



KARNATAKA LOKAYUKTA

No.UPLOK-2/DE-323/2015/ARE-11

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001.
Dated 05.11.2019.

RECOMMENDATION

Sub:- Departmental inquiry against (1) Shri C.R.Basavarajappa, Assistant Executive Engineer, (2) Sri V.P.Krishnamurthy, Assistant Engineer, (3) Sri O.G.Nagaraja, the then Secretary, Ramagiri Grama Panchayath, (4) Sri G.S.Somashekaramurthy, the then Secretary, Ramagiri Grama Panchayath, Holalkere Taluk, Chitradurga District - reg.

Ref:- 1) Government Order No. RDP 51 ENQ 2015 dated 06.06.2015.

2) Nomination order No. UPLOK-2/DE-323/2015 dated 18.06.2015 of Upalokayukta, State of Karnataka.

3) Inquiry report dated 31.10.2019 of Additional Registrar of Enquiries-11, Karnataka Lokayukta, Bengaluru.

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The Government by its order dated 06.06.2015, initiated the disciplinary proceedings against (1) Sri C.R.Basavarajappa, Assistant Executive Engineer, (2) Sri V.P.Krishnamurthy, Assistant Engineer, (3) Sri O.G.Nagaraja, the then Secretary,

Ramagiri Grama Panchayath, (4) Sri G.S.Somashekaramurthy, the then Secretary, Ramagiri Grama Panchayath, Holalkere Taluk, Chitradurga District, [hereinafter referred to as Delinquent Government Officials, for short as 'DGOs 1 to 4' respectively] and entrusted the departmental inquiry to this Institution.

2. This Institution by Nomination Order No. UPLOK-2/DE-323/2015 dated 18.06.2015 nominated Additional Registrar of Enquiries-11, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct departmental inquiry against DGOs for the alleged charge of misconduct, said to have been committed by them.

3. The DGO 1 - Shri C.R.Basavarajappa, Assistant Executive Engineer, DGO -2 Sri V.P.Krishnamurthy, Assistant Engineer, DGO 3 - Sri O.G.Nagaraja, the then Secretary, Ramagiri Grama Panchayath, DGO 4 - Sri G.S.Somashekaramurthy, the then Secretary, Ramagiri Grama Panchayath, Holalkere Taluk, Chitradurga District, were tried for the following charge:-

“ಅ.ಸ.ನೌಕರರಾದ ನೀವು ಎಲ್ಲರೂ ಸೇರಿಕೊಂಡು ಸರ್ಕಾರದ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿರುವಾಗ:

ಟಿ. ವಡೇರಹಳ್ಳಿ ಗ್ರಾಮದ ನಾಯಕನಹಟ್ಟಿ ಹತ್ತಿರ ಹೊಸ ಬಡಾವಣೆಯನ್ನು ಅಭಿವೃದ್ಧಿ ಪಡಿಸುವ ಕಾಮಗಾರಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಅಳತೆ ಪುಸ್ತಕದಲ್ಲಿ ದಿ.26/03/2012 ರಲ್ಲಿಯೇ ಕಾಮಗಾರಿಯಲ್ಲಿ 695 ಮೀಟರ್ ಗಳ ಉದ್ದದ ರಸ್ತೆಯನ್ನು 1016.25 ಘ.ಮೀ. ಪ್ರಮಾಣದಲ್ಲಿ ಕೈಗೊಂಡಿದ್ದು, ಪ್ರತಿ ಕಾಮಗಾರಿಗೆ ಪ್ರತಿ ಘನ ಮೀಟರಿಗೆ ರೂ.142/- ದರದಲ್ಲಿ ಒಟ್ಟು ರೂ.1,44,917/- ವೆಚ್ಚವಾಗಿರುವುದಾಗಿ ದಾಖಲಿಸಿದೆ. ಆದರೆ, ವಾಸ್ತವವಾಗಿ ಸ್ಥಳದಲ್ಲಿ 345 ಮೀಟರ್ x 4 ಮೀಟರ್ x 0.30 ಮೀಟರ್ =414.00 ಘನ ಮೀಟರ್ ಕಾಮಗಾರಿಯನ್ನು ಕೈಗೊಂಡಿದ್ದರೂ ಅದಕ್ಕಿಂತಲೂ ಹೆಚ್ಚಾಗಿ ಒಟ್ಟಾರೆ 1016.25-414.00=602.25 ಘನ ಮೀಟರ್ ಪ್ರಮಾಣದ ಕಾಮಗಾರಿಗೆ, ಕಾಮಗಾರಿ ಕೈಗೊಳ್ಳದೇ ಇದ್ದರೂ ಸಹ ರೂ.85,881/- ಗಳ ಮೊತ್ತದಲ್ಲಿ ಹೆಚ್ಚಿನ ಹಣವನ್ನು ಮುಂಗಡವಾಗಿ ಖರ್ಚಾಗಿದೆ ಎಂದು ತೋರಿಸಿ ಬಿಲ್ಲನ್ನು ಡ್ರಾ- ಮಾಡಿ ಆ ಮೂಲಕ ನೀವು ಎಲ್ಲರೂ ಸೇರಿಕೊಂಡು ರೂ.85,881/-ಗಳನ್ನು ತಾತ್ಕಾಲಿಕವಾಗಿ ದುರ್ಬಳಕೆ ಮಾಡಿದ್ದೀರಿ.

ನಿಮ್ಮ ಕರ್ತವ್ಯ ಪಾಲನೆಯಲ್ಲಿ ಸಂಪೂರ್ಣ ಪ್ರಾಮಾಣಿಕತೆ ಹಾಗೂ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ಪಾಲಿಸದೆ ಮತ್ತು ಸರ್ಕಾರಿ ನೌಕರರಿಗೆ ಉಚಿತವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡು ದುರ್ನಡತೆ/ದುರ್ವರ್ತನೆಯಿಂದ ವರ್ತಿಸಿ, ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವಾ ನಿಯಮಗಳು (ನಡತೆ) 1966, ನಿಯಮ 3(1) (i) ರಿಂದ (iii) ರಡಿಯಲ್ಲಿ ಉಕ್ತವಾದ ದುರ್ನಡತೆ ಎಸಗಿದ್ದೀರಿ ಅಂತ ನಿಮ್ಮ ಮೇಲೆ ದೋಷಾರೋಪಣೆಯನ್ನು ಮಾಡಲಾಗಿದೆ.”

4. The Inquiry Officer (Additional Registrar of Enquiries-11) on proper appreciation of oral and documentary evidence has held that Charge against DGO 1 that during his tenure as Assistant Executive Engineer, Zilla Panchayath Engineering

Sub-Division, Holalkere, Chitradurga District from 06/07/2010 to 06/06/2012, in connection with formation of road of the length of 695 meters at the volume of 1016.25 cubic meters at Nayakanahatti of T.Vaderahalli Village, Chitradurga District though it is mentioned in the records that expenditure incurred is 1,44,917/- at the rate of Rs.142/- per square meter but actual work executed is of the volume of 414 cubic meters and without executing the actual volume of work drawn a sum of Rs.85,881/- in advance and temporarily misappropriated the said sum of Rs.85,881/- and thereby is guilty of misconduct within the purview of Rule 3 (1)(i) to (iii) of the Karnataka Civil Services (Conduct) Rules, 1966 is proved.

5. Further, the Enquiry Officer has held that the charge against DGO 2 that during his tenure as Assistant Engineer attached to Panchayath Raj Engineering Sub-Division, Holalkere, Chitradurga District from 15/11/2008 to 26/10/2014 in connection with formation of road of the length of 695 meters at the volume of 1016.25 cubic meters at Nayakanahatti of T.Vaderahalli Village, Chitradurga District though it is mentioned in the records that expenditure incurred is 1,44,917/- at the rate of Rs.142/- per square meter but actual work executed is of the volume of 414 cubic meters and without executing the actual volume of work drawn a sum of Rs.85,881/- in advance and temporarily

misappropriated the said sum of Rs.85,881/- and thereby is guilty of misconduct within the purview of Rule 3 (1)(i) to (iii) of the Karnataka Civil Services (Conduct) Rules, 1966 is proved.

6. Further, the Enquiry Officer has held that the charge against DGO 3 that during his tenure as Secretary attached to Gunjanur Grama Panchayath, Holalkere Taluk, Chitradurga District from 06/06/2009 to 30/05/2012 in connection with formation of road of the length of 695 meters at the volume of 1016.25 cubic meters at Nayakanahatti of T.Vaderahalli Village, Chitradurga District though it is mentioned in the records that expenditure incurred is 1,44,917/- at the rate of Rs.142/- per square meter but actual work executed is of the volume of 414 cubic meters and without executing the actual volume of work drawn a sum of Rs.85,881/- in advance and temporarily misappropriated the said sum of Rs.85,881/- and thereby is guilty of misconduct within the purview of Rule 3 (1)(i) to (iii) of the Karnataka Civil Services (Conduct) Rules, 1966 is proved.

7. Further, the Enquiry Officer has held that the charge against DGO 4 that during his tenure as Secretary attached to Ramagiri Grama Panchayath, Holalkere Taluk, Chitradurga District from 23/06/2012 to 18/07/2015 in connection with formation of road of the length of 695 meters at the volume of 1016.25 cubic meters at Nayakanahatti of T.Vaderahalli Village, Chitradurga

District though it is mentioned in the records that expenditure incurred is 1,44,917/- at the rate of Rs.142/- per square meter but actual work executed is of the volume of 414 cubic meters and without executing the actual volume of work drawn a sum of Rs.85,881/- in advance and temporarily misappropriated the said sum of Rs.85,881/- and thereby is guilty of misconduct within the purview of Rule 3 (1)(i) to (iii) of the Karnataka Civil Services (Conduct) Rules, 1966 is proved.

8. Further, the Enquiry Officer has held that the DGOs 1 to 4 are jointly and severally responsible for temporary misappropriation of a sum of Rs.85,881/-.

9. 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.

10. As per the First Oral Statement of DGOs furnished by the enquiry officer,

- i) DGO 1 - Shri C.R.Basavarajappa, has retired from service on 31.05.2019.
- ii) DGO -2 Sri V.P.Krishnamurthy, is due for retirement on 28.02.2029.

- iii) DGO 3 - Sri O.G.Nagaraja, has retired from service on 30.06.2018.
- iv) DGO 4 - Sri G.S.Somashekaramurthy, has retired from service on 31.07.2016.


11. Having regard to the nature of charge '*proved*' against DGO 1 - Sri C.R.Basavarajappa, Assistant Executive Engineer, DGO -2 Sri V.P.Krishnamurthy, Assistant Engineer, DGO 3 - Sri O.G.Nagaraja, the then Secretary, Ramagiri Grama Panchayath, DGO 4 - Sri G.S.Somashekaramurthy, the then Secretary, Ramagiri Grama Panchayath, Holalkere Taluk, Chitradurga District,

- i) it is hereby recommended to the Government to impose penalty of 'withholding 10% of pension payable to DGO - 1 Shri C.R.Basavarajappa for a period of 10 years.'
- ii) it is hereby recommended to the Government to impose penalty of 'withholding 4 annual increments payable to DGO - 2 Sri V.P.Krishnamurthy with cumulative effect.'
- iii) it is hereby recommended to the Government to impose penalty of 'withholding 10% of pension payable to DGO - 3 Sri O.G.Nagaraja for a period of 10 years.'
- iv) it is hereby recommended to the Government to impose penalty of 'withholding 10% of pension payable to DGO - 4 Shri

G.S.Somashekaramurthy for a period of 10 years.'

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

Connected records are enclosed herewith.

  
(JUSTICE N. ANANDA)  
Upalokayukta,  
State of Karnataka. 5/4



UPLOK-2/DE/323/2015/ARE-11

BEFORE THE ADDITIONAL REGISTRAR, ENQUIRIES-11

KARNATAKA LOKAYUKTA, BENGALURU

ENQUIRY NUMBER: UPLOK-2/DE/323/2015

ENQUIRY REPORT Dated: 31/10/2019

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

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Delinquent Government Official No.1:Sri. C.R. Basavarajappa  
(name written by him as C.R.  
Basavaraju on the note sheet  
on 28/02/2017).

Discharged duties as  
Assistant Executive Engineer,  
Zilla Panchayath Engineering  
Sub-Division, Holalkere,  
Chitradurga District from  
06/07/2010 to 06/06/2012.

Retired on superannuation  
on 31/05/2019.

Delinquent Government Official No.2:Sri. V.P.Krishnamurthy

(name written by him as B.P.  
Krishnamurthy on the note  
sheet on 13/10/2016).

Discharged duties as  
Assistant Engineer,  
Panchayath Raj Engineering  
Sub-Division, Holalkere,  
Chitradurga District from  
15/11/2008 to 26/10/2014.

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Due for retirement on  
superannuation on  
28/02/2029.

Delinquent Government Official No.3:Sri. O.G. Nagaraja

(name written by him as  
O.G.Nagarajappa on the note  
sheet on 28/02/2017).

Discharged duties as  
Secretary attached to  
Gunjanur Grama  
Panchayathi, Holalkere Taluk,  
Chitradurga District from  
06/06/2009 to 30/05/2012.

Retired on superannuation on  
30/06/2018.

Delinquent Government Official No.4:Sri.  
G.S.Somasekharmurthy

(name written by him as  
G.S.Somashekara Murthy on  
the note sheet on  
13/10/2016).

Discharged duties as  
Secretary attached to  
Ramagiri Grama Panchayath,  
Holalkere Taluk, Chitradurga  
District from 23/06/2012 to  
18/07/2015.

Retired on superannuation on  
31/07/2016.

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1. Delinquent official number 1 (in short, "DGO 1") was working as Assistant Executive Engineer, Zilla Panchyath Engineering

*[Handwritten signature]*  
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Sub-Division, Holalkere, Chitradurga District from 06/07/2010 to 06/06/2012. Delinquent Official number 2 ( in short "DGO 2") was working as Assistant Engineer, Panchayath Raj Engineering Sub-Division, Holalkere, Chitradurga District from 15/11/2008 to 26/10/2014. Delinquent Official number 3 (in short "DGO 3") was working as Secretary attached to Gunjanur Grama Panchayath, Holalkere Taluk, Chitradurga District from 06/06/2009 to 30/05/2012. Delinquent Official number 4 (in short, "DGO 4") was working as Secretary attached to Ramagiri Grama Panchayath, Holalkere Taluk, Chitradurga District from 23/06/2012 to 18/07/2015.


2. Background for initiating the present inquiry against DGOs 1 to 4 needs to be set out in brief. One Sri. Onkarappa (hereinafter will be referred to as "complainant") is the resident of T. Vaderahalli Village, Ramagiri Hobli, Holalkere Taluk, Chitradurga District. His complaint dated 05/03/2013 in FORM NO.I against one Sri. Somanna, Panchayath Development Officer, Ramagiri Grama Panchayath and against the Secretary attached to Ramagiri Grama Panchayath came to be registered in COMPLAINT/UPALOK/BD/5088/2013/DRE-5. According to the complainant, under National Rural Employment Guarantee Scheme (in short, "NREGS") road by name Nagarakatte road has been formed. The complainant sought information touching the said road work under Right to Information Act. On 21/09/2012 the complainant received information communicating that no such road is formed. According to the complainant, very recently a name board has been displayed in the above road stating that the cost of formation of road is

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Rs.1,50,000/-. The complainant has alleged that funds are misappropriated.

3. In exercise of the powers conferred under section 9 of The Karnataka Lokayukta Act, 1984 Hon'ble Upalokayukta-2, Karnataka took up investigation and entrusted the matter to the Chief Engineer attached to Technical Audit Cell attached to Karnataka Lokayukta, Bengaluru for conducting investigation. The Chief Engineer attached to Technical Audit Cell attached to Karnataka Lokayukta, Bengaluru in turn directed Sri. Shreekantha.S who then was working as Assistant Executive Engineer-5(hereinafter will be referred to as "Investigating Officer") attached to Technical Audit Cell, Karnataka Lokayukta, Bengaluru to conduct investigation. Thereafter, the Investigating Officer conducted investigation and submitted report. On the basis of the report of the Investigating Officer and the connected records Hon'ble Upalokayukta-2, Karnataka prima facie arrived at conclusion that in connection with development of new extension near a place called Nayakanahatti of T. Vaderahalli Village it is found mentioned on 26/03/2012 in the measurement book that the volume of work executed is 1016.25 cubic meters and at the rate of Rs.142/- per square feet expenditure incurred is Rs.1,44,917/- but the actual volume of work executed is found at 414 cubic meters and thus it is found that without executing the work of the volume of 1016.25 cubic meters a sum of Rs.85,881/- is drawn and thus, DGOs 1 to 4 and Smt. Thimmakka the then President of Ramagiri Grama Panchayathi, Holalkere Taluk, Chitradurga District have temporarily misappropriated a sum of

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Rs.85,881/- and thus DGOs 1 to 4 being public servants are guilty of misconduct within the purview of Rule 3 (1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 and accordingly, in exercise of the powers conferred upon under section 12(3) of The Karnataka Lokayukta Act, 1984 recommended the competent authority to initiate disciplinary proceedings against DGOs 1 to 4 and to entrust the inquiry to the Hon'ble Upalokayukta, Karnataka under Rule 14-A of The Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957. Hon'ble Upalokayukta-2, Karnataka has been pleased to observe that since Smt. Thimmakka is not Government servant disciplinary proceedings cannot be initiated against her and therefore, Hon'ble Upalokayukta-2, Karnataka has been pleased to recommend for suitable action against Smt. Thimmakka under Karnataka Panchayath Raj Act.

4. Subsequent to the report dated 06/05/2015 under section 12(3) of The Karnataka Lokayukta Act, 1984, Government Order bearing number ಗ್ರಾಅಪ 51 ಇಎನ್‌ಕ್ಯೂ 2015 ಬೆಂಗಳೂರು ದಿನಾಂಕ 06/06/2015 has been issued by the Under Secretary to the Government of Karnataka, Department of Rural Development and Panchayath Raj (Services-2) entrusting the inquiry against DGOs 1 to 4 to the Hon'ble Upalokayukta, Karnataka under Rule 14-A of The Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.

5. Subsequent to the Government Order ಗ್ರಾಅಪ 51 ಇಎನ್‌ಕ್ಯೂ 2015 ಬೆಂಗಳೂರು ದಿನಾಂಕ 06/06/2015 Order number UPLOK-2/DE/323/2015 Bengaluru dated 08/06/2015 has been ordered by the Hon'ble Upalokayukta-2, Karnataka nominating the Additional Registrar,

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Enquiries-11, Karnataka Lokayukta, as Inquiry Officer to frame charges and to conduct departmental inquiry against DGOs 1 to 4.

6. Articles of charge dated 19/08/2015 at Annexure-I which includes statement of imputation of misconduct at Annexure-II framed against DGOs 1 to 4 by the then Additional Registrar, Enquiries-11, Karnataka Lokayukta, Bengaluru is the following:

ಅನುಬಂಧ -1

ದೋಷಾರೋಪಣೆ

ಅ.ಸ.ನೌಕರರಾದ ನೀವು ಎಲ್ಲರೂ ಸೇರಿಕೊಂಡು ಸರ್ಕಾರದ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿರುವಾಗ:

ಟ. ವಡೇರಹಳ್ಳಿ ಗ್ರಾಮದ ನಾಯಕನಹಟ್ಟಿ ಹತ್ತಿರ ಹೊಸ ಬಡಾವಣೆಯನ್ನು ಅಭಿವೃದ್ಧಿ ಪಡಿಸುವ ಕಾಮಗಾರಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಅಳತೆ ಪುಸ್ತಕದಲ್ಲಿ ದಿ.26/03/2012 ರಲ್ಲಿಯೇ ಕಾಮಗಾರಿಯಲ್ಲಿ 695 ಮೀಟರ್ ಗಳ ಉದ್ದದ ರಸ್ತೆಯನ್ನು 1016.25 ಘ.ಮೀ. ಪ್ರಮಾಣದಲ್ಲಿ ಕೈಗೊಂಡಿದ್ದು, ಪ್ರತಿ ಕಾಮಗಾರಿಗೆ ಪ್ರತಿ ಘನ ಮೀಟರಿಗೆ ರೂ.142/- ದರದಲ್ಲಿ ಒಟ್ಟು ರೂ.1,44,917/- ವೆಚ್ಚವಾಗಿರುವುದಾಗಿ ದಾಖಲಿಸಿದೆ. ಆದರೆ, ವಸ್ತುವಾಗಿ ಸ್ಥಳದಲ್ಲಿ 345 ಮೀಟರ್ ಥ 4 ಮೀಟರ್ ಥ 0.30 ಮೀಟರ್ =414.00 ಘನ ಮೀಟರ್ ಕಾಮಗಾರಿಯನ್ನು ಕೈಗೊಂಡಿದ್ದರೂ ಅದಕ್ಕಿಂತಲೂ ಹೆಚ್ಚಾಗಿ ಒಟ್ಟಾರೆ 1016.25-414.00=602.25 ಘನ ಮೀಟರ್ ಪ್ರಮಾಣದ ಕಾಮಗಾರಿಗೆ, ಕಾಮಗಾರಿ ಕೈಗೊಳ್ಳದೇ ಇದ್ದರೂ ಸಹ ರೂ.85,881/- ಗಳ ಮೊತ್ತದಲ್ಲಿ ಹೆಚ್ಚಿನ ಹಣವನ್ನು ಮುಂಗಡವಾಗಿ ಖರ್ಚಾಗಿದೆ ಎಂದು ತೋರಿಸಿ ಬಿಲ್ಲನ್ನು ಡ್ರಾ-ಮಾಡಿ ಆ ಮೂಲಕ ನೀವು ಎಲ್ಲರೂ ಸೇರಿಕೊಂಡು ರೂ.85,881/-ಗಳನ್ನು ತಾತ್ಕಾಲಿಕವಾಗಿ ದುರ್ಬಳಕೆ ಮಾಡಿದ್ದೀರಿ.

ನಿಮ್ಮ ಕರ್ತವ್ಯ ಪಾಲನೆಯಲ್ಲಿ ಸಂಪೂರ್ಣ ಪ್ರಾಮಾಣಿಕತೆ ಹಾಗೂ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ಪಾಲಿಸದೆ ಮತ್ತು ಸರ್ಕಾರಿ ನೌಕರರಿಗೆ ಉಚಿತವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡು ದುರ್ನಡತೆ/ದುವರ್ತನೆಯಿಂದ ವರ್ತಿಸಿ, ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ ನಿಯಮಗಳು (ನಡತೆ) 1966, ನಿಯಮ 3(1) (i) ರಿಂದ (iii) ರಡಿಯಲ್ಲಿ ಉಕ್ತವಾದ ದುರ್ನಡತೆ ಎಸಗಿದ್ದೀರಿ ಅಂತ ನಿಮ್ಮ ಮೇಲೆ ದೋಷಾರೋಪಣೆಯನ್ನು ಮಾಡಲಾಗಿದೆ.

ಅನುಬಂಧ -2

ದೋಷಾರೋಪಣೆಯ ಪಟ್ಟಿ

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1. ಚಿತ್ರದುರ್ಗ ಜಿಲ್ಲೆಯ ಹೊಳಲ್ಕೆರೆ ತಾಲ್ಲೂಕಿನ ರಾಮಗಿರಿ ಹೋಬಳಿಯ ಟಿ.ವಡೇರಹಳ್ಳಿ ಗ್ರಾಮಸ್ಥರು ಜಂಟಿಯಾಗಿ ಚಿತ್ರದುರ್ಗ ಲೋಕಾಯುಕ್ತ ರವರ ಕಛೇರಿಯ ಲೋಕಾಯುಕ್ತ ಅಧೀಕ್ಷಕರಿಗೆ ದೂರನ್ನು ಸಲ್ಲಿಸಿದರು. ಸದರಿ ದೂರಿನಲ್ಲಿ ರಾಮಗಿರಿ ಗ್ರಾಮಪಂಚಾಯಿತಿ ವ್ಯಾಪ್ತಿಗೆ ಬರುವಂತಹ ನಾಗರಕಟ್ಟೆ ರಸ್ತೆಗೆ ಗ್ರಾಮಪಂಚಾಯಿತಿಯ ಎನ್.ಐ.ಆರ್.ಜಿ ಕೆಳಗೆ ರಸ್ತೆಯನ್ನು ನಿರ್ಮಿಸಿರುತ್ತಾರೆ. ಆದರೆ, ಆ ಕೆಲಸದ ಬಗ್ಗೆ ಮಾಹಿತಿ ಹಕ್ಕು ಅಧಿನಿಯಮದಡಿಯಲ್ಲಿ ವಿವರಣೆ ಕೇಳಿದಾಗ ಯಾವುದೇ ಕಾಮಗಾರಿ ಯೋಜನೆ ಅಡಿಯಲ್ಲಿ ಮಾಡಲಾಗುವೆಂದು ತಮಗೆ ತಿಳಿಸಲಾಯಿತು. ಆದರೆ ಸದರಿ ರಸ್ತೆಯಲ್ಲಿ ಇತ್ತೀಚೆಗೆ ರೂ.1,50,000/- ಕಾಮಗಾರಿಯ ವೆಚ್ಚವೆಂದು ನಾಮಫಲಕವನ್ನು ಹಾಕಿ ಹಣವನ್ನು ಪಡೆಯಲಾಗಿದೆ ಮತ್ತು ಸದರಿ ರಸ್ತೆ ಮುಖಾಂತರ ತೋಟಕ್ಕೆ, ಹೊಲಗಳಿಗೆ ಕೃಷಿ ಚಟುವಟಿಕೆಗಳಿಗೆ ಮಳೆಗಾಲದಲ್ಲಿ ಹೋಗಲು ತೊಂದರೆಯಾಗಿದೆ. ವಾಹನಗಳು ಸಂಚರಿಸುವಾಗ ಅಪಘಾತಗಳು ಸಂಭವಿಸುತ್ತವೆ. ಈ ಕಾಮಗಾರಿಯಲ್ಲಿ ಸರ್ಕಾರದ ಹಣವನ್ನು ದುರುಪಯೋಗ ಪಡಿಸಿಕೊಳ್ಳಲಾಗಿದೆ ಆದ್ದರಿಂದ ಭ್ರಷ್ಟಾಚಾರ ಅಪರಾಧಗಳನ್ನು ಮಾಡಿರುವ ಪಂಚಾಯಿತಿ ಅಧಿಕಾರಿಗಳ ವಿರುದ್ಧ ಹಾಗೂ ಸದಸ್ಯರುಗಳ ವಿರುದ್ಧ ಸೂಕ್ತ ಕ್ರಮ ಕೈಗೊಳ್ಳಬೇಕೆಂದು ಕೇಳಿಕೊಂಡಿದ್ದಾರೆ.

2. ಅ.ಸ.ನೌಕರರಾದಂತಹ ಸಿ.ಆರ್.ಬಸವರಾಜಪ್ಪ, ಬಿ.ಪಿ.ಕೃಷ್ಣಮೂರ್ತಿ, ಓ.ಜಿ.ನಾಗರಾಜಪ್ಪ ಹಾಗೂ ಸೋಮಶೇಖರಮೂರ್ತಿ ರವರು ತನಿಖೆಯ ಕಾಲದಲ್ಲಿ ದೂರಿನ ಬಗ್ಗೆ ತಮ್ಮ ವಿವರಣೆಯನ್ನು ನೀಡಿದ್ದಾರೆ. ಅವರು ತಮ್ಮ ವಿವರಣೆಯಲ್ಲಿ ಸದರಿ ಕಾಮಗಾರಿಯನ್ನು ದಿ.21/02/2012 ರಿಂದ ದಿ.26/03/2012 ರ ವರೆಗೆ ಪೂರ್ಣಗೊಳಿಸಿದ್ದು, ಅದರಂತೆ ಸಹಾಯಕ ಅಭಿಯಂತರರಾದ ಶ್ರೀ. ಬಿ.ಕೃಷ್ಣಮೂರ್ತಿರವರು ಅಳತೆ ಪುಸ್ತಕ ಸಂಖ್ಯೆ 520ರ ಪುಟ ಸಂಖ್ಯೆ 35, 36 ಮತ್ತು 37 ರಲ್ಲಿ ಕಾಮಗಾರಿಯನ್ನು ವೀಕ್ಷಿಸಿ ಅಳತೆ ದಾಖಲಿಸಿಕೊಂಡು ಸ್ಥಳವನ್ನು ಪರಿಶೀಲಿಸಿ, ಕಾಮಗಾರಿ ಪೂರ್ಣವಾದ ಸ್ಥಳಕ್ಕೆ ಹೋಗಿ ಸ್ಥಳ ಪರಿಶೀಲನೆ ಮಾಡಲಾಗಿದೆ ಎಮದು ತಿಳಿಸಿದ್ದಾರೆ. ಶ್ರೀ. ಕೃಷ್ಣಮೂರ್ತಿ ಅ.ಸ.ನೌಕರರು ತಾಲ್ಲೂಕು ಪಂಚಾಯಿತಿಯ ಕಾರ್ಯನಿರ್ವಾಹಕ ಅಧಿಕಾರಿಗಳು ದಿ:17/01/2014 ರಂದು ಸ್ಥಳದ ಪರಿಶೀಲನೆ ಮಾಡಿದ ಸಂದರ್ಭದಲ್ಲಿ ಬಡಾವಣೆಯ ಒಳಗಿನ ಅಡ್ಡರಸ್ತೆಗಳು ಭಾರೀ ಮಳೆಯಿಂದ ಹಾಳಾಗಿದ್ದು, ಅದಕ್ಕಾಗಿ ಕಾರ್ಯನಿರ್ವಾಹಕ ಅಧಿಕಾರಿಗಳು ಹಾಳಾದ ಕಾಮಗಾರಿಯ ಭಾಗಗಳನ್ನು ಅಳತೆ ಮಾಡಲು ಸಾಧ್ಯವಾಗದೇ ಉತ್ತಮ ಸ್ಥಿತಿಯಲ್ಲಿದ್ದ 345 ಮೀಟರ್ ಉದ್ದ ಹಾಗೂ 4 ಮೀಟರ್ ಅಗಲದ ರಸ್ತೆಯನ್ನು ಮಾತ್ರ ಅಳತೆ ಮಾಡಿ ತಮ್ಮ ವರದಿ ಸಲ್ಲಿಸಿರುತ್ತಾರೆಂದು ವಿವರಣೆಯನ್ನು ನೀಡಿರುತ್ತಾರೆ. ದಿ:17/06/2014 ರಂದು ತನಿಖೆಗಾಗಿ

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ಲೋಕಾಯುಕ್ತದ ಪರವಾಗಿ ಅಭಿಯಂತರರು ಬಂದಾಗ ತಾನು ಕಾಮಗಾರಿ ಪೂರ್ಣಗೊಂಡಿಲ್ಲವೆಂದು ತಪ್ಪಾಗಿ ಹೇಳಿಕೆ ನೀಡಿದ್ದೇನೆಂದು ಸದರಿ ಕೃಷ್ಣಮೂರ್ತಿ ರವರು ವಿವರಣೆಯನ್ನು ನೀಡಿದ್ದಾರೆ. ಇನ್ನೊಬ್ಬ ಅ.ಸ.ನೌಕರರಾದ ಒ.ಜಿ.ನಾಗರಾಜಪ್ಪ ರವರು ತಮ್ಮ ಮೇಲೆ ಮಾಡಿದ ಆರೋಪವನ್ನು ಪೂರ್ಣವಾಗಿ ನಿರಾಕರಿಸಿ, ಸಂಪೂರ್ಣ ಕೆಲಸವನ್ನು ಮಾಡಿ ಬಿಲ್ಲಿನ ಹಣವನ್ನು ಕೊಡಲಾಗಿದೆಯೆಂದು ಬರೆದಿದ್ದಾರೆ. ಮತ್ತೊಬ್ಬ ಅ.ಸ.ನೌಕರರಾದ ಜಿ.ಎಸ್.ಸೋಮಶೇಖರಮೂರ್ತಿ ಕೂಡ ತನಿಖಾಧಿಕಾರಿಯವರು ಸಲ್ಲಿಸಿದ ವರದಿಯನ್ನು ನಿರಾಕರಿಸಿದ್ದಾರೆ. ಕೆಲಸ ಪೂರ್ಣಗೊಳಿಸಿದ ನಂತರವೇ ಬಿಲ್ಲಿನ ಹಣವನ್ನು ನೀಡಲಾಗಿದೆ ಎಂದು ತಮ್ಮ ಆಕ್ಷೇಪಣೆಯಲ್ಲಿ ತಿಳಿಸಿದ್ದಾರೆ. ಆದ್ದರಿಂದ, ತಮ್ಮನ್ನು ಆರೋಪದಿಂದ ಮುಕ್ತಗೊಳಿಸಬೇಕೆಂದು ಕೇಳಿಕೊಂಡಿದ್ದಾರೆ.

3. ಆ ದೂರಿನ ಮೇಲೆ ಶ್ರೀ. ಸೋಮಣ್ಣ, ಪಂಚಾಯಿತಿಯ ಅಭಿವೃದ್ಧಿ ಅಧಿಕಾರಿ ಹಾಗೂ ಕಾರ್ಯದರ್ಶಿ, ರಾಮಗಿರಿ ಗ್ರಾಮಪಂಚಾಯಿತಿ ರವರಿಂದ ಆಕ್ಷೇಪಣೆಗಳನ್ನು ಕೋರಲಾಗಿ, ಸದರಿಯವರು ತಮ್ಮ ಆಕ್ಷೇಪಣೆಗಳನ್ನು ಸಲ್ಲಿಸಿ ಅದರಲ್ಲಿ ದೂರಿನ ಎಲ್ಲಾ ಅಂಶಗಳನ್ನು ಅಲ್ಲಗಳೆದು ಪ್ರಕರಣವನ್ನು ಮುಕ್ತಾಯಗೊಳಿಸಬೇಕೆಂದು ಕೇಳಿಕೊಂಡರು.

4. ನಂತರ ದೂರಿನಲ್ಲಿ ಆಪಾದನೆ, ಎದುರುದಾರರ ಆಕ್ಷೇಪಣೆ ಮತ್ತು ದಾಖಲೆಗಳ ಮೇಲೆ ಲೋಕಾಯುಕ್ತ ಸಂಸ್ಥೆಯ ತಾಂತ್ರಿಕ ವಿಭಾಗದ ಮುಖ್ಯ ಅಭಿಯಂತರರಿಗೆ ತನಿಖೆಮಾಡಿ ವರದಿ ಸಲ್ಲಿಸಲು ನೀಡಿದ ನಿರ್ದೇಶನದ ಮೇಲೆ ಸದರಿಯವರು ತನಿಖೆಯನ್ನು ಶ್ರೀ.ಎಸ್.ಶ್ರೀಕಾಂತ್, ಸಹಾಯಕ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರು-5 (ಇನ್ನು ಮುಂದೆ ತನಿಖಾಧಿಕಾರಿಯೆಂದು ಕರೆಯಲ್ಪಡುತ್ತಾರೆ) ರವರಿಗೆ ವಹಿಸಿದ್ದು, ಸದರಿ ತನಿಖಾಧಿಕಾರಿಯವರು ವರದಿಯಲ್ಲಿ ಮೇಲೆ ಅನುಬಂಧ-1 (ದೋಷಾರೋಪಣೆಯಲ್ಲಿ) ಹೇಳಿರುವಂತೆ ಮೇಲೆ ಉಲ್ಲೇಖಿಸಿದ 4 ಜನ ಅ.ಸ.ನೌಕರರು ಹಾಗೂ ರಾಮಗಿರಿಯ ಗ್ರಾಮಪಂಚಾಯಿತಿಯ ಮಾಜಿ ಅಧ್ಯಕ್ಷರಾದ ಶ್ರೀಮತಿ.ತಿಮ್ಮಕ್ಕ ಕೋಂ, ವೆಂಕಟಪ್ಪ ರವರು ಸರ್ಕಾರಕ್ಕೆ ಸೇರಿದ ಹಣವನ್ನು ದುರ್ಬಳಕೆ ಮಾಡಿದ್ದಾರೆಂದು ತನಿಖೆಯಲ್ಲಿ ಕಂಡುಬರುತ್ತದೆಂದು ತಿಳಿಸಿದ್ದಾರೆ.

5. ತನಿಖಾ ವರದಿಯನ್ನು ಆಧಾರಿಸಿ ಪಂಚಾಯಿತಿಯ ಅಭಿವೃದ್ಧಿ ಅಧಿಕಾರಿಯಾದಂತಹ ಶ್ರೀ.ಸೋಮಣ್ಣ ಇವರನ್ನು ಪ್ರಕರಣದಿಂದ ಕೈಬಿಡಲಾಗಿದೆ. 5ನೆಯ ಆಪಾದಿತ ವ್ಯಕ್ತಿಯಾದಂತಹ ಶ್ರೀಮತಿ.ತಿಮ್ಮಕ್ಕ ರವರು ಸರ್ಕಾರಿ ನೌಕರರಾಗಿಲ್ಲದೇ ಇರುವುದರಿಂದ ಅವರ ವಿರುದ್ಧ ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವಾ ನಿಯಮಾವಳಿಗಳಡಿಯಲ್ಲಿ ವಿಚಾರಣೆ ಮಾಡಲು ಅವಕಾಶವಿರುವುದಿಲ್ಲ.

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6. ಕಡತ ಮತ್ತು ದಾಖಲೆಗಳನ್ನು ಪರಿಶೀಲಿಸಲಾಗಿದೆ:

ಗ್ರಾಮಸ್ಥರ ಪರವಾಗಿ ಓಂಕಾರಪ್ಪ ಎಂಬುವವರು ಬೆಂಗಳೂರಿನ ಲೋಕಾಯುಕ್ತ ಕಾರ್ಯಾಲಯಕ್ಕೆ ದೂರಿನಲ್ಲಿ ಸಲ್ಲಿಸಿದ ಸಂಗತಿಗಳನ್ನು ನೋಡಿದಾಗ ಮತ್ತು ಹೊಳಲ್ಕೆರೆಯ ತಾಲ್ಲೂಕು ಪಂಚಾಯತಿಯ ಕಾರ್ಯನಿರ್ವಾಹಕ ಅಧಿಕಾರಿಗಳು ಸದರಿ ಕಾಮಗಾರಿಗೆ ಸಂಬಂಧಪಟ್ಟಂತಹ ದಸ್ತಾವೇಜುಗಳು, ಛಾಯಾಚಿತ್ರಗಳು, ಎಂ.ಬಿ.ಪುಸ್ತಕದಲ್ಲಿ ಬರೆದಂತಹ ಅಳತೆಗಳು, ಕಂಪ್ಲಿಷನ್ ರಿಪೋರ್ಟ್‌ನಲ್ಲಿ ಬರೆದ ಸಂಗತಿಗಳು ರಾಷ್ಟ್ರೀಯ ಗ್ರಾಮೀಣಾ ಉದ್ಯೋಗ ಖಾತ್ರಿ ಯೋಜನೆ ಅಡಿಯಲ್ಲಿ ತೆಗೆದುಕೊಂಡಂತಹ ಕ್ರಮಗಳು, ಟಿ.ವಡೇರಹಳ್ಳಿ ಗ್ರಾಮದ ನಾಯಕನಹಟ್ಟಿ ಹತ್ತಿರ ಹೊಸ ಬಡಾವಣೆಯನ್ನು ಅಭಿವೃದ್ಧಿ ಪಡೆಸುವ ಕೆಲಸದ ವಸ್ತುವಿಕೆ ವರದಿ, ತನಿಖಾಧಿಕಾರಿಯವರು ಸ್ಥಳವನ್ನು ವೀಕ್ಷಿಸಿ ಅಳತೆ ಮಾಡಿ, ಸಂಬಂಧಪಟ್ಟ ಎಂ.ಬಿ.ಪುಸ್ತಕ ಇವುಗಳನ್ನು ಪರಿಶೀಲಿಸಿ ಕೊಟ್ಟಂತಹ ವರದಿ ಎಲ್ಲವನ್ನು ಗಮನಿಸಿದಾಗ ಮತ್ತು ಅ.ಸ.ನೌಕರರು ಕೊಟ್ಟ ವಿವರಣೆಯನ್ನು ನೋಡಿದಾಗ, ಅ.ಸ.ನೌಕರರು 1016.25 ಘನ ಮೀಟರ್ ಪ್ರಮಾಣದಲ್ಲಿ ಸಂಪೂರ್ಣ ಕಾಮಗಾರಿಯನ್ನು ಕೈಗೊಳ್ಳದೇ ಇದ್ದರೂ ಸಹ 85,881 ಗಳ ಮೊತ್ತದಲ್ಲಿ ಹೆಚ್ಚಿನ ಹಣವನ್ನು ಮುಂಗಡವಾಗಿ ಖರ್ಚನ್ನು ತೋರಿಸಿ, ಬಿಲ್ಲನ್ನು ಡ್ರಾ-ಮಾಡಲಾಗಿದೆ ಎಂದು ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡುಬರುತ್ತದೆ. 602.25 ಘನ ಮೀಟರ್ ಪ್ರಮಾಣದ ಕಾಮಗಾರಿಯನ್ನು ಕೈಗೊಳ್ಳದೇ ಹಣವನ್ನು ಖರ್ಚಾಗಿದೆ ಎಂದು ತೋರಿಸಲಾಗಿದೆ ಎಂದು ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡುಬರುತ್ತದೆ. ಈ ಎಲ್ಲಾ ಕಾರಣಗಳಿಗಾಗಿ 4 ಜನ ಅ.ಸ.ನೌಕರರು ಅಪ್ರಮಾಣಿಕವಾಗಿ ನಡೆದುಕೊಂಡು, ಕರ್ತವ್ಯತೋಪವೆಸಗಿ, ಅಧಿಕಾರದ ದುರುಪಯೋಗ ಪಡೆಸಿಕೊಂಡಿದ್ದಾರೆಂದು ಕಂಡುಬರುತ್ತದೆ.

ಈ ಮೇಲ್ಕಂಡ ಅಂಶಗಳನ್ನು ಪರಿಶೀಲಿಸಿದ ನಂತರ 4 ಜನ ಅ.ಸ.ನೌಕರರು ಸಲ್ಲಿಸಿದ ಆಕ್ಷೇಪಣೆಗಳನ್ನು ಪರಿಗಣಿಸಿ, ಅವರ ವಿರುದ್ಧ ನಡವಳಿಕೆಗಳನ್ನು ಕೈಬಿಡಲು ಸಮಂಜಸವಾದ ಕಾರಣಗಳು ಇಲ್ಲವೆಂಬ ಅಭಿಪ್ರಾಯಕ್ಕೆ ಬರಲಾಗಿದೆ.

7. ಕಡತದಲ್ಲಿರುವ ಸಂಗತಿಗಳು ಹಾಗೂ ದಾಖಲಾತಿಗಳಿಂದ, ಅ.ಸ.ನೌಕರರು ಸರ್ಕಾರಿ ನೌಕರರಾಗಿ ಪರಿಪೂರ್ಣ ಪ್ರಮಾಣಿಕತೆ, ಸಂಪೂರ್ಣ ಕರ್ತವ್ಯ ನಿಷ್ಠೆ, ಸಾರ್ವಜನಿಕ/ಸರ್ಕಾರಿ ಸೇವಕರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡು ದುರ್ವರ್ತನೆ/ದುರ್ನಡತೆ ಎಸಗಿದ್ದಾರೆಂದು ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡುಬಂದಿದ್ದರಿಂದ ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ (ನಡತೆ) ನಿಯಮಾವಳಿ, 1966ರ ನಿಯಮ 3(1) ರ ಅಡಿಯಲ್ಲಿ ದುರ್ನಡತೆ/ದುರ್ವರ್ತನೆ ಎಸಗಿರುವುದರಿಂದ ಸದರಿಯವರುಗಳ ವಿರುದ್ಧ ಇಲಾಖಾ ಶಿಸ್ತು ಕ್ರಮ

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ಕೈಗೊಳ್ಳಲು ಗೌರವಾನ್ವಿತ ಉಪಲೋಕಾಯುಕ್ತರು, ಕರ್ನಾಟಕ ರಾಜ್ಯ, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾನೂನು ಕಲಂ 12(3) ರಡಿಯಲ್ಲಿ ಶಿಸ್ತು ಪ್ರಧಿಕಾರಕ್ಕೆ ಶಿಫಾರಸ್ಸು ಮಾಡಿದ್ದಾರೆ. ಸದರಿ ಶಿಫಾರಸ್ಸಿನ ಮೇರೆಗೆ ಸರ್ಕಾರವು ಅ.ಸ.ನೌಕರರು ಇವರ ವಿರುದ್ಧ ಇಲಾಖಾ ವಿಚಾರಣೆಯನ್ನು ಕೈಗೊಂಡು ವರದಿ ಸಲ್ಲಿಸಲು ಗೌರವಾನ್ವಿತ ಉಪಲೋಕಾಯುಕ್ತರಿಗೆ ವಹಿಸಿ, ಆದೇಶ ಮಾಡಿದೆ.

ಆದ್ದರಿಂದ ನಿಮ್ಮಗಳ ಮೇಲೆ ಈ ದೋಷಾರೋಪಣೆ.”

7. In response to due service of articles of charge, DGOs 1 to 4 have entered appearance before this authority on 23/09/2015. In the course of first oral statement of DGOs 1 to 4 recorded on 23/09/2015 they pleaded not guilty. Subsequently DGOs 1 to 4 have engaged defence assistant for their defence.
8. In the course of common written statement signed by DGOs 1 to 4 and their defence assistant filed on 12/07/2016 DGOs 1 to 4 have refuted the charge and contended that charge is vague and does not attribute either misconduct or dereliction of duty. It is contended that investigation is not based on the facts attracting the activities undertaken for implementation of the relevant statute. It is contended that the Investigating Officer failed to record whether the bill paid for procuring the material is true or false. According to DGOs 1 to 4 payment for procuring materials is a sum of Rs.56,616/- and labour charges is Rs.86,875/- which aspect is not investigated by the Investigating Officer and the Investigating Officer has not specifically made out the role of DGOs 1 to 4. Regarding as to what constitutes misconduct, the decision in State of Punjab and Others V/S Ram Singh, Ex-Constable reported in AIR 1992 Supreme Court page 2188 is relied upon in the course of written statement. It is contended that that DGOs 1 to 4 are protected by section 30 of The National Rural Employment Guarantee

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Act,2005. It is thus sought to contend that DGOs 1 to 4 are not guilty of the alleged misconduct.

9. The disciplinary authority has examined the complainant Sri.T.Onkarappa as PW1 and the Investigating Officer Sreekanth.S as PW2, Sri. Balaswamy Desappa who is working as Executive Officer attached to Taluk Panchayath, Holakere from the year 2013 is examined as PW3. During evidence of PW1, his original complaint dated 05/03/2013 in FORM NO.I in a single sheet is marked as per Ex P1, his original affidavit dated 05/03/2013 in FORM NO.II in a single sheet is marked as per Ex P2, his original complaint in a plain single sheet signed by him and other local residents is marked as per Ex P3, xerox copy of application dated 04/09/2012 in a single sheet of the Advocate Sri. K.B. Chandrappa under Right to Information Act is marked as per Ex P4, original letter dated 21/09/2012 in a single sheet of the Secretary, Ramagiri Grama Panchayath addressed to Sri. K.B. Chandrappa is marked as per Ex P5, three original photographs are marked as per Exs P6 to P8. During evidence of PW2, original letter dated 04/03/2013 in a single sheet of PW3 addressed to the Chief Engineer, Technical Audit Cell, Karnataka Lokayukta, Bengaluru is marked as per Ex P9, original mahazar dated nil in a single sheet enclosed to Ex P9 is marked as per Ex P10, attested copy of estimate in five sheets enclosed to Ex P9 is marked as per Ex P11, attested copy of list of articles in two sheets enclosed to Ex P9 is marked as Ex P12, attested copy of measurement book in three sheets enclosed to Ex P9 is marked as per Ex P13, attested copy of completion report in two sheets enclosed to Ex P9 is marked as per Ex

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P14, attested copy of final bill in four sheets enclosed to Ex P9 is marked as per Ex P15, four original photographs enclosed to Ex P9 are marked as per Exs P16 to P19, attested copy of cash book in two sheets enclosed to Ex P9 is marked as per Ex P20, original mahazar dated 17/06/2014 in two sheets drawn by PW2 is marked as per Ex P21, signature of PW2 found on Ex P21 is marked as per Ex P21(a), xerox copy of note sheet in four sheets commencing from paragraph number 52 to paragraph number 82 in COMPT/UPLOK/BD/5088/2013/DRE-5 is marked as per Ex P22, Signature of PW2 found at paragraph number 81 of Ex P22 is marked as per Ex P22(a), opinion in a single sheet of PW3 is marked as per Ex P23. During evidence of PW3, his signature found on Ex P10 is marked as per P10(a).

10. In the course of second oral statement of DGO 1 recorded on 16/04/2018 and in the course of second oral statement of DGOs 2 to 4 recorded on 23/05/2018 they have stated that they would get themselves examined as defence witness and that they do not intend to examine defence witness.

11. DGO 1 got himself examined as DW1. DGO 2 got himself examined as DW2. DGO 3 got himself examined as DW3. DGO 4 got himself examined as DW4. During evidence of DGO 3, nine attested sheets of nominal muster roll is marked as per Ex D1.

12. Since DGOs 1 to 4 have adduced defence evidence questionnaire is dispensed with.

13. In the course of written argument of the Presenting Officer Smt. K.S. Jyothilakshmi she has referred to evidence on record. From the wordings employed in the course of her

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written argument it can be gathered that she intended to contend that charge stands established.

14. In the course of common written argument signed by DGOs 1 to 4 reference is made to articles of charge. They have refuted the charge levelled against them. It is contended that investigation conducted is not based on the facts under The National Rural Employment Guarantee Act, 2005. It is contended that materials have been procured and bills are paid and also labour payment is paid to the bank accounts of the labourers. It is contended that payment for materials is not found highlighted in the report of the Investigating Officer and that Investigating Officer has failed to record whether bill is paid towards materials or towards labour payment. It is contended that a sum of Rs.56,616/- is paid towards materials and a sum of Rs.86,875/- is paid towards labour charges. It is contended that DGOs are protected by section 30 of The National Rural Employment Guarantee Act, 2005. Decision in Transport Commissioner V/S A.Radhakrishna Moorthy reported in (1995) 1 SCC page 332 and the decision in State of Punjab and Others V/S Rama Singh, Ex-Constable reported in AIR 1992 Supreme Court page 2188 are relied upon. It is contended that evidence of PWs 1 and 2 do not establish the charge. Thus, it is sought to contend that DGOs 1 to 4 are not guilty of the alleged misconduct.

15. In tune with the articles of charge following points arise for determination:

Point number 1: Whether it stands established that during the tenure of DGO 1 as Assistant Executive Engineer, Zilla

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Panchayath Engineering Sub-Division, Holalkere, Chitradurga District from 06/07/2010 to 06/06/2012, in connection with formation of road of the length of 695 meters at the volume of 1016.25 cubic meters at Nayakanahatti of T.Vaderahalli Village, Chitradurga District though it is mentioned in the records that expenditure incurred is 1,44,917/- at the rate of Rs.142/- per square meter but actual work executed is of the volume of 414 cubic meters and without executing the actual volume of work drawn a sum of Rs.85,881/- in advance and temporarily misappropriated the said sum of Rs.85,881/- and thereby is guilty of misconduct within the purview of Rule 3 (1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966?

Point number 2: Whether it stands establish that during the tenure of DGO 2 as Assistant Engineer attached to Panchayath Raj Engineering Sub-Division, Holalkere, Chitradurga District from 15/11/2008 to 26/10/2014 in connection with formation of road of the length of 695 meters at the volume of 1016.25 cubic meters at Nayakanahatti of T.Vaderahalli Village, Chitradurga District though it is mentioned in the records that expenditure incurred is 1,44,917/- at the rate of Rs.142/- per square meter but actual work executed is of the volume of 414 cubic meters and without executing the actual volume of work drawn a sum of Rs.85,881/- in advance and temporarily misappropriated the said sum of Rs.85,881/- and thereby is guilty of misconduct within the purview of Rule 3 (1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966?

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Point number 3: Whether it stands establish that during the tenure of DGO 3 as Secretary attached to Gunjanur Grama Panchayath, Holalkere Taluk, Chitradurga District from 06/06/2009 to 30/05/2012 in connection with formation of road of the length of 695 meters at the volume of 1016.25 cubic meters at Nayakanahatti of T.Vaderahalli Village, Chitradurga District though it is mentioned in the records that expenditure incurred is 1,44,917/- at the rate of Rs.142/- per square meter but actual work executed is of the volume of 414 cubic meters and without executing the actual volume of work drawn a sum of Rs.85,881/- in advance and temporarily misappropriated the said sum of Rs.85,881/- and thereby is guilty of misconduct within the purview of Rule 3 (1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966?

Point number 4: Whether it stands establish that during the tenure of DGO 4 as Secretary attached to Ramagiri Grama Panchayath, Holalkere Taluk, Chitradurga District from 23/06/2012 to 18/07/2015 in connection with formation of road of the length of 695 meters at the volume of 1016.25 cubic meters at Nayakanahatti of T.Vaderahalli Village, Chitradurga District though it is mentioned in the records that expenditure incurred is 1,44,917/- at the rate of Rs.142/- per square meter but actual work executed is of the volume of 414 cubic meters and without executing the actual volume of work drawn a sum of Rs.85,881/- in advance and temporarily misappropriated the said sum of Rs.85,881/- and thereby is guilty of misconduct within the purview of Rule 3 (1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966?

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16. For the sake of convenience I have chosen discuss point numbers 1 to 4 together.
17. During evidence the complainant (PW1) has stated that board was found installed near his garden land situated at T.Vaderahalli Village displaying that expenditure of a sum of Rs.1,50,000/- is incurred and thereafter though he filed application before the Executive Officer, Taluk Panchayath, Hoalkere there was no response and therefore he set law into motion with the aid of the complaint at Ex P1. He has referred to Exs P2 to P8 also during his evidence. During cross examination he has stated that board was installed in which it was found mentioned that road from a place called Nagarakatte upto Anjaneya Temple is formed. It is in his cross examination that tar road is formed in the month of May 2016. His cross examination reveals that he could not be present at the time of investigation conducted by PW2. His evidence needs to be considered only to the extent of setting law into motion.
18. PW2 has spoken to investigation conducted by him on 17/06/2014. It is in his evidence that it was alleged in the complaint that funds in respect of formation of Nagarakatte road are misappropriated. It is in his evidence that in response to his letter addressed to the complainant seeking clarification of the allegations the complainant replied that disputed area is the place called Nayakanakatte. He has spoken to touching Exs P9 to P22. His evidence would show that Ex P9 which is issued by PW3 shows that measurement of the road near Nayakanakatte revealed that the said road measures 345

*[Handwritten signature]*  
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meters in length and four meters in breadth and that cross roads of the measurement of 5 X 60 meters are formed on 17/02/2014 which corresponded with the measurement book. His evidence shows that upon perusal of Ex P9 it is noticed that road of the length of 345 meters was formed subsequently. His evidence touching the contents of Ex P9 is in conformity with the contents of Ex P9.

19. His evidence would show that at the time of inspection he contacted the complainant over cell phone but the complainant has not attended during spot inspection. It is in his evidence that DGOs 3 and 4 and also PW3 were present at the time of spot inspection. It is in his evidence that the place where road was formed is shown to him by PW3 who informed that formation of road was undertaken under Mahathma Gandhi National Rural Employment Guarantee Scheme 2011-12 at the estimate of Rs.1,50,000/-. He has stated that he was told by PW3 that as per the measurement book bund of the length of 695 meters was formed but he noticed formation of road of the length of 345 meters and of the breadth of 4 meters and subsequently remaining work has been carried out and completed. It is in his evidence that he was informed by DGO 4 that bill for Rs.56,616/- is prepared and issued for the above work in the month of July 2012. He has spoken to that he was told by DGO 2 that approach road was formed long ago and that development of cross roads are undertaken in the month of March 2004. He has spoken to that DGO 2 also informed that after formation of approach road of the length of 345 meters rest of works are executed. It is in his evidence

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that formation of road of the length of 345 meters was executed during the tenure of DGO1. He has stated that Ex P13 revealed that approach road and cross roads are commenced on 21/02/2012 and completed on 26/03/2012 and that Ex P13 revealed that measurement of 695 meters was found entered in Ex P13.

20. It is in the evidence of PW2 that in order to ascertain the correctness or otherwise of the contents of Ex P1 he measured the road mentioned in Ex P13 and his measurement revealed that total length of road was 773 meters instead of 695 meters as mentioned in Ex P13. It is in his evidence that outcome of his investigation is found mentioned in paragraph numbers 53 to 81 of Ex P22. He has spoken to during his evidence that DGOs 1 to 4 and the then President by name Smt. Thimmakka of the Panchayath are responsible for the latches.

21. It is mentioned by PW2 as found in paragraph number 78 of xerox copy of his report at Ex P22 that work of the volume of 345 meters X 40 meters X 0.30 meters = 414 cubic meters was found actually executed but it was found mentioned that work of the volume 1046.25 cubic meters for which expenditure of Rs.1,44,917/- was shown and with the help of bill for the said amount the said amount was drawn. It is found further clarified in paragraph number 78 of Ex P22 that without executing the work of the volume of 1046.25- 414= 602.25 cubic meters excess amount of Rs.85,881/- was found drawn and thus the said amount has been misappropriated. It is found mentioned in paragraph number 79 of Ex P22 that DGOs

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1 to 4 and also Smt. Thimmakka are responsible for the above latches.

22. It is brought out during cross examination of PW2 that estimate was prepared for formation of road with gravel. Though it is brought out during his cross examination that clear opinion cannot be expressed touching the quality of work two years after formation of road that portion of his answer is of no relevance to the allegations levelled in the articles of charge which is focused at temporary misappropriation of a sum of Rs.85,881/-. He has stated during cross examination that his measurement revealed that the length of road is 773 meters and that measurement book revealed the length of 695 meters. He has stated during cross examination that records revealed purchase of 644 cubic meters of gravel and that as per the measurement book 1016.25 cubic meters of gravel was to be used for the work. He admits during cross examination that excess amount was not spent for formation of road and that a sum of Rs.86,878/- was found paid to the labourers.

23. It is significant to mention that the contents of paragraph numbers 78 and 79 of Ex P22 are not specifically assailed during cross examination of PW2 and therefore contents of paragraph numbers 78 and 79 are to be accepted. It needs to be mentioned that Ex P22 occupies the position of primary evidence and therefore contents of paragraph numbers 78 and 79 incriminates DGOs 1 to 4. Though it is brought out during cross examination of PW2 that on account of purchase of gravel and payment of wages to labourers financial loss is not caused

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the said portion of his answer will not lend assurance to the defence for the reason that nothing worthy is brought out during cross examination of PW2 to hold that DGOs 1 to 4 have not temporarily misappropriated a sum of Rs.85,881/-.

24. During evidence PW3 who is working as Executive Officer attached to Taluk Panchayithi, Holalkere from the year 2013 has spoken to that as per the estimate mud road of the length of 690 meters was stipulated to be formed but measurement of the mud road which was formed unearthed the length of 331 meters. It is in his evidence that as per the estimate a volume of 1016.25 cubic meters of gravel was scheduled to be used for formation of mud road of the length of 690 meters but upon inspection conducted by him he found that a volume of 476.64 cubic meters of gravel was only used. He has spoken to the mahazar at Ex P10 conducted by him at the spot.
25. PW3 has further spoken to during his evidence that it came into light that bill for the entire amount shown in the estimate has been prepared and entire amount for the mud road of the length of 690 meters has been drawn. It is in his evidence that instead of formation of mud road of the total length of 690 meters it was found that mud road of the length of 331 meters was executed and entire amount for the road of the length of 690 meters was drawn. This portion of his evidence occupies pivotal role to establish temporary misappropriation of funds.
26. Whether evidence of PW3 that instead of executing mud road of the length of 690 meters mud road of the length of 331 meters was only executed and drawn amount for the entire

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length of 690 meters of mud road needs to be believed or not has to be ascertained by focusing attention to his cross examination.

27. It is brought out during cross examination of PW3 that a sum of Rs.56,616/- was found paid to the volume of 644 cubic meters of gravel. This portion of his answer will not drive to hold that the same would come in aid of defence put forward by DGOs 1 to 4. Though it is brought out during cross examination that in the areas where vehicular movements are less during monsoon chances of growth of plants on either side of the road cannot be ruled out that portion of his answer also will not lend support to the defence. It is brought out during his cross examination that wages of Rs.86,875/- was found paid to the labourers and that the said amount is found remitted to the bank account of labourers. This portion of his answer would not show that there was no temporary misappropriation of funds. It is in his cross examination that instead of utilising 1016.25 cubic meters of gravel as specified in the estimate only 644 cubic meters of gravel was found utilised as per the measurement book. This portion of his answer also will not lend assurance to hold that there was no temporary misappropriation of funds. Suggestion made to him suggesting that out of the balance amount ear marked for procuring gravel wages are paid to the labourers is denied by him. Though PW3 admits during cross examination that a sum of Rs.86,875/- paid to the labourers is not misappropriated nothing worthy is brought out during his cross examination to arrive at conclusion that there was no temporary misappropriation of a sum of Rs.85,881/-.

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28. During evidence DGO 1(DW1) has stated that he has merely given technical approval and after entries caused by DGO 2 in the measurement book he checked the same and caused cross measurement. Though he has stated so, nothing is spoken to by him that he has not temporarily misappropriated the funds. He has stated that he approved payment of wages of Rs.86,875/- and that he was not empowered for payment of wages as mentioned in sheet number 2 of Ex P12. He has stated that he was not empowered for payment of for materials. It is in his evidence that a sum of Rs.1,44,835/- is spent for civil works. It is stated by him that accuracy about quality of work cannot be assessed after lapse of two and half years. The said portion of his evidence is of no avail to his defence. Though it is stated by him during evidence that report of PW2 is not correct he has not ventured upon for threadbare dissection of paragraph numbers 78 and 79 of Ex P22. Nothing is found in his evidence that he is not responsible for temporary misappropriation of funds of Rs.85,881/-.
29. It is in the evidence of DGO 2 (DW2) that work has been executed during his tenure and that for the purpose of execution of the road work volume of 644.9 cubic meters of gravel has been purchased and that road of the length of 755 meters has been formed. It is in his evidence that entries in page numbers 1 to 3 of the attested copy of measurement book at Ex P13 are by him. He has stated that he furnished completion report after execution of road work. He has stated that he was not conferred upon with the powers of payment of money. He

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has stated that he has not caused financial loss to the Government. Nothing is found in his evidence that there was not temporary misappropriation of funds of a sum of Rs.85,881/-.

30. During evidence DGO 3(DW3) has stated that formation of road was not during his tenure. It is in his evidence that he was working as Secretary of Gunjanur Grama Panchayath from 06/06/2009 to 30/05/2012. His evidence that formation of road was not during his tenure cannot be believed in the presence of entry at paragraph number 79 of Ex P22. It is in his evidence that except making payment to the workers he has not made any other payment and that except the payment found in sheet number 3 of Ex P15 he has not made any other payment. Though he has stated that he has not caused financial loss to the Government nothing is found in his evidence that he has not temporarily misappropriated a sum of Rs.85,881/-.
31. It is in the evidence of DGO 4(DW4) that he was working as Secretary attached to Ramagiri Grama Panchayathi from 23/06/2012 to 18/07/2015. He has spoken to that formation of road was not during his tenure. Though he has spoken so, contents of paragraph number 79 of Ex P22 has not been assailed from his side and therefore his complicity cannot be ruled out. It is his evidence that since bill was pending he made payment after the release of fund and that he is not responsible for financial loss to the Government. Nothing is found in his evidence to hold that before release of funds he ventured upon to ascertain whether drawing of excess funds

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was premature. Nothing is spoken to by him to hold that there was no temporary misappropriation of a sum of Rs.85,881/-

32. Since nothing worthy is found either during cross examination of PWs 1 to 3 and in the course of evidence of DGOs 1 to 4 that acts committed by them are with good faith and therefore they cannot stretch their hands at section 30 of The National Rural Employment Guarantee Act, 2005. Law laid down in the decisions relied upon by DGOs 1 to 4, in my view, will not lend assurance to the defence put forward by DGOs 1 to 4. In the presence of evidence of PWs 2 and 3 I am not persuaded to accept the contentions put forward in the course of written statement of DGOs 1 to 4 and also I am not persuaded to accept the contentions put forward in the course of written argument of DGOs 1 to 4.

33. Upon appreciation of the entire oral and documentary evidence on record I am of the considered view that DGOs 1 to 4 are guilty of misconduct within the purview of Rule 3 (1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 and being of this view I proceed with the following:

#### R E P O R T

Charge against DGO 1 that during his tenure as Assistant Executive Engineer, Zilla Panchayath Engineering Sub-Division, Holalkere, Chitradurga District from 06/07/2010 to 06/06/2012, in connection with formation of road of the length of 695 meters at the volume of 1016.25 cubic meters at Nayakanahatti of T.Vaderahalli Village, Chitradurga District though it is mentioned in the records that expenditure incurred

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is 1,44,917/- at the rate of Rs.142/- per square meter but actual work executed is of the volume of 414 cubic meters and without executing the actual volume of work drawn a sum of Rs.85,881/- in advance and temporarily misappropriated the said sum of Rs.85,881/- and thereby is guilty of misconduct within the purview of Rule 3 (1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 is proved.

Charge against DGO 2 that during his tenure as Assistant Engineer attached to Panchayath Raj Engineering Sub-Division, Holalkere, Chitradurga District from 15/11/2008 to 26/10/2014 in connection with formation of road of the length of 695 meters at the volume of 1016.25 cubic meters at Nayakanahatti of T.Vaderahalli Village, Chitradurga District though it is mentioned in the records that expenditure incurred is 1,44,917/- at the rate of Rs.142/- per square meter but actual work executed is of the volume of 414 cubic meters and without executing the actual volume of work drawn a sum of Rs.85,881/- in advance and temporarily misappropriated the said sum of Rs.85,881/- and thereby is guilty of misconduct within the purview of Rule 3 (1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 is proved.

Charge against DGO 3 that during his tenure as Secretary attached to Gunjanur Grama Panchayath, Holalkere Taluk, Chitradurga District from 06/06/2009 to 30/05/2012 in connection with formation of road of the length of 695 meters at the volume of 1016.25 cubic meters at Nayakanahatti of

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T.Vaderahalli Village, Chitradurga District though it is mentioned in the records that expenditure incurred is 1,44,917/- at the rate of Rs.142/- per square meter but actual work executed is of the volume of 414 cubic meters and without executing the actual volume of work drawn a sum of Rs.85,881/- in advance and temporarily misappropriated the said sum of Rs.85,881/- and thereby is guilty of misconduct within the purview of Rule 3 (1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 is proved.

Charge against DGO 4 that during his tenure as Secretary attached to Ramagiri Grama Panchayath, Holalkere Taluk, Chitradurga District from 23/06/2012 to 18/07/2015 in connection with formation of road of the length of 695 meters at the volume of 1016.25 cubic meters at Nayakanahatti of T.Vaderahalli Village, Chitradurga District though it is mentioned in the records that expenditure incurred is 1,44,917/- at the rate of Rs.142/- per square meter but actual work executed is of the volume of 414 cubic meters and without executing the actual volume of work drawn a sum of Rs.85,881/- in advance and temporarily misappropriated the said sum of Rs.85,881/- and thereby is guilty of misconduct within the purview of Rule 3 (1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 is proved.

DGOs 1 to 4 are jointly and severally responsible for temporary misappropriation of a sum of Rs.85,881/-.

DGO 1 retired on superannuation on 31/05/2019.

DGO 2 is due for retirement on superannuation on

 31/05/2019

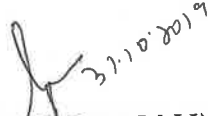
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28/02/2029.

DGO 3 retired on superannuation on 30/06/2018.

DGO 4 retired on superannuation on 31/07/2016.

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

  
 (V.G. BOPAIAH)  
 Additional Registrar, Enquiries-11,  
 Karnataka Lokayukta, Bengaluru.

#### ANNEXURE

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

1. PW 1:- Sri. T.Onkarappa.
2. PW 2:- Sri. Shreekanth.S.
3. PW 3:- Sri. Balaswamy Deshappa.

List of witness examined on behalf of DGOs 1 to 4:-

1. DW1:- Sri. C.R. Basavaraju.
2. DW2:- Sri. B.P. Krishnamurthy.
3. DW3:- Sri. O.G. Nagarajappa.
4. DW4:- Sri. G.S. Somashekaramurthy.

List of documents marked on behalf of Disciplinary Authority:-

- |        |                                                                             |
|--------|-----------------------------------------------------------------------------|
| Ex P 1 | Original complaint dated 05/03/2013 in FORM NO.I in a single sheet of PW1.  |
| Ex P 2 | Original affidavit dated 05/03/2013 in FORM NO.II in a single sheet of PW1. |

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- Ex P 3 Original complaint dated nil in a single plain sheet of PW1 and his villagers.
- Ex P 4 Xerox copy of application dated 04/09/2012 in a single sheet of Advocate Sri.K.B.Chandrappa obtained under The Right to Information Act.
- Ex P 5 Original letter dated 21/09/2012 in a single sheet of the Secretary, Ramagiri Grama Panchayath addressed to Sri. K.B. Chadrappa.
- Ex P 6 Original photograph.
- Ex P 7 Original photograph.
- Ex P 8 Original photograph.
- Ex P 9 Original letter dated 04/03/2013 in a single sheet of PW3 addressed to the Chief Engineer, Technical Audit Cell, Karnataka Lokayukta, Bengaluru.
- Ex P10 Original mahazar dated nil in a single sheet enclosed to Ex P9.
- Ex P10(a) Signature of PW3 found on Ex P10.
- Ex P 11 Attested copy of estimate in five sheets enclosed to Ex P9.
- Ex P12 Attested copy of list of articles in two sheets enclosed to Ex P9.
- Ex P13 Attested copy of measurement book in three sheets enclosed to Ex P9.
- Ex P14 Attested copy of completion report in two sheets enclosed to Ex P9.
- Ex P15 Attested copy of final bill in four sheets enclosed to Ex P9.
- Ex P16 Original photograph.
- Ex P17 Original photograph.
- Ex P18 Original photograph.
- Ex P19 Original photograph.


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- Ex P20 Attested copy of cash book in two sheets enclosed to Ex P9.
- Ex P21 Original mahazar dated 17/06/2014 in two sheets drawn by PW2.
- Ex P21(a) Signature of PW2 found on Ex P21.
- Ex P22 Xerox copy of note sheet in four sheets commencing from paragraph number 52 to paragraph number 82 in COMPT/UPLOK/BD/5088/2013/DRE-5.
- Ex P22(a) Signature of PW2 found at paragraph number 21 of Ex P22.
- Ex P23 Opinion in a single sheet of PW3.

List of documents marked on behalf of DGOs 1 to 4:

- Ex D1 Nine attested sheets of nominal muster roll.

  
(V.G. BOPAI AH)  
Additional Registrar, Enquiries-11,  
Karnataka Lokayukta, Bangalore.

