

KARNATAKA LOKAYUKTA

NO:UPLOK-1/DE/81/2015/ARE-9

M.S.Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru - 560 001.
Date:12.4.2022

:: ENQUIRY REPORT ::**:: Present ::****(PUSHPAVATHI.V)****Additional Registrar of Enquiries -9
Karnataka Lokayukta,
Bengaluru**

Sub: Departmental Inquiry against (1) Sri.M.Iiyas, Junior Engineer, Taluk Panchayathi, Kushtagi Taluk, (2) Sri. Ambamma Patil, Panchayath development officer and (3) Sri. Madegowda, Secretary,- Hiremannapura Grama Panchayath, Kushtagi Taluk, Koppal District - reg.

Ref: 1. G.O.No. GraAaPa 38 GraPamKaa 2015
Bengaluru dated: 11.2.2015
2.Nomination Order No: UPLOK-
1/DE/81/2015/ARE-9 Bangalore
dated:19.2.2015 of Hon'ble
Upalokayukta-1

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This Departmental Inquiry is initiated against (1) Sri.M.Iiyas, Junior Engineer, Taluk Panchayathi, Kushtagi Taluk, (2) Sri. Ambamma Patil, Panchayath development officer and (3) Sri. Madegowda, Secretary,- Hiremannapura Grama Panchayath, Kushtagi Taluk, Koppal District (hereinafter referred to as the Delinquent Government Official for short "**DGO**").

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2. In pursuance of the Government Order cited above at reference No.1, Hon'ble Upalokayukta vide order dated 19.2.2015 cited above at reference No.2 has nominated Additional Registrar of Enquiries-6 (in short ARE-9) to frame Articles of charges and to conduct the inquiry against the aforesaid DGOs.

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

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

ANNEXURE-I
CHARGE

DGO No. 1 & DGO No. 2

You Sri. M.Ilyas- Junior Engineer (hereinafter referred to as DGO No.1 for short) while working as Junior Engineer in Taluka Panchayat at Kustagi of Koppal District and you Smt.Ambamma Patil- Panchayath development officer (hereinafter referred to as DGO No. 2) while working as Panchayath development officer in Hiremannapura Grama Panchayath in Kustagi Taluk of Koppal District, road work from Hiremannapur to Guntamadavu was included under MGNREGA scheme during the year 2009-10 and you DGO No. 1 and 2 while executing the said work committed following illegalities:-

i) Instead of executing hard passage work as proposed in the approved estimate, pipe C.D work has been carried out,

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that too, without obtaining the approval of competent authority for change of work. Even no record showing expenditure of procurement of pipes is maintained:

ii) Curing work to C.D structure was sub-standard and pitching work was done in haphazard manner;

iii) As per the material procurement, although 698.00Cu.M of gravel spreading is shown, there was no sign of gravel on the spot. But an expenditure of Rs.1,30,875/- is found booked towards providing and supplying gravel;

iv) An expenditure of Rs.4,79,505/- is shown as incurred towards material procurement and Rs.28,000/- towards labour and thereby not maintained the ratio of 60:40 towards labour and material component, as required under NREGA guidelines;

v) For laying of pipes, an amount of Rs.28,225/- is shown as paid to a contractor Sri. Basavan Gowda Patil, vide cheque No. 249461 in January 2011. But that is against the guidelines of NREGA:

vi) The measurements of finished items of works are not recorded in the M.B;

and thereby committed an act which unbecoming of a government servants and thus you DGO No. 1 and 2 are guilty of misconduct under U/s 3(1) (i) (ii) and (iii) of Karnataka Civil Service (conduct) Rules 1966.

DGO No. 3

You Sri. Madegowda- Secretary (hereinafter referred to as DGO No. 3) while working as Secretary in Hiremannapur Grama Panchayath in Kushtagi Taluk of Koppal District, was to discharge and carryout the work of disbursing Grama

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Panchayath funds and plan funds to the officers concerned and furnish utilization certificate in the manner prescribed by section iii(f) of Grama Panchayath Act, and para 7.5 of buidelines of NREGA, but in regard to the funds disbursed towards the road work from Hiremannapura to Guntamadavu undertaken under MNREGA scheme during 2009-10 by Hiremannapura Grama Panchayath you failed to furnish utilization certificate in the manner prescribed by Sec.111(f) of Grama Panchayath Act and Para 7.5 of guidelines of NREGA, in regard to the funds disbursed by you

ANNEXURE - 2

STATEMENT OF IMPUTATIONS OF MISCONDUCT

An investigation was taken up on the basis of the complaint filed by Sri. Doddappa S/o Kuntappa Bellutagi R/o. Hiremannapur in Kustagi Taluk of Koppal District (herein after referred to as 'complainant' for short) against Sri. M.Iliyas- Junior Engineer in Taluk Panchayath at Kustagi in Koppal District, Sri. Ambanna Patil- Panchayath development officer in Hiremannapura Grama panchayath in Kustagi Taluk of Koppal District and Sri. Madegowda - Secretary of Hiremannapura Grama panchayath in Kustagi Taluk of Koppal District (herein after referred to of 'Deliquent Government Officials' DGO nos. 1 to 3 for short).

(2) Brief facts of the case:-

According to the complainant: DGO No. 1 to 3 and all the members besides staff of the grama panchayath of Hiremannapura have misappropriated the amount allotted under employment guarantee scheme and they have taken

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pass books of the farmers stating that they will pay Rs. 1000/- Rs. 1500/- to each of them, but no payment as such has been made, resulting in misappropriation of amount by them besides loss to government, for which the DGO no.1 to 3 Sri. Imamsab Gardimani are responsible.

Further, an amount of Rs. 6 lakhs is mis-utilised in respect of the road work between Hiremannapur-Guntamadavu.

3) When comments of the DGO Nos. 1 to 3 and Sri. Imamsab Gardimani were called for, they have submitted their comments on complaint.

4) Thereafter, considering the complaint matter, it was referred to the Chief Engineer in TAC of our institution ie., Karnataka Lokayukta for investigation and report. The Chief Engineer, in turn, entrusted the investigation to Assistant Executive Engineer-1 (hereinafter referred to as I.O for short) I.O requested the Executive Officer of Taluk Panchayath of Kushtagi Taluk to submit a report.

5) Report of the Investigating officer and that of Executive Officer show following lapses in the execution of Hiremannapur- Guntamadavu road:

a) Instead of executing hard passage work as proposed in the approved estimate, pipe C.D work has been carried out, that too, without obtaining the approval of competent authority for change of work. Even no record showing expenditure on procurement of pipes is maintained;

b) The curing done to C.D structure is sub-standard and pitching work in haphazard condition then;

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c) As per the material procurement, although 698.00 cu.m of gravel spreading is shown, there was no sign of gravel on the spot. But an expenditure of Rs. 1,30,875/- is found booked towards providing and supplying gravel;

d) An expenditure of Rs. 4,79,505/- is shown as incurred towards material procurement and Rs. 28,000/- towards labour and thereby not maintained the ratio of 60:40 towards labour and material component, as required under NREGA guidelines;

e) For laying of pipes, an amount of Rs. 28,225/- is shown as paid to a contractor Sri. Basavana Gowda Patil, vide cheque No. 249461 in January 2011. But that is against the guidelines of NREGA;

f) The measurements of finished items of works are not recorded in the M.B;

for which DGO No. 1 and 2 along with Imamsab Gardimani- the then President are responsible.

6) DGO No. 3 has to carry out the work of disbursing grama panchayath funds and plan fund to the officers concerned and furnished utilization certificate in the manner prescribed by section 111 (f) of grama panchayath Act, and para 7.5 of guidelines of NREGA, but the same have not been followed by respondent No. 4.

7) copy of the IO report was sent to DGO Nos.1 to 3. For that, the DGO No. 1 and 2 have submitted that there was natural disaster during the year 2009-10 at the work place besides opposition by the farmers to the work, due to which on oral instruction of the EO, pipe CD was laid in place of hard passage. They have further stated that payment of Rs.

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28000/- to coolies was as per 60:40 ratio and as it was a work relating to civil works, and road was always wet because of leakage of water, the gravel was brought from a distant place and therefore, the work was executed as per the oral instructions which clearly indicates that there was no written sanction for change of work and laying the pipe CD in the place of hard passage. DGO No. 3 has stated that the work in question will be dealt with by the Panchayath development officer, President and the Junior Engineer concerned. In Toto, DGO Nos. 1 to 3 have denied the allegations made against them.

In view of the said facts and material on record, replies offered by DGO Nos.1 to 3 are not found satisfactory to drop the proceedings.

A careful consideration of the material on record, including report, prima facie shows that the respondent Nos. 1 to 3 have failed to maintain absolute integrity, besides devotion to duty and acted in a manner unbecoming of Public/ Government servants and thereby committed misconduct under Rule 3 (1) of KCS (Conduct) Rules, 1966, and made themselves liable for disciplinary action. Whereas, respondent No. 2, being an elected member and presently a member of grama panchayath of Hiremannapura, necessary action is to be taken under section 43A of the Karnataka Panchayath Raj Act, 1993.

Since, said facts and material on record prima facie show that the DGO Nos. 1 to 3 have committed misconduct, now, acting under section 12 (3) of the Karnataka Lokayukta Act, recommendation is made to the competent Authority to

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initiate disciplinary proceedings against the respondent No. 1, 3 and 4 and to entrust the inquiry to this authority under Rule 14-A of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957. Accordingly the enquiry was entrusted. Hence the charge.

5. The Article of charge was issued to the DGOs calling upon them to appear before this authority and to submit written statement.

6. The DGOs appeared before this inquiry authority in pursuance to the service of the Article of charges. Plea of the DGOs have been recorded and they pleaded not guilty and claimed for holding inquiry. Thereafter, they submitted written statement.

7. DGOs No. 1 to 3 have submitted written statement. In the written statement they have denied the allegations leveled against them and contended that the documents collected basing on charge are created for purpose of this case. The DGO No.1 is not concerned to the alleged work. The DGO No.1 to 3 have not committed any sort of illegalities or irregularities. With these grounds, they prayed to drop the charges leveled against them.

8. During proceedings DGO No.3 is reported to be dead. Hence the case against DGO-3 is abated.

9. The disciplinary authority has examined the complainant Sri. Doddappa Balutgi, S/o Kuntappa, Agriculturist as PW.1, Investigating officer Sri. Srinivas S/o C.R.Keshva Murthy, the then Assistant Executive Engineer

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TAC Karnataka Lokayukta Bengaluru as PW-2 and got marked documents as **Ex.P-1 to ExP-18.**

10. Thereafter, second oral statement of DGOs No.1 and 2 have been recorded. DGOs No.1 and 2 submitted that they have got evidence. So, opportunity was provided to them to adduce evidence. Accordingly, DGO No.2 has got examined himself as DW-1 and DGO No.1 has got examined himself as DW-2 and got marked one document as **Ex.D-1 to Ex.D-8.**

11. 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 in the **PARTY AFFIRMATIVE AND PARTY NEGATIVE** for the following:

REASONS

12. There is no dispute with regard to DGO no.2 was the Junior Engineer of the Hiremannapur Grama Panchayath during the period of allegations.

13. DGO No.1 has stated that, she reported to duty during June 2010. The alleged work has been completed by February 2010 and she has got no role in the alleged project. In support of her defence, she has relied upon Ex.D-2 the appointment order, Ex.D-3 the letter of report to the Executive Officer, dated: 23.6.2010. Ex.D-4 the certificate of report issued by Executive officer. These documents shows that DGO No. 1 has joined duty on 22.6.2010. But, she has not produced work completed certificate before this authority showing the alleged project is completed

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during February -2010. But challens produced by DGO No.1 at Ex.D-4 to 7 shows that the alleged project has been completed even before March 2010. However, DGO No.1 who has been examined as DW-1 in her cross examination at page No. 5 of her evidence has stated that after she assumed charge, she visited spot and has released amount. Thus, she has admitted that she had role in the alleged project in releasing the amount. Of course, her case is that she has not executed the alleged work. But before releasing the amount, being Panchayath development officer it was her duty to inspect the spot, compare the work with estimate, to check the quality of the work and then to release the amount. But it appears she has not done so. Therefore, she is also responsible for the alleged project.

14. With regard to charge No.1, in the written statement, there is no specific defence by the DGO No.1. PW1 is complainant who has stated that he had given complaint at Ex.P-1 to 4 against DGOs as they had colluded with President of Grama Panchayath and Secretary and had claimed the bill though the work of Hiremannapur - Guntamadavu road project was not done under Udyoga Khatri Yojana for the year 2011-12. During cross examination he has admitted that neither himself, nor the villagers have filed any complaints alleging misappropriation of the funds under MGNREGA scheme to the police. He admits that there was misunderstanding between himself and the then President Sri.Imamsab Garadimane. He had further admitted that himself and villagers were not satisfied for not given labour to them in the said scheme. He has further admitted that without reading the contents, he has put his signature to Ex.p-10 the mahazar on the advice of villagers. He has admitted that he

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has addressed a letter to the Chief Engineer Karnataka Lokayukta Bengaluru on 17.7.2013 which is marked at Ex.D-1. He has voluntarily stated that he did not read the contents of said documents. He has denied that instead of filing the complaint against president, he has filed complaint against DGOs. But the charges have been framed on the basis of the report of PW-2 the Investigating officer. So much importance is not attached to discuss the evidence of PW-1. But the fact that he has given complaint at Ex.P-1 to 4 is taken into consideration. The PW-2 as said above has investigated the case and filed a report as per Ex.P-17. He in his chief examination has stated that, at first he had taken report from the Executive Officer with regard to allegations of the complaint at Ex.P-13. Thereafter, as the documents were incomplete, he had obtained complete report at Ex.P-14. On verifying the reports at Ex.P-13 and 14, he has submitted the report at Ex.P-17. He has further stated that while verifying the reports at Ex. P-13 and 14, instead of executing hard passage work which was proposed in the approved estimate, CD pipe work was carried out without obtaining the approval from the competent authority for change of work. Further, the records of expenditure for procurement of pipes were not maintained. During the cross examination, this witness has admitted that in the report of Executive Officer, he had opined that the work was satisfactory. But the learned counsel for DGO, during the cross examination itself, later suggested that instead of hard passage work, CD pipe work was carried out. It is also suggested that this work is against to estimate. Even during chief examination, DW-2 who is

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DGO No. 1 has stated that under the estimate, only plain road was to be formed, but during the course of work, the villagers of both Hiremannapur and Guntamadavu strongly opposed to form plain road and requested to put pipes in the hallow space which was 20-30 feet and then to form the road over the pipes. He has further stated that, even local MLA had requested to obey the request of public. It was beneficial to the public at large. He has further submitted that the public and MLA had contributed the amount to do additional work and hence he did not show the same as expenditure in the records. He had also stated that, in fact, the villagers from Guntamadavu were supposed to travel 35 Kilometers to reach Kustagi town. By virtue of formation of this road, they required to travel only for 20 kilometers to reach Kustagi. This way, the DGO No. 1 has admitted 1st charge that instead of executing hard passage work as proposed in approved estimate, he has constructed CD structure by using pipes and he has not maintained the record showing expenditure for procurement of pipes.

15. Of course, during cross examination, he has denied the suggestion of the PO, disciplinary authority that he has not carried out the work as per estimate. But he has admitted that he has not obtained estimate to form CD pipe structure. He has also admitted that he did not maintain record with regard to expenditure towards purchase of pipes. Of course, in his chief examination, he has further stated that it is the public and MLA who spent amount for CD pipe structure and hence he did not shown the same as expenditure in the project. But he being the government official is not suppose to take amount from the public and MLA to carry out the government projects. What was to be done by DGO No.2 is, at the request of public and MLA, he had to apply for approval of amended estimate and should have collect

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the amount in accordance with law from the public and MLA. Since he has not done so, his act amounts to dereliction of duty. The role of DGO No.2 is that before releasing the amount she had to visit the spot, compare the estimate, if the work was in accordance with estimate, standard, then only she had to release the amount. She herself admits that she has released the amount for this project. Here, defence of DGO that at the request of public at large he deviated estimate cannot be considered here. Because, the scope of this inquiry proceedings is only to report whether the charges framed against DGOs are proved or not. **Thus I am of the opinion that, both have committed misconduct in respect of 1st charge.**

16. With regard to the 2nd charge, that whether the curing work done to CD structure is sub standard and whether pitching work is done in haphazard manner, PW-2 has stated that on the report of Executive Officer at Ex.P-13 & 14, he has filed report. He has stated that the curing work done to CD structure was sub standard and the stones which were used to make the pitching strong were not proper method. He has relied upon Ex.P-15 the photographs. Ex.P-13 the report of Executive Officer. Perused Ex.P-13 at 1st page and para 4 last three lines, the Executive Officer has stated as follows; “ ಅಲ್ಲದೆ ಸಿ.ಡಿ.ಗೆ ನಿರ್ಮಿಸಿದ ಕಟ್ಟಡದ ಕ್ಯೂರಿಂಗ್ ಕೆಲಸ ಕಳಪೆಯಾಗಿದೆ ಹಾಗೂ ಈ ರಸ್ತೆಗೆ ನಿರ್ಮಿಸಲಾದ ಪಿಚ್ಚಿಂಗ್ ಕೆಲಸ ಅಸ್ತವ್ಯಸ್ತವಾಗಿದ್ದು ಇದನ್ನು ಸರಿಪಡಿಸುವುದು ಅವಶ್ಯವಿರುತ್ತದೆ. The DGO No. 1 has not placed any certificate of quality controller to rule out this opinion. Further DGO No.1 do not deny that Ex.P-15 are the photographs of the alleged project. The photographs show that the stones used for pitching are bigger than required size. Of course, in the chief examination, the DW-1 has stated that he has completed the work with perfect curing and he did not use sub standard materials. He has relied upon the admission of PW-2 that the Executive Officer and Assistant

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Executive Engineer have submitted report during 2013 where they have stated that as per the spot mahazar dtd: 17.7.2013, the work has been completed satisfactorily and has stated that work is not substandard. But the reports of Executive officer marked at Ex.P-13 which is subsequent to 2013 report and submitted after complaint to this authority clearly goes to show that the work is substandard. Further as said above, the photographs produced shows that the stones used for pitching is not of required size. At the outset, the disciplinary authority have proved that the pitching work and the curing work to the pipe CD structure are not of standard. **Here the DGO No. 1 being Junior Engineer is responsible for the sub standard work. DGO No.2 being Panchayath development officer is responsible for releasing amount in spite of work is sub standard. So, I am of the opinion that the disciplinary authority has proved this charge No. 2.**

17. With regard to charge No. 3, PW-2 has stated that the record show that for 698 centimeters the gravel has been spread over the road. Further the amount of Rs.1,30,875/- has been shown as expenditure towards this work. But, at the spot, there were no traces of gravel spread over the road. During the cross examination nothing elicited in order to disbelieve this evidence by the counsel for DGOs. Further during chief examination, DW-1 / DGO No.2 has stated that Rs.1,30,875/- has been paid towards gravelling of the road. But she has not placed any materials showing gravel was put over road. Even DGO No. 1/ DW-2 has not stated anything about this allegation. In Ex.P-13 the Executive officer has at para 4 of first two lines has reported as follows; "ಸಾಮಗ್ರಿ ಬಾಬು ಪಡೆದ ಪ್ರಕಾರ ರಸ್ತೆಗೆ 698 ಘನ ಮೀ., ಗ್ರಾವಲ್ ಹೇರಿಸಲಾಗಿದೆ ಎಂದು ತಿಳಿದು ಬಂದಿರುತ್ತದೆ. ಆದರೆ ವಾಸ್ತವವಾಗಿ ಸ್ಥಳದಲ್ಲಿ ಗ್ರಾವಲ್ ಹೇರಿಸಿದ ಬಗ್ಗೆ ಯಾವುದೇ ಕುರುಹು ಇರುವುದಿಲ್ಲ." This way the Investigating officer has specifically reported

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that there was no traces of gravel spread over road at the spot though it was shown that the gravel was spread over 698 C. Mtrs. To rule out this report, the DGOs have not placed any materials. **Here also, the DGO No.1 being the Junior Engineer is responsible for the alleged work and the DGO No.2 being the Panchayath development officer is responsible for release of the amount for the above said alleged work. So, I am of the opinion that the disciplinary authority has proved this charge No.3.**

18. With regard to charge No. 4, PW-2 has stated that Rs.4,79,405/- is shown as expenditure towards the above said project. However, only Rs. 28000/- has been paid towards labour charge. Thereby the ratio of 40:60 towards labourers material procurement respectively is not maintained as required under MGNREGA guidelines. During the cross examination, nothing has been elicited from PW-2 in this regard. Even in chief examination, either DW-1 or DW-2 stated nothing. During cross examination of DW-2, PO disciplinary authority has suggested that out of Rs.4,97,505/- total expenditure, Rs. 28,000/- has been spent towards labour charges. Same has been admitted. It has also been suggested that the ratio of 60:40 for material procurement and labour charges respectively has not been maintained in the expenditure towards this project. For which this witness has ~~stated that he has got no connection with this allegation. It is true~~ that this DGO No.1 /DW-2 being a Junior Engineer, will not have responsibility of maintaining 60:40 ratio for procurement of material and labour charges respectively. As said above, during the cross examination of PW-2 or during the chief examination of DGO No. 2 /DW-1, the DGO No. 2 has not put forth any defence. In fact, even in the written statement DGO No.2 has not put forth specific defence in this regard. **Thus, I am of the opinion that**

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the disciplinary authority has proved this charge No. 4 against DGO No.2 and failed to prove this charge No. 4 against DGO No. 1.

19. With regard to charge No. 5, the PW-2 has stated that cheque No.249461 for Rs.28,225/- has been issued during January 2011 towards installation of pipes to contractor Sri. Basavanagouda Patil against to the guidelines of MGNREGA. During the cross examination it has been suggested to this witness that while paying amount to the contractor deduction should be made towards KST, IT and Royalty. As per Ex.P-13 MB book No. 7552 page 67, KST, IT and Royalty amount of Rs.28,225/- has been deducted out of Rs. 80,000/- which was spent to purchase size stones, after deduction of Rs. 28,225/-, 71,700/- has been paid. These suggestions have been admitted. It is also admitted that through cheque No. 249461, Rs. 2,50,405/- has been paid towards material procurement. In Ex.P-13 at page 16 (175), the details have been furnished about deduction towards KST, IT and Royalty. It is further admitted that Rs. 28,225/- which is paid to Basavanagouda patil is deducted from Rs.80,000/-. It is also admitted that Rs. 2,50,405/- is paid to Basavanagouda patil through cheque No. 249461. It is also admitted that Rs. 28,225/- is the amount which was to be paid to Government. This witness shown ignorance to the suggestion that this amount is deducted from the amount of Rs. 28,225/- is deducted from the amount which was to be paid to the contractor. But this witness has specifically stated that DGO has not produced document showing Rs. 28,225/- is the amount paid to the government. Even in chief examination, DW-1 has stated that Basavanagouda patil was assigned to supply material for the project, after supply of materials the technical person Assistant Executive Engineer recorded the same in the MB. Basing on the said entries, DGO

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No.2 being Panchayath development officer deducted KST, IT and Royalty and remaining amount is paid to Basavanagouda patil who supplied material. The total amount spent for procurement of materials is Rs. 2,78,630/-, out of which towards Rs. 11,500/- each is deducted towards KST, and Royalty. Rs.5,575/- is deducted towards IT. In total Rs. 28225/- is deducted towards above said taxes and cheque bearing No. 249461 is issued for remaining amount of Rs. 2,50,105/- to Basavanagouda patil. It is also stated that chart at Sl. No.2 show the above deduction. He has further stated that Basavanagouda patil including above deduction, for all these work he has paid royalty of Rs. 80,867/- KST of Rs. 69,041/- and IT of Rs. 4,524/-. He has paid the said amount to the Government through the cheque bearing No. 507261, 507262, and 507263 on 16.3.2011 along with challens. Thus the allegations that an amount of Rs. 28,225/- has been paid to Basavanagouda patil is totally false. It is only a statutory deduction which was to be paid to government. DGO No. 1 has stated nothing on this allegation. The DGO No.2 also relay upon the Ex.D-4 to 6 the challens. But the defence of the DGO is not convincing because if the statutory deduction was to be made and paid to government, the cheque should have been issued in the name of government and challen should have been in the name of government by Panchayath development officer. But in this case the amount is paid through cheuqe to the name of Basavanagouda patil that to by referring it that, it is towards purchase of pipes. The case of DGOs that Rs. 80,867/-, towards royalty Rs. 69,041/- towards KST, Rs. 4,524/- towards IT, the amount which was paid by Basavanagowda Patil to Government included Rs.28,225/- the amount said to be deducted in this case towards Royalty, KST and IT is not convincing. Because, no materials placed to substantiate that above payment of Rs. 80,867/- Rs. 69,041/- Rs.4,524/- includes this amount of Rs. 28,225/-. Further if the Panchayath

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development officer was to deduct Royalty, KST, IT, he was to pay the same to the Government directly. But in this case, Panchayath development officer has issued cheque to Basavanagowda Patil which is absolutely no convincing. **Thus, the defence of the DGO No. 2 being not satisfactory I am of the opinion that the disciplinary authority has proved this charge No. 5 against DGO No. 2. This allegation is since the responsibility of DGO No. 2, I am of the opinion that the disciplinary authority has failed to prove this charge No. 5 against DGO No. 1.**

20. With regard to charge No. 6, the PW-2 has stated that the measurement of the works is not written in the MB. I have perused MB, measurements of this work have not been written in MB. Obviously the responsibility is on DGO No.1 as he is the Junior Engineer to make entries of measurements of work in the MB. Further obviously it is responsibility of the DGO No. 2 to verify the MB and release the amount. But here the DGO No. 1 did not make entry in MB and DGO No. 2 has made payment without verifying the MB. **Here DGO No.1 and 2 are responsible for this allegation. The disciplinary authority has proved the charge No. 6 against DGO No. 1 and 2.**

21. Thus, overall examination of the evidence on record shows that the disciplinary authority has established the charge No.1 to 3 and 6 leveled against DGO No.1 and charge No. 1 to 6 leveled against DGO No.2. Further the disciplinary authority has not established the charge No.4, and 5 leveled against DGO No.1. Hence I proceed to record the following:-

FINDINGS

22. The Disciplinary Authority has proved the charges No.1 to 3 and 6 leveled against DGO No.1 and charge No. 1 to 6 leveled against DGO No.2.

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23. Not proved the charges No.4, and 5 leveled against DGO No.1. Hence, this report is submitted to Hon'ble Upalokayukta for further action.

24. Date of retirement of DGO No.1 31.7.2022, DGO No. 2 is 30.6.2044, **DGO No. 3 is died on 18.7.2016.**

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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. Doddappa Balutgi, S/o Kuntappa Agriculture R/o Hiremannapur of Kustagi Taluk Original
PW-2	Sri. Srinivas S/o C.R.Keshava Murthy, the then Assistant Executive Engineer, TAC Karnataka Lokayukta Bengaluru Original

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

Ex.P1	Ex.P-1 is the details complaint dated: 14.2.2012 submitted by PW-1 in Karnataka Lokayukta office
Ex.P 2 and 3	Ex.P-2 and 3 are the complaint in form No.1 and 2 dated: 15.7.2011 submitted by PW-1 in Karnataka Lokayukta office
Ex.P-4	Ex.P-4 is the one more complaint letter in which the villagers have signed submitted by PW-1 in Karnataka Lokayukta office.
Ex.P-5	Ex.p-5 is the copy of the letter addressed to CEO, zilla panchayath , Koppal.
Ex.P-6	Ex.P-6 is the copy of the letter addressed to CEO zilla panchayath Koppal
Ex.P 7 & 8	Ex.p-7 & 8 is the photographs showing the incomplete works
Ex.P-9	Ex.P-9 is the copy of the action plan under MGNREGA for the year 2011-12 pertaining to Hiremannapur Grama panchayath
Ex.P-10	Ex.P-10 is the mahazar
Ex.P-11	Ex.P-11 are the (7) photographs taken at the

12.4.2022

	time of spot inspection done with respect to road repair works from Hiremannapura to Guntamadavu
Ex.p-12	Ex.P-12 is the photographs pertaining to road repair works under udyag Khatri Yojane
Ex.P-13	Ex.P-13 is the report dated: 12.2.2013 and documents from Executive Officer Taluk panchayath Kustagi
Ex.P-14	Ex.P-14 is the letter dated: 28.9.2013 and other documents from Executive Officer Taluk panchayath Kustagi
Ex.P-15	Ex.P-15 is the letter dated: 20.7.2013 and other documents from Assistant Executive Engineer Minor irrigation sub division, Kustagi to Executive Officer Taluk panchayath Kustagi
Ex.P-16	Ex.P-14 is the letter dated: 16.8.2013 from Executive Officer Taluk panchayath Kustagi
Ex.P-17	Ex.p-17 is the office note sheet in file No. compt/UPLOK/GLB-183/2011
Ex.P-18	Ex.P-18 is the letter dated: 13.6.2012 from Panchayath development officer, President and Secretary of Grama panchayath Herimannapura, Taluk Kustagi, District Koppal.

iii) List of witnesses examined on behalf of DGO

DW-1	DGO No. 2 Sri. Ambamma Patil, Panchayath development officer original
DW-2	DGO No. 1 Sri.M.Iliyas, Junior Engineer, Taluk Panchayathi, Kushtagi Taluk,

iv) List of documents marked on behalf of DGO

12.4.2012

Ex.D-1	Ex.D-1 is the letter dtd: 17.7.2013 from PW-1 to Chief Engineer, TAC Karnataka Lokayukta Bengaluru
Ex.D-2	Ex.D-2 is the official memorandum dated: 21.6.2010 from CEO zilla panchayath Koppal
Ex.D-3	Ex.D-3 is the letter dated: 23.6.2010 from DGO No. 2 to CEO zilla panchayath Koppal
Ex.D-4	Ex.D-4 is the letter of certificate dated; 23.11.2017 from Executive Officer Taluk panchayath Kustagi
Ex.D-5	Ex.D-5 is the challan No. 25 for Rs.80,867/- dated: 16.3.2011
Ex.D-6	Ex.D-6 is the challan No. 24 for Rs.89,041/- dated: 16.3.2011
Ex.D-7	Ex.D-7 is the challan No. 21 for Rs.44524/- dated: 16.3.2011
Ex.D-8	Ex.D-8 is the list of work under taken in Udyoga Khatri Yojana

Pushpa V
(PUSHPAVATHI.V)

12.4.2022
Additional Registrar Enquiries-9
Karnataka Lokayukta,
Bengaluru.



KARNATAKA LOKAYUKTA

No.UPLOK-1/DE/81/2015/ARE-9

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001.
Dated 21.4.2022.

RECOMMENDATION

Sub:- Departmental inquiry against (1) Sri M Ilyas, Junior Engineer, Taluk Panchayathi, Kushtagi Taluk, (2) Sri. Ambanna Patil, Panchayath Development Officer and (3) Sri. Madegowda, Secretary, Hiremannapura Grama Panchayathi, Kushtagi Taluk, Koppal District - reg.

- Ref:- 1) Government Order No. ಗ್ರಾಅಪ/38/ಗ್ರಾಪಂಕಾ/2015 Bengaluru Dt: 11.2.2015.
- 2) Nomination order No. UPLOK-1/DE/81/2015 dated 19.2.2015 of Upalokayukta, State of Karnataka.
- 3) Inquiry report dated 30.3.2022 of Additional Registrar of Enquiries-9 Karnataka Lokayukta, Bengaluru.

The Government by its order dated 11.2.2015 initiated the disciplinary proceedings against (1) Sri M Ilyas, Junior Engineer, Taluk Panchayathi, Kushtagi Taluk, (2) Sri. Ambanna Patil, Panchayath Development Officer and (3) Sri. Madegowda, Secretary, Hiremannapura Grama Panchayathi,

Kushtagi Taluk, Koppal District [hereinafter referred to as Delinquent Government Officers/officials, for short as 'DGOs 1 to 3' respectively] and entrusted the departmental inquiry to this Institution.

2. This Institution by Nomination Order No. UPLOK-1/DE/81/2015 dated 19.2.2015 nominated Additional Registrar of Enquiries-6, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct departmental inquiry against DGOs for the alleged charge of misconduct, said to have been committed by them. Subsequently the matter was transferred to Additional Registrar of Enquiries-9 by order dated 3.8.2016 to continue the said departmental enquiry.

3. The DGO - (1) Sri M Iliyas, Junior Engineer, Taluk Panchayathi, Kustagi Taluk, (2) Sri. Ambanna Patil, Panchayath Development Officer and (3) Sri. Madegowda,

Secretary, Hiremannapura Grama Panchayathi, Kushtagi Taluk, Koppal District, were tried for the following charges :-

ANNEXURE-I
CHARGE

DGO No. 1 & DGO No. 2

You Sri. M.Iliyas- Junior Engineer (hereinafter referred to as DGO No.1 for short) while working as Junior Engineer in Taluka Panchayat at Kustagi of Koppal District and you Smt.Ambamma Patil-Panchayath development officer (hereinafter referred to as DGO No. 2) while working as Panchayath development officer in Hiremannapura Grama Panchayath in Kushtagi Taluk of Koppal District, road work from Hiremannapur to Guntamadavu was included under MGNREGA scheme during the year 2009-10 and you DGO No. 1 and 2 while executing the said work committed following illegalities:-

- i) Instead of executing hard passage work as proposed in the approved estimate, pipe C.D work has been carried out, that too, without obtaining the approval of competent authority for change of work. Even no record showing expenditure of procurement of pipes is maintained.

- ii) Curing work to C.D structure was sub-standard and pitching work was done in haphazard manner;
- iii) As per the material procurement, although 698.00Cu.M of gravel spreading is shown, there was no sign of gravel on the spot. But an expenditure of Rs.1,30,875/- is found booked towards providing and supplying gravel;
- iv) An expenditure of Rs.4,79,505/- is shown as incurred towards material procurement and Rs.28,000/- towards labour and thereby not maintained the ratio of 60:40 towards labour and material component, as required under NREGA guidelines;
- v) For laying of pipes, an amount of Rs.28,225/- is shown as paid to a contractor Sri. Basavan Gowda Patil, vide cheque No. 249461 in January 2011. But that is against the guidelines of NREGA:
- vi) The measurements of finished items of works are not recorded in the M.B;

and thereby committed an act which unbecoming of a government servants and thus you DGO No. 1 and 2 are guilty of misconduct under U/s 3(1) (i) (ii) and (iii) of Karnataka Civil Service (conduct) Rules 1966.

DGO No. 3

You Sri. Madegowda- Secretary (hereinafter referred to as DGO No. 3) while working as Secretary in Hiremannapur Grama Panchayath in Kushtagi Taluk of

Koppal District, was to discharge and carryout the work of disbursing Grama Panchayath funds and plan funds to the officers concenred and furnish utilization certificate in the manner prescribed by section iii(f) of Grama Panchayath Act, and para 7.5 of buidelines of NREGA, but in regard to the funds disbursed towards the road work from Hiremannapura to Guntamadavu undertaken under MNREGA scheme during 2009-10 by Hiremannapura Grama Panchayath you failed to furnish utilization certificate in the manner prescribed by Sec.111(f) of Grama Panchayath Act and Para 7.5 of guidelines of NREGA, in regard to the funds disbursed by you

5. Perused the Inquiry Officer report, the Inquiry Officer (Additional Registrar of Enquiries- 9) on proper appreciation of oral and documentary evidence has held that, the above charge No.1 to 3 and 6 levelled against the DGO - (1) Sri M Iliyas, Junior Engineer, Taluk Panchayathi, Kustagi Taluk, are proved and Charge No. 4 and 5 levelled against DGO No.1 are not proved. Charge No. 1 to 6 levelled against (2) Sri. Ambanna Patil, Panchayath Development Officer are proved and **DGO No. 3 Sri. Madegowda is died on 18.7.2016.**

6. On re-consideration of report of inquiry and all other materials on record, 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 DGOs furnished by the Enquiry Officer

- i) DGO No.1 Sri M Iliyas, is due to retire from service on 31.07.2022.
- ii) DGO No.2 Sri. Ambanna Patil, is due to retire from service on 30.6.2044.

8. Having regard to the nature of charge '*proved*' against the DGOs 1 and 2, and considering the totality of circumstances, it is hereby recommended to the Government-

- i) to impose penalty of 'withholding 15% of pension for a period of 5 years payable to DGO.1 Sri. M Iliyas, and recover and credit to the Govt. 50% of the amount i.e., Rs. 65438/- which is shown in the expenses as gravelling of the road by him.
- ii) to impose penalty of 'withholding five annual increments payable to DGO. 2 Sri. Ambanna Patil with cumulative effect, no promotion for five years and recover and credit to the Govt. 50% of the amount i.e., Rs. 65438/- which is shown in the expenses as gravelling of the road by him.

9. Further it is recommended to Government to record abatement of disciplinary proceedings against DGO No.3 Sri. Madegowda, Secretary.

10. 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.

