

KARNATAKA LOKAYUKTA

No.LOK/INQ/14-A/367/2012/ARE-4

M.S. Building
Dr.B.R.Ambedkar Road
Bengaluru-560 001
Date: 18/03/2021

:: INQUIRY REPORT ::

Sub: Departmental Inquiry against,

Sri Ananda Nayak
s/o Shiva Nayak
First Division Assistant
Taluk Office
Shikaripura
Shimoga District

Ref:

- 1) Report u/s 12(3) of the K.L Act, 1984 in No. Compt/Uplok/BD/1109/2012/ARLO-1, Dated:11/07/2012
- 2) Government Order No. RD 74 BDP 2012, Bengaluru, dated: 30/08/2012
- 3) Order No.LOK/INQ/14-A/367/2012, Bengaluru dated:15/09/2012 of the Hon'ble Upalokayukta

This Departmental Inquiry is directed against Sri Ananda Nayak s/o Shiva Nayak, First Division Assistant, Taluk Office, Shikaripura **Shimoga District** (herein after referred to as the Delinquent Government Official in short "DGO")

2. After completion of the investigation a report u/sec. 12(3) of the Karnataka Lokayukta Act was sent to the Government as per Reference No.1.

3. In view of the Government Order cited above at reference-2, the Hon'ble Upalokayukta, vide order dated: 15/09/2012 cited above at reference-3, nominated Additional Registrar of Inquiries-3 of the office of the Karnataka Lokayukta as the Inquiry Officer to frame charges and to conduct Inquiry against the aforesaid DGO. Additional Registrar Inquires-3 prepared Articles of Charge, Statement of Imputations of mis-conduct, list of documents proposed to be relied and list of witnesses proposed to be examined in support of Article of Charges. Copies of same were issued to the DGO calling upon him to appear before this Authority and to submit written statement of his defence.

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

Hon'ble Upalokayukta. Hence, this inquiry case proceeded by this Addl. Registrar of Inquiries-4 in accordance with law.

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

ANNEXURE -I
CHARGE

That you, Sri Ananda Nayak, (herein after referred to as Delinquent Government Official, in short DGO), while working as the Revenue Inspector of Kasaba Hobli, Shikaripura of Shimoga District (presently FDA, Taluk Office, Shikaripura, Shimoga District) demanded and accepted a bribe of Rs. 5,000/- on 16/06/2011 from complainant Sri K.H. Sanjeeva Naidu s/o Sri Hanumanthappa, R/o Kappanahalli Village, Shikaripura Taluk, Shimoga District for effecting Phodi Durasti and giving another Sy.No. to the land bearing Sy.No. 1 of Kotipura village of Shikaripura Taluk to an extent of 3 acres 3 guntas, that is for doing an official act, and thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servant and thus you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules, 1966.

ANNEXURE-II
STATEMENT OF IMPUTATIONS OF MISCONDUCT

The complainant Sri K.H. Sanjeeva Naidu s/o Sri Hanumanthappa R/o Kappanahalli Village, Shikaripura Taluk, Shimoga District, filed a complaint on 16/06/2011 before the Police Inspector, Karnataka Lokayukta, Shimoga alleging that, he had purchased the land to an extent of 3 acres 3 guntas in the land bearing Sy.No. 1 of Kotipura village of Shikaripura Taluk on 09/02/2004 from one Sri K.B. Sathyanarayana Murthy and two others under a registered sale deed and khata was effected in his name in respect of the said land and that it was found that Sy. No.1 was given to some other land and therefore, he filed an application before the Tahasildar, Shikaripur on 22/08/2007 for effecting phodi dursti and to give other Sy.No. to the land purchased by him and that the said application was sent to Sri Ananda Nayak s/o Shiva Nayak, the then First Division Revenue Inspector of Kasaba Hobli in Shikaripura, Shimoga District, (herein after referred to as Delinquent Government Servant, in short DGO) and that in that connection he met the DGO on 15/06/2011 and enquired regarding the Phodi Durasti and about his application and at that time the DGO demanded some money from him and told him that he would meet the complainant on the same day in the evening near shopping complex of the complainant and that thereafter, the complainant went to Shimoga Lokayukta Police Station and narrated the fact of the DGO demanding the bribe amount and that there the Police Inspector gave him a voice recorder to record the conversation of the DGO demanding the bribe amount and that on the same day i.e., on 15/06/2011 at about 8.30 p.m. he met the DGO in his shopping complex and

at that time when he enquired with the DGO about the phodi durasti, he demanded a bribe of Rs. 5,000/- and asked the complainant to pay the same on 16/06/2011.

As the complainant was not willing to pay any bribe to the DGO, he went to Police Inspector, Karnataka Lokayukta Shimoga on 16/06/2011 and lodged a complaint. On the basis of the same a case was registered in Shimoga Lokayukta Police Station Cr. No. 09/2011 for offences punishable under sections, 7, 13(1), (d) r/w Sec. 13(2) of the P.C. Act, 1988 and FIR was submitted to the concerned learned Special Judge.

After registering the case, investigating officer observed all the pre-trap formalities and entrustment mahazar was conducted and you, the DGO was trapped on 16/06/2011 by the Investigating Officer after your demanding and accepting the bribe amount of Rs. 5,000/- from the complainant in the presence of shadow witness and the said bribe amount which you had received from the complainant was seized from your possession under the seizure/trap mahazar after following the required post-trap formalities. During the investigation the I.O. has recorded the statements of panchas and other witnesses and further statement of the complainant. The I.O. during the investigation has sent the seized articles to the chemical examiner and obtained the report from him and he has given the result as positive.

The materials collected by the I.O. during the investigation prima facie disclose that you, the DGO,

demanded and accepted bribe of Rs. 5,000/- from the complainant on 16/06/2011 for doing an official act i.e., for effecting Phodi Durasti and giving another Sy.No. to the land bearing Sy.No. 1 of Kotipura village of Shikaripura Taluk to an extent of 3 acres 3 guntas. Thus you, the DGO, have failed to maintain absolute integrity and devotion to duty and this act on your part is unbecoming of a Government Servant. Hence, you have committed an act which amounted to misconduct as stated under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules, 1966.

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

6. DGO appeared before this Inquiry Authority on 12/02/2013 and on the same day his First Oral statement was recorded U/R 11(9) of KCS (CC & A) Rules 1957. The DGO pleaded not guilty and claims to hold an inquiry.

7. DGO has filed his written statement only denying the charge and imputations made against him. He has not taken up any other stand in his written statement.

8. The DGO has filed his defence statement as follows:-

The evidence given by PW1 to PW4 are false. The I.O. obtained Ex.P4 from the DGO forcibly to suit the case of the Disciplinary Authority. The DGO had given the file of the complainant even prior to the date of trap and the file of the complainant was not pending with the DGO as on the date of the trap. Hence, the question of DGO demanding and accepting the bribe amount from the complainant does not arise at all. The DGO has not committed any misconduct. Hence, prays to exonerate him from the charges leveled against him in this case.

9. In order to substantiate the charge leveled against the DGO, the Disciplinary Authority examined in all four witnesses as PW1 to PW4 and got marked documents at Ex.P1 to P11. After closing the evidence of the Disciplinary Authority, the Second Oral Statement of the DGO was recorded as required u/Rule 11(16) of KCS (CC & A) Rules, 1957. After closing the evidence of the Disciplinary Authority, the DGO himself examined as DW1 and two witnesses examined as DW2 and DW3 and got marked Ex.D1 and D2 closed his side. Hence, recording the answer of DGO to questionnaire u/Rule 11(18) of KCS (CC&A) Rules was dispensed with.

10. The Disciplinary Authority has not filed the written brief, but on the side of the DGO written brief has been filed. Oral arguments of the Presenting Officer and the

learned counsel for the DGO was heard. The points, that arise for the consideration of this inquiry authority are:-

1. Whether the Disciplinary Authority has satisfactorily proved the charges framed against DGO?

2. What order?

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

Point No.1: In the "**AFFIRMATIVE**"

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

:: REASONS ::

12. Point No.1: It is the case of the Disciplinary Authority that, the DGO while working as Revenue Inspector of Kasaba Hobli, Shikaripura Taluk of Shimoga District demanded and accepted the bribe of Rs. 5,000/- from the complainant on 16/06/2011 for effecting the phodi Durasti and giving new sy.No. to the land bearing Sy.No. 1 of Kotipura Village of Shikaripura Taluk measuring 3 acre 3 guntas purchased by the complainant i.e., for doing an official act and thereby he has committed the misconduct.

13. As stated above the case of the DGO is one of the total denial as per his written statement and defence statement.

14. The complainant-Sri K.H. Sanjeev Naidu, has been examined as PW3 and the copy of the complaint lodged by him in the Lokayukta police station Shivamogga is at Ex.P6. The complaint-Ex.P6 has been lodged on 16/06/2011 at 11.45 a.m. The gist of Ex.P6 is to the effect that, PW3 purchased 3 acre 3 guntas of land bearing sy.No. 1 of Kotipura grama, Shikaripura Taluk under the registered sale deed and the khatha has also been changed to the name of PW3. As sy.No. 1 has been given to the land of another person PW3 applied for phodi Durasti and for giving new Sy.No. to the land purchased by him and in that connection he gave the application to the Tahasildar, Shikaripura Taluk on 22/08/2007 itself along with the relevant documents. His file was pending before the Revenue Inspector of the Shikaripura Taluk, Kasaba Hobli and he met the Revenue Inspector (DGO) and requested him to do his work. But his work was not done and on 15/06/2011 at about 11 a.m., he met the DGO in the Taluk Office and enquired about his work and the DGO told that, PW3 has to give the amount and that the DGO will meet PW3 at 8.30 p.m. near the complex of PW3 in that connection. On that day at 3 p.m. itself PW3 met the Lokayukta police and informed the matter and the Lokayukta police gave him the voice-recorder and asked him to record the conversation. On that day at 8.30 pm. the DGO met PW3 in the complex situated in Shikaripura and when PW3 asked about his work the DGO demanded bribe of Rs. 5,000/- and to give the said amount tomorrow.

Hence, he is filing the complaint and returning the voice-recorder.

15. PW3 has reiterated all the averments made in the complaint stated above in his deposition. He has clearly deposed that, when he met the DGO in the Taluk Office and enquired about his work the DGO told him that he has to give the amount and that the DGO will meet him at 8.30 a.m. near the complex of PW3. He has deposed that, he informed the matter to the Lokayukta police and he was given a voice-recorder to record the conversation between himself and the DGO. He has deposed that, at 8.30 p.m. the DGO met him and when he enquired the DGO about his work, the DGO demanded Rs. 5,000/- and he told the DGO that, he will give the amount tomorrow and also recorded the conversation in the voice-recorder. He has deposed that, on the next day morning he lodged the complaint as per Ex.P6. Ex.P6(a) is his signature and also returned the voice-recorder.

16. PW3 has further deposed about I.O. securing two panchas and conducting the Entrustment Mahazar as mentioned in Ex.P1 (copy of the entrustment mahazar), in fact he has deposed about producing the amount of Rs. 5,000/- (Rs. 500x10) and about all other averments mentioned in Ex.P1 and I feel it is not necessary to repeat the same.

17. PW3 has further deposed that, after the Entrustment Mahazar they left the Lokayukta police station at 2.45 p.m.

and reached the Shikaripura Taluk office at about 3.40 p.m. and himself and the pancha witness Sri H.R. Kumar were sent inside the Taluk Office to meet the DGO and I.O., his staff and another pancha were waiting outside the Taluk Office. He has deposed that, he met the DGO in the office and enquired about his work and the DGO demanded for payment of money by making hand sign and he gave the tainted currency notes and the DGO received the same with his right hand and also touched the notes with both hands and kept the amount in his right side pant pocket and afterwards he came out and gave the pre-instructed signal. He has deposed that, immediately the I.O., his staff and another panch witness approached him and he took them inside the Taluk office and showed the DGO as the person who has received the tainted currency notes. He has deposed that, the I.O. introduced himself to the DGO and they went to the office room of the Tahasildar along with the DGO. He has deposed that, the hands of the DGO were washed in the sodium carbonate solution separately and both the solutions turned to pink colour. He has deposed that, when the I.O asked the DGO about the tainted currency notes, the DGO produced the same from his right side pant pocket and those notes were the same notes mentioned in the Entrustment Mahazar. He has deposed that, even the pant wash of the DGO (right side pant pocket) was positive and that pant was also seized. He has further deposed that, he was given the voice-recorder at the time of the Entrustment Mahazar to record the conversation between himself and the DGO and he returned the voice-

recorder to the I.O. He has deposed that, the DGO gave his explanation in writing and the copy of the same is at Ex.P4. He has deposed that, the I.O. enquired the DGO about the file of the complainant and the DGO told that he has given the file to the tappal section and through Sheristedar Sri Chandranayaka and SDA Sri Anjinappa, the file was secured and certified copies of the same were prepared and seized and the copy of the same is at Ex.P5. He has deposed that, the Trap Mahazar was also drawn and the copy of the trap mahazar is at Ex.P2. He has deposed that, the copies of the photographs taken at the time of the Entrustment Mahazar and Trap Mahazar are at Ex.P3. Thus PW3 who is the complainant has given his evidence in accordance with the case of the Disciplinary Authority. As stated above, he has deposed about the DGO demanding for the bribe amount and accepting the same.

18. PW3 has been cross-examined at length by the learned advocate for the DGO. In his cross-examination, he has denied the suggestion of the learned advocate for the DGO to the effect that, the DGO had told him (PW3) that he has sent the file to the Tahasildar. He has also denied the suggestion that, he was aware about his file sent to the Tahasildar, even before the lodging of the complaint. Thus according to PW3 he was not at all aware about his file being sent to the Tahasildar or to any other section by the DGO prior to the trap. In view of the same it has to be said that, PW3 has lodged the complaint against the DGO about the DGO demanding the bribe amount and that his file was

still with the DGO. He has also denied the suggestion that, on 16/06/2011 when the DGO was proceeding in front of the complex of PW3 he called the DGO and tried to give the amount to him and when the DGO refused to receive the amount PW3 forcibly thrust the amount into the pant pocket of the DGO. It is pertinent to note that, there is no such stand in the written statement or in the defence statement or even in the evidence of the DGO who has been examined as DW1. Nothing is made out in the cross-examination of PW3 as to why Pw3 has to file the false complaint and deposed falsely against the DGO. Thus there is no reason to discard or doubt the evidence of PW3.

19. PW1 is Sri H.R. Kumar, who is the shadow witness according to the case of the disciplinary authority. He has deposed that, in the year 2008 he was working as SDA in PWD office at Shivamogga and he was instructed by his higher officer to go to Lokayukta police station to be a witness in a trap case. He has deposed that, he reached the Lokayukta police station at about 12.30 p.m. and in the police station the complainant and another pancha witness were present. He has deposed that, the complainant produced the amount of Rs. 5,000/- and phenolphthalein powder was smeared to the notes and those notes were kept by the pancha witness Sri A.N. Mallikarjuna in the shirt pocket of PW3 (complainant). He has deposed that, the hands of Sri Mallikarjuna were washed in the solution and the solution which was colourless turned to pink colour. He has deposed that, the entrustment mahazar was prepared

for having entrusted the currency notes to PW3 and Ex.P1 is the copy of the entrustment mahazar and he has signed the same.

20. PW1 has further deposed that, after the Entrustment Mahazar, himself another pancha witness, the police inspector and his staff and complainant (PW3) went to Shikaripura in police jeep and the jeep was stopped near the Taluk Office. He has deposed that, he was not sent inside the Taluk Office along with PW3. He has deposed that, in the office of the DGO the hands of the DGO were washed in the solution and the solution turned to red colour. He has also deposed that, the amount was also seized from the DGO and the mahazar was drawn and the copy of the same is at Ex.P2.

21. PW1 has been treated as hostile witness and cross-examined by the learned Presenting Officer. In his cross-examination he has deposed that, he was sent with the complainant inside the Taluk office to meet the DGO but he does not know whether the DGO received the tainted currency notes from PW3, counted the same and kept the same in his pant pocket. PW1 admits that, when the hands of the DGO were washed in sodium carbonate solution, the solution turned to pink colour. He also admits that, the pant pocket of the DGO was also washed in sodium carbonate solution and that solution turned to pink colour. He also admits that, the currency notes recovered were the same notes mentioned in the Entrustment Mahazar. He has

deposed that, Ex.P3 are the copies of the photographs taken at the time of the Entrustment Mahazar and the Trap Mahazar. He also admits that, Ex.P4 is the copy of the written explanation given by the DGO. Thus even though he has not deposed about the DGO demanding and accepting the bribe amount he has given his evidence regarding the hand wash and pant wash of the DGO being positive and the tainted currency notes recovered from the possession of the DGO. Nothing is made out in his cross-examination to discard his evidence.

22. PW2 is the another pancha witness by name Sri A.N. Mallikarjuna. He has deposed that, on 16/06/2011 he had been to the Lokayukta police station and the complainant and PW1 were also present in the police station. He has also deposed that the copy of the complaint lodged by PW3 was given to him and he read the same. He has also deposed about the voice-recorder being played and the conversation recorded in the same was copied to the C.D. and that conversation was also transcribed. He has deposed about all other averments mentioned in the Entrustment Mahazar, the copy of which is at Ex.P1 and I feel it is not necessary to repeat the same. Thus PW2 has deposed about all the proceedings conducted in the Lokayukta police station as mentioned in the Entrustment Mahazar-Ex.P1.

23. PW2 has further deposed that, after the Entrustment Mahazar they went to the Shikaripura Taluk office at about 3.40 p.m. on that day and PW1 and PW3 were sent inside

that office and himself and others were waiting outside the office. He has deposed that, at about 4 p.m. PW3 came out and gave the pre-instructed signal and immediately himself and others went inside the taluk office and PW3 showed the DGO and told that, he is the Revenue Inspector-Sri Ananda Nayka and he has received the amount from him. He has deposed about the hand wash of the DGO being positive and that, the DGO himself produced the tainted currency notes from his pant pocket. He has deposed that, the pant wash of the DGO was also positive and that pant was also seized. He has deposed that, the file of the complainant was secured and the certified copy of the same was prepared and the copy of the same is at Ex.P5. (page No. 94 to 182). He has deposed that, the Trap Mahazar was prepared and the copy of the same is at Ex.P2. He has deposed that, Ex.P4 is the copy of the explanation given by DGO and Ex.P3 are the copies of the photographs taken at the time of the Entrustment Mahazar and Trap Mahazar.

24. PW2 has been cross-examined at length by the learned counsel for the DGO and nothing is made out in his cross-examination to discard or doubt his evidence.

25. PW4-Sri S.N. Lakshmikanth, he has deposed that from 11/05/2011 to 01/04/2013 he was working as Inspector in Lokayukta police station, Shivamoga. He has deposed that, on 15/06/2011 PW3 meet him and told him about the Revenue Inspector of Kasaba Hobli demanding bribe amount from him for doing the official work and he

gave the voice-recorder and asked PW3 to meet the Revenue Inspector and to record the conversation. He has further deposed that, on 16/06/2011 at 11.45 a.m. PW3 came to the police station and gave the computer typed complaint and the copy of same is at Ex.P6 and also returned the voice-recorder. He has deposed about the contents of Ex.P6 also and on the basis of Ex.P6, he registered the case and the copy of the FIR is at Ex.P7. He has deposed that, he secured the panchas and introduced them to PW3 and the voice-recorder was played and the conversation recorded in the same was heard and it was transferred to the C.D. and that conversation was transcribed in the Entrustment Mahazar. He has deposed about PW3 producing the amount of Rs. 5,000/- and about all the other proceedings mentioned in Ex.P1, the copy of the Entrustment Mahazar and I feel it is not necessary to repeat the same. Thus he has deposed that, proceedings took place in Lokayukta police station in the presence of the complainant and the panchas as mentioned in Ex.P1.

26. PW4 has further deposed that, after the Entrustment Mahazar they left the Lokayukta Police Station and reached Shikaripura at 3.40 p.m. He has deposed that, PW1 and PW3 were sent inside the office to meet the DGO and himself, his staff and another pancha witness were waiting in front of the Taluk office for the pre-instructed signal from PW3. He has deposed that, at about 4 p.m. PW3 came in front of the office and gave the pre-instructed signal. He has deposed that, himself and others were taken inside the

office and PW3 showed the DGO and told that, the DGO demanded and accepted the bribe amount of Rs. 5,000/- and kept the same in his right side pant pocket. He has deposed about the hand wash of the DGO being positive and that the DGO himself produced the tainted currency notes from his right side pant pocket. He has deposed that the pant (right side pocket portion) wash of the DGO was also positive and that pant was also seized. He has deposed that, the copy of the Entrustment Mahazar is at Ex.P2 and Ex.P4 is the copy of the explanation given by the DGO.

27. PW4 has further deposed that, he asked the DGO about the file of PW3 and the DGO told that, he has given the file to the tappal section and through Chandra Nayaka and Anjinappa the file was obtained and certified copies of the same were prepared and seized and the copy of the same is at Ex.P5. He has deposed that, the copies of the photographs taken at the time of the Entrustment Mahazar and the Trap Mahazar are at Ex.P3. He has deposed that, the DGO gave his explanation in writing and the copy of the same is at Ex.P4. He has deposed that, he has recorded the statements of the witnesses and sent the seized articles to the FSL. He has deposed that, he requested the PWD Engineer to prepare the sketch of the scene of occurrence and the copy of that sketch is at Ex.P8. he has deposed that, the copy of the service particulars etc., of the DGO is at Ex.P9. He has deposed that, Ex.P10 is the copy of the register to show that, the DGO had received the file of the complainant. Ex.P10 is not in dispute and it discloses that,

the DGO had received the file of the complainant on 03/12/2010. The same is admitted in the cross-examination of DW1 who is the DGO. At this stage itself I would like to state that, as per the evidence of the DGO he had returned the file of PW3 on 02/06/2011 to the Taluk office. It is pertinent to note that, even according to the above said evidence of the DGO the DGO had kept the file of the PW3 (complainant) for six months and the DGO has not given any explanation as to why he had kept the file of PW3 for six months. PW4 has deposed that, the DGO had given the file to the RRT section of the Tahasildar office without any covering letter for returning the file.

28. PW4 has further deposed that, he received the FSL report and the copy of the FSL report is at Ex.P11. According to Ex.P11 the presence of the phenolphthalein is detected in the left and right hand finger washes of the DGO. According to Ex.P11 the pant wash was also positive. He has denied the suggestion that, the DGO did not voluntarily gave his explanation in writing as per Ex.P4 and that it was obtained from the DGO by force. It is pertinent to note that, there is no such suggestion to PW1 to PW3 and the above said suggestion is made only to PW4.

29. PW4 has been cross-examined by the learned counsel for the DGO and nothing is made out in his cross-examination to discard or doubt his evidence.

30. DW1 is the DGO and he has deposed that, the file of PW3 was not pending with him and he has not demanded

and accepted any bribe amount from PW3. He has deposed that, he did not give his explanation in writing as per Ex.P4 and it was obtained by force from him by the Investigating Officer. DW1 admits that, Ex.P4 is in his hand writing and he has signed the same also. In Ex.P4 it is stated that, PW3 used to make phone calls to him often about his work and he had told him not to make the phone call often. It is further mentioned that, PW3 was very friendly with the DGO and the DGO was in need of money and he told PW3 on 15/06/2011 at 7.30 p.m. that he requires loan of Rs. 5,000/- and PW3 told that he would give the amount tomorrow and on 16/06/2011 at 4 p.m. he was in his office and PW3 gave him the amount of Rs. 5,000/- and afterwards the Lokayukta police caught hold of him. Thus according to Ex.P4 the DGO had asked for loan of Rs. 5,000/- on 15/06/2011 and received the loan amount from PW3 on 16/06/2011 in his office. It is pertinent to note that, such a stand is not taken in the written statement nor in the evidence of DGO. The contention of the DGO that, Ex.P4 was obtained from him by force cannot be believed as the DGO has deposed in his evidence that, he has not given any complaint in that respect to the higher officer of PW4. In case the above said contention of the DGO given in his evidence was true nothing prevented the DGO to give complaint about the same before the higher officer of PW4. Further more it is pertinent to note that, there is no suggestion to PW1 to PW3 in their cross-examination to the effect that PW4 obtained Ex.P4 from the DGO by force.

Hence, the contention of the DGO in his evidence that, PW4 obtained Ex.P4 from him by force cannot be believed.

31. Further more the DGO (DW1) in his cross-examination has deposed that, he has been convicted and sentenced in the criminal case and in that respect he has filed a Criminal Appeal before the Hon'ble High Court of Karnataka. Hence, it can be said that, in respect of the incident in question the Lokaykta police had filed criminal case against the DGO and in that criminal case he has been convicted and sentenced. Thus it can be said that, in the criminal case itself the DGO has been convicted where the proof required is beyond reasonable doubt where as in this departmental enquiry the proof required is only preponderance of probability. It is pertinent to note that irrespective of the result of the Criminal Case this enquiry has to be decided on the basis of the evidence adduced in this enquiry on the basis of preponderance of probabilities. As stated above, the evidence adduced on the side of the Disciplinary Authority stated above clearly probabalises the case of the Disciplinary Authority and not the contention of the DGO taken in Ex.P4 or in his evidence. As stated above the evidence of DGO is contrary to Ex.P4 and even the evidence given by the DGO does not find a place in his written statement. DW1 has also not given any explanation in his written statement or in evidence as to why his hand wash and the pant wash was positive in case he had not at all received the tainted currency notes from PW3.

32. DW2 is Sri K.H. Shivakumar, and he has deposed that, from 03/03/2010 to 13/03/2013, he was working as Tahasildar in Shikaripura Taluk office and on 16/06/2011 he came to know that the Lokayukta police had trapped the DGO. He has deposed that, the file of the complainant had been sent to the DGO for filling up Form No.1 to 5. His evidence is not of any help to the defence of the DGO.

33. DW3-Sri S.A. Anjeneya and he has deposed that, from March 1998 to March 2014 he was working as SDA in Taluk Office, Shikaripura. He has deposed that, the DGO had given the file of PW3 on 02/06/2011 to Shikaripura Taluk office and he had received the same on 09/06/2011. In his cross-examination he has deposed that, he does not remember whether the DGO had returned the file of PW3 along with covering letter for returning the file or not. He admits that, normally whenever Revenue Inspector returns the file it will be returned along with covering letter.

34. As already stated above, PW3-complainant was not at all knowing about this file being sent to the Taluk Office and hence the above said evidence of DW3 is not of any help to the contention of the DGO stated above.

35. The facts and circumstance of this case stated above, clearly probablise the case of the Disciplinary Authority to the effect that, the DGO demanded and accepted the bribe of Rs. 5,000/- from the complainant (PW3) to show official favour .

36. Thus the charge that the DGO has failed to maintain absolute integrity, devotion to duty and acted in a manner of unbecoming of a Government Servant is proved. Hence, I answer the above point No.1 in the **AFFIRMATIVE**.

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

:: ORDER ::

*The Disciplinary Authority has satisfactorily proved the charge against the DGO- Sri Ananda Nayak s/o Shiva Nayak, First Division Assistant, Taluk Office, Shikaripura **Shimoga District**, that he demanded and accepted the bribe of Rs. 5,000/- from the complainant on 16/06/2011 for doing an official act and thereby committed misconduct under Rule 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules, 1966.*

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

Dated this the 18th day of March, 2021

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

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

- PW-1:Sri H.R. Kumar (shadow witness)
 PW-2:Sri A.N. Mallikarjun (pancha witness)
 PW-3:Sri K.H. Sanjeev Naidu (complainant)
 PW-4:S.N. Lakshmikanth (I.O.)

LIST OF WITNESSES EXAMINED ON BEHALF OF THE DEFENCE:

- DW-1:Sri Ananda Nayaka (DGO)
 DW-2:Sri K. H. Shivakumar (witness)
 DW-3:Sri S.A. Anjaneya (one more witness)

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

- Ex.P-1: Certified copy of the Entrustment Mahazar
 Ex.P-1(a to d):Relevant entries in Ex.P1
 Ex.P-2:Certified copy of the Trap Mahazar
 Ex.P-2(a to d): Relevant entries in Ex.P2
 Ex.P-3:Certified copy of the Xeroxed photos on the white sheet
 Ex.P-3(a):Relevant entry in Ex.P3
 Ex.P-4:Certified copy of the explanation of DGO
 Ex.P-4(a to d): Relevant entries in Ex.P4
 Ex.P-5: Xerox copies of the file of the complainant
 Ex.P-6:Certified copy of the complaint
 Ex.P-6(a,b): Relevant entries in Ex.P6
 Ex.P-7:Certified copy of the FIR
 Ex.P-7(a): Relevant entry in Ex.P7
 Ex.P-8:Certified copy of the sketch
 Ex.P-8(a): Relevant entry in Ex.P8
 Ex.P-9:Xerox copy of the letter of Tahasildar, Shikaripura Taluk
 dated: 16/07/2011 with xerox copy of the enclosures
 Ex.P-9(a): Relevant entry in Ex.P9
 Ex.P10:Xerox copy of the letter of the Tahasildar dated: 23/07/2011
 addressed to Police Inspector, Karnataka Lokayukta,
 Shivamoga with xerox copy of the enclosures
 Ex.P-10(a): Relevant entry in Ex.P10
 Ex.P-11: Certified copy of the chemical examination report

LIST OF EXHIBITS MARKED ON BEHALF OF DGO:

- Ex.D-1:Certified copy of the P.R. Register 2010-2011
 Ex.D-1(a): Relevant entry in Ex.D1
 Ex.D-2:Certified copy of the file received entry dated: 02/06/2011
 Ex.D-2(a): Relevant entry in Ex.D2

Dated this the 18th day of March, 2021

-Sd/-

(Somaraju)

Additional Registrar Inquiries-4,
 Karnataka Lokayukta,
 Bengaluru.