



KARNATAKA LOKAYUKTA

No. LOK/INQ/14-A/413/2012/ARE-3

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001.
Dated 09.10.2018

RECOMMENDATION

Sub:- Departmental inquiry against Dr. S.D. Nagamani,
Gynecologist, District Hopsital, Chitradurga - reg.

Ref:- 1) Government Order No. HFW 218 MSA 2010
dated 29.09.2012.

2) Nomination order No. LOK/INQ/14-A/413/2012
dated 16.10.2012 of Upalokayukta, State of
Karnataka.

3) Inquiry Report dated 29.09.2018 of Additional
Registrar of Enquiries-3, Karnataka Lokayukta,
Bengaluru.

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The Government by its order dated 29.09.2012, initiated the disciplinary proceedings against Dr. S.D. Nagamani, Gynecologist, District Hopsital, Chitradurga [hereinafter referred to as Delinquent Government Official, for short as 'DGO'] and entrusted the departmental inquiry to this Institution.

2. This Institution by Nomination Order No. LOK/INQ/14-A/413/2012 dated 16.10.2012 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 her.

3. The DGO - Dr. S.D. Nagamani, Gynecologist, District Hospital, Chitradurga was tried for the following charge:-

“That you, Smt. Dr. S.D.Nagamani, (hereinafter referred to as Delinquent Government Official, in short DGO), while working as the Gynecologist, District Hospital, Chitradurga demanded and accepted a bribe of Rs.1500/- on 13/09/2010 from complainant Shri Siddesh s/o Shri Giddappa, r/o Aimangala, Hiriyr Taluk, Chitradurga District for conducting tubectomy operation on Smt. Nirmala the sister of complainant, 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.”

4. The Inquiry Officer (Additional Registrar of Enquiries- 3) on proper appreciation of oral and documentary evidence has held that, the Disciplinary Authority has '*proved*' the above charge against the DGO - Dr. S.D. Nagamani, Gynecologist, District Hospital, Chitradurga.

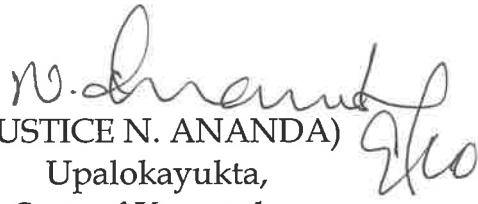
5. On re-consideration of report of inquiry, I do not find any reason to interfere with the findings recorded by the Inquiry Officer. Therefore, it is hereby recommended to the Government to accept the report of Inquiry Officer.

6. As per the First Oral Statement of DGO furnished by the Inquiry Officer, the DGO - Dr. S.D. Nagamani is due to retire from service on 30.06.2033.

7. Having regard to the nature of charge (demand and acceptance of bribe) '*proved*' against the DGO - Dr. S.D. Nagamani, Gynecologist, District Hopsital, Chitradurga, it is hereby recommended to the Government to impose penalty of 'compulsory retirement from service on the DGO - Dr. S.D. Nagamani'.

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

Connected records are enclosed herewith.

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



**KARNATAKA LOKAYUKTA**

No. LOK/INQ/14-A/413/2012/ARE-3

M.S.Building,  
Dr. B.R.Ambedkar Veedhi,  
Bengaluru - 560001.

Date: 29.9.2018

**Enquiry report****Present: Sri.S. Renuka Prasad**  
**Additional Registrar Enquiries-3****Sub:** Departmental Enquiry against Dr. S.D. Nagamani,  
Gynaecologist, District Hospital, Chitradurga - reg.

- Ref:**
1. Report under Section 12(3) of the Karnataka Lokayukta
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- Act, 1984, in No. Compt/Uplok/BD/775/2011/ARE-8
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- dated 27.8.2012
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2. Government Order No. HFW 218 MSA 2010 dated
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- 29.9.2012
- 
3. Nomination Order No.LOK/INQ/14-A/413/2012
- 
- dated 16.10.2012 of Hon'ble Upalokayukta,
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- Karnataka State, Bengaluru.
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1. The complainant Sri N.G. Siddesh S/o Giddappa, R/o Ayyamangala Village, Hiriyyur Taluk, Chitradurga District (hereinafter referred to as 'complainant') has filed a complaint to Lokayukta police, Chitradurga on 13.9.2010 against Dr. Nagamani, Gynaecologist<sup>and</sup> Medical Officer, District Hospital, Chitradurga (hereinafter referred to as 'DGO' for short) making allegations against her that, she having received Rs. 1000/- by way of bribe, is demanding further sum of Rs. 1500/- by way of bribe, in order to remove the sutures put to his sister, while conducting Tubectomy operation on her.

2. On registering a case on the basis of the said complaint, a trap was held on 13.9.2010 in the District hospital, Chitradurga wherein, the DGO having demanded bribe from the complainant, received the said bribe amount of Rs. 1500/- from him, which was later recovered from her vanity bag, during the trap proceedings conducted in the fetal monitoring room of the labour ward in the Women and Children ward of the District Hospital, Chitradurga. Since it was revealed during investigation that, the DGO has demanded bribe of Rs.1500/- from the complainant and received the same, in order to show an official favour i.e., to remove the sutures put to his sister while conducting Tubectomy operation on her on 6.9.2010, the Police Inspector having conducted investigation, filed charge sheet against the DGO.
3. The ADGP, Karnataka Lokayukta, Bengaluru has forwarded the copy of the charge sheet to the Hon'ble Upalokayukta. On the basis of the materials collected during investigation and materials placed before this authority, an investigation was taken up under Section 7(2) of the Karnataka Lokayukta Act. An observation note was served on the DGO providing him an opportunity to show-cause as to why recommendation should not be made to the Competent Authority, for initiating disciplinary proceedings against him. DGO submitted her reply dated 14.6.2012 denying the allegations made against her contending that, she never demanded or received any money by way of bribe from the complainant and she has been falsely implicated. She has taken up a further contention that, on that day i.e., on 13.9.2010 she had been to District Court, Chitradurga to give evidence in a case and she received a phone call from the District Hosopital asking her to come immediately as one of her patients is very serious. Hence she rushed to the hospital and by keeping her vanity bag on a table in the monitoring room, she was attending the

said patient who was in serious condition. At that time, Lokayukta police caught hold of her making allegations against her that, she has received bribe. She has made allegations against the Lokayukta police alleging that, with the help of the complainant Siddesh, money was clandestinely kept in her vanity bag without her knowledge and the police having made her to take out that money from her vanity bag falsely implicated her. It is her further contention that, since the trial of the prosecution case is pending against her in Spl. Case No. 10/2011, before Special Court, Chitradurga no parallel proceedings by way of disciplinary proceedings can be initiated against her and requested for dropping the proceedings against her. Since the explanation offered by the DGO was not satisfactory, a recommendation under Section 12(3) of the Karnataka Lokayukta Act was forwarded to the Competent Authority recommending to initiate disciplinary enquiry against DGO and to entrust the enquiry under Rule 14-A of KCS (CCA) Rules, to this authority to hold enquiry. Accordingly, the Government of Karnataka i.e., the Health and Family Welfare Department by its order in No. HFW 218 MSA 2010 dated 29.9.2012 initiated disciplinary proceedings against the DGO and entrusted the same to Hon'ble Upalokayukta to hold enquiry. As per the order issued against DGO, the Hon'ble Upalokayukta issued a nomination order dated 16.10.2012 nominating ARE-3 to frame charges and to conduct enquiry against the DGO. Accordingly, charges were framed by the then ARE-3 against the DGO, as under.

**Charge:**

That you, Sri. Dr. S.D.Nagamani, (here in after referred to as Delinquent Government Official, in short DGO), while working as the Gynecologist, District Hospital, Chitradurga demanded and accepted a bribe of Rs.1500/- on 13/09/2010

from complainant Sri. Siddesh S/o Sri.Giddappa, R/o Aimangala, Hiriyur Taluk, Chitradurga District for conducting tubectomy operation on Smt. Nirmala the sister of complainant, 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.

**STATEMENT OF IMPUTATION OF MISCONDUCT:**

The complainant Sri. Siddesh S/o Sri.Giddappa, R/o Aimangal, Hiriyur Taluk, Chitradurga District filed a complaint on 13/09/2010 before the Police Inspector, Karnataka Lokayukta, Chitradurga alleging that, his sister Smt. Nirmala W/o Sri Gurumurthy R/o Kallihatti in Chitradurga Taluk & District was admitted to District Hospital, Chitradurga for delivery and tubectomy operation on 06/09/2010 and that she delivered a male child on the same day and thereafter, when he had approached Smt. Dr. S.D.Nagamani, Gynaecologist, District Hospital, Chitradurga, (here in after referred to as Delinquent Government Servant, in short DGO) demanded a bribe of Rs.2500/- for doing the said operation and that when he pleaded inability to pay so much amount she refused to reduce the same and he paid Rs.1000/- to the DGO and thereafter, she conducted the tubectomy operation on Smt. Nirmala on the same day and the DGO asked him to pay another Rs.1500/- and she also told him that she would not remove the sutchers (stitches) unless the



balance bribe amount of Rs.1500/- was paid and thus, the DGO demanded a bribe of Rs.1500/-.

As the complainant was not willing to pay any bribe to the DGO, he went to Police Inspector, Karnataka Lokayukta Chitradurga on 13/09/2010 and lodged a complaint. On the basis of the same a case was registered in Chitradurga Lokayukta Police Station Cr.No.06/2010 for offences punishable under sections 7, 13(1) (d) r/w section 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 13/09/2010 by the Investigating Officer after your demanding and accepting the bribe amount of Rs.1500/- 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.1500/- from the complainant on

13/09/2010 for doing an official act i.e., for conducting tubectomy operation on Smt. Nirmala the sister of complainant. 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."

4. The Articles of Charges and Statement of Imputations are duly served on the DGO. DGO has appeared in response to the notice issued to her and First Oral Statement of the DGO was recorded. DGO has denied the charges framed against her. She has engaged the services of an advocate to appear on her behalf and to defend her, in the enquiry.
5. DGO has filed her written statement on 19.8.2013 denying the allegations made against her contending that, she never demanded or received any bribe from the complainant. She has taken up a further contention that, she was working as gynecologist at District

Hospital, Chitradurga on the strength of stay order obtained by her from the KAT in A.No. 4002/2010 as one Dr. J.C. Chaitra was posted in her place by transferring her/DGO from the District Hospital, Chitradurga. It is her allegation that, the complaint filed against her is vindictive in nature and at the instance of Dr. J.C. Chaitra, the complainant has filed a false complaint against her implicating her in this false case. She has taken up a further contention that, the vanity bag from which the tainted money was recovered does not belong to her and she was made as a scapegoat by making her to take out money from the vanity bag which was found kept on the table in the monitoring room and she has been falsely implicated. It is her further contention that, Smt. Nirmala W/o complainant gave birth to a child on 6.9.2010 and she/DGO conducted caesarean section on her during the delivery of the baby. According to her/DGO she has not conducted any tubectomy operation on Smt. Nirmala subsequent to 6.9.2010 and the allegation made against her that, she conducted tubectomy operation on the sister of the complainant on 6.9.2010 is false and hence question of removing sutures and demanding money for that purpose from the complainant does not arise. She has reiterated her contention that, the complainant has filed false complaint against her having connived with the person who are inimical to her, just to harass her.

6. During enquiry, on behalf of the Disciplinary authority 3 witnesses have been examined as PW1 to PW3 and 13 documents came to be marked as Ex-P1 to Ex-P13. After closure of the evidence on behalf of disciplinary authority, second oral statement of the DGO was recorded. Since, DGO desired to lead defence evidence by examining herself, permission was granted to her accordingly. DGO has

examined herself as DW1 and produced 10 documents in support of her defence, which are marked as Ex-D1 to Ex-D10.

7. Thereafter, the learned Presenting Officer has filed written arguments. The learned counsel for DGO has submitted his written arguments. Thereafter, this matter is taken up for consideration.

8. The points that would arise for my consideration are:

**Point No.1:** Whether the charge framed against the DGO is proved by the Disciplinary Authority?

**Point No.2:** What order?

9. The above points are answered as under:

**Point No.1:** In the 'Affirmative'

**Point No.2:** As per Conclusion.

### **REASONS**

#### **Point No.1:-**

10. DGO was working as Gynecologist/Medical officer at District Hospital, Chitradurga during the relevant period.

11. The complainant in his complaint has narrated the circumstances under which he has filed this complaint against the DGO. According to him, his sister Nirmala had been admitted to District Hospital, Chitradurga for delivery and also for undergoing family planning operation. She gave birth to a male child on 6.9.2010 at about 1.30pm. Thereafter, he/complainant and his mother and other family members requested the DGO who conducted delivery procedure on Nirmala, requesting her to conduct family planning operation on her. It is the allegation of the complainant that, DGO

has demanded him to pay Rs. 2500/- by way of bribe in order to conduct tubectomy operation on Nirmala. Though he has requested to reduce the demand pleading his inability to pay that much amount, DGO never budged insisting him/complainant to pay Rs. 2500/- by way of bribe in order to conduct the surgery. According to the complainant, he paid Rs. 1000/- to the DGO as part payment and DGO had conducted tubectomy surgery on Nirmala on 6.9.2010. The complainant has made further allegation that, DGO never agreed to remove the sutures put on Nirmala unless the remaining amount of Rs. 1500/- is paid to her. Since the complainant was not willing to pay any more money by way of bribe to the DGO, he approached Lokayukta police on 7.9.2010 and informed the Police Inspector about the demand for bribe being made by the DGO.

12. Police Inspector gave him/complainant a voice recorder and asked him to meet the DGO and to record the conversation with her regarding demand for bribe being made by her. Hence, the complainant again met the DGO and discussed with her about the treatment/removal of suture to be attended on Nirmala and recorded the said conversation with the DGO and having recorded the said conversation with the DGO in the voice recorder given to him, the complainant again approached Lokayukta Police on 13.9.2010 and filed a written complaint as per Ex-P1 and handed over the voice recorder to the Police Inspector.

13. On the basis of the complaint so filed by the complainant on 13.9.2010 the Police Inspector, Karnataka Lokayukta, Chitradurga has registered a case in Cr. No. 6/2010 under Sections 7,13(1)(d) R/w 13(2) of P.C Act, 1988 and took up investigation.

14. An entrustment proceedings was conducted in the Lokayukta Police Station on 13.9.2010 in the presence of two panch witnesses viz., Sri Bheeshma, SDA from the O/o City Municipality and Smt. S. Rathnamma, SDA from the O/o Tahsidlar, and in the said proceedings, the bait money of Rs. 1500/- consisting of 1 currency note of Rs. 1000/- denomination and 5 currency notes of Rs. 100/- denomination each, given by the Complainant, were smeared with phenolphthalein powder making it as tainted money, and the said tainted notes were entrusted to the Complainant asking him to give that money to the DGO when he meets her and only in case if the DGO demands for bribe. Panch witness Sri Bhishma was sent along with the complainant, as a shadow witness. Complainant was entrusted with a voice recorder asking him to switch on the same when he meets the DGO and to record the conversation with her, while paying money to her.

15. The complainant and the shadow witness-Sri Bhishma were taken to District hospital, Chitradurga and sent them to meet the DGO. Accordingly, the complainant and shadow witness went inside the labour ward in the women and Children Section of the District Hospital and the DGO was found sitting in the fetal monitoring room. When the complainant requested the DGO regarding discharge of his sister, DGO told him that, unless the balance of Rs. 1500/- is paid to her, she will not discharge his sister from the hospital. Then the complainant gave the tainted notes to the DGO and she having received the same, kept the said money in her vanity bag. Thereafter, the complainant came out of the said room and gave pre-arranged signal to the Police Inspector. The shadow witness who went along with the complainant on standing behind a glass window watched all these happenings and demand and receipt of money

from the complainant by the DGO and keeping the money in her vanity bag.

16. On receiving the signal, the Police Inspector and his staff and another panch witness approached the complainant who took them inside the fetal monitoring room where DGO was found sitting in the cabin and showed the DGO claiming that, she is the concerned Doctor and she has received money from him and on receiving money, kept that money in her vanity bag.
17. The Police Inspector introduced himself to the DGO and explained to her about the registration of a case against her and asked her to cooperate in the investigation. The DGO disclosed her name as Dr. S.D.Nagamani, Gynecologist/Medical Officer.
18. Thereafter, the hand wash of DGO was obtained asking her to wash her both hand fingers separately in two separate bowls containing sodium carbonate solution. When DGO washed her right hand fingers and left hand fingers separately in two separate bowls containing sodium carbonate solution, the solution in both the bowls turned into pink colour. Those pink coloured solution of right hand wash and left hand wash of the DGO, were collected in two separate bottles and sealed the same.
19. Thereafter, the Police Inspector asked the DGO about the money she has received from the complainant. The DGO on opening the zip of her vanity bag, took out the money and produced the same before the Police Inspector. On verification of those notes with reference to its serial numbers, it was confirmed that, those were the notes entrusted to the complainant during the entrustment proceedings. Those notes were kept in a separate cover and sealed the same.

20. Even the vanity bag was taken to the custody and on taking out all the contents from the vanity bag, the inner layer of the said vanity bag was dipped in a separate bowl containing sodium carbonate solution and it also gave positive result, since the solution in the said bowl turned into pink colour. The said vanity bag of the DGO along with its wash was seized along with the tainted notes recovered from her.
21. The Police Inspector asked the DGO to give her explanation in writing. DGO gave her explanation in writing as per Ex-P6 admitting the receipt of Rs. 1500/- from the complainant claiming that, the complainant gave that money to her without asking or demanding for it. She further stated in her explanation that, all her colleagues, anesthesiologist and OT staff are also involved and requested the Police Inspector to take action against all of them.
22. DGO was asked to produce the relevant case records pertaining to patient Nirmala and the same was seized as per Ex-P7 from the Hospital. A detailed mahazar was prepared as per Ex-P3 incorporating all these details of trap proceedings and also photographs of this proceedings were obtained as per Ex-P8.
23. During enquiry, the complainant has been examined as PW1. He in his evidence has narrated in detail regarding the circumstances which forced him to file complaint against the DGO since she demanded him to pay bribe of Rs. 2500/- in order to conduct family planning operation on his sister Nirmala and received Rs. 1000/- from the mother-in-law of Nirmala insisting for payment of the balance of Rs. 1500/- and he/complainant agreed to pay the balance of Rs. 1500/- subsequently on the day of discharge.



24. He further stated that, when he approached Police Inspector on 7.9.2010 and informed him about the demand for bribe being made by the DGO, the Police Inspector gave him one voice recorder asking him to record the conversation with the DGO regarding the demand for bribe being made by her. Though he tried to meet her, DGO was not available and hence he could not meet her and on 12.9.2010 he met her in the hospital and DGO enquired her about non-payment of the balance of Rs. 1500/- as demanded by her. He claimed that, he recorded the said conversation with the DGO and again approached the Police Inspector on 13.9.2010 and filed complaint against the DGO as per Ex-P1.
25. Both the complainant and shadow witness who are examined as PW1 and PW2 gave details regarding conducting of entrustment proceedings in the Police Station and entrustment of tainted notes of Rs. 1500/- to the complainant and further stated that, one voice recorder was entrusted to the complainant asking him to record the conversation with the DGO while paying money to the DGO.
26. PW1/complainant has narrated in detail as to the happenings taken place when the complainant met the DGO in the cabin of the fetal monitoring room stating that, when he went inside the cabin of the DGO, she was not available there and the complainant claimed that, he telephoned to her and enquired about her whereabouts and DGO asked him to wait for her, as she is on rounds. After waiting for some time, DGO came there and went directly towards deliver ward. Complainant claimed that, he followed her and the DGO spoke with two persons and after those two persons left the chamber he/complainant went inside the said cabin.

27. PW1/complainant has further stated that, when he met the DGO and enquired about the discharge of his sister, DGO told him that, the amount is not yet paid to her as demanded by her. The complainant taking out the tainted notes from his shirt pocket, gave that money to her and DGO having received that money from him verified the same by using her both hands and kept the money in her vanity bag. The complainant has further claimed that, he enquired the DGO about the certificate to be issued for his sister for claiming 'herige batye' and DGO asked him to collect the said certificate from the nurse.
28. PW1/complainant has further stated about the arrival of the Police Inspector on receiving the signal and the proceedings he has conducted in the cabin of the DGO. He has narrated in detail about obtaining of hand wash of both hands of the DGO which gave positive result and the DGO when asked about the money she has received, the DGO herself having opened her vanity bag took out money from it and produced the same before the Police Inspector and on verification of those notes, it was confirmed that, those were the notes entrusted to him/complainant during the entrustment proceedings. He has stated about the DGO giving her explanation in writing as per Ex-P6 and preparation of the trap mahazar as per Ex-P3 and obtaining of photographs as per Ex-P8 and other details of the trap proceedings. He has stated that, the voice recorder entrusted to him was not containing any conversation since he/complainant did not switch on the same when he met the DGO and paid money to her, as per demand made by her.
29. PW2/shadow witness during his evidence has deposed regarding conducting of entrustment proceedings in the Police Station, entrustment of tainted notes of Rs. 1500/- to the complainant and

preparation of entrustment mahazar as per Ex-P2. But while giving evidence with regard to payment of money by the complainant to DGO, he deliberately not supported the case of the disciplinary authority and gave his own version stating that, on arrival of the DGO, the complainant met her in her chamber and both spoke among themselves and thereafter, the complainant kept the money in the vanity bag of DGO and came out of the chamber and went out of the hospital to give signal to the Police Inspector. He further gave details regarding arrival of Police Inspector, obtaining of hand wash of both the hands of DGO and on enquiry DGO herself taken out money from her vanity bag and produced the same before the Police Inspector, which was seized on confirming the said notes as tainted notes entrusted to the complainant and subjecting the inner portion of the vanity bag of the DGO to phenolphthalein test, giving of written explanation of DGO as per Ex-P6 and seizure of Medical records as per Ex-P7. Preparation of trap mahazar as per Ex-P3 and obtaining of photographs as per Ex-P8 and other details of trap proceedings.

30. Since PW2 failed to support the case of the disciplinary authority with regard to the material particulars of the details regarding demanding and receiving bribe amount by DGO from the complainant and his evidence claiming that, complainant himself kept the tainted notes in the vanity bag of the DGO, he has been treated as partly hostile witness and he has been cross examined only to that extent. During his cross examination by the learned PO, he admitted the suggestion put to him that, after the complainant went inside the cabin of DGO, since the door of the chamber of the DGO automatically closed, he was standing behind the door outside the cabin of DGO. But he denied the suggestion that, he was watching the happenings through the glass panel of the

door. He denied the suggestion put to him that, since the DGO asked the complainant about money, complainant gave tainted notes to her and she having received the same verified the notes with her both hands and kept those notes in her vanity bag. A further suggestion was put to him that he is intentionally giving false evidence claiming that, complainant kept money in the vanity bag of DGO, but he denied the said suggestion. He further confirmed that, the complainant carried voice recorder with him and recorded conversation with DGO while speaking to her in her cabin and the said conversation, was later played in his presence.

31. Both PW1 and PW2 have been thoroughly cross examined on behalf of the DGO by her learned counsel. The complainant in his cross examination has admitted that, his sister gave birth to a child at about 4.30pm on 6.9.2010 and caesarean surgery was conducted on her in order to deliver the baby. He has further admitted that, he has remitted Rs. 500/- to the hospital for conducting caesarean section on his sister under the receipt Ex-D2 dated 9.9.2010. He has admitted that money was remitted by him to the hospital on 6.9.2010 at the time of delivery of the child.

32. Even the shadow witness was cross examined wherein, the deposition given by him before the Spl. Court, Chitradurga has been confronted and marked through him as per Ex-D1. During his cross examination, a suggestion was put to him that, since the glass panel of the door was covered with a black cloth, the person standing outside could not see inside the ward regarding the happenings taken place inside the ward. A further suggestion was put to him that, he did not see the complainant giving money to the DGO and DGO receiving money from the complainant and keeping the said money in her vanity bag. The shadow witness gave affirmative

answers to both these suggestions put to him. Considering the nature of the evidence given by PW2 and since claimed in his chief examination that, complainant himself kept the money in the vanity bag and further during his cross examination by learned PO since denied that he gave statement before the Police Inspector as per Ex-P9, the possibility of he being won over by the DGO cannot be ruled out.

33. PW3/IO in his evidence has stated in detail regarding the registration of a case on the basis of the complaint filed by the complainant, conducting of entrustment proceedings in the Police Station and entrustment of tainted notes of Rs. 1500/- to the complainant. He further gave details regarding the trap proceedings he has conducted in the fetal monitoring ward of District Hospital, Chitradurga. He gave evidence regarding obtaining of hand wash of both hands of the DGO which gave positive result, recovery of tainted notes from vanity bag of the DGO since DGO herself took out money from her vanity bag and produced the same before him, giving of explanation by DGO as per Ex-P6 and preparation of trap mahazar as per Ex-P3 and other details of the trap proceedings and also the steps he has taken at the various stages of his investigation.
34. PW3 has further deposed regarding sending the seized articles for chemical examination and obtaining a report of the chemical examiner as per Ex-P13 and getting the sketch of scene of occurrence drawn from PWD engineers as per Ex-P12.
35. Though PW3/IO was thoroughly cross examined on behalf of the DGO, nothing was elicited to disbelieve the evidence of PW3, a suggestion was put to him that, he/IO persuaded the DGO to give such an explanation in writing as per Ex-P6 persuading her that, if

she gives such a statement she can escape from the consequences of prosecution and thus obtained such an explanation forcibly from her. But, this suggestion has been categorically denied by PW3. A further suggestion was put to him that, he gave instructions to the complainant asking him to keep the money in one of the two vanity bags found kept on the office table of the DGO with preplan to falsely implicate the DGO and as per his direction the complainant kept the money in one of the vanity purse and further suggested to him that, the vanity purse from which the tainted money was recovered, does not belong to the DGO. A further suggestion was put to him that, he has forced the DGO to take out money from the said vanity bag and after getting the money taken out from the vanity bag, hand wash of her both hands was obtained. All these suggestions have been categorically denied by the IO.

36. Though, while cross examining PW3 a suggestion was put to him that, written explanation by DGO as per Ex-P6 was forcibly obtained from her by misrepresenting her that, she can escape from the consequences of prosecution if she gives such a statement and thus obtained such a statement from her, such a defence was taken for the first time while cross examining PW3, but no such defence contention was taken on behalf of DGO while filing reply to the observation note or filing written statement in this enquiry. Therefore, such a defence contention taken on behalf of the DGO while cross examining PW3 appears to have been taken by way of an afterthought and hence the said defence contention cannot be believed.

37. DGO has adduced her evidence by way of a sworn affidavit produced in lieu of her chief examination and taken up a contention that, after conducting caesarean section on Nirmala on 6.9.2010, no tubectomy

surgery was conducted on her and hence question of removing the sutures does not arise since the sutures put on her was of such a nature that, it can itself dissolve automatically. The learned counsel for DGO during his arguments has contended that, there is no entry in the case sheet Ex-P7 regarding conducting of tubectomy surgery on Nirmala. The complainant while giving his complaint may be, with wrong impression that, tubectomy operation was conducted on his sister, must have mentioned like that while filing complaint. But the fact of conducting cesarean section while delivering baby by Nirmala is an admitted fact. Naturally sutures must have been put after conducting cesarean section on Nirmala. The case sheet seized was having entries till 8.9.2010 and admittedly the trap was conducted on 13.9.2010. According to DGO, Nirmala was discharged from the hospital, on 12.9.2010 and claimed that, while discharging her, her sutures were removed. But, no documents have been produced by her to show that, sutures on Nirmala were removed while discharging her from the hospital on 12.9.2010. If the sutures were removed on 12.9.2010 as claimed by the DGO, there was no occasion for the complainant to approach her on 13.9.2010 and giving her money for the purpose of removing suture on his sister. Therefore, this contention of the DGO cannot be believed .

38. As per the evidence of PW3/IO, DGO gave her written explanation as per Ex-P6 which reads as follows:

“This patient attender just came to labour room when I was seeing other serious patient he just came and kept in my hand already preplanned. As I am taking amount for surgery I am alone is not taking, I am giving to Anastasia Doctor and OT staff. I had not asked for this person any amount he himself came here and gave me without asking or demanding for it. I am really

alone not involved in this trap. My all colleagues, Anesthesiologist and OT staff are involved. All should be taken action. If alone take action I will give resignation to job.”

39. In her written explanation, she has admitted in clear terms about receiving of Rs. 1500/- from the complainant but claimed that, she did not pester the complainant for money but he/complainant himself gave her money without asking or demanding for it. She further, claimed that, she is not the only person involved in this but, all her colleagues, anesthesiologist and OT staff are involved thereby, implicated them also, in defending her action in receiving money from the complainant. As I have already discussed earlier, she never denied giving of such a written explanation while furnishing her reply to the observation note or filing written statement in this enquiry. Therefore, the written explanation given by DGO as per Ex-P6 can be relied upon and reliance can be placed on the admission given by the DGO that, she has received money from the complainant.
40. Further, while giving her written explanation, she has not denied the ownership of the vanity bag from which the tainted notes were recovered. In her reply to observation note, she has taken up a contention that, she having rushed from the District Court, kept her vanity bag on the table of the monitoring room and was attending the patient and at that time Lokayukta police caught hold of her and made allegations against her that, she has received bribe and further claimed that, the Lokayukta police through the complainant, got the money placed in her vanity bag and by threatening her and forcing her to take out money from her vanity bag, falsely implicated her. Therefore, she never denied the ownership of the vanity bag



while filing her reply to observation note. But, while filing her written statement she has taken up a stand that, the vanity bag from which tainted notes were recovered, does not belong to her. While cross examining the IO and the shadow witness, suggestions were put to them that, there were two vanity bags found kept on the table in the monitoring room and the vanity bag from which the tainted notes were recovered, does not belong to her. But this defence contention taken up on behalf of DGO cannot be believed since, DGO herself after obtaining her hand wash took out the tainted notes from her vanity bag and produced before the Police Inspector. This fact has been confirmed both by the complainant and the IO. Hence, the recovery of tainted notes from her vanity bag since she herself on opening the zip of the vanity bag took out the money from her vanity bag and produced the same before the Police Inspector has been established satisfactorily.

41. DGO has taken up further defence contention that, the complainant has filed false complaint against her and falsely implicated her in this trap having connived with Dr.J.C.Chaitra and produced the relevant documents pertaining application filed by her before KAT in A.No. 4002/2010. Since there are no other materials except the self serving testimony of DGO with regard to this allegation, the documents produced by her as per Ex-D8 to D10 are of no help in believing her defence contention.
42. Hence, I have no hesitation to conclude that, DGO is guilty of misconduct of demanding and accepting Rs. 1500/- by way of bribe from the complainant, in order to do an official act of removing sutures put on Nirmala while conducting cesarean section on her and accordingly, I hold that, the charge against the DGO is established.

43. The learned counsel for the DGO has vehemently argued that, since the DGO has been acquitted by the Special court, Chitradurga vide judgment dated 13.2.2015 in Spl.C.(PCA) No. 10/2011, the charges against the DGO has to be held not proved and the DGO has to be absolved from the charges leveled against her. In support of his arguments, he relied upon the decision of the Hon'ble Supreme Court in G.M. Tank case, which is subsequently relied upon in S. Bhaskar Reddy's Case The Hon'ble Supreme Court in the decisions cited above, while setting aside the order of dismissal passed against the appellant, made an observation that, if the official has been honorably acquitted in the criminal trial, the disciplinary authority shall take note of that aspect and if the criminal case and departmental proceedings are based on similar facts and evidence and if the trial court acquitted the Government official honorably, then the disciplinary authority considering the grounds on which the trial court acquitted the Government official and on that basis, take a decision as to whether the report of the enquiry officer in a departmental proceedings can be accepted or not and on that basis, can decide whether the charges against the Government official stands proved or not.
44. In pursuance of the Government order issued entrusting the proceedings to Hon'ble Upalokayukta under Section 14-A of KCS(CCA) Rules, a nomination order was issued by the Hon'ble Upalokayukta directing ARE-3 to frame charges and to hold enquiry and to submit a report as to whether the charges framed against the DGO is proved or not. Hence, the enquiry officer has to frame charge and to hold an enquiry and to prepare a report as to whether the evidence adduced on behalf of the disciplinary authority are sufficient to hold that, the charges against the DGO has been established or not. The enquiry officer has to independently consider

the evidence made available on behalf of the disciplinary authority during the enquiry, without considering the judgment of the criminal court since the Hon'ble Supreme Court in a decision reported in 2012(1) SC 442 (Divisional Controller, KSRTC Vs. M.G. Vittal Rao) observed as follows:

*“ Thus there can be no doubt regarding the settled legal proposition that the standard of proof in both the proceedings is quite different and the termination is not based on mere conviction of an employee in a criminal case, the acquittal of the employee in a criminal case cannot be the basis of taking away the effect of departmental proceedings nor can such an action of the department be termed as double jeopardy. The judgment of this court in Captain M. Paul Antony does not lay down the law of Universal application. Facts, charge and nature of evidence etc., involved in an individual case would determine as to whether decision of acquittal would have any bearing on the findings recorded in the domestic enquiry.”*

45. Even in the decision rendered by the Hon'ble Supreme Court cited on behalf of the DGO in S. Bhaskar Reddy case, the Principle laid down in Paul Anthony case which was based on the judgment in G.M. Tank's case has been relied upon. But, in the decision in M.G. Vittal Rao's case, the Hon'ble Supreme Court made it clear that, Paul Anthony's case does not lay down the law of universal application.
46. Hence, it is for the Disciplinary Authority to consider such a contention if raised by the DGO, while submitting his explanation to the second show cause notice that may be issued to him, by the disciplinary authority.
47. Further the learned Session Judge proceeded to acquit the DGO on the ground that, the prosecution has failed to establish the guilt of the accused beyond doubt and giving benefit of doubt in his favour.

The said judgment of acquittal dated 13.2.2015 has been challenged on behalf of the State, by preferring appeal before the Hon'ble High Court of Karnataka, Bengaluru Bench and the criminal appeal so filed in Criminal Appeal No. 747/2015 is pending consideration before the Hon'ble High Court. Therefore, the judgment of the Spl. Court acquitting the accused/DGO is not a ground to absolve the DGO from the charges levelled against him in this enquiry. Hence, I decline to accept this contention urged on behalf of the DGO, by his learned counsel.

48. In view of my discussions made above, I am of the opinion that, the disciplinary authority was able to establish the allegations against the DGO and accordingly I hold that, charge against the DGO is established. Accordingly, I answer point no.1 in the Affirmative.

**Point No.2:**

49. Having regard to the discussion made above, and in view of my findings on point no.1 as above, my conclusion is as follows:

**CONCLUSION**

- i) The Disciplinary Authority has proved the charge as framed against the DGO Dr. S.D. Nagamani, Gynaecologist, District Hospital, Chitradurga.
- ii) As per the first oral statement, the date of birth of the DGO is 28.6.1973 and she is due for retirement on 30.6.2033.

  
(S. Renuka Prasad)

Additional Registrar of Enquiries-3  
Karnataka Lokayukta, Bengaluru.

**ANNEXURES****I. Witnesses examined on behalf of the Disciplinary Authority:**

|             |                                           |
|-------------|-------------------------------------------|
| <b>PW-1</b> | Sri Siddesh N.G (complainant)             |
| <b>PW-2</b> | Sri Bheeshma (shadow witness)             |
| <b>PW-3</b> | Sri M.N. Rudrappa (Investigation officer) |

**II. Witnesses examined on behalf of the DGO:**

|             |                    |
|-------------|--------------------|
| <b>DW-1</b> | Dr. Nagamani (DGO) |
|-------------|--------------------|

**III Documents marked on behalf of D.A.**

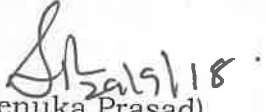
|               |                                                                         |
|---------------|-------------------------------------------------------------------------|
| <b>Ex.P-1</b> | Certified copy of the complaint                                         |
| <b>Ex.P-2</b> | Certified copy of the entrustment mahazar                               |
| <b>Ex.P-3</b> | Certified copy of the trap mahazar                                      |
| <b>Ex.P-4</b> | Certified copy of the sheet containing serial numbers of currency notes |
| <b>Ex.P-5</b> | Certified copy of the photographs                                       |
| <b>Ex.P-6</b> | Certified copy of the explanation given by DGO                          |
| <b>Ex.P-7</b> | Certified copy of the records seized by IO                              |
| <b>Ex.P-8</b> | Certified copy of the photographs                                       |
| <b>Ex.P-9</b> | Xerox copy of the statement of PW1 before IO                            |
| <b>Ex-P10</b> | Certified copy of the FIR                                               |
| <b>Ex-P11</b> | Xerox copy of rough sketch                                              |
| <b>Ex-P12</b> | Xerox copy of sketch of scene of occurrence from PWD Engineer           |
| <b>Ex-P13</b> | Xerox copy of chemical examiner report                                  |

**IV. Documents marked on behalf of DGO:**

|              |                                                   |
|--------------|---------------------------------------------------|
| <b>Ex-D1</b> | Deposition of Sri Bhisma in Spl.C.(PC)No. 10/2011 |
| <b>Ex-D2</b> | Xerox copy of receipt                             |
| <b>Ex-D3</b> | Original photograph                               |
| <b>Ex-D4</b> | Certified copy of the order in SC No. 107/2009    |
| <b>Ex-D5</b> | Deposition of DGO/Nagamani in S.C. No. 107/09     |
| <b>Ex-D6</b> | Deposition of Ratnamma in Spl C.(PC) No. 10/2011  |

|               |                                                      |
|---------------|------------------------------------------------------|
| <b>Ex-D7</b>  | Certified copy of judgment in Spl.C. P.C.No. 10/2011 |
| <b>Ex-D8</b>  | Transfer order (Xerox)                               |
| <b>Ex-D9</b>  | KAT A.No.4002/2010, dated 9/9/2010 (Xerox)           |
| <b>Ex-D10</b> | Government notification dated 6.7.2010 (Xerox)       |

**V. Material Objects marked on behalf of the D.A: Nil**

  
(S. Renuka Prasad)  
Additional Registrar of Enquiries-3,  
Karnataka Lokayukta, Bengaluru.