

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

PRESENT: SHRI.K.SASIDHARAN NAIR, STATE ELECTION COMMISSIONER

Wednesday, the 11th day of February 2015

**O.P.Nos.14/2012, 16/2012, 17/2012, 18/2012, 19/2012, 20/2012 AND
21/2012**

O.P.No.14/2012

Petitioner : P.V.Pathrose,
S/o Varghese,O., Chelambra,
Residing at Pulimoottil House,
Kannara P.O., Thrissur.
Member, Ward No.17,
Pananchery Grama Panchayat

**(By Advs. V.Bhuvanendran Nair &
R.Raveendran Nair)**

Respondent : Sandheep.M.T,
Member, Ward No.04,
Pananchery Grama Panchayat,

(By Advs. HashimBabu. M & Sajitha.S)

O.P.No.16/2012

Petitioner : P.V.Pathrose,
S/o Varghese,O., Chelambra,
Residing at Pulimoottil House,
Kannara P.O., Thrissur.
Member, Ward No.17,
Pananchery Grama Panchayat

**(By Advs. V.Bhuvanendran Nair &
R.Raveendran Nair)**

Respondent : Roy K.Devassy,
Member, Ward No.05,
Pananchery Grama Panchayat,

(By Advs. HashimBabu. M. & Sajitha.S)

O.P.No.17/2012

Petitioner : P.V.Pathrose,
S/o Varghese,O., Chelambra,
Residing at Pulimoottil House,
Kannara P.O., Thrissur.
Member, Ward No.17,
Pananchery Grama Panchayat

**(By Advs. V.Bhuvanendran Nair &
R.Raveendran Nair)**

Respondent : K.P.Chackochan,
Member, Ward No.09,
Pananchery Grama Panchayat,

(By Advs. HashimBabu. M. & Sajitha.S)

O.P.No.18/2012

Petitioner : P.V.Pathrose,
S/o Varghese,O., Chelambra,
Residing at Pulimoottil House,
Kannara P.O., Thrissur.
Member, Ward No.17,
Pananchery Grama Panchayat

**(By Advs. V.Bhuvanendran Nair &
R.Raveendran Nair)**

Respondent : Rosily @ Shiju Binu,
Member, Ward No.08,
Pananchery Grama Panchayat,

(By Advs. HashimBabu. M. & Sajitha.S)

O.P.No.19/2012

Petitioner : P.V.Pathrose,
S/o Varghese,O., Chelambra,
Residing at Pulimoottil House,
Kannara P.O., Thrissur.
Member, Ward No.17,
Pananchery Grama Panchayat

**(By Advs. V.Bhuvanendran Nair &
R.Raveendran Nair)**

Respondent : Eliyamma @ Suseela Rajan,
Member, Ward No.21,
Pananchery Grama Panchayat,

(By Advs. HashimBabu. M. & Sajitha.S)

O.P.No.20/2012

Petitioner : P.V.Pathrose,
S/o Varghese,O., Chelambra,
Residing at Pulimoottil House,
Kannara P.O., Thrissur.
Member, Ward No.17,
Pananchery Grama Panchayat

**(By Advs. V.Bhuvanendran Nair &
R.Raveendran Nair)**

Respondent : Sakunthala Unnikrishnan,
Member, Ward No.16,
Pananchery Grama Panchayat,

(By Advs. HashimBabu. M. & Sajitha.S)

O.P.No.21/2012

Petitioner : P.V.Pathrose,
S/o Varghese,O., Chelambra,
Residing at Pulimoottil House,
Kannara P.O., Thrissur.
Member, Ward No.17,
Pananchery Grama Panchayat

**(By Advs. V.Bhuvanendran Nair &
R.Raveendran Nair)**

Respondent : Sindhu Suresh,
Member, Ward No.01,
Pananchery Grama Panchayat,

(By Advs. HashimBabu. M. & Sajitha.S)

These petitions having come up for hearing on the 27th day of January 2015, in the presence of Advs. **V.Bhuvanendran Nair & R. Raveendran Nair** for the petitioner and Advs. **Hashim Babu.M & Sajitha.S** for the respondents and having stood over for consideration to this day, the Commission passed the following.

COMMON ORDER

These are petitions filed under Section 4(1) of the Kerala Local Authorities (Prohibition of Defection) Act for declaring that the respective respondents have become subject to disqualification for being members of Pananchery Grama Panchayat. Since common questions of law and facts arise for consideration in

all these cases, they have been taken up together as per order on I.A.No.109/2012 and O.P.No.14/2012 is treated as the main case.

2. Common allegations are raised by the petitioner in all these cases which are in short as follows,- The petitioner and respondents had contested the election held in October 2010 in various wards of Panancherry Grama Panchayat as candidates of Indian National Congress and they were elected as members belonging to Congress party. Out of the 23 wards, the candidates set up by Indian National Congress found victory in 13 wards and Kerala Congress (M) won in one ward. Thus the UDF consisting of Indian National Congress and Kerala Congress (M) secured 14 seats and the LDF secured the remaining 9 seats. After the election the petitioner was elected as the President while so certain issues cropped up among the members of UDF pertaining to granting license for sand mining and reclamation of paddy fields and the respondents had ventured animosity towards the petitioner and they moved a no confidence motion against the petitioner. The respondents have not obtained any permission or instruction from the Congress party or the UDF to move the said no confidence motion. The District Congress Committee President who is the competent person to issue direction to the members belonging to Congress party in the Panchayat issued whip to all the Congress members including the respondents to abstain from participating in the meeting convened for considering the no confidence motion

which was tabled for discussion on 08.03.2012. The respondents were reluctant to receive the whip and so they were affixed in front of their houses in the presence of witnesses. But in gross defiance of the direction and whip issued by the DCC President, the respondents colluded with the rival coalition members and voted in favour of the no confidence motion and thereby the petitioner was removed from the post of President. Because of the unscrupulous acts of the respondents, the morale of the workers of the party has been lost and it has adversely affected the existence of the party in the Panchayat. The respondents have deliberately and voluntarily acted against the interest of the party by joining with the LDF group and by voting in favour of the no confidence motion and thereby they have voluntarily given up their membership and loyalty from the party. Thus the respondents have committed defection. Hence these petitions.

3. Common contentions are raised by the respective respondents in all these cases which are in short as follows,- The petitions are not maintainable either in law or on facts. It is true that the petitioner and respondents were elected as members belonging to Congress party in the Panchayat. These petitions are filed against the interest of the Indian National Congress out of personal vengeance of the petitioner against these respondents. The petitioner is trying to make out a cause of action alleging defection only because of moving a no confidence motion against him by the Congress parliamentary party as

instructed by the political party. The petitions are nothing but an abuse of the process of law and they are filed as a shield to cover up the acts of defection committed by the petitioner. It is true that out of the 23 wards, UDF found victory in 14 wards of which the Congress party alone secured 13 seats and one seat was won by the Kerala Congress (M). The CPI(M) secured 7 seats and the CPI secured 2 seats and thus the LDF had won in 9 seats. After the election the petitioner demanded the post of President which most of the members opposed and as he insisted for the same the District Congress Committee was forced to yield to his pressure tactics and thus he became the President. There was rampant corruption, nepotism and favouritism in the administration of the Panchayat and the members of the parliamentary party and steering committee were kept away from the administration. The petitioner was an utter failure in his functioning as President and his only motive was to make money. None of the serious issues confronting the public were addressed by the petitioner and the amounts allotted were not utilized. The petitioner was acting against the interest of the public at large and he was functioning in an arbitrary way. All the development works were stopped because of the illegal activities of the petitioner. Most of the Congress members complained about the misdeeds of the petitioner and the party had convened a meeting of the Parliamentary party and warned the petitioner not to repeat such activities. But the petitioner did not care

to the collective demands of the parliamentary party and the leadership and in spite of the direction given by the Mandalam Committee and Block Committee of Congress party, he did not resign from the post of President. Finally as instructed by the Block Committee of Congress party no confidence motion was proposed against the petitioner in order to protect the integrity and honour of the Congress party. The no confidence motion was moved with the consent of the political party and majority members of the Congress party signed in that motion. After the removal of the petitioner the official candidate for the post of President was Sri.Roy K Devassy and the petitioner had voted against the official candidate and supported the LDF and now the LDF is in power. The petitioner has purposely defied the instruction of the political party and filed these petitions with ulterior motives. The respondents are still continuing as active members of Congress party. Several corruption cases arose against the petitioner and the District leaders as well as KPCC Secretary Sri. K.Venugopal tried to sort out such problems. But the petitioner did not obey their directions and as directed by the political party the Congress members had moved the no confidence motion against him. No whip was issued to the respondents by the DCC President as alleged. The DCC President had given direction to the petitioner to resign but he disobeyed that direction and therefore the no confidence motion was carried as decided by the party. It is the petitioner who has violated the directions of the

party and committed defection. The original petitions are filed with false and frivolous allegations. Hence the petitions are liable to be dismissed with compensatory cost of ₹3,000/- each to the respondents.

4. The evidence consists of the oral depositions of PWs1 to 4, RWs1 to 6 and Exts.P1 to P11 and R1 to R12.

5. All parties were heard

6. The following points arise for consideration;

- (i) Whether the petitions are not maintainable?
- (ii) Whether the respondents have voted in favour of the no confidence motions moved against the President of the Pananchery Grama Panchayat by disobeying the decision and direction of the political party in which they belonged as alleged?
- (iii) Whether the conduct of the respondents in having voted in favour of the no confidence motions along with the LDF members would constitute defection as provided by Section 3(1)(a) of the Kerala Local Authorities (Prohibition of Defection) Act?
- (iv) Whether the respondents have become subject to disqualification for being members of Pananchery Grama Panchayat?
- (v) Reliefs and costs?

7. **POINT No.(i)**: The petitions are filed under Section 4(1) of the Kerala Local Authorities (Prohibition of Defection) Act, (hereinafter referred to as the 'Act'. Section 4(1) of the Act states that if any question arises as to whether a

member of a local authority has become subject to disqualification under the provisions of this Act, a member of that local authority or the political party concerned or a person authorized by it in this behalf can file a petition before the State Election Commission for decision. According to the common petitioner the respondents have voluntarily given up their membership from their political party by voting on a no confidence motion moved against the petitioner, who was the President of the Grama Panchayat, along with the LDF members by disobeying the direction of the DCC President and thereby committed defection. Section 3(1)(a) of the Act deals with disqualification on the ground of defection. The first limb of Section 3(1)(a) of the Act states that if a member of the local authority belonging to any political party, voluntarily gives up his membership from such political party, he shall be disqualified for being a member of that local authority. The respondents would deny the allegations regarding defection and state that they have voted infavour of the no confidence motions as decided by their political party and that they have not disobeyed any decision or direction of their party. In the light of the rival claims a question arises as to whether the respondents have become subject to disqualification under Section 3(1)(a) of the Act. The petitioner as well as the respondents were elected as members belonging to Congress party in the Panchayat. As per Section 4(1) of the Act, a member of the local authority or

the political party or a person authorized by it in this behalf can file a petition before this Commission for decision. As per Rule 4A(1) of the Kerala Local Authorities (Disqualification of Defected Members) Rules, such a petition can be filed either by a member of the local authority or the person competent to issue direction to the concerned member before this Commission and as per the proviso to Rule 4A(2), such a petition is to be filed within 15 days from the date of arising the cause of action. Since these petitions are filed by a member of the Grama Panchayat of which the respondents also are members, the petitioner is fully competent to file the petitions. Moreover these petitions are seen filed within 15 days from the date on which the petitioner was ousted by passing the no confidence motion. No serious contentions are raised against the maintainability of these petitions. Since a competent person has filed these petitions within the prescribed time limit and a question arises as to whether the respondents have become subject to disqualification as stated under Section 4(1) of the Act, I find that the petitions are maintainable. The point is answered accordingly.

8. **POINT Nos.(ii) to (v)**: Since common questions of law and facts arise for consideration in all these points, they are being discussed together for brevity and convenience. Certain facts are not in dispute. All the respondents had contested the election as candidates of Indian National Congress and were

elected as members. The petitioner also was a Congress candidate and after election he was elected as President of the Panchayat unanimously. These respondents and a member belonging to Kerala Congress (M) moved a no confidence motion against the petitioner and it was tabled for discussion on 08.03.2012. Even though O.P.No.15/12 was filed against the member belonging to Kerala Congress (M), that petition was dismissed as withdrawn. So now all these cases relate to members belonging to Congress party in the Panchayat. The Pananchery Grama Panchayat consists of 23 wards out of which Indian National Congress alone secured 13 seats and the LDF found victory in 9 seats. The fact that the petitioner and respondents were elected as members belonging to Congress party is further borne out by Ext.P8 which is the copy of the register maintained by the Secretary of the Panchayat under Rule 3(1) of the Kerala Local Authorities (Disqualification of Defected Members) Rules. Even otherwise the respondents have admitted that they all were elected as members belonging to Congress party.

9. The definite case of the petitioner is that, as he did not concede to the illegal demands of the respondents in respect of issues relating to sand mining, filling up of paddy fields they became on enimical terms with him and thereupon they moved a no confidence motion and by disobeying the direction and decision of the DCC President they voted in favour of the said motion

along with LDF members and ousted him by passing the motion on 08.03.2012 and thereby they have voluntarily given up their membership from the Congress party.

10. The petitioner has been examined as PW1. He has deposed in terms of the allegations stated in the original petitions. He has deposed that the respondents entertained enmity towards him on account of certain issues relating to sand mining and filling up of paddy field and as the petitioner was not willing to concede to their illegal demands, they moved a no confidence motion against the petitioner without the consent or knowledge of the Congress party. PW1 has further deposed that the DCC President and other leaders of Congress party and UDF had discussed the matter with all the members and then the DCC President issued whip to all the Congress members including the respondents to abstain from voting on the no confidence motion and the said whip is marked as Ext.P1. PW1 has also deposed that since the respondents had refused to receive such directions, they were affixed in front of their houses and copies of such affixed directions are marked as Ext.P2 series. PW1 would further depose that the respondents had aligned with the LDF members and by disobeying the direction issued by the DCC President they voted in favour of the no confidence motions along with the LDF members and thus the petitioner was ousted from the post of President on 08.3.2012. According to PW1 the

Congress party has been put to disrepute on account of the above conduct of the respondents. PW1 would further depose that since the respondents have aligned with the LDF and ousted the petitioner from the post of President by voting in favour of the no confidence motion in violation of the direction issued by the DCC President, they have voluntarily given up their membership from the party and thus committed defection. Though PW1 has been cross-examined at length, nothing has been brought out to discredit his testimony in material particulars. In cross-examination PW1 has stated that there was a discussion regarding the no confidence motion at the DCC office in which the KPCC General Secretary Sri.K.Venugopal also participated and the decision taken by them was that the Congress members should not align with the LDF members. PW1 has further stated in cross-examination that he had also accompanied the persons who had taken the whip to the houses of the respondents and such whips were affixed in his presence. It was suggested to PW1 that Ext.P2 series are fabricated records which PW1 denied. It was also suggested to PW1 that in the discussion held on 07.03.2012 the party leaders directed the petitioner to resign from the post of President and as a token of his acceptance, the petitioner had given a resignation letter to which PW1 has stated that no direction was given to him by the DCC President or other leaders to resign from the post of President and that the resignation letter shown to him was stated to have been

signed in blank and that letter has been marked as Ext.R1. It was further suggested to PW1 that the respondents had voted in favour of the no confidence motion as directed by the DCC President on account of the reason that the petitioner had not resigned from the post as agreed by him which also PW1 denied. Certain subsequent events also were suggested in cross-examination of PW1 and they have no bearing on the facts in issue in these cases. PW1 has categorically stated that the decision of the party was that the Congress members should abstain from attending the meeting on the no confidence motion and that the DCC President has issued whip in this respect.

11. PW2 was the then DCC President and his evidence is of considerable importance. He was examined on Commission. He has deposed in chief examination that on 07.03.2012 he was the Thrissur DCC President and that Ext.P1 was issued by him in his letter pad and that Ext.P2 series are such directions given to the respondents. He would further depose that on 07.03.2012 he had discussed about the no confidence motion along with the concerned persons. According to him it was not proper to have ousted the President belonging to Congress party by colluding with the LDF members. In cross-examination PW2 has stated that majority of the Congress parliamentary party members were of opinion that the President should resign. Ext.R1 was shown to him and his answer is that he had heard of this record. He has also

deposed that he is having direct knowledge regarding the affixture Ext.P2 series and that he had entrusted the whips with the Block President for serving them to the concerned persons. The further cross-examination of PW2 is in relation to subsequent events which have no relevance in deciding these cases.

12. PWs 3 and 4 are examined to prove the affixture of Ext.P2 series. PW3 has deposed that he had gone to the houses of the respondents to serve Ext.P2 series on 07.03.2012 along with PW1, one Thomas, Poulouse and Anilkumar and as the respondents had refused to receive the whips, they were affixed in front of their houses. He has identified his signature contained in Ext.P2(f) relating to the respondent in O.P.No.21/2012. He has also identified the signatures of the respective attesters appearing in all other records marked as Ext.P2 series and he has stated that all these directions were affixed in front of the houses of the respondents in his presence. In cross-examination he has deposed that the petitioner has brought the originals of Ext.P2 series and such originals were affixed in front of the houses of the respondents. PW4 has deposed that he had accompanied the petitioner and PW3 for serving the whips to the respondents and that he had gone to their houses and he had affixed his signatures as attester in Ext.P2(c).

13. On the side of the respondents, RWs 1 to 6 have been examined and Exts.R1 to R12 are marked. RWs1 and 2 are the respondents in O.P.Nos.

17/2012 and 16/2012 respectively. RW1 has deposed that the petitioner was elected unanimously as President after General Election. RW1 has further deposed that the petitioner was indulging in illegal activities and involving in corruption and nepotism and several complaints were filed against him before the DCC President and others and a no confidence motion was moved against him on account of his illegal activities and the DCC President had convened a meeting of all the members in the presence of Sri.K.Venugopal and the petitioner agreed to resign from the post of President and gave Ext.R1 and as the petitioner did not submit the resignation letter before the Secretary, the respondents voted in favour of the no confidence motion. According to RW1, he along with the other respondents voted in favour of the no confidence motion due to violation of the decision of the Congress party by the petitioner. It was suggested to RW1 in cross-examination that as the petitioner was not conceding to the illegal demands of the respondents, they had moved the no confidence motion which RW1 denied. RW1 has admitted that Ext.P2 series are in the letter pad of DCC President and they contained the signature of the DCC President. RW1 further states that he does not know when Ext.R1 was prepared. He then states that the petitioner had affixed his signature in Ext.R1 in the presence of DCC President agreeing to resign from the post of President on the next day. He has further stated that the writings contained in Ext.R1 are

in different ink and that it does not contain the date or place of its execution. RW2 has deposed that Ext.R2 is the copy of the complaint filed against the petitioner before the party. Ext.R3 is a certificate showing the dates on which the petitioner had convened the steering committee meetings. He has also deposed that Ext.R1 was given by the petitioner to the DCC President agreeing to resign from the post of President on the next day and as the petitioner did not resign, the respondents voted in favour of the no confidence motions as directed by the Block President. RW1 has admitted in chief examination itself that the DCC President was not contacted and no direction was given by the DCC President to proceed with the no confidence motion. The further chief examination relates to the subsequent events and the documents marked as Exts.R4 to R12 are also in respect of the events that occurred after passing the no confidence motion which do not have any relevance in deciding these cases. RW3 is the Congress Block Committee President and he has deposed that complaints were received by him and the DCC President against the functioning of the petitioner as President and there was discussion at the DCC office and as no decision was arrived at, no confidence motion was moved against the President and on the previous date on which the motion was tabled for consideration, the DCC President convened a meeting in his presence and all the Congress members were present in that meeting and whip was prepared in

that meeting and the petitioner agreed to resign from the post of President and gave Ext.R1 as token of assurance and as the petitioner did not resign on the next day, the members consulted him and he directed them to proceed with the no confidence motion. PW3 has further deposed that the DCC President had not entrusted him to serve the whip to the members. It was suggested to RW3 in cross-examination that the DCC President had authorized him to serve the whip to all the members which he denied. According to him he does not know what happened to the whip which were prepared by the DCC President on the previous date of discussion on the no confidence motion. He has admitted Ext.P1 as the whip containing the signature of the DCC President and he also admits Ext.P2 series as containing the signatures of the DCC President. He has also admitted that the DCC President is the competent person to issue whip to the members of the Congress party and according to him the power to take decisions in these matters were not delegated by the DCC President to the Block or Mandalam Committees. RW4 is the Congress Mandalam President and he also has deposed that the members had given complaints against the petitioner and discussions also were held and that the no confidence motion was moved with the knowledge of the District Committee. He has further deposed that during the discussion regarding the no confidence motion at the DCC office, at first it was decided to issue direction to all members to vote against

the no confidence motion and the petitioner agreed to resign from the post on the next day and so the DCC President authorized the Block President to take further action and since the petitioner did not resign, the respondents voted in favour of the said motion. In cross-examination RW4 has admitted that no written direction was given to the petitioner by the DCC President to resign from the post of president and he has only given an oral direction. RW4 also has admitted that DCC President is the competent person to issue whip and that DCC President had prepared the whips. RW4 has further admitted that the whips were handed over to the Block President for serving them to the members and he has identified Ext.P2 series as the whips which were given by the DCC President to the Block President. He has repeatedly admitted that the DCC President is the competent person to issue direction to the members of the Congress party. RW5 has deposed that he had affixed his signature in Ext.P2(d) at the Building and other Construction Workers Congress office and that he has not gone to the house of the respondent in O.P.No.19/2012. RW6 is an attester to Ext.P2(a) and he states that he has affixed his signature in this record at a Gas Agency office. It was suggested that he had put his signature in Ext.P2(a) in front of the house of the respondent in O.P.No.16/2012 which he denied. He admitted that he has put the date 07.03.2012 in this record.

14. From the evidence on record it is clearly seen that the respondents had moved a no confidence motion against the petitioner without the consent and knowledge of the DCC President. Admittedly the DCC President is the competent person to take decision and give direction in respect of voting on a no confidence motion against the President or Vice President belonging to Congress party. In this context of Rule 4(1) of the Kerala Local Authorities (Disqualification of Defected Members) Rules is relevant and it reads as follows,-

“4.The manner in which a political party or coalition may give direction to its members,- (1) if a political party or coalition gives any direction in respect of the casting of vote in an election or in a voting as has been mentioned in clause (a) or clause (b) of Section 3, it shall be in writing and such a direction shall be given,-

(i) in the case of a member belonging to a political party or a member considered as included therein, it shall be the person authorized from time to time to recommend the symbol belonging to the political party in order to contest the said member in the election. Provided, the above said direction shall be in the letter head and seal of the

political party and for the information of the members, the contents therein shall be read over by the member who shall be elected by the members belonging to the political party and the members considered as included in the political party jointly, based on majority from among themselves, and the direction so read shall be deemed to have given directly to the members. In any case, in the absence of the member elected by majority or if that member refuses, another member belonging to the same party shall read over the said direction.”

15. As per Section 3(1)(a) of the Act itself, such a direction is to be issued by the political party to which the member belongs or by a person or authority authorized by it in this behalf in the manner prescribed. It is as per the above provision that the prescription under Rule 4(1) has been made. Admittedly the DCC President is the person who is competent to recommend symbol to the candidates contesting in local bodies belonging to Congress party. RWs 1 and 2 have categorically admitted that the DCC President is the person competent to issue direction to the members belonging to Congress party in a Panchayat. So the decision or direction of the DCC President is to be treated as the decision of the party in so far as it relates to voting in the election

to the post of President, Vice President etc or on a no confidence motion. In the election to this Panchayat, 13 members belonging to Congress party found victory and out of them admittedly 7 members who are these respondents had moved a no confidence motion against the President and voted in favour of the same and thus ousted the petitioner from the post of President. The definite case of the petitioner is that the respondent had moved the no confidence motion without seeking permission or consent from the Congress party and they voted in favour of the said motion by disobeying the decision and direction of the DCC President. The fact that for moving the no confidence motion the respondents did not seek the permission or consent of their political party or the DCC President is not in dispute. It is after moving such a motion that a meeting for discussing the same was convened, on the previous date of consideration of the said motion, at the DCC office. It has come out in evidence that the DCC President and Sri.Venugoopal were present in the said meeting which was held on 07.03.2012. It has also come out in evidence that Ext.P1 whip was prepared by the DCC President at that meeting in the presence of all the Congress members. This is practically admitted by the witnesses examined on the side of the respondents itself. The definite case of the petitioner is that the whip given by the DCC President was served to the respondents by affixture. The evidence adduced by the petitioner also would spell out that the whips given by the DCC

President were served to the respondents by affixture. The fact that the respondents were fully aware of the whip issued by the DCC President cannot be doubted. Their contention is that the petitioner had agreed to resign from the post of President in the meeting convened on 07.03.2012 and as he did not resign as agreed, they proceeded with the no confidence motion and voted in favour of the same as directed by the Block President who has been examined as RW4. Ext.R1 also is tried to be relied on to support the above contention. Whether Ext.R1 has any evidentially value deserves consideration. Ext,R1 is seen to be in the form prescribed for resignation of the President, Vice President or member of a Panchayat. It does not contain the place or date. The name, address and signature of the petitioner written below the form is entirely different from the handwriting and ink of the remaining portion. In the objection filed by the respondents there is not even a mention regarding Ext.R1. At Para 11 of the objection it is contended as follows,-

“It is respectfully submitted that the Panchayat is one of the vast Panchayat in state having area of 147 square kilo meters that is higher than Kodungallur Taluk. All the developments are stopped because of the activities of the respondent which has created a negative

impact about the Congress in the Panchayat Rule. Most of the Congress members complained about the above said misdeeds of the petitioner and the party has convened the meeting of the parliamentary party and warned the petitioner not to repeat. The DCC also instructed the petitioner to mend his ways but all the direction of the party fell into deaf ears and finally the petitioner did not even care the collective demand of the parliamentary party to quit from the leadership. The Mandalam committee and the Block Committee of Indian National Congress unanimously directed the petitioner to resign but he has not chosen to do so. Finally as instructed by the Block Congress committee the no-confidence motion was proposed against the petitioner in order to protect the integrity and honor of the Indian National Congress. The no confidence was moved with the consent of the

political party and that too signed by majority of members of Congress and Kerala Congress.”

16. At Para 16 of the objection it is stated that the DCC President gave direction to the petitioner to resign but he disobeyed that direction and the no confidence motion was carried as desired by the party. If Ext.R1 was prepared and given by the petitioner in the meeting convened on 07.03.2012 agreeing to resign on the next day that fact would have been stated in the objections. Further the DCC President would not have issued Ext.P1 whip on that date. In this context the evidence of PW2 also is relevant. He was not asked any question whether Ext.R1 was prepared on 07.03.2012. When Ext.R1 was shown to him he has only stated that he had heard about the same. If the petitioner had prepared Ext.R1 and given to PW2 on 07.03.2012, such an answer would not have come from him. Moreover if the petitioner was to resign from the post of President, there was no difficulty for the DCC President to issue such a direction and the DCC President would have directed the respondents to proceed with the no confidence motion in case of violation of such direction. However even the respondents do not have a case that the DCC President had directed them to vote in favour of the no confidence motion which was tabled for discussion on 08.03.2012. The evidence of PW2 would prove beyond any doubt that Exts.P1 and P2 series whips were issued to by him

directing the members belonging to Congress party to abstain from attending the meeting on the no confidence motion and PW2 has categorically stated that he had authorized the Block Committee President to serve the same to the members. Ext.P1 is dated 07.03.2012. RW4 has categorically admitted that the whips were handed over to the Block President for serving the same to the members and he has identified as Ext.P2 series as the whips which were so served. Section 155(1) of the Kerala Panchayat Raj Act states that the President or Vice President or any other member of a Panchayat may resign his office by tendering his resignation in the prescribed form to the Secretary and the resignation shall take effect from the date on which it is received by the Secretary and the Secretary shall immediately report the fact to the Panchayat and the State Election Commission. So there is no meaning in preparing a document like Ext.R1 by the President and if the party decides that the President should resign, the DCC President can issue such a direction, the violation of which alone may be sufficient to constitute defection. The evidence of PW2 does not in any way support the version of RWs 1 to 4 that Ext.R1 was given by the petitioner on 07.03.2012 agreeing to resign from the post of President. Moreover in the absence of such a pleading in the objections, this record is found to be totally unreliable and it does not have any evidentially value.

17. Ext.P7 is the minutes regarding the discussion and voting on the no confidence motion against the President dated 08.03.2012. 17 members out of 23 members had participated in the discussion and voting on this motion and all of them have voted in favour of the said motion. Apart from these respondents and one Kerala Congress member, all the other 9 members are admittedly belonging to LDF. So the fact that these respondents have aligned with the LDF members and voted in favour of the motion along with them cannot be over looked. Unless the LDF members who are belonging to CPI(M) and CPI also had joined in the voting in favour of the no confidence motion along with these respondents, the said motion would not have been carried. So the presence and participation of the CPI and CPI(M) members along with these respondents was absolutely necessary for carrying the no confidence motion. Even though the majority number of members belonging to Congress party had joined in the no confidence motion, it cannot be held that they had acted in accordance with the decision of their political party. On the other hand if the Congress party had decided that the petitioner should be removed from the post, the DCC President or the KPCC President could have directed the petitioner to resign from the post or would have instructed the other members to remove him by way of a no confidence motion. Here the party members alone were not enough to remove the petitioner from the post of President and they had to seek

the help and co-operation of the LDF members. I have already found that the no confidence motion was moved without the decision of the Congress party or the DCC President and it has come out in evidence that these respondents had voted against the direction of the DCC President. The fact that the respondents were fully aware of the direction issued by the DCC President to vote against the no confidence motion cannot be doubted. The said direction evidence by Ext.P2 series are shown to have been affixed in front of the houses of the respondents. Whatever be the issues subsisting among the members of the Panchayat in connection with the functioning of the President, the proper way to settle such issues was not by ousting the President by colluding with the members belonging to the rival political parties.

18. On a careful appreciation of the entire evidence, it is clearly found that the respondents have moved the no confidence motion without the permission or consent their political party. It is also seen from the evidence that the DCC President had issued Ext.P1 direction to the respondents and other members of the Congress party to abstain from the discussion and voting on the no confidence motion. The learned counsel for the respondents would argue that since the direction in Ext.P1 is to abstain from the discussion on the no confidence motion it cannot be considered as valid. Of course as per Section 3(1)(a) of the Act, the direction to be given by the competent person should be

to vote or abstain from voting in respect of a meeting for election to the post of President, Vice President etc or on a no confidence motion. Even though Ext.P1 direction is to abstain from attending the meeting convened for discussing the no confidence motion, it is in fact a direction to abstain from voting on the no confidence motion. The no confidence motion has been moved by none other than these respondents. So there cannot be any doubt regarding the direction contained in Ext.P1. The intention of Ex.t.P1 is that the Congress members should abstain from voting on the no confidence motion so as to defeat the same. The technicality of this direction is not significant as the ground taken is not violation of the whip but voluntarily giving up their membership from the party. So it is the conduct of the members which is to be reckoned for deciding the question as to whether the same would constitute defection. After the General Election the petitioner was elected as President unanimously. There is no evidence to show that the Congress party had ever taken a decision to remove him from the post of President. On the other hand the DCC President has categorically stated that Ext.P1 whip was issued by him. This would mean that the decision of the party and the person who is competent to issue direction was to defeat the no confidence motion moved against the President. So whether the conduct of the respondent in having voted along with the LDF

members in favour of the no confidence motion and ousted the President of their own party would constitute defection deserves consideration.

19. The main ground alleged in these petitions is that the respondents have voluntarily given up their membership from the party as provided by the first limb of Section 3(1) (a) of the Act. The above provision reads as follows,-

“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.”

20. 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 an elected member or a group of 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 considering the Constitutional validity of the 10th schedule, the Apex Court in **Kihoto Hollohan Vs.Zachillhu (1992) Supp.2 SCC 651**) has held as follows,-

“Any freedom of its members to vote as they please independently of the political party’s declared policies 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 very survival.”

Referring to the object behind the provision dealing with disqualification on the ground of defection in the 10th Schedule, the Apex Court has further held as follows:-

“the provision is to curb the evil of political defection motivated by lure of office or other similar considerations which endanger the foundations of our democracy. The only remedy would be to disqualify the member.”

21. The contention of the respondents that it was based on the decision of majority of the parliamentary party members that the no confidence motion was moved against the President cannot legally sustain In **Varghese Vs. Kerala State Election Commission (2009 (3) KLT1)** at **Paras 8 and 9** it has been held as follows,-

“There is no party as ‘parliamentary party’, that expression only denotes the wing of the elected members of the political party. Therefore, if a member or a group of the elected members of the 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. One has to be loyal to his political party.”

22. A careful appreciation of the entire evidence would reveal that all the members belonging to Congress party had met the DCC President and Sri.K.Venugopal at the DCC office on 07.03.2012 and it was in their presence

that Ext.P1 whip was prepared by the DCC President. The evidence of the DCC President as PW2 would show that he had issued Ext.P1 whip directing all the Congress members to abstain from attending the meeting on the no confidence motion moved against the President which was tabled for discussion on 08.03.2012. Even though there was some kind of factional feud among the Congress members, that should not have gone to the extent of damaging the reputation of the party by aligning with the members belonging to the rival political party which was against the declared policy of the party. Admittedly the declared policy of the party is not to join with the rival party members with an evil motive of ousting the President belonging to their own party. Such an action would constitute disloyalty. **In Dharmamani Vs. Parassala Block Panchayat (2009(3) KLT 29)** it has been held at **Paras 16 and 17** as follows,-

“In the instant case, it is not in dispute that the petitioners were elected to the Parassala Block Panchayat as official candidates of the Indian National Congress. The Indian national Congress is admittedly a political party registered under Section 29A of the Representation of the People Act, 1951. It is also not in dispute that they had actively participated in the no confidence motions moved by the opposition against the President and Vice President, of the

Parassala Block Panchayat, who were also official candidates of the Indian National Congress. The petitioners are admittedly signatories to the no confidence motions and the motions were carried with their support. Though their contention that no whip was issued was accepted by the Commission, the Commission disqualified them on the ground that they have voluntarily given up their membership of the Indian National Congress. Though the learned counsel for the petitioners contend that the finding of the Commission that the petitioners had acted contrary to the directions issued by PW2, the President of the Thiruvananthapuram District Committee of the Indian National Congress cannot be sustained, I am of the opinion that on the admitted facts of this case, it is not necessary to go into the correctness of the said finding.

17. Under the Act, a member can be disqualified if he has voluntarily given up the membership of the political party to which he belongs or acts in defiance of a whip/direction issued by the political party. Disqualification for voluntarily giving up the membership of one's party, is not dependant

on the violation of the whip. The intention of the Act is that the member who has violated the whip or has abandoned the membership of the political party to which he belongs shall be disqualified. It is not necessary to hold that the member has violated the whip in order to hold that he has voluntarily abandoned the membership of his political party. The grounds for disqualification are distinct and are not interlinked. Therefore even if this Court were to hold that the petitioner before the Commission has not proved that PW2 had issued and served on the writ petitioners a direction regarding the voting on the no confidence motions that were tabled on 14.05.2008, the Commission was justified in holding that the petitioners have voluntarily abandoned their membership in the Indian National Congress.”

The Division Bench of the **Hon’ble High Court in Writ Appeal No.795/2009** has confirmed the judgment in **Dharma Mani’s** case and held at **Para 8** as follows,-

“The appellants, who were elected from the Indian National Congress party were parties to elect the

President and Vice President of the Panchayat. Whatever may be their differences with the President and the Vice President, they could not have joined hands with the opposite LDF party, to move no confidence motion against their own party men, and vote against their own men. Further, the fact that these appellants proposed and seconded the new President and Vice President belonging to the opposite group, clearly indicates that, they were aligning themselves with the LDF and were not loyal to their party on the symbol of which they were elected. In our view, this conduct of the appellants, joining hands with the opposite party, clearly establishes that they had voluntarily given up their membership in the party”.

23. It is also the settled position of law that for attracting the vice of disqualification on the ground of voluntarily giving up membership from the party, it is not even necessary to prove that a member has disobeyed the whip issued by the competent person. It is the conduct of such member which is relevant and if such member becomes disloyal by his conduct to the party it is to

be held that he has committed defection. In **Muhammed Kunhi.B. Vs. K.Abdulla (2010 (4) KLT 736)** it has been held at **Para 24** as follows,-

“ 24. The conduct of the members being important, going by the decision of the Apex Court in Ravi S.Naik’s case, the conduct of the petitioners herein in signing the no confidence motion along with the members of the BJP, voting in favour of the no confidence motion against the 1st respondent, a member of the very same political party and the then Vice President who belonged to the UDF and voting against the candidates of the UDF in the subsequent election and the conduct of the petitioner in WP (C) No.28051/2010 in contesting and getting elected as President against the nominee of the UDF, will squarely attract the vice of disqualification and are sufficient to imply that they have voluntarily given up membership of the political party which set them up as candidates in the election.”

If a member votes against the party it is nothing but disloyalty. In **Varghese V. State Election Commission (2009(3)KLT 1)** it has been held at **Para 8** as follows,-

“To vote against the party is disloyalty. It was this principle as stated in Griffith and Ryle on

parliamentary functions, Practice and Procedure which was taken note of by the Supreme Court in the celebrated decision in Kihota Hollohan V.Zachillhu, 1992 KHC 694:1992 Supp.(2) SCC 651 : AIR 1993 SC 412. The Apex Court held that “any freedom of its members to vote as they please independently of the political party’s declared policies 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 very survival.” Referring to the object behind the 10th Schedule to the Constitution of India dealing with disqualification on the ground of defection, it was held therein that, “the provision is to curb the evil of political defection motivated by lure of office of other similar considerations which endanger the foundations of our democracy. The only remedy would be to disqualify the member.” The Father of our Nation had foreseen the possibility of such cancerous and endangering tendencies in the practice of democracy

and hence only the Mahatma said that politics without principle is a vice. No doubt politics is an art. But the beauty of the art is lost when no value is attached to the art. It is to check erosion of the values in democracy the 10th Schedule to the Constitution of India and the Keral Local Authorities (Prohibition of Defection) Act, 1999 were brought into force. Looking from that angle we find it difficult to agree with the dictum in Naseera Beevi's case. Not only that, there is no party as 'parliamentary party'. That expression only denotes the wing of the elected members of the political party. Therefore, if a member or a group of the elected members of the 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. In Naseera Beevi's case the rebel group in the parliamentary wing of the political party

concerned had not only formed a separate group, but they had voted in favour of the no confidence motion moved by the rival political party. Thus, by their conduct of being disloyal to the political party in which they were members and by voting as they pleased independent of the political party's declared policy, they had incurred the disqualification."

24. So from the above settled position of law it is clearly found that the conduct of the respondents in having voted in favour of the no confidence motion along with the LDF members and ousted the President belonging to their own party against the decision and direction of the DCC President is nothing but disloyalty to the party which would constitute defection on the ground of voluntarily giving up membership from the party.

25. The learned counsel for the respondents would argue that simply because the respondents who constitute the majority members belonging to Congress party have ousted the President belonging to their own party by carrying a no confidence motion will not constitute defection and the decision in Joseph V Babichan Mulangassery (2015 (1)KHC 111) is relied on to support the above position. Of course in the decision it has been held that in the absence of floor crossing or shifting of political loyalty to any rival political

party or coalition, it cannot be said that the elected members have voluntarily given up their membership of that political party. In *Varghese V State Election Commission* cited supra it has been held that there is no parliamentary party in a local body and that expression only denotes the elected wing of regarding a political party and that the members of the parliamentary party are bound to obey the decision of their political party. Moreover the concept of ruling party or opposition wing is alien to the administration of a local body and the post of opposition leader is not at all contemplated in Local Self Government Institutions. Moreover there are several local authorities where the members of a single party are occupying all the seats and it cannot be said that they can form groups and remove the President or Vice President belonging to their own party with out the approval or consent of their political party. The question of disloyalty which is considered as the element to decide whether a member has committed defection is more often related to the disobedience of the decision or direction of the political party or of the person who is competent to issue direction. In 10th Schedule of the Constitution, Legislature party is recognized and defined under Para 1(b). No such party is contemplated under the Kerala Local Authorities (Prohibition of Defection) Act. When under Para 4 of the 10th schedule, disqualification on the ground of defection will not apply in the case of merger, such a provision is conspicuously absent in the Kerala Local

Authorities (Prohibition of Defection) Act. The settled position of law is that when a member belonging to a political party is acting in defiance of the direction or decision of the political party then he is deemed to have committed disloyalty and thereby voluntarily given up his membership from the party. As per Rule 4(1) of the Kerala Local Authorities (Disqualification of Defected Members) Rules the person competent to recommend symbol to the candidates of a political party is the person who is competent to issue direction and the decision of that person is considered to be the decision of the political party itself. In *Joseph V. Babichan Mulangassery* cited above as the members who had voted in favour of the no confidence motion against the President belonging to their own party did not align with any members of the rival political parties and so it was held that the said members have not voluntarily given up their membership from the party. But in the cases on hand these respondents have aligned with the nine members belonging to LDF coalition and only with their support the no confidence motion was carried. Therefore the above decision also would only support the case of the petitioner in these cases.

26. The learned counsel for the respondents would argue that it was not the respondent who had committed defection, but it was the petitioner by his conduct of aligning with the LDF members in the subsequent election to the post of President and in moving a no confidence motion against the Vice

President belonging to Congress party who has committed defection and Exts.R4 to R11 are relied on to support the same. It is also argued that the respondent in O.P.No.16/2012 was decided as the candidate for the post of President by the party in a subsequent election and that all the respondents and the petitioner had voted in his favour as directed by the party and that the respondents are actively involving in all the affairs of the party and they are continuing as effective members of the party. It is settled law that the relevant date for deciding the question of disqualification is the conduct of a member on the date on which he is alleged to have voluntarily given up his membership from the party. This position has been clarified in **Faisal V. K.A.Abdulla Kunhi (2008(3) KLT 534)**, **Nazeerkhan V. Kerala State Election Commission (2008(2) KLT SN 70)** and **Varghese V. Kerala State Election Commission (2009(3) KLT1)61**. In the last decision cited above it has been held as follows,-

“10. Indisputably the writ appellants, who were elected to the Municipal Council as official candidates of the Indian National Congress and having continued so in the Council, have voted in favour of the no confidence motion moved by the rival political parties on 21.04.2008 and by the said

conduct they had incurred the disqualification of voluntarily giving up membership in the political party. Though Sri.Ramakumar, inviting reference to Annexure A minutes of a meeting dated 12.05.2008, canvassed the position that the political party had tried to own up the writ petitioners, the fact remains that on 24.01.2008 on account of the disloyalty and conduct against the policy of the political party, the writ petitioners had already incurred the disqualification on the ground of defection. Subsequent change of heart and remorseful conduct of the member or the reconciliatory attitude of the political party cannot repair or undo the damage caused by the disloyal conduct leading to the disqualification. Such steps are to be reassessed by the people, given another choice to contest.”

In Nazeerkhan.S. Vs. Kerala State Election Commission (2008(3)

KLT SN 70) it is held as follows,-

“The question of disqualification is a matter to be decided with reference to his conduct on

17.07.2006 and therefore even if he obeyed the subsequent whips, it is immaterial. In so far as Ext.P5 whip is concerned as is evident from Ext.R2(a) produced by the 2nd respondent, it is obvious that he disobeyed that whip also. In so far as Ext.P7 is concerned, the ingenuity of the petitioner is evident from his conduct on that occasion also. In the meeting, even if he had not voted against the whip, still the no-confidence motion would have been carried by the majority. This conclusion is irresistible from the fact that the motion sponsored by the LDF was carried by 11 votes against 9. It was therefore that after contesting against the party's official candidate in the election, petitioner had chosen to obey the subsequently given Ext.P7 whip. Therefore Exts. P5 and P7 do not improve the case of the petitioner in any manner.”

27. In Faisal case at Para 14 it has been held that the relevant date for deciding the question of disqualification is the date on which the member has

voluntarily given up his membership or defied the whip. So in the light of the settled position of law, it is clearly found that the conduct of the respondents in having arrayed with the LDF members and ousted the President belonging to their own party by voting on the no confidence motion moved against him was nothing but disloyalty and any subsequent events will not in any way justify the disloyalty and defection committed by them. Hence I find that the respondents have voluntarily given up their membership and thus committed defection as provided by the first limb of Section 3(1)(a) of the Act and so they have become subject to disqualification for being members of Panancherry Grama Panchayat. The points are answered accordingly.

In the result, the petitions are allowed and the respondents are declared as disqualified for being members of Pananchery Grama Panchayat as provided by Section 3(1)(a) of the Kerala Local Authorities (Prohibition of Defection) Act and they are also declared as disqualified for contesting as candidates 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.

The parties shall bear their respective costs.

Pronounced before the Commission on this the 11th day of February 2014

Sd/-
K.SASIDHARAN NAIR,
STATE ELECTION COMMISSIONER

APPENDIX

Witnesses examined on the side of the petitioner

- PW1 : Sri.P.V.Pathrose, Pulimoottil House,
Pananchery, Thrissur
- PW2 : Sri.V.Balram, Vellur House, Ramnagar 1st Street,
Pookunnam, Thrissur
- PW3 : Sri.Gopinath, Cherppu, Kalarikkal
- PW4 : Sri.K.P.Thomas, Kanjiravelil

Witnesses examined on the side of the respondent

- RW1 : Sri.Chakkochan, Driver, Kolliyottil House,
Chuvannamannu P.O., Thrissur
- RW2 : Sri.Roy K.Devassia, Kolkunnil Veedu,
Pattikkadu P.O.
- RW3 : Sri.Bhaskaran Adamkavil, Block President (INC),
Adamkavil House, Pattikadu P.O.
- RW4 : Sri.George.K.P., Thottupurathu Veedu, Kallidukk,
Chuvannamannu P.O., Thrissur
- RW5 : Sri.Shinosh, Vettiyadan House, Pattikkadu P.O.
Mudikkod, Immattiparamb
- RW6 : Sujith K.M., Driver, Kaithavalappil

Documents produced on the side of the petitioner

- P1 : Copy of the whip dated 07.03.2012 issued by
Adv.V.Balaram, President, Thrissur District
Congress Committee addressed to Sri.P.V.Pathrose

- P2 : Copy of the whip dated 07.03.2012 issued by Adv.V.Balaram, President, Thrissur District Congress Committee addressed to Sri.Sandeep M.T.
- P2(a) : Copy of the whip dated 07.03.2012 issued by Adv.V.Balaram, President, Thrissur District Congress Committee addressed to Sri.Roy K.Devassy
- P2(b) : Copy of the whip dated 07.03.2012 issued by Adv.V.Balaram, President, Thrissur District Congress Committee addressed to Sri.K.P.Chackochan
- P2 (c) : Copy of the whip dated 07.03.2012 issued by Adv.V.Balaram, President, Thrissur District Congress Committee addressed to Smt.Rosily Binu
- P2(d) : Copy of the whip dated 07.03.2012 issued by Adv.V.Balaram, President, Thrissur District Congress Committee addressed to Smt.Suseela Rajan
- P2(e) : Copy of the whip dated 07.03.2012 issued by Adv.V.Balaram, President, Thrissur District Congress Committee addressed to Smt.Sakunthala Unnikrishanan
- P2(f) : Copy of the whip dated 07.03.2012 issued by Adv.V.Balaram, President, Thrissur District Congress Committee addressed to Smt.Sindhu Suresh
- P3 : Keralakaumudi daily dated 8.3.2012
- P4 : Mathrubhoomi daily dated 09.03.2012
- P5 : Copy of the Government Order No.G.O.(Rt)No.1229/2012/ID dated 13.08.2012
- P6 : Acknowledgment No.2359 dated 08.03.2012 of Pananchery Grama Panchayat

- P7 : Copy of the minutes of the meeting held on 08.03.2012, Pananchery Grama Panchayat
- P8 : Copy of the register showing the political affiliation of the members of Pananchery Grama Panchayat
- P9 : Photographs
- P10 : Notice issued by LDF Panchayat Committee Pananchery
- P11 : Malayala Manorama daily 09.03.2012

Documents produced on the side of the respondent

- R1 : Resignation letter submitted by Sri.P.V.Pathrose
- R2 : Copy of the complaint of the members dated 19.11.2011 before Adv.Balaram, President Thrissur District Congress Committee
- R3 : Copy of the declaration issued by Secretary, Pananchery Grama Panchayat.
- R4 : Copy of the whip dated 12.04.2012 issued by Adv.V.Balaram, President, Thrissur District Congress Committee addressed to Sri.K.P.Chackochan
- R5 : Copy of the letter No.A.1260/2012 dated 18.06.2012 of Block Development Officer, Ollukkara
- R6 : Copy of the whip dated 12.04.2012 issued by Adv.V.Balaram, President, Thrissur District Congress Committee addressed to Smt.Sindhu Suresh
- R6(a) : Copy of the whip dated 12.04.2012 issued by Adv.V.Balaram, President, Thrissur District Congress Committee addressed to Sri.Sandeep M.T
- R6(b) : Copy of the whip dated 12.04.2012 issued by Adv.V.Balaram, President, Thrissur District Congress Committee addressed to Sri.Roy K.Devassy

- R6(c) : Copy of the whip dated 12.04.2012 issued by Adv.V.Balaram, President, Thrissur District Congress Committee addressed to Smt.Rosily
- R6(d) : Copy of the whip dated 12.04.2012 issued by Adv.V.Balaram, President, Thrissur District Congress Committee addressed to Sri.K.P.Chackochan
- R6(e) : Copy of the whip dated 12.04.2012 issued by Adv.V.Balaram, President, Thrissur District Congress Committee addressed to Smt.Lizy Mathew
- R6(f) : Copy of the whip dated 12.04.2012 issued by Adv.V.Balaram, President, Thrissur District Congress Committee addressed to Sri.Babu Thomas
- R6(g) : Copy of the whip dated 12.04.2012 issued by Adv.V.Balaram, President, Thrissur District Congress Committee addressed to Smt.Sakunthala Unnikrishan
- R6(h) : Copy of the whip dated 12.04.2012 issued by Adv.V.Balaram, President, Thrissur District Congress Committee addressed to Sri.P.V.Pathrose
- R6(i) : Copy of the whip dated 12.04.2012 issued by Adv.V.Balaram, President, Thrissur District Congress Committee addressed to Sri.K.A.Gopalan
- R6(j) : Copy of the whip dated 12.04.2012 issued by Adv.V.Balaram, President, Thrissur District Congress Committee addressed to Smt.Joly George
- R6(k) : Copy of the whip dated 12.04.2012 issued by Adv.V.Balaram, President, Thrissur District Congress Committee addressed to Smt.Suseela Rajan
- R6(l) : Copy of the whip dated 12.04.2012 issued by Adv.V.Balaram, President, Thrissur District Congress Committee addressed to Smt.Subhadra Sankunni Nair
- R7 : Postal Receipt of registered letter
- R7(a) : Postal Receipts of registered letters
- R7(b) : Postal Receipts of registered letters

- R8 : Letter No.A-4540/10 dated 21.03.2012 of Returning Officer G-29, Pananchery Grama Panchayat
- R9 : letter dated 20.04.2012 of Indian National Congress (I) Pananachery Block Committee addressed to the President DCCs
- R10 : Letter No.B2-1989/2013 dated 16.02.2013 of the Secretary, Pananchery Grama Panchayat
- R11 : Copy of the whip issued by Sri.O.Abdurahimankutty, DCC President dated 16.03.2013 to Sri.Joly George
- R11(a) : Copy of the whip issued by Sri.O.Abdurahimankutty, DCC President dated 16.03.2013 to Smt.Sindhu Suresh
- R11(b) : Copy of the whip issued by Sri.O.Abdurahimankutty, DCC President dated 16.03.2013 to Smt.Lissy Mathew
- R11(c) : Copy of the whip issued by Sri.O.Abdurahimankutty, DCC President dated 16.03.2013 to Smt.Sakunthala Unnikrishnan
- R11(d) : Copy of the whip issued by Sri.O.Abdurahimankutty, DCC President dated 16.03.2013 to Sri.K.A.Gopalan
- R11(e) : Copy of the whip issued by Sri.O.Abdurahimankutty, DCC President dated 16.03.2013 to Sri.Sandeep M.T.
- R11(f) : Copy of the whip issued by Sri.O.Abdurahimankutty, DCC President dated 16.03.2013 to Sri.Roy K.Devassy
- R12 : Copy of the whip issued by Sri.O.Abdurahimankutty, DCC President dated 16.03.2013 to Sri.Roy K.Devassy

Sd/-

**K.SASIDHARAN NAIR,
STATE ELECTION COMMISSIONER**

//True Copy//