#### KARNATAKA LOKAYUKTA

No.UPLOK-2/DE/267/2017/ARE-13

M.S. Building, Dr.B.R. Ambedkar Road, Bangalore-56001 Date: 15/03/2021.

#### : Present:

#### Patil Mohankumar Bhimanagouda

Additional Registrar Enquiries-13, Karnataka Lokayukta, Bangalore.

#### :: ENQUIRY REPORT ::

- Sub:- Departmental Enquiry against, Smt. Vandana, Panchayath Development Officer, Ambalapadi Grama Panchayath, Udupi Taluk and District -reg.
- **Ref**:-1) Report u/s 12(3) of the K.L Act, 1984 in Compt/Uplok/MYS-7426/2014/PP dated:22/12/2016.
  - 2) Govt. Order No.ಗ್ರಾಅಪ/929/ಗ್ರಾಪಂಕಾ/2016 ಬೆಂಗಳೂರು, dated:21/01/2017.
  - 3) Nomination Order No.UPLOK-2/DE/267/2017, Bengaluru, dated: 18/02/2017.

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1. This departmental enquiry is directed against Smt. Vandana, Panchayath Development Officer, Ambalapadi Grama Panchayath, Udupi Taluk and District (herein after referred to as the Delinquent Government Official in short "DGO").

- 2. After completion of the investigation, a report U/sec. 12(3) of the Karnataka Lokayukta Act was sent to the Government as per Reference No-1.
- 3. In view of the Government Order cited above at reference-2, the Hon'ble Upa Lokayukta-2, vide order dated:18/02/2017 cited above at reference-3, nominated Additional Registrar of Enquiries-4 of the office of the Karnataka Lokayukta as the enquiry officer to frame charges and to conduct enquiry against the aforesaid DGO. The Additional Registrar Enquiries-4 prepared Articles of Charge, Statement of Imputations of mis-conduct, list of documents proposed to be relied and list of witnesses proposed to be examined in support of Articles of Charge. Copies of same were issued to the DGO calling upon her to appear before this authority and to submit written statement of her defence.
- 4. As per order of Hon'ble Uplok-1 & 2/DE/Transfers/2018 of Registrar, Karnataka Lokayukta dated:06/08/2018 this enquiry file was transferred from ARE-4 to ARE-13.
- 5. The Articles of Charge framed by ARE-4 against the DGO are as below:

#### <u>ಅನುಬಂಧ–1</u> ದೋಷಾರೋಪಣೆ

ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ/ಶ್ರೀಮತಿ ವಂದನ, ಪಂಚಾಯತ್ ಅಭಿವೃದ್ಧಿ ಅಧಿಕಾರಿ, 6. ಅಂಬಲಪಾಡಿ ಗ್ರಾಮ ಪಂಚಾಯತಿ, ಉಡುಪಿ ತಾಲ್ಲೂಕು ಮತ್ತು ಜಿಲ್ಲೆ, ಆದ ನೀವು, ಶ್ರೀ ರಾಜೇಂದ್ರ ಸದಸ್ಯರು, ಅಂಬಲಪಾಡಿ ಗ್ರಾಮ ಪಂಚಾಯತಿ, ತಾಲ್ಲೂಕು, ಜಿಲ್ಲೆ ಉಡುಪಿ ರವರು ತಪ್ಪು ಮಾಹಿತಿಯನ್ನು ನೀಡಿ ಮೂಡನಿಡಂಬೂರ್ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ.1–4ಪಿ2 ರಲ್ಲ ೦.1೦ ಎಕರೆ ಭೂಮಿಯಲ್ಲ 571 ಚದರ ಅಡಿ ವಿಸ್ತೀರ್ಣದ ಹಳೆಯ ಕಟ್ಟಡವನ್ನು ಕೆಡವಿ ಹೊಸ ಕಟ್ಟಡ ನಿರ್ಮಾಣಕ್ಕೆ ಲೈಸನ್ಸ್ ಪಡೆದಿದ್ದು, ಗೊತ್ತಿದ್ದರೂ ಮತ್ತು ಅವರ ಕಟ್ಟಡ ನಿರ್ಮಾಣ ಕಾಮಗಾರಿಯಲ್ಲ ಲೈಸನ್ಸ್ ನಿಬಂಧನೆಗಳನ್ನು ಪಾಲಸದೇ ಇದ್ದದ್ದು ಕಂಡು ಬಂದರೂ ಸಹ ಮತ್ತು ಅವರು ಸಾರ್ವಜನಿಕರ ರಸ್ತೆಯ ಜಾಗವನ್ನು ಅಕ್ರಮಿಸಿ ಕಟ್ಟಡವನ್ನು ಕಟ್ಟದ್ದು ಕಂಡು ಬಂದರೂ ಸಹ ಯಾವುದೇ ಕ್ರಮವನ್ನು ಜರುಗಿಸದೇ ಅವರಿಗೆ ಅಕ್ರಮ ಕಟ್ಟಡ ಕಟ್ಟಲು ಸಹಕರಿಸಿ ಮತ್ತು ಪಂಚಾಯತಿ ಸಭೆ ಕೈಗೊಂಡ ತೀರ್ಮಾನದಂತೆ ಸದರಿ ಶ್ರೀ ರಾಜೇಂದ್ರ ರವರ ಒತ್ತುವರಿಯನ್ನು ಇತರೆಯವರ ರಸ್ತೆ ಮಾರ್ಜಿನ್ನಲ್ಲ ಕಟ್ಟಡವನ್ನು ಕಟ್ಟದ್ದು ತೆರವುಗೊಳಸುವ ಸಮಯದಲ್ಲ ಈ ಕಟ್ಟಡವನ್ನು ನ್ಯಾಯಸಮ್ಮತವಲ್ಲದ ತೀರ್ಮಾನವನ್ನು ತೆರವುಗೊಳಸಲಾಗಿದೆ ಎಂದು ದುರ್ನಡತೆವೆಸಗಿರುತ್ತೀರಿ. ನೀವು ಸರ್ಕಾರಿ ಸೇವಕರಾಗಿದ್ದು, ನಿಮ್ಮ ಕರ್ತವ್ಯ ಪಾಲನೆಯಲ್ಲ ಪರಿಪೂರ್ಣ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ತೋರಿಸದೆ, ಸಾರ್ವಜನಿಕ ಸೇವೆಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲ ನಡೆದುಕೊಂಡಿದ್ದು, ಕರ್ನಾಟಕ ಸರ್ಕಾರಿ ಸೇವಾ (ಸದ್ವರ್ತನೆ) ನಿಯಮಾವಳ 1966 ರ 3 $(\mathrm{i})$  ರಿಂದ  $(\mathrm{i}\mathrm{i}\mathrm{i})$  ನೇ ಎಸಗಿದ್ದು. ಈ ದುರ್ನಡತೆ ವಿಚಾರಣಾ ಪ್ರಾಧಿಕಾರದ ಮುಂದೆ ನಿಬಂಧನೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿ ವಿಚಾರಣೆಗೊಳಪಡುತ್ತೀರೆಂದು ಈ ದೋಷಾರೋಪಣೆ.

### <u>ಅನುಬಂಧ–2</u> <u>ದೋಷಾರೋಪಣಿಯ ವಿವರ</u> (ಸ್ಟೇಟ್ಮೆಂಟ್ ಆಫ್ ಇಂಪ್ಯೂಟೇಷನ್ ಆಫ್ ಮಿಸ್ ಕಾಂಡೆಕ್ಟ್ )

7. ಶ್ರೀ ಸುರೇಶ ಪೂಜಾರಿ ಜನ್ ದಿವಂಗತ ಕಾಳು ಪೂಜಾರಿ, ಪಂದುಬೆಟ್ಟು, ಅಂಬಲಪಾಡಿ ಗ್ರಾಮ, ಉಡುಪಿ ತಾಲ್ಲೂಕು, ಉಡುಪಿ ಜಿಲ್ಲೆ (ಇನ್ನು ಮುಂದೆ "ದೂರುದಾರರು" ಎಂದು ಸಂಬೋಧಿಸಲಾಗುವ) ರವರು ದೂರನ್ನು ಈ ಸಂಸ್ಥೆಗೆ ಸಲ್ಲಸಿದ ಮೇರೆಗೆ ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯಿದೆ 1984 ರ ಕಲಂ 9 ರಡಿಯಲ್ಲ ತನಿಖೆಗೆ ತೆಗೆದುಕೊಂಡಿದ್ದಿದೆ.

#### ප. **ದೂರಿನ ಸಂಕ್ಷಿಪ ವಿವರಣ්:**–

ದೂರುದಾರರು ತಮ್ಮ ದೂರಿನಲ್ಲ ಉಡುಪಿ ತಾಲ್ಲೂಕಿನ ಮೂಡನಿಡಂಬೂರ್ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ.1–4ಪಿ2 ರಲ್ಲ ೦.1೦ ಎಕರೆ ಭೂಮಿಯಲ್ಲ 571 ಚದರ ಅಡಿ ವಿಸ್ತೀರ್ಣದ ಹಳೆಯ ಕಟ್ಟಡವನ್ನು ಕೆಡವಿ ಹೊಸ ಕಟ್ಟಡವನ್ನು ರಾಜ್ಯ ಹೆದ್ದಾರಿಗೆ ತಾಗಿದಂತೆ ನಿರ್ಮಾಣ ಮಾಡುತ್ತಿರುವ ಪಂಚಾಯತಿ ಸದಸ್ಯರಾದ ಶ್ರೀ ರಾಜೇಂದ್ರ ಇವರನ್ನು ಕಟ್ಟಡ ನಿರ್ಮಾಣ ಮಾಡದಂತೆ ಕೋರಿ ದೂರುದಾರರು ಅರ್ಜಿ ಸಲ್ಲಸಿದ್ದು, ಈ ಬಗ್ಗೆ ಪಂಚಾಯತಿ ವತಿಯಿಂದ ಯಾವುದೇ ಕ್ರಮ ಕೈಗೊಂಡಿರುವುದಿಲ್ಲ. ಭೂ ಪರಿವರ್ತನೆಯಾಗದ ಭೂಮಿಯಲ್ಲ ನಗರಾಭವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ಅನುಮತಿ ಇಲ್ಲದೇ ಇದ್ದರೂ, ಕಟ್ಟಡ ನಿರ್ಮಾಣವನ್ನು ಮುಂದುವರೆಸಿರುತ್ತಾರೆ. ವಾಣಿಜ್ಯ ಕಟ್ಟಡ ನಿರ್ಮಾಣ ಮಾಡುವಾಗ ಭೂ ಪರಿವರ್ತನೆ ಆಗಿರಬೇಕು ಹಾಗೂ ನಗರಾಭವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ಅನುಮಕೀದನೆಯನ್ನು ಪಡೆಯಬೇಕು. ಆದರೆ, ಶ್ರೀ ರಾಜೇಂದ್ರ ರವರು ಯಾವುದೇ ಅನುಮೋದನೆಯನ್ನು ಪಡೆಯದೇ, ಕಟ್ಟಡವನ್ನು ನಿರ್ಮಾಣ ಮಾಡಿರುತ್ತಾರೆ. ಕಟ್ಟಡದ ಅಂದಾಜು ಬೆಲೆ ರೂ.25.೦೦೦/~ ಎಂದು ಸುಳ್ಳು ಮಾಹಿತಿಯನ್ನು ಶ್ರೀ ರಾಜೇಂದ್ರ ರವರು ನೀಡಿದ್ದು, ಕಾರ್ಮಿಕ ಇಲಾಖೆಗೆ ಸುಳ್ಳು ಮಾಹಿತಿಯನ್ನು ನೀಡಿ, ಸಾವಿರಾರು ರೂಪಾಯಿಯನ್ನು ನಷ್ಟ ಉಂಟು ಮಾಡಿರುತ್ತಾರೆಂದು, ಆದ್ದರಿಂದ, ನಿಮ್ಮ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರ ವಿರುದ್ಧ ಕ್ರಮ ಜರುಗಿಸಬೇಕೆಂದು ಕೋರಿರುತ್ತಾರೆ. ಸದರಿ ದೂರಿನ ಆಧಾರದ ಮೇಲೆ ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯ್ದೆ 1984 ರ ಕಲಂ 9 ಅಡಿ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರವನ್ನು ಚಲಾಯಿಸಿ ತನಿಖೆಗೆ ಆದೇಶಿಸಲಾಗಿರುತ್ತದೆ.

9. ಸದರಿ ದೂರಿನ ಆಧಾರದ ಮೇಲೆ ನಿಮ್ಮ-ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರ ಕರೆಯಲಾಗಿ, ನೀವು ನಿಮ್ಮ ಆಕ್ಷೇಪಣೆಯನ್ನು ಸಲ್ಲಸಿ ದಿ:11/10/2013 ರ ಗ್ರಾಮ ಪಂಚಾಯತಿಯ ಸಾಮಾನ್ಯ ಸಭೆಯಲ್ಲ ಪ್ರಕರಣದ ದೂರಿನಂಶಗಳ ಬಗ್ಗೆ ಚರ್ಚಿಸಲಾಗಿ, ನಿರ್ಣಯ ಸಂ:226(9) ರಂತೆ ಶ್ರೀ ರಾಜೇಂದ್ರ ಅವರ ಕಟ್ಟಡವು ಅಕ್ರಮ/ಅನಧೀಕೃತ ವಾಗಿರುವುದಿಲ್ಲ. ಗ್ರಾಮ ಪಂಚಾಯತಿ ವತಿಯಿಂದ ನೀಡಿರುವ ಷರತ್ತುಬದ್ದ ಕಟ್ಟಡ ಪರವಾನಗಿಯಂತೆ ಹಿಂದೆ ಇದ್ದ ಕಟ್ಟಡವನ್ನು ಪುನರ್ ರಚನೆ ಮಾಡುವ ಸಂದರ್ಭದಲ್ಲ

ಲೋಕೋಪಯೋಗಿ ರಸ್ತೆ ಮಾರ್ಜಿನ್ ನಿಯಮ ಉಲ್ಲಂಘನೆಯಾಗಿದ್ದ ಪಕ್ಷದಲ್ಲ, ಉಡುಪಿ–ಮಲ್ಪೆ ರಾಜ್ಯ ಹೆದ್ದಾರಿಯ ಬದಿಯಲ್ಲ ಇರುವಂತಹ ಇತರೆ ಕಟ್ಟಡಗಳನ್ನು ತೆರವುಗೊಳಸುವ ಕಾಲದಲ್ಲ ಶ್ರೀ ರಾಜೇಂದ್ರ ರವರ ಕಟ್ಟಡವನ್ನು ಸಹ ತೆರವುಗೊಳಸಬಹುದೆಂದು ಶ್ರೀ ರಾಜೇಂದ್ರ ರವರು ತಿಳಸಿದ್ದ ಮೇರೆಗೆ ಸದರಿ ವಿಚಾರದಲ್ಲ ಕ್ರಮ ಕೈಗೊಳ್ಳದೇ ಮುಂದೆ ರಸ್ತೆ ಅಗಅೇಕರಣ ಸಂದರ್ಭದಲ್ಲ ಲೋಕೋಪಯೋಗಿ ರಸ್ತೆ ಮಾರ್ಜಿನ ಉಲ್ಲಂಘನೆ ಮಾಡಿರುವ ಕಟ್ಟಡಗಳ ತೆರವುಗೊಳಸುವ ಸಂದರ್ಭದಲ್ಲ ಶ್ರೀ ರಾಜೇಂದ್ರ ರವರ ಕಟ್ಟಡವನ್ನು ಸಹ ತೆರವುಗೊಳಸಲು ಸರ್ವಾನುಮತದಿಂದ ಗ್ರಾಮ ಪಂಚಾಯತಿಯಲ್ಲ ನಿರ್ಣಯ ಕೈಗೊಳ್ಳಲಾಗಿರುತ್ತದೆ ಎಂದು ತಿಳಸಿರುತ್ತೀರಿ.

- 10. ನೀವು-ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಸಲ್ಲಸಿದ ಆಕ್ಷೇಪಣೆ ಮೇರೆಗೆ ದೂರುದಾರರ ಪ್ರತ್ಯುತ್ತರವನ್ನು ಪಡೆಯಲಾಗಿದ್ದು, ದೂರುದಾರರು ತಮ್ಮ ಪ್ರತ್ಯುತ್ತರವನ್ನು ಸಲ್ಲಸಿ, ಶ್ರೀ ರಾಜೇಂದ್ರ ರವರು ಕಟ್ಟರುವ ಕಟ್ಟಡವು ಲೈಸೆನ್ಸ್ ನಿಬಂಧನೆಗಳನ್ನು ಪರಿಪಾಅಸದೇ ಕಟ್ಟರುವ ಕಟ್ಟಡವಾಗಿದ್ದು, ಈ ಬಗ್ಗೆ ತಾಲ್ಲೂಕು ಕಛೇರಿಯಲ್ಲ ತಹಶೀಲ್ದಾರ್ ರವರು ಆದೇಶವನ್ನು ಹೊರಡಿಸಿ. ಸದರಿ ಕಟ್ಟಡವನ್ನು ತೆರವುಗೊಳಸಲು ಆದೇಶವನ್ನು ನೀಡಿರುತ್ತಾರೆ. ಸದರಿ ತಹಶೀಲ್ದಾರ್ ರವರ ಆದೇಶದ ವಿರುದ್ದ ಶ್ರೀ ರಾಜೇಂದ್ರ ಸದಸ್ಯರು, ಅಂಬಲಪಾಡಿ ಗ್ರಾಮ ಪಂಚಾಯತಿ, ಇವರು ಮಾನ್ಯ ಕರ್ನಾಟಕ ಉಚ್ಛ ನ್ಯಾಯಾಲಯದಲ್ಲ ರಿಟ್ ಅರ್ಜಿ 14828/2015 (ಕೆಎಲ್ಆರ್-ಆರ್ಇಎಸ್) ಅಡಿಯಲ್ಲ ಅರ್ಜಿ ಸಲ್ಲಸಿದ್ದು, ತಹಶೀಲ್ದಾರ್ ರವರು ಹೊರಡಿಸಿರುವ ಆದೇಶಕ್ಕೆ ತಡೆಯಾಜ್ಞೆಯನ್ನು ಕೋರಿರುತ್ತಾರೆ. ಆದರೆ, ಮಾನ್ಯ ನ್ಯಾಯಾಲಯವು 10 ದಿನಗಳವರೆಗೆ ಮಾತ್ರ ತಡೆಯಾಜ್ಞೆ ನೀಡಿರುವುದು ಆದೇಶದ ಪ್ರತಿಯಿಂದ ಕಂಡು ಬರುತ್ತದೆ ಎಂದು ತಿಳಸಿರುತ್ತಾರೆ.
- 11. ದೂರಿನಂಶಗಳನ್ನು, ನಿಮ್ಮ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರ ಆಕ್ಷೇಪಣೆಗಳನ್ನು ಹಾಗೂ ಹಾಜರುಪಡಿಸಿರುವ ದಾಖಲೆಗಳನ್ನು ಪರಿಶೀಅಸಿದಲ್ಲ. ಉಡುಪಿ ತಹಶೀಲ್ದಾರ್ ರವರು ದಿನಾಂಕ:31/O3/2O15 ರಂದು ಆದೇಶ ಹೊರಡಿಸಿದ್ದು. ಸದರಿ ಆದೇಶದಲ್ಲ "ಉಡುಪಿ ತಾಲ್ಲೂಕು ಮೂಡನಿಡಂಬೂರ್ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ.1–4ಪಿ2 ರಲ್ಲ ಮಲ್ವೆ ಮೊಳಕಾಲ್ಮೂರು ರಾಜ್ಯ ಹೆದ್ದಾರಿಯ ಮಧ್ಯ ರೇಖೆಯಿಂದ 10.೦೦ ಮೀ., ಅಂತರದಲ್ಲ ಶ್ರೀ ರಾಜೇಂದ್ರರವರು ಕಟ್ಟಡ ನಿರ್ಮಾಣ ಮಾಡಿರುವುದನ್ನು ತೆರವುಗೊಳಸುವುದು ಹಾಗೂ ಕೃಷಿ ಭೂಮಿಯನ್ನು ಕರ್ನಾಟಕ ಭೂ ಕಂದಾಯ

ಕಾಯ್ದೆಯನ್ವಯ ಕೃಷಿಯೇತರ ಉದ್ದೇಶಕ್ಕೆ ಉಪಯೋಗಿಸಿರುವ ಕುರಿತು ಕೆಎಲ್ಆರ್ ಆಕ್ಟ್ 1964 ಕಲಂ 95 ರಂತೆ ಕ್ರಮ ಜರುಗಿಸುವುದು. ಒತ್ತುವರಿ ತೆರವುಗೊಳಸಲು ತಗಲುವ ವೆಚ್ಚವನ್ನು ಭೂ ಕಂದಾಯ ಬಾಕಿಯಂತೆ ವಸೂಲು ಮಾಡಲು ರಾಜಸ್ವ ನಿರೀಕ್ಷಕರು. ಉಡುಪಿ ಇವರಿಗೆ ಆದೇಶಿಸಿದೆ" ಎಂದು ಇರುತ್ತದೆ. ಇದನ್ನು ಪರಿಶೀಅಸಿದಲ್ಲ ಶ್ರೀ ರಾಜೇಂದ್ರ ಇವರು ಅಕ್ರಮವಾಗಿ ಕಟ್ಟಡವನ್ನು ಕಟ್ಟರುವುದು ಸಾರ್ವಜನಿಕ ರಸ್ತೆಯನ್ನು ಒತ್ತುವರಿ ಮಾಡಿರುವುದು ಹಾಗೂ ಕೃಷಿಯೇತರ ಚಟುವೞಕೆಗೆ ಕೃಷಿ ಭೂಮಿಯನ್ನು ಪರಿವರ್ತನೆಗೊಳಸದೇ, ಕಟ್ಟಡ ನಿರ್ಮಾಣ ಮಾಡಿರುವ ಬಗ್ಗೆ ಸ್ಪಷ್ಟ ಪಡುತ್ತದೆ. ಮಾನ್ಯ ತಹಶೀಲ್ದಾರ್ ರವರ ಆದೇಶದ ವಿರುದ್ಧ ಶ್ರೀ ರಾಜೇಂದ್ರ ರವರು ರಿಟ್ ಅರ್ಜಿಯನ್ನು ಸಲ್ಲಸಿದ್ದರೂ, ಸದರಿ ರಿಟ್ ಅರ್ಜಿಯಲ್ಲ petitioner has called into question the Tahsildar's order, dated:31/03/2015, directing the petitioner to vacate Government land stated to have been encroached by the petitioner. I am disinclined to entertain this petition of merits on the short ground of the availability of alternative remedy. Keeping all the contentions open and reserving the liberty to the petitioner to avail the remedy of filing the appeal before the Assistant Commissioner, I dispose of this petition" ಎಂದು ಮಾನ್ಯ ನ್ಯಾಯಾಲಯವು ಆದೇಶಿಸಿರುವುದು ಸ್ಪಷ್ಟ ಪಡುತ್ತದೆ. ಆದ್ದರಿಂದ, ಶ್ರೀ ರಾಜೇಂದ್ರ ರವರು ತಹಶೀಲ್ದಾರ್ ರವರ ಮೇಲೆ ಹೇಳದ ಆದೇಶದ ವಿರುದ್ಧ ಮೇಲ್ಮನವಿಯನ್ನು ಸಲ್ಲಸುವ ಬಗ್ಗೆ ಯಾವುದೇ ದಾಖಲೆಯನ್ನು ಹಾಜರುಪಡಿಸಿರುವುದಿಲ್ಲ. ಆದ್ದರಿಂದ, ಮಾನ್ಯ ತಹಶೀಲ್ದಾರ್ ರವರ ಆದೇಶ ಸ್ಥಿರಗೊಂಡಂತಾಗಿರುತ್ತದೆ.

12. ನೀವು–ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಪಂಚಾಯತಿ ವತಿಯಿಂದ ಸರ್ವೆ ನಂ.1/4ಪಿ2 ರಲ್ಲ ಕಟ್ಟಡವನ್ನು ಪುನರ್ ರಚಿಸಲು ಲೈಸೆನ್ಸ್ ನೀಡಿರುವುದು ಕಂಡು ಬರುತ್ತದೆ. ಮೇಲೆ ಹೇಳದಂತೆ ಶ್ರೀ ರಾಜೇಂದ್ರ ರವರು ಕಟ್ಟಡ ನಿರ್ಮಾಣ ಕಾಲದಲ್ಲ ಕಟ್ಟಡ ಲೈಸೆನ್ಸ್ ನಿಬಂಧನೆಗಳನ್ನು ಪಾಲಸದೇ ಇದ್ದರೂ ಸಹ ಮತ್ತು ಸಾರ್ವಜನಿಕ ರಸ್ತೆಯ ಜಾಗವನ್ನು ಅತಿಕ್ರಮಿಸಿ ಕಟ್ಟಡ ಕಟ್ಟದ್ದರೂ ಸಹ ಯಾವುದೇ ಕ್ರಮ ಜರುಗಿಸದೇ ಪಂಚಾಯತಿ ಸಭೆ ಕೈಗೊಂಡ ತೀರ್ಮಾನದಂತೆ, ಶ್ರೀ ರಾಜೇಂದ್ರರಂತೆ ಇತರೆಯವರು ಸಹ ರಸ್ತೆ ಮಾರ್ಜಿನ್ನೂ ಕಟ್ಟಡಗಳನ್ನು ಕಟ್ಟದ್ದು. ಅವರುಗಳ ಕಟ್ಟಡಗಳ ತೆರವುಗೊಳಸುವ ಸಮಯದಲ್ಲ ಶ್ರೀ

ರಾಜೇಂದ್ರವರ ಕಟ್ಟಡವನ್ನು ಸಹ ತೆರವುಗೊಳಸಬಹುದಾಗಿದೆ ಎಂದು ತೀರ್ಮಾನ ಕೈಗೊಂಡಿರುವುದು ನ್ಯಾಯಸಮ್ಮತವಾಗಿರುವುದಿಲ್ಲ ಎಂಬುದನ್ನು ನೀವು–ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಪರಿಗಣಿಸಿ, ಸದರಿ ಠರಾವಿನ ಪ್ರತಿಯನ್ನು ತಾಲ್ಲೂಕು ಪಂಚಾಯತಿಯ ಕಾರ್ಯನಿರ್ವಾಹಣಾಧಿಕಾರಿಯವರಿಗೆ ಕಳುಹಿಸಿ, ಸದರಿ ಠರಾವನ್ನು ರದ್ದುಗೊಳಸಲು ಕೋರಬೇಕಾಗಿದ್ದು, ಆದರೆ. ನೀವು–ಸರ್ಕಾರಿ ನೌಕರರು ಅಂತಹ ಯಾವುದೇ ಕ್ರಮವನ್ನು ಜರುಗಿಸದೇ, ಶ್ರೀ ರಾಜೇಂದ್ರ ರವರ ಕಟ್ಟಡವನ್ನು ಅಕ್ರಮವಾಗಿ ಕಟ್ಟಲು ಸಹಕರಿಸಿರುವುದು ಕಂಡು ಬಂದಿರುತ್ತದೆ. ಆದ್ದರಿಂದ, ನೀವು–ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಕರ್ತವ್ಯ ಲೋಪವೆಸಗಿರುವುದು ಕಂಡು ಬರುತ್ತದೆ.

- 13. ಮೇಲ್ಕಂಡ ಅಂಶಗಳು, ಕಡತದ ಸಂಗತಿಗಳು ಹಾಗೂ ದಾಖಲಾತಿಗಳನ್ನು ಮತ್ತು ನೀವು ನೀಡಿರುವ ಆಕ್ಷೇಪಣೆಯನ್ನು ಕೂಲಂಕುಷವಾಗಿ ಪರಿಶೀಅಸಿದಾಗ, ಸದರಿ ನಿಮ್ಮ ವಿರುದ್ದ ನಡವಳಯನ್ನು ಕೈ ಜಡಲು ಸೂಕ್ತ /ಸಮಂಜಸ/ಸಮಾಧಾನಕರ ಕಾರಣ ತೋರಿಸಿಲ್ಲವೆಂಬ ಅಭಿಪ್ರಾಯಕ್ಕೆ ಬರಲಾಗಿದೆ.
- 14. ಈ ಮೇಲ್ಕಂಡ ಎಲ್ಲಾ ಅಂಶಗಳನ್ನು ಗಣನೆಗೆ ತೆಗೆದುಕೊಂಡಾಗ, ನೀವು ಸಾರ್ವಜನಿಕ/ಸರ್ಕಾರಿ ನೌಕರರಾಗಿ ನಿಮ್ಮ ಕರ್ತವ್ಯ ನಿರ್ವಹಣೆಯಲ್ಲ ನಿಷ್ಠೆ ಇಲ್ಲದೇ. ಕರ್ತವ್ಯ ಲೋಪವೆಸಗಿ ಸಾರ್ವಜನಿಕ ನೌಕರರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲ ನಡೆದುಕೊಂಡಿರುತ್ತೀರೆಂದು ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡು ಬಂದಿರುತ್ತದೆ.
- 15. ಈ ಮೇಲ್ಕಂಡ ಕಾರಣಗಳಂದಾಗಿ, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನಿಮ್ಮ ವಿರುದ್ಧ ಇಲಾಖಾ ವಿಚಾರಣೆ ನಡೆಸುವ ಸಂಬಂಧ ಮುಂದುವರೆಯುವುದು ಅಗತ್ಯ ಎಂದು ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡುಬಂದಿದ್ದು, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನೀವು ಸರ್ಕಾರಿ ಸೇವಕರಾಗಿದ್ದು, ನಿಮ್ಮ ಕರ್ತವ್ಯ ಪಾಲನೆಯಲ್ಲ ಪರಿಪೂರ್ಣ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ತೋರಿಸದೇ ಮತ್ತು ಸಾರ್ವಜನಿಕ ಸೇವಕರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲ ನಡೆದುಕೊಂಡಿರುವುದು ವೇದ್ಯವಾಗುತ್ತದೆ. ಆದುದರಿಂದ, ಮೇಅನ ಕಾರಣ ಹಾಗೂ ಕಡತದಲ್ಲನ ಸಾಕ್ಷ್ಯದ ಆಧಾರಗಳಂದ ನೀವು ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವಾ (ನಡತೆ) ನಿಯಮಗಳು. 1966ರ (3) (1) (i) ರಿಂದ (iii) ರಲ್ಲ ಹೇಳದಂತೆ ದುರ್ನಡತೆ/ದುರ್ವರ್ತನೆಯಿಂದ ವರ್ತಿಸಿ. ಶಿಸ್ತು ಕ್ರಮಕ್ಕೆ ಬಾಧ್ಯರಾಗಿದ್ದಾರೆಂದು ಕಂಡು ಬಂದಿದ್ದರಿಂದ, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯ್ದೆಯ ಕಲಂ 12(3)

ರಡಿಯಲ್ಲ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರದಡಿಯಲ್ಲ. ನಿಮ್ಮ ವಿರುದ್ಧ ಶಿಸ್ತು ನಡವಳಕೆ ಹೂಡಲು ಮತ್ತು ಹಾಗೆಯೇ ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವಾ (ವರ್ಗೀಕರಣ. ನಿರ್ಬಂಧ ಮತ್ತು ಮೇಲ್ಮನವಿ) ನಿಯಮಗಳು, 1957ರ ನಿಯಮ 14–ಎ ಅಡಿಯಲ್ಲ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರ ವಿರುದ್ಧ ಇಲಾಖಾ ವಿಚಾರಣೆಗೆ ಶಿಫಾರಸ್ಸು ಮಾಡಲಾಗಿ, ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರವು ಉಲ್ಲೇಖ ಒಂದರಂತೆ ಈ ಸಂಸ್ಥೆಯಿಂದ ವಿಚಾರಣೆ ಮಾಡಲು ಕೋರಲಾಗಿರುವ ಕಾರಣ ನಿಮ್ಮ ವಿರುದ್ಧ ಈ ಆಪಾದನೆ.

- 16. The DGO appeared before this Enquiry Authority on 02/05/2017 and on the same day her First Oral Statement was recorded U/Rule 11(9) of KCS (CC &A) Rules 1957. The DGO pleaded not guilty and claimed to hold an enquiry. Subsequently the DGO has filed her written statement of defence by denying the articles of charge and statement of imputations contending that, there is no such evidence to prove that, she has committed misconduct U/Rule 3(1) of KCS (Conduct) Rules, 1966. Accordingly, she prayed to exonerate her from the charge framed in this case.
- 17. In order to substantiate the charge, the Disciplinary Authority examined one witness as PW-1, got marked the documents at Ex.P-1 to Ex.P-19 and closed the evidence.
- 18. After closing the case of the Disciplinary Authority, the Second Oral Statement of DGO was recorded as required U/Rule 11 (16) of KCS (CC & A) Rules, 1957 and wherein she has submitted that, the witnesses have deposed falsely against her. The DGO has led

evidence on her behalf. She got herself examined as DW-1 and closed her side.

- 19. The Advocate for DGO filed his written submissions. Heard the oral arguments of Learned Presenting Officer.
- 20. Upon consideration of the charge leveled against the DGO, the evidence led by the Disciplinary Authority and the DGO by way of oral and documentary evidence and their written brief/submissions, the point that arises for my consideration is as under:

# Point No-1: Whether the Disciplinary Authority has proved the charge against the DGO.

Point No-2: what order?

21. My finding on the point No-1 is held in the "Affirmative" for the following:

#### :: REASONS ::

22. **Point No-1:-** The complainant Sri. Suresh Poojari resident of Pondubettu Village, Ambalapadi Grama Panchayath, Taluk and District Udupi has been examined as PW-1. He states that he knows the DGO and she was working as Panchayath Development Officer of Ambalapadi Grama Panchayath. The land bearing

Sy.No.1/4P2 of Moode-nidambur Village is owned by the Grama Panchayath member Sri. P. Rajendra measuring 10 cents. Earlier there was a old house with Mangalore tiles in an area measuring 571 Sq.feet. The said Sri. P. Rajendra has demolished his old house and he has constructed a commercial complex in an area measuring 1300 Sq. feet. PW-1 further states that the said Sri. P. Rajendra has not obtained any permission from the Competent Authorities. He has not obtained permission from the State Highway Authorities, National Highway Authorities and he has illegally constructed the commercial complex by encroaching the road area. In this regard he had lodged the complaint before the Deputy Commissioner, Udupi, Public Works Department, Udupi, Urban Development Department, Udupi, Tahasildar Udupi and Grama Panchayath Ambalapadi, However these authorities have not taken any action against the illegal construction of Sri. P. Rajendra. Hence he was constrained to file this complaint before this institution.

23. PW-1 further states that the Public Works Department had directed the Grama Panchayath to demolish the illegal construction. The Public Works Department had stated that the said building was constructed within the limits of the road and hence it was to be demolished. However the Grama Panchayath has not taken any action. Hence he has lodged the complaint as per Ex.P-1. The Form No.I and II are at Ex.P-2 and Ex.P-3

respectively. The xerox copies of the comments of the DGO are at Ex.P-4. The xerox copies of the documents produced by the DGO are at Ex.P-5. The Rejoinder of the complainant is at Ex.P-6.

24. PW-1 has also produced the following documents. Ex.P-7 is the copy of letter addressed by the complainant to the Deputy Commissioner, Udupi dated: 29/01/2006. Ex.P-8 is the xerox copy of letter addressed by the complainant to the Deputy Commissioner, Udupi dated: 08/02/2006. Ex.P-9 is the xerox copy of letter addressed by the complainant to the Deputy Commissioner, Udupi dated: 07/02/2006. Ex.P-10 is the xerox copy of letter addressed by the complainant to the Deputy Commissioner, Udupi dated: 14/02/2006. On careful perusal of these documents at Ex.P-7 to Ex.P-10 it is observed that the complainant has requested the Deputy Commissioner, Udupi to demolish the illegal construction under taken by Sri. P. Rajendra.

25. Ex.P-11 are the documents obtained by the complainant from Ambalapadi Grama Panchayath dated: 31/03/2012 under the RTI Act. Ex.P-12 are the documents obtained by the complainant under RTI from Ambalapadi Grama Panchayath dated: 16/05/2012. Ex.P-13 are the documents obtained by the complainant under the RTI Act from Ambalapadi Grama Panchayath dated: 25/04/2012. Ex.P-14 are the documents obtained by the complainant under the RTI Act from Ambalapadi

Grama Panchayath dated:10/05/2012. Ex.P-15 are the documents obtained by the complainant from Ambalapadi Grama Panchayath under RTI dated:14/12/2012. Ex.P-16 is the letter addressed by Public Works Department to the Panchayath Development Officer, Ambalapadi Grama Panchayath. On careful perusal of this document, it is observed that the Public Works Department has observed that the construction made by Sri. P. Rajendra in Sy.No.1/4P2 of Moode-nidambur Village coming under the Ambalapadi Grama Panchayath comes within the limits of Malpe-Molakalmuru State Highway. They have directed the PDO, Ambalapadi Grama Panchayath to demolish the said illegal structure. Ex.P-17 is the application filed by the complainant to Ambalapadi Grama Panchayath dated:18/12/2013. He has asked what action has been taken with regard to the directions of the Public Works Department as per Ex.P-16.

26. Ex.P-18 is the letter of Learned Tahasildar, Udupi dated: 31/03/2015. I have carefully gone through the letter of the Learned Tahasildar. He has directed the concerned authorities i.e the Panchayath Development Officer of Ambalapadi Grama Panchayath and others to demolish the illegal construction carried out by Sri P. Rajendra in Sy.No.1/4P2 of Moode-nidambur Village. Ex.P-19 is the list of PDOs who have served in Ambalapadi Grama Panchayath from 10/10/2014 to 29/06/2015.

- 27. PW-1 further states that, though Learned Tahasildar, Udupi and the Assistant Executive Engineer, Public Works Department, Udupi had directed the DGO to demolish the building of Sri. P. Rajendra, she has not taken any action in this regard. He further states that the said illegal structure is still existing as on this date. Hence he prays for taking necessary action against the DGO. PW-1 has been cross examined by the Advocate for DGO. I have carefully gone through the cross examination. I am of the opinion that nothing material has been elicited in the cross examination to discredit his testimony.
- 28. After closure of the evidence of Disciplinary Authority, the DGO has got herself examined as DW-1. She states that the complainant has filed a false complaint against her. She has categorically denied all the allegations made by the complainant. She has denied about knowledge of the documents at Ex.P-1 to Ex.P-19. She further states that, all the incidents have taken place prior to her taking charge as Panchayath Development Officer of Ambalapadi Grama Panchayath. The letter of the Learned Tahasildar, Udupi and Assistant Executive Engineer, Public Works Department, Udupi were not at all brought to her knowledge. She has not committed any misconduct or Dereliction of Duty. Hence she prays for exonerating her.

- 29. DW-1 has been cross examined by the Learned Presenting Officer. In her cross examination she states that she has worked as the Panchayath Development Officer of Ambalapadi Grama Panchayath from 10/10/2014 to 11/06/2015. She admits that the commercial building of Sri. P. Rajendra in Sy.No.1/4P2 of Moode-nidambur Village is situated abutting the State Highway from Malpe to Molakalmuru. She admits that the document at Ex.P-16 i.e the letter written by Assistant Executive Engineer, Public Works Department to demolish the illegal structure of Sri. P. Rajendra had come to her knowledge. She further admits that on 11/10/2013 the Ambalapadi Grama Panchayath passed a resolution to take action against the illegal structure of Sri P. Rajendra made in Sy.No.1/4P2 of Moode-nidambur Village.
- 30. The Advocate for DGO has filed his written arguments. Heard the oral arguments of Learned Presenting Officer and the Advocate for DGO. The Advocate for DGO has canvassed his arguments that the DGO was incharge of Ambalapadi Grama Panchayath for only 8 months from 10/10/2014 to 11/06/2015. No action was taken by her predecessors and the letter of Learned Tahasildar, Udupi and Assistant Executive Engineer, Public Works Department, Udupi were not at all brought to her knowledge.

- 31. On the other hand the Learned Presenting Officer has canvassed his arguments and he has drawn the attention to the documents at Ex.P-1 to Ex.P-19. He has specifically drawn the attention to the documents at Ex.P-16, Ex.P-17 and Ex.P-18.
- 32. I have carefully gone through the oral and documentary evidence adduced by both the sides. It is an admitted fact that the DGO was the Panchayath Development Officer of Ambalapadi Grama Panchayath from 10/10/2014 to 11/06/2015. From perusal of the document at Ex.P-18, it is observed that the Learned Tahasildar has passed an order on 31/03/2015 i.e during the tenure of the DGO. The operative portion of the order reads as follows,

#### <u>ಆದೇಶ</u>

ಉಡುಪಿ ತಾಲ್ಲೂಕು ಮೂಡನಿಡಂಬೂರು ಗ್ರಾಮದ ಸ.ನಂ.1–4ಪಿ2
ರಲ್ಲ ಮಲ್ಲೆ–ಮೊಳಕಾಲ್ಮೂರು ರಾಜ್ಯ ಹೆದ್ದಾರಿ ಮಧ್ಯ ರೇಖೆಯಿಂದ 10
ಮೀಟರ್ ಅಂತರದಲ್ಲ ಶ್ರೀ ರಾಜೇಂದ್ರ ರವರು ಕಟ್ಟಡ ನಿರ್ಮಾಣ
ಮಾಡಿರುವುದನ್ನು Karnataka Public Premises
(Eviction of Occupation) Act 1974 ರಂತೆ
ಒತ್ತುವರಿಯನ್ನು ತೆರವುಗೊಳಸುವುದು ಹಾಗೂ ಕೃಷಿ ಭೂಮಿಯನ್ನು
ಕರ್ನಾಟಕ ಭೂ ಕಂದಾಯ ಕಾಯ್ದೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿ ಕೃಷಿಯೇತರ
ಉದ್ದೇಶಕ್ಕೆ ಉಪಯೋಗಿಸಿದರ ಕುರಿತು K.L.R Act 1964

Section 95 ರಂತೆ ಕ್ರಮ ಜರುಗಿಸುವುದು. ಒತ್ತುವರಿ ತೆರವುಗೊಳಸಲು ತಗಲುವ ವೆಜ್ಞವನ್ನು ಭೂಕಂದಾಯ ಬಾಕಿಯಂತೆ ವಸೂಅ ಮಾಡಲು ರಾಜಸ್ಟ ನಿರೀಕ್ಷಕರು, ಉಡುಪಿ ಇವರಿಗೆ ಆದೇಶಿಸಿದೆ.

- 33. The Learned Tahasildar, Udupi has found that in Moodenidambur Village of Udupi Taluk in Sy.No.1/4P2 abutting Malpe to Molakalmuru State Highway illegal construction has been done by Sri P. Rajendra. It is further observed that the said Sri. P. Rajendra has encroached upon the State Highway and hence he has directed the Panchayath Development Officer, Revenue Inspector, Udupi and Village Accountant to take necessary action in this regard to remove the illegal structure.
- 34. On perusal of Ex.P-16, it is observed that the Assistant Executive Engineer, Public Works Department, Udupi has also written a letter to the Panchayath Development Officer, Ambalapadi Grama Panchayath. The Assistant Executive Engineer has stated that Sri. P. Rajendra has illegally constructed a building in Sy.No.1/4P2 of Moode nidamburu Village, Udupi Taluk. The Assistant Executive Engineer has directed the Panchayath Development Officer to take necessary action in this regard to remove the illegal structure.

When the defence taken up by the DGO is observed and so 35. also her evidence, she states that the document at Ex.P-18 was not at all brought to her knowledge. However this contention of the DGO cannot be accepted. It is pertinent to note that the Learned Tahasildar, Udupi has written a letter to the Panchayath Development Officer of Ambalapadi Grama Panchayath, Udupi Taluk to take necessary action to demolish the illegal construction under taken by Sri P. Rajendra in Moode - nidamburu Village in Sv.No.1/4P2 of Udupi Taluk. The Learned Tahasildar has invoked the provisions of Karnataka Public Premises (eviction of occupation Act 1974). He has directed the Panchayath Development Officer i.e DGO to demolish the illegal structure and recover the expenses of demolition. Admittedly the DGO was the Panchayath Development Officer of Ambalapadi Grama Panchayath from 10/10/2014 to 11/06/2015. The order at Ex.P-18 is dated: 31/03/2015. The said order has been issued during the tenure of the DGO and she has been directed to take necessary action for demolition of illegal structure constructed in Moode- nidamburu Village in Sy.No.1/4P2 of Udupi Taluk. On careful perusal of the written statement, oral evidence of the DGO, she has simply stated that the complainant has filed a false complaint against her. She has not stated about any action taken by her during her 8 months tenure at Ambalapadi Grama Panchayath from 10/10/2014 to 11/06/2015. The Learned Tahasildar has passed a specific order and directed the DGO to demolish the illegal building constructed within the road area. It is pertinent to note that even though the Learned Tahasildar, Udupi had passed a specific order, the DGO has not taken any action with regard to demolition of the illegal structure. The Learned Tahasildar, Udupi and the Assistant Executive Engineer, Public Works Department, Udupi have found that the owner Sri. P. Rajendra of land bearing Sy.No.1/4P2 of Moode-nidamburu Village has encroached upon the road area. He has not left the required set back i.e 40 meters if it is a National Highway, 40 meters if it is state Highway and 25 meters if it is the Panchayath road.

36. The Learned Presenting Officer while cross examining the DGO has drawn her attention to the document at Ex.P-5. The document at Ex.P-5 is the construction permission issued to Sri. P. Rajendra for the construction in Sy.No.1/4P2 of Moode-nidamburu Village, Udupi Taluk. On careful perusal of Ex.P-5 it is observed that a set back of following dimensions has to be left if the property is abutting different types of roads.

Type of road		Area to be left	
1) Natio	nal Highway	-	40 meters.
2) State	Highway	-	40 meters
3) Distr	ict main road	=	25 meters
4) Panc	hayath roads	5	25 meters.

- 37. DW-1 in her cross examination has admitted that the construction permission issued to Sri. P. Rajendra i.e Ex.P-5 contains these clauses.
- 38. On careful perusal of the order of Learned Tahasildar, Udupi at Ex.P-18 and the directions of Assistant Executive Engineer, Public Works Department, Udupi at Ex.P-16, the DGO was directed to take necessary action against the illegal construction of Sri. P. Rajendra in Sy.No.1/4P2 of Moode-nidamburu Village, Udupi Taluk.
- 39. It is observed that the DGO has not taken any action for removal of illegal construction. She has not even issued a single notice to Sri. P. Rajendra for the removal of illegal structure. From perusal of the documents at Ex.P-7 to Ex.P-10, it is observed that the complainant Sri. Suresh Poojari has requested the Deputy Commissioner, Udupi, Chief Executive Officer, Zilla Panchayath, Udupi, Executive Officer, Taluka Panchayath, Udupi, the Commissioner, Urban Development Department, Udupi, the Assistant Executive Engineer, Public Works Department, Udupi and the Panchayath Development Officer i.e. the DGO. complainant has repeatedly requested the DGO and her higher authorities to take necessary action for the removal of illegal construction by Sri. P. Rajendra. However the DGO has not at all taken any action. The DGO ought to have invoked the provisions

of the Karnataka Grama Swaraj and Panchayath Raj Act 1993. The DGO should have taken action U/s 64 of the Karnataka Grama Swaraj and Panchayath Raj Act 1993. The DGO ought to have issued notice as provided U/s 64 (3)(b). If the unauthorized construction is not removed or construction is not stopped, the DGO had powers U/s 64 (4) to initiate further action to demolish the illegal construction. However the DGO has not at all taken any action U/s 64(3) and (4) of Karanataka Grama Swaraj and Panchayath Raj Act, 1993. It is further observed that the complainant has since long requested the DGO and her higher authorities to take action against Sri. P. Rajendra. However no action was taken by the DGO. Even though the Learned Tahasildar passed an order as per Ex.P-18 and the Assistant Executive Engineer, PWD, Udupi directed the DGO as per Ex.P-16, the DGO has not at all taken any action. She has failed to invoke the powers U/s 64 of Karnataka Grama Swaraj and Panchayath Raj Act, 1993. Hence the conduct of the DGO amounts to Dereliction of Duty. Therefore I am of the opinion that the Disciplinary Authority has proved the charge against the DGO. Accordingly I answer point No-1 in the "Affirmative".

Point No.2: For the reasons stated in Point No-1, I proceed to pass the following,

#### :: ORDER ::

The Disciplinary Authority has proved the charge against the DGO Smt. Vandana, Panchayath Development Officer, Ambalapadi Grama Panchayath, Udupi District.

40. This report is submitted to Hon'ble Upa Lokayukta-2 in a sealed cover for kind perusal and for further action in the matter.

Dated this the 15th day of March 2021

(**Patil Mohankumar Bhimanagouda**)
Additional Registrar Enquiries-13
Karnataka Lokayukta
Bangalore

#### **ANNEXURES**

## Witness examined on behalf of the Disciplinary Authority

PW-1: Sri. Suresh Poojari (Original)

#### Witness examined on behalf of the Defence

DW-1: Smt. Vandana(Original)

## Documents marked on behalf of the Disciplinary Authority

Ex. P-1: Complaint (Original)

Ex. P-1(a): Signature of the complainant

Ex.P-2: Form No-1 (Original)

Ex. P-2(a): Signature of the complainant

Ex.P-3: Form No-II (Original)

Ex. P-3(a): Signature of the complainant

Ex.P-4: The comments of the DGO (Originals)

**Ex.P-5:** The xerox copies of the documents produced by the DGO

Ex.P-6: The Rejoinder of the complainant (Originals)

Ex. P-6(a): Signature of the complainant

**Ex.P-7:** The xerox copy of letter addressed by the complainant to the Deputy Commissioner, Udupi dated: 29/01/2006.

Ex. P-7(a): Signature of the complainant

**Ex.P-8:** The xerox copies of letter addressed by the complainant to the Deputy Commissioner, Udupi dated: 08/02/2006.

Ex. P-8(a): Signature of the complainant

- **Ex.P-9:** The xerox copy of letter addressed by the complainant to the Deputy Commissioner, Udupi dated:7/2/2006.
- Ex. P-9(a): Signature of the complainant
- **Ex.P-10:** The xerox copy of letter addressed by the complainant to the Deputy Commissioner, Udupi, dated: 14/02/2006.
- Ex. P-10(a): Signature of the complainant
- **Ex.P-11** are the documents obtained by the complainant from Ambalapadi Grama Panchayath dated:31/3/2012 under the RTI Act (xerox copies)
- **Ex.P-12** are the documents obtained by the complainant under RTI from Ambalapadi Grama Panchayath dated:16/05/2012 (xerox copies)
- **Ex.P-13** are the documents obtained by the complainant under the RTI Act from Ambalapadi Grama Panchayath dated: 25/04/2012 (xerox copies)
- **Ex.P-14** are the documents obtained by the complainant under the RTI Act from Ambalapadi Grama Panchayath dated :10/05/2012 (xerox)
- **Ex.P-15** are the documents obtained by the complainant from Ambalapadi Grama Panchayath under RTI dated:14/12/2012 (xerox)
- **Ex.P-16** is the letter addressed by Public Works Department to the Panchayath Development Officer, Ambalapadi Grama Panchayath (xerox)
- **Ex.P-17** is the application filed by the complainant to Ambalapadi Grama Panchayath dated: 18/12/2013 (xerox)

Ex.P-18 is the letter of Learned Tahasildar, Udupi dated:31/3/2015 (xerox)

**Ex.P-19** is the list of PDOs who have served in Ambalapadi Grama Panchayath from 10/10/2014 to 29/06/2015 (Original)

Documents marked on behalf of the DGO

Nil

Dated this the 15th day of March 2021

(Patil Mohankumar Bhimanagouda)
Additional Registrar Enquiries-13
Karnataka Lokayukta
Bangalore.

#### KARNATAKA LOKAYUKTA

No.Uplok-2/DE/267/2017/ARE-13

M.S. Building, Dr. B.R. Ambedkar Road, Bangalore-56001 Date: 15/03/2021.

#### :: NOTE ::

Sub:- Departmental enquiry against, Smt. Vandana, Panchayath Development Officer, Ambalapadi Grama Panchayath, Udupi Taluk and District -reg.

**Ref**:-1) Report u/s 12(3) of the K.L Act, 1984 in Compt/Uplok/MYS-7426/2014/PP dated: 22/12/2016.

2) Govt. Order No.ಗ್ರಾಅಪ/929/ಗ್ರಾಪಂಕಾ/2016 ಬೆಂಗಳೂರು, dated : 21/01/2017.

3) Nomination Order No.UPLOK-2/DE/267/2017, Bengaluru, dated: 18/02/2017.

With reference to the subject and reference cited above, original report in sealed cover and connected original records as per Pherist are submitted herewith for kind perusal and needful.

File No.	Particulars of Documents	Page Nos.
File 1	Order Sheet File (Original).	01-17
File 2	Documents containing: I.12(3) of the K.L Act, 1984 in Compt/Uplok/MYS-7426/2014/PP dated: 22/12/2016 (xerox). II. Govt Order No. ಗ್ರಾಅಪ/929/ಗ್ರಾಪಂಕಾ/2016	18-22
	ಬೆಂಗಳೂರು, dated:21/01/2017 (xerox).	

	III. Nomination Order No.UPLOK-2/DE/ 267/2017, Bengaluru, dated: 18/02/2017 (xerox)	25-26	
	IV. Articles of charge dated: 31/03/2017 (Original).	27-33	
	V. First Oral Statement of DGO dated: 02/05/2017 (Original)	34	
	VI. Written statement of DGO dated: 02/05/2017, page no.35-39 originals, page no. 40-42 xerox copies, page no.43-52 certified copies, page no.53-63 xerox copies.	35-63	
	VII. Second Oral Statement of DGO dated: 14/11/2019 (Original)	64	
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D.O.R of the DGO is 31/07/2034.

Receipt of the above report and original records may kindly be acknowledged.

(Patil Mohankumar Bhimanagouda)
Additional Registrar Enquiries-13
Karnataka Lokayukta,
Bangalore.

#### To:

The Hon'ble Upa Lokayukta-2, Karnataka Lokayukta, Bangalore.



No.UPLOK-2/DE.267/2017/ARE-13

Multi Storied Building, Dr. B.R. Ambedkar Veedhi, Bengaluru-560 001. Dated 19.03.2021.

#### RECOMMENDATION

Sub:- Departmental inquiry against Smt. Vandana, Panchayath Development Officer, Ambalapadi Grama Panchayath, Udupi Taluk and District- reg.

Ref:- 1) Government Order No. RDP 929 GPS 2016 dated 21.01.2017.

- 2) Nomination order No. UPLOK-2/DE.267/2017 dated 18.02.2017 of Upalokayukta, State of Karnataka.
- Inquiry report dated 17.03.2021 of Additional Registrar of Enquiries-13, Karnataka Lokayukta, Bengaluru.

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The Government by its order dated 21.01.2017 initiated the disciplinary proceedings against Smt. Vandana, Panchayath Development Officer, Ambalapadi Grama Panchayath, Udupi Taluk and 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.267/2017 dated 18.02.2017 nominated Additional Registrar of Enquiries-4, 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 her. Subsequently, by O.M.No.Uplok-1&2/DE/Transfers/2018 dated 06.08.2018, the Additional Registrar of Enquiries-13, was re-nominated as the Inquiry Officer to continue the said inquiry.
- 3. The DGO Smt. Vandana, Panchayath Development Officer, Ambalapadi Grama Panchayath, Udupi Taluk and District, was tried for the following charges:-
  - " ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ಶ್ರೀಮತಿ ವಂದನ, ಪಂಚಾಯತ್ ಅಭವೃದ್ಧಿ ಅಧಿಕಾರಿ, ಅಂಬಲಪಾಡಿ ಗ್ರಾಮ ಪಂಚಾಯತಿ, ಉಡುಪಿ ತಾಲ್ಲೂಕು ಮತ್ತು ಜಿಲ್ಲೆ, ಆದ ನೀವು, ಶ್ರೀ ರಾಜೇಂದ್ರ ಸದಸ್ಯರು, ಅಂಬಲಪಾಡಿ ಗ್ರಾಮ ಪಂಚಾಯತಿ, ತಾಲ್ಲೂಕು, ಜಿಲ್ಲೆ ಉಡುಪಿ ರವರು ತಪ್ಪು ಮಾಹಿತಿಯನ್ನು ನೀಡಿ ಮೂಡನಿಡಂಬೂರ್ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ.1-4ಪಿ2 ರಲ್ಲ ೦.1೦ ಎಕರೆ ಭೂಮಿಯಲ್ಲ 571 ಚದರ ಅಡಿ ವಿಸ್ತೀರ್ಣದ ಹಳೆಯ ಕಟ್ಟಡವನ್ನು ಕೆಡವಿ ಹೊಸ ಕಟ್ಟಡ ನಿರ್ಮಾಣಕ್ಕೆ ಲೈಸನ್ಸ್ ಪಡೆದಿದ್ದು, ಗೊತ್ತಿದ್ದರೂ ಮತ್ತು ಅವರ ಕಟ್ಟಡ ನಿರ್ಮಾಣ ಕಾಮಗಾರಿಯಲ್ಲ ಲೈಸನ್ಸ್ ನಿಬಂಧನೆಗಳನ್ನು ಪಾಅಸದೇ ಇದ್ದದ್ದು ಕಂಡು ಬಂದರೂ ಸಹ ಮತ್ತು ಅವರು ಸಾರ್ವಜನಿಕರ ರಸ್ತೆಯ ಜಾಗವನ್ನು ಅಕ್ರಮಿಸಿ ಕಟ್ಟಡವನ್ನು ಕಟ್ಟದ್ದು ಕಂಡು ಬಂದರೂ ಸಹ ಯಾವುದೇ ಕ್ರಮವನ್ನು ಜರುಗಿಸದೇ ಅವರಿಗೆ ಅಕ್ರಮ ಕಟ್ಟಡ ಕಟ್ಟಲು ಸಹಕರಿಸಿ ಮತ್ತು ಪಂಚಾಯತಿ ಸಭೆ ಕೈಗೊಂಡ ತೀರ್ಮಾನದಂತೆ ಸದರಿ ಶ್ರೀ ರಾಜೇಂದ್ರ ರವರ ಒತ್ತುವರಿಯನ್ನು ಇತರೆಯವರ ರಸ್ತೆ ಮಾರ್ಜಿನ್ ನಲ್ಲ ಕಟ್ಟಡವನ್ನು ಸಮಯದಲ್ಲ ತೆರವುಗೊಳಸುವ ಕಟ್ಟಡವನ್ನು ತೆರವುಗೊಳಸಲಾಗಿದೆ ಎಂದು ನ್ಯಾಯಸಮ್ಮತವಲ್ಲದ ತೀರ್ಮಾನವನ್ನು ಕೈಗೊಂಡು ದುರ್ನಡತೆ ಎಸಗಿರುತ್ತೀರಿ. ನೀವು ಸರ್ಕಾರಿ ಸೇವಕರಾಗಿದ್ದು, ನಿಮ್ಮ ಕರ್ತವ್ಯ ಪಾಲನೆಯಲ್ಲ ಪರಿಪೂರ್ಣ ಕರ್ತವ್ಯ ನಿಷ್ಟೆಯನ್ನು ತೋರಿಸದೆ, ಸಾರ್ವಜನಿಕ ಸೇವೆಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲ ನಡೆದುಕೊಂಡಿದ್ದು, ಕರ್ನಾಟಕ ಸರ್ಕಾರಿ ಸೇವಾ (ಸದ್ವರ್ತನೆ)

ನಿಯಮಾವಳ 1966 ರ 3(i) ರಿಂದ (iii) ನೇ ನಿಬಂಧನೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿ ದುರ್ನಡತೆ ಎಸಗಿದ್ದು, ಈ ವಿಚಾರಣಾ ಪ್ರಾಧಿಕಾರದ ಮುಂದೆ ವಿಚಾರಣೆಗೊಳಪಡುತ್ತೀರೆಂದು ಈ ದೋಷಾರೋಪಣೆ."

- 4. The Inquiry Officer (Additional Registrar of Enquiries13) on proper appreciation of oral and documentary evidence
  has held that, the charge framed against the DGO Smt. Vandana,
  Panchayath Development Officer, Ambalapadi Grama Panchayath,
  Udupi Taluk and District, 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 the DGO recorded by the Enquiry Officer, DGO Smt. Vandana, is due for retirement from service on 31.07.2034.
  - 7. Having regard to the nature of charge proved against the DGO Smt. Vandana and considering the totality of circumstances, it is hereby recommended to the Government to

impose penalty of 'withholding two annual increments payable to DGO Smt. Vandana, with cumulative effect'.

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\*