



KARNATAKA LOKAYUKTA

No.LOK/INQ/321/2012/ARE-4

Multi Storied Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru-560 001.  
Dated 21.02.2019

RECOMMENDATION

Sub:- Departmental inquiry against Shri  
Hanumantharayappa, the then Panchayath  
Development Officer, T. Beguru Gram Panchayath,  
Nelamangala Taluk, Bengaluru Rural District - reg.

- Ref:- 1) Government Order No. ಗ್ರಾಅಪ/387/ಗ್ರಾಪಂಕಾ/2012  
dated 23.07.2012.  
2) Nomination order No. LOK/INQ/14-A/321/2012  
dated 07.08.2012 of Hon'ble Upalokayukta, State  
of Karnataka.  
3) Inquiry report dated 19.02.2018 of Additional  
Registrar of Enquiries-4, Karnataka Lokayukta,  
Bengaluru.

~~~~~

The Government by its order dated 23.07.2012 initiated the disciplinary proceedings against Shri Hanumantharayappa, the then Panchayath Development Officer, T. Beguru Gram Panchayath, Nelamangala Taluk, Bengaluru Rural 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. LOK/INQ/14-A/321/2012 dated 07.08.2012 nominated Additional Registrar

of Enquiries-3, 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. Subsequently, by Order No. LOK/INQ/14-A/2014 dated 14.03.2014, the Additional Registrar of Enquiries-8, Karnataka Lokayukta, Bengaluru was re-nominated as Inquiry Officer to conduct departmental inquiry against DGO. Finally, by Order No. UPLOK-2/DE/2016, dated 03.08.2016, the Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru was re-nominated as Inquiry Officer to continue the departmental inquiry against DGO.

3. The DGO - Shri Hanumantharayappa, the then Panchayath Development Officer, T. Beguru Gram Panchayath, Nelamangala Taluk, Bengaluru Rural District was tried for the following charge:-

“That you, Shri Hanumantharayappa, (hereinafter referred to as Delinquent Government Official, in short DGO), while working as the Panchayath Development Officer, T. Beguru Grama Panchayathi, Nelamangala Taluk, Bengaluru Rural District demanded and accepted a bribe of Rs. 18,000/- on 13.10.2010 through one Shri Rudrappa r/o Subhash Nagar, Nelamangala Bengaloure from complainant Dr. Loknath Singh s/o N.R. Govind Singh r/o Rajajinagar at Bengaluru for reducing the

tax amount for the period of two years prior to 13.10.2010 in respect of Surya Gas Filling Company run by him in the name of his wife Smt. Shamunth L. Singh, that is for doing an official act, and thereby you failed to maintain absolute integrity and 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 KCS (Conduct) Rules, 1966.”

4. The Inquiry Officer (Additional Registrar of Enquiries- 4) on proper appreciation of oral and documentary evidence has held that, the Disciplinary Authority has '*proved*' the above charge against the DGO - Shri Hanumantharayappa, the then Panchayath Development Officer, T. Beguru Gram Panchayath, Nelamangala Taluk, Bengaluru Rural District.

5. On re-consideration of report of inquiry, 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.

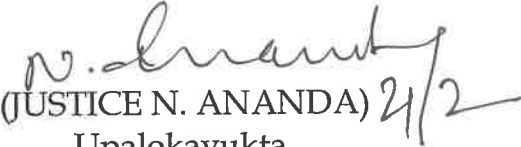
6. As per the First Oral Statement of DGO furnished by the Inquiry Officer, the DGO - Shri Hanumantharayappa is due to retire from service on 28.02.2023.

7. Having regard to the nature of charge (demand and acceptance of bribe) '*proved*' against the DGO - Shri

Hanumantharayappa, the then Panchayath Development Officer, T. Beguru Gram Panchayath, Nelamangala Taluk, Bengaluru Rural District, it is hereby recommended to the Government to impose penalty of 'compulsory retirement from service on the DGO - Shri Hanumantharayappa'.

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

Connected records are enclosed herewith.

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

**KARNATAKA LOKAYUKTA**

No.LOK/INQ/321/2012/ARE-4

M.S. Building  
Dr.B.R.Ambedkar Road  
Bengaluru-560 001  
Date: 19/02/2019

**:: INQUIRY REPORT ::**

**Sub:** Departmental Inquiry against,

- 1) Sri Hanumantharayappa  
The then Panchayath Development  
Officer  
T. Beguru Grama Panchayathi  
Nelamangala Taluk  
**Bengaluru Rural District**

**Ref:**

- 1) Report u/s 12(3) of the K.L  
Act, 1984 in Compt/Uplok/  
BD/117/2012/ARLO-2  
Dated:08/06/2012
- 2) Government Order. No. RDPR 387  
RDS 2012, Bengaluru dated:  
23/07/2012
- 2) Order No.LOK/INQ/14-  
A/321/2012, Bengaluru  
dated:07/08/2012  
of the Hon'ble Upalokayukta

\*\*\*

This Departmental Inquiry is directed against Sri Hanumantharayappa, the then Panchayath Development Officer, T. Beguru Grama Panchayathi, Nelamangala Taluk, **Bengaluru Rural 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 Upalokayukta, vide order dated: 07/08/2012 cited above at reference-3, nominated Additional Registrar of Enquiries-3 of the office of the Karnataka Lokayukta as the Inquiry Officer to frame charges and to conduct Inquiry against the aforesaid DGO. Additional Registrar Enquires-3 prepared Articles of Charge, Statement of Imputations of mis-conduct, list of documents proposed to be relied and list of witnesses proposed to be examined in support of Article of Charges. Copies of same were issued to the DGO calling upon him to appear before this Authority and to submit written statement of his defence.

4. When the matter was pending for inquiry in recording the evidence of the witnesses of Disciplinary Authority, this matter was transferred to Addl. Registrar of Enquiries-8 vide Order No.LOK/INQ/14-A/2014, Bengaluru dated: 14/03/2014 of the Hon'ble Uplokayukta Addl. Registrar of Enquirie-8 proceeded with the inquiry in recording the evidence of PW1. When the matter pending for recording of evidence of PW2, again transferred to this Addl. Registrar of Enquiries-4 vide O.M. No. Uplok-2/DE/2016 Bengaluru, dated: 03/08/2016 of the Hon'ble Registrar issued with the concurrence of the Hon'ble Upalokayukta. Hence, this inquiry case proceeded by this Addl. Registrar of Enquiries-4 in accordance with law.

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

**ANNEXURE -I**

**CHARGE:**

*That you, Sri Hanumantharayappa, (herein after referred to as Delinquent Government Official, in short DGO), while working as the Panchayath Development Officer, T. Beguru Grama Panchayathi, Nelamangala Taluk, Bengaluru Rural District demanded and accepted a bribe of Rs. 18,000/- on 13/10/2010 through one Sri Rudrappa r/o Subhash Nagar, Nelamangala Bengaloure from complainant Dr. Loknath Singh s/o N.R. Govind Singh r/o Rajajinagar at Bengaluru for reducing the tax amount for the period of two years prior to 13/10/2010 in respect of Surya Gas Filling Company run by him in the name of his wife Smt. Shamunth L. Singh, that is for doing an official act, and thereby you failed to maintain absolute integrity and 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 KCS (Conduct) Rules, 1966.*

**ANNEXURE-II**

**STATEMENT OF IMPUTATION OF MISCONDUCT**

*The complainant Dr. Loknath Singh s/o N.R. Govind Singh r/o Rajajinagar at Bengaluru filed a complaint on 13/10/2010 before the Police Inspector, Karnataka Lokayukta Bengaluru Rural District, Bengaluru alleging that he was the owner of the Surya Gas Filing Company situated at Geddalahalli village coming within the jurisdiction of T. Beguru Grama Panchayath and Nelamangala Taluk of Bengaluru Rural District and that*

he had gifted the said Company to his wife Smt. Shamuntha. L. Singh about 1½ years prior to 13/10/2010 and that as the tax of the said Gas Filling Company was in arrears for a period of 2 years he went to T. Beguru Grama Panchayathi office on 06/10/2010 and at that time Sri Hanumantharayappa, the then Panchayath Development Officer, T. Beguru Grama Panchayathi, Nelamangala Taluk, Bengaluru Rural District, (herein after referred to as Delinquent Government Servant, in short DGO) was not there and when he talked to the DGO through his mobile phone NO. 9448047271 to his mobile phone bearing No. 9845015618 and during the said conversation the DGO told him that he has fixed the tax in different manner and according to him the complainant had to pay 1 ½ lakhs of Tax per year and that the DGO asked him to come near Hotel Kadamba of Mahalakshmi Puram of Bengaluru and that when he went there the DGO demanded a bribe of Rs. 1 lakhs and after much bargain he agreed for a bribe of Rs. 18,000/- and that the DGO asked him to come on 13/10/2010 near Kadama Hotel of Mahalakshmi Puram Bengaluru along with a DD drawn on PNB for a sum of Rs. 30,080/- and with a bribe amount of Rs. 18,000/-. As the complainant was not willing to pay any bribe to the DGO, he went to Police Inspector, Karnataka Lokayukta, Bengaluru Rural District, Bengaluru on 13/10/2010 and lodged a complaint. On the basis of the same a case was registered in Bengaluru Rural District, Bengaluru Lokayukta Police Station Cr. No.20/2010 for offences punishable u/secs 7, 13(1)(d) r/w section 13(2) of the P.C. Act, 1988 and FIR was submitted to the concerned learned special judge.



*After registering the case, investigating officer observed all the pre-trap formalities and entrustment mahazar was conducted and you, the DGO was trapped on 13/10/2010 by the Investigating Officer after your demanding and accepting the bribe amount of Rs. 18,000/- from the complainant in the presence of shadow witness through one Sri Rudrappa s/o Subhash Nagar, Nelamangala Bengaluru and the said bribe amount which you had received from the complainant was seized from the possession of Sri Rudrappa under the seizure mahazar after following the required post-trap formalities. During the investigation the I.O. has recorded the statement of panchas and other witnesses and further statement of the complainant. The I.O. during the investigation has sent the seized articles to the chemical examiner and obtained the report from him and he was given the result as positive.*

*The materials collected by the I.O. during the investigation prima facie disclose that you, the DGO, demanded and accepted bribe of Rs. 18,000/- from the complainant on 13/10/2010 for doing an official act i.e., for reducing the tax amount for the period of two years prior to 13/10/2010 in respect of Surya Gas Filling Company run by him in the name of his wife Smt. Shamunth L. Singh. Thus you, the DGO have failed to maintain absolute integrity and devotion to duty and this act on your part is unbecoming of a Government Servant. Hence, you have committed an act which amounted to*

*misconduct as stated under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966.*

*In this connection an observation note was sent to you, the DGO and you have submitted your reply which, after due consideration, was found not acceptable, Therefore, a recommendation was made to the Competent Authority under section 12(3) of the Karnataka Lokayukta Act 1984, to initiate departmental proceedings against you, the DGO the Government after considering the recommendation made in the report, entrusted the matter to the Hon'ble Upalokayukta to conduct departmental/disciplinary proceedings against you, the DGO and to submit report. Hence, the charge.*

6. DGO appeared before this Inquiry Authority on 06/11/2012 and his First Oral statement was recorded U/R 11(9) of KCS (CC & A) Rules 1957. The DGO pleaded not guilty and claims to hold an inquiry.

7. DGO has filed his written statement as follows:

The DGO is working as PDO, T.Beguru Grama Panchayathi from 09/03/2009 and in the limits of the above said panchayath there are industries and godowns and as per Rules 10% of the yearly rent of the same has to be paid to the panchayath as tax. Many of the industries and godown owners were not paying the tax properly and they were paying the less tax even though they were getting more rent. The complainant is also one of them. In the panchayath meeting dated: 23/07/2010 the resolution was passed to recover the

tax on the basis of yearly rent. Even then, many of the owners did not pay the tax. In order to avoid the payment of tax a false complaint has been lodged against the DGO. As usual on 13/10/2010 after finishing his work the DGO went to Kadamba hotel and met the complainant and the complainant sat by the side of the DGO and at that time there were many customers in the hotel and some persons suddenly caught hold of the DGO and one of the customer objected the Lokayukta police of their act and that person was also apprehended along with the DGO and both of them were brought to Lokayukta station situated in M.S. Building and DGO came to know that the name of the other person is Sri Rudrappa. After they were brought to the Lokayukta police station some amount was given to the hands of Sri Rudrappa and afterwards it was kept in his pocket and his hands were washed. Afterwards the Lokayukta police made phone call to the panchayath to bring the receipt book and after the receipt book was brought the D.D. No. was written in the receipt by the DGO at the instance of the police. The DGO also gave his explanation as per the dictation of the Lokayukta police. The DGO saw Sri Rudrappa for the first time on that day and he is not acquainted with him and he had not instructed the said Sri Rudrappa to receive the amount on his behalf. Hence, prays to exonerate him from the charges leveled against him in this case.

8. In order to substantiate the charge leveled against the DGO, the Disciplinary Authority examined in all four witnesses as PW1 to PW4 and got marked documents at Ex.P1 to P16. After closing the evidence of the Disciplinary Authority,

the Second Oral Statement of DGO was recorded as required u/Rule 11(16) of KCS (CC & A) Rules, 1957. After closing the evidence of the Disciplinary Authority, DGO himself examined as DW1 and got marked documents at Ex.D1 and D2 and closed his evidence. Hence, recording the answers of DGO to questionnaire u/Rule 11(18) of KCS (CC&A) Rules was dispensed with.

9. The Disciplinary Authority has not filed the written brief, but on the side of the DGO written brief has been filed. Oral arguments of the Presenting Officer and the learned counsel for the DGO was heard. The points, that arise for the consideration of this inquiry authority are:-

- 1) Whether the Disciplinary Authority satisfactorily proved the charges framed against DGO?
- 2) What order?

10. My finding on the above points are as follows:-

Point No.1: In the “ **AFFIRMATIVE**”

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

**:: REASONS ::**

**11 Point No.1:** It is the case of the Disciplinary Authority that the DGO while working as the Panchayath Development Officer, T. Beguru Grama Panchayath, Nelamangala, Bengaluru Rural District on 13/10/2010 demanded the bribe of Rs. 18,000/- from the complainant and received the same through one Sri Rudrappa for reducing the tax amount for the period of two years in respect of Surya Gas Filling company

standing in the name of the wife of the complainant and thereby he has committed the misconduct.

12. The complainant has been examined as PW1 and the complaint lodged by him is marked as Ex.P1. The gist of Ex.P1 is to the effect that Pw1 is looking after the Surya Gas Filling Company situated in the limits of T. Beguru Grama Panchayath which stands in the name of his wife and the tax for two years in respect of the same was due and on 06/10/2010 he went to the grama panchayath office, T. Beguru and the concerned official was not in the office and through the clerk he got the mobile number of the concerned official as 9845015618 and through his mobile bearing No. 9448047271 he contacted the above said number and he was told that the tax is calculated as per the new rules and according to his calculation yearly it comes to Rs. 1,50,000/- and asked the complainant to meet him in hotel Kadamba situated in Mahalakshmiapuram and PW1 went to that hotel and met the Panchayath Development Officer (DGO) and the DGO demanded Rs. 1,00,000/- to reduce the tax on the basis of the old assessment and when PW1 expressed his inability to pay the above said amount the DGO insisted for Rs. 20,000/- and finally reduced the amount for Rs. 18,000/-. In Ex.P1 it is also stated that the DGO asked the complainant to pay the above said amount of Rs. 18,000/- and to bring the D.D. for Rs. 30,080/- towards the tax for two years and to meet him on 13/10/2010 in Kadamba hotel and PW1 has obtained the D.D. for the above said amount bearing D.D. No. T.P. 951443 and also produced Rs. 18,000/- before Lokayukta police while lodging the complaint on 30/10/2010 at 2 p.m.

13. PW1 in his evidence has deposed that Smt. Shamntha is his wife and he was running the above said Surya Gas company and he gifted the same in favour of his wife. He has deposed that as on the date of his complaint, he was due tax for two years to the panchayath in respect of the above said gas company. He has deposed that when he went to the grama panchayath office T. Beguru to pay the tax the grama panchayath members demanded for the bribe amount. He has deposed that he has not talked with the DGO about the payment of tax over phone and again he has deposed that he do not remember whether he had made the phone call to the mobile No. 98450 15618 (mobile of the DGO). He has deposed that he has not met the DGO in connection with the payment of arrears of tax and the DGO has not demanded any bribe amount from him. He admits that Ex.P1 is the complaint given by him and Ex.P1(a) is the xerox impression of his signature. He also admits that Ex.P2 contains the denomination and numbers of the currency notes produced by him. He also admits that Ex.P2(a) is his signature. He has deposed that in Ex.P3 his signature is found as per Ex.P3(a) and likewise his signature is also found in Ex.P4. Ex.P3 is the copy of the entrustment mhazar and Ex.P4 is the copy of the trap mahazar. He has deposed that he do not know the contents of Ex.P3 and Ex.P4.

14. PW1 has been treated as hostile witness by the presenting officer and cross-examined. In his cross-examination he has deposed that he was not willing to pay the bribe, he lodged the complaint-Ex.P1 against the panchayath members. As stated above, the contents of Ex.P1 shows that

the complaint is not against the panchayath members and it is against the DGO only. He has deposed that he do not remember whether after the lodging of Ex.P1, I.O. secured two panchas and introduced them to him. He admits that he produced the bribe amount of Rs.18,000/- before the I.O. He also admits that the pancha witnesses noted the denomination and numbers of the currency notes produced by him. He has deposed that he do not remember whether the phenolphthalein powder was smeared to the currency notes and those currency notes were kept in his left side pant pocket by the pancha witness by name Sri Muralidhar. He has deposed that he do not remember whether he was instructed to meet the DGO and that he should give the tainted currency notes only if the DGO demands for the bribe amount. He admits that himself, panchas, I.O. and his staff left the Lokayukta police station in the departmental vehicle and that vehicle was stopped about 200 mts from Kadamba hotel situated in Mahalakshmiapuram. He also admits that himself and the shadow witness were sent by the I.O. to the said hotel. But he has deposed that they were sent to meet the panchayath members and not the DGO. He also admits that at 19.10 p.m. the DGO came to the said hotel and sat in front of him and at that time there was another person along with the DGO. Thus PW1 admits that on 13/10/2010 he had been to the above said hotel and the DGO also came to that hotel along with another person sat in front of him. He has deposed that he do not know whether the person who came along with the DGO is Sri Rudrappa. He has denied the remaining portion of the case of the disciplinary authority. It is pertinent to note that the panchayath members are not empowered to

collect the tax and it is only the DGO being the Panchayath Development Officer who was entitled to collect the property tax. Hence, the evidence of PW1 to the effect that he had met the panchayath members in the office and they demanded for the bribe amount and that he lodged the complaint against the panchayath member is not believable and PW1 has given the above said evidence only with an intention to help the DGO. As stated above, the complaint-Ex.P1 clearly shows that it is the DGO who has demanded for the bribe amount from the PW1 and not the panchayath members. As stated above, PW1 admits the presence of the DGO and Sri Rudrappa in the above said hotel on 13/10/2010 at 7.10 p.m. which clearly supports the case of the disciplinary authority. It is also pertinent to note that PW1 has not deposed that any of the panchayath member of the above said panchayath had asked him to meet him in the above said hotel on the above said date and time. Hence, it can only be said that as per the averments made in the complaint, the I.O., his staff, PW1 and panchas had gone to the above said hotel on the above said date in view of the DGO asking PW1 to pay the bribe amount in the above said hotel on the above said date and time.

15. PW2 is Sri Sathish, and he has deposed that in the year 2010 he was working as FDA in Bengaluru Urban District Planning Department and one day as per the direction of his higher officer he had been to the Lokayukta police station and reported before the Inspector. He has deposed that Ex.P2 is the copy of the sheet on which the denomination and numbers of the currency notes are mentioned. He has deposed that the powder was smeared to those notes. He has deposed that



afterwards they were taken to Kadamba hotel and there PW1 made the phone call to the DGO. He has deposed that after half an hour of the same the DGO came to the Kadamba hotel and he has deposed that himself and police inspector were sitting in one table and at a distance of 5' to 6' from them the DGO was sitting. He has deposed that they were many customers in the said hotel and he do not know about the incident that took place in that hotel. He has deposed that the DGO was apprehended and he was taken to the Lokayukta police station. He has deposed that he has signed Ex.P3-Entrustment mahazar and Ex.P4-trap mahazar. He has been treated as hostile witness by the disciplinary authority and cross-examined.

16. In his cross-examination he has deposed that he signs the documents only after knowing the contents of the same. He admits that on 13/10/2010 he had gone to the Lokayukta police station and Sri Muralidhar and the complainant-Sri Lokanatha Singh were present in the station and the complainant was introduced to himself and Sri Muralidhar. He further admits that the copy of the complaint was given to them and they read the same. He has also admitted about the contents of the complaint. He has deposed that PW1 produced Rs. 18,000/- and himself and the pancha witness Sri Muralidhar verified the notes and noted down the denomination and numbers of those notes in a sheet and the copy of the same is at Ex.P2. He has admitted all the averments made in the entrustment mahazar-Ex.P3 as true when the same was suggested to him by the learned presenting officer.

17. He also admits that after the entrustment mahazar they went to the Kadamba hotel. In his cross-examination he has deposed that he has not seen PW1 approaching the DGO and the DGO telling PW1 to give the amount to Sri Rudrappa and Sri Rudrappa receiving the amount and keeping the same in his right side pant pocket. He admits that the I.O. told the DGO that the case is registered against him and to co-operate in the investigation. He also admits that as the hotel was a public place the DGO and Sri Rudrappa were taken to Lokayukta police station and in the Lokayukta police station the hands of Sri Rudrappa were washed in the solution and that solution turned to pink colour. He also admits that Sri Rudrappa produced the tainted currency notes from his left side shirt pocket and those notes tallied with the notes mentioned in Ex.P2. He also admits that the DGO gave is explanation as per Ex.P7 and Sri Rudrappa is gave his explanation as per Ex.P8, Ex.P4 is the copy of the trap mahazar. Ex.P5 are the copies of the documents seized at the time of the trap mahazar. Only on the ground that PW2 has given some answers in accordance with the case of the disciplinary authority in his cross-examination by the Presenting Officer the same cannot be discarded. As stated above, PW2 admits that he was sitting in the above said hotel and at a distance of 5' to 6' from him the DGO was sitting and it is hard to believe that he has not seen the complainant approaching the DGO regarding his work and the DGO asking for money and directing PW1 to pay the same to Sri Rudrappa who was with him. As stated above, PW2 admits that the hand wash of Sri Rudrappa was positive and even the tainted currency notes were found in the left side pant pocket of Sri

Rudrappa. Hence, it can be said that PW2 has also tried to help the DGO by deposing that he do not know what happened in the hotel.

18. PW3 is another pancha witness by name Sri Muralidhar S. Thallikere and he has deposed that on 13/10/2010 he had gone to Bengaluru Rural Lokayukta police station and reported before the police inspector. He has deposed that PW2 also reported on the same day at the same time as another pancha witness and the complainant Dr. Lokanatha Singh was present and the police inspector introduced him to them and he also read the copy of the complaint. He has also deposed about the contents of the complaint. He has deposed about PW1 producing the amount of Rs. 18,000/- He has deposed about all the averments made in the entrustment mahazar, the copy of which is at Ex.P3. Hence, I feel it is not necessary to re-produce the evidence given by PW3 in his evidence in that respect. He has deposed that all of them left the Lokayukta police station at about 5 p.m. and went to Kadamba hotel and the vehicle was stopped at a distance of 200' from the hotel and PW1 and PW2 were sent to the hotel by reminding them of the instructions given to them at the time of Ex.P3-Entrustment Mahazar. He has deposed that at 7.30 p.m. the complainant gave the miss call to the mobile of police inspector (I.O.). He has also deposed that himself and the police were also inside the hotel and at a distance of 10' from the table where PW1 was sitting and they were also observing things. He has deposed that PW1 asked the DGO about the tax and the DGO asked PW1 whether he has brought the amount and when PW1 tried to give the amount

to the DGO, the DGO asked PW1 to give the amount to the person sitting by the side of the DGO and accordingly the person who was sitting by the side of the DGO received the amount, counted the same and kept it in his left side pant pocket. He has deposed that the I.O. showed his identity card to the DGO and told him about the complaint registered against him. He has deposed that PW1 told that the DGO asked for the amount and instructed PW1 to pay the same to the person sitting by the side of the DGO. He has deposed that the police caught hold of the person who was sitting by the side of the DGO and in view of the hotel being the public place brought the DGO and the above said person (Sri Rudrappa) to the Lokayukta station. He has deposed that the hands of Sri Rudrappa were washed separately in sodium carbonate solution and both the solution turned to pink colour. He has deposed that Sri Rudrappa produced the tainted currency notes from his pant pocket and those notes were the same notes mentioned in Ex.P2. He has deposed about the pant wash of Sri Rudrappa being positive. He has deposed that Ex.P5 is the copy of the tax paid receipt. He has deposed that the copy of the trap mahazar is at Ex.P4. In Ex.P4 it is clearly stated that the DGO gave the receipt (original of Ex.P5) by receiving the D.D. and afterwards he instructed PW1 to pay the above said amount of Rs. 18,000/- to Sri Rudrappa who was sitting by his side.

19. Ex.P10 is the rough sketch prepared by I.O. and Ex.P14 is the copy of the sketch of scene of occurrence prepared by PWD Engineer. There is no difference in the sketches Ex.P10 and P14. According to Ex.P10 and P14, PW3 was sitting on the

next table from where PW1, DGO and Sri Rudrappa were sitting. According to Ex.P10 and P14 PW1 was sitting in the table situated by the side of the table where PW3 was sitting. Hence, it can be said that PW3 was very near to the complainant, the DGO and Sri Rudrappa when compared to PW2. Hence, it can be said that the evidence of PW3 to the effect that he has seen the DGO demanding for the amount from PW1 and instructing PW1 to give the same to Sri Rudrappa who was sitting by his side is believable. In view of Ex.P10 and P14 it cannot be said that PW3 has gone inside the said hotel only after the incident. As stated above, PW3 has clearly deposed that he was also sitting in one of the table in the above said hotel and he has seen PW1 requesting the DGO about his work and the DGO asking PW1 whether he has brought the amount and further telling PW1 to give the amount to Sri Rudrappa who was sitting by the side of the DGO and Sri Rudrappa receiving the amount, counting the same and keeping the same in his left side pant pocket. Thus the evidence of PW3 completely supports the case of the disciplinary authority about the DGO demanding and accepting the illegal gratification amount from PW1 on 13/10/2010 in the above said hotel. In his cross-examination he has deposed that after PW1 gave the signal himself and police inspector went inside the hotel. But he has clearly deposed that he has seen the incident from the distance of 10' even though in the trap mahazar is not specifically stated that PW3 and P.I. were inside the hotel when PW1 gave the amount. The sketches Ex.P10 and P14 and the evidence of PW3 clearly shows that PW3 was inside the hotel when PW1

gave the tainted currency notes to Sri Rudrappa on the instructions of the DGO and that he has seen the same.

20. PW4 is the Police inspector by name Dr. S.Prakash and he has deposed that he was working as Police Inspector in Lokayuka, Bengaluru division and on 13/10/2010 at 2 p.m. Dr.Lokaykta Singh, (PW1) came to the police station and gave the written complaint and copy of the same is at Ex.P1. He has also deposed about the averments made in the complaint. He has deposed that he registered the case on the basis of Ex.P1 and sent the FIR to the court and copy of the same is at Ex.P9. He has deposed that securing two public servants as panchas and PW1 producing an amount of Rs. 18,000/- and he has deposed about all the averments mentioned in the entrustment mahazar the copy of which is at Ex.P3. He has deposed that as per the complaint the DGO had asked PW1 to give the illegal gratification on 13/10/2010 in the evening in Kadamaba hotel. He has deposed that after the entrustment mahazar all of them went to Kadamaba hotel and PW1 and PW2 went inside that hotel and himself and others were waiting for the signal of PW1. He has deposed that at 7.30 p.m. PW1 gave the miss call to his mobile and he immediately went inside the hotel and PW1 showed the person sitting opposite to his table and told that he is the Panchayath Development Officer, Sri Hanumantharayappa and as per his instruction he has given the amount to the person sitting by his side and that person received the amount, counted the same and kept it in his left side pant pocket. He has deposed that he instructed both of them for what purpose he has come to the above said hotel and instructed them to co-operate for

investigation. He has deposed that as it was a public place he took the DGO and the person who was with him to the Lokayukta station and in the station sodium carbonate solutions were prepared and the hands of Sri Rudrappa (the person who was sitting by the side of the DGO in the hotel) were washed separately and both the solutions turned to pink colour. He has deposed that the tainted currency notes were found in the left side pant pocket of Sri Rudrappa and same was seized. He has deposed that the pant wash of Sri Rudrappa was positive and the explanations given by the DGO and Sri Rudrappa are at Ex.P7 and P8 respectively. He has deposed that the DGO had given the kandyam paid receipt to PW1 and the copy of the same is at Ex.P5. He has deposed that the copy of the trap mahazar is at Ex.P4. He has deposed that the copy of the rough sketch prepared by him is at Ex.P10. He has deposed that Ex.P6 are the photostate copies of the photographs taken at the time of the entrustment mahazar and trap mahazar. He has deposed that the FSL report copy is at Ex.P11. He has deposed that Ex.P14 is the copy of the sketch prepared by the PWD Engineer of scene of occurrence. He has deposed that Ex.P13 is the call details of the mobile of the complainant and the DGO.

21. One of the document marked as Ex.P5 is the demand register extract. PW4 admits that in the same the name mentioned is Shamanth L.Singh. But he has deposed that instead of Shamuntha L. Singh, Shamanath L Singh is written wrongly. In his cross-examination he has deposed that PW1 might be the scientist and the doctor. Even in Ex.P1, PW1 has described itself as Dr. Shanmantha Singh. PW4 has clearly

denied the suggestion of the learned counsel for the DGO to the effect that PW1 does not know reading and writing Kannada. The above said contention of the learned counsel for the DGO to the effect that PW1 is a Scientist and Doctorate holder supports the case of the disciplinary authority to the effect that he has signed Ex.P1, Ex.P3 and Exd.P4 knowing its contents and not as deposed by him before this enquiry.

22. Even though PW4 has been cross-examined at length nothing is made out in his cross-examination to discard his evidence. It is also pertinent to note that according to the rough sketch of scene of occurrence drawn by PW4 (Ex.P10) PW4 was at a far of distance from PW1 and DGO when the incident of this case took place even though according to Ex.P10 PW4 was also sitting inside the hotel at that time.

23. DW1 is the DGO and he has deposed that on 13/10/2010 at 7.40 p.m. he went to Kadamba hotel to take coffee and some persons who were inside that hotel caught hold of him and those persons were in the civil dress and some persons who were in the hotel made galata in that respect and one of the person who made galata was also taken along with him to the Lokayukta police station situated in M.S. Building and he came to know that the name of the other person who was taken to the Lokayukta police station is Sri Rudrappa. He has deposed that he was not at all knowing Sri Rudrappa earlier to that.

24. Ex.P7 is the copy of the explanation given by the DGO immediately after the trap. In the same it is stated that the DGO on 13/10/2010 PW1 made phone call to him and told



that he has to pay the tax to his property in order to take loan and to receive the tax and to give the receipt. In the same it is further stated that PW1 told that he cannot come to the office and that he is ready to pay the amount demanded by the DGO. It is further stated in the same that PW1 had come to the said hotel to give Rs. 18,000/- to him and he asked PW1 to give the amount to the person who was with him and that person was not knowing anything about the same. Thus in Ex.P7 the DGO admits that PW1 gave Rs. 18,000/- to him in the said hotel and he asked PW1 to give the same to the person who was with him (Sri Rudrappa) and accordingly PW1 gave the amount to Sri Rudrappa and Sri Rudrappa received the same as per the instructions of the DGO.

25. Ex.P8 is the copy of the explanation of Sri Rudrappa in which it is only stated that on 13/10/2010 he was with the DGO and Sri Lokayktanath Singh had met the DGO and suddenly the amount was given to him and he is not concerned with that amount.

26. PW4 and PW3 have clearly deposed that PW1 denied the contents of Ex.P7 and P8 as false. DW1 has deposed that he has written Ex.P7 as per dictation of the I.O. and signed the same due to the force of the I.O. It is pertinent to note that DW1 has not given any complaint in that respect to any of the higher officer of PW4. He has deposed that he did not observe whether the hand wash of Sri Rudrappa was positive. He has deposed that he has no ill-will with the complainant or the I.O. As stated above in his written statement and in his comments marked as per Ex.P16 the DGO admits that on 13/10/2010

he had been to Kadamba hotel and talked with PW1 and PW1 also sat with him in that hotel. But denies the remaining portion of the case of the disciplinary authority. As stated above, PW3 has given the evidence regarding the demand and acceptance of the tainted currency notes by the DGO on 13/10/2010 from the complainant in the above said hotel. As already stated above, PW1 and PW2 have tried to help the DGO by suppressing the real facts in their evidence. The evidence of PW3 and PW4 and also the evidence given by PW1 and PW2 in their cross-examination by the presenting officer probabalises the case of the disciplinary authority and not the above said defence of the DGO. The facts and circumstances of this case stated above probabalises the case of the disciplinary authority only.

27. Ex.D1 is the certified copy of the judgment passed in Special Case No. 3/2012 passed by the Prl. Sessions Judge and Special Judge, Bengaluru Rural District dated: 17/9/2013 wherein the DGO and Sri Rudrappa acquitted for the offence punishable u/sec. 7, 13(1)(d) r/w sec 13(2) of the Prevention of Corruption Act, 1988. Even otherwise it is pertinent to note that only on the ground that the DGO has been acquitted in the criminal case it cannot be held that, the disciplinary authority has not proved its case in this departmental enquiry. It is well established principle of law that, in the criminal case the prosecution has to prove its case beyond all reasonable doubt. Where as in the departmental enquiry the evidence has to be scrutinised on the basis of the preponderance of probabilities. In the decision reported in **1997(2) SCC 699 in case of Depot Manager, APSRTC V/S**

**Mohammed Yosuf Miya and others, (2005)7 SCC 764**  
**between Ajit Kumar Nag v/s General manager (P) Indian**  
**Oil Corporation Limited, Haldia and others** and recent  
decision of Hon'ble Supreme Court in **(2012)13 Supreme**  
**Court Cases 142 in a case of Avinash Sadashiv Bhosale**  
**(dead) V/S Union of India and others** made out very clear  
that, the purpose of departmental enquiry and the prosecution  
are too different and distinct aspect though the two  
proceedings relates to the same set of facts. The nature of  
evidence in criminal case is entirely different from the  
departmental proceedings and in the criminal case the  
prosecution is required to prove the guilt of the accused  
beyond all reasonable doubt on the touch-stone of human  
conduct and where as the evidence required in a departmental  
enquiry is not regulated by the Evidence Act. Therefore,  
misconduct of the DGO required to be taken into  
consideration on the basis of preponderance of probabilities  
and merely the DGO has been acquitted in the criminal case  
by the judgment in Special Case No. 03/2012 on the Principal  
Sessions Judge and Special Judge, Bengaluru Rural District,  
by itself is not sufficient to overlook the evidence placed on  
record by the Disciplinary Authority.

28. The learned counsel for the DGO has relied upon the  
decisions reported in 2018 Cr.R.368 (Kant.) in State by  
Lokayukta Police, Shimoga V/S K.C. Hoovappa, AIR 1994  
SUPREME COURT 1538 in Babu Lal Bajpai V/s State of U.P.,  
2012 (1) KCCR 414, Karnataka High Court, in R.Malini V/s  
State of Karnataka, 2006 (3) KCCR 1445, Karnataka High  
Court in State of Karnataka V/S K.t. Hanumanthaiyah, 2012

(2) KCCR 1157, Karnataka High Court, in Sri Hanumanthappa V/s State of Karnataka .

29. All the above said decisions are rendered under Prevention of Corruption Act 1988 and they are not of any help to the DGO in this departmental enquiry as this enquiry has to be decided on the basis of preponderance of probabilities. He has also relied upon AIR 1972 SUPREME COURT 2539 in State of Assam v/s Mohan Chandra Kalita and another, 2010(4) KCCR 2677, Karnataka High Court, in H.Gopal V/S State of Karnataka, 2011 SAR (Criminal) 421, SUPRME COURT in State of M.P. v/s Ramesh and another. But the facts of the above said cases are different from the facts of this case. He has also relied upon the decision reported in (2015) 1 SUPREME COURT CASES (CrI.) 24 in Anvar P.V. v/s P.K. Basheer and others which deals with the Sec. 65(B) of the Indian Evidence Act. In this case I have not considered the call details marked as per Ex.P13 and hence, the above said decision is not of any help to the DGO.

30. Thus the DGO has failed to maintain absolute integrity, devotion to duty and acted in a manner of unbecoming of Government Servants. Hence, I answer the above point No.1 in the **AFFIRMATIVE**.

**31. Point NO.2:-** For the reasons discussed above, I proceed to pass the following:-

**:: ORDER ::**

*The Disciplinary Authority has satisfactorily proved the charge against the DGO-Sri Hanumantharayappa, the then Panchayath Development Officer, T. Beguru Grama Panchayathi, Nelamangala Taluk, **Bengaluru Rural District.***

32. Hence this report is submitted to Hon'ble Upalokayukta-2 for kind perusal and for further action in the matter.

Dated this the 19<sup>th</sup> day of February, 2019

-Sd/-  
(Somaraju)  
Additional Registrar Enquiries-4,  
Karnataka Lokayukta,  
Bengaluru.

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

PW-1 : Sri Lokanatha Singh (complainant)  
PW-2 : Sri Sathish (shadow pancha witness)  
PW-3: Sri Muralidhar S. Thallikeri (another pancha witness)  
PW-4:Dr. S. Prakash (I.O.)

**LIST OF WITNESSES EXAMINED ON BEHALF OF THE DEFENCE:**

DW-1:Sri Hanumantharayappa (DGO)

**LIST OF EXHIBITS MARKED ON BEHALF OF DISCIPLINARY AUTHORITY**

Ex.P-1:Certified copy of the complaint dated: 13/10/2010  
Ex.P-1(a): Relevant entry in Ex.P1  
Ex.P-2:Certified copy of the notes denomination and numbers mentioned white sheet  
Ex.P2(a):Relevant entry in Ex.P2

- Ex.P-3: Certified copy of the entrustment mahazar  
Ex.P-3(a): Relevant entry in Ex.P3  
Ex.P-4: Certified copy of the trap panchanama  
Ex.P4(a): Relevant entry in Ex.P4  
Ex.P-5: Certified copy of the kandayam paid receipt dated:  
13/10/2010  
Ex.P-6: Certified copy of the Xeroxed photos on the white sheet  
Ex.P-7: Certified copy of the explanation of DGO  
Ex.P-8: Certified copy of the explanation of Sri Rudrappa  
Ex.P-9: Certified copy of the FIR  
Ex.P-10: Certified copy of the rough sketch  
Ex.P-11: Certified copy of the chemical examination report dated:  
30/11/2010  
Ex.P-12: Certified copy of the service particulars of DGO  
Ex.P-13: Certified copy of the memorandum dated: 09/05/2011  
with call details (consists of 10 sheets)  
Ex.P-14: Certified copy of the sketch  
Ex.P-15: Certified copy of the letter of I.O. KLA, Bengaluru Rural  
district dated: 03/12/2010 addressed to E.O. Taluk  
Panchayathi, Nelamangal Taluk, Bengaluru Rural District  
with certified copy of the enclosures  
Ex.P-16: Original reply of the DGO to the comments dated:  
13/04/2012 addressed to ARLO-2, KLA, Bengaluru  
Ex.P-16(a): Relevant entry in Ex.P16

**LIST OF EXHIBITS MARKED ON BEHALF OF DGO:**

- Ex.D-1: Certified copy of the judgment passed in Special Case No.  
3/2012 dated: 17/09/2013 by Prl. Sessions Judge and  
Special Judge, Bengaluru Rural District  
Ex.D-2: Xerox copy of the letter of D.S. Government of Karnataka,  
Home Department, dated: 13/03/2014 addressed to the  
ADGP, KLA, Bengaluru

Dated this the 19<sup>th</sup> day of February, 2019

-Sd/-  
(Somaraju)  
Additional Registrar Enquiries-4,  
Karnataka Lokayukta,  
Bengaluru.