

KARNATAKA LOKAYUKTA

No.UPLOK-2/DE/59/2018/ARE-13

M.S. Building,
Dr.B.R. Ambedkar Road,
Bangalore-56001
Date: 31/10/2019.**: Present:****Patil Mohankumar Bhimanagouda**Additional Registrar Enquiries-13,
Karnataka Lokayukta,
Bangalore.**:: ENQUIRY REPORT ::****Sub:-** Departmental Enquiry against,1. Sri K.T. Subrayagowda, Assistant
Executive Engineer and I/c Executive
Engineer, Cauvery Neeravari Nigama
Limited, No.3, HRBC Sub-Division,
Holenarasipura, Hassan District
(now retired).2. Sri Hanumanthappa, Assistant Engineer,
Cauvery Neeravari Nigama Limited, No.3,
HRBC Sub Division, Holenarasipura,
Hassan District.**Ref :-**1) Report u/s 12(3) of the K.L Act, 1984 in
Compt/Uplok/MYS/7624/2015/DRE-5,
Dtd.15/06/2017.2) Govt. Order No. ಜಸಂಇ 125 ಸೇಇವಿ 2017,
Bengaluru, dated:09/10/2017 and its
Corrigendum dated: 03/04/2018.3) Nomination Order No.UPLOK-2/DE/
59/2018, Bengaluru, Dated :
08/02/2018.

1. This departmental enquiry is directed against 1) Sri K.T. Subrayagowda, Assistant Executive Engineer and I/c Executive Engineer, Cauvery Neeravari Nigama Limited, No.3, HRBC Sub-Division, Holenarasipura, Hassan District(now retired) and 2) Sri Hanumanthappa, Assistant Engineer, Cauvery Neeravari Nigama Limited, No.3, HRBC Sub Division, Holenarasipura, Hassan District (herein after referred to as the Delinquent Government Officials in short "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 Upa Lokayukta-2, vide order dated 08/02/2018 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 Articles 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/Transfers/2018 of Registrar, Karnataka Lokayukta Dated 06/08/2018 this enquiry file was transferred from ARE-4 to ARE-13.

5. The Articles of Charges framed by ARE-4 against the DGO is as below:

ಅನುಬಂಧ-1
ದೋಷಾರೋಪಣೆ

6. 1 ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ/1) ಶ್ರೀ ಕೆ.ಟಿ. ಸುಬ್ರಾಯಗೌಡ, ಸಹಾಯಕ ಕಾರ್ಯನಿರ್ವಾಹಕ ಅಭಿಯಂತರರು ಹಾಗೂ ಪ್ರಭಾರ ಕಾರ್ಯನಿರ್ವಾಹಕ ಅಭಿಯಂತರರು, ಕಾವೇರಿ ನೀರಾವರಿ ನಿಗಮ ನಿಯಮಿತ, ನಂ.3, ಹೇಮಾವತಿ ಬಲದಂಡೆ ನಾಲಾ ಉಪ ವಿಭಾಗ, ಹೊಳೆನರಸೀಪುರ, ಹಾಸನ ಜಿಲ್ಲೆ (ಪ್ರಸ್ತುತ ನಿವೃತ್ತ) ಹಾಗೂ 2ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ/ 2) ಶ್ರೀ ಹನುಮಂತಪ್ಪ, ಸಹಾಯಕ ಅಭಿಯಂತರರು, ಕಾವೇರಿ ನೀರಾವರಿ ನಿಗಮ ನಿಯಮಿತ, ನಂ.3, ಹೇಮಾವತಿ ಬಲದಂಡೆ ನಾಲಾ ಉಪ ವಿಭಾಗ, ಹೊಳೆನರಸೀಪುರ, ಹಾಸನ ಜಿಲ್ಲೆ. ಆದ ನೀವುಗಳು ಕಲ್ಲೇನಕೊಪ್ಪಲು ಗ್ರಾಮದ ಹರಿಜನ ಕೇರಿಯ ಸಿ.ಸಿ ಡ್ರೈನೇಜ್ ನಿರ್ಮಾಣ ಕಾಮಗಾರಿ 9.99 ಲಕ್ಷಗಳ ಅಂದಾಜಿಗೆ ಅನುಮೋದನೆಯನ್ನು ನೀಡಲಾಗಿದ್ದು, ಮಂಜೂರಾದ ಅಂದಾಜಿನಲ್ಲಿ ಪರಿಗಣಿಸಿರುವ ಸ್ಥಳಗಳನ್ನು ಹೊರತುಪಡಿಸಿ ಬೇರೆ ಸ್ಥಳಗಳಲ್ಲಿ ಕಾಮಗಾರಿಯನ್ನು ಯಾವುದೇ ಮೇಲಾಧಿಕಾರಿಗಳ ಪೂರ್ವಾನುಮತಿಯಿಲ್ಲದೇ ಮತ್ತು ತ್ರಿಯಾಯೋಜನೆಯ ಅನುಮೋದನೆಯನ್ನು ವ್ಯವಸ್ಥಾಪಕ ನಿರ್ದೇಶಕರ ಷರತ್ತನ್ನು ಉಲ್ಲಂಘಿಸಿ ಕಾಮಗಾರಿಗಳನ್ನು ಕೈಗೊಂಡಿರುವುದು. ಇದೇ ಕಾಲೋನಿಯಲ್ಲಿರುವ ದೇವಸ್ಥಾನದ ಒಳಗೆ ಹಾಗೂ ಹೊರಗೆ ಪೂರ್ವಾನುಮತಿ ಇಲ್ಲದೇ ಕೆಲಸ ಮಾಡಿಸಲಾಗಿರುತ್ತದೆ. ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರದ ಪೂರ್ವಾನುಮತಿ ಇಲ್ಲದೆ ಕಾಮಗಾರಿ ಕೈಗೊಳ್ಳಲು ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರವರಿಗೆ ಅಧಿಕಾರವಿರುವುದಿಲ್ಲ ಮತ್ತು ಕಾಮಗಾರಿಯ ಅನುಷ್ಠಾನದಲ್ಲಿ ಯಾವುದೇ ರೀತಿಯ ಡಿವಿಯೇಷನ್‌ಗೆ ಅವಕಾಶವಿರುವುದಿಲ್ಲ ಮತ್ತು ಬದಲಾದ ಸ್ಥಳದಲ್ಲಿ ಕಾಮಗಾರಿ

ನಿರ್ವಹಿಸಲು ಮೌಖಿಕ ಆದೇಶ ನೀಡಿರುವುದು ತರವಲ್ಲ. ವ್ಯವಸ್ಥಾಪಕ ನಿರ್ದೇಶಕರು ವಿಧಿಸಿರುವ ಷರತ್ತು ಉಲ್ಲಂಘಿಸಿ ನೀವುಗಳು ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಕಾಮಗಾರಿ ಕೈಗೊಂಡಿದ್ದು ಮತ್ತು ದೇವಸ್ಥಾನದ ಸುತ್ತಲು ಸಿಮೆಂಟ್‌ನ್ನು ಹಾಕಿಸಿರುವ ವಿಷಯ ಮತ್ತು 30 ಮೀಟರ್‌ನಷ್ಟು ಹೆಚ್ಚುವರಿ ಚರಂಡಿಯನ್ನು ನಿರ್ಮಿಸಿರುವುದನ್ನು ಸಣ್ಣ-ಪುಟ್ಟ ಬದಲಾವಣೆ ಎಂದು ಒಪ್ಪಿಕೊಳ್ಳಲಾಗುವುದಿಲ್ಲ. ಅದರಂತೆ ನೀವುಗಳು ಸಾರ್ವಜನಿಕ/ಸರ್ಕಾರಿ ಸೇವಕರಾಗಿದ್ದು, ನಿಮ್ಮಗಳ ಕರ್ತವ್ಯ ಪಾಲನೆಯಲ್ಲಿ ಪರಿಪೂರ್ಣ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ತೋರಿಸದೆ, ಸಾರ್ವಜನಿಕ ಸೇವೆಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡು ಕರ್ನಾಟಕ ಸರ್ಕಾರಿ ಸೇವಾ (ಸದ್ವರ್ತನೆ) ನಿಯಮಾವಳಿ 1966 ರ ನಿಯಮ 3(i) ರಿಂದ (iii) ನೇ ನಿಬಂಧನೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿ ದುರ್ನಡತೆ ಎಸಗಿದ್ದು, ಈ ವಿಚಾರಣಾ ಪ್ರಾಧಿಕಾರದ ಮುಂದೆ ವಿಚಾರಣೆಗೊಳಪಡುತ್ತಿರೆಂದು ಈ ದೋಷಾರೋಪಣೆ.

ಅನುಬಂಧ-2

ದೋಷಾರೋಪಣೆಯ ವಿವರ

(ಸ್ಟೇಟ್‌ಮೆಂಟ್ ಆಫ್ ಇಂಪ್ಯೂಟೇಷನ್ ಆಫ್ ಮಿಸ್‌ಕಾಂಡೆಕ್ಟ್)

7. ಶ್ರೀಮತಿ ಟಿ.ಕೆ ನಾಗರತ್ನ ಕೋಂ ಎಸ್.ಹೆಚ್. ಲಕ್ಷ್ಮೀಗೌಡ, ಕೇರಾಫ್ ಶಾಂತಮೂರ್ತಿ, 2ನೇ ದರ್ಜೆ ಗುತ್ತಿಗೆದಾರರು, ಪುಷ್ಪಗಿರಿ ನಿಲಯ, ಹೇಮಾವತಿ ಆಸ್ಪತ್ರೆ ರಸ್ತೆ, ಉತ್ತರ ಬಡಾವಣೆ, ಹಾಸನ ಜಿಲ್ಲೆ (ಇನ್ನು ಮುಂದೆ "ದೂರುದಾರರು" ಎಂದು ಸಂಖ್ಯೋಧಿಸಲಾಗುವ) ರವರು ದೂರನ್ನು ಈ ಸಂಸ್ಥೆಗೆ ಸಲ್ಲಿಸಿದ ಮೇರೆಗೆ ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯಿದೆ 1984 ರ ಕಲಂ 9 ರಡಿಯಲ್ಲಿ ತನಿಖೆಗೆ ತೆಗೆದುಕೊಂಡಿದ್ದಿದೆ.

8. ದೂರಿನ ಸಂಕ್ಷಿಪ್ತ ವಿವರಣೆ:-

ದೂರುದಾರರು ತಮ್ಮ ದೂರಿನಲ್ಲಿ 2012-13 ಮತ್ತು 2013-14 ನೇ ಸಾಲಿನಲ್ಲಿ ಪರಿಶಿಷ್ಟ ಜಾತಿಯ ಅನುದಾನದಲ್ಲ ನಿರ್ವಹಿಸಿರುವ ಕಾಮಗಾರಿಗಳ ವಿವರಗಳನ್ನು ಕೇಳಿದ್ದರೂ, ಮಾಹಿತಿ ಒದಗಿಸಿರುವುದಿಲ್ಲ. ಕಲ್ಲೇನಹಳ್ಳಿ ಕೊಪ್ಪಲಗೆ ಚರಂಡಿ ಕಾಮಗಾರಿ ನಿರ್ವಹಿಸುವಲ್ಲಿ ಅವ್ಯವಹಾರ ಮತ್ತು ಹಣ ದುರುಪಯೋಗಪಡಿಸಿಕೊಂಡಿದ್ದಾರೆಂದು ಆಪಾದಿಸಿ, ಈ ಬಗ್ಗೆ ಸೂಕ್ತ ಕ್ರಮ ಕೈಗೊಳ್ಳಲು ಕೋರಿದ್ದರು.

9. ದೂರುದಾರರ ದೂರಿನ ಮೇಲೆ ನಿಮ್ಮಿಂದ-1 ಮತ್ತು 2ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಿಂದ ಆಕ್ಷೇಪಣೆಯನ್ನು ಕೇಳಲಾಗಿ, ನೀವುಗಳು ಕಂಡಿಕೆವಾರು ಆಕ್ಷೇಪಣೆ ಸಲ್ಲಿಸಿ, ದೂರಿನ ಎಲ್ಲಾ ಅಂಶಗಳನ್ನು ಅಲ್ಲಗಳೆದಿದ್ದು, ದೂರುದಾರರು ವಿವಾದಿತ ಕಾಮಗಾರಿಗಳ ಅಂದಾಜಿನಲ್ಲಿರುವ ಪರಿಮಾಣದ ಪ್ರಕಾರ ಅವುಗಳನ್ನು ನಿರ್ವಹಿಸಿ ಪೂರ್ತಿ ಬಿಲ್ಲು ಕೇಳುವ ಬದಲು ಅರ್ಧ ಕೆಲಸಕ್ಕೆ ಪೂರ್ತಿ ಬಿಲ್ಲು ಕಳುಹಿಸಿದ್ದು, ದೂರುದಾರರು ನಿರ್ವಹಿಸಿದ ಕೆಲಸಗಳ ಬಗ್ಗೆ ಸರಿಯಾದ ಅಳತೆಯನ್ನು ಪರಿಶೀಲಿಸಿ ಭಾಗಶಃ ಬಿಲ್ಲನ್ನು ಕೊಡಲಾಗಿದ್ದು, ಕಾಮಗಾರಿ ಪೂರ್ಣಗೊಳ್ಳದೇ ಅಪೂರ್ಣ ಕೆಲಸಕ್ಕೆ ಪೂರ್ಣ ಬಿಲ್ಲನ್ನು ಪಡೆಯಲು ನಮ್ಮ ಮೇಲೆ ಆರೋಪ ಮಾಡಿದ್ದಾರೆಂದು, ದೂರನ್ನು ಮುಕ್ತಾಯಗೊಳಿಸಲು ಕೋರಿರುತ್ತೀರಿ.

10. ನಿಮ್ಮಗಳ-1 ಮತ್ತು 2ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರ ಆಕ್ಷೇಪಣೆಗಳ ಮೇಲೆ ದೂರುದಾರರಿಂದ ಪ್ರತ್ಯುತ್ತರವನ್ನು ಕೇಳಲಾಗಿ, ದೂರಿನ ಅಂಶಗಳನ್ನು ಪುನರುಚ್ಚರಿಸಿ, ನೀವುಗಳು ನಿರ್ವಹಿಸಿರುವ ಕಾಮಗಾರಿಯ ಬಾಬು ಬಾಕಿ ಮೊತ್ತ ರೂ.70,000/- ಗಳನ್ನು ನಿಮ್ಮಿಂದ ಕೊಡಿಸಿಕೊಡುವಂತೆ ಕೋರಿರುತ್ತಾರೆ.

11. ಉದರಿನ ಮುಂದಿನ ತನಿಖೆಯನ್ನು ಮುಖ್ಯ ಇಂಜಿನಿಯರ್, ತಾಂತ್ರಿಕ ವಿಭಾಗ, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ, ಇವರಿಗೆ ವಹಿಸಲಾಗಿತ್ತೆಂದು, ಅದರಂತೆ ಸದರಿ ಮುಖ್ಯ ಇಂಜಿನಿಯರ್ ರವರು ತನಿಖೆ ಮಾಡಿ ವರದಿಯನ್ನು ಸಲ್ಲಿಸಿದ್ದು, ದೂರುದಾರರು ಆಪಾದಿಸಿರುವಂತೆ ಮಂಜೂರಾದ ಅಂದಾಜಿನಲ್ಲಿ ಪರಿಗಣಿಸಿರುವ ಸ್ಥಳವನ್ನು ಹೊರತುಪಡಿಸಿ ಬೇರೆ ಸ್ಥಳದಲ್ಲಿ ಕಾಮಗಾರಿಯನ್ನು ಯಾವುದೇ ಮೇಲಾಧಿಕಾರಿಗಳ ಪೂರ್ವಾನುಮತಿ ಇಲ್ಲದೇ ಮತ್ತು ಕ್ರಿಯಾ ಯೋಜನೆಯ ಅನುಮೋದನೆಯಲ್ಲಿ ವ್ಯವಸ್ಥಾಪಕ ನಿರ್ದೇಶಕರ ಷರತ್ತನ್ನು ಉಲ್ಲಂಘಿಸಿ 1 ಮತ್ತು 2ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಕಾಮಗಾರಿಯನ್ನು ಕೈಗೊಂಡಿರುವುದು ಪೂರಕ ದಾಖಲೆಗಳಿಂದ ಸ್ಪಷ್ಟವಾಗಿ ಕಂಡು ಬಂದಿದ್ದು, ನೀವುಗಳು ಕರ್ತವ್ಯಲೋಪವೆಸಗಿರುತ್ತೀರೆಂದು ವರದಿಯನ್ನು ಸಲ್ಲಿಸಿರುತ್ತಾರೆ.

12. ತನಿಖಾಧಿಕಾರಿಯ ವರದಿಯ ಮೇಲೆ ನಿಮ್ಮಿಂದ ಆಕ್ಷೇಪಣೆಯನ್ನು ಕೇಳಲಾಗಿ, ನೀವುಗಳು ನಿಮ್ಮಗಳ ಆಕ್ಷೇಪಣೆಯನ್ನು ಸಲ್ಲಿಸಿದ್ದು, ವ್ಯವಸ್ಥಾಪಕ ನಿರ್ದೇಶಕರು ನೀರಾವರಿ ನಿಗಮ ಇವರಿಗೆ

ಸ್ವಚ್ಛೀಕರಣವನ್ನು ಕೋರಿದ್ದು, ಅವರು ಕೊಟ್ಟಿರುವ ಸ್ವಚ್ಛೀಕರಣ ಸರಿಯಾಗಿದ್ದು, ಆದರೆ ತಾಂತ್ರಿಕ ವಿಭಾಗದವರು ಇದರ ಆಧಾರದ ಮೇಲೆಯೇ ತಪ್ಪು ಅಭಿಪ್ರಾಯಕ್ಕೆ ಬಂದಿದ್ದು, ಅನುಮೋದಿತ ಅಂದಾಜಿನಲ್ಲಿರುವ ಸ್ಥಳದಲ್ಲೆಯೇ, ಹರಿಜನ ಕೇರಿಯಲ್ಲೆಯೇ ಕಾಮಗಾರಿಯ ಅನುಷ್ಠಾನವಾಗಿದ್ದು, ಹರಿಜನರು ಇಲ್ಲದ ಸ್ಥಳದಲ್ಲ ಕಾಮಗಾರಿ ಕೈಗೊಂಡಿಲ್ಲ. ಚರಂಡಿಯಿಂದ ಬರುವ ನೀರು ಸವರ್ಣೀಯರ ಮನೆಯ ಮುಂದೆ ಹಾದು ಹೋಗಬೇಕಾದುದರಿಂದ ಅಲ್ಲಿ ನೀರು ನಿಂತು ತೊಂದರೆಯುಂಟಾಗಬಹುದಾದ ಸಂಭವ ಇದ್ದುದರಿಂದ ಸ್ಥಳೀಯರೊಂದಿಗೆ ಚರ್ಚಿಸಿ ಅವರ ಕೋರಿಕೆ ಮೇರೆಗೆ ಕೇವಲ 30 ಮೀಟರ್ ಚರಂಡಿಯನ್ನು ತುರ್ತಾಗಿ ನಿರ್ಮಿಸಿ ಮಂಜೂರಾತಿಯನ್ನು ನಂತರ ಪಡೆದುಕೊಳ್ಳಲು ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರ ಬಾಯಿ ಮಾತಿನ ಆದೇಶದಂತೆ ಕಾಮಗಾರಿ ಕೈಗೊಳ್ಳಲಾಗಿದ್ದು, ದೂರುದಾರರಿಗೆ ಬಿಲ್ಲು ಪಾವತಿಸಲಾಗಿದ್ದು, ಯಾವುದೇ ಸ್ಥಳ ಬದಲಾಯಿಸದ ಕಾರಣ ಪೂರ್ವಾನುಮತಿ ಅವಶ್ಯಕತೆವಿರಲಿಲ್ಲ. ಮುಖ್ಯ ಕಾಮಗಾರಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆಯೇ ಉಳಿದ ಕಾಮಗಾರಿಗಳನ್ನು ನಿರ್ವಹಿಸಲಾಗಿದ್ದು, ನಿಗಮದ ನೀತಿ ನಿಯಮಗಳ ಪ್ರಕಾರ ಕೆಲಸ ಮಾಡಿದ್ದರೂ ಸಹ ಪರಿಮಿತಿಯ ಒಳಗೆ ಯಾರ ಹಿತಾಸಕ್ತಿಗೂ ಧಕ್ಕೆಯಾಗದಂತೆ ನಿರ್ಲಕ್ಷಿಸಬಹುದಾದಂತಹ ಸಣ್ಣ-ಪುಟ್ಟ ಬದಲಾವಣೆ ಮಾಡಿಕೊಂಡು ಕಾಮಗಾರಿ ನಿರ್ವಹಿಸಲಾಗಿದ್ದು, ನಿಷ್ಣಾವಂತ ಅಧಿಕಾರಿಗಳಿಗೆ ದೂರುದಾರರು ತೊಂದರೆಕೊಡುತ್ತಿದ್ದು, ಆದ್ದರಿಂದ, ದೂರನ್ನು ಮುಕ್ತಾಯಗೊಳಿಸಬೇಕೆಂದು ಕೋರಿರುತ್ತೀರಿ.

13. ಈ ಪ್ರಕರಣದ ಸಂಪೂರ್ಣ ಕಡತವನ್ನು ಪರಿಶೀಲಿಸಿದ್ದು, ತಾಂತ್ರಿಕ ವಿಭಾಗದವರು ಸಲ್ಲಿಸಿರುವ ವರದಿಯಂತೆ ಕಲ್ಲೇನಕೊಪ್ಪಲು ಗ್ರಾಮದ ಹರಿಜನರ ಕೇರಿಯ ಸಿ.ಸಿ ಡ್ರೈನೇಜ್ ನಿರ್ಮಾಣ ಕಾಮಗಾರಿ 9.99 ಲಕ್ಷಗಳ ಅಂದಾಜಿಗೆ ಅನುಮೋದನೆ ನೀಡಲಾಗಿದ್ದು, ದೂರುದಾರರಿಗೆ ಅದರ ಕಾಮಗಾರಿಯನ್ನು ನಿರ್ವಹಿಸಲು ಗುತ್ತಿಗೆಯನ್ನು ಕೊಡಲಾಗಿದ್ದು, ಕಾಮಗಾರಿಯ ಸ್ಥಳವನ್ನು ಕಲ್ಲೇನಹಳ್ಳಿಯ ಗ್ರಾಮದ ಒಂದು ಭಾಗದಲ್ಲ ಸಹ ಮುಂದುವರೆದ ಕಾಮಗಾರಿ ನಿರ್ವಹಿಸಿದ್ದು, ಸ್ಥಳ ಬದಲಾವಣೆ ಆಗಿರುವುದು ಮೇಲಾಧಿಕಾರಿಗಳ ಅನುಮತಿಯಂತೆ ಆಗಿಲ್ಲ. ಇದೇ ಕಾಲೋನಿಯಲ್ಲಿರುವ ದೇವಸ್ಥಾನದ ಒಳಗೆ ಹಾಗೂ ಹೊರಗೆ ಕೆಲಸವನ್ನು ಮಾಡಿಸಲಾಗಿದ್ದು, ಇದಕ್ಕೂ ಸಹ ಪೂರ್ವಾನುಮತಿ ಇಲ್ಲ. ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರದ ಪೂರ್ವಾನುಮತಿ ಇಲ್ಲದೇ ಕಾಮಗಾರಿ ಕೈಗೊಳ್ಳಲು ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರಿಗೆ ಅಧಿಕಾರವಿರುವುದಿಲ್ಲ. ಕಾಮಗಾರಿ ಅನುಷ್ಠಾನದಲ್ಲ ಯಾವುದೇ ರೀತಿಯ ಡಿವಿಯೇಷನ್‌ಗೆ

ಅವಕಾಶವಿರುವುದಿಲ್ಲ. ಬದಲಾದ ಸ್ಥಳದಲ್ಲ ಕಾಮಗಾರಿ ನಿರ್ವಹಿಸಲು ಮೌಖಿಕ ಆದೇಶ ನೀಡಿರುವುದು ತರವಲ್ಲ. ವ್ಯವಸ್ಥಾಪಕ ನಿರ್ದೇಶಕರು ವಿಧಿಸಿರುವ ಷರತ್ತು ಉಲ್ಲಂಘಿಸಿ ಕಾಮಗಾರಿ ಕೈಗೊಂಡಿದ್ದು, ಕರ್ತವ್ಯ ಲೋಪವೆಸಗಿರುತ್ತೀರಿ.

14. ಪ್ರಭಾರ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರಾದ ನೀವು-1ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ನಿಮ್ಮ ಆಕ್ಷೇಪಣೆಯಲ್ಲಿ ದೂರುದಾರರಿಗೆ ಬಿಲ್ಲಿನ ಹಣವನ್ನು ಪಾವತಿಸಲಾಗಿದ್ದು, ಹರಿಜನರು ವಾಸ ಮಾಡುತ್ತಿರುವ ಸ್ಥಳದಲ್ಲಯೇ ಕಾಮಗಾರಿಯನ್ನು ಮಾಡಿಸಲಾಗಿದ್ದು, ದೂರುದಾರರು ಅಪೂರ್ಣ ಕಾಮಗಾರಿಯನ್ನು ನಿರ್ವಹಿಸಿದ್ದು, ಅರ್ಧ ಕೆಲಸಕ್ಕೆ ಪೂರ್ಣ ಬಿಲ್ಲು ಕೇಳುವುದು ಕಾನೂನಿಗೆ ವಿರುದ್ಧವಾಗಿದೆ ಅಂತ ತಿಳಿಸಿದ್ದು, ತನಿಖಾಧಿಕಾರಿಗಳ ವರದಿಯ ಮೇಲೆ ಯಾವುದೇ ಆಕ್ಷೇಪಣೆಯನ್ನು ವ್ಯಕ್ತಪಡಿಸಿಲ್ಲ. ಮುಖ್ಯವಾಗಿ ತಾಂತ್ರಿಕ ವಿಭಾಗವು ಅಂದಾಜಿನಲ್ಲಿ ಪರಿಗಣಿಸಿರುವ ಸ್ಥಳವನ್ನು ಹೊರತುಪಡಿಸಿ ಬೇರೆ ಸ್ಥಳದಲ್ಲ ಯಾವುದೇ ಮೇಲಾಧಿಕಾರಿಗಳ ಪೂರ್ವಾನುಮತಿಯಿಲ್ಲದೇ ಕಾಮಗಾರಿ ಮಾಡಲಾಗಿದ್ದು, ವ್ಯವಸ್ಥಾಪಕ ನಿರ್ದೇಶಕರ ಕ್ರಿಯಾ ಯೋಜನೆಯ ಅನುಮೋದನೆಯ ಷರತ್ತನ್ನು ಉಲ್ಲಂಘಿಸಿ ಕಾಮಗಾರಿ ಕೈಗೊಂಡಿದ್ದು, ಅಂತ ಸಲ್ಲಿಸಿರುವ ವರದಿಗೆ ಯಾವುದೇ ಆಕ್ಷೇಪಣೆ ವ್ಯಕ್ತಪಡಿಸಿಲ್ಲ. ದೇವಸ್ಥಾನ ಸುತ್ತಲೂ ಸಿಮೆಂಟ್ ಹಾಕಿಸಿರುವ ವಿಷಯ ಮತ್ತು 30 ಮೀಟರ್‌ನಷ್ಟು ಹೆಚ್ಚುವರಿ ಚರಂಡಿಯನ್ನು ನಿರ್ಮಿಸಿರುವುದನ್ನು ಸಣ್ಣ-ಪುಟ್ಟ ಬದಲಾವಣೆ ಅಂತ ಒಪ್ಪಿಕೊಳ್ಳಲಾಗುವುದಿಲ್ಲ. ಆದ ಕಾರಣ ನೀವುಗಳು ಕರ್ತವ್ಯಲೋಪವೆಸಗಿರುವುದಕ್ಕೆ ಸಾಕಷ್ಟು ಆಧಾರಗಳಿವೆ.

15. ಮೇಲ್ಕಂಡ ಅಂಶಗಳು, ಕಡತದ ಸಂಗತಿಗಳು, ತನಿಖಾ ವರದಿ, ದಾಖಲಾತಿಗಳನ್ನು ಹಾಗೂ ನೀವುಗಳು-ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ನೀಡಿರುವ ಉತ್ತರಗಳನ್ನು ಕೂಲಂಕುಷವಾಗಿ ಪರಿಶೀಲಿಸಿದಾಗ, ಸದರಿ ನಿಮ್ಮಗಳ-ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರ ವಿರುದ್ಧದ ನಡವಳಿಯನ್ನು ಕೈಬಿಡಲು ಸೂಕ್ತ/ಸಮಂಜಸ/ಸಮಾಧಾನಕರ ಕಾರಣ ತೋರಿಸಿಲ್ಲವೆಂಬ ಅಭಿಪ್ರಾಯಕ್ಕೆ ಬರಲಾಗಿದೆ.

16. ಕಡತದಲ್ಲಿಯ ಸಂಗತಿಗಳು ಹಾಗೂ ದಾಖಲಾತಿಗಳಿಂದ, ನೀವುಗಳು ಸರ್ಕಾರಿ ನೌಕರರಾಗಿ ಪರಿಪೂರ್ಣ ಪ್ರಾಮಾಣಿಕತೆ, ಸಂಪೂರ್ಣ ಕರ್ತವ್ಯ ನಿಷ್ಠೆ ಮತ್ತು ಸರ್ಕಾರಿ ಸೇವಕರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡು ದುರ್ವರ್ತನೆ/ದುರ್ನಡತೆ ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡು ಬರುತ್ತದೆ.

17. ಈ ಮೇಲ್ಕಂಡ ಕಾರಣಗಳಿಂದಾಗಿ, 1 ಮತ್ತು 2 ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನಿಮ್ಮಗಳ ವಿರುದ್ಧ ಇಲಾಖಾ ವಿಚಾರಣೆ ನಡೆಸುವ ಸಂಬಂಧ ಮುಂದುವರೆಯುವುದು ಅಗತ್ಯ ಎಂದು ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡುಬಂದಿದ್ದು, ನೀವು-1 ಮತ್ತು 2ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು, ಸರ್ಕಾರಿ ಸೇವಕರಾಗಿದ್ದು, ನಿಮ್ಮಗಳ 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 3(1)(i) ರಿಂದ (iii) ರಲ್ಲಿ ಹೇಳಿದಂತೆ ದುರ್ನಡತೆ/ದುರ್ವರ್ತನೆಯಿಂದ ವರ್ತಿಸಿ ಶಿಸ್ತು ಕ್ರಮಕ್ಕೆ ಬಾಧ್ಯರಾಗಿದ್ದಾರೆಂದು ಕಂಡುಬಂದಿದ್ದರಿಂದ, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯ್ದೆಯ ಕಲಂ 12(3) ರಡಿಯಲ್ಲಿ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರದಡಿಯಲ್ಲಿ, ಈ ಮೂಲಕ ನಿಮ್ಮ-1 ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ದಿನಾಂಕ 30/09/2017 ರಂದು ಈಗಾಗಲೇ ನಿವೃತ್ತಿ ಹೊಂದಿರುವುದರಿಂದ, ಕೆಸಿಎಸ್‌ಆರ್ ನಿಯಮ 214(2)(ಬಿ)(ii) ಅಡಿ ಇಲಾಖಾ ವಿಚಾರಣೆಗೆ ಅನುಮತಿಯನ್ನು ನೀಡಿ ಹಾಗೂ ನಿಮ್ಮ-1 ಮತ್ತು 2 ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನಿಮ್ಮಗಳ ವಿರುದ್ಧ ಶಿಸ್ತು ನಡವಳಿಕೆ ಹೂಡಲು ಮತ್ತು ಹಾಗೆಯೇ ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವಾ (ವರ್ಗೀಕರಣ, ನಿರ್ಬಂಧ ಮತ್ತು ಮೇಲ್ಮನವಿ) ನಿಯಮಗಳು, 1957ರ ನಿಯಮ 14-ಎ ಅಡಿಯಲ್ಲಿ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರ ವಿರುದ್ಧ ಇಲಾಖಾ ವಿಚಾರಣೆಗೆ ಶಿಫಾರಸ್ಸು ಮಾಡಲಾಗಿ, ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರವು ಉಲ್ಲೇಖ ಒಂದರಂತೆ ಈ ಸಂಸ್ಥೆಯಿಂದ ವಿಚಾರಣೆ ಮಾಡಲು ಕೋರಲಾಗಿರುವ ಕಾರಣ ನಿಮ್ಮಗಳ ವಿರುದ್ಧ ಈ ಆಪಾದನೆ.

18. The DGO No-1 and 2 appeared before this Enquiry Authority on 21/05/2018 and on the same day their First Oral Statement was recorded U/Rule 11(9) of KCS (CC &A) Rules 1957. The DGO No-1 and 2 pleaded not guilty and claimed to hold an enquiry. Subsequently the DGO No-1 and 2 have filed their written statement of defence by denying the articles of charge and statement of imputations contending that, there is no such

evidence to prove that they have committed misconduct U/Rule 3(1) of KCS (Conduct) Rules, 1966. Accordingly, prayed to exonerate them from the charges framed in this case.

19. In order to substantiate the charge, the Disciplinary Authority examined two witnesses as PW-1 and PW-2 got marked the documents at Ex.P-1 to P-12 and closed the evidence.

20. After closing the case of the Disciplinary Authority, the Second Oral Statement of DGO No-1 and 2 was recorded as required U/Rule 11 (16) of KCS (CC & A) Rules, 1957 and wherein they have submitted that, the witness have deposed falsely against them. The DGO No-1 and 2 got examined themselves as DW-1 and DW-2 and produced the documents at Ex.D-1 to D-9 and closed their side. Since the DGO No-1 and 2 got themselves examined as DW-1 and DW-2, the questioning of the DGOs as required U/Rule 11(18) of KCS (CC & A) Rules, 1957 was dispensed.

21. The Defence Assistant for DGO No-1 and advocate for DGO No-2 filed their written submissions. Heard the oral arguments of Learned Presenting Officer.

22. Upon consideration of the charge leveled against the DGO No-1 and 2, the evidence led by the Disciplinary Authority and DGOs 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 the DGO No-1 Sri K.T. Subrayagowda, who was working as Assistant Executive Engineer and I/c Executive Engineer, Cauvery Neeravari Nigama Limited, No.3, Hemavathi Right Bank Canal Sub-Division, Holenarasipura, Hassan District and DGO No-2 Sri Hanumanthappa, who was working as Assistant Engineer, Cauvery Neeravari Nigama Limited, No.3, Hemavathi Right Bank Canal Sub Division, Holenarasipura, Hassan District, were entrusted with the work of executing the C.C drainage work at the cost of Rs.9.99 lakhs in S.C colony of Kallenahalli Koppalu Village, Holenarasipura Sub Division, District Hassan and the contract was awarded to the complainant Smt T.K. Nagarathna, however while executing the work, both the DGOs have

pressurized the complainant to do additional works in the temple and also additional C.C drainage work to the extent of 30 meters which was against the estimate and action plan, and payments were not paid to the complainant and DGO No-1 and 2 had not taken prior approval for the extra work and deviations in the estimate and thereby failed to maintain absolute integrity and devotion to duty, which act is unbecoming of a Government Servant and thus committed misconduct as enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules, 1966.

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

:: REASONS ::

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

The complainant Smt. T.K. Nagarathna, Class-I contractor has been examined as PW-1. She has reiterated the facts stated in the complaint. She states that, in the year 2012-13 and 2013-14 the

Government had sanctioned grants to construct C.C drainages in Schedule Caste Colony of Kallenahalli Koppalu Village of Holenarasipura taluka for an estimated cost of Rs.10 lakhs. She had applied for online tender and the tender was awarded to her. As per the estimate 600 meters of C.C drainage was to be constructed in Schedule Caste Colony of Kallenahalli Koppalu Village. However the DGOs have showed another site and directed her to execute the work in different places. She further submits that, she has executed 150 meters of C.C drainage in Schedule Caste Colony and 80 meters of C.C drainage in the locality where general category people are residing. She further states that, the DGOs were present at the time of execution of the work. She has executed the work and laid the concrete where ever the DGOs had directed. She further states that, the DGOs directed her to lay concrete in Lord Shani Temple and accordingly she has executed the work. The complainant further states that, the DGOs asked her to carry out the works of C.C drainage in the areas where general category people were residing. The complainant/PW-1 further states that, these works were not included in the estimate. As per the tender she was supposed to carry out C.C drainage work in Schedule Caste Colony to the extent of 600 meters.

25. The complainant/PW-1 further states that, she requested the DGOs to pass the bills for the works executed by her. However, the DGOs have passed the bills for Rs.6.00 lakhs only

and they have not paid the remaining amount. The DGOs went on postponing the payment of balance tender amount. Hence, she was constrained to lodge this complaint. The complainant has identified her complaint and Form No-I and II at Ex.P-1 to P-3. She has produced the copy of work order which is at Ex.P-4. The tender agreement is at Ex.P-5. The estimate is at Ex.P-6. The complainant has produced 8 photographs of the work done by her and they have been commonly marked as Ex.P-7.

26. The investigation officer i.e Sri S. Srikanth, Assistant Executive Engineer, TAC, Karnataka Lokayukta, Bengaluru has been examined as PW-2. He states that, from 2013 to 2016 he has worked as Assistant Executive Engineer, TAC, Karnataka Lokayukta, Bengaluru. In this case directions were issued by ARE-5 to investigate into the matter and submit the report. The Chief Engineer, TAC, Karnataka Lokayukta, Bengaluru appointed PW-2 to investigate into the complaint and submit his report. PW-2 further states that, he has issued notices to the complainant and the DGOs and directed them to furnish the documents. He further states that, he has collected the documents pertaining to the work from the concerned department. He has secured the documents from Cauvery Neeravari Nigama Limited.

27. PW-2 further states that, the Managing Director of Cauvery Neeravari Nigama Limited on 29/03/2016 has given the explanation pertaining to the said work and it is as follows,

- a. In the year 2013-14 Rs.10 lakh was sanctioned for the construction of the C.C drainage in Harijana Colony of Kallenahalli Koppalu Village.
- b. The work should have been done only in the area where the technical approval and estimate was approved. There is no provision to carry out the work in any other place.
- c. The work order approved for Harijana Colony has to be implemented only in Harijana Colony. It cannot be carried out in any other place.
- d. The work order has to be carried out as per the estimate and without prior approval of the competent authority, the work cannot be shifted to any other place.

28. PW-2 further states that, he has conducted the investigation and submitted his report as per Ex.P-8. He has produced the documents secured from the Executive Engineer which are at

Ex.P-9. The clarification obtained from Executive Engineer, Hemavathi Right Bank Canal, Holenarasipura dated 29/02/2016 is produced and marked as Ex.P-10. The letter issued by the Managing Director, Cauvery Neeravari Nigama Limited dated 29/03/2016 has been marked as Ex.P-11. The enclosures have been commonly marked as Ex.P-12.

29. PW-1 and 2 have been cross examined at length by the advocate for DGO No-1 and 2. I have carefully gone through the entire cross examination of PW-1 and 2. However, nothing material has been elicited in the cross examination, so as to discredit their testimony. The DGOs have themselves admitted that, the tender works have not been executed as per the estimate. The DGOs have admitted that, extra work was carried out in Lord Shani Temple and C.C drainage work was constructed in general category locality. They have further admitted that, the entire C.C work approved for Harijana Colony was not carried out in Harijana Colony.

30. The DGO No-1 and 2 have got themselves examined as DW-1 and DW-2. The DGO No-1/Sri. Subrayagowda has got himself examined as DW-1. He submits that, the charge and imputation of misconduct issued against him are vague and not specific. He admits that, the complainant is a class-II contractor and the Cauvery Neeravari Nigama Limited had awarded the contract for

construction of C.C drainage at an estimated cost of Rs.9,99,000/. He further submits that, the work has been executed as per the sanctioned estimate in S.C. Colony of Kallenahalli Koppalu. He further submits that, during the execution of the said work, additional work has been executed as per the request of the beneficiaries and without causing any burden to the Contractor/Complainant. The complainant has been paid the bills for the works executed by her. No extra expenditure has been incurred by the complainant and hence, there was no necessity to obtain approval from the competent authority. The DGO No-2 has measured the work and entered them in measurement books. The DGO No-1 has check measured the entries and he had proposed for the payment of bills submitted by Contractor/Complainant. DW-1 further states that, while the work of C.C drainage was in progress, the water was logging in some places and hence, the local leaders requested for construction of extra 30 meters of C.C drainage. Accordingly, to address the grievance of the local leaders, extra work was carried out.

31. DW-1 in support of his contention has produced the following documents.

- a. Ex.D-1 is the Letter of Executive Engineer dated 29/02/2016.

- b. Ex.D-2 is the request letter of locals to the Assistant Executive Engineer dated 24/07/2014.
- c. Ex.D-3 is the request letter of locals to the Assistant Executive Engineer dated 25/06/2014.
- d. Ex.D-4 is the letter of Assistant Executive Engineer to Executive Engineer dated 18/08/2017.
- e. Ex.D-5 is the letter of Executive Engineer to Superintendent Engineer dated 19/08/2017.
- f. Ex.D-6 is the Xerox copy of enquiry report of ARE-9 in DE No. UPLOK-2/DE/617/2016 dated 05/05/2018.
- g. Ex.D-7 is the copy of the recommendation sent to the Government dated 08/05/2018.
- h. Ex.D-8 is the proceedings of the Government of Karnataka dated 01/06/2019.

I have carefully gone through the documents at Ex.D-1 to Ex.D-8.

32. The DGO No-2 Sri Hanumanthappa has got himself examined as DW-2. He submits that, the complainant has accepted the modified estimates and works. She has accepted the payments and hence, her grievance does not subsist. DW-2 further submits that, in this regard the Superintendent Engineer has written a letter on 18/01/2019 and the complainant has not properly attended the tender work and hence, the bills have been partially passed. He submits that, he has not committed any misconduct and hence, he prays for exonerating him.

33. DW-2 in support of his contention has produced the xerox copies of running accounts bill of the said work and they have been commonly marked as Ex.D-9. DW-1 and 2 have been cross examined by the Learned Presenting Officer.

34. The Defence Assistant for DGO No-1 has canvassed his arguments and he has drawn the attention to the documents at Ex.D-6 to D-9. He submits that, already an enquiry has been conducted and punishment has been imposed on DGO No-1 and hence, this second enquiry is not maintainable. However, this contention of the Defence Assistant for DGO No-1 cannot be accepted. I have carefully gone through the documents at Ex.D-6 to D-8. It is pertinent to note that, both these enquiries arise out of two different complaints and two separate reports U/s 12(3) of

Karnataka Lokayukta Act 1984. Hence, this contention of the Defence Assistant for DGO No-1 cannot be accepted.

35. I have carefully gone through the oral and documentary evidence adduced by the Disciplinary Authority and the DGO No-1 and 2. It is the specific charge of the Disciplinary Authority that, a tender was called for construction of C.C drainage work in Harijana Colony of Kallenahalli Koppalu Village at the estimated cost of Rs.9,99,000/-. The contract was to be executed as per the work order and tender agreement as per Ex.P.4 and P-5. The tender was called for construction of C.C drainage in Kallenahalli Koppalu (Harijana Colony). The tender was allotted to the complainant and she has executed the tender agreement as per Ex.P-5. The complainant was supposed to execute the tender for the construction of C.C drainage in Harijana Colony of Kallenahalli Koppalu Village. However, it is an admitted fact by the DGOs that, part of the tender work i.e construction of C.C drainage was made in Harijana Colony. The remaining work of C.C. drainage was done in general category locality. It is also an admitted fact that, concrete work was done in Lord Shani Temple of the said village. The DGO No-1 and 2 themselves have admitted that, as per the request of local leaders and local people, they directed the complainant to do extra work in general colony and in Lord Shani Temple. The DGO No-1 and 2 have themselves admitted that, no prior approval of the competent authority was

obtained and no revised estimate was prepared. It is well known fact that, as per the KPWD Code, the tender work has to be executed at the site for which the tender was called for. The execution of the work should be as per the estimate, tender agreement and work order. However, it is pertinent to note that, the DGO No-1 and 2 have directed the complainant to deviate from the estimate and they have got the work done in other places without prior approval from the competent authorities. The DGO No-1 and 2 have not prepared any revised estimate, no revised tender agreement has been executed and no approval of the higher authorities is obtained. The DGO No-1 and 2 have themselves admitted that, they issued directions to the complainant to carry out C.C. drainage work in general category colony and concrete works in Lord Shani Temple. The DGO No-1 and 2 without obtaining prior approval from the competent authority have made the complainant to carry out the works in general category colony and in Lord Shani Temple. As per the tender agreement, the entire stretch of 600 meters of C.C. drainage was to be constructed only in Harijana Colony of Kallenahalli Koppalu Village. However, due to the pressure from the locals, the DGO No-1 and 2 have directed and made the complainant to carry out part of the construction in other areas i.e in general category colony and concrete work in Lord Shani Temple. In this case, the DGO No-1 and 2 have themselves admitted that, as per their request the complainant has

undertaken C.C drainage work in general category colony and concrete work was done in Lord Shani Temple. The DGO No-1 and 2 have not obtained approval for deviation in the tender work from the competent authority. They have not prepared revised estimate, revised tender agreement and revised work order for making deviations from the tender agreement. The DGO No-1 and 2 have themselves directed the complainant to carry out extra work without the revised estimate, revised tender agreement and revised work order.

36. On careful perusal of the evidence and report of the I.O ie PW-2 who is the Assistant Executive Engineer, TAC, Karnataka Lokayukta, Bengaluru, it is observed that, in Ex.P-8 report, the I.O has categorically reported that, the DGO No-1 and 2 have committed dereliction of duty by making deviations in the work order already issued. PW-2 has stated that, the DGO No-1 and 2 ought to have got the tender work executed only in the Harijana Colony of Kallenahalli Koppalu Village. However, the DGO No-1 and 2 have deviated from the tender agreement and work was got executed in general category colony and concrete work was done in Lord Shani Temple. Apart from the evidence and report of PW-2, the DGO No-1 and 2 have themselves admitted about the deviations with regard to the estimate, tender agreement and work order. The DGO No-1 and 2 have categorically admitted that, they had directed the complainant to execute part of the

work in general category colony and concrete work in Lord Shani Temple. It is also an admitted fact that, no prior approval was obtained by the DGO No-1 and 2 for the said deviations. Hence, the conduct of the DGO No-1 and 2 amounts to dereliction of duty and misconduct.

37. For the reasons stated above the DGO No-1 and 2, being the Government/Public Servants have failed to maintain absolute integrity besides devotion to duty and acted in a manner unbecoming of Government servants. On appreciation of entire oral and documentary evidence, I hold that the charge leveled against the DGO NO-1 and 2 is established. Hence, I answer point No.1 in the "**Affirmative**".

:: ORDER ::

The Disciplinary Authority has proved the charge against the DGO No-1 Sri K.T. Subrayagowda, Assistant Executive Engineer and I/c Executive Engineer, Cauvery Neeravari Nigama Limited, No.3, Hemavathi Right Bank Canal Sub-Division, Holenarasipura, Hassan District (now retired) and DGO No-2 Sri Hanumanthappa, Assistant Engineer, Cauvery Neeravari Nigama Limited, No.3, Hemavathi

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**Right Bank Canal Sub Division,
Holenarasipura, Hassan District.**

38. 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 31st day of October 2019

Patil
31/10/19

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

ANNEXURES

| Witness examined on behalf of the Disciplinary Authority |
|--|
| PW-1: Smt T.K. Nagarathna (Original) |
| PW-2: Sri S. Srikanth(Original) |
| Witness examined on behalf of the Defence |
| DW-1 : Sri K.T. Subrayagowda (Original) |
| DW-2: Sri Hanumanthappa (Original) |
| Documents marked on behalf of the Disciplinary Authority |
| Ex. P-1: Compliant (Original) Ex. P-1(a): Signature of the complainant. |
| Ex.P-2: Form No.I (Original) Ex. P-2(a) : Signature of the complainant. |
| Ex. P-3: Form No.II (Original) Ex. P-3(a) : Signature of the complainant. |
| Ex. P-4: The copy of work order (Xerox) |
| Ex. P-5: The tender agreement (Xerox) |
| Ex. P-6: The detailed estimate for construction of C.C. drainage in Kallenahalli Koppalu (Xerox copies) |
| Ex. P-7: 8 photographs(Original) |
| Ex.P-8 : Investigation report of I.O(Xerox) Ex. P-8(a): Signature of the I.O. |
| Ex.P-9. Letter addressed by Executive Engineer to Chief Engineer, Karnataka Lokayukta, M.S.Building, Bengaluru dated 25/01/2016, page no.156-159 |

| |
|---|
| <p>originals, page no.160 xerox, page no.161-167 Attested copies, page no.168-169 xerox copy, page no.170 -174 Attested copy, page no.175 original, page no.176-177 attested copy, page no.178 xerox copy, page no.179-182 attested copy, page no.183 - 190 originals, page no.191-209 attested copies.</p> |
| <p>Ex.P-10. The letter from Executive Engineer to the Chief Engineer dated 29/02/2016, (Originals)</p> |
| <p>Ex. P-10(a): Annexure -3</p> |
| <p>Ex.P-11. The letter of Managing Director, Cauvery Neeravari Nigama Limited dated 29/03/2016 (Originals)</p> |
| <p>Ex.P-12: The enclosures (Xerox copies)</p> |
| <p style="text-align: center;">Documents marked on behalf of the DGO</p> |
| <p>Ex.D-1 is the Letter of Executive Engineer dated 29/02/2016 (Xerox)</p> |
| <p>Ex.D-2 is the request letter of locals to the Assistant Executive Engineer dated 24/07/2014 (Xerox)</p> |
| <p>Ex.D-3 is the request letter of locals to the Assistant Executive Engineer dated 25/06/2014(Xerox)</p> |
| <p>Ex.D-4 is the letter of Assistant Executive Engineer to Executive Engineer dated 18/08/2017(Xerox)</p> |
| <p>Ex.D-5 is the letter of Executive Engineer to Superintendent Engineer dated 19/08/2017(Xerox)</p> |
| <p>Ex.D-6 is the Xerox copy of enquiry report of ARE-9 in DE No. UPLOK-2/DE/617/2016 dated 05/05/2018 (Xerox)</p> |
| <p>Ex.D-7 is the copy of the recommendation sent to the Government dated 08/05/2018 (Xerox)</p> |

Ex.D-8 is the proceedings of the Government of Karnataka dated 01/06/2019(Attested copy)

Ex.D-9 is the Xerox copy of covering letter and running account bills dated 05/07/2019, page no.250 original, page no.251 attested copy, page no.252 xerox, page no. 253-255 attested copy, page no-256 xerox, page no.257-258 attested copy, page no.259-260 xerox copies, page no.261 attested copy.

Dated this the 31st day of October 2019

Patil
21/10/19
(Patil Mohankumar Bhimanagouda)

Additional Registrar Enquiries-13

Karnataka Lokayukta

Bangalore.



KARNATAKA LOKAYUKTA

No.UPLOK-2/DE-59/2018/ARE-13

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

Dated 05.11.2019.

RECOMMENDATION

Sub:- Departmental inquiry against (1) Shri K.T.Subrayagowda, Assistant Executive Engineer and in-charge Executive Engineer, Kaveri Neeravari Nigama Limited, No.3, HRBC Sub-division, Holenarasipura, Hassan District and (2) Sri Hanumanthappa, Assistant Engineer, Kaveri Neeravari Nigama Limited, No.3, HRBC Sub-division, Holenarasipura, Hassan District - reg.

Ref:- 1) Government Order No. WRD 125 SEV 2017 dated 09.10.2017 and Corrigendum dt.03.04.2018.

2) Nomination order No. UPLOK-2/DE-59/2018 dated 08.02.2018 of Upalokayukta, State of Karnataka.

3) Inquiry report dated 31.10.2019 of Additional Registrar of Enquiries-13, Karnataka Lokayukta, Bengaluru.

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The Government by its order dated 09.10.2017 and Corrigendum dt.03.04.2018, initiated the disciplinary proceedings against (1) Shri K.T.Subrayagowda, Assistant Executive Engineer and in-charge Executive Engineer, Kaveri Neeravari

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Nigama Limited, No.3, HRBC Sub-division, Holenarasipura, Hassan District and (2) Sri Hanumanthappa, Assistant Engineer, Kaveri Neeravari Nigama Limited, No.3, HRBC Sub-division, Holenarasipura, Hassan District, [hereinafter referred to as Delinquent Government Officials, for short as 'DGOs 1 and 2' respectively] and entrusted the departmental inquiry to this Institution.

2. This Institution by Nomination Order No. UPLOK-2/DE-59/2018 dated 08.02.2018 nominated Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct departmental inquiry against DGOs for the alleged charge of misconduct, said to have been committed by them. Subsequently, by Order No. UPLOK-1&2/DE/Transfers/2018 dated 06.08.2018, Additional Registrar of Enquiries-13, Karnataka Lokayukta, Bengaluru, was re-nominated as the Inquiry Officer to continue departmental inquiry against DGOs for the alleged charge of misconduct, said to have been committed by them.

3. The DGO 1 - Shri K.T.Subrayagowda, Assistant Executive Engineer and in-charge Executive Engineer, Kaveri Neeravari Nigama Limited, No.3, HRBC Sub-division, Holenarasipura, Hassan District and DGO -2 Sri Hanumanthappa, Assistant Engineer, Kaveri Neeravari Nigama Limited, No.3, HRBC Sub-division, Holenarasipura, Hassan District, were tried for the following charge:-

“1 ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ 1) ಶ್ರೀ ಕೆ.ಟಿ. ಸುಬ್ರಾಯಗೌಡ, ಸಹಾಯಕ ಕಾರ್ಯನಿರ್ವಾಹಕ ಅಭಿಯಂತರರು ಹಾಗೂ ಪ್ರಭಾರ ಕಾರ್ಯನಿರ್ವಾಹಕ ಅಭಿಯಂತರರು, ಕಾವೇರಿ ನೀರಾವರಿ ನಿಗಮ ನಿಯಮಿತ, ನಂ.3, ಹೇಮಾವತಿ ಬಲದಂಡೆ ನಾಲಾ ಉಪ ವಿಭಾಗ, ಹೊಳೆನರಸೀಪುರ, ಹಾಸನ ಜಿಲ್ಲೆ (ಪ್ರಸ್ತುತ ನಿವೃತ್ತ) ಹಾಗೂ 2ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ 2) ಶ್ರೀ ಹನುಮಂತಪ್ಪ, ಸಹಾಯಕ ಅಭಿಯಂತರರು, ಕಾವೇರಿ ನೀರಾವರಿ ನಿಗಮ ನಿಯಮಿತ, ನಂ.3, ಹೇಮಾವತಿ ಬಲದಂಡೆ ನಾಲಾ ಉಪ ವಿಭಾಗ, ಹೊಳೆನರಸೀಪುರ, ಹಾಸನ ಜಿಲ್ಲೆ. ಆದ ನೀವುಗಳು ಕಲ್ಲೇನಕೊಪ್ಪಲು ಗ್ರಾಮದ ಹರಿಜನ ಕೇರಿಯ ಸಿ.ಸಿ ಡ್ರೈನೇಜ್ ನಿರ್ಮಾಣ ಕಾಮಗಾರಿ 9.99 ಲಕ್ಷಗಳ ಅಂದಾಜಿಗೆ ಅನುಮೋದನೆಯನ್ನು ನೀಡಲಾಗಿದ್ದು, ಮಂಜೂರಾದ ಅಂದಾಜಿನಲ್ಲಿ ಪರಿಗಣಿಸಿರುವ ಸ್ಥಳಗಳನ್ನು ಹೊರತುಪಡಿಸಿ ಬೇರೆ ಸ್ಥಳಗಳಲ್ಲಿ ಕಾಮಗಾರಿಯನ್ನು ಯಾವುದೇ ಮೇಲಾಧಿಕಾರಿಗಳ ಪೂರ್ವಾನುಮತಿಯಿಲ್ಲದೇ ಮತ್ತು ತ್ರಿಯಾಯೋಜನೆಯ ಅನುಮೋದನೆಯನ್ನು ವ್ಯವಸ್ಥಾಪಕ ನಿರ್ದೇಶಕರ ಷರತ್ತನ್ನು ಉಲ್ಲಂಘಿಸಿ ಕಾಮಗಾರಿಗಳನ್ನು ಕೈಗೊಂಡಿರುವುದು. ಇದೇ ಕಾಲೋನಿಯಲ್ಲಿರುವ ದೇವಸ್ಥಾನದ ಒಳಗೆ ಹಾಗೂ ಹೊರಗೆ ಪೂರ್ವಾನುಮತಿ ಇಲ್ಲದೇ ಕೆಲಸ ಮಾಡಿಸಲಾಗಿರುತ್ತದೆ. ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರದ ಪೂರ್ವಾನುಮತಿ ಇಲ್ಲದೆ ಕಾಮಗಾರಿ ಕೈಗೊಳ್ಳಲು ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರವರಿಗೆ ಅಧಿಕಾರವಿರುವುದಿಲ್ಲ ಮತ್ತು ಕಾಮಗಾರಿಯ ಅನುಷ್ಠಾನದಲ್ಲಿ ಯಾವುದೇ

ರೀತಿಯ ಡಿವಿಯೇಷನ್‌ಗೆ ಅವಕಾಶವಿರುವುದಿಲ್ಲ ಮತ್ತು ಬದಲಾದ ಸ್ಥಳದಲ್ಲಿ ಕಾಮಗಾರಿ ನಿರ್ವಹಿಸಲು ಮೌಖಿಕ ಆದೇಶ ನೀಡಿರುವುದು ತರವಲ್ಲ. ವ್ಯವಸ್ಥಾಪಕ ನಿರ್ದೇಶಕರು ವಿಧಿಸಿರುವ ಷರತ್ತು ಉಲ್ಲಂಘಿಸಿ ನೀವುಗಳು ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಕಾಮಗಾರಿ ಕೈಗೊಂಡಿದ್ದು ಮತ್ತು ದೇವಸ್ಥಾನದ ಸುತ್ತಲು ಸಿಮೆಂಟ್‌ನ್ನು ಹಾಕಿಸಿರುವ ವಿಷಯ ಮತ್ತು 30 ಮೀಟರ್‌ನಷ್ಟು ಹೆಚ್ಚುವರಿ ಚರಂಡಿಯನ್ನು ನಿರ್ಮಿಸಿರುವುದನ್ನು ಸಣ್ಣ-ಪುಟ್ಟ ಬದಲಾವಣೆ ಎಂದು ಒಪ್ಪಿಕೊಳ್ಳಲಾಗುವುದಿಲ್ಲ. ಅದರಂತೆ ನೀವುಗಳು ಸಾರ್ವಜನಿಕ/ಸರ್ಕಾರಿ ಸೇವಕರಾಗಿದ್ದು, ನಿಮ್ಮಗಳ ಕರ್ತವ್ಯ ಪಾಲನೆಯಲ್ಲಿ ಪರಿಪೂರ್ಣ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ತೋರಿಸದೆ, ಸಾರ್ವಜನಿಕ ಸೇವೆಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡು ಕರ್ನಾಟಕ ಸರ್ಕಾರಿ ಸೇವಾ (ಸದ್ವರ್ತನೆ) ನಿಯಮಾವಳಿ 1966 ರ ನಿಯಮ 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 charge against DGO 1 - Shri K.T.Subrayagowda, Assistant Executive Engineer and in-charge Executive Engineer, Kaveri Neeravari Nigama Limited, No.3, HRBC Sub-division, Holenarasipura, Hassan District and DGO -2 Sri Hanumanthappa, Assistant Engineer, Kaveri Neeravari Nigama Limited, No.3, HRBC Sub-division, Holenarasipura, Hassan 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 DGOs furnished by the enquiry officer,

i) DGO 1 - Shri K.T.Subrayagowda, has retired from service on 30.09.2017;

ii) DGO -2 Sri Hanumanthappa, is due for retirement on 30.5.2027.


7. Having regard to the nature of charge '*proved*' against DGO 1 - Shri K.T.Subrayagowda, Assistant Executive Engineer and in-charge Executive Engineer, Kaveri Neeravari Nigama Limited, No.3, HRBC Sub-division, Holenarasipura, Hassan District and DGO -2 Sri Hanumanthappa, Assistant Engineer, Kaveri Neeravari Nigama Limited, No.3, HRBC Sub-division, Holenarasipura, Hassan District,

i) it is hereby recommended to the Government to impose penalty of '*withholding 10% of pension payable to DGO 1 K.T.Subrayagowda- for a period of five years.*'

ii) it is hereby recommended to the Government to impose penalty of 'withholding 4 annual increments payable to DGO 2 Hanumanthappa with cumulative effect.'

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

Connected records are enclosed herewith.

  
(JUSTICE N. ANANDA)  
Upalokayukta,  
State of Karnataka.