



KARNATAKA LOKAYUKTA

No.LOK/ARE-4/ENQ/506/2012

Multi Storied Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru-560 001,  
Dated 29.08.2018

RECOMMENDATION

Sub:- Departmental inquiry against Sriyuths:

- (1) M. Basavaraja, the then Asst. Teacher, Primary School, Muraripura; and
- (2) M. Gowdajja, Block Co-ordinating Officer, Sarva Shikshana Abhiyana Office, Sandur, Ballari District - reg.

Ref:- (1) Government Order No. ED 528 PBS 2012, dated 03.12.2012.

(2) Nomination order No. LOK/INQ/14-A/506/2012 dated 19.12.2012 of Upalokayukta, State of Karnataka.

(3) Inquiry Report dated 25.08.2018 of the Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru.

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The Government by its order dated 03.12.2012, initiated the disciplinary proceedings against Sriyuths: (1) M. Basavaraja, the then Asst. Teacher, Primary School, Muraripura; and (2) M. Gowdajja, the then Block Co-ordinating Officer, Sarva Shikshana Abhiyana Office, Sandur, Ballari District [hereinafter referred to as Delinquent Government Officials, for short as 'DGOs 1 & 2' respectively] and entrusted the departmental inquiry to this Institution.

2. This Institution by Nomination Order No. LOK/INQ/14-A/506/2012 dated 19.12.2012, nominated Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGOs 1 & 2 for the alleged charge of misconduct, said to have been committed by them.

3. The DGO1 - Shri M. Basavaraja, the then Asst. Teacher, Primary School, Muraripura; and DGO2 - Shri M. Gowdajja, the then Block Co-ordinating Officer, Sarva Shikshana Abhiyana Office, Sandur, Ballari District were tried for the following charge:-

“ಅ.ಸ.ನೌ-1 ಶ್ರೀ ಬಸವರಾಜ್ ಎಂ. ಸಹ ಶಿಕ್ಷಕರಾದ ನೀವು ಪ್ರಾಥಮಿಕ ಶಾಲೆ ಮುರಾರಿಪುರ ಮತ್ತು ಅ.ಸ.ನೌ-2 ಶ್ರೀ ಎಂ. ಗೌಡಜ್ಜ ತಂದೆ ಎಂ. ಬಸವನಗೌಡ, ಆದ ನೀವು ಕ್ಷೇತ್ರ ಸಮನ್ವಯ ಅಧಿಕಾರಿ ಸರ್ವ ಶಿಕ್ಷಣ ಅಭಿಯಾನ ಕಚೇರಿ, ಸಂಡೂರು ಇಲ್ಲಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿದ್ದಾಗ, ದೂರುದಾರರಾದ ಶ್ರೀ ಪಿ.ಇ.ನರಸಿಂಹ, ಆಡಳಿತಾಧಿಕಾರಿ, ಶ್ರೀ ಜ್ಞಾನಜ್ಯೋತಿ ಸೇವಾ ಸಂಸ್ಥೆ, ದಾವಣಗೆರೆ ಇವರಿಗೆ ಸರ್ವ ಶಿಕ್ಷಣ ಅಭಿಯಾನದ ಅಡಿಯಲ್ಲಿ 2009-10ನೇ ಸಾಲಿನಲ್ಲಿ ಆಶಾಕಿರಣ ಕೇಂದ್ರವನ್ನು ನಡೆಸಲು ಅನುಮತಿ ದೊರಕಿದಂತೆ ಗ್ಯಾರಂಟಿಯಾಗಿ ರೂ. 8,750/-ಗಳ ಡಿಡಿಯನ್ನು ಇಲಾಖೆಗೆ ನೀಡಿ, ಸರ್ಕಾರಿ ಹಿರಿಯ ಪ್ರಾಥಮಿಕ ಶಾಲೆ, ಕೊಂಡಾಪುರ, ಸಂಡೂರು ತಾಲ್ಲೂಕು, ಇಲ್ಲಿ ಆಶಾಕಿರಣ ಕೇಂದ್ರವನ್ನು ಪ್ರಾರಂಭಿಸಿದ್ದು, ಈ ಕುರಿತು ಫಿರ್ಯಾದುದಾರರು ಈಗಾಗಲೇ, ಮೊದಲನೆಯ ಮತ್ತು ಎರಡನೆಯ ಬಿಲ್ಲಿನ ಮೊತ್ತಕ್ಕೆ ಚೆಕ್ ಮುಖಾಂತರ ಹಣ ಪಡೆದುಕೊಂಡಿದ್ದು, ಬಾಕಿಯಿರುವ 3ನೇ ಬಿಲ್ಲು ರೂ. 27,500/-ಗಳ ಚೆಕ್ ಮತ್ತು ಗ್ಯಾರಂಟಿಗಾಗಿ ನೀಡಿದ್ದ ರೂ. 8,750/- ಗಳ ಚೆಕ್‌ಗಳನ್ನು ನೀಡಲು ಕ್ರಮವಾಗಿ ರೂ. 5,000/- ಮತ್ತು ರೂ. 500/-ಲಂಚದ ಹಣವನ್ನು ದಿನಾಂಕ: 02/08/2010 ರಂದು ಬೇಡಿ, ಸ್ವೀಕರಿಸಿದ್ದು, ತನ್ಮೂಲಕ ನಿಮ್ಮಗಳ ಕರ್ತವ್ಯದಲ್ಲಿ ಸಂಪೂರ್ಣ ಪ್ರಾಮಾಣಿಕತೆ ಮತ್ತು

ಕರ್ತವ್ಯ ನಿಷ್ಠೆ ಕಾಯ್ದುಕೊಳ್ಳುವಲ್ಲಿ ವಿಫಲರಾಗಿದ್ದು ಸರ್ಕಾರಿ ನೌಕರರಿಗೆ ಸಲ್ಲದ ಕೃತ್ಯವನ್ನು ಮಾಡಿದ್ದು ಕರ್ನಾಟಕ ಸರ್ಕಾರಿ ಸೇವಾ (ಸದ್ವರ್ತನೆ) ನಿಯಮಾವಳಿ 1966ರ (3) (i) ಮತ್ತು (iii)ನೇ ನಿಬಂಧನೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿ ದುರ್ನಡತೆ ಮಾಡಿರುತ್ತೀರಿ.”

4. The Inquiry Officer (Additional Registrar of Enquiries-4) on proper appreciation of oral and documentary evidence has held that, the Disciplinary Authority has 'proved' the above charge against DGO1 - Shri M. Basavaraja, the then Asst. Teacher, Primary School, Muraripura; and DGO2 - Shri M. Gowdajja, the then Block Co-ordinating Officer, Sarva Shikshana Abhiyana Office, Sandur, Ballari District.

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

6. As per the First Oral Statement of DGOs 1 & 2 furnished by the Inquiry Officer, DGO1 - Shri M. Basavaraja is due for retirement on 31.05.2033 and DGO2 - Shri M. Gowdajja has retired from service on 30.09.2017 (during the pendency of inquiry).



7. Having regard to the nature of charge (demand and acceptance of bribe) 'proved' against DGO1 - Shri M.

Basavaraja, the then Asst. Teacher, Primary School, Muraripura;  
and DGO2 - Shri M. Gowdajja, the then Block Co-ordinating  
Officer, Sarva Shikshana Abhiyana Office, Sandur, Ballari  
District,

- (i) it is hereby recommended to the Government to  
impose penalty of 'compulsory retirement from  
service on the DGO1 - Shri M. Basavaraja'; and
- (ii) it is hereby recommended to the Government to  
impose penalty of 'permanently withholding  
50% of pension payable to the DGO2 - Shri M.  
Gowdajja'.

7. 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**

NoLOK/ARE-4/ENQ/506/2012

M.S.Building,  
Dr.B.R.Ambedkar Road  
Bangalore-560 001  
Date: 25/08/2018

**ENQUIRY REPORT**

**Sub:** Departmental Enquiry against,

1) Sri M. Basavaraja  
Assistant Teacher  
Primary School  
Muraripura  
Presently working as  
Clerk, Sarva Shikshana  
Abhiyana Office  
Sanduru  
Bellary District

2) Sri M. Gowdajja  
Block Co-ordinating Officer  
Sarva Shikashana Abhiyana Office  
Sandur, Bellary District  
**(Now retired)**

**Ref:**

- 1) Report u/s 12(3) of the K.L Act, 1984 in  
Compt/Uplok/GLB/1141/2012/DRE-5  
dated: 17/10/2012
- 2) Govt. Order. No. ED 528 PBS 2012  
Bangalore dated: 03/12/2012
- 3) Order No.LOK/INQ/506/2012  
Dtd.19/12/2012 of the Hon'ble  
Upalokayukta

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1. This Departmental Enquiry is directed against 1) Sri M. Basavaraja, Assistant Teacher Primary School, Muraripura,

presently working as Clerk, Sarva Shikshana, Abhiyana Office Sanduru, Bellary District and 2) Sri M. Gowdajja, Block Co-ordinating Officer, Sarva Shikashana Abhiyana Office, Sandur, Bellary District **(Now retired)** (herein after referred to as the Delinquent Government Officials in short "DGO No.1 and DGO No.2 or DGOs")

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: 19/12/2012 cited above at reference-3, nominated Additional Registrar of Enquiries-4 of the office of the Karnataka Lokayukta as the Enquiry Officer to frame charges and to conduct Inquiry against the aforesaid DGOs. Additional Registrar Enquires-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 DGOs calling upon them to appear before this Authority and to submit written statement of their defence.

4. The Articles of Charges framed by ARE-4 against the DGOs are below;

ಅನುಬಂಧ-1  
ದೋಷಾರೋಪಣೆ

ಅ.ಸ.ನೌ-1 ಶ್ರೀ ಬಸವರಾಜ್ ಎಂ. ಸಹ ಶಿಕ್ಷಕರಾದ ನೀವು ಪ್ರಾಥಮಿಕ ಶಾಲೆ ಮುರಾರಿಪುರ ಮತ್ತು ಅ.ಸ.ನೌ-2 ಶ್ರೀ ಎಂ. ಗೌಡಜ್ಜ ತಂದೆ ಎಂ. ಬಸವನಗೌಡ, ಆದ ನೀವು ಕ್ಷೇತ್ರ ಸಮನ್ವಯ ಅಧಿಕಾರಿ ಸರ್ವ ಶಿಕ್ಷಣ ಅಭಿಯಾನ ಕಚೇರಿ, ಸಂಡೂರು ಇಲ್ಲಿ

ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿದ್ದಾಗ, ದೂರುದಾರರಾದ ಶ್ರೀ ಪಿ.ಇ.ನರಸಿಂಹ, ಆಡಳಿತಾಧಿಕಾರಿ, ಶ್ರೀ ಜ್ಞಾನಜ್ಯೋತಿ ಸೇವಾ ಸಂಸ್ಥೆ, ದಾವಣಗೆರೆ ಇವರಿಗೆ ಸರ್ವ ಶಿಕ್ಷಣ ಅಭಿಯಾನದ ಅಡಿಯಲ್ಲಿ 2009-10ನೇ ಸಾಲಿನಲ್ಲಿ ಆಶಾಕಿರಣ ಕೇಂದ್ರವನ್ನು ನಡೆಸಲು ಅನುಮತಿ ದೊರಕಿದಂತೆ ಗ್ಯಾರಂಟಿಯಾಗಿ ರೂ. 8,750/-ಗಳ ಡಿಡಿಯನ್ನು ಇಲಾಖೆಗೆ ನೀಡಿ, ಸರ್ಕಾರಿ ಹಿರಿಯ ಪ್ರಾಥಮಿಕ ಶಾಲೆ, ಕೊಂಡಾಪುರ, ಸಂಡೂರು ತಾಲ್ಲೂಕು, ಇಲ್ಲಿ ಆಶಾಕಿರಣ ಕೇಂದ್ರವನ್ನು ಪ್ರಾರಂಭಿಸಿದ್ದು, ಈ ಕುರಿತು ಫಿರಿಯಾದಾರರು ಈಗಾಗಲೇ, ಮೊದಲನೆಯ ಮತ್ತು ಎರಡನೆಯ ಬಿಲ್ಲಿನ ಮೊತ್ತಕ್ಕೆ ಚೆಕ್ ಮುಖಾಂತರ ಹಣ ಪಡೆದುಕೊಂಡಿದ್ದು, ಬಾಕಿಯಿರುವ 3ನೇ ಬಿಲ್ಲು ರೂ. 27,500/-ಗಳ ಚೆಕ್ ಮತ್ತು ಗ್ಯಾರಂಟಿಗಾಗಿ ನೀಡಿದ್ದ ರೂ. 8,750/-ಗಳ ಚೆಕ್‌ಗಳನ್ನು ನೀಡಲು ಕ್ರಮವಾಗಿ ರೂ. 5,000/- ಮತ್ತು ರೂ. 500/-ಲಂಚದ ಹಣವನ್ನು ದಿನಾಂಕ: 02/08/2010 ರಂದು ಬೇಡಿ, ಸ್ವೀಕರಿಸಿದ್ದು, ತನ್ಮೂಲಕ ನಿಮ್ಮಗಳ ಕರ್ತವ್ಯದಲ್ಲಿ ಸಂಪೂರ್ಣ ಪ್ರಾಮಾಣಿಕತೆ ಮತ್ತು ಕರ್ತವ್ಯ ನಿಷ್ಠೆ ಕಾಯ್ದುಕೊಳ್ಳುವಲ್ಲಿ ವಿಫಲರಾಗಿದ್ದು ಸರ್ಕಾರಿ ನೌಕರರಿಗೆ ಸಲ್ಲದ ಕೃತ್ಯವನ್ನು ಮಾಡಿದ್ದು ಕರ್ನಾಟಕ ಸರ್ಕಾರಿ ಸೇವಾ (ಸದ್ವರ್ತನೆ) ನಿಯಮಾವಳಿ 1966ರ (3) (i) ಮತ್ತು (iii)ನೇ ನಿಬಂಧನೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿ ದುರ್ನಡತೆ ಮಾಡಿರುತ್ತೀರಿ.

### ಅನುಬಂಧ-2

#### ದೋಷಾರೋಪಣೆಯ ವಿವರ (ಸ್ಲೇಟ್‌ಮೆಂಟ್ ಆಫ್ ಇಂಪ್ಯೂಟೇಷನ್ ಆಫ್ ಮಿಸ್‌ಕಾಂಡೆಕ್ಟ್)

ಫಿರಿಯಾದಾರರಾದ ಶ್ರೀ ಪಿ.ಇ. ನರಸಿಂಹ ಇವರು ಆಡಳಿತಾಧಿಕಾರಿಯಾಗಿ ಶ್ರೀ ಜ್ಞಾನಜ್ಯೋತಿ ಸೇವಾ ಸಂಸ್ಥೆ (ರಿ) ಇಲ್ಲಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿದ್ದು, ಸದರಿ ಕೇಂದ್ರದಲ್ಲಿ 25 ವಿದ್ಯಾರ್ಥಿಗಳು ಇದ್ದು ಅವರಿಗೆ ತಿಂಡಿ, ಊಟ, ಬಟ್ಟೆ, ಟ್ರಂಕ್, ಬೆಡ್ಡಿಂಗ್, ದೈನಂದಿನ ವಸ್ತುಗಳು, ವೈದ್ಯಕೀಯ, ಲೇಖನ ಸಾಮಗ್ರಿಗಳು ಅಲ್ಲದೇ ಸಾದಿಲ್ವಾರು ಖರ್ಚು ಮತ್ತು ಸ್ವಯಂ ಸೇವಕರ ಗೌರವಧನ ಈ ರೀತಿಯಾಗಿ ಅವರ ಸಂಸ್ಥೆಯಿಂದ ಸೆಪ್ಟೆಂಬರ್-2009 ರಿಂದ ಮಾರ್ಚ್ 2010 ರವರೆಗೆ ಖರ್ಚು ಮಾಡಿದ್ದು, ಒಟ್ಟು ರೂ. 1,87,328/- ಆಗಿದ್ದು, ಸದರಿ ಬಿಲ್ಲಿನಲ್ಲಿ ಮೊದಲನೆಯ ಬಿಲ್ಲು ರೂ. 44,000/- ರೂಗಳನ್ನು ಮಂಜೂರು ಮಾಡಿ, ಚೆಕ್ ನೀಡಲು ರೂ. 20,000/- ಲಂಚದ ಹಣವನ್ನು ಅ.ಸ.ನೌ-2 ಶ್ರೀ ಎಂ ಗೌಡಜ್ಜ ಬಿ.ಆರ್.ಸಿ., ಮತ್ತು ಅ.ಸ.ನೌ-1 ಬಸವರಾಜ ಗುಮಾಸ್ತರು ಇವರು ಪಡೆದುಕೊಂಡು ಚೆಕ್ ನೀಡಿದ್ದು, ನಂತರ 2ನೇ ಬಿಲ್ ರೂ. 76,137/-ಗಳಿಗೆ ಮಂಜೂರು ಮಾಡಿ ಚೆಕ್‌ನ್ನು ನೀಡಲು ಅ.ಸ.ನೌ.ರಿಬ್ಬರೂ ರೂ. 25,000- ಲಂಚದ ಹಣವನ್ನು ಪಡೆದು ಚೆಕ್‌ನ್ನು ನೀಡಿದ್ದು, 3ನೇ ಬಿಲ್ಲು ರೂ. 27,500- ಗಳಿಗೆ ಮಂಜೂರು ಮಾಡಿ, ಚೆಕ್‌ನ್ನು ಬರೆದುಕೊಡಲು ಮತ್ತು ಗ್ಯಾರಂಟಿಯಾಗಿ ನೀಡಿದ್ದ ಡಿ.ಡಿ. ಮೊತ್ತವನ್ನು ಸಹ ನೀಡಲು, ಈಗ್ಗೆ 2 ತಿಂಗಳ ಹಿಂದೆ ಕೇಳಲಾಗಿ ರೂ. 15,000/- ಲಂಚದ ಹಣ ಕೇಳಿ ಅವರಿಬ್ಬರೂ ಪಡೆದುಕೊಂಡು ಸದರಿ ಚೆಕ್‌ನ್ನು ಈವರೆಗೂ, ಕೊಡದೇ ಇದ್ದರಿಂದ ತಾನು ಶುಕ್ರವಾರ ದಿನಾಂಕ: 30/07/2010 ರಂದು ಸಂಡೂರಿಗೆ ಸರ್ವ ಶಿಕ್ಷಣ ಅಭಿಯಾನ ಕಚೇರಿಗೆ

ಹೋದಾಗ ಅ.ಸ.ನೌ-1 ಮತ್ತು 2 ಇಬ್ಬರೂ ಒಂದೇ ಕೋಣೆಯಲ್ಲಿದ್ದು, ಆಗ ತನ್ನ ಬಿಲ್ಲಿನ ಚೆಕ್ ಹಾಗೂ ಗ್ಯಾರಂಟಿಗಾಗಿ ನೀಡಿದ್ದ ಮೊತ್ತ ರೂ. 8,750/- ಹಣದ ಬಗ್ಗೆ ವಿಚಾರಿಸಲು ಅ.ಸ.ನೌ-2 ರವರು ಚೆಕ್‌ನ್ನು ತೋರಿಸಿ ನನಗೆ ಇನ್ನೂ ರೂ. 5,000/- ಲಂಚದ ಹಣ ಕೊಡಬೇಕೆಂದು ಒತ್ತಾಯಿಸಿದ್ದು, ಹಾಗೂ ಅ.ಸ.ನೌ-1 ರವರು ತನಗೆ ರೂ. 500/- ಲಂಚದ ಹಣ ಕೊಡಬೇಕೆಂದು ಹೇಳಿದ್ದು, ಈ ಪ್ರಕಾರ ಸದರಿ ಚೆಕ್‌ನ್ನು ಬಿ.ಇ.ಒ., ರವರ ಹತ್ತಿರ ಸಹಿ ಮಾಡಿಸಿ ಕೊಡಲು ಇಬ್ಬರೂ ಲಂಚದ ಹಣಕ್ಕಾಗಿ ಒತ್ತಾಯಿಸಿದ್ದು, ಲಂಚ ನೀಡಿ ತನ್ನ ಕೆಲಸವನ್ನು ಮಾಡಿಸಿಕೊಳ್ಳಲು ಇಷ್ಟವಿಲ್ಲದ ಫಿರ್ಯಾದುದಾರರು ದಿನಾಂಕ: 30/09/2010 ರಂದು ಹೊಸಪೇಟೆ ಲೋಕಾಯುಕ್ತ ಠಾಣೆಗೆ ಬಂದು ದೂರನ್ನು ನೀಡಿರುತ್ತಾರೆ. ಈ ದೂರಿನ ಆಧಾರದ ಮೇಲೆ ಮೊ.ಸಂ. 6/2010 ಕಲಂ 7, 13(1)(ಡಿ) ಸಹವಾಚಕ 13(2) ಲಂಚ ನಿರೋಧ ಕಾಯ್ದೆ 1988 ರಂತೆ ಪ್ರಕರಣವನ್ನು ದಿನಾಂಕ: 02/08/2010 ರಂದು ದಾಖಲು ಮಾಡಿಕೊಂಡಿದ್ದು, ಹಾಗೂ ಮೊ.ಸ.ನಂ. 10/2010 ಕಲಂ 7, 13(1) (ಡಿ) ಸಹವಾಚಕ 13(2) ಲಂಚ ನಿರೋಧ ಕಾಯ್ದೆ 1988 ರಂತೆ ಪ್ರಕರಣವನ್ನು ದಿನಾಂಕ: 30/09/2010 ರಂದು ದಾಖಲು ಮಾಡಿಕೊಂಡಿದ್ದು, ಪಂಚರನ್ನಾಗಿ (1) ಶ್ರೀ ಮಂಜುನಾಥ ದಳವಾಯಿ, ಎಸ್.ಡಿ.ಎ., ನಗರಸಭೆ ಕಾರ್ಯಾಲಯ, ಹೊಸಪೇಟೆ ಹಾಗೂ 2) ಶ್ರೀ ಕೆ.ಎ. ಅಜೀಜ್ ತಂದೆ ಖಾಜಾ ಹುಸೇನ್, ಎಫ್.ಡಿ.ಎ., ನಗರಸಭೆ ಕಾರ್ಯಾಲಯ, ಹೊಸಪೇಟೆ ಇವರುಗಳನ್ನು ಕರೆಸಿಕೊಂಡು ಟ್ರಾಪ್ ಪಂಚನಾಮೆಯನ್ನು ನಿರ್ವಹಿಸಿ ದಿನಾಂಕ: 02/08/2010 ರಂದು ಅ.ಸ.ನೌ-1 ಮತ್ತು 2 ಇವರ ಕಚೇರಿಗೆ ಟ್ರಾಪ್ ತಂಡ, ಫಿರ್ಯಾದಿದಾರರು ಹಾಗೂ ಪಂಚ ಸಾಕ್ಷಿಗಳೊಂದಿಗೆ ಭೇಟಿ ಕೊಟ್ಟ ಸಂದರ್ಭದಲ್ಲಿ ಫಿರ್ಯಾದುದಾರರಿಗೆ ಸಂಬಂಧಿಸಿದ ಶ್ರೀ ಜ್ಞಾನಜ್ಯೋತಿ ಸೇವಾ ಸಂಸ್ಥೆಯು (ರಿ) ಸರ್ವ ಶಿಕ್ಷಣ ಅಭಿಯಾನದ ಅಡಿಯಲ್ಲಿ 2009-10ನೇ ಸಾಲಿನಲ್ಲಿ ಸರ್ಕಾರಿ ಹಿರಿಯ ಪ್ರಾಥಮಿಕ ಶಾಲೆ, ಕೊಂಡಾಪುರ, ಸಂಡೂರು ತಾಲ್ಲೂಕಿನಲ್ಲಿ ಸರ್ಕಾರಿ ಹಿರಿಯ ಪ್ರಾಥಮಿಕ ಶಾಲೆ, ಕೊಂಡಾಪುರ, ಸಂಡೂರು ತಾಲ್ಲೂಕಿನಲ್ಲಿ ಆಶಾಕಿರಣ ಕೇಂದ್ರ ನಡೆಸಿದ್ದಕ್ಕೆ ಫಿರ್ಯಾದುದಾರರಿಗೆ ಆಶಾಕಿರಣ ಕೇಂದ್ರ ನಡೆಸಿದಕ್ಕೆ ಸಂಬಂಧಿಸಿದ 3ನೇ ಬಿಲ್ಲು ರೂ. 27,500/-ಗಳ ಚೆಕ್ ಮತ್ತು ಗ್ಯಾರಂಟಿಗಾಗಿ ಸದರಿ ಸಂಸ್ಥೆಯವರು ನೀಡಿದ ರೂ. 8,750/- ಗಳ ಚೆಕ್ ಗಳೆರಡನ್ನು ನೀಡುವಂತೆ ಕಚೇರಿಯಲ್ಲಿ ಹಾಜರಿದ್ದ ಅ.ಸ.ನೌ-1 ಇವರಿಗೆ ಫಿರ್ಯಾದುದಾರರು ವಿನಂತಿಸಿಕೊಂಡಾಗ ಅವರು ಅ.ಸ.ನೌ-2 ಇವರು ತನಗೆ ಹೇಳಿರುವುದಾಗಿ ಹೇಳಿ ಅವರಿಗಾಗಿ ರೂ.5,000/- ಮತ್ತು ತನಗಾಗಿ ರೂ. 500/-ಹೀಗೆ ಒಟ್ಟು ರೂ. 5,500/- ಲಂಚದ ಹಣವನ್ನು ಕೇಳಿ, ಸ್ವೀಕರಿಸಿ, ಫಿರ್ಯಾದುದಾರರಿಗೆ ಸಂಬಂಧಿಸಿದ ಚೆಕ್‌ಗಳನ್ನು ನಂತರ ನೀಡುವುದಾಗಿ ತಿಳಿಸಿದ್ದು, ತನ್ನೂಲಕ ಸಾರ್ವಜನಿಕ ನೌರರಕಾರಿ ತಮ್ಮ ಕರ್ತವ್ಯ ಪಾಲನೆಯಲ್ಲಿ ಪರಿಪೂರ್ಣ ಪ್ರಾಮಾಣಿಕತೆ ಹಾಗೂ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ಪಾಲಿಸದೇ ಮತ್ತು ಸರ್ಕಾರಿ ನೌಕರರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡು ದುರ್ನಡನೆಯಿಂದ ವರ್ತಿಸಿ, ಶಿಸ್ತು ಕ್ರಮಕ್ಕೆ ಬಾಧ್ಯರಾಗಿದ್ದಾರೆಂದು ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡು ಬಂದಿದ್ದರಿಂದ ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯ್ದೆಯ ಕಲಂ 7(2)



ರಡಿಯಲ್ಲಿ ಅ.ಸ.ನೌ-1 ಮತ್ತು ಅ.ಸ.ನೌ-2 ಇವರ ವಿರುದ್ಧ ತನಿಖೆಯನ್ನು ಕೈಗೊಂಡು ವೀಕ್ಷಣಾ ಟಿಪ್ಪಣಿಯನ್ನು ಕಳುಹಿಸಿಕೊಟ್ಟಿದ್ದು, ಆರೋಪಿತ ನೌಕರರು ಕೊಟ್ಟ ಜವಾಬಿನಂತೆ ನಂತರ ಅವರ ವಿರುದ್ಧ ತನಿಖೆಯನ್ನು ಕೈಬಿಡಲು ಸೂಕ್ತವಾದ ಆಧಾರಗಳು ಇರುವುದು ಕಂಡು ಬಂದಿರುವುದಿಲ್ಲ. ಆದ್ದರಿಂದ, ಸಂಗ್ರಹವಾಗಿರುವ ಮಾಹಿತಿ, ದಾಖಲಾತಿಗಳ ಆಧಾರಗಳಿಂದ ಅ.ಸ.ನೌ-1 ಮತ್ತು 2 ಇವರುಗಳೂ ನಾಗರೀಕ ಸೇವಾ ನಿಯಮಗಳು (ನಡತೆ) 1966, ನಿಯಮ 3(1)ರಡಿಯಲ್ಲಿ ಉಕ್ತವಾದ ದುರ್ನಡತೆ ಎಸಗಿದ್ದಾರೆಂದು ಹಾಗೂ ಅವರಿ ವಿರುದ್ಧ ಶಿಸ್ತು ಕ್ರಮ ಕೈಗೊಳ್ಳಬಹುದೆಂದು ಕಂಡು ಬಂದ ಕಾರಣ, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯ್ದೆ ಕಲಂ 12(3)ರಡಿಯಲ್ಲಿ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರದಡಿಯಲ್ಲಿ ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಅ.ಸ.ನೌ-1 ಮತ್ತು 2 ಇವರ ವಿರುದ್ಧ ಶಿಸ್ತು ನಡವಳಿಗಳನ್ನು ಹೂಡಲು ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವಾ ನಿಯಮ (ವರ್ಗೀಕರಣ, ನಿರ್ಬಂಧ ಮತ್ತು ಮೇಲ್ಮನವಿ) 1957, ನಿಯಮ 14-ಎ ರಂತೆ ತನಿಖೆಯನ್ನು ಈ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಒಪ್ಪಿಸಲು ಶಿಫಾರಸ್ಸು ಮಾಡಿದ್ದು, ಸರ್ಕಾರವು ಆದೇಶ ಮಾಡಿ ಅ.ಸ.ನೌ-1 ಮತ್ತು 2 ಇವರುಗಳ ವಿರುದ್ಧ ಇಲಾಖಾ ವಿಚಾರಣೆಯನ್ನು ಕೈಗೊಂಡು ವರದಿ ಸಲ್ಲಿಸಲು ಗೌರವಾನ್ವಿತ ಉಪಲೋಕಾಯುಕ್ತರಿಗೆ ವಹಿಸಿರುತ್ತದೆ.

ಆದ್ದರಿಂದ ಈ ದೋಷಾರೋಪಣೆ.

5. DGOs appeared before this Enquiry Authority on 02/02/2013 and on the same day their First Oral statements was recorded U/R 11(9) of KCS (CC & A) Rules 1957. The DGO Nos. 1 and 2 pleaded not guilty and claims to hold an enquiry.

6. DGO Nos.1 and 2 have filed their written statement as follows:-

The charge framed against DGO Nos.1 and 2 are false and they have been falsely implicated and more over DGO No.2 was not at all present in the place of trap. Lokayukta police have falsely implicated the DGO Nos. 1 and 2 to satisfy the complaint averments and the article of charge and statement of imputations are denied as false. The complainant has filed a false complaint with an ulterior motive to take

revenge against DGO Nos. 1 and 2 for the reasons best known to him. DGO Nos.1 and 2 never demanded or accepted any bribe amount from the complainant as alleged by the Lokayukta police. DGO Nos.1 and 2 have not committed any misconduct as alleged by the disciplinary authority. DGO Nos.1 and 2 are innocent persons and they have prayed for discharging them from the charges framed against them.

7. In order to substantiate the charge leveled against the DGOs, the Disciplinary Authority examined in all three witnesses as PW1 to PW5 and got marked documents at Ex.P1 to P57. After closing the evidence of the Disciplinary Authority, the Second Oral Statement of DGOs was recorded as required u/Rule 11(16) of KCS (CC & A) Rules, 1957. After closing the evidence of the Disciplinary Authority, DW1 and DW2 are examined and got marked documents at Ex.D1 to D10 and closed their evidence. Hence, recording the answers of DGOs to questionnaire u/Rule 11(18) of KCS (CC&A) Rules was dispensed with.

8. The Disciplinary Authority has not filed written brief, but DGO Nos.1 and 2 have filed their written brief separately. Oral arguments of the Presenting Officer was heard.

9. Upon consideration of the oral and documentary evidence placed on record, the defence of DGOs, the only points, that arises for the consideration of this enquiry authority is:-

1) Whether the Disciplinary Authority satisfactorily proved the charge framed against DGOs?

2) What order?

10. My finding on the above points are as follows

Point No.1: In the “ **AFFIRMATIVE**”

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

**:: REASONS ::**

11. **Point NO.1:** It is the case of the Disciplinary Authority that DGO No.1 was working on OOD as Assistant, and DGO No.2 was working as Block Resource Co-ordinating Officer, in the office of “Sarva Shikshan Abhiyan”, at Sandur in Bellary District. For the year 2009-2010, Sri Gnana Jyothi Seva Samste (R) at Davanagere, was allowed to start Sri “Asha Kiran Centre” in the Government Higher Primary School at Kondapur in Sandur Taluk under “Sarva Shikshana Abhiyana” and in that respect an amount of Rs. 8,750/- was deposited as guarantee amount by the above said Sri Jnana Jyothi Seva Samsathe and the said Sri Jnana Jyothi Seva Samsathe received the first and second installment amounts through cheques and for releasing the 3<sup>rd</sup> installment amount of Rs. 27,500/- and return of the guarantee amount of Rs. 8,750/-. DGO Nos.1 and 2 demanded and accepted the bribe amount of Rs. 5,000/- and Rs. 500/- respectively on 02/08/2010 from the complainant Sri P.E. Narasimha, Administrator of the above said Sri Jnana Jyothi Seva Samsathe and thereby committed the misconduct.

12. By going through the oral and documentary evidence adduced by the parties some facts are not in dispute and they are as follows: -

13. At the relevant point of time the DGO No.2 was working as Block Resource Co-ordinating Officer and DGO No.1 was working as Assistant in the office of Sarva Shikshana Abhiyana at Sandur in Bellary district. There was a scheme of the Government by name "Ashakirana centre" to provide education and Sri Jnana Jyothi Seva Samsathe (reg.) of Davanagere was permitted to start Ashakiran centre in the Government Higher Primary School at Kondapur in Sandur Taluk for the year 2009-10 by the Deputy Director of Public instructions (Administration) and Ex-officio District Planning Co-ordinator of Sarva Shikshana Abhiyana, Bellary. The above said Samsthe also furnished the D.D. for Rs. 8,750/- as guarantee amount and gave education to 25 students from September 2009 to March 2010. The above said Samsthe was given cheque of Rs. 48,500/- as first installment and another amount of Rs. 76,137/- as second installment and the last installment of Rs. 27,500/- and guarantee amount of Rs. 7,850/- was due to the above said samsthe and the cheques in respect of the above said amounts had to be given by the DGO No.2.

14. The complainant has been examined as PW3 and the copy of the complaint lodged by the complainant is at Ex.P4. The gist of Ex.P4 is to the effect that the complainant is the administrator of the above said Samsthe and the above said Samsthe was allowed to give education under the above said scheme in Government Higher Primary School, Kondapur Sandur Taluk for the year 2009-2010 (Sarva Shikshana Abhiyana). The said Samsthe deposited an amount of Rs. 8,750/- by giving D.D. and provided the education to 25

students from September 2009 March 2010 and incurred expenditure of Rs. 1,87,328/- In that respect for releasing of first installment of Rs. 44,000/- the DGO Nos.1 and 2 took the bribe amount of Rs. 20,000/-, for releasing the second installment amount of Rs. 76,137/-, the DGO Nos.1 and 2 took the bribe amount of Rs. 25,000/-, for releasing the last installment amount of Rs. 27,000/- and for refund of guarantee amount two months back PW3 approached the DGOs and in that respect they took bribe of Rs. 15,000/-. But even then the above said amounts were not released by giving cheques and hence on 30/07/2001 he had been to the Sarva Shikshana Abhiyana office of Sandur and met the DGO Nos.1 and 2 who were present and the DGO No.2 showed the cheque regarding the guarantee amount and demanded for further bribe amount of Rs. 5,000/- to him and DGO No.1 demanded an amount of Rs. 500/- and afterwards only he will get the cheque signed by BEO. The complainant returned to Davanagere and informed the matter to the Secretary of the Samsthe by name Smt Y. Renuka and she was not willing to give the bribe amount and asked him to lodge the complaint and also gave the amount of Rs. 5,500/- and accordingly he has lodged the complaint on 02/08/2010 at 8.30 a.m.

15. PW3 in his evidence has reiterated all the averments made in the complaint/Ex.P4. In his evidence he has deposed that for payment of the final bill amount and for refund of deposit amount DGO No.2 asked for the bribe amount of Rs. 15,000/- and he paid the same. As the amounts were not paid after about two months he again met the DGO No.2 and DGO No.2 asked for further bribe amount of Rs. 5,500/- by saying

that Rs. 5,000/- is for him and Rs. 500/- is for DGO No.1. He has deposed that he informed the same to the Secretary and lodged the complaint.

16. PW3 has further deposed that the Dy.S.P. registered the complaint and secured two panchas and by name Sri Manjunath and Sri Azeez and introduced them to him and panchas were also made known about the complaint lodged by him. He has deposed that he gave the amount of Rs. 5,500/- to the Dy.S.P., which consisted of two currency notes of the denomination of Rs. 1,000/-, six currency notes of denomination of Rs. 500/- and five currency notes of denomination of Rs. 100/-. He has deposed that the panchas noted down the Sl. No. of the currency notes in a sheet of paper and copy of the same is at Ex.P3. He has deposed that the Lokayukta police applied some powder to the currency notes and the notes were given to the hands of the pancha witness Sri Manjunath and he was directed to keep the same in his shirt pocket and after Sri Manjunath did so the hands of Sri Manjunath were washed in the solution and that solution which was colourless turned to pink colour. He has deposed that he was given a voice-recorder to record the conversation between himself and the DGOs. He has deposed that mahazar was drawn at that time in the Lokayukta police station and the copy of the same is at Ex.P1 and Ex.P1(b) is his signature.

17. PW3 has further deposed that afterwards himself, the panchas, Dy.S.P. and his staff went in two cars to Sandur and the cars were parked at a little distance from the office of the DGOs and himself and the pancha witness Sri Azeez were sent

to meet the DGO Nos.1 and 2 in their office. He has deposed that himself Sri Azeez, went to the office of the DGOs and DGO No.1 alone was present and he enquired the DGO No.1 regarding the DGO No.2 and DGO No.1 told that DGO No.2 is not available and DGO No.2 has informed him that an amount of Rs. 5,500/- has to be given to attend to the work of PW1. He has deposed that first he gave Rs. 5,000/- to the hands of the DGO No.1 as the amount of DGO No.2 and DGO No.1 received it by hand and kept it in his pant pocket and then he demanded Rs. 500/- as bribe for himself. He has deposed that he gave the amount of Rs. 500/- also and DGO No.1 received it and kept it in his pant pocket. He has deposed that at that time the pancha Sri Azeez was with him and afterwards he came out and gave the signal to the police and immediately the police came to the office of the DGOs and he showed the DGO No.1 and told that he has received the amount and kept it in his pant pocket. He has deposed that Dy.S.P., introduced himself to DGO No.1 and got the hands of the DGO No.1 washed in the solution and that solution turned to pink colour and the solution was seized. But he has deposed that Dy.S.P., asked DGO No.1 about the amount and DGO No.1 removed the amount from his pant pocket and produced the same. He has deposed that the amount produced by DGO No.1 were the same currency notes mentioned in Ex.P3. He has deposed that alternate pant was arranged for DGO No.1 and the pant worn by him was got removed and the pocket portion of the same when immersed in the solution that solution also turned to pink colour. He has deposed that DGO No.1 gave his explanation in his hand-writing and the copy of the same is at Ex.P5. He has deposed that the I.O summoned DGO No.2 and

DGO No.2 also came there and the copy of the explanation by the DGO No.2 is at Ex.P6. He has deposed that himself and Sri Azeez told that the explanations in Ex.P5 and P6 are all false. He has deposed that in the voice-recorder given to him the conversation had not been recorded. He has deposed that the documents pertaining to the complainant were also seized by the I.O. and copy of the same are at Ex.P7 to P34. He has deposed that at the time of the entrustment mahazar and trap mahazar, photos were taken from time to time and copies of those photos are at Ex.P35. He has deposed that the copy of the trap mahazar is at Ex.P2 and P2(b) is his signature. Thus PW3 has given his evidence in accordance with the case of the disciplinary authority.

18. PW3 has been cross-examined at length. He has deposed that from three years prior to the lodging of the complaint he was working as the administrator of the above said Samsthe. On behalf of the DGOs Ex.D1 is produced. Ex.D1 is the copy of the letter given by PW3 as administrator of the above said Samsthe to the BEO for refund of the security deposit amount and for release of third installment amount. Thus Ex.D1 also shows that PW1 had approached the DGOs as administrator of the above said Samsthe for refund of the deposit amount and also for release of the third installment amount. Another document is also marked as Ex.D1 and it is the copy of the memorandum of understanding which is lodged by DGO No.2 and the secretary of the above said samsthe.

19. The learned counsel for the DGOs contend that PW1 has not produced any documents to show that he was working as administrator of the above said Samsthe. But as stated above



Ex.D1 itself shows that PW1 had prayed for refund of the deposit amount and payment of the third installment as the administrator of the above said Samsthe. Further more it is not in dispute that the second installment of Rs. 76,137/- has been paid to the above said Samsthe and Ex.P9 is the copy of cheque issue register and Sl. No. 7 of Ex.P9 clearly shows that PW1 has received the cheque of the second installment of Rs. 76,137/- on 30/03/2010 as the administrator of the above said Samsthe. Hence, the above said contention of the learned counsel for the DGOs cannot be given much weight.

20. PW3 has been cross-examined to the effect that documents have not been given by the above said Samsthe to show that education was given to 25 students and that the above said Samsthe incurred expenditure of 1,87,137/-. As stated above it is not in dispute that the DGOs themselves have issued the cheques to the above said Samsthe regarding the first and second installments and Ex.P37 and P39 are the copies of the cheques already written by the DGOs in favour of Jnana Jyothi Seva Sagha (reg.), Davanagere. In Ex.P37 the amount mentioned is Rs. 27,500/- and in Ex.P39 the amount mentioned is Rs. 8,750/-. Hence, it can be said that the DGOs had written the cheques also in term of above said samsthe for the amounts stated above and hence the above said cross-examination of PW3 cannot be given much weight.

21. Even though PW3 has been cross-examined by the learned counsel for the DGO Nos.1 and 2 at length nothing is made out in the cross-examination to discard his evidence stated above. There is no ill-will between the PW3 and the

DGOs and absolutely there is no reason to discard the evidence of PW3.

22. As stated above, Ex.P5 is the copy of the explanation given by DGO No.1. In the same it is stated that on 02/08/2010 DGO No.1 while going out of the office told him that PW3 has telephoned to him and if PW3 comes to the office receive Rs. 5,000/- on his behalf as bribe amount and to keep the same and that he will take it afterwards and on that day at 1.30 p.m. PW3 came to the office and enquired about the DGO No.2 and he told him that DGO No.2 has gone outside. In Ex.P5 it is further stated that PW3 asked for the cheque and he told PW3 that the DGO No.2 has asked him to receive Rs. 5,000/- and that he will collect the same afterwards and accordingly received the amount from PW3 and afterwards the Lokayukta police apprehended him and seized the amount and at that time he came to know that the amount seized is Rs. 5,500/- and he do not know about Rs. 500/- which is in excess of Rs. 5,000/-.

23. In Ex.P6 DGO No.2 has contended that on 02/08/2010 he had gone to attend the school function and he in no way connected to this case.

24. DW2 is the DGO No.2 and he has deposed that on 30/07/2010 he had gone to the Government Higher Primary School, Joga, Sandur Taluk for opening of additional school rooms and in that respect he has produced the xerox copy of the resolution of the above said school and one photo which are at Ex.D7. In Ex.D7 is the copy of the resolution of SDMC, Joga, Sandur Taluk dated: 30/07/2010 in which it is stated

that the additional school rooms have been opened and in the same the time is mentioned as 11 a.m. Even assuming that DGO No.2 had gone to Joga for opening of school rooms it cannot be said that he was not able to return to his office on the above said day during office hours. There is also no evidence regarding the distance between the Sandur and Joga. There is no cross-examination of PW3 also in that respect.

25. DW1 is the DGO No.1 and he has deposed that on 30/07/2010 he was on leave and in that respect he has produced Ex.D4. Ex.D4 is the copy of the leave letter of DGO No.1 on which DGO No.2 has made the shara that the C.L. is sanctioned on 30/07/2010.

26. In the complaint it is stated that PW3 met the DGO Nos.1 and 2 on 30/07/2010 in their office and they demanded bribe amount of Rs. 5,500/-. It is pertinent to note that only on the above said grounds it cannot be held that DGO Nos.1 and 2 were not at all present in their office at any time during office hours on 30/07/2010. There is no cross-examination of PW3 regarding the above said contentions taken by the DGOs in their evidence stated above. Even in the written statement no such contention is taken except contending that the articles of charge and the imputations are false. Hence the above said contentions of the DGO Nos.1 and 2 are not proved.

27. DW1 (DGO No.1) has deposed that on 02/08/2010 at about 12 p.m. PW1 came to the office and asked for DGO No.2 and he told him that the DGO No.1 has gone to attend some function. He has deposed that on the same day at 1.10 p.m.

after locking the office door, he was going to the school where his daughter was studying and at that time PW3 approached him and asked about his cheque and at that time he forcibly tried to give the amount to his hand and that amount fell down and at that time two persons came running to that place and caught hold of him and forced him to take the amount which had fallen on the ground and afterwards he was taken to his office and his hands were washed in the solution. It is pertinent to note that this defence of DW1 is not at all stated in Ex.P5 which is the explanation given by him immediately after the trap. Hence, it has to be said that, the above said evidence of DW1 is only an after thought to overcome the charge framed against him. It is pertinent to note that the pant wash of the DGO No.1 was also positive and there is no explanation in that respect in the evidence of DW1. He has deposed that he has no personal ill-will against PW3. He has deposed that by force his statement was taken as per Ex.P5. But there is no such contention in the written statement nor DW1 has written any complaint to the higher officer of I.O. regarding the same. He has deposed that Ex.P56 is his reply given to the observation note and in the same also the above said defence of DW1 is not found.

28. DW2 has deposed that on 02/08/2010 he was not in the office and he had gone for attending school function in the Government Higher Primary School, Sanduru only on the ground DW2 was not present at the time of trap the case of the disciplinary authority cannot be discarded in respect of DW2 as there is the believable evidence of PW3 as stated above and also the explanation given by DW1 immediately

after the trap as per Ex.P5 which clearly supports the case of the disciplinary authority.

29. Ex.P42 is the copy of the FSL report. According to the same the right hand and left hand wash of DGO No.1 was positive and even the pant wash of the DGO No.1 was positive. The above said FSL report is also not in dispute. On behalf of DGO No.2 Ex.D10 has been produced. Ex.D10 is the certified copy of the order passed by the Hon'ble High Court of Karnataka, Dharwad Bench, in Criminal Revision Petition No. 100171/2017 dated: 26/07/2017. Ex.D10 discloses that the trial court had passed an order in Special C.C. No. 12/2012 allowing the application of the prosecution to include DGO No.2 as accused No.2 in the above said criminal case and against the same the DGO No.2 had approached the Hon'ble High Court of Karnataka and the Hon'ble High Court of Karnataka has allowed the Criminal Revision Petition and set aside the order of the trial court stated above. Only on the ground that the Hon'ble High Court of Karnataka has set aside the order of the trial court for including the DGO No.2 as one of the accused in Special C.C. No. 12/2012 it cannot be said that the disciplinary authority has not proved its case against the DGO No.2 in this enquiry. It is pertinent to note that this inquiry is against DGO Nos.1 and 2 from the beginning. But the criminal case was filed only against the DGO No.1 and later the application had been moved by the prosecution to include the DGO No.2 in the criminal case.

30. More over the proof required for criminal case is "Beyond reasonable doubt" whereas the departmental enquiry has to

be decided on the basis of "preponderance of probability" only. Hence, this departmental enquiry has to be decided by considering the evidence adduced by both parties on the basis of preponderance of probabilities only. In this enquiry the evidence adduced by both the parties has to be considered along with the documents produced by them to ascertain whether the disciplinary authority has proved its case satisfactorily or not. In this enquiry the contention of the DGOs that they were not at all present in their office on 30/07/2010 at any time during office hours on that day has not been proved by them and there is believable evidence of PW3 regarding the averments made in his complaint and also regarding the entrustment mahazar and trap mahazar marked as per Ex.P1 and P2 respectively.

31. DGO No.2 has also produced the certified copy of the order passed by the Hon'ble KAT in Application NO. 6874/12 dated: 06/03/2018. The said order was brought to my notice on 26/04/2018. In the above said order there is direction to consider the claim of DGO No.2 within the period of four months from the date of receipt of the copy of the said order. Accordingly this report is submitted within four months from 26/04/2018 after completing the evidence of the disciplinary authority and DGOs.

32. PW2 is the shadow panch witness, Sri Azeez and he has deposed that in the year 2010 he was working as the FDA in CMC, Hospet and PW1 was working as SDA in the same office at that time. He has deposed that on 02/08/2010 as per the direction of the Commissioner, they had been to Lokayukta office Hospet, and reported before the I.O. at 9 a.m. on that

day itself. He has deposed that PW3 was present in the Lokayukta police station and he was introduced to himself and PW1 and they also read the complaint lodged by PW3. He has deposed that PW3 produced an amount of Rs. 5,500/- and the numbers of those currency notes were noted in a separate sheet and the copy of the same is at Ex.P3. He has deposed that there after phenolphthalein powder was applied by the staff on the currency notes and PW1 was asked to count the notes and to keep the same in the shirt pocket of PW1. He has deposed that the hands of PW1 were washed in the solution and that solution turned to pink colour and it was collected and seized. He has deposed that photos were also taken at that time and Ex.P1 is the copy of the entrustment mahazar. He has further deposed that Ex.P1(a) is his signature.

33. He has further deposed that thereafter himself, PW1, complainant, Dy.S.P., and his staff went to Sanduru and parked the vehicle at a distance from the office of the BEO and thereafter himself and PW3 were sent to the office of the BEO. He has deposed that they went to the chambers of DGO No.1 and DGO No.1 was present and when PW3 enquired DGO No.1 about DGO No.2, DGO No.1 told that DGO No.2 has gone out and DGO No.2 has asked him to receive the amount from PW3. He has deposed that PW3 gave the amount of Rs. 5,000/- initially and DGO No.1 received the same and PW3 again gave the balance amount of Rs. 500/- and DGO No.1 also received the same and kept both the amounts in his pant pocket. He has deposed that afterwards PW3 came out of the office and gave the signal and immediately Dy.S.P., and his

staff and PW1 came to the chambers of the DGO No.1 and PW3 identified the DGO No.1 and told that the DGO No.1 asked for the bribe amount and he has given the amount to DGO No.1. He has deposed that the hands of the DGO No.1 were washed separately in sodium carbonate solution and the solution turned to pink colour after the wash. He has deposed that Dy.S.P., asked DGO No.1 about the bribe amount and the DGO No.1 produced the bribe amount from his pant pocket and the those notes tallied with the numbers mentioned in Ex.P1-Entrustment Mahazar. He has deposed that even the pant of DGO No.1 was removed and it was also washed in the solution and that solution also turned to pink clour. He has deposed that by that time DGO No.2 also came there and PW3 identified the DGO No.2 also. He has deposed that Ex.P2 is the copy of the trap mahazar.

34. No doubt PW1 has deposed that the amount of Rs. 5,000- was kept in a cover and the balance amount of Rs. 5,000/- was also kept in a cover and those covers were kept in the shirt pocket of PW3. As per Ex.P1 the amount of Rs. 5,000/- and Rs. 500/- were kept separately in the shirt pocket of PW3 but it is not mentioned that the amounts were kept in the covers separately and those covers were kept in the shirt pocket of PW1. I feel on that ground only the evidence given by PW2 cannot be brushed aside as he has clearly deposed that DGO No.1 told that DGO No.2 had asked him to collect the amount from PW3 and afterwards only PW3 gave the amount to DGO No.1. As stated above he has deposed that initially the amount of Rs. 5,000/- was given and afterwards the amount of Rs. 500/- was given. PW1 has also deposed in his cross-



examination that at the time of seizing the amount the numbers of the notes were compared and found the same tallying with the numbers mentioned in Ex.P3. Hence, only for the above said discrepancy the evidence of PW2 cannot be discarded and there is nothing made out in his cross-examination to discard his evidence. Moreover PW2 in his cross-examination has deposed that to the covers phenolphthalein powder was not smeared but he has clearly deposed that both the hand wash of DGO No. 1 and the pant wash of DGO No.1 was positive which clearly shows that the notes were not kept in the covers when it was given to DGO No.1 and the above said evidence of PW1 is only his own mistaken impression which cannot be given much weight. There is also no mention in the entrustment mahazar that the notes were kept in the covers and those covers were kept in the shirt pocket of PW3. In the mahazar it is only mentioned that currency notes of Rs. 5,000/- and Rs. 500/- were kept separately in the pocket of PW3.

35. PW1 is the above said Sri Manjunath Dalavai, and he has also given his evidence in accordance with the averments made in the entrustment mahazar and the trap mahazar which have been marked as Ex.P1 and P2 respectively. He has clearly deposed that the hand wash of the DGO No.1 was positive. He has deposed that even the pant wash of the DGO No.1 was positive. He has clearly deposed that the tainted currency notes were seized from the possession of the DGO No.1. He has clearly deposed that after the hand wash of the DGO No.1, DGO No.1 produced the tainted currency notes from his pant pocket.

36. PW4 is the Sri Sathish Chitagubbi who has conducted part of the investigation. He has deposed that on the basis of the jurisdiction he got the further investigation of this case and received the FSL report and the copy of the same is at Ex.P42. He has deposed that Ex.P34 is the copy of the sketch. He has deposed that he has filed the charge sheet against the DGO No.1.

37. PW5 is the Chandragowda Patil, and he has deposed that from July 2009 to October 2010 he was working as Dy.S.P., in Hospet Lokayukta police station. He has deposed about PW3 lodging the complaint as per Ex.P4 on 02/08/2010. He has deposed about securing the panchas and conducting the entrustment mahazar and the copy of the same is at Ex.P1. He has given his evidence in accordance with the averments made in Ex.P1. He has also deposed that after entrustment mahazar they went to the office of the DGO No.1 situated in Sanduru. He has deposed that PW3 and PW2 were sent to the office of the DGOs to meet them. He has deposed that he had also given instruction to PW3 (complainant) to give signal by touching his face with his hand after the DGOs receives the bribe amount. He has deposed about the PW1 giving the signal and also about the other proceedings which are mentioned in the Trap Mahazar which is at Ex.P2. he has deposed that Ex.P5 is the copy of the explanation given by DGO No.1 and Ex.P6 is the copy of the explanation given by DGO No.2. He has deposed that the tainted currency notes were recovered from the pant pocket of the DGO No.1 after his hand wash and DGO No.1 himself produced the tainted currency notes from his pant pocket. He

has deposed that even the pant wash of the DGO No.1 was positive and he collected the documents pertaining to the above said Samsthe from the office of the DGOs. He has also given his evidence regarding documents collected by him from office of the DGOs. Thus PW5 has also given his evidence in accordance with the case of the disciplinary authority. There is nothing on record to disbelieve the evidence of PW1 to PW5. Admittedly PW1 to PW5 have no ill-will against the DGO Nos. 1 and 2 and there is no reasons as to why they have deposed falsely against the DGO Nos.1 and 2.

38. The learned counsel for DGO No.2 contends that as per the guidelines of State Vigilance Commission in trap cases as for as possible Government Servants taken as panchas should in rank or pay scale be senior to the AGO involved. There is no cross-examination of PW5 in respect of the above said contention of the learned counsel for DGO No.1. Hence, the above said contention of the learned counsel for DGO No.1 cannot be given much weight.

39. For all the reasons stated above the case of the disciplinary authority is probable and believable rather than the case of the DGO Nos.1 and 2 and the disciplinary authority has satisfactorily proved the charges framed against DGO Nos.1 and 2. Thus the DGOs have failed to maintain absolute integrity, devotion to duty and acted in a manner of unbecoming of a Government Servants. Hence, I answer this point in the **AFFIRMATIVE**.

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

**:: ORDER ::**

*The Disciplinary Authority has satisfactorily proved the charge in this case that, DGO No.1-Sri M. Basavaraja, Assistant Teacher Primary School, Muraripura, presently working as Clerk, Sarva Shikshana, Abhiyana Office Sanduru, Bellary District and DGO No.2-Sri M. Gowdajja, Block Co-ordinating Officer, Sarva Shikashana Abhiyana Office, Sandur, Bellary District **(Now retired)** committed mis-conduct as enumerated U/R 3(1) (i) to (iii) of the Karnataka Civil Service (Conduct) Rules, 1966.*

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

Dated this the 25<sup>th</sup> day of August, 2018

-Sd-

(Somaraju)

Additional Registrar Enquiries-4,  
Karnataka Lokayukta,  
Bangalore.

**ANNEXURE**

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

- PW-1 :Sri Manjunath Dalavai (pancha witness)  
PW-2:Sri K.A. Azeez (shadow panch witness)  
PW-3:Sri Narasimha P.E. (complainant)  
PW-4:Sri Sathish Chitagubbi (I.O.)  
PW-5:Sri Chandragowda Patil (another I.O.)

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

DW-1:-Sri Basavaraju M. (DGO No.1)

DW-2:-Sri M. Gowdajja (DGO No.2)

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

Ex.P-1: Certified copy of the Entrustment Mahazar

Ex.P-1(a to d): Relevant entries in Ex.P1

Ex.P-2: Certified copy of the Trap Mahazar

Ex.P-2(a to f): Relevant entries in Ex.P2

Ex.P-3: Certified copy of the notes value and denomination mentioned white sheet

Ex.P-3(a to c): Relevant entries in Ex.P3

Ex.P-4: Certified copy of the complaint

Ex.P-4(a,b): Relevant entries in Ex.P4

Ex.P-5: Certified copy of the explanation of DGO No.1

Ex.P5(a to d): Relevant entries in Ex.P5

Ex.P-6: Xerox copy of the explanation of DGO No.2

Ex.P-6(a to d) Relevant entries in Ex.P6

Ex.P-7: Certified copy of the Sarva Shikshana District Procurement committee decision for the year 2009-2010

Ex.P-8,P9: Certified copies of the first and second installment released with cheque numbers

Ex.P-10: Certified copy of the letter of complainant dated: 04/08/2010 addressed to BEO, Sanduru

Ex.P-11: Certified copy of the letter of complainant dated: 04/08/2010 addressed to Deputy Director, Sanduru

Ex.P-12: Certified copy of the cheque dated: 23/06/2010 for Rs. 27,500/-

Ex.P-13: Certified copy of the cheque dated: 31/07/2010 for Rs. 8,750/-

Ex.P-14: Certified copy of the letter of Deputy Director, Bellary dated: 03/12/2010 addressed to P.I. KLA, Bellary

Ex.P-15: Certified copy of the letter of Smt. Y. Renuka dated: 23/04/2009 addressed to Deputy Director, Bellary

Ex.P-16: Certified copy of the application form to participate in Sarva Shiksha Abhiyan interventions

Ex.P-17: Certified copy of the details of the interventions/strategy of the NGO would like to participate

Ex.P-18: Certified copy of the Circular dated: 30/03/2009

Ex.P-19: Certified copy of the another Circular dated: 03/06/2009

- Ex.P-20: Certified copy of the Chapter-5 about Ashakiran
- Ex.P-21: Certified copy of the memorandum of understanding
- Ex.P-22: Certified copy of the Sarva Shikshana Abhiyana district procurement committee proceedings
- Ex.P-23: Certified copy of the total marks granted to 101 Samsthe
- Ex.P-24: Certified copy of the Office Order dated: 10/08/2009
- Ex.P-25: Certified copy of the Sarva Shikshana Abhiyana District Project Committee decisions for the year 2009-10
- Ex.P-26: Certified copy of the final installments granted for the year 2009-2010
- Ex.P-27: Certified copy of the letter of Sri M. Thippeswamay dated; 02/02/2011 addressed to P.I., KLA, Bellary
- Ex.P-28: Certified copy of the Chapter-5 about Ashakiran
- Ex.P-29: Certified copy of the memorandum of understanding
- Ex.P-30: Certified copy of the letter of the complainant dated: 27/12/2009 addressed to Director, Sandur
- Ex.P-31: Certified copy of the letter of the complainant dated: 23/02/2010 addressed to Director, Sandur
- Ex.P-32: Certified copy of the sketch of BEO office, Sanduru
- Ex.P-33: Certified copy of the letter of A.E.E., PWD, Sandur dated: 25/11/2010 addressed to S.P., KLA, Bellary
- Ex.P-34: Certified copy of the sketch
- Ex.P-35: Photos affixed on the white sheet
- Ex.P-36: Certified copy of the current account cheque book
- Ex.P-37: Certified copy of the cheque dated: 23/06/2010 for Rs. 27,500/-
- Ex.P-37(a to d): Relevant entries in Ex.P37
- Ex.P-38: Certified copy of the current account cheque book
- Ex.P-38(a to d): Relevant entries in Ex.P38
- Ex.P-39: Certified copy of the cheque dated: 31/07/2010 for Rs. 8,750/-
- Ex.P-39(a to d): Relevant entries in Ex.P39
- Ex.P-40: Certified copy of the student long note book sheet
- Ex.P-40(a to c): Relevant entries in Ex.P40
- Ex.P-41: Certified copy of the bill book extract
- Ex.P-41(a to d): Relevant entries in Ex.P41
- Ex.P-42: Certified copy of the chemical examination report
- Ex.P-42(a): Relevant entries in Ex.P42
- Ex.P-43: Certified copy of the FIR
- Ex.P-43(a): Relevant entry in Ex.P43
- Ex.P-44: Xerox copy of the cash book with xerox copy of the enclosures

- Ex.P-45: Xerox of the letter of Deputy Director, Bellary dated; 03/12/2010 addressed to P.I. KLA, Bellary
- Ex.P-45(a): Relevant entry in Ex.P45
- Ex.P-46: Xerox copy of the letter of Smt. Y. Renuka dated: 23/04/2009 addressed to Deputy Director, Bellary
- Ex.P-47: Xerox copy of the application form to participate in Sarva Shikshana Abhiyana intervention
- Ex.P-48: Xerox copy of the Circular dated: 30/03/2009
- Ex.P-49: Xerox copy of the another circular dated: 03/06/2009
- Ex.P-50: Xerox copy of the Sarva Shikshana Abhiyana, Bellary District Procurement committee proceedings held on 30/07/2009
- Ex.P-51: Xerox copy of the Sarva Shikshana Abhiyana District Procurement committee decision for the year 2009-2010
- Ex.P-52: Xerox copy of the final installment released for the year 2009-2010
- Ex.P-53: Certified copy of the memorandum dated: 05/09/2010
- Ex.P-54: Certified copy of the articles of charge letter
- Ex.P-55: Original written statement of DGO No.1 and 2
- Ex.P-55(a,b): Relevant entries
- Ex.P-56: Original reply dated: 07/09/2012 of DGO No.1 to the observation note addressed to DRE-5, KLA, Bangalore
- Ex.P56(a): Relevant entry in Ex.P56
- Ex.P-57: Original reply dated: 07/09/2012 of DGO No.2 to the observation note addressed to DRE-5, KLA, Bangalore
- Ex.P57(a): Relevant entry in Ex.P57

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

- Ex.D-1: Certified copy of the letter of the complainant dated: 04/08/2010 addressed to BEO, Sanduru with certified copy of the letter of the complainant dated: 04/08/2010 addressed to Deputy Director, Sanduru and Certified copy of the Memorandum of understanding
- Ex.D-2: Certified copy of the letter of DGO No. 1 dated: 29/07/2010 with certified copy of the memorandum of understanding
- Ex.D-3: Certified copy of the memorandum dated; 11/12/2009

- Ex.D-4: Certified copy of the letter of DGO NO.1 dated:  
29/07/2010 for sanction of C.L.
- Ex.D-5: Xerox copy of the letter of Smt. Y. Renuka addressed to  
BEO, Bellary with xerox copy of the  
memorandum of understanding
- Ex.D-6: Xerox copy of the Letter of BEO, Sandur dated:  
20/07/2010 addressed to D.D., Bellary (two sheets)
- Ex.D-7: Xerox copy of the resolution passed dated:  
30/07/2010 with one colour photo
- Ex.D-8: Xerox copy of the letter of Sri M. Thippeswamy dated:  
02/02/2011 addressed to Police Inspector,  
Karnataka Lokayukta, Bellary
- Ex.D-9: Xerox copy of the book mentioning page No. 1 to 357  
with xerox copy of the enclosures
- Ex.D-10: Certified copy of the order passed in Criminal  
Revision Petition No. 100171/2017 dated:  
26/07/2017 by Hon'ble High Court of Karnataka,  
Dharwad Bench

Dated this the 25<sup>th</sup> day of August, 2018

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