



**KARNATAKA LOKAYUKTA**

No.UPLOK-2/DE/382/2017/ARE-15

Multi Storied Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru-560 001,  
Dated 13.12.2022.

**RECOMMENDATION**

Sub:- Departmental inquiry against  
Sri.Kishore Mada, Deputy Conservator  
of Port, Gangolli, Kundapur Taluk,  
Udupi District – reg.

Ref:- 1) Government Order No.ತೋಇ 04 ಬನೌಸೇ  
2017, ಬೆಂಗಳೂರು, ದಿ:13-02-2017.

2) Nomination order No.UPLOK-2/DE/  
382/2017, dated 16.03.2017 of  
Upalokayukta, State of Karnataka.

3) Inquiry report dated 09.12.2022 of  
Additional Registrar of Enquiries-15,  
Karnataka Lokayukta, Bengaluru.

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The Government by its order dated 13.02.2017  
initiated the disciplinary proceedings against Sri.Kishore  
Mada, Deputy Conservator of Port, Gangolli, Kundapur  
Taluk, Udupi District [hereinafter referred to as  
Delinquent Government Official, for short as 'DGO'] and  
entrusted the Departmental Inquiry to this Institution.

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2. This Institution by Nomination Order No.UPLOK-2/DE/382/2017, dated 16.03.2017, nominated Additional Registrar of Enquiries-3, 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. Thereafter, by order No.UPLOK-1 & 2/DE/Transfers/2018, dated 02/11/2018, the inquiry was transferred to Additional Registrar of Enquiries-15, Karnataka Lokayukta, Bengaluru, to conduct Departmental inquiry against DGO.

3. The DGO Sri.Kishore Mada, Deputy Conservator of Port, Gangolli, Kundapur Taluk, Udupi District, was tried for the following charge:-

**ANNEXURE NO.1**  
**CHARGE**

That you the DGO named above, while working as Deputy Port Officer, Department of Port and Inland Water Transport, Gangolli, Kundapur Taluk of Udupi District, indulged in corrupt practices and committed irregularities



while sanctioning and renewing license of the tourist boats and used to demand and collect illegal gratification from the owners of such tourist boats and when your chamber was searched by Lokayukta Police on 5.12.2013 at 1.30 PM, a sum of Rs.39,710/- was found stacked and hidden in the table drawer and in the almirah in your chambers and you have failed to give proper account about this amount and thus the amount of Rs.39,710/- recovered from your chamber was the amount you have collected illegally and unauthorisedly as illegal gratification while discharging your official duties.

Further, it is found that in order to renew license of 5 boats belonged to Sri Sachin Bangera and to issue fresh license to 4 boats belonged to Sri Harish Nagappa, you have collected Rs.5000/- to each boat and demanded them to pay Rs.45000/- and collected Rs.44000/- from them, as against the prescribed fee/scheduled fee and out of Rs.44000/- so collected from them, you have prepared invoice only for Rs.18000/- and the balance of Rs.26000/- was not entered in any account books or records, and further gave Rs. 18000/- to Asst. Port officer to purchase DD

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and the balance of Rs.26000/- was illegally and unauthorisedly retained by you, being the amount you have collected illegally by way of illegal gratification thus, indulged in corrupt practices by illegally and unauthorisedly collecting illegal gratification from the owners of tourists boats and thus acted in a manner unbecoming of a Government servant and thus 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-15) on proper appreciation of oral and documentary evidence has held that, the Disciplinary Authority has '**not proved**' the above charge against the DGO - Sri.Kishore Mada, Deputy Conservator of Port, Gangolli, Kundapur Taluk, Udupi District.

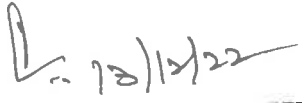
5. On re-consideration of report of inquiry and on perusal of the entire records, I do not find any reason to interfere with the findings recorded by the Inquiry Officer. Therefore, it is hereby recommended to the Government to accept the report of Inquiry Officer and exonerate DGO - Sri.Kishore Mada, Deputy Conservator



of Port, Gangolli, Kundapur Taluk, Udupi District, of the charges leveled against him.

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

Connected records are enclosed herewith.

  
**(JUSTICE K.N.PHANEENDRA)**  
Upalokayukta,  
State of Karnataka.



**KARNATAKA LOKAYUKTA**

No:UPLOK-1/DE/382/2017/ARE-15

M.S.Building  
Dr. B.R. Ambedkar Veedhi  
Bengaluru - 560 001  
Dt: 09-12-2022

**:: ENQUIRY REPORT ::**

Sub: Departmental Enquiry against Sri. Kishore Mada, Deputy Conservator of Port, Gangolli, Kundapur Taluk, Udupi District – Reg.

Ref- 1: Government Order ನಂ.ಲೋಇ 04 ಬನೌಸೇ 2017  
Bengaluru dated 13-2-2017.

2: Nomination Order No:Uplok-2/DE/382/  
2017/ARE-3, Bengaluru, dated 16/03/2017 of  
Hon'ble Uplokayukta

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The Departmental Enquiry is initiated against the Delinquent Government Official Sri. Kishore Mada, Deputy Conservator of Port, Gangolli, Kundapur Taluk, Udupi (hereinafter referred as *Delinquent Government Official/ D.G.O. in short*).

2. In view of Government Order cited at reference No.1, the Hon'ble Upalokayukta-2 vide Order cited at reference No.2, has nominated Additional Registrar of Enquiries-3 to frame Articles of Charge and to conduct enquiry against aforesaid D.G.O.

3. DGO/Sri. Kishore Mada was working as Dy. Conservator of Port, Gangolli, Kundapur Taluk, Udupi District at relevant point of time. His duties included issue of licenses to the owners of fishing boats as well as their renewal. There were complaints that DGO demanded illegal gratification for issue and renewal of licenses and on credible information received by the Udupi Lokayukta Police, the then Police Inspector namely Sri. Mohan Kottari had prepared a report and registered a case on 5-12-2013 in Cr.No.6/2013 for the offences U/Sections 7 and 13(1)(d) of Prevention of Corruption Act-1988. After submitting the report to the District and Sessions Judge, Special Court Udupi, he had obtained search warrant and on 6-12-2013, he had raided the Office of the DGO along with his staff and independent panch witnesses. During inspection a sum of Rs.35,000/- was found in the table drawer and another sum of Rs.4,710/- was found kept in a Tiffin box in the almirah and as the DGO did not give satisfactory reply for possessing the said amount, the same came to be seized. During investigation, the Lokayukta Police found that the above amount of Rs.39,710/- was unauthorizedly collected by the DGO and it was illegal gratification.

4. Based on the orders of the then Hon'ble Upalokayukta Suo-moto case was registered by this Institution against the D.G.O.

5. Hon'ble Upalokayukta on perusal of prima facie material submitted Report dated 31/12/2016 U/Sec.12(3) of Karnataka



Lokayukta Act, 1984, to initiate disciplinary proceedings against D.G.O.

6. Notice of Articles of charge with Statement of Imputation of misconduct, list of documents and witnesses were served upon the D.G.O who had appeared before ARE-3 on 24.07.2017 and denied the charges when First Oral Statement was recorded. He pleaded not guilty.

7. As per Note No.Uplok-2/DE/Transfer/2018. dated 2-11-2018 of the Registrar, Karnataka Lokayukta, Bengaluru, this file is transferred to ARE-15 Section.

8. The D.G.O has filed Written Statement on 17-11-2021 stating that the allegations made against him are false and baseless. Allegations made in the statement of imputation of misconduct are all false and no prima facie case is made out against him. The Lokayukta Police have filed charge sheet before the Spl. Court, Udupi and he is facing trial and therefore there is no need to conduct this departmental enquiry. He has given explanation to the Investigation Officer about the amount found in his possession but he has not considered the same. He had acted as per rules and regulations and followed the procedure laid down by the Government from time to time and never contravened any provisions of law during his tenure. He is a person of devotion and integrity and never collected money by way of illegal gratification. The documents produced by the Lokayukta Police are all created and concocted. Since he has

not committed any act of misconduct or dereliction of duty, he has prayed to clear the charges leveled and exonerate him.

9. The Articles of Charge as framed by ARE-3 is as follows:

That you the DGO named above, while working as Deputy Port Officer, Department of Port and Inland Water Transport, Gangolli, Kundapur Taluk of Udupi District, indulged in corrupt practices and committed irregularities while sanctioning and renewing licence of the tourist boats and used to demand and collect illegal gratification from the owners of such tourist boats and when your chamber was searched by Lokayukta police on 5.12.2013 at 1.30 PM, a sum of Rs. 39,710/- was found stacked and hidden in the table drawer and in the almirah in your chambers and you have failed to give proper account about this amount and thus the amount of Rs. 39,710/- recovered from your chamber was the amount you have collected illegally and unauthorizedly as illegal gratification while discharging your official duties.

Further, it is found that in order to renew license of 5 boats belonged to Sri Sachin Bangera and to issue fresh license to 4 boats belonged to Sri Harish Nagappa, you have collected Rs. 5000/- to each boat and demanded them to pay Rs. 45000/- and collected Rs. 44000/- from them, as against the prescribed fee/scheduled fee and out of Rs.44000/- so collected from them, you have prepared invoice only for Rs. 18000/- and the balance of Rs. 26000/- was not entered in any account books or records, and further gave Rs. 18000/- to Asst. Port

officer to purchase DD and the balance of Rs. 26000/- was illegally and unathorizedly retained by you, being the amount you have collected illegally by way of illegal gratification thus, indulged in corrupt practices by illegally and unathorizedly collecting illegal gratification from the owners of tourists boats and thus acted in a manner unbecoming of a Government servant a and thus you are guilty of misconduct under Rule 3(1) (i) to (iii) of KCS (Conduct) Rules 1966.

10. The Statement of Imputations of Misconduct as framed by ARE-3 is as follows;

ಅಪರ ಪೊಲೀಸ್ ಮಹಾನಿರ್ದೇಶಕರು, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ, ಬೆಂಗಳೂರು ಇವರು ಪೊಲೀಸ್ ಆರಕ್ಷಕ ನಿರೀಕ್ಷಕರು, ಪೊಲೀಸ್ ವಿಭಾಗ, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ, ಉಡುಪಿ (ಇನ್ನು ಮುಂದೆ ಇವರನ್ನು 'ತನಿಖಾಧಿಕಾರಿ' ಎಂದು ಸಂಬೋಧಿಸಲಾಗುವುದು) ಇವರು ಸಲ್ಲಿಸಿರುವ ತನಿಖಾ ವರದಿಯನ್ನು ದಾಖಲಾತಿಗಳೊಂದಿಗೆ ಸಲ್ಲಿಸಿದ್ದು, ಸದರಿ ವರದಿಯನ್ವಯ ಶ್ರೀ ಕಿಶೋರ್ ಮಾಡ, ಉಪ ಬಂದರು ಸಂರಕ್ಷಣಾಧಿಕಾರಿ, ಬಂದರು ಮತ್ತು ಒಳನಾಡು ಜಲಸಾರಿಗೆ ಇಲಾಖೆ, ಗಂಗೊಳ್ಳಿ, ಕುಂದಾಪುರ ತಾಲ್ಲೂಕು, ಉಡುಪಿ ಜಿಲ್ಲೆ (ಇನ್ನು ಮುಂದೆ ಇವರನ್ನು 'ಆಸನೌರು' ಎಂದು ಅನುಕೂಲಕ್ಕಾಗಿ ಸಂಬೋಧಿಸಲಾಗುವುದು), ಇವರು ಪ್ರವಾಸಿ ಬೋಟ್ ಮಾಲೀಕರಿಂದ ಬೋಟ್ ಪರವಾನಿಗೆಗಳನ್ನು ನವೀಕರಿಸಲು ಹಾಗೂ ಹೊಸದಾಗಿ ಪರವಾನಿಗೆಗಳನ್ನು ನೀಡಲು ಲಂಚದ ಬೇಡಿಕೆಯನ್ನು ಇಟ್ಟು ಅಕ್ರಮ ಹಣವನ್ನು ಸಂಗ್ರಹಿಸುತ್ತಿರುವ ಬಗ್ಗೆ ಖಚಿತ ವರ್ತಮಾನದ ಮೇರೆಗೆ ಆಸನೌರ ಕಛೇರಿಯನ್ನು ಶೋಧನೆ ಮಾಡಲು ಸರ್ಚ್ ವಾರಂಟನ್ನು ಪಡೆದುಕೊಂಡು ಕಛೇರಿಯ ಶೋಧನೆ ನಡೆಸಲಾಗಿ, ಆಸನೌರು ಸರ್ಕಾರಿ ನೌಕರರಾಗಿ ಕರ್ತವ್ಯಲೋಪವೆಸಗಿರುತ್ತಾರೆಂದು ತಮ್ಮ ವರದಿಯಲ್ಲಿ ಅಭಿಪ್ರಾಯ ನೀಡಿದನ್ವಯ, ಆಸನೌರ ವಿರುದ್ಧ ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯ್ದೆ ಕಲಂ 7(2)ರಡಿಯಲ್ಲಿ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರವನ್ನು ಉಪಯೋಗಿಸಿಕೊಂಡು ತನಿಖೆಗೆ ಆದೇಶಿಸಲಾಗಿರುತ್ತದೆ.

2. ಪ್ರಕರಣದ ಸಾರಾಂಶ:-

(ಅ) ದಿನಾಂಕ 05/12/2013 ರಂದು ತನಿಖಾಧಿಕಾರಿಯವರು ಕಛೇರಿ ಕರ್ತವ್ಯದಲ್ಲಿರುವಾಗ ಮಧ್ಯಾಹ್ನ ಸುಮಾರು 13-30 ಗಂಟೆಗೆ ಉಡುಪಿ ಜಿಲ್ಲೆಯ ಗಂಗೋಳಿಯಲ್ಲಿರುವ ಬಂದರು ಇಲಾಖೆಯ ಕಛೇರಿಯಲ್ಲಿರುವ ಅಧಿಕಾರಿ ಅಂದರೆ ಆಸನೌರಾದ ಶ್ರೀ ಕಿಶೋರ್ ಮಾಡರವರು ಪ್ರವಾಸಿ ಬೋಟ್ ಮಾಲೀಕರಿಂದ ಬೋಟ್ ಪರವಾನಿಗೆಗಳನ್ನು ನವೀಕರಿಸಲು ಹಾಗೂ ಹೊಸದಾಗಿ ಪರವಾನಿಗೆಗಳನ್ನು ನೀಡಲು ಲಂಚದ ಬೇಡಿಕೆಯನ್ನು ಇಟ್ಟು ಅಕ್ರಮ ಹಣವನ್ನು ಸಂಗ್ರಹಿಸುತ್ತಿರುವ ಬಗ್ಗೆ ಖಚಿತ ವರ್ತಮಾನ ಬಂದ ಮೇರೆಗೆ, ನ್ಯಾಯಾಲಯದಿಂದ ಸರ್ಚ್ ವಾರಂಟನ್ನು ಪಡೆದುಕೊಂಡು, ಆಸನೌರ ಕಛೇರಿಗೆ ಬಂದು, ಆಸನೌರನ್ನು ಪರಿಶೋಧಿಸಲಾಗಿ, ಆಸನೌರ ಜೇಬಿನಲ್ಲಿದ್ದ ಪರ್ಸನಲ್ಲಿ ರೂ.3,200/- ಇದ್ದು, ಅದನ್ನು ಅವರ ಸ್ವಂತ ಖರ್ಚಿಗೆ ಇಟ್ಟುಕೊಂಡಿರುವುದಾಗಿ ಪರಿಗಣಿಸಿ, ಸದರಿ ಹಣವನ್ನು ಅವರ ವಶಕ್ಕೆ ಬಿಟ್ಟಿದ್ದು, ದಾಳಿಯನ್ನು ಮುಂದುವರೆಸಿ, ಆಸನೌರು ಕುಳಿತುಕೊಳ್ಳುವ ಮೇಜಿನ ಡ್ರಾವರನ್ನು ಪರಿಶೀಲಿಸಿದಾಗ, ಎಡಭಾಗದ ಡ್ರಾವರ್‌ನ ಒಳಗಡೆ ರೂ.1,000/- ಮೌಲ್ಯದ ಎಂಟು ನೋಟುಗಳು, ರೂ.500/- ಮೌಲ್ಯದ 52 ನೋಟುಗಳು ಮತ್ತು ರೂ.100.- ಮೌಲ್ಯದ 10 ನೋಟುಗಳು, ಒಟ್ಟು ನಗದು ಹಣ ರೂ.35,000/- ಪತ್ತೆಯಾಗಿರುತ್ತದೆ.

(ಆ) ಅಲ್ಲದೆ, ಆಸನೌರು ಕುಳಿತುಕೊಳ್ಳುವ ಮೇಜಿನ ಹಿಂಭಾಗಕ್ಕೆ ಇದ್ದ ಅಲೈರಾವನ್ನು ಪರಿಶೀಲಿಸಲಾಗಿ, ಕೆಳಗಿನಿಂದ 2ನೇಯ ಅರೆಯಲ್ಲಿ ಒಂದು ನೀಲಿ ಬಣ್ಣದ ಟಿಫನ್ ಬಾಕ್ಸ್ ಇದ್ದು, ಅದನ್ನು ಪರಿಶೀಲಿಸಲಾಗಿ ಅದರಲ್ಲಿ ರೂ.500/- ಮೌಲ್ಯದ 7 ನೋಟುಗಳು, ರೂ.100/- ಮೌಲ್ಯದ 12 ನೋಟುಗಳು ಹಾಗೂ ರೂ.10/- ಮೌಲ್ಯದ 1 ನೋಟು, ಒಟ್ಟು ನಗದು ರೂ.4,710/- ಪತ್ತೆಯಾಗಿರುತ್ತದೆ.

(ಇ) ಆಸನೌರ ಡ್ರಾವರ್ ಹಾಗೂ ಅಲೈರಾದಲ್ಲಿ ಪತ್ತೆಯಾದ ಒಟ್ಟು ಹಣ ರೂ.39,710/- ಆಗಿದ್ದು, ಸದರಿ ಹಣದ ಬಗ್ಗೆ ಆಸನೌರನ್ನು ವಿವರಣೆ ಕೇಳಲಾಗಿ, ಆಸನೌರು ಸಮಂಜಸವಾದ ಉತ್ತರವನ್ನು ನೀಡದೆ ಇದ್ದುದರಿಂದ, ಸದರಿ ಹಣವು ಆ ದಿನ ಆಸನೌರು ಸಂಗ್ರಹಿಸಲಾದ ಅಕ್ರಮ ಹಣವಾಗಿದ್ದು, ಸದರಿ ಹಣವನ್ನು ತನಿಖಾಧಿಕಾರಿಯವರು ಪಂಚರ ಸಮಕ್ಷಮ ಸ್ವಾಧೀನಕ್ಕೆ ಪಡೆದಿರುತ್ತಾರೆ.

(ಈ) ಇದಲ್ಲದೆ ಆಸನೌರು ಶ್ರೀ ಸಚಿನ್ ಬಂಗೇರ ಅವರಿಗೆ ಸಂಬಂಧಿಸಿದ 5 ದೋಣಿಗಳ ಪರವಾನಗಿಯನ್ನು ನವೀಕರಿಸಲು ಹಾಗೂ ಶ್ರೀ ಹರೀಶ್ ನಾಗಪ್ಪ ಹರಿಕಾಂತ್ ರವರ ಬಾಬು 4 ಬೋಟಿಗೆ ಹೊಸದಾಗಿ ಪರವಾನಗಿ ನೀಡಲು ಒಂದು ಬೋಟಿಗೆ ಡಿ.ಡಿ. ಸಹಿತ ಒಟ್ಟು ರೂ.3,192/- ಶುಲ್ಕ ಇದ್ದರೂ ಸಹ ಅವರಿಂದ ಒಂದು ಬೋಟಿಗೆ ತಲಾ ರೂ. 5000/- ನಂತೆ ಪರವಾನಿಗೆ ಶುಲ್ಕ ಒಟ್ಟು 9 ಬೋಟಿಗೆ ರೂ.45,000/- ಹಣಕ್ಕೆ ಬೇಡಿಕೆ ಸಲ್ಲಿಸಿ ದಿನಾಂಕ 06/12/2013 ರಂದು ಶ್ರೀ ಸಚಿನ್ ಬಂಗೇರರವರಿಂದ ಆಸನೌರ ಕಛೇರಿಯಲ್ಲಿ ರೂ.44,000/- ಹಣ ಸ್ವೀಕರಿಸಿರುವುದು ಆಸನೌರ ಸ್ವ ಇಚ್ಛಾ ಹೇಳಿಕೆಯಿಂದ ಹಾಗೂ ಸಾಕ್ಷಿದಾರರಾದ ಶ್ರೀ ಸಚಿನ್ ಬಂಗೇರ ಮತ್ತು ಶ್ರೀ ಹರೀಶ್ ನಾಗಪ್ಪ ಹರಿಕಾಂತ್‌ರವರ ಹೇಳಿಕೆಯಿಂದ ದೃಢಪಟ್ಟಿರುತ್ತದೆ.

(ಉ) ಇದಲ್ಲದೆ ಆಸನೌರು ಶ್ರೀ ಸಚಿನ್ ಬಂಗೇರರವರಿಂದ ಸ್ವೀಕರಿಸಿದ್ದ ಹಣದಲ್ಲಿ ಡಿ.ಡಿ.ಗಾಗಿ ರೂ.18,000/- ಹಣ ಮಾತ್ರ ಸ್ವೀಕರಿಸಿದ ಬಗ್ಗೆ ಇನ್‌ವಾಯಿಸ್‌ನಲ್ಲಿ ನಮೂದಿಸಿ, ಉಳಿದ ರೂ.26,000/- ಹಣವನ್ನು ಯಾವುದೇ ದಾಖಲೆಗಳಲ್ಲಿ ನಮೂದಿಸಿರುವುದಿಲ್ಲ. ಆ ಬಗ್ಗೆ ಶ್ರೀ ಸಚಿನ್ ಬಂಗೇರರವರಿಗೆ ಯಾವುದೇ ರಶೀದಿ ಕೊಟ್ಟಿರುವುದಿಲ್ಲ. ಆದುದರಿಂದ, ಆಸನೌರು ಶ್ರೀ ಸಚಿನ್ ಬಂಗೇರರವರಿಂದ ಹೆಚ್ಚಿನ ಅಕ್ರಮ ಹಣ ಪಡೆದಿರುವುದು ತನಿಖೆಯಿಂದ ದೃಢಪಟ್ಟಿರುತ್ತದೆ.

(ಊ) ಹಾಗೂ ಆಸನೌರು ತನಿಖಾಧಿಕಾರಿಯವರ ಮುಂದೆ ಆಸನೌರ ಸ್ವ ಇಚ್ಛಾ ಹೇಳಿಕೆಯಲ್ಲಿ ಶ್ರೀ ಸಚಿನ್‌ರವರು ಆಸನೌರಿಗೆ ರೂ.44,000/- ಕೊಟ್ಟಿರುವುದಾಗಿ ತಿಳಿಸಿದ್ದು, ಅದರಲ್ಲಿ ಆಸನೌರು ರೂ.18,000/- ಹಣವನ್ನು ಡಿ.ಡಿ. ತರಲು ಸಹಾಯಕ ಬಂದರು ಸಂರಕ್ಷಣಾಧಿಕಾರಿಯವರಾದ ಶ್ರೀ ಅಂತೋನಿ ಪೆಲಿಕ್ಸ್ ಪೆರಂಬಿಲ್‌ರವರಿಗೆ ಕೊಟ್ಟಿರುತ್ತಾರೆ. ಉಳಿದ ಹಣವನ್ನು ಯಾವುದೇ ದಾಖಲೆಗಳಲ್ಲಿ ನಮೂದಿಸದೇ ಆಸನೌರ ಬಳಿ ಅಕ್ರಮವಾಗಿ ಇಟ್ಟುಕೊಂಡಿರುವುದು ದಾಖಲೆಗಳ ಪರಿಶೀಲನೆಯಿಂದ ದೃಢಪಟ್ಟಿರುತ್ತದೆ.

3. ಪ್ರಕರಣದಲ್ಲಿನ ದಾಖಲಾತಿಗಳನ್ನು ಹಾಗೂ ಪುರಾವೆಗಳನ್ನು ಪರಿಶೀಲಿಸಿದ್ದಲ್ಲಿ, ಆಸನೌರು ಸಾರ್ವಜನಿಕ/ಸರ್ಕಾರಿ ನೌಕರರಾಗಿ ಕರ್ತವ್ಯ ನಿಷ್ಠೆ, ಪ್ರಾಮಾಣಿಕತೆಯನ್ನು ಪರಿಪಾಲಿಸದೆ ಸತತವಾಗಿ

ಕರ್ತವ್ಯಲೋಪವೆಸಗಿದ್ದು, ಇಲಾಖಾ ಶಿಸ್ತು ಕ್ರಮಕ್ಕೆ ಭಾದ್ಯರಾಗಿರುವುದು ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡು ಬಂದಿರುತ್ತದೆ.

4 ಮೇಲೆ ತಿಳಿಸಿದಂತೆ ಆಸನೌರು ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವಾ (ನಡತೆ) ನಿಯಮಗಳು -1966ರ ನಿಯಮ 3(1) (ii) ಮತ್ತು (iii) ರ ಅಡಿಯಲ್ಲಿ ಶಿಸ್ತು ಕ್ರಮಕ್ಕೆ ಭಾದ್ಯರಾಗಿರುತ್ತಾರೆಂದು ಕಂಡು ಬಂದಿರುವುದರಿಂದ, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯ್ದೆ ಕಲಂ 12(3)ರ ಅಡಿಯಲ್ಲಿ ಆಸನೌರಾದ ಶ್ರೀ ಕಿಶೋರ್ ಮಾಡ, ಉಪ ಬಂದರು ಸಂರಕ್ಷಣಾಧಿಕಾರಿ, ಬಂದರು ಮತ್ತು ಒಳನಾಡು ಜಲಸಾರಿಗೆ ಇಲಾಖೆ, ಗಂಗೊಳ್ಳಿ, ಕುಂದಾಪುರ ತಾಲ್ಲೂಕು, ಉಡುಪಿ ಜಿಲ್ಲೆ ಇವರ ವಿರುದ್ಧ ಶಿಸ್ತು ಕ್ರಮ ಕೈಗೊಂಡು ವಿಚಾರಣೆಗಾಗಿ ಪ್ರಕರಣವನ್ನು ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವಾ (ವರ್ಗೀಕರಣ, ನಿರ್ಬಂಧ, ಮೇಲ್ಮನವಿ) ನಿಯಮಗಳು, 1957ರ ನಿಯಮ 14-ಎ ರ ಅಡಿಯಲ್ಲಿ ಇಲಾಖಾ ವಿಚಾರಣೆ ನಡೆಸಲು ಈ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಒಪ್ಪಿಸುವಂತೆ, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯ್ದೆ ಕಲಂ 12(3)ರನ್ವಯ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರದಡಿ, ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಶಿಫಾರಸ್ಸು ಮಾಡಿದೆ.

11. In order to prove the charge framed against D.G.O the Disciplinary Authority has examined three witnesses as PWs.1 to 3 and got marked 17 documents as Ex.P-1 to P-17.

12. After closing the evidence of Disciplinary Authority, Second Oral Statement of D.G.O was recorded on 15/04/2021. Since he intended to adduce evidence, matter was posted for defence evidence. DGO examined as D.W-1 and got marked 17 documents as Ex.D-1 to D-17.

13. Heard both sides and perused the material on record. I have also perused the Written Arguments filed on behalf of D.G.O.

14. The Points that arise for consideration are as follows:

(1) Whether the Disciplinary Authority proves that the D.G.O. was in possession of Rs.39,710/- unaccounted cash when his office was raided by Udupi Lokayukta Police on 6-12-2013 and he had not offered any valid or acceptable explanation for having the said cash in his office and investigation revealed that it was proceeds of illegal gratification and has thereby committed misconduct, dereliction of duty, acted unbecoming of a Government Servant and not maintained absolute integrity thereby violating R.3(1)(i) to (iii) of K.C.S. (Conduct) Rules, 1966?

2. What Finding?

15. My finding to the above points are:

- 1) In the **Negative**.
- 2) See the Finding.

**:: REASONS ::**

**Note:** The search warrant was obtained by the Udupi Lokayukta Police on 5-12-2013 and the Office of the DGO was raided on 6-12-2013. However, in the Articles of Charge, the date of raid/search is mentioned as 5-12-2013. Since no

prejudice is caused to the interest of either side, it is presumed to be a typographical error.

16. **Point No-1:-** It is the case of Disciplinary Authority that the Udupi Lokayukta Police had received credible information that the DGO/Sri. Kishore Mada was in habit of demanding illegal gratification from the owners of fishing boats to issue licenses and also to renew the same and therefore PW-1/Sri. Mohan Kottari, Police Inspector, Karnataka Lokayukta, Udupi had prepared a report and registered case in Cr.No.6/2013 and after submitting the papers, obtained search warrant from the Spl. Court, Udupi and conducted raid on the Office of Dy. Conservator of Ports on 6-12-2013 along with two panch witnesses. It appears that a sum of Rs.35,000/- in cash was recovered from the table drawer and a sum of Rs.4,710/- which was kept in the Tiffin box was also recovered from the almirah used by the DGO. Since DGO failed to give proper and convincing explanation of having the said cash in his possession, the same was seized.

17. The Police Team reached the Office of Ports at about 11-00 a.m. on 6-12-2013 and with the assistance of Attender namely Sri. Krishna, the Investigation Officer had located the Chamber of the DGO and thereafter served the copy of FIR and Search Warrant on him. The material on record and the evidence given by P.W-1/Sri. Mohan Kotari reflects that DGO was subjected to personal search and cash of Rs.3,200/- was found with him. Since DGO had informed the Investigation Officer that it was personal amount, the cash was returned to him. It also appears



from the evidence of Investigation Officer that DGO had informed him that Cash Declaration Register was not maintained in the Office. It appears that other staff working in the Office of Ports had also not declared the cash with them as no separate Register was maintained to declare the cash.

18. During investigation the Lokayukta Police found that one Sachin Bangera, had to renew the licenses of his 5 fishing boats and one Sri. Harish Nagappa Harikanth had purchased 4 fishing boats and had applied for issue of licenses. Though a sum of Rs.3,192/- was to be paid legally for renewal, DGO had demanded and collected Rs.5,000/- from the above persons for each boat and had collected Rs.45,000/- for issuing/renewing licenses of their 9 boats. It is alleged that out of the amount received from Sri. Sachin Bangera, a sum of Rs.18,000/- was given to one Antony Filex Parambil, Asst. Port Conservative Officer to obtain D.D. for renewal of his boats and DGO had kept remaining amount of Rs.26,000/- with him without mentioning the same in any document, invoice, etc. After investigation it was concluded by the Investigation Officer that the amount of Rs.39,710/- recovered from the chambers of DGO was collected illegally as illegal gratification while discharging his official duties.

19. In order to prove the seizure of amount by the Lokayukta Police, three witnesses are examined on behalf of Disciplinary Authority as PWs-1 to 3. Seventeen documents are also marked as Ex.P-1 to P-17. P.W-1/Sri. Mohan Kottari, Police Inspector, Karnataka Lokayukta, Udupi has spoken about receipt of

credible information that DGO is collecting money illegally to issue and renew licenses of fishing boats, registration of FIR in Cr.No.6/2013, obtaining search warrant and conducting raid on the office of DGO and seizure of cash amounting to Rs.39,710/-. P.W-2/Sri. Dayanand K. is an independent panch witness who has spoken about the raid, seizure of cash and preparation of Ex.P-8 seizure Mahazar. P.W-3/ Sri.Umesh Ganapathi Seth, Dy.S.P., Karnataka Lokayukta, Udupi has spoken about the investigation conducted by him and filing of charge sheet before the Special Court, Udupi. The oral and documentary evidence adduced on behalf of Disciplinary Authority clearly reflects that a raid was conducted by Udupi Lokayukta Police on 6-12-2013 and a sum of Rs.39,710/- was seized from the chamber of DGO.

20. The evidence adduced by the DGO, both oral and documentary and suggestions put during the cross examination of P.Ws-1 to 3, reflects that he does not seriously dispute seizure of cash from his chamber by the Lokayukta Police on 6-12-2013. The DGO, who was examined as D.W-1, has given evidence that he had borrowed Rs.29,250/- from his father-in-law on that day to meet the expenses of his children and had kept the same with him apart from the cash received from the boat owners for renewal of license and the same was seized by the Lokayukta Police. During his cross examination by Presenting Officer, when a suggestion was put to him regarding seizure of cash from his chamber, his response is as follows;

“.....ನನ್ನ ಟೇಬಲ್ ಡ್ರಾ ನಲ್ಲಿ ಮತ್ತು ಅಲೈರಾದಲ್ಲಿದ್ದ ಟಿಫಿನ್ ಬಾಕ್ಸ್‌ನಲ್ಲಿದ್ದ ಒಟ್ಟು 39710/- ರೂ. ಹಣದ ಬಗ್ಗೆ ನನ್ನ ಸಮಜಾಯಸಿಯನ್ನು ಕೇಳಿದಾಗ ನಾನು ಸಮಂಜಸವಾದ ಉತ್ತರ ನೀಡದೇ ಇದ್ದ ಕಾರಣ ಅದು ಭ್ರಷ್ಟಾಚಾರದ ಹಣ ಆಗಿರುತ್ತದೆ ಎಂದು ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸರು ಪಂಚ ಸಾಕ್ಷಿದಾರರ ಸಮಕ್ಷಮ ಪಂಚನಾಮೆ ಮಾಡಿ ಅಮಾನತ್ತುಪಡಿಸಿಕೊಂಡಿದ್ದರು ಎಂದರೆ ಅದು ನನ್ನ ಹಣ ಆಗಿರುತ್ತದೆ ಎಂದು ಎಷ್ಟೇ ಹೇಳಿದ್ದರೂ ಸಹ ಆ ಅಧಿಕಾರಿಗಳು ನನ್ನ ಉತ್ತರವನ್ನು ಪರಿಗಣಿಸದೇ ಆ ಹಣವನ್ನು ತೆಗೆದುಕೊಂಡು ಹೋದರು ಎಂದು ಸಾಕ್ಷಿದಾರರು ನುಡಿದಿರುತ್ತಾರೆ.....”

20.1 The above response clearly reflects that DGO does not seriously dispute seizure of cash from his office. In view of the same, the question that would arise for determination is whether seizure of cash from the office of DGO is suffice to hold that the same was collected by him illegally to renew or issue licenses of fishing boats or in other words, the seized amount was collected as illegal gratification?

21. As could be seen from the Articles of Charge, the allegation against the DGO is that he had collected Rs.5,000/- each from one Sri. Sachin Bangera and Sri. Harish Nagappa Harikanth to renew and issue boat licenses and DGO had not given any valid explanation about the presence of cash in his table drawer and in the Tiffin box kept in his almirah and therefore he was booked for receiving illegal gratification. In this Disciplinary Proceeding, the Disciplinary Authority has to prove its case on preponderance of probabilities and not beyond reasonable doubt. Since this is a case of raid and seizure of cash unauthorizedly collected by the DGO as illegal gratification while discharging his official duty, at first the Disciplinary Authority has to prove that DGO had illegally demanded and received cash from certain person/s. As could be seen from the

material on record, the DGO had allegedly demand and received illegal gratification from Sri. Sachin Bangera and Sri. Harish Nagappa Harikanth to renew and issue boat licenses. Incidentally, these persons are not named as witnesses in the Articles of Charge. There was however no impediment for the Presenting Officer to have summoned those persons and examined as witnesses to prove that they had paid illegal gratification to the DGO upon his demand. Therefore, as observed above, mere seizure of cash from the chamber of DGO, in the absence of evidence of demand and acceptance, in my opinion does not amount to dereliction of duty or misconduct.

22. The DGO had faced trial for the offences punishable U/Sections 7, 13(1)(d) R/w. 13(2) of Prevention of Corruption Act-1988 in the Court of Addl. District and Sessions Judge, Udupi in Spl. Case No.1/2015. Ex.D-17 is the certified copy of the judgment passed in the said case on 16-10-2020 by virtue of which he was acquitted. Since the prosecution had not proved its case beyond reasonable doubt, the Court while acquitting the accused/DGO has observed that out of Rs.39,710/- seized from his office, a sum of Rs.29,250/- shall be returned to him. In view of his acquittal in the Criminal Case, arguments are addressed on behalf of DGO to exonerate him from the charges framed against him.

22.1 In the case of ***Divisional Controller, KSRTC V/s. M.G. Vittal Rao (2012) 1 SCC 422***, Hon'ble Supreme Court has held that Departmental Enquiry is independent of criminal proceedings and acquittal in a criminal court is of no help. It is

observed that even if a person stands acquitted by criminal court, domestic enquiry can be held since standard of proof required in a domestic enquiry and in a criminal case are different. Hon'ble Supreme Court in the case of **Nirmala J. Jhala V/s. State of Gujarat (2013) 4 SCC 301** has held that even though principle of preponderance of probabilities is applicable, a finding of quasi-judicial Authority should be based on evidence and conclusion must be reached on the basis of what a prudent man would have done. In the case on hand, there is no cogent evidence that DGO had demanded and received illegal gratification for issue or renewal of fishing boat licenses and in the absence of any such material or evidence, it has to be invariably held that Disciplinary Authority has failed to prove its case.

23. Considering the suggestions put during the cross examination of P.Ws-1 to 3, there appears to be no Circular issued by the Government at that point of time directing the Officers and staff to declare cash on hand in a separate Register. The Investigation Officer/P.W-3 has not collected any such Circular mandating the staff to maintain Cash Declaration Register and enter the cash on hand every day. As pointed above, cash of Rs.3,200/- was found in possession of the DGO which was returned to him as he informed the I.O. that it was his personal money. It was made clear at that stage itself that a separate Cash Declaration Register was not maintained in his Office. DGO, who gave evidence by examining him as D.W-1 has given evidence that on 6-12-2013, he had borrowed Rs.29,250/- from his father-in-law which was seized by the Police along with

other cash received from the boat owners for renewal of license. Since there is no material placed before this Authority that DGO ought to have declared the above amount in Cash Declaration Register, the defence taken by him appears to be probable.

24. As it was not clear when the Government made it mandatory to maintain Cash Declaration Registers in all Government Departments, information was sought regarding the same from the Principal Secretary, DPAR, M.S.Building, Bengaluru. In the letter dated:30-11-2022, the Under Secretary, DPAR has informed this Authority that by virtue of the directions in Division Bench Judgment of Hon'ble High Court in the case of **Shiva v/s State of Karnataka and others, Writ Petition no: 79/2021(GM-KLA) dated: 10-11-2021**, the State Government has made it mandatory to maintain Cash Declaration Registers in all the Departments and copies of circulars dtd: 04-02-2022 and 14-03-2022 are sent to this Authority for information. Since the State Government appears to have made it compulsory to maintain Cash Declaration Registers in all the Departments only by virtue of the directions issued by Hon'ble High Court in the above case and the Office of DGO was raided on 06-12-2013, much before the above judgment and circulars issued by the Government, the question of maintaining or declaring cash by him in the concerned register did not arise at all. Therefore, the cash of sum of Rs.39,710/- that was seized by the Lokayukta Police from the DGO cannot be termed as excess cash or cash obtained by way of illegal gratification for showing official favour.

25) Since the Disciplinary Authority has not adduced cogent evidence to prove that DGO has failed to maintain absolute integrity and devotion to duty and caused dereliction of duty unbecoming of a Government Servant and thereby committed official misconduct as enumerated u/r 3(1) (i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966, this A.R.E. finds that Disciplinary Authority has *not proved* the charges against the D.G.O. Accordingly, this point is answered in the **Negative**.

26 **Point No.2:** For the aforesaid reasons, this A.R.E. proceeds to record the following:

### **FINDING**

The Disciplinary Authority has not proved the charge against the D.G.O.

Submitted to Hon'ble Upalokayukta for kind approval and further action in the matter.

  
(C. CHANDRA SEKHAR)

Additional Registrar Enquiries-15,  
Karnataka Lokayukta,  
Bengaluru.

### **ANNEXURES**

#### **1. LIST OF WITNESSES EXAMINED ON BEHALF OF D.A:**

|       |                                      |
|-------|--------------------------------------|
| PW.1  | Sri. Mohan Kottari, Police Inspector |
| P.W-2 | Sri. Dayanand K.                     |

|       |                                    |
|-------|------------------------------------|
| P.W-3 | Sri. Umesh Ganapathi Seth, Dy.S.P. |
|-------|------------------------------------|

**2. LIST OF WITNESSES EXAMINED ON BEHALF OF DGO:**

|      |                                               |
|------|-----------------------------------------------|
| DW.1 | Sri Kishore Mada , Deputy Conservator of Port |
|------|-----------------------------------------------|

**3. LIST OF DOCUMENTS MARKED ON BEHALF OF D.A:**

|                                               |                                                                                                                                                     |
|-----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|
| Ex.P-1<br>Ex.P-1(a)                           | Copy of letter of Sri. Mohan Kottari, Police Inspector Karnataka Lokayukta Udupi, addressed to Hon'ble Dist. And Sessions Court Udupi and signature |
| Ex.P-2<br>Ex.P2 (a)                           | Copy of FIR and signature                                                                                                                           |
| Ex.P-3                                        | Copy of Search Warrant issued by the Hon'ble Additional District & Sessions Judge Udupi, Kundapur.                                                  |
| Ex.P-4<br>Ex.P4(a)                            | Letter copy of Panchas 1 & 2 dated 06.12.2013 and signatures                                                                                        |
| Ex.P-5                                        | Copy document dated 06.12.2013 Attested by Police Inspector KLA Udupi                                                                               |
| Ex.P-6                                        | Copy of receipt dated dated 05.12.2013 and enclosures                                                                                               |
| Ex.P-7                                        | Copy of December-2013 attendance register                                                                                                           |
| Ex.P-8<br>Ex.P-8(a)<br>Ex.P-8(b)<br>Ex.P-8(c) | Copy of Mahazar dated 06.12.2013<br>Signature of Police Inspector<br>Signature copy of Pancha's<br>Signature of Kishore Mada                        |
| Ex.P-9<br>Ex.P-9(a)                           | Copy of Rough sketch in C.R. No. 6/13 of KLA Udupi<br>Signature of I.O.                                                                             |
| Ex.P-10 (1)                                   | Attested Photo graphs of C.R. No. 6/13 of KLA Udupi.                                                                                                |



|             |                                                                                                    |
|-------------|----------------------------------------------------------------------------------------------------|
| Ex.P-10 (2) | Attested Photo graphs of C.R. No. 6/13 of KLA Udupi.                                               |
| Ex.P-10 (3) | Attested Photo graphs of C.R. No. 6/13 of KLA Udupi.                                               |
| Ex.P-10 (4) | Attested Photo graphs of C.R. No. 6/13 of KLA Udupi.                                               |
| Ex.P-10(5)  | Attested Photo graphs of C.R. No. 6/13 of KLA Udupi.<br>Attested Photo graphs of C.R. No. 6/13 of. |
| Ex.P-11     | Copies of Call details.                                                                            |
| Ex.P-12     | Attested Copy of Kundapur Taluk Gangolli Port Office sketch                                        |
| Ex.P-13     | Attested Letter Copies of Director Port Office Karwar dated 29.01.2014 and connected documents     |
| Ex.P-14     | Attested etter copy of Boat Owner addressed to Dy.Sp, Karnataka Lokayukta Udupi.                   |
| Ex.P-15     | Attested Proceedings Copy of Port Office Karwar.                                                   |
| Ex.P-16     | FIR Copy of Cr No. 6/2013 of Karnataka Lokayukta Udupi                                             |
| Ex.P-17     | Attested copy of Charge sheet in Cr.No.6/2013                                                      |

**4. LIST OF DOCUMENTS MARKED ON BEHALF OF D.G.O:**

|        |                                                                                       |
|--------|---------------------------------------------------------------------------------------|
| Ex.D-1 | Attested copies Department Exam book                                                  |
| Ex.D-2 | Attested Letter copy of Boat owner                                                    |
| Ex.D-3 | Attested Letter copy of Port Officer Kundapur dated 22.09.2014                        |
| Ex.D-4 | Attested Letter copy of Port Officer Mangalore dated 30.09.2014 (Attested)            |
| Ex.D-5 | Government letter copy addressed to Director, Port Karwar dated.03.09.2014 (Attested) |

|         |                                                                                                      |
|---------|------------------------------------------------------------------------------------------------------|
| Ex.D-6  | Copies of Audit Report dated 18.08.2014 & 19.08.2014. (Attested)                                     |
| EX.D-7  | Letter Copy of Director, Port Office, Karwar dated.30.09.2014 (Attested)                             |
| Ex.D-8  | Letter copy of Director, Port Office, Karwar dated 03.03.2015 (Attested)                             |
| Ex.D-9  | Copy of Wedding Invitation card date.23.05.1995. (Attested)                                          |
| Ex.D-10 | Copy of Wedding Invitation card date. 06.12.2013. (Attested)                                         |
| Ex.D-11 | Copy of Sports Certificate (Attested)                                                                |
| Ex.D-12 | Copy of ST. Joseph's Joyland High School Mangalore Invitation card. (Attested)                       |
| Ex.D-13 | Copy of ST. Aloysius Pre University College. (Attested)                                              |
| Ex.D-14 | Copy of ST. Aloysius College Toppers. (Attested)                                                     |
| Ex.D-15 | Copy of Hon'ble Additional Dist. And Sessions Court Kundapur. (Attested)                             |
| Ex.D-16 | Copy of Canara Bank dated 29.09.2072. (Attested)                                                     |
| Ex.D-17 | Copy of Hon'ble Additional Dist. And Sessions Judge Udupi, (Sitting At Kundapur) Kundapur (Attested) |

  
(C.CHANDRA SEKHAR)

Additional Registrar Enquiries-15,  
Karnataka Lokayukta,  
Bengaluru.