

BEFORE THE ADDITIONAL REGISTRAR, ENQUIRES-11

KARNATAKA LOKAYUKTA, BENGALURU

ENQUIRY NUMBER: UPLOK-2/DE/228/2015

ENQUIRY REPORT Dated: 27/02/2019

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

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Delinquent Government Official: Sri.Shivanna.B.

(Name written by him as  
B.Shivanna on the note sheet  
on 23/01/2017)

Discharged duties as Second  
Division Assistant, (Drought  
Management Clerk ) Record of  
Rights and Tenancy(RRT),  
Heggadadevana Kote, Mysuru  
District in the year 2013.

Retired on superannuation on  
31/12/2014.

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1. Delinquent Government Official (hereinafter will be referred to as "DGO") by name Sri. B.Shivanna (name written by DGO as Shivanna.B. on the note sheet on 23/01/2017) was working as Second Division Assistant (Drought Management Clerk ) Record of Rights and Tenancy(RRT), Heggadadevana Kote, Mysuru District in the year 2013.
2. Background for initiating the present inquiry proceedings needs to be stated in brief. One Sri. B.N. Gururaj (hereinafter will be referred to as "complainant") is the resident of a place called

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N.Belathuru, Antharasanthe Hobli, Heggadadevana Kote Taluk, Mysuru District. According to the complainant, he is the grandson of Smt. Subbalamma. On 29/11/2012 the complainant filed application in Taluk Office, Heggadadevana Kote for recording khatha of an extent of 1 acre out of 3 acres 25 guntas in the land bearing survey number 10 situated at Moleyuru Village, Kandalike Hobli, Heggadadevana Kote Taluk in favour of his mother. Thereafter, According to the complainant, he approached the DGO who was the concerned case worker. It is alleged by the complainant that in order to attend the said work of the complainant, DGO demanded illegal gratification of Rs.10,000/-. Since the complainant was not willing to fulfil the said demand he approached the Police Inspector (hereinafter will be referred to as "Investigating Officer") attached to Lokayukta Police Station, Mysuru and orally complained against the DGO. In order to ascertain the correctness or otherwise of the said oral complaint, the Investigating Officer handed over a voice recorder to the complainant with instructions to approach the DGO and to record the conversation between the complainant and DGO. On 14/03/2013 at about 3.30 P.M the complainant approached the DGO in the office of DGO at which point of time DGO re-iterated the demand. The complainant requested to scale down the said quantum. Ultimately, the DGO scaled down the said demand at Rs.4,000/-. The complainant recorded the conversation between him and the DGO in the voice recorder and placed the same before the Investigating Officer on 15/03/2013 and lodged complaint. On the basis of the complaint, the Investigating Officer registered case against the DGO in crime number 2/2013 of Lokayukta Police Station, Mysuru for the offence punishable

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under section 7 of The Prevention of Corruption Act, 1988 and after submission of FIR to the jurisdictional Court secured shadow witness by name K.N.Krishna Kumar and panch witness by name A. Sridhara Murthy to Lokayukta Police Station, Mysuru and informed the purpose for which they are secured. The Investigating Officer got transmitted the contents of voice recorder to two compact discs. The complainant placed eight currency notes of denomination of Rs. 500/- each before the Investigating Officer. The Investigating Officer got entered the numbers of currency notes on a sheet of paper and got applied phenolphthalein powder on those notes. 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 the panch witness placed the tainted notes in the left side pocket of T-shirt of the complainant and thereafter immersed fingers of hands in the residual solution. Consequently, the said solution turned to pink colour. The Investigating Officer seized the said solution 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 DGO. The Investigating Officer instructed the complainant to approach the DGO and to give the above tainted notes only in case of demand by the DGO. The Investigating Officer further instructed the complainant to wipe the head with both hands in case of acceptance of tainted notes by DGO. The Investigating Officer instructed the shadow witness to accompany the DGO and to observe as to what transpires between the complainant DGO. With the above process the Investigating Officer conducted pre-trap mahazar as primitive step of investigation.

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3. Subsequent to pre-trap mahazar, the Investigating Officer along with his staff, complainant, shadow witness and panch witness left Lokayukta Police Station, Mysuru and reached near the Taluk Office, Heggadadevana Kote at 4.40 P.M. Afterwards, the complainant along with shadow witness entered the Taluk office, Heggadadevana Kote. DGO was found outside his chamber. The complainant wished the DGO. The DGO demanded illegal gratification by way of signs with hands. The complainant requested to scale down the quantum at Rs.3,500/- for which DGO has not obliged. Afterwards, the complainant asked the DGO to have tea and accordingly, the complainant along with DGO proceeded to the nearby milk booth. After reaching near the milk booth, DGO asked for cash with sign with one of the hands. In response, the complainant gave tainted cash of Rs.4,000/- DGO accepted the same with right hand and after counting with both hands placed the tainted notes in the left side front pocket of the pant. The complainant communicated the same to the Investigating Officer. It was then 5.25 P.M.
4. The Investigating Officer along with his staff and panch witness rushed there and disclosed his identity and caused arrest of DGO. The complainant returned the voice recorder to the Investigating Officer. The Investigating Officer got prepared solution with water and sodium carbonate powder in two plastic tumblers and obtained sample of the same in a bottle. On the instructions of the Investigating Officer, DGO immersed fingers of right hand in the solution kept in a plastic tumbler and immersed fingers of left hand in the solution kept in another plastic tumbler. Finger wash of both hands of DGO turned to light pink colour. The Investigating Officer seized those wash

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separately in the bottles. On being questioned about tainted cash by the Investigating Officer, DGO lifted the tainted cash from the left side front pocket of pant. The Investigating Officer seized the tainted cash and prepared a rough sketch in that spot. Since many persons assembled at the spot and since there was no electricity facility the Investigating officer brought his staff, DGO, complainant, shadow witness and panch witness to the revenue hall attached to the Taluk Office, Heggadadevana Kote. After providing alternate pant to the DGO the Investigating Officer got removed the pant of DGO. Again, the Investigating Officer got prepared solution with water and sodium carbonate powder and obtained sample of the solution in a bottle. The Investigating Officer got immersed the left side front pocket of the pant of DGO in the residual solution. The said solution turned to light pink colour. The Investigating Officer seized the said solution in a bottle and also seized the pant of DGO. The voice recorder which was returned to the Investigating Officer was found contained voice touching demand for illegal gratification. The Investigating Officer got the contents of the voice recorder transmitted to three compact discs. On being questioned by the Investigating Officer about the file of the mother of the complainant, the DGO placed the file. The Investigating Officer obtained xerox copies of sheets of the file and got those sheets attested by the Tahasildar, Heggadadevana Kote. On being asked by the Investigating Officer to offer explanation touching the tainted cash the DGO offered explanation in writing which was found not acceptable. The Investigating Officer brought the DGO to Lokayukta Police Station, Mysuru. On the instructions of the Investigating Officer the staff of Investigating Officer produced the DGO in the Home

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Office of the Principal District and Sessions Judge, Mysuru. On completion of investigation the Investigating Officer obtained sanction for prosecution of the DGO and thereafter submitted charge sheet against the DGO in the Court of Principal District and Sessions Judge, Mysuru.

5. On the basis of the report submitted by the Additional Director General of Police, Karnataka Lokayukta, Bengaluru along with the investigation papers made available by the Police Inspector attached to Lokayukta Police Station, Mysuru before the Hon'ble Upalokayukta-2, Karnataka, Hon'ble Upalokayukta-2, Karnataka, in exercise of the powers conferred upon under section 9 and section 7(2) of The Karnataka Lokayukta Act, 1984, Hon'ble Upalokayukta-2, Karnataka probed into the matter and prima facie found that the DGO has committed misconduct within the purview of Rule 3 (1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966, and accordingly, in exercise of the powers conferred upon under section 12(3) of The Karnataka Lokayukta Act, 1984, recommended the competent authority to initiate disciplinary proceedings against the DGO and to entrust the inquiry to the Hon'ble Upalokayukta, Karnataka under Rule 14-A of The Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.
6. Subsequent to the report dated 07/01/2015 under section 12(3) of The Karnataka Lokayukta Act, 1984, Government Order bearing number ಕಂಇ 19 ಎಂವಿಎಸ್ 2015 ದಿನಾಂಕ 03/03/2015 has been issued by the Under Secretary to the Government of Karnataka Department of Revenue (Services-A) entrusting the inquiry against the DGO to the Hon'ble Upalokayukta, Karnataka. The designation of DGO since was found mentioned as "ಅಪ್ಪ

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ಮ್ಯಾನೇಜಮೆಂಟು ಕ್ಲರ್ಕ್” in the Government Order corrigendum bearing number ಕಂಇ 19 ಎಂವಿಎಸ್ 2015 ದಿನಾಂಕ 16/04/2015 has been issued by the Under Secretary to the Government of Karnataka Department of Revenue (Services-A) to read the words “ಆಲ್ಟಿಮಾಟ್ ಮ್ಯಾನೇಜಮೆಂಟು ಕ್ಲರ್ಕ್” as “ಆಲ್ಟಿಮಾಟ್ ಮ್ಯಾನೇಜಮೆಂಟು ಕ್ಲರ್ಕ್” and to include Rule 214(2)(b)(i) of The Karnataka Civil Services Rules in the Government Order ಕಂಇ 19 ಎಂವಿಎಸ್ 2015 ದಿನಾಂಕ 03/03/2015.

7. Subsequent to the Government Order and the corrigendum mentioned above, Order number UPLOK-2/DE/228/2015 Bengaluru dated 29/04/2015 has been ordered by the Hon'ble Upalokayukta-2, Karnataka nominating the Additional Registrar, Enquiries-11, Karnataka Lokayukta, Bengaluru as Inquiry Officer to frame charges and to conduct departmental inquiry against the DGO.
8. Articles of charge dated 13/05/2015 at Annexure-I which includes statement of imputation of misconduct at Annexure-II framed by the then Additional Registrar, Enquiries-11, Karnataka Lokayukta, Bengaluru is the following:

**“ANNEXURE-1**

**CHARGE:**

That you DGO Sri.Shivanna B. S/o Late Basavaiah, Second Division Assistant, Record of Rights and Tenancy (RRT) and Drought Management Clerk, H.D. Kote, Mysore District while discharging your duties:


- (a) The complainant's grandmother Smt.Subbalamma passed away at Kottegala village and she owned 3-24

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guntas of land in Sy. No. 10 at Moleyuru village, Kandalike Hobli, H.D. Kote Taluk. A partition was ordered between her 3 daughters and one son in a civil suit and as per the decree the complainant's mother and aunt were given one acre each. The complainant's mother submitted a petition to the Taluk office H.D. Kote to change khata for the said one acre land in her name. In that connection the complainant met you DGO in Taluk Office H.D. Kote on 29/11/2012 and thereupon you DGO demanded a bribe of Rs.10,000/- to change khata.

(b) The complainant was not willing to pay bribe and hence approached the Lokayukta Police Station on 13/03/2013 and informed the police Inspector Sri.Gopal Krishna. In turn, the PI provided a digital voice recorder to the complainant by instructing him to record the conversation with you DGO pertaining to demand of bribe. On 14/03/2013 at 3-30 p.m. the complainant again met you DGO in Taluk office, H.D. Kote and you DGO took him outside the office and demanded for Rs.10,000/- and after negotiation you DGO accepted to do the work for Rs.4000/-. After recording the conversation in digital voice recorder the complainant handed over the same in the office of Lokayukta Police Station, Mysore on 15/03/2013 and also submitted written complaint and there upon FIR was registered in Crime No. 2/13 for the offence U/s 7 of PC Act, 1978.

(c) The I.O. thereafter followed pre trap formalities and handed over tainted currency notes of Rs.4,000/- under an entrustment mahazar to the complainant. On 15/03/2013 the complainant approached you DGO with

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the tainted money and you DGO reiterated the demand by making sign with hand, and after the complainant informed about bringing money, you DGO took the complainant near milk parlour which is by the side of taluka office.

(d) Not only that, on 15/03/2013, you DGO received the tainted (bribe) amount from him at the DGO's office in connection with changing khata for one acre of land belonging to his mother.

(e) Thereafter, you DGO was caught hold as you was found with the tainted (bribe) amount on said date at said place. Added to that, you DGO failed to give any satisfactory account or explanation or reply for the said (tainted) bribe amount which you DGO had then, when questioned by the I.O.

and thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of Government Servants and thus you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966.

### ANNEXURE-11

#### STATEMENT OF IMPUTATION OF MISCONDUCT

On the basis of a report of the Additional Director General of Police in Karnataka Lokayukta at Bangalore, along with investigation papers filed by the Police Inspector in Karnataka Lokayukta at Mysore (herein after referred to as Investigating Officer-'I.O.' for short), stated that Sri.Shivanna B. S/o Late Basavaiah, Second Division Assistant, Record of Rights and Tenancy (RRT) and Drought Management Clerk, H.D. Kote,

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digital voice recorder the complainant handed over the same in the office of Lokayukta Police Station, Mysore on 15/03/2013 and also submitted written complaint and there upon FIR was registered in Crime No. 2/13 for the offence u/s 7 of PC Act, 1978.

(c) The I.O. thereafter followed pre trap formalities and handed over tainted currency notes of Rs.4,000/- under an entrustment mahazar to the complainant. On 15/03/2013 the complainant approached the DGO with the tainted money and the DGO reiterated the demand by making sign with hand, and after the complainant informed about bringing money, the DGO took the complainant near milk parlour which is by the side of taluka office.

(d) Not only that, on 15/03/2013, the DGO received the tainted (bribe) amount from him at the DGO's office in connection with changing khata for one acre of land belonging to his mother.

(e) Thereafter, the DGO was caught hold as he was found with the tainted (bribe) amount on said date at said place. Added to that, the DGO failed to give any satisfactory account or explanation or reply for the said (tainted) bribe amount which the DGO had then, when questioned by the I.O.

3. Said facts supported by the material on record show that the DGO, being a public servant, has failed to maintain absolute integrity besides devotion to duty and acted in a manner unbecoming of a Government servant, and thereby committed misconduct and made himself liable for disciplinary action.

4. Therefore, an investigation was taken up against the DGO and an observation note was sent to them to show cause as to why recommendation should not be made to the Competent

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Authority for initiating departmental inquiry against him in the matter. For that, the DGO gave his reply. However, the same has not been found convincing to drop the proceedings.

5. Since said facts and material on record prima facie show that the DGO has committed misconduct under Rule 3(1) of the KCS Conduct Rules, 1966, recommendation is made under section 12(3) of the Karnataka Lokayukta Act, to the Competent Authority to initiate disciplinary proceedings against the DGO and to entrust the inquiry to this Authority under Rule 14-A of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.

7. The Government after considering the recommendation made in the report, entrusted the matter to the Hon'ble Upalokayukta to conduct departmental/disciplinary proceedings against the DGO and to submit report. Hence the charge".

8. In response to due service of articles of charge, DGO entered appearance before this authority on 08/06/2015. During first oral statement of DGO recorded on 08/06/2017 he pleaded not guilty.

9. On 09/07/2016 the disciplinary authority has examined the complainant as PW1. During evidence of PW1, attested copy of his complaint dated 15/03/2015 in a single sheet is marked as per Ex P1, attested copy of pre-trap mahazar dated 15/03/2013 in five sheets is marked as per Ex P2, attested copy of trap mahazar dated 15/03/2013 in five sheets is marked as per Ex P3, attested copy of application dated 29/11/2012 in a single sheet of Smt. Rajamma and Smt. Rathnamma addressed to the

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Tahasildar, Heggadadevana Kote is marked as per Ex P4, attested copy of the certified copy of the order sheet in five sheets in O.S. number 185/2010 on the file of the Civil Judge (Junior Division) and J.M.F.C. Heggadadevana Kote is marked as per Ex P5, attested copy of the certified copy of the plaint dated 26/07/2010 in two sheets on the file of the Civil Judge (Junior Division) and J.M.F.C. Heggadadevana Kote in O.S. number 185/2010 is marked as per Ex P6, attested copy of certified copy of the compromise petition under Order 23 Rule 3 of The Code of Civil Procedure is marked as per Ex P7, attested copy of the certify copy of written statement dated 27/10/2010 in a single sheet in O.S. number 185/2010 on the file of the Civil Judge (Junior Division) and J.M.F.C. Heggadadevana Kote is marked as per Ex P8, attested copy of sketch dated 02/03/2013 in a single sheet is marked as per Ex P9. The day on which PW1 was examined DGO remained absent and therefore his cross examination was taken as nil. On 05/04/2016 the disciplinary authority has examined Sri. A.Sridharamurthy as PW2. On the day on which PW2 was examined DGO remained absent and therefore cross examination of PW2 was taken as nil. On 05/04/2016 the disciplinary authority has examined Sri. Krishnakumar as PW3 .

10. On 05/04/2016 the Presenting Officer submitted that evidence from his side is closed. On 05/05/2016 incriminating circumstances which appeared against the DGO are put to DGO by way of questionnaire and his answers are recorded by the then Additional Registrar, Enquiries-11, Karnataka Lokayukta, Bengaluru and thereafter the matter was posted for evidence from the side of the DGO.

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11. On 27/05/2016 DGO engaged advocate for his defence and filed written statement. In the course of written statement filed on 27/05/2016 he has contended that he has neither demanded nor accepted illegal gratification and that he has been implicated by the complainant with ulterior motive. It is contended that DGO has completed his part of official work and that he is not the final authority for the change of khatha and that official work of the complainant was not pending with the DGO. It is contended that in the course of written explanation filed by him on the day of trap he has stated that he has neither demanded nor accepted illegal gratification.
12. Application dated 27/05/2016 for recall of PWs 1 to 3 has been allowed on 05/05/2016 and accordingly PWs 1 to 3 are ordered to be recalled for the purpose of cross examination.
13. On 18/8/2017 PW1 was present on which day DGO and his advocate remained absent and therefore cross examination of PW1 has been taken as nil. On 23/01/2017 PW2 was present and subjected to cross examination from the side of DGO. PW3 was also present on 23/0/2017 and subjected to cross examination from the side of DGO.
14. On 04/12/2018 the disciplinary authority has examined PW4 who is the Investigating Officer. On the day of examination of PW4 DGO and his advocate remained absent and therefore cross examination is taken as nil. During evidence of PW4 xerox copy of statement dated 15/03/2013 in a single sheet of DGO given before PW4 is marked as per Ex P10, xerox copy of mahazar dated 11/06/2013 in three sheets touching identification of voice of DGO is marked as per Ex P11.
15. The matter was posted for second oral statement of DGO on 24/12/2018 on which day DGO remained absent and

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therefore his second oral statement could not be recorded. Thereafter, the matter was posted for evidence of DGO scheduled to 25/01/2019 on which day DGO remained absent and not evinced interest to adduce defence evidence. Since DGO remained absent on 25/01/2019 incriminating circumstances which appeared against him in the evidence of PW4 could not be put to him by way of questionnaire and thereafter the matter was scheduled to 14/02/2019 for written argument of DGO and Presenting Officer. On 14/02/2019 DGO remained absent and has not evinced interest to file written argument.

16. In the course of written argument of the Presenting Officer filed on 14/02/2019 she has referred to the evidence on record. It can be gathered from written argument of the Presenting Officer that she sought to contend that the alleged misconduct stands proved.
17. In tune with the articles of charge, point which arises for consideration is whether, in order to attend the application for change of khatha of the land to an extent of one acre out of three acres and twenty five guntas situated at Moleyuru Village, Kandalike Hobli, Heggadadevana Kote Taluk in favour of the mother of the complainant, DGO who was the concerned case worker in the Taluk Office, Heggadadevana Kote demanded and accepted illegal gratification of Rs.4,000/- from the complainant on 15/03/2013 between 4.40 P.M and 5.25 P.M near the milk booth near the Taluk Office Heggadadevana Kote and during investigation in crime number 02/2013 of Lokayukta Police Station, Mysuru conducted by the Police Inspector attached to Lokayukta Police Station, Mysuru DGO failed to officer satisfactory explanation for possession of tainted cash of Rs.4,000/- and thereby DGO is guilty of misconduct within the

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purview of Rule 3 (1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966?

18. It is in the evidence of PW1 that in connection with the application dated 29/11/2012 he approached the DGO at which point of time DGO demanded illegal gratification of Rs.10,000/- and ultimately it was scaled down at Rs.4,000/-. It is in his evidence he recorded the said conversation between him and the DGO in the voice recorder and handed over the voice recorder to PW4 and on the same day he lodged complaint the attested copy of which is at Ex P1. It is in his evidence that the shadow witness K.N. Krishnakumar and panch witness A.Sridharamurthy are secured to Lokayukta Police Station, Mysuru. It is in his evidence that he placed cash of Rs.4,000/- before PW4. It is in his evidence that after application of phenolphthalein powder on the notes one among the witnesses placed those notes in his pocket and washed hands in the solution. It is thus in his evidence that pre-trap mahazar has been conducted the attested copy of which is at Ex P2. His evidence has remained unchallenged and therefore since nothing worthy is found to disbelieve his evidence, his evidence needs acceptance.
19. It is in the evidence of PW2 that on 15/03/2013 had been to Lokayukta Police Station, Mysuru where the complainant and K.N. Krishnamuar were found. It is in his evidence that PW1 placed eight currency notes of denomination of Rs.500/- each and that some powder was applied on those notes. It is in his evidence that he placed those tainted notes in the pocket of PW1 and subsequently washed his hands in the solution and consequently the said solution turned to pink colour. His evidence touching pre-trap proceedings has remained

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unchallenged and therefore his evidence touching pre-trap proceedings needs acceptance.

20. It is in the evidence of PW3 that on 15/03/2013 PW1 placed eight currency notes of denomination of Rs.500/- each in Lokayukta Police Station , Mysuru and after application of phenolphthalein powder PW2 placed those tainted notes in the pocket of the complainant and with the said process pre-trap mahazar has been conducted. His evidence touching the proceedings of pre-trap mahazar has not been assailed during his cross examination.
21. It is in the evidence of PW4 that the complainant lodged oral complaint before him in Lokayukta Police Station, Mysuru against the DGO on 13/03/2013 with allegation of demand for illegal gratification and in order to ascertain the correctness or otherwise of the same he handed over the voice recorder at the hands of the complainant with the instructions to approach the DGO and to record the conversation between the complainant and DGO. It is in his evidence that the complainant appeared before him at 11.00 A.M on 15/03/2013 and returned the voice recorded and lodged complaint. It is in his evidence that he secured the shadow witness and panch witness and noticed recording of voice touching illegal gratification. It is in his evidence that the complainant placed eight currency notes of denomination of Rs.500/- before him and noted the numbers of those notes on a sheet of paper and got applied phenolphthalein powder on those notes. It is in his evidence that on his instructions the panch witness placed the tainted notes in the left side pocket of T-Shirt of the complainant and thereafter the panch witness washed fingers of hands in the solution prepared with water and sodium carbonate powder. It is in his

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evidence that he handed over a voice recorder to the complainant with instructions to keep the same live at the time of approaching the DGO. It is in his evidence that he instructed the complainant to approach the DGO and to give tainted notes only in the event of demand by DGO and further instructed to convey message in case of acceptance of tainted notes by the DGO. It is in his evidence that he instructed the shadow witness to accompany the complainant and to observe as to what transpires between the complainant and DGO and with the above process conducted pre-trap mahazar. His entire evidence has remained unchallenged. On the strength of the evidence of PWs 1 to 4 it needs to be expressed that the proceedings of pre-trap mahazar has remained established.

22. Regarding trap it is in the evidence of PW1 that after reaching near the Taluk Office, Heggadadevana Kote at 4.30 P.M he alone approached the DGO in the office of DGO and thereafter he was asked by DGO to wait for some time and afterwards he was taken near Nandini milk booth where DGO demanded cash . It is in his evidence that he asked the DGO to scale down the amount for which the DGO has not obliged and afterwards he paid cash of Rs.4,000/- to DGO. It is in his evidence that DGO accepted the said cash and placed the same in the pocket and afterwards he conveyed message to Lokayukta Police staff. It is in his evidence that after communication to Lokayukta Police staff, Lokayukta Police staff arrived at there and after apprehending the DGO got washed hands in the solution which turned to pink colour. It is in his evidence that tainted notes are seized from the possession of DGO. It is in his evidence that the pant of DGO has been washed in the solution which turned to pink colour. He has spoken to Exs P4 to P9 and

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also trap mahazar the attested copy of which is at Ex P3. Entire evidence of PW1 has remained unchallenged and therefore the same needs acceptance which establishes that in order to extend official favour the DGO demanded and accepted tainted cash of Rs.4,000/-.

23. It is in the evidence of PW3 Krishnakumar who is the shadow witness that after reaching near the office of Tahasildar, Heggadadevana Kote PW1 entered the office of DGO and some time thereafter DGO along with PW1 came out of the said office and marched towards Nandini tea stall and afterwards PW1 conveyed message. It is in his evidence that he witnessed PW1 giving cash to DGO and equally witnessed DGO keeping cash in the pocket of pant. It is in his evidence that after apprehension of DGO hands of DGO are got washed in the solution which turned to red colour. He also has spoken to seizure of tainted cash, wash of pocket of pant of DGO and consequential change of colour of the said wash. He also has spoken to identification of the voice of DGO which was recorded in the voice recorder. Suggestion made to him during his cross examination suggesting that he has not entered the office of DGO along with PW1 has been denied. Suggestion made to him suggesting that he has not seen PW1 and DGO near Nandini booth and further suggestion that DGO has not accepted cash and has not placed the cash in the pocket are denied by him. Suggestion made to him suggesting that official work of PW1 was not pending with the DGO has been denied by him. It is brought out during his cross examination that it was found recorded in the voice recorder that there was demand for Rs.10,000/-. Upon appreciation of the entire evidence of PW3 I find nothing to disbelieve his evidence and therefore his evidence needs

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acceptance. Though PW3 has not spoken to that demand was made in his close presence his evidence would show that he witnessed acceptance of tainted cash by DGO. Though he has referred to the colour of finger wash as red colour the same will not lend assurance to the DGO for the reason that deference between red and pink colour is very much slender. His evidence incriminates the DGO.

24. PW2 who is the panch witness has spoken to during evidence that after reaching near Taluk Office, Heggadadevana Kote at 4.00 P.M PW1 along with PW3 entered the office of Tahasildar and half an hour later communication was conveyed in response to which he along with Lokayukta Police staff entered the said office. He has spoken to finger wash of hands of DGO , consequential change of colour of the said wash and equally wash of pocket of pant of DGO and also consequential change of colour of the said wash. He also has spoken to identification of the voice of DGO by the Tahasildar, Heggadadevana Kote. Suggestion made to him during cross examination suggesting that finger wash of hands of DGO has not turned to pink colour and further suggestion that DGO has not produced tainted cash are denied by him. His evidence establishes that tainted notes were found in the possession of DGO.

25. It is in the evidence of PW 4 that he along with his staff, PW 1, PW 3 and panch witness reached near Taluk Office, Heggadadevana Kote at 4:40 P.M. and on his instructions PWs 1 and 3 entered the said office. It is in his evidence that at 5.15 P.M PW 1 along with a person came out of that office and marched towards the nearby Nandini milk booth and that he along with his staff and panch witness followed PW1 and the

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said person. It is in his evidence that he noticed PW1 giving cash to the said person and also noticed that the said person accepted those notes and placed them in the left side front pocket of the pant. It is in his evidence that after communication of signal of PW1 he rushed to the said spot and came to know that the person who received cash is the DGO.

26. It is in the evidence of PW4 that he caused arrest of DGO at 5.35 P.M. It is in his evidence that PW1 returned the voice recorder. He has spoken to the process of finger wash of hands of DGO and consequential change of the colour of the said wash. It is in his evidence that since many persons assembled there and since there was no electricity facility he took the DGO to the revenue hall of Taluk office where he got removed the pant of DGO by providing alternate pant and thereafter got immersed the left side pocket of pant of DGO in the solution prepared with water and sodium carbonate powder. He has spoken to the consequential change of colour of the said wash. It is in his evidence that he got transmitted the contents of voice recorder to three compact discs. It is in his evidence that he secured the file and obtained attested copies sheets of that file which are at Exs P4 to P9. It is in his evidence that on being questioned about the tainted cash DGO offered explanation the xerox copy of which is at Ex P10. He has spoken to the trap mahazar and also the mahazar conducted during identification of the voice of DGO touching demand for illegal gratification which was found recorded in voice recorder. He has spoken to submission of the charge sheet in the Court of Principal District and Sessions Judge, Mysuru after completion of investigation.

27. Evidence of PW4 has remained unchallenged and as such the same is to be accepted. His evidence establishes seizure of

*[Handwritten signature]*  
27/1/2019

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tainted cash from the possession of DGO. It is in Ex P10 that according to DGO some unknown person compelled him and took him out of Taluk office and thrust cash and that he has not demanded illegal gratification. The said defence of DGO cannot be accepted in the absence of acceptable material in support of the same. Therefore, defence as formulated in Ex P10 is not worthy of acceptance and therefore the same will not lend assurance to the DGO. Possession of unaccounted cash by DGO during working hours amounts to the act of misconduct within the purview of Rule 3 (1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966.

28. Thus, upon appreciation of the entire oral and documentary evidence on record I hold that misconduct as alleged in the articles of charge stands established and being of this view I proceed with the following:

#### R E P O R T

Charge against the DGO by name Sri. Shivanna.B (name written by DGO as B.Shivanna on the note sheet on 23/01/2017) that in order to attend the application for change of khatha of the land to an extent of one acre out of three acres and twenty five guntas situated at Moleyuru Village, Kandalike Hobli, Heggadadevana Kote Taluk in favour of the mother of the complainant, DGO who was the concerned case worker in the Taluk Office, Heggadadevana Kote demanded and accepted illegal gratification of Rs.4,000/- from the complainant on 15/03/2013 between 4.40 P.M and 5.25 P.M near the milk booth near the Taluk Office Heggadadevana Kote and during investigation in crime number 02/2013 of Lokayukta Police

27/4/2019

Station, Mysuru conducted by the Police Inspector attached to Lokayukta Police Station, Mysuru DGO failed to offer satisfactory explanation for possession of tainted cash of Rs.4,000/- and thereby DGO is guilty of misconduct within the purview of Rule 3 (1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 is proved.

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

(V.G. BOPAIAH)

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

#### ANNEXURE

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

PW1:- Sri. Gururaj  
PW2:- Sri. A.Sridharamurthy  
PW3:- Sri. Krishnakumar  
PW4:- Sri. Gopalakrishna.G.  
List of witnesses examined on behalf DGO:- Nil

List of documents marked on behalf of Disciplinary Authority:-

1. Ex P1 Attested copy of his complaint dated 15/03/2015 in a single sheet.
2. Ex P2 Attested copy of pre-trap mahazar dated 15/03/2013 in five sheets.
3. Ex P3 Attested copy of trap mahazar dated 15/03/2013 in five sheets .
4. Ex P4 Attested copy of application dated 29/11/2012 in a single sheet of Smt. Rajamma and Smt. Rathamma addressed to the Tahasildar, Heggadadevana Kote.

5. Ex P5 Attested copy of the certified copy of the order sheet in five sheets in O.S. number 185/2010 on the file of the Civil Judge (Junior Division) and J.M.F.C. Heggadadevana Kote.
6. Ex P6 Attested copy of the certified copy of the plaint dated 26/07/2010 in two sheets on the file of the Civil Judge (Junior Division) and J.M.F.C. Heggadadevana Kote in O.S. number 185/2010.
7. Ex P7 Attested copy of certified copy of the compromise petition under Order 23 Rule 3 of The Code of Civil Procedure.
8. Ex P8 Attested copy of the certify copy of written statement dated 27/10/2010 in a single sheet in O.S. number 185/2010 on the file of the Civil Judge (Junior Division) and J.M.F.C. Heggadadevana Kote .
9. Ex P9 Attested copy of sketch dated 02/03/2013 in a single sheet.
10. Ex P10 Xerox copy of statement dated 15/03/2013 in a single sheet of DGO given before PW4.
11. Ex P11 Xerox copy of mahazar dated 11/06/2013 in three sheets touching identification of voice of DGO.

List of documents marked on behalf of DGO:- Nil.

  
(V.G. BOPAI AH)

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



GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No: UPLOK-2/DE/228/2015/ARE-11

Multi Storied Buildings,  
Dr.B.R.Ambedkar Veedhi,  
Bengaluru-560 001,  
Date: 01/03/2019

RECOMMENDATION

Sub:- Departmental inquiry against Sri Shivanna. B, Second Division Assistant, Record of Rights & Tenancy (RRT) and Drought Management Clerk, Heggadadevana Kote, Mysuru District - Reg.

Ref:-1) Government Order No. ಕಂಇ 19 ಎಂವಿಎಸ್ 2015 Bengaluru dated 03/03/2015 and its Corrigendum dated 16/04/2015.

2) Nomination order No.UPLOK-2/DE/228/2015 Bengaluru dated 29/04/2015 of Upalokayukta-2, State of Karnataka, Bengaluru.

3) Inquiry Report dated 27/02/2019 of Additional Registrar of Enquiries-11, Karnataka Lokayukta, Bengaluru

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The Government by its Order dated 03/03/2015 read with its Corrigendum dated 16/04/2015 initiated the disciplinary proceedings against Sri Shivanna.B, Second Division Assistant, Record Of Rights & Tenancy (RRT) and Drought Management Clerk, Heggadadevana Kote, Mysuru 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-2/DE/228/2015 dated 29/04/2015 nominated Additional Registrar of Enquiries-11, 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 Sri Shivanna.B, Second Division Assistant, Record Of Rights & Tenancy (RRT) and Drought Management Clerk, H.D. Kote, Mysuru District was tried for the following charge:-

“That you DGO Sri.Shivanna B. S/o Late Basavaiah, Second Division Assistant, Record of Rights and Tenancy (RRT) and Drought Management Clerk, H.D. Kote, Mysore District while discharging your duties:

- (a) The complainant's grandmother Smt. Subbalamma passed away at Kottegala village and she owned 3-24 guntas of land in Sy.No.10 at Moleyuru village, Kandalike Hobli, H.D. Kote Taluk. A partition was ordered between her 3 daughters and one son in a civil suit and as per the decree the complainant's mother and aunt were given one acre each. The complainant's mother submitted a petition to the Taluk office, H.D. Kote to change khata for the said one acre land in her name. In that connection the complainant met you DGO in taluk office H.D. Kote on 29/11/2012 and thereupon you DGO demanded a bribe of Rs.10,000/- to change khata.
- (b) The complainant was not willing to pay bribe and hence approached the Lokayukta Policc Station on 13/03/2013 and informed the police Inspector Sri.Gopal Krishna. In turn, the P.I provided a digital voice recorder to the complainant by instructing him to record the conversation with you DGO pertaining to demand of bribe. On 14/03/2013 at 3.30 p.m. the complainant again met you DGO in Taluk office, H.D. Kote and you DGO took him outside the office and demanded for Rs.10,000/- and after negotiation you DGO accepted to do the work for Rs.4000/- After

recording the conversation in digital voice recorder the complainant handed over the same in the office of Lokayukta Police Station, Mysore on 15/03/2013 and also submitted written complaint and there upon FIR was registered in Crime No.2/13 for the offence U/s 7 of PC Act, 1988.

- (c) The I.O thereafter followed pre trap formalities and handed over tainted currency notes of Rs.4,000/- under an entrustment mahazar to the complainant. On 15/03/2013 the complainant approached you DGO with the tainted money and you DGO reiterated the demand by making sign with hand, and after the complainant informed about bringing money, you DGO took the complainant near milk parlour which is by the side of taluka office.
- (d) Not only that, on 15/03/2013, you DGO received the tainted (bribe) amount from him at the DGO's office in connection with changing khata for one acre of land belonging to his mother.
- (e) Thereafter, you DGO was caught hold as you was found with tainted (bribe) amount on said date at said place. Added to that, you DGO failed to give any satisfactory account or explanation or reply for the said (tainted) bribe amount which you DGO had then, when questioned by the I.O.

and thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of Government Servants and thus you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966."

4. The Inquiry Officer (Additional Registrar of Enquiries-11) on proper appreciation of oral and documentary evidence has held that, charge against the DGO by name Sri. Shivanna.B (name written by DGO as B. Shivanna on the note sheet on 23/01/2017) that in order to attend the application for change of khatha of the land to an extent of one acre out of three acres and twenty five guntas situated at Moleyuru Village, Kandalike Hobli, Heggadadevana Kote Taluk in favour of the mother of the complainant, DGO who was the concerned case worker in the Taluk Office, Heggadadevana Kote demanded and accepted illegal gratification of Rs.4,000/- from the complainant on 15/03/2013 between 4.40 P.M and 5.25 P.M near the milk booth near the Taluk Office, Heggadadevana Kote and during investigation in crime number 02/2013 of Lokayukta Police Station, Mysuru conducted by the Police Inspector attached to Lokayukta Police Station, Mysuru DGO failed to offer satisfactory explanation for possession of tainted cash of Rs.4,000/- and thereby DGO is guilty of misconduct within the purview of Rule 3(1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 is proved.

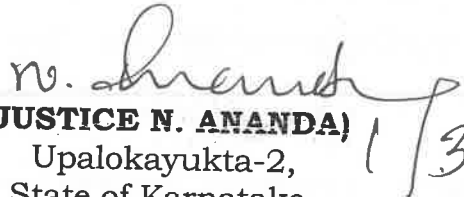
5. On re-consideration of inquiry report, I do not find any reason to interfere with the findings recorded by the Inquiry Officer. It is hereby recommended to the Government to accept the report of Inquiry Officer.

6. As per the First Oral Statement submitted by DGO Sri Shivanna. B, he has retired from service on 31/12/2014.

7. Having regard to the nature of charge (demand and acceptance of bribe) proved against DGO Sri Shivanna.B, it is hereby recommended to the Government for imposing penalty of permanently withholding 50% of pension payable to DGO Sri Shivanna.B, Second Division Assistant, Record Of Rights & Tenancy (RRT) and Drought Management Clerk, H.D. Kote, Mysuru District.

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

Connected records are enclosed herewith.

  
(JUSTICE N. ANANDA)  
Upalokayukta-2,  
State of Karnataka,  
Bengaluru

