

KARNATAKA LOKAYUKTA

No. UPLOK-2/DE-90/2018/ARE-10

M.S. Building
Dr. B.R. Ambedkar Road
Bengaluru.
Date: 10/09/2020

ENQUIRY REPORT

PRESENT: **SMT. B. PUSHPANJALI**
ADDITIONAL REGISTRAR (ENQUIRIES)-10
M.S. BUILDING
KARNATAKA LOKAYUKTA
BENGALURU - 560 001.

Subject :

Departmental Inquiry against:

Sri. Mallikarjuna, Tahsildar, Taluk Office,
Hosadurga Taluk, Hosadurga, Chitradurga
**(Due for retirement on superannuation
on 31/06/2029)-reg.,**

References:

1. Report u/s 12(3) of the Karnataka Lokayukta Act, 1984 in Compt/Uplok/BD/2526/2016/DRE-5 dt:11/04/2017.
2. Government Order No.RD 138 ADE Bengaluru dated:17/01/2018.
3. Nomination Order No. Uplok-2/DE/90/2018 Bengaluru dt.22/02/2018 of Hon'ble Upalokayukta-2

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1. This complaint is filed by the complainant Sri. T. Chandrappa, Advocate, JMFC Court, Hosadurga Taluk, Chitradurga District (hereinafter referred to as 'complainant' for short) against Sri. Mallikarjuna, Tahsildar, Taluk Office, Hosadurga Taluk, Hosadurga, Chitradurga District.

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2. On the basis of the complaint, comments were called from DGO. The DGO has submitted his comments denying the allegations of the complaint. Not satisfied with the comments of DGO, a report was sent to the Government u/s 12(3) of the Karnataka Lokayukta Act, 1984 as per reference No.1. Pursuant to the report, Government was pleased to issue the Government Order (G.O.) authorizing Hon'ble Upa-lokayukta to hold an enquiry against the DGO as per reference No. 2.

3. On the basis of the Government Order, nomination order was issued by Hon'ble Upalokayukta-2 on 22/02/2018 authorizing ARE-10 to frame Article of Charges against the DGO and to hold an enquiry to find out the truth and to submit a report as per reference No. 3. On the basis of the nomination order, the Article of Charges against the DGO was framed and sent to the Delinquent Government Official on 07/04/2018.

4. The Article of charges and the statement of imputations of misconduct prepared and leveled against the DGO are reproduced here under :-

ಅನುಬಂಧ-1
ದೋಷಾರೋಪಣೆ

2. ಶ್ರೀ ಮಲ್ಲಿಕಾರ್ಜುನ,ತಹಶೀಲ್ದಾರ್, ತಾಲ್ಲೂಕ್ ಕಚೇರಿ, ಹೊಸದುರ್ಗ ತಾಲ್ಲೂಕ್, ಹೊಸದುರ್ಗ, ಚಿತ್ರದುರ್ಗ ಜಿಲ್ಲೆ ಆದ ನೀವು

ಬಿ.ಎ.ಎ.ಎ.

ದಿನಾಂಕ:29.08.2016 ರಂದು ರಾಮಜ್ಜನ ಹಳ್ಳಿಯ ರಿ.ಸ. ನಂ: 114ರಲ್ಲಿ ಹುಲ್ಲುಬನ್ನಿ ಜಮೀನಿನಲ್ಲಿ ಶೇಖರಿಸಿರುವ ಮರಳನ್ನು ಲಾರಿ ಸಂ: ಕೆಎ 41ಎ 8400ಯಲ್ಲಿ ತುಂಬಿಸುವಾಗ ಮರಳು ಸಮೇತ ಲಾರಿಯನ್ನು ಜಪ್ತು ಮಾಡಿಕೊಂಡು ಲಾರಿ ಮಾತ್ರ ದಂಡದ ಹಣವನ್ನು ವಿಧಿಸಿ ಮರಳು ಸಮೇತ ಲಾರಿಯನ್ನು ಬಿಡುಗಡೆ ಮಾಡಿದ್ದೀರಿ.

ಆದಕಾರಣ, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನೀವು ಸರ್ಕಾರಿ ಸೇವಕರಾಗಿದ್ದು, ನಿಮ್ಮ ಕರ್ತವ್ಯಪಾಲನೆಯಲ್ಲಿ ಪರಿಪೂರ್ಣ ಪ್ರಾಮಾಣಿಕತೆ, ಸಂಪೂರ್ಣ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ತೋರಿಸದೆ ಸ್ವಂತ ಲಾಭಕ್ಕಾಗಿ ಸಾರ್ವಜನಿಕ ಸೇವಕರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡಿದ್ದು, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನೀವು ಕರ್ನಾಟಕ ಸರ್ಕಾರಿ ಸೇವಾ (ನಡತೆ) ನಿಯಮಾವಳಿ 1966ರ ನಿಯಮ 3(1)(ii) & (iii)ನೇ ನಿಬಂಧನೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿ ದುರ್ನಡತೆ ಎಸಗಿದ್ದೀರಿ.

ಅನುಬಂಧ-2

ಮೋಷಾರೋಪಣೆಯ ವಿವರ

(ಸ್ಟೇಟ್‌ಮೆಂಟ್ ಆಫ್ ಇಂಪ್ಯೂಟೇಷನ್ ಆಫ್ ಮಿಸ್‌ಕಾಂಡೆಕ್ಟ್)

1.ಈ ದೂರನ್ನು ಶ್ರೀ.ಟಿ.ಚಂದ್ರಪ್ಪ, ವಕೀಲರು, ಜೆ.ಎಂ.ಎಫ್.ಸಿ., ನ್ಯಾಯಾಲಯ, ಹೊಸದುರ್ಗ ತಾಲ್ಲೂಕು, ಚಿತ್ರದುರ್ಗ ಜಿಲ್ಲೆ (ಇನ್ನು ಮುಂದೆ ದೂರುದಾರರು ಎಂದು ಕರೆಯಲ್ಪಡುತ್ತಾರೆ) ಇವರು ಶ್ರೀ.ಮಲಿಕಾರ್ಜುನ್, ತಹಶೀಲ್ದಾರ್, ತಾಲ್ಲೂಕು ಕಛೇರಿ, ಹೊಸದುರ್ಗ ತಾಲ್ಲೂಕು, ಹೊಸದುರ್ಗ, ಚಿತ್ರದುರ್ಗ ಜಿಲ್ಲೆ (ಇನ್ನು ಮುಂದೆ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಎಂದು ಕರೆಯಲ್ಪಡುತ್ತಾರೆ) ಇವರ ವಿರುದ್ಧ ಸಲ್ಲಿಸಿದ್ದಾರೆ.

2. ದೂರುದಾರರು ತಮ್ಮ ದೂರಿನಲ್ಲಿ-ದಿ:29.8.2016ರಂದು ತಾಲ್ಲೂಕು ಕಛೇರಿಯ ತಹಶೀಲ್ದಾರ್ ರವರು ಅಕ್ರಮ ಮರಳು ತುಂಬಿ ಕೊಂಡು ಬರುತ್ತಿದ್ದ ಲಾರಿ ಸಂ: ಕೆಎ 41ಎ 8400 ಇದನ್ನು ತಪಾಸಣೆ ಮಾಡಿ ಮಾಲುಸಮೇತ ಹೊಸದುರ್ಗ ಪೊಲೀಸ್ ಠಾಣೆ ಮುಂದೆ ನಿಲ್ಲಿಸಿದ್ದರು ಒಂದು ವಾರದ ಕಾಲ ಹೊಸದುರ್ಗ ಪೊಲೀಸ್ ಠಾಣೆ ಮುಂದೆ ನಿಲ್ಲಿಸಿಕೊಂಡು ನಂತರ ಲಾರಿಯ ಮಾಲೀಕರು ಸಿ.ಪಿ.ಐ ಮತ್ತು ತಹಶೀಲ್ದಾರ್ ರವರನ್ನು ಪ್ರತ್ಯೇಕವಾಗಿ ಭೇಟಿ ಮಾಡಿ ಲಂಚ ಕೊಟ್ಟಿದ್ದರಿಂದ ಲಾರಿಗೆ ದಂಡವನ್ನು ಮಾತ್ರ ವಿಧಿಸಿ ಮರಳು ಸಮೇತ ಬಿಡುಗಡೆ ಮಾಡಿದ್ದಾರೆ. ಎಷ್ಟೇ ಪ್ರಯತ್ನ ಪಟ್ಟರು ದಂಡ ವಿಧಿಸಿದ ದಾಖಲೆ ಸಿಕ್ಕಲಿಲ್ಲ ಆದರೆ ಲಾರಿ ಮಾಲೀಕರು ಮರಳು ಲಾರಿಯನ್ನು ತೆಗೆದುಕೊಂಡ ಬಗ್ಗೆ ನನ್ನ ಹತ್ತಿರ ದಾಖಲೆ ಇದೆ. ಲಾರಿಯನ್ನು ಬಿಟ್ಟಿರುವುದರಿಂದ ಕದ್ದಿರುವ ಮಾಲು ಕದ್ದವರಿಗೆ ಕೊಟ್ಟಂತಾಗುತ್ತದೆ. ಇದು ಕಾನೂನು ಬಾಹೀರ ಕ್ರಮವಾಗಿದೆ ಆದ್ದರಿಂದ ತನಿಖೆ ನಡೆಸುವಂತೆ ಮತ್ತು ಕಾನೂನು ಪ್ರಕಾರ ಶಿಕ್ಷೆ ವಿಧಿಸುವಂತೆ ಕೋರಿಕೊಂಡಿದ್ದಾರೆ.

6/10/19

3. ಈ ದೂರಿನ ಮೇಲೆ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಿಂದ ಆಕ್ಷೇಪಣೆಗಳನ್ನು ಕೇಳಲಾಗಿದೆ. ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ತಮ್ಮ ಆಕ್ಷೇಪಣೆಯಲ್ಲಿ ಕಂದಾಯ ತನಿಖಾಧಿಕಾರಿಗಳು ಇವರು ದಿ: 29.8.16ರಂದು ಹೊಸದುರ್ಗದ ಏ.ಕೆ.ಕಾಲೋನಿ ಹತ್ತಿರ ಸ. ನಂ: 114ರ ಸರ್ಕಾರಿ ಹುಲ್ಲು ಬನ್ನಿ ಜಮೀನಿನಲ್ಲಿ ಶೇಖರಿಸಿದ ಮರಳನ್ನು ಪರವಾನಗಿ ಇಲ್ಲದೆ ಸದರಿ ಲಾರಿಯಲ್ಲಿ ತುಂಬುತ್ತಿದ್ದಾಗ ವಾಹನ ವನ್ನು ಜಪ್ತಿ ಮಾಡಿ ಹೊಸದುರ್ಗ ಪೊಲೀಸ್ ಠಾಣೆಯ ವಶಕ್ಕೆ ನೀಡಲಾಗಿದೆ. ಸ್ವೀಕೃತಿ ಪತ್ರವನ್ನು ನನಗೆ ಕೊಟ್ಟಿದ್ದು ವಾಹನದ ಮಾಲೀಕ ಇವರು ದೇವಸ್ಥಾನದ ಉದ್ದೇಶಕ್ಕಾಗಿ ಮರಳು ಸಾಗಾಣಿಕೆ ಮಾಡುತ್ತಿದ್ದರು ಇನ್ನು ಮುಂದೆ ಅಕ್ರಮವಾಗಿ ಮರಳು ಸಾಗಾಣಿಕೆ ಮಾಡುವುದಿಲ್ಲ ಅಂತ ಲಾರಿ ಬಿಡುಗಡೆ ಮಾಡಲು ಕೋರಿದ್ದರಿಂದ 35000/- ದಂಡ ವಿಧಿಸಿ ವಾಹನ ಬಿಡುಗಡೆ ಮಾಡಲಾಗಿದೆ. ನಾನು ಯಾವುದೇ ಅಕ್ರಮ ನಡೆಸಿಲ್ಲ, ಅಂತಾ ಹೇಳುತ್ತಾರೆ.

4. ಈ ಆಕ್ಷೇಪಣೆಗಳ ಮೇಲೆ ದೂರುದಾರರ ಪ್ರತ್ಯುತ್ತರ ಕೇಳಲಾಗಿ ಬೆಂಗಳೂರಿನ ದೇವಸ್ಥಾನಕ್ಕೆ ಹೊಸದುರ್ಗದ ಮರಳು ಬೇಕಾಗುತ್ತೆ ಎನ್ನುವುದು ಬುದ್ಧಿವಂತಿಕೆಯ ವಿಷಯ ಜಪ್ತಿ ಮಾಡಿರುವ ವಾಹನವನ್ನು ಠಾಣೆಯ ಮುಂದೆ ನಿಲ್ಲಿಸಿಕೊಂಡಿದ್ದು ತಹಶೀಲ್ದಾರ್ ರವರು ದಂಡ ವಿಧಿಸಿದರೂ ಸಹ ಮಾಲನ್ನು ಲೋಕೋಪಯೋಗಿಗೆ ಅನ್ ಲೋಡ್ ಮಾಡಬೇಕಾಗುತ್ತದೆ. ಆದರೆ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಮಾಲು ಸಮೇತ ಬಿಡುಗಡೆ ಮಾಡಿದ್ದಾರೆ. ಲೋಕೋಪಯೋಗಿ ರವರು ನಮ್ಮ ಇಲಾಖೆಯಲ್ಲಿ ಅನ್ ಲೋಡ್ ಮಾಡಿಲ್ಲ ಅಂತ ಮಾಹಿತಿ ಕೊಟ್ಟಿದ್ದಾರೆ ಎಂದು ತಿಳಿಸುತ್ತಾರೆ.

5. ಈ ಪ್ರಕರಣದ ಸಂಪೂರ್ಣ ಕಡತವನ್ನು ಪರಿಶೀಲಿಸಿದ್ದೇನೆ. ಕರ್ನಾಟಕ ಮೈನ್ಸ್ ಅಂಡ್ ಮಿನರಲ್ಸ್ (development and regulations) ಕಾನೂನಿನ ಅಡಿಯಲ್ಲಿ ಮರಳು ಸರ್ಕಾರದ ಆಸ್ತಿ ಅಂತ ಹೇಳಲಾಗಿದೆ.

Definitions.—In this Act, unless the context otherwise requires,—

(e) “minor minerals” means building stones, gravel, ordinary clay, ordinary sand other than sand used for prescribed purposes, and any other mineral which the Central Government may, by notification in the Official Gazette, declare to be a minor mineral;

6. ಸರ್ಕಾರಕ್ಕೆ ಸಂಬಂಧಿಸಿದ ರಾಮಜ್ಜನ ಹಳ್ಳಿಯ ರಿ. ಸ. ನಂ: 114ರಲ್ಲಿ ಹುಲ್ಲುಬನ್ನಿ ಜಮೀನಿನಲ್ಲಿ ಶೇಖರಿಸಿರುವ ಮರಳನ್ನು ಲಾರಿಯಲ್ಲಿ ತುಂಬುತ್ತಿರುವಾಗ ಆರ್.ಐ ಒಬ್ಬರು ಇದರ ಬಗ್ಗೆ ತಹಶೀಲ್ದಾರ್ ರವರಿಗೆ



ತಿಳಿಸಿದ್ದಾರೆ. ಲಾರಿಯ ಮಾಲೀಕರು ದೇವಸ್ಥಾನದ ಉದ್ದೇಶಕ್ಕೆ ಮರಳು ಸಾಗಾಣಿಕೆ ಮಾಡಲಾಗಿದೆ ಎಂದು ಹೇಳಿದ ತಕ್ಷಣ ಲಾರಿಯನ್ನು ಬಿಡುಗಡೆ ಮಾಡಲಾಗಿದೆ ಈ ಬಗ್ಗೆ ಪ್ರಕರಣವನ್ನು ದಾಖಲಿಸಿಕೊಳ್ಳದೆ ಮತ್ತು ಯಾವ ಪ್ರಕರಣದಲ್ಲಿ ದಂಡವನ್ನು ತೆಗೆದುಕೊಳ್ಳಲಾಗಿದೆ ಎನ್ನುವುದನ್ನು ಹೇಳದೆ 35000/-ರೂಗಳ ದಂಡ ವಿಧಿಸಲಾಗಿದೆ. ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ವಾಹನವನ್ನು ಬಿಡುಗಡೆ ಮಾಡಲು ಮಾತ್ರ ಸಿ.ಪಿ.ಐ ರವರಿಗೆ ನಿರ್ದೇಶಿಸಿದ್ದಾರೆ. ಹಾಗಿದ್ದರೆ ಮರಳು ಎಲ್ಲಿಗೆ ಹೋಯಿತು ಎನ್ನುವುದು ತಿಳಿಯುತ್ತಿಲ್ಲ ಮರಳು ಮೈನರ್ ಮಿನರಲ್ ಆಗಿರುವುದರಿಂದ ಲೋಕೋಪಯೋಗಿ ಇಲಾಖೆಗೆ ಕಳುಹಿಸುವುದು ಸರಿಯಾದ ಕ್ರಮವಾಗಿದೆ. ಲೋಕೋಪಯೋಗಿ ಇಲಾಖೆಯವರು ಅಕ್ರಮ ಮರಳು ತಮ್ಮ ಇಲಾಖೆಯಲ್ಲಿ ಅನ್ ಲೋಡ್ ಆಗಿಲ್ಲ ಅಂತ ಮಾಹಿತಿ ಕೊಟ್ಟಿರುವುದರಿಂದ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಕರ್ತವ್ಯಲೋಪವೆಸಗಿದ್ದಾರೆ ಎನ್ನಲು ಸಾಕಷ್ಟು ಆಧಾರಗಳು ಇವೆ.

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

8. ಕಡತದಲ್ಲಿಯ ಸಂಗತಿಗಳು ಹಾಗೂ ದಾಖಲಾತಿಗಳಿಂದ, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಸರ್ಕಾರಿ/ಸಾರ್ವಜನಿಕ ನೌಕರರಾಗಿ ಪರಿಪೂರ್ಣ ಪ್ರಾಮಾಣಿಕತೆ, ಸಂಪೂರ್ಣ ಕರ್ತವ್ಯ ನಿಷ್ಠೆ ಮತ್ತು ಸರ್ಕಾರಿ ನೌಕರರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡ ದುರ್ವರ್ತನೆ/ದುರ್ನಡತೆ ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡುಬರುತ್ತದೆ.

9. ಅದಲ್ಲದೆ, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಸರ್ಕಾರಿ ನೌಕರರಾಗಿದ್ದು, ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವೆ (ನಡತೆ) ನಿಯಮ 1966 ರ ನಿಯಮ 3(1)ರನ್ವಯ ದುರ್ನಡತೆ/ದುರ್ವರ್ತನೆ ಕಂಡು ಬಂದಿದ್ದರಿಂದ, ಸದರಿಯವರ ವಿರುದ್ಧ ಇಲಾಖಾ ಶಿಸ್ತು ಕ್ರಮ ಕೈಗೊಳ್ಳಲು ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯಿದೆ ಕಲಂ 12(3)ರ ಅಡಿ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರದಡಿ, ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಶಿಫಾರಸ್ಸು ಮಾಡಲಾಗಿ ಹಾಗೂ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರ ವಿರುದ್ಧ ಇಲಾಖಾ ವಿಚಾರಣೆ ಮಾಡಲು, ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವಾ (ವರ್ಗೀಕರಣ, ನಿರ್ಬಂಧ ಮತ್ತು ಮೇಲ್ಮನವಿ) ನಿಯಮಗಳು, 1957 ರ ನಿಯಮ 14-ಎ ರ ಅಡಿ ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಶಿಫಾರಸ್ಸು ಮಾಡಲಾಗಿ, ಶಿಸ್ತು ನಡವಳಿಕೆಯನ್ನು ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರುಗಳ ವಿರುದ್ಧ ಇಲಾಖಾ ವಿಚಾರಣೆಯನ್ನು ನಡೆಸಲು ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರಿಯಾದ ಸರ್ಕಾರ ಉಲ್ಲೇಖ (1)ರ ಆದೇಶದಲ್ಲಿ ಗೌರವಾನ್ವಿತ ಉಪಲೋಕಾಯುಕ್ತರವರಿಗೆ ವಹಿಸಿದ್ದು, ಗೌರವಾನ್ವಿತ ಉಪಲೋಕಾಯುಕ್ತರವರು ಅಪರ ನಿಬಂಧಕರು ವಿಚಾರಣೆಗಳು 10 ಇವರನ್ನು

(Handwritten signature)

ವಿಚಾರಣೆ ನಡೆಸಲು ನೇಮಕ ಮಾಡಿದ್ದಾರೆ. ಆದ್ದರಿಂದ ನಿಮ್ಮ ವಿರುದ್ಧ ಈ ಆಪಾದನೆ

5. The aforesaid Article of charges was served upon the DGO. DGO appeared before this enquiry authority and his first oral statement under Rule 11(9) of KCS (CCA) Rules, 1957 was recorded. The DGO pleaded not guilty and claimed for holding an enquiry.

6. DGO had filed written statement dt. 20/06/2018. In his written statement of defense had contended that, he worked as a Tahsildar at Hosadurga taluk from March-2016 to 2017. On 29/8/2016 Sri. Basavaraju, Revenue Inspector, Madadakere had seized lorry bearing No. KA41-A-8400 from Ramajjanahalli village, Government Hullubanni karabu and handed over the vehicle to the custody of Hosdurga Police Sub Inspector and reported the same to me on 31/8/2016 for taking further action. He has imposed penalty of Rs. 35,000/- u/s 73 of KLR Act, 1964. The said penalty amount was remitted to Government. The owner of the lorry had given representation on 6/9/2019 that he was transporting the sand for the purpose of construction of a temple and therefore requested for release of the vehicle. That he had not demanded any money from the owner of the vehicle for releasing the vehicle. The Tahsildar had power to impose the penalty u/s 73 of KLR Act. Hence requested to exonerate him from the charge.

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7. In order to prove the charge leveled against the DGO, the disciplinary authority has examined the complainant Sri. T. Chandrappa as PW-1 and got marked the documents as Ex.P-1 to Ex.P-10 on behalf of Disciplinary Authority. After the closure of evidence of Disciplinary Authority, Second Oral Statements of DGO was recorded as required U/R 11(16) of KCS (CCA) Rules, 1957 on 13/06/2018. DGO - Sri. Mallikarjuna is examined as DW-1 and got marked the documents as Ex.D.1 to Ex.D.6. On behalf of defense, Sri. A.B. Vijaykumar, Assistant Commissioner is examined as DW-2 and got marked the documents as Ex.D-7, Ex.D-7(a). Hence, recording the answers of DGO to questionnaires under rule 11(18) of KCS (CC & A) Rules was dispensed with. Heard argument of Presenting Officer. DGO had filed his written arguments.

8. Upon consideration of oral, documentary evidence, and the defense of DGO, the points that arise for my consideration are as follows;

1 : Whether it stands established that DGO as Tahsildar had released the vehicle with sand to the owner by imposing fine, instead of handing over the sand to the custody of PWD Department and therefore the action taken by the DGO was not in accordance with law and procedure and thereby he is guilty of misconduct within the purview of Rule-3(i) of KCSR, 1966?

2 : What order?

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9. My findings to the aforesaid points are as under :-

POINT No. 1 : In the Negative against DGO.

POINT No. 2 : As per final order for the following.

REASONS

10. **POINT NO. 1** : It is the case of the Disciplinary Authority that, the DGO while working as a Tahsildar, at Hosadurga Taluk, Chitradurga district, the Revenue Inspector by name Sri. Basavaraju had seized the lorry bearing No. KA41 A8400 loaded with sand which was unauthorisedly transporting sand from Hullubanni Karabu, Madadkere hobli, Bantanagavi village; thereafter, the said vehicle loaded with sand was handed over to the custody of Hosadurga Police station and same was reported to DGO. The DGO had released the vehicle with sand to the owner by imposing fine, instead of handing over the sand to the custody of PWD Department and therefore the action taken by the DGO was not in accordance with the law and procedure.

11. To prove the charge leveled against DGO- Sri. Mallikarjun, Tahasildar, the Disciplinary Authority examined the complainant Sri. T. Chandrappa as PW-1 and got marked documents as Ex.P1 to Ex.P10. Complaint dt. 03/10/2016 as Ex.P1. Form no. 1 and 2 as Ex.P.2 and got Ex.P.3 respectively. Copy of Weekly Paper Goravina Kallu as Ex.P.4, Copy of Bank challan as Ex.P5, 3 xerox photos of

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Lorry as Ex.P6, copy of requisition dt. 25/11/2016, given by owner of Lorry to DGO as Ex.P7. Rejoinder as Ex.P.8, copy of endorsement dt. 28/12/2016 as Ex.P9, copy of letter addressed to Tahsildar dt. 19/9/2016, along with application under RTI Act as Ex.P.10.

12. PW-1 – the complainant deposed that, on 29/8/2016 Revenue Inspector by name Sri. Basavaraj had seized one lorry bearing No. KA41-A-8400 loaded with sand from Hullubanni Karabu, Madadkere hobli, Bantanagavi village and gave possession of the same to Hosadurga Police. The DGO had imposed penalty of Rs. 35,000/- and deposited through challan of State Bank of Mysore. The DGO had released the sand to the owner, instead of handing over the same to the PWD Department. Therefore, he filed the complaint before this authority. After filing this complaint before this authority, he realized that the procedure followed by the DGO is correct.

13. The DGO is examined as DW-1 and he deposed that, Basavaraj, Revenue Inspector had seized the lorry bearing no. KA 41 A-8400 with sand on 29/8/2016 and reported to him for taking further action. The owner of the lorry had given representation that he was transporting the sand for the purpose of construction of temple. Upon considering the same, he imposed fine of Rs. 35,000/-, collected and remitted to the Government as provided under Section 73 of Karnataka Land Revenue Act, 1964. The decision of the Tahsildar is final and therefore the procedure adopted by

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him is correct and requested to exonerate from the charge. He got marked Ex.D.1 to Ex.D-6. Comments of DGO dt. 25/11/2016 is marked as Ex.D.1, Written statement of DGO dt. 20/06/2018 is marked as Ex.D.2. Self attested copy of requisition of Revenue Inspector addressed to PSI is marked as Ex.D.3. Self attested copy of request letter given by owner addressed to PSI is marked as Ex.D.4. Self attested copy of extract of fine payment register is marked as Ex.D.5 and self attested copy of treasury statement is marked as Ex.D.6.

14. The DGO has also examined A.B.Vijay Kumar, Assistant Commissioner, Chitradurga as DW-2. He deposed that, he worked as Assistant Commissioner from June -2009 at Chitradurga sub division. Upon verification of records, the Tahsildar had power to impose penalty u/s 73 of KLR Act. Therefore the action taken by DGO in imposing penalty of Rs. 35,000/- in respect of seized vehicle bearing no. KA 41 A-8400 is in accordance with law. Therefore he submitted a report dt. 28/9/2016 to the Deputy Commissioner. Hence the DGO has not committed any dereliction of duty and misconduct. He got marked the report dt. 28/9/2018 submitted to Deputy Commissioner, Chitradurga as Ex.D7 and his signature as Ex.D.7(a).

15. It is an admitted fact that on 29/8/2016, Sri. Basavaraju, Revenue Inspector had seized one lorry bearing no. KA 41 A-8400 loaded with sand from Hullubanni Karabu, Madadkere hobli, Bantanagavi village and handed

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over to the custody of jurisdictional Police station and reported to the DGO for taking further action. On the report of the same and considering the representation by the owner of Lorry at Ex.D.4, the DGO imposed fine of Rs. 35,000/-, collected and remitted to Government as per Ex.D.5 and Ex.D.6. Now, this authority has to ascertain, whether the action taken by the DGO i.e., imposing of fine and releasing of vehicle with load of sand is in accordance with law and the procedure. For better appreciation, I would like to extract Section 73 of Karnataka Land Revenue Act (in short "the KLR Act"), which reads thus;

"Sec - 73. Recovery of value of natural product unauthorisedly removed from certain lands: (1) Any person who shall unauthorisedly remove from any land which is set a part for a special purpose or from any land which is the property of Government, any natural product shall be liable to the State Government for the value thereof which shall be recoverable from him as an arrear of land revenue, in addition to any penalty to which he may be liable under this Act for such unauthorized removal; and not withstanding any criminal proceedings which may be instituted against him in respect of such unauthorized removal.

(2) The decision of the Tahsildar as to the value of any such natural product shall be final".

16. A bare reading of this Section makes clear that the illegal extraction of sand is prohibited under section 73 of

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KLR Act 1964 and illegal transportation of sand will attract Government Order No. CI.05 MMN 2005 dt. 06-08-2005 and No. DMG/DD(MA)/sand: P-3/2008-09/1822 dt. 05/09/2008; beside, makes clear that Section 73(1) and (2) of the KLR Act empowers to take action when a person unauthorizedly removes the property of the Government or any natural product. In which case, the Government shall recover from him the value of such property or any natural product. That apart, such person is also liable to pay penalty in addition to the recovery of the value of such property or any natural product unauthorizedly removed, notwithstanding any criminal proceedings which may be instituted against him in respect of such unauthorized removal.

Therefore, Section 73(2) of KLR Act provides that the decision of the Tahsildar, as to the value of any such natural product shall be final. The Tahsildar has got independent power to pass appropriate order with regard to the removal of government property or natural product unauthorizedly by such person. The statute itself indicated that the value of government property removed or natural product is a guideline and the decision of the Tahsildar, as to value of such property. Hence, procedure adopted by the DGO in releasing the vehicle by imposing fine/penalty of Rs. 35,000/- is correct as provided under section 73 of Karnataka Land Revenue Act.

17. It is not in dispute that the 'sand' is defined as a minor mineral u/s 3(e) of Mines and Mineral (Development and

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Regulation) Act, 1957. As per Section 4 and 21 of Mines and Mineral (Development and Regulation) Act, 1957, no person shall transport or store or cause to be transported or stored any mineral otherwise than in accordance with the provision of this Act and the Rules made there under. For better understanding Section 4 and 21 of the MMDR Act are relevant in this regard.

“4. Prospecting or mining operations to be under license or lease.- (1) No person shall undertake any reconnaissance, prospecting or mining operations in any area, except under and in accordance with the terms and conditions of a reconnaissance permit or of a prospecting license or, as the case may be, of a mining lease, granted under this Act and the rules made thereunder.”

XXX

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Section 4(1A), as inserted by Act 38 of 1999, reads thus:

“No person shall transport or store or cause to be transported or stored any mineral otherwise than in accordance with the provisions of this Act and the rules made there under.

(emphasis supplied)

In case, where there is violation of Section 4(1) and 4(1A), Section 21(1)(A) and (5) of the MMDR Act provides as hereunder:

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“21. Penalties :- (1) Whoever contravenes the provisions of sub-Section (1) or sub-Section(1A) of Section 4 shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to twenty-five thousand rupees, or with both.

(2) XXX XXX XXX XXX

(3) XXX XXX XXX XXX

(4) Whenever any person raises, transports or causes to be raised or transported, without any lawful authority, any mineral from any land, and for that purpose, uses any tool, equipment, vehicle or any other thing, such mineral tool, equipment, vehicle or any other thing shall be liable to be seized by an officer or authority specially empowered in this behalf.

(4A) XXX XXX XXX XXX

(5) Whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or where such mineral has already been disposed of, the price thereof, and may also recover from such person, rent, royalty or tax, as the case may be, for the period during which the land was occupied by such person without any lawful authority.”

18. On combined reading of these provisions coupled with Rule 42 and 44 of KMCC Rules, which makes clear that, in

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unauthorisedly removed, notwithstanding any criminal proceedings which may be instituted against him in respect of such unauthorized removal. Section 73(2) of the KLR Act provides that the decision of the Tahsildar, as to the value of any such natural product shall be final.

Here in the instant case also the DGO exercising the power vested in him u/s 73(2) had imposed penalty of Rs. 35,000/- to the seized lorry. The ratio laid down in the said decision aptly apply to the case on hand.

19. Now I have to ascertain, whether the DGO had exercised the power vested in him u/s 73 of KLR Act, judiciously or not. In this regard, the DGO had deposed that, the vehicle in question is 16 wheels lorry having capacity of 16 Metric ton and had imposed fine of Rs. 35,000/-. He relies upon the Ex.D.5 and Ex.D.6, i.e. Payment Register and Treasury Statement.

20. A perusal of the same, reveal that, on 6/9/2016 the DGO had imposed fine of Rs. 35,000/- to the vehicle bearing no. KA41-A-8400, on 8/9/2016 Rs. 5,000/- to tractor bearing no. KA16TA-5637-38 and on 27/8/2016 Rs.10,000/- to lorry bearing no. KA-06-D-4335. Thus it established that the DGO had exercised the power vested on him u/s 73 of KLR Act, 1964 judiciously and acted in accordance with the procedure and law. Therefore, I do not find any irregularity or maladministration on the part of the

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case, where there is violation of Section 4(1) and 4(1A) of Mines and Mineral (Development and Regulation) Act, 1957, Section 21(4) provides for seizures of vehicle, Rule 42 and 44 of the KMMC Rules are applicable only where a criminal case/action is initiated before the jurisdictional Magistrate for such illegal transportation and same will not take away the power conferred on the authorities. Therefore, when such power is available to the authorities, it is for the Tahsildar either to recover the value of the property or seize the vehicle in exercise of power vested in him under rule 21(4) and (5) of Mines and Mineral (Development and Regulation) Act, 1957, till the same is recovered, in as much as the power conferred under section 21(5) of Mines and Mineral (Development and Regulation) Act, 1957. On this aspect I would like to refer a decision of Hon'ble High Court of Karnataka reported in ILR 2009 KAR 1671 P.D. DINAKARAN CJ AND A.S. BOPANNA J, Nagaraju and Others vs The Tahsildar reads thus;

(A) KARNATAKA LAND REVENUE ACT, 1964 – SECTION 73(1) AND (2) – Recovery of value of natural product unauthorisedly removed from certain lands- HELD, Section 73(1) and (2) of the KLR Act empowers to take action when a person unauthorisedly removes the property of the Government or any natural product. In which case, the Government shall recover from him the value of such property or any natural product. That apart, such person is also liable to pay penalty in addition to the recovery of the value of such property or any natural product

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DGO in imposing fine and releasing of vehicle with sand to the owner. Therefore, I answer Point No.1 in the Negative.

POINT NO.2 : In view of findings on Point No.1, I proceed with the following;

: REPORT :

The charge against DGO-Sri. Mallikarjuna, Tahsildar, Taluk Office, Hosadurga Taluk, Hosadurga, Chitradurga District that, he had released the vehicle with sand to the owner by imposing fine, instead of handing over the sand to the custody of PWD Department and therefore the action taken by the DGO is not in accordance with the law and procedure and thereby he was guilty of misconduct within the purview of Rule 3(i) of KCSR, 1966 is **not proved**.

Submit this report to the Hon'ble Upalokayukta-2 in a sealed cover forthwith along with connected records.

Dated this the 10th September, 2020

(B. Pushpanjali)
Additional Registrar (Enquiries-10)
Karnataka Lokayukta,
Bengaluru.

ANNEXURES**I. LIST OF WITNESS/S EXAMINED ON BEHALF OF DISCIPLINARY AUTHORITY :-**

PW-1 : Sri.T. Chandrappa (Complainant)

II. LIST OF DOCUMENTS MARKED ON BEHALF OF DISCIPLINARY AUTHORITY :-

Ex.P.1 :	Complaint dt:03/10/2016
Ex.P.2 :	Form No. I
Ex.P.3 :	Form No. II
Ex.P.4 :	Copy of weekly paper Goravina Kallu
Ex.P.5 :	Copy of Bank challan.
Ex.P.6 :	3 xerox photos of Lorry
Ex.P.7 :	Copy of requisition dt. 25/11/2016, given by owner of Lorry to DGO.
Ex.P.8 :	Rejoinder.
Ex.P.9 :	Copy of endorsement dt. 28/12/2016.
Ex.P.10 :	Copy of letter addressed to Tahsildar dt. 19/9/2016, along with application under RTI Act.

III. LIST OF WITNESS/S EXAMINED ON BEHALF OF DGO :

DW-1 : Sri. Mallikarjun (DGO)

DW-2 : Sri. A.B. Vijaykumar (Additional Witness)

IV. LIST OF DOCUMENTS MARKED ON BEHALF OF DGOs :

Ex.D.1 :	Comments of DGO dt. 25/11/2016
Ex.D.2 :	Written statement of DGO dt. 20/06/2018
Ex.D.3 :	Self-attested copy of requisition of Revenue Inspector addressed to PSI
Ex.D.4 :	Self-attested copy of request letter given by

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	DGO addressed to PSI
Ex.D.5 :	Self-attested copy of extract of fine payment register is marked as Ex.D.5 and
Ex.D.6 :	Self-attested copy of treasury statement
Ex.D.7 :	Report dt. 28/9/2018 of DW-2 addressed to Deputy Commissioner, Chitradurga.

Dated this the 10th September, 2020

(B. Pushpanjali)
Additional Registrar (Enquiries-10)
Karnataka Lokayukta,
Bengaluru



KARNATAKA LOKAYUKTA

No.UPLOK-2/DE.90/2018/ARE-10

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001.
Dated 11.09.2020.

RECOMMENDATION

Sub:- Departmental inquiry against Shri Mallikarjuna, Tahsildar, Taluk Office, Hosadurga Taluk, Chitradurga District - reg.

Ref:- 1) Government Order No. RD 138 ADE 2017 dated 17.01.2018.

2) Nomination order No. Uplok-2/DE.90/2018 dated 22.02.2018 of Upalokayukta, State of Karnataka.

3) Inquiry report dated 10.09.2020 of Additional Registrar of Enquiries-10, Karnataka Lokayukta, Bengaluru.

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The Government by its order dated 17.01.2018 initiated the disciplinary proceedings against Shri Mallikarjuna, Tahsildar, Taluk Office, Hosadurga Taluk, Chitradurga District, [hereinafter referred to as Delinquent Government Official, for short as 'DGO'] and entrusted the departmental inquiry to this Institution.

2. This Institution by Nomination Order No. Uplok-2/DE.90/2018 dated 22.02.2018 nominated Additional Registrar of Enquiries-10, 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 Mallikarjuna, Tahsildar, Taluk Office, Hosadurga Taluk, Chitradurga District, was tried for the following charges :-

“ಶ್ರೀ ಮಲ್ಲಿಕಾರ್ಜುನ, ತಹಶೀಲ್ದಾರ್, ತಾಲ್ಲೂಕ್ ಕಚೇರಿ, ಹೊಸದುರ್ಗ ತಾಲ್ಲೂಕ್, ಹೊಸದುರ್ಗ, ಚಿತ್ರದುರ್ಗ ಜಿಲ್ಲೆ ಆದ ನೀವು

ದಿನಾಂಕ: 29.08.2016 ರಂದು ರಾಮಜ್ಜನ ಹಳ್ಳಿಯ ರಿ.ಸ. ನಂ: 114ರಲ್ಲಿ ಹುಲ್ಲುಬನ್ನಿ ಜಮೀನಿನಲ್ಲಿ ಶೇಖರಿಸಿರುವ ಮರಳನ್ನು ಲಾರಿ ಸಂ: ಕೆಎ 41ಎ 8400ಯಲ್ಲಿ ತುಂಬಿಸುವಾಗ ಮರಳು ಸಮೇತ ಲಾರಿಯನ್ನು ಜಪ್ತು ಮಾಡಿಕೊಂಡು ಲಾರಿ ಮಾತ್ರ ದಂಡದ ಹಣವನ್ನು ವಿಧಿಸಿ ಮರಳು ಸಮೇತ ಲಾರಿಯನ್ನು ಬಿಡುಗಡೆ ಮಾಡಿದ್ದೀರಿ.

ಆದಕಾರಣ, ಅಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನೀವು ಸರ್ಕಾರಿ ಸೇವಕರಾಗಿದ್ದು, ನಿಮ್ಮ ಕರ್ತವ್ಯಪಾಲನೆಯಲ್ಲಿ ಪರಿಪೂರ್ಣ ಪ್ರಾಮಾಣಿಕತೆ, ಸಂಪೂರ್ಣ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ತೋರಿಸದೆ ಸ್ವಂತ ಲಾಭಕ್ಕಾಗಿ ಸಾರ್ವಜನಿಕ ಸೇವಕರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡಿದ್ದು, ಅಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನೀವು ಕರ್ನಾಟಕ ಸರ್ಕಾರಿ ಸೇವಾ (ನಡತೆ) ನಿಯಮಾವಳಿ 1966ರ ನಿಯಮ 3(1)(ii) & (iii)ನೇ ನಿಬಂಧನೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿ ದುರ್ನಡತೆ ಎಸಗಿದ್ದೀರಿ. ”

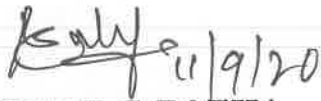
4. The Inquiry Officer (Additional Registrar of Enquiries- 10) on proper appreciation of oral and

documentary evidence has held that, the above charge against the DGO - Shri Mallikarjuna, Tahsildar, Taluk Office, Hosadurga Taluk, Chitradurga District, is 'not proved'.

5. 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 and exonerate the DGO Shri Mallikarjuna of the charges levelled against him.

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

Connected records are enclosed herewith.

  
(JUSTICE B.S.PATIL)  
Upalokayukta,  
State of Karnataka.

BS\*

