



KARNATAKA LOKAYUKTA

NO:UPLOK-2/DE-9/2017/ARE-15

Multi-Storied Building,
Dr.B.R.Ambedkar Veedhi,
Bengaluru-560 001
Date:19.8.2019.

RECOMMENDATION

Sub:-Departmental inquiry against: (1) Sri K.M.Sathyanarayana, the then Chief Officer, (2) Smt.Anitha, Second Division Assistant and (3) Smt.H.V.Deepika, Second Division Assistant, Purasabhe, Arasikere, Hassan District – Reg.

Ref:- 1) Government Order No. UDD 107 DMK 2016, Bengaluru dated.07.12.2016.

1) Nomination order No.UPLOK-2/DE-9/2017, dated 05.01.2017 of Upalokayukta, State of Karnataka, Bengaluru.

3) Inquiry Report dated 16.08.2019 of Additional Registrar of Enquiries-15, Karnataka Lokayukta, Bengaluru.

The Government by its Order dated 07.12.2016, initiated the disciplinary proceedings against Sri K.M.Sathyanarayana, the then Chief Officer, (2) Smt.Anitha, Second Division Assistant and (3) Smt.H.V.Deepika, Second Division Assistant,

Purasabhe, Arasikere, Hassan District (hereinafter referred to as Delinquent Government 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-2/DE-9/2017 dated 05.01.2017, nominated Additional Registrar of Enquiries-4, 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, by order No.UPLOK-1&2/DE/Transfers/2018 dated 02.11.2018, Additional Registrar of Enquiries-15, Karnataka Lokayukta, Bengaluru, was re-nominated to continue the said departmental inquiry against DGOs.

3. The DGO 1 Sri K.M.Sathyanarayana, the then Chief Officer, DGO 2 Smt.Anitha, Second Division Assistant and DGO 3 Smt.H.V.Deepika, Second

Division Assistant, Purasabhe, Arasikere, Hassan District, were tried for the following charge:-

“ That you the DGO 1 Sri K.M.Sathyanarayana, the then Chief Officer, DGO 2 Smt.Anitha, Second Division Assistant and DGO 3 Smt.H.V.Deepika, Second Division Assistant, while working in TMC, Arasikere, Hassan District, during the year 2014, have not taken action on the application of the complainant for renewal of licence to construct building in property bearing Assessment No.453/429 of Arasikere Town and failed to take legal opinion and illegally allowed Smt.Padmamma to put up construction of first floor on existing building in another portion of the same property bearing Assessment No.453/429 and allowed Anna Libraries to construct shops. Thereby you the DGOs being Government Servants failed to maintain absolute integrity, besides devotion to duty and the act of you DGOs are unbecoming of Government Servants and thereby committed misconduct as enumerated under Rule 3(1)(i) to (iii) of Karnataka Civil Service (Conduct)Rules, 1966”.


4. The Inquiry Officer (Additional Registrar of Enquiries-15) on proper appreciation of oral and documentary evidence has held that the Disciplinary Authority has ‘ not proved ’ the above charge against DGO 1 Sri K.M.Sathyanarayana, the then Chief Officer, DGO 2 Smt.Anitha, Second Division Assistant

and DGO 3 Smt.H.V.Deepika, Second Division Assistant, Purasabhe, Arasikere, Hassan District.

5. On re-consideration of inquiry report, I do not find any reason to interfere with the findings recorded by the Inquiry Officer. It is hereby recommended to the Government to accept the report of Inquiry Officer and exonerate the DGO 1 Sri K.M.Sathyanarayana, the then Chief Officer, DGO 2 Smt.Anitha, Second Division Assistant and DGO 3 Smt.H.V.Deepika, Second Division Assistant, Purasabhe, Arasikere, Hassan District, of the charges levelled against them.

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

Connected records are enclosed herewith.


(JUSTICE N. ANANDA)
Upalokayukta,
State of Karnataka, Bengaluru.

**BEFORE THE ADDITIONAL REGISTRAR OF ENQUIRIES-15
KARNATAKA LOKAYUKTA, BENGALURU.**

ENQUIRY NO:UPLOK-2/DE-9/2017/ARE-15

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

REPORT DATE : 16-08-2019

DELINQUENT GOVERNMENT OFFICIALS : DGO-1 SRI. K.M.SATHYANARAYANA
(name mentioned by him in the FOS)
: The then Chief Officer, (Basic Post: Office Manager), Presently working as Chief Officer, Town Municipal Council, Koppa, Chikkamagaluru District.

Discharge his duties as the then Chief Officer, Town Municipal Council, Arsikere, Hassan District.

DGO-1 due for retirement on superannuation on 31-07-2021

DGO-2 SMT. B.S.ANITHA,
(name mentioned by her in the FOS)
The then Second Division Assistant, Town Municipal Council, Arasikere Hassan District.

Discharge her duties as the then Second Division Assistant, Town Municipal Council, Arsikere, Hassan District.

DGO-2 due for retirement on superannuation on 31-05-2042

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16-8-19.

DGO-3 SMT. H.P.DEEPIKA,
(name mentioned by her in the FOS)
The then Second Division Assistant,
Town Municipal Council, Arasikere,
Hassan District.

Discharge her duties as the then Second
Division Assistant, Town Municipal Council,
Arsikere, Hassan District.

DGO-3 due for retirement on
superannuation on 30-04-2048

-: R E P O R T :-

Complainant by name Smt. Jamuna Chandra D/o A.R. Gajendra, residence of Arasikere Taluk, Hassan District files complaint dated 03-04-2014 against the Chief Officer and other staff of Arasikere Town Municipal Council before this Institution which is as follows :-

(i) Complainant states that her father A.R.Gajendra was granted 15' X 20' site with assessment No. 453/429 by the then Arasikere Town Municipal Council in the year 1977 as he was a poor Artist and although the TMC., had given him the license to construct house in the said site which was in force from 19-04-2011 to 18-04-2012 yet they could not construct the house within that time as her younger brother Nagendra had fallen sick and all the money they had have to be spent for him.

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16-8-19.

(ii) Complainant alleges when they gave application for renewal of license, the Chief Officer Sathyanarayana, Clerk Anitha and Tappal Section Deepika being bribed by the complainant's neighbor Padmamma and Modaliyara Sangha out rightly rejected the application for renewal and also threatened to revoke the grant at any time.

(iii) Further states though they had given application for renewal of license on 03-01-2014 tappal section Deepika had not forwarded it and although clerk Anitha had received the said application she had kept it with herself and did not inform the complainant anything about it.

(iv) Complainant states when herself personally visited the TMC., on 11-02-2014 the staff people gave endorsement stating as her neighbor Padmamma had raised objection they could not grant license to her.

(v) Complainant states she submitted all the documents pertaining to their property to TMC., on 14-02-2014.

(vi) Complainant states 10 days there afterward when she again visited the office Chief Officer Sathyanarayana and Clerk Anitha refused to grant license on the ground that required documents were not submitted by her; the way in which the site was granted by the earlier Chief Officer was not proper and therefore it could be revoked at any time.

16-0-19.

(vii) Complainant states even though members of the TMC., pleaded the DGOs., on behalf of the complainant, DGOs., were not ready to buy their arguments.

(viii) Complainant states although they had written a letter on 24-02-2014 to TMC., seeking to refer the matter for legal opinion, it went futile.

(ix) Complainant states even the request of 'Sakaala' Officer Smt. Vani to the TMC., went unheeded.

(x) Complainant alleges even though Smt. Padmamma had given some objections on 23-01-2014 to the TMC., still it was endorsed to have been received on 22-01-2014.

2. Therefore seeks for investigation.

3. DGO-1 the Chief Officer, K.M.Sathyannarayana has filed his comments and states when A.R.Gajendra applied for renewal of katha on 03-01-2014 simultaneously his neighbour Padmamma also filed objections to it on 07-01-2014 on the ground that the site on which building is sought to be constructed by Gajendra is actually a passage belonging to TMC.

4. States on verification of records he found that in the year 2001-02 the then Assessing Officer without any basis had mutated the passage measuring 4.60 X 6.10 meter belonging to the municipality along with vacant site measuring 3.05 X 7.60 meters owned by Gajendra in the Assessment Registrar. States the said entry was made without any grant/sanction from the Government

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16-8-19.

much less without any document against the spirit of Sec.72(2) of Karnataka Municipal Corporation Act, 1964.

5. States with regard to the issue of katha both complainant and her neighbor Padmamma have even approached the Deputy Commissioner of Hassan.

6. States to this effect he has written letters dated 28-03-2014 and 12-05-2014 to the Project Director of City Development Board of Hassan seeking his directions and suitable action will be taken on getting directions.

7. DGO-2 Smt Anitha, Second Division Assistant files her comments and reiterates the contention of DGO-1.

8. Further states, although complainant produced documents for verification on her neighbor Padmamma raising objection, still she did not produce grant copy to show that the site was granted to them in the year 1977.

9. Further states after the then Assessing Officer mutated the passage measuring 4.60' X 6.10' meters belonging to the Municipality along with the site measuring 3.05' X 7.60 meters that belonged to Gajendra in the Assessment Register without any basis, while Gajendra has sold site measuring 3.05' X 7.60' meters to Padmamma on 20-07-2012, he had gifted the passage measuring 4.60' X 6.10' meters in favour of his daughter/complainant Jamunachandra.

10. Further states as the Revenue Inspector after making spot inspection furnished the report stating that the site for which

16-8-19.

renewal of license is sought by the complainant is a Baggar Hukum Passage belonging to municipality, as ordered by the Chief Officer/DGO-1 she gave endorsement to the complainant and also sent report to the Deputy Commissioner of Hassan to that effect.

11. DGO-3 Smt. H.V.Deepika, Second Division Assistant files her comments and states, on the complainant filing application for renewal of license and her neighbor Padmamma filing objections, when the matter was referred to the Junior Engineer of the office for Technical Report, a report was furnished by the Junior Engineer to the effect that new license may be obtained instead of renewal of old license and the said report was accepted by the Chief Officer DGO-1.

12. Further states, on furnishing of report by the Revenue Inspector to the effect that the site on which renewal of license to construct building was sought by the complainant is a Bagger Hukum passage belonging to municipality an endorsement was sent to the applicant stating that license could not be renewed by post and the same returned unserved for "Insufficient Address"

13. In reply to the comments of DGOs-1 to 3, complainant's father Gajendra has filed his rejoinder and interalia states, as ordered by the then Councilor meeting held on 02-05-1977 he paid Government fees of Rs. 385/- vide receipt No.4558 dated 06-05-1977 and accordingly the then Deputy Commissioner of Hassan granted the site in question in favour of the complainant and wrote a letter dated 16-08-1978 to the then Chief Officer of Arasikere TMC., for follow-up action and the said Chief Officer in turn wrote another letter dated

16-8-19.

18-11-1978 calling upon the then Sub-Registrar of Arasikere to register the site in favour of the complainant.

14. Gajendra states, thereafter when he went to the TMC., Arasikere, the then Officials of the TMC., did not give him katha extract on the ground they did not receive any letter from the Deputy Commissioner of Hassan and drew him back shouting.

15. Further states, when the Deputy Commissioner of Hassan came to know about the grant order made in the then Councilor meeting he wrote a letter dated 14-10-1981 to the TMC., of Arasikere to make Spot Inspection and submit their report. However, the Chief Officer without properly verifying the papers only made assessment of the property as Assessment No. 250 measuring 15' X 20' feet which continued till 1994 and from 1995 onwards till 2011 the Assessment No., got changed from 250 to 429.

16. Further states although he narrated all these facts to DGO-1 along with proof he was not ready to buy his arguments.

~~**17.** Further states that although the objector Padmamma has constructed first floor and also has opened backdoor without obtaining license from the TMC., and although the Annavachanalaya people have illegally constructed commercial shops in the property of Municipality called "ಎಂಟು ರಾಟೆ ಬಾವಿ" still the DGOs including all Revenue Inspectors have not taken any action against them by colluding with them.~~

18. With regard to the comments of DGO-2 Smt. Anitha, complainant's father Gajendra states, that although he asked her to

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16-8-19.

refer the matter for legal opinion she did not and complainant states he heard DGO-2 Anitha telling to the officer of Sakaala viz., Smt. Vani over phone that because Smt. Padmamma accompanied by a councilor is torturing her daily not to change katha or renew license.

19. Further complainant's father questions as to why she is not verifying the documents submitted by him which is of the year 1977 to 1985 when she is readily accepting the objections of Padmamma ?

20. Further questions that when they have admitted of him paying Government fee of Rs. 335/- in the year 1977 which is not a small amount by them, why do not they verify the documents produced by him ?

21. With regard to the comments of DGO-3 Deepika she reiterates the complaint to the effect she was not forwarding all the document/applications given by the complainant to her higher-ups. As an instance, complainant brings to notice the fact that even though Padmamma had given her objections on 23-01-2014 yet it was signed by the DGO., on 22-01-2014 i.e., one day earlier than the date of receipt.

22. Based on the above said complaint, comments and rejoinder investigation was ordered to be done in to the matter by Lokayukta Police and accordingly the Police Inspector of Hassan Lokayukta Police has filed his Investigation Reprot dated 26-02-2015 and opines that the allegation made by the complainant Jamuna Chandar and his father Gajendra both in their complaint and rejoinder were found to be true from investigation except for renewal of license.

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16-8-19.

23. In reply to the Investigation Report furnished by the Investigation Officer, DGO-3 Smt. Deepika files her comments and states that she has no objection with regard to the opinion of the Investigation Officer who opines that license for construction of building could not be renewed by the DGOs., because Padmamma had raised her objections.

24. However, as regard to the opinion of the Investigation Officer that no action was taken by DGOs., for change of katha, sending documents for legal opinion, not taking action against Padmamma and Anna Vachanalaya who are said to have illegally constructed building etc., she states, as she being a second Division Assistant and was looking after Tappal Section, building License Section and being Assistant Public Information Officer, was not in any way concerned with the said issues.

25. With regard to the opinion of the Investigation Officer that although Padmamma had given her objection for renewal of license on 23-01-2014 still it was signed to have received on 22-01-2014 she states, as the said letter was sent to her by DGO-1 Chief Officer singing it she had entered it in the register of the office and therefore is not guilty of any mischief.

26. Based on the said complaint Hon'ble Upalokayukta vide its 12(3) report dated: 21-07-2016 made recommendation to the disciplinary authority to take action as well as to initiate Departmental Enquiry against the DGOs No-1 Sri. Sathyanarayana K.M. Chief Officer, (2) Smt. Anitha B.S., SDA., and (3) Smt. Deepika H.V. SDA., TMC., Arasikere Taluk, Hassan District. Accordingly the

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16-8-19.

disciplinary authority viz., Under Secretary to Government, Urban Development Department vide Government Order dated 07-12-2016 entrusted the matter to the Hon'ble Upa-Lokayukta to hold Departmental Enquiry against the DGOs who in turn vide Nomination Order dated 05-01-2017 nominates ARE-4 to hold Departmental Enquiry against the aforesaid officials.

27. Article of charges were framed against the DGOs by ARE-4. As the charge framed against the DGOs., was found to be deficient, it was altered and the altered charge is as follows :-

ANNEXURE-I

ALTERED CHARGE :

That you- DGO., No:1/Sri. K.M.Sathyanarayana, the then Chief Officer, (Basic post: Office Manager), Presently working as Chief Officer, Town Municipal Council, Koppa, **Chikkamagaralu District**, DGO-2/Smt. Anitha, Second Division Assistant and DGO No.3/Smt. H.P. Deepika, Second Division Assistant, Town Municipal Council (presently at City Municipal Council), Arasikere Taluk, Hassana District being Government servants while working in TMC., Arasikere, Hassan District, during the year 2014, have not taken action on the application of the complainant for renewal of license to construct building in property bearing Assessment No.453/429 of Arasikere Town and failed to take legal opinion and illegally allowed Smt. Padmamma to put up construction of first

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16-8-19.

floor on existing building in another portion of the same property bearing Assessment No.453/429 and allowed Anna Libraries to construct shops. Thereby, you -DGOs being a Government servants failed to maintain absolute integrity besides devotion to duty and the act of you -DGOs are unbecoming of a Government Servants and thereby committed misconduct as enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules, 1966.

ANNEXURE NO:II

[STATEMENT OF IMPUTATIONS OF MISCONDUCT]

2. On the complaint filed by 1) Sri. A.R.Gajendra and 2) Smt. G. Jamunachandra D/o A.R. Gajendra, Residence of 4th main road, Subramanya Nagara, Arasikere, **Hassan District** (herein after referred as complainant for short) against you -DGOs committed misconduct and investigation was taken up u/sec.9 of Karnataka Lokayukat Act, 1984.
3. The complainant has alleged in the complaint that, you-DGOs by giving one or the other reasons, have not taken action to renew the license issued from 19-04-2011 to 18-04-2012 to the complainant for constructing house in Assessment No. 453/429 measuring 15 X 20 feet of Arasikere and you-DGOs have rejected their application stating the documents are not proper etc., Hence, the complainant has requested for taken suitable action.
4. After taking up investigation you- DGOs submitted comments denying the allegations and stated that as one Smt. Padmamma had

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16.8.19.

filed objection, the renewal not granted and hence requested to close the complaint.

5. The complainant submitted rejoinder reiterating complaint averments and requested for taking action.

6. In view of the rival contentions the complaint was referred to Superintendent of Police, Karnataka Lokayuka, Hassan for investigation and report, who in turn referred the complaint to Police Inspector, Karnataka Lokayukta Hassan (hereinafter referred as Investigation Officer, I.O., in short) for investigation and report.

7. The Investigation Officer has submitted report observed that :

i) You-DGOs have not furnished complete information and not verified the earlier documents and have given acknowledgement one day earlier on 22/01/2014 to the application submitted by Smt. Padmamma on 23/01/2014 for cancellation of Katha No. 293/453 and thereby committed dereliction of duty and misconduct.

ii) You-DGO No. 1 has failed to obtain legal opinion in spite of request made by the applicant by his application dated: 24/02/2014 on the application filed by the applicant for renewal of license and the objection filed by Smt. Padmamma and thereby has committed dereliction of duty and misconduct.

iii) You-DGO Nos. 1 to 3 in collusion, have caused partially and failed to take action on the application filed by complainant for change Katha and thereby committed dereliction of duty.

iv) You-DGO Nos. 1 to 3 have illegally allowed Smt. Padmamma to put up construction of first floor on

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16-8-19.

the existing building and also allowed Anna Libraries for construction of shops and thereby committed dereliction of duty and misconduct.

Hence, the Investing Officer has requested to take action against DGO Nos. 1 to 3.

8. On the basis of the Investigation report, comments were called from you-DGOs have submitted comments denying the allegations and stated that there no records to show that proposal was sent to Deputy Commissioner, and Deputy Commissioner has approved the proposal and site has been sanctioned to the complainant and as such the other formalities of registering the site in the name of complainant has not taken place and hence there is no way for effecting katha in the name of complainants and hence requested to close the complaint as you-DGO have not committed any dereliction of duty.

9. A careful perusal of complaint, comments, rejoinder and the report submitted by the Investigating Officer, besides the material available on record prima-facie discloses that you-DGOs have committed dereliction of duty by not taking action on the application filed by the complainant for change of katha in respect of the property bearing Assessment No. 453/429 of Arasikere Town. Further, You-DGOs has committed dereliction of duty by not seeking legal opinion as requested, and further gave acknowledgement one day earlier i.e., on 22/01/2014 to the objection given by Smt. Padmamma on 23/01/2014 and thereby you-DGOs have committed misconduct and dereliction of duty and made themselves liable for disciplinary action.

16-8-19.

10. In the light of the documents collected during the course of investigation, the replies submitted by you-DGOs are not convincing and acceptable or satisfactory to drop the proceedings against them and thereby there are prima-facie materials showing that you-DGOs have committed misconduct.

11. The said facts supported by the material on record prima facie show that, you-DGOs being a Government Servants, have failed to maintain absolute integrity besides absolute devotion to duty and acted in a manner unbecoming of a Government Servants and thereby committed misconduct under rule 3(1) of KCS (Conduct) Rules 1966 and made yourself liable for disciplinary action, now acting U/sec. 12 (3) of Karnataka Lokayukta Act, recommendation is made to the Competent Authority to initiate disciplinary proceedings against you-DGOs and to entrust the inquiry to this Authority under Rule 14-A of the Karnataka Civil Services (Classification, Control And Appeals) Rules, 1957. In turn Competent Authority initiated disciplinary proceedings against you-DGOs and entrusted the Enquiry to this institution vide Reference No.1 and Hon'ble Upa-Lokayukta nominated this enquiry Authority, to conduct enquiry and report vide reference No.2. Hence, this charge.

28. The aforesaid "Article of charge" was served upon the DGOs and DGO 1 and 3 have appeared before this enquiry authority and their First Oral Statements under Rule 11(9) of KCS (CCA) Rules, 1957 was recorded. The DGOs 1 and 3 have pleaded not guilty and claimed to be enquired into about the charge.

A.
16-8-19

- 29.** DGO-1 to 3 have filed their Written Statements separately.
- 30.** DGO-1 Chief Officer, Sathyanarayana files his Written Statement and inter alia reiterates that as the complainant could not establish his ownership over the property in question license could not be renewed and change of katha also could not be effected and in meantime his tenure as Chief Officer from 20-08-2013 to 28-09-2014 ended and was transferred.
- 31.** Further states that the allegation that Padmamma has put up 1st floor without permission and also Anna Libraries have made illegal constructions in the property of the Municipality are not subject matter of complaint and therefore it cannot be enquired into. The complaint is barred U/sec.8(1) of Lokayukta Act.
- 32.** DGO-2 Smt. Anitha files her Written Statement and interia reiterates her comments and also the Written Statement of DGO-1.
- 33.** DGO-3 Smt. Deepika files her Written Statement and reiterates her comments.
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- 34.** In proof of the charge Presenting Officer has got examined the complainant Smt. A.G. Jamunachandra as PW-1 and has got marked Ex P-1 to 6. Has got examined the Investigation Officer Sri. C.B. Vedamurthy, Superintendent of Police, KLA, Hassan as PW-2 and has got marked Ex P-7 and has got examined the Police Inspector Sri. Santhinath J Honor as PW-3 and has got marked Ex P-8 to 12.
- 35.** All though DGOs have filed their comments and Written Statements, DGOs 1 & 2 remained absent subsequently and

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16-8-19

therefore there is no evidence from their side. Though DGO-3 did not lead any evidence to prove why they could not renew the license or effect change of katha still she has cross – examined PW-1 to 3 and has got marked exhibit D-1 in the course of cross- examination of PW-3.

36. Heard arguments of the Presenting Officer. He argues that in support of the charge all documents have been produced. Even the Investigation Officer who conducted investigation has furnished his positive report with regard to the allegations made in the complaint. Therefore charge has been proved.

37. As DGOs., 1 & 2 continuously kept absent and even though DGO-3 appeared and defended herself still did not come afterwards their arguments were taken as nill.

38. After going through the Complaint, Comments, Rejoinder, Investigation Report and Written Statement of the DGO-1 to DGO-3, the evidence and other materials borne on record, on hearing the arguments and in tune with Article of Charges at Annexure-1 the sole point which arises for my consideration is that whether DGO-1 to 3 failed to renew the license for construction of building and also to change katha as sought by the complainant and failed to take action against Smt. Padmamma for constructing first floor without permission and also action against the personnels of Annavachanalaya who are said to have illegally constructed building in the property of municipality known as “Yentu raate bhavi” and thereby are guilty of misconduct within the purview of rule 3(I)(i) to (iii) of the Karnataka Civil Service (Conduct) Rules, 1966 ?

16-8-19.

39. As far as the proof regarding the charge that DGOs failed to renew the license for construction of building and also to effect change of katha in the name of the complainant Smt. Jamunachandra is concerned, as all the DGOs., have unequivocally admitted in their comments as well as in their Written Statement that because the neighbour of the complainant viz., Smt. Padmamma filed objection either to renew license or to effect change of katha in the name of Jamunachandra so also the Revenue Inspector of the Municipality on Investigation furnished his report stating that the site measuring 4.6 X 6.10 meters on which building is sought to be constructed so also change of katha is sought to be effected by the complainant is a Baggar Hukkum galli passage belonging to the Municipality and the site measuring 3.05 X 7.60 meters that was alleged to be granted in favour of complainant's father Gajendra in the year-1977 by the then Municipality was already sold by Gajendra in favour of Padmamma they could not renew the license or effect change of katha as sought by the complainant, it can be said that the burden to prove the aforesaid ~~two charges shall be deemed to have been proved by the complainant~~ by dint of such admission and to rebut the same shifted to DGOs.

40. As regards other two charges that though the neighbor of the complainant Padmamma had constructed first floor without obtaining permission from the Municipality and also Annavachanalaya personnels have constructed illegal shops in the land called "ಎಂಟು ರಾಟೆ ಬಾವಿ" belonging to the Municipality the DGOs have not taken any action against them are concerned, though complainant/PW-1 has not produced any evidence still Presenting

16-8-19.

Officer has got examined the Investigation Officer Sri. Shanthinath Honor as PW-3. He states in his in-chief at page three that in the Report furnished by the Chief Officer of Arasikere Municipality viz., T.B. Kumar Nayak at the time of investigation vide Ex P-10 the Chief Officer himself admits about Padmamma renovating her building and putting windows to it without seeking permission. However as regards, the charge that DGOs did not take any action against Annavachanalaya personnel even though they had constructed shops in the property belonging to Municipality is concerned, neither complainant/PW-1 nor the Investigation Officer/PW-3 has produced any evidence to prove that Annavachanalaya personnels constructed illegal shops in the property belonging to Municipality. Even though Ex P-10 report said to have been given by Chief Officer Kumar Nayaka to the Investigation Officer sheds some light on this aspect yet, it does not reflect any illegality on the part of Annavachanalaya. The relevant portion of Ex P-10 is reproduced here under :-

“ಕಟ್ಟಡದ ಮೇಲೆ ಕಟ್ಟಡವನ್ನು ನಿರ್ಮಿಸುತ್ತಾರೆ. ಕಿಟಕಿ ಮತ್ತು ಬಾಗಿಲನ್ನು ಹೊಸದಾಗಿ ನಿರ್ಮಿಸುತ್ತಾರೆಂದು ಈ ಕಛೇರಿಯ ಕಂದಾಯ ನಿರೀಕ್ಷಕರು ವರದಿ ಸಲ್ಲಿಸುತ್ತಾರೆ. ಸದರಿ ಕಾಮಗಾರಿಗಳಿಗಾಗಿ ಈ ಕಛೇರಿಯಿಂದ ಪರವಾನಗಿ ನೀಡಿರುವುದಿಲ್ಲ.

ಅಣ್ಣವಾಚಾನಾಲಯದವರು 2 ಮಳಿಗೆಗಳನ್ನು ನಿರ್ಮಿಸುತ್ತಾರೆ. ಮಳಿಗೆ ನಿರ್ಮಿಸಲು ಈ ಕಛೇರಿಯಿಂದ ಅನುಮತಿ ಪಡೆದಿರುವುದಿಲ್ಲ. ಜಿಲ್ಲಾಧಿಕಾರಿಗಳು ಹಾಸನ ರವರಿಂದ ಮಂಜೂರಾತಿ ಪಡೆದು ಕ್ರಯ ಪತ್ರ ಸಂಖ್ಯೆ:4704/1964-65, ದಿನಾಂಕ:08-02-1965 ರ ಪ್ರಕಾರ 30 60 ವಿಸ್ತೀರ್ಣದ ನಿವೇಶನವನ್ನು ನೋಂದಣಿ ಮಾಡಿ ನೀಡಲಾಗಿದೆಯಾದ್ದರಿಂದ ಸದರಿ ಪ್ರದೇಶವು ಅಣ್ಣಾ ವಾಚನಾಲಯಕ್ಕೆ ಸೇರಿದ್ದಾಗಿರುತ್ತೆ.”

Though the aforesaid portion shows that Anna Vachanalaya personnels have constructed two commercial establishments without

16-8-19.

obtaining permission from the Municipality, yet, the report shows that those properties belong to Annavachanalaya through registered sale-deeds said to have been executed by Hassan Deputy Commissioner.

41. From Ex P-10 though Presenting Officer is not able to prove that the property on which Annavachanalaya have constructed commercial shops belong to Municipality, yet two things stand proved viz (i) that Padmamma has constructed first floor on the existing building and also opened windows without obtaining permission from the Municipality. (ii) that Annavachanalaya personnels have constructed two commercial establishments without obtaining permission from the Municipality.

42. Though these two things stand proved through Ex P-10 yet, DGOs cannot be found guilty of dereliction of duty in as much as these two things i.e., charges on these two counts were not the subject matter of complaint. Original complaint Ex P-1 does not contain single word about these two charges. The only grouse of the ~~complaint as per Ex P-1 was that DGOs did not renew license even~~ though she had submitted all documents to them and DGO 2 & 3 did not cooperate. Nowhere in Ex P-1 complainant makes allegation about Padmamma illegally putting first floor and Annavachanalaya illegally constructing commercial shops. It is only after the DGOs filed their comments justifying their reasons for not renewing the license complainant's father Gajendra for the first time makes allegation about these two things in his rejoinder. If either complainant Jamunachandra or her father Gajendra had lodged their complaint to the DGOs over these issues and if DGOs had

16-8-19.

failed to address these issues then they can be found guilty of dereliction on these counts. When there was no complaint on these issues from any quarter muchless from complainant there did not arise any occasion for the DGOs to look into these issues and therefore although Investigation Report much less Ex P-10 goes to prove about mischief committed by Padmamma and Annavachanalaya yet, DGOs., cannot held liable for those mischiefs and this is particularly so when it is not the case of the either the complainant Jamunachandra or her father Gajendra or at least of the Investigation Officer that these DGOs., knowingly well about the violations done by Padmamma and Annavachanalaya kept quite without taking any action against them. Hence it can be said that although Presenting Officer has proved these two counts of charge still DGOs cannot be held liable for lack of complaint over these two counts.

43. As regards charges on first two counts aforesaid are concerned as already discussed above the burden lies on DGOs to show that because Padmamma raised objections not to renew license so also the Revenue Inspector who conducted spot inspection furnished report stating that the site on which renewal of license for construction of building was sought to be made was a Buggar Hukkum Galli passage belonging to Municipality they could not renew the license or effect change of katha. Now let me see what DGOs have done to discharge the same.

44. All though DGOs have filed their comments and Written Statements, DGOs 1 & 2 remained absent subsequently and therefore there is no evidence from their side.

16-8-19.

45. Though DGO-3 did not lead any evidence to prove why they could not renew the license or effect change of katha still she has cross – examined PW-1 to 3 and has got marked Exhibit D-1 in the course of cross- examination of PW-3.

46. Though DGO-1 & 2 remained absent and did not lead any evidence still from the documents produced by the Presenting Officer in the course of Examination-in-chief of PW-1 and also from the comments and rejoinder lot of evidence can be gathered in support of the contentions taken by DGOs as to why license could not be renewed or change of katha could not be effected by them.

47. Firstly when all the three DGOs filed their comments stating that because Padmamma raised objections not to renew the license so also the Revenue Inspector who conducted inquiry furnished report stating that the land measuring 4.60 X 6.10 meters on which renewal of license to construct building was sought by the complainant was a Buggar Hukkum Galli passage belonging to Municipality they could renew the license or effect change of katha, it may be noted, that complainant's father Gajendra does not say anything about this point in his rejoinder muchless he does not deny it strongly.

48. Ex P-4 page 205 and 206 is the letter dated 23-01-2014 written by Padmamma addressed to the Hassan Deputy Commissioner, the Project Director and the Chief Officer of Arasikere TMC., raising objections not to effect change of khatha in respect of the site in question. In the said letter at para-3 Padmamma states that building site measuring 3.05 X 7.60 was

16-8-19.

purchased by her from Gajendra on 20-07-2012 through registered sale-deed No. 1307/12-13. Complainant does not deny this fact. Likewise page-195 of Exhibit P-4 viz., Tax Demand Register contains the measurement of the site standing in the name of Gajendra as (i) 3.05 X 7.60 and (ii) 4.60 X 6.10. Complainant does not say how and when and for what purpose these two bifurcation in the measurement came about.

49. Further as per Ex P-4 page 197 Gift deed in the schedule it can be seen when there is a Mudaliar road towards south there is open space belonging to Municipality towards north. A conjoint reading of the schedule along with photo marked at Ex P-11(2) makes it appear that the site in question is a Galli belonging to the Municipality as urged by the DGOs.

50. Further when either the complainant or her father Gajendra have not denied the contention of the DGOs., that the site granted to Gajendra by the Municipality in the year- 1977 was already sold by him in favour of Padmamma and the present site in question is a Galli belonging to Municipality and that it has wrongly been entered in to the Assessment Register by the earlier Assessment Officer without any basis, presumption arises in favour of DGOs as to what actually prevented them either to renew the license or effect change of khatha as sought by the complainant. Therefore although DGO-1 & 2 have not led any evidence to prove their contentions still by virtue of the records produced by the Presenting Officer discussed *supra* it can be said that the DGOs have justified their reasons for not renewing the license or effect change of khatha as sought by the complainant.

CL
16-8-19.

51. For the reasons stated and discussed supra I am of and opinion that Disciplinary Authority has failed to prove the charge leveled against the DGOs.

52. Thus upon appreciation of entire evidence as discussed above I hold that the charge against the DGOs-1 to 3 that they failed to renew the license for construction of building and also to change katha as sought by the complainant and failed to take action against Smt. Padmamma for constructing first floor without permission and also against the personnel of Annavachanalaya who are said to have illegally constructed building in the property belonging to Municipality are not proved and therefore they are not guilty of misconduct within the purview of rule 3(I)(i) to (iii) of the Karnataka Civil Service (Conduct) Rules, 1966 and being of this view I proceed with following:-

-: R E P O R T :-

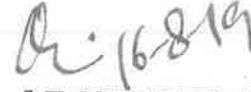
Charge against the **DGO No.1** by name Sri. K.M.Sathyanarayana, the then Chief Officer, **DGO-2** Smt. B.S.Anith, Second Division Assistant and **DGO-3** Smt. H.V.Deepika, Second Division Assistant, office of the Town Municipal Council, Arasikere Taluk, Hassan District have failed to renew the license for construction of building and also to change katha as sought by the complainant and failed to take action against Smt. Padmamma for constructing first floor without permission and

16-8-19

also against the personnel of Annavachanalaya who are said to have illegally constructed building in the property belonging to Municipality are *not proved* and thus they have not acted in a manner unbecoming of a Government servants and committed misconduct under Rules, 1966.

Submitted this report to the Hon'ble Upa-Lokayutka-II, Karnataka State, Bengaluru in sealed cover forthwith along with connected records.

Dated, 16th August, 2019.



[RAVI M.R.]

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

-: ANNEXURE :-

	Witnesses Examined on behalf of Disciplinary Authority
	PW-1 Smt. A.G.Jamunachandra PW-2 Sri. C.B. Vedamurthy PW-3 Sri. Santhinath J. Honnur
	Document's marked on behalf of the Disciplinary Authority Ex P-1 to P-12
Ex P-1 to 3	Written complaint and Form No.I, II respectively.
Ex P-4	Tax receipt and connected documents.
Ex P-5	Complainant's Rejoinder
Ex P-6	Tax receipt and connected documents
Ex P-7	Report of the Superintendent of Police, Karnataka Lokayukat, Hassan dated 11-03-2015
Ex P- 8	Requisition letter dated 23-01-2014 of the Smt. Padmamma
Ex P -9	Requisition letter dated, 24-2-2014 of the Smt. A.G.Jamunachandra
Ex P-10	Report from the Chief Officer, TMC., Arasikere dated 25-02-2015.
Ex P-11	Three color photos
Ex P-12	Report of the Police Inspector, Karnataka Lokayukta, Hassan dated 26-02-2015.
	List of witness examined on behalf of DGOs
	N I L
	Documents marked on behalf of DGOs Ex D-1
Ex D-1	Xerox copies of the Acknowledgment Register dated 22-01-2014 (ಸ್ವೀಕೃತಿ ಪುಸ್ತಕದ ಪ್ರತಿ)

Dated, 16th August, 2019.

[RAVI M.R.]

Additional Registrar [Enquiries-15]
Karnataka Lokayukta,
Bengluru.

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