

KARNATAKA LOKAYUKTA

No.UPLOK-2/DE/480/2017/ARE-14

Multi Storied Building,
Dr.B.R.Ambedkar Road,
Bangalore-560 001,
Dated: 06/10/2020.

ENQUIRY REPORT

Present : Smt. **K.Bhagya**, Additional
Registrar of Enquiries-14
Karnataka Lokayukta
Bangalore.

Sub: Departmental Enquiry against **1) Parshwanath**, the then Assistant Executive Engineer, Presently working as Technical Assistant, Minor Irrigation Division, Jayanagar Shopping Complex, Bangalore and **2) C.N Jagadeesh**, the then Assistant Engineer, TMC, Nelamangala, Presently working as Assistant Engineer, Tumkur Urban Development Authority, Belagumba Road, Tumkur – Reg.

Ref: 1. Report U/s.12(3) of the K.L Act, 1984 in COMPT/UPLOK/BD-1351/2012/ARE-6 dated 22/10/2016.
2. Government Order No. ನಲಇ 151 ಡಿಎಂಕೆ 2016, Bengaluru dated 21/03/2017.
3. Nomination Order No:UPLOK-2/DE/480/2017, dated: 01/04/2017 of Hon'ble Upalokayukta, Bangalore.
4. Order No.UPLOK-2/DE/2017 Bangalore, Dtd: 04/07/2017 file is transferred from ARE-1 to ARE-7.
5. Order No.UPLOK-1&2/DE/Transfers/2018 Bengaluru, Dtd: 06/08/2018 file is transferred from ARE-7 to ARE-14.

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The complainant by name **Sri. Ravikumar N.M** S/o Muniyappa, No.857, Rayannagar, Behind Chowdeshwari Temple, Nelamangala Taluk, Bangalore Rural District has filed the complaint against **1) Sri. Srinivas**, Chief Officer, Nelamangala Town Municipal Council, Nelamangala, Bangalore Rural District and **2) Sri. Sriranga**, Junior Engineer, Nelamangala Town Municipal Council, Nelamangala, Bangalore Rural District alleging dereliction of duty and misconduct.

2. At the earliest stage of this complaint, after investigation a report U/s.12(3) of Karnataka Lokayukta Act, 1984 was sent against **Sri. Srinivas, Sri. Parshwanath and Sri. C.N Jagadeesh**. As **Sri. Sriranga** was not indicted in the investigation report of the I.O, no recommendation was made against him. In pursuance of the report, the Government of Karnataka was pleased to issue the G.O. Dated: 21/03/2017 authorizing Hon'ble Upalokayukta to hold enquiry against **1) Parshwanath**, the then Assistant Executive Engineer, Presently working as Technical Assistant, Minor Irrigation Division, Jayanagar Shopping Complex, Bangalore and **2) C.N Jagadeesh**, the then Assistant Engineer, TMC, Nelamangala, Presently working as Assistant Engineer, Tumkur Urban Development Authority, Belagumba Road, Tumkur only, as Sri. Srinivas, Chief Officer, Nelamangala Town Municipal Council, Nelamangala, Bangalore Rural District had retired on 30/04/2012 itself. The Government directed the concerned Department to file a suit before the Civil Court against Sri. Srinivas for the recovery of Rs.69,033/- (i.e. financial loss caused by him to the Government).
3. In pursuance of the G.O., Nomination was issued by the Hon'ble Upalokayukta on 01/04/2017 authorizing ARE-1 to hold enquiry and


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to report as per reference No. 3 and again this file is transferred from ARE-1 to ARE-7 as per reference No.4. Once again, this file is transferred from ARE-7 to ARE-14 as per reference No.5.

4. On the basis of the Nomination, the Articles of Charge against the DGO No.1 and 2 were framed by the Additional Registrar of Enquiries-7 which includes Articles of Charge at Annexure-I and Statement of Imputation of Misconduct at Annexure No. II which are as follows:-

ANNEXURE-I

CHARGE

While you DGO No.1 Sri. Parshwanath, the then Assistant Executive Engineer, Presently working as Technical Assistant, Minor Irrigation Division, Jayanagar Shopping Complex, Bangalore and you DGO No.2 Sri. C.N Jagadeesh, the then Assistant Engineer, TMC, Nelamangala, had undertaken the work of development of 500 meters length of road from Ambedkar Circle to Kempegowda Circle in Nelamangala town during year 2009-2010 and 2010-2011 at the estimated cost of Rs.1 crore and you were responsible to execute the said work in accordance with the standard proposed in the estimate but on investigation it was found that the work executed by you was of substandard quality on account of use of less quantity jelly and bitumen worth Rs.2,76,129/- and thereby you caused loss of Rs.2,76,129/- to the Government & as per KPWA code Para No.209 (t) and PWD (D) code volume—II Para 301 you DGO No.1 is liable for the said loss at 37.5% i.e., Rs.1,03,548/- to the Government and hence you DGO No.1 and 2 have failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of



Government Servants and therefore you are guilty of committing misconduct defined under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966. Hence, this charge.

ANNEXURE-II

STATEMENT OF IMPUTATION OF MISCONDUCT

Brief facts of the case are:- On the complaint filed by **Sri. Ravikumar N.M** S/o Muniyappa, No.857, Rayannagar, Behind Chowdeshwari Temple, Nelamangala Taluk, Bangalore Rural District (hereinafter referred to as complainant for short) against Sri. Srinivas, Chief Officer, Nelamangala Town Municipal Council, Nelamangala, Bangalore Rural District and Sri. Sriranga, Junior Engineer, Nelamangala Town Municipal Council, Nelamangala, Nelamangala Taluk, Bangalore Rural District alleging that they being Public/Government Servants, have committed misconduct, an investigation had been taken up U/s.9 of the Karnataka Lokayukta Act, 1984.

According to the complainant: The Superintendent Engineer, Directorate of Municipal Administration had given approval on 23/12/2009 for development of road from Ambedkar Circle to Kempegowda Circle in Nelamangala with expenditure of Rs.1 crore and as per resolutions of TMC, the said work of 500 meters length was to be completed within 6 months. The said work was given on piece work basis under 4 packages. The work is not completed even after two years and attempt is made to execute the work at the place not approved. The work is also substandard.



File was referred to CE in TAC to investigate and submit report. Sri. K. Subramanya Karanth in TAC submitted report dated 28/09/2013. According to the said report, on inspection of the development of work of the road, the materials i.e., WMM and bitumen used in execution of the work was considerably of less quantity as against required quantity that should have been used resulting in use of less quantity of the material worth Rs.2,76,129/- on account of which the Execution of the work was substandard and the following persons are responsible:-

- i. Sri. Srinivas (R1), the then Chief Officer, presently retired. His responsibility for less use of material is to the extent of 25% of wasteful expenditure of Rs.2,76,129/- which comes to Rs.69,033/-.
- ii. Sri. Parshwanath (R3), the then AEE, presently working as Technical Assistant, Minor Irrigation Division, Jayanagar Shopping Complex, Bangalore responsible to the tune of Rs.1,03,548/- for less use of WMM and bitumen (37.5%).
- iii. Sri. C.N Jagadeesh (R4), the then AE, in TMC Nelamangala, stated to be working as AE in TMC Chikkanayakanahalli. He is held responsible for wasteful expenditure of Rs.1,03,548/- being 37.5% of total wasteful expenditure of Rs.2,76,129/-.

After receipt of the report, Sri. Parshwanath and Sri. C.N Jagadeesh were impleaded as respondent No.3 and 4 and copy of report was sent to R1, R3 and R4 for their say. They have submitted their reply denying the allegations in the report.



A careful consideration of the material on record and report showed that:-

- i. R3 Sri. Parshwanath being the then AEE, is responsible to the tune of Rs.1,03,548/- for less use of WMM and bitumen (37.5%).
- ii. R4 Sri. C.N Jagadeesh the then AE, is responsible for wasteful expenditure of Rs.1,03,548/- being 37.5% of total wasteful expenditure of Rs.2,76,129/-.

Accordingly, Hon'ble Upalokayukta sent recommendation to the Competent Authority to initiate disciplinary proceedings against the respondents - (1) Sri. Parshwanath and (2) Sri. C.N Jagadeesh respectively and entrust the inquiry to this Authority under Rule 14-A of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957. Hence, this charge.

5. The aforesaid '*Articles of Charge*' was served on the DGO No.1 and 2. The DGO No.1 and 2 had appeared before this authority on 27/05/2017 and their first oral statements under Rule 11(9) of KCS (CCA) Rules, 1957 were recorded. The DGO No.1 and 2 pleaded not guilty and claimed to be enquired about the charges.
6. The Disciplinary Authority has got examined the complainant as PW-1 and Investigating Officer Sri. K. Subramanya Karanth, the then Assistant Executive Engineer, TAC, Karnataka Lokayukta, Bengaluru got examined as PW-2 and Ex.P.1 to 25 are got marked. On the other hand, the DGO No.1 & 2 themselves got examined as DW-2 and DW-1 respectively and Ex.D.1 to D.20 are marked on their side.
7. Now points that arise for my consideration are:



Point No.1 : Whether the charges framed against
DGO No.1 and 2 are proved?

Point No.2 : What order?

8. Heard, perused the entire case record and heard the argument of both the side.
9. My answer to the above points are as under:

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

Point no. 2 : **As per final order for the following ;**

REASONS

Point No.1 : Sri. Ravikumar N.M S/o Muniyappa, No.857, Rayannagar, Behind Chowdeshwari Temple, Nelamangala Taluk, Bangalore Rural District has filed the complaint against **1) Sri. Srinivas**, Chief Officer, Nelamangala Town Municipal Council, Nelamangala, Bangalore Rural District and **2) Sri. Sriranga**, Junior Engineer, Nelamangala Town Municipal Council, Nelamangala, Bangalore Rural District alleging dereliction of duty and misconduct.

10. At the earliest stage of this complaint, after investigation a report U/s.12(3) of Karnataka Lokayukta Act, 1984 was sent against **Sri. Srinivas, Sri. Parshwanath and Sri. C.N Jagadeesh**. As **Sri. Sriranga** was not indicted in the investigation report of the I.O, no recommendation was made against him. In pursuance of the report, the Government of Karnataka was pleased to issue the G.O. Dated: 21/03/2017 authorizing Hon'ble Upalokayukta to hold against **1) Parshwanath**, the then Assistant Executive Engineer, Presently working as Technical Assistant, Minor Irrigation Division, Jayanagar Shopping Complex, Bangalore and **2) C.N Jagadeesh**, the then



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Assistant Engineer, TMC, Nelamangala, Presently working as Assistant Engineer, Tumkur Urban Development Authority, Belagumba Road, Tumkur only, as Sri. Srinivas, Chief Officer, Nelamangala Town Municipal Council, Nelamangala, Bangalore Rural District was retired on 30/04/2012 itself. The Government directed the concerned Department to file a suit before the Civil Court against Sri. Srinivas for the recovery of Rs.69,033/- (i.e. financial loss caused by him to the Government).

11. According to the complaint, i.e. Ex.P.3, The Superintendent Engineer, Directorate of Municipal Administration had given approval on 23/12/2009 for development of road from Ambedkar Circle to Kempegowda Circle in Nelamangala with expenditure of Rs.1 crore and as per resolutions of TMC, the said work of 500 meters length was to be completed within 6 months. The said work was given on piece work basis under 4 packages. The work is not completed even after two years and attempt is made to execute the work at the place not approved. The work is also substandard and thereby misused their power and committed dereliction of duty and misconduct while working as Government servants.
12. The DGO No.1 & 2 have filed their written statement in which they have contended that the enquiry cannot be held on vague charges as it affects the right of the defense; the present enquiry is not in accordance with the directives of the Government and the Hon'ble Supreme Court; that the action taken by them will not amount to misconduct as they carried out all the assigned official activities in adherence to the rules and guidelines issued by the Government; that they have acted in good faith by carrying out the duty and



responsibility in adherence to the rules and guidelines issued by the Government for the post held by them; the work has been completed as per the specifications; the financial loss apportionment made on them is not correct as there is no provision for apportionment of deficit amount or for fixing financial responsibility on them under KPW 'A' Code Vol.I Para 209 (D) and KPWD (D) Code Vol.II; Appendix 301 and KPWD Code (D) Code Vol.II, Appendix-VII; that the apportionment and fixing responsibility for the deficit amount on them are done arbitrarily without any basis. Hence, they are not guilty of the charges and pray to exonerate them from the charges.

13. The complainant got examined as PW-1. He has deposed in his chief examination as stated in complaint itself. The complaint and Form No.I & II are got marked as Ex.P.1 to 3. The documents furnished by him along with the complaint which he had obtained under RTI Act are got marked as Ex.P.4. Further, he has deposed that when the I.O. had come to inspect the work, he was present. At the time of drawing the mahazar also, he was present. Of course, he has deposed in his cross examination that he has lodged the present complaint against Sri. Srinivas and Sri. Sriranga. But, as the I.O. had not indicted Sri. Sriranga in his report, recommendation was not made against them. Sri. Srinivas retired from the service on 30/04/2012 itself. So, the Government directed the concerned department to file a civil suit for the recovery of the loss caused by him to the Government. As per the I.Os report, these DGO No.1 and 2 are responsible for the sub-standard work and also they have caused financial loss to the Government.



14. The I.O. Sri. K. Subramany Karanth, the then Assistant Executive Engineer, TAC, Karnataka Lokayukta, Bengaluru got examined as PW-2 before this authority. He has deposed in his chief examination that, on 30/01/2013 he had inspected the spot. At the time of spot inspection these DGOs were present. He had measured the length and width of the said road. Financial loss of Rs.2,76,129/- was caused to the Government due to the work of these DGO No.1 & 2 and Sri. Srinivas, the then Chief Officer, Nelamangala Municipality. He drew mahazar as per Ex.P.8 and also videographed all the procedural aspects conducted by him. The said mahazar is got marked as Ex.P.8, two C.Ds are got marked as Ex.P.9 and his report is got marked as Ex.P.10. He has further deposed that as per the contract agreement, the said work ought to have been completed from April-2010 to October-2010. But, till 30/01/2013 the said road work was not completed. He has also deposed that these DGO No.1 & 2 and the then Chief Officer were responsible for the financial loss caused to the Government. He has clearly calculated the apportionment of financial loss by these DGO No.1 & 2 and the then Chief Officer, Nelamangala.
15. The Annexure-I produced along with his report are got marked as Ex.P.11 to 18. The certified copy of the M.B. book is got marked as Ex.P.19. The payment towards each package are got marked as Ex.P.20 to 23. The description of work is got marked as Ex.P.24. Thus, Ex.P.5 to Ex.P.24 are got marked through this I.O. only.
16. Here, it is important to note that the complainant and the DGOs admit that the I.O. visited the spot, inspected the work and drawn mahazar as per Ex.P.8.



17. Here, the important document is Ex.P.10 i.e. Investigation report.
In this report, the I.O. has opined as follows:

“5.01 ಕಂಡಿಕೆ 4.03 ರಲ್ಲಿ ನಮೂದಿಸಿರುವಂತೆ, ಸ್ಥಳ ತನಿಖೆ ವೇಳೆಯಲ್ಲಿ ರಸ್ತೆ ಕಾಮಗಾರಿಗೆ ಬಳಸಿರುವ ಕೆಳವೊಂದು ಅಂಶಗಳ ಪ್ರಮಾಣವು ಅಳತೆ ಪುಸ್ತಕದಲ್ಲಿ ನಮೂದಿಸಿರುವ ಅಳತೆ ಮತ್ತು ಪ್ರಮಾಣಕ್ಕನುಗುಣವಾಗಿರದೇ ಕಡಿಮೆ ಇರುವುದು ಕಂಡುಬಂದಿರುತ್ತದೆ. ರಸ್ತೆ ಕಾಮಗಾರಿಗೆ ಬಳಸಲಾಗಿರುವ ಸಾಮಗ್ರಿಗಳಲ್ಲಿ ಉಂಟಾಗಿರುವ ಕೊರತೆಯ ವಿವರಗಳನ್ನು ಲೆಕ್ಕಾಚಾರ ಮಾಡಿ ಅನುಬಂಧ-(1) ರಿಂದ (8)ರಲ್ಲಿ ನಮೂದಿಸಲಾಗಿದ್ದು, ಕೊರತೆಯ ಒಟ್ಟಾರೆ ಮೊತ್ತ ರೂ.2,76,129=00 ಗಳಾಗಿರುತ್ತದೆ”.

18. Further, the I.O. also reported the result of the investigation which is as under:

6.01 ಬೆಂಗಳೂರು ಗ್ರಾಮಾಂತರ ಜಿಲ್ಲೆಯ ನೆಲಮಂಗಳ ಪಟ್ಟಣದಲ್ಲಿ ಪುರಸಭೆ ವ್ಯಪ್ತಿಯಿಂದ ಅಂಬೇಡ್ಕರ್ ವೃತ್ತದಿಂದ ಕೆಂಪೇಗೌಡ ವೃತ್ತದವರೆಗೆ ಕೈಗೊಂಡಿರುವ ರಸ್ತೆ ಡಾಂಬರೀಕರಣ ಮತ್ತು ಕಾಂಕ್ರೀಟ್ ಚರಂಡಿ ನಿರ್ಮಾಣ ಕಾಮಗಾರಿಯ ಸ್ಥಳ ಪರಿಶೀಲನೆ ಆಧಾರದ ಮೇಲೆ ರಸ್ತೆಯ ಕಾಮಗಾರಿಯಲ್ಲಿ ಬಳಸಲಾದ ಸಾಮಗ್ರಿಗಳ, ಅಂದರೆ, **WMM** ಮತ್ತು ಡಾಂಬರ್ ಅಂಶದ ಸಾಮಗ್ರಿಗಳ ಬಳಕೆಯ ಪರಿಮಾಣದಲ್ಲಿ ಒಟ್ಟಾರೆ ರೂ.2,76,129=00 ಗಳ ಗಣನೀಯ ವ್ಯತ್ಯಾಸ ಕಂಡು ಬಂದಿರುವ ಹಿನ್ನೆಲೆಯಲ್ಲಿ, ಈ ಕೆಳಗಿನ ಅಧಿಕಾರಿಗಳು ಜವಾಬ್ದಾರರಾಗಿರುತ್ತಾರೆ (ಅನುಬಂಧ-8)

1) ಶ್ರೀ. ಶ್ರೀನಿವಾಸ್, ಹಿಂದೆ ನೆಲಮಂಗಳ ಪುರಸಭೆಯ ಮುಖ್ಯಾಧಿಕಾರಿಗಳಾಗಿ ಕಾರ್ಯನಿರ್ವಹಿಸಿದ್ದು, ಇವರುಗಳು ಕಾಮಗಾರಿಯಲ್ಲಿ ಬಳಸಲಾದ ಸಾಮಗ್ರಿಗಳಿಂದ **WMM**, ಡಾಂಬರ್ ಅಂಶದ ಬಳಕೆಯ ಗಣನೀಯ ವ್ಯತ್ಯಾಸದಿಂದಾಗಿ, ಸದರಿಯವರಿಗೆ ಶೇ.25 ರಂತೆ ರೂ.69,033/- ಗಳು ಲೋಪವಾಗಿದ್ದು, ಇದಕ್ಕೆ ಸದರಿ ಅಧಿಕಾರಿಗಳು ಹೊಣೆಗಾರರಾಗಿರುತ್ತಾರೆ. ಸದರಿ ಅಧಿಕಾರಿಗಳು ಈಗ ವಯೋ ನಿವೃತ್ತಿ ಹೊಂದಿದ್ದಾರೆಂದು ತಿಳಿದು ಬಂದಿದೆ.

2) ಶ್ರೀ. ಪಾರ್ಶ್ವನಾಥ್, ಸಹಾಯಕ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರಾಗಿ ಕಾರ್ಯನಿರ್ವಹಿಸಿದ್ದು, ಈಗ ತಾಂತ್ರಿಕ ಸಹಾಯಕರಾಗಿ, ಸಣ್ಣ ನೀರಾವರಿ ವಿಭಾಗ, ಜಯನಗರ ಪಾಪಿಂಗ್ ಕಾಂಪ್ಲೆಕ್ಸ್, ಬೆಂಗಳೂರು ಇಲ್ಲಿ ಕಾರ್ಯನಿರ್ವಹಿಸುತ್ತಿದ್ದು, ಇವರುಗಳು ಕಾಮಗಾರಿಯ

ಅನುಷ್ಠಾನಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಕಾಮಗಾರಿಯಲ್ಲಿ ಬಳಸಲಾದ ಸಾಮಗ್ರಿಗಳ, ಅಂದರೆ, **WMM** ಮತ್ತು ಡಾಂಬರ್ ಅಂಶದ ಸಾಮಗ್ರಿಗಳ ಬಳಕೆಯ ಗಣನೀಯ ವ್ಯತ್ಯಯದಿಂದಾಗಿ, ಸದರಿಯವರಿಗೆ KPWA Code vide para No.209 (d) & PWD (D) Code Vol.II under para 301 ಪ್ರಕಾರ, ಶೇ.37.50 ರಂತೆ, ಅಂದರೆ ರೂ.1,03,548/- ಗಳು ಲೋಪವಾಗಿದ್ದು, ಇದಕ್ಕೆ ಸದರಿ ಅಧಿಕಾರಿಗಳು ಹೊಣೆಗಾರರಾಗಿರುತ್ತಾರೆ.

- 3) ಶ್ರೀ. ಸಿ.ಎನ್.ಜಗದೀಶ್, ಸಹಾಯಕ ಇಂಜಿನಿಯರ್‌ರಾಗಿ ಕಾರ್ಯನಿರ್ವಹಿಸಿದ್ದು ಈಗ ತುಮಕೂರು ಜಿಲ್ಲೆ, ಚಿಕ್ಕನಾಯಕನಹಳ್ಳಿ ಪುರಸಭೆಯಲ್ಲಿ ಕಾರ್ಯನಿರ್ವಹಿಸುತ್ತಿರುವುದಾಗಿ ತಿಳಿದು ಬಂದಿದು, ಸದರಿ ರವರು ಕಾಮಗಾರಿಯಲ್ಲಿ ಬಳಸಲಾದ ಸಾಮಗ್ರಿಗಳ, ಅಂದರೆ, **WMM** ಮತ್ತು ಡಾಂಬರ್ ಅಂಶದ ಸಾಮಗ್ರಿಗಳ ಬಳಕೆಯ ಪರಿಮಾಣದಲ್ಲಿ ಗಣನೀಯ ವ್ಯತ್ಯಯದಿಂದಾಗಿ, ಸದರಿಯವರಿಗೆ KPWA Code vide para No.209 (d) & PWD (D) Code Vol.II under para 301 ಪ್ರಕಾರ, ಶೇ.37.50 ರಂತೆ, ಅಂದರೆ ರೂ.1,03,548/- ಗಳು ಲೋಪವಾಗಿದ್ದು, ಇದಕ್ಕೆ ಸದರಿ ಅಧಿಕಾರಿಗಳು ಹೊಣೆಗಾರರಾಗಿರುತ್ತಾರೆ.

19. Here, the defense of DGOs is that there is no provision for apportionment of deficit amount are for fixing financial responsibility under KPWA 'A' Code Vol.I Para 209 (D) and KPWD (D) Code Vol.II; Appendix 301 and KPWD Code (D) Vol.II, Appendix-VII. Further, the I.O. has not conducted the test of the quality of the said road as per **MORTH Specifications**. Regarding the above opinion of I.O, about his report and regarding the defense of DGOs, the I.O. has been thoroughly cross examined by the advocate for DGOs.

20. In the cross examination the I.O. has deposed very clearly stating that as per KPWA Code vide para No.209 (a) & PWD (D) Code Vol.II under para 301, he has made apportionment of financial loss caused



to the Government by these DGO No.1 & 2 and the then Chief Officer, Nelamangala Municipality.

21. KPWA Code vide para No.209 (a) reads as under:

209. In recording detailed measurements the following general instructions should be carefully observed.

a) Detailed measurements should be recorded by the executive subordinates in charge of works to whom measurement books have been supplied for this purpose or by Assistant or Executive Engineers, prescribed.

22. Further, PWD (D) Code Vol.II under para 301 deals with rules for taking measurements and keeping measurement book (As amended by GO No.PWD 9 FCR 74, dated 5-9-1974 and GO No.PWD 54 FCR 75, dated 10-9-1976). Thus, as rightly deposed by the I.O, as per the percentage of check measurements carried out by these DGOs, the I.O. has fixed the financial liability.

23. Further, regarding the test conducted by him about the quality of the work he has deposed very clearly in his cross examination as “.....ಸ್ಥಳದಲ್ಲಿ 3 ಕಡೆ ಕಾಮಗಾರಿಗೆ ಬಳಸಿದ್ದ ವಿವಿಧ ಅಂಶಗಳನ್ನು ಪರಿಶೀಲಿಸಲು 0.5x0.5 ಮೀ. ಅಳತೆಯ ಗುಂಡಿಗಳನ್ನು ತೆಗೆಸಿರುತ್ತೇನೆ. ಈ ಬಗ್ಗೆ ಮಹಜರ್ ತಯಾರಿಸಿರುತ್ತೇನೆ. ಒಂದೇ ರಸ್ತೆಯ 4 ಭಾಗಗಳನ್ನು ಪರಿಶೀಲಿಸಿರುತ್ತೇನೆ. ಆ 4 ಭಾಗಗಳಿಗೆ ಪ್ರತ್ಯೇಕವಾಗಿ ಅಂದಾಜು ಪಟ್ಟಿ ತಯಾರಿಸಿ ಪ್ರತ್ಯೇಕ ಗುತ್ತಿಗೆದಾರರುಗಳಿಗೆ ಟೆಂಡರ್ ಆಧಾರದ ಮೇರೆಗೆ ನೀಡಲಾಗಿತ್ತು. ನನ್ನ ಮಹಜರ್‌ನಲ್ಲಿ ಗುಂಡಿಗಳ ಬಗ್ಗೆ ನಮೂದಿಸಿದ್ದೇನೆ..... ಗುಂಡಿಗಳಲ್ಲಿ ಸ್ಥಳದಲ್ಲಿ ಕಂಡುಬಂದ ಪದರದ ದಪ್ಪವು ಅಳತೆ ಪುಸ್ತಕದಲ್ಲಿ ದಾಖಲಿಸಿದ್ದಕ್ಕಿಂತ ಕಮ್ಮಿ ಇದ್ದ ಪ್ರಯುಕ್ತ ವಾಸ್ತವವಾಗಿ ಇಷ್ಟಿತ್ತು ಅಷ್ಟು ಅಳಕ್ಕೆ ಗುಂಡಿ ತೆಗೆದಿರುತ್ತೇನೆ. ನಿರ್ದಿಷ್ಟವಾದ ದಪ್ಪವನ್ನು ಅಂದಾಜುಪಟ್ಟಿ ಮತ್ತು ಅಳತೆ ಪುಸ್ತಕಗಳಲ್ಲಿ ನಮೂದಿಸಿರುವಂತೆ ಗುಂಡಿಯನ್ನು ತೆಗೆಯದೆ, ಮೇಲಕ್ಕೆ ಗುಂಡಿಯನ್ನು ನಿಲ್ಲಿಸಿ ತಪ್ಪು ಅರ್ಥೈಸಿಕೊಂಡು ತಪ್ಪು ವರದಿ ಕೊಟ್ಟಿರುತ್ತೇನೆ ಎನ್ನುವುದು ಸರಿಯಲ್ಲ”. As already observed above, the defense

of DGOs is that the I.O. has not conducted the test of the quality of the road as per **MORTH Specifications**. Regarding this aspect the I.O. has very clearly deposed in his cross examination as “ಅಂದಾಜಪಟ್ಟಿಯಲ್ಲಿ ಅಳವಡಿಸಿರುವ ವಿಶಿಷ್ಟ ವಿವರಣೆಗಳನ್ನು MORTH ನೀಡಿರುವ ಮಾರ್ಗಸೂಚಿ ಪ್ರಕಾರ ಕಾಮಗಾರಿ ಅನುಷ್ಠಾನಗೊಳಿಸಲಾಗುತ್ತದೆ. MORTH ನೀಡಿರುವ ಮಾರ್ಗಸೂಚಿ ಪ್ರಕಾರ ತನಿಖೆ ಸಮಯದಲ್ಲಿ ವಿವಿಧ ಪದರಗಳ ಗಾತ್ರವನ್ನು ಕಂಡುಹಿಡಿಯಲು ಕೋರ್ ಸ್ಯಾಂಪಲಿಂಗ್ ಮಾಡಬೇಕೆಂದು ಇರುವ ಸೂಚನೆಯ ಬಗ್ಗೆ ನನಗೆ ತಿಳಿದಿರುವುದಿಲ್ಲ. ಸರಪಳಿ 180 (ಬಲಭಾಗ) ಅಂಶವು ಪ್ಯಾಕೇಜ್ ಒಂದಕ್ಕೆ, ಸರಪಳಿ 490 (ಬಲಭಾಗ) ಪ್ಯಾಕೇಜ್ 12ಕ್ಕೆ ಮತ್ತು ಸರಪಳಿ 255 (ಎಡಭಾಗ) ಪ್ಯಾಕೇಜ್ 11ಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟಿರುತ್ತವೆ. ಮೂರು ಪ್ಯಾಕೇಜ್‌ಗಳಿಗೆ ತಲಾ ಒಂದರಂತೆ ಪರೀಕ್ಷಾ ಗುಂಡಿ ತೆಗೆಸಿರುತ್ತೇನೆ. MORTH ಮಾರ್ಗಸೂಚಿ ಪ್ರಕಾರ ನಿರ್ದಿಷ್ಟವಾದ ಪರೀಕ್ಷೆಗಳು ಮತ್ತು ಗುಂಡಿಗಳನ್ನು ತೆಗೆಯುವುದು ಮತ್ತು ಪರೀಕ್ಷಿಸುವುದನ್ನು ಪಾಲಿಸಿದ್ದರೆ ಎಂದು ಕೇಳಿದ ಪ್ರಶ್ನೆಗೆ MORTH ನಲ್ಲಿ ಕಾಮಗಾರಿಯ ವಿವಿಧ ಹಂತಗಳನ್ನು ಕೈಗೊಳ್ಳಬೇಕಾದ ಪರೀಕ್ಷೆಗಳ ಬಗ್ಗೆ ಮಾತ್ರ ವಿವರಣೆ ನೀಡಲಾಗಿದ್ದು ಪ್ರಸ್ತುತ ಕಾಮಗಾರಿ ಪೂರ್ಣಗೊಂಡಿದ್ದ ಪ್ರಯುಕ್ತ ಇದು ಅನ್ವಯಿಸುವುದಿಲ್ಲ ಎನ್ನುತ್ತಾರೆ. ಪ್ರಸ್ತುತ ಕಾಮಗಾರಿ ಆಗಿತ್ತು ಆದರೆ ಅಂತಹ ಬಿಲ್ಲನ್ನು ಪಾವತಿಸಿರಲಿಲ್ಲ”. Thus, the I.O. has further admitted that though the work has been completed, they have not made the payment of final bill.

24. The DGO No.1 and 2 got themselves examined as DW-2 and DW-1 respectively. They have deposed before this authority in their chief examination inconformity with what they have contended in their written statement. They have produced as many as 20 documents. They are, Ex.D.1 is Service details; Ex.D.2 to Ex.D.5 are documents relating to Description of works/Payment details; Ex.D.6 is Order of Municipal Administration; Ex.D.7 is Tender schedule; Ex.D.8 is Short term tender notification; Ex.D.9 is District Tender Bulletin; Ex.D.10 is Tender notification in Newspaper; Ex.D.11 is Official Memorandum; Ex.D.12 to Ex.D.15 are documents relating to Order of description of work/Schedule; Ex.D.16 is Third party inspection report; Ex.D.17 is



Bills with documents; Ex.D.18 is Service details and Ex.D.19 & Ex.D.20 are CTC.

25. I have gone through the above documents. Though the DGOs have produced all these documents, Ex.D.16 is Third party inspection report. But, it is in respect of Construction of C.C. drain on left side from Ambedkar Circle to Kempegowda Circle (Slum area of Rayanagara), but not relating to the road in question. The DGOs got produced above documents to show that by following each and every procedural aspect, they have executed the said work. But, it is important to note that the charge is that **the said work is of sub-standard quality on account of use of less quantity jelly and bitumen worth Rs.2,76,129/- and thereby they have cause financial loss to the Government.** Regarding this aspect there is no proper explanation from DGOs side. As the I.O. the then Assistant Executive Engineer, TAC, Karnataka Lokayukta, Bengaluru i.e. a technical person had conducted the investigation and reported to this authority. The said report does not suffer from any infirmity. It disclosed the existing facts. Hence, the same deserves to be believed & relied upon along with the documents produced by him in the absence of necessary documents and explanation from DGOs side.

26. Here, the I.O. has calculated the financial loss caused by these DGOs as per **KPWA Code vide Para No.209 (a) & PWD (D) Code Vol.II under Para 301** and reported very clearly which is as under:

- i. ಶ್ರೀ. ಪಾರ್ಶ್ವನಾಥ್, ಸಹಾಯಕ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರಾಗಿ ಕಾರ್ಯನಿರ್ವಹಿಸಿದ್ದು, ಈಗ ತಾಂತ್ರಿಕ ಸಹಾಯಕರಾಗಿ, ಸಣ್ಣ ನೀರಾವರಿ ವಿಭಾಗ, ಜಯನಗರ ಪಾಪಿಂಗ್ ಕಾಂಪ್ಲೆಕ್ಸ್, ಬೆಂಗಳೂರು ಇಲ್ಲಿ ಕಾರ್ಯನಿರ್ವಹಿಸುತ್ತಿದ್ದು, ಇವರುಗಳು ಕಾಮಗಾರಿಯ ಅನುಷ್ಠಾನಕ್ಕೆ



ಸಂಬಂಧಿಸಿದಂತೆ, ಕಾಮಗಾರಿಯಲ್ಲಿ ಬಳಸಲಾದ ಸಾಮಗ್ರಿಗಳ, ಅಂದರೆ, **WMM** ಮತ್ತು ಡಾಂಬರ್ ಅಂಶದ ಸಾಮಗ್ರಿಗಳ ಬಳಕೆಯ ಗಣನೀಯ ವ್ಯತ್ಯಯದಿಂದಾಗಿ, ಸದರಿಯವರಿಗೆ KPWA Code vide para No.209 (d) & PWD (D) Code Vol.II under para 301 ಪ್ರಕಾರ, ಶೇ.37.50 ರಂತೆ, ಅಂದರೆ ರೂ.1,03,548/- ಗಳು ಲೋಪವಾಗಿದ್ದು, ಇದಕ್ಕೆ ಸದರಿ ಅಧಿಕಾರಿಗಳು ಹೊಣೆಗಾರರಾಗಿರುತ್ತಾರೆ.

ii. ಶ್ರೀ. ಸಿ.ಎನ್.ಜಗದೀಶ್, ಸಹಾಯಕ ಇಂಜಿನಿಯರ್‌ರಾಗಿ ಕಾರ್ಯನಿರ್ವಹಿಸಿದ್ದು ಈಗ ತುಮಕೂರು ಜಿಲ್ಲೆ, ಚಿಕ್ಕನಾಯಕನಹಳ್ಳಿ ಪುರಸಭೆಯಲ್ಲಿ ಕಾರ್ಯನಿರ್ವಹಿಸುತ್ತಿರುವುದಾಗಿ ತಿಳಿದು ಬಂದಿದು, ಸದರಿ ರವರು ಕಾಮಗಾರಿಯಲ್ಲಿ ಬಳಸಲಾದ ಸಾಮಗ್ರಿಗಳ, ಅಂದರೆ, **WMM** ಮತ್ತು ಡಾಂಬರ್ ಅಂಶದ ಸಾಮಗ್ರಿಗಳ ಬಳಕೆಯ ಪರಿಮಾಣದಲ್ಲಿ ಗಣನೀಯ ವ್ಯತ್ಯಯದಿಂದಾಗಿ, ಸದರಿಯವರಿಗೆ KPWA Code vide para No.209 (d) & PWD (D) Code Vol.II under para 301 ಪ್ರಕಾರ, ಶೇ.37.50 ರಂತೆ, ಅಂದರೆ ರೂ.1,03,548/- ಗಳು ಲೋಪವಾಗಿದ್ದು, ಇದಕ್ಕೆ ಸದರಿ ಅಧಿಕಾರಿಗಳು ಹೊಣೆಗಾರರಾಗಿರುತ್ತಾರೆ.

27. Thus, an amount of Rs.1,03,548/- each has to be collected from DGO No.1 & 2 towards the financial loss caused to the Government by them.

28. For the above said reasons and discussion, I answer point No.1 in the affirmative.

29. **Point No. 2** : For the above said reasons and discussion it can be said without any hesitation that the disciplinary authority has proved the charges leveled against DGO No.1 and 2 to the extent established herein above.

30. Hence, I proceed to pass the following:



ORDER

The Disciplinary Authority has proved the charges framed against the DGO No.1 **Sri. Parshwanath**, the then Assistant Executive Engineer, Presently working as Technical Assistant, Minor Irrigation Division, Jayanagar Shopping Complex, Bangalore and DGO No.2 **Sri. C.N Jagadeesh**, the then Assistant Engineer, TMC, Nelamangala (Presently working as Assistant Engineer, Tumkur Urban Development Authority, Belagumba Road, Tumkur.

DGO No.1 & 2 are also liable to pay Rs.1,03,548/- each to the Government towards the financial loss caused by them.

The Date of Retirement of DGO No.1 and 2 are 30/09/2017 and 31/05/2027 respectively.

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

Dated this the 6th October, 2020


(K.BHAGYA)

Additional Registrar Enquiries-14,
Karnataka Lokayukta,
Bangalore.

ANNEXURES

Sl. No.	Particulars of Documents	
1	Witness examined on behalf of the Disciplinary Authority	
	PW-1	Sri. Ravikumar N.M S/o Muniyappa, No.857, Rayannagar, Behind Chowdeshwari Temple, Nelamangala Taluk, Bangalore Rural District
	PW-2	Sri. K. Subramanya Karanth, Karnataka Police Housing Corporation Ltd.
2	Documents marked on behalf of the Disciplinary Authority Ex.P-1 to Ex.P-10	
	Ex.P.1 & 1(a)	Form No.1 with Signature
	Ex.P.2 & 2(a)	Form No.2 with Signature (Affidavit)
	Ex.P.3 & 3(a)	Representation given to this institution with Signature dtd: 22/05/2012
	Ex.P.4	Documents pertaining to Ex.P.3
	Ex.P.5	Letter addressed to Chief Officer & Jr. Engineer dtd: 17/08/2012
	Ex.P.6	Letter addressed to complainant
	Ex.P.7	Letter addressed to Chief Officer & Jr. Engineer dtd: 11/01/2013
	Ex.P.8, 8(a) & 8(b)	Spot Mahazar with Signatures

	Ex.P.9	C.D
	Ex.P.10 & 10(a)	Investigation report with Signature
	Ex.P. 11	Annexures-I
	Ex.P. 12	Annexures-II
	Ex.P. 13	Annexures-III
	Ex.P. 14	Annexures-IV
	Ex.P. 15	Annexures-V
	Ex.P. 16	Annexures-VII
	Ex.P. 17	Annexures-VI
	Ex.P. 18	Annexures-VIII
	Ex.P. 19	M.B Book
	Ex.P. 20	Description of works/Payment details
	Ex.P. 21	Description of works/Payment details
	Ex.P. 22	Description of works/Payment details
	Ex.P. 23	Description of works/Payment details
	Ex.P. 24	Description of works
	Ex.P. 25	Circular
3	Witness examined on behalf of the DGO, Documents marked on behalf of the DGO	

	DW-1	Sri. C.N Jagadeesh, Assistant Engineer, Tumkur
	DW-2	Sri. Parshwanath, the then Assistant Executive Engineer, Presently working (now retired)
4	Documents marked on behalf of the DGOs through the complainant	
	Ex.D.1	Service details
	Ex.D.2	Description of works/Payment details
	Ex.D.3	Description of works/Payment details
	Ex.D.4	Description of works/Payment details
	Ex.D.5	Description of works/Payment details
	Ex.D.6	Order of Municipal Administration
	Ex.D.7	Tender schedule
	Ex.D.8	Short term tender notification
	Ex.D.9	District Tender Bulletin
	Ex.D.10	Tender notification in Newspaper
	Ex.D.11	Official Memorandum
	Ex.D.12	Order of description of work /Schedule
	Ex.D.13	Order of description of work /Schedule
	Ex.D.14	Order of description of work /Schedule
	Ex.D.15	Order of description of work /Schedule

Ex.D. 16	Third party inspection report
Ex.D. 17	Bills with documents
Ex.D. 18	Service details
Ex.D. 19	CTC
Ex.D. 20	CTC

Dated this the 6th October, 2020


6/10/20

(K.BHAGYA)
Additional Registrar Enquiries-14,
Karnataka Lokayukta,
Bangalore.





KARNATAKA LOKAYUKTA

No.UPLOK-2/DE.480/2017/ARE-14

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001.
Dated 09.10.2020.

RECOMMENDATION

Sub:- Departmental inquiry against (1) Sri Parshwanath, the then Assistant Executive Engineer, and (2) Sri C.N.Jagadeesh, the then Assistant Engineer, Town Municipal Council, Nelamangala, Bengaluru Rural District - reg.

Ref:- 1) Government Order No.UDD 151 DMK 2016 dated 21.03.2017.

2) Nomination order No. UPLOK-2/DE.480/2017 dated 01.04.2017 of Upalokayukta, State of Karnataka.

3) Inquiry report dated 06.10.2020 of Additional Registrar of Enquiries-14, Karnataka Lokayukta, Bengaluru.

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The Government by its order dated 21.03.2017 initiated the disciplinary proceedings against (1) Sri Parshwanath, the then Assistant Executive Engineer, and (2) Sri C.N.Jagadeesh, the then Assistant Engineer, Town Municipal Council, Nelamangala, Bengaluru Rural District, [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.480/2017 dated 01.04.2017 nominated Additional Registrar of Enquiries-1, 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 order dated 4.7.2017, Additional Registrar of Enquiries-7, was re-nominated and finally by order dated 6.8.2018, Additional Registrar of Enquiries-14, Karnataka Lokayukta, Bengaluru, was re-nominated as the Enquiry officer to continue the said departmental enquiry against the DGOs.

3. The DGO - 1 Sri Parshwanath, the then Assistant Executive Engineer, and DGO - 2 Sri C.N.Jagadeesh, the then Assistant Engineer, Town Municipal Council, Nelamangala, Bengaluru Rural District, were tried for the following charges:-



"While you DGO No.1 Sri Parshwanath the then Assistant Executive Engineer, Town Municipal Council, Nelamangala and you DGO No.2 Sri C.N.Jagadeesh, the then Assistant Engineer, Town Municipal Council, Nelamangala, had undertaken the work of development of 500 meters length of road from Ambedkar Circle to Kempegowda Circle in Nelamangala town during the year 2009-10 and 2010-11 at the estimated cost of Rs.1 crore and you were responsible to execute the said work in accordance with the standard proposed in the estimate but on investigation it was found that the work executed by you was of substandard quality on account of use of less quantity jelly and bitumen worth Rs.2,76,129/- and thereby you caused loss of Rs.2,76,129/- to the Government and as per KPWA court para No.209(t) and PWD (D) code volume -II, para 301 you DGO No.1 is liable for the said loss at 37.5% i.e. Rs.1,03,548/- to the Government and further you DGO-2 is liable for the said loss at 37.5% i.e. Rs.1,03,548/- to the Government and hence you DGO No.1 and 2 have failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government servant and therefore you are guilty of committing misconduct defined under Rule 3(I)(i) to (iii) of KCS(Conduct) Rules, 1966. Hence this charge."

4. The Inquiry Officer (Additional Registrar of Enquiries-14) on proper appreciation of oral and documentary evidence has held that, the above charge against the DGO - 1 Sri Parshwanath, and DGO - 2 Sri C.N.Jagadeesh, is ' proved '. Further the Enquiry Officer has held that the DGOs 1 and 2 are also liable to pay Rs.1,03,548/- each to the Government towards the financial loss caused by them.

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 Statements of DGOs recorded by the Enquiry Officer,

- i) DGO.1 Sri Parshwanath, has retired from service on 30.09.2017 and
- ii) DGO - 2 Sri C.N.Jagadeesh, is due for retirement on 31.05.2027.

7. The findings recorded by the Enquiry Officer reveal that allegation of execution of substandard quality work on account of usage of lesser quantity of jelly and bitumen worth about Rs. 2,76,129/- has been proved and as a result there has been financial loss to the Government in view of the misconduct committed by both the DGOs. The Enquiry Officer has rightly observed that each of the delinquent are liable to make good the loss in a sum of Rs.1,03,548/- each to the Government.

8. Having regard to the nature and gravity of the misconduct proved against the DGO - 1 Sri Parshwanath, the then Assistant Executive Engineer, and DGO - 2 Sri C.N.Jagadeesh,


the then Assistant Engineer, Town Municipal Council, Nelamangala, Bengaluru Rural District, and considering the totality of circumstances,

i) it is hereby recommended to the Government to impose penalty of 'withholding 10% of pension payable to DGO - 1 Sri Parshwanath for a period of five years, and also to recover a sum of Rs.1,03,548/- with interest at 6% from 30.01.2013(the date of inspection by the Investigating Officer of Technical Wing, Karnataka Lokayukta).

ii) it is hereby recommended to the Government to impose penalty of 'withholding 2 annual increments payable to DGO - 2 Sri C.N.Jagadeesh, with cumulative effect and also to recover a sum of Rs.1,03,548/- with interest at 6% from 30.01.2013(the date of inspection by the Investigating Officer of Technical Wing, Karnataka Lokayukta).

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.

BS\*

