1. I am the 4th DGO in the departmental enquiry conducted by the enquiry officer in Ref. No.3 above.

2. I have received the (1) Second Show Cause Notice, (2) a copy of the forwarding recommendation Report of Hon'ble Upa-Lokykatha, Bangalore and (3) a copy of the Enquiry Report of the enquiry officer appointed by Upa-Lokayukta.
3. I submit that the recommendations of Hon'ble Upa-Lokayukth a dated: 31.03.2018 on the basis of the enquiry report of the Enquiry Officer dated: 27.03.2018, are contrary to law and facts based on the presumptions and assumptions and surmising. The findings of the Enquiry Report of the Enquiry Officer are not true and correct. The Enquiry Officer has not appreciated the evidence on record properly and has wrongly come to the conclusion saying that the charges leveled against me, have been established and proved instead of exonerating me from the charges, so also the Hon'ble Upa-lokayukth a has wrongly accepted the report of enquiry officer without scanning into the facts and circumstances of the case and the evidence on record.

4. The averments made in the recommendations dated: 31.03.2018 are all opposed to principles of natural justice, law and facts. The averments made in the recommendations are false and frivolous and not warranted under the circumstances. The averments made in Para (5) to (7) (I) to (IV) & (9)) of the recommendations are not based on conclusive proof and they are only the views or the reasons given against the facts and circumstances of the case, which are not tenable in the eye of law.

5. I submit that as per Rule 14 A 2(e) of the Karnataka Civil Services (CCA) Rules 1957, the Government shall be the Disciplinary Authority to impose any of the penalties specified in Rule 8(vi). Therefore, the Hon'ble Upa-lokayuktha has no power to recommend regarding imposition or quantum of the punishment to be awarded. It is held in Writ Appeal No.8594/2012 (S-RES) by the Hon'ble High Court of Karnataka, Bengaluru dated 18.02.2015 that “...The Upalokayuktha has appointed an Inquiry Officer to conduct enquiry and after receipt of the report from the Enquiring Officer, he shall refer the matter to the Disciplinary Authority to take action but, the Upalokayuktha has no
power to sit in judgment over the report of the Enquiry Officer. The recommendations made by the Upa-Lokayuktah to impose penalty is bad in law and not sustainable in law. In this case without looking the facts and circumstances of the case, the Hon'ble Upa-Lokayuktah accepted the findings of the Enquiry Officer which is bad in law. The punishment recommended by the Hon'ble Upa-Lokayuktah is also bad in law, as because he has obeyed the order of her higher authorities such as president and members of the Gram Panchayat and on the basis of resolution passed by the panchayet members and president. She has no independent status in intervening her work. As per the direction of the president the bills have been passed as she was only worked as Secretary of the Gram Panchayet. Though she has brought the rules framed by the Government to the eyes of the authorities, they have not heeded her works. So at any time she is not guilty under the above circumstances.

6. Regarding enquiry Report;

The Enquiry officer has not properly appreciated evidence and not found out the truth or otherwise of the case on the basis of the evidence led by the Departmental Authority. So also the enquiry officer has not considered the points of arguments raised by this DGO No.4 in her written brief have not taken into consideration and discussed the matter with reference to those points referred to in the written brief in his enquiry report. The same written brief is reduced into writing as it is in kannada, it is already submitted to the enquiry officer. The points raised they are as it is as follows;

1. [Details of the points raised as per the document]
2. ಇದರ ಅಧಿಕೃತ ತಳೆಯದ್ದು 2 ಲಕ್ಷದ ಅನುಸಾರವಾಗುತ್ತದೆ. 37 ಚೆನ್ನಾಗಿಗಳು
 ಉತ್ತಮತ್ತೂರು. ಇದು ಉ.ಎ.ಎ.ಎ. 4 ಲಕ್ಷದ ಅನುಸಾರವಾಗುತ್ತದೆ. 4ರು ನಾಲ್ಮುಖ್ಯ.

2005 സെപ്റ്റംബർ 2006 വരെ കാലത്തെ അവസാനനിരക്കുകൾ പ്രഖ്യാപിക്കുന്നു. 

4. പിന്നീട് വിവരണം ഉണ്ടാക്കാൻ യുണിയൻ-2 യുണിയൻ-3 മുതൽ കഴിയുന്ന പ്രക്രിയയാണ് നൽകിയിരിക്കുന്നത്. കാരണം യുണിയൻ-2 നാമത്തിൽ തുറന്ന സമയം യുണിയൻ-3 നാമത്തിൽ ഇത് എന്ന് പ്രഖ്യാപിക്കുന്നു. അതോടെ യുണിയൻ-2 നാമത്തിലെ സമയം യുണിയൻ-3 നാമത്തിലെ ഇത് എന്നാണ് പ്രഖ്യാപിക്കുന്നത്. എന്നാൽ പ്രഖ്യാപിക്കുന്ന പ്രക്രിയ എന്നത് യുണിയൻ-2 നാമത്തിലെ സമയം യുണിയൻ-3 നാമത്തിലെ ഇത് എന്നാണ് പ്രഖ്യാപിക്കുന്നത്.
5. ಯಾವುದೇ ಅದ್ಭುತ ಆಧಾರದವರೆಗೆ ಒಂದು ಪ್ರತಿಕ್ರಿಯೆ ಅನುಸಾರವಾಗಿ ಕ್ರಮಗಳು ಬೇರ್ಪಡೆಗೆ ಬಳಸಬಹುದು; ಇದಕ್ಕೆ ಸಂಪರ್ಕದಲ್ಲಿ ಹೆಸರಾರು ಎ.ಎನ್.ಪಿ-4 ಮತ್ತು ನಿಮ್ಮ ಕ್ರಮಗಳು ಇತರದಿಗೆ ಮೂಲದ ಪಾಲಲು ನಿರ್ದೇಶಿಸಲಾಗುತ್ತಿದೆ. ಯಾವುದೇ ಆಧಾರದ ಎ.ಎನ್.ಪಿ-4 ಅಥವಾ ಪಾಲಲು ಇತರದಿಗೆ ಮೂಲದಲ್ಲಿ ಕ್ರಮಗಳು ಸ್ಹವೇರುತ್ತದೆ.

6. ಆಧಾರ-2 ಅಥವಾ ಆಧಾರ-ಇದ್ದೊಂದರು ಹೀಗೆ IID ಅಥವಾ ಅಗತ್ಯವೇ ಇದು ಬಳಸಲು ಮಾಡಲಾಗುತ್ತದೆ.


8. The Hon'ble enquiry officer has not discussed the points raised in the above written brief in his enquiry report. Hence the enquiry report is not acceptable one.

8. Section 8 of Lokayuktha Act reveals the limitation regarding initiating investigation in respect of the year 2003-2004 towards the construction of latrines and towards the substandard work. This aspect
of the matter is not taken in to consideration by the enquiry officer in his enquiry report.

9. The Hon’ble enquiry officer has not considered the defense documents filed by the DGO No.4 and nothing is discussed in that behalf. On this ground also the enquiry report is bad in law.

10. Apart from the above, the written statement of defense filed by the DGO-4 is not looked in to by the enquiry officer and nothing is discuss in his report itself, the same is already submitted at the time of enquiry. This also may be read as part and parcel of this reply.

11. This DGO-4 is an innocent and honest Government Servant he is a law-abiding citizen, he has devoted his duties to the best of his ability and there are no black spot either from the public or from the Head of the Department. He has maintained absolute integrity and has not become an unabecoming of the Government Servant in discharging of his duties and has never committed any mis-conduct as alleged in the articles of charges and imputations.

For the reasons stated above that it is humbly prayed that the DGO-4 may kindly be exonerated from the charges leveled against him by setting aside the enquiry report and the recommendations of the Hon’ble Upa-Lokayukta in the interest of justice.
15. **Point NO.1:** Charge No.1 is to the effect that, the DGO No.3 being the Junior Engineer of Panchayath Raj Engineering Sub-Division, Kundagol, and DGO No.4 being the Secretary of Betadur Grama Panchayath in Kundagol, carried out sub-standard work under “Swacha Grama Yojana” in respect of the above said road work and committed loss to the Government to the tune of Rs. 19,593/- and DGO NO.4 also committed loss to the Government to the tune of Rs. 73,000/- in “Swacha Grama Yojana” in respect of construction of latrines.

16. The complainant has been examined as PW1 and the complaint lodged by him before Lokayukta is at Ex.P17. In Ex.P17 it is stated that, in respect of “Swacha Grama Yojana” under SGRY scheme of Bettadur Grama Panchayath, there are irregularities which has to be enquired. Ex.P17(a) is the Form No.2 filed in support of Form No.1. PW1 has only deposed that, in respect of “Swacha Grama Yojana” and SGRY scheme works of Bettadur Grama Panchayath limits irregularities have been committed and in that respect, he has filed the complaint before the Lokayukta as per Ex.P17. He has deposed that, earlier to that, he had given several complaints to the DGO No.1 and DGO No.1 did not take any action and hence he lodged complaints before the Chief Executive Officer of Zilla Panchayath. Ex.P1 to P8 are the copies of the complaint given to Executive Officer, (DGO-1) Taluk Panchayath, Kundagol. Ex.P9 to P11 are the complaints lodged to Chief Executive officer, Zilla Panchayath, Kundagol. Ex.P12 is again the copy of the complaints lodged to Executive Officer, Taluk panchayath, Kundagol. From Ex.P13 it cannot be made out to
whom it has been addressed. Ex.P14 is again the copy of the complaint lodged to DGO No.1. PW1 has deposed that, without constructing the latrines bills have been paid and works undertaken by the above said panchayath are of sub-standard. He has also deposed about the inspection made by the I.O. of this case regarding his complaint.

17. PW2-Sri Mahathesh B. Jagatheri, and he has deposed that, from August 2008 to May 2011, he was working as Superintendent Engineer in Karnataka Lokayukta, Bangalore and Chief Engineer, Technical Wing, Karnataka Lokayukta, Bangalore had entrusted him the work of investigation and report in respect of the complaint of this case. He has deposed that, from 11/10/2010 to 13/10/2010, he has inspected all the works of the above said panchayath including the latrines constructed under the “Swacha Grama Yojana”. He has deposed that, on each day of his inspection he has written the mahazar and the mahazar dated: 11/10/2010 is at Ex.P18, mahazar dated: 12/10/2010 is at Ex.P19 and mahazar dated: 13/10/2010 is at Ex.P20. He has deposed that, he has also taken the photographs at the time of his inspection and the 34 photographs produced by him are together marked as Ex.P22. He has deposed that, video was also taken at the time of his inspection and the CD of that video is at Ex.P23. He has deposed that, except the work of the repair of road from the house of Sri Fakeerappa up to the house of Sri Mahadevappa Madara, all other works of the above said panchayath were in order and no irregularity was found in them. He has deposed that, apart from the same, there was irregularity regarding the
amount that was released to the beneficiaries in respect of
construction of latrines under “Swacha Grama Yojana”.

18. As stated above, it is not in dispute that 10 beneficiaries
were identified for the year 2003-2004 under “Swacha Grama
Yojana” and for each of them Rs. 10,000/- has been paid. In
fact Ex.D1 is the copy of the resolution of the above said
panchayath regarding selecting the 10 persons as beneficiaries
under the above said scheme. PW2 has deposed that, as per
the Government Circular the copy of which is at Ex.P24, the
Secretary of Bettadur grama panchayath instead of releasing
Rs. 3,000/- to each beneficiary has released Rs.10,000/-. He
has also deposed that, out of the 10 beneficiary only 9
beneficiaries have constructed individual latrines and one of
the beneficiary has not constructed the latrine. According to
Ex.P24 under “Swacha Grama Yojana”, by unit cost of the
latrines should not exceed Rs. 3,500/- and Rs.500/- has to be
contributed by the beneficiary and the remaining Rs.3,000/-
can be sanctioned to the beneficiary by the Government under
the above said Yojana. The DGO No.4 has not produced any
circular which shows that, at the relevant point of time the
beneficiary under the above said scheme was entitled to Rs.
10,000/- from the Government. Hence, it has to be said that,
the beneficiary under the above said scheme was entitled to
Rs. 3,000/- only. But in this case, the beneficiary has been
paid Rs. 10,000/- which is contrary to Ex.P24. PW1 has also
deposited that, out of the 10 beneficiaries only 9 beneficiaries
had constructed latrines and one of the beneficiary has not at
all constructed his own latrine.
19. Ex.P33 is the report of PW2 in which also the evidence given by PW2 has been reiterated. Earlier to PW2 making inspection and giving the report DGO No.2 had inspected regarding the complaint of the complainant and he has given his report and the copy of the same is at Ex.D18. In the same also it is stated that, out of the 10 beneficiaries only 9 beneficiaries have constructed their latrines. But one of the beneficiary by name Sri Madivalappa Hondada has not constructed his latrine. But he has taken photo by standing by the side of the latrine constructed by Sri Basappã Hondada in his land and given that photo and received the amount of Rs. 10,000/-. Hence, it can be said that, one of the beneficiary has not at all constructed his latrine and even then the amount of Rs. 10,000/- has been paid. As stated above, as per Ex.P24, the DGO No.4 being the Secretary of Bettâdurú Grama Panchayatâ should have released Rs. 3,000/- for each beneficiary and not Rs. 10,000/-.

20. DGO No.4 has been examined as DW4 and she has deposed that, there was a resolution of panchayath to pay Rs. 10,000/- to each of the 10 beneficiaries under the above said scheme and when the panchayath resolution was passed the complainant was also the grama panchayath member and Sri Madivalappa Hondada had told that, he is in the joint family and that, they are using one and the same latrine and hence, the amount has been released in favour of Sri Madivalappa Hondada. She has deposed that, the panchayath members and the villagers who were present in the meeting pressurised her to release the amount and hence, she released the amount she has produced the copy of the panchayath resolution
marked as Ex.D3 and one of the resolution is regarding releasing of Rs. 10,000/- to each of the beneficiary selected under the above said scheme. Just because there is a resolution of the village panchayath it cannot be said that, there is no irregularity in releasing Rs. 10,000/- to each of the beneficiary under the above said scheme. As stated above, rules provides for an amount of Rs. 3,000/- only for each of the beneficiary of the above said scheme and it is not the case of the DGO No.4 that, she had brought the said rules to the notice of the village panchayath President and the members when the above said resolution was passed and inspite of the same, the panchayath passed the resolution for release of Rs. 10,000/- to each of the beneficiary. It is the duty of the DGO No.4 to bring to the notice of the village panchayath chairman and its members that, each of the beneficiary under the above said scheme is entitle for Rs. 3,000/- only and when she has not done so it has to be said that, there is misconduct or irregularity on the part of the DGO No.4 in releasing an amount of Rs. 10,000/- to each of the beneficiary under the above said scheme even though the law provides for release of Rs. 3,000/- only to each of the beneficiary. More over as per Ex.D3, the fact of the one of the beneficiary not constructing his own latrine is also not brought to the notice of the village panchayath President and its members. It was the duty of the DGO No.4 to see that, all the beneficiaries constructs their own latrine before releasing the amount. But in this case the DGO No.4 has released the amount even though the above said one of the beneficiary had not constructed his own latrine in his land.
21. Ex.P21 is the copy of the letter addressed to Executive Officer, Taluk Panchayath, Kundagol by Panchayath Development Officer of Bettaduru gram panchayath dated 13/10/2011 in which it is stated that, DGO No.4 has reimbursed an amount of Rs. 73,000/- to the Government by accepting the excess payment made to the beneficiaries under the above said scheme. Just because the DGO No.4 has remitted the amount of Rs. 73,000/- pointed out by PW2 in his report as the amount to be recovered from the DGO No.4 regarding the above said irregularity it cannot be said that, the Disciplinary Authority has not proved its case stated above, against the DGO No.4. In fact the reimbursement of the above said amount by DGO No.4 supports the case of the Disciplinary Authority that there was excess payment and one of the beneficiary had not constructed his own latrine also. In Ex.P33, the report of I.O. there is mention about excess payment of Rs. 70,000/- to each to the 9 beneficiaries and the remaining beneficiary had not at all constructed his own latrine but there is payment of Rs. 10,000/- to him and totally Rs. 73,000/- has to be recovered from DGO No.4. Hence, it has to be said that, the disciplinary authority has proved that, DGO No.4 has committed misconduct by releasing amount of Rs. 73,000/- stated above.

22. As stated above, against both the DGO Nos. 3 and 4 it is alleged that, there is a sub-standard work in respect of repair of the road from the house of Sri Pakkirappa up to the house of Sri Mahadevappa Hondada as metalling has not been done. PW2 has deposed that, under SGRY scheme for the year 2005-06 the work of the road repair from the house of Sri
Fakkirappa to the house of Sri Mahadevappa Hondada has been undertaken and the estimate in that respect is Rs. 26,400/- and the copy of the same is at Ex.P26. He has deposed that, the copy of the measurement book is at Ex.P27. He has deposed that, as per the estimate metaling of the road has to be done. But it was not done and thereby there is a loss Rs.19,593/- to the Government. Ex.P19 is the mahazar of I.O. dated: 12/10/2010. In the same it is stated for the above said work Rs. 26,400/- has been sanctioned and as per the estimate metalling of the road has to be done. But metalling was not done. In the same it is stated that, even DGO No.3 has admitted the same and he has signed the mahazar Ex.P19.

23. PW2 has been cross-examined to the effect that, the metalling was done. But due to rain it has gone away which has been denied by PW2. He has denied the suggestion of learned counsel for the DGO to the effect that, in fact the metalling was done but due to lapse of time the metalling has been completely worn out. He has deposed that, due to rain only 2% of the metalling will be worn out and not completely. Thus he has denied the case of the DGO No.3 to the effect that, as the inspection was done more than 5 years after the work was done and due to rain the metalling was not worn out. According to PW2 if the metalling had been done at least some portion of the metalling should be available even after 5-6 years. But there was no metalling seen in any portion of the above said road. As stated above, DGO No.3 himself has signed the above said mahazar-Ex.P19 in which it is clearly
stated that, metalling of the above said road was not at all done.

24. DGO NO.3 has been examined as DW3 and he has deposed that, the metalling was done and the work was carried out as per the estimate and thereafter only the amount has been released. But as stated above there is evidence of PW2 to the effect that, metalling of the above said road was not all done and the DGO No.3 himself has also signed the mahazar-Ex.P19 and as stated above in no portion of the above said road the metalling was found it has to be said that, metalling was not been done and thereby there was loss of Rs. 19,593/- to the Government.

25. As stated above Ex.P21 is the letter addressed to the Executive Officer, Taluk Panchayath by Panchayath Development Officer, Bettaduru gram panchayath in which it is stated that, as per the report of PW2 (which is at Ex.P33) DGO No.3 has paid Rs. 9,796.50 and DGO No.4 has paid Rs. 9,796.50 and thereby they have reimbursed the amount to the Government by paying totally Rs. 19,593/-. In Ex.P33 it is stated that, DGO Nos. 3 and 4 are equally responsible for the above said amount of Rs. 19,593/- in respect of the above said road work and the same has been paid by DGO Nos.3 and 4 as stated above. The payment of the amount by DGO Nos.3 and 4 also supports the case of the Disciplinary Authority that, without doing metalling work in respect of the above said work-Rs. 19,593/- had been disbursed and thereby there was loss of the said amount to the Government. Just because DGO Nos. 3 and 4 have repaid the above said amount it cannot be said that, there was no sub-standard work in respect of the
above said road as alleged by the Disciplinary Authority. No doubt DGO No.3 has reimbursed Rs. 73,000/- and DGO Nos. 3 and 4 have totally reimbursed Rs. 19,593/- to the Government and thereby the loss to the Government has been compensated but on that ground it cannot be said that, the disciplinary authority has not proved the alleged misconduct by DGO Nos. 3 and 4. In the written argument it is stated that, by force DGO No.3 has signed Ex.P19. But the same cannot be accepted as the same is not stated in the written statement of DGO No.3. Hence, I answer point No.1 in the affirmative.

The facts as narrated in the statement of the complainant in the presence of the member of the disciplinary authority are totally wrong, with the wrong facts and figures. The figures of the number of days, number of cases, and the amount of the loss are not correct. The figures of the number of days, number of cases, and the amount of the loss are not correct. The figures of the number of days, number of cases, and the amount of the loss are not correct. The figures of the number of days, number of cases, and the amount of the loss are not correct.

Ramanujan Aiyer, 281, Mulund, Mumbai 2018 Date: 13.11.2018

The statement of the complainant is totally wrong, the figures, the facts and figures of the number of days, number of cases, and the amount of the loss are not correct. The figures of the number of days, number of cases, and the amount of the loss are not correct. The figures of the number of days, number of cases, and the amount of the loss are not correct. The figures of the number of days, number of cases, and the amount of the loss are not correct.

I answer point No.1 in the affirmative.

Ramanujan Aiyer, 281, Mulund, Mumbai 2018 Date: 13.11.2018

I answer point No.1 in the affirmative.

1) The complainant's statement is not acceptable.
2) ಹಸ್ತ ೂ ವಿದ್ಯಾನೆವದ್ರಾರು-1 ಸಂದೇಶ, ಸಂಹಾರ ಯುದ್ಧಕ್ಕೂ ಪ್ರತ್ಯೇಕ ಪ್ರತ್ಯೇಕ.
3) ಸಮಾಧಾನ, ಸಂಹಾರ ಯುದ್ಧಕ್ಕೂ ಪ್ರತ್ಯೇಕ.
4) ಹಸ್ತ ಇತರ ವಿದ್ಯಾನೆವದ್ರಾರು-4, ಸಂಹಾರ ಯುದ್ಧಕ್ಕೂ ಪ್ರತ್ಯೇಕ.
5) ಹಸ್ತ, ವಿದ್ಯಾನೆವದ್ರಾರು ಅಂದರೆ, ಸಂಹಾರ ಯುದ್ಧಕ್ಕೂ ಪ್ರತ್ಯೇಕ.
6) ಚಿಕ್ಕ ವಿದ್ಯಾನೆವದ್ರಾರು ಅಂದರೆ, ಸಂಹಾರ ಯುದ್ಧಕ್ಕೂ ಪ್ರತ್ಯೇಕ, ಸಂಹಾರ, ಸಂಹಾರ ಅಂದರೆ,
   (ಹಸ್ತ ಇತರ ವಿದ್ಯಾನೆವದ್ರಾರು ಅಂದರೆ, ಸಂಹಾರ ಯುದ್ಧಕ್ಕೂ ಪ್ರತ್ಯೇಕ, ಸಂಹಾರ, ಸಂಹಾರ ಅಂದರೆ)
7) ಹಸ್ತ ೂ ಇತರ ವಿದ್ಯಾನೆವದ್ರಾರು, ಸಂಹಾರ ಯುದ್ಧಕ್ಕೂ ಪ್ರತ್ಯೇಕ, ಸಂಹಾರ ಯುದ್ಧಕ್ಕೂ ಪ್ರತ್ಯೇಕ,
   ಸಂಹಾರ ಯುದ್ಧಕ್ಕೂ ಪ್ರತ್ಯೇಕ, ಸಂಹಾರ ಅಂದರೆ
8) ಕೋಟೆಗಳು, ಇತರ ವಿದ್ಯಾನೆವದ್ರಾರು ಅಂದರೆ — ಸಂಹಾರ ಯುದ್ಧಕ್ಕೂ ಪ್ರತ್ಯೇಕ, ಸಂಹಾರ ಅಂದರೆ
9) ಹಸ್ತ ೂ ವಿದ್ಯಾನೆವದ್ರಾರು.