

**BEFORE THE KERALA STATE ELECTION COMMISSION,
THIRUVANANTHAPURAM**

PRESENT: SHRI.V.BHASKARAN, STATE ELECTION COMMISSIONER

Friday, the 4th day of October 2019

O.P.No.13/2018

Petitioner : K.B.Shafeek,
S/o Beeru,
Kattuparambil House,
Karakathiyalam P.O.,
Thrissur District-680 671.
Member, Ward No.2,
EdavilanguGrama Panchayat.

(By Adv. PallichalS.K.Pramod)

Respondent : K.K.RameshBabu,
S/o Krishnan Kutty,
Kuttikattil House,
Edavilangu P.O.,
Thrissur District.
Member, Ward No.5,
EdavilanguGrama Panchayat.

(By Adv. Sajitha. S)

This petition having come up for hearing on the 27th day of **September 2019**, in the presence of Adv. **PallichalS.K.Pramod** for the petitioner and **Adv.Sajitha.S** for the respondent and having stood over for consideration to this day, the Commission passed the following.

ORDER

This is a petition filed under Section 4 of the Kerala Local Authorities (Prohibition of Defection) Act for declaring that the respondent committed defection and hence disqualified to continue as member of EdavilanguGrama Panchayat and also for declaring him as disqualified to contest as candidate in any election to the local body for a period of six years.

2. The petitioner's case in brief is as below:-Petitioner and respondent are elected members of EdavilaguGrama Panchayat in the election held in November 2015. Both of them contested and were elected as the candidates of Communist Party of India (Marxist) [CPI(M)] which is a constituent of Left Democratic Front (LDF). Communist Part of India (CPI) is the other constituent in the Left Democratic Front (LDF). There are 14 wards (seats) in EdavilanguGrama Panchayat and out of which the LDF secured 7 seats-CPI(M)-4 and CPI-3. The Indian National Congress (INC) and Bharathiya Janata Party (BJP) have got 3 seats each and the remaining one seat was won by an independent member. After the election the LDF decided to form the Panchayat board. Shri.T.M.Shafi of CPI and Smt.AmbikaAshokan of CPI(M) were elected as the President and Vice President respectively. As per the understanding in the LDF Shri.T.M.Shafi and Smt.AmbikaAshokan resigned their respective posts after twoyears. Fresh election to the post of President was held on 14.02.2018. In the

President election the respondent deliberately made his vote invalid by not writing his name on the reverse side of the ballot paper. He acted against the interest of his party. As he admitted the mistake and tendered apology the party did not take any action against him in the matter.

3. The Vice President election was held on 13.03.2018. The District Secretary of CPI(M) issued whip to the respondent directing him to vote in favour of the LDF candidate Smt. Mini Thankappan in the Vice President election. But the respondent violated the direction of the party. Three candidates contested for the post of Vice President and as no candidate secured more votes than the aggregate votes secured by the other candidates, the candidate who secured the least number of votes was eliminated. The remaining two candidates were Smt. Mini Thankappan of CPI(M) and Smt. Sajitha K.G of BJP. In the second phase the respondent deliberately made his vote invalid by not writing his name and putting his signature on the reverse side of the ballot paper with a view to help the candidate of the rival party BJP. Due to the above act of the respondent the BJP candidate came victorious and became the Vice President. The respondent has disobeyed the direction of the party and acted against the interest of his party. By doing so the respondent has voluntarily abandoned his membership from CPI(M). His above acts amount to defection and thereby

he incurred disqualification as provided under Section 3(1)(a) of the Kerala Local Authorities (Prohibition of Defection) Act.

4. The respondent filed counter statement contending as below.- The petition is not maintainable. It is true that the respondent was elected as a member of Edavilangu Grama Panchayat as stated in the petition and he contested and was elected as the candidate of CPI(M). It is not correct to say that the respondent deliberately made his vote invalid in the President election held on 14.02.2018. By mistake he omitted to write his name on the ballot paper and he had no intention to defeat the nominee of CPI(M). He did not tender any apology in the matter as alleged. No whip was issued to the respondent in the President and Vice President election. In the Vice President election held on 13.03.2018 he cast his vote infavour of LDF candidate Smt.MiniThankappan. But he omitted to write his name and put his signature on the reverse side of the ballot paper in the second phase as he was under mental stress as his mother was seriously ill. It was only a mistake and he had no intention to defeat the candidate of LDF. The defeat of Smt.MiniThankappan was due to the infighting in CPI and not due to the above mistake of the respondent. There was no whip in this case and no whip was served on the respondent as alleged. The alleged affixture of the whip is false. The respondent did not abandon his membership in CPI(M).

He did not act against the interest of his party and he did not do any act of defection. There is no merit in the petition and it is only to be dismissed.

5. The evidence in this case consists of the oral testimonies of PWs1to PW5, RW1 and Exts.A1to A6.

6. Both sides were heard.

7.The following points arise for consideration;

- (1) Whether the petition is maintainable?
- (2) Whether the respondent has disobeyed the direction of his political party as alleged?
- (3) Whether the respondent has committed defection as provided under Section 3(1)(a) of the Kerala Local Authorities (Prohibition of Defection) Act as alleged?
- (4) Whether the respondent has voluntarily given up his membership from Communist Party of India(Marxist) as alleged?
- (5) Whether the petitioner is entitled to the declaration prayed for?
- (6) Reliefs and costs?

8. **POINT No.1:** In the counter statement the respondent among other things raised a contention that the petition is not maintainable. But except making such a vague statement in the counter statement there is nothing from his side to show that the original petition is not maintainable.

9. Petitioner and respondent are elected members of Edavilagu Grama Panchayat and admittedly they were elected as the candidates of Communist Party of India (Marxist) [(CPI(M))]. After the election Shri.T.M.Shafi of CPI and Smt.AmbikaAshokan of CPI(M) were elected as the President and Vice President respectively. Later they resigned from their respective posts as per the understanding in the LDF consisting CPI(M) and CPI. Thereafter fresh election to the post of President was held on 14.02.2018 and to the post of Vice President on 13.03.2018. This case relates to the election held on 13.03.2018 for the post of Vice President. It is stated that Smt.MiniThankappan was the candidate of the LDF for the post of Vice President. According to the petitioner the District Secretary of CPI(M) issued whip to all the elected members of CPI(M) including the respondent directing them to vote in favour of Smt.MiniThankappan. But the respondent, the petitioner contends, did not obey the direction of the party and he deliberately made his vote invalid by not writing his name and subscribing his signature on the reverse side of the ballot paper defying the direction of the party. The respondent by violating the direction of the party and acting against the interest of the party committed defection and thereby incurred disqualification as provided under Section 3(1)(a) of the Kerala Local Authorities (Prohibition of Defection) Act.

10. Contention of the respondent on the other hand is that there was no whip from his party and there was no violation of the whip also. His vote happened to be invalid as he omitted to write his name on the reverse side of ballot paper. It was only a mistake and he had no intention to make his vote invalid. To him he did not commit any act of defection incurring disqualification.

11. It may be noted that the original petition is filed under Section 4(1) of the Kerala Local Authorities (Prohibition of Defection) Act. As per Section 4(1) of the Act, if any question arises as to whether a member of the local authority has become subject to disqualification under the provisions of the Act a member of that local authority or the political party concerned or a person authorized by it in this behalf may file a petition before the State Election Commission for decision.

12. Ongoing through the contentions of the parties it can be seen that a question arises as to whether the respondent has become subject to disqualification as provided by Section 3 (1)(a) of the Kerala Local Authorities (Prohibition of Defection) Act. Petitioner and respondent are elected members of Edavilagu Grama Panchayat and admittedly they were elected as the candidates of Communist Party of India (Marxist) [(CPI(M))]. The petitioner being a member of the local authority is entitled to file this petition under Section 4(1) of the Kerala Local Authorities (Prohibition of Defection) Act. As

this petition is filed by a competent person within the time limit and a question arises as to whether the respondent has become subject to disqualification as provided by Section 3 (1) (a) of the Kerala Local Authorities (Prohibition of Defection) Act, this petition is held to be maintainable. Point is answered accordingly.

13. **POINT Nos. 2 to 6:-** Case of the petitioner as stated above is that the respondent committed defection by acting against the interest of his political party and also by defying the direction of his party and thereby he incurred disqualification under Section 3(1)(a) of the Act. The petitioner and respondent are elected members of EdavilanguGrama Panchayat and admittedly both of them were elected as the candidates of Communist Party of India (Marxist) [CPI(M)]. Ext.A1 copy of the register showing the party affiliation of the petitioner and respondent and Exts.A2 and A3 declarations submitted by them before the Secretary of the Panchayat also would show the said fact and there is no dispute over that.

14. There are 14 seats in EdavilanguGrama Panchayat and out of which the LDF consisting CPI(M) and CPI got 7 seats. The Indian National Congress (INC) and Bharathiya Janata Party (BJP) got 3 seats each. The remaining one seat was won by an independent member. After the election Shri.T.M.Shafi from CPI was elected as the President of Panchayat and Smt.AmbikaAshokan fromCPI(M) was elected as the Vice President. It is stated that there was an understanding between the CPI(M) and CPI to share the posts of President and

Vice President and as per that in the first half the Presidentship of the Panchayat would go to the nominee of CPI and of the Vice President to the nominee of CPI(M). In the second half the nominee of CPI(M) would become the President and of the CPI, the Vice President. It was on that basis Shri.T.M.Shafi and Smt.AmbikaAshokan were elected to the posts. Later they resigned from the above posts as per the above understanding.

15. Fresh election to the post of President was held on 14.02.2018 and to the post of Vice President on 13.03.2018. It is alleged that in the President election also the respondent violated the direction of his party and made his vote invalid. But the party has not taken any action against him as he tendered apology. This case relates to the Vice President election held on 13.03.2018. It is not in dispute that Smt.MiniThankappan of CPI was the candidate of LDF for the post of Vice President. According to PW1 the District Secretary of CPI(M) issued whip to all the elected members of CPI(M) including the respondent directing them to vote in favour of Smt.MiniThankappan in the Vice President Election held on 13.03.2018. Ext.A6 is the copy of the whip issued to the respondent. The respondent, after knowing the contents in the whip, refused to acknowledge the whip when directly tendered to him. Thereafter, it is stated, the whip was affixed on the wall of his house. When the election was held on 13.03.2018 the respondent deliberately made his vote invalid by not writing his name and putting his signature on the ballot paper, to facilitate the defeat of LDF nominee and the victory of the candidate of the rival party BJP.

To PW1 the respondent intentionally made his vote invalid defying the decision and direction of his party. It is an act of disloyalty to the party and by doing so he has voluntarily given up his membership from CPI(M).

16. PW4 is the Secretary of CPI(M) Thrissur District Committee. It is stated by him that he has issued whips to all the elected members of CPI(M) directing them to vote infavour of Smt.Minithankappan in the Vice President election on 13.03.2018 and Ext.A6 is the copy of the whip issued to the respondent. He entrusted the whip to the Edavilangu Local Committee Secretary to serve the same to the members and it was he who served whips to all the members of CPI(M). As the respondent did not receive the whip the same was affixed on the front wall of his house. The respondent did not obey the whip and he deliberately made his vote invalid, PW4 further states. PW3 is the Edavilangu Local Committee Secretary of CPI(M). It is stated by him that he went to the house of the respondent on 10.03.2018 to serve the whip in this case to the respondent. PW5 Shri.MuhammedAnsal and one Mukesh were also with him at that time. The respondent refused to accept the whip when it was entered to him. Thereafter, PW3 states, he affixed the whip on the front wall of the respondent's house in the presence of witnesses and the fact of affixture of the whip was recorded in Ext.A6 in his handwriting. PW5 is awitness to the affixture of the whip in this case. According to him he was present with PW3 while affixing the whip and he identified his signature in Ext.A6. PW2 is the then Returning Officer of EdavilanguGrama Panchayat and Exts.A4 and A5 are

proved through him. Ext.A4 is the copy of the minutes in respect of the President election held on 14.02.2018 and Ext.A5 is the copy of the minutes relating to the Vice President election held on 13.03.2018.

17. Case of RW1 is the respondent he did not do any act inviting disqualification. There was no whip from the party to him and hence the question of violation does not arise. It is also his case that he has cast his vote infavour of Smt.MiniThankappan and by mistake he omitted to write his name on the reverse side of the ballot paper. It was only an omission on his part and it was not wilful. According to him Section 3(1)(a) of the Act is not applicable in this case.

18. Submission of the learned counsel for the petitioneris that the respondent colluding with the rival parties disobeyed the direction of PW4 the District Secretary and deliberately made his vote invalid to help the candidate of the rival party BJP. He helped the rival party by not writing his name on the reverse side of the ballot paper as required by law.By doing so the respondent acted against the interest of his political party and acting against the interest of his political party alone is sufficient to hold that the respondent has voluntarily given up his membership from the party. The candidate of the rival party BJP got elected as the Vice President with the silent support of the respondent. Contention of the learned counsel for the respondent is that no whip was issued and served on the respondent directing him to vote infavour of Smt.MiniThankappan. Even then the respondent cast his vote infavour of

Smt. Mini Thankappan. He did not do anything against the interest of his party. While casting the vote he omitted to write his name on the ballot paper. He was under serious mental stress due to the illness of his mother and due to that he omitted to write his name on the ballot paper. It was not intentional, the counsel further submits.

19. Whether the respondent has committed any acts of defection envisaged under Section 3(1)(a) of the Kerala Local Authorities (Prohibition of Defection) Act is the question to be considered in this case. The Kerala Local Authorities (Prohibition of Defection) Act was enacted to prohibit defection among members of local authorities in the state and to provide for disqualification of the defecting members of the local authorities. Section 3 of the Act deals with disqualification on the ground of defection. Section 3(1)(a) is the relevant provision in this case and it reads as below:- if a member of local authority belonging to any political party voluntarily gives up his membership of such political party, or if such member, contrary to any direction in writing issued by the political party to which he belongs or by a person or authority authorized by it in this behalf in the manner prescribed, votes or abstains from voting. (i) in a meeting of Municipality, in an election of its Chairperson, Deputy Chairperson, a member of standing committee or the Chairman of a standing committee; or (ii) in a meeting of a Panchayat, in an election of its President, Vice President, a member of a Standing Committee, or the Chairman of the Standing Committee; or in a voting on a no-confidence

motion against any one of them except a member of a Standing Committee, he shall be disqualified for being a member of that local authority.

20. Section 3(1)(a) of the Act has two parts. The first part is attracted when a member belonging to any political party voluntarily gives up his membership of such political party and second part comes in to play when such member violates or disobeys the direction issued by the political party or a person authorized by it in this behalf. As per clause (iva) of Section 2, a direction in writing means a direction in writing signed with date, issued to a member belonging to or having the support of a political party, by the person authorized by the political party from time to time to recommend the symbol of the said party for contesting in election, for exercising the vote favourably or unfavourably or to abstain from voting.

21. To attract the second part there must be a proper whip and the whip should be communicated and there must be violation of the whip. According to PW1 the District Secretary of CPI(M) issued whip in this case to all the elected members of CPI(M) in EdavilanguGrama Panchayat and Ext.A6 is the copy of the whip. The District Secretary of the CPI(M) is the competent person to issue whips to all the elected members of CPI(M) in local bodies and there is no dispute over that. PW4 is the Secretary of CPI(M), Thrissur District committee and it is stated by him that he has issued whip to the elected members of EdavilanguGrama Panchayat including the respondent. RW1 has no case that PW4 is not competent to

issue whip in this case. His contention is that no whip was issued to him. PW4 has clearly stated about the issuance of whip directing the respondent to vote infavour of Smt.Minithankappan in the Vice President election and Ext.A6 is the copy of the whip issued by him. So the contention of the respondent that no whip was issued in this case cannot be accepted especially when PW4 the District Secretary himself gave evidence to that effect.

22. Now let us verify whether the whip was communicated to the respondent. As per Rule 4(2) of the Kerala Local Authorities (Disqualification of Defected Members) Rules the whip/direction can be served by three modes – (1) directly (2) sending by registered post and (3) by affixture. Admittedly the whip in this case was not sent by registered post. According to the petitioner the respondent refused to accept the whip when it was tendered directly and hence the whip was served by adopting the third mode. It was served on the respondent by affixture by affixing on the front wall of the respondent's house. Evidence of PWs 3 and 5 would show that the whip was affixed on the front wall of the respondent's house. It is stated by PW4 the District Secretary that the whip was entrusted to PW3 local Committee Secretary for serving the same to all the members. It is stated by PW3 the Local Committee Secretary that he went to the house of the respondent along with PW5 and one Mukesh and the whip was affixed on the front wall of the respondent's house. PW5 stated that he was present

with PW3 at the time of affixing the whip and he saw PW3 affixing the whip on the front wall of the respondent's house and he put his signature in Ext.A6 copy of the whip as witness to the affixture. I do not find anything to disbelieve the evidence of PW3 and PW5 regarding the affixture of the whip. From the evidence of PWs3 and 5 it can be seen that the whip was affixed on the front wall of the respondent's house and the whip was served on the respondent by affixture. Affixture is a deemed service. Hence it is to be taken that the whip was served on the respondent. The respondent hence cannot contend that there was no service of whip on him and he was not aware of the whip. It is in evidence that there was proper whip in this case and the respondent was aware of the whip. It is also in evidence that he has not acted as per the whip.

23. Moreover, it is to be stated that as per Section 3(1)(a) of the Act a member can be disqualified if he has voluntarily given up the membership of the party to which he belongs. It is the settled law that the disqualification for voluntarily giving up the membership of the political party to which he belongs is not dependent on any violation of the whip. It is not necessary to hold that the member has violated the whip in order to conclude that he has voluntarily given up the membership of the political party to which he belongs. The grounds for disqualification under the first and second limbs of Section 3(1)(a) of the Act are distinct and are not interlinked as held in the decisions reported in **2009(2) KHC 839 (Biju R.S. and others V. Kerala**

State Election Commission and others), 2015 KHC 454 (Suryaprakash and others V. State Election Commission, Thiruvananthapuram and others) 2015 KHC 7086 (Chenthamara K. and others V. Kerala State Election Commission, Thiruvananthapuram and others) and 2018 (5) KHC 964 (Eruthavoor Chandranand another V. Kerala State Election Commission and others). From the conduct of a member an inference can be drawn that he has voluntarily given up his membership from his party.

24. The respondent was elected as a candidate of CPI(M) party and he cannot act according to his whims and fancies. He is bound by the decision and direction of his party and disobedience and acting against the interest of the party is nothing but disloyalty. It is found above that the District Secretary of CPI(M) issued whip to the respondent directing him to vote infavour of Smt. Mini Thankappan in the Vice President election held on 13.03.2018 and the whip was served by affixture. But he did not act as per the direction of the party. He did not write his name on the reverse side of the ballot paper and as a result his vote became invalid. According to the petitioner the respondent purposefully made his vote invalid by not writing his name on the reverse side of the ballot paper as required and he did so with a view to help the candidate of the rival party.

25. Section 153 of the Kerala Panchayat Raj Act deals with the election of the President and Vice President. As per sub Section 7(A) of Section 153 the election shall be by open ballot and the member voting shall,

record in writing his name and signature on the reverse side of the ballot paper. The manner of recording of votes is stated in Rule 9(3) of the Kerala Panchayat Raj (Election of President and Vice President) Rules. As per Rule 9(3) every member shall, immediately on receipt of the ballot paper put the mark 'X' on the ballot paper against the name of the candidate for whom the intends to vote and hand over the ballot paper to the Returning Officer after writing his name and putting signature on the reverse side of the ballot paper. As per Rule 10, a ballot paper which does not bear the name and signature of the member shall be rejected as invalid. The respondent is very well aware of these provisions and he admitted the said facts in his evidence. Admittedly the respondent did not write his name on the reverse side of the ballot paper as required under Section 153(7A) of the Act and Rule 9(3) of the above Rules. As the respondent did not write his name on the ballot paper the same was rightly rejected as invalid by the Returning Officer as per Rule 10. The respondent has not challenged the rejection of his vote before any forum. Further he has no case that the declaration of his vote as invalid by the Returning Officer is illegal.

26. When the statute provides the manner in which the things have to be done it should be done in that manner. As per Section 153(7A) and Rule 9(3) aforesaid the member voting should write his name on the reverse side of the ballot paper. The respondent did not write his name as required and hence his vote was declared invalid. Submission of the learned counsel for

the respondent is that the respondent cast his vote infavour of Smt.MiniThankappan as per Ext.A6 whip and by mistake only he omitted to write his name and it is not deliberate. That omission, according to the counsel, cannot be made use of against the respondent to disqualify him. Submission of the learned counsel for the petitioner on the other hand is that the respondent colluded with the rival party BJP and deliberately made his vote invalid to help the candidate of the rival party and to defeat the nominee of his own party. With the intent of creating a defence in the defection case which he expected to be filed against him he cast his vote against the name of Smt.MiniThankappan and thereafter purposefully caused it to be invalid by not writing his name on the reverse side of the ballot paper as required by law. The respondent thus violated the whip of the party and acted against the interest of his party inviting disqualification under Section 3(1)(a) of the Kerala Local Authorities (Prohibition of Defection) Act, the counsel further submits. The evidence and circumstances in this case would only lend support to the said contention of the counsel. It is clearly stated by RW1, the respondent that he was aware of the procedure and the manner of voting in the President and Vice President election and that his vote would become invalid if he failed to write his name on the reverse side of the ballot paper.

27. It may be noted that the respondent is a senior and experienced member of EdavilanguGrama Panchayat. In the previous term also he was a member of EdavilanguGrama Panchayat. He had opportunities on several

occasions to cast votes in the President, Vice President and Standing Committee elections and he knows the procedure. Despite all these he did not care to subscribe his name on the ballot paper as required. His explanation that he was under serious mental stress due to the illness of his mother cannot be accepted as a justification for not writing his name on the ballot paper.

28. It may also be noted that on earlier occasions also he made his vote invalid. It is in evidence that election to the post of President was held on 14.02.2018 and in that election also he made his vote invalid by not writing his name on the ballot paper though he cast his vote in favour of the nominee of his party. The present act of the respondent is to be viewed in that background also. His non writing of the name on the ballot paper is not so innocent as projected by the respondent. As stated above the Vice President election was held in two phases. It is admitted by RW1 that on both occasions his vote was declared invalid as he did not write his name on the ballot paper as required by law. From the evidence and circumstances of the case it cannot be said that it is not deliberate and that it is only a mistake. Further, if the above contention of the respondent is accepted the defecting members can adopt this method in all the cases of voting and defeat the provisions of Section 3 of the Kerala Local Authorities (Prohibition of Defection) Act. That should not be allowed to happen.

29. The object sought to be achieved by the Act is to prohibit defection among members of the Local Authorities and to provide disqualification for the defecting members. What is ultimately sought to be prevented is the evil of the political defection motivated by lure of office or other similar considerations which endanger the foundations of our democracy. It is settled law that if a member or a group of elected members of a political party takes a different stand from that of the political party as such and acts against the policies of the political party in which they are members, it is nothing but disloyalty. The moment one becomes disloyal by his conduct to the political party, the inevitable inference is that he has voluntarily given up his membership. The **Kerala Local Authorities (Prohibition of defection) Act**, derived its source from the *10th schedule to the Constitution of India*. While upholding the Constitutional validity of 10th schedule, the *Apex Court in KihotoHollohanVs.Zachillhu (1992) Supp.2 SCC 651*” observed as follows:-

“A political party goes before the electorate with a particular programme and it sets up candidates at the election on the basis of such programme. A person who gets elected as a candidate set up by a political party is so elected on the basis of the programme of that political party.If a member while remaining a member of the political

party which had set him up as a candidate at the election votes or abstains from voting contrary to any 'direction' issued by the political party to which he belongs or by any person or authority authorized by it in this behalf, he incurs disqualification. A political party functions on the strength of shared beliefs. Its own political stability and social utility depends on such shared beliefs and concerted action of its members in furtherance of those commonly held principles. Any freedom of its members to vote as they please independently of the political party's declared politics will not only embarrass its public image and popularity but also undermine public confidence in it which, in the ultimate analysis, is its source of sustenance-nay indeed its survival.To vote against the party is disloyalty. To join with others in abstention or voting with other side smacks of conspiracy."

30. A member belonging to a political party has to be loyal to his party and the moment he becomes disloyal he would become subject to disqualification on the ground of voluntarily giving up his membership from

the party. The conduct of the respondent in making his vote invalid with a view to help the candidate of the rival party defying the direction of his party would clearly demonstrate that he became disloyal to the party which elected him as a member of EdavilanguGrama Panchayat. The acts stated above on the part of the respondent would amount to defection inviting disqualification under both the limbs of Section 3(1)(a) of the Kerala Local Authorities (Prohibition of Defection) Act as alleged and the case put forward by the petitioner against the respondent is clearly established. According to Father of Nation Mahatma Gandhi politics without principle is one of the grave vices in that group. The menace of defection certainly, is to be curbed. The evil of political defections has been a matter of national concern. If it is not combated, it is likely to undermine the very foundations of our democracy and the principles which sustain it.

31. From the above facts and circumstances it can be seen that the respondent has committed defection and he has voluntarily given up his membership from the party which elected him as member, as provided by Section 3(1)(a) of the Act and therefore he became subject to disqualification for being a member of EdavilanguGrama Panchayat. Points are answered accordingly.

In the result, the petition is allowed and the respondent is declared as disqualified for being member of EdavilanguGrama Panchayat as provided by Section 3(1)(a) of the Kerala Local Authorities (Prohibition

of Defection) Act. The respondent is further declared as disqualified from contesting as a candidate in an election to any local authorities for a period of 6 years from this date, as provided by Section 4(3) of the Act.

Considering the circumstances of the case the parties are directed to bear their respective costs.

Pronounced before the Commission on this the 4th day of October 2019

Sd/-
V.BHASKARAN,
STATE ELECTION COMMISSIONER

APPENDIX

Witnesses examined on the side of the petitioner

PW1	:	Shri.Shafeek.K.B
PW2	:	Shri.K.K.Mohandas
PW3	:	Shri.Shafeer.C.A
PW4	:	Shri.K.Radhakrishnan
PW5	:	Shri.MuhammedAnsal

Witness examined on the side of the respondent

RW1	:	Shri.RemeshBabu.K.K.
-----	---	----------------------

Documents produced on the side of the petitioner

A1	:	Copy of the register showing the party affiliation of the members of Edavilangu Grama Panchayat.
A2	:	Copy of the declaration in form No.2 submitted by Shri.K.B.Shafeek, Member, Edavilangu Grama Panchayat
A3	:	Copy of the declaration in form No.2

submitted by Shri.K.K.RameshBabu,
Member,EdavilanguGrama Panchayat

- A4 : Copy of the minutes of the meeting to elect
the President of EdavilanguGrama
Panchayat held on 14.02.2018
- A5 : Copy of the minutes of the meeting to elect
the Vice President of EdavilanguGrama
Panchayat held on 13.03.2018
- A6 : Copy of the whip issued by Thrissur
District Secretary of CPI(M) to
Shri.K.K.RameshBabu dated 09.03.2018

Sd/-

V.BHASKARAN

STATE ELECTION COMMISSIONER

//True Copy//