

**GOVERNMENT OF KARNATAKA**



**KARNATAKA LOKAYUKTA**

No.UPLOK-1/DE/189/2018/ARE-11

Multi Storied Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru-560 001  
Date: **15/03/2022**

**RECOMMENDATION**

Sub:- Departmental inquiry against;  
Sri Boraiah, Taluk Development Officer, Dr. B.R.  
Ambedkar Development Corporation Limited,  
Madikeri, Kodagu District - Reg.

Ref:- 1) Order No.ಅಂಅನಿ/ಸಅ/ಲೋಕಯುಕ್ತಾ/15-16/2017-18/21049 dated  
12/2/2018 of the Managing Director, Dr. B.R.  
Ambedkar Development Corporation Limited,  
Bengaluru.

2) Nomination order No.UPLOK-2/DE/189/2018,  
Bengaluru dated 10/4/2018 of Upalokayukta, State  
of Karnataka, Bengaluru

3) Report dated 8/3/2022 of Additional Registrar of  
Enquiries-11, Karnataka Lokayukta, Bengaluru

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The Managing Director, Dr. B.R. Ambedkar Development Corporation Limited, Bengaluru by its order dated 12/2/2018 initiated the disciplinary proceedings against Sri Boraiah, Taluk Development Officer, Dr. B.R. Ambedkar Development Corporation Limited, Madikeri, Kodagu 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/189/2018, Bengaluru dated 10/4/2018 nominated Additional Registrar of Enquiries-11, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGO for the alleged charge of misconduct, said to have been committed by him.

3. The charge framed against the DGO Sri Boraiah, Taluk Development Officer, Dr. B.R. Ambedkar Development Corporation Limited, Madikeri, Kodagu District was to the effect that the DGO had demanded a bribe of Rs.30,000/- from the Complainant Sri K.B. Thimmaiah, S/o. K.P. Bhimaiah, Sannapulikutu Village, Bhagamandala Hobli, Madikeri Taluk in regard to sanctioning of subsidy towards the purchase of Pick-up jeep by the complainant and thereafter the DGO reduced the bribe amount to Rs.15,000/-. On 17/12/2015, the DGO insisted the Complainant that he should pay bribe of Rs.15,000/- towards the above work and on 18/12/2015, the DGO accepted the bribe of Rs.10,000/- from the Complainant. Thereby the DGO has committed misconduct.

4. During the pendency of inquiry, the DGO Sri Boraiah has filed an Application before the Inquiry Officer dated 7/12/2021 to drop further proceedings against him, contending that he is an employee of Dr. B.R. Ambedkar Development Corporation Limited and the Corporation has its own CCA Rules and the Karnataka Civil Services (C.C & A) Rules are not applicable to him. The Managing Director of Dr. B.R. Ambedkar Development Corporation initiated the disciplinary proceedings against the DGO under Rule 14-A of the Karnataka Civil Services (C.C & A) Rules, 1957 and entrusted the same to this institution. The DGO has placed reliance on the decision of the Hon'ble High Court of Karnataka in Writ Petition No.56021/2016 dated 19/10/2020 and Writ Appeal No.92/2001 dated 6/3/2021 in the case of Sri T. Ramakrishna Vs. State of Karnataka and Managing Director & Disciplinary Authority, Dr. B.R. Ambedkar Development Corporation, Bengaluru.

5. The inquiry officer has dropped further proceedings against the DGO in view of the law laid down by the Hon'ble High Court of Karnataka relied on by the DGO.

6. It is relevant to note here the decision of the Hon'ble High Court of Karnataka in Writ Petition No.56021/2016 dated 19/10/2021 wherein the Hon'ble High Court has held as follows:-

"The Petitioner is governed by Rules called Dr. B.R. Ambedkar Development Corporation Limited (Classification, Control and Appeal) Rules, 1991 (for short Rules, 1991). For the purpose of entrustment of enquiry to the office of the Upalokayukta, there is no provision even to this day. On 30/6/2006, Minutes of the 166<sup>th</sup> Meeting of the Board of Directors, item No.6 reads as under:-

"Item No.6-Amendment to CCA Rules, 1991 of the Corporation :

The Managing Director explained the proposal with reference to the provisions of Rule 14A of KCSR Rules, 1957, with regard to the procedure in cases entrusted to the Lokayukta, for adoption in the CCA Rules of the Corporation. After due consideration, the Board approved to suitably amend the CCA Rules, 1991 of the Corporation and adopt the provisions of Rule 14A of Karnataka Civil Services (Classification, Control and appeal) Rules, 1957."

5. The aforesaid provision has not been brought into the Rules, 1991 even to this day. Thus, prima facie from the entrustment of disciplinary proceedings to the office of the Upalokayukta till imposition of penalty is without authority of law. That apart, when the Petitioner is governed by Rules, 1991, second Respondent has invoked Rule 8(vi) of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 (for short, Rules, 1957) which has no application to the Petitioner in view of the fact that Petitioner is an employee of the second Respondent and he is governed by Rules, 1991. Under Rules, 1991 imposition of penalty of compulsory retirement is sub-rule (viii) of Rule 7 - Nature of Penalties (Compulsory retirement). Therefore, there is a total non-application of mind by the second Respondent from the stage of entrustment of enquiry to the office of the Upalokayukta under Rule 14(A) of Rules, 1957.

Therefore, question of entrusting disciplinary enquiry to the office of Upalokayukta is without authority of law since Petitioner is governed by Rules, 1991 and not Rules, 1957. ....”

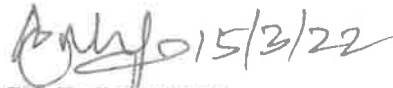
The above judgment of learned Single Judge is confirmed in the order dated 6/3/2021 in Writ Appeal No.92/2021.

7. In view of the above law laid down by the Hon'ble High Court of Karnataka, stating that there is no provision under Dr. B.R. Ambedkar Development Corporation (Classification, Control and Appeal) Rules, 1991 to entrust the disciplinary enquiry against its employees to the Lokayukta institution, the Application of the DGO for dropping the instant proceedings needs to be allowed and accordingly recommendation is made to the Government to drop further proceedings against DGO by accepting the report of inquiry officer.

8. It is further clarified that the Disciplinary Authority shall proceed against the DGO in accordance with the provisions of Dr. B.R. Ambedkar Development Corporation (Classification, Control and Appeal) Rules, 1991, conduct disciplinary inquiry and take suitable action as per Law as expeditiously as possible. After completion of the inquiry, the report of inquiry officer and the order passed by the Disciplinary Authority shall be forwarded to this office.

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

Connected records are enclosed herewith.



(JUSTICE B.S.PATIL)

Upalokayukta,  
State of Karnataka,  
Bengaluru