



KARNATAKA LOKAYUKTA

No.LOK/INQ/14-A/464/2012/ARE-4

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001.
Dated 23.06.2020.

RECOMMENDATION

Sub:- Departmental inquiry against Shri R.Srinivasa Prasad, PIN No.14891, the then Assistant Engineer(Elecl)., MESCOM, Kumsi Sub-division, Shimoga District - reg.

Ref:- 1) Proceedings Order No.KPTCL/B21/23529/2011-12 dated 04.09.2012.

2) Nomination order No. LOK/INQ/14-A/464/2012 dated 21.11.2012 of Upalokayukta, State of Karnataka.

3) Inquiry report dated 20.06.2020 of Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru.

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The KPTCL by its order dated 04.09.2012 initiated the disciplinary proceedings against Shri R.Srinivasa Prasad, PIN No.14891, the then Assistant Engineer(Elecl)., MESCOM, Kumsi Sub-division, Shimoga District, [hereinafter referred to as Delinquent Board Official, for short as 'DBO'] and entrusted the departmental inquiry to this Institution.

2. This Institution by Nomination Order No. LOK/INQ/14-A/464/2012 dated 21.11.2012 nominated Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct departmental inquiry against DBO for the alleged charge of misconduct, said to have been committed by him.

3. The DBO - Shri R.Srinivasa Prasad, PIN No.14891, the then Assistant Engineer(Elecl)., MESCOM, Kumsi Sub-division, Shimoga District, was tried for the following charges :-

“That you, Sri R. Srinivasa Prasad, the DBO, while working as PIN No. 14891, Assistant Engineer (E) MESCOM at Kumsi Branch in Shimoga Division, the complainant namely Sri K.P. Kundroorappa of Nanjappa Layout in Shimoga approached you on several times requesting for supply of electricity to the borewell dug in his land bearing Sy.No. 8/3 of Doddamarasa village and on 12/09/2011 you asked the complainant to pay bribe and received Rs. 1,000/- and again on 13/10/2011 you took further bribe of Rs. 2,000/- from the complainant and received further bribe of Rs. 9,000/- on 13/10/2011, itself to show official favour failing to maintain absolute integrity and devotion to duty, the act of which was unbecoming of a Public Servant and thereby committed misconduct as enumerated U/R 3(1) of Karnataka Electricity Board Employees (Conduct) Regulations, 1988. ”

4. The Inquiry Officer (Additional Registrar of Enquiries-4) on proper appreciation of oral and documentary evidence has held that, the above charge against the DBO Shri R.Srinivasa Prasad, PIN No.14891, the then Assistant Engineer(Elecl), MESCOM, Kumsi Sub-division, Shimoga District, is 'partly proved'.

5. On re-consideration of report of inquiry and all other materials on record, 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 DBO furnished by the Enquiry Officer, DBO Shri R.Srinivasa Prasad, is due to retire from service on 30-11-2042.

7. Having regard to the nature of charge (demand and acceptance of bribe) 'partly proved' against the DBO - Shri R.Srinivasa Prasad, and considering the totality of circumstances, it is hereby recommended to the Government to impose penalty of 'compulsory retirement on DBO Shri R.Srinivasa Prasad.'

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

Connected records are enclosed herewith.

*Patil* 23-6-20  
(JUSTICE B.S.PATIL)  
Upalokayukta,  
State of Karnataka.

BS\*

## **KARNATAKA LOKAYUKTA**

No.LOK/INQ/14-A/464/2012/ARE-4

M.S. Building  
Dr.B.R.Ambedkar Road  
Bengaluru-560 001  
Date: 20/06/2020

### **:: INQUIRY REPORT ::**

**Sub:** Departmental Inquiry against,

- 1) Sri R. Srinivasa Prasad  
PIN No. 14891  
Assistant Engineer (E)  
MESCOM,  
Kumsi Branch, Shimoga Division  
(Presently working at O & M City  
Branch-1, GESCOM, Yadgir)

**Ref:**

- 1) Report u/s 12(3) of the K.L  
Act, 1984 in Compt/Uplok/  
BD/974/2012/ARLO-1  
Dated:24/07/2012
- 2) Order. No. KPTCL/B21/  
23529/2011-12, Bengaluru dated:  
04/09/2012
- 3) Order No.LOK/INQ/14-  
A/464/2012, Bengaluru  
dated:21/11/2012  
of the Hon'ble Upalokayukta

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This Departmental Inquiry is directed against Sri R. Srinivasa Prasad, PIN No. 14891, Assistant Engineer (E), MESCOM, Kumsi Branch, Shimoga Division, (Presently working at O & M City Branch-1, GESCOM, Yadgir) (herein after referred to as the Delinquent Board Official in short "DBO").

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

3. In view of the Government Order cited above at reference-2, the Hon'ble Upalokayukta, vide order dated: 21/11/2012 cited above at reference-3, nominated Additional Registrar of Inquiries-4 of the office of the Karnataka Lokayukta as the Inquiry Officer to frame charges and to conduct Inquiry against the aforesaid DBO. Additional Registrar Inquires-4 prepared Articles of Charge, Statement of Imputations of mis-conduct, list of documents proposed to be relied and list of witnesses proposed to be examined in support of Article of Charges. Copies of same were issued to the DBO calling upon him to appear before this Authority and to submit written statement of his defence.

4. The Articles of Charges framed by ARE-4 against the DBO is as follows:

**ANNEXURE -I**  
**CHARGE**

*That you, Sri R. Srinivasa Prasad, the DBO, while working as PIN No. 14891, Assistant Engineer (E) MESCOM at Kumsi Branch in Shimoga Division, the complainant namely Sri K.P. Kundroorappa of Nanjappa Layout in Shimoga approached you on several times requesting for supply of electricity to the borewell dug in his land bearing sy.No. 8/3 of Doddamarasa village and on 12/09/2011 you asked the complainant to pay bribe and received Rs. 1,000/- and again on 13/10/2011 you took further bribe of Rs. 2,000/- from the complainant and*

received further bribe of Rs. 9,000/- on 13/10/2011, itself to show official favour failing to maintain absolute integrity and devotion to duty, the act of which was unbecoming of a Public Servant and thereby committed misconduct as enumerated U/R 3(1) of Karnataka Electricity Board Employees (Conduct) Regulations, 1988.

### **ANNEXURE-II**

#### **STATEMENT OF IMPUTATIONS OF MISCONDUCT**

In the year 2008-09, the complainant namely Sri K.P. Kundoorappa son of Kuttapa of Nanjappa Layout in Shimoga had dug borewell in his land bearing sy.No. 8/3 of Doddamarasa village through Ambedkar Development Corporation. On 27/06/2011 the said corporation sanctioned the required amount and same was paid to MESCOM on 04/07/2011. In that connection the complainant met the DBO on several times requesting to get electricity connection. But, the DBO did not respond properly. On 12/09/2011 the complainant again met the DBO in his office and made enquiry. Then the DBO asked for bribe and received Rs. 1,000/-. Again the DBO asked the complainant to come on next day with further amount of Rs. 11,000/-. On the morning of 13/10/2011 the DBO received further bribe of Rs. 2,000/- insisting for payment of the remaining bribe amount of Rs. 9,000/-. The complainant was not willing to pay the bribe demanded by the DBO. Therefore, on the same day the complainant lodged a complaint before the Lokayukta Police Inspector of Shimoga (Herein after referred to as the Investigating Officer, for short "the I.O") The I.O. registered the complaint in Cr. No. 12/2011 for the offences punishable u/sec. 7, 13(1)(d) r/w 13(2) of Prevention of Corruption Act

1988. The I.O. took up the investigation and on the evening of 13/10/2011 the DBO was trapped while receiving balance bribe of Rs. 9,000/- from the complainant at his office in Shimoga. The I.O. seized the tainted amount from the DBO after following post-trap formalities. The DBO failed to give satisfactory or convincing reply about possession of the tainted amount. The I.O. recorded statement of the complainant and pancha witnesses. The record of investigation and materials collected by the I.O. showed that the DBO has committed misconduct failing to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of Government Servant. As the materials on record showed, prima facie case about DBO receiving bribe for discharging his duty as Public Servant, a suo-moto investigation was taken up u/sec. 7(2) of the Karnataka Lokayukta Act against the DBO. An observation Note was sent to the DBO calling for his explanation. The reply given by the DBO was not convincing and not satisfactory to drop the proceedings. As there was a prima facie case showing that the DBO has committed misconduct as per Rules 3(1) of Karnataka Electricity Board Employees (Conduct) Regulations, 1988. A report u/sec.12(3) of the Karnataka Lokayukta Act was sent to the Competent Authority with recommendation to initiate the disciplinary proceedings against the DBO. Accordingly, the Competent Authority initiated Disciplinary Proceedings against the DBO and entrusted the enquiry to the Hon'ble Upalokayukta u/Rule 14-A(1)(a) of Karnataka Electricity Board Employees (Classification, Discipline, Control and Appeal) Regulations 1987. Hence, the charge.



5. DBO appeared before this Inquiry Authority on 31/01/2013 and on the same day his First Oral statement was recorded U/R 11(9) of KCS (CC & A) Rules 1957. The DBO pleaded not guilty and claims to hold an inquiry.

6. The DBO has filed his written statement denying the charge and the statement of imputations of misconduct. There is no truth in the charge framed against the DBO. The DBO never demanded any bribe amount nor received any bribe amount at any time from the complainant. The DBO is innocent and he has been falsely implicated with ulterior motive. The allegations made in the charge and also in the statement of imputations of misconduct are also specifically denied. Hence, prays to exonerate him from the charges leveled against him in this case.

7. In order to substantiate the charge leveled against the DBO, the Disciplinary Authority examined in all four witnesses as PW1 to PW4 and got marked documents at Ex.P1 to P18. After closing the evidence of the Disciplinary Authority, the Second Oral Statement of DBO was recorded as required u/Rule 11(16) of KCS (CC & A) Rules, 1957. After closing the evidence of the Disciplinary Authority, DBO himself examined as DW3 and two witnesses examined as DW1, DW2 and got marked documents at Ex.D1 and D2 closed his evidence. Hence, recording the answers of DBO to questionnaire u/Rule 11(18) of KCS (CC&A) Rules was dispensed with.

8. The Disciplinary Authority has not filed the written brief, but on the side of the DBO written brief has been filed. Oral arguments of the Presenting Officer and the learned counsel

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

- 1) Whether the Disciplinary Authority has satisfactorily proved the charges framed against DBO?
- 2) What order?

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

Point No.1: In the “**AFFIRMATIVE**” only regarding the DBO receiving the bribe amount of Rs. 9,000/- on 13/10/2011 from the complainant to show official favour and “**NEGATIVE**” in respect of the other amounts, mentioned in the charge.

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

**:: REASONS ::**

**10. Point: 1:** It is the case of the Disciplinary Authority that the DBO while working as Assistant Engineer (Elec.) MESCOM, at Kumsi Branch in Shimoga Division, complainant by name Sri K.P. Kundoorappa of Nanjappa Layout in Shimoga approached the DBO several times requesting for supply of electricity to the borewell dug in his land bearing sy.NO. 8/3 of Doddamarasa village and on 12/10/2011 DBO asked the complainant to pay the bribe amount and received Rs. 1,000/- on that day and again on 13/10/2011 the DBO took further bribe of Rs. 2,000/- from the complainant and received further bribe of Rs. 9,000/- on 13/10/2011 itself to show the official favour and thereby committed the misconduct. In the charge and statement of imputations of misconduct instead of 12/10/2011, 12/09/2011 is mentioned due to typographical error.

11. Complainant has been examined as PW1 and the copy of the complaint lodged by him in Lokayukta Police Station, Shivamoga is at Ex.P1. The gist of Ex.P1 is to the effect that PW1 is having the land bearing sy.No. 8/p, measuring 4.19 Acres in Doddamarasa village, Shivamoga Taluk and in the year 2008-2009 under "Ganga Kalyana Scheme" the borewell was dug by Dr. B.R. Ambedkar Development Corporation Limited and to electric connection to the borewell the above said corporation has given the requisition letter to Shivamoga, MESCOM and afterwards the A.E.E., on 27/06/2011 gave the permission to provide the electric connection and afterwards the above said Corporation has also deposited Rs. 4,450/- on 04/07/2011 through banker payment orders to the MESCOM. PW1 approached the DBO who was working as concerned Section Officer in MESCOM and requested for providing the electricity connection to the borewell. Afterwards on 12/09/2011 in the afternoon PW1 met the DBO and requested for his work and the DBO told that the work of PW1 is not easy and there is risk and if the amount is given he will get the work of PW1 done and PW1 had Rs. 1,000/- with him and he gave the same to the DBO and the DBO told that Rs. 1,000/- is not sufficient and Rs. 11,000 to Rs. 12,000/- has to be given. It is further stated that on 13/10/2011 at 10.30 a.m. PW1 met the Lokayukta Police, Shivamoga and told the matter and the Inspector gave him a voice-recorder and asked him to meet the DBO and to record the conversation and accordingly on the same day at 11.30 a.m. he met the DBO and requested for his work and also paid Rs. 2,000/- to the DBO and also told that he will pay the balance amount of Rs. 9,000/- on the

same day and the DBO agreed for the same. The complaint has been lodged on 13/10/2011 at 3.30 p.m.

12. PW1 has deposed about drilling the borewell in his above said land under Ambedkar Scheme and the application was also given for obtaining the electric connection to the borewell and in that connection he met the DBO who was working as A.E., in MESCOM at Kumsi Branch. He has not deposed what happened when he met the DBO. He has deposed that one Sri Venkatesh told him that his work would be attended immediately if he gives the complaint before the Lokayukta police and he gave the complaint before the Lokayukta police and Ex.P1 is the copy of the complaint lodged by him before the Lokayukta police and Ex.P1(a) is his signature. He has further deposed that the DBO did not demand any bribe amount from him and he did not give any bribe amount to the DBO. As stated above he has deposed that Ex.P1 is the copy of the complaint which was given by him before the Lokayukta police and Ex.P1(a) is his signature. But he has deposed that the DBO did not demand for any bribe amount and he has not given any bribe amount to the DBO which is contrary to the averments made in Ex.P1. He has further deposed that he did not give any amount to the Police Inspector and he did not produce any voice-recorder to the Police Inspector at the time of giving the complaint. He admits that Ex.P2 is the true copy of the Entrustment Mahazar and Ex.P2(a) is his signature. He also admits that his signature is found in Ex.P3 as per Ex.P3(a). Ex.P3 is the copy of the Trap Mahazar.

13. PW1 has been treated as hostile witness and cross-examined by the learned Presenting Officer. In his cross-examination he has deposed that he has passed SSLC and he has also done the ITI course and he knows reading and writing Kannada very well. He has also deposed that he has worked as Master Technician in Kuduremukh Company and took voluntary retirement on 30/04/2006. Hence, it can be said that PW1 is an educated person knowing Kannada language very well. Ex.P1 is in Kannada language and in Ex.P1 PW1 has clearly mentioned that the DBO demanded the bribe amount to give electric connection to the borewell. He has also deposed that he will sign the documents only after reading the documents. He has deposed that the contents of Ex.P1 are true and correct. He admits that he recorded the conversation with the DBO in the voice-recorder and produced the voice-recorder before the I.O. on 13/10/2011. He also admits that the I.O. played the voice-recorder in the presence of himself and the panchas and conversation had been clearly recorded in the same. The above said evidence of PW1 clearly shows that he had orally complied regarding the DBO demanding for bribe amount and the Investigating Officer had given him the voice recorder to record the conversation. He has deposed that he did not observe whether that conversation was reduced into writing. He has deposed that he does not remember whether in that conversation there was discussion about giving the bribe amount. He also admits that on the instructions of the I.O., he produced the amount of Rs. 9,000/- and he do not remember whether the Head Constable smeared the phenolphthalein powder to the notes. He has deposed that he does not remember about the other proceedings which took

place in the Lokayukta police station mentioned in Ex.P2-Entrustment Mahazar. Thus PW1 is not denying the proceedings mentioned in Ex.P2 and he has only deposed that he does not remember about the same. As stated above, he admits that he produced the voice-recorder before the I.O. on 13/10/2011 and in that voice-recorder the conversation between himself and the DBO had been clearly recorded.

14. PW1 has further deposed that himself, the pancha, I.O. and his staff had been to the office of the DBO and himself and 2 or 3 persons went inside the office of the DBO and he does not know the names of those 2 or 3 persons. He has deposed that he gave Rs. 9,000/- to the DBO to give the same to the contractor by name Sri Venkatesh. Thus PW1 has contended that he gave the amount of Rs. 9,000/- to the DBO in his office and he gave the same to the DBO to give it to the contractor Sri Venkatesh. He has deposed that he does not know whether the right hand wash of the DBO was positive. He has deposed that he does not know whether the amount of Rs. 9,000/- given by him was in the right side pant pocket of the DBO and the same was seized. He has deposed that he has not seen whether the pant wash of the DBO was also positive (right side pocket portion). He admits the copies of the photographs taken at the time of the Entrustment Mahazar and Trap Mahazar are together marked as Ex.P5 (14 photograaphs). He admits that Ex.P6 is the copy of the agreement between himself and the MESCOM and Ex.P7 is the copy of the sketch regarding the electric connection sought by him and Ex.P8 is the copy of his application. He has deposed that Ex.P7(a) and Ex.P8(a) are his signatures. He has deposed

that Ex.P9 is the copy of the phani and Ex.P10 is the copy of the application given in prescribed Form and Ex.P11 is the copy of the affidavit filed by him.

15. The over all evidence given by PW1 stated above clearly shows that he was given the voice-recorder by the I.O. and he had recorded the conversation between himself and the DBO in the same and produced that voice-recorder before the I.O. and the conversation recorded in the same was played in the presence of himself and panchas and he has given the complaint as per Ex.P1 and the contents of the same are true and correct. In his evidence at the instance of the DBO he has deposed that, he gave the amount of Rs. 9,000/- to the DBO to give the same to the electrical contractor by name Sri Venkatesh and not as bribe for providing electric connection to his borewell with an intention to help the DBO.

16. In his cross-examination by the learned counsel for the DBO, he has deposed that there was objection by the neighbourers regarding erecting the electric pole and Sri Venaktesh had told him that he will get the electric pole erected and for that expenses of Rs. 9,000/- had to be given and to give the said amount to the hands of the DBO. It is pertinent to note that if that was so there was no necessity for PW1 to record the conversation between himself and the DBO in the voice-recorder and to lodge the complaint as per Ex.P1. His evidence to the effect that one Sri Venkatesh told him that his work would be attended immediately if he were to give the complaint before the Lokaykta Police cannot be believed as PW1 is an educated person and he also admits that he would

sign the documents only after reading the contents of the same. PW1 has also not stated who is that Venkatesh and whether Sri Venkatesh was the Electrical Contractor deposed by him in his cross-examination or some other person. As stated above, Ex.P6 is the copy of the agreement between PW1 and MESCOM and Ex.P7(a) is the copy of the diagram/sketch. Ex.P8 is the copy of the application for electric connection. In Ex.P6 and P7 the seal of Raghavendra Electricals, Proprietor Sri. D. Prashanth is found apart from the signature of Sri D. Prashanth. Hence, it can be said that Sri D. Prashanth of Raghavendra Electricals was the Electrical Contractor of PW1 for obtaining the electric connection to the borewell of PW1 and not Sri Venkatesh and the said evidence of PW1 to the effect that he gave Rs. 9,000/- to the DBO to give the same to his electrical contractor by name Sri Venkatesh cannot be believed. In fact Ex.P15 are the certified copies of the documents regarding the electric connection sought to the borewell of PW1. Hence, it has to be said that PW1 has given the amount of Rs. 9,000/- to DBO as the bribe amount only and not for giving the same to Sri Venkatesh, the Electrical Contractor.

17. PW2 is one Sri S.G. Basavaraj, who is the shadow witness, according to the case of the Disciplinary Authority. He has deposed about going to the Lokayukta Police Police station at 4.15 p.m. He has deposed about PW1 producing the amount of Rs. 9,000 (Rs. 500x2+Rs.50x18). He has deposed about all the proceedings mentioned in the Entrustment Mahazar-Ex.P2, being conducted in the Lokayuka Police Station, Shivamoga and I feel it is not necessary to repeat the



same. He has deposed that Ex.P2 is the copy of the Entrustment Mahazar and Ex.P2(a) is his signature. Thus PW2 has completely supported the case of the Disciplinary Authority regarding the Entrustment Mahazar-Ex.P2.

18. PW2 further deposed that after the Entrustment Mahazar, himself, another pancha by name Sri Rangaswamy, PW1-complainant, Police Inspector and his staff went to the KEB office at Shivamoga and the vehicle was stopped at a distance from the KEB office and the complainant went into the KEB office and he stayed with police inspector. He has deposed that at about 6 or 6.15 p.m. PW1 gave the pre-instructed signal and all of them went to that place and the police inspector held the hands of the DBO and the right hand wash of the DBO was positive and the bribe amount was with the DBO and those notes tallied with the notes mentioned in the Entrustment Mahazar. He has deposed that the pant pocket of the DBO was washed in the solution and that solution turned to pink colour and that pant was also seized. PW2 has been treated as hostile witness, as he has not deposed about his presence at the time of the DBO demanding and receiving the bribe amount of Rs. 9,000/- from PW1. In his cross-examination also he has deposed that he went inside the office of the DBO only after PW1 gave the pre-instructed signal. Any how as stated above, he has deposed about the entrustment mahazar and also about the recovery of the tainted currency notes from the possession of the DBO and about the right hand and the pant pocket wash of the DBO being positive.

19. PW4 is the other pancha witness by name Sri B. Rangswamy, and he has also given his evidence regarding the contents of the complaint-Ex.P1 and also regarding all the proceedings mentioned in Ex.P2 being conducted in the Lokayukta police station. He has also deposed that after the Entrustment Mahazar they went near the office of the DBO and PW1 and PW2 were sent inside the office and at about 6 p.m. PW1 gave the pre-instructed signal near the cash counter of the MESCOM office and afterwards himself, police inspector and his staff went to the place from where PW1 gave the signal and PW1 showed the DBO and told that the DBO demanded and received the amount from him. He has deposed about the right hand wash of the DBO was positive and the I.O. asked the DBO about the amount, the DBO produced the amount of Rs. 9,000/- from his pant pocket and those notes were the same notes mentioned in Ex.P2 and those notes were seized. He has deposed that, the Trap Mahazar was also prepared and the copy of the same is at Ex.P3 and his signature is at Ex.P3(c). He has deposed that Ex.P4 is the copy of the explanation given by DBO.

20. PW4 has been cross-examined at length. Even then nothing is made out in his cross-examination to discard his evidence. As stated above, he has clearly deposed that the DBO produced the tainted currency notes from his right side pant pocket.

21. PW3 is the I.O. by name Sri Samiulla K. and he has deposed that from 2010 to 2013 he was working as Police Inspector in Lokayukta Police station, Shivamoga and on

13/10/2011 at 10.30 a.m. PW1 came to the Lokayukta police station and told him that the DBO is demanding for the bribe amount to give the electric connection to the borewell and he gave the digital voice-recorder to PW1 and asked him to meet the DBO and to record the conversation. He has deposed that on the same day at 3.30 p.m PW1 came to the police station and gave the complaint as per Ex.P1 and also produced the voice-recorder. He has also deposed about the contents of the complaint-Ex.P1. He has deposed about registering the case on the basis of Ex.P1 and sending the FIR to the concerned court and the copy of the same is at Ex.P12. He has deposed about securing PW2 and PW4 as panchas and the conversation recorded in the voice-recorder was played and PW1 produced the amount of Rs. 9,000/-. In fact he has deposed about all other proceedings mentioned in Ex.P2-Entrustment Mahazar being conducted in the Lokayukta police station. The conversation recorded in the voice-recorder has been reduced into writing in Ex.P2 itself which supports the case of the Disciplinary Authority.

22. He has further deposed that at about 5.40 p.m. they left the Lokayukta police station and went near the office of the DBO at 5.50 p.m. itself. He has deposed that PW1 and PW2 were sent inside the office and himself and others were waiting outside the office of the DBO for the pre-instructed signal from PW1. He has deposed that at about 6 p.m. PW1 gave the pre-instructed signal by standing near the cash counter and immediately himself, his staff and PW4 went there and PW1 showed the DBO and told that he demanded for the bribe amount and received the tainted currency notes with his right

hand and kept the same in his right side pant pocket. He has deposed that at that time the DBO was coming by walk behind PW1. He has deposed about the right hand wash of the DBO being positive and the DBO producing the tainted currency notes from his right side pant pocket. He has deposed that inside portion of the right side pant pocket of the DBO was washed in the sodium carbonate solution and that solution also turned to pink colour. He has deposed that the copy of the Trap Mahazar is at Ex.P3 and the copy of the explanation given by the DBO is at Ex.P4. He has also deposed that Ex.P13 is the copy of the rough sketch prepared by him, which shows that the DBO has received the amount near the cash counter. Ex.P14 is the copy of the FSL report in which it is opined that "the presence of phenolphthalein is detected" in right hand finger wash of the DBO. He has deposed that he seized the certified copies of the documents pertaining to PW1 and the copies of the same are at Ex.P6 to P9. He has deposed that he obtained Ex.P10 to P11 from Ambedkar Corporation. He has deposed that the copies of the documents obtained from the MESCOM are at Ex.P15. He has deposed that Ex.P17 is the copy of the service particulars of the DBO (two pages) and one page is on the back side of Ex.P16 and Ex.P16 is phani copy. He has deposed that Ex.P18 is the copy of the sketch of the scene of occurrence obtained from the PWD Engineer.

23. PW3 has been cross-examined at length and nothing is made out in his cross-examination to discard his evidence. He has deposed that in the complaint due to typographical mistake in the first paragraph of page No.2 instead of

12/10/2011, 12/9/2011 is mentioned. He has clearly deposed that the same was told to him immediately after the registration of the complaint by PW1 and hence in the FIR the correct date 12/10/2011 is mentioned as the date of demand for the bribe amount by the DBO. He has deposed that there is also the further statement of PW1 to that effect.

24. DW1 is one Sri K.E. Umesh, and DW2 is one Sri Kumar, and they have deposed that they are the neighbourer of the land of PW1 and they objected for erecting the electric poles in their lands for giving electric connection to the borewell of PW1. They have deposed that they have no documents to show that they had objected for erecting the electric poles in their lands.

25. DW3 is the DBO and he has deposed about the application given for electricity connection and also about the order of the Assistant Engineer for giving the electric connection. He has deposed that the file of PW1 had come to him and on 26/09/2011 he inspected the spot and found objection for erection of electric poles and hence, he wrote the letter on 16/10/2011 to the A.E.E. seeking for deviation of line and on 10/11/2011 the Executive Engineer gave deviation approval. He has deposed that on 13/10/2011 the file of PW1 was not with him and it had been sent to his higher officer for approval of the deviation. In that connection the DBO has produced Ex.D2. Ex.D2 contains the copy of the letter said to have been written by the DBO to the Executive Engineer dated: 06/10/2011, wherein it is stated that to give the electric connection there is corn crop and objection of

others and permission be given to give the electric connection from the transformer of Basavannappa. The other document Ex.D2 is the estimate for deviation and that estimate is not for more amount than the earlier estimate. Hence, there is no question of PW1 depositing any additional amount to the BESCO for giving electric connection to his borewell. Hence, only on the ground that the DBO had sought the approval of the A.E.E., for giving electric connection from the transformer of Basavannappa, the case of the Disciplinary Authority that the DBO demanded and accepted the bribe amount of Rs. 9,000/- from PW1 on 13/10/2011 cannot be discarded as false or not believable. It is pertinent to note that on 13/10/2011 also the electric connection of borewell of PW1 had not been given and it was the duty of the DBO to give the electric connection to the borewell of PW1.

26. DW3 has further deposed that on 13/10/2011 PW1 met him at 6 p.m. and told that he has some urgent work and one of his friend will arrive at 8 p.m. and requested the DBO to hand over the amount of Rs. 9,000/- to him and he denied for the same and thereafter PW1 without his consent kept the amount forcibly in his hand by reason of hand shake and immediately the Lokayukta police came there.

27. In his cross-examination he has deposed that the tainted currency notes were in his right side pant pocket and he produced the same before the I.O. Hence, it has to be said that the tainted currency notes were not in the hand of the DBO, and it was in the right side pant pocket of the DBO when the I.O. and his staff apprehended the DBO and the DBO has not given any explanation as to why he had kept the tainted

currency notes in his pant pocket in case PW1 had forcibly kept the same in his hand by reason of hand shake. The above said circumstance clearly shows that the DBO has voluntarily received the amount and kept the same in his right side pant pocket. The DBO also admits in his cross-examination that his right hand wash was positive and his pant wash was also positive. He has deposed that Ex.P4 is the copy of his explanation. In Ex.P4 it is stated that on 13/10/2011 he had come to his sub-division office room his Kamsi branch for official work and at 6 p.m., PW1 came to the sub-division and told him that at 8 p.m. his friend will come and to hand over Rs. 9,000/- to his friend and he told PW1 that he cannot do so and PW1 asked the DBO to help him and before he gave his consent PW1 kept the amount in his hand and went away and he has been made a scrape-goat. Even according to Ex.P4 PW1 kept the amount in the hand of the DBO without his consent and in Ex.P4 no reason is given as to why the DBO kept the tainted currency notes in his right side pant pocket, which only probablises the case of the Disciplinary Authority had that the DBO received the amount of Rs. 9,000/- from PW1 as bribe amount only and not as the amount to be given to the electrical contractor Sri Venkatesh. It is pertinent to note that in Ex.P4 the name of Sri Venaktesh is also not mentioned. More over it is pertinent to note that PW1 is the resident of Shivamoga and the amount is given to the DBO in Shivamoga only and PW1 himself could have given the amount to his friend Sri Venaktesh and there was no necessity for PW1 to give Rs. 9,000/- to the hands of the DBO in Shivamoga itself for giving the same to Sri Venkatgesh-Electrical Contractor, and PW1 has also not deposed what was the necessity to pay the about said amount to Sri Venktesh

through the DGO, which only probablises the case of the Disciplinary Authority. More over the above said Sri Venkatesh is also not at all examined on the side of the DBO to prove his defence.

28. DBO in his cross-examination has also deposed that, there is no ill-will between himself and PW1 and likewise there is no ill-will between himself and the I.O. also. Hence, it has to be said that PW1 has given the complaint as mentioned in Ex.P1 and not on the ground that Sri Venkatesh told him that his work will be done if the complaint is given against the DBO to Lokayukta police.

29. The learned counsel for the DBO has relied upon the decision reported in (2015) 11 Supreme Court Cases 314 in Sri C. Sukumaran v/s State of Kerala and (2016)1 Supreme Court Cases 713 in N. Sunkanna V/s State of Andhra Pradesh, (2015) 10 Supreme Court Cases 152 in P. SatyanarayanaMurthy V/s District Inspector of Police, State of Andhra Pradesh and Another and all the above said decisions have been rendered for the offences under Prevention of Corruption Act. The learned counsel of the DBO also relies upon the judgment of our Hon'ble Hihg Court in Criminal Petition No. 3750/2013 dated: 11/02/2016 which also pertains to quashing of the FIR registered for the offences punishable under Prevention of Corruption Act 1988. It is well settled principal of law that the criminal cases have to be proved beyond all reasonable doubt where as the Disciplinary Enquiry has to be decided on the basis of the preponderance of probabilities. In the decision reported in **1997(2) SCC 699 in case of Depot Manager, APSRTC V/S Mohammed Yosuf**



**Miya and others, (2005)7 SCC 764 between Ajit Kumar Nag v/s General manager (P) Indian Oil Corporation Limited, Haldia and others** and recent decision of Hon'ble Supreme Court in **(2012)13 Supreme Court Cases 142 in the case of Avinash Sadashiv Bhosale (dead) V/S Union of India and others** made out very clear that, the purpose of departmental inquiry and the prosecution are too different and distinct aspect though the two proceedings relate to the same set of facts. The nature of evidence in criminal case is entirely different from the departmental proceedings and in the criminal case the prosecution is required to prove the guilt of the accused beyond all reasonable doubt on the touch-stone of human conduct where as the evidence required in a departmental inquiry is not regulated by such strict rules. Therefore, misconduct of the DBO is required to be taken into consideration on the basis of preponderance of probabilities. Hence, the above said decisions are not of any help to the DBO in this departmental enquiry.

30. The facts and circumstances of this case stated above only probalises the case of the Disciplinary Authority regarding the DBO demanding and receiving the bribe amount of Rs. 9,000/- from PW1 on 13/10/2011 to show official favour. There is no evidence to prove that the DBO had received the bribe amount of Rs. 1,000/- on 12/10/2011 and the amount of Rs. 2,000/- on 13/10/2011 from PW1. Hence, that part of the charge is not proved by the Disciplinary Authority.

31. Thus the DBO has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a

Government Servant. Hence, I answer this point in the “**AFFIRMATIVE**” only regarding the DBO receiving the bribe amount of Rs. 9,000/- on 13/10/2011 from the complainant to show official favour and in the “**NEGATIVE**” in respect of the other amounts.

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

**:: ORDER ::**

*The Disciplinary Authority has satisfactorily proved the charge against the DBO-Sri R. Srinivasa Prasad, PIN No. 14891, Assistant Engineer (E), MESCOM, Kumsi Branch, Shimoga Division, (Presently working at O & M City Branch-1, GESCOM, Yadgir) that he demanded and accepted the bribe of Rs. 9,000/- from the complainant on 13/10/2011 for doing an official act and thereby committed misconduct under Regulation Rule 3 of KEB Employees (Conduct) Regulations, 1988 and the Disciplinary Authority has failed to prove the charge in respect of the other amounts mentioned in the charge against the DBO.*

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

Dated this the 20<sup>th</sup> day of June, 2020

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

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

- PW-1: Sri K.P. Kundurappa (complainant)  
 PW-2: Sri S.G. Basavaraj (shadow witness)  
 PW-3: Sri Samiulla K. (I.O.)  
 PW-4: Sri B. Rangaswamy (pancha witness)

**LIST OF WITNESSES EXAMINED ON BEHALF OF THE DEFENCE:**

- DW-1: Sri K.E. Umesh (witness)  
 DW-2: Sri Kumar (another witness)  
 DW-3: Sri Srinivas Prasad (DBO)

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

- Ex.P-1: Certified copy of complaint  
 Ex.P-1(a); Signature  
 Ex.P-2: Certified copy of Entrustment Mahazar  
 Ex.P-2(a to c): Signatures  
 Ex.P-3: Certified copy of Trap Mahazar  
 Ex.P-3(a to c): Signatures  
 Ex.P-4: Certified copy of explanation given by DBO  
 Ex.P-4(a to c): Signatures  
 Ex.P-5: Certified copy of photos  
 Ex.P-5(a,b): Signatures  
 Ex.P-6: Certified copy of agreement  
 Ex.P-7: Certified copy of sketch  
 Ex.P-7(a): Signature  
 Ex.P-8: Certified copy of the application given by complainant  
 Ex.P-8(a): Signature  
 Ex.P-9: Certified copy of RTC Form No- 16  
 Ex.P-10: Certified copy of Application by complainant given in the prescribed form dated: 25/05/2006  
 Ex.P-10(a): Signature  
 Ex.P-11: Certified copy of certificate Form No. A (affidavit)  
 Ex.P-11(a): Signature  
 Ex.P-12: Certified copy of FIR  
 Ex.P-13: Certified copy of rough sketch  
 Ex.P-14: Certified copy of chemical examination report dated: 01/12/2011  
 Ex.P-15: Certified copy of documents related to complainant (containing total 14 sheets)  
 Ex.P-16: Certified copy of RTC Form NO. 16  
 Ex.P-17: Certified copy of service particulars of DBO  
 Ex.P-18: Certified copy of letter from A.E.E., PWD, Shivmoga to P.I. KLA, Shivamoga and with certified copy of sketch copy

**LIST OF EXHIBITS MARKED ON BEHALF OF DBO:**

Ex.D-1: Xerox copy of RTC Form No. 16

Ex.D-2: Original letter from A.E.E., MESCOM, Shivamoga to Sri Vijayakumar V.B. dated; 23<sup>rd</sup> September 2015 and related documents (containing 7 pages)

Dated this the 20<sup>th</sup> day of June, 2020

-Sd/-

(Somaraju)

Additional Registrar Enquiries-4,  
Karnataka Lokayukta,  
Bengaluru.