

BEFORE THE ADDITIONAL REGISTRAR, ENQUIRIES-15

KARNATAKA LOKAYUKTA, BENGALURU.

ENQUIRY NO:UPLOK-2/DE-668/2017/ARE-15

ENQUIRY REPORT DATED : 15-03-2019.

ENQUIRY OFFICER : RAVI M.R. BA LLB.,
ADDITIONAL REGISTRAR OF
ENQUIRIES-15
KARNATAKA LOKAYUKTA,
BENGALURU.

DELINQUENT

SRI. B.SHASHIDHAR,

GOVERNMENT

: (name written by him in his FOS)

OFFICIAL

PANCHAYATH DEVELOPMENT
OFFICER, MUNDKUR GRAMA
PANCHAYATH, KARKAL TALUK,
UDUPI DISTRICT.

Discharged his duties as the then
Panchayath Development Officer,
Mundkur Grama Panchayath,
Karkal Taluk, Udupi District.

Due for retirement on superannuation
on 30-06-2032.

15-3-19.

-: R E P O R T :-

With reference to the subject and reference cited above, original enquiry report in sealed cover and connected records as per Annexure are submitted herewith for kind perusal and needful.

2. This is the departmental enquiry initiated and held against DGO as the complainant by name Sri. Sundar Bandari Residence of 'Pasralu Mane' Sacheripet Post, Mundkuru Village, Karkala Taluk, Udupi District lodges complaint on 18-07-2014 before the Hon'ble Lokayukta against the Panchayath Development Officer of Mundkuru Grama Panchayath viz., B.Shashidhar as follows :-

3. Complainant states though he had built house after obtaining license from Mundkuru Grama Panchayath on 03-02-2011 still he is living in the said house without Door number and electricity connection for the last one and half years. States further, that the PDO., by colluding with one Narsu Shetty who is a Co-villager of the complainant and who is at logger head with the complainant has deprived the

15-3-19.

complainant of door number and NOC., to obtain electricity connection to his house.

4. Further complainant questions as to how the PDO., can refuse to give door number and NOC., to obtain electricity connection when Panchayath had given him license to construct house and the same was renewed for two years ?
5. Further states that both, the appeal preferred by him to the Hon'ble High Court of Karnataka against the order of the Land Tribunal passed in the year 1994 and also the Writ Petition No. 26937/98 have gone in his favour and the house in question does not stand on the land pertaining to the Writ.
6. Further states though he kept seeking reasons from the PDO., time and again as to why Door Number and NOC., is being denied to him, the PDO., did not answer and all of a sudden on 18-06-2014 the PDO., has furnished his reasons which are not justifiable. Therefore complainant smells something mischief on the part of the PDO., who is alleged to have colluded with his rival Narsu Shetty.

15-3-19.

7. Based on the said complaint, Hon'ble Upa-Lokayukta-2 vide its 12(3) report dated:03-03-2017 made recommendation to the Competent Authority to initiate disciplinary proceedings against the above said DGO. Accordingly, Competent Authority vide its Order No. ಗ್ರಾಅಪ/280/ಗ್ರಾಪಂಕಾ/2017 ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 08-05-2017 entrusts the matter to the Hon'ble Upalokayukta to hold enquiry against the DGO., who in turn vide Order No. Uplok-2/DE-668/2017 Bengaluru dated: 19-05-2017 nominates ARE-4 to frame charges and to conduct departmental inquiry against the aforesaid DGO.

8. Article of charges were framed against the DGO., by ARE-4 which is as follows : -

ಅನುಬಂಧ-1
ದೋಷಾರೋಪಣೆ

1. ನೀವು/ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ/ಶ್ರೀ ಶಶಿಧರ್, ಪಂಚಾಯತ್ ಅಭಿವೃದ್ಧಿ ಅಧಿಕಾರಿ, ಮುಂಡ್ನೂರು ಗ್ರಾಮ ಪಂಚಾಯತಿ, ಕಾರ್ಕಳ ತಾಲ್ಲೂಕು, ಉಡುಪಿ ಜಿಲ್ಲೆ ಆದ ನೀವು ಕಾರ್ಕಳ ತಾಲ್ಲೂಕಿನ ಮುಂಡ್ನೂರು ಗ್ರಾಮದ ಸರ್ವೆ ನಂಬರ್ 170/1ಸಿಪಿ2 ರಲ್ಲಿನ ಜಮೀನು ಶ್ರೀ ಸುಂದರ್ ಭಂಡಾರಿ (ಫಿಯಾದಿ) ನ ಆಸ್ತಿ ಬಗ್ಗೆ ಮನೆ ಕಟ್ಟಲು ಪರವಾನಿಗೆ ನೀಡಿದ್ದರೂ ಆ ಮನೆಗೆ ವಿದ್ಯುತ್ ಸಂಪರ್ಕ ಪಡೆಯಲು ನೀರಾಕ್ಷೇಪಣಾ ಪತ್ರವನ್ನು ಕೊಡದೇ ಹಾಗೂ ಆ ಮನೆಗೆ ಡೋರ್ ನಂಬರ್‌ನ್ನು ನೀಡದೇ ಸತಾಯಿಸಿರುತ್ತೀರಿ. ನೀವು ಸಾರ್ವಜನಿಕ/ಸರ್ಕಾರಿ ನೌಕರರಾಗಿ ನಿಮ್ಮ ಕರ್ತವ್ಯ ನಿರ್ವಹಣೆಯಲ್ಲಿ ನಿಷ್ಠೆ ಇಲ್ಲದೇ, ಕರ್ತವ್ಯಲೋಪವೆಸಗಿರುತ್ತೀರಿ. ನೀವು ಸರ್ಕಾರಿ

15-3-19.

ಸೇವಕರಾಗಿದ್ದು, ನಿಮ್ಮ ಕರ್ತವ್ಯ ಪಾಲನೆಯಲ್ಲಿ ಪರಿಪೂರ್ಣ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ತೋರಿಸದೆ, ಸಾರ್ವಜನಿಕ ಸೇವೆಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡಿದ್ದು, ಕರ್ನಾಟಕ ಸರ್ಕಾರಿ ಸೇವಾ (ಸದ್ಭರ್ತನೆ) 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)

2. ಶ್ರೀ ಸುಂದರ ಭಂಡಾರಿ ಬಿನ್ ಮತ್ತು ಭಂಡಾರಿ ಪ್ರೊಸ್ರಾವಿ ಮನೆ, ಸಚ್ಚೇರಿ ಪೇಟೆ ಪೋಸ್ಟ್, ಮುಂಡೂರು ಗ್ರಾಮ, ಕಾರ್ಕಳ ತಾಲ್ಲೂಕು, ಉಡುಪಿ ಜಿಲ್ಲೆ (ಇನ್ನು ಮುಂದೆ "ದೂರುದಾರರು" ಎಂದು ಸಂಬೋಧಿಸಲಾಗುವ) ರವರು ದೂರನ್ನು ಈ ಸಂಸ್ಥೆಗೆ ಸಲ್ಲಿಸಿದ ಮೇರೆಗೆ ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯಿದೆ 1984 ರ ಕಲಂ 9 ರಡಿಯಲ್ಲಿ ತನಿಖೆಗೆ ತೆಗೆದುಕೊಂಡಿದ್ದಿದೆ.

3. ದೂರಿನ ಸಂಕ್ಷಿಪ್ತ ವಿವರಣೆ:-

ದೂರುದಾರರು ತಮ್ಮ ದೂರಿನಲ್ಲಿ ಕರ್ನಾಟಕ ಭೂ ನ್ಯಾಯ ಮಂಡಳಿಯಲ್ಲಿ ಹಾಗೂ ಮಾನ್ಯ ಕರ್ನಾಟಕ ಉಚ್ಚ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ನೀಡಿದ ತೀರ್ಪಿನನ್ವಯ ಕಾರ್ಕಳ ತಾಲ್ಲೂಕಿನ ಮುಂಡೂರು ಗ್ರಾಮದ ಸರ್ವೆ ನಂಬರ್ 170/1ಸಿಪಿ2 ರಲ್ಲಿನ ಜಮೀನು ತನ್ನ ಪರವಾಗಿದ್ದು, ಅಲ್ಲಿ ಮನೆ ಕಟ್ಟಲು ಪರವಾನಗಿಯನ್ನು ಕೋರಿ ಪಂಚಾಯತಿಗೆ ಅರ್ಜಿ ಸಲ್ಲಿಸಿದ್ದು, ಅವರು ನೀಡಿರುವ ಪರವಾನಗಿಯಂತೆ ಮನೆ ಕಟ್ಟಿದ್ದು, ಮನೆಗೆ ವಿದ್ಯುತ್ ಸಂಪರ್ಕ ಪಡೆಯಲು ನಿರಾಕ್ಷೇಪಣಾ ಪತ್ರ ಕೋರಿ ಹಾಗೂ ಮನೆ ಡೋರ್ ನಂಬರ್ ನೀಡಲು ಕೋರಿ ಗ್ರಾಮ ಪಂಚಾಯತಿಯವರಿಗೆ ಅರ್ಜಿ ಸಲ್ಲಿಸಿದ್ದು, ಅದನ್ನು ನೀಡದೇ ದೂರುದಾರರು ಸಲ್ಲಿಸಿದ್ದ ರಿಟ್ ಅರ್ಜಿಯ ಎದುರುದಾರರಾದ ಶ್ರೀಮತಿ ನರ್ಸು ಶೆಟ್ಟಿ ರವರೊಡನೆ ಶಾಮೀಲಾಗಿ ಮನೆಗೆ ಡೋರ್ ನಂಬರ್ ನೀಡದೇ ಹಾಗೂ ವಿದ್ಯುತ್ ಸಂಪರ್ಕ ಪಡೆಯಲು ನಿರಾಕ್ಷೇಪಣ ಪತ್ರ ನೀಡದೇ ಸತಾಯಿಸುತ್ತಿದ್ದು, ಆದ್ದರಿಂದ, ನಿಮ್ಮ-ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರ ವಿರುದ್ಧ ಕ್ರಮ ಜರುಗಿಸಿ ತನಗೆ ತನ್ನ ತೊಂದರೆ ನಿವಾರಿಸಿಕೊಡಬೇಕೆಂದು ಕೋರಿದ್ದರು.

41
15-3-19.

4. ಸದರಿ ದೂರಿನ ಆಧಾರದ ಮೇಲೆ ನಿಮ್ಮ-ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರ ಆಕ್ಷೇಪಣೆಯನ್ನು ಕರೆಯಲಾಗಿದ್ದು, ನೀವು ಆಕ್ಷೇಪಣೆಯನ್ನು ಸಲ್ಲಿಸಿರುವುದಿಲ್ಲ. ಆದರೆ, ನಿಮಗೆ ಕಳುಹಿಸಲಾಗಿದ್ದ ನೋಟೀಸ್‌ನ ಪತ್ರದ ಸ್ವೀಕೃತಿಯನ್ನು ಸ್ವೀಕರಿಸಲಾಗಿದ್ದು, ನಿಮ್ಮ-ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರ ಆಕ್ಷೇಪಣೆ ಏನು ಇಲ್ಲವೆಂದು ಪರಿಗಣಿಸಲಾಗಿದೆ.
5. ದೂರಿನಂಶಗಳನ್ನು ಹಾಗೂ ಹಾಜರುಪಡಿಸಿರುವ ದಾಖಲೆಗಳನ್ನು ಪರಿಶೀಲಿಸಿದಲ್ಲಿ, ದೂರುದಾರರು ಮಾನ್ಯ ಕರ್ನಾಟಕ ಉಚ್ಚ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ರಿಟ್ ಅರ್ಜಿಯನ್ನು ಸಲ್ಲಿಸಿದ್ದು, ಸದರಿ ರಿಟ್ ಅರ್ಜಿ ಸಂ:26937/1998ರಲ್ಲಿ ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯವು ತೀರ್ಪನ್ನು ನೀಡಿ ಅದರಲ್ಲಿ "By the second order - Annexure -B, the Land Tribunal has reduced the extent of land granted to the petitioner by the land tribunal under the orders - Annexure-A and granted excess land to the 3rd respondent. It is seen from the impugned order Annexure-B that the tribunal has granted some portion of the lands in question in favor of respondent no.3, it appears respondent no.3 had also filed an application on the basis of which the land tribunal has passed the impugned order Annexure -B, after clubbing several applications including the application of respondent no.3" ಎಂದು ತೀರ್ಪಿನಲ್ಲಿ ಚರ್ಚಿಸಿರುವುದು ಕಂಡು ಬಂದಿರುತ್ತದೆ. ಸದರಿ ತೀರ್ಪಿನಲ್ಲಿ ಮುಂದುವರೆದು, 7ನೇ ಪ್ಯಾರಾದಲ್ಲಿ "In the circumstance, the order Annexure-B is quashed so far as it pertains to the lands in question granted to respondent no.3. The tribunal is directed to find out whether respondent no.3 also filed the application in form no.7 in respect of the lands in question after the order was passed by the land tribunal in favor of the petitioner, but if so, the Tribunal is directed to dispose off the case in the light of the divisional bench judgment of this Court in Basappa Gurusangappa's case" ಎಂದು ತಿಳಿಸಿರುತ್ತಾರೆ. ಆದ್ದರಿಂದ,

ಆದ್ದರಿಂದ
19.3.19.

ಸದರಿ ರಿಟ್ ಅರ್ಜಿಯ ಆದೇಶದಂತೆ ಕರ್ನಾಟಕ ಮೇಲ್ಮನವಿ ಪ್ರಾಧಿಕಾರದಲ್ಲಿ ಸದರಿ ಜಮೀನಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಸದರಿ ಮೇಲ್ಮನವಿ ಪ್ರಾಧಿಕಾರವು ತೀರ್ಪನ್ನು ನೀಡಬೇಕಾಗಿತ್ತೆಂದು ಸ್ಪಷ್ಟ ಪಡುತ್ತದೆ. ಹಾಜರುಪಡಿಸಿರುವ ದಾಖಲೆಗಳಲ್ಲಿ ಮುಂಡೂರು ಗ್ರಾಮದ ಸರ್ವೆ ನಂಬರ್ 170/1ಸಿಪಿ2 ನಲ್ಲಿನ 863 ಚದರ ಅಡಿ ಜಾಗದಲ್ಲಿ ಮನೆ ಕಟ್ಟಿಸಲು ಪರವಾನಗೆಯನ್ನು ನೀಡಿರುವುದು ಸ್ಪಷ್ಟ ಪಡುತ್ತದೆ. ಸದರಿ ಪರವಾನಗೆ ಪ್ರತಿಯನ್ನು ಹಾಜರುಪಡಿಸಲಾಗಿದ್ದು, ಸದರಿ ಪರವಾನಗೆಯನ್ನು ಪರಿಶೀಲಿಸಿದಲ್ಲಿ ಶ್ರೀ ಸುಂದರ್ ಭಂಡಾರಿ ತಂದೆ ಮತ್ತು ಭಂಡಾರಿ ಇವರಿಗೆ (ದೂರುದಾರರಿಗೆ) ಸದರಿ ಪರವಾನಗೆಯನ್ನು ನೀಡಿರುವುದು ಕಂಡು ಬಂದಿದ್ದು, ದೂರುದಾರರು ತಾವು ಕಟ್ಟಿರುವ ಮನೆಗೆ ಡೋರ್ ನಂಬರ್ ನೀಡುವಂತೆ ಹಾಗೂ ವಿದ್ಯುಚ್ಛಕ್ತಿ ಸಂಪರ್ಕ ಪಡೆಯಲು ನಿರಾಕ್ಷೇಪಣಾ ಪತ್ರ ನೀಡುವಂತೆ ಕೋರಿ ಅರ್ಜಿಯನ್ನು ಪಂಚಾಯತಿ ಅಭಿವೃದ್ಧಿ ಅಧಿಕಾರಿಯವರಿಗೆ ಸಲ್ಲಿಸಿದ್ದು, ಅದನ್ನು ಹಾಜರುಪಡಿಸಲಾಗಿದೆ. ಆದರೆ, ಈ ಅರ್ಜಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ದೂರುದಾರರಿಗೆ ಪಂಚಾಯತಿ ವತಿಯಿಂದ ಯಾವುದೇ ಹಿಂಬರಹವನ್ನು ನೀಡಿರುವುದು ಕಂಡು ಬರುವುದಿಲ್ಲ ಮತ್ತು ನಿಮಗೆ ಈ ಪ್ರಕರಣದಲ್ಲಿ ಆಕ್ಷೇಪಣೆಯನ್ನು ಸಲ್ಲಿಸುವಂತೆ ತಿಳಿಸಿ ನೋಟೀಸ್ ನೀಡಲಾಗಿದ್ದು, ಸದರಿ ನೋಟೀಸ್ ಅವರಿಗೆ ಜಾರಿಯಾಗಿದ್ದರೂ ಸಹ, ನೀವು-ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಯಾವುದೇ ಉತ್ತರ ಸಲ್ಲಿಸಿರುವುದಿಲ್ಲ. ಆದ್ದರಿಂದ, ನಿಮ್ಮ ಆಕ್ಷೇಪಣೆ ಏನು ಇಲ್ಲವೆಂದು ಪರಿಗಣಿಸಲಾಗಿದೆ. ಈ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ದೂರುದಾರರು ಮಾಡಿರುವ ಆರೋಪಗಳು ಮೇಲ್ನೋಟಕ್ಕೆ ಸಾಬೀತಾಗಿರುವುದು ಕಂಡು ಬರುತ್ತದೆ.

6. ಮೇಲ್ಕಂಡ ಅಂಶಗಳು, ಕಡತದ ಸಂಗತಿಗಳು ಹಾಗೂ ದಾಖಲಾತಿಗಳನ್ನು, ಕೂಲಂಕಷವಾಗಿ ಪರಿಶೀಲಿಸಿದಾಗ, ಸದರಿ ನಿಮ್ಮ-ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರ ವಿರುದ್ಧದ ನಡವಳಿಯನ್ನು ಕೈಬಿಡಲು ಸೂಕ್ತ/ಸಮಂಜಸ/ಸಮಾಧಾನಕರ ಕಾರಣ ತೋರಿಸಿಲ್ಲವೆಂಬ ಅಭಿಪ್ರಾಯಕ್ಕೆ ಬರಲಾಗಿದೆ.

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

15-3-19.

8. 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, 1966ರ (3) (1) (i) ರಿಂದ (iii) ರಲ್ಲಿ ಹೇಳಿದಂತೆ ದುರ್ನಡತೆ/ ದುರ್ವರ್ತನೆಯಿಂದ 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, 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.

9. The aforesaid "Article of Charge" was served upon the DGO., and he appeared before this enquiry authority and his First Oral Statement under Rule 11(9) of KCS (CCA) Rules, 1957 was recorded. The DGO., has pleaded not guilty and claimed to be enquired about the charge.

10. DGO., has pleaded not guilty and filed his Written Statement and states though Panchayath had given construction license to the complainant yet, the said license was given with a

05/3-19

strict rider to obtain conversion order for non-agricultural purpose.

11. Further states, as the localite Narsu Shetty had given an application to the Panchayath on 01-02-2013 and also a reminder on 19-08-2013 calling upon the Panchayath not to address the issue of the complainant as cases are pending before Land Tribunal pertaining to the land on which the complainant had constructed house and also his counsel Smt. Nandini Shetty had issued a notice on 27-02-2013 to the same effect, the Grama Panchayath after carefully going through the same vide its Resolution No. 5(25)/14-15 dated: 21-05-2014 had ordered not to address the issues of the complainant until the cases pending before courts are decided. DGO., states the same was intimated to the complainant. Therefore complainant states that the present complaint is pre-mature and though Appeal provision was provided under Panchayath Raj Act, yet the same has not been explored by the DGO., and therefore this enquiry is barred U/sec.8(1) of the Karnataka Lokayukta Act.

12. Further DGO., states that as a PDO., his discretion is very limited and therefore he has followed the Resolution passed by

GL
15-3-19.

the Panchayath and therefore he is not guilty of any dereliction of duty.

13. As order-sheet dated: 05-06-2018 shows that CW-1 complainant was suffering from old age ailments as he was aged 82 years and was unable to walk or travel long distance so also his son was not interested to pursue the complaint Presenting Officer has chosen to examine the Scrutiny Officer Sri. Gopinath as PW-1 to prove the charge against the DGO.

14. Per contra DGO., has got himself examined as DW-1 and reiterates his Written Statement and has got marked Ex D-1 to D-4.

15. Heard arguments of the both sides, It is the argument of learned Presenting Officer that in proof of D.A., side case PW-1 has been examined and documents have been marked. Though notice was served upon DGO., the DGO., fails to make comments. DGO., has admitted in his cross examination that there was no stay as on the date of application of the complainant. If really DGO., had communicated to the complainant about the resolution then he should have stated the same in his comments. DGO., has not produced anything to show that Ex P-2 was served

153-19.

upon the complainant. Therefore Ex P-3 and 2 are concocted just to escape from the enquiry. So far as bar U/sec.8 of the KLA Act to conduct the enquiry is concerned, it is the argument of the P.O., that the DGO., should have questioned the same either at the stage of 12(3) report or before issuance of G.O. Once G.O. came to be passed this authority is not barred to hold enquiry U/sec.8 of KLA Act. Therefore the DGO., is guilty of dereliction of duty.

16. Per contra, learned counsel for the DGO., argues that if at all complainant was aggrieved by the resolution he should have challenged it before court of law. According to Panchayath Raj Act there is no provision for giving NOC. Ex P-3 and 2 were served upon the complainant through office therefore the DGO., could not produce acknowledgment. If DGO., had given NOC., Panchayath peoples would have objected it and PDO., would have incurred wrath of the Panchayath. At the stage of 12(3) report or at the time of issuance of Government Order DGO., had gone on medical leave. Therefore he could not challenge the same. DGO., has done his duty in accordance with the resolution passed by the Panchayath and therefore is not guilty of dereliction of duty.

15-3-19.

17. In tune with Article of Charges at Annexure-1 the sole point which arises for consideration is that although license was given to the complainant to construct house in Sy.No.170/1CP2 of Mundkur Village yet the DGO., being the Panchayath Development Officer of the said Panchayathi by denying the complainant Door Number and necessary NOC., to obtain electricity connection lacked in his duties and therefore is guilty of misconduct within the purview of Rule 3(I)(i) to (iii) of the Karnataka Civil Services (Conduct) Rules, 1966 ?

18. As order-sheet dated: 05-06-2018 shows that CW-1 complainant was suffering from old age ailments as he was aged 82 years and was unable to walk or travel long distance so also his son was not interested to pursue the complaint Presenting Officer has chosen to examine the Scrutiny Officer Sri. Gopinath as PW-1 to prove the charge against the DGO.

19. PW-1 states in his evidence on receipt of complaint, the same was registered and investigation was under taken and though DGO., was called upon to make comments DGO., did not make any comments and upon Scrutinizing the documents produced in the enquiry proceedings and particularly the order

or
15-3-19.

passed by the Hon'ble Court in Writ Petition No.26937/98 it was found though there existed dispute relating to the land on which the house in question came to be build still complainant was given license to construct building and no reason/endorsement was given for not giving Door Number or NOC., to obtain electricity connection, therefore 12(3) report was prepared against the DGO. Further has got marked Ex P-1 to 4.

20. Ex P-1 to 3 are the complaint . Ex P-4 are documents like khatha extract, Tax paid receipt, Sketch, RTC., Court documents etc., relating to the land on which the house in question is said to exists. Existence of house in question is not disputed by the DGO., and moreover complainant in his complaint Ex P-3 states that the house in question does not exist on the land in respect of which there is a dispute between himself and his villager Narsu Shetty.

21. All that the DGO., says in his Written Statement is that because there was a dispute pending between the complainant and his villager Narsu Shetty relating to the land on which the house in question exists a Resolution was passed by the Panchayathi not to entertain the application given by the DGO.,

15.3-19.

seeking Door Number and NOC., for electricity connection until the outcome of Court Order and therefore DGO., did not address the issue of the complainant. Therefore the burden shifts on the DGO., to prove that there was a Resolution which prevented him from addressing the issues of complainant.

22. In proof of the said contention, DGO, has got himself examined as DW-1 by way of Affidavit evidence and reiterates his Written Statement version and has got marked Ex D-1 to 5. (i) Amongst them, Ex D-1 is the application seeking construction license, Panchayath Resolution, construction license, letters dtd: 01-02-2013 and 19-02-2013 said to have been written by Narsu Shetty addressed to Mundkuru Grama Panchayathi and Legal Notice dated: 27-02-2013 said to have been issued by Advocate Nandini B.Shetty on behalf of Narsu Shetty addressed to the PDO., of Mundkur Grama Panchayath. (ii) Ex D-2 is the Endorsement dated:18-06-2014 said to have been given by Mundkuru Grama Panchayathi to the complainant. (iii) Ex D-3 is the Panchayath Resolution dated:21-05-2014,(iv) Ex D-4 contains an endorsement dated:19-06-2017, Report dated:29-06-2017 said to have been given by the DGO., to the Executive Officer of the Karkala Taluk

15-3-19

Panchayath and order dated:15-07-2016 passed in Writ Petition No.25078-80/16, (v) Ex D-5 is an office order dated:18-04-2015.

23. Ex D-4 and D-5 are all documents which can be said to have come into existence subsequent to the initiation of this enquiry therefore they are not of much helpful to the DGO.

24. Amongst Ex D-1 though by virtue of documents like letter dated:01-02-2013, Legal Notice datd:02-07-2013 and Reminder dated:19-08-2013, Narsu Shetty i.e., neighbour of the complainant Sri. Sundar Bandari had asked the Panchayathi not to give Door Number or NOC., to the complainant to obtain electricity connection as there is stay granted by Hon'ble Court in Writ Petition No.20937/98 relating to the land on which complainant had built his house, yet, DGO., has not produced the said stay order said to have been passed by Hon'ble Court in Writ Petition No. 20937/98 and moreover DGO., admits in his Cross-examination there was no stay. Be that as it may for some time, now let me see how Ex D-3 and D-2 are going to help the DGO. Ex D-3 is the Panchayath Proceedings dated:21-05-2014 wherein at Resolution No. 5(25)/14-15, it can be found that Panchayath had passed a Resolution to keep pending application of the

15-3-19.

complainant seeking Door Number and NOC., to obtain electricity connection until the dispute between complainant and Narsu Shetty pending before Court of law is resolved.

25. The said Resolution appears to have tied the hands of DGO., not to address the issue of complainant. Further Ex D-2 Endorsement dated:18-06-2014 as produced by the DGO., shows that the said fact of Resolution was intimated to the complainant. Though the Presenting Officer has questioned the DGO., in his Cross-examination to the effect that the said Resolution was not served upon the complainant yet, the complainant himself admits in his complaint Ex P-3 about service of Ex D-2 endorsement upon him when he says as follows:-

“ಅರ್ಜಿ ದಿನಾಂಕ:4-3-2013, 27-05-2013, ಮತ್ತು 1-4-2014 ಹೀಗೆ ಒಂದುವರೆ ವರ್ಷಗಳಿಂದ ಡೋರ್ ನಂಬರ್ ಏಕೆ ಕೊಡಲಿಲ್ಲ ಎಂಬ ಮಾಹಿತಿಗಾಗಿ ಅರ್ಜಿ ಸಲ್ಲಿಸುತ್ತಾ ಇದ್ದೆ, ಆದರೆ ನನಗೆ ಯಾವುದೇ ಮಾಹಿತಿ ನೀಡಿದ್ದೆ ಮೊನ್ನೆ ದಿನಾಂಕ:18-06-2014 ರಂದು ಹಿಂಬರಹ ಕೊಟ್ಟಿದ್ದಾರೆ. ಪಿ.ಡಿ.ಒ. ರವರು ಇದರ ಬಗ್ಗೆ ಯಾವುದೇ ಅಧ್ಯಯನ ಮಾಡದೆ ಹಿಂಬರಹದಲ್ಲಿ ನಮಗೆ ತಪ್ಪು ಮಾಹಿತಿ ನೀಡಿದ್ದಾರೆ.”

26. Therefore, this admission by the complainant himself in his complaint Ex P-3 which is prior to this enquiry gives impetus to

15.3.19.

believe that Ex D-3 Resolution was passed by the Panchayath well before the present complaint was lodged by the complainant before this Institution and that must have made the DGO., not to give Door Number or NOC as sought by the complainant.

27. Though there was no stay regarding the house in question as admitted by the DGO., still when there was a Resolution vide Ex P-3 which was endorsed to the complainant admittedly as per Ex P-2 and when the Presenting Officer has not disputed about the Ex P-3 Resolution in the Cross-examination of DGO., and also when the son of the complainant as per order-sheet dated: 05-06-2018 showed lack of interest in pursuing the complaint, it can be gathered that DGO., has successfully proved his defense and has rebutted the presumption that goes against him and in the resultant it can be said that Presenting Officer has failed to prove the charge leveled against the DGO.

28. Thus upon the appreciation of entire evidence as discussed above I hold that the DGO., has successfully proved that he was

15-3-19.

prevented by sufficient cause from giving Door Number or necessary NOC., to obtain electricity connection as sought to the complainant and therefore is not guilty of misconduct within the purview of Rule 3 (I) (i) to (iii) of the Karnataka Civil Services (Conduct) Rules, 1966 and being of this view I proceed with the following :-

-:- REPORT -:-

Charge against the DGO by name Sri.B.Shashidhar who is due for retirement on superannuation on 30-06-2032 that he while working as Panchayath Development Officer in Mundkuru Grama Panchayath, Karkala Taluk, Udupi District failed to give Door Number and necessary NOC., to obtain electricity connection as sought to the complainant is *not proved*.

Submitted this report to the Hon'ble Upalokayukta, Karnataka Lokayukta in a sealed cover forthwith along with the connected records.

Dated 15th of March, 2019.

15-3-19

[RAVI M.R.]

Additional Registrar [Enquires-15]
Karnataka Lokayukta, Bengaluru.

ANNEXURE

	Witness Examined on behalf of the Disciplinary Authority
	PW-1 Sri. T.S.Gopinath (Original)
	Documents marked on behalf of the Disciplinary Authority Ex P-1 to P-4
Ex P-1	Form No: I (Complaint)
Ex P-2	Form No:II (Complainant's Affidavit)
Ex P-3	Complainant's detailed complaint dtd:18-07-2014
Ex P-4	Xerox copy of Building license dtd:3-02-2011 Xerox copy of Tax paid receipt No:538770 dtd:3-2-2011, Xerox copy of Form No: 10, Xerox copy of sketch, Xerox copy of RTC, Xerox copy of 1 st Land Tribunal Board, Xerox copy of Writ Petition No:26937/1998 of the Hon'ble High Court of Karnataka, Xerox copy of Sri.Sundara Bhandari.
	List of witness examined on behalf of DGO
	Sri.Shashidhar
	List of Document marked on behalf of the DGO
Ex D-1	Certified copy of building license application, Certified copy of Grama Panchayath Resolution, Certified copy of Building license, Certified copy of application of the Sri Narsu Shetty, Certified coy of Legal Notice
Ex D-2	Certified copy of Mundkur Grama Panchayath office letter dtd:18-06-2014
Ex D-3	Certified copy of General Body meeting dtd:21-05-2014
Ex D-4	Certified copy of endorsement dtd:19-06-2017 addressed to the complainant, Certified copy of Mundkur Grama Panchayath office letter dtd:29-06-2017, Certified copy of Writ Petition No:25078-80/2016 of Hon'ble High Court of Karnataka.
Ex D-5	Xerox copy of the Executive Officer, Taluk Panchayath, Karkal office order dtd:18-04-2015

02/15/3-19.

[RAVI M.R]

Additional Registrar (Enquiries-15)
Karnataka Lokayukta, Bengaluru.



KARNATAKA LOKAYUKTA

No.UPLOK-2/DE/668/2017/ARE-15

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001.
Dated 18.03.2019

RECOMMENDATION

Sub:- Departmental inquiry against Shri Shashidhar, the then Panchayath Development Officer, Mundkur Gram Panchayath, Karkala Taluk, Udupi District - reg.

- Ref:- 1) Government Order No. ಗ್ರಾಅಪ 280 ಗ್ರಾಪಂಕಾ 2017 dated 08.05.2017.
2) Nomination order No. UPLOK-2/DE/668/2017 dated 19.05.2017 of Upalokayukta-2, State of Karnataka.
3) Inquiry report dated 15.03.2019 of Additional Registrar of Enquiries-15, Karnataka Lokayukta, Bengaluru.

~~~~~

The Government by its order dated 08.05.2017 initiated the disciplinary proceedings against Shri Shashidhar, the then Panchayath Development Officer, Mundkur Gram Panchayath, Karkala Taluk, Udupi 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/668/2017 dated 19.05.2017 nominated Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru, as

the Inquiry Officer to frame charges and to conduct departmental inquiry against the DGO for the alleged charge of misconduct, said to have been committed by him. Subsequently, by order No.UPLOK-1&2/DE/Transfers/2018 dated 02.11.2018, the Additional Registrar of Enquiries-15, Karnataka Lokayukta, Bengaluru, was re-nominated to continue the said departmental inquiry against the DGO.

3. The DGO - Shri Shashidhar, the then Panchayath Development Officer, Mundkur Gram Panchayath, Karkala Taluk, Udupi District was tried for the following charge:-

“ನೀವು/ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ/ಶ್ರೀ ಶಶಿಧರ್, ಪಂಚಾಯತ್ ಅಭಿವೃದ್ಧಿ ಅಧಿಕಾರಿ, ಮುಂಡ್ಕೂರು ಗ್ರಾಮ ಪಂಚಾಯತಿ, ಕಾರ್ಕಳ ತಾಲ್ಲೂಕು, ಉಡುಪಿ ಜಿಲ್ಲೆ ಆದ ನೀವು ಕಾರ್ಕಳ ತಾಲ್ಲೂಕಿನ ಮುಂಡ್ಕೂರು ಗ್ರಾಮದ ಸರ್ವೆ ನಂಬರ್ 170/1ಸಿಪಿ2 ರಲ್ಲಿನ ಜಮೀನು ಶ್ರೀ ಸುಂದರ್ ಭಂಡಾರಿ (ಫಿಯಾದಿ) ನ ಆಸ್ತಿ ಬಗ್ಗೆ ಮನೆ ಕಟ್ಟಲು ಪರವಾನಿಗೆ ನೀಡಿದ್ದರೂ ಆ ಮನೆಗೆ ವಿದ್ಯುತ್ ಸಂಪರ್ಕ ಪಡೆಯಲು ನೀರಾಕ್ಷೇಪಣಾ ಪತ್ರವನ್ನು ಕೊಡದೇ ಹಾಗೂ ಆ ಮನೆಗೆ ಡೋರ್ ನಂಬರ್‌ನ್ನು ನೀಡದೇ ಸತಾಯಿಸಿರುತ್ತೀರಿ. ನೀವು ಸಾರ್ವಜನಿಕ/ಸರ್ಕಾರಿ ನೌಕರರಾಗಿ ನಿಮ್ಮ ಕರ್ತವ್ಯ ನಿರ್ವಹಣೆಯಲ್ಲಿ ನಿಷ್ಠೆ ಇಲ್ಲದೇ, ಕರ್ತವ್ಯಲೋಪವೆಸಗಿರುತ್ತೀರಿ. 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 ವಿಚಾರಣೆಗೊಳಪಡುತ್ತಿರಂದು ಈ ದೋಷಾರೋಪಣೆ.”

4. The Inquiry Officer (Additional Registrar of Enquiries-15) on proper appreciation of oral and documentary evidence has held that, the Disciplinary Authority has '*failed to prove*' the above charge against the DGO - Shri Shashidhar, the then Panchayath Development Officer, Mundkur Gram Panchayath, Karkala Taluk, Udupi District.

5. On re-consideration of the inquiry report, 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 '*exonerate*' the DGO - Shri Shashidhar, the then Panchayath Development Officer, Mundkur Gram Panchayath, Karkala Taluk, Udupi District of the aforesaid charge.

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

Connected records are enclosed herewith.

  
(JUSTICE N. ANANDA)  
Upalokayukta,  
State of Karnataka. 68/3

