

KARNATAKA LOKAYUKTA

NO:UPLOK-2/DE/609/2016/ARE-9

M.S.Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru - 560 001.
Date: 25.11.2021

:: ENQUIRY REPORT ::

:: Present ::

(PUSHPAVATHI.V)

**Additional Registrar of Enquiries -9
Karnataka Lokayukta,
Bengaluru**

Sub: Departmental Enquiry against (1)
Sri.Jayaprakash.H., Assistant Engineer,
O/o the Assistant Executive Engineer,
Panchayath Raj Engineering Sub Division,
Honnali, Davangere District (2)
Sri.S.M.Nayak, the then Assistant
Executive Engineer, Panchayath Raj
Engineering Sub Division, Honnali,
Davanagere District (presently retired)-
reg.

Ref: 1. G.O.No.GraAPa 131 ENQ 2016 dated:
7.11.2016
2.Nomination Order No: UPLOK-2/
DE/609/2016/ARE-9 Bangalore dated:
14.11.2016 of Hon'ble Upalokayukta-2.
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This Departmental Enquiry is initiated against (1)
Sri.Jayaprakash.H., Assistant Engineer, O/o the Assistant Executive
Engineer, Panchayath Raj Engineering Sub Division, Honnali,
Davangere District (2) Sri.S.M.Nayak, the then Assistant Executive
Engineer, Panchayath Raj Engineering Sub Division, Honnali,
Davanagere District (presently retired) (hereinafter referred to as the
Delinquent Government Officials for short "**DGO-1 & 2**").

25.11.2021

2. In pursuance of the Government Order cited above at reference No.2, Hon'ble Upalokayukta vide order dated 14.11.2016 cited above at reference No.2 has nominated Additional Registrar of Enquiries-9 (in short ARE-9) to issue Articles of charges and to conduct the inquiry against the aforesaid DGOs.

3. This Authority (ARE-9) has issued the Articles of charges, Statement of imputations of misconduct, list of witnesses proposed to be examined in support of the charges and list of documents proposed to be relied in support of the charges.

4. The Article of charges issued by the ARE-9 against the DGOs is as under :

ANNEXURE-I

Charge:-

While you DGO No.1 Sri. H. Jayaprakash was working as Assistant Engineer ಅರಬಗಟ್ಟೆಯಿಂದ ಮಾದನಬಾವಿ ರಸ್ತೆ ಅಭಿವೃದ್ಧಿ ಕಾಮಗಾರಿಯು 2012-13ನೇ ಸಾಲಿನಲ್ಲಿ ರಸ್ತೆ ಕಾಮಗಾರಿಗಳ ಅಂದಾಜು ಪಟ್ಟಿಯಂತೆ ಅಳತೆಯನ್ನು ಪರಿಶೀಲಿಸದೇ ಅಳತೆ ನಮೂದಿಸಿದ್ದು, ಬಿಲ್ಲನ್ನು ಪಾವತಿಗಾಗಿ ವಿಭಾಗಕ್ಕೆ ಶಿಫಾರಸ್ಸು ಮಾಡಿರುತ್ತೀರ ಹಾಗೂ ಕಾಮಗಾರಿಯ ಅನುಷ್ಠಾನದಲ್ಲಿ ಒಟ್ಟು ರೂ.37,121/- ಗಳನ್ನು ಹೆಚ್ಚುವರಿಯಾಗಿ ಪಾವತಿಯಾಗಿದ್ದು, ಸರ್ಕಾರಕ್ಕೆ ಆರ್ಥಿಕ ನಷ್ಟವನ್ನುಂಟು ಮಾಡಿರುತ್ತೀರಿ.

Further you DGO No.2 Sri. M. Nayak was working as Asst. Executive Engineer, ಕಾಮಗಾರಿ ರಸ್ತೆ ಅಭಿವೃದ್ಧಿ ಪಡಿಸಬೇಕಾದ ಉದ್ದ 250 ಮೀಟರ್ ಇರುತ್ತದೆ. ಅದರಲ್ಲಿ 230 ಮೀಟರ್ ಉದ್ದ ಸ್ಯಾರಿ ಪಾಲ್ ಮಾಡಿ ರಸ್ತೆಯಲ್ಲಿ ಮಣ್ಣಿನ ಏರಿ ನಿರ್ಮಾಣ ಮಾಡಿದ ಹಾಗೂ ಒಟ್ಟು 250 ಮೀಟರ್ ಉದ್ದಕ್ಕೆ ಎರಡು ಪದರಗಳಲ್ಲಿ ಜೆಲ್ಲಿ ಬಿಚಾವಣೆಯನ್ನು ಮಾಡಲಾಗಿದೆ ಆದರೆ ಡಾಂಬರೀಕರಣ ಮಾಡುವುದಕ್ಕೂ ಪೂರ್ವದಲ್ಲಿ ಸುಮಾರು 39 ಮೀಟರ್ ಉದ್ದಕ್ಕೆ ಬೇರೆ ಇಲಾಖೆಯವರು ಕಾಂಕ್ರೀಟ್ ರಸ್ತೆ ನಿರ್ಮಿಸಿರುವುದು ರಸ್ತೆಯ ಉಜ್ಜೆ 211 ಮೀಟರುಗಳಾಗಿರುತ್ತದೆ. ಶಾಖಾಧಿಕಾರಿಗಳು ಅಳತೆ ಮಾಡಿ ತೋರಿಸಿದ್ದಕ್ಕೆ ಮಾತ್ರ ಚೆಕ್ ಮೆಸರ್‌ಮೆಂಟಿಗೆ ಸಹಿ ಹಾಕಿರುತ್ತೀರ ತನಿಖಾಧಿಕಾರಿ ಬೇರೆ ಇಲಾಖೆಯವರು

ಕಾಂಕ್ರೀಟ್ ರಸ್ತೆ 39 ಮೀಟರ್ ಪರಿಗಣಿಸಿಲ್ಲವೆಂದು ಹೇಳುತ್ತಾ ಈ ರೀತಿಯಾಗಿ ಅಂದಾಜು ಪಟ್ಟಿಯಲ್ಲಿರುವ ರಸ್ತೆಯ ಉದ್ದಕ್ಕೂ ಮತ್ತು ಅಳತೆ ಪ್ರಕಾರ ಉದ್ದಕ್ಕೂ ರಸ್ತೆಯಿದ್ದರೂ ಕಂಡುಬಂದರೂ ಅಂದಾಜು ಪಟ್ಟಿಯಂತೆ ಬಿಲ್ಲನ್ನು ಹೆಚ್ಚುವರಿ ಹಣವನ್ನು ಪಾವತಿ ಮಾಡಿರುತ್ತೀರ and therefore you DGO No.1 and 2 have failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servants and therefore you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966. Hence, this charge.

ANNEXURE-II

5. STATEMENT OF IMPUTATION OF MISCONDUCT:

Brief facts of the case are :- ದೂರುದಾರರು ತಮ್ಮ ದೂರಿನಲ್ಲಿ ದಾವಣಗೆರೆ ಜಿಲ್ಲೆ, ಹೊನ್ನಾಳಿ ತಾಲ್ಲೂಕು, ಅರಬಗಟ್ಟಿ ಯಿಂದ ಮಾದನಬಾವಿ ರಸ್ತೆ ಅಭಿವೃದ್ಧಿ ಕಾಮಗಾರಿಯು 2012-13ನೇ ಸಾಲಿನಲ್ಲಿ 13ನೇ ಹಣಕಾಸು ಯೋಜನೆಯಡಿಯಲ್ಲಿ ರೂ.5 ಲಕ್ಷಕ್ಕೆ ಅನುಮೋದನೆಯಾಗಿರುತ್ತದೆ. ಸದರಿ ರಸ್ತೆ ಕಾಮಗಾರಿಗಳು ಅಂದಾಜು ಪಟ್ಟಿಯಂತೆ ನಡೆಯದೆ ಇದ್ದರೂ ಸಹ ಅಂದಾಜು ಪಟ್ಟಿಯಂತೆ ಬಿಲ್ಲನ್ನು ಮಾಡಿ ಹಣ ದುರುಪಯೋಗ ಪಡಿಸಿಕೊಂಡಿರುತ್ತಾರೆ ಹಾಗೂ ಮಾಡಿರುವ ಕಾಮಗಾರಿಯು ಕಳಪೆ ಗುಣಮಟ್ಟದ್ದಾಗಿರುತ್ತದೆ. ಅಂದಾಜು ಪಟ್ಟಿ ಮತ್ತು ಅಳತೆ ಪುಸ್ತಕದಲ್ಲಿರುವ ಬಿಲ್ಲಿಗೂ ವ್ಯತ್ಯಾಸವಿದೆ ಎಂದು ಆಪಾದಿಸಿ ದೂರನ್ನು ಸಲ್ಲಿಸಿರುತ್ತಾರೆ.

ದೂರಿನ ಬಗ್ಗೆ ತನಿಖೆಯನ್ನು ಕೈಗೊಂಡು ವರದಿಯನ್ನು ಸಲ್ಲಿಸುವಂತೆ ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ತಾಂತ್ರಿಕ ವಿಭಾಗದವರಿಗೆ ಆದೇಶಿಸಲಾಗಿತ್ತು. ತಾಂತ್ರಿಕ ವಿಭಾಗದವರು ವರದಿಯನ್ನು ಸಲ್ಲಿಸಿದ್ದು, ವರದಿಯಲ್ಲಿ ಅಳತೆ ಪುಸ್ತಕದಲ್ಲಿ ನಮೂದಿಸಿರುವ ಪ್ರಕಾರ ಕಾಮಗಾರಿಯ ಒಟ್ಟು ಮೊತ್ತ ರೂ.2,64,296/- ಆಗಿದ್ದು, ತನಿಖೆಯ ನಂತರ ಕಾಮಗಾರಿಯ ಒಟ್ಟು ಮೊತ್ತ ರೂ.2,27,175/- ಆಗಿರುತ್ತದೆ. ಆದ್ದರಿಂದ, ರೂ.37,121/- ಹೆಚ್ಚುವರಿ ಹಣ ಪಾವತಿಯಾಗಿರುವ ಬಗ್ಗೆ ಕಂಡುಬರುತ್ತದೆ. 1ನೇ ಎದುರುದಾರರು ಅಳತೆಯನ್ನು ಪರಿಶೀಲಿಸದೆ ಅಳತೆ ನಮೂದಿಸಿದ್ದು, ಅವರ ಕರ್ತವ್ಯಲೋಪವಾಗಿರುತ್ತದೆ. ಬಿಲ್ಲನ್ನು ಪಾವತಿಗಾಗಿ ವಿಭಾಗಕ್ಕೆ ಶಿಫಾರಸ್ಸು ಮಾಡಿ ಶ್ರೀ.ಎಸ್.ಎಂ.ನಾಯಕ್ ಇವರು ಸಲ್ಲಿಸಿರುತ್ತಾರೆ. ಹೊನ್ನಾಳಿ ತಾಲ್ಲೂಕು ಅರಬಗಟ್ಟಿಯಿಂದ ಮಾದನಬಾವಿ ರಸ್ತೆ ಅಭಿವೃದ್ಧಿ ಕಾಮಗಾರಿಯ ಅನುಷ್ಠಾನದಲ್ಲಿ ಒಟ್ಟು ರೂ.37,121/- ಹೆಚ್ಚುವರಿ ಪಾವತಿಯಾಗಿರುವುದು ಸರ್ಕಾರಕ್ಕೆ ಅಷ್ಟು ಮೊತ್ತದ ಆರ್ಥಿಕ ನಷ್ಟವುಂಟಾಗಿರುತ್ತದೆ. ಸದರಿ ಹಣದ ದುರುಪಯೋಗಕ್ಕೆ (1) ಶ್ರೀ.ಜಯಪ್ರಕಾಶ್ ಹೆಚ್, ಸಹಾಯಕ ಇಂಜಿನಿಯರ್, ಪಂಚಾಯತ್ ರಾಜ್ ಇಂಜಿನಿಯರಿಂಗ್ ಉಪವಿಭಾಗ, ಹೊನ್ನಾಳಿ, ದಾವಣಗೆರೆ ಜಿಲ್ಲೆ, ಮತ್ತು (2) ಶ್ರೀ.ಎಸ್.ಎಂ.ನಾಯಕ್, ಹಿಂದಿನ ಸಹಾಯಕ ಕಾರ್ಯಪಾಲಕ ಇಂಜಿನಿಯರ್, ಪಂಚಾಯತ್ ರಾಜ್ ಇಂಜಿನಿಯರಿಂಗ್ ಉಪವಿಭಾಗ, ಹೊನ್ನಾಳಿ, ದಾವಣಗೆರೆ ಜಿಲ್ಲೆ, ಇವರು ಕಾರಣರಾಗಿರುತ್ತಾರೆಂದು ವರದಿಯಲ್ಲಿ ತಿಳಿಸಿರುತ್ತಾರೆ.

ತನಿಖಾ ವರದಿಯ ಮೇಲೆ ಆಕ್ಷೇಪಣೆಯನ್ನು ಸಲ್ಲಿಸುವಂತೆ ಎದುರುದಾರರಿಗೆ ಆದೇಶಿಸಲಾಗಿತ್ತು. 1 ಮತ್ತು 2ನೇ ಎದುರುದಾರರು ಆಕ್ಷೇಪಣೆಯನ್ನು ಸಲ್ಲಿಸಿದ್ದು, ಆಕ್ಷೇಪಣೆಯಲ್ಲಿ ಕಾಮಗಾರಿಯನ್ನು ತುಂಡುಗುತ್ತಿಗೆ ಅಡಿಯಲ್ಲಿ ನಿರ್ವಹಿಸಲು ಶ್ರೀ.ಡಿ.ಎಂ.ಸುರೇಶ್, ಗುತ್ತಿಗೆದಾರರು, ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರು, ಪಂಚಾಯತ್ ರಾಜ್ ಇಂಜಿನಿಯರಿಂಗ್ ವಿಭಾಗ, ದಾವಣಗೆರೆ ಇವರೊಂದಿಗೆ ಒಪ್ಪಂದ ಕರಾರನ್ನು ನಿರ್ವಹಿಸಿಕೊಂಡಿರುತ್ತಾರೆ. ಸದರಿ ಕಾಮಗಾರಿಯಲ್ಲಿ ರಸ್ತೆ ಅಭಿವೃದ್ಧಿ ಪಡಿಸಬೇಕಾದ ಉದ್ದ 250 ಮೀ. ಇರುತ್ತದೆ. ಅದರಲ್ಲಿ 230ಮೀ. ಉದ್ದ ಸ್ಯಾರಿಫಾಯಿಂಗ್ ಮಾಡಿ ರಸ್ತೆಯಲ್ಲಿ ಮಣ್ಣಿನ ಏರಿ ನಿರ್ಮಾಣ ಮಾಡಿದೆ ಹಾಗೂ ಒಟ್ಟು 250 ಮೀ. ಉದ್ದಕ್ಕೆ 2 ಪದರಗಳಲ್ಲಿ ಜಲ್ಲಿ ಬಿಚಾವಣೆಯನ್ನು ಮಾಡಲಾಗಿದೆ. ಆದರೆ ಡಾಂಬರೀಕರಣ ಮಾಡುವುದಕ್ಕೂ ಪೂರ್ವದಲ್ಲಿ ಅಲ್ಲಿ ಸುಮಾರು 39 ಮೀ. ಉದ್ದಕ್ಕೆ ಬೇರೆ ಇಲಾಖೆಯವರು ಕಾಂಕ್ರೀಟ್ ರಸ್ತೆ ನಿರ್ಮಿಸಿರುವುದು ತಿಳಿದುಬಂದಿದೆ. ಸದರಿ ಭಾಗವನ್ನು ಹೊರತುಪಡಿಸಿ ಡಾಂಬರೀಕರಣ ಮಾಡಲಾದ ರಸ್ತೆಯ ಉದ್ದ 211 ಮೀ.ಗಳಾಗಿರುತ್ತದೆ. ಶಾಖಾಧಿಕಾರಿಗಳು ಅಳತೆ ಮಾಡಿ ತೋರಿಸಿದ್ದಕ್ಕೆ ಮಾತ್ರ ಚೆಕ್ ಮೆಜರ್‌ಮೆಂಟ್‌ಗೆ ಸಹಿ ಹಾಕಿರುತ್ತಾರೆ. ತನಿಖೆಯ ಸಮಯದಲ್ಲಿ ತನಿಖಾಧಿಕಾರಿ ಬೇರೆ ಇಲಾಖೆಯವರು ಹಾಕಿರುವ ಕಾಂಕ್ರೀಟ್ ರಸ್ತೆ 39 ಮೀಟರನ್ನು ಪರಿಗಣಿಸಿರುವುದಿಲ್ಲವೆಂದು ಹೇಳಿರುತ್ತಾರೆ.

ತನಿಖಾಧಿಕಾರಿ ಸಲ್ಲಿಸಿರುವ ವರದಿಯನ್ನು ಪರಿಶೀಲಿಸಿದಾಗ, ಅಂದಾಜು ಪಟ್ಟಿಯಲ್ಲಿರುವ ರಸ್ತೆಯ ಉದ್ದಕ್ಕೂ ಮತ್ತು ಅಳತೆ ಪುಸ್ತಕದ ಪ್ರಕಾರ ರಸ್ತೆ ಉದ್ದಕ್ಕೂ ವ್ಯತ್ಯಾಸವಿರುವುದು ಕಂಡುಬರುತ್ತದೆ. ಅಂದಾಜು ಪಟ್ಟಿಯಂತೆ ಬಿಲ್ಲನ್ನು ಬರೆದಿದ್ದು, ಆದರೆ ಸದರಿ ಸ್ಥಳದಲ್ಲಿ ಕಾಮಗಾರಿಯನ್ನು ಮಾಡಿರುವುದಿಲ್ಲವೆಂದು ತನಿಖಾಧಿಕಾರಿ ಸ್ಪಷ್ಟವಾದ ಅಭಿಪ್ರಾಯವನ್ನು ನೀಡಿದ್ದು, ಸದರಿ ವಿಚಾರಗಳ ಬಗ್ಗೆ ಎದುರುದಾರರು ತಮ್ಮ ಆಕ್ಷೇಪಣೆಯಲ್ಲಿ ಯಾವುದೇ ಸ್ಪಷ್ಟೀಕರಣವನ್ನು ನೀಡಿರುವುದಿಲ್ಲ. ಹೆಚ್ಚುವರಿ ಹಣ ಪಾವತಿಯಾದ ಬಗ್ಗೆ ಕೂಡ ಎದುರುದಾರರು ತಮ್ಮ ಆಕ್ಷೇಪಣೆಯಲ್ಲಿ ಯಾವುದೇ ಸಮಜಾಯಿಷಿಯನ್ನು ನೀಡಿರುವುದಿಲ್ಲ. ಆದ್ದರಿಂದ, ಮೇಲ್ನೋಟಕ್ಕೆ ಎದುರುದಾರರು ಕರ್ತವ್ಯಲೋಪ ಎಸಗಿರುವುದು ಕಂಡುಬರುತ್ತದೆ. ಆದುದರಿಂದ, ಎದುರುದಾರರ ಆಕ್ಷೇಪಣೆಯು ಅವರ ಮೇಲಿನ ಆಪಾದನೆಯನ್ನು ಅಲ್ಲಗಳೆಯಲು ಸೂಕ್ತ ಅಥವಾ ಸಮಾಧಾನಕರವಾಗಿರುವುದಿಲ್ಲ ಮತ್ತು ದೂರುದಾರರ ದೂರನ್ನು ಅಲ್ಲಗಳೆಯಲು ಯಾವುದೇ ಸಮಂಜಸ/ಸಮರ್ಪಕ ಉತ್ತರವನ್ನು ತಮ್ಮ ಆಕ್ಷೇಪಣೆಯಲ್ಲಿ ನೀಡಿಲ್ಲವೆಂಬ ಅಭಿಪ್ರಾಯಕ್ಕೆ ಬಂದಿದೆ.

ಈ ಮೇಲ್ಕಂಡ ಎಲ್ಲಾ ಅಂಶಗಳನ್ನು ಗಣನೆಗೆ ತೆಗೆದುಕೊಂಡಾಗ, 1 ಮತ್ತು 2ನೇ ಎದುರುದಾರರು ಸಾರ್ವಜನಿಕ/ಸರ್ಕಾರಿ ನೌಕರರಾಗಿ ತಮ್ಮ ಕರ್ತವ್ಯ ನಿರ್ವಹಣೆಯಲ್ಲಿ ನಿಷ್ಠೆ ಇಲ್ಲದೆ, ಕರ್ತವ್ಯಲೋಪ ಎಸಗಿ ಸರ್ಕಾರಿ ನೌಕರರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡಿರುತ್ತಾರೆಂದು ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡುಬರುತ್ತದೆ.

1 ಮತ್ತು 2ನೇ ಎದುರುದಾರರು ಸಾರ್ವಜನಿಕ/ಸರ್ಕಾರಿ ನೌಕರರಾಗಿದ್ದು, ತಮ್ಮ ಕರ್ತವ್ಯ ಪರಿಪಾಲನೆಯಲ್ಲಿ ನಿಷ್ಠೆಯನ್ನು ತೋರದೆ, ಕರ್ತವ್ಯಲೋಪವೆಸಗಿ, ದುರ್ವರ್ತನೆ ತೋರಿಸಿ, ಸಾರ್ವಜನಿಕ/ಸರ್ಕಾರಿ ನೌಕರರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡಿರುವುದು ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡುಬರುತ್ತಿರುವುದರಿಂದ,

ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವೆ (ನಡತೆ) ನಿಯಮ 1966 ರ ನಿಯಮ 3(1)(ii) ಮತ್ತು (iii) ರನ್ವಯ ಶಿಸ್ತು ಕ್ರಮಕ್ಕೆ ಬಾಧ್ಯರಾಗಿರುತ್ತಾರೆಂದು ಕಂಡುಬಂದಿದ್ದರಿಂದ, ಅವರ ವಿರುದ್ಧ ಶಿಸ್ತು ನಡವಳಿಕೆ ಹೂಡಲು ಮತ್ತು ಹಾಗೆಯೇ ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವಾ (ವರ್ಗೀಕರಣ, ನಿರ್ಬಂಧ ಮತ್ತು ಮೇಲ್ಮನವಿ) ನಿಯಮಗಳು, 1957 ರ ನಿಯಮ 14-ಎ ರ ಅಡಿಯಲ್ಲಿ, ಎದುರುದಾರರ ವಿರುದ್ಧ ವಿಚಾರಣೆ ನಡೆಸಲು, ಹಾಗೂ 2ನೇ ಎದುರುದಾರರು ದಿ.30/06/2016 ರಂದು ನಿವೃತ್ತಿಯಾಗಿರುವುದರಿಂದ ಸದರಿಯವರ ವಿರುದ್ಧ ಕರ್ನಾಟಕ ಸೇವಾ ನಿಯಮಾವಳಿಗಳ ನಿಯಮ 214(2)(ಬಿ)(i) ರಂತೆ ಸರ್ಕಾರದ ಅನುಮತಿಯೊಂದಿಗೆ ಈ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಒಪ್ಪಿಸುವಂತೆ, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯಿದೆ ಕಲಂ 12(3) ರನ್ವಯ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರದಡಿ, ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಶಿಫಾರಸ್ಸು ಮಾಡಿದೆ.

6. Since said facts and material on record prima facie show that, the respondents/DGOs (1) Sri. Jayapraksh H. and (2) Sri. S.M. Nayak have committed grave misconduct, now, acting under Section 12(3) of Karnataka Lokayukta Act, recommendation is made to the Competent Authority to initiate disciplinary proceedings against the respondents for misconduct under Rule 3(1)(i) to (iii) of KCS(conduct) rules 1966 the Govt. after consideration of materials, has entrusted enquiry to Hon'ble Upalokayukta. Hence, the charge.

7. The copies of the same were issued to the DGOs calling upon them to appear before the Enquiry Officer and to submit written statement of defence.

8. DGO No. 1 & 2 appeared before this inquiry authority in pursuance to the service of the Article of charges. Plea of the DGO No.1 and 2 have been recorded and they pleaded not guilty and claimed for holding enquiry.

9. DGO No.1 & 2 filed written statement admitting that DGO No.1 is the Assistant Engineer, Panchayath Raj Engineering Sub Division, Honnali, Davanagere District and DGO No. 2 is Assistant Executive Engineer, Panchayath Raj Engineering Sub Division,

Honnali, Davanagere District in the department of Rural Development and Panchayath Raj during the period from July 1998 to March 2014 and 2012 to 2013 respectively. Further they admit that they were entrusted with the project of forming road from Arabhagatti to Honnalli of Honnalli taluk Davanagere district. But the specific defence of the DGO is that the measurement of the road which had to be formed was 250 meters. Out of which, for 39 meters Nirmithe Kendra had already formed concrete road. Hence, the road length of which they formed road was found 211 meters at the time of investigation by Sri.G.M.Mallikarjuna, Executive Engineer. But metting and murrum was done by him for 39 meters also even before the Nirmithe Kendra formed CC road. But the Sri.G.M.Mallikarjuna, Executive Engineer without considering the same, has given wrong information to Investigating officer Sri.G.A.Balaji that the road is formed only for 211 meters (length). With this prayed to drop the charge leveled against them.

10. The disciplinary authority has examined the Investigating officer Sri.G.A.Balaji, the then Executive Engineer, TAC, Karnataka Lokayukta, Bengaluru as PW-1 and Sri.G.M.Mallikarjuna, Executive Engineer, PWD, Davanagere as PW-2. They got marked documents at **Ex.P-1 to Ex.P-15**.

11. The second oral statement of DGO No. 1 and 2 have been recorded.

12. Thereafter, opportunity has been provided to DGO No.1 and 2 to lead evidence. In pursuance to the same, DGO No.1 and 2 have given evidence as DW-1 and DW-2 and has got marked documents at **Ex.D-1 to Ex.D-3**

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13. Heard submission of PO, DGO No.1 and 2 filed written arguments. Perused the entire record, I answer the above charges in **AFFIRMATIVE** for the following;

REASONS

14. The allegation is that the DGOs were Assistant Engineer and Assistant Executive Engineer of Panchayath Raj Engineering Sub Division, Honnali, Davangere District in the Rural Development & Panchayath Raj Department respectively and were entrusted with the project of forming road from Arabhagatte to Honnali of Honnali taluk, Davanagere District. But they have drawn bill for additional amount of Rs. 37,121/- though they did not carry work as per estimation. Thereby they have caused financial loss to state exchequer.

15. There is no dispute that DGO No.1 was the Assistant Engineer, O/o the Assistant Executive Engineer, Panchayath Raj Engineering Sub Division, Honnali, Davanagere District and DGO No. 2 was Assistant Executive Engineer, Panchayath Raj Engineering Sub Division, Honnali, Davanagere District in the department of Rural Development and Panchayath Raj during the period from July 1998 to March 2014 and 2012 to 2013 respectively. Further there is no dispute that they were entrusted with the project of forming road from Arabhagatti to Honnali of Honnali taluk Davanagere district. But the specific defence of the DGO is that the measurement of the road which had to be formed was 250 meters. Out of which, for 39 meters Nirmithe Kendra had already formed concrete road. Hence, the road length of which they formed road was found 211 meters at the time of investigation by PW-2. But metting and murrum was done by him for 39 meters even before the Nirmithe Kendra formed CC road. But

PW-2 without considering the same, has given wrong information to PW-1 that the road was formed only for 211 meters (length).

16. PW-1 Sri. G.A.Balaji, is the then Executive Engineer, TAC, Karnataka Lokayukta, Bengaluru. He submitted report on the basis of investigation report of PW-2. The report of PW-1 is marked at Ex.P-13. PW-2 is Executive Engineer, Hebbal, Kempapura, Bengaluru. His report is marked at Ex.P-5. Ex.P-6 is the mahazar drawn by PW-2. Ex.P-7 is the CD recorded during investigation of PW-2.

17. PW-1 during his chief examination has stated that basing on the investigation report, mahazar and CD submitted by PW-2, he has submitted report at PW-13. During his cross examination, he admits that he submitted his report at Ex.P-13 believing that the report and documents submitted by PW-2 are true.

18. PW-2 in his chief examination has submitted that at the time of spot inspection, he found that the road was 211 meters instead of 250 meters. Width was correct. After 211 meters road, there was concrete road. When he verified with the documents, he found Rs. 37,121/- was drawn in excess. During his cross examination, he admits 39 meters was CC road. But pleaded ignorance as to DGOs had put murrum and mettling to said 39 meters. He denied the suggestion that DGOs formed road for 250 meters and they have not misappropriated the amount of Rs. 37,121/-

19. As per MB book, it is shown that murrum is put and mettling is done for entire 250 meters and the bill is also drawn for such measurement. It is admitted by PW-2 that the bill is drawn as per the entries of MB book. But what is important to determine here is whether the DGOs have put murrum and mettling for 39 meters

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earlier to Nirmithi Kendra forming CC road. The DGOs have not placed any materials before this authority showing they have put murrum and mettling for 39 meters referred above before Nirmithi Kendra formed CC road.

20. Of course, DGOs have given their evidence as DW-1 and 2 marked documents at Ex.D-1 to 3. DW-1 and 2 have stated that PW-1 has compared the report of PW-2 and allegations made in charge. But he has not compared the measurements entered in M13 book. Further he has not visited the spot. He has further stated that the road work was estimated for 250 meters. However, as other department had formed concrete road for 39 meters, the work was completed with less amount than the estimated amount. He has further stated that there is no misappropriation or loss to the Government. Of course, PW-1 has filed report on the basis of the report of PW-2 and he has not personally visited the spot. But PW-2 had visited spot and filed his report. Further he has been examined before this authority. During his cross examination, nothing is elicited leading to disbelieve his evidence and report. Thus, the report of PW-1 basing on the report of PW-2 takes weight. With regard to the evidence of DW-1 and 2 that the estimated road length was 250 meters and they had put mettling and murrum for 250 meters and as other department had formed CC road for 39 meters, they completed the project with less amount than the estimated amount, they have not produced any documentary evidence in support of oral evidence. The fact that whether DGO No. 1 and 2 had put murrum and mettling for 39 meters difference measurement area (road) before Nirmithi Kendra formed CC road is required to be proved by placing documentary evidence like photographs etc. Mere statements of DGO No.1 and 2 are not sufficient to prove their defence.

21. Of course, Ex.D-2 is the photograph which shows mettling and murrum has been put to the road. But this document is not in connection to 39 meters where CC road is formed. Ex.D-1 and 2 are the letters of DGO No. 1 and 2 along with copies of MB book. Of course, these documents show the DGO No.1 and 2 have put mettling and murrum for 250 Meters. But as per the report of PW-1 and 2 the entries in MB book do not tally with the work done in the spot. Ex.D-1 to 3 do not help to DGO No.1 and 2 to disprove the allegations made against them. Absolutely there is no convincing evidence before this authority showing DGO No.1 and 2 have put murrum and mettling for 39 meters i.e., difference measurement area referred above.

22. Thus, overall examination of the evidence on record shows that the disciplinary authority has established the charge leveled against DGO No.1 and 2 with regard to misappropriation of Rs.37,121/-.

23. In view of the above DGO No. 1 and 2 are equally responsible for the allegations. Both are held responsible for the amount of Rs.37121/- i.e., for Rs. 18,560=50 each which is the loss caused to state exchequer. Hence, I proceed to record the following:-

FINDINGS

24. The Disciplinary Authority has proved the charges leveled against DGO No.1 and 2 with regard to excess payment of amount of Rs. 37121/-. **Further DGO no. 1 and 2 are held responsible for Rs. 18,560=50** each, totally Rs.37121/- which is the loss caused to state exchequer. Hence, this report is submitted to Hon'ble Upalokayukta for further action.

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25. Date of retirement of DGO No.1 is 31.7.2024 and DGO No. 2 is 30.6.2026.

(PUSHPAVATHI.V)
Additional Registrar Enquiries-9
Karnataka Lokayukta,
Bengaluru.

i) **List of witnesses examined on behalf of Disciplinary Authority.**

PW-1	Sri.G.A.Balaji, the then Executive Engineer, TAC, Karnataka Lokayukta Bengaluru, original
PW-2	Sri.G.M.Mallikarjuna, Executive Engineer, PWD Davanagere, Original

ii) **List of Documents marked on behalf of Disciplinary Authority.**

Ex.P1	Ex.P-1 is the detailed complaint dated: 3.8.2013 submitted by Rajkumar
Ex.P 2 & 3	Ex.P-2 and 3 are the complaint in Form No. 1 and 2 dated: 2.8.2013 submitted by Rajkumar
Ex.P-4	Ex.P-4 are the documents and photographs enclosed to complaint
Ex.P 5	Ex.P-5 is the letter dtd: 7.2.2014 from Executive Engineer PWD Davanagere to Executive Engineer Karnataka Lokayukta TAC Bengaluru
Ex.P6	Ex.P-6 is the spot mahazar dtd: 20.12.2013
Ex.P7	Ex.P-7 is the CD
Ex.P8	Ex.P-8 is the Investigation report dated: 6.3.2014
Ex.P9	Ex.p-9 is the letter dtd: 20.3.2014 from

25.11.2024

	Assistant Executive Engineer Panchayath Raj Engineering Sub Division, Honnali to Executive Engineer-3 Investigating officer
Ex.P10	Ex.P-10 is the letter dtd: 19.3.2014 from S.M.Naik, Assistant Executive Enginee, CMC Ilakal Hunagunda to Executive Engineer-3 Investigating officer
Ex.P11	Ex.P-11 is the letter from complainant Sri. K.R.Rajkumar Thalvar Keri to Hon'ble Registrar, Karnataka Lokayukta Bengaluru
Ex.P12	Ex.P-12 is the letter dtd: 17.12.2013 from Executive Engineer PWD, Davanagere to Executive Engineer -3 Investigating officer
Ex.P13	Ex.p-13 is the note sheet in compt/UPLOK BD-1933/2013
Ex.P14	Ex.P-14 is the letter dated: 4.12.2013 from complainant Sri. K.R.Rajkumar Thalvar Keri to Hon'ble Registrar, Karnataka Lokayukta Bengaluru
Ex.P15	Ex.P-15 is the submission letter dtd: 9.12.2013 from Chief Engineer, Karnataka Lokayukta Bengaluru to Hon'ble Registrar, Karnataka Lokayukta Bengaluru

iii) **List of witnesses examined on behalf of DGO.**

DW-1	(1) Sri.Jayaprakash.H., Assistant Engineer, O/o the Assistant Executive Engineer, Panchayath Raj Engineering Sub Division, Honnali, Davangere District
DW-2	(2) Sri.S.M.Nayak, the then Assistant Executive Engineer, Panchayath Raj Engineering Sub Division, Honnali, Davanagere District (presently retired)

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iv) **List of documents marked on behalf of DGO**

Ex.D-1	Ex.D-1 is the letter dated: 18.8.2014 from S.M.Naik, Assistant Executive Engineer CMC Ilkal to DRE-1 Karnataka Lokayukta Bengaluru and xerox copies of M.B Books
Ex.D-2	Ex.D-2 are the 13 photographs
Ex.D-3	Ex.D-3 is the comments dated: 6.5.2014 of DGO No.1 and xerox copies of MB. Book

Pushpa V 25.11.2014

(PUSHPAVATHI.V)
Additional Registrar Enquiries-9
Karnataka Lokayukta,
Bengaluru.

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No.UPILOK-2/DE/609/2016/ARE-9

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

Date: **26/11/2021**

RECOMMENDATION

Sub:- Departmental inquiry against;
1) Sri Jayaprakash H., Assistant Engineer,
2) Sri S.M. Nayak, the then Asst. Executive Engineer
Both of Panchayath Raj Engineering Sub Division,
Honnali, Daanagere District - Reg.

Ref:- 1) Govt. Order No. ೧೨೨೨ 131 ಇಎನ್‌ಕೂ 2016, Bengaluru
dated 7/11/2016.
2) Nomination order No.UPLOK-2/DE/609/2016,
Bengaluru dated 14/11/2016 of Upalokayukta,
State of Karnataka, Bengaluru
3) Inquiry Report dated 25/11/2021 of Additional
Registrar of Enquiries-9, Karnataka Lokayukta,
Bengaluru

The Government by its order dated 7/11/2016 initiated the disciplinary proceedings against (1) Sri Jayaprakash H., Assistant Engineer and (2) Sri S.M. Nayak, the then Assistant Executive Engineer-both of Panchayath Raj Engineering Sub Division, Honnali, Davanagere District (hereinafter referred to as Delinquent Govt. Officials 1 and 2, for short as DGO-1 & DGO-2 respectively) and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.UPLOK-2/DE/609/2016 Bengaluru dated 14/11/2016 nominated Additional Registrar of Enquiries-9, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGOs 1 and 2 for the alleged charge of misconduct, said to have been committed by them.

3. The DGO-1 Sri Jayaprakash H., Assistant Engineer and DGO-2 Sri S.M. Nayak, the then Assistant Executive Engineer-both of Panchayath Raj Engineering Sub Division, Honnali, Davanagere District were tried for the following charges:-

“While you DGO No.1 Sri H. Jayaprakash was working Assistant Engineer, ಅರಬಗಟ್ಟಿಯಿಂದ ಮಾದನಭಾವಿ ರಸ್ತೆ ಅಭಿವೃದ್ಧಿ ಕಾಮಗಾರಿಯು 2012-13ನೇ ಸಾಲಿನಲ್ಲಿ ರಸ್ತೆ ಕಾಮಗಾರಿಗಳ ಅಂದಾಜು ಪಟ್ಟಿಯಂತೆ ಅಳತೆಯನ್ನು ಪರಿಶೀಲಿಸದೇ ಅಳತೆ ನಮೂದಿಸಿದ್ದು, ಬಿಲ್ಲನ್ನು ಪಾವತಿಗಾಗಿ ವಿಭಾಗಕ್ಕೆ ಶಿಫಾರಸ್ಸು ಮಾಡಿರುತ್ತೀರ ಹಾಗೂ ಕಾಮಗಾರಿಯ ಅನುಷ್ಠಾನದಲ್ಲಿ ಒಟ್ಟು ರೂ.37,121/-ಗಳನ್ನು ಹೆಚ್ಚುವರಿಯಾಗಿ ಪಾವತಿಯಾಗಿದ್ದು, ಸರ್ಕಾರಕ್ಕೆ ಆರ್ಥಿಕ ನಷ್ಟವನ್ನುಂಟು ಮಾಡಿರುತ್ತೀರಿ.

Further, you DGO No.2 Sri M. Nayak was working as Asst. Executive Engineer, ಕಾಮಗಾರಿ ರಸ್ತೆ ಅಭಿವೃದ್ಧಿ ಪಡಿಸಬೇಕಾದ ಉದ್ದ 250 ಮೀಟರ್ ಇರುತ್ತದೆ. ಅದರಲ್ಲಿ 230 ಮೀಟರ್ ಉದ್ದ ಸ್ಯಾರಿ ಪಾಲ್ ಮಾಡಿ ರಸ್ತೆಯಲ್ಲಿ ಮಣ್ಣಿನ ಏರಿ ನಿರ್ಮಾಣ ಮಾಡಿದೆ ಹಾಗೂ ಒಟ್ಟು 250 ಮೀಟರ್ ಉದ್ದಕ್ಕೆ ಎರಡು ಪದರಗಳಲ್ಲಿ ಜಿಲ್ಲಿ ಬಿಜಾವಣೆಯನ್ನು ಮಾಡಲಾಗಿದೆ ಆದರೆ ಡಾಂಬರಿಕರಣ ಮಾಡುವುದಕ್ಕೂ ಪೂರ್ವದಲ್ಲಿ ಸುಮಾರು 39 ಮೀಟರ್ ಉದ್ದಕ್ಕೆ ಬೇರೆ ಇಲಾಖೆಯವರು ಕಾಂಕ್ರೀಟ್ ರಸ್ತೆ ನಿರ್ಮಿಸಿರುವುದು ರಸ್ತೆಯ ಉದ್ದ 211 ಮೀಟರುಗಳಾಗಿರುತ್ತದೆ. ಶಾಖಾಧಿಕಾರಿಗಳು ಅಳತೆ ಮಾಡಿ ತೋರಿಸಿದ್ದಕ್ಕೆ ಮಾತ್ರ ಚೆಕ್ ಮೆಷರ್‌ಮೆಂಟಿಗೆ ಸಹಿ ಹಾಕಿರುತ್ತೀರ ತನಿಖಾಧಿಕಾರಿ ಬೇರೆ ಇಲಾಖೆಯವರು ಕಾಂಕ್ರೀಟ್ ರಸ್ತೆ 39 ಮೀಟರ್ ಪರಿಗಣಿಸಿಲ್ಲವೆಂದು ಹೇಳುತ್ತಾ ಈ ರೀತಿಯಾಗಿ ಅಂದಾಜು ಪಟ್ಟಿಯಲ್ಲಿರುವ ರಸ್ತೆಯ ಉದ್ದಕ್ಕೂ ಮತ್ತು ಅಳತೆ ಪ್ರಕಾರ ಉದ್ದಕ್ಕೂ ರಸ್ತೆಯಿದ್ದರೂ ಕಂಡು ಬಂದರೂ ಅಂದಾಜು ಪಟ್ಟಿಯಂತೆ ಹೆಚ್ಚುವರಿ ಹಣವನ್ನು ಪಾವತಿ ಮಾಡಿರುತ್ತೀರ.

Therefore, you DGO No. 1 and 2 have failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servants and therefore, you are guilty of

misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules, 1966.”

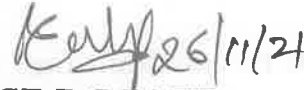
4. The Inquiry Officer (Additional Registrar of Enquiries-9) on proper appreciation of oral and documentary evidence has held that the Disciplinary Authority has proved the above charges against DGO-1 Sri Jayaprakash H., Assistant Engineer and DGO-2 Sri S.M. Nayak, the then Assistant Executive Engineer—both of Panchayath Raj Engineering Sub Division, Honnali, Davanagere District. Further, the Inquiry officer has held that DGOs 1 and 2 are responsible for causing loss of Rs.18,560.50 each, i.e., totally Rs.37,121/- to the State exchequer.
5. On re-consideration of inquiry report and taking note of the totality of the circumstances of the case, I do not find any reason to interfere with the findings recorded by the Inquiry Officer. It is hereby recommended to the Government to accept the report of Inquiry Officer.
6. As per the First Oral Statements submitted by DGOs 1 & 2;
 - (1) DGO-1 Sri Jayaprakash is due to retire from service on 31/7/2024;
 - (2) DGO-2 Sri S.M. Nayak is due to retire from service on 30/6/2026
7. Having regard to the nature of charge proved against DGOs (1) Sri Jayaprakash H., Assistant Engineer and (2) Sri S.M. Nayak, the then Assistant Executive Engineer—both of Panchayath Raj Engineering Sub Division, Honnali, Davanagere District, it is hereby recommended to the Government for imposing penalty of;
 - (i) Withholding one annual increment payable to DGO-1 Sri Jayaprakash H with cumulative effect and also

for recovering a sum of Rs.18,560.50 from the salary and allowances payable to DGO-1.

(ii) Withholding one annual increment payable to DGO-2 Sri S.M Nayak with cumulative effect and also for recovering a sum of Rs.18,560.50 from the salary and allowances payable to DGO-2

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,
Bengaluru