

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No.UPLOK-2/DE/339/2017/ARE-14

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001
Date: **28/12/2021**

RECOMMENDATION

Sub:- Departmental inquiry against;
Sri Rajashekar Rao, the then Panchayath Development
Officer, Chantaru Grama Panchayath, Udupi Taluk
and District – Reg.

Ref:- 1) Govt. Order No.ಗ್ರಾಅಪ/43/ಗ್ರಾಪಂಚಾ/2017, Bengaluru dated
18/2/2017.

2) Nomination order No.UPLOK-2/DE/339/2017,
Bengaluru dated 6/3/2017 of Upalokayukta, State of
Karnataka, Bengaluru

3) Inquiry Report dated 23/12/2021 of Additional
Registrar of Enquiries-14, Karnataka Lokayukta,
Bengaluru

The Government by its order dated 18/2/2017 initiated the disciplinary proceedings against Sri Rajashekar Rao, the then Panchayath Development Officer, Chantaru Grama Panchayath, Udupi Taluk and District (hereinafter referred to as Delinquent Government Official, for short as DGO) and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.UPLOK-2/DE/339/2017 Bengaluru dated 6/3/2017 nominated Additional Registrar of Enquiries-1, 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. UPLOK-2/DE/2017, dated 4/7/2017, Additional Registrar of Enquiries-7,

Karnataka Lokayukta, Bengaluru was re-nominated as inquiry officer to conduct departmental inquiry against DGO. Again as per Order No.UPLOK-1&2/DE/Transfers/2018 dated 6/8/2018, the Additional Registrar of Enquiries-14, Karnataka Lokayukta, Bengaluru was re-nominated as inquiry officer to conduct departmental inquiry against DGO.

3. The DGO Sri Rajashekar Rao, the then Panchayath Development Officer, Chantharu Grama Panchayath, Udupi Taluk and District was tried for the following charges:-

“That you DGO Sri. Rajasekhar Rao, while working as Panchayath Development Officer in Chantharu Grama Panchayath of Udupi Taluk and District did not appraise the President and Members of the Panchayath about the necessity of no objection certificate and fulfilment of requisite conditions to grant permission for construction of multi-storied building even though it was your duty to do so and

Further you failed to submit a report to the Executive Officer, Taluk Panchayath, Udupi about the impermissible resolutions passed by Grama Panchayath granting permission to construct multi-storied building in the limits Chantharu Grama Panchayath, for taking steps to set aside the resolutions and construction permissions, as provided under the provisions of Karnataka Panchayath Raj Act and therefore you DGO has failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servant and hence 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-14) on proper appreciation of oral and documentary evidence has held that the Disciplinary Authority has proved the above charges against DGO Sri Rajashekar Rao, the then Panchayath Development Officer, Chantaru Grama Panchayath, Udupi Taluk and District.
5. 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. It is hereby recommended to the Government to accept the report of Inquiry Officer.
6. As per the First Oral Statement submitted by DGO, he has retired from service on 30/6/2021(during the pendency of inquiry).
7. Having regard to the nature of charge proved against DGO Sri Rajashekar Rao, the then Panchayath Development Officer, Chantaru Grama Panchayath, Udupi Taluk and District, it is hereby recommended to the Government for imposing penalty of withholding 10% of pension payable to DGO Sri Rajashekar Rao, for a period of 5 years.
8. Action taken in the matter shall be intimated to this Authority.

Connected records are enclosed herewith.


(JUSTICE B.S.PATIL)

Upalokayukta,
State of Karnataka,
Bengaluru

KARNATAKA LOKAYUKTA

No.UPLOK-2/DE/339/2017/ARE-14

Multi Storied Building,
Dr. B.R.Ambedkar Road,
Bangalore-560001,
Dated: 23/12/2021.

ENQUIRY REPORT

Present : Sri. **Sudesh Rajaram Paradeshi**
Additional Registrar of Enquiries-14
Karnataka Lokayukta
Bangalore.

Sub: Departmental Enquiry against **Sri. Rajashekar Rao**, the then Panchayath Development Officer, Chantharu Grama Panchayath, Udupi Taluk and District - Reg.

- Ref:**
1. Report U/s.12(3) of the K.L Act, 1984 in COMPT/UPLOK/MYS/8092/2011/ARE-6 dated 24/12/2016.
 2. Government Order No.ಗ್ರಾಅಪ/43/ಗ್ರಾಪಂಕಾ/2017, Bengaluru dated 18/02/2017.
 3. Nomination Order No:UPLOK-2/DE/339/2017, dated 06/03/2017 of Hon'ble Upalokayukta, Bangalore.
 4. Order No.UPLOK-2/DE/2017 Bengaluru Dated: 4.7.2017 file transferred from ARE-1 to ARE-7.
 5. Order No.UPLOK-1 & 2/DE/transfers/2018, Bengaluru, Dated 06/08/2018 file transferred from ARE-7 to ARE-14.

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The complainant by name **Sri. Sadhashiva Shetty** S/o Moonappa Shetty, Secretary in Civil Freedom Committee Heroru, Cheethana Nilaya, Agrahara, Chantaru Grama, Brammavara

Post, Udupi Taluk and District has filed the complaint against **Sri. Rajashekar Rao**, the then Panchayath Development Officer, Chantharu Grama Panchayath, Udupi Taluk and District, alleging that construction permission for 12 multi storied apartment were issued without obtaining NOC from Department of Fire Force and Pollution Control Board and waste water of multi-storied building was left out into panchayath open drain as there is no underground drainage facilities in panchayath limits. Therefore, the DGO committed misconduct and dereliction of duty while discharging his duty as Government servant.

2. After completion of the investigation, a report was sent to the Government U/s.12(3) of the Karnataka Lokayukta Act as per reference No.1. In pursuance of the report, the Government of Karnataka was pleased to issue the G.O. dated 18/02/2017 authorizing Hon'ble Upalokayukta to hold enquiry as per reference No.2. In pursuance of the G.O., the Nomination was issued by the Hon'ble Upalokayukta on 06/03/2017 authorizing ARE-1 to hold enquiry and to report as per reference No.3 and this file is transferred from ARE-1 to ARE-7 as per reference No. 4. In turn, this file is transferred from ARE-7 to ARE-14 as per reference No.5
3. On the basis of the Nomination, Articles of Charge against the **DGO were framed by the Additional Registrar of Enquiries-1** which includes Articles of Charge at Annexure-I and Statement of

Imputation of Misconduct at Annexure No. II which are as follows:-

ANNEXURE-I
CHARGE:-

That you DGO Sri. Rajasekhar Rao, while working as Panchayath Development Officer in Chantharu Grama Panchayath of Udupi Taluk and District did not appraise the President and Members of the panchayath about the necessity of no objection certificate and fulfilment of requisite conditions to grant permission for construction of multi-storied building even though it was your duty to do so and

Further you failed to submit a report to the Executive Officer, Taluk Panchayath, Udupi about the impermissible resolutions passed by Grama Panchayath granting permission to construct multi-storied building in the limits Chantharu Grama Panchayath, for taking steps to set aside the resolutions and construction permissions, as provided under the provisions of Karnataka Panchayathraj Act and therefore you DGO has failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servant and hence you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966. Hence, this charge.

ANNEXURE-II**STATEMENT OF IMPUTATION OF MISCONDUCT**

2. **Brief facts of the case are :-** On the complaint filed by Sri. Sadhashiva Shetty S/o. Moonappa Shetty-Secretary in Civil Freedom Committee Heroru, Cheethana Nilaya, Agrahara, Chantharu Grama, Brammavara Post in Udupi Taluk and District(hereinafter referred to as complainant for short) against Smt. Jayanthi Vasudev- President, Chantharu Gram Panchayath, Chantharu, Bharammavara Post in Udupi Taluk and District, 2) Sri. Rajashekar Rao - Panchayath Development Officer in Chantharu, Bhrammavara Post, Udupi Taluk in Udupi District and Sri. Mahesh Moily - Ex-President and Presently Member of Chantharu in Bhrammavara Post in Udupi Taluk and Udupi District (hereinafter referred to as respondent Nos.1 to 3 for short), alleging that construction permission for 12 multistoried apartments are issued without obtaining NOC from department of Fire Force and Pollution Control Board and waste water of multistoried buildings is let out in to panchayath open drain as there is no underground drainage facility in Panchayath limits.



3. Comments were called for from R1 to 3 and they submitted comments taking common stand that construction permissions are issued under Sec.64 of KPR Act as per resolutions passed by GP. Some old buildings on old M.B.Road are demolished and new constructions are put up. Notices are issued against occupants of multistoried building who have let out waste water into Panchayath open drain. Safety of the buildings is the responsibility of owners and construction in charge engineers have issued certificates of safety of buildings. Steps are being taken for UGD facility in the limits of Panchayath and proposal is sent.

4. Thereafter, File was referred to CE in TAC to investigate and submit report, Sri.K.Srinivas - Assistant Executive Engineer in TAC has submitted his investigation report dated 28/10/2013 which is forwarded by CE-TAC. According to the said report:-

(i) Construction permissions were issued by Chantaru Grama Panchayath in Udupi GP for construction of 12 multi storied residential apartments during 2006-07 to 2011-12-

a. Without obtaining NOC from Fire Force Department, KUWS & DB, KPTCL and Tele Communication Department as stipulated in Zoning Regulation and

Building Bye law of Udupi Urban Development Authority.

- b. Permission issued are in violation of Circular No. UDD/628/MNY/2003 dated 19.12.2003 restricting permission limiting to height of 15 meters.
- c. Permission issued are in violation of directions contained in Circular No. RDPR No. ಗ್ರಾಅಪ/553/ಗ್ರಾಕೂಮ/2012 ದಿ. 28/12/2012 prohibiting approval of layout plan without there being approval of Rural Town Planning Authority after conversion of the land.
- d. Without NOC from PWD in view of letter dated 03.08.2006 of AEE PWD No. 1 sub division Udupi, since permissions issued for 12 multi storied building apartments were adjoining state high ways.

5. On calling upon the reply of the respondents on the report of Investigation Officer, R1 & 3 have not submitted their reply. R2 has submitted reply stating that permissions were issued in view of resolutions passed by Grama Panchayath.

6. On careful consideration of the material on records, prima facie show that:-

- i. R2, then working as PDO in Chantaru Grama Panchayath in Udupi Taluk and

District and Presently working as PDO in Haradi Grama Panchayath in Udupi Taluk and District was required to appraise the Grama Panchayath about necessity of required NOC and fulfillment of requisite conditions before approving grant of permission for construction of multi storied buildings.

- ii. Further, R2 was required to submit a report to Executive Officer, Taluka Panchayath Udupi about impermissible resolutions passed by Gram Panchayath granting construction permissions for construction of multi storied buildings in the limits of Chantaru Gram Panchayath for taking steps to set aside the said resolutions and construction permissions in accordance with the provisions of Karnataka Panchayath Raj Act and R2 has failed to report the same.
- iii. R1 and R3 the then Presidents being public servants were also responsible for issuing construction permissions for construction of 12 multi storied buildings in violation of zonal regulation etc as

stated in the report dated 28/10/2013 of Investigation Officer.

7. Respondent No.1 – the then President of Gram Panchayath is not holding any post of public servant at present, Hence, no recommendation is made against him. Respondent No.3 – the then President is stated to be an elected member of Chantaru Grama Panchayath at present, hence recommendation is made for taking action against him under Section 43A of Karnataka Panchayath Ra Act.

8. Since said the facts supported by the material on record prima facie show that the respondent No.2, being a public/Government servant, has failed to maintain absolute integrity, devotion to duty and also acted in a manner unbecoming of public/ Government servant, and thereby committed misconduct under as per Rule 3(1)(i),(ii) & (iii) of KCS(Conduct) Rules 1966, now, acting under section 12(3) of the Karnataka Lokayukta Act and made himself liable for disciplinary action.

9. Therefore, recommendation is made under section 12(3) of Karnataka Lokayukta Act, to the Competent Authority to initiate disciplinary

proceedings against the respondent and to entrust the inquiry to this Authority under Rule 14-A of Karnataka Civil Service (Classifications, Control and Appeal) Rules, 1957.

10. Since, said facts and material on record prima facie show that, the respondents/DGO Sri. Rajasekhar Rao has committed grave misconduct, now, acting under Section 12(3) of Karnataka Lokayukta Act, recommendation is made to the Competent Authority to initiate disciplinary proceedings against the respondents for misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) rules 1966 the Govt. after consideration of materials, has entrusted enquiry to Hon'ble Upalokayukta. Hence, the charge.

4. The aforesaid '*Articles of Charge*' was served on the DGO. The DGO had appeared before this authority on 28/04/2017 and his first oral statement under Rule 11(9) of KCS (CCA) Rules, 1957 was recorded. The DGO pleaded not guilty and claimed to be enquired about the charges.

5. The facts supported by the material on record prima-facie showed that the DGO, being a public servant failed to maintain absolute integrity besides devotion to duty and acted in a manner

unbecoming of Government servants and thereby committed misconduct as per Rule 3(1) of KCS (Conduct) Rules, 1966 and made himself liable for disciplinary action.

6. The complainant examined as PW-1 and got marked Ex.P.1 to P.9. In support of the case of the complainant, I.O. is examined as PW-2 and got marked Ex.P.10 to P.17. DGO is examined as DW-1 and got marked Ex.D.1 to D.5.

7. Advocate for DGO filed the written argument of DGO. Perused the entire case record.

8. The points that arise for my consideration are:

Point No.1 : Whether the charge framed against the DGO is proved?

Point No.2 : What order?

9. My answers to the above points are as under:

Point No. 1: **In the affirmative.**

Point no. 2 : **As per final order for the following ;**

REASONS

10. **Point No.1** : The complainant by name **Sri. Sadhashiva Shetty** S/o Moonappa Shetty, Secretary in Civil Freedom Committee Heroru, Cheethana Nilaya, Agrahara, Chantaru Grama, Brammavara Post, Udupi Taluk and District has filed the

B

complaint against **Sri. Rajashekar Rao**, the then Panchayath Development Officer, Chantharu Grama Panchayath, Udupi Taluk and District alleging misconduct and dereliction of duty as referred above.

11. The DGO submitted his written statement and he contended that he had worked as PDO in Chanturu Gram Panchayath, Udupi and he had discharged his duties in accordance with the provisions of the existing laws, under the supervision of his official superiors. He further contended that as per imputation the provision for construction of multi-storied residential apartment was issued during the year 2006-07 to 2011-12. DGO submitted that application for construction of buildings was considered under sub-section (2) of Sec.64 of the Karnataka Panchayath Raj Act, 1993 and permission was accorded and in accordance with said provision then existing. Sub-Sec.5(a) was inserted to Sec.64 making it mandatory. Compliance of the provisions of Karnataka Town & Country Planning Act, 1961 vide Act 44/15 which came into effect from 25/02/2016. It is further submitted that the residential apartment was already constructed and was occupied before the said amendment. Hence charge against him is not proved regarding violation of provisions of Sec.64 of Karnataka Panchayath Raj Act, 1993.

12. It is further submitted that he had brought to the notice of Gram Panchayath the provisions of Karnataka Panchayath Raj Act,

1993 on the basis of available information in the Gram Panchayath. He did not come across any violation of the provisions of the said act. Hence he did not take steps to set-aside the resolution and construction permission accorded by the Gram Panchayath.

13. It is further submitted that the Taluk Panchayath did not set-aside the permission granted by the Gram Panchayath though there were periodical inspection by the Executive Officer, Taluk Panchayath during the construction of multi-storied apartment. The Department of Fire Force and Pollution Control Board did not bring to the notice of the Gram Panchayath any violation in the said building or in granting permission.
14. It is further submitted that action taken by him is in good faith and will not amount to misconduct under sub-sec.(2) of Sec.295 of Karnataka Panchayath Raj Act, 1993. There is protection for actions taken in good faith. Hence, he submitted that he has not committed any misconduct.
15. After filing the complaint, the matter was referred for investigation to Sri. K. Srinivas, Assistant Executive Engineer, TAC of this institution. Investigation Officer (hereinafter referred as I.O) for investigation. The I.O. has submitted his report.
16. The complainant is examined as PW-1 and Ex.P.1 to P.9 were got marked. In his chief examination he deposed that DGO worked

as PDO of Chantur Gram Panchayath from 2006-07. From the year 2006-07 to 2010-11, DGO has given construction permission illegally to construct 13 storied building without having any authority. He further deposed that before according permission he has to obtain NOC from the 11 departments. Without obtaining NOC he had given permission to construct the buildings. When the owners of the buildings were constructing the building by encroaching upon the road, he had filed complaint to Gram Panchayath, Taluk Panchayath, Zilla Panchayath, Public Works Department & Deputy Commissioner, Udupi. He further deposed that buildings that were constructed, had not made any provisions for underground drainage facility, disbursement of garbage & parking facilities. He further deposed that DGO did not obtain NOC from Fire Force Department & Pollution Control Board. Ex.P.1 & P.2 are Form No.I & II; Ex.P.3 is the complaint; Ex.P.4 is the copy of the letter submitted by the Chief Administrative Officer to Deputy Commissioner, Udupi; Ex.P.5 is the newspaper cutting; Ex.P.6 is the copy of the complaint addressed to Karnataka Human Rights Commission by the complainant; Ex.P.7 is the copy of the Report submitted by the Medical Officer to the President, Gram Panchayath, Chantur; Ex.P.8 is the copy of the letter submitted by the Secretary, Gram Panchayath to the complainant & Ex.P.9 is the information given by the Gram Panchayath to the complainant under RTI dated 14/06/2011.

17. In the cross examination of PW-1, it is suggested that after filing of the complaint Fire Force & Pollution Control Board had taken action in accordance with law for that he deposed that they have taken action only in part. It is further suggested that the DGO had brought all legal issues in the Grama Sabha meeting and passed the resolution to that effect for that he admitted but he further deposed that the licence were issued by the DGO himself.
18. In this enquiry, I.O. is examined as PW-2. In his chief examination he deposed that during the investigation he found that in between 2006-07 to 2011-12 Chantur Gram Panchayath had issued construction permission to 12 multi-storied buildings which come within the limits of Gram Panchayath as per Ex.P.10. He further deposed that when he visited the spot, he found that construction permission was given by violating the rules of Zonal Regulation Act as per Ex.P.11. He further deposed that Gram Panchayath had to obtain NOC from Fire Force Department, KUWS & DB, KPTCL and telecommunication Department as stipulated in Zoning Regulation Act & Building Bye-Laws of Udupi Urban Development Authority.
19. He further deposed that as per Circular dated 19/12/2013, before giving permission to construct the multi-storied building, the DGO had to obtain permission from Fire Force Department and said document is marked as Ex.P.12. He further deposed that as per Ex.P.13 i.e. the Circular issued in the year 2012 by

the Government of Karnataka it is mentioned that the President, DGO & Secretary were not having any power to give permission for construction of multi storied building. He further deposed that Assistant Executive Engineer, Udupi addressed a letter dated 03/08/2006 to all the Gram Panchayaths coming under Udupi District stating that before construction of any building it was required to obtain the NOC from the Public Works Department. He further deposed that against these circulars the PDO had given permission to construct the building. Accordingly, he had conducted the mahazar as per Ex.P.15 and had also taken the photographs as per Ex.P.16 and submitted the report as per Ex.P.17. In the cross examination of PW-2, DGO got marked Ex.D.1 & D.2.

20. The DGO is examined as DW-1. In his chief examination he deposed that he worked as PDO in Chantru Gram Panchayath from 2007 to 2011 and he has given permission to 12 buildings which are the subject matter of this enquiry after following the rules of Karnataka Panchayath Raj Act, 1994. He further deposed that before granting permission the matter was placed in the Grama Sabha and obtained the sanction. He further deposed that Chantur Gram Panchayath, Udupi does not come under Urban Development Department as per Ex.D.3. He further deposed that the height of the 11 buildings are less than 15 meters, so there is no necessity to take NOC from Fire Force Department. Out of 11 buildings, 1 building is having height of

more than 15 meters. For that Fire Force Department had given permission. He further deposed that he had given permission in the year 2006-07 to 2011-12, so the Government Circular No.೧೨೨೮೮/೨೦೧೨/೧೨೨೮೮/೨೦೧೨ dated 28/12/2012 is not applicable. The Chief Executive Officer has written letter dated 20/05/2017 to this institution containing above points and produced the said documents which is marked as Ex.D.4. AEO has issued a letter stating that the constructed 11 buildings do not come within the limits of Gram Panchayath and produced the documents marked as Ex.D.5.

21. In the cross examination of PW-2, it is suggested that as per Ex.D.1 M/s. Peter Barnes, Managing Partner obtained the permission from Karnataka State Pollution Board Bangalore for construction of residential apartment with 48 flats in Sy.No.71/10 of Chantur Village on 01/01/2015. But the construction of the building in this enquiry are pertaining to the year 2006-07 to 2011. So this document is not helpful to the case of DGO. As per Ex.D.2 copy of the letter issued by the Chief Fire Force Officer, Mangalore to M/s. Peter Barnes it pertains to the year 2014, hence this document is also not helpful to DGO. Ex.D.3 is the notification No.HMA/36/5TTP76 dated 28/06/1976 showing the list of town municipalities coming under the limits of Urban Development Authority, Udupi. It does not pertaining to Chantur Gram Panchayath. In the Written Brief filed by the DGO it is submitted that DGO lead his evidence

and in the evidence he deposed that DGO has not given permission to the 11 alleged buildings, but he had given permission only for 2 buildings for re-construction. But DGO in this chief examination clearly admitted that he had given permission for alleged 12 buildings.

22. Another document relied upon by the DGO is the report submitted by the Executive Officer, Taluk Panchayath to this institution which is the xerox copy marked as Ex.D.4. In this report, it is mentioned that Chantur Gram Panchayath does not come under Urban Development Authority, Udupi. But it is not explained under which authority it comes. It is further submitted that NOC is required only to the buildings having height of 15 meters. Ex.D.5 is the letter issued by AEO, PWD, Udupi to PDO Chantur Gram Panchayath stating that out of 13 buildings 2 buildings come under PWD margin. But as per Ex.P.12, which is a circular issued by the Government of Karnataka on 19/12/2003, as per this circular the meaning of what is meant by multi-storied buildings is explained “ಬಹುಮಹಡಿ ಕಟ್ಟಡಗಳಲ್ಲಿ (15 ಮೀಟರ್‌ಗಿಂತ ಮೇಲ್ಬಟ್ಟು ಎತ್ತರ ಇರುವ ಅಥವಾ ನೆಲಹಂತ ಹಾಗೂ ನಾಲ್ಕು ಅಂತಸ್ತು ಮತ್ತು ಅದಕ್ಕಿಂತ ಹೆಚ್ಚು ಅಂತಸ್ತುಗಳನ್ನು ಒಳಗೊಂಡಿರುವ ಕಟ್ಟಡಗಳನ್ನು ಬಹುಮಹಡಿ ಕಟ್ಟಡವೆಂದು ವರ್ಗೀಕರಿಸಲಾಗಿದೆ). ರಾಷ್ಟ್ರೀಯ ಕಟ್ಟಡ ಸಮಿತಿಯಲ್ಲಿ (National Building Code) ನಿಗದಿಪಡಿಸಿರುವ ಎಲ್ಲಾ ಅಗ್ನಿ ನಿವಾರಣೆ ಹಾಗೂ ಅಗ್ನಿ ಶಮನ ಉಪಕರಣಗಳ ಅಳವಡಿಕೆ ಬಗ್ಗೆ ನೀಡಿರುವ ಸೂಚನೆಗಳನ್ನು ಕಟ್ಟುನಿಟ್ಟಾಗಿ ಪಾಲಿಸಲು ಅವಕಾಶ ಕಲ್ಪಿಸಲಾಗಿದೆ ಹಾಗೂ ಇದನ್ನು ನಿಯಂತ್ರಿಸಲು ಅಗ್ನಿಶಾಮಕ ಸೇವಾ ಇಲಾಖೆಯ ನಿರ್ದೇಶಕರನ್ನು ಪ್ರಾಧಿಕಾರವಾಗಿ ನಿಯುಕ್ತಗೊಳಿಸಲಾಗಿದೆ. ಮುಂದುವರೆದು, ಸದರಿ ಸುತ್ತೋಲೆಯಲ್ಲಿ “ಆದ್ದರಿಂದ ಅಗ್ನಿಶಮನಕ್ಕಿಂತ

ಅಗ್ನಿ ನಿವಾರಣೆಯು ಸುರಕ್ಷತೆ ದೃಷ್ಟಿಯಿಂದ ಸೂಕ್ತವೆಂದು ಮನಗೊಂಡು ಕಟ್ಟಡದಲ್ಲ ವಾಸಿಸಿರುವ ಹಾಗೂ ಕಟ್ಟಡಕ್ಕೆ ಭೇಟಿ ನೀಡುವ ಸುರಕ್ಷತೆ ದೃಷ್ಟಿಯಿಂದ ರಾಜ್ಯದಲ್ಲನ ಎಲ್ಲಾ ಬಹುಮಹಡಿ ಕಟ್ಟಡಗಳ ನಿರ್ಮಾಣಕ್ಕೆ ಅನುಮತಿ ನೀಡುವ ಮೊದಲು (National Building Code) ನ ಸೂಚನೆಗಳನ್ನು ಪಾಲನೆಬೇಕೆಂದು ಮತ್ತು ಅಗ್ನಿಶಾಮಕ ಸೇವಾ ಇಲಾಖೆಯ ನಿರಾಕ್ಷೇಪಣ ಪತ್ರ ಹಾಗೂ ಕಟ್ಟಡಕ್ಕೆ ಸ್ವಾಧೀನದ ಪತ್ರ ನೀಡುವ ಮೊದಲು ಅಗ್ನಿಶಾಮಕ ಸೇವಾ ಇಲಾಖೆಯ clearance ಪತ್ರವನ್ನು ಕಡ್ಡಾಯವಾಗಿ ಪಡೆಯಬೇಕೆಂದು ಕಟ್ಟುನಿಟ್ಟಾದ ಸೂಚನೆಯನ್ನು ನೀಡಲಾಗಿದೆ”.

23. The contention of the DGO is that this circular is not circulated to him. But by perusing the said circular it is circulated to all the head of the departments, so the contention of the DGO is not acceptable. According to PW-2, he visited the spot and conducted the spot panchanama in the presence of complainant, DGO, President and member of Gram Panchayath, Chantur which is marked as Ex.P.15. As per DGO he was not present at the time of panchnama. But by perusing the panchnama, he was also present and signed on the mahazar. As per mahazar the PW-2 inspected the 13 buildings and mentioned the measurement of the buildings and also description of the buildings which are as follows:

- i. Shamili Apartment having basement with 4 floored building.
- ii. Madhuvan Complex having basement with 4 floored building.
- iii. Shreyas Apartment, in this apartment there are 2 blocks in A Block there is a basement having 6

- floored building & B Block having basement with 7 storied building.
- iv. Plathe Apartment having basement with 6 floored building.
 - v. Siddarath Residency having basement with 6 floored building.
 - vi. Sri Lakshmi Plaza having basement with 6 floored building.
 - vii. Barnes Apartment having basement with 5 floored building.
 - viii. Siddarath Enclave having basement with 6 floored building.
 - ix. Barnes Store having basement with 4 floored building.
 - x. BRA Complex having basement with 1 floored building.
 - xi. Pruthvi Apartment having basement with 4 floored building.
 - xii. Kuber Towers having basement with 4 floored building.
 - xiii. R.R Complex having basement with 3 floored building.

Out of these buildings Madhuvan Complex, Barnes Store, BRA Complex, Kuber Towers are the commercial complex. By perusing the above contents of the mahazar it is clear that

circular of the Government as stated above is applicable to the these multi-storied buildings. The DGO has not produced any document to show that before granting permission, he has obtained NOC from concerned department. As regards Shreyas Complex is concerned, it is mentioned that as per the survey sketch issued by the Tahasildar there is encroachment of 0.33 acres of Government land and in that place constructed the tank for supply of wastage water, electrical transformer, bore well and also constructed the compound wall. Further it is mentioned that the said wastage water tank is not shown in the approved sketch map. Further in the said report it is mentioned that the DGO has not at all obtained the NOC from the respective department as stated above before giving permission.

24. The DGO in his cross examination has stated that later on Fire Force Department, PWD have given the NOC but the DGO has not produced any documents as submitted by him. DGO has not produced any document to show that it is the responsibility of Owners of the building to take NOC from the concerned department. The DGO in his written argument stated that as per the judgment passed by the Hon'ble Supreme Court in Sulendra Chandra's case (SC No.72) given direction that inquiry officer must aware that the charge has to be proved against the delinquent and it is not for the delinquent to absolve himself from the charge.

In view of the above discussion Presenting Officer on behalf of competent authority has proved the charges against the DGO as stated above.

25. The DGO has also submitted that as per the order passed in application No.2684/2018 dated 10/07/2019 (Sri Girish Mohan S.N. V/s Prinicipal Secretary, Government of Karnataka, Commerce & Industries Department) and also in application No.5670/2017 dated 28/01/2020 (Sri Jagdish Poojari, V/s Secretary, Government of Karnataka, Revenue Department) the Enquiry Officer has to consider the materials placed by the DGO. I have already discussed above the evidence and documents produced by the both the parties to come to the concluding that DGO has committed the misconduct and dereliction of duty.
26. For the above said reasons and discussion, I answer point No.1 in the **affirmative**.
27. Hence, I proceed to record the following:

FINDINGS

The Disciplinary Authority has **proved** the charges framed against DGO **Sri. Rajashekar Rao**, the then Panchayath Development Officer, Chantharu Grama Panchayath, Udupi Taluk and District.

B

The Date of Retirement of DGO is
30/06/2021.

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

Dated this the 23rd December, 2021

Banadesi 23/12
(SUDESH RAJARAM PARADESHI)
Additional Registrar Enquiries-14,
Karnataka Lokayukta,
Bangalore.

ANNEXURES

Sl. No.	Particulars of Documents	
1	Witness examined on behalf of the Disciplinary Authority	
	PW-1	Sri. Sadashiva Shetty S/o Moonappa Shetty, Chantharu, Brahmavara, Udupi.
	PW-2	Sri. Srinivas K S/o C.R Keshavamurthy, Rtd. AEE, Bengaluru.
2	Documents marked on behalf of the Disciplinary Authority Ex.P-1 to Ex.P-17	
	Ex.P.1 & 1(a)	Form No.1 with Signature.
	Ex.P.2 & 2(a)	Form No.2 with Signature (Affidavit).
	Ex.P.3 & 3(a)	Complaint dtd: 24/08/2011 given to this institution with signature.
	Ex.P.4	Letter dtd: 07/06/2011 addressed to DC, Udupi.
	Ex.P.5	Newspaper cutting.
	Ex.P.6	Letter addressed to Human Rights Commission.
	Ex.P.7	Letter addressed to President/Administrative Officer, Gram Panchayath, Chantaru.
	Ex.P.8	Letter dtd: 20/07/2009 addressed by Secretary, Chantaru Gram Panchayath, Brahmavara.
	Ex.P.9	Letter dtd: 14/06/2011 addressed by PDO, Chantaru Gram Panchayath, Udupi Taluk & District.
	Ex.P. 10	Letter dtd: 23/10/2013 addressed by Assistant Director, R&UD, Udupi with enclosures.
Ex.P. 11	Copy of Zonal Regulation Act.	

	Ex.P. 12	Circular dtd: 19/12/2003 issued by Under Secretary, UDD, Bengaluru.
	Ex.P. 13	Circular dtd: 28/12/2012 issued by Director, RDPR, Bengaluru.
	Ex.P. 14	Letter dtd: 03/08/2006 addressed to Secretary, Gram Panchayaths, Udupi Taluk.
	Ex.P. 15 & 15(a)	Mahazar with Signature.
	Ex.P. 16	CD
	Ex.P. 16(a)	Photographs.
	Ex.P. 17 & 17(a)	Investigation report dtd: 28/10/2013 with Signature.
3	Witness examined on behalf of the DGO, Documents marked on behalf of the DGO	
	DW-1	Sri. K. Rajashekar Rao S/o Nagappaiah Shyanbog, PDO, Udupi Taluk, Bommarabettu Gram Panchayath.
4	Documents marked on behalf of the DGOs through the complainant	
	Ex.D.1	Letter of Senior Environmental Officer, KSPCB, Bengaluru.
	Ex.D.2	Letter of Chief Fire Officer, KSF&ES, Mangalore with enclosures.
	Ex.D.3	Letter addressed by Commissioner, UDA, Udupi with enclosures.
	Ex.D.4	Letter dtd: 20/05/2017 addressed by CEO, ZP,

	Udupi.
Ex.D.5	Letter dtd: 20/05/2017 addressed by AEE, PWD, Udupi.

Dated this the 23rd December, 2021

Banarajsi
23/12

(SUDESH RAJARAM PARADESHI)
Additional Registrar Enquiries-14,
Karnataka Lokayukta,
Bangalore.

