



ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ

ನಂ.ಲೋಕ್/ಐಎನ್‌ಕ್ಯು/14-ಎ/28/2012/ಎಆರ್‌ಇ-11

ಬಹುಮಹಡಿಗಳ ಕಟ್ಟಡ
ಡಾ:ಬಿ.ಆರ್.ಅಂಬೇಡ್ಕರ್ ವೀದಿ
ಬೆಂಗಳೂರು-560001
ದಿನಾಂಕ:04-07-2023

-:: ಶಿಫಾರಸು ::-

ವಿಷಯ: ಶ್ರೀಮತಿ.ಸುಜಾತ, ದ್ವಿ.ದ.ಸ, ಆಯುಕ್ತರ ಕಚೇರಿ,
ಸಾರ್ವಜನಿಕ ಶಿಕ್ಷಣ ಇಲಾಖೆ, ಗುಲ್ಬರ್ಗಾ ರವರ
ವಿರುದ್ಧದ ಇಲಾಖಾ ವಿಚಾರಣೆ ಕುರಿತು.

- ಉಲ್ಲೇಖ: 1) ಸರ್ಕಾರಿ ಆದೇಶ ಸಂಖ್ಯೆ.ಇಡಿ 718 ಎಲ್‌ಐಬಿ 2011,
ಬೆಂಗಳೂರು, ದಿನಾಂಕ:02/01/2012.
2) ಉಪಲೋಕಾಯುಕ್ತ, ಕರ್ನಾಟಕ ರಾಜ್ಯ, ಬೆಂಗಳೂರು
ರವರ ನಾಮನಿರ್ದೇಶನ ಆದೇಶ ನಂ.ಲೋಕ್/
ಐಎನ್‌ಕ್ಯು/14-ಎ/28/2012, ಬೆಂಗಳೂರು,
ದಿ:12/01/2012.
3) ಅಪರ ನಿಬಂಧಕರು ವಿಚಾರಣೆಗಳು-11, ಕರ್ನಾಟಕ
ಲೋಕಾಯುಕ್ತ, ಬೆಂಗಳೂರು ರವರ ವಿಚಾರಣಾ
ವರದಿ ದಿ:28/06/2023.

ಸರ್ಕಾರದ ಆದೇಶ ದಿನಾಂಕ:02/01/2012 ರಂತೆ ಶ್ರೀಮತಿ.ಸುಜಾತ, ದ್ವಿ.ದ.ಸ,
ಆಯುಕ್ತರ ಕಚೇರಿ, ಸಾರ್ವಜನಿಕ ಶಿಕ್ಷಣ ಇಲಾಖೆ, ಗುಲ್ಬರ್ಗಾ (ಇನ್ನು ಮುಂದೆ
ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರ/ಅಧಿಕಾರಿ ಅಂದರೆ ಚಿಕ್ಕದಾಗಿ 'ಆ.ಸ.ನೌಕರ' ಎಂದು
ಸಂಭೋದಿಸಲಾಗುವುದು) ರವರ ವಿರುದ್ಧ ಶಿಸ್ತು ಪ್ರಕ್ರಿಯೆಯನ್ನು ಕೈಗೊಂಡು ವಿಚಾರಣೆ
ಮಾಡಿ, ವರದಿ ಸಲ್ಲಿಸುವಂತೆ ಈ ಸಂಸ್ಥೆಗೆ ಇಲಾಖಾ ವಿಚಾರಣೆಯನ್ನು ವಹಿಸಿರುತ್ತದೆ.

L

2. ಈ ಸಂಸ್ಥೆಯು ನಾಮನಿರ್ದೇಶನದ ಆದೇಶ ನಂ.ಲೋಕ್/ಐಎನ್‌ಕ್ಯು/14-
ಎ/28/2012, ಬೆಂಗಳೂರು, ದಿನಾಂಕ:12/01/2012ರ ರೀತ್ಯಾ ಅಪರ ನಿಬಂಧಕರು
ವಿಚಾರಣೆಗಳು-4 ರವರಿಗೆ ಆ.ಸ.ನೌಕರರ ವಿರುದ್ಧ ದೋಷಾರೋಪಣಾ ಪಟ್ಟಿ ತಯಾರು
ಮಾಡಿ, ವಿಚಾರಣೆ ನಡೆಸಿ, ವರದಿ ಸಲ್ಲಿಸುವಂತೆ ಆದೇಶ ಹೊರಡಿಸಲಾಗಿರುತ್ತದೆ.
ತದನಂತರ, ಆದೇಶ ಸಂಖ್ಯೆ:ಉಪಲೋಕ್-1/ಡಿಇ/2016, ದಿನಾಂಕ 03-08-2016
ರಂತೆ ಅಪರ ನಿಬಂಧಕರು ವಿಚಾರಣೆಗಳು-11 ರವರಿಗೆ ಪ್ರಕರಣವು ವರ್ಗಾವಣೆಯಾಗಿ
ಆ.ಸ.ನೌಕರರ ವಿರುದ್ಧ ಇಲಾಖಾ ವಿಚಾರಣೆ ನಡೆಸಿ, ವರದಿ ಸಲ್ಲಿಸುವಂತೆ ಆದೇಶ
ಹೊರಡಿಸಲಾಗಿರುತ್ತದೆ.

3. ಆ.ಸ.ನೌಕರರಾದ ಶ್ರೀಮತಿ.ಸುಜಾತ, ಡಿ.ದ.ಸ, ಆಯುಕ್ತರ ಕಚೇರಿ, ಸಾರ್ವಜನಿಕ
ಶಿಕ್ಷಣ ಇಲಾಖೆ, ಗುಲ್ಬರ್ಗಾ ರವರ ವಿರುದ್ಧ ಈ ಕೆಳಗಿನ ದೋಷಾರೋಪಣೆಗಾಗಿ
ಇಲಾಖಾ ವಿಚಾರಣೆಯನ್ನು ನಡೆಸಲಾಯಿತು.

ಅನುಬಂಧ-1
ದೋಷಾರೋಪಣೆ

That, you Smt Sujatha, the DGO, while
working as Second Division Assistant in the
O/o the Commissioner of Public Instruction
Department at Gulbarga, the complainant viz.,
Sri Utham S/o Dhulappa Kiwande, Assistant
Teacher in Shanthivardhak Institution at
Kamalanagar in Bidar District was transferred
to Akkamahadevi Kanya High School at Bhalki
in Bidar District run by the same Institution on

the ground of mutual transfer with Sri Prakash Hipplagaon under Order dated:14/10/2008 and the transfer order was sent to the O/o the Joint Director of Public Instruction of Gulbarga for approval and the complainant had not drawn salary and in that connection, the complainant approached you on 09/07/2009 and then you asked for bribe of 10,000/- to attend his work and after request, you reduced the demand to 8,000/- and on 30/07/2009 you received the bribe amount of 8,000/- from the complainant at your office in Gulbarga to show official favour failing to maintain absolute integrity and devotion to duty, the act of which was un-becoming of a Government Servant and thereby committed misconduct as enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

4. ವಿಚಾರಣಾಧಿಕಾರಿ (ಅಪರ ನಿಬಂಧಕರು ವಿಚಾರಣೆಗಳು-11), ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ, ಬೆಂಗಳೂರು, ರವರು ಮೌಖಿಕ ಹಾಗೂ ದಾಖಲಾತಿಗಳ ಸಾಕ್ಷ್ಯಗಳನ್ನು ಕೂಲಂಕುಷವಾಗಿ ಪರಿಶೀಲಿಸಿ, ಆ.ಸ.ನೌಕರರಾದ ಶ್ರೀಮತಿ.ಸುಜಾತ, ದ್ವಿ.ದ.ಸ, ಆಯುಕ್ತರ ಕಚೇರಿ, ಸಾರ್ವಜನಿಕ ಶಿಕ್ಷಣ ಇಲಾಖೆ, ಗುಲ್ಬರ್ಗಾ ರವರ ವಿರುದ್ಧ ಮೇಲ್ಕಾಣಿಸಿದ ದೋಷಾರೋಪಣೆಯನ್ನು ರುಜುವಾತುಪಡಿಸುವಲ್ಲಿ ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರವು 'ಸಫಲವಾಗಿರುತ್ತದೆ' ಎಂದು ಅಭಿಪ್ರಾಯಿಸಿದ್ದಾರೆ.

5. ವಿಚಾರಣಾಧಿಕಾರಿಗಳು ಸಲ್ಲಿಸಿರುವ ವಿಚಾರಣಾ ವರದಿಯನ್ನು ಪರಿಶೀಲಿಸಲಾಗಿ, ವಿಚಾರಣಾಧಿಕಾರಿಗಳು ಆ.ಸ.ನೌಕರರ ವಿರುದ್ಧದ ಆರೋಪವನ್ನು ರುಜುವಾತುಪಡಿಸಲು ನಾಲ್ವರು ಸಾಕ್ಷಿಗಳನ್ನು ಅಂದರೆ ಪಿ.ಡಬ್ಲ್ಯೂ-1 ರಿಂದ ಪಿ.ಡಬ್ಲ್ಯೂ-4 ರಂತೆ ವಿಚಾರಣೆಗೆ ಒಳಪಡಿಸಿ, ನಿಶಾನೆ ಪಿ-1 ರಿಂದ ಪಿ-14 ರಂತೆ ದಾಖಲಾತಿಗಳನ್ನು ಗುರುತಿಸಿಕೊಂಡಿದ್ದಾರೆ. ಆ.ಸ.ನೌಕರರು ಸ್ವತಃ ತಮ್ಮನ್ನು ಡಿ.ಬ್ಲ್ಯೂ-1 ಎಂದು ಸಾಕ್ಷಿಯಾಗಿ ವಿಚಾರಣೆ ಮಾಡಿಸಿಕೊಂಡು, ನಿಶಾನೆ ಡಿ-1 ರಂತೆ ದಾಖಲಾತಿಯನ್ನು ಗುರುತಿಸಿಕೊಂಡಿರುತ್ತಾರೆ.

6. ಆ.ಸ.ನೌಕರರ ವಿರುದ್ಧ ಆಪಾದಿಸಿದ ಆರೋಪಗಳ ಬಗ್ಗೆ ವಿಚಾರಣಾಧಿಕಾರಿಗಳು ಸಲ್ಲಿಸಿರುವ ವಿಚಾರಣಾ ವರದಿ ಹಾಗೂ ಅದಕ್ಕೆ ಪೂರಕವಾಗಿ ಸಲ್ಲಿಸಿರುವ ದಾಖಲಾತಿಗಳನ್ನು ಕೂಲಂಕುಷವಾಗಿ ಪರಿಶೀಲಿಸಲಾಗಿ, ವಿಚಾರಣಾಧಿಕಾರಿಗಳು ಸಲ್ಲಿಸಿರುವ ವಿಚಾರಣಾ ವರದಿಯಲ್ಲಿ ಹಸ್ತಕ್ಷೇಪ ಮಾಡಲು ಯಾವುದೇ ಸಕಾರಣಗಳು ಕಂಡುಬಂದಿರುವುದಿಲ್ಲ. ಆದ್ದರಿಂದ, ವಿಚಾರಣಾಧಿಕಾರಿಗಳು ಸಲ್ಲಿಸಿರುವ ವಿಚಾರಣಾ ವರದಿಯನ್ನು ಅಂಗೀಕರಿಸುವಂತೆ ಈ ಮೂಲಕ ಸರ್ಕಾರಕ್ಕೆ ಶಿಫಾರಸು ಮಾಡಿದೆ.

7. ವಿಚಾರಣಾಧಿಕಾರಿಗಳು ಸಲ್ಲಿಸಿರುವ ಮಾಹಿತಿಯಂತೆ, ಆ.ಸ.ನೌಕರರು ದಿನಾಂಕ:30/09/2029 ರಂದು ನಿವೃತ್ತಿ ಹೊಂದಲಿದ್ದಾರೆ.

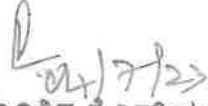
8. ಆ.ಸ.ನೌಕರರಾದ ಶ್ರೀಮತಿ.ಸುಜಾತ, ದ್ವಿ.ದ.ಸ, ಆಯುಕ್ತರ ಕಚೇರಿ, ಸಾರ್ವಜನಿಕ ಶಿಕ್ಷಣ ಇಲಾಖೆ, ಗುಲ್ಬರ್ಗಾ ರವರ ವಿರುದ್ಧದ ಆರೋಪದ ಸ್ವರೂಪವನ್ನು 'ಸಾಬೀತುಪಡಿಸಿದ' ಮತ್ತು ಸಂಪೂರ್ಣತೆಯನ್ನು ಪರಿಗಣಿಸಿ:-

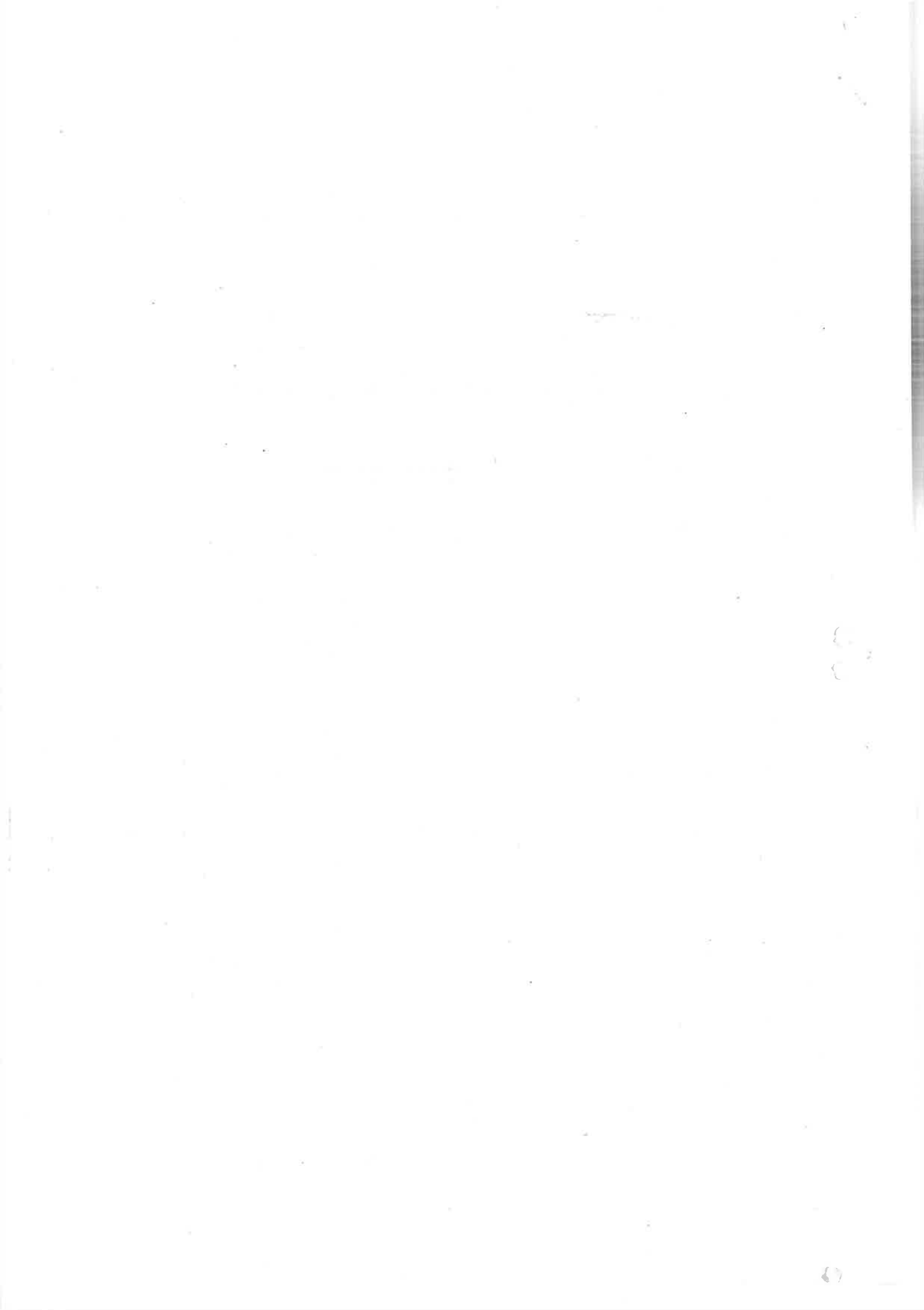


“ಆ.ಸ.ನೌಕರರಾದ ಶ್ರೀಮತಿ.ಸುಜಾತ, ದ್ವಿ.ದ.ಸ, ಆಯುಕ್ತರ
ಕಚೇರಿ, ಸಾರ್ವಜನಿಕ ಶಿಕ್ಷಣ ಇಲಾಖೆ, ಗುಲ್ಬರ್ಗಾ ರವರಿಗೆ
ಸೇವೆಯಿಂದ ಕಡ್ಡಾಯವಾಗಿ ನಿವೃತ್ತಿಗೊಳಿಸುವ ಶಿಕ್ಷೆಯನ್ನು
ವಿಧಿಸುವಂತೆ ಈ ಮೂಲಕ ಸರ್ಕಾರಕ್ಕೆ ಶಿಫಾರಸು ಮಾಡಿದೆ.”

9. ಸದರಿ ವಿಷಯದಲ್ಲಿ ತೆಗೆದುಕೊಂಡ ಕ್ರಮವನ್ನು ಈ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ತಿಳಿಸತಕ್ಕದ್ದು.

ಸಂಬಂಧಪಟ್ಟ ಗಣಿಗಳನ್ನು ಇದರೊಂದಿಗೆ ಲಗತ್ತಿಸಿದೆ.


(ನ್ಯಾಯಮೂರ್ತಿ ಕೆ.ಎನ್.ಫಣೀಂದ್ರ)
ಉಪಲೋಕಾಯುಕ್ತ-1
ಕರ್ನಾಟಕ ರಾಜ್ಯ



KARNATAKA LOKAYUKTA

NO. LOK/INQ/14-A/28/2012/ARE-11

M.S.Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001,
Date: 28/06/2023.

:: ENQUIRY REPORT ::

Sub: Departmental Enquiry against
Smt.Sujatha, Second Division Assistant, Office
of the Commissioner, Public Instruction
Department, Gulbarga -reg.

Ref: 1. Report under section 12(3) of the KLA Act.
1984 in No.Compt/Uplok/GLB/233/2011/
ARE-6, dated:10/11/2011.

2. Order No. ಇಡಿ 718 ಎಲ್‌ಐಬಿ 2011, ಬೆಂಗಳೂರು,
ದ:02/01/2012.

3. Nomination Order No. LOK/INQ/14-
A/28/2012, Bengaluru, dated
12/01/2012.

1. The Departmental Enquiry is initiated against Smt.Sujatha, Second Division Assistant, Office of the Commissioner, Public Instruction Department, Gulbarga (hereinafter referred to as the Delinquent Government Officials, in short DGO) on the basis of the complaint dated 30/07/2009. The allegation in the complaint is that Smt.Sujatha/DGO while working as Second Division Assistant in the office of the Commissioner, Public Instruction



Department at Gulbarga during the year 2009, the complainant, Sri Utham S/o Dhulappa Kiwande was working as Assistant Teacher in the High School Section at Kamalanagar in Bidar District and the Institution was being run by Shanthivardhak Institution. The Management of Shanthivardhak Institution transferred the complainant to Akkamahadevi-Kanya High School at Bhalki and Sri Prakash Hipplagaon of Akkamahadevi-Kanya High School Mutually transferred to the place of the complainant High School, Kamalanagar run by the same Institution. Order of mutual transfer was sent to the O/o the Joint Director of Public Instructions of Gulbarga for approval. Even after lapse of 9 months, the said mutual transfer order was not approved and the complainant did not receive any order to draw salary. In that connection, the complainant approached the DGO on 09/07/2009, and then the DGO asked for bribe of 10,000/- to attend the work of complainant. The complainant pleaded his inability. Then, the DGO reduced the demand to 8,000/-.

2. As the complainant was not willing to pay the amount, after contacting Lokayukta Police, Gulbarga lodged complaint before Police Inspector, Karnataka Lokayukta Police Station, Gulbarga (hereinafter referred to as "Investigating Officer"). On the said complaint Investigating Officer registered case in Cr.No.12/2009 against the DGO for the offences punishable under section 7,13(1)(d) r/w 13(2) of P.C.Act, 1988.


28/6

3. The Investigating Officer took up investigation and on 30/07/2009 DGO was caught red handed while demanding and accepting illegal gratification of Rs.8,000/- from the complainant in her office and the said amount was seized under a mahazar after following post trap formalities by the Investigating Officer, Karnataka Lokayukta, Gulbarga. The DGO has failed to give satisfactory or convincing explanation for the said tainted amount found then, when questioned by the said I.O. After completion of investigation the investigating officer has filed charge sheet against the DGO in the concerned jurisdictional Court.
4. The Hon'ble Upalokayukta invoking power vested under section 7(2) of the Karnataka Lokayukta Act, 1984, took up investigation and on perusal of complaint, FIR, Mahazars, FSL report and other documents, found prima facie case and forwarded report dated 22/09/2017 U/s 12(3) of Karnataka Lokayukta Act, 1984 recommended the competent authority to initiate disciplinary proceedings against the DGO and to entrust the enquiry to the Hon'ble Upalokayukta, Karnataka under Rule 14-A of the KCS (CC& A) Rules 1957. The Competent Authority by order dated 02/01/2012 entrusted the matter to the Hon'ble Upalokayukta.
5. The Hon'ble Upalokayukta by order dated 12/01/2012, nominated Additional Registrar Enquiries-04 to conduct the enquiry.
6. The Articles of charge as framed by Additional Registrar Enquiries-04 is as follows:



ANNEXURE-1**CHARGE**

That, you Smt Sujatha, the DGO, while working as Second Division Assistant in the O/o the Commissioner of Public Instruction Department at Gulbarga, the complainant viz., Sri Utham S/o Dhulappa Kiwande, Assistant Teacher in Shanthivardhak Institution at Kamalanagar in Bidar District was transferred to Alkamahadevi Kanya High School at Bhalki in Bidar District run by the same Institution on the ground of mutual transfer with Sri Prakash Hipplagaon under Order dated: 14/10/2008 and the transfer order was sent to the O/o the Joint Director of Public Instruction of Gulbarga for approval and the complainant had not drawn salary and in that connection, the complainant approached you on 09/07/2009 and then you asked for bribe of 10,000/- to attend his work and after request, you reduced the demand to 8,000/- and on 30/07/2009 you received the bribe amount of 8,000/- from the complainant at your office in Gulbarga to show official favour failing to maintain absolute integrity and devotion to duty, the act of which was un-becoming of a Government Servant and thereby committed mis-conduct as enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

A handwritten signature in blue ink, followed by the date '28/6' written below it.

7. The statement of imputations of misconduct as framed by Additional Registrar Enquiries-04 is as follows:-

ANNEXURE-II

STATEMENT OF IMPUTATION OF MISCONDUCT:

The complainant viz., Sri Utham S/o Dhulappa Kiwande was working as Assistant Teacher in the High School Section at Kamalanagar in Bidar District and the Institution was being run by Shanthivardhak Institution. The Management of Shanthivardhak Institution transferred the complainant to Akkamahadevi-Kanya High School at Bhalki and Sri Prakash Hipplagaon of Akkamahadevi-Kanya High School mutually transferred to the place of the complainant High School, Kamalanagar run by the same Institution. Order of mutual transfer was sent to the O/o the Joint Director of Public Instructions of Gulbarga for approval. Even after lapse of 9 months, the said mutual transfer order was not approved and the complainant did not receive any order to draw salary. In that connection, the complainant approached the DGO on 09/07/2009, and then the DGO asked for bribe of 10,000/- to attend the work of complainant. The complainant pleaded his inability. Then, the DGO reduced the demand to 8,000/-. The complainant was not willing to pay bribe as demanded by the DGO. Therefore, on 30/07/2009, the complainant lodged a complaint before

A handwritten signature in blue ink, followed by the date '28/6' written below it.

the Lokayukta Police Inspector of Gulbarga (herein after referred to as the Investigating Officer, for short, "the I.O."). The I.O. registered the complaint in Cr.No.12/2009 for the offences punishable U/S 7, 13(1)(d) R/W 13(2) of the Prevention of Corruption Act 1988. During the course of investigation into the said crime, when the tainted amount of 8,000/- was given by the complainant to the DGO, the I.O. trapped the DGO on 30/07/2009 in the presence of the complainant, the Panch witnesses and his staff in his office at Gulbarga and seized the tainted amount from the DGO under mahazar after following post-trap formalities. The I.O. took statement of the DGO in writing and recorded statements of the complainant, the panch witnesses and others. After receiving report of the chemical examiner, the I.O. submitted report of investigation. The facts and materials on the record of investigation of the I.O. prima facie showed that, the DGO being a Government servant, failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Government servant. Therefore, a suo-moto investigation was taken up U/S 7(2) of Karnataka Lokayukta Act and an observation note was sent to the DGO calling for his explanation. The DGO submitted his reply and the reply was not convincing and not satisfactory to drop the proceedings. As the facts and materials on record prima-facie showed that the DGO has committed mis-conduct as per rule 3(1)(i)&(iii) of KCS (Conduct) Rules, 1966, a report U/S 12(3) of the


28/6

Karnataka Lokayukta Act was sent to the Competent Authority with recommendation to initiate disciplinary proceedings against the DGO and to entrust enquiry to the Hon'ble Upalokayukta U/R 14-A of the Karnataka Civil Services (Classification, Control and Appeal) 1957. Accordingly the Competent Authority initiated disciplinary proceedings against the DGO and entrusted the enquiry U/R 14-A of the KCS (CCA) Rules 1957 to the Hon'ble Upalokayukta. Hence, this charge.

8. Notice of Articles of charge, statement of imputation of misconduct with list of witnesses and documents was served upon the DGO. In response to the service of articles of charge, DGO entered appearance before the ARE-04 on 19/01/2015 and engaged advocate for defence. In the course of first oral statement of the DGO recorded on 19/01/2015 he pleaded not guilty and claimed to be enquired. As per order of Hon'ble Upalokayukta-1 dated 14/03/2014 this file was transferred to ARE-5 and after that as per order of Hon'ble Upalokayukta-1 dated 03/08/2016 this file was transferred to this ARE-11. **The date of Retirement of DGO is 30/09/2029.**

9. The DGO has filed his written statement denying the allegations made in the articles of charge and statement of imputations of misconduct. DGO further contended that, on the day of trap laid by the Karnataka Lokayukta Police, Gulbarga the file of the complainant was already cleared from the section of DGO, the

A handwritten signature in blue ink, followed by the date '28/6' written below it.

Lokayukta Police have falsely implicated the above DGO in this case to harass her.

DGO further submits that, the complainant never approached the DGO on 09.07.2009 pertaining to his file nor the DGO demanded the alleged bribe of Rs. 10,000/- and further reduced it to Rs.8,000/- to attend the work of the complainant. It is submitted that the DGO is not aware whether the complainant has not drawn his salary. It is all the concocted and cooked up story of the complainant and the DGO denies such allegation of demand of bribe. On the day of trap the file of the complainant was not pending before the DGO.

DGO further submits that, the DGO did not accept any bribe amount as alleged on 30.07.2009. It is further submitted that the complainant along with the lokayukta Police, Gulbarga laid a trap as the tainted money which was found later was laying in the table drawer of the DGO, the DGO is not aware how the cover was found in the drawer, more so the trap was laid only with the reason of harassing the women government employee, such acts of Lokayukta Police should be restrained in future. DGO is working sincerely and with utmost dedication from the day of her joining to the employment.

DGO further submits that, the DGO did not demand nor accepted the tainted money or whatsoever ever. the chemical examination report is false, as on the day of the wash of hands of DGO in sodium carbonate solution the colourless solution did not turn up and stayed colourless, the photographs which are part of

A handwritten signature in blue ink, followed by the date '28/6' written below it.

the charge sheet are all the methods adopted by the lokayukta police to fill up the gaps and make a false case against the DGO.

DGO further submits that, the act of the complainant was intentional one and only to harass the DGO the complainant has made few baseless and concocted allegations. That there is no misconduct on her part and she prayed that she may be exonerated from the imputation of charges leveled against her in the interest of justice and equity.

10. The points that arise for consideration are as follows:-

- 1. Whether the disciplinary authority proves that the DGO while working as Second Division Assistant in the office of the Commissioner of Public Instruction Department at Gulbarga, the complainant was working as Assistant Teacher in the High School Section at Kamalanagar in Bidar District and the Institution was being run by Shanthivardhak Institution. The Management of Shanthivardhak Institution transferred the complainant to Akkamahadevi-Kanya High School at Bhalki and Sri Prakash Hipplagaon of Akkamahadevi-Kanya High School mutually transferred to the place of the complainant High School, Kamalanagar run by the same Institution. Order of mutual transfer was sent to the O/o the Joint Director of**


28/6

Public Instructions of Gulbarga for approval. Even after lapse of 9 months, the said mutual transfer order was not approved and the complainant did not receive any order to draw salary. In that connection, the complainant approached the DGO on 09/07/2009, and then the DGO asked for bribe of 10,000/- to attend the work of complainant. The complainant pleaded his inability. Then, the DGO reduced the demand to 8,000/- and the complainant not willing to pay the said amount, lodged complaint before Police Inspector, Karnataka Lokayukta Police Station, Kalaburgi, who registered case in Cr.No.12/2009 and took up investigation and on 30/07/2009 DGO was caught red handed while demanding and accepting illegal gratification of Rs.8,000/- from the complainant in her office and the said amount was seized by the Investigating Officer and the DGO has failed to give satisfactory or convincing explanation for the said tainted amount found then, when questioned by the said I.O. and by this the DGO has committed Misconduct as enumerated under Regulation 3(1)(i) to (iii) of KEB (Conduct) Regulations.?

2. What findings?

A handwritten signature in blue ink, followed by the date '28/6' written below it.

11. (a) The disciplinary authority has examined Sri.Sharanaiah/Shadow Witness as PW-1, Sri.Sharada Bai/Panch Witness as PW2, Sri.Uttam/Complainant as PW-3 and Sri.Maheshwara Gowda/Investigating Officer as PW-4 and got exhibited Ex.P-1 to 14 on it's behalf.

(b) The DGO has examined herself as DW1 and got exhibited Ex.D-1 on her behalf.

(c) Since DGO has adduced evidence by examining herself, incriminating circumstances which appeared against her in the evidence of PW-1 to PW-4 is not put to her by way of questionnaire and the same is dispensed.

12. Heard both side arguments and perused the written argument filed by the counsel for the DGO and all the documents.

13. The answers to the above points are:

1. In the Affirmative.
2. As per final findings for the following:-

REASONS

14. **Point No.1:-** (a) PW-1/Sri.Sharanaiah, Shadow Witness has deposed in his evidence that, since for the last 20 years he was working in the District Hospital, Gulbarga. He knew Smt.Sharadabai, CW-3 who was also working in his hospital. He

①
28/6

knew DGO Smt. Sujatha of this case. On 30.7.2009 his superior officers sent him and his colleague Sharadabai to the Lokayukta Office Gulbarga to act as panchas. They went at about 10.30 am. The Complainant Uttam and Police Inspector Lokayukta were present in the office. The Lokayukta Police introduced them to Complainant Uttam and he was introduced to them. It was informed to them that Uttam has filed the Complaint for payment of salary amount. Uttam was working in the Educational Institution at Bidar. Another Lakshman was also working in the Private Institution as teacher Bhalki. There was mutual transfer order of Uttam and Lakshman. The Complainant Uttam had joined the services in the Shantivardhaka Educational Institution, Bhalki. After joining the services in the High school his salary was not paid. The Complainant approached the BEO Bhalki and requested for payment and BEO told to bring approval from the Joint Director, Gulbarga. The DGO Sujatha was working as Second Division Clerk in the DDPI office Gulbarga. It is informed to them the Complainant asked the DGO for doing his work. The DGO told for payment of Rs.10,000/- as bribe. Further, the Complainant requested DGO to reduce the amount to Rs.8,000/-. The said conversation was recorded in the tape recorder by the Complainant and they were made to hear the recordings. The Complainant was to be paid the salary from Septemer 2008 to July 2009.

PW-1 further deposed that, the Complainant produced 8 currency notes of Rs.1000-00 denomination each total Rs.8,000/-

①
28/6

to the Lokayukta Police and the Police applied phenolphthalein powder to the said currency notes. The Police gave the said currency notes to Co-panch Smt.Sharadabai to keep them in an envelope. Lokayukta Police applied Phenolphthalein powder to the said cover also. Co-panch Sharadabai kept the said currency notes inside the envelope and the sodium carbonate mixture was prepared in a bowl containing pure water. The hands of copanch Smt.Sharadabai were washed in the said mixture which turned into red rose colour. A practical test was made in their presence. The panchanama was prepared as per Ex.P-1.

PW-1 further deposed that, thereafter all of them went to the DDPI Office Gulbarga by walk. PW-1 and Uttam went in the compound of the DDPI office and met the DGO and he told them that she is going to her house for lunch and has asked him to come at 2.30 pm. So they returned to the Lokayukta office.

PW-1 further deposed that, again at about 2.30 p.m. he and Uttam went to the DDPI office, others were following them, such as WPC, Copanch, Police Inspector and staff of the Lokayukta Office. That he and Uttam went inside the office of the DDPI and DGO was present. The Complainant asked DGO about his work, and DGO told that the work of the Complainant is ready. The DGO gave signal with hand and the Complainant gave the pocket containing Rs.8,000-00 bribe to the DGO. The DGO took the envelope with right hand and kept it in her table drawer. The DGO gave the xerox copy of the order passed to the Complainant. The

A handwritten signature in blue ink, followed by the date '28/6' written below it.

Complainant gave signal by wiping his face with the kerchief. The Lokayukta Police, panch came there. The Complainant informed the police that the DGO Sujatha has received Rs.8,000-00 from him. The Lokayukta Police Inspector has shown his identity to the DGO, and told that they are arresting her. Copanch Smt.Sharadabai and others caught hold of the hands of the DGO. Further they prepared sodium carbonate solution and the hands of the DGO were washed and at that time the said contents turned into red rose colour. The amount kept in the drawer was taken out and counted which tallied with Notes mentioned in the Ex.P.1. Further, the drawer was washed with cotton and thereafter it was washed in the contents of sodium carbonate which also turned into red rose colour. Further the photographs were taken. Further the seizure panchanama was drawn as per Ex.P.2. Further Lokayukta Police have also recorded his statement as per Ex.P.3.

(b) Nothing material is elicited by the learned counsel for the DGO during the cross examination of PW1 to discredit his testimony or put forth her defence

15. (a) PW-2/Smt.Sharada Bai, Panch Witness has deposed in her evidence that, on 30/07/2009 she and PW-1 reported before Lokayukta Police, Kalburgi at 10.30 a.m. and complainant was present and he had lodged complaint that DGO had demanded bribe of Rs.10,000/- with respect to his transfer proceedings and on bargain has reduced it to Rs.8,000/-. That he had recorded the said conversation in the voice recorder and produced 8 notes of


28/6

Rs.1,000/- denomination before the I.O. and PW-1 noted down the numbers of those notes in a sheet on her dictation, I.O. got phenolphthalein powder smeared on those notes and got prepared sodium carbonate solution. That she kept those notes in a plastic cover and I.O. got smeared phenolphthalein powder on that cover also and she has kept the cover in the right side pant pocket of the complainant. That I.O. got her hands washed in sodium carbonate solution and it turned to pink colour and I.O. has seized the sample. That I.O. gave one voice recorder to complainant and has drawn pre-trap mahazar as per Ex.P-1.

PW-2 further deposed that, all of them left lokayukta police station, Kalburgi and went to DDPI office and reached there at 12.45 p.m. That complainant and PW-1 went inside the office and later on came out and informed that the DGO has told that she is going for lunch. So all of them returned to lokayukta police station. That later on again all of them went near the office of DGO at 2.45 p.m. and complainant and PW-1 went inside the office of DGO and at 3.00 p.m. the complainant came outside and gave signal by wiping his face with hand kerchief. The I.O., herself and staff went inside the office and complainant showed DGO and told that she has demanded and received the bribe amount. That I.O. informed the DGO the purpose of coming and got prepared sodium carbonate solution in a glass bowl and got the right hand fingers of DGO washed in the solution and it turned to pink colour and I.O. has seized the same. That I.O. got the left hand fingers washed in the sodium carbonate solution, she does not remember whether it

①
28/6

changed colour. That when I.O. enquired about the tainted notes DGO told that it is inside the right side drawer of the table. That she has opened the drawer and removed the cover which had tainted notes inside it. That the I.O. has seized the tainted notes and the paper which was beneath the plastic cover. That the I.O. got the paper swiped with the cotton swab and dipped it in the solution and the solution turned to pink colour and I.O. has seized the solution. That I.O. has seized the cotton swab. I.O. has seized the documents as per Ex.P-4 and taken explanation of DGO as per Ex.P-5. That the I.O. has received the voice recorder from the complainant and it contained the voice of DGO recorded in it. The I.O. has taken photos of the proceedings and has drawn trap mahazar as per Ex.P-2. Later on all them returned to Lokayukta Police Station, Kalburgi and she went to her house.

(b) Nothing material is elicited by the learned counsel for the DGO during the cross examination of PW2 to discredit her testimony or put forth her defence

16. (a) PW-3/Sri.Uttam, M.S., Complainant has deposed in his evidence that, he was working as Hindi teacher in High School Section of Shanthivardhak Samyuktha PU College situated at Kamalanagar, Aurad Taluk, Bidar District. In the year 2008 he was transferred to Akkamahadevi High School at Balki. That after 8 months from reporting to the said school he went to the DDPI office to get the Transfer Approval Order and approached DGO and asked her to give the Approval Order, since his salary was not

28/6

dispersed. That DGO told that her higher officer is asking money for the same and demanded Rs.10,000/-. That he told that he will give 8,000/- and he has recorded the said conversation.

PW-3 further deposed that, on 10/07/2009 he has lodged complaint against DGO as per Ex.P-6 and I.O. has called PW-1 and PW2 to lokayukta police station and he has produced 8 notes of Rs.1,000/- denomination to I.O. to lay the trap. That I.O. got the number of the notes noted in a sheet and got smeared phenolphthalein powder to those notes and PW-2 kept those notes in a cover and I.O. got phenolphthalein powder smeared on the cover and later on PW-2 kept the cover in his right side pant pocket. That I.O. got prepared sodium carbonate solution and got the hands of PW-2 washed in it and it turned to pink colour and I.O. has seized the sample of the same. That I.O. gave him one voice recorder and he has drawn pre-trap mahazar of the above proceedings as per Ex.P-1.

PW-3 further deposed that, later on all of them left the lokayukta police station and went to office of DGO and reached there at 12.30 p.m. That DGO was near the door of her chamber and told him that she would come after lunch at 2.30 p.m. So, all of them went back to lokayukta police station. Later on they again went to the office of DGO and reached there at 2.30 p.m. and he and PW-1 went inside the office of DGO and he enquired DGO about his work for which DGO asked him whether he has got the amount. So, he gave the cover to the DGO and the DGO received it

A handwritten signature in blue ink, followed by the date '28/6' written below it.

from her right hand and kept it inside the drawer of the table. That he came out and gave signal by wiping his face with hand kerchief. That I.O., PW-2 came inside and he showed DGO to I.O. and I.O. introduced himself to the DGO and got prepared sodium carbonate solution and got right and left hand fingers of DGO washed in the said solution. Right hand wash solution turned to pink colour and I.O. has taken the sample of the same. That PW-2 has removed the cover inside the drawer and they were the tainted notes and I.O. has seized the same. That I.O. got the place inside the drawer where the cover was kept wiped by cotton swab and dipped it in the solution and it turned to pink colour and I.O. has seized the solution. That I.O. has seized the document relating to him and also received the voice recorder from him and has drawn mahazar in this regard and has arrested the DGO.

(b) Nothing material is elicited by the learned counsel for the DGO during the cross examination of PW3 to discredit his testimony or put forth her defence.

17. (a) PW-4/Sri.Maheshwar Gowda, Investigating Officer has deposed in his evidence that, he has worked as Police Inspector in Karnataka Lokayukta, Kalaburgi from 21/09/2007 to 23/12/2011. On 09/07/2009, complainant/PW-3 came to his police station, and told that case worker at Commissioner office was demanding bribe for approval of his transfer to Bidar so that

A handwritten signature in blue ink, followed by the date '28/6' written below it.

he could get his salary. He gave voice recorder to PW-3 to record the conversation with him and the case worker.

PW-4 further deposed that, PW-3 again came on 30/07/2009 at 9:00 a.m, and gave him the voice recorder containing conversation between him and DGO on 09/07/2009. He has received the complaint from PW-3 and registered the same as crime number 12/2009 for offences u/s 7 of P.C.Act, 1988, after confirming the contents of the tape recorder as per Ex.P-6 and prepared FIR as per Ex.P-7. That he sent the said complaint and FIR along with the documents in closed envelope to the jurisdictional court. That he secured 2 panch witnesses, PW-1 and 2, by sending requisition to District Hospital, Kalaburgi. The panch witnesses reported before him at about 10:30 a.m. and he introduced himself and PW-3 to them and also briefed them about the contents of the complaint and gave copy of complaint to them to read and verify the same. The said witnesses, PW-1 and 2 have agreed to act as witnesses. That he played the micro cassette voice recorder and got the conversation heard in presence of the panch witnesses and got the said conversation transcribed as per Ex.P-8. PW-3 gave him 8 notes of Rs.1,000/- each i.e., total Rs.8,000/- to lay the trap and he got the number of currency notes noted through panchas and got phenolphthalein powder applied to both sides of the currency notes through his staff. That since, the DGO had asked to bring amount in a cover he had taken a cover and got phenolphthalein powder smeared on it and he got the notes kept inside the cover and he got the same kept in the front right side


28/6

pant pocket of PW-3 through PW-2. That he got sodium carbonate solution prepared through his staff and took sample of the same he got the hands of PW-2 washed in sodium carbonate solution. The solution turned to pink colour and he took sample of the same. That he told PW-1 to 3 about the reaction between phenolphthalein powder and sodium carbonate solution.

PW-4 further deposed that, he gave voice recorder to PW-3, and instructed him to switch it on while meeting the DGO. He also instructed him to pay the amount only on demand by DGO, and after acceptance, give signal by wiping his face with hand kerchief. That he instructed PW-1 to follow PW-3 and act as shadow witness. That all of them washed their hands thoroughly with soap and he got photographs taken of entire proceedings and has drawn pre-trap mahazar as per Ex.P-1.

PW-4 further deposed that, all of them left near the office of DGO from police station by walk since it was nearby. They reached there at about 12:45 p.m. and he repeated his instructions to PW-1 and 3. and sent PW-3 to the office of DGO. After sometime at 12:45 p.m, DGO came out of her chamber and left. Later on PW-3 came to him and DGO told that she would come back at 2:30 p.m. after her lunch. So, they waited there. At 2:30 again he sent PW-3 along with PW-1 to the chamber of DGO. PW-3 came out at of the office at 3:30 p.m and gave signal by wiping his face with kerchief. All of them went near PW-3, and PW-3 took them inside where the DGO was sitting. PW-3 showed them the DGO and told that,

①
28/6

when he asked about his work, the DGO demanded money, and PW-3 gave her the money.

PW-4 further deposed that, he showed his identity card to DGO and told her the purpose for coming, and asked her to cooperate. That he asked PW-3 and PW-1 about the happenings. Then PW-3 told that when he enquired DGO about his work, she received the tainted notes from PW-3 and put it into the drawer which was opened and closed it and gave a xerox copy of the order to him. That he asked PW-1 about the happenings, and he too told the same.

PW-4 further deposed that, he got sodium carbonate solution prepared through his staff and took sample of the same and got the right hand of DGO dipped in the solution and the solution turned to pink colour and he took sample of the same. That he enquired DGO about the tainted notes and she told that she has kept it in the drawer and showed it and he got it removed through PW-2 and since they were tallying with the numbers of the notes mentioned in pre-trap mahazar, he seized the cover and the notes which was inside it. That he also got the portion of the paper which was put on the drawer where tainted money was kept wiped with cotton swab dipped in sodium carbonate solution and the solution turned to pink colour and he seized the cotton swab and the paper and samples of the solution.

A handwritten signature in blue ink, consisting of a stylized symbol above the date '28/6'.

PW-4 further deposed that, he took the explanation from DGO as per Ex.P-5. PW-1 and 3 on seeing the explanation, said that it is false. That he asked the DGO about the file of PW-3 and the DGO gave the documents and he seized the same after obtaining the copies as per Ex.P-4. That he has received voice recorder from PW-3 and has played the same before panchas and got it transcribed as per Ex.P-9 and has seized the cassette and took photographs of the trap proceedings and has drawn trap mahazar as per Ex.P-2.

PW-4 further deposed that, he has brought all of them along with DGO to the police station and he arrested the DGO and followed the arrest procedure. That he has taken the statement of witnesses and he has taken the further statement of PW-3. That he has taken the photos of pre-trap and trap proceedings as per Ex.P-10. That on 24/08/2009, he has collected the service details of DGO from Commissioner, Department of Public Instructions, Kalaburgi as per Ex.P-11.

PW 4 further deposed that, he sent the articles for chemical examination and received the report dated 21/10/2009 as per Ex.P-12. That on 19/03/2010, he got the sketch prepared from PWD Engineer as per Ex.P-13. That on 25/08/2010, he has taken the CDRs of PW-3 complainant as per Ex.P-14 and has filed the charge sheet against the DGO after obtaining sanction.


28/6

(b) Nothing material is elicited by the learned counsel for the DGO during the cross examination of PW4 to discredit his testimony or put forth her defence.

18. The DGO has got herself examined as DW-1 and has filed her affidavit in lieu of her chief examination wherein she has reiterated the written statement averments and further stated that the file of the complainant regarding approval of mutual transfer order was received in the inward section on 28/05/2009 and it was sent to DGO on 01/07/2009 and she has put up the same before the higher officer i.e., Superintendent for seeking permission/order to process the said transfer order for granting administrative approval. That on 04/07/2009 the Superintendent put up note before Manager of Assistant Director of Public Instructions and on 06/07/2009 the Assistant Director of Public Instructions has put up the note and sent to Senior Assistant Director of Public Instructions for processing the Transfer Order and in turn on 07/07/2009 the Senior Assistant Director of Public Instructions has put up note before Director of Public Instructions and the same was approved on 10/07/2009 by Director of Public Instructions and instructed to prepare the draft Administrative Approval for the said mutual transfer passed by the Shantivardhak Institution, Kamalanagar, Bidar. That on 13/07/2009 the DGO prepared the draft Administrative Approval for the Transfer Order dated:24/05/2009 and on 13/07/2009 it was sent to Superintendent for processing. That on 14/07/2009 it was put up before Assistant Director of Public Instructions and on the same


28/6

day it was put up before Senior Assistant Director of Public Instructions and he in turn put up the file before Director of Public Instructions for final approval of the draft Administrative Order. That on 15/07/2009 the Director of Public Instructions granted Administrative Approval and on 16/07/2009 the final Administrative Order was put up before him for signature and it was passed on 16/07/2009. The said file was forwarded to outward section from the office of the Director of Public Instructions, Gulbarga. On 01/07/2009, 13/07/2009 and 16/07/2009 the DGO has put the office note for further instructions of her higher officer, the DGO is not responsible to issue any Administrative Approval as alleged by the complainant.

19. On over all evaluation of the oral and documentary evidence adduced by both the parties, on perusal of the evidence of PW-1/Shadow Witness, PW-2/Panch Witness, PW-3/Complainant and PW-4/I.O., it reveals that on 09/07/2009 PW-3/Complainant came to the police station and stated that DGO who is working as case worker in the office of the Commissioner, Department of Public Instruction Gulbarga district is demanding money to give Approval Order copy of his mutual transfer from Shanthivardhak Samyuktha PU College situated at Kamalanagar, Aurad Taluk, Bidar District to Akkamahadevi High School at Balki, so that he can get his salary which was held by from past eight months, So PW-4/I.O. has given voice recorder to PW-3/Complainant to record the conversation and on 30/07/2009 at 9.00 a.m. PW-3 appeared before PW-4/I.O. and gave voice recordings between him and DGO


28/6

on 09/07/2009 and lodged complaint as per Ex.P-6 and PW4/I.O. registered the case. Further their evidence reveals that, I.O. has called for PW-1 and 2 panch witnesses and has introduced them to PW-3/complainant and briefed them about the contents of the complaint and has also played the micro cassette voice recorder before them and got the transcription transcribed.

20. Further their evidence reveals that, PW-3 has produced 8 note of Rs.1,000/- denomination total Rs.8,000/- to the I.O. to lay the trap and I.O. had got numbers of notes noted in a sheet and got phenolphthalein powder applied through his staff and got it kept in a cover, smeared phenolphthalein powder on the cover and has got the same kept in the front right side pant pocket of PW-3 through PW-2 and they have deposed about hand wash of PW-2 in sodium carbonate solution and change in colour of the solution and about the I.O. seizing the sample of the solution. Further their evidence reveals that PW-4 has given one voice recorder to PW-3 and has given instructions and asked PW-1 to act as shadow witness and has drawn pre-trap mahazar of the above proceedings as per Ex.P-1. Further their evidence reveals that, at 2.30 after lunch hours PW-1 and 3 went inside the chamber of DGO.

21. Further the evidence of PW-1/Shadow Witness and PW-3/Complainant reveals that PW-3 enquired about his work and DGO asked bribe amount and PW-3 gave the cover in which the tainted notes were kept, which she received in right hand and kept it inside the drawer and later on PW-3 came out and gave signal by wiping his face with hand kerchief.


28/6

22. From evidence of PW-1/Shadow Witness and PW-3/Complainant, there is clear evidence that DGO had demanded bribe amount from the PW-3/Complainant when he enquired about his work i.e copy of approval order of transfer and when PW3 gave the cover with tainted notes she has received it from her right hand and kept it inside the drawer. Nothing material is elicited from their cross examination by DGO counsel to discredit their testimony with respect to demand and acceptance of bribe by DGO from PW-3/Complainant. As such the Disciplinary Authority has placed clear, cogent and convincing evidence with respect to demand and acceptance of bribe by DGO from PW-3/Complainant for official favour i.e., to give copy of Approval Order of mutual transfer to PW-3/Complainant.
23. Further the evidence of PW-1 to 4 reveals that, after receiving signal from PW3, PW-4 and 2 along with staff came inside the office of DGO and enquired PW-3/Complainant and he showed DGO who was sitting and told that when he enquired about his work she has demanded money and he gave it to her. So PW-4/I.O. enquired DGO about this for which she told that she received the tainted notes from PW-3/Complainant and put it into the drawer and gave xerox copy of the order to PW-3/Complainant and PW-1/Shadow Witness also reiterated the said facts and PW-4 got prepared sodium carbonate solution through his staff and got the right hand of DGO dipped in the solution and it changed to pink colour and he has seized the same. Further their evidence reveals that on enquiry to DGO she showed the drawer where the


28/6

tainted notes were kept and PW-4 got it removed through PW-2 and tallied the number of the notes with the notes mentioned in pre-trap mahazar and since they tallied he has seized the notes with cover which was inside the drawer and PW-4 also got the portion of the paper which was put on the drawer where tainted notes were kept wiped with cotton swab and dipped it in the sodium carbonate solution and it turned to pink colour and he has seized the solution and the cotton swab and the paper.

24. Further their evidence reveals that PW-4/I.O. has taken the explanation of DGO as per Ex.P-5 and PW-1 and 3 have denied it and told that it is false. Further their evidence reveals that PW-4 has seized the documents pertaining to PW-3 from DGO as per Ex.P-4 and has received the voice recorder from PW-3 and played it before PW-1 and 2 and got it transcribed as per Ex.P-9 and has drawn trap mahazar with respect to the above proceedings as per Ex.P-2.

25. From the evidence of PW-3/Complainant, PW-1/Shadow witness, PW-2/Panch witness and PW-4/Investigating Officer the disciplinary authority has proved the pre-trap mahazar proceedings as per Ex.P-1 and trap proceedings as per Ex.P-2. Nothing material is elicited from the cross examination of PW-1 to PW-4 to discredit their testimony with respect to conducting of trap proceedings, Pre-trap mahazar as per Ex.P-1 and post trap mahazar as per Ex.P-2.


28/6

26. It is the specific defence of DGO that on 30/07/2009 the complainant met her at lunch hour and handed over a cover regarding some papers of Shanthivardhak Samyuktha Institution situated at Kamalanagar, Aurad Taluk, Bidar and she has received that in good faith and kept the cover in the office drawer and it was not visible from the cover that it contained currency notes and complainant has fraudulently handed over the sealed cover containing currency notes and foisted a false criminal case against her. That since the Administrative Approval dated:16/07/2009 was dispatched to Shanthivardhak Samyuktha Institution and concerned department of Bidar Distict, there was no work of PW3/complainant pending before DGO. The DGO has given explanation in this regard as per Ex.P-5. The DGO has admitted that she has received the cover which was containing tainted notes from PW-3/Complainant and kept it in the drawer. The contention of DGO that it was given fraudulently under the guise of giving some office papers of Shanthivardhak Samyuktha Institution, Kamalanagar, Aurad Taluk, Bidar. This fact is specifically denied by PW1/ shadow witness and PW3/ complainant in their cross examination by the DGO's counsel and nothing is elicited from them in support of the defence of the DGO and to disbelieve the evidence of PW1 & PW3. It is in evidence of PW-1/Shadow Witness and PW-3/Complainant that the tainted notes were put in the plastic cover, so the notes will be visible for DGO and her contention that it was not visible cannot be accepted. As such it can be construed that it is the after thought of DGO to escape from the admission made in Ex.P-5 and her evidence cannot be believed

A handwritten signature in blue ink, possibly reading 'DGO', with the date '28/6' written below it.

and except her self serving evidence she has not adduced clear, cogent and consistent evidence to prove her defence.

27. It is pertinent to note here that DGO has admitted that she has received the cover containing the tainted notes from PW3 on that day as per ExP5. Further DGO except her self serving evidence has not adduced clear, cogent and convincing evidence on her behalf to prove her defence. As such her defence cannot be believed and her explanation i.e., Ex.P-5 clearly corroborate the case of the Disciplinary Authority.
28. It is sought to contend in the course of argument of DGO that DGO had already completed the work of the complainant and therefore the question of demand and acceptance of illegal gratification from the complainant is out of picture. Further the DGO has contended that the Final Administrative Approval Order was already passed on 16/07/2009 and file was forwarded to the outward section from the office of Deputy Director of Public Instruction, Kalburgi. That she has put up the office note on 01/07/2009, 13/07/2009 and 16/07/2009 before here higher officer and she is not responsible to issue Administrative Approval as alleged by the complainant. Admittedly the DGO had put up the office notes and as per the evidence of PW-4/I.O. he has seized file pertaining to order of PW-3/Complainant from the possession of DGO and she has given the xerox copy of order to PW-3/Complainant on that day after receiving the bribe amount. So this goes to show that DGO was handling the file of PW-3/Complainant and had every occasion to demand the bribe


28/6

amount from PW-3/Complainant to give xerox copy of the Administrative Approval Order to him. So that it would help him to get the salary bill done. At this juncture it needs to be remembered that nothing worthy is brought on record to hold that the complainant was very much aware that DGO had completed the work of the complainant on 16/07/2009 and therefore, it needs to be inferred that keeping the complainant under darkness of the completion of work DGO must have thought of demanding illegal gratification. It needs to be further remembered that even acceptance of cash even after completion of work attracts misconduct. It needs to be inferred that since the file pertaining to transfer approval order of the complainant was attended by DGO she must have insisted to fulfill the demand for illegal gratification. Nothing is found in the evidence of PW-1 to PW-4 that DGO herein was not found in possession of tainted cash. In these circumstances, the DGO has not lead clear, cogent and convincing evidence to lend assurance to the defence put forward by her and would not lend support to her defence.

29. It is well settled that in the criminal trial proof beyond reasonable doubt is the yardstick which needs to be applied while appreciating evidence. Preponderance of probabilities is the yardstick which needs to be applied while appreciating evidence in the inquiry of this nature. In order to establish the charge for the offence punishable under section 7, for the offence defined under section 13(1)(d) which is punishable under section 13(2) of The Prevention of Corruption Act, 1988, prosecution has to establish

A handwritten signature in blue ink, followed by the date '28/6' written below it.

demand and acceptance of illegal gratification in order to extend official favour. Mere possession of tainted cash attract the charge for the offence punishable under section 7, for the offence defined under section 13(1)(d) which is punishable under section 13(2) of The Prevention of Corruption Act, 1988. Evidence of PW-1 & PW-3 establishes demand of bribe by DGO. Evidence of PWs 1 to 4 establishes possession of tainted cash by DGO. Evidence of PWs 1 to 4 establishes change of colour of finger wash of DGO and also recovery of tainted cash from the possession of DGO. Further Ex.P-12 i.e., FSL report reveals the presence of phenolphthalein in the right hand wash of DGO and currency notes which corroborates the case of the disciplinary authority. Mere possession of tainted cash in the absence of satisfactory explanation attracts misconduct within the purview of Rule 3 (1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966. In the presence of evidence of PWs 1 to 4 as discussed above I am not persuaded to accept the defence put forward in the course of written statement and also contentions raised in the course of written argument of DGO.

30. Thus, this Additional Registrar Enquiries, finds that, evidence of P.Ws1 to 4, Ex.P-1 to P-14, as reasoned above, proves that the DGO had demanded and accepted bribe of Rs.8,000/- from the complainant on 30/07/2009 in her office. The disciplinary authority has proved the charges against the DGO. Accordingly, this point is answered in the Affirmative.


28/6

31. **Point No.2** :- For the aforesaid reasons, this Additional Registrar (Enquiries) proceeds to record the following.

FINDINGS

The disciplinary authority has proved the charges against the DGO.

Submitted to Hon'ble Upalokayukta for kind approval, and necessary action in the matter.


28/6/2023
(J.P. Archana)

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

ANNEXURES

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

PW1:- Sri. Sharanaiah
PW2:- Smt. Sharada Bai
PW3:- Sri. Uttam
PW4:- Sri. Maheshwara Gowda

List of witnesses examined on behalf of the Defence:-

DW1:- Smt. Sujatha


28/6

List of documents marked on behalf of Disciplinary Authority:-

Ex P1	Attested copy of pre-trap mahazar dated 30/07/2009.
Ex P2	Attested copy of trap mahazar dated 30/07/2009.
Ex P3	Attested copy of statement of PW-1 dated 30/07/2009.
Ex P4	Attested copy of documents pertaining to PW-3.
Ex P5	Attested copy of statement of DGO dated 30/07/2009.
Ex P6	Attested copy of complaint dated 30/07/2009.
Ex P7	Attested copy of FIR in Cr.No.12/2009
Ex P8	Xerox copy of transcription of the conversation in pre-trap.
Ex P9	Xerox copy of transcription of the conversation in trap.
Ex P10	Xerox copy of Photos.
Ex P11	Xerox copy of Service particulars of DGO.
Ex P12	Attested copy of Chemical Examiner's report.
Ex P13	Attested copy of sketch prepared by PWD Engineer.
Ex P14	Xerox copy of CDRs of PW-3.
List of documents marked on behalf of Defence:-	
Ex D-1	Xerox copy of Photo (part of Ex.P-10)


 (J.P. Archana) 28/6/2023

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

