

GOVERNMENT OF KARNATAKA**KARNATAKA LOKAYUKTA**

No.UPLOK-2/DE/32/2022/ARE-17

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560001
Date: 06th October, 2022.**RECOMMENDATION**

Sub: Departmental Inquiry against Shriyuths:

- (1) K.Appaji, retired Executive Engineer, KRIDL (then working at Sindhanur, Raichur).
- (2) Basavaraja T. Malakappa, Assistant Executive Engineer (in-charge), KRIDL, Jevargi (then working at Sindhanur, Raichur)-reg.,

Ref: 1) Order No.ಕೆಆರ್‌ಐಡಿಎಲ್/ಆಡಳಿತ/ಲೋಕಾಯುಕ್ತ/ಜಿಎಲ್‌ಬಿ-3009/2021-22(ಇವಿ), ಬೆಂಗಳೂರು, dated: 01/02/2022.

2) Nomination Order No.UPLOK-2/DE/32/2022, Bengaluru, datcd: 19/02/2022 of Upalokayukta, State of Karnataka, Bengaluru.

4) Inquiry Report dated: 03/10/2022 of Additional Registrar of Enquiries-17, Karnataka Lokayukta, Bengaluru.

The Competent Authority by its order dated: 01/02/2022 initiated the disciplinary proceedings against (1) Shri K.Appaji, retired Executive Engineer, KRIDL (then working at Sindhanur, Raichur) and (2) Shri Basavaraja T. Malakappa, Assistant

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Executive Engineer (in charge), KRIDL, Jevargi (then working at Sindhanur, Raichur) (hereinafter referred to as Delinquent Government Officials, for short as DGOs No.1 and 2) and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.UPLOK-2/DE/32/2022, Bengaluru, dated: 19/02/2022 nominated Additional Registrar of Enquiries-17, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGOs No.1 and 2 for the alleged charge of misconduct, said to have been committed by them.
3. The DGO No.1, Shri K.Appaji, retired Executive Engineer, KRIDL (then working at Sindhanur, Raichur) and DGO No.2, Shri Basavaraja T. Malakappa, Assistant Executive Engineer (in-charge), KRIDL, Jevargi (then working at Sindhanur, Raichur) were tried for the following charges:

ANNEXURE-1
CHARGE

You the DGO No.1- Sri.Appaji, retired Executive Engineer, KRIDL, (then working at Sindhanur, Raichur), and you DGO No.2 - Sri.Basavaraja T Malakappa, Assistant Executive Engineer (incharge), KRIDL, Jevargi (then working at Sindhanur, Raichur), have not completed the undertaken work and have not constructed the drainage work for Rs.12.50 lakhs.

Thus, you DGOs 1 and 2, being Government/public servants have failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of Government servants and thus, you have committed misconduct U/Rule 3(1) (i) to (iii) of Karnataka Civil Services (Conduct) Rules, 1966.

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4. The Inquiry Officer (Additional Registrar of Enquiries-17) on proper appreciation of oral and documentary evidence has held that, the Disciplinary Authority has 'Not Proved' the charges leveled against the DGO No.1, Shri K.Appaji, retired Executive Engineer, KRIDL (then working at Sindhanur, Raichur) and DGO No.2, Shri Basavaraja T. Malakappa, Assistant Executive Engineer (in-charge), KRIDL, Jevargi (then working at Sindhanur, Raichur).
5. On perusal of the Inquiry Report, in order to prove the guilt of the DGOs No.1 and 2, the Disciplinary Authority has examined two witnesses i.e., PW-1 and PW-2 and Ex. P-1 to P-8 documents were got marked. DGO No.2 has examined himself DW-1 and Ex. D-1 to D-5 documents were got marked.
6. On re-consideration of Inquiry Report and taking note of the totality of the circumstances of the case, I do not find any reason to interfere with the findings recorded by the Inquiry Officer. Therefore, it is hereby recommended to the Government to accept the report of Inquiry Officer and to exonerate DGO No.1, Shri K.Appaji, retired Executive Engineer, KRIDL (then working at Sindhanur, Raichur) and DGO No.2, Shri Basavaraja T. Malakappa, Assistant Executive Engineer (in-charge), KRIDL,



Jevargi (then working at Sindhanur, Raichur) of the charges leveled against them.

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

Connected records are enclosed herewith.

6/10/22
(JUSTICE K.N.PHANEENDRA)
UPALOKAYUKTA-2,
STATE OF KARNATAKA.

KARNATAKA LOKAYUKTA

No. UPLOK-2/DE-32/2022/ARE-17

M.S. Building
 Dr. B.R. Ambedkar Road
 Bengaluru.
 Date : 03/10/2022

ENQUIRY REPORT

PRESENT: SRI. RAJKUMAR S AMMINBHAVI,
 ADDITIONAL REGISTRAR (ENQUIRIES)-17
 M.S. BUILDING
 KARNATAKA LOKAYUKTA
 BENGALURU - 560 001.

Subject : Departmental Inquiry against:

- 1) **Sri.K.Appaji**, retired Executive Engineer, KRIDL (then working at Sindhanur, Raichur).
- 2) **Sri.Basavaraja T Malakappa**, Assistant Executive Engineer (incharge), KRIDL, Jevargi (then working at Sindhanur, Raichur). - Reg.

- References:**
1. Report u/s 12(3) of the Karnataka Lokayukta Act, 1984 in Compt/Uplok/GLB-3009/2015/ARE-11 dt: 08/04/2021.
 2. Order No. ಕೆಆರ್‌ಐಡಿಎಲ್/ಆಡಳಿತ/ಲೋಕಾಯುಕ್ತ/ಜಿಎಲ್‌ಬಿ-3009/2021-22(ಇವಿ), dated 01/02/2022.
 3. Nomination Order No. Uplok-2/DE/32/2022 Bengaluru dt. 19/02/2022 of Hon'ble Upalokayukta.

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This enquiry is initiated on the basis of complaint filed by Sri.Yesumitra Macchi S/o. Ajappa, Vidyanagara, Ward No.5, Siravara Village, Manvi Taluk, Raichur District, (hereinafter referred to as 'complainant' in short) against (1)

Handwritten signature and date: 03/10/22

Sri.K.Appaji, retired Executive Engineer, KRIDL (then working at Sindhanur, Raichur). (2) Sri.Basavaraja T Malakappa, Assistant Executive Engineer (incharge), KRIDL, Jevargi (then working at Sindhanur, Raichur) (hereinafter referred to as 'DGO' for short) and others alleging that the work undertaken by the DGOs has not completed C.C.Road and they have not constructed the drainage work for Rs.12.50 lakhs.

2. After completion of investigation, a report was sent to the Government u/s 12(3) of the Karnataka Lokayukta Act, 1984 against the DGO1 and 2, as per reference No.1. In pursuant to the report, Government was pleased to issue the Order authorizing Hon'ble Upalokayukta to hold an enquiry against the DGO.1 and 2 i.e., (1) Sri.K.Appaji, retired Executive Engineer, KRIDL (then working at Sindhanur, Raichur). (2) Sri.Basavaraja T Malakappa, Assistant Executive Engineer (incharge), KRIDL, Jevargi (then working at Sindhanur, Raichur) as per reference No. 2.

3. On the basis of the Order, nomination order was issued by Hon'ble Upalokayukta on 19/02/2022 authorizing ARE-17 to frame Article of Charges against the DGO.1 and 2, and to hold an enquiry and to submit a report as per reference No.3. On the basis of the nomination order, the Article of Charges against DGO.1 and 2 was framed and sent to the Delinquent Government Official on 21/03/2022.

4. The Article of charges and the statement of imputations of misconduct prepared and leveled against the DGOs is reproduced here as under :-

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ANNEXURE-I
CHARGE :

1. That, you the DGO No.1- Sri.Appaji, retired Executive Engineer, KRIDL, (then working at Sindhanur, Raichur), and you DGO No.2 - Sri.Basavaraja T Malakappa, Assistant Executive Engineer (incharge), KRIDL, Jevargi (then working at Sindhanur, Raichur), have not completed the C.C.Road undertaken work and have not constructed the drainage work for Rs.12.50 lakhs.

Thus, you DGOs 1 and 2, being Government/public servants have failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of Government servants and thus, you have committed misconduct U/Rule 3(1) (i) to (iii) of Karnataka Civil Services (Conduct) Rules, 1966.

ANNEXURE-II
STATEMENT OF IMPUTATION OF MISCONDUCT:

2. The complaint is filed by Sri.Yesumitra Macchi, S/o Ajappa, Vidyanagara, Ward No.5, Siravara Village, Manvi Taluk, Raichur District (hereinafter referred to as 'complainant') against 5 respondents who are all Government Servants. He has stated that the work undertaken by the respondents was not completed C.C.Road and they have not constructed the drainage work for Rs.12.50 Lakhs. He has produced a copy of the report of District Social Welfare Officer, Raichuru dated 13/03/2014 submitted to the CEO, ZP,

Raichuru. An investigation was taken up after invoking Section 9 of Karnataka Lokayukta Act, 1984.

3. The CEO, Z.P. Raichur reported that, as per the report of District Social Welfare Officer and Special Project Officer of District Social Welfare Office, Raichuru, the works are not up to the prescribed standard and drainage at the estimated cost of Rs.12.50 Lakhs has not been formed in Ward No.5 of Sirawara. Thereafter, on calling the report of the Executive Engineer, KRIDL, Raichuru vide letter No.ಜಿಪರಾ/ಯೋಜನೆ/ದೂರ/2011-12 dated 19/06/2014, the said Executive Engineer, KRIDL, Raichuru reported that, entire work at the estimated cost of Rs.25 Lakhs is executed and handed over to the PDO, Siriwara. CEO, ZP, requested to collect the details of work from the Deputy Commissioner, Raichuru since, Deputy Commissioner, Raichuru sanctioned administrative approval and supervised the works.

4. Further, the Deputy Commissioner, Raichuru District, submitted a report dated 03/03/2020 stating that, (1) Sri.K.Appaji, the then Executive Engineer, KRIDL, Raichuru (now retired), (2) Sri.Abdul Rashid, the then Assistant Executive Engineer, KRIDL, (now retired), and (3) Sri.Basavaraja, the then Assistant Engineer, KRIDL, Raichuru, now working as AEE, KRIDL, Lingasuguru were responsible for not carrying out the works. Later Sri.Appaji, the then Executive Engineer, KRIDL, Raichur was impleaded as Respondent No.6.

5. R-1, R-2 and R-6 have submitted their comments. The comments of R-1 and R-6 are similar. They have stated that, there was no sub-standard work and 3rd party investigation report shows that, the project was not substandard.

6. The 2nd Respondent has stated that, he was retired from service on 30/06/2016 on superannuation, as per Rule 214 of KCSR no action of framing articles of charge may be made against him for the alleged misconduct after 4 years from the date of incident and prays to drop the proceedings against him.

7. The report of the D.C, shows that, the District Social Welfare Officer has reported to the CEO, ZP, Raichur, that, the works in the above project were of sub-standard quality. It is also further stated in the report that, E.E, KRIDL, Raichuru has not stated anything about the self-assessment made about the quality of work done in the project. Hence, the D.C, has opined that, the E.E, KRIDL, has indirectly agreed that, the work was sub-standard. The D.C. has also opined that, the E.E, KRIDL, Raichur has not given proper report.

8. In view of the report of the Deputy Commissioner, the comments of R-1 and R-6 are not accepted. As far as the comments of R-2 is concerned under Rule 214(2)(b)(ii) of KCS Rules no departmental inquiry can be instituted against a retired employee for an incident which took place more than 4 years. As far as R-3, R-4 and R-5 are concerned, there are no

allegations against them, Hence, the complaint against R-2 to R-5 are dropped.

9. Therefore, a report in terms of section-12(3) of Karnataka Lokayukta Act, 1984 was made to the Competent Authority recommending for initiating disciplinary proceedings against DGO No.1 and 2 for their misconduct as defined under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules, 1966 and to entrust the same to this authority as per Rule 14A of KCS (CCA) Rules, 1957.

10. In turn, the Competent Authority initiated disciplinary proceedings against the DGOs 1 and 2 and entrusted the enquiry to this Institution vide reference No.1 and Hon'ble Upalokayukta has nominated this enquiry Authority to conduct enquiry and report vide reference No.2, **Hence this charge.**

5. The aforesaid Article of charges was served upon the DGO.1 and 2, and the DGO.1 and 2 are appeared before this enquiry authority and their first oral statement under Rule 11(9) of KCS (CCA) Rules, 1957 was recorded on 18/4/2022 and 25/4/2022 respectively. The DGO.1 and 2 have pleaded not guilty and claimed for holding an enquiry. The DGO.1 and 2 has filed Written Statement to the Articles of Charges on 25/4/2022.

6. The DGO.1 and 2 has denied the Articles of Charges. The Disciplinary Authority has led evidence of 2 witness PW-1 and 2, and got marked exhibits Ex.P1 to Ex.P.8.

7. After closing the evidence of Disciplinary Authority, Second Oral Statement of D.G.O-1 and 2 was recorded on 26/07/2022. They claimed that PW.1 and 2 have false evidence was given against them.

8. The D.G.O-2 examined as DW-1 witness and documents marked as Ex.D.1 to D.5 and on 6/9/2022 counsel for DGO.1 files memo stating that, they will not adduce evidence of DGO No.1. Hence, the defense side evidence is closed. Case is posted for arguments.

9. Heard the arguments.

10. Now, the points that arise for my consideration are;

1 : *Whether the charges leveled against the DGOs are proved by the Disciplinary Authority?*

2 : *What order?*

11. My findings to the aforesaid points are as under:-

POINT No.1 : In the NEGATIVE

POINT No.2 : As per the final order for the following;

REASONS

12. **POINT NO. 1** : To prove the case of the disciplinary authority in respect to allegations made in the complaint, the complainant who is examined as PW-1. He deposed that, he is the resident of Siravara Village in Raichur District. He has not filed any complaint against

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the DGOs before this institution. He do not know the contents of Form No.I and II which have typed copies. The signatures on Form No.I and II are his own signature, and thereby, Form No.I and II are marked as Ex.P.1 and Ex.P.2 and his signature marked as Ex.P.1(a) and Ex.P.2(a). But he has signed the Ex.P.1 and 2 about 7 years back and thereby he do not know for what reason he has signed Ex.P.1 and Ex.P.2. Two photo copies and in that two photo copies he know one Anil Kumar. The said Anil Kumar might have taken said photos in the year 2014 among the 4 photos one Raju and said Anil Kumar of their Siravara Village It is true that, in the year 2018 said Siravara Village is bifurcated from Manvi Taluk and it is now considered as Sirvara Taluk. The said 4 photo copies together marked as Ex.P.3. He has now submitted photo copies along with report submitted by the Commissioner of Social Welfare Department, Raichur to C.E.O, Zilla Panchayath, Raichur on 13/3/2014. Further, he do no know the contents of the said report dt.13/3/2014 alongwith photo copies, it is mentioned that, for the year 2012-13, it is mentioned like C.C.Road and drainage work done at Ward No.5, S.C/S.T Colony was substandard quality. (Since the said witness not supported the case of the disciplinary authority, and thereby, the Presenting Officer seeks permission to treat him hostile permitted them to cross examine PW.1). Accordingly, as per submission is made by the presenting Officer permission is accorded to cross examine the P.W.1.

13. In the cross of PW.1, he deposed that, it is true that, on 27/7/2015 he has filed complaint. He denied the suggestion that, on 13/3/2014 the Commissioner of Social Welfare Department, Raichur have submitted report to

C.E.O, Raichur alongwith 4 photo copies stating that, C.C. Road and drinking water work done at Ward No.5 of Siravara Village was substandard quality. Further he denied the suggestion that, the said Ward No.5 work was done by the K.R.I.D.L. department was substandard one and on account of that, he filed complaint against the DGO.1 and 2 as per Ex.P.1 and Ex.P.2. Further he denied the suggestion that, he himself has filed the complaint against the DGO.1 and 2 and at the instance of DGO-1 and 2 now he was deposing falsely.

14. For cross of PW.1 made by counsel for DGO-1, he deposed that, it is true that, none of the persons of their village of made any force to depose against the DGO-1 and 2. Further, it is true that, none of the villagers of Siravara Gram Panchayath were in his own relatives for the year 2012-13.

15. PW-2 in their chief examination she deposed that, she is retired Superintendent, Taluk Social Welfare Department. Further, she deposed that, in the month of January 2014 she was worked as Officer of Social Welfare Department at Manvi Taluk and Siravara Village comes within the Manvi Taluk. For the year 2013-14 as per Superintendent of Social Welfare Department of Raichur, District, Commissioner of Social Welfare Department, Raichur have jointly conducted investigation for the year 2012-13 for work of C.C.Road and drainage, Ward No.5 of Siravara Village and they have jointly noticed that, the aforesaid work was substandard work. Further it is true that, for the aforesaid work about Rs.12,50,000/- was allotted as per estimated cost. The copy of estimated cost is marked as Ex.P.4. The work of C.C.Road was under the

supervision of Assistant Executive Engineer by name Sri.Basavaraj, and said Basavaraj was handed over after the completion of said work to the P.D.O. Work completion letter is marked as Ex.P.5. The estimated cost of said Siravara Village, Ward No.5 C.C. Road and drainage work order as per letter granted by the Zilla Panchayath, Social Welfare Department, Raichur. The said amount sanctioned copy of order is marked as Ex.P.6 and copy of notification of said work is marked as Ex.P.7. On 15/1/2014 they have conducted joint inspection and at that time, they have also taken photographs of joint inspection made by them and submitted the report alongwith photocopies. The photocopies are marked as Ex.P.8 and her signature is marked as Ex.P.8(a). At the same time the Superintendent, Raichur by name Sri.Rajendra Jaladar was present and his signature is marked as Ex.P.8(b). On verification of C.C.Road they have noticed that it was substandard. The said work was under her supervision DGO-2 he has got constructed the said work.

16. In her cross examination made by the counsel for DGO, she deposed that, she was not Engineering Graduate. It is true that, prior to spot inspection they have not issued notice to DGO-1 and 2. At the time of spot inspection herself and aforesaid Rajendra Jaladar, Special Superintendent, Raichur alongwith one J.E of Raichur were visited the spot. It is true that, on Ex.P.8, the signature of said J.E. was not taken and they themselves have put their signature on Ex.P.8 and her signature is marked as Ex.P.8(a). It is true that, they have not taken the assistance of Technical expert at the time of spot inspection. But at the time, they have noticed that, for the

C.C.Road was more sand used for formation of C.C.Road was substandard one. She denied the suggestion that, they have not at all visited the spot, and the said road was not substandard work, and they have issued false report as per Ex.P.8.

17. So also DGO No.2 himself examined as DW-1. In his Chief examination, he deposed that, he has filed Affidavit/evidence, he denied the allegations made in the complaint and he has got marked 5 documents like he has handed over C.C.Road completion of work to the P.D.O, which is marked as Ex.D.1. On 8/11/2019 third party inspection report is marked as Ex.D.2. For the year 2012-13 C.C.Road and drainage estimated cost copy is marked as Ex.D.3. He has produced the copy of amount sanctioned by the Superintendent of Social Welfare Department Bangalore, for formation of C.C.Road at said village on 3/7/2020 and copy of said letter is marked as Ex.D.4 and remaining amount released on 20/1/2020 by the Deputy Director of Social Welfare Department, Raichur, to the Executive Engineer, K.R.I.D.L, Raichur which is marked as Ex.D.5. Further he deposed that, they have completed the said work as per estimated cost and said case may be dropped.

18. In his cross examination made by the presenting Officer, he deposed that, it is true as per Ex.D.5 Deputy Director of Social Welfare Department, Raichur have entrusted the said work to the K.R.I.D.L, Raichur. Further, it is true that, the amount was released through cheque. Further it is true that, the estimated cost of Rs.25 lakhs for formation of aforesaid C.C.Road and drainage as per Ex.P.7. Further it is true that, the construction of said road

and drainage as per Ex.P.7, the amount was released subject to condition as mentioned in the Ex.P.7. Further it is true that, as per Ex.P.6 and Ex.P.7, Ward No.5 of Siravara Village, they have not conducted the formation of CC Road and drainage. It is true that, as per estimated cost dt.15/1/2014 Superintendent of Special Committee of Taluk Social Welfare, Manvi Taluk and joint Social Welfare Officer of Raichur have conducted spot inspection and as per estimated cost of Rs.12,50,000/- the said road and drainage is to be formed as per Ex.P.8 and period is mentioned within one year, they have to complete it. Further, for the year 2013-14 third party inspection was conducted on 16/10/2019 as per Ex.D.2. He denied the suggestion that, he has not done the work as per third party inspection. Further he denied the suggestion that, as per Ex.D.4 and Ex.D.5 they have not completed the work as per the conditions and he is deposing falsely to escape from the liability knowing fully well they have done substandard work.

19. On perusal of evidence of PW.1 and documents produced by the PW.1/complainant, he has not supported the case of the disciplinary authority, though, he has admitted his signature on Ex.P.1 and P.2. Even after he has been treated hostile by the Presenting Officer in the cross of PW.1 made by the Presenting Officer, he has denied the averments made in the complaint, since he being the complainant and in presence of him DGO-1 and 2 who have conducted the spot inspection of formation of C.C. road and water supply drainage work at Ward No.5, Siravara Village, Manvi Taluk as per Ex.P.4 and even he has denied the joint spot inspection conducted by the

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Superintendent of Social Welfare Department, Raichur and Taluk Social Welfare Officer of Manvi Taluk as per Ex.P.8. Though they have submitted report, the work done by the DGOs was substandard quality, as per estimated cost of Rs.12,50,000/- and he has not identified the photographs marked as Ex.P.3 which have been shown to PW.1/complainant. P.W.1 except identifying his signature on Ex.P.1 and Ex.P.2, he has not stated anything against DGO.1 and 2, even after cross examination made by the Presenting Officer.

20. On perusal of evidence of PW.2 who is retired Superintendent of Social Welfare Department, Manvi Taluk, though she has deposed that, the said work was took place during the period of 2013-14 at Siravara Village, Manvi Taluk as per Ex.P.4 and cost of said work Rs.12,50,000/- was sanctioned as estimated cost and herself and Special Project Officer of Raichur have conducted the spot inspection on 5/1/2014 and noticed that, the said work was substandard quality and also obtained the photographs of spot inspection and submitted report as per Ex.P.4, though the said work was sanctioned as per the order passed by the Deputy Commissioner, Social Welfare Department and released the amount of Rs.12,50,000/- which is already marked as Ex.P.7. As per Ex.P.6 and said spot inspection and photographs which are marked as Ex.P.8, and her signature is marked as Ex.P.8(a) and said photographs discloses that, the said work was done substandard quality. Though DGO-2 was handed over the said work to the P.D.O of Siravara Gram Panchayath. In her cross she herself admitted that, she was not Civil Engineering graduate and she has not given

notice to the DGOs prior to date of inspection and she herself has admitted that, she has not taken assistance of technical expert at that time of spot inspection. Therefore, the categorical admission given by the PW.2 in the cross examination made by the counsel for DGO, it can be presumed that, they have not conducted the spot inspection in accordance with law. Hence, an adverse inference is to be drawn they have submitted false report as per Ex.P.8.

21. Further, as per the evidence of DW.1 who is DGO.2, he has denied the case of the disciplinary authority by way of submitting chief affidavit and got marked as Ex.D.1 to Ex.D.5. Ex.D.3 is the name of the work done by them as per the estimated cost. Which was done at S.C. colony infrastructure development for the year 2012-13 and as per the estimated cost, Rs.12,50,000/- for the year 2013-14 work was done under K.R.I.D.L., Bengaluru dt.20/1/2020. As per Ex.D.5 the said amount was sanctioned addressed to the Commissioner, Social Welfare Department, Bengaluru as per Ex.D.5. And third party spot inspection was conducted and they have submitted report on 8/11/2019 with photographs as per Ex.D.2 and thereafter, only they have handed over the possession of spot of the said work to the PDO, Siravara Village as per Ex.D.1.

22. DW.1 in the cross examination, though he has admitted that, the amount was received by them through cheque, for the said work as per Ex.P.7, estimated cost of Rs.25 lakhs was mentioned and as per Ex.P.7 the work has to be done as per the conditions mentioned in the Ex.P.7. Further he denied the suggestion as per Ex.P.6 and 7 they

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have not done the work at ward No.5 of Siravara Village. Further, it is true that, on 5/1/2014 spot inspection was done by Special Project Superintendent of Social Welfare Department, of Raichur and officer of Taluk Social Welfare Department, Manvi, and they have submitted the report that, the quality of the work was substandard one as per Ex.P.8. Further, it is also admitted by the DW.1, third party inspection was done as per Ex.D.2 and they have submitted the report that, the quality of work substandard one. He denied the suggestion that, they have agreed remaining balance amount they will receive after completion of said work as per Ex.D.4 and Ex.D.5.

23. In the instant case, though it is an admitted fact that, prior to initiating enquiry proceeding, they have not challenged the Government notification and also AOC sent to them. Further, the complainant on perusal of Ex.P.1 and P.2 he has not filed separate complaint allegations made about said project which was done at Siravara Village, Manvi Taluk. As per Ex.P.1 and Ex.P.2 which are in the printed form and PW.1, he might be rustic villager and thereby, only in his chief examination, he has only admitted his signature on Ex.P.1 and Ex.P.2. Further, PW.2 who is Government official who is officer of Taluk Social Welfare Department, Manvi, and she has visited the spot alongwith Special Project Officer of Social Welfare Officer of Raichur, and also submitted report as per Ex.P.8, but in her cross examination, she has categorically admitted that, she has not issued notice to the DGO-1 and 2 about date of spot inspection and that is very defect in her evidence, she ought to have been issued notice to the DGO-1 and 2 mentioning the date of inspection. And she

ought to have taken assistance of technical expert like, Civil Engineer at the time spot inspection, to ascertain whether, DGOs have worked as per project allotment order.

24. Therefore, the evidence of PW.2 is also fatal to the case of the disciplinary authority for non taking assistance of technical expert like Civil Engineer to ascertain quality of work done by DGO's was genuine or not. Therefore, the evidence of PW.2 is not justifiable to prove the case of the disciplinary authority.

25. Therefore, looking to the date of conducting the D.E. against the DGO-1 and 2 and also date of institution of complaint against respondents of the said case, the period of trial traced by the DGO-1 and 2 before this institution, that itself suffice, for the alleged act committed by them, they are being the Government officials/officers. Hence, in the light of above observation, the disciplinary authority utterly fails to prove charges levelled against DGO-1 and 2.

26. Hence, in the light of above observation, probability of preponderance is higher on the side of the DGO.1 and 2 rather than, the disciplinary authority. Hence, I, constrained to hold point No.1 in the negative.

25. **POINT NO. 2** : In view of my finding on point No. 1 and for the foregoing reasons, I proceed to record the following ;

: FINDINGS :

The Disciplinary Authority has failed to prove the charges levelled against the

DGOs (1) Sri.K.Appaji, retired Executive Engineer, KRIDL (then working at Sindhanur, Raichur). (2) Sri.Basavaraja T Malakappa, Assistant Executive Engineer (incharge), KRIDL, Jevargi (then working at Sindhanur, Raichur)

This report is submitted to the Hon'ble Upalokayukta in a sealed cover forthwith.

Dated this the 3rd October, 2022



(Rajkumar S Amminbhavi)
Additional Registrar (Enquiries-17)
Karnataka Lokayukta, Bengaluru

ANNEXURES

I. LIST OF WITNESS/S EXAMINED ON BEHALF OF DISCIPLINARY AUTHORITY :-

PW 1 : Sri.Yesumitra (Complainant)
PW 2 : Smt.Anjinamma

II. LIST OF DOCUMENTS MARKED ON BEHALF OF DISCIPLINARY AUTHORITY :-

Ex.P.1	Form No.I
Ex.P.1(a)	Signature of complainant
Ex.P.2	Form No.II
Ex.P.2(a)	Signature of complainant
Ex.P.3	Xerox copies of photo (4)
Ex.P.4	Detailed estimate in respect of providing CC road & water supply work at 5 th ward of Sirwar village in Manvi Taluk, Raichur District.
Ex.P.5	Handing over note dt.20/11/2013
Ex.P.6	Letter dt.12/7/2013 of District Social Welfare

	Officer, Raichur addressed to the Deputy Director, Karnataka Rural Basic Amenities Development Corporation Ltd., Raichur
Ex.P.7	Official Memorandum dt.12/7/2013 of D.C, Raichur
Ex.P.8	Observation Report dt.15/1/2014
Ex.P.8(a)	Signature of Taluk Social Welfare Officer, Manvi
Ex.P.8(b)	Signature of Superintendent of Special Unit Plan, Office of the District Social Welfare Officer, Raichur

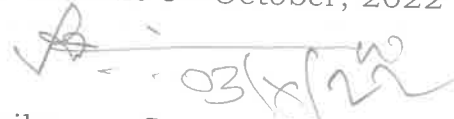
III. LIST OF WITNESS/S EXAMINED ON BEHALF OF DGO :

DW 1 : Sri.Basavaraj T Malakappa (DGO-2)

IV. LIST OF DOCUMENTS MARKED ON BEHALF OF DGO :

Ex.D.1 :	Handing over note dt.20/11/2013
Ex.D.2 :	Third party inspection report dt.8/11/2019
Ex.D.3 :	Detailed estimate in respect of providing CC road & water supply work at 5 th ward of Sirwar village in Manvi Taluk, Raichur District for the year 2012-13
Ex.D.4	Letter dt.3/7/2020 of Deputy Director, Social Welfare Department, Raichur addressed to the Commissioner, Social Welfare Department, Bengaluru.
Ex.D.5	Letter dt.20/1/2020 of Executive Engineer, KRIDL, Raichur addressed to the Deputy Director, Social Welfare Department, Raichur.

Dated this the 3rd October, 2022



(Rajkumar S Amminbhavi)
Additional Registrar (Enquiries-17)
Karnataka Lokayukta, Bengaluru