer, for short, "the I.O."). The I.O. registered the complaint

in Crime No. 8/2009 for the offences punishable u/sec.7, 13(1)(d) r/w 13(2) of the Prevention of Corruption Act 1988. During the course of investigation, the I.O. secured panch witnesses and conducted entrustment mahazar about entrustment of tainted amount to the complainant which was produced by him after applying phenolphthalein powder. On 21/08/2009 itself, the I.O. along with panch witnesses, his staff and the complainant went near the rented house of the DGO at Sadashivanagar in Siraguppa Town. The complainant and shadow witness went inside the house and approached the DGO. The complainant gave tainted amount to the DGO on demand. Thereafter, remaining trap party members went and seized the amount under mahazar after following post-trap formalities. The I.O. took statement in writing of the DGO. Thereafter, the I.O. recorded the statement of the complainant, the panch witnesses and others. The I.O. sent the articles seized under entrustment and trap mahazars to the chemical examiner and report of the chemical examiner was positive. The materials on record showed, prima facie case against the DGO for his misconduct, failing to maintain absolute integrity and devotion to duty. Therefore, a suo-moto investigation was taken up u/sec. 7(2) of Karnataka Lokayukta Act and Observation Note was sent to the DGO calling for his explanation. The explanation given by the DGO was not convincing and not satisfactory to drop the

proceedings. As such, a report u/sec. 12(3) of the Karnataka Lokayukta Act was sent to the Competent Authority with recommendation to initiate disciplinary proceedings against the DGO. The Competent Authority initiated disciplinary proceedings against the DGO and entrusted the enquiry to Hon'ble Upalokayukta u/Rule 14-A of KCS (CCA) Rules 1957. Hence, the charge

4. DGO appeared before this Enquiry Authority on 04/10/2011 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 enquiry.

5. DGO has filed his written statement denying the allegations. He further submitted that, in Kuriganuru village in 1) sy.No. 137, measuring 4.12 acre, 2) sy.No. 139 measuring 3.49 acre 3) sy.No. 160 measuring 7.94 acres 4) sy.No. 194 measuring 8.17 acre, 5) sy.No. 195 measuring 9.08 acre and 6) sy.No.205 measuring 9.46 acres total property measuring 42.26 acres is the Government land. One Sri Poojari Venkaiah r/o Kuriganuru village is having four sons namely 1) Sri Rangaiah swamy, 2) Sri Hanumanthaiah, 3) Sri Narayanaiah 4) Sri Gopalaiah and one daughter Smt. Krishnamma. Sri Gopalaiah was not residing in the village and his wife Smt. Govindamma and her children namely 1) Sri Ramesh and 2) Sri Govardhan are residing in the village. They are eking their livelihood by performing pooja in Venkateshwara swamy and Sri Anjineya swamy temple idols. During the year 1982-83 Sri Poojari Venkataiah filed a case

before the Siruguppa Land Tribunal in case No. 2/82-83, 4/82-83, 6/82-83, 7/82-83 and 9/82-83 claiming that, he is cultivating the above said lands. After the death of Sri Venkaiah swamy, his L.R's 1) Sri Poojari Rangaiah 2) Sri P. Hanumanthaiah and 3) Sri P. Narayanaiah, filed impleading application without making his 4th son Sri Gopalaiah and daughter Smt. Krishnamma as parties. On 06/02/1986 all the cases filed by Sri Poojari Venkaiah swamy were dismissed holding that himself and his L.R's are not cultivating the lands. But the Tahasildar, who was working in 1986 has not taken any action to take back the land in favour of Government. On 06/04/2006, the father of complainant Sri P. Rangaiah, and Sri P. Hanumanthaiah, Sri Narayanaiah, paid Rs. 3,381/- obtained From No.2 claiming that, on 06/02/1986 the properties were granted to them. In fact in Form No.2 there is a condition not to alienate the property for 15 years and even after 15 years a permission has to obtain from Assistant Commissioner. The same is also mentioned in RTC and M.Rs. On 13/03/2007 cheating Smt. Krishnamma and Sri Gopalaiah, in the leadership of Sri Madhava swamy, P. Rangiaha, P. Hanumanthaiah, and Sri P. Narayanaiah, they have sold the property bearing sy.No. 194 measuring 8.17 acres, sy.No. 195 measuring 9.08 acres illegally in favour of Sri K. Bheemalingareddy s/o Shivareddy, for Rs. 12,90,000/- for which they were not entitle. After that, the complainant/Sri Madavaswamy, has filed objection to the Form No.21 and on 12/03/2008 Sri Madavaswamy s/o Rangaiah,, Sri Narayanaiah, Sri Hanumanthaiah, Sri Govindamma, Sri Govardhan, Sri Ramgesh, agreed to sell the property bearing sy.No. 160 measuring 3.94 cents in faovur of Sri Thimmappa

s/o Gadeppa. On 30/07/2008 Sri Madavaiah swamy appeared before the Village Accountant asked for genealogical tree of Sri Venkaiahswamy. DGO on the basis of his information has prepared the genealogical tree in accordance with law including the names of Sri Gopalaiah and Smt. Krishnamma. Therefore, the complainant developed enmity against this DGO. On 23/09/2008 Sri Madavaswamy s/o Rangaiah, Sri Hanumanthaiyah, Sri Narayanaiah, submitted the application to the Tahasildar for permission to sell sy.NO. 160 measuring 3.94 acres. During the year 2006 though the permission was obtained from the Assistant Commissioner to sell sy.NO. 194, 195 measuring 17.25 acres intentionally, the present application is submitted to Tahasildar in this fashion. The complainant and his relatives have illegally sold the Government land colluding with the revenue officials. On 21/08/2009 in order to seek vengeance the complainant has lodged a false complaint to Lokayukta Police without his notice kept the money on the table, when DGO refused to receive the same. The alleged tainted notes numbers were not tallied. He has not demanded and received any bribe amount from the complainant. Accordingly prays to exonerate him in this case.

6. In order to substantiate the charge leveled against the DGO, the Disciplinary Authority examined in all four witnesses as PW1 to PW4 and got marked documents at Ex.P1 to P10. After closing the evidence of the Disciplinary Authority, the Second Oral Statement of DGO being recorded as required u/Rule 11(16) of KCS (CC & A) Rules, 1957. The DGO did not choose to examine either himself or any witnesses on his behalf. Thereafter, questioning of this DGO being recorded as

required u/Rule 11(18) of KCS (CC&A) Rules, 1957. DGO denied the questions and submitted that, he never demanded money from the complainant without his notice amount was kept on the table and complainant ran away and the documents pertaining to the complainant were not with him.

7. The Disciplinary Authority through the Presenting Officer and as well as the DGO No.1 submitted his separate written brief. In addition arguments on both the sides having heard. The only point, that arisen for the consideration of this enquiry authority is:-

1) Whether the Disciplinary Authority satisfactorily proved the charges framed against DGO?

2) What order?

8. My finding on the above points are as follows

Point No.1: In the **“In the AFFIRMATIVE”**

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

:: REASONS ::

9. Point NO.1: Complainant who is examined as PW1 has deposed that, during the year 2008 he submitted an application for permission to sell property measuring 3.96 acres. On that basis a report was called from the DGO, when he met and enquired DGO initially demanded bribe of Rs. 30,000/- on bargain DGO reduced to Rs. 15,000/-. At that time he gave Rs. 2,000/- and undertook to pay the balance amount in two installments and requested the DGO to do his work. In first installment he paid Rs. 5,000/- to DGO. On 21/08/2009 he went to Lokayukta Police and lodged the

complaint as per Ex.P1, police summoned the panchas namely Sri Karuvatti and Sri Babu introduced them to him, explained the contents of complaint he presented Rs. 8,000/- (Rs. 500x16). Police applied powder to the notes. Panchas Sri Karuvatti counted and kept notes into his shirt pocket, the hand wash of Sri Karuvatti, was taken with solution and it turned into rose colour. I.O. has drawn the pre-trap mahazar as per Ex.P2.

10. Further PW1 has deposed that, they left the Lokayukta Police station, reached Siraguppa road, vehicle was stopped, I.O. gave instruction to him, himself and his friend Sri Thimappa went to the house of the DGO and pancha Sri Babu followed them. DGO came out of the house, then himself and his friend Sri Thimappa went inside the house of DGO, DGO was waiting near the door. He enquired DGO about his work at that time DGO by giving signal in his hand demanded for money when he disclosed that, he brought the money DGO asked him to keep money on the table. Accordingly, he kept the money on the table then he came out and give signal to I.O. The police came there held the hands of the DGO before that, he informed the I.O. that, DGO is Mahesh, the police verified the money laying on the table, it was tallied with the money entrusted to him. The place on which the notes were laying was swabbed with cotton and it was dipped into solution and it turned into rose colour. I.O. also seized the documents pertaining to his application from the DGO as per Ex.P3. Further PW1 has deposed that, DGO has given statement as per Ex.P4, at that time I.O. has drawn the Trap Mahazar as per Ex.P5.

11. In the cross-examination PW1 has deposed about the genealogical tree and persons left out from the genealogical tree and that application was submitted to Tahasildar for sale permission. PW1 admits that, he was following his application in Tahasildar's office and he admits that, the application was forwarded to Revenue Inspector for report. He admits that, the application and documents were in the possession of Revenue Inspector and PW1 has further deposed in the cross-examination that, on 21/08/2009 Lokayukta police themselves got typed the complaint and he admits that, without knowing the contents of complaint, he has put his signature. PW1 also admits that, the notes which were entrusted to him in the Lokayukta police were seized from the house of DGO.
12. PW1 has also admitted that, the note numbers entrusted to him are mentioned in Entrustment Mahazar and Trap Mahazar and there is no correction. He admitted that without knowing the contents of Entrustment Mahazar, he has put his signature at the request of the Lokayukta Police. He also admitted that, the I.O. has given instruction to him to pay the amount if DGO demands or otherwise keep the money somewhere. He has denied that, if the money is not paid to the DGO, the I.O. threatened to initiate the criminal action against him.
13. Further in the cross-examination PW1 has deposed that, when he reached the DGO it was at 5.30 p.m. He admitted that, the name of Sri Thimmappa is mentioned in Trap Mahazar. He is intending to purchase 3 acres of land. He admits that himself and Sri Thimmappa went inside the house

of the DGO. He admits after going inside he shown the copy of the application and enquired about the same. He also admits that, DGO informed I.O. that, he has not received any such applications. He admits that, he kept the money on the table and came out of the house along with the Thimmappa. He admits that, immediately after coming out from the house of the DGO Lokayukta Police came to the house of the DGO and held his hands. He also admitted that, when Lokayukta Police enquired him, he has shown that, the money is on the table. He admits that, without reading the contents of Trap Mahazar, he has put his signature at the request of Lokayukta Police. He has given evidence his evidence according to the instructions given by Lokayukta Police.

14. At this stage, the learned Presenting Officer treated the PW1 as hostile and cross-examined PW1. In the cross-examination PW1 has deposed that, on 18/03/2014 he has deposed the true facts. He admits that after 18/03/2014 though the summons was issued, he did not appeared before this authority for cross-examination, therefore, he is produced through Lokayukta Police today. He admits that, according to his instructions Ex.P1 was type written. He admitted that, in Ex.P2 entrustment of money, application of phenolphthalein powder, is written in Entrustment Mahazar. He admits that on 18/03/2014, he has given his evidence before this Authority that, when he went inside the house of the DGO, witness/Sri Babu were standing near the door. He admits that, I.O. had handed over a tape-recorder to him. He admits that, documents were with DGO only and I.O. seized the documents from his possession. He admits that, when he went inside the

house of the DGO, DGO demanded money by giving hand signal and according to the instructions of DGO he kept the money on the table. He admits that, according to the instruction given by Sri Thimmappa, and himself a trap mahazar was prepared. He denied that, he deposing falsely.

15. PW2 has deposed that, on 21/08/2009 the Lokayukta police summoned himself and one Sri Babu. PW2 though has not deposed the date has deposed that, about 3-4 years back one day Lokayukta police summoned himself and PW3. The complainant presented the money before I.O. Police applied powder to the notes. PW2 has deposed that, however, PW2 has deposed that, he does not know what happen to the notes and further deposed that, the I.O., complainant and witnesses went to Siraguppa. He also went to the Siraguppa in a jeep, in Siraguppa police held the hands of the DGO, arrested DGO took him to their custody. Further PW2 has deposed that, I.O. has taken his signatures. But he doesn't know about the incident.

16. The Presenting Officer has treated PW2 as hostile and cross-examined him. PW2 in his cross-examination has admitted that, on 21/08/2011 at 5.40 p.m. Lokayukta police summoned himself and Sri Babu as panchas introduced to the complainant. He denied that the I.O. introduced the complainant explained the contents of complaint. but he admits that, he acted as pancha-1 and Sri Babu has acted as pancha-2. He denied that, the complainant has presented Rs. 8,000/- (500x16) and counted the notes and Sri Babu noted down the numbers. He admits that, Lokayukta Police applied phenolphthalein powder to the notes. He admits that, the

notes were kept in the pocket of the complainant. He has deposed his ignorance that, his hands were taken in sodium carbonate solution. But he has deposed that in some solution his hand wash was taken. He doesn't know that, his hands was turned into rose colour. He doesn't know that, I.O. gave instructions to the complainant and panchas. He doesn't know that, his signature was taken on the mahazar/Exp2.

17. Further in his cross-examination PW2 admits that, the I.O. took all of them to Siraguppa. He was waiting outside. Complainant, Sri Babu and Sri Thimmappa, went to meet the DGO. But doesn't know that at 8.45 p.m., the complainant came out of the house of DGO, gave a signal by lighting a matchstick. He denied that, they followed the I.O. and his staff to the house of the DGO. But he has deposed that, he was standing near the door. He doesn't know that according to the instructions of the DGO, the complainant kept the money on the paper which was on the table. He denied that, the notes found on the table were tallied with the notes which were entrusted to the complainant. He denied that, the paper portion was swabbed with cotton, which was dipped into solution and it was turned into rose colour.

18. According to PW2, he was standing outside when these procedure was done. But this fact shows that, the trap procedure was conducted inside the house of the DGO.

19. Further PW2 in his cross-examination has admitted that, in the photograph as per Ex.P6 his presence is appearing. He doesn't know the DGO has given statement before I.O. But he admits that to the statement of the

DGO/Ex.P4 he has put a signature. He doesn't know that, the I.O. seized the documents from the custody of the DGO as per Ex.P3. But he admits that, his signature is taken on Ex.P3. He denied that, he has put his signature on the Trap Mahazar. According to him he has put a signature to a Trap Mahazar in the station. He denied that, he is deposing falsely. DGO has not cross-examined PW2.

20. PW3 has deposed that, one day about 3-4 years back Lokayukta police summoned himself and PW2 at that time I.O. and complainant were present. It was alleged that, DGO is demanding bribe amount in respect of land. But he doesn't know what was the exact work and how much amount was demanded. PW2 counted the money, powder was applied to the notes. PW2 gave money to the complainant, note numbers were noted down. Further PW3 has deposed that they went to Siraguppa's Sadashiva extension, the complainant and one person went to the house of the DGO. They were waiting outside. I.O. gave instructions to complainant to give a signal by lighting beedi with matchstick. Then the Lokayukta police held the hands of the DGO took his hand wash, but it did not turn into any colour.

21. Further PW3 has deposed that, the money was seized from the top of the table in the house of the DGO. The amount was shown to them and packed the same. Then I.O., took them to office of the Tahasildar. Lokayukta Police and their staff went inside then I.O. took them to Inspection Bungalow, Siaguppa at that time, his signature was taken and he doesn't know anything about this case.

22. Therefore, the Presenting Officer treated PW3 as hostile and cross-examined him. PW3 admits that, on 21/08/2009 on the instructions of his higher authority he went to Lokayukta Police station. He admits that, the complainant presented Rs. 8,000/- (500X16). PW2 read over the numbers, he noted down the numbers, Lokayukta Police applied phenolphthalein powder to the notes. PW2 counted the same and kept the same to the shirt pocket of the complainant. Then hand wash of the PW2 was taken in sodium carbonate solution and it turned into pink colour. PW3 also admits that, I.O. gave instructions to the complainant and themselves and one Sri Thimmappa, the complainant's friend was present all along the proceedings.

23. PW3 has admitted that, all of them went to the house of DGO. But denied that, along with the complainant and Sri Thimmappa he went to the house of the DGO. He also denied that, by the time when they were going inside the house of the DGO, DGO came out of the house and took them inside. But according to PW3, complainant and Sri Thimmappa alone went inside the house of the DGO. PW3 has denied that, the complainant enquired about his work. DGO demanded for money by giving hand signal when the complainant offered the money. The DGO asked him to keep on the table. Accordingly, the complainant kept the money on the table. He admits that, complainant gave the signal by lighting a matchstick. He admits that, immediately the Lokayukta Police and his staff and PW2 came to the house of the DGO. He doesn't remember that, on enquiry the complainant informed that, according to the instructions of the DGO, he kept the money on the table. He admits that, the money found on the table was tallied with

the money entrusted to the complainant. He admits that, the place where the money was found was swabbed with cotton, cotton was dipped into solution and it turned into pink colour. He admits that, DGO has given explanation as per Ex.P4 before the I.O. He admits that, the I.O. seized the documents/Ex.P3 and drawn the trap mahazar as per Ex.P5. He denied that, he is deposing falsely.

24. In the cross-examination made by DGO, PW3 has deposed that, he has not personally read the complaint. He came to know that, according to the instructions of Lokayukta Police the complaint was lodged. He doesn't remember that, though I.O. instructed the complainant that, even if DGO doesn't demand for money he has to keep the money in the house. He admits that, he doesn't know what are the contents of Ex.P5. But he has deposed that, the police informed that, the proceedings taken place is written and took his signature. He doesn't know that, Ex.P3/document were seized in Tahasildar office. But he has deposed that, he been to Tahasildar's office.

25. PW4 has deposed that on 21/08/2009 at 5.30 p.m. he received the complaint, registered Crime No. 8/2009, forwarded the FIR/Ex.P6 to the concerned authorities, secured the presence of panchas, introduced the complainant, explained the contents of complaint, the complainant presented Rs. 8,000/- (500X16), panchas noted down the numbers. The staff applied the phenolphthalein powder to the notes. Panch No.1 counted the money, kept them on the table, hand wash of the panch No.1 is taken with sodium carbonate solution and it turned into pink colour. Panch No.1 kept the

money into the shirt pocket of the complainant, I.O. gave instructions to the complainant and panchas handed over the voice-recorder, taken photograph on each and every stage and drawn Entrustment Mahazar as per Ex.P2.

26. Further PW4 has deposed that, they left Bellary at 7.35 p.m. reached Siraguppa, near Sadashivanagar cross. Complainant and pancha No.2 went to the house of DGO along with Thimmappa at about 8.45 pm. Complainant gave a signal immediately his staff and panch No.1 reached the house of the DGO. The complainant took him inside the house of the DGO shown the DGO and informed that, DGO demanded the money and he kept the money on the table. I.O. introduced himself to the DGO and asked him to co-operate for investigation. At the time, the complainant and panch No.2 informed that, the DGO demanded the bribe amount by giving hand signal, when he tried to give the money to DGO, DGO asked him to keep the money on the table, then he kept the money on the table.

27. Further PW4 has deposed that, both panchas verified the money and it was tallied with the same entrusted to the complainant. Paper portion on which money was kept was swabbed with cotton, cotton was dipped into sodium carbonate solution and it turned into pink colour. Then he seized the cotton solution and bribe amount. The tape-recorder was played and heard, one Sri B.T. Manjunatha, SDA, office of Tahasildar, Siraguppa has identified the voice of DGO. DGO has given his statement as per Ex.P4 which is false according to the complainant, panch No.2 and Sri. Thimmappa. DGO also produced the copies documents as per

Ex.P3, he has drawn the rough sketch as per Ex.P8 arrested the DGO and took him to Lokayukta Police Station. He has taken the photograph and has drawn the Trap Mahazar as per Ex.P5.

28. Further PW4 has deposed that, on 21/08/2009 they recorded the statement of witnesses and panchas, seized articles were sent to Forensic Laboratory and on 29/12/2009, he received the Chemical Examination report as per Ex.P9 and filed the charge sheet against the DGO after completion of the investigation.

29. In the cross-examination PW4 has denied the suggestions made by Assistant for DGO regarding the grant of land. Further PW4 has deposed that, the complainant had to sell the land measuring 3.94 acres to Sri Thimmappa. But the said Sri Thimmappa was present with the complainant, when the complaint was lodged, Entrustment Mahazar and Trap Mahazar was drawn. PW4 has deposed that, earlier demand made by DGO for Rs. 30,000/- is not recorded in FIR. He has not enquired when and in which circumstance the complainant gave Rs. 7,000/- to the DGO. He denied that, Ex.P1 was typed in the police station. He has not enquired where the Ex.P1 was typed. Their application for permission of sale was not in the name of complainant. The said application was submitted by the father and younger paternal uncle of the complainant. He has not recorded the statement of Rangaiah and his brother.

30. Further PW4 has denied that, the pre-trap proceedings was not drawn in the police station and it is created for the

purpose of this case. He has denied that, he had given instructions to DGO that, even if the DGO doesn't demand for bribe amount, the amount has to be kept somewhere. PW4 has denied that, pancha witness Sri Babu never went inside the house of the DGO and he was standing outside. Further PW4 has deposed that, they went inside the house of the DGO at 8.45 p.m., before that at 8.40 p.m. the complainant had given signal, about two hours the procedure took place in the house of the DGO in the mahazar. He has stated that, he arrested the DGO at about 8.45 p.m.

31. Further PW4 has denied that, he secured the documents as per Ex.P3 from the Taluk office. According to PW4, he received the certified copies. Further he has deposed that, before passing the order file has to be submitted to Revenue Inspector, the then Village Accountant, the Village Accountant after enquiry has to submit a report to the Revenue Inspector and from there it has to be sent to the Tahasildar. Further PW4 has deposed that, the application and documents were sent to the office of Revenue Inspector and from there he was not sent to the Village Accountant. But PW4 has deposed that, at the time of the trap the file was with the Village Accountant. He denied that, the documents were not at all sent to DGO and the work of the complainant was not pending with the DGO.

32. Further PW4 has deposed that, according to the Genealogical Tree Rangaiah, Hanumanthaiah, Narayanaiah and Gopalaiah, are the brothers and Krishnamma is their sister. He doesn't know that, Sri Rangaiah, Sri Hanumanthaiah, Sri Narayanaiah in order to cheat Sri

Gopalaiah, and Smt. Krishnamma, they got land granted in their favour. Further PW4 has deposed that, there is a typographical error in typing the note numbers. He denied that, there is no conversation recorded in the tape-recorder regarding the money. He denied that, conversation was not recorded in the tape-recorder and the voice of DGO was not there in the said tape-recorder.

33. PW4 has deposed that, DGO did not touch the money, therefore, his hand wash was not taken. He has denied that, DGO has stated before him that, the application was not come to him and he never demanded the money from the complainant. He denied and without notice of the DGO, the complainant kept the money. He denied that, only when himself and his staff went inside the house of the DGO, the DGO came to know about the money. Further he denied that, panch No.2 also informed him that, the amount kept by the complainant was not within the knowledge of DGO. He denied that, after the incident he took the DGO to Inspection Bungalow. He denied that, the documents were created on the next day, he never recorded the statements of the witnesses. He denied that, Entrustment Mahazar, Trap Mahazar conversation and statement of witnesses are not true and he has created the same colluding with the complainant and Sri Thimmappa.

34. PW1 in the chief examination has deposed that, earlier DGO demanded for bribe of amount of Rs. 30,000/- and on bargain DGO agreed for Rs.15,000/- and then he paid Rs. 2,000/- and agreed to pay the remaining balance in two installments, as first installment, he paid Rs. 5,000/-, then he

lodged the complaint presented the bribe amount, pre-trap mahazar procedure took place, then the DGO demanded for bribe by giving hand signal, when he kept the money on the table then the I.O. seized the money from the table and arrested the DGO.

35. In the cross-examination made by P.O. PW1 has admitted that, the Lokayukta police have type written the complaint and without knowing the contents of complaint, he has put his signature without knowing the contents of Entrustment Mahazar and Trap Mahazar, he has put his signatures. Further PW1 admits that, the I.O., has given instructions to him. But keep the money somewhere even DGO doesn't demand the bribe amount and therefore, learned Presenting Officer treated PW1 as hostile and suggested the case of the Disciplinary Authority.

36. In the cross-examination made by Presenting Officer, PW1 admits that on 18/03/2014, he has deposed the true facts. He admits that, after 18/03/2014 inspite of issuance of summons, he did not appear before this Authority and on that day, he was produced by the police. He admits that, according to his instructions only Ex.P1 was type written. He admits about the Entrustment Mahazar, the incident took place in the house of the DGO documents seized from the possession of the DGO, demand made by DGO by giving signal, keeping the money on the table and recovery.

37. PW2 also has not supported, hence, he was treated as hostile and was cross-examined. He admits the date and time of the Entrustment Mahazar. He admits that, the I.O. asked

him to act as pancha No.1 and one Babu as pancha No.2. He admits that, he kept the money in the pocket of the complainant. He has deposed that, in some solution his hand wash was taken. But PW2 has not denied these suggestions made by the Presenting Officer.

38. Further PW2 has deposed in his cross-examination that, when they went to meet the DGO, he was waiting outside the house. He doesn't know that, after some time complainant gave a signal. PW2 has not denied this suggestion. He doesn't know that, the complainant met the DGO, at his instruction kept the money on the table. But PW2 has not denied this suggestion. PW2 admits that, when photographs were taken at the time of the mahazar as per Ex.P6, he was present. This fact also shows that, PW2 was very much present, when Entrustment Mahazar and Trap Mahazar was drawn and bribe amount was recovered from the possession of the DGO.

39. Similarly PW3 also has not completely supported. Therefore, the Presenting Officer treated PW3 as hostile and cross-examined him. In the cross-examination he admits that, on 21/08/2009 he went to Lokayukta Police station and complainant was introduced to him, contents of complaint was explained to him. The complainant presented Rs. 8,000/- witness Sri Kuravatti read over note numbers, he noted down the numbers, Lokayukta Police applied phenolphthalein powder witness Sri Kuravatti, kept the money in the shirt left side pocket of the complainant, hand wash of Sri Kuravatti was taken in sodium carbonate solution and it turned into pink colour. Then, I.O. instructed the complainant panchas,

Sri Thimmappa was also present and I.O. has drawn Ex.P2/Entrustment Mahazar.

40. PW3 has admitted that complainant gave a signal immediately police and staff, Sri Kuravatti and others came to the house of the DGO. Further PW3 has deposed that, he doesn't remember about enquiry made by police and the amount kept by the complainant on the table. He admits that, the amount, tallied with the money entrusted to the complainant. The top portion of the paper was swabbed with cotton, it was dipped into solution and it turned into pink colour. He admits that, DGO has also given statement before the I.O. I.O. seized the documents as per Ex.P3 and drawn Trap Mahazar/Ex.P5.

41. Therefore, the evidence of PW1 to PW4 clearly show that the application for permission for sale of land was pending before the DGO. DGO demanded bribe amount from the complainant, Sri Thimmappa was also present at the time and on 21/08/2009 the complainant presented Rs. 8,000/- lodged the complaint. I.O. secured the presence of panchas, introduced the complainant to them, explained the contents of complaint, entrustment procedure was conducted. Then, the complainant and shadow witness along with Sri Thimmappa went to the house of the DGO, DGO by giving hand signal demanded for bribe amount, asked the complainant to keep the bribe amount on the table. The complainant has kept the money on the table on the instruction of the DGO, gave signal to the I.O. Then I.O. caught the DGO and followed the trap mahazar procedure and seized the amount from the possession of the DGO.

42. The copies of the documents also were with the DGO. I.O. also seized the same. Therefore, the contention of the DGO that, application and documents were not all sent to him and work was not pending before him cannot be accepted. Therefore, considering the totality of the above oral and documentary evidence placed on record and written brief submitted by both sides, absolutely there is a such probable acceptable evidence to prove the charge leveled against DGO and hence, I answer the above point in the **AFFIRMATIVE**.

43. Point NO.2:-

For the reasons discussed above, I proceed to pass the following:-

:: ORDER ::

The Disciplinary Authority has satisfactorily proved the charge in this case that, DGO/Sri P. Mahesh s/o Hanumanthappa, Village Accountant, Kuriganuru, Siraguppa Taluk, Bellary District, committed mis-conduct as enumerated U/R 3(1) (i) to (iii) of Karnataka Civil Service (Conduct) Rules, 1966.

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

Dated this the 25th day of September, 2017

-Sd/-
(S. Gopalappa)
I/c Additional Registrar Enquiries-4,
Karnataka Lokayukta,
Bangalore.

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

- PW-1 :- Sri Madavaiah Swamy (complainant)
PW-2 :- Sri Fakeerappa Marabasappa Kuravatti
(shadow panch witness)
PW-3:- Sri B. Babu (another panch witness)
PW-4:- Sri Shekhar (I.O.)

LIST OF WITNESSES EXAMINED ON BEHALF OF THE DEFENCE:

NIL

LIST OF EXHIBITS MARKED ON BEHALF OF DISCIPLINARY AUTHORITY

- Ex.P-1: Certified copy of the complaint
Ex.P-2: Certified copy of the Entrustment Mahazar
Ex.P-2(a): Relevant entry in Ex.P2
Ex.P-3: Certified copy of the complainant's file (containing 7 sheets)
Ex.P-3(a): Relevant entry in Ex.P3
Ex.P-4: Certified copy of the explanation of DGO
Ex.P-5: Certified copy of the Trap Mahazar
Ex.P-5(a): Relevant entry in Ex.P5
Ex.P-6: Certified copy of the FIR with certified copy of the Xerox photos on the white sheet
Ex.P-7: Certified copy of the mentioned the notes denomination numbers
Ex.P-7(a): Relevant entry in Ex.P7
Ex.P-8: Certified copy of the rough sketch
Ex.P-9: Certified copy of the chemical examination report
Ex.P-10: Certified copy of the typed conversation between the complainant and DGO

Dated this the 25th day of September, 2017

-Sd/-
(S. Gopalappa)
I/c Additional Registrar Enquiries-4,
Karnataka Lokayukta,
Bangalore.

