

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

**PRESENT: SHRI.V.BHASKARAN, STATE ELECTION COMMISSIONER
Wednesday, the 6th day of March2019**

O.P.Nos.02/2018&03/2018

O.P.No.02/2018

Petitioner : Beenamma Jacob.,
W/o ThomaskuttyPullolickal,
Pullolickal House,Kuttikkanam,
KuttikkanamP.O.,
Idukki District-685 531.
Member, Ward No.16
PeerumeduGrama Panchayat

(By Adv.K.Vinod)

Respondent : T.S.Sulekha.,
W/o Suresh Kumar,
Pattamanaveedu, KallarPuthuvayal,
Pambanar P.O., Peerumedu,
Idukki District – 685 531.
Member, Ward No.12,
PeerumeduGrama Panchayat

(By Adv. CherunniyoorP.Sasidharan Nair)

O.P.No.03/2018

Petitioner : Beenamma Jacob.,
W/o ThomaskuttyPullolickal,
Pullolickal House, Kuttikkanam,
Kuttikkanam P.O.,
Idukki District-685 531.
Member, Ward No.16
PeerumeduGrama Panchayat

(By Adv.Vinod)

Respondent : Raju Vaduthala.,
S/o John,
Vaduthala House, Ranimudi,
Lakshmikovil P.O., Peerumedu,
Idukki District – 685 531.
Member, Ward No.6,
PeerumeduGrama Panchayat

(By Adv. CherunniyoorP.Sasidharan Nair)

These petitions having come up for hearing on the 1st day of March 2019, in the presence of **Adv.K.Vinod** for the petitioner and **Adv. CherunniyoorP.Sasidharan Nair** for the respondents and having stood over for consideration to this day, the Commission passed the following.

COMMON ORDER

Both the petitions are filed under Section 4 of the Kerala Local Authorities (Prohibition of Defection) Act for declaring that the respective respondents have committed defection and hence became disqualified to continue as members of PeerumeduGrama Panchayat and also for declaring them as disqualified to contest as candidates in any election of the local body for a period of six years.

2. As the questions of law and facts involved in both the petitions are common, they were tried together treating O.P.No.02/2018 as the main case. The petitioner in both the petitions is one and the same person.

3. Common case of the petitioner in both the petitions in brief is as below:- The Petitioner and respondents are elected members of PeerumeduGrama Panchayat in the election held in November 2015 and they were elected as the candidates of Indian National Congress (INC). There are 17 wards (seats) in PeerumeduGrama Panchayat and out of which the Indian National Congress secured 9 seats. The CPI(M) got 6 seats and the CPI and AIADMK got one seat each. After the election the AIADMK supported the INC. Thus the INC and AIADMK coalition has 10 members in the Panchayat and they formed the Panchayat board. The post of the President of the PeerumeduGrama Panchayat is reserved for Scheduled Caste woman and the respondent in O.P.2/2018 Smt.Sulekha was elected as the President. But later the Smt.Sulekha resigned from the post of the President on 08.12.2017 without informing the leaders of Indian National Congress. She resigned from the post at the instance of the rival party CPI(M). Election to elect the new President was scheduled to be held on 08.01.2018. As Smt.Praveena of AIADMK is a Scheduled Caste woman and supporting the Indian National Congress she was decided to be the nominee of Indian National Congress for the post of the President. The said decision was taken in the parliamentary party meeting of Indian National Congress held on 28.12.2017 in the presence of the DCC President and the respondent who attended the meeting was aware of the decision of the party.

4. Though the DCC President issued written direction to all the elected members of Indian National Congress including respondents directing them to vote infavour of Smt.Praveen they defied and disobeyed the direction of the party. The respondent in O.P.02/2018 Sulekha herself stood as a candidate with the support of LDF members against the official candidate of Indian National Congress and Smt.Sulekha was elected as the President with the support of LDF members. The respondent in O.P.03/2018 supported Smt.Sulekha and voted in her favour along with LDF members violating the whip of his political party. By doing the above acts the respondents acted against the interest of their party and it is nothing but disloyalty. The respondents are now in the LDF camp. They voluntarily gave up their membership in Indian National Congress. By violating the direction of their party and acting against the interest of their party the respondents committed defection and thereby incurred disqualification as provided under Section 3(1) (a) of the Kerala Local Authorities (Prohibition of Defection) Act. The petitioner seeks a declaration to that effect.

5. The respondents filed separate statement of objections raising common contentions which in brief are as below,- It is true that the petitioner and respondents are elected members of Indian National Congress as stated in the petitions. There was no arrangement between the Indian National Congress and AIADMK for ruling the Panchayat. Smt. Praveena of AIADMIK contested and won the election defeating the candidates of Indian

National Congress and Left Democratic Front. The Indian National Congress party did not decide to field Smt.Praveena as the candidate for the post of President. The AIADMK party also did not decide Smt.Praveena as the candidate for the post of President. There was no parliamentary party meeting on 28.12.2017 as alleged and the respondents had no knowledge about it. There was no whip as alleged and no whip was served on the respondents. The Respondents received the postal articles only after the election and they never avoided receiving the postal articles. The respondents had no knowledge about the political stand of the party. The respondent in O.P.02./2018 was the only candidate from Indian National Congress for the post of President. She did not ask the support of the members of CPI(M) or CPI. The respondents did not commit any act of defection and they did not give up their membership from Indian National Congress. There is no merit in the petitions and hence they are only to be dismissed.

6. The evidence in these cases consists of the oral testimonies of PW1,PW2, RWs1 to 6 and Exts.A1to A21(a) and X1.

7. Both sides were heard.

8.The following points arise for consideration;

- (1) Whether the respondents have disobeyed the decision and direction of their party as alleged?
- (2) Whether the respondents have committed defection as provided under Section 3(1)(a) of the Kerala Local Authorities (Prohibition of Defection) Act as alleged?

(3) Whether the respondents have voluntarily given up their membership in Indian National Congress as alleged ?

(4) Whether the petitioner is entitled to the declaration prayed for?

(5) Reliefs and costs?

9. **POINT Nos.(1) to (5)**: Case of the petitioner is that the respondents committed defection and incurred disqualification under Section 3(1)(a) of the Kerala Local Authorities (Prohibition of Defection) Act by acting against the interest of their political party and also by defying the direction of their party. The petitioner and respondents are elected members of Peerumedu Grama Panchayat in the election held in November 2015 and they were elected as the candidates of Indian National Congress (INC). As there is no dispute over the party affiliation of the parties Ext.A1 requires no discussion. Ext.A1 is the copy of the register showing the party affiliation of the elected members of Peerumedu Grama Panchayat.

10. There are 17 wards (seats) in Peerumedu Grama Panchayat. Out of the 17 seats the Indian National Congress secured 9 seats and the LDF secured 7 seats (CPI(M)-6 and CPI-1). The remaining one seat was won by AIADMK. It is stated that after the election the AIADMK became part of UDF and supported the Congress led UDF making the total seats of UDF to 10. The post of Peerumedu Grama Panchayat is reserved for Scheduled Cast woman. The respondent in O.P.02/2018 Sulekha of Indian National Congress being a scheduled caste woman was elected as the President. Later, on

08.12.2017 she resigned from the post. According to the petitioner Smt.Sulekha resigned from the post without informing and getting permission from the party and she took decision with the concurrence of the district leaders of CPI(M). Consequent to the resignation the post of the President fell vacant and the election to elect the new President was scheduled to be held on 08.01.2018.

11. It is stated by PW1 that a meeting of the Congress Parliamentary party was held on 28.12.2018 in the presence of DCC President and in that meeting Smt.Preveenawas decided to be the candidate of INC/UDF for the post of the President. Smt.Sulekhaaforesaid also attended the said meeting. Ext.A2 is the minutes book of the Congress parliamentary party and Ext.A2(a) is the minutes of the meeting held on 28.12.2017. The DCC President, Idukki District issued whips to all the elected members of Indian National Congress directing them to vote infavour of Smt.Praveena in the President election. Ext.A3 is the copy of the whip issued to the petitioner. Ext.A4 is the copy of the whip issued to the respondent Smt.Sulekha and Ext.A5 is the copy of the whip issued to the respondent Shri.RajuVaduthala. The respondents refused to receive the whips when tendered directly. Thereafter the whips were sent to them by registered post both in their residential addresses and also in the official address. Exts.A6 and A7 are the postal receipts in respect of Smt.Sulekha and Exts.A8 and A9 are the postal receipts relating to the whips sent to Shri.RajuVaduthala.

12. As the respondents were aware of the contents of the whips they refused to accept the whips sent to their home address despite intimation given to them. The respondents avoided to claim the whip sent to their official address till 09.01.2018 and only after the election they chose to receive the postal covers. Exts.A14 and A15 are the acknowledgment cards for that. Besides sending the whips by registered post whips were sent to the respondents by speed post also. The respondent Smt.Sulekha refused to claim the postal article despite intimation to her and deliberately got the same returned. Ext.A12 is the returned postal cover. The respondent Shri.RajuVaduthala refused to receive the postal cover when it was tendered to him by the postman and hence the same was returned unserved. Ext.A13 is the said returned postal cover. The postal endorsements on Exts.A12 and A13 would show the above facts. Copies of the whips were sent to the Panchayat Secretary, PeerumeduGramma Panchayat and also to the Returning Officer. Exts.A10 and A11 are the postal receipts for that. Though the respondents were aware of the decisions and stand of their party in the President election they chose to defy the same. According to PW1 the respondents took a different stand from that of their party and committed disloyalty to the party which they belong. Instead of obeying the direction of her party the respondent in O.P.02/2018 herself stood as a candidate of the rival LDF front for the post of the President against the nominee of her own party. She defeated the nominee of her party Smt.Praveena with the support of the

members of the rival LDF and became the President. The respondent Shri.RajuVaduthala supported Smt.Sulekha along with the members of LDF instead of supporting the nominee of his party, PW1 further states.

13. PW2 is the other witness examined on the side of the petitioner. PW2 is the DCC President, Idukki District and he is the competent person to issue whips to the elected members of Indian National Congress. It is stated by him that he has issued whips to all the members of Indian National Congress in PeerumeduGrama Panchayat directing them to vote infavour of Smt.Praveena and elect her as the Panchayat President. To him Exts.A3 to A5 are the copies of the whips issued to the petitioner and respondents. As the respondents refused to accept the whips when tendered directly, whips were sent to them by registered post. Exts.A6 to A9 are the postal receipts for that. Whips were sent by speed post also and the respondents refused to receive the whips sent by post and got the same returned as they were aware of the contents therein. To PW2 the respondent disobeyed the direction of the party and acted against the interest of their party and thereby committed defection.

14. Case of the respondents is that they did not do any act of defection and even now they continue as members of Indian National Congress. The respondent in O.P.03/2018 was examined as RW1 and respondent in O.P.02/2018 as RW2. According to RWs1 and 2 there was no whip from their party and hence the question of violation of the same does not arise.

According to RW1 he supported and voted infavour of RW2 in the President election as there was no whip or direction from his party. Similarly the evidence of RW2 Smt.Sulekha is that she stood as a candidate for the post of President as there was no whip or direction from her party. It is also stated by RWs1 and 2 that AIADMK party is not part of the United Democratic Front (UDF).

15. RWs3 to 6 are the other witnesses examined on the side of the respondents. RW3 is the DCC Secretary, Idukki District. RW4 is the leader of the Congress Parliamentary party as well as the UDF. RW5 is Smt.Praveena who contested for the post of the President. RW6 is the Returning Officer of PeerumeduGrama Panchayat. RWs 3 to 5 did not state anything useful for the respondents. On the other hand their evidence would only help the petitioner. What for the respondents examined RWs 3 to 5 is not known.

16. Submission of the learned counsel for the petitioner is that RW2 stood as a candidate with the support of the members of the rival LDF against the nominee of her own party disobeying the direction of PW2 the District President of her party and thereby she committed defection. Disobeying the direction of PW2, RW1 Shri.RajuVaduthala supported RW2 in the President election. By doing so the respondents acted against the interest of their political party and acting against the interest of their party is sufficient to hold that the respondents have voluntarily gave up their membership of the party,

the counsel submits. Contention of the learned counsel for the respondents on the other hand is that there was no decision of the party to nominate Smt.Praveena as the candidate for the presidentship and no whip was issued and served on respondents directing them to vote infavour of Smt.Preveena. The respondents did not do any act attracting the provisions of Section 3(1)(a) of the Act, the counsel further submits.

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

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

19. To attract the second part there must be a proper whip and whip should be communicated and there must be violation of the whip. It is not in dispute that the DCC President Idukki District is the competent person to issue whips to the elected members of INC in the local authority in Idukki District. PW2 DCC President has clearly stated about the issuance of the whip directing the respondents and other members of INC to vote infavour of Smt.Praveena in the President election held on 8.01.2018. Exts.A4 and A5 are the copies of the whips issued to the respondents directing them to vote infavour of Smt.Praveena. It is also in evidence that the whips were sent to the respondents by registered post both in their residential and official addresses. Exts.A6 to A9 are the postal receipts for that and they would show that the whips were sent to the respondents by post on 04.01.2018. Besides, whips

were sent to the respondents in their home address by speed post also. But the respondents did not receive the whips sent by post despite intimation to them and got the same returned. Ext.A12 is the returned postal cover sent to RW2 Smt.Sulekha and Ext.A13 is the returned postal cover sent to RW1Shri.Rajuvaduthala. The postal endorsements on Ext.A12 would show that RW2Smt.Sulekha did not claim the postal article despite intimation to her. The postal endorsement on Ext.A13 would show that RW1 Shri.RajuVaduthala refused to accept the postal cover and hence the same was returned. The whips in this case were sent to the respondents in their correct address and the respondents have different case also. Both RWs1 and 2 have no case that Exts.A12 and A13 are not in their correct address. It is in evidence that the whips were sent to them by registered post and speed post in their correct address sufficiently early and they refused to accept the same.

20. It is contended by the learned counsel for the respondents that the whips sent to the respondents in their official addresses were served on them only on 09.01.2018 ie., after the President election on 08.01.2018. According to PW1 the respondents were aware of the contents of the postal cover and hence they avoided receiving the same before 09.01.2018 to make out a defence. It may be noted that the whips were sent to the respondents both in their residential and official address as early as on 04.01.2018. It may also be noted that the official address of the respondents shown therein is the address of PeerumeduGrama Panchayat. It is in evidence that the respondents went to the

Panchayat office on several occasions between 04.01.2018 and 08.01.2018. The residence of the respondents and the Panchayat office are within the local limits of one and the same post office. The postal index number shown in Exts.A6 to A9, A12 and A13 would reveal the said fact. Further the respondents have nothing to say regarding the whips sent to their residential addresses, the returned postal cover Exts.A12 and A13 and the postal endorsements on them.

21. According to learned counsel for the petitioner the respondents were aware of the contents of the postal articles and the decision of the party well in advance and hence they refused to receive the whips sent by post to make out a defence in the cases they accepted against them. The evidence and circumstances would only lend to the support of the said contention. The respondents have no case that the whips were sent not in their correct address. It is well settled that once a notice has been sent by registered post with acknowledgment due in correct address it must be presumed that the service has been effective. There is nothing to rebut the said presumption in the present cases. Copy of the whip was given to the Secretary of the Panchayat also as stipulated in Rule 4(2) of the Kerala Local Authorities (Disqualification of Defected Members) Rules. As the whip was sent by registered post in correct address and the respondents did not claim despite intimation to them it is to be taken that the whips were served on them. Contention of the respondents that no whip was issued in this case and that

they were not aware of the decision of their party cannot be accepted under the above facts and circumstances.

22. It is in evidence that the parliamentary party meeting of the INC/UDF was held on 28.12.2017. Evidence of PW1 and PW2 and Exts.A2(a) would show the said fact. Ext.A2(a) minutes book would show that RW2 Smt.Sulekhahad also attended the said meeting. She is signatory No.9 in that minutes. At the time of evidence she denied her signature in Ext.A2(a) minutes. But on a comparison of her admitted signatures found in pages 3,5,10,11,16,19,21 and 23 in Ext.A2 minutes book it can be seen that the disputed signature against the name of Smt.Sulekha in Ext.A3(a) is similar to those admitted signatures. It cannot be said that Ext.A2 minutes book and Ext.A2(a) are created for the purpose of this case. Further, the respondents' own witness RW4 admitted that a meeting of the parliamentary party of INC and UDF was held on 28.12.2017 and the respondents were informed about the said meeting. RW4 is the leader of the parliamentary party of Indian National Congress and also of UDF in Peerumedu Grama Panchayat. So the respondents cannot now contend that no meeting was held on 28.12.2017 and they were not aware of the meeting when their own witness says that such a meeting was held and the respondents were aware of the same.

23. It is to be stated that the respondents are responsible elected members of Indian National Congress and they cannot act according to their whims and

fancies. They are bound by the direction of their party and disobedience and acting against the interest of the party is nothing but disloyalty. The decision of the party to vote and elect Smt.Praveena as the President of the Panchayat was intimated to the respondents and they were directed to act as per the direction of party by issuing whips to them. But they defied the direction. RW2 Smt.Sulekha herself stood as a candidate against the candidate of her own party INC, with the support of the rival front LDF and defeated her own party nominee. RW1 Shri.RajuVaduthala supported RW2 and voted in her favour in the election violating the direction of his party. The above acts of the respondents would only show that they acted against the interest of their party.

24. As per Section 3(1)(a) of the Act a member can be disqualified if he has voluntarily given up the membership of the party to which he belongs or acts in defiance of the whip issued by that political party. It is the settled law that the disqualification for voluntarily giving up the membership of the political party to which he belongs is not dependent on any violation of the whip. It is not necessary to hold that the member has violated the whip in order to conclude that he has voluntarily given up the membership of the political party to which he belongs. The grounds for disqualification under the first and second limbs of Section 3(1)(a) of the Act are distinct and are not interlinked as held in the decisions reported in **2009(2) KHC 839 (Biju R.S. and others V. Kerala State Election Commission and others)** and **2015 KHC 454 (Suryaprakash**

and others V. State Election Commission, Thiruvananthapuram and others). From the conduct of a member an inference can be drawn that he has voluntarily given up his membership from his political party.

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 (1992) Supp.2 SCC 651*” observed as follows:-

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

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

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. It is a fact that the respondents are elected members of INC and they are bound by the decision of their party. They must be loyal to the party and they cannot act against the interest of their party. It is in evidence that the respondent Smt.Sulekha contested in the President election as a candidate of the rival front LDF against the nominee of her own party and became the President of the Panchayat and RW1 Shri.RajuVaduthala supported RW2. According to the learned counsel for the respondents there was no decision of INC to field Smt.Praveena as a candidate and hence the contest of RW2 against the Smt.Praveena with the support of the members of LDF cannot be termed against the interest of her party. But it is in evidence that

Smt.Praveena contested for the post of the President as per the decision of the INC party and the DCC President issued specific direction to the members of INC to vote infavour of Smt.Praveena. Ext.A2(a) minutes and evidence of PW1 PW2 and also the evidence of respondents' witness RW4 would show that the decision of the party was to vote infavour of Smt.Praveena. Further, RW2 also admitted in the cross-examination that Smt.Praveena contested for the post of the President as the candidate of UDF and it was as per the direction of the DCC President. It is also admitted by RW2 that she contested against the said UDF candidate Smt.Praveena. Similarly RW1 Shri.RajuVaduthala also admitted in the cross-examination that he was aware of the decision of the party in the meeting held on 28.12.2017 to field Smt.Praveena as the candidate for the post of the President before the voting in this case.

28. It may also be noted that Indian National Congress has 9 members in PeerumeduGrama Panchayat including the respondents. Except the respondents all other 7 members of INC cast their vote in favour of Smt.Praveena. That also would show that the decision of the party was to elect Smt.Praveena as the President. The name of RW2 was proposed by RW1 and seconded by CPI(M) member Smt.Rejani Vinod and all other LDF members cast their votes infavour of Smt.Sulekha. Exts.X1 and A16 minutes of the election meeting would show the said fact. Smt.Sulekha became the

President of PeerumeduGrama Panchayat in the election held on 08.01.2018 only with the support of the LDF members.

29. A member belonging to a political party has to be loyal to his party and the moment he becomes disloyal he/she would become subject to disqualification on the ground of voluntarily giving up his/her membership from the party. The conduct of the respondents in violating the direction of their party and the contest of respondent Smt.Sulekha against the nominee of her own party with the support of the members of rival political party defying the direction of the parties would clearly demonstrate that the respondents became disloyal to the political party which elected them as members of PeerumeduGrama Panchayat. The above acts of the respondents would amount to defection inviting disqualification as alleged and the case put forward by the petitioner against the respondents is clearly established. I do not find anything in these cases to take a different view. According to Father of Nation Mahatma Gandhi politics without principle is one of the grave vices in that group. The menace of defection, certainly, is to be curbed. The evil of political defections has been a matter of national concern. If it is not combated, it is likely to undermine the very foundations of our democracy and the principles which sustain it.

30. From the available evidence and circumstances it can be seen that the respondents have committed defection and they have voluntarily given up their membership from the party which elected them as members, as provided

by under Section 3(1)(a) of the Kerala Local Authorities (Prohibition of Defection) Act and therefore they became subject to disqualification for being members of PeerumeduGramma Panchayat. Points are answered accordingly.

In the result, both the petitions are allowed and the respondents are declared as disqualified for being members of PeerumeduGramma Panchayat as provided by Section 3(1)(a) of the Kerala Local Authorities (Prohibition of defection) Act. The respondents are further 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.

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

Pronounced before the Commission on this the 6th day of March 2019

Sd/-
V.BHASKARAN,
STATE ELECTION COMMISSIONER

APPENDIX

Witnesses examined on the side of the petitioner

PW1 : Smt.Beenamma Jacob
 PW2 : Shri.Ibrahimkutty

Witnesses examined on the side of the respondents

RW1 : Shri. Raju Vaduthala
 RW2 : Smt. Sulekha T.S
 RW3 : Shri.ShajiPainadathu
 RW4 : Shri.Paramasivan,M
 RW5 : Smt.Praveena

RW6 : Shri.ZakeerHusine P.M

Documents produced on the side of the petitioner

- A1 : Copy of the register showing the party affiliation of the members of PeerumeduGrama Panchayat
- A2 : Minutes book of the Congress parliamentary party meeting of peerumeduGrama Panchayat
- A2(a) : Minutes of the Congress parliamentary party meeting held on 28.12.2017
- A3 : Copy of the whip issued by the DCC President Idukki District to Smt.Beenamma Jacob dated 03.01.2018
- A4 : Copy of the whip issued by the DCC President Idukki District to Smt.Sulekha T.S dated 03.01.2018
- A5 : Copy of the whip issued by the DCC President Idukki District to Shri.RajuVaduthala dated 03.01.2018
- A6 : Postal receipt dated 04.01.2018
- A7 : Postal receipt dated 04.01.2018
- A8 : Postal receipt dated 04.01.2018
- A9 : Postal receipt dated 04.01.2018
- A10 : Postal receipt dated 04.01.2018
- A11 : Postal receipt dated 04.01.2018
- A12 : Returned postal article addressed to Smt.Sulekha.T.S
- A13 : Returned postal article addressed to Shri.Raju Vaduthala
- A14 : Acknowledgment cardofSmt.Sulekha T.S

- A15 : Acknowledgment card of Shri.Raju Vaduthala
- A16 : Copy of the minutes of the meeting of Peerumedu Grama Panchayat held on 08.01.2018
- A17 : MalayalaManorama daily dated 09.01.2018
- A17(a) : Report of MalayalaManorama daily dated 09.01.2018 (relevant page No.14)
- A18 : Mathruboomi daily dated 09.01.2018
- A18(a) : Report of Mathruboomi daily dated 9.01.2018 (relevant page No.11)
- A19 : Deepika daily dated 09.01.2018
- A19(a) : Report of Deepika daily dated 09.01.2018 (relevant page No.3)
- A20 : Mangalam daily dated 09.01.2018
- A20(a) : Report of Mangalam daily dated 09.01.2018 (relevant page No.3)
- A21 : Madhyamam daily dated 09.01.2018
- A21(a) : Report of Madhyamam daily dated 09.01.2018 (relevant page No.11)

Document Produced on the side of the Court witness

- X1 : Certified copy of the minutes of the meeting to elect President of Peerumedu Grama Panchayat held on 08.01.2018

Sd/-

V.BHASKARAN
STATE ELECTION COMMISSIONER

//True Copy//