An investigation was taken up under Section 9 of the Karnataka Lokayukta, Act, 1984, on the basis of complaint filed by Shri. Vishwanath S/o Shivappa Revvor, Mashal Village, Afzalpur Taluk, Kalaburagi District. (hereinafter referred to as ‘Complainant’ for short) against respondent No.1 Sri Dhulappa S/o Rayappa Raja, President, Mashala Grama Panchayath, Afzalpur Taluk, Kalaburagi District. And respondent No.2 Shrimanth S/o Sharanaappa Patil, Panchayath Development Officer, Mashala Grama Panchayath, Afzalpur Taluk, Kalaburagi District.(hereinafter referred to as ‘Respondent Nos.1 and 2’ for short)

2. The complainant alleges that;

- The President of Grama Panchayath Sri Dhuleappa, Rayappa Raja and the Panchayath Development Officer/Sri Shrimanth Rao Patil have misappropriated the public funds at Mashala Grama Panchayath, Afzalpur Taluk, Kalaburagi District without there being actual work done.

- It is also alleged that under MGNREG scheme. Money has been drawn in the name of Sri Dathappa Shivappa Pyati who is the Pump Operator of Grama Pachayath and in the name of Sri Siddappa Gurusiddappa Avatagi who is the member of Panchayath by preparing bogus bills.

- An amount of Rs.4,93,810/- is drawn in the name of Sri Rajashekhar Sanadani anf Rs.6,27,588/- in the name of Sri Santhosh Basanna Marate even though they are labourers and do not possess any vehicle or agency.

- Even though the formation of road at Sy.No.184 to 189 is not included in the action plan for the year 2009-10, they have created bogus bills to the tune of Rs.93,294/-.

- They have drawn Rs.81,600/- Rs.68,800/- and No.72 Sy.No.396 and Sy.No.176 respectively without doing any work in the said lands.

- False bills have been drawn without forming Bunds, Agricultural ponds and
• without providing irrigation facilities and thereby mis-utilised the public funds. He has also produced some documents in support of the complaint allegations.

3. Respondent No.1 has submitted his comments dated 16.07.2015 by denying the complaint allegations and has stated that the complaint is made due to political rivalry.

4. Respondent No.2 has submitted his comments dated 17.07.2015 stating that MLA of Afzalpur had complained to Chief Executive Officer with respect to misuse of funds under MGNREG Scheme. The complaint was entrusted to Ombudsmen, MGNREG, Kalburgi. The technical wing of Ombudsmen has observed that about 85% to 95% of works are still existing even after 2 years of completion of the work.

Further states that Dhashappa Shivappa Pyati, Pump Operator is a temporary employee and his working hours is between 7:00 a.m to 9:00 am. During the remaining hours, he has registered under MGNREG Scheme and he is working as a labourer. No bogus bills have been drawn as alleged.

Similarly, Siddappa Gurusiddappa Avatagi and Shivappa Sidramappa Pyati are the Members of the Grama Panchayath and have worked under MGNREG Scheme. No bogus bills are drawn as alleged.

Rajashekhara Sanadanni, Santhosh Basanna Marati have supplied tractors and materials. Therefore the rent towards tractor has been paid to them. No such bogus bills have been drawn.

For the year 2009-10, the Grama Panchayath Mashala was selected as a best performing Grama Panchayath under MGNREG Scheme. Further states that he had retired in the month of August-2012 and 5 years have already been lapsed after execution of the work. By stating that the present complaint is filed due to vengeance, has prayed to drop him from the proceedings.

Respondent No.2 has also submitted further comments (undated) before the IO of Technical Audit Cell of this institution in which he has stated that after preparation of plan of action of the year 2009-10, road work in Sy.No 184 to 186 was taken up due to pressure of the farmers. The same has been brought to the notice of his higher authorities and there after bills have been drawn.

5. Later the matter was referred to Chief Engineer, Technical Audit Cell for investigation, who in turn has submitted report dated 01.03.2017 along with report of IO Sri H.S Sudeendra, Assistant Executive Engineer-2, TAC dated 28.02.2017. The IO by conducting spot inspection on 31.12.2016 has submitted report stating that the allegations made in the complaint are not established. It is also stated that the complainant has withdrawn the complaint.

6. Perused the entire materials on record. The following discrepancies have been observed in the execution of the work taken up under Mashala Grama Panchayath for the year 2009-10.

IO along with his report has produced some documents pertaining to the alleged works. FORM PWG 35, TASK WORK STATEMENT of various works produced by the IO along with his report show that hire charges for tractor and also for JCB is paid and all the amounts mentioned are beyond Rs. 5000/-. 
Guideline No. 6(4) & (5) of MGNREG Scheme notified vide NO. G.O.R. 2006, dated 01.02.2007 reads as follows.

6. Preparation of work plan:
   - A work plan shall be prepared by the Assistant Engineer/Officer, WSS along with the project.
   - The work plan shall be prepared in consultation with the Village Panchayat and the concerned department.

Guideline No. 15 of MGNREG Scheme notified vide No. G.O.R. 2006, dated 01.02.2007 reads as follows.

“15. Whenever necessary, the following materials are required in such quantity as may be required, namely,
(a) bricks, cement, sand, and other construction materials,
(b) scythe, spade, and other implements”

- Rule 84 of Karnataka Panchayath Raj (Grama Panchayath, Budgeting and Accounting) Rules, 2006 reads as follows.

“Rule 84: Contract for supply of materials and execution of works:

All contracts for supply of materials or execution of works shall be signed on behalf of the Grama Panchayath by the Adhyaksha. Before entering into any contract of supply of materials or execution of any works, the Secretary shall ensure that the purchase or work contract is decided on the basis of the rules and regulations made by the Government from time to time.

The Government of Karnataka has revised the rates specified in Rule 55, sub Rule 49-A of Manual of Contingent Expenditure-1958 and has published notification vide G.O No. DE 02 dated 20.02.2012, dated 21.06.2012 (Copy enclosed) which reads as follows:

“...

As per the above notification, supply of materials or execution of any works with expenditure of more than Rs.3,000/- is to be only through calling quotation. If at all the services of tractor is to be availed, quotations are to be called. But no such quotations have been called by the respondents and bills have been paid towards rents of the tractor and JCB against the above said rules.

- As per MGNREG guideline Nos. 6(4), contractors and machineries cannot be utilized for the works which can be executed through labourers. But the task work statements/Form PWG 35 clearly go to show that JCBs have been utilized for desilting of tank and other works which is against to the guidelines of MGNREGA and thereby public funds have been misappropriated.
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* In the further comments of respondent No. 2 submitted to the IO, t SL. No. 8 he had clearly stated that the formation of road in Sy.No. 184 to 186 of Mashala Village has not been included in the action plan. It is stated that due to pressure of farmers, the said work was executed after preparation of plan of action by bringing it to the notice of higher authorities. Further states that the bills have been paid in accordance with the rules.

But no such previous sanction of the higher authorities is shown to be obtained for executing the said road work as per MGNREGA guideline NO. 6(5). The respondents by executing the alleged road work which was not included in the action plan have committed misappropriation of public funds.

7. In view of the above discrepancies, the comments of respondent No. 1 and 2 cannot be accepted at this stage. Also the report of Chief Engineer, TAC an not be relied upon. There are prima facie materials against respondents for the above said misconduct.

8. The respondent No. 1 was the then President of Mashala Grama Panchayath, Afzalpura Taluk. It is ascertained that for the present he is not the Member of the Grama Panchayath and therefore no action can be taken against him under the provisions of Panchayath Raj Act.

9. The respondent No. 2 is stated to be retired on 31.08.2012. Since the respondent No. 2 is found to have misappropriated public funds, the limitation prescribed under Rule 214(2)(b) is not attracted for the reason that misappropriation gives rise to continuous cause of action. Therefore action can be initiated against respondent No. 2 for the above said misconduct.

10. The facts and materials on record prima facie show that, the respondent No. 2 has committed misconduct as per Rule 3(i) to (iii) of KCS (conduct) Rules, 1966. Accordingly, now, acting under Section 12(3) of the Karnataka Lokayukta Act, recommendation is made to the Competent Authority to initiate disciplinary proceedings against respondent No. 2 Shrimanth S/o Sharanappa Patil, Panchayath Development Officer, Mashala Grama Panchayath, Afzalpur Taluk, Kalaburgi District. And to entrust the inquiry to this Authority under Rule 14-A of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 along with sanction as required under section 214(2) (b) of KCSR.
1. ಸಂಶೋಧನಾಧಿಕಾರಿ, ಸಂಬಂಧಿ, ಸಂಹಿತೆ.
2. ಮುಂದು ಸಂಬಂಧಿರಾಜಾರು, ಸಂಬಂಧಿ, ಸಿದ್ಧಾಂತಗಳು, ಸಂಹಿತೆ.
3. ಹಾಗೇ ಹಾಗೇ ಹಾಗೇ ಹಾಗೇ, ಸಂಬಂಧಿ. (ಮೂಲಕ ಸಂಬಂಧಿಸಿದ್ದು ಸತ್ಯಾಹ್ನಿ ಸಂಬಂಧಿಸಿದ್ದು. ಮೂಲಕ ಮರಾಟ: 1 ಮರಾಟ 267).
4. ಮುಂದು ಸಂಬಂಧಿಯು ತಿಳಿದ, ಮನುಷಿಯನ್ನು ಚಿಕ್ಕಬಿಡಿದ, ಚಿಕ್ಕಬಿಡಿದ.
5. ಹಾಗೇ ಹಾಗೇ ಹಾಗೇ ಹಾಗೇ ಹಾಗೇ, ಸಂಬಂಧಿಯು ತಿಳಿದ, ಚಿಕ್ಕಬಿಡಿದ, ಚಿಕ್ಕಬಿಡಿದ.
6. ಹಾಗೇ ಹಾಗೇ ಹಾಗೇ ಹಾಗೇ ಹಾಗೇ ಹಾಗೇ, ಸಂಬಂಧಿಯು ತಿಳಿದ, ಮನುಷಿಯನ್ನು ಚಿಕ್ಕಬಿಡಿದ, ಚಿಕ್ಕಬಿಡಿದ, ಚಿಕ್ಕಬಿಡಿದ, ಚಿಕ್ಕಬಿಡಿದ, ಚಿಕ್ಕಬಿಡಿದ.
7. ಮೂಲಕ ಮರಾಟ ಚಿಕ್ಕಬಿಡಿದ, ಮರಾಟ.
8. ಗೌರವ ಕೊಟ್ಟು.