

KARNATAKA LOKAYUKTA

No.UPLOK-2/DE/605/2017/ARE-13

M.S. Building,
Dr.B.R. Ambedkar Road,
Bangalore-56001
Date: 04/01/2020.**: Present:****Patil Mohankumar Bhimanagouda**
Additional Registrar Enquiries-13,
Karnataka Lokayukta,
Bangalore.**:: ENQUIRY REPORT ::****Sub:-** Departmental Enquiry against,
Sri A.H. Shivanna, Chief Officer, TMC,
Kunigal, Tumkur District (now retired).**Ref :-**1) Report u/s 12(3) of the K.L Act, 1984 in
Compt/Uplok/BD/2115/2015/ARLO-2,
Dtd.09/08/2016.2) Govt. Order No.UDD 109 DMK 2016
dated 20/03/2017 and its Corrigendum
dated 24/04/2017.3) Nomination Order No.UPLOK-2/DE/
605/2017, Bengaluru, Dated:
27/04/2017.

1. This departmental enquiry is directed against Sri A.H. Shivanna, Chief Officer, TMC, Kunigal, Tumkur District (now retired) (herein after referred to as the Delinquent Government Official in short "DGO").

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 03/04/2017 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 Articles of Charges. Copies of same were issued to the DGO calling upon him to appear before this authority and to submit written statement of his 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. ನೀವು/ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರ/ಶ್ರೀ ಎ.ಹೆಚ್. ಶಿವಣ್ಣ, ಮುಖ್ಯಾಧಿಕಾರಿಗಳು, ಕುಣಿಗಲ್ ಪುರಸಭೆ ಕಚೇರಿ, ಕುಣಿಗಲ್ ಪಟ್ಟಣ, ತುಮಕೂರು ಜಿಲ್ಲೆ (ಪ್ರಸ್ತುತ ನಿವೃತ್ತ), ಆದ ನೀವು ಪುರಸಭೆ ಕಾರ್ಯಾಲಯದಲ್ಲ ಮುಖ್ಯಾಧಿಕಾರಿಯಾಗಿ ಕಾರ್ಯನಿರ್ವಹಿಸುತ್ತಿದ್ದಾಗ, ದಿನಾಂಕ: 09/04/2015 ರಂದು ದೂರುದಾರರಾದ ಶ್ರೀಮತಿ ಮಂಜುಳ ಕೋಂ ಶ್ರೀ ವಿಷಕಂಠ ಶೆಟ್ಟಿ : ಸಾ: ಬಸವೇಶ್ವರ ನಗರ, ಬೆಂಗಳೂರು, ರವರು ತಮ್ಮ ಪತಿ ಶ್ರೀ ವಿಷಕಂಠ ಶೆಟ್ಟಿ ರವರ ಮುಖಾಂತರ ಸಲ್ಲಿಸಿದ್ದರೂ ಸಹ ಅವರಿಗೆ ಖಾತೆ ಎಕ್ಸ್‌ಟ್ರಾಕ್ಟರ್‌ಗಳನ್ನು ನೀಡದೇ ಮತ್ತು ಯಾವ ಸಕಾರಣಗಳನ್ನು ನೀಡದೇ ಕರ್ತವ್ಯ ಲೋಪವೆಸಗಿದ್ದೀರಿ. ನೀವು-ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು 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 ಮಿಸ್‌ಕಾಂಡೆಕ್ಟ್)

7. ಶ್ರೀಮತಿ. ಮಂಜುಳ, ಕೋಂ ಶ್ರೀ ವಿಷಕಂಠ ಶೆಟ್ಟಿ ನಂ.666, 8ನೇ 'ಎ' ಮುಖ್ಯ ರಸ್ತೆ, 3ನೇ ಬ್ಲಾಕ್, 3ನೇ ಹಂತ, ಬಸವೇಶ್ವರ ನಗರ, ಬೆಂಗಳೂರು (ಇನ್ನು ಮುಂದೆ "ದೂರುದಾರರು" ಎಂದು ಸಂಬೋಧಿಸಲಾಗುವ) ಇವರು ದೂರು ಸಲ್ಲಿಸಿದ ಮೇರೆಗೆ ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯಿದೆ 1984 ರ ಕಲಂ 9 ರಡಿಯಲ್ಲಿ ತನಿಖೆಗೆ ತೆಗೆದುಕೊಂಡಿದ್ದಿದೆ.

8. **ದೂರಿನ ಸಂಕ್ಷಿಪ್ತ ವಿವರಣೆ:-**

ದೂರುದಾರರು ತಮ್ಮ ದೂರಿನಲ್ಲಿ ಕುಣಿಗಲ್ ತಾಲ್ಲೂಕು ಕಸಬಾ ಗ್ರಾಮದ ಸ.ನಂ.102/1 ಕ್ಷೇತ್ರ 1 ಎಕರೆ 18 ಗುಂಟೆ ಜಮೀನು ಮೂಲತಃ ದೂರುದಾರರ ತಂದೆ ಡಿ. ರಾಮಕೃಷ್ಣಯ್ಯ ನವರ

ಹೆಸರಿನಲ್ಲಿದ್ದು ಇದನ್ನು ವಾಸದ ಉದ್ದೇಶಕ್ಕಾಗಿ ದಿನಾಂಕ:21/10/1994 ರಂದು ಭೂ ಪರಿವರ್ತನೆ ಮಾಡಲಾಗಿದ್ದು, ಇದರಲ್ಲಿ 38 ನಿವೇಶನಗಳಾಗಿದ್ದು, ಭೂ ಅಭಿವೃದ್ಧಿ ಶುಲ್ಕವನ್ನು ಕುಣಿಗಲ್ ಪುರಸಭೆ ಕಚೇರಿಯಲ್ಲಿ ಪಾವತಿಸಿದ್ದು, ಇರುತ್ತದೆ. ದಿನಾಂಕ:28/04/1995 ರಂದು ಈ ಬಡಾವಣೆಯ ನಕ್ಷೆಯ ಕುಣಿಗಲ್ ಪುರಸಭೆಯಿಂದ ಅನುಮೋದನೆಗೊಂಡಿರುತ್ತದೆ. ದೂರುದಾರರ ತಂದೆ ತೀರಿದ ನಂತರ ದೂರುದಾರರ ತಾಯಿ ಸುಶೀಲಮ್ಮನವರ ಹೆಸರಿಗೆ 38 ನಿವೇಶನಗಳ ಖಾತೆಯಾಗಿದ್ದು, ಆ ಪೈಕಿ 20 ನಿವೇಶನಗಳನ್ನು ದಾನಪತ್ರದ ಮೂಲಕ ದೂರುದಾರರಿಗೆ ನೀಡಿದ್ದರು. ಈ ನಿವೇಶನಗಳ ಖಾತಾ ಎಕ್ಸ್‌ಟ್ರಾಕ್ಟ್‌ಗಳನ್ನು ನೀಡುವಂತೆ ದಿನಾಂಕ: 09/04/2015 ರಂದು ದೂರುದಾರರ ಪತಿ ಕುಣಿಗಲ್ ಪುರಸಭೆಗೆ ಅರ್ಜಿ ಸಲ್ಲಿಸಿದ್ದು, ಆದರೆ ಇದುವರೆಗೆ ಖಾತಾ ಎಕ್ಸ್‌ಟ್ರಾಕ್ಟ್‌ಗಳನ್ನು ಕೊಟ್ಟಿರುವುದಿಲ್ಲ. ನೀವು - ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ದೂರುದಾರರ ನಿವೇಶನಗಳ ಖಾತಾ ಎಕ್ಸ್‌ಟ್ರಾಕ್ಟ್ ಕೊಡದೇ ಬೇಜವಾಬ್ದಾರಿತನ ಪ್ರದರ್ಶಿಸಿದ್ದು, ಆದ್ದರಿಂದ, ನಮಗೆ ನ್ಯಾಯ ದೊರಕಿಸಿಕೊಡಬೇಕೆಂದು ಕೇಳಿಕೊಂಡಿದ್ದಾರೆ.

9. ದೂರುದಾರರ ದೂರಿನ ಮೇಲೆ ನಿಮ್ಮ ಆಕ್ಷೇಪಣೆಯನ್ನು ಕೋರಿ ಆರ್.ಪಿ.ಎ.ಡಿ., ಮೂಲಕ ನಿಮಗೆ ನೋಟೀಸ್ ಕಳುಹಿಸಿದ್ದು, ಅದು ಜಾರಿಯಾಗಿ ಅದರ ಸ್ವೀಕೃತಿ ಬಂದಿದ್ದು, ಆದರೆ, ನೀವು ನಿಮ್ಮ ಆಕ್ಷೇಪಣೆಯನ್ನು ಸಲ್ಲಿಸಿರುವುದಿಲ್ಲ.

10. ದೂರುದಾರರು ಅವರ ದೂರಿನೊಂದಿಗೆ ನಿಮ್ಮ ಕಚೇರಿಗೆ ಅವರ 20 ನಿವೇಶನಗಳ ನಂಬರ್, ವಿಸ್ತೀರ್ಣ ನಮೂದಿಸಿ ದಿನಾಂಕ: 09/04/2015 ರಂದು ನೀಡಿದ ಅರ್ಜಿಯ ಸ್ವೀಕೃತಿಯನ್ನು ಹಾಜರುಪಡಿಸಿದ್ದು, ಅಲ್ಲದೇ ನೀವು ಖಾತಾ ಎಕ್ಸ್‌ಟ್ರಾಕ್ಟ್ ಕೊಡದೇ ಇರುವುದರಿಂದ ನಿಮ್ಮ ವಿರುದ್ಧ ಉಪವಿಭಾಗಾಧಿಕಾರಿಗಳು, ತುಮಕೂರು ಅವರಿಗೆ ದಿನಾಂಕ:02/05/2015 ರಂದು ದೂರು ಸಲ್ಲಿಸಿದ್ದರು.

11. ಈ ಪ್ರಕರಣದಲ್ಲಿ ಲಭ್ಯವಿದ್ದ ದಾಖಲಾತಿಗಳ ಆಧಾರದ ಮೇಲೆ ನೋಡುವುದಾದರೆ ದೂರುದಾರರು 20 ನಿವೇಶನಗಳನ್ನು ಕುಣಿಗಲ್ ಪಟ್ಟಣದಲ್ಲಿ ಹೊಂದಿದ್ದು, ಅವುಗಳ ಖಾತಾ ಎಕ್ಸ್‌ಟ್ರಾಕ್ಟ್ ಪಡೆಯಲು ನಿಮಗೆ ಅರ್ಜಿ ಸಲ್ಲಿಸಿದಾಗ ನೀವು ಖಾತಾ ಎಕ್ಸ್‌ಟ್ರಾಕ್ಟ್‌ಗಳನ್ನು ನೀಡದಿರುವುದು ಕಂಡು ಬರುತ್ತದೆ. ಆಗ

ಈ ಕಚೇರಿಗೆ ದೂರುದಾರರು ದೂರು ಸಲ್ಲಿಸಿದ್ದು, ಇಲ್ಲಿ ನೀವು ಖಾತೆ ಎಕ್ಸ್‌ಟ್ರಾಕ್ಟ್‌ಗಳನ್ನು ನೀಡದಿರುವುದಕ್ಕೆ ಯಾವುದೇ ಕಾರಣಗಳನ್ನು ನೀಡಿರುವುದಿಲ್ಲ ಹಾಗೂ ನಿಮ್ಮ ಆಕ್ಷೇಪಣೆಯನ್ನು ಸಲ್ಲಿಸಿರುವುದಿಲ್ಲ. ದೂರುದಾರರಿಗೆ ಸಹ ಖಾತಾ ಎಕ್ಸ್‌ಟ್ರಾಕ್ಟ್‌ಗಳನ್ನು ನೀಡದಿರುವ ಬಗ್ಗೆ ಯಾವುದೇ ಕಾರಣ ನೀಡಿರುವುದಿಲ್ಲ. ಇದನ್ನು ಗಮನಿಸಿದಾಗ ನೀವು ಯಾವುದೇ ಸಕಾರಣಗಳಲ್ಲದೇ ದೂರುದಾರರಿಗೆ ಖಾತಾ ಎಕ್ಸ್‌ಟ್ರಾಕ್ಟ್‌ಗಳನ್ನು ನೀಡದಿರುವುದು ಕಂಡು ಬರುತ್ತದೆ.

12. ಕಡತದಲ್ಲಯ ಸಂಗತಿಗಳು ಹಾಗೂ ದಾಖಲಾತಿಗಳನ್ನು ಕೂಲಂಕಷವಾಗಿ ಪರಿಶೀಲಿಸಿದಾಗ, ನಿಮ್ಮ ವಿರುದ್ಧದ ನಡವಳಿಯನ್ನು ಕೈಬಿಡಲು ಸೂಕ್ತ/ಸಮಂಜಸ/ಸಮಾಧಾನಕರ ಕಾರಣ ತೋರಿಸಿಲ್ಲವೆಂಬ ಅಭಿಪ್ರಾಯಕ್ಕೆ ಬರಲಾಗಿದೆ.

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

14. ಈ ಮೇಲ್ಕಂಡ ಕಾರಣಗಳಿಂದಾಗಿ, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನಿಮ್ಮ ವಿರುದ್ಧ ಇಲಾಖಾ ವಿಚಾರಣೆ ನಡೆಸುವ ಸಂಬಂಧ ಮುಂದುವರಿಯುವುದು 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 ನಾಗರಿಕ ಸೇವಾ (ನಡತೆ) ನಿಯಮಗಳು, 1966ರ 3(1) (i) (ii) ಮತ್ತು (iii) ರಲ್ಲಿ ಹೇಳದಂತೆ ದುರ್ನಡತೆ/ದುರ್ವರ್ತನೆಯಿಂದ ವರ್ತಿಸಿ ಶಿಸ್ತು ಕ್ರಮಕ್ಕೆ ಬಾಧ್ಯರಾಗಿದ್ದಾರೆಂದು ಕಂಡು ಬಂದಿದ್ದರಿಂದ, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯ್ದೆಯ ಕಲಂ 12(3) ರಡಿಯಲ್ಲಿ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರದಡಿಯಲ್ಲಿ, ಈ ಮೂಲಕ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನಿಮ್ಮ ವಿರುದ್ಧ ಶಿಸ್ತು ನಡವಳಿಕೆ ಹೂಡಲು ಮತ್ತು ನೀವು ಈಗಾಗಲೇ ನಿವೃತ್ತಿ

ಹೊಂದಿರುವುದರಿಂದ, ಕೆಸಿಎಸ್‌ಆರ್ ನಿಯಮ 214(ಬಿ)(i) ರ ಅಡಿ ಇಲಾಖಾ ವಿಚಾರಣೆಗೆ ಅನುಮತಿಯನ್ನು ನೀಡಿ ಹಾಗೂ ನಿಮ್ಮ ವಿರುದ್ಧ ಇಲಾಖಾ ವಿಚಾರಣೆ ಮಾಡಲು ಹಾಗೆಯೇ ಕರ್ನಾಟಕ ನಾಗರಿಕ 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 ನಿಮ್ಮ ವಿರುದ್ಧ ಈ ಆಪಾದನೆ.

15. The DGO appeared before this Enquiry Authority on 24/07/2017 and on the same day their 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 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 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.

16. In order to substantiate the charge, the Disciplinary Authority examined one witness as PW-1 got marked the documents at Ex.P-1 to P-7 and closed the evidence.

17. 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 witness have deposed falsely against him. The

DGO did not lead any oral evidence. The questionnaire of the DGO as required U/Rule 11(18) of KCS (CC & A) Rules, 1957 was recorded. He denied the incriminating evidence appearing against him.

18. The Defence Assistant for DGO and the Learned Presenting Officer canvassed their oral arguments.

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

Whether the Disciplinary Authority has satisfactorily proved that the DGO Sri A.H. Shivanna while working as Chief Officer of Kunigal Municipality, though the complainant Smt Manjula W/o Vishakanta Shetty, through her husband Sri Vishakanta Shetty had filed an application on 09/04/2015 requesting the DGO to issue khata extracts of 20 sites created in Sy.No.102/1, measuring 1 acre 18 guntas, situated within Kunigal Municipality limits, the DGO did not issue the khata extracts and went on postponing the same on

one or the other pretext 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.

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

:: REASONS ::

21. **Point No-1:-** The complainant Smt Manjula W/o Vishakanta Shetty resident of Kunigal has been examined as PW-1 and she has reiterated the facts stated in the complaint. The complainant states that, her mother had gifted 20 sites in land bearing Sy No.102/1 within Kunigal Municipality limits and presently the said land falls in Ward No.12, Andhanaiah Layout, Kunigal. She has paid the taxes to the Kunigal Municipality. On 09/04/2015 her husband Sri Vishakanta Shetty had filed an application on behalf of the complainant to the Chief Officer, Kunigal Municipality, requesting him i.e the DGO to issue khata extracts of the said 20 sites. The DGO was the Chief Officer of Kunigal Municipality. However, the DGO did not issue the khata extracts of the 20 sites. Hence, the

complainant lodged the complaint to the Tahasildar, Kunigal, Assistant Commissioner and Deputy Commissioner, Tumkur. However, no action was taken by these authorities also. Hence, she was constrained to file this complaint before this Institution. She identifies the complaint at Ex.P-1 and Form No-I and II at Ex.P-2 and P-3.

22. PW-1 further states that, on 02/05/2015 she lodged complaint before the Deputy Commissioner, Tumkur, Assistant Commissioner, Tumkur and Tahasildar, Kunigal, complaining that, the DGO had not issued the khata extracts of her 20 sites for the year 2015-16 and she had requested them to take suitable action against the DGO. The complainant has identified the copies of the said letters which are Ex.P-4, Ex.P-5 and Ex.P-6. The complainant has also produced the copy of the application submitted to the DGO on 09/04/2015 and it has been marked as Ex.P-7.

23. PW-1 has been cross examined by the Advocate for DGO. I have carefully gone through the cross examination of PW-1. However, I am of the opinion that, nothing material has been elicited so as to discredit her testimony. On the other hand, the advocate for DGO himself has suggested that, the DGO has caused a delay of two months in issuing the khata extracts and not three months as alleged by the complainant. The DGO himself has

admitted that, he has caused the delay of two months in issuing the khata extracts.

24. The complainant has been examined as PW-1. She has lodged the complaint as per Ex.P-1. On careful perusal of this document, she has stated that, she is the owner of 20 sites formed in Sy.No.102/1 totally measuring 1 acre 18 guntas, situated within the limits of Kunigal Municipality. She states that, the said land was owned by her late father Sri Ramakrishnaiah. In the year 1994 the said land was converted into non agricultural land. On 28/04/1994 the layout plan was also approved by the Kunigal Municipality. She further states that, totally 38 sites were formed in Sy.No.102/1. After the death of her father, her mother became the owner of the said 38 sites. The complainant further states that, her mother gifted 20 sites to her by way of gift deed. Accordingly she became the owner of 20 sites. The complainant has also given the numbers of the sites. They are as follows,

ನಿವೇಶನಗಳ ಸಂಖ್ಯೆ	ಮುನಿಸಿಪಲ್ ಅಸೆಸ್‌ಮೆಂಟ್ ನಂ.
1	2204/2050
2	2205/2051
3	2206/2052
4	2207/2053
5	2208/2054
6	2209/2055

7	2210/2056
8	2211/2057
13	2216/2062
14	2217/2063
15	2218/2064
16	2219/2065
17	2220/2066
18	2221/2067
19	2222/2068
20	2223/2069
21	2224/2070
22	2225/2071
23	2226/2072
24	2227/2073

25. The complainant has also given measurements of the said sites. PW-1 specifically states that, the DGO was the Chief Officer of Kunigal Municipality in the year 2015. On 09/04/2015 the husband of the complainant Sri Vishakanta Shetty had filed an application before the DGO i.e the Chief Officer of Kunigal Municipality requesting him to issue the khata extracts of the above referred 20 sites. The complainant has produced the copy of the said application which is at Ex.P-7. On careful perusal of this document, it is observed that, the husband of complainant

has requested the DGO to issue khata extracts of the 20 sites owned by his wife. The complainant has further stated that, the DGO did not issue the khata extracts for the year 2015-16.

26. PW-1 further states that, when the DGO did not issue the khata extracts, she approached the Deputy Commissioner, Tumkur, Assistant Commissioner, Tumkur and the Tahasildar Tumkur and requested them to direct the DGO to issue the khata extracts of the said 20 sites. The complainant has produced the copies of said letters which are Ex.P-4 to Ex.P-6. I have carefully gone through the letters at Ex.P-4 to P-6. On perusal of these documents, it is observed that, when the DGO had not issued the khata extracts of the said sites, she had approached the higher authorities i.e the Tahasildar Kunigal, the Assistant Commissioner, Tumkur and the Deputy Commissioner, Tumkur. However, these authorities also have not taken any action against the DGO.

27. The complainant/PW-1 has also produced the copy of the application submitted to the DGO on 09/04/2015. The said document has been marked as Ex.P-7. On careful perusal of this document, the husband of the complainant has filed this application requesting the DGO to issue khata extracts of the 20 sites for the year 2015-16 owned by the complainant. On careful perusal of Ex.P-7, it is observed that, the Kunigal Municipality

605/17

has received the application on 09/04/2015 and the seal of Kunigal Municipality has been affixed.

28. The complainant/PW-1 has specifically stated that, even though she had filed an application on 09/04/2015, the DGO who was the responsible person and Chief Officer of Kunigal Municipality, did not issue the khata extracts of the 20 sites for year 2015-16. PW-1 has been cross examined at length but nothing material has been elicited so as to discredit her testimony. The cross examination of PW-1 is very material. The advocate for DGO himself has suggested that, the DGO has caused the delay of 2 months and not 3 months as alleged by the complainant. As from the cross examination, the DGO himself has admitted of having caused the delay of two months in issuing the khata extracts. The DGO has to explain why there was delay of two months in issuing the khata extracts. The DGO has not led any oral evidence in support of his contentions and he has not produced any documents to explain the delay. In the cross examination of PW-1, it was suggested that, the DGO had to obtain permission from his higher authorities and hence, there was delay in issuing the khata extracts. The burden is upon the DGO to explain what was the problem or obstacle to issue the khata extracts. If he had corresponded with his higher authorities to obtain the permission the DGO ought to have filed those documents. In the cross examination of PW-1, it was

suggested that, the permission of the higher authorities was necessary and hence, there was delay. However, the DGO has not produced any documents to show that, he had corresponded with the higher authorities. Genuinely if there were any legal requirements and permission of the higher authorities was to be obtained, the DGO would have produced the documents to show that, the delay was due to bonafied reasons. However, the DGO has not produced any oral or documentary evidence. Even in the questionnaire the DGO has only denied the incriminating evidence appearing against him, but he has not given any bonafied reasons for the delay. Hence, I am of the opinion that, the DGO has caused undue delay in issuing the khata extracts of the 20 sites, because of malafied intentions. Therefore I am of the opinion that, the DGO has deliberately not issued the khata extracts of the 20 sites owned by the complainant and thereby committed misconduct and dereliction of duty.


29. 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 A.H. Shivanna, Chief Officer, TMC, Kunigal, Tumkur District.

30. 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 4th day of January 2020


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

ANNEXURES

Witness examined on behalf of the Disciplinary Authority
PW-1: Smt Manjula (Original)
Witness examined on behalf of the Defence
NIL
Documents marked on behalf of the Disciplinary Authority
Ex. P-1: Complaint (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 complainant lodged complaint before the Deputy Commissioner, Tumkur dated 02/05/2015 (Xerox copy)
Ex. P-5: The complainant lodged complaint before the Assistant Commissioner, Tumkur dated 02/05/2015 (Xerox copy)
Ex. P-6: The complainant lodged complaint before the Tahasildar, Kunigal dated 02/05/2015 (Xerox copy)
Ex. P-7: The copy of the application submitted to the DGO on 09/04/2015 (Xerox)
Documents marked on behalf of the DGO
NIL

Dated this the 4th day of January 2020


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

605/17



KARNATAKA LOKAYUKTA

No. Uplok-2/DE/605/2017/ARE-13

Multi-storeyed Building,
Dr.B.R. Ambedkar Veedhi,
Bengaluru, dt.6.1.2020.

RECOMMENDATION

Sub: Departmental Enquiry against Sri.A.H.Shivanna,
Chief Officer, TMC, Kunigal Taluk, Tumkur District-reg.

Ref: 1. Govt. Order No. ನಅಇ 109 ಡಿಎಂಕೆ 2016, ಬೆಂಗಳೂರು,

ದಿನಾಂಕ: 20.3.2017 and corrigendum dated 24.4.2017.

2. Nomination Order Uplok-2/DE/605/ 2017 of Hon'ble
Upalokayukta-2, Bengaluru, dated 27.4.2017.

3. Report of ARE-13, KLA, Bengaluru, dated 4.1.2020.

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Government, by order dt. 20.3.2017, initiated the disciplinary proceedings against Sri.A.H.Shivanna, Chief Officer, TMC, Kunigal Taluk, Tumkur District [hereinafter referred to as the Delinquent Government Official, for short 'DGO'] and entrusted the departmental inquiry to this Institution.

2. This Institution, by Nomination Order dated 27.4.2017 nominated Additional Registrar of Enquiries-4 Karnataka Lokayukta, Bengaluru, to conduct departmental inquiry against the DGO for the alleged misconduct said to have been committed by him. Subsequently, as per Order No. Uplok-1 & 2/DE/Transfers/2018, dated 6.8.2018, ARE-13 was re-nominated to continue the said enquiry.

3. The charge framed against the DGO, Sri.A.H.Shivanna, Chief Officer, TMC, Kunigal Taluk, Tumkur District, is as follows;

“ನೀವು/ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರ/ಶ್ರೀ ಎ.ಹೆಚ್. ಶಿವಣ್ಣ, ಮುಖ್ಯಾಧಿಕಾರಿಗಳು, ಕುಣಿಗಲ್ ಪುರಸಭೆ ಕಚೇರಿ, ಕುಣಿಗಲ್ ಪಟ್ಟಣ, ತುಮಕೂರು ಜಿಲ್ಲೆ (ಪ್ರಸ್ತುತ ನಿವೃತ್ತ) ಆದ ನೀವು ಪುರಸಭೆ ಕಾರ್ಯಾಲಯದಲ್ಲಿ ಮುಖ್ಯಾಧಿಕಾರಿಯಾಗಿ ಕಾರ್ಯನಿರ್ವಹಿಸುತ್ತಿದ್ದಾಗ,

ದಿನಾಂಕ:09/04/2015 ರಂದು ದೂರುದಾರರಾದ ಶ್ರೀಮತಿ ಮಂಜುಳ ಕೋಂ ಶ್ರೀ ವಿಷಕಂಠ ಶೆಟ್ಟಿ: ಸಾ: ಬಸವೇಶ್ವರನಗರ, ಬೆಂಗಳೂರು ರವರು ತಮ್ಮ ಪತಿ ಶ್ರೀ ವಿಷಕಂಠ ಶೆಟ್ಟಿ ರವರ ಮುಖಾಂತರ ಕುಣಿಗಲ್ ತಾಲ್ಲೂಕು ಕಸಬಾ ಗ್ರಾಮ ಸ.ನಂ. 102/1 ಕ್ಷೇತ್ರ 1 ಎಕರೆ 18 ಗುಂಟೆ, ಜಮೀನಿನ ಪೈಕಿ ದಾನಪತ್ರದ ಮುಖಾಂತರ ಪಡೆದ 20 ಸೈಟುಗಳ ಖಾತಾ ಎಕ್ಸ್‌ಟ್ರಾಕ್ಟ್‌ಗಳಿಗೆ ಅರ್ಜಿ ಸಲ್ಲಿಸಿದ್ದರೂ ಸಹ ಅವರಿಗೆ ಖಾತೆ ಎಕ್ಸ್‌ಟ್ರಾಕ್ಟ್‌ಗಳನ್ನು ನೀಡದೇ ಮತ್ತು ಯಾವ ಸಕಾರಣಗಳನ್ನು ನೀಡದೇ ಕರ್ತವ್ಯಲೋಪವೆಸಗಿರುತ್ತೀರಿ. ನೀವು-ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು, ಸರ್ಕಾರಿ ಸೇವಕರಾಗಿದ್ದು, ನಿಮ್ಮ ಕರ್ತವ್ಯ ಪಾಲನೆಯಲ್ಲಿ ಪರಿಪೂರ್ಣ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ತೋರಿಸದೆ, ಸಾರ್ವಜನಿಕ ಸೇವೆಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡಿದ್ದು, 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 levelled against the DGO Sri. A. H. Shivanna, Chief Officer, TMC, Kunigal Taluk, Tumkur District.'

5. On re-consideration of report of inquiry and all the records, 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 Inquiry Officer, Sri.A.H.Shivanna, Chief Officer, TMC, Kunigal Taluk, Tumkur District, retired from service on 31.01.2017.

7. Having regard to the nature of charge 'proved' against DGO - Sri. A. H. Shivanna, Chief Officer, TMC, Kunigal Taluk, Tumkur District and on consideration of the totality of circumstances-, 'it is hereby recommended to the

605/17

Government to impose penalty of Withholding of (Ten) 10% of the pension payable to DGO -, for a period of five years.'

8. Action taken in the matter shall be intimated to this Authority.  
Connected records are enclosed herewith.

*Patil 6-1-20*  
**(JUSTICE B.S.PATIL)**  
Upalokayukta-2,  
State of Karnataka.

