

GOVERNMENT OF KARNATAKA**KARNATAKA LOKAYUKTA**

No.UPLOK-2/DE/75/2019/ARE-11

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560001
Date: 23rd May, 2022.

RECOMMENDATION

Sub: Departmental Inquiry against Shri S.L.Mohan Kumar, Executive Engineer, Upper Bhadra Division-3, Ajjampura, Tarikere Taluk, Chikmagalur District (presently Executive Engineer, Kada, Division No.1, Naragunda, Gadag)-reg.,

Ref: 1) Government Order No. ಜಸಂಇ 81 ಸೇಇವಿ 2018, Bengaluru, dated: 25/02/2019.

2) Nomination Order No.UPLOK-2/DE/75/2019, Bengaluru, dated: 02/03/2019 of Upalokayukta, State of Karnataka, Bengaluru.

3) Inquiry Report dated: 21/05/2022 of Additional Registrar of Enquiries-11, Karnataka Lokayukta, Bengaluru.

The Government by its order dated: 25/02/2019 initiated the disciplinary proceedings against Shri S.L.Mohan Kumar, Executive Engineer, Upper Bhadra Division-3, Ajjampura, Tarikere Taluk, Chikmagalur District (presently Executive Engineer, Kada, Division No.1, Naragunda, Gadag) (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/75/2019, Bengaluru, dated: 02/03/2019 nominated Additional Registrar of Enquiries-11, 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 him.
3. The DGO, Shri S.L.Mohan Kumar, Executive Engineer, Upper Bhadra Division-3, Ajjampura, Tarikere Taluk, Chikmagalur District (presently Executive Engineer, Kada, Division No.1, Naragunda, Gadag) was tried for the following charges:

ಅನುಬಂಧ-1

ದೋಷಾರೋಪಣೆ

ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ಶ್ರೀ ಎಸ್.ಎಲ್.ಮೋಹನ್ ಕುಮಾರ್ ಆದ ನೀವು ದಿನಾಂಕ: 04/05/1984 ರಂದು ಸಹಾಯಕ ಅಭಿಯಂತರರಾಗಿ ಸರ್ಕಾರಿ ಸೇವೆಗೆ ಸೇರಿ 1992 ತನಕ ನವಲಗುಂದದಲ್ಲಿ, ನಂತರ 1994 ಇಸ್ವಿಯ ತನಕ ಭದ್ರಾವತಿಯಲ್ಲಿ, 1996 ಇಸ್ವಿಯ ತನಕ ಶಿವಮೊಗ್ಗದಲ್ಲಿ ಬಾರೀ ನೀರಾವರಿ ಇಲಾಖೆಯಲ್ಲಿ ಸೇವೆ ಸಲ್ಲಿಸಿ ನಂತರ ಸಹಾಯಕ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರಾಗಿ ಮುಂಬಡ್ತಿ ಹೊಂದಿ 2002ನೇಯ ಇಸ್ವಿಯ ತನಕ ಇಂಡಿಯಲ್ಲಿ ಕಾರ್ಯನಿರ್ವಹಿಸಿ ನಂತರ 2008ನೇಯ ಇಸ್ವಿಯ ತನಕ ರಾಮಪುರದಲ್ಲಿ ಕಾರ್ಯ ನಿರ್ವಹಿಸಿ ನಂತರ 2008-09ನೇಯ ಇಸ್ವಿಯಲ್ಲಿ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರಾಗಿ ಮುಂಬಡ್ತಿ ಪಡೆದು, ದಾವಣಗೆರೆ ಮಹಾನಗರ

ಪಾಲಿಕೆಯಲ್ಲಿ ಕಾರ್ಯ ನಿರ್ವಹಿಸಿ 2009-10ನೇ ಸಾಲಿನಲ್ಲಿ ದಾವಣಗೆರೆಯ ಕೊಳಚೆ ನಿರ್ಮೂಲನಾ ಮಂಡಳಿಯಲ್ಲಿ ಕಾರ್ಯ ನಿರ್ವಹಿಸಿ 2010ನೇ ಸಾಲಿನಿಂದ ಚಿಕ್ಕಮಂಗಲೂರು ಜಿಲ್ಲೆಯ ತರೀಕೆರೆ ತಾಲ್ಲೂಕಿನ ಅಜ್ಜಂಪುರ ಎಂಬಲ್ಲಿ ಭದ್ರಾ ಮೇಲ್ದಂಡೆ ಯೋಜನೆ ಉಪ ವಿಭಾಗ-3 ರಲ್ಲಿ ಕಾರ್ಯ ನಿರ್ವಹಿಸಿದ್ದು, ನೀವು ಸರ್ಕಾರಿ ಸೇವೆಗೆ ಸೇರಿದ ನಂತರ 2016ನೇಯ ಇಸ್ವಿಯ ಅಂತ್ಯದ ತನಕ ನಿಮ್ಮ ಒಟ್ಟು ವೇತನ ರೂ.91,20,224/- ಆಗಿದ್ದು ನಿಮ್ಮ ಕುಟುಂಬದ ಪಿತ್ರಾರ್ಜಿತ ಆಸ್ತಿಯಿಂದ ನಿಮಗೆ ಬಂದ ಆದಾಯ ಅಂದಾಜು ರೂಪಾಯಿ ರೂ.10,00,000/- ಗಳಾಗಿದ್ದು, ಹೀಗೆ ನಿಮ್ಮ ವೇತನ ಮತ್ತು ಪಿತ್ರಾರ್ಜಿತ ಆಸ್ತಿಯಿಂದ ಬಂದ ಒಟ್ಟು ಆದಾಯ ರೂ.1,01,20,334/- ಗಳಾಗಿದ್ದು, ನೀವು ಸರ್ಕಾರಿ ಸೇವೆಗೆ ಸೇರಿದ ಲಾಗಾಯ್ತಿನಿಂದ 2016ನೇಯ ಇಸ್ವಿಯ ಅಂತ್ಯದ ತನಕ ನಿಮ್ಮ ಮನೆಯ ಖರ್ಚು, ನಿಮ್ಮ ಮಕ್ಕಳ ವಿದ್ಯಾಭ್ಯಾಸ ಖರ್ಚು, ನಿಮ್ಮ ಮಕ್ಕಳ ಮದುವೆ ಖರ್ಚು, ನಿಮ್ಮ ಸ್ವಂತ ವಾಹನಗಳ ನಿರ್ವಹಣಾ ವೆಚ್ಚ, ನಿಮ್ಮ ಜಮೀನಿನ ನಿರ್ವಾಹಣಾ ವೆಚ್ಚ ಒಟ್ಟು ರೂ.55,00,000/- ಗಳಾಗಿದ್ದು, ನಿಮ್ಮ ಘೋಷಿತ ಆದಾಯಕ್ಕಿಂತ ನೀವು ರೂ.47,29,666/- ಗಳಷ್ಟು ಹೆಚ್ಚು ಮೌಲ್ಯದ ಆಸ್ತಿಯನ್ನು ನೀವು ಗಳಿಸಿದ ಅಸಮತೋಲನ ಆಸ್ತಿಯು ಶೇಕಡ 46.73 ರಷ್ಟಿದ್ದು ಸದರಿ ಹೆಚ್ಚುವರಿ ಮೌಲ್ಯದ ಆಸ್ತಿಯನ್ನು ನೀವು ಕಾನೂನು ಬಾಹಿರ ಮೂಲಗಳಿಂದ ಗಳಿಸಿದ್ದು, ಅದು ನಿಮ್ಮ ಘೋಷಿತ ಆದಾಯಕ್ಕಿಂತ ಹೆಚ್ಚಾಗಿದ್ದು ನೀವು ಸರ್ಕಾರಿ ನೌಕರನಿಗೆ ಉಚಿತವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡು ದುರ್ನಡತೆಯನ್ನೇಸಗಿ ಆ ಮೂಲಕ ನೀವು ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವಾ ನಿಯಮಗಳು (ನಡತೆ) 1966 ನಿಯಮ 3(1)(i) ರಿಂದ (iii) ರಡಿಯಲ್ಲಿ ದುರ್ನಡತೆಯನ್ನೇಸಗಿರುತ್ತೀರಿ.

4. During the pendency of the Inquiry, advocate for DGO filed application under Section 151 CPC seeking to drop the proceedings against DGO for lack of jurisdiction.

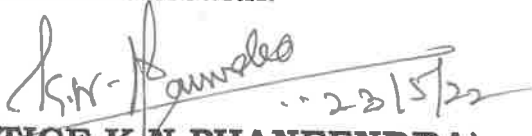
5. On perusal of the decision laid down by the Hon'ble Supreme Court in 1998(6)SCC 103 State of Karnataka and others V/s. Kempaiah and on consideration of the totality of circumstances, it is held that, the allegation made against the DGO in this Inquiry is only with respect to amassing of wealth which does not come under the meaning of the word 'action' i.e., administrative action taken by way of decision, recommendation or finding or in any other manner and includes willful failure or omission to act and all other expressions (relating to) such action. Moreover, the report submitted by I.O. i.e., Deputy Superintendent of Police, Karnataka Lokayukta, Chikkamagalur and in Articles of Charges there is no imputation that the DGO has purchased/acquired property without permission from the Competent Authority and has not disclosed the same in his assets and liabilities statement. Hence, complaint against the DGO with respect to amassing of wealth is not covered under the definition of the word 'action' i.e., administration action as contemplated under Section 2(1), 2(2) and 7 of the Karnataka Lokayukta Act which cannot be interpreted to mean actions which have no nexus to any administrative action. Hence, the instant proceedings against the DGO do not survive for consideration.

"The proceedings initiated against DGO, Shri S.L.Mohan Kumar, Executive Engineer, Upper Bhadra Division-3, Ajjampura, Tarikere Taluk, Chikmagalur District (presently Executive Engineer, Kada, Division No.1, Naragunda, Gadag) needs to be stopped as this Authority has no jurisdiction".

6. Therefore, it is hereby recommended to the Government to accept the report of Inquiry Officer and to close the proceedings against DGO, Shri S.L.Mohan Kumar, Executive Engineer, Upper Bhadra Division-3, Ajjampura, Tarikere Taluk, Chikmagalur District (presently Executive Engineer, Kada, Division No.1, Naragunda, Gadag).

7. 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.



KARNATAKA LOKAYUKTA

NO. UPLOK-2/DE/75/2019/ARE-11

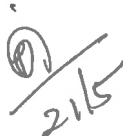
M.S.Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001,
Date: 21/05/2022.

:: R E P O R T ::

Sub: Departmental Enquiry against Sri. S.L.Mohan Kumar, Executive Engineer, Upper Bhadra Division-3, Ajjampura, Tarikere Taluk, Chikkamagalur District (Presently Exweutive Engineer, KADA, Division No.1, Naragunda, Gadag) -reg.

Ref: 1. Government Order No. ಅಸಂಇ 81ಸೇಇವಿ 2018 ಬೆಂಗಳೂರು, ದಿನಾಂಕ 25/02/2019.
2. Nomination Order No. UPLOK-2/DE/75/2019, Bengaluru, Dated 02/03/2019.

1. The Departmental Enquiry is initiated against Sri. S.L.Mohan Kumar, Executive Engineer, Upper Bhadra Division-3, Ajjampura, Tarikere Taluk, Chikkamagalur District (Presently Executive Engineer, KADA, Division No.1, Naragunda, Gadag, hereinafter referred to as the Delinquent Government Official, in short DGO) on the basis of the complaint dated 22/07/2013 filed by the complainant, Shri. Neelakantappa H.S. Bettadahalli post, Tarikere Taluk, Chikkamagaluru District. The allegations in the complaint is that the DGO is a corrupt official and amassed


21/5

wealth and acquired disproportionate assets to his known sources of income.

2. Hon'ble Upalokayukta invoking power vested under section 9 of the Karnataka Lokayukta Act, 1984, took up investigation and the matter was referred to Additional Director General of Police, Karnataka Lokayukta, Bengaluru. In turn, as per the instructions of Additional Director General of Police, Karnataka Lokayukta, Bengaluru, Deputy Superintendent of Police, KLA, Hassan investigated the matter and submitted the report. In the said report, disproportionate assets acquired by DGO was found. For further detailed enquiry, matter was referred to Dy. Superintendent of Police, Anti-corruption Bureau, Chikkamagaluru and after investigation Dy. Superintendent of Police, Anti-corruption Bureau, Chikkamagaluru has submitted report that on credible information, it is found that the DGO has acquired disproportionate of assets to his known sources of income. On the said report, DGO has submitted his comments denying the allegations of complainant stating that complainant is an agriculturist and the allegations made by him is done with malafide intention to harass him and they are far from truth.

3. On perusal of complaint, investigation reports, and comments of DGO and other documents, Hon'ble Upalokayutka found prima facie case and forwarded report dated 10/04/2018 U/s 12(3) of Karnataka Lokayukta Act, 1984 recommended the competent authority to initiate disciplinary proceedings against the DGO and to entrust the enquiry to the Hon'ble Upalokayukta,

21/5

Karnataka under Rule 14-A of the KCS (CC& A) Rules 1957. The Government by order dated 25/02/2019 entrusted the matter to the Hon'ble Upalokayukta.

4. The Hon'ble Upalokayukta by order dated 02/03/2019 nominated Additional Registrar Enquiries-11 to conduct the enquiry.
5. The Articles of charge as framed by this Additional Registrar Enquiries -11 is as follows:

ಅನುಬಂಧ-1
ದೋಷಾರೋಪಣೆ

ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ಶ್ರೀ ಎಸ್.ಎಲ್. ಮೋಹನ್‌ಕುಮಾರ್ ಆದ ನೀವು ದಿನಾಂಕ 04/05/1984 ರಂದು ಸಹಾಯಕ ಅಭಿಯಂತರರಾಗಿ ಸರ್ಕಾರಿ ಸೇವೆಗೆ ಸೇರಿ 1992 ತನಕ ನವಲಗುಂದದಲ್ಲಿ, ನಂತರ 1994 ಇಸವಿಯ ತನಕ ಭದ್ರಾವತಿಯಲ್ಲಿ, 1996 ಇಸವಿಯ ತನಕ ಶಿವಮೊಗ್ಗದಲ್ಲಿ ಭಾರೀ ನೀರಾವರಿ ಇಲಾಖೆಯಲ್ಲಿ ಸೇವೆ ಸಲ್ಲಿಸಿ ನಂತರ ಸಹಾಯಕ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರಾಗಿ ಮುಂಬಡ್ತಿ ಹೊಂದಿದ 2002ನೆಯ ಇಸವಿಯ ತನಕ ಇಂಡಿ ಕಾರ್ಯನಿರ್ವಹಿಸಿ ನಂತರ 2008 ನೆಯ ಇಸವಿಯ ತನಕ ರಾಮಪುರದಲ್ಲಿ ಕಾರ್ಯ ನಿರ್ವಹಿಸಿ ನಂತರ 2008-2009 ನೆಯ ಸಾಲಿನಲ್ಲಿ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರಾಗಿ ಮುಂಬಡ್ತಿ ಪಡೆದು, ದಾವಣಗೆರೆ ಮಹಾನಗರ ಪಾಲಿಕೆಯಲ್ಲಿ ಕಾರ್ಯ ನಿರ್ವಹಿಸಿ 2009-2010ನೇ ಸಾಲಿನಲ್ಲಿ ದಾವಣಗೆರೆಯ ಕೊಳಚೆ ನಿರ್ಮೂಲನಾ ಮಂಡಳಿಯಲ್ಲಿ ಕಾರ್ಯ ನಿರ್ವಹಿಸಿ 2010ನೇ ಸಾಲಿನಿಂದ ಚಿಕ್ಕಮಂಗಳೂರು ಜಿಲ್ಲೆಯ ತರೀಕೆರೆತಾಲ್ಲೂಕಿನ ಅಜ್ಜಂಪುರ ಎಂಬಲ್ಲಿ ಭದ್ರಾ ಮೇಲ್ದಂಡೆ ಯೋಜನೆ ಉಪ- ವಿಭಾಗ-3, ಕಾರ್ಯ ನಿರ್ವಹಿಸಿದ್ದು ನೀವು ಸರ್ಕಾರಿ ಸೇವೆಗೆ ಸೇರಿದ ನಂತರ 2016 ನೆಯ ಇಸವಿಯ ಅಂತ್ಯದ ತನಕ ನಿಮ್ಮ ಒಟ್ಟು ವೇತನ ರೂ.91,20,224/- ಅಗಿದ್ದು ನಿಮ್ಮ ಕುಟುಂಬದ ಪಿರ್ತಾಜ್ಜಿತ

(೧)
21/5

ಆಸ್ತಿಯಿಂದ ನಿಮಗೆ ಬಂದ ಆದಾಯ ಅಂದಾಜು ರೂಪಾಯಿ 10,00,000/- ಗಳಾಗಿದ್ದು ಹೀಗೆ ನಿಮ್ಮ ವೇತನ ಮತ್ತು ಪಿರ್ತಾರ್ಜಿತ ಆಸ್ತಿಯಿಂದ ಬಂದ ಒಟ್ಟು ಆದಾಯ ರೂಪಾಯಿ 1,01,20,334/- ಗಳಾಗಿದ್ದು ನೀವು ಸರ್ಕಾರಿ ಸೇವೆಗೆ ಸೇರಿದಲಾಗಾಯ್ತಿನಿಂದ 2016 ನೆಯ ಇಸವಿಯ ಅಂತ್ಯದ ತನಕ ನಿಮ್ಮ ಮನೆಯ ಖರ್ಚು, ನಿಮ್ಮ ಮಕ್ಕಳ ವಿದ್ಯಾಭ್ಯಾಸ ಖರ್ಚು, ನಿಮ್ಮ ಮಕ್ಕಳ ಮದುವೆ ಖರ್ಚು, ನಿಮ್ಮ ಸ್ವಂತ ವಾಹನಗಳ ನಿರ್ವಹಣಾ ವೆಚ್ಚ, ನಿಮ್ಮ ಜಮೀನಿನ ನಿರ್ವಾಹಣಾ ವೆಚ್ಚ ಒಟ್ಟು ರೂಪಾಯಿ 55,00,000/- ಗಳಾಗಿದ್ದು, ನಿಮ್ಮ ಘೋಷಿತ ಆದಾಯಕ್ಕಿಂತ ನೀವು ರೂಪಾಯಿ 47,29,666/- ಗಳಷ್ಟು ಹೆಚ್ಚು ಮೌಲ್ಯದ ಆಸ್ತಿಯನ್ನು ನೀವು 2016ನೆಯ ಇಸವಿಯ ಅಂತ್ಯದ ತನಕ ಹೊಂದಿದ್ದು ಸದರಿ ಹೆಚ್ಚುವರಿಯಾಗಿ ನೀವು ಗಳಿಸಿದ ಅಸಮತೋಲನ ಆಸ್ತಿಯು ಶೇಕಡ 46.73 ರಷ್ಟಿದ್ದು ಸದರಿ ಹೆಚ್ಚುವರಿ ಮೌಲ್ಯದ ಆಸ್ತಿಯನ್ನು ನೀವು ಕಾನೂನು ಬಾಹಿರ ಮೂಲಗಳಿಂದ ಗಳಿಸಿದ್ದು ಅದು ನಿಮ್ಮ ಘೋಷಿತ ಆದಾಯಕ್ಕಿಂತ ಹೆಚ್ಚಾಗಿದ್ದು ನೀವು ಸರ್ಕಾರಿ ನೌಕರನಿಗೆ ಉಚಿತವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡು ದುರ್ನಡತೆಯನ್ನೇಸಗಿ ಆ ಮೂಲಕ ನೀವು ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ ನಿಯಮಗಳು (ನಡತೆ) 1966 ನಿಯಮ 3(1) (i) ರಿಂದ (iii) ರಡಿಯಲ್ಲಿ ದುರ್ನಡತೆಯನ್ನೇಸಗಿರುತ್ತೀರಿ.

6. The statement of imputations of misconduct as framed by this Additional Registrar Enquiries-11 is as follows:

ಅನುಬಂಧ-2

ದೋಷಾರೋಪಣೆ

ದೂರುದಾರರಾದ ಚಿಕ್ಕಮಗಳೂರು ಜಿಲ್ಲೆಯ ತರೀಕೆರೆ ತಾಲ್ಲೂಕಿನ ಕೆ.ಹೊಸೂರು ನಿವಾಸಿಯಾದ ಶ್ರೀ ಹೆಚ್.ಎಸ್. ನೀಲಕಂಠಪ್ಪ ರವರು ನಿಗದಿತ ನಮೂನೆ-1ರಲ್ಲಿ ದಿನಾಂಕ 22/07/2013 ರಂದು ಮಾನ್ಯ ಉಪಲೋಕಾಯುಕ್ತ ಸಂಸ್ಥೆಗೆ ನಿಮ್ಮ ವಿರುದ್ಧ ದೂರು ಸಲ್ಲಿಸಿ ನೀವು ನಿಮ್ಮ ನ್ಯಾಯ ಸಮ್ಮತ ಆದಾಯಕ್ಕಿಂತ ಹೆಚ್ಚು ಆಸ್ತಿಯನ್ನು ಸಂಪಾದಿಸಿರುತ್ತೀರು ಎಂಬುದಾಗಿ ನಿಮ್ಮ ವಿರುದ್ಧ ಆಪಾದಿಸಿದ್ದು ಆ ಬಗ್ಗೆ ಕರ್ನಾಟಕದ ಮಾನ್ಯ ಉಪಲೋಕಾಯುಕ್ತ ರವರು ತನಿಖೆಯನ್ನು ಕೈಗೊಂಡಿದ್ದು ಚಿಕ್ಕಮಗಳೂರಿನ

21/5

ಲೋಕಾಯುಕ್ತ ಆರಕ್ಷಕ ಅಧೀಕ್ಷಕರಿಗೆ ತನಿಖೆ ನಡೆಸಿ ವರದಿಯನ್ನು ಸಲ್ಲಿಸುವಂತೆ ಆದೇಶಿಸಿದ್ದು ತರುವಾಯ ಚಿಕ್ಕಮಗಳೂರಿನ ಲೋಕಾಯುಕ್ತ ಆರಕ್ಷಕ ಉಪಾಧೀಕ್ಷಕರು ವರದಿಯನ್ನು ಸಲ್ಲಿಸಿದ್ದು ಆ ವರದಿಯನ್ನು ಪರಿಶೀಲಿಸಿ ನೋಡಲಾಗಿ ಕೆಲವು ವಿವರಗಳನ್ನು ಸಂಗ್ರಹಿಸಿದಿರುವುದು ಕಂಡುಬಂದ ಕಾರಣ ಆ ವರದಿಯನ್ನು ಒಪ್ಪಿಕೊಳ್ಳಲು ಸಾಧ್ಯವಿಲ್ಲವೆಂದು ಮಾನ್ಯ ಉಪಲೋಕಾಯುಕ್ತರವರು ತೀರ್ಮಾನಿಸಿ ತರುವಾಯ ವಿವರವಾದ ತನಿಖೆಯನ್ನು ನಡೆಸಿ ವರದಿಯನ್ನು ಸಲ್ಲಿಸುವಂತೆ ಚಿಕ್ಕಮಗಳೂರಿನ ಬ್ರಿಟಿಷ್‌ಚಾರ್ ನಿಗ್ರಹ ದಳದ ಆರಕ್ಷಕ ಅಧೀಕ್ಷಕರಿಗೆ ಆದೇಶವನ್ನು ನೀಡಿದ್ದು ಅದರಂತೆ ಚಿಕ್ಕಮಗಳೂರಿನ ಬ್ರಿಟಿಷ್‌ಚಾರ್ ನಿಗ್ರಹ ದಳದ ಆರಕ್ಷಕ ಅಧೀಕ್ಷಕರು ತನಿಖೆ ನಡೆಸಿ ಸಾಕ್ಷ್ಯವನ್ನು ಸಂಗ್ರಹಿಸಿ ದಿನಾಂಕ 1908/2017 ರ ವರದಿಯನ್ನು ಸಲ್ಲಿಸಿದ್ದು ನಿಮಗೆ ಪುಷ್ಪಲತ ಎಂಬ ಹೆಸರಿನ ಹೆಂಡತಿ, ಮಾನಸ ಎಂಬ ಹೆಸರಿನ ಮಗಳು, ಚಂದ್ರಕಾಂತ ಎಂಬ ಹೆಸರಿನ ತಮ್ಮ, ರವಿಕುಮಾರ ಎಂಬ ಹೆಸರಿನ ತಮ್ಮನಿದ್ದು ನಿಮ್ಮ ಮಗಳು ಮದುವೆಯಾಗಿದ್ದು ನಿಮ್ಮ ತಂದೆ ಮತ್ತು ತಾಯಿ ಮೃತಪಟ್ಟಿದ್ದು ನೀವು 1985 ನೆಯ ಇಸವಿಯಿಂದ ಡಿಸೆಂಬರ್ 2016 ರ ಅಂತ್ಯದ ತನಕ ರೂಪಾಯಿ 19,20,334/- ವೇತನವನ್ನು ಪಡೆದಿರುತ್ತೀರಿ ಅಂತಲೂ, ನಿಮ್ಮ ಪಿತ್ರಾರ್ಜಿತ ಜಮೀನುಗಳಿಂದ ನಿಮಗೆ ಬಂದ ಆದಾಯ ರೂಪಾಯಿ 10,00,000/- ಗಳಂತಲೂ, 1984 ಇಸವಿಯಿಂದ 1916 ನೆಯ ಡಿಸೆಂಬರ್ ಅಂತ್ಯದ ತನಕ ನಿಮ್ಮ ಮನೆ ಖರ್ಚು 25,00,000/- ಆಗಿದೆ ಎಂತಲೂ, ನಿಮ್ಮ ಮಕ್ಕಳ ವಿದ್ಯಾಭ್ಯಾಸ ಮತ್ತು ಅದಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟ ಖರ್ಚು ರೂಪಾಯಿ 15,00,000/- ಆಗಿದೆ ಎಂತಲೂ, ನಿಮ್ಮ ಮಗಳ ಮದುವೆ ಖರ್ಚು ರೂಪಾಯಿ 10,00,000/- ಆಗಿದೆ ಎಂತಲೂ, ನೀವು ಹೊಂದಿದ ವಾಹನಗಳ ನಿರ್ವಹಣಾ ವೆಚ್ಚ ರೂಪಾಯಿ 4,00,000/- ಆಗಿದೆ ಎಂತಲೂ, ನೀವು ಗಳಿಸಿರುವ ಆಸ್ತಿಯ ಮೌಲ್ಯ ರೂಪಾಯಿ 93,50,000/- ಗಳಾಗಿದ್ದು ನಿಮ್ಮ ಕುಟುಂಬ ನಿರ್ವಹಣೆ ಮತ್ತು ಇತರೆ ಖರ್ಚುಗಳು ರೂಪಾಯಿ 55,00,000/- ಗಳಾಗಿದ್ದು ಒಟ್ಟು ನಿಮ್ಮ ಆಸ್ತಿ ಮತ್ತು ಖರ್ಚಿನ ಮೌಲ್ಯ ರೂಪಾಯಿ 1,48,50,000/- ಗಳಾಗಿದ್ದು ನೀವು ಗಳಿಸಿರುವ ಆದಾಯ ರೂಪಾಯಿ 1,01,20,334/- ಗಳಾಗಿದ್ದು ನೀವು ಹೊಂದಿರುವ ಹೆಚ್ಚುವರಿ ಆದಾಯದ ಮೌಲ್ಯ ರೂಪಾಯಿ 47,29,666/- ಗಳಾಗಿದ್ದು ಸದರಿ ಹೆಚ್ಚುವರಿ ಅಸಮತೋಲನ ಆಸ್ತಿಯು ಶೇಕಡ 46.73 ಆಗಿದ್ದು ಕಂಡು ಬಂದಿದೆ ಎಂಬುದಾಗಿಯೂ, ನಿಮಗೆ 27 ಗುಂಟೆ ವಿಸ್ತೀರ್ಣದ ಜಮೀನು ದಾವಣಗೆರೆ ಜಿಲ್ಲೆಯ ಕಲ್ಲರೆ ಗ್ರಾಮದ ಮೋಜಣಿ

21/5

ಸಂಖ್ಯೆ 15/ಪಿ ಮತ್ತು 16 ರಲ್ಲಿ ಪಿತ್ರಾರ್ಜಿತ ಜಮೀನ ಇದೆ ಎಂತಲೂ, ಮರಣ ಶಾಸನ ಮುಖಾಂತರ 8 ಎಕರೆ 24 ಗುಂಟೆ ಜಮೀನು ನಿಮ್ಮ ಹೆಂಡತಿಗೆ ಚಿತ್ರದುರ್ಗ ಜಿಲ್ಲೆಯ ವಿಜಾಪುರ ಗ್ರಾಮದ ಮೋಜಣಿ ಸಂಖ್ಯೆ 57/3ಎ ಮತ್ತು 57-4 ರಲ್ಲಿ ಬಂತೆಂತಲೂ, 44 ಅಡಿ ಅಗಲ ಮತ್ತು 60 ಅಡಿ ವಿಸ್ತೀರ್ಣದ ಖಾತಾ ಸಂಖ್ಯೆ 457 ರಲ್ಲಿಯ ಮನೆ ಸಂಖ್ಯೆ 3202 ರಲ್ಲಿನ ರೂಪಾಯಿ 30,00,000/- ಮೌಲ್ಯದ ಆಸ್ತಿಯು ದಾವಣಗೆರೆ ನಗರದ ಎಂ.ಸಿ ಕಾಲೋನಿಯಲ್ಲಿ ನಿಮ್ಮ ತಾಯಿ ಹೆಸರಿಗೆ ಬಂತೆಂತಲೂ, ದಿನಾಂಕ 06/01/2016 ರಲ್ಲಿಯ ಮರಣ ಶಾಸನದಂತೆ ಆಸ್ತಿಯೊಂದು ಬಂತೆಂತಲೂ. 01/06/1997 ರಂದು ಮತ್ತೊಂದು ಆಸ್ತಿಯು ಮರಣ ಶಾಸನ ಮುಖಾಂತರ ನಿಮಗೆ ಬಂತೆಂತಲೂ, ನಿಮ್ಮ ಬಳಿಯಲ್ಲಿ ಅಂದಾಜು 750 ಗ್ರಾಮ್ ತೂಕದ ರೂಪಾಯಿ 12,00,000/- ಮೌಲ್ಯದ ಬಂಗಾರದ ಒಡವೆಗಳು ಇವೆಯೆಂತಲೂ, ಅಂದಾಜು ಎರಡೂವರೆ ಕೇಜಿ ತೂಕದ ರೂಪಾಯಿ 15,000/- ಮೌಲ್ಯದ ಬೆಳ್ಳಿ ವಸ್ತುಗಳು ಇವೆಯೆಂತಲೂ, ರೂಪಾಯಿ 10,00,000/- ಮೌಲ್ಯದ ಗೃಹೋಪಯೋಗಿ ವಸ್ತುಗಳು ಇವೆಯೆಂತಲೂ, ನಿಮ್ಮ ಜೀವ ವೀಮಾ ಮತ್ತು ಜಿ.ಪಿ.ಎಫ್ ಹಾಗೂ ಉಳಿತಾಯದ ಬಾಂಡ್‌ಗಳ ಮೌಲ್ಯ ರೂಪಾಯಿ 40,00,000/- ಎಂತಲೂ ಉಲ್ಲೇಖಿಸಿರುತ್ತಾರೆ.

ದೂರುದಾರರು ಹೊರಿಸಿರುವ ಆಪಾದನೆಗಳನ್ನು, ತನಿಖಾಧಿಕಾರಿ ಎಂದರೆ ಚಿಕ್ಕಮಗಳೂರು ಭಿಕ್ಷಾಚಾರ ನಿಗ್ರಹ ದಳದ ಆರಕ್ಷಕ ಉಪಾಧೀಕ್ಷಕರು ಸಲ್ಲಿಸಿರುವ ವರದಿಯನ್ನು ಮತ್ತು ನೀವು ಸಲ್ಲಿಸಿರುವ ಆಕ್ಷೇಪಣೆಗಳನ್ನು ಮಾನ್ಯ ಉಪಲೋಕಾಯುಕ್ತರವರು ಕೂಲಂಕುಷವಾಗಿ ಪರಿಶೀಲಿಸಿ ನೋಡಲಾಗಿ ನೀವು ಕರ್ತವ್ಯ ಲೋಪವನ್ನೇಸಗಿರುತ್ತೀರಿ ಎಂಬುದಾಗಿ ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡುಬಂದಿದ್ದು ತನಿಖಾಧಿಕಾರಿಯವರು ಸಂಗ್ರಹಿಸಿದ ಸಾಕ್ಷ್ಯಾಧಾರಗಳೊಂದಿಗೆ ನಿಮ್ಮ ಆಕ್ಷೇಪಣೆಯನ್ನು ಪರಿಶೀಲಿಸಲಾಗಿ ನಿಮ್ಮ ಆಕ್ಷೇಪಣೆಯಲ್ಲಿ ನೀವು ತಪ್ಪೆಸಗಿಲ್ಲವೆಂಬುದಾಗಿ ನೀವು ತಳೆದಿರುವ ನಿಲುವು ಸ್ವೀಕಾರ ಯೋಗ್ಯವಲ್ಲ ಎಂಬುದಾಗಿ ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡು ಬಂದಿದ್ದು ನೀವು ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವೆಗಳು (ನಡತೆ) ನಿಯಮ 1966 ರ ನಿಯಮ 3 (1)(i) ರಿಂದ (iii)

21/5

ರಡಿಯಲ್ಲಿ ದುರ್ನಡತೆಯನ್ನೆಸಗಿರುತ್ತೀರೆಂದು ಮೇಲ್ನೋಟಕ್ಕೆ ಗೋಚರವಾಗಿದ್ದು ಆ ಕಾರಣಕ್ಕಾಗಿ ನಿಮ್ಮ ವಿರುದ್ಧ ಶಿಸ್ತಿನ ಕ್ರಮ ಕೈಗೊಳ್ಳಬೇಕೆಂದು ಗೌರವಾನ್ವಿತ ಉಪಲೋಕಾಯುಕ್ತರವರು ಸರ್ಕಾರಕ್ಕೆ ವರದಿಯನ್ನು ಸಲ್ಲಿಸಿದ ಮೇರೆಗೆ ಸರ್ಕಾರವು ಮೇಲೆ ಉಲ್ಲೇಖಿಸಿದ ಆದೇಶದಲ್ಲಿ ನಿಮ್ಮ ವಿರುದ್ಧ ಇಲಾಖಾ ವಿಚಾರಣೆ ನಡೆಸಲು ಅನುಮತಿ ನೀಡಿದ್ದು, ಅದರಂತೆ, ಗೌರವಾನ್ವಿತ ಉಪಲೋಕಾಯುಕ್ತರವರು, ಅಪರ ನಿಬಂಧಕರು, ವಿಚಾರಣೆಗಳೂ-11 ರವರಿಗೆ ನಿಮ್ಮ ದೋಷಾರೋಪಣೆಯನ್ನು ಹೊರಿಸಿ ಇಲಾಖಾ ವಿಚಾರಣೆಯನ್ನು ನಡೆಸಿ ವರದಿಯನ್ನು ಸಲ್ಲಿಸಲು ಸೂಚಿಸಿದ್ದು ಅದುದರಂದ ನಿಮ್ಮ ವಿರುದ್ಧ ಈ ಮೇಲ್ಕಂಡ ದೋಷಾರೋಪಣೆ.

7. Notice of Articles of charge, statement of imputation of misconduct with list of witnesses and documents was served upon the DGO. In response to the service of articles of charge, DGO entered appearance before this authority on 25/03/2019 and engaged advocate for defence. In the course of first oral statement of the DGO recorded on 25/03/2019 he pleaded not guilty and claimed to be enquired. **The date of retirement of DGO 31/03/2019.**

8. The DGO has filed Written Statement dated 02/07/2019 contending that in order to provide drinking/irrigation water to the draught prone areas of Chikamagalur, Chitradurga, Tumkur and Kolar Districts State Government under took Upper Bhadra Project on 15/09/2008 so that the drought prone area (1,07,265 hectares) would get water speedily. The execution of the said project in particular at beginning reach i.e., Terikere Taluk was tedious. Since this DGO has the experience of working at in similar type of projects at Indi and other places he was

①
2/15

transferred from Davanagere to Ajjampura as Executive Engineer in the office of the Upper Bhadra Project division No.3, Ajjampura. He further contended that in order to help the farmers of Tarikere Taluk, the Irrigation Department with the active assistance of DGO took steps and got approval from the Government in the year 2011 to irrigate 5471 hectares of land and filling up of 52 tanks partially. Later, the Detailed Project Report (DPR) was revised wherein it was proposed to irrigate 22,189 hectares and filling up of 81 tanks partially in Tarekere Taluk. The Government has accorded administrative approval to this DPR in the year 2015. The complainant and others who were having vested interest and with political motivation were seriously opposing the above said project. They held various dharna, protest and agitation not only in front of the Irrigation office but also at various places. They filed W.P.No. 47599/2011 and 25255/2012 challenging the above said project on various grounds. Subsequently they approached National Green Tribunal, Southern Zone Chennai challenging the above said project. The Green Tribunal dismissed their Application on various reasons and with a finding that they have filed the said cases with a malafide intention and with an intention to avoid acquisition of their lands indirectly. Because of these above reasons the complainant filed this complaint with malafide intention to harass him. Further he has given table with details of the assets actually owned/possessed by him and contended that he had the income of Rs.1,22,09,112/- available during the check period. He further stated that he had surplus income Rs.32,47,859/- and whereas the pecuniary resources and assets

①
215

held by him cannot be said to be disproportionate to the known source of income and prayed to drop him from the said proceedings.

9. The disciplinary authority has examined complainant as P.W.1 and got marked Exp1 to Exp3 documents.

10. On 18/004/2022 the Advocate for DGO filed application under section 151 CPC seeking to drop the proceedings against DGO for lack of jurisdiction.

11. On 02/05/202 the Learned Presenting Officer filed objections to the above said application stating that by filing the said application DGO is challenging the Government Order before this enquiry. Further stated that if he is aggrieved by the Government Order he has got remedy somewhere else. The enquiry is already commenced long ago. Now the application is filed to drag the matter and prays to reject the application filed by the DGO.

12. After hearing both sides on the above application the orders was passed on 07/05/2022.

13. Following order dated 07/05/2022 is placed before Hon'ble Upalokayukta which is as under: -


21/5

- “1. The DGO has filed application U/S 151CPC seeking to drop the proceedings as this authority has no jurisdiction.
2. The DGO has sworn to the affidavit annexed to this application contending that that Lokayukta has no jurisdiction to entertain the complaint in question as per Section 7(2) of the Karnataka Lokayukta Act. That the Lokayukta gets jurisdiction to enquire into a complaint made against a public servant only in respect of the complaint involving a grievance of an allegation as required under Section 7(2) of the Karnataka Lokayukta Act. The complaint in question is not pertaining to a complaint involving a grievance or an allegation made in respect of such action. Hence the very inquiry initiated by the Hon'ble Upalokayukta and the consequential report submitted by the Anti Corruption Bureau is one without any authority of law. Further contended that the report submitted by the Hon'ble Upalokayukta and the order passed by the Government authorizing the Upalokayukta are not maintainable. Hence the proceedings in question for holding enquiry against him is not maintainable and it is liable to be dropped


21/5

as this authority has no jurisdiction as held by the Hon'ble Supreme Court in 1998 (6) SCC 103 (State of Karnataka and others V/s Kempaiah). Hence on these grounds prays to drop the proceedings against him.

3. The Learned Presenting Officer has filed objections dated 25/04/2022 contending that, in the above case on the basis of 12(3) report, Government Order has been issued entrusting this institution to conduct Departmental Enquiry against the DGO. At the relevant stage DGO has not taken such a plea. Now by filing the above application DGO is challenging the Government Order before this enquiry. However it not a proper forum to challenge the government Order before this authority. That if he is aggrieved by the Government Order, he has got remedy somewhere else. The enquiry is already commenced long ago. Now this application is filed to drag the matter. Hence on these grounds prays to reject the application.

4. The points that arise for my consideration are as follows:

1. Whether the disciplinary authority has got jurisdiction to conduct enquiry?

①
2/15

2. What order?
5. Heard both side.
6. My findings on the above point is as follows:-

1. Negative.

2. As per final order for the following:-

REASONS

7. It is alleged by the complainant H.S.Neelakhantappa Siddappa Hosuru, Bettadahalli Grama, Tarikere against the DGO Sri.S.L.Mohan Kumar, that while he working as Exccutive Engieer, Bhadra Upper Project, Division-3, Ajjampura, Tarikere, Chikkamagaluru District that he has amassed assets disproportionate to his known sources of income
8. The Deputy Superintendent of Police.ACB, Chikkamagaluru has submitted his report stating that the total asset of DGO is Rs.93,50,000/- + expenditure Rs.55,00,000/- = total income Rs.1,48,50,000/-. But, the declared income of DGO is Rs.1,01,20,334/- and additional income is 47,29,666/-. This shows that the DGO has acquired more assets than his income.
9. The DGO has submitted his comments on the report of Investigating Officer, He denied the allegations and contended that the complainant

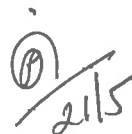
21/5

is having ill-will against him and filed false complaint against him.

10. Since said facts and material on record prima facie show that the DGO has committed misconduct under Rule 3(1) of the KCS Conduct Rules, 1966, recommendation is made under section 12(3) of the Karnataka Lokayukta Act, to the Competent Authority to initiate disciplinary proceedings against the DGO and to entrust the inquiry to this Authority under Rule 14-A of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.

11. The Government after considering the recommendation made in the report, entrusted the matter to the Hon'ble Upalokayukta to conduct departmental/disciplinary proceedings against the DGO and Hon'ble Upalokayukta has nominated this Additional Registrar, Enquiries-11 to frame the articles of charges and to conduct departmental enquiry against the DGO.

12. Articles of charge was served upon the DGO and he appeared before this authority on 25/03/2019. First Oral Statement of DGO was recorded and he pleaded not guilty. DGO filed written statement denying all the allegations in


21/5

the Articles of charge. Complainant was examined as P.W.1. At this stage, Advocate for DGO has filed application stating that Lokayukta has no jurisdiction to entertain the complaint in question as per Section 7(2) of the Karnataka Lokayukta Act. That the Lokayukta gets jurisdiction to enquire into a complaint made against a public servant only in respect of the complaint involving a grievance of an allegation as required under Section 7(2) of the Karnataka Lokayukta Act. The complaint in question is not pertaining to a complaint involving a grievance or an allegation made in respect of such action. Hence the very inquiry initiated by the Hon'ble Upalokayukta and the consequential report submitted by the Anti Corruption Bureau is one without any authority of law. Further contended that the report submitted by the Hon'ble Upalokayukta and the order passed by the Government authorizing the Upalokayukta are not maintainable. Hence the proceedings in question for holding enquiry against him is not maintainable and it is liable to be dropped as this authority has no jurisdiction as held by the Hon'ble Supreme Court in 1998 (6) SCC 103 (State of Karnataka and others V/s Kempaiah).


2/5

Hence on these grounds prays to drop the proceedings against him.

13. On perusal of the decision laid down by **Hon'ble Supreme court in 1998 (6) SCC 103 State of Karnataka and others V/s Kempaiah** wherein it is held :-

A. Karnataka Lokayukta Act, 1984 (4 of 1985)- Ss.2(1),(2(2) and 7- "Action" - Meaning of - Held, amassing of wealth by public servant not covered - Expression "In any other manner" in S.2(1) cannot be interpreted to mean actions which have no nexus to any administrative action- Definition of "allegation" in S.2(2) not relevant for interpreting the word "action" - Words and phrases.

8. The definition of the word "action" in section 2(1) of Karnataka Lokayukta Act reads as under:

"2.(1) 'action' means administrative action taken by way of decision, recommendation or finding or in any other manner and includes

*(P)
2/15*

willful failure or omission to act and all other expressions (relating to) such action shall be construed accordingly.

9. *It is further observed the definition of "allegation" in section 2(2) which is couched in very wide terms but, as noticed above for purposes of section 7(2), the scope of investigation is confined to a grievance or allegation made in respect of an action within the meaning of Section 2(1) of the Act. No support can be had from the definition of "allegation".*

10. *In as much as the Upalokayukta initiated investigation against the respondent on the basis of an unsigned letter forwarded by the Under Secretary to the Governor of Karnataka to the Registrar, Lokayukta the scope of investigations by the Upalokayukta under Section 7(2) has to be limited to "action" as explained above.*

11. *In this view of the matter, we are in entire agreement with the view*

21/5

expressed by the High Court. The appeals are devoid of any merit, so they are dismissed."

14. Placing reliance on the above decision, since allegation made against the DGO in this enquiry is only with respect to amassing of wealth which does not come under the meaning of the word "action" i.e., administrative action taken by way of decision, recommendation or finding or in any other manner and includes willful failure or omission to act and all other expressions (relating to) such action. Moreover, the report submitted by I.O. i.e., Deputy Superintendent of Police, Karnataka Lokayukta, Chikkamagalur and in AOC there is no imputation that the DGO has purchased/acquired property without permission from the competent authority and has not disclosed the same in his assets and liabilities statement. Hence complaint against the DGO with respect to amassing of wealth is not covered under the definition of the word "action" i.e., administration action as contemplated under section 2(1), 2(2) and 7 of the Karnataka Lokayukta Act which cannot be interpreted to mean actions which have no nexus to any administrative action. In view of the above findings I answer the point No.1 & 2 accordingly.


2/15

UPLOK-2/DE/75/2019/ARE-11

In view of the above discussion, if My Lord approves, the proceedings against the DGO may be stopped as this Authority has no jurisdiction”.

14. Hon'ble Upalokayukta on 16/05/2022 approved para 14 of the order portion stated above and ordered to close the case.

15. Hence, this report is submitted to the Hon'ble Upalokayukta- 2 in a sealed cover for kind perusal and for further action in the matter.


(J.P. Archana) 21/5/22

Additional Registrar (Enquiries-11),
Karnataka Lokayukta,
Bangalore.

ANNEXURES

List of witnesses examined on behalf of the Disciplinary Authority:-

PW1:- Sri. Neelakantappa H.S.

List of witnesses examined on behalf DGO:-NIL

List of documents marked on behalf of Disciplinary Authority:-

Ex P1	Original complaint of the complainant dated 22/07/2013.
Ex P2	Original Form No.1 dated 22/07/2013.
Ex P3	Original Form No.2 dated 22/07/2013.


(J.P. Archana) 21/5/22

Additional Registrar (Enquiries-11),
Karnataka Lokayukta, Bangalore.