

KARNATAKA LOKAYUKTA

NO:UPLOK-1/DE/20/2018/ARE-9

M.S.Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru - 560 001.
Date: 30.1.2023

:: ENQUIRY REPORT ::**:: Present ::****(S.GOPALAPPA)**

**I/c Additional Registrar of Enquiries -9
Karnataka Lokayukta,
Bengaluru**

Sub: Departmental Inquiry against Sri.Mohammad yusuf, the then Chief Officer, Pattan Panchayath, Aurad, Bidar District - reg.

Ref: 1. G.O.No.UDD 46 DMK 2017 Bengaluru dated: 5.12.2017.
2.Nomination Order No: UPLOK-1/DE/20/2018 Bangalore dated: 11.1.2018 of Hon'ble Upalokayukta-1

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This Departmental Inquiry is initiated against Sri.Mohammad yusuf, the then Chief Officer, Pattan Panchayath, Aurad, Bidar District (hereinafter referred to as the Delinquent Government Official for short "DGO").

2. In pursuance of the Government Order cited above at reference No.1, Hon'ble Upalokayukta vide order dated 11.1.2018 cited above at reference No.2 has nominated Additional Registrar of Enquiries-9 (in short ARE-9) to frame Articles of charges and to conduct the inquiry against the aforesaid DGO.

3. This Authority (ARE-9) has issued the Articles of charges, Statement of imputations of misconduct, list of witnesses proposed to be examined in support of the charges and list of documents proposed to be relied in support of the charges.

4. The Article of charges issued by the ARE-9 against the DGO is as under :

ANNEXURE-I
CHARGE

2) You-DGO has committed illegalities as there are no documents for having purchased T.V. for Dr.Ambedkar Samudaya Bhavana and the T.V. is said to be not in working condition and T.V. was not available in Samudaya Bhavana at the time of inspection made by the Dy.SP, Karnataka Lokayukta, Bidar.

Thereby you - DGO has failed to maintain absolute integrity, devotion to duty and committed an act which is unbecoming of a government servant and thus you are guilty of misconduct u/r 3(1)(i) to (iii) of Karnataka Civil Service (conduct) Rules 1966.

ANNEXURE – II

STATEMENT OF IMPUTATIONS OF MISCONDUCT

On the basis of complaint filed by Sri. Shamsan s/o. Manikrao Bhavikatte, President, D.Y.F.I, Bhavikatte Nilaya, behind Navachethana Gurukula, Teachers Colony, Aurad (B) Taluk, Bidar District (hereinafter referred to as 'complainant' for short) against

Sri.Mohammed Yusuf, Chief Officer, Pattana Panchayath, Aurad, Bidar District (hereinafter referred to as DGO) alleging misconduct, an investigation was taken up after invoking Section 9 of Karnataka Lokayukta Act, 1984.

According to the Complainant: -

(i) An amount of Rs.53.80 lakhs released under 22.75 finance scheme during 2009-10 and 2010-11 has been misappropriated.

(ii) The amount released for poor students belonging to SC/ST during 2009-2010 to 2012-2013 has been paid to rich students.

(iii) An amount of Rs.50,000/- has been shown as expenses towards purchase of colour T.V. and furnitures. But only Rs.10,000/- has been paid for the T.V.

(iv) Illegality has been committed in issuing sewing machines and other machines.

(v) Gym instruments have not been distributed for youth centers, but photos of instruments of other Gym centers have been taken and amount has been misappropriated.

(vi) Tender procedure has not been followed in purchasing the materials.

Report was called for from Dy.S.P., Lokayukta to Bidar (I.O. for short) and I.O. has submitted report.

The report of I.O. and documents and materials collected during investigation show that:

i) There are no documents for having purchased T.V. for Dr.Ambedkar Samudaya Bhavana. The T.V. is said to be not in working condition and T.V. was not available in Samudaya Bhavana.

Comments of DGO was called for on the Complaint, but he has not submitted comments though he has been served.

The report of I.O. prima facie show that the DGO has committed illegalities as there are no documents for having purchased T.V. for Dr.Ambedkar Samudaya Bhavana and the T.V. is said to be not in working condition and T.V. was not available in Samudaya Bhavana.

Since said facts and material on record prima-facie show that, the DGO committed misconduct, now, acting under section 12(3) of Karnataka Lokayukta Act, recommendation is made to the Competent Authority to initiate disciplinary proceedings against the DGO and to entrust the inquiry to this Authority under Rule 14-A of Karnataka Civil Service (Classifications, Control and Appeal) Rules, 1957. Hence, the charge.

5. The Article of charge was issued to the DGO calling upon him to appear before this authority and to submit written statement.

6. The DGO appeared before this inquiry authority in pursuance to the service of the Article of charges. In FOS plea of the DGO has been recorded and he pleaded not guilty and claimed for holding inquiry. Thereafter, he submitted written statement.

7. DGO submitted written statement and denied the charges and the statement of imputation of imputation and he prayed to drop the charges leveled against him.

8. The disciplinary authority has examined complainant Sri. Shamsan S/o Manikrao Bhavikatte, Aurad (B) Taluk, Bidar District as PW.1, Investigating officer Sri.Payappa Doddamani Dy.S.P., Karnataka Lokayukta Bidar as PW-2 and got marked documents as **Ex.P-1 to ExP-8.**

9. Thereafter, second oral statement of DGO was recorded. Opportunity was provided to DGO to adduce evidence and DGO Sri.Mohammad yusuf, the then Chief Officer, Pattan Panchayath, Aurad, Bidar District has got examined himself as DW-1 and not marked any document.

10. Heard the submissions of Presenting Officer and DGO submitted his written brief. Perused the entire records. The only point that arise for my consideration is:

**1. Whether the Disciplinary Authority proves
the charge framed against the DGO ?**

My finding on the above point is in **AFFIRMATIVE** for the following:

REASONS

11. According to PW-1 the DGO without extending the benefits to the SC /ST students has extended to the students who are rich without the documents. Furnitures and Television worth Rs. 50,000/- were to be given to the Harijana wada Samudaya Bhavan community hall. But only Television worth Rs. 10,000/- was provided and remaining furniturcs worth Rs. 40,000/- was not given. In respect of providing sewing machines and other machines, Gym materials, function was arranged in some other Gym, photographs were taken and misappropriated the amount. Therefore he has lodged the complaint as per Ex.P-1 to 3.

12. In the cross examination PW-1 has deposed that since the year 2011 he is visiting Aurad Pattana Panchayath office for his work. In respect of public grievance also he was visiting the said office. Once he has attended the general body meeting held at Pattana Panchayath. He admits that public grievance will be placed in the meeting and decision will be taken. He admits that to execute any work approval was to be taken in the meeting. He admits that it was the duty of the DGO to execute the schemes and action plan. He cannot say exactly how much money was reserved to the SC /ST from the year 2009 to 2014. He cannot say in which year the loss of Rs. 53.80 lakhs was caused to the state exchequer. He cannot say on the basis of which document, he says that the loss was caused to the state exchequer. Documents were not furnished to him. Under RTI Act he had submitted an application to furnish the documents. They had

given an endorsement stating that those documents cannot be given. He has not produced the said endorsement. He has not filed an appeal for not furnishing the documents.

13. Further PW-1 has deposed that he has not produced any documents to show that without extending benefits to SC/ST students the benefit was given to the ineligible students. In the year 2014 he obtained information regarding the allegations mentioned in the complaint. In this respect he has not given any complaint to the president and pattana Panchayath in writing. He has given a complaint to the Tahasildar. But the Tahasildar has not taken any steps. He has not seen the documents pertaining to the Television and furniture to be provided to the Dr.Ambedkar Samudaya Bhavana community hall. But when he visited the community hall there were no Television and furniture. He has not secured the documents from community hall people. He has not secured the documents pertaining to the grant and supply of Gym instruments and sewing machines to the community hall. He has not produced any documents to show that the photographs of other Television and Gym materials were taken in different place and misappropriated the amount. He has not given any complaint to the president and pattana Panchayath in this respect. He has not given any complaint to the Director of Town Planning.

14. Further PW-1 denies that he requested the DGO to grant some money to his association and when DGO did not do it he has filed this false complaint. PW-1 has deposed that DGO had no authority to release the funds as requested in his application. He does

not know that therefore DGO had not released any amount. He denies that since the DGO has not released any amount, he has filed this false complaint.

15. According to PW-2 on 11.8.2016 he visited Aurad pattana Panchayath and investigated the matter and found that there were no documents to show that the colour Television and furnitures were provided to Aurad Town Harijanawada community hall. He was informed that the Television was out of order and therefore it was given for repair. He has taken the photographs of shop and recorded the statement of Sunil Kumar. He found that it was shown as if Television was provided to community hall. Accordingly he has submitted his report Ex.P-5 and photographs Ex.P-6 and 7 along with statement Ex.P-8.

16. In the cross examination PW-2 admits that in Ex.P-5 he has reported that in selection of beneficiaries there is no violation of rules and regulations and the allegations are not substantiated.

17. According to the DW-1 a false complaint is filed against him and the allegations of the complainant are not substantiated. He has not committed any dereliction of duty and hence prays to exonerate from the charge.

18. In the cross examination DW-1 has deposed that from September -2011 to September -13 he has worked as Chief Officer Town Panchayath Aurad. He was a salary drawing officer. He

admits that there is Ambedkar Samudaya Bhavan in Aurad Town. He admits that Government grants were released to purchase Television and other materials to Ambedkar Samudaya Bhavan. He denies that to purchase Television and other materials he had not called the tender. He denies that to purchase substandard Television, he has shown more value. He denies the said Television was not in good condition. He denies that therefore complainant has filed this complaint. He admits that PW-2 investigated the matter. He denies that at the time of investigation Television was not at all found and he did not produced any documents before the Investigating officer. He denies that he has committed irregularities in purchasing the Television and misappropriated the amount.

19. As admitted by the DGO government grants were released to purchase Television and other materials to Ambedkar Samudaya Bhavan situated in Aurad Town. According to Investigating officer's report Ex.P-5 when PW-1 visited Ambedkar Samudaya Bhavan the local people informed that a colour LCD Television was provided to the community hall. But when PW-2 inspected the said community hall the said Television was not there. PW-2 found that out of government funds, Television was distributed. PW-2 has produced two photographs at Ex.P-6 and 7 these photographs were taken in electronic shop. It was not in good condition. DGO has not produced any document to show either before the Investigating officer or before this authority to show that the said Television itself was provided to the community hall, what is the exact MRP, what was the amount granted to purchase the Television, when exactly the

Television was purchased and when exactly the Television was installed in Ambedkar Samudaya Bhavan, when it went out of order and when it was given for repair. The Television said to be provided by DGO to Ambedkar Samudaya Bhavan was not at all found in the said Ambedkar Samudaya Bhavan.

20. Even the Television found in electronic shop was not in good condition. The DGO has not produced any documents pertaining to Television and other furnitures. Thereby DGO has misappropriated a sum of Rs. 10,000/-. Therefore I hold that disciplinary authority has proved the charge leveled against DGO.

21. Therefore, overall examination of the evidence on record shows that the disciplinary authority has established the charges leveled against DGO and he is held responsible for Rs.10,000/- which is the loss caused to state exchequer. Hence, I proceed to record the following:-

FINDINGS

22. The Disciplinary Authority has proved the charge leveled against DGO and he is held responsible for Rs.10,000/- which is the loss caused to state exchequer. Hence, this report is submitted to Hon'ble Upalokayukta for further action.

Date of retirement of DGO is 30.6.2021.

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(S.GOPALAPPA)

I/c Additional Registrar Enquiries-9
Karnataka Lokayukta, Bengaluru.

i) List of witnesses examined on behalf of Disciplinary Authority.

PW.1	Sri. Shamsan S/o Manikrao Bhavikatte, Aurad (B) Taluk, Bidar District original
PW-2	Sri.Payappa Doddamani Dy.S.P., Karnataka Lokayukta Bidar original

ii) List of Documents marked on behalf of Disciplinary Authority.

Ex.P 1	Ex.P-1 is the detailed complaint dtd: 30.1.2014 filed by PW-1 in Karnataka Lokayukta office
Ex.P 2& 3	Ex.p-2 and 3 are the complaint in form No. 1 and 2 filed by PW-1 in Karnataka Lokayukta office
Ex.P-4	Ex.P-4 are the documents enclosed to Exp-1 to 3 by PW-1
Ex.P-5	Ex.P-5 is the investigation report dtd: 26.11.2016
Ex.P-6 & 7	Ex.P-6 & 7 are the photos
Ex.P-8	Ex.P-8 is the statement of Sri.Sunil Kumar dtd: 24.11.2016

iii) List of witnesses examined on behalf of DGOs

DW-1	DGO Sri.Mohammad yusuf, the then Chief Officer, Pattan Panchayath, Aurad, Bidar District original
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iv) List of documents marked on behalf of DGO

	NIL
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(S.GOPALAPPA)

I/c Additional Registrar Enquiries-9
Karnataka Lokayukta,
Bengaluru.

GOVERNMENT OF KARNATAKA**KARNATAKA LOKAYUKTA**

No.UPLOK-1/DE/20/2018/ARE-9

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560001
Date: 31st January, 2023.

RECOMMENDATION

Sub: Departmental Inquiry against Shri Mohammad Yusuf, the then Chief Officer, Pattan Panchayath, Aurad Taluk, Bidar District-reg.

Ref: 1) Government Order No.ನಲಇ-46-ಡಿಎಂಕೆ-2017,
Bengaluru, dated: 05/12/2017.

2) Nomination Order No.UPLOK-1/DE/20/2018, Bengaluru, dated: 11/01/2018 of Upalokayukta, State of Karnataka, Bengaluru.

3) Inquiry Report dated: 30/01/2023 of Additional Registrar of Enquiries-9, Karnataka Lokayukta, Bengaluru.

The Government by its order dated: 05/12/2017 initiated the disciplinary proceedings against Shri Mohammad Yusuf, the then Chief Officer, Pattan Panchayath, Aurad Taluk, Bidar District (hereinafter referred to as Delinquent Government

Official, for short as DGO) and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.UPLOK-1/DE/20/2018, Bengaluru, dated: 11/01/2018 nominated Additional Registrar of Enquiries-9, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGO for the alleged charge of misconduct, said to have been committed by him.
3. The DGO, Shri Mohammad Yusuf, the then Chief Officer, Pattan Panchayath, Aurad Taluk, Bidar District was tried for the following charges:

ANNEXURE-1
CHARGE

You-DGO has committed illegalities as there are no documents for having purchased TV for Dr. Ambedkar Samudaya Bhavana and the TV is said to be not in working condition and TV was not available in Samudaya Bhavana at the time of inspection made by the Dy. S.P. Karnataka Lokayukta, Bidar.

Thereby you DGO has failed to maintain absolute integrity, devotion to duty and committed an act which is unbecoming of a Government Servant and thus you are guilty of misconduct under Rule 3(1)(i) to (iii) of Karnataka Civil Service (conduct) Rules 1966.

4. The Inquiry Officer (Additional Registrar of Enquiries-9) on proper appreciation of oral and documentary evidence has held

that, the Disciplinary Authority has **'Proved'** the charges leveled against DGO, Shri Mohammad Yusuf, the then Chief Officer, Pattan Panchayath, Aurad Taluk, Bidar District.

5. On perusal of the Inquiry Report, in order to prove the guilt of the DGO, the Disciplinary Authority has examined two witnesses i.e., PW-1 and PW-2 and Ex. P-1 to P-8 documents were got marked. DGO has been examined himself as DW-1.
6. As per the First Oral Statement of DGO furnished by the Inquiry Officer, DGO, Shri Mohammad Yusuf has retired from service on 31/05/2021.
7. On re-consideration of Inquiry Report and taking note of the totality of the circumstances of the case, 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 the Inquiry Officer.
8. Having regard to the nature of charge **'Proved'** against DGO, Shri Mohammad Yusuf, the then Chief Officer, Pattan Panchayath, Aurad Taluk, Bidar District and on consideration of the totality of circumstances:-



"It is hereby recommended to the Government to impose penalty of withholding 15% of pension payable to DGO, Shri Mohammad Yusuf, the then Chief Officer, Pattan Panchayath, Aurad Taluk, Bidar District for a period of 2 years and also recovering a sum of Rs.10,000/- from the pension payable to DGO":

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

Connected records are enclosed herewith.

L. 31/1/23
(JUSTICE K.N.PHANEENDRA)
UPALOKAYUKTA-2,
STATE OF KARNATAKA.