IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF DECEMBER, 2020

PRESENT

THE HON'BLE Mr. JUSTICE ARAVIND KUMAR

AND

THE HON'BLE Mr. JUSTICE SHIVASHANKAR AMARANNAVAR

WRIT PETITION No. 11153/2019 (S-KSAT)

BETWEEN :

Sri. Narayanaswamy
S/o. Chinnappa
Aged about 54 years
Second Division Assistant
Office of the Thesildar
Srinivasapura Taluka
Kolar Dist. – 563 135. ... PETITIONER

(By Sri. Amit Deshpande, Adv.)

AND :
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1. The Karnataka Lokayukta
   M.S. Building
   Dr. Ambedkar Veedhi
   Bagnalore - 560 001
   Rep. by its Registrar.

2. The State of Karnataka
   By its Secretary

Department of Revenue
Vidhana Soudha
Bangalore – 560 001.

3. The Additional Registrar
Of Enquiries – IV
Karnataka Lokayukta
M.S. Building
Dr. Ambedkar Veedhi
Bangalore – 560 001. ... RESPONDENTS

(By Smt. Shilpa S. Gogi, HCGP)

This Writ Petition is filed under Article 226 of the Constitution of India with a prayer to set aside the impugned order dated 10.09.2018 passed by the Karnataka Administrative Tribunal in application No. 6317/2015 and etc.

This Writ Petition coming on for Orders this day, ARAVIND KUMAR, J, passed the following;

O R D E R

Heard Sri. Amit Deshpande, learned counsel appearing for petitioner and learned Government Advocate appearing for respondent No. 1. No notice is issued to respondent Nos. 1 and 3 since petition is being dismissed at the threshold for the reasons indicated herein below.

2. Petitioner has been visited with disciplinary proceedings, initiated on the basis of a trap case which

resulted in FIR being registered in Crime No. 10/2008 for the offence punishable under Section 7, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988. On the basis of said proceedings initiated a report under Section 12(3) of the Act came to be forwarded by the Upalokayukta to the appropriate Government to entrust the enquiry under Rule 14-A of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 (for short hereinafter referred to as the KCS (CCA) Rules). The appropriate Government by order under Section 14-A of the Act dated 12.10.2011 based upon which Articles of charges came to be issued on 16.03.2012 (Annexure A4) and enquiry proceedings has been commenced and the statement of imputation of misconduct was to the effect that the petitioner (DGO) was caught in a trap case and had failed to maintain absolute integrity and devotion to duty, the act of which was unbecoming of Government servant and thereby had committed misconduct as enumerated under Rule 3(I)(i) to (iii) of KCS (Conduct) Rules, 1966. When the enquiry was under progress the petitioner devised a novel

method to stall the enquiry proceedings by filing an interlocutory application under Rule 28(6) of the KCS (CCA) Rules and to drop further proceedings against him on the ground that said enquiry proceedings has been initiated on the strength of FIR registered in Crime No. 10/2008 and criminal proceedings having come to an end by filing a `B' report and this fact of filing of `B' report had never been brought to the notice of the appropriate Government at the time it formed opinion while entrusting the enquiry to the Lokayukta under Rule 14-A. Said application came to be considered and was rejected by order dated 09.01.2015 (Annexure A7). In the meanwhile an interlocutory application by invoking jurisdiction under Section 28(III) of the Karnataka Administrative Tribunals Act, 1985 read with Section 151 CPC was also filed for amending the prayer whereunder the petitioner sought for additional prayer to the effect that report submitted under Section 12(3) of the Karnataka Lokayukta Act dated 07.07.2011 to be quashed. The said prayer is said to have been allowed and amended application is also said to

have been filed. Hence, contending that Enquiry Officer ought to have allowed the application and dropped the enquiry proceedings approached the Tribunal by filing application No. 6317/2015. After having considered rival contentions Tribunal has rightly arrived at a conclusion that order passed by the Enquiry Officer on an interlocutory application is not amenable to challenge before the Tribunal in the light of Rule 17 of KCS (CCA) Rules which has been extracted by the Tribunal at paragraph No. 5 of its order. In fact Tribunal has opened a window for the petitioner that he would be at liberty to make use of the material/documents relied upon before the Enquiry Officer. Said finding recorded by the Tribunal would not call for interference.

3. Insofar as second contention with regard to quashing of the report submitted under Section 12(3) of Karnataka Lokayukta Act is concerned, as rightly observed by the Tribunal, same being a recommendation made by the Upalokayukta to the Government to entrust the matter to hold enquiry against petitioner on the basis of material

available before it, the wisdom exercised by the Government cannot be subject matter of scrutiny under Article 227 of the Constitution of India by this Court unless it is established that there has been inordinate delay in initiating departmental enquiry or authority initiating departmental enquiry lacking competence or jurisdiction or there being violation of principles of natural justice or there being any infraction of any extant Rules by the appropriate Court/Enquiry Officer. None of these grounds having been urged in the instant case, Tribunal has rightly refused to interfere with the enquiry proceedings.

No grounds. Writ petition is rejected.

Sd/-
JUDGE.

Sd/-
JUDGE.

LRS.