

KARNATAKA LOKAYUKTA

NO:UPLOK-1/DE/7/2021/ARE-9

M.S.Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru - 560 001.
Date:21.4.2022

:: ENQUIRY REPORT ::**:: Present ::****(PUSHPAVATHI.V)**

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

Sub: Departmental Inquiry against (1) Sri.Shivanand Jois, Panchayath development officer and (2) Sri.Yadava Naik, Panchayath development officer, Gokarna Grama panchayath, Kumta Taluk, Uttara Kannada District - reg.

Ref: 1. G.O.No. GraAaPa/209/GraPam Ka/2020 dated: 5.1.2021 .
2.Nomination Order No: UPLOK-1/DE/7/2021 Bangalore dated:19.1.2021 of Hon'ble Upalokayukta-1
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This Departmental Inquiry is initiated against (1) Sri.Shivanand Jois, Panchayath development officer and (2) Sri.Yadava Naik, Panchayath development officer, Gokarna Grama panchayath, Kumta Taluk, Uttara Kannada District (hereinafter referred to as the Delinquent Government Official for short "**DGO No.1 and 2** ").

2. In pursuance of the Government Order cited above at reference No.1, Hon'ble Upalokayukta vide order dated 19.1.2021 cited above at reference No.2 has nominated

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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 DGO are as under :

ANNEXURE-I
CHARGE

(1) You DGO no. 1 Sri.Shivanand Jois, the then Panchayath Development Officer, while working as a Panchayath development officer of the Gokarna Grama Panchayath, Kumta Taluk, Uttara Kannada District from 30.4.2015 to 25.9.2017 issued the license dtd: 3.3.2016 to construct the house in sy. No. 6 of Gokarna village in favour of Smt.Parvathi Subray Nirvaneshwar resident of Rathabeedi, Gokarna, Kumta Taluk, Uttara Kannada District by violating the government order dtd: 2.7.2015 passed by the special director (Technical cell) and Secretary KSEZMA forest ecology and environment department MS building Bengaluru and letter dtd: 7.1.2016 of Deputy Director, Department of Archaeology, Museums and Heritage Dharwad

(2) You DGO no. 1 Sri.Shivanand Jois, the then Panchayath Development Officer had not taken any steps to prevent the illegal construction at an appropriate stage which


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was constructed by Smt. Parvathi Subray Nirvaneshwar by violating the permission given by the Archaeology department.

(3) You DGO no.2 Sri. Yadava Naik, while working as Panchayath Development officer in Gokarna Grama Panchayath, Kumta Taluk, Uttara Kannada District from 18.8.2017 to 15.12.2018, had ignore the representation given by the complainant for some time and paved way for Smt.Parvathi Subray Nirvaneshwar to complete the commercial complex building. Further you DGO No. 2 has not taken steps to prevent the said illegal construction at an appropriate stage which was constructed by Smt.Parvathi Subray Nirvaneshwar by violating the permission given by the Archaeology department.

For the above said irregularities you DGOs No.1 and 2 have committed misconduct and dereliction of duty and failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servants and therefore you DGOs is guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966. Hence, this charge.

ANNEXURE-II

STATEMENT OF IMPUTATION OF MISCONDUCT:

Brief facts of the case are :- On the complaint filed by Sri.Pradeep Ganapathi Ganeyan, Near Karnataka Bank, Ganjigadde, Gokarna, Karwar District (hereinafter referred to as complainant for short) against 1) Deputy Director, Department of Archeology, Museum and Heritage, Dharwad,

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2) PDO, Gokarna Gram Panchayath, Kumta Taluk, Uttara Kannada District, 3) Smt.Parvathi Subray Nirvaneshwar, Rathabeedi, Gokarna, Kumta Taluk, Uttara Kannada District, 4) (DGOs no. 1) **Sri.Shivananda Jois, the then Panchayath Development Officer, Gokarna Gram Panchayath, Kumta Taluk, presently working as PDO, Hegde Gram Panchayath, Kumta Taluk, Uttara Kannada District and 5) (DGOs no. 2) Sri.Yadava Naik, the then Panchayath Development Officer, presently working as PDO, Baragi Gram Panchayath, Kumta Taluk, Uttara Kannada District,** alleging that they, being Public/Government servants, have committed misconduct, an investigation has been taken up u/s 9 of the Karnataka Lokayukta Act, 1984.

This complaint is with regard to issuance of license by the PDO of the Gokarna Gram Panchayath, in violation of the permission granted by the Archeology, Museum and Heritage Department, Karwar, in favour of Smt.Parvathi Subraya Nirvaneshwara, for construction of new house in Sy.No.6 of Gokarna Village, which is next to Mahabaleshwara Temple.

The report of I/c Deputy Director, Department of Archeology, Museum and Heritage, Dharwad, discloses that, only a permission was issued in favour of Smt.Parvathi, for doing some repair work pertaining to existing old house and without demolishing the said building and without obtaining the new plan, as per communication dtd:7-1-2015. But, it is seen that, the Gokarna Panchayath PDO has issued license dtd:3-3-2016 in favour of Sri. Parvathi Subray Nirvaneshwar for construction of new building as per the plan.

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In view of the said report, the DGOs no.1 and 2 have been impleaded. The DGOs no. 2 has submitted his comments dtd:12-6-2020. The DGOs no.2 has stated that, he was working as PDO of Gokarna Gram Panchayath, from 18-8-2017 to 15-12-2018 and he has not issued the alleged license. It is stated that, Sri. Parvathi Subray Nirvaneshwar has obtained license dtd:3-3-2016 and got constructed the house. He has also stated about pendency of suit in O.S.55/2018.

The DGOs no.1 in his comments has stated that, the Sri. Parvathi Subray Nirvaneshwar had filed an application dtd:24-7-2015 seeking permission for renovation of the old building. The said application was placed before the general body meeting held on 10-8-2015 and it was decided that, since the building in question is very nearer to the heritage building belonging to Archeology Department, unless an NOC is obtained from the said Department, it was not possible to take a decision with regard to issuance of license. It is further stated that, subsequently, the Sri. Parvathi Subray Nirvaneshwar had obtained permission dtd:7-1-2016 from the Archeology Department and submitted the same for issuance of license. Thereafter, after having considered the said permission, a license dtd:3-3-2016 was issued for the purpose of renovation of the old building, which was constructed in Sy.No.6. It is further stated that, a condition was imposed to the Sri. Parvathi Subray Nirvaneshwar, while issuing the license, to the effect that, renovation should be carried out in terms of the NOC issued by the Archeology Department. It is stated that, he has not committed any

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dereliction of official duty, while issuing the said license and it was issued as per the NOC issued by the Archeology Department only. Accordingly, prayed to close the complaint.

Having regard to the above said facts and circumstances, I have carefully perused the documents made available by the DGO no. 1. He has produced the copy of the Government Order dtd:2-7-2015, issued in favour of the Sri. Parvathi Subray Nirvaneshwar . It is seen that, the Department of Forest, Ecology and Environment has issued an order, which reads here as under;

Accordingly, the NOC issued under para-3 (i)(e) of the CRZ notification, 2011 to the above proposal with the following condition;

1. *The reconstruction should not exceed the existing floor face index, existing plinth area and existing density.*
2. *The activity shall be undertaken strictly in accordance with the provision of CRZ notification, 2011.*
3. *The occupier should implement the sanitation and waste management plan in respect of the above proposal.*

The document dtd:7-1-2016 issued by the Deputy Director, Archeology, Museum and Heritage Department, Dharwad, discloses that, no permission was granted in favour of the Sri. Parvathi Subray Nirvaneshwar , to construct new

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house and as per new plan. The last portion of the order reads here as under;

ಆದ್ದರಿಂದ, ಸದರಿ ಮನೆಯ ಶ್ರೀಮತಿ.ಪಾರ್ವತಿ, ಸುಬ್ರಾಯ, ನಿರ್ವಾಣೇಶ್ವರ, ಗೋಕರ್ಣ, ಇವರ ಮನವಿಯನ್ನು ಪರಿಶೀಲಿಸಿ ಸ್ಥಳ ಪರಿಶೀಲನಾ ಆಧಾರದ ಮೇಲೆ ಈಗಿರುವ ಮನೆಯ ಸ್ಥಿತಿಗತಿಗಳನ್ನು ಅವಲೋಕಿಸಿದಾಗ ಸದರಿ ಮನೆಯು ವಾಸ ಮಾಡುವುದಕ್ಕೆ ತುಂಬಾ ದುಸ್ಸಾರವಾಗಿದೆ ಎಂದು ಮನಗಾಣುತ್ತದೆ. ಆದ್ದರಿಂದ, ತಾವು ಯಾವುದೇ ರೀತಿಯ ಹಳೆಯ ಮನೆಯನ್ನು ಕೆಡವಿ ಹೊಸ ವಿನ್ಯಾಸದ ಮನೆಯನ್ನು ಕಟ್ಟಬಾರದು ಹಾಗೂ ದೇವಾಲಯಕ್ಕೆ ಧಕ್ಕೆ ಉಂಟಾಗದಂತೆ ಎಚ್ಚರವಹಿಸಿ, ನಿಮ್ಮ ಹಳೆ ಮನೆಯ ದುರಸ್ತಿ ಕಾರ್ಯವನ್ನು ಮಾಡಿಕೊಳ್ಳಬಹುದು. ಒಂದುವೇಳೆ, ತಾವು ಪುರಾತತ್ವ ಇಲಾಖೆಯ ನಿಯಮವನ್ನು ಉಲ್ಲಂಘನೆ ಮಾಡಿ ಹೊಸ ಕಟ್ಟಡ ನಿರ್ಮಿಸಿದರೆ ನಿಮಗೆ ಯಾವುದೇ ನೋಟೀಸನ್ನು ನೀಡದೇ ತೆರವುಗೊಳಿಸಲಾಗುವುದು ಹಾಗೂ ಆದೇಶವನ್ನು ರದ್ದುಪಡಿಸಲಾಗುವುದು.

The said letter was addressed to the Sri. Parvathi Subray Nirvaneshwar , by the said Department.

Subsequently, the DGO no.1 and the President of the Gram Panchayath have issued license dtd:3-3-2016. The 2nd para of the license reads here as under;

ಕರ್ನಾಟಕ ಸರ್ಕಾರ, ಕರ್ನಾಟಕ ಪಂಚಾಯತ್ ರಾಜ್ ಅಧಿನಿಯಮ 1993, ಅಧ್ಯಾಯ-4, ಪ್ರಕರಣ 64 ಹಾಗೂ ಪಂಚಾಯತ್ ರಾಜ್ (ಕಟ್ಟಡಗಳ ನಿರ್ಮಾಣದ ಮೇಲೆ ಗ್ರಾಮ ಪಂಚಾಯತಿಗಳ ನಿಯಂತ್ರಣ) ನಿಯಮ 1994 ರನ್ವಯ ನೀವು ಕಟ್ಟಡವನ್ನು ವಿಸ್ತರಣೆ ಮಾಡಲು ಪೂರೈಸಿದ ಕಟ್ಟಡ ನಕಾಶೆಯಲ್ಲಿ ನಮೂದಿಸಿರುವಂತೆ, ಕಟ್ಟಡವನ್ನು ವಿಸ್ತರಣೆ ಮಾಡಲು ಈ ಕೆಳಗಿನ ಅನುಬಂಧದಲ್ಲಿ ಅಳತೆ ನಮೂದಿಸಿ, ಅನುಮತಿ ನೀಡಲಾಗಿದೆ.

While issuing the said license, they have also issued 14 conditions as per Annexure. As per the Annexure, the condition No.12 stated that, the building shall be subjected to

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CRZ Regulations. Condition No.13 discloses that, the condition imposed by the Archeology Department dtd:7-1-2016 are applicable to the license. Condition No.14 discloses that, renovation of the existing building shall be carried out to the extent of the existing building and after completion of the building, completion certificate from the Archeology Department shall be obtained.

The above said license prima-facie discloses that, the license issued by the DGO no.1 and the President are against to the NOC issued by the Archeology Department. In the body of the license, an authorization was given to the Sri. Parvathi Subray Nirvaneshwar , to construct the building as per the plan submitted by the Sri. Parvathi Subray Nirvaneshwar. The copy of the plan dtd:22-7-2015 submitted by the Sri. Parvathi Subray Nirvaneshwar to the DGO No. 1 discloses that, the said estimation and plan was prepared at a cost of 25,49,000/- for the purpose of reconstruction of the building and not for the renovation of the existing building. Therefore, the comments submitted by the DGO No. 1 is contrary to the said license and the application given by the Sri. Parvathi Subray Nirvaneshwar . Therefore, it cannot be believed and accepted at this stage.

The complainant has produced photographs and the said photographs reveal that, a new commercial building has been constructed in that place and the same is contrary to the permission accorded by the Archeology Department.

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It is seen that, subsequently, the complainant made several representations to the PDO of the Gram Panchayath, to take action against Sri. Parvathi Subray Nirvaneshwar, for having violated the condition imposed in the license. In that regard the DGO no. 2 has issued notices to the Sri. Parvathi Subray Nirvaneshwar, to the effect that, since she got constructed the building in violation of the permission, her license has been cancelled. He has also written letter dtd:9-8-2018 to the Commissioner, Department of Archeology, stating that, since Smt.Parvathi has constructed the building in violation of the rules, the license issued in her favour has been cancelled and therefore, the Department has to take action against the said person.

The above said material at this stage prima-facie discloses that, the DGO no.1, in violation of the permission given by the Archeology Department dtd:7-1-2016, has issued license dtd:3-3-2016 in favour of the Sri. Parvathi Subray Nirvaneshwar , authorizing her to construct the new building in accordance with the new plan. But, for the reasons best known to him and to escape from legal action in future, he has also imposed separate conditions and they are against to the license conditions dtd:3-3-2016. It is seen that, on the basis of the said license issued by the DGO no. 1, the Sri. Parvathi Subray Nirvaneshwar got constructed a new commercial building by investing lakhs of rupees. The said construction is in violation of the permission given by the Archeology Department. It is seen that, even though the complainant has made request to the Gram Panchayath to take action by stating that, building was being constructed in

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violation of the permission and the rules, the Panchayath did not take action at the initial stage, to prevent the construction in violation of the said permission. It is seen that, since the DGO no. 1 and 2 did not take steps to prevent the illegal construction at an appropriate stage, the Sri. Parvathi Subray Nirvaneshwar was able to complete the building and thereafter got obtained an order of temporary injunction by filing the suit.

The material on record prima-facie disclose that, there was a dereliction of official duty and maladministration on the part of the DGO no. 1, while issuing the license and further there was a dereliction of official duty and maladministration on the part of the DGO no. 2, while discharging his official duty as a PDO of the Gram Panchayath, by not taking action to prevent the illegal construction, even though he worked as PDO of that Gram Panchayath, w.e.f. 18-8-2017. Therefore, the comments submitted by the DGO no.1 and 2 cannot be believed and accepted at this stage. It is to be noted that, for the reasons best known to the DGO no. 1 and in violation of the permission dtd:7-1-2016 and in an ingenious way he was thought of granting license and thereby authorized the Sri. Parvathi Subray Nirvaneshwar to construct a new building. Subsequently, the DGO no. 2 ignored the representations given by the complainant for some time and paved way for the Sri. Parvathi Subray Nirvaneshwar to complete the commercial complex building. Therefore, it is necessary to conduct a detail enquiry against the DGO no.1 and 2.

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Since, the acts on the part of DGO no. 1 and 2 amounts to misconduct, within the meaning of Rule-3(i) to (iii) of KCS (Conduct) Rules, 1966, now acting under Sec.12(3) of the Karnataka Lokayukta Act, a recommendation is made to the competent authority, to initiate departmental enquiry against the DGO No. 1 and 2 and to entrust the departmental enquiry to this institution as per Rule-14A of the KCS (CCA) Rules, 1957.

Since said facts supported by the materials on record prima facie show that you-DGOs being Public/Government servant, has committed misconduct as per Rule 3(i) to (iii) of KCS(Conduct) Rules, 1966 and under Rule 14(A) of Karnataka Civil Services (Classification, Control and Appeal) Rules 1957. Hence, the charge.

5. The copies of the same were issued to the DGOs calling upon them to appear before this authority and to submit written statement.

6. The 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 & 2 has been recorded and they have pleaded not guilty and claimed for holding inquiry. Thereafter, they submitted written statement.

7. DGO No.1 in his written statement, he has stated that he has taken due care and caution while issuing licence to Parvathi Subbraya Nevaneshwara. He had obtained all relevant documents from Parvathi Subbraya Nevaneshwara in initial stage in connection to licence and had placed the same

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before the general meeting of grama panchayath on 10.8.2015. As one of the member opposed on the ground that Mahabaleshwara temple is situated adjacent to the alleged building of Parvathi Subbraya Nevaneshwara, under a letter, she was directed to get permission from the department of Archeology. The licence was issued only to renovate the house however she has misused the license and constructed the building by violating the department rules. He had worked for limited period.

8. He has further submitted that he had no information that Gokarna Mahabaleshwara temple comes under the list of heritage building until 2019. There was no board Archeology department in front of the Gokarna temple indicating that the temple comes under the purview of archeology department. He has further submitted that, on 9.1.2018 the complainant had filed an application under RTI Act before Archeology department for information about monumental area of Gokarna temple and also the survey numbers which were within 100 mtrs., around the temple. The department gave reply that they have got no information and directed to get information from Tahasildar Kumata. The Tahasildar Kumata directed the ADLR to gather information.

9. He has further submitted that on 18.7.2018 Panchayath development officer had written a letter to the commissioner the Department of Archeology, Museums & Heritage, Mysore to identify and de mark all the monumental buildings, such as temple lakes etc., which comes within the radius of Gokarna temple. The commissioner had directed the town planning officer Karwar, CEO, zilla panchayath ,

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Panchayath development officer Gokarna grama panchayath to identify all the monumental buildings and survey numbers situated within 100 Mtrs and 200 Mtrs of such building within zone, Karwar district, Gokarna grama panchayath respectively. As per the directions, Gokarna grama panchayath wrote a letter to ADLR to identify the survey numbers which comes within 100 to 200 mtrs., of Gokarna temple. ADLR gave his report on 23.8.2018. This show till 2019 the temple was not de-marked.

10. He has further submitted that Parvathi Subbraya Nevaneshwara was informed to take permission from the department of archeology to construct building before issuing license. She was also directed to get the completion certificate from the department of archeology. Further the license is issued only after resolution passed in the general body meeting. In the meeting no members had raised any objections regarding CRZ regulations and heritage importance at initial stage. Further the department of archeology did not inform DGO No.1 about its visit to the site of construction and did not give any information about conducted mahazar. It is the department which is responsible for the allegations as they did not taken any interest to guide the grama panchayath.

11. He has further submitted that he has worked in the grama panchayath only for limited period. The Archeology department was at liberty to take appropriate decision. Parvathi Subbraya Nevaneshwara had also approached civil court Kumta in OS No. 55/2018 and had obtained order of injunction vide order dtd: 26.4.2018. As there was an order

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of injunction, he did not interfere with the possession and structure of the building. He has denied specifically the allegation of charge and submitted that false case has been filed against him to harasses him.

12. DGO No.2 has field his written statement. He has stated that he has taken charge of Panchayath development officer of the Gokarna grama panchayath on 18.8.2017. Parvathi Subbraya Nevaneshwara had obtained license from the competent authority and renovated the building. The complainant had given complaint against Parvathi Subbraya Nevaneshwara to the grama panchayath. On the said complaint, he had taken action for the demolition of the building. But Parvathi Subbraya Nevaneshwara had approached Hon'ble Civil court Kumata in OS No. 55/2018 and had obtained order of injunction vide order dtd: 26.4.2018. As there was an order of injunction, he did not interfere with the possession and structure of the building. He had taken all due care and caution to demolish the alleged building. He is innocent of the allegation leveled against him. He has denied specifically the allegation of charge and submitted that false case has been filed against him to harasses him.

13. The disciplinary authority has examined the complainant Sri. Pradeep Ganapathi Ganeyan as PW.1 and got marked documents as **Ex.P-1 to Ex.P-13.**

14. Thereafter, second oral statement of DGOs No.1 and 2 have been recorded. Both submitted they have got their evidence. So, opportunity is provided to them to adduce

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evidence. Accordingly, DGO No.1 got examined himself as DW-1 and DGO No.2 got examined himself as DW-2 and got marked documents as **Ex.D-1 to Ex.D-36**.

15. Heard submissions of Presenting Officer. Perused the entire records, the only point that arise for my consideration is:

**Whether the Disciplinary Authority proves
the charge framed against the DGOs ?**

My finding on the above point is **PARTLY AFFIRMATIVE AND PARTLY NEGATIVE** for the following:

REASONS

16. The charge against the DGO No.1 is specific that he while working as Panchayath development officer of Gokarna Grama Panchayath, issued license in favour of Smt.Parvathi Subraya Nirvaneshwar to construct the house in Sy. No. 6 of Gokarna village violating Government order dtd: 2.7.2015 passed by the Director (Technical Cell) and Secretary KSEZ MA Forest Ecology and Environment Ecology, department M.S. Building Bengaluru and letter dtd: 7.1.2016 of Deputy Director, Department of Archaeology, Museums and Heritage, Dharward.

17. The defence of DGO No.1 is that he had issued license only to renovate the existing building. DW-1 during his chief examination has stated that he has issued license only to renovate existing building on 3.3.2016, that he has not issued license to construct building. Of course, PW-1/

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complainant in his cross examination, has admitted as follows;

“ಪಾರ್ವತಿ ಸುಬ್ರಾಯ ನಿರ್ವಾಣೇಶ್ವರ ರವರು ಅವರ ಹಳೆಯಮನೆಯನ್ನು ರಿಪೇರಿ ಮಾಡಲು ಅನುಮತಿಯನ್ನು ಪಂಚಾಯತಿ ವತಿಯಿಂದ ಪಡೆದಿದ್ದರು ಎಂದರೆ ಸರಿ. ಮನೆ ಬಿದ್ದುಹೋಗುವ ರೀತಿಯಲ್ಲಿ ಇತ್ತು ಎಂದರೆ ಸರಿ. ಆದ್ದರಿಂದ ದುರಸ್ತಿಗೆ ಅನುಮತಿಕೇಳಿದ್ದರು ಎಂದರೆ ಸರಿ.”

18. But, Ex.D-16 is the license said to be issued by Panchayath development officer to Parvathi Subraya Nirvaneshwar reads as follows;

“ಮೇಲಿನ ವಿಷಯ ಹಾಗೂ ಉಲ್ಲೇಖದನ್ವಯ ಶ್ರೀಮತಿ. ಪಾರ್ವತಿ ಸುಬ್ರಾಯ ನಿರ್ವಾಣೇಶ್ವರ ಸಾ:: ರಥಬೀದಿ, ಗೋಕರ್ಣ, ತಾ:: ಕುಮಟಾ (ಉದ್ಯೋಗ ಖಾತ್ರಿ ಯೋಜನೆ) ಇವರು ಗೋಕರ್ಣ ಗ್ರಾಮದ ಸ. ನಂ: 6ರಲ್ಲಿಯ ಮನೆ ನಂ: 178 ಆರ್.ಡಬ್ಲ್ಯೂ ರ ನವೀಕರಣ ಸಲುವಾಗಿ ಸಲುವಾಗಿ ಪರವಾನಿಗೆಯನ್ನು ನೀಡಲು ಬರಹದಲ್ಲಿ ಒದಗಿಸಿದ ಕಟ್ಟಡ ನಕ್ಷೆಯನ್ನು ಅನುಮತಿಗಾಗಿ ದಿ: 2.3.2016ರಂದು ಸಲ್ಲಿಸಿದ ಅರ್ಜಿಯನ್ನು ಪರಿಶೀಲಿಸಿತು.

ಕರ್ನಾಟಕ ಸರ್ಕಾರ ಕರ್ನಾಟಕ ಪಂಚಾಯತರಾಜ ಅಧಿನಿಯಮ 1993 ಅಧ್ಯಾಯ IV ಪ್ರಕರಣ 64 ಹಾಗೂ ಪಂಚಾಯತರಾಜ್ (ಕಟ್ಟಡಗಳ ನಿರ್ಮಾಣದ ಮೇಲೆ ಗ್ರಾಮ ಪಂಚಾಯತಿಗಳ ನಿಯಂತ್ರಣ) ನಿಯಮ 1994 ರನ್ವಯ ನೀವು ಕಟ್ಟಡವನ್ನು ವಿಸ್ತರಣೆ ಮಾಡಲು ಪೂರೈಸಿದ ಕಟ್ಟಡ ನಕ್ಷೆಯಲ್ಲಿ ನಮೂದಿಸಿರುವಂತೆ ಕಟ್ಟಡವನ್ನು ವಿಸ್ತರಣೆ ಮಾಡಲು ಈ ಕೆಳಗಿನ ಅನುಬಂಧದಲ್ಲಿ ಅಳತೆ ನಮೂದಿಸಿ ಅನುಮತಿ ನೀಡಲಾಗಿದೆ.

ಅ. ನಂ	ಕಟ್ಟಡದ ವಿವರ					ಸಾರ್ವಜನಿಕ ಸಂಪರ್ಕ ರಸ್ತೆಯಿಂದ ಅಂತರ	ವಿದಿಸಿದ ಪರ್ಯಾಯ
	ಉದ್ದ	ಅಗಲ	ಎತ್ತರ	ತಳಪಾಯ	ಅಂತಸ್ತು		
1	9.14 m	10.366 m	8.29 m	-	2 ಅಂತಸ್ತು	20 ಮೀ	ಪು.ತಿ.ನೋ

ಸ್ಥಳ:- ಗೋಕರ್ಣ, ದಿ: 5.3.2016 ರಶೀದಿ ಸಂಖ್ಯೆ: 11161 ಮೊಬಲಗು ರೂ:- 25490”

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19. This show license is issued to extend building, not to renovate. Further, of course, DW-1 during cross examination stated that when he visited the alleged building before issuing license, there were ground and first floor (ಮಾಳಿಗೆ ಮನೆ) having steps inside the house. Of course, the license is issued to extend the building to 2 floors i.e., for ground and first floor which were already existed. But, the actual point for consideration in this case is whether the license is in violation of the government order dtd: 2.7.2015 and letter of Deputy Director, Department of Archaeology, Museums and Heritage, Dharward dated: 7.1.2016. The government order dtd: 2.7.2015 reads as follows;

“With reference to the above subject, that Smt. Parvati Subray Nirvaneshwar has requested NOC for Re-construction of residential house at Sy. No. 6 of Gokarna village, Uttara Kannada District. The proposed site was inspected by Regional Director (Environment) and the details submitted vide letter dated: 28.4.2015 are as follows; (1) Jurisdiction of CRZ: 500 Mts from HTL of Sea (2) Classification: CRZ-1(3) Distance from HTL: 280 mts from River HTL.

The proposal was considered in the Karnataka State Coastal Zone Management Authority (KSCZMA) meeting held on 28.5.2015.

The Regional Director (Environment) has submitted application in the prescribed format, Site Inspection Report, Survey sketch of site, RTC of the site change in Ownership letter, 1989-90 year tax assessment extract, CZMP of the proposed site, Draft digitalized CRZ map, photos of Old house, Annexure-IV (Checklist for submission of application for prior CRZ clearance). Proceeding of DCZMC meeting

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held on 24.3.2015. The building is around 22.8 X 4.95 Sq.ft. plinth area. The Regional Director (Environment) has inspected the site and reported that the site falls in CRZ-1. The proposal was recommended in DCZMC meeting held on 24.3.2015.

The KSCZMA has decided to issue NOC as the proposed activity is permitted under the para 3(1) (e) of the CRZ Notification 2011 reconstruction / repair works of dwelling units of local communities especially fisher folk in accordance with local Town and country planning regulations is permitted.

Accordingly the NOC is issued under para 3 (1) (e) of the CRZ Notification 2011 to the above proposal with the following conditions;

(i) The reconstruction should not exceed existing floor space index, existing plinth area and existing density.

(ii) The activity shall be undertaken strictly in accordance with the provisions of CRZ Notification, 2011.

(iii) The occupier should implement the sanitation and waste management plan in respect of the above proposal.

The above NOC is issued under the provisions of CRZ Notification 2011."

20. As same, letter of Deputy Director, Department of Archaeology, Museums and Heritage, Dharward dated: 7.1.2016 reads as follows;

"ಮೇಲ್ಕಂಡ ವಿಷಯ ಮತ್ತು ಉಲ್ಲೇಖಗಳಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ತಮ್ಮ ಆದೇಶದಂತೆ ಶ್ರೀ.ಪಾರ್ವತಿ ಸುಬ್ರಾಯ ನಿರ್ವಾಣೇಶ್ವರ ರಥ ಬೀದಿಯಲ್ಲಿರುವ ಹಳೆಯ ಮನೆಯನ್ನು ಸವಿರವಾಗಿ ಸ್ಥಳ ಪರಿಶೀಲನೆ ಮಾಡಲಾಗಿ ಇದು ಮಣ್ಣಿನ ಗೋಡೆಗಳಿಂದ ಕಟ್ಟಲಾಗಿದ್ದು, ಅಲ್ಲಲ್ಲಿ ಗೋಡೆಗಳು ಮತ್ತು ಮೇಲಿನ ಭಾವಣಿಯು ಶಿಥಿಲಾವಸ್ಥೆಯಿಂದ ಕಂಡು ಬರುತ್ತದೆ. ಮತ್ತು ಮನವಿದಾರರ

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ಮನವಿಯಲ್ಲಿ ಹೇಳಿರುವಂತೆ ಪರಿಶೀಲಿಸಿದಾಗ ಮಳೆಯಕಾಲದಲ್ಲಿ ಗೋಡೆ ಮತ್ತು ಮೇಲ್ಭಾಗವೇ ಬೀಳುವ ಸಂಭವ ಹೆಚ್ಚಾಗಿರುವುದರಿಂದ ಸದರಿ ಮನೆಯ ಗೋಕರ್ಣ ರಥ ಬೀದಿಯ ಹಿಂಭಾಗದಲ್ಲಿದ್ದು, ಮತ್ತು ಮಹಾಬಲೇಶ್ವರ ದೇವಾಲಯದಿಂದ 110 ಮೀಟರ್‌ಗಳ ಅಂತರದ ದೂರದಲ್ಲಿರುವುದರಿಂದ ಮತ್ತು ವಾಸ ಮಾಡಲು ರಿಪೇರಿ ಕೆಲಸ ಕಾರ್ಯವನ್ನು ಮಾಡಿ ಕೊಳ್ಳುವುದರಿಂದ ದೇವಾಲಯಕ್ಕೆ ಯಾವುದೇ ರೀತಿಯಾದ ದಕ್ಕೆ ಉಂಟಾಗುವುದಿಲ್ಲ.

ಆದ್ದರಿಂದ ಸದರಿ ಮನೆಯ ಶ್ರೀಮತಿ. ಪಾರ್ವತಿ ಸುಬ್ಬಾಯಿ ನಿರ್ವಾನೇಶ್ವರ, ಗೋಕರ್ಣ ಇವರ ಮನವಿಯನ್ನು ಪರಿಶೀಲಿಸಿ ಸ್ಥಳ ಪರಿಶೀಲನೆ ಆಧಾರ ಮೇಲೆ ಈಗಿರುವ ಮನೆಯ ಸ್ಥಿತಿಗತಿಗಳನ್ನು ಅವಲೋಕಿಸಿದಾಗ ಸದರಿ ಮನೆಯು ವಾಸ ಮಾಡುವುದಕ್ಕೆ ತುಂಬಾ ದುಸ್ಸಾರವಾಗಿದೆ ಎಂದು ಮನಗಾಣುತ್ತದೆ. ಆದ್ದರಿಂದ ತಾವು ಯಾವುದೇ ರೀತಿಯಾದ ಹಳೆಯ ಮನೆಯನ್ನು ಕೆಡವಿ ಹೊಸ ವಿನ್ಯಾಸದ ಮನೆಯನ್ನು ಕಟ್ಟಬಾರದು ಹಾಗೂ ದೇವಾಲಯಕ್ಕೆ ಧಕ್ಕೆ ಉಂಟಾಗದಂತೆ ಎಚ್ಚರ ವಹಿಸಿ ನಿಮ್ಮ ಹಳೆಯ ಮನೆಯ ದುರಸ್ತಿ ಕಾರ್ಯವನ್ನು ಮಾಡಿಕೊಳ್ಳಬಹುದು ಒಂದು ವೇಳೆ ತಾವು ಪುರತತ್ವ ನಿಯಮವನ್ನು ಉಲ್ಲಂಘನೆ ಮಾಡಿ ಹೊಸ ಕಟ್ಟಡ ನಿರ್ಮಿಸಿದರೆ ನಿಮಗೆ ಯಾವುದೇ ನೋಟಿಸ್‌ನ್ನು ನೀಡದೆ ತೆರವುಗೊಳಿಸಲಾಗುವುದು ಹಾಗೂ ಆದೇಶವನ್ನು ರದ್ದು ಪಡಿಸಲಾಗುವುದು.”

21. It is not the case of DGO No. 1 that he has complied the orders above said dtd: 2.7.2015 of special director (Technical Cell) and Secretary KSEZMA Forest Ecology and Environment Ecology, department and the letter of Deputy Director, Department of Archaeology, Museums and Heritage, Dharward dated: 7.1.2016. It is his case that till 2019, the Gokarna temple was not demarked. But it is not his case that the temple was not having monumental identity. Of course, he has further stated that he had issued license with a condition to obtain permission from the archeology department. He has relied upon the EX.D-16 ie.,

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license dated: 3.3.2016. Of course, condition No. 12 to 14 of said license reads as follows;

“12) ಸಿ.ಆರ್.ಝಡ್ ನಿಯಮಕ್ಕೊಳಪಟ್ಟದೆ.

13) ಪುರಾತತ್ವ ಸಂಗ್ರಹಾಲಯಗಳು ಹಾಗೂ ಪರಂಪರೆ ಇಲಾಖೆ ಇವರ ಅನುಮತಿಯಲ್ಲಿ (ಕ್ರಮಾಂಕ:ಪು.ಸಂ.ಪ.ಇ/ಉನಿ.ಕಧಾ/2015-16 ದಿನಾಂಕ: 7.1.2016) ವಿದಿಸಿರುವ ಷರತ್ತುಗಳಿಗನುಗುಣವಾಗಿ ಮನೆ ನವೀಕರಣಗೊಳಿಸುವುದು.

14) ಮನೆಯ ನವೀಕರಣ ಈಗಿರುವ ಕಟ್ಟಡದ ಅಳತೆಯಲ್ಲೇ ಕೈಗೊಳ್ಳುವುದು ಮತ್ತು ಕಾಮಗಾರಿ ಮುಗಿದ ನಂತರ ಪುರತತ್ವ ಸಂಗ್ರಹಾಲಯಗಳು ಹಾಗೂ ಪರಂಪರೆ ಇಲಾಖೆಯಿಂದ ಕಾಮಗಾರಿ ಮುಗಿದ ಬಗ್ಗೆ ಮುಕ್ತಾಯ ಪ್ರಮಾಣ ಪತ್ರ ಪಡೆಯುವುದು.”

22. Of course, in these conditions, it is mentioned that the licensee should not violate CRZ rules, and the conditions imposed in the letter No. ಪು.ಸಂ.ಪ.ಇ/ಉನಿ.ಕಧಾ/2015-16 dtd: 7.1.2016. But Government order and letter dated: 7.1.2016 referred in charge No. 1 are issued specifically in respect of alleged building in this case. On perusal of the licence, it appears without considering above said letters, DGO No.1 has plainly issued licence with the condition that she should not violate the condition of CRZ rules and the conditions imposed in the letter No. ಪು.ಸಂ.ಪ.ಇ/ಉನಿ.ಕಧಾ/2015-16 dtd: 7.1.2016. But, he has nowhere in the licence referred the measurement of the building i.e., height, breadth and width before issuing licence. It was his duty to inspect the spot, draw mahazar with regard to measurement of the existed building before issuing licence and was to issue licence to renovate within the measurement which was existing before issuing licence. But not done so, in

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the licence, he has issued permission to extend the building for the measurement height-8.29 meters, width-9.14 meters, breadth-10.36 meters. But, he do not say or refer the measurement of the building which was existed before issuing license. This show, he has violated orders above said dtd: 2.7.2015 of special director (Technical Cll) and Secretary KSEZMA Forest Ecology and Environment Ecology, department.

23. Further, in the letter dated 07.01.2016 of Deputy Director, Department of Archaeology, Museums and Heritage, Dharward, a condition is clearly imposed not to reconstruct building. But in the licence alleged, the DGO has given permission to extend the building. which is in violation of the letter dated 07.01.2016 of Deputy Director, Department of Archaeology, Museums and Heritage. This show he has violated letter dated 07.01.2016 of Deputy Director, Department of Archaeology, Museums and Heritage. **Thus, I am of the opinion that charge No. 1 is proved against DGO No. 1.**

24. The 2nd charge is also against DGO No. 1. The allegation in the 2nd charge is that the DGO No. 1 did not take steps to prevent illegal construction at an appropriate stage which was constructed by Parvathi Subray Nirvaneshwar by violating the permission of archeology department.

25. According to DGO No. 1, he had issued license only to renovate the old house. In the written statement he has stated that Parvathi Subray Nirvaneshwar has misused the license to construct new building. Further DW-2 (DGO No.2)

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during his chief examination has stated that after complaint he had visited building. In front, there was old house, backside, new building was constructed. This show Parvathi Subray Nirvaneshwar had constructed new building and it was completed. He has further stated that the building was commercial. There is no dispute with regard to DGO No. 1 was Panchayath development officer at the time of construction of the building. So, it was his responsibility to visit the spot after issuing license and to be vigilant in avoiding illegal construction. But, according to his own evidence, he did not visit the spot while construction was going on. This show, he has committed misconduct by not visiting the building after issued license and was not vigilant in avoiding illegal construction. **Thus, I am of the opinion that charge No. 2 is proved against DGO No. 1.**

26. Coming to the 3rd charge that DGO No. 2 while working as Panchayath Development officer in Gokarna Grama Panchayath, had ignored the representation given by the complainant for some time and paved way for Smt.Parvathi Subray Nirvaneshwar to complete the commercial complex building and had not taken steps to prevent the alleged illegal construction at an appropriate stage by violating the permission given by the Archaeology department, DGO No.2 who has been examined as DW-2 has stated that he worked in Gokarna grama panchayath between 18.8.2017 to 15.12.2018, after complaint he visited the building, in front, there was old building, backside it was new building, it was commercial. He has further stated that, Parvathi Subray Nirvaneshwar had violated condition No. 13

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of the license. Hence he had reported the same to the Executive Officer, Kumata. Thereafter, Parvathi Subray Nirvaneshwar had filed license to run business in the said building. He placed the same before general meeting of the panchayath and rejected the license on the ground that Parvathi Subray Nirvaneshwar has violated the conditions of Archeology department. He has further stated that he had also cancelled the license which was issued earlier and further informed the same to the owner of the building. Thereafter, he had informed the same to the commissioner, Archeology department on 9.8.2018 and he had requested to take further action. Further on 29.8.2018 in a general body meeting, decided to inform with regard to illegal construction to the Deputy Commissioner. Accordingly he had reported the same to the Deputy commissioner on 11.9.2018. Thereafter, the building owner had filed suit before the civil court and got injunction order for not to interfere in respect of alleged building. Thereafter, he had appointed an advocate to defend the case. Thereafter on 15.12.2018 he transferred. He has relied upon Ex.D-18 to Ex.D-36. Among which, Ex.D-18 is the order of the Executive Officer permitting him to report to the duty on 18.8.2017. Ex.D-19 is the complaint of complainant dtd: 15.12.2017 alleging that Parvathi Subraya Nirvaneshwar constructed illegal building and had requested to remove the illegal construction. Ex.D-21 is the letter reporting to Executive officer about the complainant filed complaint. Ex.D-22 is the notice issued to Parvathi Subraya Nirvaneshwar dtd: 9.1.2018 calling her to give explanation to the complaint. Ex.D-23 and Ex.D-23(A) are the meeting

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proceedings and resolution dtd: 29.1.2018 rejecting application of Parvathi Subraya Nirvaneshwar to run business in the alleged building. Ex.D-24 is the letter of information under which the DGO No. 2 has informed to Parvathi Subraya Nirvaneshwar about application is rejected. Ex.D-25 is the notice dtd: 21.3.2018 issued to Parvathi Subraya Nirvaneshwar informing that panchayath would take steps as she did not submit completion certificate which was to be obtained from Archeology department and to submit to the panchayath office. Ex.D-26 is the meeting proceeding and resolution dtd: 23.3.2018 cancelling license dtd: 3.3.2018 which was issued to Parvathi Subraya Nirvaneshwar. Ex.D-27 is the information letter dtd: 19.5.2019 informing Parvathi Subraya Nirvaneshwar about cancelled license. Ex.D-28 is the letter dtd: 9.8.2019 informing commissioner Archeology department and requesting to take steps. Ex.D-29 is the letter dtd: 11.9.2018 submitted to Deputy commissioner Karwar informing about alleged illegal construction and requesting to take steps. Ex.D-30 is the copy of the above said letter submitted to Deputy commissioner. He has stated that said copy is submitted again to avoid delay. Ex.D-31 is the application given by Parvathi Subraya Nirvaneshwar for reassessment of the tax in respect of alleged building. Ex.D-32 is the endorsement issued by DGO No. 2 informing to Parvathi Subraya Nirvaneshwar that above said application cannot be considered. Ex.D-33 to 35 are the application under order 39 rule 1 and 2 of CPC, objections to that application, orders of the Hon'ble Civil Court, Kumata in OS No. 55/2018. Ex.D-36

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is the transfer order showing DGO No. 2 is transferred from Gokarna grama panchayath. All these documents show that the DGO No. 2 has received complaint on 15.12.2017, he has informed the same on 16.12.2017 to EO, Kumata who is the competent authority to take steps to remove the illegal construction. Thereafter, he has issued notice to Parvathi Subraya Nirvaneshwar on 9.1.2018 calling reply to the complaint filed by the complainant. Thereafter, on 29.1.2018 in a general body meeting he has rejected the application of Parvathi Subraya Nirvaneshwar which was filed seeking permission to run business in the alleged building. Thereafter, said resolution is informed to Parvathi Subraya Nirvaneshwar on 20.3.2018. Thereafter, on 21.3.2018 another notice is issued informing Parvathi Subraya Nirvaneshwar that steps will be taken as she did not produce completion certificate which was to be obtained from the Archeology department and to submit before the panchayath office. Thereafter on 23.3.2018, the license dtd: 3.3.2016 which was issued in favour of Parvathi Subraya Nirvaneshwar is cancelled. On 19.5.2018 said order was informed to Parvathi Subraya Nirvaneshwar. On 9.8.2018, with regard to alleged illegal construction, matter was reported to the commissioner Archeology department. On 11.9.2018, same matter was reported to Deputy commissioner and has requested both to take steps. On 23.11.2018, the application which was filed to re assess the tax on the alleged building has been rejected. It is also forthcoming that meanwhile an order of injunction has been granted by the Hon'ble Civil Court, Kumata on 10.10.2018 restraining the panchayath to

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interfere with the peaceful possession and enjoyment of Parvathi Subraya Nirvaneshwar in respect of alleged building. On 6.12.2018, DGO No.2 has been transferred from the grama panchayath Gokarna. All these documents shows that DGO No. 2 has taken proper steps at proper time. The PO has not placed sufficient materials to prove the charge No. 3 against DGO No. 2. **Thus, I am of the opinion that charge No. 3 is not proved against DGO No. 2.**

27. Thus overall examination of the evidence on record establish the charge No.1 and 2 which are exclusively leveled against DGO No.1 is proved and charge No.3 which is exclusively leveled against DGO No.2 is not proved. Hence, I proceed to record the following:-

FINDINGS

28. The Disciplinary Authority proved the charge No.1 and 2 which are exclusively leveled against DGO No.1 is proved and charge No.3 which is exclusively leveled against DGO No.2 is not proved. Hence, this report is submitted to Hon'ble Upalokayukta for further action.

29. Date of retirement of DGO No. 1 is 30.6.2022 and DGO No. 2 is 11.10.2038.

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(PUSHPAVATHI.V)

Additional Registrar Enquiries-9
Karnataka Lokayukta,
Bengaluru.

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

PW.1	Sri. Pradeep Ganapathi Ganeyan, near Karnataka Bank, Ganjigadde, Gokarna, Karwar District (complainant) original.
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ii) List of Documents marked on behalf of Disciplinary Authority.

Ex.P1	Ex.P-1 is the detailed complaint dated: 2.5.2018 filed by PW-1 in Karnataka Lokayukta office.
Ex.P 2 & 3	Ex.p-2 and 3 are the complaint in form No. 1 and 2 filed by PW-1 in Karnataka Lokayukta office.
Ex.P-4 to Ex.p-11	Ex.P-4 to Ex.P-11 are eight photographs submitted by PW-1
Ex.P 12	Ex.p-12 is the complaint submitted by PW-1 to Panchayath development officer grama panchayath Gokarna
Ex.P13	Ex.p-13 is the rejoinder dated: 10.8.2018 submitted by PW-1

iii) List of witnesses examined on behalf of DGO.

DW-1	DGO No.1 Sri.Shivanand Jois, Panchayath development officer Gokarna Grama panchayath, Kumta Taluk, Uttara Kannada District original
DW-2	DGO No. 2 Sri.Yadava Naik, Panchayath development officer, Gokarna Grama panchayath, Kumta Taluk, Uttara Kannada District original

iv) List of documents marked on behalf of DGO

Ex.D-1	Ex.D-1 is the office order dated: 18.8.2017
Ex.D-2	Ex.D-2 is the office order dated: 25.4.2015

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Ex.D-3	Ex.D-3 is the letter dated: 19.8.2017 from Panchayath development officer to EO, TP Kumata
Ex.D-4	Ex.D-4 is the application given by Parvathi Subbaraya Nirvaneshwara
Ex.D-5	Ex.D-5 is the endorsement
Ex.D-6	Ex.D-6 is the form No. 1
Ex.D-7 to Ex.D-9	Ex.D-7 to Ex.D-9 is the form No. 2 to 4 enclosed by Parvathi Subbaraya Nirvaneshwara
Ex.D-10	Ex.D-10 is the tax assessment list for the year 2009-10
Ex.D-11	Ex.D-11 is the meeting proceedings
Ex.D-12	Ex.D-12 is the letter dtd: 17.11.2015
Ex.D-13	Ex.D-13 is the letter dtd: 8.1.2016 from Parvathi Subbaraya Nirvaneshwara to Panchayath development officer
Ex.D-14	Ex.D-14 is the letter dated: 7.1.2016 from Deputy Director, Department of Archaeology, Museums and Heritage
Ex.D-15	Ex.D-15 is the endorsement
Ex.D-16	Ex.D-16 is the letter dated: 3.3.2016 from Parvathi Subbaraya Nirvaneshwara
Ex.D-17	Ex.D-17 is the meeting proceedings
Ex.D-18	Ex.D-18 is the office order dated: 18.8.2017
Ex.D-19	Ex.D-19 is letter dated: 15.12.2017 from Parvathi Subbaraya Nirvaneshwara
Ex.D-20	Ex.D-20 is the bill dated: 20.5.2017
Ex.D-21	Ex.D-21 is the letter dtd: 16.12.2017 to EO TP Kumata
Ex.D-22	Ex.D-22 is letter dated: 9.1.2018 to Parvathi Subbaraya Nirvaneshwara
Ex.D-23	Ex,D-23 is the meeting proceedings

21.4.2021

Ex.D-24	Ex.D-24 is the letter dtd: 20.3.2018 to Parvathi Subbaraya Nirvaneshwara
Ex.D-25	Ex.D-25 is the letter dated: 21.3.2018 to Parvathi Subbaraya Nirvaneshwara
Ex.D-26	Ex.D-26 is the meeting proceedings
Ex.D-27	Ex,D-27 is the letter dated: 19.5.2018 from Panchayath development officer to Parvathi Subbaraya Nirvaneshwara
Ex.D-28	Ex,D-28 is the letter dated: 9.8.2018 to the commissioner Department of Archaeology, Museums and Heritage
Ex.D-29	Ex.D-29 is the letter dated: 11.9.2018 from Panchayath development officer to Deputy commissioner
Ex.D-30	Ex.D-30 is the letter dtd: 11.9.2018 from Panchayath development officer to Deputy commissioner
Ex.D-31	Ex.D-31 is the letter dtd: 16.11.2018 from Parvathi Subbaraya Nirvaneshwara to Panchayath development officer
Ex.D-32	Ex.D-32 is the letter dtd: 23.11.2018 from Panchayath development officer to Parvathi Subbaraya Nirvaneshwara
Ex.D-33	Ex.D-33 is the document in OS No. 55/2018
Ex.D-34	Ex.,D-34 is the document related to OS No. 55/2018
Ex.D-35	Ex.,D-34 is the order passed in OS No. 55/2018 on 10.10.2018
Ex.D-36	Ex.D-36 is the officer order dtd: 6.12.2018

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(PUSHPAVATHI.V)

Additional Registrar Enquiries-9
Karnataka Lokayukta,
Bengaluru.



KARNATAKA LOKAYUKTA

No.Uplok-1/DE/7/2021/ARE-9 Multi-storeyed Building,
Dr.B.R. AmbedkarVeedhi,
Bengaluru, dt.7.5.2022.

RECOMMENDATION

Sub:- Departmental inquiry against (1) Sri. Shivanand Jois, Panchayath Development Officer and (2) Sri. Yadava Naik, Panchayath Development Officer Gokarna Grama Panchayath, Kumta Taluk, Uttara Kannada District-reg.

- Ref:- 1) Government Order No. ಗ್ರಾಅಪ 209 ಗ್ರಾಪಂಕಾ/2020,
Bengaluru Dated 5.1.2021.
2) Nomination order No. Uplok-
1/DE/7/2021Bengaluru dated: 19.1.2021 of
Upalokayukta, State of Karnataka.
3) Inquiry report dated 21.4.2022 of Additional
Registrar of Enquiries-9, Karnataka Lokayukta,
Bengaluru.

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The Government by its order dated 5.1.2021 initiated disciplinary proceedings against (1) Sri. Shivanand Jois, Panchayath Development Officer and (2) Sri. Yadava Naik, Panchayath Development Officer, Gokarna Grama Panchayath, Kumta Taluk, Uttara Kannada District [hereinafter referred to as Delinquent Government Officials, for short as 'DGOs'] and entrusted the departmental inquiry to this Institution.

2. This Institution by Nomination Order No. Uplok-1/DE/7/2021 Bengaluru dated: 19.1.2021 nominated Additional Registrar of Enquiries-9, Karnataka Lokayukta, Bengaluru, as

the Inquiry Officer to frame charges and to conduct departmental inquiry against DGO for the alleged charge of misconduct, said to have been committed by them.

3. The DGO - (1) Sri. Shivanand Jois, Panchayath Development Officer and (2) Sri. Yadava Naik, Panchayath Development Officer, Gokarna Grama Panchayath, Kumta Taluk, Uttara Kannada District were tried for the following charges:-

**ANNEXURE-I**  
**CHARGE**

- (1) "You DGO no. 1 Sri. Shivanand Jois, the then Panchayath Development Officer, while working as a Panchayath development officer of the Gokarna Grama Panchayath, Kumta Taluk, Uttara Kannada District from 30.4.2015 to 25.9.2017 issued the license dtd: 3.3.2016 to construct the house in sy. No. 6 of Gokarna village in favour of Smt. Parvathi Subray Nirvaneshwar resident of Rathabeedi, Gokarna, Kumta Taluk, Uttara Kannada District by violating the government order dtd: 2.7.2015 passed by the special director (Technical cell) and Secretary KSEZMA forest ecology and environment department MS building Bengaluru and letter dtd: 7.1.2016 of deputy director, Archaeology, Museum and Heritage department Dharwad.
- (2) You DGO no. 1 Sri. Shivanand Jois, the then Panchayath Development Officer had not taken any steps to prevent the illegal construction at an appropriate stage which was constructed by Smt. Parvathi Subray Nirvaneshwar by



violating the permission given by the Archaeology department.

- (3) You DGO No.2 Sri. Yadava Naik, while working as Panchayath Development officer in Gokarna Grama Panchayath, Kumta Taluk, Uttara Kannada District from 18.8.2017 to 15.12.2018, had ignore the representation given by the complainant for some time and paved way for Smt.Parvathi Subray Nirvaneshwar to complete the commercial complex building. Further you DGO No. 2 has not taken steps to prevent the said illegal construction at an appropriate stage which was constructed by Smt.Parvathi Subray Nirvaneshwar by violating the permission given by the Archaeology department.

For the above said irregularities you DGOs No.1 and 2 have committed misconduct and dereliction of duty and failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servants and therefore you DGOs is 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 charge exclusively levelled against the DGO No.1 ‘Sri. Shivanand Jois, Panchayath Development Officer, Gokarna Grama Panchayath, Kumta Taluk, Uttara Kannada District and not proved the charge leveled against the DGO No.2 Sri. Yadava

Naik, Panchayath Development Officer, Gokarna Grama Panchayath, Kumta Taluk, Uttara Kannada District.

5. On perusal of the Enquiry Report, in order to prove the guilt of the DGO's the Disciplinary Authority examined one witness-PW1 and got marked the Ex.P1 to P13. In fact, DGOs 1 and 2 were also examined as DW1 and DW2 and Ex.D1 to Ex.D36 documents were marked. The charge No. 3 was only leveled against DGO No.2, which has not been proved. Because the Enquiry Officer found that, there is no evidence against him. The evidence on record shows that, DGO No.1, who has actually issued the license and also modified the license adding some conditions enabling the said Smt. Parvathi Subray Nirvaneshwar to construct a new building in the guise of altering or repairing her old building, but actually she was allowed to construct a commercial complex building in the area prohibited by Archeology, Museum and Heritage Department, Dharwad. Therefore, looking for the entire materials on record, the charges 1 and 2 leveled against DGO No.1 has been established.

6. 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.

7. As per the First Oral Statement of DGO furnished by the Inquiry Officer, DGO - (1) Sri. Shivanand Jois, is due to retire


from service on 30.6.2022 and DGO (2) Sri. Yadava Naik, 11.10.2038.

8. Having regard to the nature of charge against DGO No.2 Sri. Yadava Naik, Panchayath Development Officer, Gokarna Grama Panchayath, Kumta Taluk, Uttara Kannada District Not proved, and 'proved' against DGO (1)- "Sri. Shivanand Jois, Panchayath Development Officer, Gokarna Grama Panchayath, Kumta Taluk, Uttara Kannada District' and on consideration of the totality of circumstances-,

- i. 'it is hereby recommended to the Government to accept the report of Inquiry Officer and to exonerate DGO No.2 Sri. Yadava Naik, Panchayath Development Officer, Gokarna Grama Panchayath, Kumta Taluk, Uttara Kannada District, of the charges leveled against him'.
- ii. 'it is hereby recommended to the Government to impose penalty of 'withholding 20% of the pension payable to DGO No.1 Sri. Shivanand Jois for three years'.

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

Connected records are enclosed herewith.

  
(JUSTICE K.N.PHANEENDRA)  
Upalokayukta-2,  
State of Karnataka.

