



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23rd DAY OF JULY, 2021

PRESENT

THE HON'BLE Mrs. JUSTICE B.V. NAGARATHNA

AND

THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR

WRIT PETITION No.12300 OF 2020 [GM-KLA]

Connected with

WRIT PETITION No.12278 OF 2020 [GM-KLA]

WRIT PETITION No.45764 OF 2017 [GM-KLA]

IN W.P. No.12300/2020:

BETWEEN:

SRI R.F. HUDEAVAR
S/O. LATE FAKKIRAPPA,
AGED ABOUT 60 YEARS,
RETIRED EXECUTIVE ENGINEER,
(DEPUTY DIRECTOR),
#126, "SAI KRUPA", 2H MAIN ROAD,
11TH BLOCK, NAGARBHAVI,
BANGALORE - 560 072.

... PETITIONER

(BY SMT. RAKSHITHA D. J., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS
SECRETARY TO GOVERNMENT,
RURAL DEVELOPMENT & PANCHAYAT RAJ,
M.S. BUILDING,
DR. B.R. AMBEDKAR VEEDHI,
BENGALURU - 560 001.
2. THE RAJIVGANDHI RURAL
HOUSING CORPORATION LIMITED,
REPTD. BY ITS MANAGING DIRECTOR,
9TH FLOOR, CAUVERY BHAVAN
KEMPEGOWDA ROAD,
BENGALURU - 560 009.

3. THE MANAGING DIRECTOR,
KARNATAKA RURAL INFRASTRUCTURE
DEVELOPMENT LIMITED,
GRAMEENABHIVRUDHI BHAVAN,
4TH AND 5TH FLOOR,
ANANDA RAO CIRCLE,
BENGALURU – 560 009.
4. THE CHIEF EXECUTIVE OFFICER,
ZILLA PANCHAYAT,
BELLARI – 583 101.
5. THE EXECUTIVE OFFICER,
TALUK PANCHAYATH,
HAGARIBOMMANAHALLI,
BELLARI DISTRICT – 583 212.
6. THE REGISTRAR,
KARNATAKA LOKAYUKTA,
M.S. BUILDING,
DR. B.R. AMBEDKAR VEEDHI,
BENGALURU – 560 001. ... RESPONDENTS

(BY SMT. VANI H., ADDL. GOVERNMENT ADVOCATE FOR R-1;
SRI VENKATESH S. ARABATTI, ADVOCATE FOR R-6;
SRI PAWAN KUMAR, ADVOCATE FOR
SRI H. DEVENDRAPPA, ADVOCATE FOR R-3;
NOTICE TO R-2, R-4 & R-5 ARE SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO CALL
FOR RECORDS AND QUASH THE IMPUGNED GOVERNMENT
ORDER DATED 12.04.2018 AND ALSO ORDER CHARGE MEMO
DATED 23.07.2018 AND 30.08.2018 VIDE **ANNEXURES 'Q', 'R'**
AND **'S'** PASSED BY RESPONDENT Nos.1 AND 6 RESPECTIVELY
AS THE SAME ARE ILLEGAL AND CONTRARY TO LAW AND
WITHOUT JURISDICTION.

IN W.P. No.12278/2020:

BETWEEN:

SRI L.R. KUMARASWAMY
S/O LATE L.B. RAMEGOWDA,

AGED ABOUT 62 YEARS,
RETIRED ASST. EXECUTIVE ENGINEER,
(ASSISTANT DIRECTOR),
R/AT #856, 2ND FLOOR,
302, 2ND C MAIN ROAD,
VINAYAKA LAYOUT,
NAGARABHAVI,
BANGALORE - 560 072.

... PETITIONER

(BY SMT. RAKSHITHA D.J., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
REPRESENTED BY ITS
SECRETARY TO GOVERNMENT,
RURAL DEVELOPMENT & PANCHAYAT RAJ,
M.S. BUILDING,
DR. B.R. AMBEDKAR VEEDHI,
BENGALURU - 560 001.
2. THE RAJIVGANDHI RURAL
HOUSING CORPORATION LIMITED,
REPTD. BY ITS MANAGING DIRECTOR,
9TH FLOOR, CAUVERY BHAVAN,
KEMPEGOWDA ROAD,
BENGALURU - 560 009.
3. THE MANAGING DIRECTOR,
KARNATAKA RURAL INFRASTRUCTURE
DEVELOPMENT LIMITED,
GRAMEENABHIVRUDHI BHAVAN,
4TH AND 5TH FLOOR,
ANANDA RAO CIRCLE,
BENGALURU - 560 009.
4. THE CHIEF EXECUTIVE OFFICER,
ZILLA PANCHAYAT,
BELLARI - 583 101.
5. THE EXECUTIVE OFFICER,
TALUK PANCHAYATH,
HAGARIBOMMANAHALLI,
BELLARI DISTRICT - 583 212.
6. THE REGISTRAR,
KARNATAKA LOKAYUKTA,

M.S. BUILDING,
DR. B.R. AMBEDKAR VEEDHI,
BENGALURU - 560 001.

... RESPONDENTS

(BY SMT. VANI H., ADDL. GOVERNMENT ADVOCATE FOR R-1;
SRI VENKATESH S. ARABATTI, ADVOCATE FOR R-6;
SRI PAWAN KUMAR, ADVOCATE FOR SRI H. DEVENDRAPPA,
ADVOCATE FOR R-3; SRI J.M. ANIL KUMAR, ADVOCATE
FOR R-4; NOTICE TO R-2 & R-5 ARE SERVED)

THIS PETITION IS FILED UNDER ARTICLES 226 AND 227
OF THE CONSTITUTION OF INDIA, PRAYING TO CALL FOR
RECORDS AND QUASH THE IMPUGNED GOVERNMENT ORDER
DATED 12.04.2018 AND ALSO ORDER CHARGE MEMO DATED
23.07.2018 AND 30.08.2018 VIDE **ANNEXURES 'Q', 'R' AND
'S'** PASSED BY RESPONDENT Nos.1 AND 6 RESPECTIVELY, AS
THE SAME ARE ILLEGAL AND CONTRARY TO LAW AND WITHOUT
JURISDICTION.

IN W.P. No.45764/2017:

BETWEEN:

SRI ZIAULLAKHAN
S/O. MAHABOOB KHAN,
AGED ABOUT 62 YEARS,
RETIRED AS SUPERINTENDING ENGINEER
"KRIDL" CHITRADURGA,
ITS HEADQUARTERS AT BENGALURU,
RESIDING AT NO.64, 2ND FLOOR,
RANOJI RAO ROAD,
OPPOSITE TO CRESCENT SCHOOL COMPLEX,
BASAVANAGUDI,
BENGALURU - 560 004.

... PETITIONER

(BY SRI RAGHAVENDRA G. GAYATRI, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
REPRESENTED BY ITS
PRINCIPAL SECRETARY,
RURAL DEVELOPMENT & PANCHAYAT RAJ DEPT.,

GOVERNMENT OF KARNATAKA,
M.S. BUILDINGS,
DR. B.R. AMBEDKAR VEEDHI,
BENGALURU – 560 001.

2. THE KARNATAKA LOKAYUKTA,
REPRESENTED BY ITS REGISTRAR,
M.S. BUILDINGS,
DR. B.R. AMBEDKAR VEEDHI,
BENGALURU – 560 001.
3. THE MANAGING DIRECTOR,
KARNATAKA RURAL INFRASTRUCTURE
DEVELOPMENT LIMITED, 4TH FLOOR,
GRAMEENABHIVRUDHI BHAVAN,
(GOVERNMENT OF KARNATAKA UNDERTAKING)
ANANDA RAO CIRCLE,
BENGALURU – 560 009. ... RESPONDENTS

(BY SMT. VANI H., ADDL. GOVERNMENT ADVOCATE FOR R-1;
SRI VENKATESH S. ARABATTI, ADVOCATE FOR R-2;
SRI GURURAJ JOSHI, ADVOCATE FOR R-3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO CALL FOR RECORDS FROM THE 1ST AND 2ND RESPONDENTS PERTAINING TO THE IMPUGNED ORDER DATED 31.05.2017 ISSUED BY THE 2ND RESPONDENT VIDE **ANNEXURE-A**, ORDER DATED 28.12.2016 PASSED BY THE 1ST RESPONDENT VIDE **ANNEXURE-B**, AND THE REPORT UNDER SECTION 12(3) OF THE KARNATAKA LOKAYUKTA ACT, 1984 DATED 17.09.2016 AT **ANNEXURE-C** SENT BY THE 2ND RESPONDENT TO THE 1ST RESPONDENT.

THESE WRIT PETITIONS HAVING BEEN HEARD AND RESERVED ON 21.06.2021 AND COMING ON FOR PRONOUNCEMENT OF ORDERS TODAY, **NAGARATHNA J.**, COURT PRONOUNCED THE FOLLOWING:

ORDER

These writ petitions have been connected together, heard together and are disposed of by this common judgment.

2. In essence, these appeals assail the following:

(I) In Writ Petition No.12300/2020: (i)

Government Order No.Gra.Aa.Pa:21:Ka.Gra.Mu:2018, Bengaluru, dated 12.04.2018 (**Annexure 'Q'**); **(ii)** Government Order No.UPLOK-2/DE-359/2018, Bengaluru dated 23.07.2018 (**Annexure 'R'**); and **(iii)** Articles of Charge in reference No.UpaLok-2/DE-359/2018/ARE-8, dated: 30.08.2018 issued by the Lokayukta (**Annexure 'S'**);

(II) In Writ Petition No.12278/2020: (i)

Government Order No.Gra.Aa.Pa:21:Ka.Gra.Mu:2018, Bengaluru, dated 12.04.2018 (**Annexure 'Q'**) passed by the State Government; **(ii)** Government Order No.UPLOK-2/DE-359/2018, Bengaluru, dated 23.07.2018 (**Annexure 'R'**); **(iii)** Articles of Charge in reference No.UpaLok-2/DE-359/2018/ARE-8, dated: 30.08.2018 issued by the Lokayukta (**Annexure 'S'**) under Rule 14-A of the

Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 (for short 'CCA Rules');

(III) In Writ Petition No.45764/2017: (i)

Articles of Charge in reference No.UPLOK-1/DE/251/2017/ARE-4 dated 31.05.2017 issued by the Lokayukta (**Annexure 'A'**); **(ii)** Government Order No.Gra.A.Pa:18:Ka.Gra.Mu:2016, Bengaluru, dated 28.12.2016 passed by the State Government (**Annexure 'B'**) and **(iii)** Report dated 17.09.2016 in reference No.Compt/Upiok/GLB-5215/2012/ARE-5, issued under Section 12(3) of the Karnataka Lokayukta Act, 1984 ('KL Act' for short) (**Annexure 'C'**).

BRIEF FACTS OF THE CASE:

3. Since, these petitions are concerned with three different petitioners, the facts of the case, as narrated in each of these writ petitions, are culled out as under:

A. Writ Petition No.12300/2020:

(a) The Petitioner was an employee of the Karnataka Rural Infrastructure Development Limited ('KRIDL' for the sake of convenience). Initially, he was appointed as Task Force Commander/Assistant Engineer on consolidated

pay/daily wage and his services were regularised with effect from 02.05.1987 by the then Karnataka Land Army Corporation Limited which was constituted in the year 1974 and was renamed as the 'KRIDL'. Copy of the regulation order dated 02.05.1987 is at **Annexure 'A'**.

(b) The petitioner was promoted as Deputy Director as per order dated 18.03.2013. From 2014, the said post was renamed as Executive Engineer. Subsequently, the petitioner retired from service on 30.05.2020 on attaining the age of superannuation. Copy of the Office order dated 30.05.2020 is at **Annexure 'B'**.

(c) The petitioner was working as Executive Engineer at KRIDL, HuvinaHadagali for the period from 15.12.2011 to 20.11.2015. Prior to his posting, one Sri.K.S.Siddalingappa was working as the Executive Engineer. The petitioner was in-charge of the post of Executive Engineer from 15.12.2011 till he was promoted as Executive Engineer with effect from 18.03.2013. The MLA of Hagaribommanahalli Constituency addressed a detailed letter on 18.05.2011 requesting the then Housing Minister to construct low cost houses in the Constituency

to houseless poor people. Accordingly, on 21.05.2011, the then Housing Minister directed the Managing Director, Rajiv Gandhi Housing Corporation Limited, Bengaluru (for brevity, the same is called as "RGRHCL") to take appropriate steps. RGRHCL is a Karnataka Government undertaking financed by Central and State Governments to undertake welfare measures such as construction of houses, etc. The main object of the Corporation is to finance and monitor low cost housing constructed under 'Basava Vasati Schemes', 'Indira Awas Yojana' and 'Ambedkar Vasati Yojana' and other such schemes. The present housing scheme is under 'Basava Vasati Scheme'. As per the direction of the Housing and Urban Development Minister, on 16.06.2011, the General Manager (MD), issued direction to the Executive Officer, Taluka Panchayat, Hagaribommanahalli to entrust the construction of low cost houses through the Karnataka Land Army Corporation Limited, now called as KRIDL. Copy of the letter dated 16.06.2011 addressed by the General Manager (MD), RGRHCL is at **Annexure 'C'**.

(d) The issue was elaborately discussed with the Chief Executive Officer, Zilla Panchayat, Ballari and

Executive Officer, Taluka Panchayat, Hagaribommanahalli and a Resolution was sent to the Managing Director, RGRHCL, Bengaluru. Accordingly, the General Manager, wrote a letter to the Executive Officer, Taluka Panchayat, Hagaribommanahalli on 13.09.2011 to take up the construction work through Government construction agency, called KRIDL. Copy of the letter dated 13.09.2011 addressed to the Chief Executive Officer, Zilla Panchayat, Ballari is at **Annexure 'D'**. The said letter contained detailed guidelines as to how the houses need to be constructed and the procedure to be followed from time to time, for construction of low cost houses.

(e) That, on 22.11.2011, the Executive Officer, Taluka Panchayat passed an order entrusting the work to KRIDL. Copy of the proceedings dated 22.11.2011 is at **Annexure 'E'**. The Karnataka Rural Infrastructure Development Corporation is a Government undertaking which is a construction company, collect 18%, which include Vat, Labour Cess and agency charges, etc. As per the scheme, at first instance, it mobilized advances required to start the scattered houses in three Talukas i.e., Kudligi, Hosapete and Hagaribommanahalli Constituencies,

which consists of 27 Grama Panchayats, 130 villages, 5367 beneficiaries. The funds were released by Managing Director, RGRHCL, Bengaluru as mobilization amount to the Executive Officer, Taluka Panchayat, Hagaribommanahalli and in turn the Executive Officer, Taluka Panchayat, Hagaribommanahalli released advances to Executive Engineer, KRIDL, Huvinahadagali. The Executive Engineer, KRIDL, remitted the same to the account of Managing Director, KRIDL Bengaluru. At the request of Assistant Executive Engineer, KRIDL, the Managing Director, KRIDL released 82% of the amount and balance amount of 18% was retained towards agency charges, Vat, Labour Cess and job savings to the works account of AEE, KRIDL, Hagaribommanahalli.

(f) Under 'Basava Vasati Scheme' of 2010-11, total 7997 houses were sanctioned, out of which KRIDL constructed 5367 houses at a cost of Rs.4025.25 lakhs. The Managing Director, RGRHCL released a sum of Rs.3737.18 lakhs to the Executive Officer, Taluka Panchayat, Hagaribommanahalli and instructed the Executive Officer, Taluka Panchayat to release a sum of Rs.3739.19 lakhs to the Executive Engineer, KRIDL and

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Executive Engineer, KRIDL remitted the same to the Managing Director, KRIDL, Bengaluru. The Managing Director transferred a sum of Rs.2941.56 lakhs to the Works Account of Assistant Executive Engineer ('AEE'), KRIDL, Hagaribommanahalli online. The KRIDL, Hagaribommanahalli constructed 5367 houses, out of which 3441 houses are declared completed and remaining 1741 houses could not be completed on account of shortage of fund. Copy of the proceedings of the meeting dated 10.06.2016 is at **Annexure 'F'**. The construction quality was maintained and stage-by-stage photos of houses were certified by the Panchayat Development Officer and AEE of Construction Company, including the materials such as cement, AC Sheets, iron doors, iron windows and purlins supplied. Similarly, the work progress done stage by stage, Global Positioning System (GPS) of the houses was uploaded by the Executive Officer, Taluka Panchayat, in the website of RGRHCL. The Superintendent Engineer prepared a detailed report and requested the Managing Director, KRIDL to release the balance amount of Rs.208.29 lakhs. Copy of the letter dated 14.01.2015 addressed by Superintendent Engineer, KRIDL is at

Annexure 'G'. Similarly, the Managing Director, KRIDL issued a direction on 10.06.2016 to the Executive Officer, Taluka Panchayat, Hagaribommanahalli to submit a compliance report regarding incomplete houses.

When such being the case, Sri.G.Sankara Gauda, son of BasavanaGauda of Hagaribommanahalli filed a complaint in Form No.1 on 04.06.2015 before the Lokayukta alleging certain irregularities in the construction of low cost houses at Hagaribommanahalli Taluk. In support of the allegations, he has also enclosed newspaper clippings. Copy of the complaint dated 04.06.2015 along with newspaper clippings are at **Annexure 'H'**.

On receipt of the complaint, third party inspection was done as per the guidelines contained in the letter dated 16.06.2011 (**Annexure 'C'**) issued by the General Manager, RGRHCL. An inspection report was submitted by the State Quality Control Monitor, Davangere along with the covering letter dated 24.07.2015 to the Director, Suvarna Gramodaya Yojane. Copy of the covering letter dated 24.07.2015 along with a report is at **Annexure 'J'**. Similarly, third party inspection was done on 12.03.2016

and it was certified that the quality of material used in the construction of house was satisfactory. Copy of the Inspection Report dated 12.03.2016 conducted by Rao Bahadur Y. Mahabaleshwara Engineering College, Hagaribommanahalli, Ballari, is at **Annexure 'K'**. The AEE, KRIDL, Hagaribommanahalli, submitted the status report on 28.10.2016 to the Managing Director, KRIDL and requested to release balance amount of Rs.797.62 lakhs to complete the remaining work. Copy of the letter dated 28.10.2016 addressed by the AEE, KRIDL to the Managing Director, KRIDL is at **Annexure 'L'**.

(g) On the basis of the complaint made by G.Sankara Gauda of Hagaribommanahalli, detailed inquiry was conducted by the Lokayukta Inspector, Hosapete along with the Assistant Commissioner, Hosapete Sub-Division and a report was submitted on 28.12.2017 to the Lokayukta alleging that the petitioner and AEE had not submitted the physical progress report of the houses. It was further alleged that the RGRHCL has not constructed the houses but, only supplied materials such as cement, cement blocks, iron doors, windows, etc., and a sum of Rs.10,000/- to Rs.15,000/- was paid to the beneficiaries

and thereafter, no proper monitoring or follow up action was taken by the employees of KRIDL. Copy of the Inspection Report dated 28.12.2017 is at **Annexure 'M'**.

(h) It is submitted that on the basis of the preliminary inquiry report dated 28.12.2017, the Upa-lokayukta submitted a report under Section 12(3) of the KL Act on 28.02.2018 along with a covering letter dated 16.03.2017 to respondent No.1/Government. Copy of the covering letter dated 16.03.2017 along with report dated 28.2.2018 are at **Annexures 'N' and 'P'** respectively. In the report, the Upa-lokayukta recorded a finding that the officials of KRIDL had not constructed the houses and had not followed guidelines. That, the Executive Officer, Hagaribommanahalli had not verified the physical progress of the work done by the KRIDL but had released Rs.2,043/- lakhs to the Deputy Director on Utilization Certificate. That no documents were maintained for having spent the amount or as to why excess amount was paid to some of the houses and no inspection was done through third party, as per the guidelines of RGRHCL. That, though KRIDL, Hagaribommanahalli had to construct the houses to the beneficiaries, only some amount and materials were

supplied to the beneficiaries, thereby had committed irregularities in violation of Section 3(i), (ii) and (iii) of Karnataka Civil Services (Conduct) Rules, 1966 ['Conduct Rules' for short]. The respondent/Government issued Government Order on 12.04.2018 entrusting the inquiry to Upa-lokayukta-II under Rule 14-A of the CCA Rules. Copy of the Government Order dated 12.04.2018 is at **Annexure 'Q'**.

(i) That, the KRIDL is the Disciplinary Authority for the petitioner, hence the State Government is not competent to entrust the inquiry under Rule 14-A of the CCA Rules. The petitioner was in service and he was working as Executive Engineer in KRIDL. The Disciplinary Authority and Appellate Authority are the Managing Director, KRIDL and the Board respectively. Therefore, the inquiry entrusted by the State Government as per Government Order dated 12.04.2018 is without jurisdiction and further, the Upa-lokayukta is not competent to conduct or continue the inquiry against the retired officials.

(j) On the basis of the Government Order dated 12.04.2018, the Upa-lokayukta appointed Additional

Registrar of Enquiries-8 (ARE-8) as an Enquiry Officer to conduct the inquiry against the petitioner and another. Copy of order dated 23.07.2018 appointing the Enquiry Officer is at **Annexure 'R'**. The ARE-8 framed charges on 30.08.2018 alleging that under Basava Vasati Scheme, though amount was received, stage-wise physical progress work was not done and no report was submitted through Executive Officer, Taluka Panchayat to KRIDL, and neither followed the guidelines, nor constructed the houses and only an amount of Rs.10,000/ to Rs.15,000/- was paid and certain construction materials were given, without following the further progress in the work nor time-to-time payment to the beneficiaries was made. Thereby, petitioner had violated Rule 3(i), (ii) & (iii) of the Conduct Rules. Copy of the Charge Memo dated 30.08.2018 is at **Annexure 'S'**. In response to the Charge Memo, dated 30.08.2018, petitioner submitted detailed reply on 26.02.2019 denying all the charges. Copy of the reply to the Charge Memo, dated 26.02.2019 is at **Annexure 'T'**.

(k) It is submitted that during the pendency of the proceedings before the Upa-lokayukta, a letter was written on 25.07.2019 directing the Managing Director, KRIDL to

take immediate steps to lodge a criminal case against the petitioner and others before the appropriate Court and to take criminal action. Copy of the letter addressed by the Upa-lokayukta dated 25.07.2019 is at **Annexure 'U'**.

(l) It is submitted that entrusting the inquiry against petitioner to the Lokayukta by the State Government as per Government Order dated 12.04.2018 and further initiation of the inquiry against the petitioner as per Charge Memo dated 30.08.2018 issued by Lokayukta is without authority of law and also contrary to the judgment of High Court in W.P.No.25502/2002 (S-RES) (disposed of on 15.09.2008) filed by D.Manu and Others. Copy of the said judgment dated 15.09.2008 is at **Annexure 'V'**.

(m) It is further averred that entrusting the inquiry against the petitioner is without jurisdiction and without authority of law as there is no provision under Rule 14-A of the CCA Rules to direct the Lokayukta or Upa-lokayukta to hold inquiry against an employee of KRIDL as he was not a Member of the State Civil Services.

(n) It is submitted that the petitioner was unable to take immediate steps to file the writ petition due to want

of certain documents and after obtaining the same, has taken steps to file the present petition. Further, due to COVID-19 pandemic, the present petition could not be filed at the earliest. Further, it is submitted that the petitioner is questioning the competency of the Lokayukta to conduct the inquiry against the petitioner as, neither the Government nor Upa-lokayukta was competent to conduct the inquiry, as the petitioner was an employee of the KRIDL which has got its own C&R Rules governing the field of initiation of inquiry and imposing penalty.

(o) It is submitted that petitioner was not a Government servant, but he was an employee of KRIDL. He had discharged duties from 15.12.2011 to 20.11.2015. That, from 2008 to 2011, one Siddalingappa was working as Deputy Director. During his tenure, an amount of Rs.4,50,00,000/- was released. Further, from 22.11.2015 to January-2017, one N.Lokesh was working as Executive Engineer, KRIDL. Hence, the authorities were not justified in conducting inquiry only against the petitioner, retired AEE. The petitioner had retired on 30.05.2020, as such, the Upa-lokayukta is not justified in continuing the inquiry under CCA Rules as he is ceased to be in service.

Aggrieved by the Government Order dated 12.04.2018 and Charge Memo dated 30.08.2018, petitioner has filed this petition.

B. Writ Petition No.12278/2020:

(a) The petitioner was an employee of KRIDL. He was initially appointed as Task Force Commander/Assistant Engineer on consolidated pay/daily wage and his services were regularised with effect from 05.05.1988 by the then Karnataka Land Army Corporation Limited which was constituted in the year 1974. The said Corporation was renamed in the year 2009 as KRIDL. The petitioner was promoted as Assistant Executive Engineer (Assistant Director) as per order dated 26.08.2004. In the year 2014, the post of Assistant Director was renamed as Assistant Executive Engineer (AEE). The petitioner retired from service on 31.01.2018 on attaining the age of superannuation vide Office Order dated 31.01.2018 (**Annexure 'B'**).

(b) The petitioner was stationed at Hagaribommanahalli sub-division for the period from 08.10.2011 to 31.01.2018 as AEE. During 2011, the MLA

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of Hagaribommanahalli Constituency wrote a letter requesting the then Housing Minister to undertake construction of low cost houses in the Constituency to houseless poor people. Accordingly, on 21.05.2011, the then Housing Minister directed the Managing Director, RGRHCL, to take appropriate steps. RGRHCL is a Karnataka Government undertaking financed by Central and State Government to take beneficial measurements such as construction of houses, etc. The main object of RGRHCL is to finance and monitor low cost houses constructed under various schemes. The present housing scheme is under "Basava Vasati Scheme". As per the direction of the Housing and Urban Development, Minister, the General Manager (MD) issued direction to the Executive Officer, Taluka Panchayat, Hagaribommanahalli to entrust the construction of low cost houses to the Karnataka Land Army Corporation Limited (now called as KRIDL), on 16.06.2011. A copy of the letter dated 16.06.2011 addressed by the General Manager (MD), RGRHCL is at **Annexure-C**.

The said issue was discussed with the Chief Executive Officer, Zilla Panchayat, Ballari and Executive

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Officer, Taluka Panchayat, Hagaribommanahalli and a Resolution was sent to the Managing Director, RGRHCL, Bengaluru. Accordingly, the General Manager wrote a letter to the Executive Officer, Taluka Panchayat, Hagaribommanahalli on 13.09.2011 to take up the construction work through Government construction agency viz., KRIDL. A copy of the letter dated 13.09.2011 addressed to the Chief Executive Officer, Zilla Panchayat, Ballari is at **Annexure 'D'**. The said letter contained detailed guidelines, as to how the houses need to be constructed and the procedure to be followed from time to time, for construction of low cost houses.

(c) That, on 22.11.2011, the Executive Officer, Taluka Panchayat passed an order entrusting the work to KRIDL. Copy of the proceedings dated 22.11.2011 is at **Annexure 'E'**.

(d) Under Basava Vasati Scheme of 2010-11, in all 7,997 houses were sanctioned, out of which KRIDL constructed 5,367 houses at a project cost of Rs.4,025.25 lakhs. The Managing Director, RGRHCL, released a sum of Rs.3,737.18 lakhs to the Executive Officer, Taluka

Panchayat, Hagaribommanahalli and instructed the Executive Officer, Taluka Panchayat to release a sum of Rs.3,739.19 to the Executive Engineer, KRIDL and the Executive Engineer, KRIDL remitted the same to the Managing Director, KRIDL, Bengaluru. The Managing Director transferred a sum of Rs.2,941.56 lakhs to the works account of AEE, KRIDL, Hagaribommanahalli online. The KRIDL, Hagaribommanahalli constructed 5367 houses out of which 3441 houses were declared completed and remaining 1741 houses were not completed on account of shortage of funds. A copy of the proceedings of the meeting dated 10.6.2016 is at **Annexure 'F'**. The construction quality was maintained and stage-by-stage photos of houses, were certified by the Panchayat Development Officer and AEE of construction company, including the building materials such as cement, AC Sheets, iron doors, iron windows and purlins supplied. Similarly, work progress done stage by stage, GPS of the houses were uploaded by the Executive Officer, Taluka Panchayat, in the website of RGRHCL. The Superintendent Engineer prepared a detailed report and requested the Managing Director, KRIDL to release balance amount of

Rs.208.29 lakhs. A copy of the letter dated 14.01.2015 addressed by the Superintendent Engineer, KRIDL is at **Annexure 'G'**. Similarly, the Managing Director, issued a direction on 10.06.2016 to the Executive Officer, Taluka Panchayat, Hagaribommanahalli to submit a compliance report regarding incomplete houses.

(e) When such being the case, Sri.G.Sankara Gauda, S/o Basavana Gauda of Hagaribommanahalli filed a complaint in Form No.1 on 04.06.2015 before the Lokayukta alleging certain irregularities in construction of low cost houses at Hagaribommanahalli Taluka. In support of the allegations, he had enclosed newspaper clippings. Copy of the complaint dated 04.06.2015 along with newspaper clippings are at **Annexure 'H'**.

After the complaint, third party inspection was done as per the guidelines contained in the letter dated 16.06.2011 (**Annexure 'A3'**) issued by the General Manager, RGRHCL. An inspection report was submitted by the State Quality Control Monitor, Davangere along with the covering letter dated 24.07.2015 to the Director, Suvarna Gramodaya Yojane. Copy of the covering letter

dated 24.07.2015 along with a report is at **Annexure 'J'**. Similarly, third party inspection was done on 12.03.2016 and it was certified that the quality of material used in the construction of house is satisfactory. Copy of the Inspection Report dated 12.3.2016 conducted by Rao Bahadur Y. Mahabaleshwara Engineering College, Ballari is at **Annexure 'K'**. The AEE, KRIDL, Hagaribommanahalli, submitted the status report on 28.10.2016 to the Managing Director, KRIDL and requested to release balance amount of Rs.797.62 lakhs to complete the remaining work. Copy of the letter dated 28.10.2016 addressed by the AEE, KRIDL to Managing Director, is at **Annexure 'L'**.

(f) That on the basis of the complaint made by G.Sanakara Gauda of Hagaribommanahalli, detailed inquiry was conducted by the Inspector, Lokayukta, Hospete along with Assistant Commissioner, Hospet Sub-Division and a report was submitted on 28.12.2017 to the Lokayukta alleging that petitioner and AEE had not submitted physical progress report of the houses. It was further alleged that the KRIDL had not constructed the houses and only supplied materials such as cement,

cement blocks, iron doors, windows, etc., and a sum of Rs.10,000/- to Rs.15,000/- was paid to the beneficiaries and thereafter, proper monitoring or follow up action was not taken by the KRIDL employees. Copy of the Inspection Report dated 28.12.2017 is at **Annexure 'M'**.

(g) It is averred that on the basis of the preliminary inquiry report dated 28.12.2017 Upa-lokayukta submitted his report under Section 12(3) of the KL Act, on 28.02.2018 along with covering letter dated 16.03.2017 to the State Government. Copy of the covering letter dated 16.03.2017 along with report dated 28.02.2018 are at **Annexures 'N'** and **'P'** respectively. In the report, the findings recorded by the Upa-lokayukta is that the officials of KRIDL had not constructed the houses nor followed the guidelines. The Executive Officer, Hagaribommanahalli had not verified the physical progress of the work done by the KRIDL and released Rs.2,043 lakhs to the Deputy Director on Utilization Certificate. No documents were maintained for having spent amount, excess amount paid to some of the houses and no inspection was done through third party as per the guidelines of RGRHCL. Though KRIDL, Hagaribommanahalli had to construct houses to the

beneficiaries, only some amount and materials were supplied to the beneficiaries and thereby committed an irregularity in violation of Rule 3(i), (ii) & (iii) of the Conduct Rules.

(h) The respondent/Government issued Government Order on 12.04.2018 entrusting the inquiry to Upa-lokayukta under Rule 214(2)(b)(i) of Karnataka Civil Service Rules ("KCSRs" for short). Copy of Government Order dated 12.04.2018 is at **Annexure 'Q'**.

(i) The petitioner retired from service on 31.01.2018 on attaining the age of superannuation. According to the petitioner, KRIDL is the Disciplinary Authority for the petitioner. Hence, the Government is not competent to entrust the inquiry under Rule 14-A of the CCA Rules. Petitioner was in service and he was working as Assistant Executive Engineer in KRIDL. The Disciplinary Authority and Appellate Authority are the Managing Director, KRIDL and the Board respectively. Therefore, the inquiry entrusted by the Government as per Government Order dated 12.04.2018 is without jurisdiction and further Upa-

lokayukta is not competent to conduct the inquiry against the retired officials.

(j) That on the basis of Government Order dated 12.04.2018, the Upa-lokayukta appointed Additional Registrar of Enquiries-8 (ARE-8) as the Enquiry Officer to conduct the inquiry against petitioner and another. Copy of order dated 23.07.2018 appointing the Enquiry Officer is at **Annexure 'R'**. The ARE-8 framed charges on 30.08.2018 alleging that under Basava Vasati Scheme though amount was received, stage-wise physical progress work was not submitted through Executive Officer, Taluka Panchayat to KRIDL, not followed the guidelines, nor constructed the houses, but only an amount of Rs.10,000/- to Rs.15,000/- paid and certain construction materials were given without following the further progress in the work nor time to time payment to the beneficiaries. Thereby, violated Rule 3(i), (ii) & (iii) of the Conduct Rules, 1966. Copy of the Charge Memo dated 30.08.2018 is produced and marked as **Annexure-S**. In response to the Charge Memo dated 30.08.2018, petitioner submitted detailed reply 26.02.2019 denying all the charges. Copy of the reply to the on Charge Memo dated 26.02.2019 is at **Annexure-T**.

(k) It is submitted that during the pendency of the proceedings before the Upa-lokayukta, Upa-lokayukta has written letter on 25.07.2019 directing the Managing Director, KRIDL to take immediate steps to lodge a criminal case against the petitioner and others before the appropriate Court to take criminal action. Copy of the letter addressed by the Upa-lokayukta dated 25.07.2019 is produced at **Annexure-U**.

(l) It is submitted that entrusting the inquiry by the State Government to the Lokayukta against petitioner as per order dated 12.04.2018 and further initiation of the inquiry against the petitioner as per the Charge Memo dated 30.08.2018 issued by the Lokayukta is without authority of law and also contrary to the order passed by the Administrative Tribunal, Bengaluru, in Application No.2328/17 dated 13.07.2017 and Application No.3786/19 dated 19.01.2018. Copies of the order passed in Application No.2328/17 dated 13.07.2017 and Application No.3786/2019 dated 19.11.2018 are at **Annexures 'V' & 'W'**, respectively.

(m) It is submitted that the petitioner could not take immediate steps to file the present Writ Petition due to want of certain documents and after obtaining the same has taken steps to file the present petition. Further, due to COVID-19 pandemic, the present petition could not be filed at the earliest. Further, it is submitted that the petitioner is questioning the competency of Lokayukta to conduct the inquiry against the petitioner as neither the Government nor Upa-lokayukta is competent to conduct the inquiry against the petitioner who was an employee of KRIDL and KRIDL has got its own C&R Rules governing the field of initiation of the inquiry and imposing penalty.

(n) It is further submitted that entrusting the inquiry against the petitioner is without jurisdiction and without authority of law as there is no provision under Rule 14-A of CCA Rules to direct the Lokayukta or Upa-lokayukta to hold inquiry against the employees of the KRIDL, as he is not a Member of the State Civil Services.

(o) Aggrieved by the Government Order dated 12.04.2018 and Charge Memo dated 30.08.2018, petitioner has filed the present petition.

C. Writ Petition No.45764/2017:

(a) The petitioner entered into service as an Assistant Director in the month of January 1988 in the erstwhile Karnataka Land Army Corporation (KLAC). As per Notification dated 06.08.2009 issued by respondent No.1, on approval of the Rural Development and Panchayat Raj Department, the change of name of KLAC occurred with effect from 06.08.2009 as "Karnataka Rural Infrastructure Development Limited (KRIDL)". Copy of the Notification dated 06.08.2009 is at **Annexure 'D'**. The erstwhile KLAC and the present KRIDL are fully under the control of the Rural Development and Panchayat Raj Department, Government of Karnataka.

(b) The petitioner was promoted as Deputy Director (Executive Engineer) in the year 2005. He was again promoted as Superintendent Engineer in the month of November 2014. The petitioner retired from service on attaining the age of superannuation on 30.09.2015.

(c) It is averred that the petitioner had worked as Deputy Director in the office of the KRIDL, Divisional Office at Kalaburagi for the period from 09.04.2008 to

24.12.2009 and worked in the said office till 26.12.2009 as he availed medical leave from 26.12.2009 to 25.01.2010. Copy of the notification dated 09.04.2008 to show that he worked in the said office from 09.04.2008, is at **Annexure 'E'**. In order to show that the petitioner had availed 44 days of commuted leave from 26.12.2009 to 15.01.2010 on medical grounds and the said leave was granted by issuing an Official Memorandum dated 12.01.2010, Official Memorandum dated 12.01.2010 is produced at **Annexure 'F'**. Further, as per order dated 15.01.2010, one Sri.R.G.Gadad was transferred to the post of Deputy Director, KRIDL, Divisional Office at Kalaburagi and he reported for duty on 18.01.2010. Copy of the duty report order dated 18.01.2010 is at **Annexure 'G'**. Further, the petitioner after availing medical leave for 44 days, reported for duty on 25.01.2010 at the headquarters at Bangalore as, on the said date, Sri.Gadad was posted to Kalaburagi. Copy of the Notification dated 28.01.2010 issued by the KRIDL confirming that the petitioner reported for duty at the headquarters on 25.01.2010 is at **Annexure 'H'**.

(d) That during the year 2009-10, the Chief Executive Officer, Zilla Panchayat, Kalaburagi, accorded administrative approval for works under Suvarna Grama Scheme. Copy of order dated 12.11.2009 attached with the Recapitulation Sheet confirms that the Suvarna Grama Scheme to carry out certain works and the Chief Executive Officer, Zilla Panchayat, Kalaburagi, has accorded administrative approval wherein the petitioner signed Recapitulation Sheet as per **Annexure 'J'**. However, after the said order, the said work was not commenced as there were certain Administrative approvals required prior to entrusting the work. The said work appears to have commenced in the year 2011 and completed in the year 2012.

(e) It is stated that Sri.Basavareddy had submitted a complaint dated 04.06.2012 to Lokayukta alleging certain illegality regarding works carried out by the Panchayat Development Officer, Nalavara Village Panchayat; Deputy Director, KRIDL, Kalaburagi, and Executive Engineer, P.R.E Division, Kalaburagi, Zilla Panchayat, Kalaburagi, under MNREGA Employment Scheme, as false bills were submitted to misappropriate

the amounts by the KRIDL and others. Copy of the complaint dated 04.06.2012 is at **Annexure 'K'**. It is contended that there was no specific allegation naming the petitioner in the complaint and the complaint was general in nature; it lacked clarity in the allegation and not even based upon the documents. Further, Column 8 of the Complaint suggested that at the time of complaint, he did not obtain the documents pertaining to the transactions. It is contended that Lokayukta did not conduct the investigation immediately.

(f) It is also stated that after a lapse of more than four years from the date of complaint, after more than five years from the date of completion of the work, the Police Inspector, Karnataka Lokayukta, Kalaburagi conducted the Mahazar/Panchanama on 13.06.2016 recording statements of two witnesses. Thereafter, he had sent a letter dated 23.06.2016 to the Superintendent of Police, Karnataka Lokayukta, Kalaburagi regarding panchanama dated 13.06.2016 along with statements of witnesses. Panchanama dated 13.06.2016 and statements of witnesses dated 13.06.2016 and copy of letter dated 23.06.2016, are at **Annexures L, M, N, O** respectively. It

is stated that the Superintendent of Police, Karnataka Lokayukta, Kalaburagi appears to have sent a letter dated 15.07.2016 regarding investigation on the said complaint. Copy of the said letter dated 15.07.2016 is at **Annexure 'P'**. It is averred that, in the Panchanama conducted by the Inspector of Lokayukta, it is specifically stated that there was formation of Road from Nalvara Village to Korisiddeshwara Math and the same is in a good condition. It is stated that in the said investigation, there is specific name of the petitioner reflected and no one has given statement against the petitioner. That, in the said Panchanama and other related documents, there is no whisper regarding creation of forged bills in order to misappropriate the amount by the KRIDL and nothing was recorded against the work conducted by the KRIDL.

(g) Thereafter, Lokayukta had sent a cryptic report dated 17.09.2016 under Section 12(3) of the KL Act to the State Government recommending for a departmental inquiry against (1) Smt.Sumithra Lineri, Panchayat Development Officer, Nalawar Grama Panchayath, Chittapur Taluk, Kalaburagi, (2) Sri. Ziaullakhan, Deputy Director, KRIDL, Kalaburagi—the petitioner herein and (3)

Sri. Pramod Reddy Patil, Executive Engineer, P.R.E. Division, Kalaburagi and same is produced at **Annexure C**. It is averred that in the Report submitted by Lokayukta under Section 12(3) of the KL Act, there is no specific allegation against the petitioner except naming the petitioner regarding misconduct. Thereafter, the State Government on examining the records, without calling for an opinion from KRIDL passed an order dated 28.12.2016 initiating departmental inquiry against the petitioner and others vide **Annexure 'B'** already produced. It is contended that the KRIDL, who is Disciplinary Authority to the petitioner was not solicited in the matter. It is averred that the petitioner retired from service on attaining the age of superannuation on 30.09.2015. Copy of order dated 30.09.2015 issued by KRIDL permitting the petitioner to retire from service is at **Annexure 'Q'**. However, till date, retirement benefits of the petitioner has not been settled by KRIDL. It is averred that the petitioner appeared before Lokayukta by filing a reply to the Articles of charges on 15.07.2017. Copy of the Reply filed to the Articles of charges by the petitioner is at **Annexure 'R'**. It is averred that, the inquiry officer—Additional Registrar of Enquires

(ARE) after perusing the reply, expressed orally that no inquiry could be initiated against the petitioner as there was no specific allegation against him, but failed to pass any order stating that there is no procedure prescribed in the Rules to close the inquiry at the threshold.

(h) It is stated that the petitioner had an unblemished service record in KRIDL and there were no allegations of misconduct against the petitioner. The petitioner served in the erstwhile KLAC as well as at KRIDL from January-1988 to 30.09.2015. However, respondent Nos.1 and 2 falsely implicated the petitioner in the matter only on the ground that the petitioner had, in fact, signed the Recapitulation Sheet. However, the Petitioner left the said place on 26.12.2009 and later, he reported at the head office of KRIDL on 25.01.2010 and thereafter he never worked as Deputy Director in Kalaburagi Division. That, in the Article of Charges dated 31.05.2017 issued by the Lokayukta, it was alleged that for the year 2011-12 works were undertaken under MNREGA Scheme to execute the roadside plantation work in Nalvara Village of Chittapura Taluk, Kalburagi District but there was failure to execute the following works:

- 1) No plantation has been formed on the roadsides from Nalwara village to Malaga Village to a length of 7 kms.
- 2) No plantation has been formed on the road sides from Nalwara village to Konchura Village to a length of 6 kms.
- 3) No tamarind trees were found on the road sides from Nalwara Railway Station to Nalavara Village. Few trees were found here and there and signs of cutting tamarind trees were seen.
- 4) No work of desilting Kumbarahalli tank and Pradhanahalli Tank have been carried out under Employment Guarantee Scheme.

(i) It is averred that all the above works were, in fact, carried out by the Panchayat Raj Department, which is under the control of Zilla Panchayat, Kalaburagi. KRIDL has nothing to do with the plantation on the road side of the said places. There was no whisper regarding the work carried out by KRIDL regarding road made by the subsequent officer of the KRIDL. That there is no allegation regarding creation of forged bills by the KRIDL nor is there any specific allegation against the petitioner. Therefore,

the petitioner cannot be treated as one of the delinquent Government official in the said departmental enquiry.

(j) It is averred that the petitioner was an employee of the KRIDL and the said company has been registered under the Companies Act, 1956. The said company is under the administrative control of the Managing Director, KRIDL. The Disciplinary Authority for the petitioner is Managing Director, KRIDL. The petitioner is not an employee of the State Government nor is he a civil servant. That the State Government has no jurisdiction to refer the matter to the Lokayukta for conducting departmental enquiry by entrusting the inquiry under Rule 14-A of the CCA Rules.

(k) It is contended that allegations made in the Articles of Charges are not work related to the KRIDL nor particularly related to the petitioner as he worked at Kalaburagi as Deputy Director, KRIDL during the period from 09.04.2008 to 24.12.2009. The works were carried out in the year January-2010 onwards. Being aggrieved by the endorsement issued to him and having no other alternative and efficacious remedy, the petitioner has

approached this Court by invoking Article 226 of the Constitution of India for redressal of his grievance. That he has not questioned the constitutional validity of any Act in this writ petition but has challenged the impugned Articles of charges and other orders on certain grounds. Hence, the writ petition.

SUBMISSIONS:

4. We have heard learned counsel, Smt.Rakshitha D.J., for the petitioners in W.P. Nos.12300/2020 and 12278/2020; and learned counsel, Sri.Raghavendra G.Gayatri, for the petitioner in W.P. No.45764/2017;

Smt. H.Vani, learned Additional Government Advocate for respondent No.1/State (in all the cases);

Sri.Venkatesh S.Arabatti, learned counsel for respondent / Lokayukta (in all the cases);

Sri.Pawan Kumar for Sri.H.Devendrappa, learned counsel for respondent/KRIDL in W.P. Nos.12300/2020 and 12278/2020; and Sri. Gururaj Joshi, learned counsel for respondent/KRIDL in W.P. No.45764/2017;

Sri.J.M.Anil Kumar, learned counsel for respondent No.4/Zilla Panchayat, Ballari in W.P. No.12278/2020.

Respondent Nos.2, 4 and 5 in W.P. No.12300/2020 and respondent Nos. 2 and 5 in W.P. No.12278/2020 are served.

5. We have perused the material on record.

6. Learned counsel for the petitioners Smt. Rakshitha D.J. contended that the petitioners were the employees of KRIDL. That KRIDL initially was "Karnataka Land Army Corporation Limited" and in the year 2009, it was transformed as KRIDL. On the basis of the complaint made against the petitioners, detailed preliminary inquiry was conducted and a report was submitted under Section 12(3) of the KL Act to the State Government. The State Government on receipt of the said report, entrusted the disciplinary inquiry to be conducted to the Lokayukta, under Rule 14-A of the CCA Rules against the petitioners. It was submitted that these petitioners are governed by the Cadre and Recruitment Rules ('C&R Rules' for short) of KRIDL. Under the said C&R Rules, Chapter VIII deals with Conduct Rules (General) and Chapter IX concerns Disciplinary and Appeal Rules. The procedure for imposing major penalties is

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under Rule 96, while procedure for imposing minor penalties is under Rule 97. Appeals against orders imposing penalties are under Rule 99. The C&R Rules came into effect on 20.09.1996. The petitioners are governed by a separate C&R Rules and hence, the State Government could not have entrusted the inquiry under Rule 14-A of the CCA Rules to the Lokayukta. This is because the Managing Director of KRIDL is the Disciplinary Authority and hence, the inquiry could not have been entrusted by the State Government to the Lokayukta. According to learned counsel for the petitioners, when there are special C&R Rules envisaged for the employees of the KRIDL, the General Rules namely, CCA Rules, 1957 will not apply.

7. It was next contended by the petitioner's counsel that Rule 14-A of the CCA Rules applies only to the State Government servants. The said Rules are not applicable to the employees of KRIDL, as it is a public sector unit or a Government Company; its employees are public servants, but not Government servants. It was submitted that Rule 14-A of the CCA Rules applies only to Government servants and not to public servants. In this

regard, our attention was drawn to Rule 2(d) of the CCA Rules which defines 'Government Servant' and further, Rule 3(1)(d) which speaks about the applicability of the Rules. It was contended that having regard to the conjoint reading of the said two Rules, the employees of the KRIDL are not Government servants within the scope and ambit of Rule 14-A of the CCA Rules.

8. It was reiterated that when a separate set of Rules have been envisaged for the employees of KRIDL in the form of C&R Rules, the general Rules—namely CCA Rules which are applicable to the Government servants—could not have been invoked insofar as the petitioners are concerned for entrusting the inquiry to the Lokayukta under Rule 14-A of the CCA Rules. In support of the above submissions, learned counsel for the petitioner placed reliance on the following judgments:

- (i) ***Sri. B.Neelakant vs. Managing Director, Dharwad, having Gadag and Uttara Kannada Districts Co-op Milk Producers Societies Union Ltd., [ILR 2019 KAR 4857 (DB)] (Sri. B.Neelakant);***

- (ii) **Sri.M.P.Jaishankar vs. The State of Karnataka, W.P. Nos.1983-1985/2014**, disposed of on **01.09.2014** (Sri.M.P.Jaishankar);
- (iii) **Sri.B.N.Nagendra Kumar vs. The State of Karnataka, W.P. No.10999-11006/2017**, disposed of on **15.06.2019** (Sri.B.N.Nagendra Kumar);
- (iv) **Sri.Sanjeev Kumar vs. The State of Karnataka, W.P. No.205398/2019**, disposed of on **24.02.2020** (Sri.Sanjeev Kumar);
- (v) **Sri.G.B.Devaraj vs. The State of Karnataka, W.P. No.8374/2019**, disposed of on **11.12.2020** (Sri.G.B.Devaraj);

9. It was further contended that so long as the CCA Rules have not been adopted under the C&R Rules of the KRIDL, the CCA Rules cannot be made applicable to the employees of the KRIDL. In this regard, our attention was drawn to Rule 39 of the C&R Rules which states that Karnataka Land Army Corporation Service Rules and Standing Orders and all other Rules for the time being in force, regulating the service conditions of employees of the

Corporation insofar as such Rules are found to be inconsistent with the provisions of these Rules, shall not be applicable to persons appointed under these Rules. Moreover, in the absence of specific provisions in these Rules, the Rules provided in the Karnataka Government Conduct and Service Rules, may be invoked by the Board, which means that if there are specific provisions in C&R Rules, the Karnataka Government Conduct and Service Rules cannot be applied.

10. It was emphasized that having regard to Chapter IX of C&R Rules, which prescribes the manner in which an inquiry has to be conducted by the Disciplinary Authority and the punishment, whether major or minor, could be imposed under the Rules, the State Government could not have taken upon itself to exercise power to entrust the inquiry against the petitioners under Rule 14-A of the CCA Rules, to the Lokayukta. It was urged that so long as there is no adoption of the CCA Rules by KRIDL, Rule 14-A of the CCA Rules would not apply to the employees of the KRIDL, such as the petitioners herein, although they are public servants but not Government servants. It was contended that the State Government, on

receipt of report under Section 12(3) of the KL Act, ought to have entrusted the matter to KRIDL, which is the Disciplinary Authority for the petitioners and not the Lokayukta, to conduct the inquiry against them. Therefore, the State Government ought to have sent the report submitted under Section 12(3) of the KL Act to the Managing Director of KRIDL for taking appropriate action on the same.

11. While considering the aforesaid submissions, we shall elaborate on the decisions relied upon by the learned counsel for the petitioners as well as the relevant provisions of law.

12. Sri.Raghavendra G.Gayatri, learned counsel for the petitioner in Writ Petition No.45764/2017, while adopting the aforesaid submissions of Smt.Rakshitha D.J., also contended that in the aforesaid case, as far as this petitioner is concerned, there has not only been an infraction of Rule 14-A of the CCA Rules in entrusting the inquiry against the said petitioner to the Lokayukta, there are other violations also.

13. He submitted that Section 9(3)(a) of the KL Act has not been complied with in the instant case inasmuch as the copy of the complaint was not furnished to the petitioners at the time of investigation and there was no reply sought. The same is a mandatory requirement. In support of his submissions, reliance was placed on a decision of this Court in the case of ***N.Gundappa vs. State of Karnataka, [ILR 1990 KAR 223]; State of Karnataka vs. N.Gundappa, [ILR 1990 KAR 4188 (DB)]*** (*N.Gundappa*). Reliance was also placed on ***S.Ranganarasaiah vs. State of Karnataka [ILR 1994 KAR 3595 (DB)]*** (*S.Ranganarasaiah*).

14. It was further submitted that in the instant case, Rule 214(2)(b) of the Karnataka Civil Services Rules (KCSRs) has been violated inasmuch as the allegations against the petitioner in this case pertain to the year 2008-09. The complaint was made in the year 2012. The initiation of inquiry by issuance of Articles of charges has been on 31.05.2017. More than four years have lapsed in the instant case and hence, there could not have been any initiation of an inquiry against the petitioner herein. It was further submitted that there is no Rule under the C&R

Rules of KRIDL to initiate or continue an inquiry after the retirement of an employee. Therefore, the entire proceedings would have to be quashed in the instant case.

15. Per contra, learned Additional Government Advocate appearing for the State / respondent No.1 supported the order of entrustment of inquiry made under Rule 14-A of the CCA Rules. She placed reliance on Rule 39(b) of the C&R Rules. She also submitted that after the learned Single Judge's order in the case of **G.B.Devaraj Vs. State of Karnataka, in W.P. No.8374/2019 (S-RES)** disposed of **on 11.12.2020 (G.B.Devaraj)**, there has been an amendment made by incorporation of Rule 96-A to the C&R Rules. By virtue of the said amendment made to the C&R Rules, "**Special Procedure in Certain Cases of Misconduct**" has been inserted pursuant to 202nd Meeting of KRIDL held on 20.04.2021. Therefore, where the investigation against the employees of KRIDL has been made by the Lokayukta and a report has been submitted under Section 12(2) of the KL Act to the State Government, the same shall now be forwarded along with recommendations to the KRIDL. The KRIDL is now empowered to entrust an inquiry into the case by the

Lokayukta or Upa-lokayukta or by an officer authorised by the said authorities. When such an inquiry is entrusted by KRIDL to the Lokayukta or Upa-lokayukta or its officers, they shall have the power of inquiry authority under the said Rules. After completion of the inquiry, the records of the case with the findings of the inquiry officer and the recommendation of the Lokayukta or Upa-lokayukta, as the case may be, shall be sent to the KRIDL which can take action in accordance with Rule 96 of the C&R Rules and to impose any penalty under Rule 94 of the C&R Rules. Further, a Committee has been set up for examining the recommendations of the Lokayukta or Upa-lokayukta before taking a final decision. Hence, it was contended that in view of the insertion of Rule 96-A to the C&R Rules, there can be an entrustment of the inquiry to the Lokayukta or Upa-lokayukta.

16. It was further submitted that under Rule 13 of the CCA Rules, there can be a joint inquiry of two or more Government servants through a common proceedings. However, to distinguish and define charges against the individual Government servants, it cannot be combined

into a common Article of charges and a joint inquiry cannot be held.

17. Sri.Gururaj Joshi, learned counsel appearing for the KRIDL in W.P. No.45764/2017 submitted that the petitioners are not Government servants as per Rule 2(d) of the CCA Rules. Therefore, invocation of Rule 14-A of the CCA Rules is *per se* illegal in these cases.

18. That in the absence of specific provisions to the contrary in the C&R Rules, Rule 214 of the KCSRs, which is not inconsistent with the C&R Rules, is applicable to the employees of the KRIDL.

19. Sri.Pawan Kumar, the other learned counsel appearing for the KRIDL submitted that Rule 39 of the C&R Rules must be pressed into service while considering an interpretation of the C&R Rules. That Rule 96-A of the C&R Rules is applicable in the instant cases. It was submitted that the amended Rule 96-A of the C&R Rules is not prospective in nature.

20. Sri.Arabatti, learned counsel appearing for the Lokayukta, submitted that the complaint against the

petitioners was given to the Office of the Lokayukta. A preliminary inquiry was conducted as per Rule 9 of the KL Act and a report was submitted under Rule 12(3) thereof to the State Government which is the competent authority.

21. It was next contended that Section 9(3)(a) of the KL Act has been complied with in the instant case inasmuch as a copy of the complaint was given to the petitioner in W.P.No.45764/2017 and his response was sought and therefore, there was no violation of Section 9(3)(a) of the KL Act insofar as the petitioner in Writ Petition Nos.45764/2017 is concerned.

22. Learned counsel, Sri.Arabatti, further submitted, even though Rule 14-A of the CCA Rules do not apply on the report of the Lokayukta, as per Section 12(2) of the KL Act, the Disciplinary Authority of the KRIDL can entrust an inquiry to the Lokayukta as an inquiring authority and there is no bar in law to do so. It was submitted that in the instant case, the Managing Director, the Disciplinary Authority of the KRIDL, could also resort to the said procedure and therefore, the State Government invoking Rule 14-A of the CCA Rules is not *per se* illegal.

This is particularly so after the insertion of Rule 96A to the C&R Rules. Learned counsel Sri.Arabatti submitted that there is no merit in these petitions and the same may be dismissed.

23. We have narrated in detail the facts in each of these cases. The common ground of attack in all these cases is, pursuant to the complaints made before the Lokayukta, preliminary inquiry was conducted under the provisions of Section 9 and other provisions of the KL Act and a report was submitted under Section 12(2) of the KL Act to the State Government which is the competent authority under the KL Act. But, the State Government could not have entrusted the inquiry to be conducted by the Lokayukta as against the petitioners herein as they are not Government servants within the meaning of Rule 14-A of the CCA Rules but are only public servants.

24. Before proceeding further with the aforesaid issue raised in these cases, it will be useful to extract the relevant legal provisions as under:

The Karnataka Lokayukta Act, 1984:

Section 2(4):

2. Definitions.-In this Act, unless the context otherwise requires.-

x x x

(4) "Competent Authority" in relation to a public servant means,-

- (a) in the case of Chief Minister or a member of the State Legislature, the Governor acting in his discretion;
- (b) in the case of a Minister or Secretary, the Chief Minister;
- (c) in the case of a Government servant other than a Secretary, the Government of Karnataka;
- (d) in the case of any other public servant, such authority as may be prescribed;

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Section 2(6):

(6) "Government Servant" means a person who is a member of the Civil Services of the State of Karnataka or who holds a civil post or is serving in connection with the affairs of the State of Karnataka and includes any such person whose services are temporarily placed at the disposal of the Government of India, the Government of another State, a local authority or any person, whether incorporated or not, and also any person in the service of the

Central or another State Government or a local or other authority whose services are temporarily placed at the disposal of the Government of Karnataka;

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Section 2(12):

(12) "Public servant" means a person who is or was at any time,-

- (a) the Chief Minister;
- (b) a Minister;
- (c) a Member of the State Legislature;
- (d) a Government servant;
- (e) the Chairman and the Vice-Chairman (by whatever name called) or a member of a local authority in the State of Karnataka or a statutory body or corporation established by or under any law of the State Legislature, including a co-operative society, or a Government Company within the meaning of section 617 of the Companies Act, 1956 and such other corporations or boards as the State Government may, having regard to its financial interest in such corporations or boards, by notification, from time to time, specify;

- (f) member of a Committee or Board, statutory or non-statutory, constituted by the Government;
- (g) a person in the service of pay of,-
 - (i) a local authority in the State of Karnataka;
 - (ii) a statutory body or a corporation (not being a local authority) established by or under a State or Central Act, owned or controlled by the State Government and any other board or Corporation as the State Government may, having regard to its financial interest therein, by notification, from time to time, specify;
 - (iii) a company registered under the Companies Act, 1956, in which not less than fifty-one percent of the paid up share capital is held by the State Government, or any company which is a subsidiary of such company;
 - (iv) a society registered or deemed to have been registered under the Karnataka Societies Registration Act, 1960, which is subject to the control of the State Government and which

is notified in this behalf in the Official Gazette;

- (v) a co-operative Society;
- (vi) a university;

Explanation- In this clause, "co-operative society" means a co-operative society registered or deemed to have been registered under the Karnataka Co-operative Societies Act, 1959, and "university" means a university established or deemed to be established by or under any law of the State Legislature;

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Section 9:

9. Provisions relating to complaints and investigations.—(1) Subject to the provisions of this Act, any person may make a complaint under this Act to the Lokayukta or an Upa-lokayukta.

Provided that in case of a grievance, if the person aggrieved is dead or for any reason, unable to act for himself, the complaint may be made or if it is already made, may be prosecuted by his legal representatives or by any other person who is authorized by him in writing in this behalf.

(2) Every complaint shall be made in the form of a statement supported by an affidavit and in such forms and in such manner as may be prescribed.

(3) Where the Lokayukta or an Upa-lokayukta proposes, after making such preliminary inquiry as he deemed fit to conduct any investigation under this Act, he-

(a) shall forward a copy of the complaint and in the case of an investigation initiated suo-motu by him, the opinion recorded by him to initiate the investigation under sub-section (1) or (2), as the case may be, of section 7 to the public servant and the Competent Authority concerned;

(b) shall afford to such public servant an opportunity to offer his comments on such complaint or opinion recorded under sub-section (1) and (2) of section 7 as the case may be;

(c) may make such order as to the safe custody of documents relevant to the investigation, as he deems fit.

(4) Save as aforesaid, the procedure for conducting any such investigation shall be such, and may be held either in public or in camera, as the Lokayukta or the Upa-

lokayukta, as the case may be, considers appropriate in the circumstances of the case.

(5) The Lokayukta or the Upa-lokayukta may, in his discretion, refuse to investigate or cease to investigate any complaint involving a grievance or an allegation, if, in his opinion,-

(a) the complaint is frivolous or vexatious or is not made in good faith;

(b) There are no sufficient grounds for investigating or, as the case may be, for continuing the investigation; or

(c) Other remedies are available to the complainant and in the circumstances of the case it would be more proper for the complainant to avail of such remedies.

(6) In any case where the Lokayukta or an Upa-lokayukta decides not to entertain a complaint or to discontinue any investigation in respect of a complaint he shall record his reasons there for and communicate the same to the complainant and the public servant concerned.

(7) The conduct of an investigation under this Act against a Public servant in respect of any action shall not affect such

action, or any power or duty of any other public servant to take further action with respect to any matter subject to the investigation.

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Section:12

12. Reports of Lokayukta, etc.- (1)

If, after investigation of any action involving a grievance has been made, the Lokayukta or an Upa-lokayukta is satisfied that such action has resulted in injustice or undue hardship to the complainant or to any other person, the Lokayukta or an Upa-lokayukta shall, by a report in writing, recommend to the Competent Authority concerned that such injustice or hardship shall be remedied or redressed in such manner and within such time as may be specified in the report.

(2) The Competent Authority to whom a report is sent under sub-section (1) shall, within one month of the expiry of the period specified in the report, intimate or cause to be intimated to the Lokayukta or the Upa-lokayukta the action taken on the report.

(3) If, after investigation of any action involving an allegation has been made, the Lokayukta or an Upa-lokayukta is satisfied that such allegation is substantiated either wholly or partly, he shall by report in writing

communicate his findings and recommendations along with the relevant documents, materials and other evidence to the competent authority.

(4) The Competent Authority shall examine the report forwarded to it under sub-section (3) and within three months of the date of receipt of the report, intimate or cause to be intimated to the Lokayukta or the Upa-lokayukta the action taken or proposed to be taken on the basis of the report.

(5) If the Lokayukta or the Upa-lokayukta is satisfied with the action taken or proposed to be taken on his recommendations or findings referred to in sub-sections (1) and (3), he shall close the case under information to the complainant, the public servant and the Competent Authority concerned; but where he is not so satisfied and if he considers that the case so deserves, he may make a special report upon the case to the Governor and also inform the Competent authority concerned and the complainant.

(6) The Lokayukta shall present on or before 31st October of every year, a consolidated report on the performance of his functions and that of the Upa-lokayukta under this Act to the Governor.

(7) On receipt of the special report under sub-section (5), or the annual report under sub-section (6), the Governor shall cause a copy thereof together with an explanatory memorandum to be laid before each House of the State Legislature.

(8) The Lokayukta or an Upa-lokayukta may at his discretion make available, from time to time, the substance of cases closed or otherwise disposed of by him which may appear to him to be of general, public, academic or professional interest in such manner and to such persons as he may deem appropriate.

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The Karnataka Lokayukta Rules, 1985:

3. Competent Authority.—In respect of the public servants referred to in sub-clause (d) of clause (4) of Section 2, the Government of Karnataka shall be the Competent Authority.

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CCA Rules:

Rule 2

2. Interpretation.—In these Rules, unless the context otherwise requires.—

- (a) x x x
- (b) x x x
- (c) '**Disciplinary Authority**' in relation to the imposition of a penalty on a Government

servant means the authority competent under these rules to impose on him that penalty;

(d) '**Government servant**' means a person who is a member of the Civil Services of the State of Karnataka or who hold a Civil post in connection with the affairs of the State of Karnataka and includes any person whose services are temporarily placed at the disposal of the Government of India, the Government of another State, a local authority, any person or persons whether incorporated or not and also any person in the service of the Central or another State Government or a local or other authority whose services are temporarily placed at the disposal of the Government of Karnataka.

(e) '**Governor**' means the Governor of Karnataka;

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Rule 3:

3. Application.-(1) These rules apply to all Government servants except:-

(a) Persons employed in any Industrial undertaking of the Government other than the Government Central Press, Bangalore, Government Branch Press, Mysore and Government Branch Press, Mercara, to whom the provisions of the Industrial

-: 63 :-

Employment (Standing Orders) Act, 1946 (Central Act XX of 1946), are applicable.

- (b) Persons in casual employment;
- (c) Persons subject to discharge from service on less than one month's notice;
- (d) Persons for whose appointment and other matters covered by these rules, special provisions are made by or under any law for the time being in force, or in any contract, in regard to the matters covered by such law or such contract; and
- (e) members of the All India Services.

(2) x x x

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Rule 14-A.

14-A. Procedure in cases entrusted to the Lokayukta.—(1) The provisions of sub-rule (2) shall, notwithstanding anything contained in Rules 9 to 11-A and 13, be applicable for purposes of proceeding against Government Servants whose alleged misconduct has been investigated into by the Lokayukta or an Upa-lokayukta either under the provisions of the Karnataka Lokayukta Act,

1984 or on reference from Government (or where offences alleged against them punishable under the Prevention of Corruption Act, 1947, or the Prevention of Corruption Act, 1988 has been investigated by the Karnataka Lokayukta Police before 21st day of December, 1992.

x x x

Explanation:

In this rule, the expressions "Lokayukta" and "Upa-lokayukta" shall respectively have the meaning assigned to them in the Karnataka Lokayukta Act, 1984 (and the expression "Karnataka Lokayukta Police" means the police wing established under Section 15 of the Karnataka Lokayukta Act, 1984 and includes, so far as may be, the corresponding establishment under the Karnataka State Vigilance Commission Rules, 1980, and the expression "Inspector-General of Police" shall be construed accordingly.

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Rule 2(2)(iv) of KCSRs:

2. Application.—(1) x x x

(2) Notwithstanding anything contained in sub-rule (1), these rules shall not apply to.—

(i) x x x

(iv) Persons for whose appointment and other matters covered by these

Rules, special provisions are made by or under any law for the time being in force, or in any contract in regard to the matters covered by such law or such contracts; and

(v) x x x

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Rule 214:

214. (1)(a) Withholding or withdrawing pension for misconduct or negligence.-The Government reserve to themselves the right of either withholding or withdrawing a pension or part thereof, either permanently or for a specified period, if in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of his service including the service under a foreign employer and the service rendered upon re-employment after retirement.

(b) Recovery of pecuniary loss from pension:-The Government reserve to themselves the right of ordering recovery from a pension, the whole or part of any pecuniary loss caused to the Government or to a foreign employer under whom the Government servant has worked on deputation or otherwise along with interest at eight per cent per annum from the date of occurrence of pecuniary loss to

Government. If in any departmental or judicial proceedings, the pensioner is found guilty of grave negligence during the period of his service, including the service rendered upon re-employment after retirement:

Provided further that where a part of pension is withheld or withdrawn, the amount of pension shall not be reduced below the amount of minimum pension prescribed under the rules.

(2)(a) The departmental proceedings referred to in sub-rule (1), if instituted while the Government servant was in service whether before his retirement or during his re-employment, shall, after the final retirement of the Government servant, be deemed to be proceedings under this rule and shall be continued and concluded by the authority by which they were commenced in the same manner as if the Government servant had continued in service:

Provided that where the departmental proceedings are instituted by an authority other than Government, that authority shall submit a report recording its findings to the Government.

(b) The departmental proceedings, if not instituted while the Government servant

was in service, whether before his retirement or during his re-employment.-

- (i) shall not be instituted save with the sanction of the Government;
- (ii) shall not be in respect of any event which took place more than four years before such institution; and
- (iii) shall be conducted by such authority and in such place as the Government may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the Government servant during his service.

(3) No judicial proceedings, if not instituted while the Government servant was in service, whether before his retirement or during his re-employment, shall be instituted in respect of a cause of action which arose or in respect of an event which took place, more than four years before such institution.

(4) In the case of a Government servant who has retired on attaining the age of superannuation or otherwise and against whom any departmental or judicial proceedings are instituted or where departmental proceedings are continued under sub-rule (2), a provisional pension as provided in Rule 214-A shall be sanctioned.

(5) Where the Government decided not to withhold or withdraw pension but orders

recovery of pecuniary loss from pension, the recovery shall not ordinarily be made at a rate exceeding one third of the pension admissible on the date of retirement of a Government servant.

(6) For the purpose of this rule.-

(a) departmental proceedings shall be deemed to be instituted on the date on which the statement of charges is issued to the Government servant or pensioner, or if the Government servant has been placed under suspension from an earlier date, on such date; and

(b) judicial proceedings shall be deemed to be instituted.-

(i) in the case of criminal proceedings, on the date on which the complaint or report of a police officer, of which the Magistrate takes cognisance is made; and

(ii) in the case of civil proceedings, on the date the plaint is presented in the court.

25. Section 12 of the KL Act refers to the expression "competent authority" to which the report has to be sent under sub-section (1) of Section 12 of the KL

Act, on a preliminary investigation being made on a complaint under Section 9 thereof by the Lokayukta or Upa-lokayukta. The expression "competent authority" in relation to a public servant is defined under Section 2(4) of the KL Act to mean, *inter alia*, such authority as may be prescribed.

26. Rule 3 of the Karnataka Lokayukta Rules, 1985 ('KL Rules' for short), prescribes that in respect of the public servants referred to in sub-clause (d) of clause (4) of Section 2, the Government of Karnataka shall be the Competent Authority. The expression "public servant" is defined in Section 2(12) of the KL Act, to mean, *inter alia*, a person in the service or pay of, a statutory body or a corporation (not being a local authority) established by or under a State or Central Act, owned or controlled by the State Government and any other Board or Corporation as the State Government may, having regard to its financial interest therein by notification, from time to time, specify; a Company registered under the Companies Act, 1956, in which not less than fifty-one percent of the paid up share capital is held by the State Government, or any company which is a subsidiary of such company.

27. Thus, the report submitted under Section 12(2) of the KL Act is to the competent authority. On an analysis of the aforesaid provisions insofar as a Government Company or a Corporation is concerned, an employee under the service of such a Company is a public servant and in the case of a public servant, the competent authority is the Government of Karnataka in terms of Rule 3 of the KL Rules.

28. While the definition of "public servant" is under Section 2(12) of the KL Act, it is noted that Section 2(6) of the said Act defines a "Government Servant" to mean a person who is a member of the Civil Services of the State of Karnataka or who holds a civil post or is serving in connection with the affairs of the State of Karnataka and includes any such person whose services are temporarily placed at the disposal of the Government of India, the Government of another State, a local authority or any person whether incorporated or not, and also any person in the service of the Central or another State Government or a local or other authority whose services are temporarily placed at the disposal of the Government of Karnataka.

29. The entrustment of the inquiry in the instant case has been made by the State Government, which is the competent authority under Rule 14-A of the CCA Rules, to the Lokayukta, which is questioned by the petitioners herein. It is necessary to note that Rule 14-A of the CCA Rules applies only to Government servants and not public servants. As to the definition of Government servants under CCA Rules is concerned, Rule 2(d) of the CCA Rules defines a "Government Servant" in identical terms as "Government Servant" is defined under the KL Act. The expression 'Government servant' under the CCA Rules does not include within its scope and ambit a 'public servant'. The same is also the position on a reading of the definitions of "Government servant" and "public servant" under the KL Act. Therefore, Rule 14-A of the CCA Rules applies to a "Government servant" and not to a "public servant". That is why the expression "Government servant" is defined under Rule 2(d) of the CCA Rules but the said Rules do not define a "public servant". On the other hand, a reading of Rule 3 of CCA Rules would make the position clear inasmuch as, while the CCA Rules apply to all Government servants, Rule 3 of the CCA Rules is an

exception. On a reading of the same, it is clear that the CCA Rules do not apply to persons for whose appointment and other matters are not covered by those Rules, as special provisions are made by or under any law for the time being in force or in any contract, in regard to the matters covered by such law or such contract. In other words, the CCA Rules would not apply to those public servants who are covered by special provisions or by any contract with regard to matters covered by such law or such contract. Therefore, when there are separate Rules, which are applicable to the employees of a statutory body or a Government Company or a subsidiary of a Government company, the CCA Rules do not apply, just as in the instant cases, there are separate Rules in the form of C&R Rules applicable to the employees of the KRIDL.

30. Thus, on a conjoint reading of Rule 14-A with Rules 2(d) and 3 of the CCA Rules, it is evident that the CCA Rules are not applicable to the petitioners in the instant cases. Although, the employees of such a statutory body or a Corporation or a Government company are "public servants" and therefore, the provisions of KL Act applies to them, they are not "Government servants"

within the meaning of Rule 2(d) read with Rule 14-A of the CCA Rules. Thus, even though under the provisions of KL Act and the KL Rules, the competent authority for employees of such a statutory body or a Corporation or a Government Company (who are in any case public servants within the meaning of Section 2(12) of the KL Act) is the Government of Karnataka, but, such employees are "not Government servants" within the meaning of Rules 2(d) and 3 of the CCA Rules. Hence, on receipt of a report under Section 12(2) of the KL Act by the competent authority, namely, the Government of Karnataka, vis-à-vis the employees of such statutory bodies or Corporation or Government Companies, such as KRIDL in the instant case, it has to be sent to the Disciplinary Authority under the C&R Rules of KRIDL for the purpose of taking a decision with regard to the conduct of inquiry and not directly entrust the inquiry to the Lokayukta under Rule 14-A of the CCA Rules. In other words, Rule 14-A of the CCA Rules applies only to "Government servants" as defined under Rule 2(d) of the CCA Rules and as excepted under Rule 3 thereof. The object of submitting the Report under Section 12(2) of the KL Act to the State Government

(competent authority) is to appraise the State Government about the enquiry made against a "public servant" by the Lokayukta/Upa-lokayukta, as the case may be.

31. Therefore, we find considerable force in the arguments of the learned counsel for the petitioners to the effect that Rule 14-A of the CCA Rules does not apply to the employees of the KRIDL such as the petitioners herein. Even though they may be "public servants" within the meaning of the KL Act, they are not "Government Servants" within the meaning of the said Act as well as CCA Rules. Though the Government of Karnataka is the competent authority under the KL Act, the petitioners, not being Government Servants under the provisions of the CCA Rules, the entrustment of the inquiry under Rule 14-A of the CCA Rules to the Lokayukta is without power and jurisdiction. On that short ground alone, orders passed by the State Government entrusting the inquiry to the Lokayukta are liable to be quashed.

32. But, the matter does not end. A contention was raised at the Bar that irrespective of the applicability of Rule 14-A of the CCA Rules to the employees of the KRIDL, under the provisions of the C&R Rules, entrustment

of inquiry could be made by the Disciplinary Authority of the KRIDL to the Lokayukta and the same is not a bar under the C&R Rules. This is because, the Disciplinary Authority can entrust the inquiry to any independent inquiring authority including the Lokayukta and therefore, even if the order of entrustment made by the Government of Karnataka in the instant case is liable to be quashed, the said entrustment could be made by the Disciplinary Authority of KRIDL under the C&R Rules.

33. In this regard, a two-fold contention was raised by the learned counsel for the respondents: firstly, having regard to Rule 39 of the C&R Rules, the inquiry could be entrusted by the Disciplinary Authority of the KRIDL to the Lokayukta. Even if, for any reason, Rule 39 of the C&R Rules, which is an omnibus provision does not apply, the inquiry could be entrusted under the C&R Rules by the Disciplinary Authority of the KRIDL to the Lokayukta in view of the amendment made to the C&R Rules by incorporation of Rule 96-A. Thus, the State Government cannot do so under Rule 14-A of the CCA Rules.

34. Secondly, insertion of Rule 96-A to the C&R Rules enables such entrustment to be made by the

Disciplinary Authority under the CCA Rules. The said Rule was inserted with effect from 20.04.2021 and hence, the same could be considered once the investigation is made by the Lokayukta and the report is submitted under Section 12(2) of the KL Act to the competent authority, namely, the State Government insofar as the employees of the KRIDL is concerned. The State Government must thereafter transmit the report to the Disciplinary Authority under KRIDL. The said Disciplinary Authority can then take a decision for entrustment of the inquiry against any of its employees on the basis of Section 12(2) report, to the Lokayukta. There can be no controversy on that score. However, the controversy in the instant cases is, in the absence of such a Rule, namely, Rule 96-A being inserted to the C&R Rules of the KRIDL, whether the State Government could have *suo motu* entrusted the inquiry to the Lokayukta. This is also in the absence of adoption of Rule 14-A of the CCA Rules to the C&R Rules of KRIDL.

35. Having regard to the aforesaid analysis and interpretation made by us above, we do not think Rule 39 of C&R Rules enabled entrustment of inquiry to the Lokayukta as it is a general provision. There was also no

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specific adoption of Rule 14-A of CCA Rules by KRIDL under its C&R Rules. Of course, now, in view of the insertion of Rule 96-A to the C&R Rules of KRIDL, it is open to the Disciplinary Authority of KRIDL, on receipt of Section 12(2) report from the State Government which is the competent authority under KL Act, to entrust the inquiry to the Lokayukta. Thus, it is by virtue of Rule 96-A of the C&R Rules and not on the basis of Rule 14-A of the CCA Rules that there can be entrustment of inquiry to the Lokayukta insofar as employees of KRIDL are concerned. But, the fact remains that on receipt of Section 12(2) report by the State Government in respect of an employee of the KRIDL, the State Government, though a competent authority under the provisions of the KL Act, has to transmit the same to the Disciplinary Authority under the C&R Rules of KRIDL, for taking further action in the matter. In other words, the State Government, merely because it is the competent authority under the provisions of the KL Act and Rules made thereunder cannot *suo motu* or unilaterally entrust the inquiry *vis-à-vis* the employees of KRIDL to the Lokayukta under Rule 14-A of the CCA

Rules bypassing the Disciplinary Authority under C&R Rules of KRIDL.

36. The relevant judgments cited at the Bar are discussed hereunder:

(a) In ***Shankar vs. Karnataka Land Army Corporation Limited, [ILR 1996 KAR 1407]***, this Court has observed that the background note to the Resolution of the 74th Meeting of the Board of Directors of the Karnataka Land Army Corporation Limited was passed not with a view to totally supplant the extant Rules framed by the said Corporation, but supplement the same so as to cover all such situations as they were not specifically provided for, or covered by the Rules framed by it. This would mean that Karnataka Civil Services Rules (KCSRs) would be applicable only in regard to matters which were not otherwise covered by the Rules framed by the said Corporation. In other words, the adoption of KCSRs was not a measure aimed at aggregating the existing Rules and wherever the Corporation Rules made a provision, the KCSRs would have no application. This would lead to a harmonious construction of two sets of Rules.

(b) In **W.P. Nos.36917-36919 of 2015 [GM-KLA] (between K.S.Shivalingappa vs. State of Karnataka, disposed of on 29.02.2016)**, a Co-ordinate Bench of this Court followed the decision in *M.P.Jaishankar* and held that the CCA Rules are not applicable to the Karnataka Industrial Areas Development Board as there were separate service regulations framed for the said entity. Thus, when the Rules are not applicable, the order for initiation of the inquiry under the said rules and the action taken in furtherance thereof could not stand in the eye of law.

(c) In **Sri.M.P.Jaishankar vs. The State of Karnataka and others, (W.P.Nos.1983-86/2014, disposed of on 01.09.2014)**, (*Sri.M.P.Jaishankar*) this Court has held as under:

7. The learned counsel for the respondent No.4 does not dispute that the employees of the KIADB are not governed by Karnataka Civil Services (Classification, Control and Appeal) Rules.

8. When separate service regulations are framed by respondent No.4 and when it has not adopted the Karnataka Civil Services (Classification, Control and Appeal) Rules, question of entrusting the enquiry to respondent No.2 or

respondent No.3 by the respondent No.4 does not arise.

9. In the circumstances, the writ petitions are disposed of. The order passed by the respondent No.4 entrusting the matter to Upa-lokayukta to hold enquiry and further order passed therein by the Upa-lokayukta are hereby quashed. Liberty is granted to the respondent No.4 to take action in accordance with law as per its service conditions."

(d) In ***Sri.B.Neelakanth vs. Managing Director, Dharwad, Haveri, Gadag and Uttara Kannada Districts Co-op Milk Producers Societies Union Ltd., Dharwad and others, [ILR 2019 KAR 4857]***, the Milk Union had a separate set of Rules/Bye-laws governing the disciplinary proceedings. That, as per Rule 80.0 of Service Rules, 2001, Milk Union relied upon Karnataka Civil Services Rules, only in case where there was no specific Rule in its service regulations. It was also categorically stated that the Milk Union had not adopted CCA Rules for being applied to its employees. In other words, there was a clear admission by 1st respondent - Union therein to the effect that its own set of regulations governed the disciplinary proceedings of its employees. It was also admitted that the CCA Rules was not adopted by 1st respondent - Union. However, reliance was placed by

respondents therein on Rule/Regulation 79 of Chapter XVI, which related to inquiry and levy of penalty on the employees of respondent - Milk Union, to contend that the Disciplinary Authority of respondent was empowered to entrust conducting of such inquiry against an employee to the Upa-lokayukta. However, the same was not accepted inasmuch as entrustment of conducting an inquiry to the Lokayukta by the Disciplinary Authority under Rule 14-A of the CCA Rules would only be under two contingencies namely:

- “(i) where the employee is a government servant; or
- (ii) where the Karnataka Civil Services (C.C.A.) Rules has been adopted by the employer, where such employee is working;”

There was no dispute to the fact that petitioner therein was an employee of the respondent – Milk Union. Respondent - Milk Union therein had not adopted C.C.A. Rules which would govern the employees of Milk Union for conducting inquiry. On the other hand, respondent - Milk Union therein had its own, separate and distinct by-laws/service regulations that would govern its employees relating to the manner in which an inquiry was to be conducted against its employees.

(e) In ***B.N.Nagendra Kumar vs. The Addl. Chief Secretary to Government, (W.P.Nos.10999-11006/2017, disposed of on 15.06.2019)***, a Co-ordinate Bench of this Court observed that the petitioners therein were employees of Government Tool Room and Training Centre ("GTTC"). They were governed by its own Cadre and Recruitment Rules, Certified Standing Orders and Rules and Regulations of GTTC. Rule 14-A of CCA Rules would apply to the government servants. Rule 3 of the CCA Rules states with regard to its application. It was further observed as under:

"11. Reading of the above sub-Rule would make it clear that CCA Rules have no application, where the employees are governed by the provisions of Industrial Employment (Standing Orders) Act, 1946. In the case on hand, the petitioners are governed by the Certified Standing Orders.Clause 23 deals with misconduct and defines misconduct. Clause 24 prescribes punishment for misconduct. Clause 25 would prescribe procedure for imposing punishment. The Cadre and Recruitment Rules would prescribe the Appointing Authority. Council is the Appointing Authority for Executive Cadres-I, Chairman is the Appointing Authority for the posts in the

Executive Cadres-II and the Managing Director is the Appointing Authority for all other posts.In the absence of any provision enabling the second respondent to pass resolution and entrust the enquiry to the Upa-lokayukta, the entrustment of enquiry to the Upa-lokayukta is wholly illegal and without jurisdiction.

12.If the Governing Council and Chairman are of the opinion that the allegation against the petitioners requires to be enquired into, it is at liberty to conduct the enquiry against the petitioners in accordance with the procedure prescribed under the Certified Standing Orders, which governs the employees of the GTTC and if found guilty of the charges, impose appropriate punishment.”

(f) In ***Sri.Sanjeev Kumar vs. The State of Karnataka (W.P.No.205398/2019, disposed of on 24.02.2020)***, a co-ordinate Bench of this Court held as under:

“28. Rule 14-A(2) (a) (iii) cannot be read in isolation, it has to be read along with the other clauses under Rule 14-A. Rule 14-A(1) enumerates classes of cases to which Rule 14-A would apply Sub-Rule (2) commands that record of investigation should be forwarded by the Lokayukta to the Disciplinary Authority with his

recommendation and Government after examining such record shall take a decision either to entrust the inquiry to the Lokayukta or Upa-lokayukta or direct the appropriate authority to resort to Rule 12 which would be for imposition of a minor penalty. A further reading of the other clauses would clearly indicate the purport of the provision relied on by the learned counsel for the second respondent. Clauses (d) and (e) of Rule 14-A would clearly indicate that after the inquiry is completed, the record of the case along with the findings of the inquiring officer and the recommendation of the Lokayukta or the Upa-lokayukta, as the case may be, shall be sent to the Government. Clause (e) mandates that on receipt of the record under Clause (d), the Government shall take action in accordance with the provisions of Rule 11-A and in all such cases the Government shall be the Disciplinary Authority competent to impose any of the penalties specified in Rule 8.

29. A conjoint reading of the provisions indicated hereinabove would unequivocally make it clear that the discretion is available to the Government to entrust the inquiry to the second respondent or otherwise in case the Government is of the opinion that it is a case only for imposition of minor penalty under Rule 12, where there is no necessity to hold regular departmental inquiry, it may advise the

appropriate Disciplinary Authority to take action for imposition of such minor penalty, this provision would not mean that when the Disciplinary Authority is of the opinion that a major penalty should be imposed or in all cases where proceedings under minor penalties are not taken up, the inquiry has to be entrusted to the Lokayukta. This interpretation of the second respondent that the inquiry has to be entrusted to the Lokayukta, once the investigation is conducted by them and a report is submitted to the Government under Section 12(3) would render the power of the Government or the discretion of the Government being completely taken away and rendering the provision nugatory. This is not the purport of the statute. The law with regard to discretion as discussed in the preceding paragraphs with regard to point No.1, would be applicable to this contention as well. This point is accordingly answered in favour of the petitioner."

(g) In ***Shri G.B.Devaraj vs. State of Karnataka (W.P.No.8374/2019*** disposed of on ***11.12.2020***), the question for consideration was,

"Whether the Corporation was well within its power to entrust the enquiry to the hands of the Lokayukta in terms of the Rules?"

It was observed as follows:

"12. The Cadre and Recruitment Rules framed by the Board of the Corporation was approved to come into effect from 20.09.1996. In the light of the above extracted Resolution that adoption of specific Rules would be in operation until the promulgation of the Cadre and Recruitment Rules, the specific adoptions made in the said Resolution ceased to operate from 20.09.1996. The framework of the Rules insofar as it pertains to conduct, misconduct, suspension, procedure to be followed for imposition of penalties, penalties to be imposed are as follows:

Rules 91 and 92, which form a part of Chapter 8 and deals with conduct and misconduct. Rules 93 to 103 which forms a part of Chapter 9 deals with the following contingencies:

Rule 93 depicts who is the appointing authority;

Rule 94 deals with penalties that can be imposed upon the employees of the Corporation;

Rule 96 deals with procedure for imposing major penalties;

Rule 97 deals with procedure for imposing minor penalties;

Rule 98 deals with procedure against borrowed employees;

Rule 99 deals with appeals against the order of penalties and

Rule 103 deals with review of the orders passed by the Disciplinary Authority and the Appellate Authority.

Thus, the afore-extracted framework of the statute contains all provisions to deal with misconduct of the employees of the Corporation.

13. Rule 39 is a residuary provision that makes applicability of other Rules that are not specifically provided in the said Rules. Rule 39 of the said Rules reads as follows:

"Rule 39 APPLICATION OF OTHER RULES:

a. The Karnataka Land Army Corporation Service Rules and Standing Orders and all other rules for the time being in force regulating the conditions of service of the employees of the Corporation in so far as such rules are found to be inconsistent with the provisions of these rules shall not be applicable to persons appointed under these rules.

b. In the absence of specific provisions in these rules, the rules provided in the Karnataka Government Conduct and Service

Rules, may be involved by the Board.”

X X X X

17. The power of entrustment of an enquiry to the hands of the Lokayukta is dealt with under KCS(CCA) Rules which not only contains provision for such entrustment, but also deals with elaborate procedure for conduct of disciplinary proceedings against Government Servant. The relevant Rules are:

Rule 8 of the said Rules deals with Nature of Penalties;

Rule 11 of the said Rules deals with procedure for imposition of major penalties;

Rule 12 deals with Procedure for imposition of minor penalties;

Rule 14-A is a special procedure that is incorporated into the Rules where the government would entrust enquiry to the hands of the Lokayukta when a report is furnished by the Lokayukta under Section 12(3) in exercise of powers under Section 12(4) of the said Act.”

Quoting Rule 14-A, it was further observed as under:

“17. The afore-extracted Rule gives the power of a Disciplinary Authority to either Lokayukta or the Upa-lokayukta as the case would be. Therefore, it is imperative that a provision for such entrustment must exist in the relevant Rules or such Rules which specifically

empower entrustment of such enquiry to the hands of the Lokayukta or the Upa-lokayukta as the case would be, must be particularly adopted. I say so, for the reason that Rule 14-A of the KCS(CCA) Rules post entrustment mandates that procedure under Rule 11 shall be followed for which the Lokayukta or the Upa-lokayukta shall have the powers of the Disciplinary Authority. Such a provision cannot be construed to have been adopted by a general adoption of Conduct Rules and Service Rules as is seen in sub-rule (b) of Rule 39.

18. Therefore, KCS(CCA) Rules without being specifically adopted cannot and would not mean that the said Rules can be applied, bringing it, within the sweep of Rule 39 of the said Rules of the Corporation, unless KCS(CCA) Rules is specifically adopted by a decision of the Board of the Corporation. In view of the preceding analysis, I hold that power to entrust the enquiry to the hands of the Lokayukta is not available with the Corporation. Therefore, the entrustment of the enquiry to the hands of the Lokayukta by the Managing Director of the Board will have to be held as an act without jurisdiction."

We approve the aforesaid observations of learned

Brother Nagaprasanna J.

37. What emerges from the aforesaid discussion is that the KL Act defines both "Public Servant" as well as the "Government Servant". The "competent authority" under the said Act for a public servant as defined in Section 2(12)(g) is the State Government. Further, under the CCA Rules, the expression, "Government Servant" is defined and the expression "Disciplinary Authority" in relation to the imposition of a penalty on a Government servant is the authority competent under the Rules to impose on him that penalty. But, the said Rules do not apply to "public servants" as defined under Section 2(12)(g) of the KL Act inasmuch as Rule 3(1)(d) excludes the applicability to them.

38. Rule 14-A of the CCA Rules deals with entrustment of inquiry to the Lokayukta only in respect of "Government servants" and not "public servants". In the absence of there being such a provision for entrustment of inquiry to the Lokayukta against public servants under the CCA Rules, the State Government cannot entrust such an inquiry to the Lokayukta or the Upa-lokayukta, as the case may be, under the said Rules. Further, the State Government is also not the Disciplinary Authority in respect of such public servants. Therefore, the State

Government on receipt of the report from the Lokayukta or the Upa-lokayukta must submit the same to the Disciplinary Authority under the particular C&R Rules/Regulations of the entity in which the public servant is employed. The Disciplinary Authority can then entrust the inquiry to the Lokayukta, if Rule 14-A of the CCA Rules have been adopted in the C&R Rules of the particular entity. Alternatively, the C&R Rules can expressly prescribe the entrustment of the inquiry to the Lokayukta or the Upa-lokayukta. In the absence of either of the two contingencies, the State Government cannot usurp jurisdiction under Rule 14-A of the CCA Rules to entrust the inquiry to the Lokayukta.

Therefore, having regard to the aforesaid gamut of provisions, it would be useful for all the entities which are excluded under Rule 3 of the CCA Rules to incorporate a provision akin to Rule 14-A of the CCA Rules in their respective C&R Rules or adopt Rule 14-A of the CCA Rules expressly. That would avoid litigation regarding jurisdiction vis-à-vis entrustment of inquiry to the Lokayukta. The reason for saying so is because the CCA Rules are of the year 1957 whereas the KL Act is of the year 1984 and Rule

14-A of the CCA Rules was inserted on the enforcement of the KL Act vide amendment made subsequently. A provision similar to Rule 14A of the CCA Rules must be either incorporated expressly or adopted by the legislative device of incorporation or reference, as the case may be.

39. As far as the next contention regarding there being non-compliance of Section 9(3) of the KL Act is concerned, learned counsel for the petitioner in Writ Petition No.45764/2017 contended that under Sub-section (3) of Section 9 of the KL Act, where the Lokayukta or a Upa-lokayukta proposes, after making such preliminary inquiry as he deems fit, to conduct any investigation under the KL Act, he has to forward a copy of the complaint to the public servant and afford to such public servant an opportunity to offer his comments on such complaint. That in the instant case, no such copy of the complaint was forwarded to the petitioner.

40. In response to the aforesaid contention, learned counsel for the Lokayukta submitted that a perusal of the report of the Lokayukta would indicate that the copy of the complaint was forwarded to the petitioner and on receipt of the reply, the report was submitted as per

Section 12(1) of the KL Act. On perusal of the same, we find that in deed, a copy of the complaint was forwarded to the petitioner and he has submitted his reply to the same. Hence, there is no merit in the contention raised by the petitioner on this aspect of the matter.

41. The next contention is with regard to the applicability of Rule 214(2)(b) of the KCSRs to the petitioner in Writ Petition No.45764/2017. The said provision states that the departmental proceedings if not instituted while the Government servant was in service, whether before his retirement or during his re-employment, shall not be instituted in respect of any event which took place more than four years before such institution. It was contended that, in the instant case, events in respect of which the departmental proceeding is to be instituted took place in the year 2011-12 and hence, the same is after more than four years and therefore, the departmental proceedings cannot be instituted against the petitioner.

42. We do not think that at this stage, it is necessary to answer the said contention. The said contention may however be taken into consideration and if

the departmental proceedings are instituted against the petitioner, then liberty is reserved to the petitioner to raise the said contention before the Disciplinary Authority/inquiring authority. It is needless to observe that if such a contention is raised by the petitioner, the same shall be considered in accordance with law.

43. In view of the aforesaid discussion, we hold as under:

- (a) That in these cases, the State Government, though a competent authority under the provisions of the KL Act, was required to submit the report of the Lokayukta under Section 12(2) of the Act to KRIDL for taking further action in the matter;
- (b) That the State Government did not have the jurisdiction to entrust the inquiry to the Lokayukta under Rule 14-A of the CCA Rules;
- (c) Hence, the Orders of Entrustment questioned in these writ petitions are **quashed**, i.e.,
 - (i) Government Order No.Gra.Aa.Pa:21:Ka.Gra.Mu:2018, dated 12.04.2018 (Annexure 'Q'), passed by Respondent No.1, in Writ Petition No.12300/2020;

- (ii) Government Order No.Gra.Aa.Pa:21: Ka.Gra.Mu:2018, dated 12.04.2018 (Annexure 'Q') passed by Respondent No.1, in Writ Petition No.12278/2020; and
 - (iii) Government Order No.Gra.A.Pa:18: Ka.Gra.Mu: 2016 dated 28.12.2016 (Annexure 'B') passed by Respondent No.1, in Writ Petition No.45764/2017.
- (d) The State Government is directed to submit the reports under Section 12(2) of the KL Act to the Managing Director, KRIDL, forthwith;
- (e) On receipt of the aforesaid reports, the Managing Director, KRIDL/Disciplinary Authority is at liberty to appoint the Inquiry Officer for conducting the inquiry against the petitioners herein, in accordance with law;
- (f) All contentions raised by both sides on merits of the allegations against the petitioners herein are kept open to be raised at an appropriate time;
- (g) All other contentions raised on behalf of the petitioners and which have not been answered

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in these petitions are permitted to be raised before the Inquiry Officer in accordance with law;

These writ petitions are **allowed in part** and **disposed of** in the aforesaid terms.

Parties to bear their respective costs.

Sd/-
JUDGE

Sd/-
JUDGE

RK/-