

KARNATAKA LOKAYUKTA

No.UPLOK-2/DE/522/2017/ARE-13

M.S. Building,
Dr.B.R. Ambedkar Road,
Bangalore-56001
Date: 20/02/2019.**:: ENQUIRY REPORT ::**

Sub:- Departmental enquiry against
Sri.B. Gangadhar, Panchayath Development
Officer, Kuruvatthi Grama Panchayath,
Hadagali Taluk, Bellary District-reg.

Ref :- 1) Report u/s 12(3) of the K.L Act, 1984 in
Compt/Uplok/GLB-2778/2014/DRE-5,
Dtd.28/02/2017.
2) Govt Order No. ಗೃಹಪ/232/ಗೃಪಂಕಾ/2017,
Bengaluru dated:30/03/2017.
3) Nomination Order No.UPLOK-2/DE/
522/2017, Bengaluru, Dated :11/04/2017
of the Hon'ble Upalokayukta-2.

1. This departmental enquiry is directed against Sri.B. Gangadhar, Panchayath Development Officer, Kuruvatthi Grama Panchayath, Hadagali Taluk, Bellary District (herein after referred to as the Delinquent Government Official in short "DGO" respectively).
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-2, vide order dated 11/04/2017 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 enquiry against the aforesaid DGO. Additional Registrar Enquires-4 prepared Articles of Charges, 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 DGO calling upon them to appear before this Authority and to submit written statement of their defence.
4. As per order of Hon'ble Uplok-1 & 2/DE/Tranfers/2018 of Registrar, Karnataka Lokayukta Dated 06/08/2018 this enquiry file is transferred from ARE-4 to ARE-13.
5. The Article of Charges framed by ARE-4 against the DGO is as below:

ಅನುಬಂಧ-1
ದೋಷಾರೋಪಣೆ

6. ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ/ಶ್ರೀ.ಜಿ. ಗಂಗಾಧರ, ಗ್ರಾಮ ಪಂಚಾಯತಿ ಅಭಿವೃದ್ಧಿ ಅಧಿಕಾರಿ, ಕುರುವತ್ತಿ ಗ್ರಾಮ ಪಂಚಾಯತಿ, ಹಡಗಲ ತಾಲ್ಲೂಕು, ಬಳ್ಳಾರಿ ಜಿಲ್ಲೆ, ಆದ ನೀವು 2012 ಭುಜಂಗನಗರ ಗ್ರಾಮ ಪಂಚಾಯತಿಯಲ್ಲಿ ಕಾರ್ಯನಿರ್ವಹಿಸುತ್ತಿದ್ದಾಗ ವಾರ್ಡ್ ನಂ.1 ರ ಆಸ್ತಿ ನಂ.279/ಎ ಫಿಯಾದಿ ಮೂಲೆಮನೆ ಬಸಪ್ಪ ರವರ ತಾತ ಮೂಲೆ ಮನೆ ಸಿದ್ಧಪ್ಪ ನವರ ಹೆಸರಿನಲ್ಲಿದ್ದರೂ ಅವರ ವಾರಸುದಾರರ ಬಗ್ಗೆ ತಪಾಸಣೆ ಮಾಡದೇ ಕೇವಲ ನೋಂದಣಿ ರಹಿತ ಉರ್ಜಿತವಲ್ಲದ ದಾಖಲೆಗಳ ಆಧಾರದ ಮೇಲೆ

ನಿಯಮಗಳನ್ನು ಪಾಲನದೇ ಠರಾವನ್ನು ಸೃಷ್ಟಿಸಿ, ಶ್ರೀ ಮಂಜುನಾಥ ರವರ ಹೆಸರಿಗೆ ಹಕ್ಕು ಬದಲಾವಣೆ ಮಾಡಿ ಕರ್ತವ್ಯ ಲೋಪವೆಸಗಿರುತ್ತೀರಿ. ನೀವು ಸರ್ಕಾರಿ ಸೇವಕರಾಗಿದ್ದು, ನಿಮ್ಮ ಕರ್ತವ್ಯ ಪಾಲನೆಯಲ್ಲಿ ಪರಿಪೂರ್ಣ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ತೋರಿಸದೆ, ಸಾರ್ವಜನಿಕ ಸೇವೆಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡಿದ್ದು, ಕರ್ನಾಟಕ ಸರ್ಕಾರಿ ಸೇವಾ (ಸದ್ವರ್ತನೆ) ನಿಯಮಾವಳಿ 1966 ರ 3(i) ರಿಂದ (iii) ನೇ ನಿಬಂಧನೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿ ದುರ್ನಡತೆ ಎಸಗಿದ್ದು, ಈ ವಿಚಾರಣಾ ಪ್ರಾಧಿಕಾರದ ಮುಂದೆ ವಿಚಾರಣೆಗೊಳಪಡುತ್ತೀರೆಂದು ಈ ದೋಷಾರೋಪಣೆ.

ಅನುಬಂಧ -2

ದೋಷಾರೋಪಣೆಯ ವಿವರ

(ಸ್ಟೇಟ್‌ಮೆಂಟ್ ಆಫ್ ಇಂಪ್ಯೂಟೇಷನ್ ಆಫ್ ಮಿಸ್ ಕಾಂಡೆಕ್ಟ್)

7. ಮೂಲೆ ಮನೆ ಬಸಪ್ಪ, ತಂದೆ ದಿ: ಮೂಲೆಮನೆ ಉಜ್ಜಪ್ಪ, 01ನೇ ವಾರ್ಡ್ ಭುಜಂಗನಗರ ಪೋ., ಸಂಡೂರು ತಾಲ್ಲೂಕು, ಬಳ್ಳಾರಿ ಜಿಲ್ಲೆ (ಇನ್ನು ಮುಂದೆ "ದೂರುದಾರರು" ಎಂದು ಸಂಬೋಧಿಸಲಾಗುವ) ರವರು ದೂರನ್ನು ಈ ಸಂಸ್ಥೆಗೆ ಸಲ್ಲಿಸಿದ ಮೇರೆಗೆ ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯಿದೆ 1984 ರ ಕಲಂ 9 ರಡಿಯಲ್ಲಿ ತನಿಖೆಗೆ ತೆಗೆದುಕೊಂಡಿದ್ದಿದೆ.

8. ದೂರಿನ ಸಂಕ್ಷಿಪ್ತ ವಿವರಣೆ:-

ದೂರುದಾರರು ಅವರ ದೂರಿನಲ್ಲಿ ಭುಜಂಗನಗರ ಗ್ರಾಮ ಪಂಚಾಯತ್ರಿ ವ್ಯಾಪ್ತಿಯಲ್ಲಿ ಬರುವ ವಾರ್ಡ್ ನಂ.1 ರಲ್ಲಿರುವ ಆಸ್ತಿ ನಂ.279/ಎ ಇದು ಫಿರ್ಯಾದುದಾರರ ತಾತ ಮೂಲೆ ಮನೆ ಸಿದ್ಧಪ್ಪ ಇವರ ಹೆಸರಿನಲ್ಲಿತ್ತು. ಫಿರ್ಯಾದುದಾರರ ಭಾಗಕ್ಕೆ ಬಂದ ಮನೆ ಅವರ ಹೆಂಡತಿ ಪಾರ್ವತಮ್ಮನ ಹೆಸರಿನಲ್ಲಿತ್ತು. ಅವರ ಅಣ್ಣ ಮರಳಪ್ಪನ ಪಾಲನ ಜಾಗವನ್ನು ಅವರೇ ಖರೀದಿ ಮಾಡಿದ್ದು, ಆದರೆ ಯಾವುದೇ ದಾಖಲೆ ಬರೆದುಕೊಟ್ಟಿರಲಿಲ್ಲ. ಅವರ ಮಗ ಮಂಜುನಾಥ 20 ರೂಗಳ ಸ್ಟ್ಯಾಂಪ್ ಪೇಪರ್ ಮೇಲೆ ಸ್ಥಿರಾಸ್ತಿ ಹಕ್ಕು ಪತ್ರಗಳನ್ನು ಸೃಷ್ಟಿ ಮಾಡಿಕೊಂಡಿದ್ದಲ್ಲದೇ 50 ರೂಗಳ ಸ್ಟ್ಯಾಂಪ್ ಮೇಲೆ ಅವರ ಹೆಂಡತಿ ಪಾರ್ವತಮ್ಮ ಉಚಿತಾರ್ಥ ದಾನ ಪತ್ರವನ್ನು ಬರೆದುಕೊಟ್ಟಿದ್ದಾರೆಂದು ದಾಖಲೆ ಸೃಷ್ಟಿ ಮಾಡಿ ನೋಂದಣಿಯಾಗದೇ ಇರುವ ದಸ್ತಾವೇಜಿನ ಆಧಾರದ ಮೇಲೆ ಹಕ್ಕು ಬದಲಾವಣೆ ಮಾಡಿಸಿಕೊಂಡಿದ್ದಾನೆ. ಸರ್ಕಾರಿ ಯೋಜನೆಯಲ್ಲಿ ನಿನ್ನ ಹೆಂಡತಿಗೆ ಮನೆ ನಿರ್ಮಿಸಲು ದುಡ್ಡು ಕೊಟ್ಟಿದ್ದೇವೆ. ಅದಕ್ಕೆ ಒಪ್ಪಿಗೆ ಸಹಿ ಬೇಕಾಗಿದೆ ಅಂತ ಹೇಳಿ ಗ್ರಾಮ

ಪಂಚಾಯ್ತಿಯಲ್ಲಿ ಅವರ ಸಹಿ ತೆಗೆದುಕೊಂಡಿದ್ದಾರೆ. ಆದ್ದರಿಂದ, ನಿಮ್ಮ-ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರ ಮೇಲೆ ಕಾನೂನು ಕ್ರಮ ಕೈಗೊಳ್ಳಲು ಕೋರಿದ್ದರು.

9. ಈ ದೂರಿನ ತನಿಖೆಗೆ ತೆಗೆದುಕೊಂಡು ನಿಮ್ಮಿಂದ-ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಿಂದ ಆಕ್ಷೇಪಣೆಗಳನ್ನು ಕೇಳಲಾಗಿ ನೀವು ನಿಮ್ಮ ಆಕ್ಷೇಪಣೆಯಲ್ಲಿ ದಿನಾಂಕ 23/04/2012 ರಲ್ಲಿ ಎಸ್.ಹೆಚ್. ತಾಯಪ್ಪ ಇವರ ಅಧ್ಯಕ್ಷತೆಯಲ್ಲಿ ಸಾಮಾನ್ಯ ಸಭೆ ನಡೆದಿದ್ದು, ಶ್ರೀಮತಿ ಪಾರ್ವತಮ್ಮ ಮತ್ತು ಅವರ ಮಗ ಮಂಜುನಾಥ ರವರು ಹಾಜರಿರುವಾಗ ವಸತಿ ಯೋಜನೆಯಡಿಯಲ್ಲಿ ನಿರ್ಮಿಸಿಕೊಂಡಿರುವ ಮನೆಯನ್ನು ಮಗನ ಹೆಸರಿಗೆ ದಾನ ಪತ್ರ ಮಾಡಿ ತನ್ನ ಮಗನಿಗೆ ಕೊಟ್ಟಿದ್ದೇನೆ ಅಂತ ಹೇಳಿದರೂ, ನನ್ನ ಗಂಡ ಮೂಲೆ ಮನೆ ಬಸಪ್ಪ ಬೇಜವಾಬ್ದಾರಿ ಮನುಷ್ಯನಾಗಿದ್ದು, ನನ್ನನ್ನು ಮತ್ತು ಮಕ್ಕಳನ್ನು ಪೋಷಿಸುತ್ತಿಲ್ಲ ಅಂತ ಹೇಳಿದರು. ಪಂಚಾಯ್ತಿಯ ಮುಂದೆ ದೂರುದಾರರು ತನ್ನ ಹೆಂಡತಿಗೆ ಹೊಡೆಯಲು ಹೋಗಿದ್ದರು. ಆಡಳಿತ ಮಂಡಳಿಯು ಇದನ್ನು ಆಕ್ಷೇಪಿಸಿತು. ನಂತರ 7 ದಿನಗಳು ನೋಟೀಸು ಜಾರಿ ಮಾಡಿ ಯಾವುದೇ ತಕರಾರುಗಳು ಬರದೇ ಇದ್ದುದರಿಂದ ಮಂಜುನಾಥ ಇವರ ಹೆಸರಿನಲ್ಲಿ ಹಕ್ಕು ಬದಲಾವಣೆಯಾಗಿದೆ. ಆದ್ದರಿಂದ ದೂರನ್ನು ಕೈ ಬಿಡುವಂತೆ ಕೋರಿರುತ್ತೀರಿ.

10. ಈ ಪ್ರಕರಣದ ಸಂಪೂರ್ಣ ಕಡತವನ್ನು ಪರಿಶೀಲಿಸಲಾಗಿ, ಗ್ರಾಮ ಪಂಚಾಯ್ತಿಯಿಂದ ಖಾತಾ ಬದಲಾವಣೆ ಯಾವ ಆಧಾರದ ಮೇಲೆ ಆಗಿದೆ. ನೋಂದಾಯಿತವಲ್ಲದ ದಸ್ತಾವೇಜಿನ ಮೇಲೆ ಹೇಗೆ ಆಯಿತು ಎನ್ನುವ ಬಗ್ಗೆ ವರದಿ ತರಿಸಲು ಆದೇಶಿಸಿದ್ದು, ಈ ಬಗ್ಗೆ ಪಂಚಾಯ್ತಿ ಅಭಿವೃದ್ಧಿ ಅಧಿಕಾರಿಗಳಿಂದ ದಾಖಲೆಗಳನ್ನು ಪಡೆದುಕೊಳ್ಳಲಾಗಿ, ದಾಖಲೆಗಳನ್ನು ಪರಿಶೀಲಿಸಿದ ನಂತರ ಇ.ಒ., ಟಿ.ಪಿ., ಸಂಡೂರು ಇವರಿಗೆ ತನಿಖೆಗೆ ವಹಿಸಲಾಗಿತ್ತು.

11. ಈ ಬಗ್ಗೆ ಇ.ಒ., ಭುಜಂಗನಗರ ಗ್ರಾಮ ಪಂಚಾಯ್ತಿಯ ನೋಡಲ್ ಅಧಿಕಾರಿಗಳು (ಸಹಾಯಕ ನಿರ್ದೇಶಕರು, ಸಮಾಜ ಕಲ್ಯಾಣ ಇಲಾಖೆ, ಸಂಡೂರು) ಅವರು ಪರಿಶೀಲಿಸಿ, ಮೂಲೆ ಮನೆ ಬಸಪ್ಪ ಇವರಿಗೆ 7 ಜನ ಮಕ್ಕಳಿದ್ದಾರೆ. ಉಳಿದ 6 ಮಕ್ಕಳ ಅನುಮತಿಯನ್ನು ಪಡೆದಿಲ್ಲ. ದಿನಾಂಕ:29/03/2012 ರಂದು ಮಂಜುನಾಥ ಎನ್ನುವ ಹಿರಿಯ ಮಗ ಖಾತೆ ಬದಲಾವಣೆಗೆ ಅರ್ಜಿ ಸಲ್ಲಿಸಿದ್ದರು. ದಿನಾಂಕ 23/04/2012 ರಂದು ಗ್ರಾಮ ಪಂಚಾಯ್ತಿಯ ಕಾರ್ಯಾಲಯದಲ್ಲಿ ಸಾಮಾನ್ಯ ಸಭೆ ನಡೆದಿದ್ದು, ಠರಾವು ಪುಸ್ತಕದಲ್ಲಿ ಈ

ವಿಷಯ ನಮೂದಿಸುವಾಗ ಕ್ರಮ ಸಂ.3 ರ ನಂತರ 4 ಎಂದು ನಮೂದಿಸಬೇಕಾದ ಸ್ಥಳದಲ್ಲಿ ಒಂದು ಲೇಖನಿಯಿಂದ 3ಎ ಎಂದು ಬರೆದು ಮತ್ತೊಂದು ಲೇಖನಿಯಿಂದ ಠರಾವು ಬರೆಯಲಾಗಿದೆ ಎಂದು ವರದಿ ಸಲ್ಲಿಸಿದ್ದರು.

12. ಈ ಠರಾವು ಪುಸ್ತಕದ ಪ್ರತಿಯನ್ನು ಗಮನಿಸಲಾಗಿ, ಸ್ಥಳಾವಕಾಶ ಕಡಿಮೆ ಇದ್ದುದರಿಂದ ಚಿಕ್ಕದಾಗಿ ಬರೆದು ಮಧ್ಯದಲ್ಲಿ ಠರಾವು ಸೇರಿಸಿರುವಂತೆ ತೋರುತ್ತದೆ. ಇದೂ ಇಲ್ಲದೇ, ಆ ಸಮಯದಲ್ಲಿ ಪಿ.ಡಿ.ಓ., ಸಭೆಗೆ ನೋಂದಾಯಿತವಲ್ಲದ ದಸ್ತಾವೇಜುಗಳನ್ನು ಹಾಜರುಪಡಿಸಲಾಗಿದೆ. ಸದರಿ ನೋಂದಾಯಿತವಲ್ಲದ ದಸ್ತಾವೇಜುಗಳ ಆಧಾರದ ಮೇಲೆ ಆ ರೀತಿ ಹಕ್ಕು ಬದಲಾವಣೆ ಮಾಡಲು ಬರುವುದಿಲ್ಲವೆಂದು ಕಾನೂನಿನ ಅಂಶವನ್ನೂ ಸಭೆಗೆ ತಿಳಿಸಿಲ್ಲ. ಆದ್ದರಿಂದ ನೀವು-ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಕರ್ತವ್ಯ ಲೋಪವನ್ನು ಎಸಗಿದ್ದಾರೆನ್ನಲು ಸಾಕಷ್ಟು ಆಧಾರಗಳಿವೆ.

13. ಮೇಲ್ಕಂಡ ಅಂಶಗಳು, ಕಡತದ ಸಂಗತಿಗಳು ಹಾಗೂ ದಾಖಲಾತಿಗಳನ್ನು, ತನಿಖಾಧಿಕಾರಿಗಳ ವರದಿ, ನಿಮ್ಮ-ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರ ಆಕ್ಷೇಪಣೆಗಳನ್ನು ಕೂಲಂಕಷವಾಗಿ ಪರಿಶೀಲಿಸಿದಾಗ, ಸದರಿ ನಿಮ್ಮ-ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ವಿರುದ್ಧ ನಡವಳಿಯನ್ನು ಕೈ ಬಿಡಲು ಸೂಕ್ತ/ಸಮಂಜಸ/ಸಮಾಧಾನಕರ ಕಾರಣ ತೋರಿಸಿಲ್ಲವೆಂಬ ಅಭಿಪ್ರಾಯಕ್ಕೆ ಬರಲಾಗಿದೆ.

14. ಕಡತದಲ್ಲಿಯ ಸಂಗತಿಗಳು ಹಾಗೂ ದಾಖಲಾತಿಗಳಿಂದ, ನಿಮ್ಮ/ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಸರ್ಕಾರಿ/ಸಾರ್ವಜನಿಕ ನೌಕರರಾಗಿ ಪರಿಪೂರ್ಣ ಪ್ರಾಮಾಣಿಕತೆ, ಸಂಪೂರ್ಣ ಕರ್ತವ್ಯ ನಿಷ್ಠತೆ ಮತ್ತು ಸರ್ಕಾರಿ ಸೇವಕರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡ ದುರ್ವರ್ತನೆ/ದುರ್ನಡತೆ ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡು ಬರುತ್ತದೆ.

15. ಈ ಮೇಲ್ಕಂಡ ಕಾರಣಗಳಿಂದಾಗಿ, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನಿಮ್ಮ ವಿರುದ್ಧ ಇಲಾಖಾ ವಿಚಾರಣೆ ನಡೆಸುವ ಸಂಬಂಧ ಮುಂದುವರೆಯುವುದು ಅಗತ್ಯ ಎಂದು ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡುಬಂದಿದ್ದು, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನೀವು ಸರ್ಕಾರಿ ಸೇವಕರಾಗಿದ್ದು, ನಿಮ್ಮ ಕರ್ತವ್ಯ ಪಾಲನೆಯಲ್ಲಿ ಪರಿಪೂರ್ಣ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ತೋರಿಸದೇ ಮತ್ತು ಸಾರ್ವಜನಿಕ ಸೇವಕರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡಿರುವುದು ವೇದ್ಯವಾಗುತ್ತದೆ. ಆದುದರಿಂದ, ಮೇಲಿನ ಕಾರಣ ಹಾಗೂ ಕಡತದಲ್ಲಿನ ಸಾಕ್ಷ್ಯದ

ಆಧಾರಗಳಿಂದ ನೀವು ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವಾ (ನಡತೆ) ನಿಯಮಗಳು, 1966 ರ 3(1)(i) ರಿಂದ (iii) ರಲ್ಲಿ ಹೇಳಿದಂತೆ ದುರ್ನಡತೆ/ದುವರ್ತನೆಯಿಂದ ವರ್ತಿಸಿ ಶಿಸ್ತು ಕ್ರಮಕ್ಕೆ ಬಾಧ್ಯರಾಗಿದ್ದಾರೆಂದು ಕಂಡುಬಂದಿದ್ದರಿಂದ, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯ್ದೆಯ ಕಲಂ 12(3) ರಡಿಯಲ್ಲಿ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರದಡಿಯಲ್ಲಿ, ನಿಮ್ಮ ವಿರುದ್ಧ ಶಿಸ್ತು ನಡವಳಿಕೆ ಹೂಡಲು ಮತ್ತು ಹಾಗೆಯೇ ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವಾ (ವರ್ಗೀಕರಣ, ನಿರ್ಬಂಧ ಮತ್ತು ಮೇಲ್ಮನವಿ) ನಿಯಮಗಳು, 1957 ರ ನಿಯಮ 14-ಎ ಅಡಿಯಲ್ಲಿ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರ ವಿರುದ್ಧ ಇಲಾಖಾ ವಿಚಾರಣೆಗೆ ಶಿಫಾರಸ್ಸು ಮಾಡಲಾಗಿ, ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರವು ಉಲ್ಲೇಖ ಒಂದರಂತೆ ಈ ಸಂಸ್ಥೆಯಿಂದ ವಿಚಾರಣೆ ಮಾಡಲು ಕೋರಲಾಗಿರುವ ಕಾರಣ ನಿಮ್ಮ ವಿರುದ್ಧ ಈ ಆಪಾದನೆ.

16. DGO appeared before this Enquiry Authority on 22/07/2017 and on 22/07/2017 his First Oral Statement was recorded U/Rule 11(9) of KCS (CC &A) Rules 1957. The DGO pleaded not guilty and claimed to hold an enquiry. Subsequently the DGO has filed his written statement of defence by denying the articles of charge and statement of imputations contending that, there is no such evidence to prove that he has committed misconduct U/Rule 3(1) of KCS (Conduct) Rules, 1966. Accordingly prayed to exonerate him from the charges framed in this case.

17. In order to substantiate the charge, the Disciplinary Authority examined three witness as PW-1 to PW-3 and got marked documents at Ex.P1 to P-14 and closed the evidence.

18. After closing the case of the Disciplinary Authority, the Second Oral Statement of DGO was recorded as required U/Rule 11 (16) of

KCS (CC & A) Rules, 1957 and wherein he has submitted that, the witnesses have deposed falsely against him. The DGO did not lead any evidence. Hence the questionnaire of the DGO as required U/Rule 11(18) of KCS (CC & A) Rules, 1957 was recorded.

19. When the case was posted for submission of written brief, the DGO submitted written brief and in addition the arguments submitted by him was heard and Presenting Officer also submitted his oral arguments.

20. Upon consideration of the charge leveled against the DGO, the evidence led by the Disciplinary Authority and DGO by way of oral and documentary evidence and their written brief/submissions, the only point that arises for my consideration is as under:

Whether the Disciplinary Authority has satisfactorily proved that, while the DGO Sri. B. Gangadhar who was working as Panchayath Development Officer of Bhujanganagar Grama Panchayath, in the year 2012 had illegally mutated the name of the son of complainant by name Sri. Manjunath to the property bearing No.279/A of Ward No.1 on the basis of an

unregistered gift deed purported to be executed by the wife of complainant by name Smt. Basamma, without following the due procedure of issuing notice to all the legal heirs and therefore 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 DGO is guilty of mis-conduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966.

21. My finding on the above point is held in “**Affirmative**” for the following:

:: REASONS ::

22. **Point No-1:-** The case of the Disciplinary Authority in brief is that,

The complainant by name Sri. Mule Mane Basappa has been examined has PW-1. He has reiterated the facts stated, in the complaint. He states that, he is the permanent resident of Bhujanganagar Village of Sandur taluka. He owns ten cents of

ancestor property, which he has inherited from his father. He states that, he has four daughters and three sons. He eldest son Manjappa has created bogus documents and he has got transferred the house property standing in the name of his wife. The DGO has mutated the name of his eldest son illegally on the basis of unregistered gift deed. He further states that, his wife is an illiterate and she cannot sign. She affixes thumb impression. The complainant further states that, the DGO has colluded with his eldest son and illegally transferred the house property in the name of his son.

23. PW-1 has produced the following documents.

Ex.P-1 is the complaint. Ex.P-2 and P-3 are the Form No-1 and 2. Ex.P-4 consists of ten Xerox sheets and it includes unregistered gift deed executed by Smt. M. Parvathamma in favour of her son M. Manjunath.

24. Ex.P-4 is the Xerox copy of election identity card of complainant. On perusal of this document it is observed that, the complainant is permanent resident of Bhujanganagara, Sandur District Bellary. Ex.P-5 are the comments of DGO to the complaint of complainant. It also consists of Xerox copies of documents i.e. application allotment letter, gift deed, resolution of Panchayath, tax paid receipt and D.C.B Register.

25. Ex.P-6 is the rejoinder of the complainant to the comments of DGO. Ex.P-7 consists of 5 pages consisting of Xerox copies of unregistered gift deed, allotment letter, Death Certificate of Smt. Parvathamma etc.,

26. PW-2 G.M. Annadhanaswamy is the Executive Officer, Taluka Panchayath Sandur. He states that, since 16/6/2016 he is working as Executive Officer Taluka Panchayath Sandur. He further states that, on 20/06/2016 he received a letter from the office of Hon'ble Lokayukta along with the complaint of Mule Mane Basappa. He was directed to investigate into the matter of transferring the house property bearing No.279/A (revised No.1078/A) of Ward No-1 of Bhujanganagara, which was standing in the name of Smt. Parvathamma. It was alleged in the complaint that, even though the gift deed was unregistered, the DGO had illegally changed the khatha in favour of Sri. Manjunath. He further states that, the Hon'ble Lokayukta had directed him to investigate in the matter and submit a report. He has further stated that, he appointed PW-3 Venkatesh N.K the Assistant Director of Social Welfare Department, Sandur, to investigate and submit a report. PW-2 further states that, the I.O has visited the Bhujanganagara grama panchayath Office, 02/09/2016 and he has submitted the report on 15/09/2016.

27. PW-2 has produced the following documents. Ex.P-8 is the letter addressed by the Taluka Executive Officer, Taluk Panchayath, Sandur dated 16/09/2016 to this office along with the report of the I.O. Ex.P-9 is the report of the PW-3/I.O/Assistant Director, Social Welfare Department, Sandur Dated 15/09/2016.

28. PW-3 Mr. Venkatesh N.K is the Assistant Director, Social Welfare Department, Sandur and the investigation officer of this case appointed by the Executive Officer, taluka panchayath Sandur. PW-3 states that, since 10 years he is working in Social Welfare Department of Sandur. On 26/07/2016 he received a letter from Executive Officer, taluka panchayath Sandur to investigate into the complaint of Mule Mane Basappa of Bhujanganagara Village. PW-3 further states that, on 02/09/2016 he visited the Bhujanganagara Grama Panchayath Office. At that time the complainant and the Secretary of the Grama Panchayath were present. He further states that, in the year 2007-08 the wife of complainant Smt. Parvathamma was allotted a house and to the said application she had affixed the thumb impression. He has produced a Xerox copy of the application which is at Ex.P-10. On perusal of this document it is observed that, the beneficiary Smt. Parvathamma has affixed her LTM to the application. He states that, when he verified the resolution book of Bhujanganagara Grama Panchayath, he found that, the resolution dated 23/4/2012 appeared to be suspicious and it was written in two different inks. He has produced the Xerox copy

of the resolution which is at Ex.P-11. PW-3 further states that, in the unregistered gift deed the said Smt. Parvathamma is shown to have signed the document. He has produced the following documents. They are, Ex.P-12 is the Xerox copy of R of R of R.S. No.55/3P/3 of Bhujanganagar Village. On perusal of this document the land is standing in the name of complainant Mule Mane Basappa.

29. Ex.P-13 is the Xerox copy of Death Certificate of Smt. Parvathamma. On perusal of this document it is observed that, the wife of complainant Smt. Parvathamma has expired on 21/02/2013. Ex.P-14 are the Xerox copies of 2 photographs taken by the I.O/PW-3 at the time of investigation.

30. PW-1 and 3 have been cross examined by the Advocate for DGO. PW-2 has not been cross examined. The Advocate for DGO submitted that he has no cross examination of PW-2.

31. The DGO has not led any evidence on his behalf. Hence the questionnaire of the DGO was recorded. The advocate for DGO has submitted his written submissions. The Learned Presenting Officer has submitted his oral arguments.

32. The Learned Presenting Officer has canvassed his arguments that, the DGO had no power to mutate the name of Sri. Manjunath

on the basis of unregistered gift deed. He has colluded with the son of complainant and illegally he has mutated the name of Sri. Manjunath.

33. On the other hand the Advocate for DGO has canvassed his arguments that, the mutation is only for purpose of collecting taxes to the Grama Panchayath and it is not for change of title of the immovable property.

34. I have carefully gone through the oral and documentary evidence adduced by the Disciplinary Authority. The complainant Mr. Mule Mane Bassappa has lodged a complaint that, the DGO has colluded with his eldest son Mr. Manjunath and the DGO Sri. B. Gangadhar who was working as Panchayath Development Officer of Bhujanganagar Grama Panchayath, in the year 2012 had illegally mutated the name of the son of complainant by name Sri. Manjunath to the property bearing No.279/A of Ward No.1 on the basis of an unregistered gift deed purported to be executed by the wife of complainant by name Smt. Basamma without following the due procedure of issuing notice to all the legal heirs.

35. On perusal of the document at Ex.P-4, it is observed that, it is an unregistered gift deed dated 27/03/2012 purported to be executed by Smt.M. Parvathamma in favour of his eldest son by name Sri. M. Manjunath. She has gifted her immovable property i.e

house property No.1078/A (old no. 279/A) of Ward No.1 of Bhujanganagar Village. However, the said gift deed is unregistered document and immovable property worth more than Rs.100 cannot be transferred without a registered document. On perusal of the resolution of Bhujanganagar Grama Panchayath dated 23/4/2012, the DGO has based upon the unregistered gift deed transferred the house property in the name of Sri.M. Manjunath.

36. I would like to refer to Sec 17 of the Registration Act, it reads as follows:

Section 17 in The Registration Act, 1908.

17 Documents of which registration is compulsory.—

(1) The following documents shall be registered, if the property to which they relate is situate in a district in which, and if they have been executed on or after the date on which, Act No. XVI of 1864, or the Indian Registration Act, 1866, or the Indian Registration Act, 1871, or the Indian Registration Act, 1877, or this Act came or comes into force, namely:—

(a) instruments of gift of immovable property;

(b) other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immovable property;

(c) non-testamentary instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest; and

(d) leases of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent;

²⁴ ***[(e) non-testamentary instruments transferring or assigning any decree or order of a Court or any award when such decree or order or award purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or***

interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immovable property:] Provided that the²⁵[State Government] may, by order published in the²⁶ [Official Gazette], exempt from the operation of this sub-section any lease executed in any district, or part of a district, the terms granted by which do not exceed five years and the annual rents reserved by which do not exceed fifty rupees.

²⁷ [(1A) The documents containing contracts to transfer for consideration, any immovable property for the purpose of section 53A of the Transfer of Property Act, 1882 (4 of 1882) shall be registered if they have been executed on or after the commencement of the Registration and Other Related laws (Amendment) Act, 2001 and if such documents are not registered on or after such commencement, then, they shall have no effect for the purposes of the said section 53A.]

37. As per section 17 of the Registration Act, any immovable property worth more than 100 Rupees can be transferred only on

the basis of registered document. However, on perusal of Ex.P-11 resolution of Bhujanganagara Grama Panchayath dated 23/04/2012, it is observed that, the DGO has illegally transferred the property on the basis of unregistered gift deed, which is not at all permissible under law.

38. The Advocate for DGO has tried to canvass his arguments that, the mutation is only for the purpose of collecting taxes to the Grama Panchayath and it does not amount to transfer of title. However, this contention of the Advocate for DGO cannot be accepted. The DGO based upon unregistered gift deed has actually transferred the house property in the name of Mr. Manjunath. It amounts to transfer of title. The DGO has committed illegality by not following the provisions of Section 17 of the Registration Act.

39. The I.O/PW-3 has conducted the investigation and he has submitted the report which is at Ex.P-9. On Perusal of the report, it is observed that, the I.O has verified the resolution and he has found the document has been written in two inks and the writings appeared to be suspicious. The report of the PW-3 further corroborates the evidence of complainant and PW-2.

40. On careful perusal of the oral and documentary evidence adduced by the Disciplinary Authority, I am of the opinion that, the DGO has committed illegality by changing the khatha of house

property No. 1078/A(old no. 279/A) of Ward No.1 of Bhujanganagar Village, on the basis of unregistered gift deed, which is not at all permissible under law. Hence I am opinion that, DGO has committed misconduct and dereliction of Duty. Therefore for the reasons stated above the DGO, being the Government/Public Servant has failed to maintain absolute integrity besides devotion to duty and acted in a manner unbecoming of Government servant. On appreciation of entire oral and documentary evidence I hold that the charge leveled against the DGO., is established. Hence, I answer point No.1 in the "**Affirmative**".

:: ORDER ::

The Disciplinary Authority has proved the charge against the DGO Sri.B. Gangadhar, Panchayath Development Officer, Kuruvatthi Grama Panchayath, Hadagali Taluk, Bellary District.

41. This report is submitted to Hon'ble Upa-lokayukta-2 in a sealed cover for kind perusal and for further action in the matter.

Dated this the 20th day of February 2019

(Patil MohanKumar Bhimanagouda)
Additional Registrar Enquiries-13
Karnataka Lokayukta
Bangalore

ANNEXURES

Witness examined on behalf of the Disciplinary Authority
PW-1: Sri. Mule Mane Basappa (Original)
PW-2: Sri.J.M. Annadanaswamy (Original)
PW-3: Sri. Venkatesh N.K (Original)
Witness examined on behalf of the Defence
NIL
Documents marked on behalf of the Disciplinary Authority
Ex. P-1: Compliant dated 18/08/2014 (Original)
Ex. P-1(a): Relevant entry in Ex.P-1.
Ex.P-2: Form No.1 dated 16/08/2014 (Original)
Ex. P-2(a) : Relevant entry in Ex.P-2
Ex. P-3: Form No.2 dated 16/08/2014 (Original)
Ex. P-3(a) : Relevant entry in Ex.P-3
Ex. P-4 is the Xerox copy of election identity card of complainant. Page no.52-56 certified copies, page no.57-63 xerox copies
Ex. P-5 are the comments of DGO to the complaint of complainant. Page no.19 is original, page no.65-74 certified copies
Ex. P-6 is the rejoinder of the complainant to the comments of DGO. Page no.75-76 original
Ex.P-7: consists of 5 pages consisting of Xerox copies of un registered gift deed, allotment letter, Death Certificate of Parvathamma etc., page no.77-78 certified copies, page no.79-82 xerox copies
Ex.P-8 is the letter addressed by the Taluka Executive Officer, Taluk Panchayath, Sandur dated 16/09/2016 to this office along with the report of the I.O. Page no.83 original, page no.84 xerox copy.
Ex.P-8(a): Relevant entry in Ex.P-8

Ex.P-9 is the report of the I.O/Assistant Director, Social Welfare Department, Sandur Dated 15/09/2016. Page no.85-86 original, page no.87-88 xerox copies.

Ex.P-9(a): Relevant entry in Ex.P-9

Ex.P-10 is the Xerox copy of application for allotment of site submitted to Rajiv Gandhi Rural Housing Corporation. (Certified Xerox).

Ex.P-11 is the Xerox copy of the resolution of Grama Panchayath Bhujanganagara dated 23/04/2012. (Certified Xerox copies)

Ex.P-12 is the Xerox copy of R of R of R.S. No.55/3P/3 of Bhujanganagara Village (Xerox copy)

Ex.P-13 is the Xerox copy of Death Certificate of Smt. Parvathamma. (Xerox copies)

Ex.P-14 are the Xerox copies of 2 photographs taken by the I.O/PW-3 at the time of investigation. (Xerox copy)

Documents marked on behalf of the DGO

Nil

Dated this the 20th day of February 2019

(Patil MohanKumar Bhimanagouda)

Additional Registrar Enquiries-13

Karnataka Lokayukta

Bangalore



KARNATAKA LOKAYUKTA

No.UPLOK-2/DE/522/2017/ARE-13

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001.
Dated 22.02.2019

RECOMMENDATION

Sub:- Departmental inquiry against Shri B. Gangadhara,
the then Panchayath Development Officer,
Kuruvathi Gram Panchayath, Hadagali Taluk,
Ballari District - reg.

- Ref:- 1) Government Order No. ಗ್ರಾಅಪ/232/ಗ್ರಾಪಂಕಾ/2017
dated 30.03.2017.
2) Nomination order No. UPLOK-2/DE/522/2017
dated 11.04.2017 of Upalokayukta-2, State of
Karnataka.
3) Inquiry report dated 20.02.2019 of Additional
Registrar of Enquiries-13, Karnataka Lokayukta,
Bengaluru.

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The Government by its order dated 30.03.2017 initiated the disciplinary proceedings against Shri B. Gangadhara, the then Panchayath Development Officer, Kuruvathi Gram Panchayath, Hadagali Taluk, Ballari District [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/522/2017 dated 11.04.2017 nominated Additional

Registrar of Enquiries-4, 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 No.UPLOK1&2/DE/Transfer/2018 dated 06.08.2018, Additional Registrar of Enquiries-13, Karnataka Lokayukta, Bengaluru, was re-nominated to continue the said departmental inquiry against the DGO.

3. The DGO - Shri B. Gangadhara, the then Panchayath Development Officer, Kuruvathi Gram Panchayath, Hadagali Taluk, Ballari District was tried for the following charge:-

ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ/ಶ್ರೀ ಬಿ. ಗಂಗಾಧರ, ಗ್ರಾಮ ಪಂಚಾಯತಿ ಅಭಿವೃದ್ಧಿ ಅಧಿಕಾರಿ, ಕುರುವತ್ತಿ ಗ್ರಾಮ ಪಂಚಾಯತಿ, ಹಡಗಲಿ ತಾಲ್ಲೂಕು, ಬಳ್ಳಾರಿ ಜಿಲ್ಲೆ, ಆದ ನೀವು 2012 ಭುಜಂಗನಗರ ಗ್ರಾಮ ಪಂಚಾಯತಿಯಲ್ಲಿ ಕಾರ್ಯನಿರ್ವಹಿಸುತ್ತಿದ್ದಾಗ ವಾರ್ಡ್ ನಂ.1 ರ ಆಸ್ತಿ ನಂ.279/ಎ ಫಿಯಾದಿ ಮೂಲೆಮನೆ ಬಸಪ್ಪ ರವರ ತಾತ ಮೂಲೆ ಮನೆ ಸಿದ್ದಪ್ಪ ನವರ ಹೆಸರಿನಲ್ಲಿದ್ದರೂ ಅವರ ವಾರಸುದಾರರ ಬಗ್ಗೆ ತಪಾಸಣೆ ಮಾಡದೇ ಕೇವಲ ನೋಂದಣಿ ರಹಿತ ಉರ್ಜಿತವಲ್ಲದ ದಾಖಲೆಗಳ ಆಧಾರದ ಮೇಲೆ ನಿಯಮಗಳನ್ನು ಪಾಲಿಸದೇ ತರಾವನ್ನು ಸೃಷ್ಟಿಸಿ, ಶ್ರೀ ಮಂಜುನಾಥ ರವರ ಹೆಸರಿಗೆ ಹಕ್ಕು ಬದಲಾವಣೆ ಮಾಡಿ ಕರ್ತವ್ಯ ಲೋಪವೆಸಗಿರುತ್ತೀರಿ. ನೀವು ಸರ್ಕಾರಿ ಸೇವಕರಾಗಿದ್ದು, ನಿಮ್ಮ ಕರ್ತವ್ಯ ಪಾಲನೆಯಲ್ಲಿ ಪರಿಪೂರ್ಣ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ತೋರಿಸದೆ, ಸಾರ್ವಜನಿಕ ಸೇವೆಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡಿದ್ದು, ಕರ್ನಾಟಕ ಸರ್ಕಾರಿ ಸೇವಾ (ಸದ್ವರ್ತನೆ) ನಿಯಮಾವಳಿ 1966ರ 3(i) ರಿಂದ (iii) ನೇ ನಿಬಂಧನೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿ ದುರ್ನಡತೆ ಎಸಗಿದ್ದು, ಈ

ವಿಚಾರಣಾ ಪ್ರಾಧಿಕಾರದ ಮುಂದೆ ವಿಚಾರಣೆಗೊಳಪಡುತ್ತೀರೆಂದು ಈ ದೋಷಾರೋಪಣೆ.

4. The Inquiry Officer (Additional Registrar of Enquiries-13) on proper appreciation of oral and documentary evidence has held that, the Disciplinary Authority has '*proved*' the above charge against the DGO - Shri B. Gangadhara, the then Panchayath Development Officer, Kuruvathi Gram Panchayath, Hadagali Taluk, 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. Therefore, it is hereby recommended to the Government to accept the report of Inquiry Officer.

6. As per the First Oral Statement of DGO furnished by the Inquiry Officer, DGO - Shri B. Gangadhara is due for retirement on 31.07.2034.

7. Having regard to the nature of charge '*proved*' against DGO - Shri B. Gangadhara, the then Panchayath Development Officer, Kuruvathi Gram Panchayath, Hadagali Taluk, Ballari District, it is hereby recommended to the Government to impose penalty of '*withholding four annual increments payable to DGO - Shri B. Gangadhara with cumulative effect*'.

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

Connected records are enclosed herewith.

  
(JUSTICE N. ANANDA) 22/2  
Upalokayukta,  
State of Karnataka.