

BEFORE THE ADDITIONAL REGISTRAR, ENQUIRIES-11

KARNATAKA LOKAYUKTA, BENGALURU

ENQUIRY NUMBER: UPLOK-2/DE/111/2016

ENQUIRY REPORT Dated: 08/06/2020

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

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Delinquent Official Number: Sri. A.M. Shankar  
Discharged Duties as Assistant  
Executive Engineer (Electrical)  
Chamundeshwari Electric Supply  
Company Limited (CESC),  
Yalanduru Sub-Division,  
Yalanduru, Chamarajanagara  
District in the year 2014.

Due for retirement on  
superannuation on 30/11/2028.

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1. Background for initiating the present inquiry against the delinquent official needs to be set out in brief. One Sri R. Krishna (hereinafter will be referred to as "complainant") , resident of Yalanduru town, Chamarajanagara District is electrical contractor. According to complainant, about one and half months earlier to 06/12/2014 Smt. Devajamma, Sri Revanna, Sri. Shivaiah and Sri. Hanumantha had filed application in the office of delinquent official for electrification of their respective house. Devajamma, Revanna and Shivaiah approached the complainant to get the work done. Thereafter, the complainant took Devajamma, Revanna and Shivaiah to Sri. Jagadeesh who then was working as Assistant Engineer attached to the office of the delinquent official. Afterwards, the

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complainant prepared estimate and after obtaining sanction approached the delinquent official and requested for electrification of the house of Devajamma, Revanna, Shivaiah and Hanumantha. According to the complainant the delinquent official insisted for payment of illegal gratification of Rs.100/- each and received a sum of Rs.400/- and afterwards issued work order and labour award. Afterwards, the complainant approached the delinquent official for indent. At that time, according to the complainant, the delinquent official demanded illegal gratification of Rs.400/- i.e., rupees one hundred each per indent for release of the items required for electrification. On 03/12/2014, according to the complainant, when he again approached the delinquent official and requested to do the needful the delinquent official reiterated the demand.

2. The complainant was not willing to fulfil the said demand and therefore approached the Police Inspector (hereinafter will be referred to as "Investigating Officer") attached to Lokayukta Police Station, Chamarajanagara on 06/12/2014 at 10.30 A.M and lodged complaint against the delinquent official and placed copies of some documents and placed the memory card containing the conversation between him and the delinquent official. On the basis of the said complaint the Investigating Officer registered case against the delinquent official in crime number 11/2014 of Lokayukta Police Station, Chamarajanagara for the offence punishable under section 7 of The Prevention of Corruption Act, 1988. Thereafter, the Investigating Officer secured the shadow witness by name C.Swamy and panch witness by name M.V. Radhakrishna to Lokayukta Police Station, Chamarajanagara and informed them the purpose for which they are secured. The complainant placed four currency

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notes of denomination of Rs. 100/- each before the Investigating Officer. The Investigating Officer got entered the numbers of the above notes on a sheet of paper through the panch witness. The Investigating Officer got applied phenolphthalein powder on the above notes through his staff. The Investigating Officer got prepared solution with water and sodium carbonate powder and obtained sample of the said solution in a bottle. On the instructions of the Investigating Officer shadow witness placed the tainted notes in the left side pocket of the shirt of the complainant and immersed fingers of hands in the residual solution. The said finger wash of shadow witness turned to pink colour. The Investigating Officer seized the said wash in a bottle. The Investigating Officer handed over a voice recorder to the complainant with instructions to keep the same live at the time of approaching the delinquent official. The Investigating Officer instructed the complainant to approach the delinquent official and to give the tainted cash to the delinquent official only in case of demand by the delinquent official. The Investigating Officer also instructed the complainant to wipe the head with right palm in case of acceptance of tainted cash by the delinquent official. The Investigating Officer instructed the shadow witness to accompany the complainant and to observe as to what transpires between the complainant and delinquent official. With the said process the Investigating Officer conducted pre-trap mahazar as primitive step of investigation.

3. Subsequent to the pre-trap mahazar, the Investigating Officer along with his staff by name Puttaswamy Aradhya, Basavarajaswamy, Jayaram, M.Mahalingaswamy, H.N. Kumararadhya, K.R. Maheshakumar, N. Suresh, N. Shivakumar,

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Deputy Superintendent of Police by name T. Nataraju, Police Inspector by name Gopikrishna, complainant, shadow witness and panch witness left Lokayukta Police Station, Chamarajanagara at 12.45 P.M and reached near the office of delinquent official at Yalanduru at 1.30 P.M. The complainant along with the shadow witness went to the office of delinquent official and came to know that delinquent official had left the office to attend the meeting at Taluk Panchayath office. At about 4.05 P.M the delinquent official returned to his office. Thereafter, the complainant along with the shadow witness entered the chamber of the delinquent official at 4.10 P.M. The complainant wished the delinquent official and placed the indents. The delinquent official received the indents and demanded cash by way of signal with right hand fingers. In response, the complainant forwarded the tainted cash. The delinquent official accepted the tainted cash with right hand and after counting with both hands placed the same in left side pocket of shirt and returned the indents. It was then 04.20 P.M. The complainant came out of the chamber of the delinquent official and communicated by wiping the head with right palm. Immediately thereafter, the Investigating Officer along with his staff and panch witness entered the chamber of the delinquent official where the complainant pointed out the delinquent official and told that the delinquent official received the tainted cash. On the instructions of the Investigating Officer, his staff held the fore arms of delinquent official. The Investigating Officer caused arrest of the delinquent official. On being questioned by the Investigating Officer, the complainant and shadow witness narrated the events which occurred in the chamber of the delinquent official. The Investigating Officer got prepared

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solution with water and sodium carbonate powder in four plastic tumblers and obtained sample of the same in a bottle. On the instructions of the Investigating Officer the delinquent official immersed fingers of right hand in the residual solution placed in a plastic tumbler and immersed fingers of left hand in the residual solution placed in another plastic tumbler. Finger wash of both hands of the delinquent official turned to light pink colour. The Investigating Officer seized the said wash in the separate bottles. On being questioned by the Investigating Officer about tainted cash, delinquent official placed the tainted cash after lifting the same from the left side pocket of his shirt. The Investigating Officer seized the said tainted cash. The Investigating Officer conducted personal search of the delinquent official and found cash of Rs.2,360/-. The delinquent official responded that the said cash is personal cash and therefore the Investigating Officer returned the said cash of Rs.2,360/- to the delinquent official. The Investigating Officer provided alternate shirt to the delinquent official and after getting removed the shirt of the delinquent official got immersed the left side pocket of the shirt in the residual solution placed in one of the remaining tumblers. The said wash turned to light pink colour. The Investigating Officer seized the said wash in a bottle. The Investigating Officer also seized the shirt of the delinquent official. The Investigating Officer secured Sri Surendra Kumar who then was working as Junior Engineer attached to the Department of Public Works, Port and Inland Water Transport, Kollegala Sub-Division and got prepared sketch of place of trap. On being asked by the Investigating Officer for production of the file of the complainant, the delinquent official secured the file through his staff. The Investigating Officer obtained xerox

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copies of sheets of the file and after getting those sheets attested seized those sheets. On being questioned by the Investigating officer about the tainted cash, delinquent official offered statement in writing. The complainant returned the voice recorder to the Investigating Officer. The Investigating Officer got transmitted the contents of the voice recorder to compact discs. The Investigating Officer conducted trap mahazar in the chamber of the delinquent official. Thereafter, the Investigating Officer brought the delinquent official to Lokayukta Police Station, Chamarajanagara. On the instructions of the Investigating Officer his staff produced the delinquent official in the Home Office of the Principal District and Sessions Judge, Chamarajanagara. Further investigation conducted by the Investigating Officer unearthed prima facie case against the delinquent official and after obtaining sanction for prosecution the Investigating Officer filed charge sheet against the delinquent official in the Court of Principal District and Sessions Judge, Chamarajanagara.

4. On the basis of the report of the Investigating Officer placed by the Additional Director General of Police, Karnataka Lokayukta, Bengaluru before the Hon'ble Upalokayukta-2 Karnataka, Hon'ble Upalokayukta, Karnataka in exercise of the powers conferred upon under section 7(2) of The Karnataka Lokayukta Act, 1984 took up investigation which prima facie unearthed that delinquent official has committed misconduct within the purview of Rule 3(1)(i) of The Karnataka Electricity Board Employees' Service (Conduct) Regulations, 1988 and accordingly, in exercise of the powers conferred upon under section 12(3) of The Karnataka Lokayukta Act, 1984 recommended the competent authority to initiate disciplinary

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proceedings against the delinquent official under Regulation number 14-A (1)a(i) of The Karnataka Electricity Board Employees' (Classification, Discipline, Control and Appeal) Regulations, 1987 and to entrust the inquiry to the Hon'ble Upalokayukta, Karnataka.

5. Subsequent to the report dated 19/02/2016 under section 12(3) of The Karnataka Lokayukta Act, 1984 Order bearing number ಕವಿಪ್ರನಿನಿ/ಬಿ 21/3616/2014-15, ಬೆಂಗಳೂರು ದಿನಾಂಕ 16/04/2016 has been issued by the Director (Administration and Human Resources) Karnataka Power Transmission Corporation Limited entrusting the inquiry against the delinquent official to the Hon'ble Upalokayukta, Karnataka.
6. Subsequent to the Order ಕವಿಪ್ರನಿನಿ/ಬಿ 21/3616/2014-15, ಬೆಂಗಳೂರು ದಿನಾಂಕ 16/04/2016 Order number UPLOK-2/DE/111/2016 Bengaluru dated 21/04/2016 has been ordered by the Hon'ble Upalokayukta, Karnataka nominating the Additional Registrar, Enquiries-11, Karnataka Lokayukta, Bengaluru as Inquiry Officer to frame charges and to conduct department inquiry against the delinquent official.
7. Articles of charge dated 03/09/2016 at Annexure-I which includes statement of imputation of misconduct at Annexure-II framed against the delinquent official is the following:

“ಅನುಬಂಧ-1  
ದೋಷಾರೋಪಣೆ

ನೀವು ಎಂದರೆ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ಎ.ಎಂ. ಶಂಕರ್ ರವರು ಚಾಮರಾಜನಗರ ಜಿಲ್ಲೆಯ ಯಳಂದೂರಿನಲ್ಲಿ ಸೆಸ್ಕೆ ಉಪವಿಭಾಗದಲ್ಲಿ ಸಹಾಯಕ ಕಾರ್ಯನಿರ್ವಾಹಕ ಅಭಿಯಂತರರಾಗಿ 2014ನೇ ಇಸವಿಯಲ್ಲಿ ಕಾರ್ಯನಿರ್ವಹಿಸುತ್ತಿದ್ದ ಕಾಲದಲ್ಲಿ ಯಳಂದೂರು ಪಟ್ಟಣದ ಶ್ರೀಮತಿ ದೇವಾಜಮ್ಮ, ಶ್ರೀ ಹನುಮಂತ, ಯರಿಯೂರು ಗ್ರಾಮದ ಶ್ರೀ ರೇವಣ್ಣ ಮತ್ತು ಶ್ರೀ ಶಿವಯ್ಯ ರವರುಗಳು ಹೊಸದಾಗಿ ಗೃಹ ಬಳಕೆ ವಿದ್ಯುತ್ ಸಂಪರ್ಕ



ಪಡೆಯುವ ಸಲುವಾಗಿ ಪ್ರತ್ಯೇಕವಾಗಿ ಅರ್ಜಿಗಳನ್ನು ಸಲ್ಲಿಸಿದ್ದು ಸದರಿ ಕೆಲಸವನ್ನು ಯಳಂದೂರು ಪಟ್ಟಣದಲ್ಲಿ ವಿದ್ಯುತ್ ಗುತ್ತಿಗೆದಾರರಾಗಿದ್ದ ಫಿರ್ಯಾದಿ ಆರ್. ಕೃಷ್ಣರವರು ವಹಿಸಿಕೊಂಡಿದ್ದು ಆ ಸಂಬಂಧವಾಗಿ ಫಿರ್ಯಾದಿ ಆರ್. ಕೃಷ್ಣ ರವರು ದಿನಾಂಕ 6-12-2014ಕ್ಕೆ ಸುಮಾರು ಒಂದು ತಿಂಗಳ ಹಿಂದೆ ನಿಮ್ಮ ಕಛೇರಿಯಲ್ಲಿ ನಿಮ್ಮನ್ನು ಭೇಟಿ ಮಾಡಿದ್ದು ಲೈನ್ ಒಂದಕ್ಕೆ ರೂಪಾಯಿ ಒಂದು ನೂರರಂತೆ ನಾಲ್ಕು ಲೈನುಗಳಿಗೆ ಒಟ್ಟು ರೂಪಾಯಿ ನಾನೂರುಗಳನ್ನು ಸಾರ್ವಜನಿಕ ಹಿತದೃಷ್ಟಿರಹಿತವಾಗಿ ಅಕ್ರಮವಾಗಿ ನೀವು ಆರ್. ಕೃಷ್ಣ ರವರಿಂದ ಪಡೆದುಕೊಂಡಿದ್ದು ನಂತರ ಸಹ ನೀವು ಕೆಲಸವನ್ನು ಪೂರೈಸದೆ ಫಿರ್ಯಾದಿ ಆರ್. ಕೃಷ್ಣ ರವರಿಂದ ಮತ್ತೆ ಪುನಃ 3-12-2014ರಂದು ರೂ. 400/-ಗಳನ್ನು ಕೊಡುವಂತೆ ಬೇಡಿಕೆಯನ್ನು ಪುನರಾವರ್ತಿಸಿ ಆ ಸಂಬಂಧವಾಗಿ ಚಾಮರಾಜನಗರ ಲೋಕಾಯುಕ್ತ ಆರಕ್ಷಕ ಠಾಣೆಯ ಪ್ರಕರಣ ಸಂಖ್ಯೆ 11/2014ಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ನೀವು ದಿನಾಂಕ 6-12-2014ರಂದು ಯಳಂದೂರಿನಲ್ಲಿರುವ ನಿಮ್ಮ ಕಛೇರಿಯಲ್ಲಿ ಫಿರ್ಯಾದಿ ಆರ್.ಕೃಷ್ಣ ರವರಿಂದ ಮದ್ಯಾಹ್ನ 4-10 ಗಂಟೆಯಿಂದ 4-20 ಗಂಟೆಯ ಅವಧಿಯಲ್ಲಿ ರೂ.400/- ಗಳನ್ನು ಲಂಚವಾಗಿ ಫಿರ್ಯಾದಿಯಿಂದ ಒತ್ತಾಯಿಸಿ ಪಡೆದುಕೊಂಡು ಕರ್ತವ್ಯಲೋಪ ಎಸಗಿ ಸರ್ಕಾರಿ ನೌಕರನಿಗೆ ತಕ್ಕುದಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡು ದುರ್ನಡತೆಯಿಂದ ವರ್ತಿಸಿ, ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವಾ ನಿಯಮಗಳು (ನಡತೆ) 1966 ನಿಯಮ 3(1) (i) ರಿಂದ (iii)ರಡಿಯಲ್ಲಿ ದುರ್ನಡತೆ ಎಸಗಿದ್ದೀರಿ.

**ಅನುಬಂಧ-2**  
**ದೋಷರೋಪಣೆಯ ವಿವರ**

ದೂರುದಾರರಾದ ಶ್ರೀ ಆರ್. ಕೃಷ್ಣ ಬಿನ್ ಲೇಟ್ ರಂಗನಾಯಕ, ವಿದ್ಯುತ್ ಗುತ್ತಿಗೆದಾರರು, ಯಳಂದೂರು ಟೌನ್ ಇವರು ಶ್ರೀಮತಿ ದೇವಾಜಮ್ಮ, ಶ್ರೀ ರೇವಣ್ಣ ಮತ್ತು ಶ್ರೀ ಶಿವಯ್ಯ ಇವರ ಪರವಾಗಿ ಹೊಸದಾಗಿ ಗೃಹ ಬಳಕೆ ವಿದ್ಯುತ್ ಸಂಪರ್ಕ ಪಡೆಯುವ ಸಂಬಂಧ ಈಗಾಗಲೇ ಸಲ್ಲಿಸಿರುವ ಅರ್ಜಿಗಳಿಗೆ ಕಾರ್ಯಾದೇಶ ಮಾಡಿಸಿಕೊಂಡು ಬರಲು ಸಹಾಯಕ ಇಂಜಿನಿಯರ್ ಶ್ರೀ ಜಗದೀಶ್ ಇವರನ್ನು ಸ್ಥಳ ಪರಿವೀಕ್ಷಣೆಗೆ ಕರೆದುಕೊಂಡು ಹೋಗಿದ್ದು, ಸದರಿಯವರು ಅಂದಾಜು ಪಟ್ಟಿ ತಯಾರಿಸಿ ಮಂಜೂರಾತಿಯನ್ನು ಸಹ ಪಡೆದುಕೊಂಡಿದ್ದು, ಕಾಮಗಾರಿ ಕೈಗೊಳ್ಳುವ ಸಂಬಂಧ ಕಾರ್ಯಾದೇಶ ನೀಡುವಂತೆ ಒಂದು ತಿಂಗಳ ಹಿಂದೆಯೇ ಶ್ರೀ ಎ.ಎಂ. ಶಂಕರ್, ಸಹಾಯಕ ಕಾರ್ಯನಿರ್ವಾಹಕ ಅಭಿಯಂತರರು, ಸೆಸ್ಕ್ ಉಪವಿಭಾಗ, ಯಳಂದೂರು ಇವರನ್ನು ಭೇಟಿ ಮಾಡಿದಾಗ, ಸದರಿಯವರು ಪ್ರತಿ ಲೈನ್‌ಗೆ ರೂ.100/-ರಂತೆ ಒಟ್ಟು ರೂ.400/-ಗಳ ಲಂಚವನ್ನು ಪಡೆದುಕೊಂಡು ನಂತರ ವಿದ್ಯುತ್ ಕಂಬ ಮತ್ತು ಇತರೆ ವಸ್ತುಗಳ ಇಂಡೆಂಟ್ ಸಹಿ

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ಮಾಡಲು ಪ್ರತಿ ಇಂಡೆಂಟ್‌ಗೆ ರೂ.100/-ರಂತೆ ಒಟ್ಟು ರೂ.400/- ಲಂಚ ಹಣಕ್ಕಾಗಿ ಒತ್ತಾಯಿಸಿರುವುದನ್ನು ದೂರುದಾರರು ತಮ್ಮ ಮೊಬೈಲ್‌ನಲ್ಲಿ ದಿನಾಂಕ:27-11-2014ರಂದು ರೆಕಾರ್ಡ್ ಮಾಡಿಕೊಂಡಿದ್ದು, ಲಂಚ ಕೊಟ್ಟ ಕೆಲಸ ಮಾಡಿಸಿಕೊಳ್ಳಲು ಇಷ್ಟುಪಿಲ್ಲದ ಕಾರಣ, ಚಾಮರಾಜನಗರ ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸರನ್ನು ಭೇಟಿ ಮಾಡಿ ದೂರನ್ನು ಸಲ್ಲಿಸಿರುತ್ತಾರೆ.

ದೂರುದಾರರು ಸಲ್ಲಿಸಿದ ದೂರನ್ನು ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸರು ಚಾಮರಾಜನಗರ ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸ್ ಠಾಣೆಯ ಮೊಕದ್ದಮೆ ಸಂಖ್ಯೆ.11/2014 ಕಲಂ 7, ಪಿಸಿ ಕಾಯಿದೆ 1988ರಡಿಯಲ್ಲಿ ನೋಂದಾಯಿಸಿಕೊಂಡು ಪ್ರಥಮ ವರ್ತಮಾನ ವರದಿಯನ್ನು ಸಂಬಂಧಪಟ್ಟ ನ್ಯಾಯಾಲಯಕ್ಕೆ ಸಲ್ಲಿಸಿರುತ್ತಾರೆ.

ದೂರು ದಾಖಲಾದ ಬಳಿಕ ತನಿಖಾಧಿಕಾರಿಯವರು ಇಬ್ಬರು ಪಂಚರನ್ನು ಬರಮಾಡಿಕೊಂಡು ದೂರುದಾರರಿಗೆ ಪರಿಚಯ ಮಾಡಿಕೊಟ್ಟು, ದೂರಿನ ಸಾರಾಂಶವನ್ನು ತಿಳಿಸಿ ಪಂಚರ ಸಮಕ್ಷಮ ದೂರುದಾರರು ನೂರು ರೂಪಾಯಿಯ ಮುಖಬೆಲೆಯುಳ್ಳ 4 ನೋಟುಗಳನ್ನು ಹಾಜರುಪಡಿಸಿದ್ದು, ನೋಟಿನ ಸಂಖ್ಯೆಗಳನ್ನು ಒಂದು ಬಿಳಿ ಹಾಳೆಯ ಮೇಲೆ ಬರೆದುಕೊಂಡಿದ್ದು, ನಂತರ ಪಂಚರ ಸಮಕ್ಷಮ ಪ್ರಾಯೋಗಿಕ ಪಂಚನಾಮೆಯನ್ನು ಸಿದ್ಧಪಡಿಸಿ ಆಪಾದಿತರನ್ನು ಟ್ರಾಫ್ ಮಾಡಲು ಮಧ್ಯಾಹ್ನ 12-45 ಗಂಟೆಗೆ ಕಛೇರಿಯನ್ನು ಬಿಟ್ಟಿರುತ್ತಾರೆ.

ದೂರುದಾರರು ಆಪಾದಿತರನ್ನು ಸದರಿಯವರ ಕಛೇರಿಯಲ್ಲಿ ಭೇಟಿ ಮಾಡಿ ಕೆಲಸದ ವಿಚಾರಿಸಿದಾಗ ಆಪಾದಿತರು ಸನ್ನೆ ಮಾಡಿ ಹಣ ನೀಡುವಂತೆ ಒತ್ತಾಯಿಸಿದ್ದು, ಅದರಂತೆ ಲಂಚ ಹಣ ರೂ.400/-ಗಳನ್ನು ದೂರುದಾರರಿಂದ ನೆರಳುಸಾಕ್ಷಿದಾರರ ಸಮಕ್ಷಮದಲ್ಲಿ ಪಡೆಯಲಾಗಿರುತ್ತದೆ. ಸದರಿ ಲಂಚದ ಹಣವನ್ನು ತನಿಖಾಧಿಕಾರಿಯವರು ವಶಪಡಿಸಿಕೊಂಡು ಪಂಚಸಾಕ್ಷಿದಾರರ ಸಮಕ್ಷಮದಲ್ಲಿ ಜಪ್ತಿ ಪಂಚನಾಮೆಯನ್ನು ಮಾಡಲಾಗಿರುತ್ತದೆ. ತನಿಖಾ ಕಾಲದಲ್ಲಿ ತನಿಖಾಧಿಕಾರಿಯವರು ದೂರುದಾರರ, ಪಂಚರ ಹಾಗೂ ಇತರ ಸಾಕ್ಷಿದಾರರ ಹೇಳಿಕೆಗಳನ್ನು ಹಾಗೂ ಆಪಾದಿತರ ಹೇಳಿಕೆಯನ್ನು ಸಹ ದಾಖಲು ಮಾಡಿಕೊಂಡಿರುತ್ತಾರೆ. ತನಿಖಾ ಕಾಲದಲ್ಲಿ ವಶಪಡಿಸಿಕೊಂಡ ಮುದ್ದೇಮಾಲುಗಳನ್ನು ರಾಸಾಯನಿಕ ತಜ್ಞರಿಗೆ ಕಳುಹಿಸಿಕೊಟ್ಟಿರುತ್ತಾರೆ.

ತನಿಖಾಧಿಕಾರಿಯವರು ತನಿಖಾ ಕಾಲದಲ್ಲಿ ವಶಪಡಿಸಿಕೊಂಡ ಎಲ್ಲಾ ದಾಖಲಾತಿಗಳ ಪ್ರಕಾರ ಆಪಾದಿತರು ದೂರುದಾರರ ಕೆಲಸವನ್ನು ಮಾಡಿಕೊಡಲು ದಿನಾಂಕ:06-12-2014ರಂದು ರೂ.400/- ಲಂಚದ ಹಣವನ್ನು ಪಡೆದುಕೊಳ್ಳುವಾಗ ನೆರಳುಸಾಕ್ಷಿದಾರರ ಸಮಕ್ಷಮದಲ್ಲಿ ಸಿಕ್ಕಿಬಿದ್ದು, ಕರ್ತವ್ಯಲೋಪ ಎಸಗಿ ಸರ್ಕಾರಿ ನೌಕರನಿಗೆ ತಕ್ಕುದಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡು

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ದುರ್ನಡತೆಯಿಂದ ವರ್ತಿಸಿ, ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ ನಿಯಮಗಳು (ನಡತೆ) 1966 ನಿಯಮ 3(1) (i) ರಿಂದ (iii)ರಡಿಯಲ್ಲಿ ದುರ್ನಡತೆ ಎಸಗಿರುವುದು ಮೇಲ್ನೋಟಕ್ಕೆ ಸಾಬೀತಾಗಿರುತ್ತದೆ.

ಸದರಿ ದೂರಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಆಪಾದಿತರಿಗೆ ಪರಿಶೀಲನಾ ಟಿಪ್ಪಣಿಯನ್ನು ಕಳುಹಿಸಿ, ಉತ್ತರವನ್ನು ಸಲ್ಲಿಸುವಂತೆ ಸೂಚಿಸಿದ್ದು, ಅದರಂತೆ ಆಪಾದಿತರು ಉತ್ತರವನ್ನು ಸಲ್ಲಿಸಿದ್ದು, ಸದರಿ ಉತ್ತರವನ್ನು ಒಪ್ಪಲು ಬಾರದ ಕಾರಣ, ಆಪಾದಿತರ ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯ್ದೆ ಕಲಂ 12(3) ರಡಿಯಲ್ಲಿ ವರದಿಯನ್ನು ಸಲ್ಲಿಸಿ, ಆಪಾದಿತರ ವಿರುದ್ಧ ಶಿಸ್ತು ಕ್ರಮವನ್ನು ಜರುಗಿಸಲು ತಿಳಿಸಲಾಗಿತ್ತು. ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರವು ಈ ಸಂಸ್ಥೆಯಿಂದ ಮಾಡಿರುವ ಶಿಫಾರಸ್ಸನ್ನು ಒಪ್ಪಿ ಆಪಾದಿತರ ವಿರುದ್ಧ ಶಿಸ್ತು ಕ್ರಮಕೈಗೊಂಡು ವರದಿಯನ್ನು ಸಲ್ಲಿಸುವಂತೆ ಗೌರವಾನ್ವಿತ ಉಪಲೋಕಾಯುಕ್ತರವರಿಗೆ ವಹಿಸಲಾಗಿರುತ್ತದೆ. ಆದ್ದರಿಂದ ತಮ್ಮ ಮೇಲೆ ಈ ದೋಷಾರೋಪಣೆ”.

8. In response to due service of articles of charge, delinquent official appeared before this authority on 01/10/2016. In the course of first oral statement of delinquent official recorded on 01/10/2016 he pleaded not guilty. Subsequently delinquent official engaged defence assistant for his defence.
9. In the course of written statement signed by the defence assistant filed on 02/11/2016, while admitting the tenure of delinquent official at the relevant point of time the alleged misconduct has been denied. It is contended that the delinquent official never demanded and accepted illegal gratification of Rs.400/- on 06/12/2014. It is contended that the complainant never met the delinquent official along with the indent on 27/11/2014. It is contended that the delinquent official never had seen the shadow witness on 06/12/2014. It is contended that the delinquent official has not committed any offence punishable under section 7, the offence defined under section 13(1)(d) which is punishable under section 13(2) of The Prevention of Corruption Act, 1988.

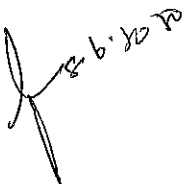
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10. The disciplinary authority has examined complainant Sri. R.Krishna as PW1, panch witness by name Sri. M.V. Radhakrishna as PW2, shadow witness by name Sri. C.Swamy as PW3 and the Investigating Officer Sri. Kyathegowda as PW4.
11. During evidence of the complainant attested copy of his complaint dated 06/12/2014 in a single sheet is marked as per Ex P1, attested copy of licence dated 30/08/2011 in a single sheet is marked as per Ex P2, attested copy of work order dated 28/10/2014 in a single sheet is marked as per Ex P3, attested copy of work order dated 29/10/2014 in a single sheet is marked as per Ex P4, attested copy of work order dated 28/10/2014 in a single sheet is marked as per Ex P5, attested copy of work order dated 28/10/2014 in a single sheet is marked as per Ex P6, attested copy of indent dated 26/11/2014 in a single sheet is marked as per Ex P7, attested copy of indent dated 26/11/2014 in a single sheet is marked as per Ex P8, attested copy of indent dated 26/11/2014 in a single sheet is marked as per Ex P9, attested copy of indent dated 26/11/2014 in a single sheet is marked as per Ex P10, attested copy of office memorandum dated 21/11/2014 in a single sheet of the Executive Engineer (Electrical O & M), CESC , Kollegala is marked as per Ex P11, attested copy of a single sheet dated 06/12/2014 containing the particulars of currency notes is marked as per Ex P12, attested copy of pre-trap mahazar dated 06/12/2014 in three sheets is marked as per Ex P13, thirty three attested sheets dated 06/12/2014 of the file pertaining to M. Revanna, Shivaiah, Devajamma and N. Hanumantha are marked as per Ex P14, attested copy of statement dated 06/12/2014 in a single sheet of the delinquent official given before PW4 is marked as per Ex P15, attested copy of trap mahazar dated 06/12/2014 in five sheets is marked as


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per Ex P16. During cross examination of PW1, xerox copy of rough sketch dated 06/12/2014 in a single sheet is marked as per Ex D1, signature of PW1 found on Ex D1 is marked as per Ex D1(a). During cross examination of PW2 his signature found on Ex D1 is marked as per Ex D1(b). During evidence of PW4, attested copy of FIR dated 06/12/2014 in a single sheet in crime number 11/2014 of Lokayukta Police Station, Chamarajanagara is marked as per Ex P17, attested copy of the report dated 22/12/2014 in a single sheet is marked as per Ex P18.

12. During second oral statement of the delinquent official recorded on 23/08/2019 he has stated that he would get examined himself as defence witness and also that he would examine the defence witnesses by name Kiran and Vijayakumar.
13. Delinquent Official got himself examined as DW1. No documents are tendered in evidence during the evidence of DW1. Delinquent official has not examined any defence witness.
14. In the course of written argument of the Presenting Officer she has referred to the allegations levelled in the articles of charge. Relying upon the evidence of PWs 1 to 4 she sought to contend that charge levelled against the delinquent official stands established. With reference to the evidence of the delinquent official it is contended that the delinquent official has admitted change of colour of finger wash and also has stated that that there is no enmity between him and the complainant.
15. In the course of written argument signed by the defence assistant and the delinquent official reference is made to the articles of charge. It is contended that no documents are collected by the Investigating Officer pointing out that Devajamma, Revanna and Shivaiah had entrusted the work to the delinquent official. It is contended that charge that earlier to

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issue of work order the delinquent official collected a sum of Rs.200/- is not established. It is contended that there is no acceptable evidence to establish that earlier to the issue of work order delinquent official demanded and accepted illegal gratification of Rs.200/-. It is contended that the recorded version of conversation is not brought into the notice of the complainant during evidence. It is contended that the disciplinary authority has not examined Sri. Jagadeesh who was entrusted with the work of release of indents to the electrical contractor. It is contended that no evidence is on record to establish that indent was placed at the hands of the complainant. It is contended that Exs P7 to P10 nowhere would show that delinquent official was under obligation to subscribe signatures on the original of Exs P7 to P10. It is contended that PW4 has not produced the memory card of the mobile hand set. It is contended that transcribed version of the conversation as found in Ex P13 cannot be admitted in evidence. It is contended that PW4 has not transmitted the memory card for scientific examination. It is contended that PW4 has equally not transmitted the compact discs for scientific examination. It is contended that PW4 has not obtained sample voice of the complainant and delinquent official for scientific examination. It is contended that the words of conversation found in Ex P16 would show that there was no demand for illegal gratification. It is contended that Ex P16 would show that conversation between the complainant and delinquent official is not recorded. It is contended that there is no evidence to establish that the complainant had met the delinquent official on 06/12/2014. It is contended that in the course of the complaint date is not mentioned touching payment of a sum of Rs.200/- to the

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delinquent official. It is contended that the complainant has admitted that on 03/11/2014 the delinquent official has signed the work order. It is contended that nothing is mentioned in the complaint the reason behind not filing the complaint either on 04/12/2014 or on 05/12/2014. It is contended that the complainant has admitted that the delinquent official issued the work order on 31/10/2014. It is contended that subsequent to the work order the items mentioned in the estimate are to be issued to the complainant. It is contended that indent will not be handed over to the complainant. It is contended that during evidence PW3 who is the shadow witness has stated that he was at the door of the delinquent official at the time when the complainant approached the delinquent official on 06/12/2014. It is contended that during evidence the shadow witness has stated that the conversation between the complainant and the delinquent official which took place on 06/12/2014 does not find place in the trap mahazar. It is contended that evidence of PWs 2 and 4 would lead to draw inference that PW4 has not placed the complaint before PWs 2 and 3 to go through the contents of the complainant. It is contended that PW4 concocted the documents. It is contended that since PW4 has not transmitted the memory card for scientific examination it needs to be observed that demand for illegal gratification is not established. It is contended that the location of the complainant, shadow witness and delinquent official does not find place in the sketch the xerox copy of which is at Ex D1. It is contended that during evidence the delinquent official has stated that on 03/11/2014 work order has been issued by him and that indent will not be handed over to the complainant. It is contended that during evidence the delinquent official has stated that on 03/11/2014 the

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subordinate officer of the delinquent official collected the items from the godown and handed over to the complainant. It is contended that during evidence the complainant has stated that his statement the attested copy of which is at Ex P15 is the outcome of force. It is contended that during evidence the delinquent official has stated that palm of both hands of delinquent official are held by Lokayukta Police staff which has resulted in change of colour of finger wash. It is contended that the contents of the statement the attested copy of which is at Ex P15 are acceptable for the reason that delinquent official has not endorsed that contents of Ex P15 are incorrect. Decision in Omkar Lal Sharma V/S State of Madhya Pradesh reported in 2010(4) Criminal Court cases 0273(MP) and decision in Arya Chowdhury V/S State of West Bengal reported in LAWS (CAL) 2006-2-61 are relied upon by the delinquent official. It is thus sought to contend that delinquent official is not guilty of the alleged misconduct.

16. In tune with the articles of charge, the point which arises for determination is :

Whether it stands established that during the tenure of the delinquent official as Assistant Executive Engineer (Electrical ) attached to Chamundeshwari Electricity Supply Company Limited (CESC), Yalanduru Sub-Division, Yalanduru, Chamarajanagara District, in connection with electrification of the residential building of Smt. Devajamma, Sri. Hanumantha, Sri. Revanna and Sri. Shivaiah the delinquent official demanded and accepted illegal gratification of Rs.400/- from the complainant about one month earlier to 06/12/2014 and thereafter, again, in connection with the said task the delinquent official

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demanded and accepted illegal gratification of Rs.400/- from the complainant between 4.10 P.M and 4.20 P.M in the office chamber of the delinquent official at Yalanduru and during investigation conducted by the Police Inspector attached to Lokayukta Police Station, Chamarajanagara in crime number 11/2014 of Lokayukta Police Station, Chamarajanagara the delinquent official failed to offer satisfactory explanation touching possession of tainted cash of Rs.400/- between 4.10 P.M and 4.20 P.M in the office chamber of delinquent official at Chamarajanagara and thereby delinquent official is guilty of misconduct within the purview of Rule 3(1)(i) of The Karnataka Electricity Board Employees' Service (Conduct) Regulations, 1988?

17. Evidence of the complainant (PW1) that at the relevant point of time delinquent official was working as Assistant Executive Engineer attached to Chamundeshwari Electric Supply Company Limited (in short, "CESC") is not under challenge. His evidence that on 27/11/2014 work order has been issued by the delinquent official is not under challenge. Lodging of complaint by the complainant against the delinquent official as stated by the complainant during his evidence is not under challenge. Evidence of PW4 that on 06/12/2014 the complainant lodged the complaint at 10.30 A.M before him in Lokayukta Police Station, Chamarajanagara and his evidence that on the basis of the same he registered case against the delinquent official in crime number 11/2014 for the offence punishable under section 7 of Prevention of Corruption Act, 1988 is not under challenge. Ex P1 which is the attested copy of the complaint and Ex P17 which is the attested copy of FIR are not under challenge.

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18. Evidence of PW4 that subsequent to registration of the complaint he secured the panch witness (PW2) and shadow witness (PW3) to Lokayukta Police Station, Chamarajanagara is not under challenge. Evidence of the complainant that PWs 2 and 3 are secured to Lokayukta Police Station, Chamarajanagara is not under challenge. Evidence of PWs 2 and 3 that they appeared before PW4 in Lokayukta Police Station, Chamarajanagara on 06/12/2014 is also not under challenge. Production of four currency note of denomination of Rs.100/- each before PW4 in Lokayukta Police Station, Chamarajanagara as stated by PW1 during evidence is not under challenge. That portion of his evidence finds place in the evidence of PWs 2 to 4. Evidence of PW1 that numbers of currency notes are noted on a sheet of paper the attested copy of which is at Ex P12 is not under challenge. That portion of his evidence finds support from the evidence of PWs 2 to 4. Evidence of PW2 that he noted the numbers of currency notes on the original of Ex P12 and the evidence of PW4 that he got entered the numbers of currency notes on the original of Ex P12 through PW2 is not under challenge. It is in the evidence of PWs 1 to 4 that phenolphthalein powder has been applied on the above notes. It is in the evidence of PW 1 that PW3 placed the tainted cash in the left side pocket of his shirt. This portion of his evidence is not under challenge. Evidence of PW3 that he placed the tainted notes in the left side pocket of the shirt of PW1 and the evidence of PWs 2 and 4 that PW3 placed the tainted notes in the left side pocket of the shirt of the complainant is also not under challenge. Preparation of solution with water and sodium carbonate powder as stated by PWs 1 to 4 is not under challenge. Evidence of PW3 that

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after placing the tainted cash in the left side pocket of the shirt of PW1 he immersed fingers of hands in the solution and consequential change of colour of finger wash is not under challenge. Evidence of PWs 1, 2 and 4 that finger wash of hands of PW3 turned to pink colour is not under challenge. PWs 1 to 4 have thus categorically stated during evidence that pre-trap mahazar has been conducted in Lokayukta Police Station, Chamarajanagara. Ex P13 is the attested copy of pre-trap mahazar. It is in the evidence of PW4 that he instructed the complainant to approach the delinquent official and to give tainted cash only in case of demand. PW4 also stated that he instructed the complainant to convey message in case of acceptance of tainted cash by the delinquent official. It is also in the evidence of PW4 that he instructed PW3 to accompany the complainant and to observe as to what transpires between the complainant and delinquent official. Evidence of PW1 touching production of Exs P2 to P11 before PW4 at the time of lodging of complaint is not under challenge. Evidence of PWs 1 to 4 is worthy of acceptance touching the proceedings of pre-trap mahazar and therefore on the strength of their evidence it needs to be expressed that PW4 conducted pre-trap mahazar as primitive step of investigation.

19. Evidence of PWs 1 to 4 that subsequent to pre-trap mahazar they along with the other Lokayukta Police staff reached near the office of delinquent official at Yalanduru is not under challenge. The evidence of PWs 1 and 3 that after their entry to the office of delinquent official they came to know that delinquent official had already left the office for the purpose of attending meeting is not under challenge. It is in

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the evidence of PWs 2 and 4 that they came to know through PWs 1 and 3 that delinquent official was not found in the office.

20. It is in the evidence of PW1 (complainant) that after 4.00 P.M on the day of trap the delinquent official returned to the office of delinquent official and afterwards he along with PW3 entered the said office. This portion of his evidence is not under challenge. It is in the evidence of PW3 that at about 4.00 on the day of trap the delinquent official returned to the office and that the delinquent official was pointed out to him by the complainant. This portion of his evidence is not under challenge. His evidence that he also entered the office of delinquent official along with the complainant is not under challenge.
21. During evidence the complainant (PW1) has stated that after his entry to the office of delinquent official along with the shadow witness (PW3) he wished the delinquent official and asked to subscribe signature on the indent. Suggestion posed to the complainant that before he approached the delinquent official duly signed indents were already handed over to the Assistant Engineer by name Jagadeesh by the delinquent official has been denied by him. Suggestion posed to PW1 that he alone had been to meet the delinquent official on 06/12/2014 has been denied by him. Exs P7 to P10 are the attested copies of indents dated 26/11/2014. Exs P7 to P10 would show that Jagadeesh who then was working as Assistant Engineer in the office of delinquent official signed these indents. Signature of the delinquent official are not found on Exs P7 to P10 and therefore suggestion posed to the complainant during cross examination that the delinquent

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official had already handed over the duly signed indents to Jagadeesh has no substratum to adhere.

22. Regarding the alleged demand and acceptance, it is in the evidence of complainant that after he asked to subscribe the signature on the indent the delinquent official demanded cash by way of signs with right hand fingers and in response he offered tainted cash which has been accepted by the delinquent official with right hand and afterwards placed the same in the left side pocket of the shirt and thereafter signed the indent. Whether the delinquent official signed the indents after accepting tainted cash needs to be appreciated with reference to sheet numbers 32 and 33 of Ex P 14. Sheet number 32 of Ex P14 is the attested copy of the indent of M. Revanna. Reverse page of sheet number 32 of Ex P14 is the attested copy of the indent of Shivaiah. Sheet number 33 of Ex P14 is the attested copy of the indent of Devajamma. Reverse page of sheet number 33 of Ex P14 is the attested copy of the indent of N. Hanumantha. These attested copies of indents are dated 26/11/2014. It is seen in sheet numbers 32 and 33 of Ex P14 and also reverse page of sheet numbers 32 and 33 of Ex P14 that these are signed by the delinquent official on 06/12/2014 i.e., signed on the date of trap. No suggestion is posed to PWs 1 to 4 that these signatures are obtained by force soon after trap after securing the original sheets of Ex P14. Even during evidence the delinquent official has not whispered anything that signatures are obtained by force soon after securing the original sheets of Ex P14. It is thus clear that the delinquent official signed these indents after accepting illegal gratification. Suggestion posed to the complainant during cross examination that official work of the

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complainant was not pending with the delinquent official on 06/12/2014 has been rightly denied by the complainant. It is thus clear that official work of the complainant was pending with the delinquent official on the day of trap. It is brought out during cross examination of the complainant that the required items are to be received after obtaining the signature of the delinquent official on the indent. This portion of answer elicited during cross examination of the complainant instead of supporting the defence supports the case of the disciplinary authority. Evidence of the complainant that the delinquent official demanded cash by way of signal with fingers of right hand has not been specifically assailed in its true letter and spirit. That portion of the evidence of the complainant literally has remained unchallenged and therefore the said unchallenged testimony of the complainant needs acceptance which unerringly establishes specific demand by the delinquent official. Suggestion posed to the complainant during cross examination that the complainant has not paid cash of Rs.400/- to the delinquent official on 06/12/2014 has been denied by him. Evidence of the complainant that after accepting tainted cash with the right hand the delinquent official placed the same in the left side pocket of the shirt has not been assailed in its true letter and spirit during the cross examination of the complainant. During evidence the delinquent official has not ventured upon to deny the alleged demand and by way of signs with right hand and also acceptance of tainted cash. Nothing is stated by the delinquent official during his evidence that he neither demanded by way of signs with right hand nor accepted the tainted cash with right hand. Nothing equally is stated by the delinquent official

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during evidence that he has not placed the tainted cash in the left side pocket of shirt. Thus, upon meticulous appreciation of the evidence of the complainant I am persuaded to accept his evidence which establishes that in order to extend official favour the delinquent official demanded and accepted illegal gratification of Rs.400/- on the day of trap.

23. In order to lend further assurance to the evidence of the complainant touching the alleged demand and acceptance of tainted cash of Rs.400/- the evidence of PW3 who is the shadow witness needs to be appreciated. During evidence PW3 has stated that after placing of four indents by the complainant the delinquent official demanded cash by way of signs with right hand fingers in response to which the complainant offered tainted cash which is accepted by the delinquent official and after acceptance the delinquent official placed tainted cash in the left side pocket of shirt. During cross examination though PW3 has stated that he was at the door of the office of the delinquent official he has stated further during cross examination that in case door is closed, then, nothing is visible from outside but door was not found closed. In the presence of these answers the presence of PW3 at the close proximity cannot be doubted. Suggestions posed to PW3 during cross examination suggesting that he has not witnessed as to what transpired inside the office of the delinquent official has been denied by him. Suggestion posed to PW3 during his cross examination that the delinquent official neither demanded by way of signs nor accepted bribe has been denied by him. Placing of tainted cash by the delinquent official in the left side pocket of his shirt as deposed

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by PW3 has not been assailed in its true letter and spirit during his cross examination. PW3 is a unbiased witness. Nothing is brought out during cross examination of PW3 that PW3 was aimed at false implication of the delinquent official. No inherent infirmities are found in the testimony of PW3 and therefore his evidence needs acceptance. PW3 has corroborated the testimony of the complainant in all material particulars and therefore his evidence lends further assurance to the testimony of the complainant.

24. It is in the evidence of the complainant that after his signal Lokayukta Police staff and PW2 entered the office of the delinquent official and soon after the entry he pointed out the delinquent official and expressed that cash is received by the delinquent official. Evidence of the complainant that soon after the entry of Lokayukta Police staff he pointed out the delinquent official and stated that cash is accepted by the delinquent official has not been assailed during his cross examination and as such the said unchallenged portion of his evidence incriminates the delinquent official. During evidence the shadow witness (PW) has stated that after the entry of Lokayukta Police staff the complainant pointed out the delinquent official and expressed that delinquent official accepted cash. This portion of his evidence has not been assailed during his cross examination and therefore the same needs acceptance which incriminates the delinquent official. Evidence of PW2 who is the panch witness that after his entry to the office of delinquent official along with Lokayukta staff the complainant pointed out the delinquent official and expressed that the delinquent official accepted cash has not been assailed during his cross examination and therefore the

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said portion of his unchallenged testimony incriminates the delinquent official. Evidence of PW4 that soon after his entry to the office of the delinquent official the complainant pointed out the delinquent official and stated that the delinquent official after accepting indents accepted tainted notes after demand by way of signal with right hand has not been assailed during his cross examination and therefore the said version of his unchallenged evidence needs acceptance which portion of his evidence incriminates the delinquent official. Even during evidence the delinquent official has not stated that the complainant has not stated so after the entry of PW4, staff of PW4 and PW2.

25. It is in the evidence of PW1 that finger wash of both hands of delinquent official in the solution prepared with water and sodium carbonate powder turned to light pink colour and wash of right side pocket of shirt of the delinquent official turned to pink colour. It is in the evidence of PWs 2 to 4 that finger wash of both hands of the delinquent official and wash of right side pocket of shirt of the delinquent official turned light pink colour. Though PW1 has stated that the wash of left side pocket of shirt of delinquent official turned to pink colour which portion of his evidence is not in full conformity with the evidence of PWs 2 to 4 the said variation is negligible which will not discredit his evidence. Suggestions posed to PW1 that fingers of hands of the delinquent official and left side pocket of shirt of the delinquent official are not subjected to wash and that those wash have not

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turned to light pink colour are denied. Similar suggestions posed to PW 2 are denied. Evidence of PWs 3 and 4 touching change of colour of finger wash of hands of delinquent official and change of colour of wash of left side pocket of shirt of delinquent official has remained unchallenged. In the course of evidence the delinquent official has stated that on the day of trap after wishing by way of shaking hand by Lokayukta Police staff his hands are held by Lokayukta Police staff. The said defence is not projected during cross examination of PWs 1 to 4 and therefore the said defence is nothing but an afterthought. During evidence the delinquent official has not stated that fingers of his hands and left side pocket of his shirt are not subjected to wash. He equally has not stated during his evidence anything about change of colour of finger wash and also change of colour of wash of the left side pocket of the shirt. Upon appreciation of the evidence as discussed above it needs to be expressed that change of colour of finger wash of hands and change of colour of wash of left side pocket of shirt further lends assurance to hold that the delinquent official accepted tainted cash.

26. It is in the evidence of the complainant that tainted cash has been seized from the possession of delinquent official. During evidence though the complainant has not specifically stated that personal cash amounting to Rs.2,360/- has been seized the same will not discredit his

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evidence. Suggestion posed to the complainant during cross examination that tainted cash has not been seized is denied.

27. During evidence PWs 2 to 4 have stated touching seizure of tainted cash of Rs.400/- from the possession of delinquent official. PWs 1 to 4 have also stated that personal cash of Rs.2,360/- which was possessed by the delinquent official has been returned to the delinquent official. Suggestion posed to PW2 that tainted cash was not found in the left side pocket of the shirt of the delinquent official has been denied by him. Suggestion posed to PW2 that tainted cash of Rs.400/- has not been seized has been denied by him. Suggestion posed to PW2 that personal cash of Rs.2,360/- was in the left side pocket of shirt of the delinquent official has been denied by him. Evidence of PW3 touching seizure of tainted cash has not been assailed during his cross examination and therefore the said portion of his unchallenged testimony needs acceptance. Evidence of PW4 touching seizure of tainted cash has not been assailed during his cross examination and therefore evidence of PW4 that he seized the tainted cash which was produced before him by the delinquent official after lifting the same from the left side pocket of the shirt needs acceptance. During evidence, the delinquent official has not stated anything about tainted cash which was found in the left side pocket of his shirt. He has not stated during evidence that tainted

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cash has not been seized from his possession. Evidence of PWs 1 to 4 thus establishes that tainted cash of Rs.400/- which was in the left side pocket of the shirt of the delinquent official has been seized.

28. PWs 1 to 4 have categorically stated during evidence touching seizure of the file the attested copy of which consisting of thirty three sheets which are marked together at Ex P14. Seizure of the file as stated by PWs 1 to 4 during their evidence is not under challenge.

29. During evidence PWs 1 to 4 have stated that the delinquent official offered explanation the attested copy of which is at Ex P15. During evidence the delinquent official has stated that his statement has been obtained by posing threat. Whether this portion of evidence of the delinquent official needs to be accepted or not is the matter which needs to be appreciated. Nothing is suggested to PWs 1 to 4 during their cross examination that statement of the delinquent official has been obtaining by posing threat. During cross examination of PW4 it is elicited that the delinquent official gave statement in writing on 06/12/2014. It is further stated during cross examination of PW4 that the delinquent official has stated in the said statement that the complainant thrust cash into the pocket. Nothing is found elicited during cross examination of PW 4 that statement of the delinquent official is the outcome of threat. Page number 8 of the written argument of the

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delinquent official needs to be looked into. It is stated in page number 8 of the written argument of the delinquent official that since the delinquent official has not endorsed that the contents of his statement are false the statement of the delinquent official needs to be accepted. In presence of the same, evidence of the delinquent official that his statement has been obtained by force cannot be accepted. It needs to be expressed that the delinquent official has given the statement at his own volition. The relevant portion of the statement of the delinquent official the attested copy of which is at Ex P15 is worthy to be reproduced which reads:

“ ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ, ದಿ.6-12.2014 ರಂದು ನಾನು ಯಳಂದೂರು ಪಂಚಾಯತ್ ಕಚೇರಿಯಿಂದ ಮಾನ್ಯ ಲೋಕಸಭಾ ಸದಸ್ಯರ ಮೀಟಿಂಗ್ ಮುಗಿಸಿ ಕೊಂಡು ಅಫೀಸಿಗೆ ಬಂದಾಗ ಶ್ರೀ ಕೃಷ್ಣ ವಿದ್ಯುತ್ ಗುತ್ತಿಗೆದಾರರವರು ಏಕಾಏಕಿ ನನ್ನ ಕೊಠಡಿಗೆ ಏಕಾಏಕಿ ಬಂದು ನಾಲ್ಕು ಸಾಮಗ್ರಿಗಳ ಇಂಡೆಂಟ್ ಇಟ್ಟು ದುಡ್ಡನ್ನು ನನ್ನ ಜೇಬಿಗೆ ಬಲವಂತವಾಗಿ ಹಾಕಿದರು ನಾನು ಅದನ್ನು ವಾಪಸ್ ಕೊಡಲು ಹೋದಾಗ ಹೊರಗಡೆ ಹೊರಟು ಹೋದರು ಈಗಾಗಿ ಬೇರೆ ಅರ್ಥ ಬರುತ್ತದೆಂದು ಹೊರಗಡೆ ಇಡದೇ ಅವರು ಬಂದಾಗ ವಾಪಸ್ ಕೊಡಲು ಇಟ್ಟುಕೊಂಡಿದ್ದೆ ನಂತರ ತಮ್ಮ ಸಿಬ್ಬಂದಿಯವರು ಬಂದಾಗಲೇ ನನಗೆ ವಿಷಯ ತಿಳಿದು ಬಂತು ನಾನು ಈ ಬಗ್ಗೆ ಅವರಿಗೆ ಯಾವುದೇ ಬಲವಂತ ಮಾಡಿರಲಿಲ್ಲ. ತಮ್ಮ ಸಿಬ್ಬಂದಿಯವರು ಬಂದಾಗ ಗಾಬರಿಯಿಂದ ನನಗೆ ಏನೂ ಮಾಡಲು ತೋಚಲಿಲ್ಲ. ಈ ರೀತಿ ನನಗೆ ಅವರು ಮೋಸ ಮಾಡಿರುತ್ತಾರೆಂದು ತಮ್ಮ ಗಮನಕ್ಕೆ ತರಬಯಸುತ್ತೇನೆ ವಿದ್ಯುತ್ ಸಂಪರ್ಕ ನೀಡುವ ವಿಚಾರದಲ್ಲಿ ಅರ್ಜಿದಾರರಿಗೆ ನಾನು ಯಾವುದೇ ವಿಳಂಬ ಮಾಡಿರುವುದಿಲ್ಲ ಎಂಬುದನ್ನು ಮತ್ತೊಮ್ಮೆ ತಮ್ಮ ದಯಾ ಅವಗಾಹನೆಗೆ ತರಬಯಸುತ್ತೇನೆ.”

6.10.10

The portion as extracted hereinabove would show that the delinquent official has admitted placing of the indents before him. The said statement is the defence formulated by the delinquent official at the earliest point of time. Nothing is found suggested to the complainant during his cross examination that the complainant forcibly placed cash inside the pocket. In the absence of such a suggestion the defence that the complainant placed cash in the pocket by force cannot be accepted. If really the complainant had forced cash into his pocket, then, the complainant would have retorted by way of protest. In these circumstances, the contents of Ex P15 as extracted hereinabove will not lend assurance to the defence. It needs to be remembered that since strict rules of The Indian Evidence Act, 1872 are not applicable while appreciating evidence in the inquiry of this nature Ex P15 is not hit by sections 24 to 26 of The Indian Evidence Act, 1872. Ex P15 incriminates the delinquent official.

30. Evidence of PWs 1 to 4 would show that trap mahazar has been conducted in the office of delinquent official. Upon appreciation of the evidence of PWs 1 to 4 I find nothing worthy to hold that the trap mahazar has not been conducted in the office of the delinquent official.

31. Though it is in the evidence of the complainant that the voice of the delinquent official was not found recorded in the voice recorder which was handed over to him by PW4 the same alone will not lend assurance to the defence. It

*Handwritten signature*

needs to be borne in mind that oral evidence of any witness touching what is seen and observed would assume the character of primary evidence. Electronic mode of evidence if secured would lend assurance to the oral evidence. Therefore, though PW has not placed any material to show that he has resorted to secure opinion from the expert to establish the contents of the memory chip the same will not discredit the evidence placed from the side of the disciplinary authority. Ex D1 which is the xerox copy of sketch of the place of trap equally will not uproot the trap laid by PW4.

32. Nothing worthy is brought out during cross examination of the complainant that he was aimed at false implication of the delinquent official. Nothing equally is brought out during cross examination of PW4 that he had any malafide intention for implication of the delinquent official. Upon appreciation of the evidence of PWs 1 to 4 keeping in mind the yardstick of preponderance of probabilities I hold that evidence of PWs 1 and 3 establishes that the delinquent official demanded and accepted illegal gratification of Rs.400/- in the chamber of the office building of the delinquent official on 06/12/2014 between 4.10 P.M and 4.20 P.M. Evidence of PWs 1 to 4 establishes seizure of tainted cash soon after trap from the left side pocket of shirt of the delinquent official. Explanation offered at Ex P15 would not point out the innocence of the delinquent official. Evidence of

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delinquent official does not establish the manner in which tainted cash was found in his possession soon after trap. Failure on the part of the delinquent official to offer satisfactory explanation touching possession of tainted cash soon after trap amounts to misconduct.

33. In so far as acceptance of a sum of Rs.400/- earlier to the date of trap, while it is found in Ex P1 which is the attested copy of the complaint of the complainant that earlier to lodging of complaint the delinquent official demanded and accepted illegal gratification of Rs.400/- the said allegation is not specifically stated by the complainant during evidence. During evidence the complainant has stated that earlier to 27/11/2014 the delinquent official accepted a sum of Rs.200/-. In the presence of this material discrepancy I am not persuaded to express that the said portion of charge has remained established. Therefore, I hold that the first portion of the charge that about one month earlier to 06/12/2014 the official demanded and accepted illegal gratification of Rs.400/- is not proved. In the background of the evidence as discussed earlier I hold that charge against the delinquent official that he demanded and accepted illegal gratification of Rs.400/- in the chamber of his office building on 06/12/2014 between 4.10 P.M and 4.20 P.M and during investigation conducted by PW4 he failed to offer satisfactory explanation for possession of the said tainted cash soon after trap stands established.

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34. In the decisions relied upon in the course of written argument of the delinquent official law is not laid down as to what kind of act amounts to misconduct and therefore, in my view, the above decisions will not lend support to the defence. In the presence of overwhelming evidence as discussed above I am not inclined to accept the defence put forward in the course of written argument and equally I am not inclined to accept the contentions put forward in the course of written argument of the delinquent official.
35. For the foregoing reasons I proceed with the following:

### R E P O R T

Charge against the delinquent official that during his tenure as Assistant Executive Engineer (Electrical ) attached to Chamundeshwari Electricity Supply Company Limited (CESC), Yalanduru Sub-Division, Yalanduru, Chamarajanagara District, in connection with electrification of the residential building of Smt. Devajamma, Sri. Hanumantha, Sri. Revanna and Sri. Shivaiah he demanded and accepted illegal gratification of Rs.400/- from the complainant about one month earlier to 06/12/2014 and thereby he is guilty of misconduct within the purview of Rule 3(1)(i) of The Karnataka Electricity Board Employees' Service (Conduct) Regulations, 1988 is not proved.

Charge against the delinquent official that during his tenure as Assistant Executive Engineer (Electrical) attached to Chamundeshwari Electricity Supply Company Limited (CESC), Yalanduru Sub-Division, Yalanduru, Chamarajanagara District, in

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connection with electrification of the residential building of Smt. Devajamma, Sri. Hanumantha, Sri. Revanna and Sri. Shivaiah he demanded and accepted illegal gratification of Rs.400/- from the complainant between 4.10 P.M and 4.20 P.M in his office chamber at Yalanduru and during investigation conducted by the Police Inspector attached to Lokayukta Police Station, Chamarajanagara in crime number 11/2014 of Lokayukta Police Station, Chamarajanagara he failed to offer satisfactory explanation touching possession of tainted cash of Rs.400/- between 4.10 P.M and 4.20 P.M in his office chamber at Yalanduru, Chamarajanagara District and thereby he is guilty of misconduct within the purview of Rule 3(1)(i) of The Karnataka Electricity Board Employees' Service (Conduct) Regulations, 1988 is proved.

Delinquent official is due for retirement on superannuation on 30/11/2028.

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

  
(V.G. BOPAI)

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

#### ANNEXURE

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

PW1:-	Sri. R. Krishna.
PW2:-	Sri. M.V. Radhakrishna.
PW3:-	Sri. C.Swamy.
PW4:-	Sri.Kyathegowda.

List of witnesses examined on behalf Delinquent Official:-

DW 1:- Sri. A.M.Shankar (Delinquent Official)

List of documents marked on behalf of Disciplinary Authority:-

1. Ex P1 Attested copy of complaint dated 06/12/2014 in a single sheet of the complainant (PW1).
2. Ex P2 Attested copy of licence dated 30/08/2011 in a single sheet.
3. Ex P3 Attested copy of work order dated 28/10/2014 in a single sheet.
4. Ex P4 Attested copy of work order dated 29/10/2014 in a single sheet.
5. Ex P5 Attested copy of work order dated 28/10/2014 in a single sheet.
6. Ex P6 Attested copy of work order dated 28/10/2014 in a single sheet.
7. Ex P7 Attested copy of indent dated 26/11/2014 in a single sheet.
8. Ex P8 Attested copy of indent dated 26/11/2014 in a single sheet.
9. Ex P9 Attested copy of indent dated 26/11/2014 in a single sheet.
10. Ex P10 Attested copy of indent dated 26/11/2014 in a single sheet.
11. Ex P11 Attested copy of office memorandum dated 21/11/2014 in a single sheet of the Executive Engineer (Electrical O & M), CESC , Kollegala.
12. Ex P12 Attested copy of a single sheet dated 06/12/2014 containing the particulars of currency notes.

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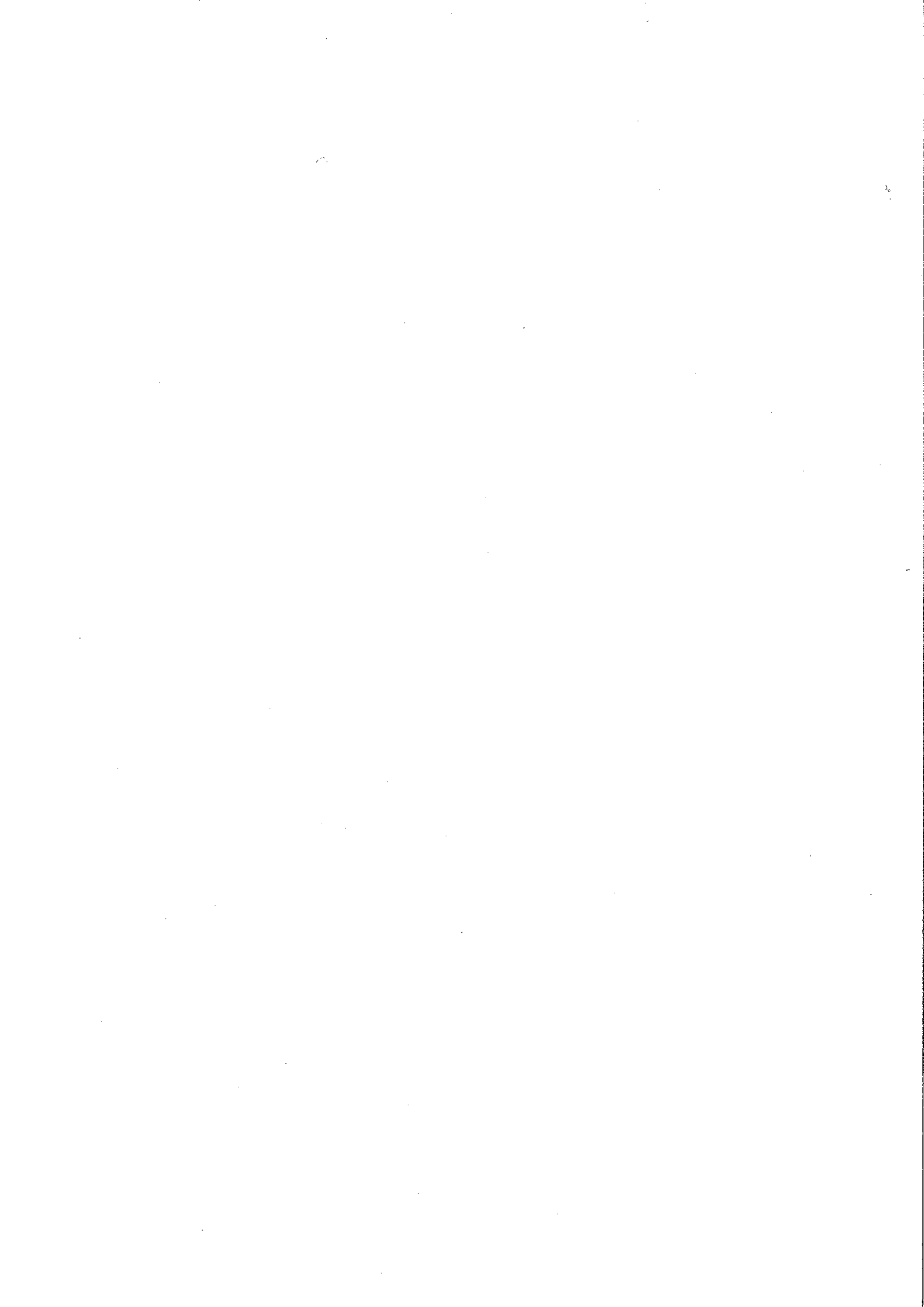
13. Ex P13 Attested copy of pre-trap mahazar dated 06/12/2014 in three sheets.
14. Ex P14 Thirty three attested sheets dated 06/12/2014 of the file pertaining to M. Revanna, Shivaiah, Devajamma and N. Hanumantha.
15. Ex P15 Attested copy of statement dated 06/12/2014 in a single sheet of the delinquent official given before PW4.
16. Ex P16 Attested copy of trap mahazar dated 06/12/2014 in five sheet.
17. Ex P17 Attested copy of FIR dated 06/12/2014 in a single sheet in crime number 11/2014 of Lokayukta Police Station, Chamarajanagara.
- Ex P18 Attested copy of the report dated 06/12/2014 in a single sheet.

List of documents marked on behalf of Delinquent Official:-

- 1 Ex D1 Xerox copy of rough sketch dated 06/12/2014 in a single sheet.
- Ex D1(a) Signature of PW1 found on Ex D1.
- Ex D1(b) Signature found on Ex D1.



(V.G. BOPALAH)  
Additional Registrar, Enquiries-11,  
Karnataka Lokayukta, Bengaluru.





KARNATAKA LOKAYUKTA

No.LOK/INQ/14-A/111/2016/ARE-11 Multi Storied Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru-560 001.  
Dated 09.06.2020.

RECOMMENDATION

Sub:- Departmental inquiry against Shri A.M.Shankar, the then Assistant Executive Engineer(E), Yelanduru Sub-division, CESC, Mysore - reg.

Ref:- 1) Proceedings Order No. KPTCL/B21/3616/2014-15 dated 16.04.2016.

2) Nomination order No. UPLOK-2/DE/111/2016 dated 21.04.2016 of Upalokayukta, State of Karnataka.

3) Inquiry report dated 08.06.2020 of Additional Registrar of Enquiries-11, Karnataka Lokayukta, Bengaluru.

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The KPTCL by its order dated 16.04.2016 initiated the disciplinary proceedings against Shri A.M.Shankar, the then Assistant Executive Engineer(E), Yelanduru Sub-division, CESC, Mysore, [hereinafter referred to as Delinquent Board Official, for short as 'DBO'] and entrusted the departmental inquiry to this Institution.

2. This Institution by Nomination Order No. UPLOK-2/DE/111/2016 dated 21.04.2016 nominated Additional Registrar of Enquiries-11, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct departmental inquiry against DBO for the alleged charge of misconduct, said to have been committed by him.

3. The DBO - Shri A.M.Shankar, the then Assistant Executive Engineer(E), Yelanduru Sub-division, CESC, Mysore, was tried for the following charges :-

“ ನೀವು ಎಂದರೆ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ಎ.ಎಂ.ಶಂಕರ್ ರವರು ಚಾಮರಾಜನಗರ ಜಿಲ್ಲೆಯ ಯಳಂದೂರಿನಲ್ಲಿ ಸೆಸ್ಕ್ ಉಪವಿಭಾಗದಲ್ಲಿ ಸಹಾಯಕ ಕಾರ್ಯನಿರ್ವಾಹಕ ಅಭಿಯಂತರರಾಗಿ 2014ನೇ ಇಸವಿಯಲ್ಲಿ ಕಾರ್ಯನಿರ್ವಹಿಸುತ್ತಿದ್ದ ಕಾಲದಲ್ಲಿ ಯಳಂದೂರು ಪಟ್ಟಣದ ಶ್ರೀಮತಿ ದೇವಾಜಮ್ಮ, ಶ್ರೀ ಹನುಮಂತ, ಯರಿಯೂರು ಗ್ರಾಮದ ಶ್ರೀ ರೇವಣ್ಣ ಮತ್ತು ಶ್ರೀ ಶಿವಯ್ಯ ರವರುಗಳು ಹೊಸದಾಗಿ ಗೃಹ ಬಳಕೆ ವಿದ್ಯುತ್ ಸಂಪರ್ಕ ಪಡೆಯುವ ಸಲುವಾಗಿ ಪ್ರತ್ಯೇಕವಾಗಿ ಅರ್ಜಿಗಳನ್ನು ಸಲ್ಲಿಸಿದ್ದು ಸದರಿ ಕೆಲಸವನ್ನು ಯಳಂದೂರು ಪಟ್ಟಣದಲ್ಲಿ ವಿದ್ಯುತ್ ಗುತ್ತಿಗೆದಾರರಾಗಿದ್ದ ಫಿರ್ಯಾದಿ ಆರ್.ಕೃಷ್ಣರವರು ಪಹಿಸಿಕೊಂಡಿದ್ದು ಆ ಸಂಬಂಧವಾಗಿ ಫಿರ್ಯಾದಿ ಆರ್.ಕೃಷ್ಣರವರು ದಿನಾಂಕ 6-12-2014ಕ್ಕೆ ಸುಮಾರು ಒಂದು ತಿಂಗಳ ಹಿಂದೆ ನಿಮ್ಮ ಕಛೇರಿಯಲ್ಲಿ ನಿಮ್ಮನ್ನು ಭೇಟಿ ಮಾಡಿದ್ದು ಲೈನ್ ಒಂದಕ್ಕೆ ರೂಪಾಯಿ ಒಂದು ನೂರರಂತೆ ನಾಲ್ಕು ಲೈನುಗಳಿಗೆ ಒಟ್ಟು ರೂಪಾಯಿ ನಾನೂರುಗಳನ್ನು ಸಾರ್ವಜನಿಕ ಹಿತದೃಷ್ಟಿರಹಿತವಾಗಿ ಅಕ್ರಮವಾಗಿ ನೀವು ಆರ್.ಕೃಷ್ಣ ರವರಿಂದ ಪಡೆದುಕೊಂಡಿದ್ದು ನಂತರ ಸಹ ನೀವು ಕೆಲಸವನ್ನು ಪೂರೈಸದೆ ಫಿರ್ಯಾದಿ ಆರ್.ಕೃಷ್ಣ ರವರಿಂದ ಮತ್ತೆ ಪುನಃ 3-12-2014ರಂದು ರೂ.400/-ಗಳನ್ನು ಕೊಡುವಂತೆ ಬೇಡಿಕೆಯನ್ನು ಪುನರಾವರ್ತಿಸಿ ಆ ಸಂಬಂಧವಾಗಿ ಚಾಮರಾಜನಗರ ಲೋಕಾಯುಕ್ತ ಆರಕ್ಷಕ ತಾಣಿಯ ಪ್ರಕರಣ ಸಂಖ್ಯೆ 11/2014ಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ನೀವು ದಿನಾಂಕ 6-12-2014ರಂದು ಯಳಂದೂರಿನಲ್ಲಿರುವ ನಿಮ್ಮ ಕಛೇರಿಯಲ್ಲಿ ಫಿರ್ಯಾದಿ ಆರ್.ಕೃಷ್ಣ ರವರಿಂದ ಮದ್ಯಾಹ್ನ 4-10 ಗಂಟೆಯಿಂದ 4-20 ಗಂಟೆಯ ಅವಧಿಯಲ್ಲಿ ರೂ.400/- ಗಳನ್ನು ಲಂಚವಾಗಿ ಫಿರ್ಯಾದಿಯಿಂದ ಒತ್ತಾಯಿಸಿ ಪಡೆದುಕೊಂಡು ಕರ್ತವ್ಯಲೋಪ ಎಸಗಿ ಸರ್ಕಾರಿ ನೌಕರನಿಗೆ ತಕ್ಕದಲ್ಲದ ರೀತಿಯಲ್ಲಿ

ನಡೆದುಕೊಂಡು ದುರ್ನಡತೆಯಿಂದ ವರ್ತಿಸಿ, ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವಾ ನಿಮಯಗಳು (ನಡತೆ) 1966 ನಿಯಮ 3(1)(i)ರಿಂದ (iii)ರಡಿಯಲ್ಲಿ ದುರ್ನಡತೆ ಎಸಗಿದ್ದೀರಿ.”

4. The Inquiry Officer (Additional Registrar of Enquiries-11) on proper appreciation of oral and documentary evidence has held that, the above charge against the DBO Shri A.M.Shankar, the then Assistant Executive Engineer(E), Yelanduru Sub-division, CESC, Mysore, is 'proved'.

5. On re-consideration of report of inquiry and all other materials on record, I do not find any reason to interfere with the findings recorded by the Inquiry Officer. Therefore, it is hereby recommended to the Government to accept the report of Inquiry Officer.


6. As per the First Oral Statement of DBO furnished by the Enquiry Officer, DBO Shri A.M.Shankar, is due to retire from service on 30-11-2028.

7. Having regard to the nature of charge (demand and acceptance of bribe) 'proved' against the DBO - Shri A.M.Shankar, the then Assistant Executive Engineer(E), Yelanduru Sub-division, CESC, Mysore, and considering the totality of circumstances, it is

hereby recommended to the Government to impose penalty of  
'compulsory retirement on DBO Sri A.M.Shankar.'

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

Connected records are enclosed herewith.

  
(JUSTICE B.S.PATIL)  
Upalokayukta,  
State of Karnataka.

BS\*