

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

PRESENT: SHRI.V.BHASKARAN, STATE ELECTION COMMISSIONER

Tuesday, the 12th day of July 2016

O.P.No.132/2014

Petitioner : Adv.K.Prathapan,
S/o Kochadichan,
KailasaMandiram, Pandalam P.O.,
Member, Ward No.17
PandalamGrama Panchayat

**(By Adv. HashimBabu.M. &
Sajitha.S)**

Respondent : Rajan Varghese @ Raju Kallumoodu,
Kallumoottil, Poozhicaud,
Kudashanadu.P.O., Pandalam.
Member, Ward No.19,
AroorGrama Panchayat,

(By Adv. G.K.Sudheer)

This petition having come up for hearing on the 15th day of June2016, in the presence of Advs. **HashimBabu.M. &Sajitha.S** for the petitioner and Adv. **G.K.Sudheer** 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(1) of the Kerala Local Authorities (Prohibition of Defection) Act for declaring that the respondent committed

defection and hence disqualified to continue as member of PandalamGrama Panchayat and also for declaring him as disqualified to contest as candidate in any election of the local authority for a period of six years from the date of the order.

2. The petitioner's case in brief is as below:- The petitioner and respondent are the elected members representing ward Nos.17 and 19 of PandalamGrama Panchayat respectively. The petitioner and respondent were elected to the Panchayat in the election held in October 2010. The petitioner was elected as the candidate of Indian National Congress and the respondent as the candidate of Kerala Congress (M) . There are 23 wards in PandalamGrma Panchayat. Out of which the Congress led UDF won 11 seats. The Indian National Congress alone got 10 seats and the other partner Kerala Congress (M) got one seat. The rival Front LDF got 10 seats CPI(M) 8 seats and the CPI 2 seats, The BJP won the balance 2 seats. As the UDF got 11 seats it decided to form the Panchayat Committee. The petitioner was elected as the President of PandalamGrama Panchayat and Smt.RethnamaniSurendran as the Vice President and both of them belong to Indian National Congress. The respondent is a member of Kerala Congress (M), a partner of UDF. He has given a declaration to that effect before the Secretary of the PandalamGrama Panchayat. The respondent was in the habit of creating disturbances in the smooth functioning of the Panchayat. He started to collude with LDF and to make

disruptions. He was hostile towards the president. Taking advantage of the difference of opinion in UDF, the LDF members moved a no confidence motion and it was passed on 29.08.2014 with the support of the respondent and LDF. The petitioner, President of the Panchayat was removed from the post with the support of the respondent and it was the outcome of political horse trade. Thereafter election of the President was fixed to be held on 13.10.2014. Parliamentary party meeting of Indian National Congress was held at the DCC office in the presence of DCC President and decided to field Shri.D.Prakash as President candidate and it was intimated to the respondent through the District President of Kerala Congress and accordingly he has given a whip to the respondent on 07.10.2014 to vote in favour of Shri.D.Prakash. The whip was served on the respondent by post and by affixture. But contrary to the specific understanding in UDF and the decision of the party the respondent was nominated as candidate to the post of President by the rival parties in the election meeting on 13.10.2014. The respondent violating the direction of the District President of Kerala Congress (M) and the decision of the party contested and won the election. He secured 11 votes among which 10 votes from LDF the rival group. The act of the respondent amounts to defection. The respondent has voluntarily abandoned his membership in the Kerala Congress (M) which fielded him as a candidate in the local body election. The act and conduct of the respondent caused loss of power of Indian National Congress and the UDF in the Panchayat . To Act against the party and voting against the interest of the

party is disloyalty. It is a clear case of defection inviting disqualification. The respondent is disqualified to continue as a member of PandalamGrama Panchayat. He has voluntarily given up his membership from the party. Hence the petitioner filed this petition seeking declaration to that effect.

3. The respondent filed statement of objections contending as below,-
The petition is not maintainable. The petitioner has come up with a frivolous petition against the respondent in order to settle personal scores. The petitioner is acting on inimical towards the respondent since the respondent was elected as the President of the Panchayat in the election held on 13.10.2014. The respondent is the sole member in the Panchayat Committee from the Kerala Congress (M). There is no entity as UDF in PandalamGrama Panchayat. The respondent was properly representing the party and was promptly implementing its policies in the Panchayat. Some elements in his own party plotted against him due to infighting in the party and that resulted in the expulsion of the respondent from the party. He is no more a member of the party as he is expelled from Kerala Congress (M) for a period of six years by the District President. The allegation that the respondent has disobeyed the direction of the party is false. Till his expulsion from the party the respondent was acting in accordance with the party policy. He was expelled from the party on 22.09.2014 and the report to that effect came in the major dailies on that day. There after the respondent was not engaged in the party activities. There is no entity as UDF in the Panchayat except some understanding at the time of

General Election. The respondent has raised several issues relating to the problems of the people and such acts many times caused inconvenience to the petitioner. It is true that the respondent supported the no confidence motion against the petitioner and it was with the approval of his party. There was no whip as alleged in this case. The respondent was not aware of the whip allegedly issued by the Pathanamthitta District President of the Kerala Congress (M). Further, even before that the respondent was expelled from the Kerala Congress (M). In the Presidential election held on 13.10.2014 the respondent contested and won securing majority of votes. Officially the respondent was not a member of any party on the date of election. He accepted the expulsion from the party and chose to remain to support of the Kerala Congress (M) party. He contested against the candidates sponsored by Indian National Congress in the Presidential election treating it as a fight against corruption. The respondent was not a member the Kerala Congress (M) on 13.10.2014 on which date the Presidential election was held. There is no case warranting any action against the respondent under the Kerala Local Authorities (Prohibition of Defection) Act. The petitioner is not entitled to get any relief in the petition and it is only to be dismissed.

4 The evidence in this case consists of the oral testimonies of PWs1 and 2, RWs1 to 3 and Exts.P1 to P5 and R1 and R(a).

5. Both sides were heard.

6.The following points arise for consideration;

- (1) Whether the petition is maintainable?
- (2) Whether the respondent has disobeyed the decision and direction of the Kerala Congress (M) party in the election to the post of President of PandalamGrama Panchayat as alleged?
- (3) Whether the respondent has committed defection as contemplated in Section 3 of the Kerala Local Authorities (Prohibition of Defection) Act?
- (4) Reliefs and costs?

7. **POINT No.(1)**: The petitioner filed this petition alleging that the respondent committed defection and hence he became disqualified to continue as member of PandalamGrama Panchayat and to contest the election for a period of six years. The petitioner and respondent were elected as members of PandalamGrama Panchayat in the election held in October, 2010. The petitioner contested as a candidate of Indian National Congress led UDF and the respondent as Kerala Congress (M), a partner of UDF. There are 23 ward in PandalamGrama Panchayat and the Congress led UDF secured 11 seats. Out of which Congress alone 10 seats. The Kerala Congress (M) one seat. The CPI(M) led LDF secured 10 seats out of which CPM got 8 seats and the CPI 2 seats. BJP won the remaining 2 seats. As the UDF got majority of seats they decided to form the Panchayat Committee and the petitioner was elected as the Panchayat President.

8. While so the LDF members moved a no confidence motion against the petitioner. It was carried with the support of the respondent and the rival

coalition LDF. Thereafter fresh election to the President was fixed to be held on 13.10.2014. Shri.D.Prakash was the candidate of the Indian National Congress led UDF for the President ship and whips were issued to the members of UDF by the respective constituents in the UDF. The Kerala Congress(M) District President issued whip to the respondent to vote in favour of UDF candidate Shri.D.Prakash. But the respondent did not obey the direction of the party and violating the direction of his party he himself contested for President ship and got elected with the support of rival Front LDF defeating the UDF candidate.

9. According to PW1 the petitioner, the respondent contested the election for President ship defying the direction of his party and became the President defeating the UDF candidate and hence he became disqualified. The respondent has denied the allegation and among other things he contended that this petition is not maintainable. Though a contention is raised in his statement of objections regarding the maintainability there is nothing from his side to show that this petition is not maintainable. Section 3(1)(a) of the Kerala Local Authorities (Prohibition of Defection) Act, states that if a member of a 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 or by a person or authority authorized by the party in this behalf votes or abstains from voting, in an election to the post of President, Vice President or on a no confidence motion moved against them, he shall become

subject to disqualification for being a member of that local authority. As the respondent himself contested the post of Panchayat President against the UDF candidate defying the direction of his political party, it is stated, Section 3(1)(a) of the Act arises for consideration.

10. It may be noted that this 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.

11. From the pleadings and evidence adduced in this case it can be seen that there arises a question as to whether the respondent became disqualified for being member of PandalamGrama Panchayat as provided by Section 3(1)(a) of the Act. This petition is filed by a member of the same Panchayat of which the respondent is also a member and the petition is filed within the time prescribed under Rule 4(A)(2) of the Kerala Local Authorities (Disqualification of Defected Members) Rules. It may be noted that except stating that the petition is not maintainable there is no material from the side of respondent to show that this petition is not maintainable. 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 Act this petition is held to be maintainable. The point is answered accordingly.

12. **POINT Nos.(2) to (4):**The petitioner seeks a declaration that the respondent has become disqualified to continue as a member of Pandalam Grama Panchayat and also from contesting as candidate in the election to local authorities for a period of six years. The respondent's support for carrying no confidence motion moved against the Panchayat President nominated by the UDF and his contest against the UDF candidate in the subsequent election are stated to be the reason for filing this petition. According to the petitioner the respondent committed disloyalty to the political party Kerala Congress (M) to which he belongs and he voluntarily gave up his membership from Kerala Congress (M). The respondent took a different stand from that of his political party in the no confidence motion against the Panchayat President and the subsequent election to the post of President disobeying the whip issued by the District President of Kerala Congress (M) which he is bound to obey. The respondent's above acts hence warrant disqualification, it is contended.

13. As stated above there are 23 wards in Pandalam Grama Panchayat and out of which UDF has 11 seats and LDF has 10 seats. The other 2 seats were won by the BJP. The petitioner and respondent are UDF members. The respondent contested and he was elected as the candidate of Kerala Congress (M), a partner of UDF. Ext.P1 is the extract of the register showing the party

affiliation of the respondent in the Panchayat. While the Panchayat was being run by the UDF under the President ship of the petitioner the rival Front LDF moved a no confidence motion against the petitioner. It was carried and the petitioner was removed from the position of the Panchayat President with the support of the respondent. The respondent voted in favour of the no confidence motion. According to PW1 in the election held subsequently for the post of Panchayat President the respondent, taking support from the rival front LDF contested against the UDF candidate defying the direction of his political party and got elected as the Panchayat President. Ext.P5 minutes of the meeting for electing the president would show that the respondent contested against Shri.D.Prakash, the candidate of the Congress led UDF and the election of the respondent in the election. Ext.P4 is the copy of the whip issued to the respondent. The respondent defied the direction of the party and he became subject to disqualification as per Section 3(1)(a) of the Kerala Local Authorities (Prohibition of Defection) Act, it is stated.

14. PW2 is the Pathanamthitta District President of Kerala Congress (M). He gave evidence in tune with PW1. It is stated by him that he is the Pathanamthitta District President of the Kerala Congress (M) and also the UDF Chairman. According to him he is the person who is competent to allot election symbol of his party and also to issue whip. He issued Ext.P4 whip to the respondent to attend the Presidential meeting on 13.10.2014 and vote in favour of the UDF candidate Shri.D.Prakash. It is also stated by PW2 that the whip

was sent to the respondent by registered post and it was served by affixature also. The respondent disobeyed the direction of the party and contested against the candidate of the UDF. Hence the respondent is liable to be disqualified, PW2 further states.

15. The respondent admits that he voted in favour of the no confidence motion and contested the Presidential election against the UDF candidate Shri.Prakash. According to RW1 he was already expelled from the Kerala Congress (M) party and hence he is not bound by the whip issued by PW2, the District President of Kerala Congress (M). It is also his case that the Kerala Congress (M) was not part of UDF in the election in Pandalam Grama Panchayat and that no whip was issued to him in this case as alleged. To him he is not liable to be disqualified as claimed by the petitioner. RWs2 and 3 are the other witnesses examined on the side of the respondent. RWs2 and 3 were examined to speak about Ext.R1(a) news report which came in Ext.R1 Malayala Manoram daily dated 22.09.2014 regarding the alleged expulsion of the respondent from the Kerala Congress (M) party. RWs2 and 3 are the reporter and Senior Co-ordinate editor of Malayala Manorama daily. But their evidence will not take us anywhere. They were not directly connected with the said report. They do not know anything regarding the original of the said news report.

16. It is a fact that the respondent contested in the Panchayat election and was elected as a candidate of Kerala Congress (M). It was PW2, the District President of Kerala Congress (M) who recommended the party symbol

for the respondent to contest the election as Kerala Congress (M) candidate. Admittedly PW2, the District President of the party is the competent person to recommend the symbol and to issue the whip. In the state Kerala Congress (M) is a part of UDF, a coalition of different political parties. RW1 admitted that Kerala Congress (M) is a part of UDF in the state. But his contention is that Kerala Congress (M) is not part of UDF in PandalamGrama Panchayat and it contested in the local body election held in October 2010 on its own. According to the learned counsel for the respondent, the respondent is not bound to vote UDF candidate in PandalamGrama Panchayat even if there is a whip to vote for UDF as the respondent contested and won the election not as a UDF candidate. But the evidence and circumstances in this case would only go against the said contention of the respondent.

17. It may be noted that PW2 is the District President of Kerala Congress (M). It is clearly stated by PW2 that Kerala Congress (M) is a constituent of UDF coalition through out in the state including PandalamGrama Panchayat and contention of the respondent to the contrary is not correct. It may be noted RW1 did not state any reason for taking a different stand in PandalamGrama Panchayat. There was no other candidate for UDF in his ward other than the respondent. The respondent contested against the LDF candidate and not against the UDF candidate. Further Ext.P1 would show that the respondent is an elected member of UDF. Ext.P1 is the extract of the register maintained in PandalamGrama Panchayat showing the party affiliation of the elected

members. It is shown therein that the respondent is one of the elected members of UDF who won in the Panchayat election. It may be noted that the said register showing the party affiliation was prepared on the basis of the declaration given by the elected members of the Panchayat including the respondent.

18. The learned counsel for the respondent has a contention that Ext.P1 would only show that he belongs to Kerala Congress (M) party and the name of the coalition is not seen stated there in. It is in column No.7 where it is to be shown. It is true that in column Nos 7 and 8 the respondent has not specifically shown the name of coalition and he has shown only the name of his party. But in column No.9 it was clearly stated that he was one among the 11 elected members of the UDF. In column No.9 the total number of elected members of the coalition in which he belonged is to be shown. There he had shown the total number of UDF members as 11. Ext.P1 was prepared on the basis of the declaration given by RW1 himself. It may be noted that Kerala Congress (M) has only one member in the PandalamGrama Panchayat. If really the respondent and the Kerala Congress (M) are not part of UDF he would not have shown the number of total elected members as 11. Therefore under the above facts and circumstances the contention of the learned counsel for the respondent that Kerala Congress (M) and the respondent are not part of the UDF in PandalamGrama Panchayat is only to be ignored and I do so.

19. An election was held on 13.10.2014 to elect a new President for the PandalamGrama Panchayat after the removal of the petitioner from the President ship in a no confidence motion. In the subsequent election to the post of President the Congress led UDF fielded Shri.Prakash as a candidate and whips were issued to its members by the respective political parties in the UDF. It is a fact that PW2, the District President of Kerala Congress (M) who is competent to issue the whip,has issued the whip in this case. Ext.P4 is the whip. But whether the whip is properly served to the respondent as contemplated by the Rules is the next question to be considered. According to PWs 1 and 2 the whip was sent by registered post and it was served by affixture also. According to RW1 he did not receive any whip in this case from PW2/ It is to be stated that the petitioner did not take any pain to prove that the whip in question was properly sent and served as alleged.

20. It is stated by PWs 1 and 2 that the whip was sent to the respondent by registered post. But there is absolutely nothing to show that it was sent to the respondent by registered post as alleged. He did not produce any postal receipt regarding that andthere is nothing to show that it was served also. Similar is the case regarding the alleged affixture. Nobody was examined to prove the alleged affixture.

21. There are three modes provided for serving the whip as per Kerala Local Authorities (Disqualification of Defected Members) Rules and they are (1) by serving it directly and in such case the person who gives it shall obtain

receipt from the member, (2) by sending it by registered with acknowledgment due and (3) by affixing it in front of the house of the member in the presence of at least two witness. According to PW1 the whip in this case was sent by registered post and service by affixture was also there. But there is absolutely nothing to show that it was sent by registered post. No postal receipt is produced in this case. If it was sent by registered post and served there would be acknowledgment card. If that card is missing a certificate from the postal authorities regarding service could have been obtained and produced. If it was not served the petitioner could have produced the returned cover to show that it was properly sent in correct address. Nothing of that sort is produced in this case. Though it is stated by the petitioner that the whip was served by affixture there is absolutely no evidence to support that contention. No witness was examined in this case to prove the alleged affixture. Therefore from the available materials it is not safe to conclude that the whip in this case was properly served on the respondent as contemplated by the Rules in that behalf. But anyway that will not absolve the respondent from the liability of disqualification as there is evidence regarding is voluntarily giving up his membership. Even assuming that the whip is not served as per Rules, there are sufficient materials in this case including his conduct, to show that he has voluntarily given up his membership in the party.

22. It is a fact that the respondent was aware of the whip in this case when it was readout by the Returning Officer in the election meeting held on

13.10.2014. Ext.P5 minutes of the election meeting prepared by the Returning Officer would show that the said fact. Despite that and even after knowing the decision of his party, the Kerala Congress (M) the respondent contested in the election for the post of the President against the Congress candidate nominated by the UDF and with the support of LDF, the rival front and he was elected as President. Certainly it is an act of disloyalty towards his party Kerala Congress (M). He colluded with the rival front LDF and defeated the candidate fielded by UDF to which the respondent's party Kerala Congress (M) is a constituent. The act of the respondent contesting against the UDF candidate in the Presidential election allying with the rival coalition LDF against the direction of his own political party would certainly amount to voluntarily giving up his membership from his political party.

23. Section 3(1)(a) of the Act deals with disqualification on the ground voluntarily giving up of his membership from the party. Section 3(1)(a) reads as below,-

“3. Disqualification on ground of Defection,-

1) Notwithstanding anything contained in the Kerala

Panchayat Raj Act, 1994 (13 of 1994), or in the Kerala

Municipality Act, 1994 (20 of 1994), or in any other law for

the time being in force, subject to the other provisions of this

Act.

(a) “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 an 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.”

24. Section 3(1)(a) of the Act has two limbs. The first limb is attracted when a member belonging to any political party voluntarily gives up his membership of such political party and second limb comes 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.

25. 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 AIR (1993) SCC 412*” 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."

26. In the decision reported in 2008 (3) KHC 267 in (Faisal P.A. Vs. K.A.AbdullaKunhi) it was held as follows,-

“Since the words voluntarily giving up membership of his political party is not to be equated with ceasing to be a member of his party by resignation, from the conduct of the petitioner if an inference can be drawn that he has voluntarily given up his membership of his political party, he is liable to be disqualified. From the facts noticed by the second respondent, it is evident that the petitioner had acted against the directions of his party leadership and that he was arraying himself with the rival coalition. These facts certainly justify the inference that the petitioner had voluntarily given up his membership in Indian Union Muslim League, although he had not tendered his resignation.”

27. 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 having contested against the UDF candidate in the Presidential election with the support of rival front LDF would clearly demonstrate that he became disloyal to the party which elected him.

28. Another argument put forward by the learned counsel for the respondent is that the direction and decision from the Kerala Congress (M) are not binding on him as he was expelled from the party two weeks prior to the election meeting in this case. The election meeting was on 13.10.2014 and his alleged expulsion from the party was on 22.09.2014. His expulsion from

the party was reported in MalayalaManorama daily on 22.09.2014 and Ext.R1 is the said paper Ext.R1(a) is the report. Regarding Ext.R1(a) I have already discussed above and found that no reliance can be placed on it as it was not proved.

29. It is stated by PW2, the District President of the Kerala Congress (M) that the respondent was not expelled from the party and he was only suspended pending disciplinary proceedings. Further, the evidence of RW1 also would show that he is even now in Kerala Congress (M) party. Anyway, even assuming that the respondent was expelled from Kerala Congress (M) that will not absolve him from the liability of Disqualification in this case. It is settled law that if a person belonging to a political party that had set up him as a candidate gets elected as a member and thereafter joins another political party or front for whatever reason either because of expulsion from the party or otherwise he voluntarily gives up his membership of the political party and incurs disqualification. The respondent stood as a UDF candidate and he was elected as a UDF member. If the contention of the respondent he is accepted it will defeat the very purpose for which the 10th schedule of the Constitution was incorporated and would fail to suppress the mischief, ie., breach of faith of the electorate. An expelled member cannot escape from the rigour of law which was intended to curb the evil of defection which has polluted our democratic polity. The respondent has committed political defection by contesting as a candidate against the candidate of UDF in this case in the Presidential election,

aligning with the rival coalition LDF. It is a clear case of defection warranting disqualification.

30. Considering the above facts and the circumstances it is found that the respondent has committed defection and he has voluntarily given up his membership from the party in which he belongs as provided by Section 3(1)(a) of the Act and therefore he became subject to disqualification for being member of PandalamGrama Panchayat. Points are answered accordingly.

In the result, the petition is allowed and the respondent is declared as disqualified for being member of PandalamGrama Panchayat as provided by Section 3(1)(a) of the Kerala Local Authorities (Prohibition of Defection) Act and the respondent is also declared as disqualified for 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 12th day of July 2016

Sd/-
V.BHASKARAN,
STATE ELECTION COMMISSIONER

APPENDIX

Witnesses examined on the side of the petitioner

- PW1 : Adv.K.Prathapan
- PW2 : Shri.Victor T. Thomas, President,
Kerala Congress (M), Pathanamthitta

Witnesses examined on the side of the respondent

- RW1 : Shri.Rajan Varghese
- RW2 : Shri.Zakkir Hussain, MalayalaManorama
- RW3 : Shri. Kris Thomas, MalayalaManorama

Documents produced on the side of the petitioner

- P1 : Copy of the Register showing the party affiliation of the members of PandalamGrama Panchayat (PW1)
- P2 : Notice of the meeting to elect the President of PandalamGrama Panchayat (PW1)
- P3 : Minutes of the meeting of Congress Parliamentary Party, PandalamGrama Panchayat (PW1)
- P3(a) : Copy of the minutes of the meeting of Congress Parliamentary party, PandalamGrama Panchayat (PW1)
- P4 : Copy of the direction issued by the President, Kerala Congress (M), Pathanamthitta District Committee (PW1)
- P5 : Letter No.A1 4373/14 dated 23.10.2014 of the Returning Officer, PandalamGrama Panchayat (PW1)

Document produced on the side of the respondents

- R1 : MalayalaManorama daily dated 22.09.2014
(Through PW1)
- R1(a) : Column news in the MalayalaManorama daily
dated 22.09.2014 (Through RW3)

Sd/-
V.BHASKARAN
STATE ELECTION COMMISSIONER

//True copy//