

KARNATAKA LOKAYUKTA

No.UPLOK-2/DE/516/2015/ARE-14

Multi Storied Building,
Dr.B.R.Ambedkar Road,
Bangalore-560 001,
Dated: 27/10/2020.

ENQUIRY REPORT

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

Sub: Departmental Enquiry against **Sri. S.M
Kotraswamy**, First Division Accounts
Assistant, Panchayath Raj Engineering
Division, Davanagere - Rcg.

Ref: 1. Report U/s.12(3) of the K.L Act, 1984 in
COMPT/UPLOK/BD-1410/2015/DRE-1
dated 02/09/2015.
2. Government Order No. ಆಇ 336 ರಾಜೆಪ 2015,
Bengaluru dated 26/10/2015.
3. Nomination Order No:UPLOK-2/DE/516
/2015, dated: 06/11/2015 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.

The report of the Additional Director General of Police,
Karnataka Lokayukta, Bengaluru submitted along with the
investigation papers and report filed by the Police Inspector,
Karnataka Lokayukta, Davanagere District revealed that **Sri. S.M**

Kotraswamy, First Division Accounts Assistant, Panchayath Raj Engineering Division, Davanagere (hereinafter referred to as Delinquent Government official, in short DGO.,) being Public/Government servant has committed misconduct as he demanded and accepted bribe from the complainant by name Sri. B.T Srinivas S/o Thimmappa, Grade-III Civil Contractor, Devarahalli Village, Channagiri Taluk, Davanagere District. On the basis of his complaint, an investigation was taken up U/Sec.9 of the Karnataka Lokayukta Act, 1984 after invoking power vested U/Sec. 7 (2) of the said Act.

2. After completion of the investigation, a report was sent to the Government U/s.12(3) of the Karnataka Lokayukta Act as per reference No.1. In pursuance of the report, the Government of Karnataka was pleased to issue the G.O. Dated: 26/10/2015 authorizing Hon'ble Upalokayukta to hold enquiry as per reference No.2. In pursuance of the G.O., the Nomination was issued by the Hon'ble Upalokayukta on 06/11/2015 authorizing ARE-1 to hold enquiry and to report as per reference No.3. This file is transferred from ARE-1 to ARE-7 as per reference No.4 and again this file is transferred from ARE-7 to ARE-14 as per reference No.5.
3. On the basis of the Nomination, the Articles of Charge against the DGO was framed by the Additional Registrar of Enquiries-1 which includes Articles of Charge at Annexure-I and Statement of Imputation of Misconduct at Annexure No.II that are as follows and the same was sent to the DGO on 25/11/2015.



ANNEXURE-I

CHARGE

That you DGO Sri. S.M Kotraswamy while working as First Division Accounts Assistant at Panchayath Raj Engineering Division, Davanagere District demanded illegal gratification of Rs.35,000/- from Sri. B.T Srinivas S/o Thimmappa, Class-III Civil Contractor, Devanahalli Village, Channagiri Taluk, Davanagere District when the complainant approached you for preparing bill for payment of amount due in respect of the work executed as contractor in Garaga-Gullahalli, Harishinaghatta and other villages for providing drinking water in the schools and again on 28/08/2014 at Panchayath Raj Engineering Division Office, Davanagere when Lokayukta Police laid a trap again you demanded and voluntarily accepted Rs.35,000/- from Sri. B.T Srinivas to prepare bill in respect of the work executed by him and you were trapped by Lokayukta Police and caught red handed while accepting illegal gratification from the complainant and therefore you DGO has 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 misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules, 1966. Hence, this charge.



ANNEXURE-II

STATEMENT OF IMPUTATION OF MISCONDUCT

2. The brief facts of the case are:

- i. ದೂರುದಾರರು 3ನೇ ದರ್ಜೆ ಸಿವಿಲ್ ಗುತ್ತಿಗೆದಾರರಾಗಿದ್ದು, ಚನ್ನಗಿರಿ ತಾಲ್ಲೂಕಿನ ಗರಗ ಗುಳ್ಳಳ್ಳಿ, ಅರಿಶಿನಘಟ್ಟ ಇತ್ಯಾದಿ ಗ್ರಾಮಗಳಲ್ಲಿ ಶಾಲೆಗಳಿಗೆ ಕುಡಿಯುವ ನೀರಿನ ವ್ಯವಸ್ಥೆಯ ಕಾಮಗಾರಿಯ ಕಾರ್ಯಾದೇಶವನ್ನು ದಾವಣಗೆರೆ ಜಿಲ್ಲಾ ಪಂಚಾಯಿತಿ ಇಂಜಿನಿಯರಿಂಗ್ ವಿಭಾಗದಿಂದ ಪಡೆದು ಜೂನ್ ತಿಂಗಳೊಳಗೆ ಕಾಮಗಾರಿಯನ್ನು ಸುಮಾರು ರೂ.10 ಲಕ್ಷಗಳಲ್ಲಿ ಮುಗಿಸಿ, ರೂ.9 ಲಕ್ಷಗಳ ಬಿಲ್ಲನ್ನು ಪಡೆದುಕೊಂಡಿರುತ್ತಾರೆ. ದೂರುದಾರರು ದಿನಾಂಕ: 25/08/2014 ರಂದು ಎದುರುದಾರರನ್ನು ಭೇಟಿ ಮಾಡಿ ಉಳಿದ ರೂ.60,000/-ಗಳ ಬಿಲ್ ಮಾಡಿಕೊಡಲು ಕೇಳಿದಾಗ, ಎದುರುದಾರರಿಗೆ ಹಾಗೂ ಕಾರ್ಯಪಾಲಕ ಇಂಜಿನಿಯರ್‌ರವರಿಗೆ ಸೇರಿ 3.5% ಅಂದರೆ ರೂ.10 ಲಕ್ಷಗಳ ಕಾಮಗಾರಿಗೆ ರೂ.35,000/- ಹಣ ಕೊಟ್ಟಲ್ಲಿ ಬಿಲ್ಲನ್ನು ಮಾಡಿಕೊಡುವುದಾಗಿ ತಿಳಿಸಿರುತ್ತಾರೆ ಹಾಗೂ ಸದರಿ ರೂ.35,000/- ಗಳಲ್ಲಿ ಎದುರುದಾರರಿಗೆ ರೂ.5,000/- ಹಾಗೂ ಇಂಜಿನಿಯರ್‌ರವರಿಗೆ ರೂ.30,000/- ಕೊಡಬೇಕೆಂದು ಹೇಳಿರುತ್ತಾರೆ. ಈ ಸಂಭಾಷಣೆಯನ್ನು ದೂರುದಾರರು ತಮ್ಮ ಮೊಬೈಲ್ ಫೋನಿನಲ್ಲಿ ರೆಕಾರ್ಡ್ ಮಾಡಿಕೊಂಡಿರುತ್ತಾರೆ.
- ii. ದೂರುದಾರರಿಗೆ ಲಂಚದ ಹಣ ಕೊಡಲು ಇಷ್ಟವಿಲ್ಲದೇ ಇದ್ದುದರಿಂದ, ದಿನಾಂಕ: 28/08/2014ರಂದು ದಾವಣಗೆರೆ ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸ್ ಠಾಣೆಗೆ ಹಾಜರಾಗಿ, ತನಿಖಾಧಿಕಾರಿಯ ಮುಂದೆ ಲಿಖಿತ ದೂರನ್ನು ಸಲ್ಲಿಸಿರುತ್ತಾರೆ. ಅದರಂತೆ ಸದರಿ ಪೊಲೀಸ್ ಠಾಣೆಯಲ್ಲಿ ಮೊ.ಸಂ.10/14 ರಂತೆ ಪಿ.ಸಿ.ಕಾಯಿದೆ ಕಲಂ 7, 13(1)(ಡಿ) ಸಹ ಕಲಂ 13(2) ರಂತೆ ಎದುರುದಾರರ ವಿರುದ್ಧ ಪ್ರ.ವ.ವರದಿ ದಾಖಲಾಗಿರುತ್ತದೆ.
- iii. ಅದೇ ದಿನ ಸಂಜೆ ಸುಮಾರು 5.00 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ದೂರುದಾರರು, ಎದುರುದಾರರ ಕೊಠಡಿಗೆ ಹೋಗಿ ತನ್ನ ಕೆಲಸದ ಬಗ್ಗೆ ಕೇಳಿದಾಗ, ಎದುರುದಾರರು



ಸಂಜ್ಞೆಯ ಮೂಲಕ ಹಣ ಕೊಡುವಂತೆ ಕೇಳಿದ್ದು, ದೂರುದಾರರಿಂದ ರೂ.35,000/- ಲಂಚದ ಹಣವನ್ನು ನೆರಳು ಸಾಕ್ಷಿದಾರರಾದ ಶ್ರೀ. ಹೆಚ್.ವಿ. ಹನುಮಂತಪ್ಪ ರವರ ಸಮಕ್ಷಮ ಪಡೆದುಕೊಂಡಿರುತ್ತಾರೆ.

- iv. ಅದೇ ದಿವಸ ಸದರಿ ಲಂಚದ ಹಣ ರೂ.35,000/-ಗಳನ್ನು ಎದುರುದಾರರಿಂದ ಪಂಚನಾಮೆ ಮೂಲಕ ತನಿಖಾಧಿಕಾರಿ ವಶಪಡಿಸಿಕೊಂಡಿರುತ್ತಾರೆ.
- v. ಎದುರುದಾರರನ್ನು ಅದೇ ಕಾರಣಕ್ಕಾಗಿ ದಸ್ತಗಿರಿ ಮಾಡಿರುತ್ತಾರೆ.
- vi. ಸದರಿ ಹಣದ ಬಗ್ಗೆ ತನಿಖಾಧಿಕಾರಿಯು ಎದುರುದಾರರನ್ನು ಪ್ರಶ್ನಿಸಿದಾಗ, ಅದಕ್ಕೆ ಎದುರುದಾರರು ಸಮಾಧಾನಕಾರಕ ಅಥವಾ ಸೂಕ್ತ ಉತ್ತರ ನೀಡಲು ವಿಫಲರಾಗಿರುತ್ತಾರೆ.
- vii. ದೂರುದಾರರ, ಪಂಚರ ಹಾಗೂ ಇತರ ಸಾಕ್ಷಿದಾರರ ಹೇಳಿಕೆಗಳನ್ನು ಮತ್ತು ಸಂಬಂಧಿಸಿದ ದಾಖಲೆಗಳನ್ನು ಪ್ರಕರಣದಲ್ಲಿ ಹಾಜರು ಪಡಿಸಿದ್ದು, ಅವೂ ಕೂಡ ಎದುರುದಾರರು ಸತತವಾದ ದುರ್ನಡತೆ ಎಸಗಿರುವುದನ್ನು ತೋರಿಸುತ್ತದೆ.

3. ಆರೋಪ ಪಟ್ಟಿಯಲ್ಲಿ ಕಾಣಿಸಿರುವ ಸಂಗ್ರಹವಾದ ಅಧಿಕಾರಿಗಳಿಂದಾಗಿ ಎದುರುದಾರರು ಅಧಿಕಾರ ಒಲವು ತೋರಲು ಲಂಚದ ಹಣಕ್ಕೆ ಒತ್ತಾಯ ಮಾಡಿ, ಸ್ವೀಕರಿಸಿದ್ದು, ಮೇಲ್ನೋಟಕ್ಕೆ ಎದುರುದಾರರ ವಿರುದ್ಧ ಇಲಾಖಾ ವಿಚಾರಣೆ ನಡೆಸುವ ಸಂಬಂಧ ಮುಂದುವರಿಯುವುದು ಅಗತ್ಯ ಎಂದು ಕಂಡುಬಂದಿದ್ದು, ಎದುರುದಾರರು ಸರ್ಕಾರಿ ನೌಕರರಾಗಿ ತಮ್ಮ ಕರ್ತವ್ಯ ಪಾಲನೆಯಲ್ಲಿ ಪರಿಪೂರ್ಣ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ತೋರಿಸದೆ ಮತ್ತು ಸಾರ್ವಜನಿಕ ನೌಕರರಾಗಿ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡಿರುವುದು ವೇದ್ಯವಾಗುತ್ತದೆ.

4. ನಂತರ, ಎದುರುದಾರರಿಗೆ ಪರಿವೀಕ್ಷಣಾ ಟಿಪ್ಪಣಿಯನ್ನು ಕಳುಹಿಸಿ, ಅವರ ದುರ್ನಡತೆಯ ಬಗ್ಗೆ ಇಲಾಖಾ ವಿಚಾರಣೆ ಕೈಗೊಳ್ಳುವ ಸಂಬಂಧ, ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಏಕೆ ಶಿಫಾರಸ್ಸು ವರದಿ ಕಳುಹಿಸಬಾರದು ಎಂಬ ಬಗ್ಗೆ ಕಾರಣಗಳನ್ನು ಕೇಳಲಾಯಿತು. ಎದುರುದಾರರು ತನಿಖಾ ವರದಿಯಲ್ಲಿ ಕಾಣಿಸಿದ ಸಂಗತಿಗಳನ್ನು ನಿರಾಕರಿಸಿ, ಆಕ್ಷೇಪಣೆಯಲ್ಲಿ ನೀಡಿರುವ ಕಾರಣಗಳಿಗಾಗಿ ತಮ್ಮ ವಿರುದ್ಧದ ತನಿಖೆಯನ್ನು ಮುಕ್ತಾಯಗೊಳಿಸಬೇಕೆಂದು ಕೋರಿದ್ದಾರೆ. ಆದರೆ, ಎದುರುದಾರರು ಆಕ್ಷೇಪಣೆಯಲ್ಲಿ ನೀಡಿರುವ ಕಾರಣಗಳು ಸೂಕ್ತ ಅಥವಾ ಸಮಾಧಾನಕಾರಕವಾಗಿರುವುದಿಲ್ಲ.

5. Since said facts and material on record prima-facie show that you DGO has committed misconduct under Rule 3(1)(ii) & (iv) of



KCS (Conduct) Rules, 1966, acting under section 12(3) of the Karnataka Lokayukta Act, recommendation was made to the Competent Authority to initiate disciplinary proceedings against you DGO. The Government after consideration of materials, has entrusted the enquiry to Hon'ble Upalokayukta. Hence the charge.

4. The aforesaid 'Articles of Charge' was served on DGO. DGO had appeared before this authority on 14/01/2016 and his first oral statement under Rule 11(9) of KCS (CCA) Rules, 1957 recorded. DGO pleaded not guilty and claimed to be enquired about the charges.

5. The Disciplinary Authority has got examined the complainant as PW-1 and one shadow witness by name Sri. H.V Hanumanthappa as PW-2 and the Investigating Officer as PW-3 and Ex.P.1 to 18 got marked on their side. On the other hand, the DGO himself got examined as DW-1 and DW-2 and Ex.D.1 to Ex.D.26 got marked on his side.

6. Now points that arise for my consideration are:

Point No.1 : Whether the charges framed against
DGO is proved?

Point No.2 : What order?

7. Heard, perused the entire case record and heard the argument of both the side.

8. My answers to the above points are as under:

Point No. 1: **In the Affirmative as against DGO.**

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



REASONS

9. **Point No.1** : The complainant by name Sri. B.T Srinivas S/o Thimmappa, Grade-III Civil Contractor, Devarahalli Village, Channagiri Taluk, Davanagere District has filed the complaint against **Sri. S.M Kotraswamy**, First Division Accounts Assistant, Panchayath Raj Engineering Division, Davanagere alleging misconduct by demanding and also by receiving bribe amount from him while discharging his duty as a Government Servant.
10. The complaint is that, when this DGO was working as First Division Accounts Assistant, Panchayath Raj Engineering Division, Davanagere, complainant approached him for preparing bill for payment of amount due in respect of the work executed by him as a contractor in Garaga-Gullahalli, Harishinaghatta and other villages for providing drinking water in the schools and again on 28/08/2014 at Panchayath Raj Engineering Division Office, Davanagere when Lokayukta Police laid a trap, again the DGO demanded and voluntarily accepted Rs.35,000/- from him to prepare bill in respect of the work executed by him. The Lokayukta Police registered a case against DGO in their Cr.No.10/2014 for the offence punishable U/s.7 of PC Act, 1988.
11. The defence of the DGO is that, the complainant made false allegations against him and lodged a false compliant. He had not demanded for bribe nor accepted the same. However, no work was pending with him relating to the complainant. Hence, prayed to exonerate him from the charges.



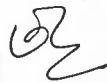
12. Here, the complainant by name Sri. Srinivas got examined as PW-1. He has deposed in his chief examination saying that, during 2013-14 the work of supplying water to schools in Chennagiri Taluk had been sanctioned to him. The total estimation of the said work was Rs.10 lakhs and he had completed the whole work. He was due for Rs.60,000/- from PRE section. So he met many officers in the said section to prepare bill towards the said amount. But, they have not prepared the bill for Rs.60,000/-. Hence, he has lodged a complaint dated 22/08/2014 to Lokayukta Police Station. Further, he has deposed that he has not mentioned the name of any officer/employee in the complaint, who had demanded for bribe. He had received a phone call from PRE section by demanding Rs.35,000/- as bribe to prepare the bill for Rs.60,000/- but he does not know the name of person who had called him (the complaint is got marked as Ex.P.1).

13. Further, he has also deposed in his chief examination saying that at the time of lodging complaint he has produced seventy currency notes of Rs.500/- each before the I.O. They applied Phenolphthalein powder to those notes and informed him to hand over the same to the person who had demanded for bribe. The I.O. has drawn pre-trap mahazar (it is marked as Ex.P.2). Further, he has deposed that on the same day he along with the I.O, his staff and other two persons reached PRE section, Davanagere at 3.00pm. When he went inside the said section, nobody was there. So, he kept Rs.35,000/- on the table and came out. The I.O. and his staff were waiting outside the section. When he informed the I.O. that he had kept the amount on the table, I.O. went inside the section and trapped the DGO. He does not know about the seizer of amount from DGO. I.O. and his staff



had not washed the hands of DGO in liquid and he had put his signature on Ex.P.3 i.e. mahazar on the next day at Lokayukta Police Station, Davanagere. He has further deposed that the DGO had not demanded for bribe of Rs.35,000/- from him and not received the same from him.

14. As the complainant did not say anything as per the complaint i.e. Ex.P.1, the presenting officer treated him as hostile witness and cross examined him with the permission. In the cross examination also the complainant has not deposed anything against DGO and denied all suggestions put by the presenting officer. He has deposed that he has not given any statement to the I.O. as per Ex.P.4 also.
15. When the advocate for DGO cross examined the complainant, then also he has deposed that he never met the DGO when he had gone to PRE section. On 28/08/2014 also he did not meet the DGO personally. He saw DGO when he had accompanied the I.O. He had not handed over any amount to the DGO. As per the say of I.O, he had put his signatures on Ex.P.2 & 3. Further, as per the say of I.O, he had mentioned in Ex.P.1. After lodging the complaint, he had received the bill amount.
16. Thus, in this case the complainant has totally turned hostile though complained against DGO in his written complaint regarding demand for bribe. But the say of the complainant in his chief examination that when he went inside the PRE section, there was nobody in that section and hence he had kept Rs.35,000/- on the table, cannot be believable at any cost. No prudent person can do such thing.



17. This complaint was lodged on 28/08/2014 at 01.00pm. A case was registered against the DGO in their Cr.No.10/2014 for the offences punishable U/s .7 of P.C.Act, 1988.

18. In this case, the shadow witness by name Sri. H.V Hanumanthappa got examined as PW-2 before this authority. He has deposed about his presence at the Lokayukta Office, Davanagere on 28/08/2014 at 02.00pm along with his colleague Sri. Vijaykumar; the contents of the complaint explained by Lokayukta Officials to them; production of seventy Rs.500/- currency notes by the Complainant in their presence and writing down the numbers of those currency notes in a separate sheet. He has also deposed about applying Phenolphthalein powder to those notes and keeping those notes by him only in the shirt pocket of the complainant and also about washing of his hands in a liquid which turned to Pink colour, seizure of the said pink coloured liquid in a bottle by the I.O. He has also deposed about the instructions given by the I.O. to the complainant as well as to himself. He has also deposed about the drawing of mahazar regarding all these procedural aspects at the Lokayukta Office, Davanagere. He has identified his signature on Ex.P.2 i.e. pre-trap mahazar. He has also deposed that the conversation that took place between the complainant and DGO was also cited in Ex.P.2 i.e. pre-trap mahazar.

19. As this shadow witness has not deposed anything regarding the hearing of conversation that took place between the complainant and DGO which was recorded in a voice recorder at the time of trap, this witness has been treated as partly hostile and cross examined by the presenting officer. In cross examination, this shadow witness denied



that the I.O. made him to hear the conversation took place between the complainant and the DGO at the time of trap.

20. The I.O. Sri. Chandrappa K, Police Inspector got examined as PW-3. He has deposed before this authority in his Chief examination regarding the receipt of complaint along with the mobile of the complainant which contains conversation that took place between the complainant and DGO; registration of a case against DGO in their Cr.No.10/2014 for the offences punishable U/s.7 of PC Act, 1988; (the FIR is got marked as Ex.P.7 and I.O.s signature at Ex.P.7(a).
21. He has further deposed about the presence of panch witnesses at his office at his request to the higher officers of the said witnesses i.e., Sri H.V Hanumanthappa and Sri. Vijaykumar from Chitageri Government Hospital, Davanagere and hearing of conversation by them took place between the complainant and the DGO recorded by the complainant in his mobile. He has further deposed about the production of seventy 500/- rupees currency notes by the Complainant and writing down the numbers of those currency notes by the panch witnesses in a separate white sheet (it is got marked as Ex.P.5).
22. Further, he has also deposed about applying Phenolphthalein powder to those notes by his staff and counting of those notes by the panch witness Sri. Vijaykumar and washing of his hands in sodium carbonate liquid and the liquid turning into Pink colour; seizure of the said pink coloured liquid in one bottle by him.



23. He has further deposed that, he gave instruction to the complainant to hand over the tainted notes to DGO whenever demanded by DGO only and after handing over the same to the DGO, to give signal by wiping his face by his hands. He had directed the panch witness Sri. H.V Hanumanthappa to go with the complainant as a shadow witness and to observe all the things which are going to take place. He has further deposed about the drawing of the mahazar about all the procedure stated above, which is got marked as Ex.P.2 and he has identified his signature at Ex.P.2(a).
24. Here PW-3 I.O. has been cross examined by the advocate for DGO. I.O. has denied the suggestions put by the advocate for DGO regarding the procedural aspects of Ex.P.2 pre-trap mahazar and Ex.P.3 trap mahazar.
25. The I.O. further deposed that, on 25/08/2014, they left their office and reached near the office of the DGO around 04.40pm. The complainant and the shadow witness Sri. H.V Hanumanthappa went inside the office and they scattered here and there outside the office. At 05.00pm, the complainant came outside the office and gave signal by wiping his face with his hands. Then himself, panch witness Sri. Vijaykumar and his staff went inside the office. The complainant showed the DGO and informed about the amount which was with the DGO. Then he and his staff introduced themselves to DGO. His hands were washed in sodium carbonate liquid, which turned to pink colour and he had seized it in a separate bottle. The DGO produced the tainted currency notes which he had kept in a cover on the top of Almerah. Then he had verified the currency numbers of those notes with the numbers which were already written in a separate white



sheet and they tallied. Then he seized the said currency notes. He had also received a written explanation from DGO regarding possession of those tainted notes with him, which is got marked as Ex.P.8. The service details of DGO is got marked as Ex.P.9. Further, he has deposed that he had got identified the voice of DGO from one Accounts Auditor of the said office by name Sri. Chandrashekar. He had also collected the documents relating to the complainant from the said Chandrashekar. He had returned the originals of those documents by obtaining the xerox copies of the same. The said documents were got marked as Ex.P.10. He has also deposed that the whole procedural aspect has been videographed. The rough sketch of the said office prepared by him got marked as Ex.P.11. The sketch prepared by the PWD Engineer is got marked as Ex.P.12. The chemical report which he had received on 27/10/2014 is got marked at Ex.P.13. The attendance registrar extract of DGO is got marked as Ex.P.14. The documents relating to the amount due to the complainant are got marked as Ex.P.18 (these are all the documents which the I.O. had obtained during the time of investigation). I.O. further deposed about the recording of the statements of all witnesses.

26. Here, the defence of the DGO is that as per the office order dated 29/04/2011, he had to work as First Division Accounts Assistant at Panchayath Raj Engineering Division, Davanagere Sub-Division. One G. Basavarajappa had been ordered to work as First Division Accounts Assistant at Panchayath Raj Engineering Division, Channagiri Sub-Division for the year 2011-12. The DGO has produced the said office order which is got marked as Ex.D.1. He has also produced the office order for the year 2013-14 which is got



marked as Ex.D.2. As per this Ex.D.2, one Sri. Girish was ordered to work as Second Division Assistant for Channagiri Sub-Division. The DGO's defense is that Garaga-Gullahalli, Harishinaghatta villages were within the jurisdiction of Channagiri Sub-Division. So, the defense of the DGO is that as he was working as the First Division Accounts Assistant for Davanagere Sub-Division as per the office order, there was no occasion for him to prepare bill for the work executed by the complainant. So he had never demanded for bribe from the complainant nor accepted the same from him. Regarding this aspect the DGO has deposed in his cross examination as "ನನ್ನ ಲಿಖಿತ ಸಮಜಾಯಿಷಿಯಲ್ಲಿ ಚನ್ನಗಿರಿ ಉಪವಿಭಾಗದ ಕೆಲಸ ನನಗೆ ಸಂಬಂಧಪಟ್ಟಿರಲಿಲ್ಲ ಎಂದು ತಿಳಿಸಿರುವುದಿಲ್ಲ ಎನ್ನುವುದು ಸರಿ. ಸಾಕ್ಷಿ ಸ್ವತಃ ನುಡಿಯುತ್ತಾರೆ, ಲೋಕಾಯುಕ್ತ ಅಧಿಕಾರಿಗಳು ಹಾಗೇ ಬರೆಯಲು ಬಿಡಲಿಲ್ಲ ಎಂದು. ಆ ದಾಳಿ ನಡೆದ ದಿನ, ನಡೆದಂತಹ ಎಲ್ಲಾ ಪ್ರಕ್ರಿಯೆಗಳ ಬಾಬು ಘೋಟೋಗಳನ್ನು ತೆಗೆದಿದ್ದಾರೆ ಮತ್ತು ವಿಡಿಯೋ ಚಿತ್ರೀಕರಣ ಮಾಡಿಕೊಂಡಿದ್ದಾರೆ ಎನ್ನುವುದು ಸರಿ..... ನಾನು ಈ ಸಂಸ್ಥೆಗೆ ನೀಡಿದ ಉತ್ತರದಲ್ಲಿ, ಆ ದಿನ ನಾನು ಚನ್ನಗಿರಿ ಉಪವಿಭಾಗದ ಪ್ರಭಾರದಲ್ಲಿ ಇರಲಿಲ್ಲ, ಟಿ.ಎಂ.ಗಿರೀಶ್ ಎನ್ನುವವರು ಪ್ರಭಾರದಲ್ಲಿದ್ದರು ಎನ್ನುವುದನ್ನು ತಿಳಿಸಿರುವುದಿಲ್ಲ ಎನ್ನುವುದು ಸರಿಯಲ್ಲ". Thus, the DGO has not stated these things while submitting his objections to this institution. Regarding this aspect the I.O. has been cross examined by the advocate for DGO. In the cross examination, the I.O. has deposed very clearly as "ಚನ್ನಗಿರಿ ಕಾಮಗಾರಿಗೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ಗಿರೀಶ ಎನ್ನುವವರು ವಿಷಯ ನಿರ್ವಾಹಕರಾಗಿದ್ದರು ಎನ್ನುವುದು ಸರಿಯಲ್ಲ. ಅಮಾನತ್ತುಪಡಿಸಿಕೊಂಡಿರುವ ಕಡತಗಳಲ್ಲಿ ಆರೋಪಿಯ ಸಹಿ ಇರುವುದಿಲ್ಲ ಎನ್ನುವುದು ಸರಿ. ಚನ್ನಗಿರಿಗೆ ಸಂಬಂಧಪಟ್ಟ ಕಾಮಗಾರಿಯ ಬೇರೆ ಬಿಲ್ಲುಗಳನ್ನು ಸಹಾ ಅಮಾನತ್ತುಪಡಿಸಿಕೊಂಡಿರುತ್ತೇನೆ ಎನ್ನುವುದು ಸರಿ. ಈ ಕಾಮಗಾರಿಗೆ ಸಂಬಂಧಪಟ್ಟ ವಿಷಯ ನಿರ್ವಾಹಕರು ಗಿರೀಶರವರೇ ಆಗಿದ್ದು, ಅವರೇ ಸಂಬಂಧಪಟ್ಟ ಬಿಲ್ಲುಗಳನ್ನು ಸಹಾ ಪಾಸ್ ಮಾಡಿದ್ದರೂ ಸಹಾ ಈ ಬಗ್ಗೆ ನಾನು ಸುಳ್ಳು ಹೇಳುತ್ತಿದ್ದೇನೆ ಎನ್ನುವುದು ಸರಿಯಲ್ಲ".

27. Here, the shadow witness Sri. H.V Hanumanthappa has denied that he had not seen the amount being handed over by the complainant to the DGO and it being received by the DGO, in his cross examination. He has deposed in his chief examination as “ನಾನು ಮತ್ತು ದೂರುದಾರರು ಆ.ನೌ.ರರ ಕೆಲಸ ಮಾಡುವ ಕೊಠಡಿ ಬಳಿ ಹೋಗಿ ದೂರುದಾರರು ಆ.ನೌ.ರರನ್ನು ಭೇಟಿ ಮಾಡಲು ಒಳಗೆ ಹೋದಾಗ ನಾನು ಕೊಠಡಿ ಬಾಗಿಲ ಬಳಿ ನಿಂತು ನೋಡುತ್ತಿದ್ದೆ. ದೂರುದಾರರು ಆ.ನೌ.ರರನ್ನು ಭೇಟಿ ಮಾಡಿ ತಮ್ಮ ಕೆಲಸದ ಬಗ್ಗೆ ವಿಚಾರಿಸಿ ತನ್ನ ಶರ್ಟ್‌ನ ಜೇಬಿನಿಂದ ರೂ.35,000/- ಲಂಚದ ಹಣ ತೆಗೆದು ಆ.ನೌ.ರರಿಗೆ ಕೊಟ್ಟರು. ದೂರುದಾರರು ಹಣ ಕೊಟ್ಟಿದ್ದನ್ನು ನಾನು ನೋಡಿದ್ದೇನೆ. ಸದರಿ ಹಣವನ್ನು ಆ.ನೌ.ರರು ಪಡೆದು ಬೀರುವಿನ ಮೇಲೆ ಇಟ್ಟಿದ್ದರು”. He has further deposed in his cross examination very clearly as **“It is false to suggest that, the complainant alone went at first, inside the section of the DGO. Witness volunteers we both together went to his section. In that section only two were working, one is the DGO. The complainant took five minutes to come out from the DGOs section. The complainant enquired about the cheque with the DGO. Then the DGO asked for the payment. Then the complainant said that he had brought the money and handed over the same to the DGO. It is false to suggest that, there was no such conversation took place in between the DGO and the Complainant, I am deposing falsehood regarding this aspect”**. Thus, this shadow witness has clearly deposed about the handing over of the bribe by the complainant to DGO. Further, I.O. also denied all suggestions put by advocate for DGO regarding the procedural aspects of pre-trap mahazar and trap mahazar i.e. Ex.P.2 & Ex.P.3. The explanation given by the DGO

dated 28/08/2014 also reveals that as per the say of Executive Engineer Sri. A. Basavaraj, he had demanded for Rs.35,000/- bribe and also received the same from the complainant as per the direction of Executive Engineer. But before the Tribunal the DGO has deposed that the I.O. himself recorded such written explanation from him. Regarding this aspect the I.O. has deposed in his cross examination as “ಆ.ಸ.ನೌ ರವರ ಸಮಜಾಯಿಷಿಯನ್ನು ಒತ್ತಾಯ ಪೂರ್ವಕವಾಗಿ ಪಡೆದುಕೊಂಡಿದ್ದೇನೆ ಎನ್ನುವುದು ಸರಿಯಲ್ಲ”. Further, when the hands of DGO were washed in sodium carbonate liquid, it turned to pink colour. Regarding this aspect, the I.O. has deposed in his cross examination as “ಆ ಹಣವನ್ನು ಆಸನೌರವರ ಕೈಗಳಿಂದ ನಾವೇ ತೆಗೆಸಿದ್ದರಿಂದ, ಸೋಡಿಯಂ ಕಾರ್ಬೋನೇಟ್ ದ್ರಾವಣ ಗುಲಾಬಿ ಬಣ್ಣಕ್ಕೆ ತಿರುಗಿತ್ತು ಎನ್ನುವುದು ಸರಿಯಲ್ಲ”. Moreover, the chemical report is got marked as Ex.P.13. In this report the Assistant Chemical Examiner has opined as **“The presence of Phenolphthalein is detected in the both Right & Left hands fingers washes of the AGO’s”**. Thus, from the chemical report also it reveals that the presence of Phenolphthalein was found in the fingers of both the hands.


28. In this case though the complainant has turned hostile, the shadow witness and the I.O. have deposed about the procedural aspects as well as regarding the trap. The complainant’s say that he went inside the said office section and there was nobody in the said section hence he kept Rs.35,000/- on the table, cannot be believed. He has admitted his signature on the complaint but deposed that he had not mentioned the name of any



employee/officer in the complaint but he had received a phone call demanding for bribe of Rs.35,000/- itself shows that the DGO was won over the complainant. That's why the complainant has not stated anything against this DGO. Further, the shadow witness clearly deposed about the handing over of bribe of Rs.35,000/- by the complainant to the DGO and DGO keeping the same on the top of the almerah. The I.O. had seized the same. Washing of both the hands of DGO in liquid also turned to pink colour. There is a chemical report regarding this aspect. Moreover, nothing has been elicited from the mouth of the I.O. that there was any enmity or illwill between him and the DGO hence a false case had been registered against the DGO.

29. At this juncture I would like to mention that the apex court has observed that the doctrine of natural justice must be followed in a departmental enquiry. The following principles of natural justice are applicable to the disciplinary proceedings against government servants;

- (1) The party should have the opportunity of adducing all relevant evidence which he relies on;
- (2) The evidence of the opponent should be taken in his presence;
- (3) He should be given an opportunity to cross-examine the witnesses examined by that party;



(4) No material should be relied on against him without giving him an opportunity of explaining them.

If these principles are observed in holding a departmental enquiry, it is not open to attack on the ground that the procedure laid down in the Evidence Act for taking evidence was not strictly followed.

30. In the present enquiry the above principles have been complied while conducting the enquiry. From the evidence available on record, it can be said without any hesitation that this DGO had demanded for bribe amount from the complainant and also received the same in order to show official favour as a Government Servant.

31. Under the above said facts and circumstances, it can be held that, this DGO has committed misconduct while discharging his duty. Hence, I answer Point No.1 in the affirmative.

32. **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.

33. Hence, I proceed to pass the following:

02


ORDER

The Disciplinary Authority has proved the charges framed against the DGO **Sri. S.M Kotraswamy**, First Division Accounts Assistant, Panchayath Raj Engineering Division, Davanagere.

The Date of Retirement of DGO is 31/03/2042.

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

Dated this the 27th October, 2020


27/10/20

(K.BHAGYA)

Additional Registrar Enquiries-14,
Karnataka Lokayukta,
Bangalore.

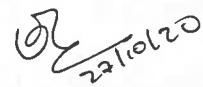
ANNEXURES

Sl. No.	Particulars of Documents	
1	Witness examined on behalf of the Disciplinary Authority	
	PW-1	Sri. B.T Srinivas S/o Thimmappa, Grade-III Civil Contractor, Devarahalli Village, Channagiri Taluk, Davanagere District (Original)
	PW-2	Sri. H.V Hanumanthappa S/o H. Venkatappa, FDA, Chigateri District Hospital, Davanagere (Original)
	PW-3	Sri. Chandrappa K, Police Inspector, State Intelligence, Shimoga (Original)
2	Documents marked on behalf of the Disciplinary Authority Ex.P-1 to Ex.P-15	
	Ex.P.1 & 1(a)	Complaint given to PI, KLA, Yadagiri with Signature (Original)
	Ex.P.2 & 2(a)	Mahazar with Signature (P.64-65 Original) (P.66-71 Xerox)
	Ex.P.3 & 3(a)	Trap Mahazar with Signature (P.72-73 Certified)(P.74-81 Xerox)
	Ex.P.4	Written Statement (Certified)
	Ex.P.5 & 5(a)	Copy of note sheet containing Sl. Nos. of currency notes with Signature & receipt (Xerox)
	Ex.P.6	Photographs (Xerox)
	Ex.P.7 & 7(a)	FIR with Signature (Certified)
	Ex.P.8 & 8(a)	Representation given to PI, KLA, Davanagere with Signature (Xerox)
	Ex.P.9 & 9(a)	Service details of DGO (Certified)
	Ex.P.10	Documents (Certified)
	Ex.P.11	Sketch (Certified)
	Ex.P.12	Sketch (Certified)
Ex.P.13	Chemical Test Report with Signature (Certified)	

	Ex.P.14 & 14 (a)	Attendance letter with Signature (Certified)
	Ex.P.15	Documents (Certified)
3	Witness examined on behalf of the DGO, Documents marked on behalf of the DGO	
	DW-1	Sri. S.M Kotraswamy, First Division Accounts Assistant, Panchayath Raj Engineering Division, Davanagere (Original)
4	Documents marked on behalf of the DGOs through the complainant	
	Ex.D.1	Memorandum (Certified)
	Ex.D.2	Memorandum (Certified)
	Ex.D.3	Official Memorandum (Certified)
	Ex.D.4	Official Memorandum (Certified)
	Ex.D.5	RTGS Payment Authorization Under NRDWP (Certified)
	Ex.D.6	RTGS Payment Authorization Under NRDWP (Certified)
	Ex.D.7	Contract Certificate (Certified)
	Ex.D.8	RTGS Payment Authorization Under NRDWP (Certified)
	Ex.D.9	Contract Certificate (Certified)
	Ex.D.10	Contract Certificate (Certified)
	Ex.D.11	RTGS Payment Authorization Under NRDWP (Certified)
	Ex.D.12	Contract Certificate (Certified)
	Ex.D.13	RTGS Payment Authorization Under NRDWP

	(Certified)
Ex.D.14	Contract Certificate (Certified)
Ex.D.15	Contract Certificate (Certified)
Ex.D.16	Contract Certificate (Certified)
Ex.D.17	Contract Certificate (Certified)
Ex.D.18	Contract Certificate (Certified)
Ex.D.19	RTGS Payment Authorization Under NRDWP (Certified)
Ex.D.20	Contract Certificate (Certified)
Ex.D.21	RTGS Payment Authorization Under NRDWP (Certified)
Ex.D.22	Contract Certificate (Certified)
Ex.D.23	Office Note (Certified)
Ex.D.24	Contract Certificate (Certified)
Ex.D.25	Letter given to AEE, PRE Sub-Division, Channagiri (Certified)
Ex.D.26	Documents pertaining to Ex.D.25 (Certified)

Dated this the 27th October, 2020



(K.BHAGYA)

Additional Registrar Enquiries-14,
Karnataka Lokayukta,
Bangalore.



KARNATAKA LOKAYUKTA

No.UPLOK-2/DE.516/2015/ARE-14

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001.
Dated 06.11.2020.

RECOMMENDATION

Sub:- Departmental inquiry against Sri S.M.Kotraswamy, First Division Accounts Assistant, Panchayath Raj Engineering Division, Davanagere - reg.

- Ref:- 1) Government Order No.FD 336 SA 2015 dated 26.10.2015.
2) Nomination order No. UPLOK-2/DE.516/2015 dated 06.11.2015 of Upalokayukta, State of Karnataka.
3) Inquiry report dated 27.10.2020 of Additional Registrar of Enquiries-14, Karnataka Lokayukta, Bengaluru.

The Government by its order dated 26.10.2015 initiated the disciplinary proceedings against Sri S.M.Kotraswamy, First Division Accounts Assistant, Panchayath Raj Engineering Division, Davanagere, [hereinafter referred to as Delinquent Government Official, for short as 'DGO'] and entrusted the departmental inquiry to this Institution.

2. This Institution by Nomination Order No. UPLOK-2/DE.516/2015 dated 06.11.2015 nominated Additional Registrar of Enquiries-1, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct departmental inquiry against DGO for the alleged charge of misconduct, said to have been committed by him. 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 DGO.

3. The DGO Sri S.M.Kotraswamy, First Division Accounts Assistant, Panchayath Raj Engineering Division, Davanagere, was tried for the following charges:-

“While you DGO working as First Division Accounts Assistant, Panchayath Raj Engineering Division, Davanagere District demanded illegal gratification of Rs.35,000/- from Sri B.T.Srinivas S/o Thimmappa, Class-III Civil Contractor, Devanahalli Village, Channagiri Taluk, Davanagere District, when the complainant approached you for preparing bill for payment of amount due in respect of the work executed as contractor in Garaga-Gullahalli, Harishinaghatta and other villages for providing drinking water in the schools and again

on 28/08/2014 at Panchayathraj Engineering division Office, Davanagere when Lokayukta police laid a trap again you demanded and voluntarily accepted Rs.35,000/- from Sri B.T.Srinivas to attend to prepare bill in respect of the work executed by him and you were trapped by Lokayukta Police and caught red handed while accepting illegal gratification from the complainant and therefore you the DGO has 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 misconduct defined under Rule 3(1)(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 Sri S.M.Kotraswamy, First Division Accounts Assistant, Panchayath Raj Engineering Division, Davanagere, is 'proved'.

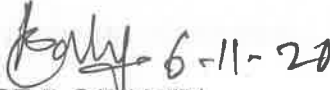
5. On re-consideration of report of inquiry and all other materials on record, I do not find any reason to interfere with the findings recorded by the Inquiry Officer. Therefore, it is hereby recommended to the Government to accept the report of Inquiry Officer.

6. As per the First Oral Statement of DGO recorded by the Enquiry Officer, DGO is due for retirement on 31.03.2042. Further, the records reveal that the DGO has joined service on 04.09.2003.

7. Having regard to the nature and gravity of the misconduct (demand and acceptance of bribe) proved against the DGO Sri S.M.Kotraswamy, First Division Accounts Assistant, Panchayath Raj Engineering Division, Davanagere, and considering the totality of circumstances, it is hereby recommended to the Government to impose penalty of *'compulsory retirement from service on DGO Sri S.M.Kotraswamy.*

8. 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*