

KARNATAKA - LOKAYUKTA

BEFORE ADDITIONAL REGISTRAR (ENQUIRIES -10)

PRESENT :

SRI. MASTER R.K.G.M.M. MAHASWAMIJI, MA., LL.M.,
ADDITIONAL REGISTRAR ENQUIRIES-10,
M.S. BUILDING,
KARNATAKA LOKAYUKTA,
BANGALORE - 560 001.

DEPARTMENTAL ENQUIRY NO. UPLOK-2/**DE-345/2016**/ARE-10

COMPLAINANT	SRI. K.CHANNAPPA
DISCIPLINARY AUTHORITY	GOVERNMENT OF KARNATAKA RURAL DEVELOPMENT & PANCHAYATH RAJ DEPARTMENT (Through the Presenting Officer)
V/s	
DELINQUENT GOVERNMENT OFFICIAL	SRI RAMAIAH Secretary, Bavinkere Village Panchayath, Tarikere Taluk, Chikkamagaluru District. (Through Advocate B.A. Chandra Shekar)

Subject : Departmental Inquiry against DGO as
noted in the cause title -reg.,

- Reference/s** :
1. Report u/S 12(3) of the Karnataka Lokayukta Act, 1984 in Compt/Uplok/MYS/6709/2014/DRE-1 dt. 19/07/2016.
 2. Government Order No. GraPamKa 2016, Bengaluru dated 23.08.2016
 3. Nomination Order No.Uplok-2/DE/345/2016 Bengaluru dt. 01.09.2016 of Hon'ble Uplokayukta-2.

- i. Nature of Case : Departmental Enquiry
- ii. Provision of law under which Article of charge/s framed. : U/R 3 (1) Karnataka Civil Services(Conduct) Rules, 1966.

iii Date of Submission of report : **15th September** 2018.

-: DEPARTMENTAL - ENQUIRY - REPORT :-

1. This is the departmental enquiry initiated and held against DGO as the complainant by name Sri. K. Channappa has filed a complaint in Lokayukta Office against the Delinquent Government Official alleging his dereliction of duty and misconduct.
2. The comments of the DGO called, But, DGO has failed to file his comments. Hence, a **Report** was sent to the Government u/S 12(3) of the Karnataka Lokayukta Act, 1984 as per reference No. 1. In pursuance of the report, Government was pleased to issue the **Government Order** (G.O.) dated 23.08.2016 authorizing Hon'ble Upalokayukta-2 to hold an enquiry as per reference no. 2.
3. In pursuance of the Government Order, **nomination order** was issued by Hon'ble Upalokayukta-2 on 01.09.2016 authorizing ARE-10 to frame Article of Charge against DGO and hold an enquiry to find out truth and to submit a report as per reference No. 3.
4. Accordingly, *Article of charge* was framed/prepared under Rule 11(3) of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 and

was sent to the Delinquent Government Official on 02.01.2017.

5. The article of **charge** and the statement of imputations of misconduct framed/prepared and leveled against the DGO is **reproduced** as hereunder :-

ಅನುಬಂಧ-1
ದೋಷಾರೋಪಣೆ-1

5(1) ಶ್ರೀ. ರಾಮಯ್ಯ, ಕಾರ್ಯದರ್ಶಿ, ಬಾವಿಕೆರೆ ಗ್ರಾಮ ಪಂಚಾಯಿತಿ, ತರೀಕೆರೆ ತಾಲ್ಲೂಕು, ಚಿಕ್ಕಮಗಳೂರು ಜಿಲ್ಲೆ, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನೀವು, 35x70 ಅಡಿಯುಳ್ಳ ನಿವೇಶನವನ್ನು ಸಂದೇಶ್ ಬಿನ್ ಟಿ.ವಸಂತಕುಮಾರ್ ಶೆಟ್ಟಿ ಬಾವಿಕೆರೆ ಗ್ರಾಮಪಂಚಾಯಿತಿ ಸದಸ್ಯ ಇವರ ಹೆಸರಿಗೆ, 40x70 ಅಡಿ ನಿವೇಶನವನ್ನು ತಾಲ್ಲೂಕು ಪಂಚಾಯಿತಿ ಸದಸ್ಯರಾದ ಎಂ.ಸೀತಾರಾಮ ಬಿನ್ ಮರಿಯಪ್ಪ ಇವರಿಗೆ, 35 x 70 ಅಡಿ ನಿವೇಶನವನ್ನು ಬಾವಿಕೆರೆಯ ಬಿ.ಎಸ್.ವೆಂಕಟೇಶ್ ಬಿನ್ ಬಿ.ವಿ.ಸುಂದರೇಶ್ ಇವರ ಹೆಸರಿಗೆ, ಅಕ್ರಮವಾಗಿ ಅಸೆಸ್‌ಮೆಂಟ್ ಪುಸ್ತಕದಲ್ಲಿ ದಾಖಲಿಸಿರುತ್ತೀರಿ.

5(2) ಆದಕಾರಣ, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನೀವು, ಸರ್ಕಾರಿ ಸೇವಕರಾಗಿದ್ದು, ನಿಮ್ಮ ಕರ್ತವ್ಯಪಾಲನೆಯಲ್ಲಿ ಪರಿಪೂರ್ಣ ಪ್ರಾಮಾಣಿಕತೆ, ಸಂಪೂರ್ಣ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ತೋರಿಸದೆ ಸ್ವಂತ ಲಾಭಕ್ಕಾಗಿ ಸಾರ್ವಜನಿಕ ಸೇವಕರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡಿದ್ದು, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ

ನೀವು, ಕರ್ನಾಟಕ ಸರ್ಕಾರಿ ಸೇವಾ (ನಡತೆ) ನಿಯಮಾವಳಿ 1966ರ ನಿಯಮ (3)(1)ನೇ ನಿಬಂಧನೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿ, ದುರ್ನಡತೆ ಎಸಗಿದ್ದೀರಿ.

ಅನುಬಂಧ-2

ದೋಷಾರೋಪಣೆಯ ವಿವರ

(ಸ್ಟೇಟ್‌ಮೆಂಟ್ ಆಫ್ ಇಂಪ್ಯೂಟೇಷನ್ ಆಫ್ ಮಿಸ್‌ಕಾಂಡೆಕ್ಟ್)

5(3) ಶ್ರೀ.ಕೆ.ಚನ್ನಪ್ಪ ಬಿನ್ ಕೊಂಡಬೋವಿ, ಬಾವಿಕೆರೆ ಗ್ರಾಮಪಂಚಾಯಿತಿ, ತರೀಕೆರೆ ತಾಲ್ಲೂಕು, ಚಿಕ್ಕಮಗಳೂರು ಜಿಲ್ಲೆ, (ಇನ್ನು ಮುಂದೆ ದೂರುದಾರರು ಎಂದು ಕರೆಯಲ್ಪಡುತ್ತಾರೆ) ರವರು ಸರ್ಕಾರಿ/ಸಾರ್ವಜನಿಕ ನೌಕರರಾದ ಶ್ರೀ.ರಾಮಯ್ಯ, ಕಾರ್ಯದರ್ಶಿ, ಬಾವಿಕೆರೆ ಗ್ರಾಮ ಪಂಚಾಯಿತಿ, ತರೀಕೆರೆ ತಾಲ್ಲೂಕು, ಚಿಕ್ಕಮಗಳೂರು ಜಿಲ್ಲೆ, ಇವರ ವಿರುದ್ಧ ದೂರು ಸಲ್ಲಿಸಿದ ಮೇರೆಗೆ, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯಿದೆ, 1984 ರ ಕಲಂ 9 ರಡಿಯಲ್ಲಿ ದತ್ತವಾದ ಅಧಿಕಾರ ಚಲಾಯಿಸಿ, ವಿಚಾರಣೆಗೆ ತೆಗೆದುಕೊಂಡು ತನಿಖೆ ಮಾಡಿದೆ.

5(4) ದೂರುದಾರರು, ತಮ್ಮ ದೂರಿನಲ್ಲಿ ಬಾವಿಕೆರೆ ಗ್ರಾಮಪಂಚಾಯಿತಿ ಹಾಲಿ ಸದಸ್ಯರಾದ ಟಿ.ವಸಂತಕುಮಾರ್ ಶೆಟ್ಟಿ ತನ್ನ ಮಗನಾದ ಸಂದೇಶ್ ಇವರಿಗೆ 35 x 70 ಅಡಿಯುಳ್ಳ ನಿವೇಶನ, ಹಾಲಿ ತಾಲ್ಲೂಕು ಪಂಚಾಯಿತಿ ಸದಸ್ಯರಾದ ಎಂ.ಸೀತಾರಾಮ ಬಿನ್ ಮರಿಯಪ್ಪ ಇವರು 40 x 70 ಅಡಿ ನಿವೇಶನ ಮತ್ತು ಬಾವಿಕೆರೆಯ ಬಿ.ಎಸ್.ವೆಂಕಟೇಶ್ ಬಿನ್ ಬಿ.ವಿ.ಸುಂದರೇಶ್ ಇವರಿಗೆ 35 x 70 ಅಡಿ ನಿವೇಶನವನ್ನು ಅರಸೀಕೆರೆ ಗ್ರಾಮದ ಅಸೆಸ್‌ಮೆಂಟ್ ನಂ.2 ರಲ್ಲಿ

ಕಾರ್ಯದರ್ಶಿಯಾದ ರಾಮಯ್ಯ ಇವರಿಗೆ ಬೆದರಿಸಿ ಅಕ್ರಮವಾಗಿ ಅಸೆಸ್‌ಮೆಂಟ್ ಪುಸ್ತಕದಲ್ಲಿ ದಾಖಲಿಸಿರುತ್ತಾರೆ. ಇದಲ್ಲದೆ, ಗ್ರಾಮಪಂಚಾಯತಿಗೆ ಸಂಬಂಧಪಟ್ಟ ಕಾಮಗಾರಿಗಳಲ್ಲಿ ಸಾರ್ವಜನಿಕರಿಗೆ ಸರ್ಕಾರಿ ಸೌಲಭ್ಯ ನೀಡುವಲ್ಲಿ ಭ್ರಷ್ಟಾಚಾರ ಮಾಡಿರುತ್ತಾರೆಂದು, ಆಪಾದಿಸಿ ಗ್ರಾಮಪಂಚಾಯತಿ ಕಾರ್ಯದರ್ಶಿ ವಿರುದ್ಧ ಕ್ರಮ ಕೈಗೊಳ್ಳುವಂತೆ ಕೋರಿರುತ್ತಾರೆ.

5(5) ಗೌರವಾನ್ವಿತ ಲೋಕಾಯುಕ್ತರವರ ಚಿಕ್ಕಮಗಳೂರು ಪ್ರವಾಸದ ಸಂದರ್ಭದಲ್ಲಿ, ಗೌರವಾನ್ವಿತ ಲೋಕಾಯುಕ್ತರು ತರೀಕೆರೆ ತಾಲ್ಲೂಕು ಪಂಚಾಯತ್ ಕಾರ್ಯನಿರ್ವಾಹಕ ಅಧಿಕಾರಿಗಳಿಗೆ, ಈ ವಿಚಾರವಾಗಿ ತನಿಖೆ ನಡೆಸಿ 3 ತಿಂಗಳೊಳಗಾಗಿ ಅನುಪಾಲನಾ ವರದಿಯನ್ನು ಸಲ್ಲಿಸುವಂತೆ, ಆದೇಶಿಸಿರುತ್ತಾರೆ.

5(6) ಕಾರ್ಯನಿರ್ವಾಹಕ ಅಧಿಕಾರಿ, ತಾಲ್ಲೂಕು ಪಂಚಾಯತ್, ಇವರು ವರದಿಯನ್ನು ಸಲ್ಲಿಸಿದ್ದು, ತಮ್ಮ ವರದಿಯಲ್ಲಿ ಅರಸೀಕೆರೆ ಗ್ರಾಮದ ಅಸೆಸ್‌ಮೆಂಟ್ ನಂ.2ರಲ್ಲಿ ಅಕ್ರಮವಾಗಿ ನಿವೇಶನಗಳನ್ನು ದಾಖಲಿಸಿರುವ ಬಗ್ಗೆ ತರೀಕೆರೆ ತಾಲ್ಲೂಕು ಜಿ.ಎಂ.ಎಫ್.ಸಿ. ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಪ್ರಕರಣವು ಅಪರಾಧ ಸಂ.57/14 ರಂತೆ ದಿ.14/3/14 ರಂದು ದಾಖಲಾಗಿದ್ದು, ಸದರಿ ಪ್ರಕರಣ ವಿಚಾರಣೆ ಹಂತದಲ್ಲಿರುತ್ತದೆಯೆಂದು ತಿಳಿಸಿರುತ್ತಾರೆ.

5(7) ಕಾರ್ಯನಿರ್ವಾಹಕ ಅಧಿಕಾರಿ, ತಾಲ್ಲೂಕು ಪಂಚಾಯತ್, ತರೀಕೆರೆ ಇವರು ತಮ್ಮ ವರದಿಯ ಜೊತೆ ಲಕ್ಷವಳ್ಳಿ ಪೊಲೀಸ್ ಠಾಣಾ ಅಪರಾಧ ಸಂ.57/14 ರಲ್ಲಿ ಪೊಲೀಸರು ಸಲ್ಲಿಸಿರುವ ಅಂತಿಮ ವರದಿಯ ಪ್ರತಿಯನ್ನು ಹಾಜರು ಪಡಿಸಿದ್ದು, ಸದರಿ ಪ್ರಕರಣದಲ್ಲಿ ಸಂದೇಶ್‌ಶೆಟ್ಟಿ ಹಾಗೂ ಬಾವಿಕೆರೆ ಗ್ರಾಮಪಂಚಾಯತಿ ಕಾರ್ಯದರ್ಶಿ ರಾಮಯ್ಯ ಇವರನ್ನು ಆರೋಪಿಗಳನ್ನಾಗಿ

ತೋರಿಸಿರುವುದು ಕಂಡುಬರುತ್ತದೆ. ಸದರಿ ಅಂತಿಮ ವರದಿಯನ್ನು ಪರಿಶೀಲಿಸಿದಾಗ, ಮೇಲ್ನೋಟಕ್ಕೆ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಕರ್ತವ್ಯಲೋಪ ಮಾಡಿರುವುದು ಕಂಡುಬರುತ್ತದೆ. ಕಾರ್ಯನಿರ್ವಾಹಕ ಅಧಿಕಾರಿಗಳು ತಾಲ್ಲೂಕು ಪಂಚಾಯಿತಿ ತರೀಕೆರೆ, ಇವರು ಹಾಜರು ಪಡಿಸಿರುವ ವರದಿ ಹಾಗೂ ದಾಖಲಾತಿಗಳನ್ನು ಪರಿಶೀಲಿಸಿದಾಗ, ಮೇಲ್ನೋಟಕ್ಕೆ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರ ವಿರುದ್ಧ ಸಾಕ್ಷ್ಯಾಧಾರಗಳು ಕಂಡುಬಂದಿದ್ದು, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಕರ್ತವ್ಯಲೋಪವನ್ನು ಎಸಗಿರುವುದು ಕಂಡುಬರುತ್ತದೆ.

5(8) ಈ ಮೇಲ್ಕಂಡ ಎಲ್ಲಾ ಅಂಶಗಳನ್ನು ಗಣನೆಗೆ ತೆಗೆದುಕೊಂಡಾಗ, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಸಾರ್ವಜನಿಕ/ಸರ್ಕಾರಿ ನೌಕರರಾಗಿ ತಮ್ಮ ಕರ್ತವ್ಯ ನಿರ್ವಹಣೆಯಲ್ಲಿ ನಿಷ್ಠೆ ಇಲ್ಲದೆ, ಕರ್ತವ್ಯಲೋಪ ಎಸಗಿ ಸರ್ಕಾರಿ ನೌಕರರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡಿರುತ್ತಾರೆಂದು ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡುಬರುತ್ತದೆ.

5(9) ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಸರ್ಕಾರಿ ನೌಕರರಾಗಿದ್ದು ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವಾ (ನಡತೆ) ನಿಯಮಾವಳಿ, 1966 ರ ನಿಯಮ 3(1)ರ ಅಡಿಯಲ್ಲಿ ದುರ್ವರ್ತನೆ/ದುರ್ನಡತೆಯಿಂದ ವರ್ತಿಸಿ ಶಿಸ್ತು ಕ್ರಮಕ್ಕೆ ಬಾಧ್ಯರಾಗಿದ್ದಾರೆಂದು ಕಂಡುಬಂದಿದ್ದರಿಂದ, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯ್ದೆಯ ಕಲಂ 12(3) ರಡಿಯಲ್ಲಿ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರದಡಿಯಲ್ಲಿ, ಈ ಮೂಲಕ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರ ವಿರುದ್ಧ ಶಿಸ್ತು ನಡವಳಿಕೆ ಹೂಡಲು ಮತ್ತು ಹಾಗೆಯೇ ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವಾ (ವರ್ಗೀಕರಣ,

ನಿಬಂಧ ಮತ್ತು ಮೇಲ್ಮನವಿ) ನಿಯಮಗಳು, 1957ರ ನಿಯಮ 14-ಎ ಅಡಿಯಲ್ಲಿ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರ ವಿರುದ್ಧ ಇಲಾಖಾ ವಿಚಾರಣೆಗೆ ಶಿಫಾರಸ್ಸು ಮಾಡಲಾಗಿತ್ತು.

5(10) ಹಾಗಾಗಿ, ಶಿಸ್ತು ನಡವಳಿಕೆಯನ್ನು ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರ ವಿರುದ್ಧ ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ (ವರ್ಗೀಕರಣ, ನಿಯಂತ್ರಣ ಮತ್ತು ಮೇಲ್ಮನವಿ) ನಿಯಮಗಳು 1957 ರ ನಿಯಮ 14 ಎ ಅಡಿಯಲ್ಲಿ ಇಲಾಖಾ ವಿಚಾರಣೆಯನ್ನು ನಡೆಸಲು ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರಿಯಾದ ಸರ್ಕಾರ ಗೌರವಾನ್ವಿತ ಉಪಲೋಕಾಯುಕ್ತರವರಿಗೆ ವಹಿಸಿದ್ದು, ಗೌರವಾನ್ವಿತ ಉಪಲೋಕಾಯುಕ್ತರವರು ಅಪರ ನಿಬಂಧಕರು (ವಿಚಾರಣೆಗಳು 10) ಇವರನ್ನು ವಿಚಾರಣೆ ನಡೆಸಲು ನೇಮಕ ಮಾಡಿದ್ದಾರೆ. ಆದ್ದರಿಂದ, ನಿಮ್ಮ ವಿರುದ್ಧ ಈ ಮೇಲ್ಕಂಡ ಆಪಾದನೆ ಇರುತ್ತದೆ.

6. The aforesaid *article of charge* was served upon the DGO and he appeared before this enquiry authority and his **first oral statement** under Rule 11(9) of KCS (CCA) Rules, 1957 was recorded. The DGO has pleaded not guilty and claimed to be enquired about the charge.

7. The DGO has been given an opportunity by this Enquiry Authority for verification / inspection of records/ documents and for discoveries if any. But, DGO has **not filed** his *written defense statement*.

8. *In this enquiry*, to establish the *charge* against DGO, the presenting officer has examined (1) Sri Chennappa (complainant) as ***pw-1*** & (2) Sri. Gangadharamurthy (Executive officer, Taluk Panchayath, Tarikere & Investigation Officer) as ***PW 2*** and produced and got marked, in all, **15** documents as Ex P1 to 15 on behalf of Disciplinary Authority.
9. After the closure of the evidence of the Disciplinary Authority, *second oral statement* of DGO as per Rule 11(16) of Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 was recorded. The DGO has submitted that he will examine himself. Accordingly, the delinquent government official is examined himself as DW1 and closed his side. As such, the *questionnaire* of DGO u/R 11(18) of KCS (CCA) Rules, 1957 was *dispensed with* as he examined himself.
10. The learned defense assistant for DGO has filed written brief and I have heard learned Presenting Officer and defense assistant.
11. *Now*, the points that emerge for my consideration and conclusion are *as follows* :

1 : Whether the charge against DGO as noted at para No. 5 is proved by the

Disciplinary Authority through its presenting officer?

2 : *What finding / conclusion ?*

12. I have heard and carefully perused the enquiry papers and analyzed and appreciated the oral and documentary evidence placed on record.
13. My *findings* on aforesaid points are *as under*.

POINT No. 1 : In the AFFIRMATIVE

POINT no. 2 : As per my *FINDING/CONCLUSION* for the following ;

*** REASONS ***

14. **POINT NO. 1** : *It is the case of the Disciplinary Authority that, DGO being the Secretary of Bavinakere Gram Panchayath, has entered the names illegally in assessment book, viz, the name of (1) Sri. Sandesh S/o T. Vasanthakumar Shetty, a member of Bavinkere Grama Panchayath in respect of site measuring 35 X 70 feet and (2) Sri. M. Seetharam S/o Mariyappa, a member of Taluk Panchayath in respect of site measuring 40 X 70 feet and name of (3) Sri. B.S. Venkatesh S/o B.V. Sundaresh, in respect of a site measuring 35 X 70 feet. Thus, DGO has committed dereliction duty/misconduct.*

15. *In order to prove the charge leveled against DGO, the presenting officer has examined 2 witnesses and got marked 15 documents and closed the side.*
16. *Now, I shall proceed to appreciate and analyze the oral and documentary evidence of the disciplinary authority viz.,(PW1, PW-2 and Ex P1 to 15) which are as follows.*
17. *PW- 1 SRI K. CHANNAPPA (complainant) he deposes that, in Arasikere village, Bhavikere Gram Panchayath limits, DGO being Secretary, without following any rules and regulations has granted site/s measuring 35 x 70 ft to Sri. Sandesh; 35 x 70ft to Sri. Venkatesh, and 40 x 70 ft to Sri. Seetharam and DGO has made entries in the assessment register illegally.*
18. *PW-1 further deposes that, he submitted representations to Deputy Commissioner, Chief Executive Office, Executive Officer and Tahsildar; but no action was taken.*
19. *PW-1 states that, therefore, he lodged a complaint in Form No. I & Form No. II (Affidavit) to Lokayukta office as per Ex. P -1 & 2.*
20. *PW-1 further states that, along with complaint, he has produced copy of representation to Executive Officer; copy of RTI application; reply given by Public information officer and Resolution copy as per Ex. P -3 to 6.*

21. *PW-1 says that, he has also produced that true copy of assessment register extract for the year 1996-97 to 2013-14 as per Ex P -7.*
22. *PW-2 SRI. GANGADHARA MURTHY (Executive Officer & Investigation Officer) he deposed that, from the year 2013 to 2015, DGO had worked as secretary in Bhavikere Gram Panchayath. As per the direction in letter dt:19.11.2014, to investigate the matter, he secured the relevant documents from Bhavikere Gram Panchayath and perused the same and **found** that without any previous documents, the DGO has mentioned/entered the names of Sandesha Shetty S/o Vasantha Shetty, Sri.Venkatesh S/o Sundaresh, Sri. Seetharamu S/o Mariyappa in assessment register.*
23. *PW-2 further deposed that, there is no Gram Panchayath resolution to insert/enter the names of above persons in assessment register.*
24. *PW-2 says that, the DGO is responsible official for above discrepancies. Accordingly, after completion of the investigation, he submitted the Investigation Report as per Ex. P-8.*
25. *PW-2 states that, along with Investigation Report he has produced relevant supporting documents Viz Copy of letter of PDO to Executive Officer; Copy of FIR against DGO and other related documents; Copy of eviction order passed by Tahasildar; Copy of mahazar and annexure; Copy of letter with documents issued by PDO to DGO; Copy of enquiry*

report of Executive Officer and Copy of direction of Chief Executive Officer along with relevant documents as per Ex. P -9 to 15 respectively.

26. *In the cross-examination of PW-1 & 2 made by learned defense assistant appearing for DGO, I find that no worth mentioning points are elicited in favour of DGO/defense, to discredit/disbelieve their depositions.*
27. *It is the case of DGO/Defence that one Sri. Vasanthkumar shetty and his friends threatened him to work according to his directions and they opened almirah with duplicate key and took away all the files, books, registers and documents to their home and shouted at him not to disclose and they have forged the same.*
28. *In this regard, SRI RAMAIAH, (Secretary/DGO), has examined himself as DW-1 & Sri. A. Kumar, (Grama Panchayath Member) examined as DW-2 by filing affidavit/s evidence and stated by reiterating the contents of affidavit/s and Ex. D-1 is got marked.*
29. *It is elicited in the cross-examination of DW-1 that, he did not give police complaint against Sri. Vasanthkumar Shetty who alleged to be taken book/register and made forgery.*

30. *It is further elicited from DW-1 and he has clearly admitted as true that, a criminal case is pending in CC No. 686/14 before JMFC Court, Tarikere for the offences punishable under Section/s 192(A) of Karnataka Land Revenue Act and U/s 447, 121(B) and 417 of IPC, against DGO as he is arrayed as accused No.2.*
31. *It is noticed in the cross-examination of DW-1 and he has given clear admission that, he came to know that as on 5.12.2013, DW-2 Sri. A. Kumar was member and Smt. Jyothi Lakshmi was President of Bhavikere Grama Panchayath and as per Ex. P-6 resolution dated 5.12.2013, it is resolved that, DGO Sri. K. Ramaiah has entered the names of three persons in the assessment Register and DW-2 has also given consent and he did not oppose it.*
32. *It is elicited in the Cross Examination of DW-2 and it is vividly admitted as true that, he does not know how and where forgery took place and he has not personally seen the carrying of Register by Sri. Vasanthkumar Shetty and forging the same by entering the name/s etc and he has also given consent to Ex. P-6 resolution dated 5.12.2013 resolving that DGO Sri. K. Ramaiah has entered the names of three persons in the Assessment Register.*

33. In so far as argument/s in this enquiry is concerned, the learned presenting officer has submitted that PW-1 & PW-2 are examined and Ex. P-1 to P-15 have been got marked and on the basis of the same, affirmative finding can be given as *charge, proved*.
34. *Per contra*, the learned defence assistant has filed *written brief*.
35. Having heard and on careful perusal and appreciation of oral and documentary evidence of disciplinary authority placed on record, *it is obviously clear that* the disciplinary authority has placed sufficient and satisfactory oral and documentary evidence to prove its case/enquiry against the DGO as per the standard of preponderance of probabilities to warrant my finding on the charge against DGO in the affirmative as proved.
36. *On perusal of deposition's of PW-1 Sri Chennappa and PW-2 Sri. Gangadharmurthy*, it can be seen that PW-1 being the complainant and PW-2 being the Executive Officer, Tarikere Taluk Panchayath, and Investigation Officer, have fully supported the case of disciplinary authority.
37. *It is significant to note that* nothing worth mentioning points are elicited from the evidence of PW-1 & 2 by the learned defense assistant appearing for Delinquent

Government Official. *As such*, the depositions of PW-1 & PW-2 are worthy of acceptance, believable and reliable.

38. *It is relevant to note that* the depositions of PW-1 and Pw-2 are consistent, corroborative and same are fortified by the relevant documents viz Ex. P-1 to P-15.

39. I find, no substance and considerable force in the line of argument/contention taken by the learned defense assistant appearing for DGO *that*, one Sri. Vasanthkumar shetty and his friends threatened him to work according to his directions and they opened almirah with duplicate key and took away all the files, books, registers and documents to their home and shouted at him not to disclose and they have forged the same.

39(1) **Because**, admittedly, DGO did not give any complaint against so called Sri. Vasanthkumar Shetty and his friends. *Moreover*, a criminal case in CC NO. 686/2014 is also pending before JMFC Court at Tarikere for the offences Punishable Under Section 192(A) of Karnataka Land Revenue Act, and Under Sections 447, 121(B) and 417 of IPC, in which DGO is arrayed as Accused No.2.

39(2) *Above all*, DGO himself has categorically admitted as true that, he came to know that as on 5.12.2013, DW-2 Sri. A. Kumar was member and Smt. Jyothi Lakshmi

was President of Bhavikere Grama Panchayath and as per Ex. P-6 resolution dated 5.12.2013, it is resolved that, *DGO Sri. K. Ramaiah has entered the names of three persons in the assessment Register and DW-2 has also given consent and he did not oppose it. This aspect goes to show that, it is none other than DGO who entered the names of three persons in Assessment Register in respect of concerned sites.*

- 39(3) *At this juncture, it is necessary and fruitful to extract the relevant para of Ex. P-6 resolution dated 5.12.2013 or Ex. P -6(a) and it reads thus:-*

ಅಸೆಸ್ಮೆಂಟ್ ದಾಖಲೆಗೆ ಅನಧಿಕೃತವಾಗಿ ಖಾತೆ ದಾಖಲು ಮಾಡಿರುವ ಬಗ್ಗೆ.

“ ಈ ಬಗ್ಗೆ ಸಭೆಯಲ್ಲಿ ಕೂಲಂಕುಷವಾಗಿ ಚರ್ಚಿಸಲಾಗಿ, ಬಾವಿಕೆರೆ ಗ್ರಾಮ ಪಂಚಾಯತಿ ವ್ಯಾಪ್ತಿಗೆ ಬರುವ ಅರಸೀಕೆರೆ ಗ್ರಾಮದ ಅಸೆಸ್ಮೆಂಟ್ ನಂಬರ್ 2/ಸಿ ನಲ್ಲಿ ಕ್ರಮವಾಗಿ (1) ಸಂದೇಶ ಶೆಟ್ಟಿ ಚನ್ ಪಿ. ವಸಂತಕುಮಾರ್ ಶೆಟ್ಟಿ 35 X 70 (2) 2/ಡಿ ನಲ್ಲಿ ವೆಂಕಟೇಶ್ ಚನ್ ಬಿ.ವಿ. ಸುಂದರೇಶ 35 X 70 (3) 2/ಇ ನಲ್ಲಿ, ಸೀತಾರಾಂ ಚನ್ ಮರಿಯಪ್ಪ 40 X 70, ಅಡಿಗಳು ಎಂದು ನಮೂದಾಗಿರುವುದು ಕಂಡು ಬಂದಿದೆ. ಈ ಸೇರ್ಪಡೆಗಳು ಇತ್ತೀಚೆಗೆ ದಾಖಲು ಮಾಡಿರುವ ಸೇರ್ಪಡೆಗಳಾಗಿದ್ದು, ಇದು ವರ್ಗಾವಣೆ ಆಗಿ ಹೋಗಿರುವ ಹಿಂದಿನ ಪಂಚಾಯತಿ ಅಭಿವೃದ್ಧಿ ಅಧಿಕಾರಿ, ಕೆ. ರಾಮಯ್ಯ, ಇವರು ಸೇರ್ಪಡೆ ಮಾಡಿರುವ ದಾಖಲೆಯಾಗಿರುತ್ತದೆ. ಈ ದಾಖಲೆಗಳಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಪಂಚಾಯತಿ ಕಛೇರಿಯಲ್ಲಿ ಯಾವುದೇ ಕಡತಗಳು ಲಭ್ಯವಿರುವುದಿಲ್ಲ ಹಾಗೂ ಯಾವ

ಆಧಾರದ ಮೇಲೆ ದಾಖಲು ಮಾಡಿರುತ್ತಾರೆಂಬುದು ಗೊತ್ತಾಗಿರುವುದಿಲ್ಲ. ಈ ಸೇರ್ಪಡೆ ಮಾಡಿರುವ ಹೆಸರುಗಳು ಗ್ರಾಮದ ಪ್ರಭಾವಿ ವ್ಯಕ್ತಿಗಳಾಗಿರುವುದು ಕಂಡು ಬಂದಿರುತ್ತದೆ”.

39(4) On plain perusal of supra noted para of resolution of Bavikere Grama Panchayath, *it is crystal clear that*, it is the Delinquent Government Official by name Sri. K. Ramaiah is the person who entered the names of three persons illegally in Assessment Register. *As such, the aforesaid contention of DGO is unacceptable and unsustainable.*

40. *It is pertinent to note that*, in this case, DGO did not give comments. *Further*, DGO has failed to file his Written Defense Statement in this Departmental Enquiry; hence, as per order sheet dated 22.02.2017 it is taken that, Written Statement not filed. **But**, all of a sudden, DGO has taken aforesaid contention in his affidavit, without there being foundation/comments/Written Statement. *Therefore*, an adverse inference can also be drawn against the DGO as per Section 114 of Indian Evidence Act. 1872.

41. *On careful analysis and appreciation of oral and documentary evidence placed on record*, it is *manifestly clear that*, the evidence of PW-1 and PW-2 are

fully corroborated and consistent with Ex. P-1 to P-15 and the same are inspiring confidence of this enquiry authority to rely and to act upon and there is nothing brought on record to disbelieve the same. *In my considered view*, the case of disciplinary authority is *acceptable*.

42. *For the reasons stated above* and observations made in the light of depositions of Pw-1, PW-2 and DW-1 and Ex. P-1 to 15, and Ex. D-1 and relevant provisions of law and under the given set of facts and circumstances of this enquiry, I have arrived at inevitable conclusion to *hold that* the Disciplinary Authority through its Presenting Officer is successful in proving the *charge* framed and leveled against DGO *up to* the standard of preponderance of probabilities and to the satisfaction of this authority, to record my finding in the affirmative as *proved*.
43. **POINT NO.2** : In view of my finding on point No. 1, for foregoing reasons and discussions, I proceed to submit the enquiry report *as under* :-

:: ENQUIRY - REPORT ::

- i. From the oral and documentary evidence and materials placed on record, I hold and record my finding that the Delinquent Government Official SRI. **RAMAIAH**, Secretary, Bavikere Village

Panchayath, Tarikere Taluk, Chikkamagaluru District has *failed* to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government servant and he is *found guilty* of misconduct under Rule 3(1) of Karnataka Civil Service (Conduct) Rules, 1966.

ii. *Accordingly*, I hold and record/assign my finding on the *charge* leveled by the disciplinary authority against Delinquent Government Official as **Proved.**

iii *Hence*, this Enquiry Report is submitted/placed before Hon'ble Upalokayukta-2 for kind consideration.

Dated **15th September** 2018

(Master RKGMM Mahaswamiji)
Additional Registrar Enquiries-10
Karnataka Lokayukta
Bangalore.

Date : 15.09.2018

Place : Bangalore.

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

PW-1 :- Sri. Chennappa (Complainant)

PW-2 :- Sri. Gangadhara Murthy
(Executive Officer, Taluk Panchayath,
Tarikere & Investigation Officer).

II. LIST OF DOCUMENTS MARKED/EXHIBITED ON BEHALF OF DISCIPLINARY AUTHORITY :

- Ex.P-1 : Form No. I (complaint) dated
21.06.2014
- Ex.P-2 : Form No. II (affidavit) dated
21.06.2014.
- Ex.P-3 : Copy of representation submitted
to EO dated 28.11.2013.
- Ex.P-4 : Copy of RTI Application dated
27.01.2014.
- Ex P-5 : Reply given by Public information
officer dated 31.01.2014.
- Ex.P-6 : Resolution copy dated 5.12.2013
- Ex P 7 : Assessment register extract
- Ex P 8 : Investigation Report dated
5.1.2015
- Ex P 9 : Copy of letter of PDO to Executive
Officer dated 06.01.2015.
- Ex P 10 : Copy of FIR against DGO dated
14.03.2014
- Ex.P-11 : Copy of eviction order passed by
Tahasildar dated 05.03.2014.
- Ex.P-12 : *Copy of Mahazar dated 15.03.2014*
- Ex.P-13 : Copy of Letter with documents
issued by PDO to DGO dated
9.12.2013.

Ex.P-14 : Copy of Enquiry Report submitted
by Executive Officer

Ex.P-15 : Copy of permission of Chief
Executive Officer along with
documents dated 30.07.2014

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

DW-1 : Sri. K. Ramaiah
(Secretary/DGO)

DW-2 : Sri. A. Kumar,
(Member of Bavikere Grama
Panchayath)

IV. LIST OF DOCUMENTS EXHIBITED/MARKED ON BEHALF
OF DGO/DEFENCE:

Ex. D-1 : Certified copy of Assessment
Register extract.

(Master RKGMM Mahaswamiji)
Additional Registrar Enquiries-10
Karnataka Lokayukta
Bangalore.

Date : 15 .09.2018
Place : Bangalore.



KARNATAKA LOKAYUKTA

No. UPLOK-2/DE-345/2016/ARE-10

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001,
Dated 18.09.2018.

RECOMMENDATION

Sub:- Departmental inquiry against Shri Ramaiah,
Secretary, Bavikere Gram Panchayath, Tarikere
Taluk, Chikkamagalur District - reg.

- Ref:- 1. Government Order No. ಗ್ರಾಅಪ/428/ಗ್ರಾಪಂಕಾ/2016
dated 23.08.2016.
2. Nomination order No. UPLOK-2/DE/345/2016
dated 01.09.2016 of Upalokayukta-2, State of
Karnataka.
3. Inquiry report dated of Additional Registrar of
Enquiries-10, Karnataka Lokayukta, Bengaluru
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The Government by its order dated 23.08.2016 initiated the disciplinary proceedings against Shri Ramaiah, Secretary, Bavikere Gram Panchayath, Tarikere Taluk, Chikkamagalur 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/345/2016 dated 01.09.2016 nominated Additional Registrar of Enquiries-10, 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.

2. The DGO - Shri Ramaiah, Secretary, Bavikere Gram Panchayath, Tarikere Taluk, Chikkamagalur District was tried for the following charge:-

“ಶ್ರೀ ರಾಮಯ್ಯ, ಕಾರ್ಯದರ್ಶಿ, ಬಾವಿಕೆರೆ ಗ್ರಾಮ ಪಂಚಾಯಿತಿ, ತರೀಕೆರೆ ತಾಲ್ಲೂಕು, ಚಿಕ್ಕಮಗಳೂರು ಜಿಲ್ಲೆ, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನೀವು, 35 x 70 ಅಡಿಯುಳ್ಳ ನಿವೇಶನವನ್ನು ಸಂದೇಶ್ ಬಿನ್ ಟಿ. ವಸಂತಕುಮಾರ್ ಶೆಟ್ಟಿ ಬಾವಿಕೆರೆ ಗ್ರಾಮಪಂಚಾಯಿತಿ ಸದಸ್ಯ ಇವರ ಹೆಸರಿಗೆ, 40 x 70 ಅಡಿ ನಿವೇಶನವನ್ನು ತಾಲ್ಲೂಕು ಪಂಚಾಯಿತಿ ಸದಸ್ಯರಾದ ಎಂ.ಸೀತಾರಾಮ ಬಿನ್ ಮರಿಯಪ್ಪ ಇವರಿಗೆ, 35 x 70 ಅಡಿ ನಿವೇಶನವನ್ನು ಬಾವಿಕೆರೆಯ ಬಿ.ಎಸ್.ವೆಂಕಟೇಶ್ ಬಿನ್ ಬಿ.ವಿ.ಸುಂದರೇಶ್ ಇವರ ಹೆಸರಿಗೆ, ಅಕ್ರಮವಾಗಿ ಅಸೆಸ್‌ಮೆಂಟ್ ಪುಸ್ತಕದಲ್ಲಿ ದಾಖಲಿಸಿರುತ್ತೀರಿ.

ಆದಕಾರಣ, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನೀವು, ಸರ್ಕಾರಿ ಸೇವಕರಾಗಿದ್ದು, ನಿಮ್ಮ ಕರ್ತವ್ಯಪಾಲನೆಯಲ್ಲಿ ಪರಿಪೂರ್ಣ ಪ್ರಾಮಾಣಿಕತೆ, ಸಂಪೂರ್ಣ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ತೋರಿಸದೆ ಸ್ವಂತ ಲಾಭಕ್ಕಾಗಿ ಸಾರ್ವಜನಿಕ ಸೇವಕರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡಿದ್ದು, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನೀವು, ಕರ್ನಾಟಕ ಸರ್ಕಾರಿ ಸೇವಾ (ನಡತೆ) ನಿಯಮಾವಳಿ 1966ರ ನಿಯಮ (3)(1)ನೇ ನಿಬಂಧನೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿ, ದುರ್ನಡತೆ ಎಸಗಿದ್ದೀರಿ.”

3. The Inquiry Officer (Additional Registrar of Enquiries-10) on proper appreciation of oral and documentary evidence has held that, the Disciplinary Authority has 'proved' the above charge against DGO - Shri Ramaiah, Secretary, Bavikere Gram Panchayath, Tarikere Taluk, Chikkamagalur District.




4. On re-consideration of inquiry report, 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.

5. As per the First Oral Statement of DGO furnished by the Inquiry Officer, DGO - Shri Ramaiah has retired from Government service on 30.06.2017.

6. Having regard to the nature of charge proved against DGO - Shri Ramaiah, Secretary, Bavikere Gram Panchayath, Tarikere Taluk, Chikkamagalur District, it is hereby recommended to the Government for imposing penalty of "withholding 10% of the pension payable to DGO - Shri Ramaiah for a period of ten years".

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

Connected records are enclosed herewith.

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