



KARNATAKA LOKAYUKTA

No.UPLOK-2/DE.389/2017/ARE-12

Multi Storied Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru-560 001.  
Dated 22.01.2021.

RECOMMENDATION

Sub:- Departmental inquiry against (1) Shri D.Kotresh, Asst. Engineer, (2) Sri G.U.Lokesh, Assistant Engineer, Panchayath Raj Engineering Sub-division, Shikaripura - reg.

Ref:- 1) Government Order No.RDP 106 ENQ 2016 dated 04.10.2016 and Corrigendum dt.26.12.2016.

2) Nomination order No. UPLOK-2/DE.389/2017 dated 16.03.2017 of Upalokayukta, State of Karnataka.

3) Inquiry report dated 22.01.2021 of Additional Registrar of Enquiries-12, Karnataka Lokayukta, Bengaluru.

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The Government by its order dated 04.10.2016 and Corrigendum dt.26.12.2016 initiated the disciplinary proceedings against (1) Shri D.Kotresh, Asst. Engineer, (2) Sri G.U.Lokesh, Assistant Engineer, Panchayath Raj Engineering Sub-division, Shikaripura, [hereinafter referred to as Delinquent Government Officials, for short as 'DGOs 1 and 2 'respectively] and entrusted the departmental inquiry to this Institution.

2. This Institution by Nomination Order No. UPLOK-2/DE.389/2017 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 DGOs for the alleged charge of misconduct, said to have been committed by them. Subsequently, by O.M.No.Uplok-1&2/DE/Transfers/2018 dated 06.08.2018, the Additional Registrar of Enquiries-12, was re-nominated as the Inquiry Officer to continue the said inquiry.

3. The DGO 1 Shri D.Kotresh, Asst. Engineer, DGO 2 Sri G.U.Lokesh, Assistant Engineer, Panchayath Raj Engineering Sub-division, Shikaripura, were tried for the following charges :-

“That you DGOs 1 and 2 named above, while working as such at Esuru Grama Panchayath of Shikaripura Taluk, have taken up the work of construction of community hall in Devanga Samaja Colony at Esuru at an estimated cost of Rs. 10 lakhs and in the execution of the said project of construction of community hall at Esuru, you have committed the following irregularities:

- a) A sum of Rs. 42,023/- was found to have been paid in excess to the contractor towards alleged construction of Chejja in the front portion and providing certain electrical installation to the said building, though no such chejja has been constructed and no such electrical equipments were

installed to the said building by the contractor, but amounts have been paid under those heads;

b) Final payment of the bill amount was paid to the contractor by showing in the measurement book that, the construction of the building has been completed on 10.3.2011. But as per the mahazar prepared by the Assistant Executive Engineer on 5.9.2015, the white washing and painting of the said building, installation of collapsible gate and electrification to the said building was completed only on 4/9/2015. The payments were found to have been made by falsely showing that, the work was satisfactorily completed on 10.3.2011 itself, though the work was not fully completed on that day, thereby showing favour to the contractor in making full payment without completing the work probably for extraneous consideration.

c) The execution of the said project of construction of community hall was not commenced and completed as per the sanctioned estimate and within the time stipulated under the agreement and due to delay in completion of the work within stipulated time, there was escalation in the cost of construction and even the work executed is of substandard quality, thereby you DGOs 1 and 2 are responsible for wasteful expenditure of Government money;

and thereby you DGOs 1 and 2 have failed to maintain absolute integrity, negligence 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. ”

4. The Inquiry Officer (Additional Registrar of Enquiries-12) on proper appreciation of oral and documentary evidence has held that, the charges (a) and (b) are ' proved ' and charge

(c) is 'partly proved' against the DGO 1 Shri D.Kotresh, Asst. Engineer, and DGO -2 Sri G.U.Lokesh, Assistant Engineer, Panchayath Raj Engineering Sub-division, Shikaripura.

5. On re-consideration of report of inquiry and all other materials on record, it is seen that there is no allegation of misuse of money or misappropriation. The allegations proved are delayed completion of construction and payment of Rs.42,023/- towards construction of chejja and for some electrical installation. The finding in this regard is as under:

' It is therefore clear from the evidence that a sum of Rs.42,023/- has been paid in excess to the contractor without constructing chejja in the front portion of the building . . . . '

Therefore construction of chejja has remained a disputed question and the Enquiry Officer has held him guilty because DGOs have not produced materials to prove such construction.

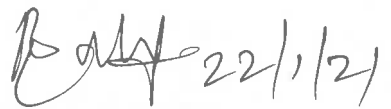
6. I do not find any reason to interfere with the findings recorded by the Inquiry Officer. Therefore, it is hereby recommended to the Government to accept the report of Inquiry Officer.

7. As per the First Oral Statements of the DGOs recorded by the Enquiry Officer, DGO.1 Sri D.Kotresh is due for retirement from service on 31.07.2021 and DGO.2 Sri G.U.Lokeh has retired from service on 30.6.2017.

8. Having regard to the nature of the misconduct proved against the DGO 1 Shri D.Kotresh, Asst. Engineer, DGO -2 Sri G.U.Lokesh, Assistant Engineer, Panchayath Raj Engineering Sub-division, Shikaripura, and considering the fact that DGO.1 is due for retirement shortly and the time required for issuance of second show cause notice and its reply, it is hereby recommended to the Government to impose penalty of 'withholding 5 (five) % of pension payable to DGOs 1 and 2 for a period of two years and also to recover a sum of Rs.42,023/- equally from DGOs 1 and 2'.

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

Connected records are enclosed herewith.

  
(JUSTICE B.S.PATIL)  
Upalokayukta,  
State of Karnataka.

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**KARNATAKA - LOKAYUKTA**

No. Uplok-2/DE/389/2017/ARE-12

M.S. Building  
Dr. B.R. Ambedkar Road  
Bengaluru-560 001  
Date: 20.01.2021

**ENQUIRY REPORT**

**PRESENT** : SRI D. PUTTASWAMY  
ADDITIONAL REGISTRAR (ENQUIRIES)-12  
M.S. BUILDING  
KARNATAKA LOKAYUKTA  
BENGALURU – 560 001.

**Subject :** Departmental Inquiry against :

- 1) Sri.D.Kotresh, Assistant Engineer, Panchayath Raj Engineering Sub-Division, Shikaripura and
- 2) Sri.G.U.Lokesh, Assistant Engineer, Panchayath Raj Engineering Sub-Division, Shikaripura –reg.,

- References:**
1. Report u/s 12(3) of the Karnataka Lokayukta Act, 1984 in Compt/Uplok/BD/7378/2014/ARLO-1, dt.30.08.2016.
  2. Government Order No.ಗ್ರಾಅಪ 106 ಇಎನ್‌ಕ್ಯೂ 2016 dt:04.10.2016 and its Corrigendum dt.26/12/2016.
  3. Nomination Order No.Uplok-2/DE/389/2017 Bengaluru dt.16.03.2017 of Hon'ble Upalokayukta-2.
  4. Order No.Uplok-1&2/DE/Transfers/2018 Bengaluru dated 6.8.2018

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1. This complaint is filed by the complainant Sri. D.Prakash, S/o. D.Gurushanthappa, Kyampinakeri Beedi, Esuru Post, Shikaripura Taluk, Shimoga District

(hereinafter referred to as 'complainant' for short) against 1) Sri. D.Kotresh, Assistant Engineer, Panchayath Raj Engineering Sub-Division, Shikaripura and 2) Sri.G.U.Lokesh, Assistant Engineer, Panchayath Raj Engineering Sub-Division, Shikaripura (hereinafter referred to as Delinquent Government Officials in short DGOs No.1 & 2) alleging misconduct.

2. On the basis of the complaint, comments were called from the DGOs. The DGOs have submitted their comments denying the complaint allegations. Unsatisfied with the comments of DGOs, 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.) authorizing Hon'ble Upa-lokayukta to hold an enquiry against the DGOs as per reference No. 2.

3. On the basis of the Government Order, nomination order was issued by the Hon'ble Upalokayukta on 16/03/2017 authorizing ARE-3 to frame Articles of Charge against the DGOs and to hold an enquiry to find out truth and to submit a report as per reference No. 3. On the basis of the nomination order, the Articles of Charge against the DGOs were framed by the then Additional Registrar (Enquiries-3) and was sent to the Delinquent Government Officials on 20/04/2017. In



view of the order cited at reference No. 4, this file was transferred from ARE-3 to ARE-12.

4. The articles of charge and the statement of imputations of misconduct prepared and leveled against the DGOs are reproduced as here under :-

ಅನುಬಂಧ-1  
ದೋಷಾರೋಪಣೆ ಪಟ್ಟಿ:

That you DGOs 1 and 2 named above, while working as such at Esuru Grama Panchayath of Shikaripura Taluk, have taken up the work of construction of community hall in Devanga Samaja Colony at Esuru at an estimated cost of Rs. 10 lakhs and in the execution of the said project of construction of community hall at Esuru, you have committed the following irregularities:

- a) A sum of Rs.42,023/- was found to have been paid in excess to the contractor towards alleged construction of Chejja in the front portion and providing certain electrical installation to the said building, though no such chejja has been constructed and no such electrical equipments were installed to the said building by the contractor, but amounts have been paid under those heads;
- b) Final payment of the bill amount was paid to the contractor by showing in the measurement book that, the construction of the building has been completed on 10.3.2011. But as per the mahazar prepared by the Assistant Executive Engineer on 5.9.2015, the white washing and painting of the said building, installation of collapsible gate and electrification to the said building was completed

only on 4/9/2015. The payments were found to have been made by falsely showing that, the work was satisfactorily completed on 10.3.2011 itself, though the work was not fully completed on that day, thereby showing favour to the contractor in making full payment without completing the work probably for extraneous consideration.

- c) The execution of the said project of construction of community hall was not commenced and completed as per the sanctioned estimate and within the time stipulated under the agreement and due to delay in completion of the work within stipulated time, there was escalation in the cost of construction and even the work executed is of substandard quality, thereby you DGOs 1 and 2 are responsible for wasteful expenditure of Government money;

and thereby you DGOs 1 and 2 have failed to maintain absolute integrity, negligence 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.

**ಅನುಬಂಧ-2**

**ದೋಷಾರೋಪಣೆಯ ವಿವರ**

ಶಿವಮೊಗ್ಗ ಜಿಲ್ಲೆ ಶಿಕಾರಿಪುರ ಈಸೂರು ಗ್ರಾಮ ಮತ್ತು ಅಂಚೆಯ ಕ್ಯಾಂಪಿನ ಕೇರಿ ನಿವಾಸಿಯಾದ ಶ್ರೀ.ಡಿ.ಪ್ರಕಾಶ್ ಬಿನ್ ಡಿ.ಗುರುಶಾಂತಪ್ಪ (ಇನ್ನು ಮುಂದೆ 'ದೂರುದಾರರು' ಎಂದು ಕರೆಯಲ್ಪಡುತ್ತಾರೆ) ತಮ್ಮ ದೂರಿನಲ್ಲಿ ಶಿವಮೊಗ್ಗ ಜಿಲ್ಲೆ ಶಿಕಾರಿಪುರ ಜಿಲ್ಲಾ ಪಂಚಾಯತ್ ಇಂಜಿನಿಯರಿಂಗ್ ವಿಭಾಗದ (1) ಸಹಾಯಕ ಅಭಿಯಂತರರಾದ ಶ್ರೀ. ಡಿ.ಕೊಟ್ಟೇಶ್ ಮತ್ತು 2) ಸಹಾಯಕ ಅಭಿಯಂತರರಾದ ಶ್ರೀ. ಸಿಯು ಲೋಕೇಶ್. (ಇನ್ನು ಮುಂದೆ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು- 1 ಮತ್ತು 2 ಅಂದರೆ ಆಸನೊ-1 ಮತ್ತು 2 ಎಂದು ಕ್ರಮವಾಗಿ ಕರೆಯಲ್ಪಡುತ್ತಾರೆ) ರವರ ವಿರುದ್ಧ ಕರ್ತವ್ಯಲೋಪದ ಬಗ್ಗೆ ನೀಡಿದ ದೂರನ್ನು ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯಿದೆಯ ಕಲಂ 9 ರ ಅಡಿಯಲ್ಲಿ ತನಿಖೆಗೆ ತೆಗೆದುಕೊಂಡಿದ್ದಿದೆ.

2. ದೂರಿನ ಸಂಕ್ಷಿಪ್ತ ವಿವರಣೆ: ಈಸೂರಿನ ದೇವಾಂಗ ಸಮಾಜದ ಕಾಲೋನಿಯಲ್ಲಿ ನಿರ್ಮಿಸಿರುವ ಸಮುದಾಯ ಭವನದ ಕಟ್ಟಡವು ಸ್ಥಗಿತಗೊಂಡು 3 ವರ್ಷಗಳಾಗಿದ್ದು, ಅದು ಕಳಪೆ ಗುಣಮಟ್ಟವಾಗಿದೆ, ಶಿಥಿಲಾವಸ್ಥೆಯಲ್ಲಿದೆ. ಸದರಿ ಕಟ್ಟಡದ ಕಾಮಗಾರಿಯ ಪೂರ್ಣ ಬಿಲ್ ಅನ್ನು ಆಸನಾರವರು ಗುತ್ತಿಗೆದಾರರಿಗೆ ಪಾವತಿ ಮಾಡಿದ್ದಾರೆ.

3. ದೂರಿಗೆ ಆಸನಾರರಿಂದ ಆಕ್ಷೇಪಣೆಯನ್ನು ಕೇಳಲಾಗಿ ಆಸನಾ-1 ಮತ್ತು 2 ಆಕ್ಷೇಪಣೆಯಲ್ಲಿ

ಸದರಿ ಸಾರ್ವಜನಿಕ ಸಮುದಾಯ ಭವನವನ್ನು ನಿರ್ಮಿಸುವ ಕಾಮಗಾರಿ 2007-08ನೇ ಸಲಿನ ಸರ್ಕಾರದ ವಿಶ್ವ ಅನುದಾನದಡಿಯಲ್ಲಿ ಲೆಕ್ಕ ಶೀರ್ಷಿಕೆ 2515-00-196-1-22-405ರಡಿಯಲ್ಲಿ ರೂ. 10ಲಕ್ಷಗಳಿಗೆ ಮಂಜೂರಾಗಿದ್ದು, ಸದರಿ ಕಾಮಗಾರಿಯ ಅಂದಾಜು ಪಟ್ಟಿಗೆ ತಾಂತ್ರಿಕ ಮಂಜೂರಾತಿ ನೀಡಿದ್ದು ಮತ್ತು ಸದರಿಯವರು ಟೆಂಡರ್ ಕರೆದು ಸದರಿ ಕಾಮಗಾರಿಯನ್ನು ಶ್ರೀ. ಎಸ್.ಕುಬೇರಪ್ಪ, ಲೋಕೋಪಯೋಗಿ ಗುತ್ತಿಗೆದಾರರು, ವಿನಾಯಕ ನಗರ, ಶಿಕಾರಿಪುರ ರವರಿಗೆ ವಹಿಸಿಕೊಟ್ಟಿದ್ದು, ಟೆಂಡರ್ ಕರಾರಿನ ಪ್ರಕಾರ ಗುತ್ತಿಗೆದಾರರು ದಿ: 5.5.2010ರಂದು ಕಾಮಗಾರಿಯನ್ನು ಪ್ರಾರಂಭಿಸಿ ದಿ: 5.2.2011ರಂದು ಪೂರ್ಣಗೊಳಿಸಬೇಕಿದ್ದು, ಗುತ್ತಿಗೆದಾರರು ಸದರಿ ಕಾಮಗಾರಿಯನ್ನು ದಿ: 8.5.2010ರಂದು ಪ್ರಾರಂಭಿಸಿ ದಿ: 10.3.2011 ರಂದು ತೃಪ್ತಿಕರವಾಗಿ ಪೂರ್ಣಗೊಳಿಸಿದ್ದು, ಸದರಿ ಕಾಮಗಾರಿಕೆ ಉಪಯೋಗಿಸಿದ ಸಾಮಗ್ರಗಳ ಗುಣಮಟ್ಟವನ್ನು ಸಂಜಯ್ ಮೆಮೋರಿಯಲ್ ಪಾಲಿಟೆಕ್ನಿಕ್ ಕಲೇಜ್ ಸಾಗರ ರವರು ಪರೀಕ್ಷಿಸಿ ಅವು ತೃಪ್ತಿಕರವಾಗಿರುವ ಬಗ್ಗೆ ದೃಢೀಕರಣ ಪತ್ರವನ್ನು ನೀಡಿದ್ದಾರೆ ಸದರಿ ಕಾಮಗಾರಿಯನ್ನು ದಿ: 10.3.2011ರಂದು ಪೂರ್ಣಗೊಳಿಸಿದ ನಂತರ ದಿ: 18.3.2011ರಂದು ನಮೂನೆ ನಂ. ಪಿಡಬ್ಲೂಜಿ.81ರಲ್ಲಿ ಭರ್ತಿಮಾಡಿ ಅದನ್ನು ಈಸೂರು ಗ್ರಾಮ ಪಂಚಾಯತ್‌ಗೆ ಹಸ್ತಾಂತರಿಸಲಾಗಿದ್ದು, ಸದರಿ ಕಾಮಗಾರಿ ಪೂರ್ಣಗೊಂಡು ಗ್ರಾಮ ಪಂಚಾಯತ್‌ಗೆ ಹಸ್ತಾಂತರಿಸಿದ ಸುಮಾರು 3 ಮುಕ್ಕಾಲು ವರ್ಷಗಳ ನಂತರ ದೂರುದಾರರು ದುರುದ್ದೇಶವಾಗಿ ಈ ದೂರನ್ನು ನೀಡಿದ್ದು, ಸದರಿ ಕಟ್ಟಡವನ್ನು ಗ್ರಾಮ ಪಂಚಾಯತ್‌ಗೆ ಹಸ್ತಾಂತರಿಸಿರುವುದರಿಂದ, ಈ ದೂರನ್ನು ಮುಕ್ತಾಯಗೊಳಿಸಲು 1 ಮತ್ತು 2 ನೇ ಆಸನಾ ಕೋರಿದ್ದಾರೆ.

4. ಆಸನಾರವರ ಆಕ್ಷೇಪಣೆಗೆ ದೂರುದಾರರಿಂದ ಪ್ರತ್ಯುತ್ತರವನ್ನು ಕೇಳಲಾಗಿ, ದೂರುದಾರರು ಆಸನಾ ರವರ ಆಕ್ಷೇಪಣೆಗಳನ್ನು ಅಲ್ಲಗಳೆದು ತಮ್ಮ ಪ್ರತ್ಯುತ್ತರದಲ್ಲಿ:

ಸದರಿ ಕಟ್ಟಡವನ್ನು ಗ್ರಾಮ ಪಂಚಾಯತ್‌ಗೆ ದಿ: 18.3.2011 ರಂದು ಹಸ್ತಾಂತರ ಮಾಡಿದ ಬಗ್ಗೆ ಸದರಿ ಗ್ರಾಮ ಪಂಚಾಯತ್ ಕಾರ್ಯದರ್ಶಿರವರನ್ನು ಕೇಳಿದಾಗ, ಸದರಿಯವರು ತಮಗೆ ಈ ಬಗ್ಗೆ ಗೊತ್ತಿರುವುದಿಲ್ಲವೆಂದು, ತಾನು ಗೊತ್ತಿಲ್ಲದೆ ಸದರಿ ನಮೂನೆ ನಂ. ಪಿಡಬ್ಲೂಜಿ 81ಕ್ಕೆ ಸಹಿ ಮಾಡಿದ್ದಾರೆಂದು ಹೇಳಿದ್ದು, ಸದರಿ ಕಟ್ಟಡದ ಕೆಲಸವು

ನಾಲ್ಕೂವರೆ ವರ್ಷಗಳಿಂದ ನಿಂತಿರುವುದರಿಂದ, ಅದರ ಗುಣಮಟ್ಟವನ್ನು ಪರಿಶೀಲಿಸಲು ತಾಂತ್ರಿಕ ವರ್ಗಕ್ಕೆ ವಹಿಸಿಕೊಡಬೇಕೆಂದು ಮತ್ತು ಈ ಬಗ್ಗೆ ತನ್ನ ಹತ್ತಿರ ವಿಡಿಯೋ ಮತ್ತು ಆಡಿಯೋ ರೆಕಾರ್ಡಿಂಗ್ ಇದ್ದು ಅದನ್ನು ತನಿಖಾ ಸಮಯದಲ್ಲಿ ಒದಗಿಸುವುದಾಗ ಹೇಳಿದ್ದಾರೆ.

5. ದೂರಿನ ತನಿಖೆಯನ್ನು ಕೈಗೊಂಡು ವರದಿಯನ್ನು ಸಲ್ಲಿಸುವಂತೆ, ಈ ಸಂಸ್ಥೆಯ ತಾಂತ್ರಿಕ ವಿಭಾಗದ ಮುಖ್ಯ ಅಭಿಯಂತರರಿಗೆ ಆದೇಶಿಸಲಾಗಿದೆ, ಸದರಿಯವರು ತನಿಖೆ ಕೈಗೊಂಡು ವರದಿ ಸಲ್ಲಿಸಲು ಸಹಾಯಕ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರು-3 ರವರಿಗೆ (ಇನ್ನು ಮುಂದೆ ತನಿಖಾಧಿಕಾರಿ ಎಂದು ಕರೆಯಲ್ಪಡುತ್ತಾರೆ) ಕೇಳಲಾಗಿದೆ, ತನಿಖಾಧಿಕಾರಿಗಳು ದೂರಿನ ತನಿಖೆ ಕೈಗೊಂಡು ವರದಿಯಲ್ಲಿ ಈ ಕೆಳಕಂಡಂತೆ ಹೇಳಿದ್ದಾರೆ.

ದೇವಾಂಗ ಸಮಾಜನ ಕಾಲೋನಿಯಲ್ಲಿ ಸಮುದಾಯ ಭವನದ ಕಟ್ಟಡ ಪೂರ್ಣವಾಳಿ ನಿರ್ಮಾಣವಾಗಿದ್ದು, ಸುಸ್ಥಿತಿಯಲ್ಲಿರುವುದು ಮತ್ತು ಸಭೆ-ಸಮಾರಂಭಗಳಿಗೆ ಉಪಯೋಗಿಸಲ್ಪಡುತ್ತಿರುವುದು ಕಂಡು ಬಂದಿದೆ. ಈ ಕಾಮಗಾರಿಗಳಿಗೆ ರೂ. 42,023/- ಹೆಚ್ಚಿಗೆ ಹಣವನ್ನು ಗುತ್ತಿಗೆದಾರರೇ ಹೆಚ್ಚಾಗಿ ಪಾವತಿಸಿರುವುದಕ್ಕಾಗಿ ಆಸನಾರವರು ಸಮಾನರಾಗಿ ಅಂದೆ, ತರ್ಲ ರೂ. 21,012/- ಗಳಿಗೆ ಜವಾಬ್ದಾರರಾಗಿದ್ದಾರೆ. ದೂರುದಾರರ ಆಪಾದನೆ ದಿ: 5.2.2011ರಂದು ಪೂರ್ಣಬಾಗಬೇಕಿದ್ದು ಕೆಲಸ ಎಲ್ಲಿಯವರೆಗೂ ಪೂರ್ಣವಾಗಿಲ್ಲ ಎಂಬ ಆಪಾದನೆ ಕುರಿತು ಮೇಲೆ ತಿಳಿಸಿದ ವಿದ್ಯುದ್ದೀಕರಣದ ಅಂಶಗಳು ಇನ್ನು ನಿರ್ವಹಿಸಬೇಕಿರುವುದರಿಂದ ಹಾಗೂ ಸಹಾಯಕ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರ ದಿ: 5.9.2015ರ ಸ್ಥಳ ಪರಿಶೀಲನೆ ಪಂಚನಾಮೆಯ ಪ್ರಕಾರ ದುರಸ್ತಿ ಕಾಮಗಾರಿ ಇತರೆ ಕಾಮಗಾರಿಗಳನ್ನು ದಿ: 1.9.2015 ರಿಂದ 3 ದಿನಗಳ ಕಾಲ ಷೆಡ್ಯೂಲ್ ಗೇಟ್ ವಿದ್ಯುದ್ದೀಕರಣ ನಿರ್ವಹಿಸಲಾಗಿದೆ ಎಂದು ಹೇಳಿರುವುದರಿಂದ, ದಿ: 5.2.2011ರಂದು ಪೂರ್ಣವಾಗಬೇಕಿದ್ದ ಕಾಮಗಾರಿ ದಿ: 1.9.2015ರ ನಂತರ ಪೂರ್ಣವಾಗಿದೆಯೆಂದು ವರದಿಯಾಗಿರುವುದರಿಂದ, ದೂರುದಾರರ ಆಪಾದನೆ ದಿ: 5.2.2011ರ ವೇಳೆ ಕಟ್ಟಡ ಕಾಮಗಾರಿ ಪೂರ್ಣವಾಗಿಲ್ಲ ಎಂಬ ಆರೋಪ ಸಾಬೀತಾಗಿದೆಯೆಂದು ತಮ್ಮ ವರದಿಯಲ್ಲಿ ಹೇಳಿದ್ದಾರೆ.

6. ತನಿಖಾಧಿಕಾರಿಗಳ ವರದಿಗೆ ಆಸನಾರವರ ಉತ್ತರವನ್ನು ಕೇಳಲಾಗಿ ಆಸನಾರವರು ತಮ್ಮ ಉತ್ತರದಲ್ಲಿ ತನಿಖಾಧಿಕಾರಿಗ: ಮೌಖಿಕ ಆದೇಶದ ಮೇರೆಗೆ ದುರಸ್ತಿ ಕಾಮಗಾರಿಗಳನ್ನು ಅಂದರೆ, ಸಣ್ಣಪುಟ್ಟ ಬಾಕಿಯಿದ್ದ ಕೆಲಸಗಳನ್ನು ಗುತ್ತಿಗೆದಾರರು ಅಚ್ಚುಕಟ್ಟಾಗಿ ಪೂರ್ಣಗೊಳಿಸಿದ್ದಾರೆಂದು ಹೇಳಿದ್ದಾರೆ.

7. ಕಡತ ಮತ್ತು ದಾಖಲೆಗಳನ್ನು ಕೂಲಂಕಷವಾಗಿ ಪರಿಶೀಲಿಸಲಾಗಿದೆ, ಕಂಡು ಬರುವ ಅಂಶಗಳೇನೆಂದರೆ:

ಈಸೂರಿನ ದೇವಾಂಗ ಸಮಾಜದ ಕಾಲೋನಿಯಲ್ಲಿ ನಿರ್ಮಿಸಿರುವ ಸಮುದಾಯ ಭವನದ ಕಟ್ಟಡ ಕಾಮಗಾರಿ ನಿಗದಿತ ಅವಧಿಯಲ್ಲಿ

ಪ್ರಾರಂಭಿಸದೇ ಇನ್ನು ಸಹ ಅಧಿಕವಾಗಿರುವುದರಿಂದ, ಮಂಜೂರಾದ ಹಣದಲ್ಲಿ ನಿರ್ವಹಿಸಲು ಸಾಧ್ಯವಿಲ್ಲ. ಆ ಕಾರಣ, ಸದರಿ ಕಾಮಗಾರಿ ಕಳಪೆ ಕಾಮಗಾರಿಯಾಗಿದೆ. ಆದ್ದರಿಂದ, ಅಸನೌರವರ ಸರ್ಕಾರದಿಂದ ಮಂಜೂರಾದ ರೂ. 10ಲಕ್ಷ ಹಣವನ್ನು ದುರುಪಯೋಗ ಪಡಿಸಿಕೊಂಡು ಇನ್ನು ಸಹ ಕಾಮಗಾರಿ ನಿರ್ವಹಿಸದೇ ಇರುವುದು ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡು ಬಂದಿದೆ.

8. ಮೇಲ್ಕಂಡ ಅಂಶಗಳು, ಕಡತದ ಸಂಗತಿಗಳು ಹಾಗೂ ದಾಖಲಾತಿಗಳನ್ನು ಮತ್ತು ಆಸನೌ-1 ಮತ್ತು 2 ರವರು ನೀಡಿರುವ ಆಕ್ಷೇಪಣೆ/ಉತ್ತರಗಳನ್ನು ಕೂಲಂಕಷವಾಗಿ ಪರಿಶೀಲಿಸಿದಾಗ, ಸದರಿ ಅಸನೌರವರ ತಮ್ಮ ವಿರುದ್ಧದ ನಡವಳಿಯನ್ನು ಕೈಬಿಡಲು ಸೂಕ್ತ/ಸಮಂಜಸ/ಸಮಾಧಾನಕರ ಕಾರಣ ತೋರಿಸಿಲ್ಲವೆಂಬ ಅಭಿಪ್ರಾಯಕ್ಕೆ ಬರಲಾಗಿದೆ.

9. ಕಡತದಲ್ಲಿಯ ಸಂಗತಿಗಳು ಹಾಗೂ ದಾಖಲಾತಿಗಳಿಂದ ಆಸನೌ 1 ಮತ್ತು 2 ರವರು ಸಾರ್ವಜನಿಕ/ಸರ್ಕಾರಿ ನೌಕರರಿಗೆ ಪರಿಪೂರ್ಣ ಪ್ರಾಮಾಣಿಕತೆ ಸಂಪೂರ್ಣ ಕರ್ತವ್ಯ ನಿಷ್ಠೆ ಮತ್ತು ಸರ್ಕಾರಿ ಸೇವಕರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡಿರುವುದು ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡುಬರುತ್ತದೆ.

10. ಆಸನೌ-1 ಮತ್ತು 2 ರವರು ದುರುಪಯೋಗದ ಹಣ ರೂ. 10,00,000/- ಅನ್ನು ಕಾನೂನಿನಂತೆ ಸಮನಾಗಿ ವಸೂಲಿ ಮಾಡಲು ಹಾಗೂ ಸದರಿಯವರುಗಳ ವಿರುದ್ಧ ಕ್ರಿಮಿನಲ್ಲ ಪ್ರಕರಣ ದಾಖಲಿಸಲು ಸಕ್ಷಮ ಅಧಿಕಾರಿಗೆ ನಿರ್ದೇಶಿಸಿದೆ.

11. ಆಸನೌ-1 ಮತ್ತು 2 ರವರು ಸಾರ್ವಜನಿಕ/ಸರ್ಕಾರಿ ನೌಕರರಾಗಿದ್ದು, ತಮ್ಮ ಕರ್ತವ್ಯ ಪರಿಪಾಲನೆಯಲ್ಲಿ ನಿಷ್ಠೆಯನ್ನು ತೋರದೆ, ಕರ್ತವ್ಯಲೋಪವೆಸಗಿ, ದುರ್ವರ್ತನೆ ತೋರಿಸಿ, ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವೆ (ನಡತೆ) ನಿಯಮ 1966 ರ ನಿಯಮ 3(1)(ii) ಮತ್ತು (iii) ರನ್ವಯ ಶಿಸ್ತು ಕ್ರಮಕ್ಕೆ ಬಾಧ್ಯರಾಗಿರುತ್ತಾರೆಂದು ಕಂಡುಬಂದಿದ್ದರಿಂದ, ಅವರ ವಿರುದ್ಧ ಶಿಸ್ತು ನಡವಳಿಕೆ ಹೂಡಲು ಮತ್ತು ಹಾಗೆಯೇ ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವಾ (ವರ್ಗೀಕರಣ, ನಿರ್ಬಂಧ ಮತ್ತು ಮೇಲ್ಮನವಿ) ನಿಯಮಗಳು, 1957 ರ ನಿಯಮ 14-ಎ ರ ಅಡಿಯಲ್ಲಿ, ಅಸನೌರವರ ವಿರುದ್ಧ ವಿಚಾರಣೆ ನಡೆಸಲು ಈ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಒಪ್ಪಿಸುವಂತೆ, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯಿದೆ ಕಲಂ 12(3) ರನ್ವಯ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರದಡಿ, ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಶಿಫಾರಸ್ಸು ಮಾಡಿದೆ. ಸದರಿ ಶಿಫಾರಸ್ಸಿನ ಮೇರೆಗೆ ಸರ್ಕಾರವು ಆ.ಸ.ನೌ ರವರ ವಿರುದ್ಧ ಇಲಾಖಾ ವಿಚಾರಣೆಯನ್ನು ಕೈಗೊಂಡು ವರದಿ ಸಲ್ಲಿಸಲು ಗೌರವಾನ್ವಿತ ಉಪಲೋಕಾಯುಕ್ತರಿಗೆ ವಹಿಸಿ, ಉಲ್ಲೇಖ (1) ರಂತೆ ಆದೇಶ ಮಾಡಿದೆ.

ಆದ್ದರಿಂದ ನಿಮ್ಮ ಮೇಲೆ ಈ ದೋಷಾರೋಪಣೆ.”

5. The aforesaid articles of charge were served upon the DGOs and DGOs appeared before this enquiry authority and their first oral statement under Rule 11(9)

of KCS (CCA) Rules, 1957 were recorded. The DGOs pleaded not guilty and claimed to be enquired about the charge. DGOs have filed their written statement of defence.

6. DGOs in their written statement have contended that they have commenced the project of construction of community hall and completed as per the agreement and as per the instructions of the superiors, as such there is no delay in completion of the work and there was no escalation in the cost of construction. They have handed over the building after its completion and no favour was shown to the contractor in making full payment. Complaint is barred u/s 8(1)(b) & 8(2)(c) of Karnataka Lokayukta Act. Therefore, DGOs have prayed to exonerate them from the Charges.

7. In this enquiry, to establish the charge against the DGOs, the Presenting Officer has examined Sri. D.Prakash (Complainant) as PW-1 and Sri.C.N.Anand (Investigation officer) as PW-2 and got marked, in all 18 documents as Ex.P-1 to Ex.P-18 on behalf of Disciplinary Authority. After the closure of evidence of Disciplinary Authority, Second Oral Statement of DGOs U/R 11(16) were recorded. DGOs submitted that they have defence evidence. DGO No.1 & 2 got examined themselves as DW-1 & DW-2 and got marked Ex.D1 & Ex.D2. Therefore, answers of DGOs to Questionnaire U/R 11(18)

of KCS (CC&A) Rules, 1957 was dispensed with. Then I have heard the learned Presenting Officer on behalf of disciplinary authority. The defence counsel has filed written brief on behalf of DGO Nos.1 & 2.

8. Now, the points that would arise for my consideration are;

*1 : Whether the charge leveled against the DGO is proved by the Disciplinary Authority?*

*2 : What order?*

9. My findings to the aforesaid points are as under :-

POINT No. 1 : In the AFFIRMATIVE for the charges (a) & (b) and partly AFFIRMATIVE for the charge (c).

POINT No. 2 : As per the final order for the following;

### **REASONS**

10. **POINT NO. 1** : It is the case of Disciplinary Authority that in the matter of construction of Devanga Community Hall at Esuru, a sum of Rs.42,023/- was found to have been paid in excess to the contractor towards construction of chejja in the front portion and installing certain electrical equipments to the said building, though it was not done and even though it was shown as construction of building has been completed on 10.03.2011, as per the mahazar of AEE, the building was completed only on 04.09.2015, as such there is delay in

completion of the work within the stipulated time and thereby there was escalation in the cost of construction and even the work executed is of sub-standard quality and thereby DGOs are responsible for wasteful expenditure of government money.

11. The complainant being PW-1 has deposed that a complaint was filed to Hon'ble Lokayukta when they visited Esuru in the month of Dec-2013 alleging semi construction of community hall and its sub-standard work; community hall had to be completed within 2011; then on 30/10/2014 he has filed a complaint in form No.I alleging semi construction and sub-standard work of community hall. He has relied on form No.I and II, written complaint, photos, notices, letter, rejoinder, copy of letter addressed to contractor and Esuru Grama Panchayath and paper clipping at Ex. P1 to Ex. P10.

12. Investigating officer being PW-2 has deposed that on 25/05/2016 he has inspected the building and drawn mahazar as per Ex.P11 and he has also taken photographs as per Ex.P12; on 05/09/2015 AEE got the building painted, fixed the collapsible gate and electrification through the contractor for three days and the same is mentioned in the mahazar Ex.P13. Copies of estimate, completion report, bills and measurement book are produced at Ex.P14 to Ex.P17. He has further stated that a sum of Rs.42,023/- has been paid in excess to the contractor, for which DGOs are equally responsible; as



per the mahazar of AEE since the painting work, fixation of collapsible gate, electrification and other repair works has been carried out on 01/09/2015 and therefore, building was not completed within 05/02/2011. His report is produced at Ex. P18.

13. On the other hand, DGOs got examined as DW-1 & 2 and they have stated that the work of construction of community hall was taken up during their period and after completing the construction fully, they have handed over the building to the PDO on 18/03/2011. They have produced copies of form No.I, PWG-81 & proceeding of general body meeting of Esuru Grama Panchayath as per Ex. D1 & Ex. D2.

14. The learned Presenting Officer has submitted that the evidence of PWs goes to show that DGOs have not completed the building within the stipulated time and it has been completed in all respect on 01/09/2015 and a sum of Rs.42,023/- has been paid in excess to the contractor by the DGOs.

15. The counsel for DGOs by filing written brief has submitted that the DGOs after completing the construction of community hall in all respect, they have handed over the building to the PDO on 18/03/2011 and therefore, DGOs have not committed any misconduct as alleged. Further, it is submitted that the complaint is barred u/s 8(1)(b) & 8(2)(c) of Karnataka Lokayukta Act

and therefore, it is prayed to drop the DGOs from the charges.

16. Before advertng to discussion, it is necessary to state that the DGO No.1 & 2 were working as Asst. Engineer and Asst. Executive Engineer, Panchayath Raj Engineering Sub-Division, Shikaripura, but in the 12(3) report, Government order and in the Nomination order the designation of DGO No.2 is mentioned as Asst. Engineer and initial is mentioned as C.U. Lokesh instead of Asst. Executive Engineer and G.U. Lokesh respectively and this is to be read accordingly as there is no dispute from either side.

17. When we analyze the evidence on record, it reveals that the DGOs while working as Assistant Engineer and Assistant Executive Engineer, PRE Sub-Division, Shikaripura have taken up construction of Devanga Samaja Community Hall at Esuru at an estimated cost of Rs. 10 lakhs as per Ex.P.14. PW-2 has investigated the matter and filed the report as per Ex.P.18. He says that a sum of Rs.42,023/- was found to have been paid in excess to the contractor without constructing chejja in the front portion, for which DGOs are equally responsible. But, DGOs have not rebutted this evidence by placing material to show that they have constructed the chejja and the amount paid to the contractor is not in excess. In the absence of such evidence, it can safely be said that a sum of Rs. 42,023/- has been paid in excess

to the contractor without constructing chejja/portico in the front portion and also without fixing certain electrical equipments, for which both the DGOs are equally responsible.

18. There is no dispute that the construction of building had to be completed within 05.02.2011 as per the agreement. But, the evidence of PWs coupled with the photos produced at Ex.P.4 would show that the work of construction of building was not completed within the stipulated time i.e., 05.02.2011, but it is completed on 01.09.2015. In the cross-examination, DWs have admitted the photos produced at Ex.P.4(1), (15) and Ex.P.4(25), which are taken on 14.01.2015 and 19.01.2015 respectively. It shows that the building was not fully completed as on these dates. That apart the mahazar prepared by the Assistant Executive Engineer would show that painting work, fixation of collapsible gate and installation of electrical equipments are carried out on 01.09.2015. It shows that the construction of building was not fully completed within the stipulated time i.e., 05.02.2011, but it is completed on 09.01.2015. The case of DGOs is that they have handed over the building to PDO on 18.03.2011. For the sake of arguments, if this version is believed, they might have handed over the building without completing the construction fully in all respect. Even the alleged date 18.03.2011 is beyond the stipulated date 05.02.2011.

Moreover, DGOs have not placed any material to show that the works, which were carried out on 01.09.2015 was under the annual maintenance.

19. It is also contended that the complaint is barred under Section 8(1)(b) and 8(2)(c) of the Karnataka Lokayukta Act. This contention is not acceptable for the reason that the DGOs have neither challenged the 12(3) report nor challenged the entrustment order so far. That apart they have not specifically stated as to what were the other remedies available to the complainant and before which authority. Moreover, what has been stated in the complaint is not a grievance, but it is an allegation. Therefore, there was no prohibition as such to file the present complaint.

20. It is therefore clear from the evidence that a sum of Rs.42,023/- has been paid in excess to the contractor without constructing chejja in the front portion of the building and without installing certain electrical equipments, for which the DGOs are equally responsible and as the building is not completed within the stipulated date i.e., 05.02.2011, DGOs were also responsible for escalated cost of construction and thereby, they have committed misconduct and therefore, I hold them guilty. But, there is no evidence to show that the work executed is of sub-standard quality. Thus, the Disciplinary Authority has proved the charges (a), (b) and partly (c) leveled against the DGOs as mentioned in

Annexure-1 of Articles of Charge beyond probabilities. Therefore, I answer Point No.1 in the Affirmative for charges (a) & (b) and partly in the Affirmative for the charge (c).

21. **POINT NO. 2** : In view of my finding on point No. 1 and for the foregoing reasons, I proceed to pass the following ;

**: ORDER :**

The Disciplinary Authority has proved the charges (a), (b) & partly (c) against DGOs 1) Sri. D.Kotresh, Assistant Engineer, Panchayath Raj Engineering Sub-Division, Shikaripura and 2) Sri.G.U.Lokesh, Assistant Executive Engineer, Panchayath Raj Engineering Sub-Division, Shikaripura.

The Date of retirement of DGOs No.1 & 2 are 31.07.2021 and 30.06.2017 respectively.

This report is submitted to the Hon'ble Upalokayukta-2 in a sealed cover forthwith.

Dated this the 20<sup>th</sup> January, 2021

(D. Puttaswamy)  
Additional Registrar (Enquiries-12)  
Karnataka Lokayukta, Bengaluru

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

- PW 1 : Sri.D.Prakash (Complainant)  
PW 2 : Sri. C.N.Anand (Investigation officer)

**II. LIST OF DOCUMENTS MARKED ON BEHALF OF DISCIPLINARY AUTHORITY :-**

- Ex.P.1 : Form No. I & complaint dt:30.10.2014.  
Ex.P.2 : Form No. II dt: 30.10.2014.  
Ex.P.3 : Complaint dt: 23.01.2015.  
Ex.P.4 : 25 Photographs.  
Ex.P.5 : Letters dt.17/02/2016 from A.E.E-3, TAC, Karnataka Lokayukta, Bengaluru.  
Ex.P.6 : Letter dt.21.01.2016 from Sri.D.Prakash (complainant).  
Ex.P.7 : Rejoinder of the complainant dt.26.03.2015.  
Ex.P.8 : Letter dt.24.01.2015 from AEE, PRE Sub-Division, Shikaripura.  
Ex.P.9 : Letter dt.18.03.2015 from complainant.  
Ex.P.10 : Vijayavani news paper publication.  
Ex.P.11 : Spot Mahazar dt.25.02.2016.  
Ex.P.12 : 26 Photographs.  
Ex.P.13 : Panchaname dt.05.09.2015.  
Ex.P.14 : Estimation for construction of Samudhaya Bhavana.  
Ex.P.15 : Completion Report of PRE Sub Division, Shikaripura.  
Ex.P.16 : Contractor certificate.  
Ex.P.17 : Extract of Measurement book.  
Ex.P.18 : Investigation report dt.19.05.2016.

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

- D.W.1 :- Sri.D.Kotresh  
D.W.2 :- Sri.G.U Lokesh

IV. LIST OF DOCUMENTS MARKED ON BEHALF OF DGO :

- Ex.D.1 : Form No.PWG-81  
Ex.D.2 : Proceedings of General Body Meeting  
dt.19.04.2010.

Dated this the 20<sup>th</sup> January, 2021

(D. Puttaswamy)  
Additional Registrar (Enquiries-12)  
Karnataka Lokayukta, Bengaluru

