HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF JUNE, 2025

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE MR JUSTICE T.M.NADAF

WRIT PETITION NO.16982 OF 2023 (S-KSAT)

BETWEEN:

1. THE KARNATAKA LOKAYUKTA
REPRESENTED BY ITS REGISTRAR
M S BUILDING,
DR. AMBEDKAR VEEDI
BENGALURU – 560 001.

2. THE ADDITIONAL REGISTRAR
OF ENQUIRIES - 10
KARNATAKA LOKAYUKTA
M S BUILDING, DR. AMBEDKAR VEEDI
BENGALURU – 560 001.

...PETITIONERS

(BY SRI. K.PRASANNA SHETTY, ADVOCATE)

Digitally signed by MADHUSHREE H
Location: High Court of Karnataka

AND:

1. SRI T N KODANDARAM
S/O LATE NANJAPPA
AGED ABOUT 56 YEARS,
ASST. EXECUTIVE ENGINEER
R/AT C/OF N MAHADEVA
SOWMYA NILAYA,
NEAR ROTARY SEVA SADANA
GORAVANAHALLI NEW EXTENSION,
MADDUR TOWN, MADDUR TALUK
MANDYA DISTRICT.

2. THE STATE OF KARNATAKA
REP. BY ITS PRINCIPAL SECRETARY
WATER RESOURCES DEPARTMENT
(SERVICE-A)
M S BUILDING
BENGALURU – 560 001.

…RESPONDENTS

(BY SRI. V.SHIVA REDDY, AGA;
SMT. MANJULA V A, ADVOCATE FOR C/R1 IN CP NO.11340/2023)

THIS WP IS FILED PRAYING TO ISSUE AN ORDER OR DIRECTION OR A WRIT IN THE NATURE OF CERTIORARI QUASHING/SET-ASIDE THE ORDER DATED 13/12/2022 PASSED IN APPLICATION NO.3764/2022 PASSED BY THE HON'BLE KARNATAKA ADMINISTRATIVE TRIBUNAL, BENGALURU (ANNEXURE-B); b) CONSEQUENTLY DISMISS THE APPLICATION NO.3764/2022 WITH LIBERTY TO THE PETITIONER/LOKAYUKTA TO PROCEED WITH THE DEPARTMENTAL ENQUIRY IN THE INTEREST OF JUSTICE AND EQUITY; c) PASS SUCH OTHER ORDER OR DIRECTION DEEMED JUSTI EXPEDIENT IN THE CIRCUMSTANCES OF THE CASE INCLUDING THE COSTS.

THIS PETITION COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE MR JUSTICE T.M.NADAF

ORAL ORDER

(PER: HON'BLE MR. JUSTICE S.G.PANDIT)

The petitioners, who were respondents No.2 and 3 before the Karnataka State Administrative Tribunal, Bengaluru, (for short, 'the Tribunal') in Application No.3764/2022 are before this Court aggrieved by order dated 13.12.2022 where under, the respondent No.1 application questioning the entrustment of enquiry dated 19.12.2019 (Annexure – A3) as well as Articles of Charge dated 10.06.2020 (Annexure - A4), are quashed.

2. Heard Sri.K.Prasanna Shetty, learned counsel for the petitioners and Smt.Manjula V.A., learned counsel for the respondent No.1 as well as Sri.V.Shiva Reddy, learned AGA for the respondent No.2 and perused the entire writ petition papers.

3. Respondent No.1, was working as Assistant Executive Engineer at Kaveri Niravari Nigama Niyamitha, No.2, Harangi Nala Sub-Division, Konnanoor. On the allegation that the respondent No.1 along with others failed to complete the project within the time, investigation was taken up by the petitioners and a report under Section 12(3) of the Karnataka

Lokayukta Act, 1984 (for short, 'Act, 1984') was submitted to the State Government. Based on the report submitted under Section 12(3) of the Act, 1984, Government Order dated 19.12.2019 (Annexure - A3) was issued entrusting enquiry against respondent No.1 as well as eight other officials to the Upa-Lokayukta. On entrustment, the Upa-Lokayukta nominated petitioner No.2 as the Enquiry Officer. Under Annexure - A4 dated 10.06.2020, he issued common charge memo against all the officials including respondent No.1. Questioning the entrustment order as well as Articles of Charge, the respondent No.1 was before the Tribunal in Application No.3764/2022. The Tribunal after hearing the parties, under impugned order dated 13.12.2022, quashed the order of entrustment as well as Articles of Charge on the ground of delay in initiating proceedings. Questioning the said order of the Tribunal, the petitioners i.e., Lokayukta authorities are before this Court in this writ petition.

4. Sri.K.Prasanna Shetty, learned counsel for the petitioners reiterating the grounds urged in the writ petition submits that the Tribunal is not justified in quashing the

entrustment order and Articles of Charge. Learned counsel would submit that the Tribunal ought not to have interfered with the Articles of Charge since respondent No.1 would get opportunity to prove his innocence before Enquiry Officer. Learned counsel also submits that the respondent No.1 is not aggrieved and would be aggrieved only when adverse order is passed after conclusion of the enquiry. It is his submission that respondent No.1 was working as Assistant Executive Engineer during the relevant period and he was responsible for completion of work within the contract period. Having failed to get the work completed within the time prescribed, the respondent No.1 has misconduct himself. Thus, he prays for allowing the writ petition.

5. Smt.Manjula V.A., learned counsel for the respondent No.1 would submit that the respondent No.1 worked in the said project as Assistant Executive Engineer till 04.05.2011. On his transfer, he handed over the charge to one Sri.K.M.Devanath, Assistant Executive Engineer. Further learned counsel would submit that by the time the respondent No.1 was transferred, period of 16 months for completion of the work had not

completed. Further learned counsel referring to the Articles of Charge would submit that the Articles of charge is very vague and no individual misconduct is alleged against each of the officials. It is submitted that the charge is general in nature and would not give roles played by each Government servant in failure of their duties in getting the work done. Thus, learned counsel would pray for dismissal of the writ petition.

6. Having heard the learned counsel for the parties and perusal of the entire writ petition papers, we are not inclined to interfere with the impugned order passed by the Tribunal quashing the entrustment order as well as Articles of Charge for the following:-

R E A S O N S

7. The charge memo would indicate that Kattepura Edadhande and Bhaldhande Nala Yojane was commenced on 24.05.2010 and for completion of work 16 months time was granted to the Contractor. It is the allegation that the respondent No.1 along with others failed to get the work completed within the period granted for completion. It is relevant to note that the respondent No.1 at the relevant point

of time of entrusting the work to Contractors on 24.05.2010 was working as Assistant Executive Engineer, but before completion of 16 months, was transferred and he handed over charge in terms of Annexure - A8 dated 04.05.2011 to one Sri.K.M.Devanath. As on the date of handing over of charge by respondent No.1 of the post of Assistant Executive Engineer at Kaveri Niravari Nigama Niyamitha, No.2, Harangi Nala Sub-Division, Konnanooru, the period of 16 months for completion of work had not expired. Therefore, no charge against the respondent No.1 of not getting the working completed within the time granted, would not arise.

8. The second charge against the respondent No.1 as well as other officials is that even before completion of work, 90% of tender amount was paid. Thus, the AGOs have committed misconduct. The charge is very vague. No particulars of completion of work or payment is given. Out of 9 AGOs, who is responsible for payment is also not indicated. How the payment of 90% as alleged is made is also not furnished. It is settled position of law that charge shall be very specific and it shall not be vague. Unless charge is specific, the

AGO would not be in a position to give his proper reply and on vague charge, no enquiry could be continued. The Hon'ble Apex Court in ***ANIL GILURKER v/s BILASPUR RAIPUR KSHETRIYA GRAMIN BANK AND ANOTHER*** reported in ***(2011)14 SCC 379*** at paragraphs 11 to 14 has held as follows:

> *"11. A plain reading of the charges and the statement of imputations reproduced above would show that only vague allegations were made against the appellant that he had sanctioned loans to a large number of brick manufacturing units by committing irregularities, but did not disburse the entire loan amount to the borrowers and while a portion of the loan amount was deposited in the account of the borrowers, the balance was misappropriated by him and others. The details of the loan accounts or the names of the borrowers have not been mentioned in the charges. The amounts of loan which were sanctioned and the amounts which were actually disbursed to the borrowers and the amounts alleged to have been misappropriated by the appellant have not been mentioned.*
>
> *12. We also find that along with the charge-sheet dated 31-1-1989 no statement of imputations giving the particulars of the loan accounts or the names of the borrowers, the amounts of loans sanctioned, disbursed and misappropriated were furnished to the appellant, and yet the disciplinary authority has called upon the appellant to submit his written defence statement in reply to the charges. We fail to appreciate how the appellant could have submitted his written statement in*

defence in respect of the charges and how a fair enquiry could be held unless he was furnished with the particulars of the loan accounts or the names of the borrowers, the amounts of loan sanctioned, the amounts actually disbursed and the amounts misappropriated were also furnished in the charge-sheet.

13. As has been held by this Court in Surath Chandra Chakrabarty v. State of W.B.2: (SCC. p. 553, para 5)

"5. The grounds on which it is proposed to take action have to be reduced to the form of a definite charge or charges which have to be communicated to the person charged together with a statement of the allegations on which each charge is based and any other circumstance which is proposed to be taken into consideration in passing orders has also to be stated. This rule embodies a principle which is one of the basic contents of a reasonable or adequate opportunity for defending oneself. If a person is not told clearly and definitely what the allegations are on which the charges preferred against him are founded he cannot possibly, by projecting his own imagination, discover all the facts and circumstances that may be in the contemplation of the authorities to be established against him."

14. This position of law has been reiterated in the recent case of Union of India & Ors. v. Gyan Chand Chattar (supra) and in Para 35 of the judgment as reported in the SCC, this Court has observed that the law can be summarized that an enquiry is to be conducted against any person giving strict adherence to the statutory provisions and principles of natural justice and the charges should be specific, definite and giving details of the incident which formed the basis of charges and no enquiry can be sustained on vague charges."

9. The Tribunal has proceeded to allow the application on the ground of delay. The complaint is dated 31.05.2014 whereas, Section 12(3) report under the Act, 1984 is dated 11.09.2018. Based on the Section 12(3) report, the enquiry was entrusted to Upa-Lokayukta under Government Order dated 19.12.2019. The Articles of Charge is issued on 10.06.2020. Based on the above sequence of events, the Tribunal has come to the conclusion that there is delay in initiating the enquiry. In addition to that as explained above, the respondent No.1 had moved out of the Sub-Division even before completion of 16 months time provided for completion of work as well as the charge is vague, we are not inclined to interfere with the order passed by the Tribunal. Accordingly, the writ petition stands ***rejected***.

Sd/-
(S.G.PANDIT)
JUDGE

Sd/-
(T.M.NADAF)
JUDGE

MH/-
List No.: 1 Sl No.: 30