

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

**PRESENT: SHRI V.BHASKARAN, STATE ELECTION COMMISSIONER**

**Tuesday, the 12<sup>th</sup> day of March 2019**

**O.P.No.31/2018,        O.P.No.32/2018,        O.P.No.33/2018,  
O.P.No.34/2018,        O.P.No.35/2018,        O.P.No.36/2018,  
O.P.No.37/2018,        O.P.No.38/2018,        O.P.No.39/2018,  
O.P.No.40/2018,        O.P.No.41/2018,        O.P.No.42/2018,  
O.P.No.43/2018,        O.P.No.44/2018,        O.P.No.45/2018,  
O.P.No.46/2018,        O.P.No.47/2018 AND O.P.No.48/2018**

**O.P.No.31/2018**

Petitioner : K.C.Girish,  
Latha Mandiram, Vadakkumuri,  
Pattambi P.O. Palakkad District.  
Councillor, Division No.26,  
Pattambi Municipality.

**(By Adv.Kallambalam S.Sreekumar)**

Respondent : Ummar Palathinkal,  
S/o Hamsa,  
Palathinkal Veedu, Anthoor Palliyalil,  
Keezhayur P.O. Pattambi,  
Palakkad District.  
Councillor, Division No.20,  
Pattambi Municipality.

**(By Adv.E.Sulfickar)**

**O.P.No.32/2018**

Petitioner : K.C.Girish,  
Latha Mandiram, Vadakkumuri,  
Pattambi P.O. Palakkad District.  
Councillor, Division No.26,  
Pattambi Municipality.

**(By Adv.Kallambalam S.Sreekumar)**

Respondent : Manikantan.K.C.,  
S/o Padmanabhan Nair,  
Sreelakam, Liberty Street,  
Pattambi. P.O.,  
Palakkad District.  
Councillor, Division No.22,  
Pattambi Municipality.

**(By Adv.E.Sulfickar)**

**O.P.No.33/2018**

Petitioner : K.C.Girish,  
Latha Mandiram, Vadakkumuri,  
Pattambi P.O. Palakkad District.  
Councillor, Division No.26,  
Pattambi Municipality.

**(By Adv.Kallambalam S.Sreekumar)**

Respondent : K.V.A.Jabbar,  
S/o Hamsa Haji,  
Koduvaykal House, Kodalur,  
Mele Pattambi P.O.,  
Palakkad District.  
Councillor, Division No.06,  
Pattambi Municipality.

**(By Adv.E.Sulfickar)**

**O.P.No.34/2018**

Petitioner : K.C.Girish,  
Latha Mandiram, Vadakkumuri,  
Pattambi P.O. Palakkad District.  
Councillor, Division No.26,  
Pattambi Municipality.

**(By Adv.Kallambalam S.Sreekumar)**

Respondent : Kunjumammed Rasheed (K.P.Vapputti),  
S/o K.P.Pokker,  
Koppath Parammel House,  
College Street,  
Mele Pattambi. P.O,  
Palakkad District.  
Councillor, Division No.12,  
Pattambi Municipality.

**(By Adv.E.Sulfickar)**

**O.P.No.35/2018**

Petitioner : K.C.Girish,  
Latha Mandiram, Vadakkumuri,  
Pattambi P.O. Palakkad District.  
Councillor, Division No.26,  
Pattambi Municipality.

**(By Adv.Kallambalam S.Sreekumar)**

Respondent : Mushthaq Abdul Nazeer,  
S/o Hussan,  
Madayikolmannil House,  
Mele Pattambi P.O.,  
Palakkad District.  
Councillor, Division No.13,  
Pattambi Municipality.

**(By Adv.E.Sulfickar)**

**O.P.No.36/2018**

Petitioner : K.C.Girish,  
Latha Mandiram, Vadakkumuri,  
Pattambi P.O. Palakkad District.  
Councillor, Division No.26,  
Pattambi Municipality.

**(By Adv.Kallambalam S.Sreekumar)**

Respondent : A.K.Akbar,  
S/o Moideen,  
Appamkandathil Veedu,  
Keezhayur P.O. Palakkad District.  
Councillor, Division No.18,  
Pattambi Municipality.

**(By Adv.E.Sulfickar)**

**O.P.No.37/2018**

Petitioner : K.C.Girish,  
Latha Mandiram, Vadakkumuri,  
Pattambi P.O. Palakkad District.  
Councillor, Division No.26,  
Pattambi Municipality.

**(By Adv.Kallambalam S.Sreekumar)**

Respondent : Abdul Hakkim Razy,  
S/o Abdul Salam,  
Chirakkal Veedu,  
Sankaramangalm P.O. Pattambi,  
Palakkad District.  
Councillor, Division No.04,  
Pattambi Municipality.

**(By Adv.E.Sulfickar)**

**O.P.No.38/2018**

Petitioner : K.C.Girish,  
Latha Mandiram, Vadakkumuri,  
Pattambi P.O. Palakkad District.  
Councillor, Division No.26,  
Pattambi Municipality.

**(By Adv.Kallambalam S.Sreekumar)**

Respondent : K.Basheer,  
S/o Ali,  
Kizhakkethil House, Keezhayur P.O.  
Palakkad District.  
Councillor, Division No.19,  
Pattambi Municipality.

**(By Adv.E.Sulfickar)**

**O.P.No.39/2018**

Petitioner : K.C.Girish,  
Latha Mandiram, Vadakkumuri,  
Pattambi P.O. Palakkad District.  
Councillor, Division No.26,  
Pattambi Municipality.

**(By Adv.Kallambalam S.Sreekumar)**

Respondent : Bulkeez,  
D/o Majeed,  
Kallivalappil House,  
Laksham Veedu Colony,  
Amayur P.O. Pattambi,  
Palakkad District.  
Councillor, Division No.01,  
Pattambi Municipality.

**(By Adv.E.Sulfickar)**

**O.P.No.40/2018**

Petitioner : K.C.Girish,  
Latha Mandiram, Vadakkumuri,  
Pattambi P.O. Palakkad District.  
Councillor, Division No.26,  
Pattambi Municipality.

**(By Adv.Kallambalam S.Sreekumar)**

Respondent : Vineetha Gireesh,  
Councillor, Division No.15,  
Pattambi Municipality.

**(By Adv.Geetha Nair)**

**O.P.No.41/2018**

Petitioner : K.C.Girish,  
Latha Mandiram, Vadakkumuri,  
Pattambi P.O. Palakkad District.  
Councillor, Division No.26,  
Pattambi Municipality.

**(By Adv.Kallambalam S.Sreekumar)**

Respondent : Muneera,  
D/o Haneefa,  
Pathiyil Veedu, Kodalur,  
Maruthur P.O. Palakkad District.  
Councillor, Division No.05,  
Pattambi Municipality.

**(By Adv.E.Sulfickar)**

**O.P.No.42/2018**

Petitioner : K.C.Girish,  
Latha Mandiram, Vadakkumuri,  
Pattambi P.O. Palakkad District.  
Councillor, Division No.26,  
Pattambi Municipality.

**(By Adv.Kallambalam S.Sreekumar)**

Respondent : Jayalekha,  
D/o Kolavan,  
Kalluparambil House,  
Sankaramangalam P.O. Pattambi,  
Palakkad District.  
Councillor, Division No.08,  
Pattambi Municipality.

**(By Adv.E.Sulfickar)**

**O.P.No.43/2018**

Petitioner : K.C.Girish,  
Latha Mandiram, Vadakkumuri,  
Pattambi P.O. Palakkad District.  
Councillor, Division No.26,  
Pattambi Municipality.

**(By Adv.Kallambalam S.Sreekumar)**

Respondent : Krishnaveni.,  
Councillor, Division No.02,  
Pattambi Municipality.

**(By Adv.Geetha Nair)**

**O.P.No.44/2018**

Petitioner : K.C.Girish,  
Latha Mandiram, Vadakkumuri,  
Pattambi P.O. Palakkad District.  
Councillor, Division No.26,  
Pattambi Municipality.

**(By Adv.Kallambalam S.Sreekumar)**

Respondent : Girija,  
Councillor, Division No.03,  
Pattambi Municipality.

**(By Adv.Geetha Nair)**

**O.P.No.45/2018**

Petitioner : K.C.Girish,  
Latha Mandiram, Vadakkumuri,  
Pattambi P.O. Palakkad District.  
Councillor, Division No.26,  
Pattambi Municipality.

**(By Adv.Kallambalam S.Sreekumar)**

Respondent : Sunitha,  
Councillor, Division No.27,  
Pattambi Municipality.

**(By Adv.E.Sulfickar)**

**O.P.No.46/2018**

Petitioner : K.C.Girish,  
Latha Mandiram, Vadakkumuri,  
Pattambi P.O. Palakkad District.  
Councillor, Division No.26,  
Pattambi Municipality.

**(By Adv.Kallambalam S.Sreekumar)**

Respondent : Amina,  
D/o Veeravunni,  
Mudannayil Veedu,  
Mele Pattambi,  
Palakkad District.  
Councillor, Division No.11,  
Pattambi Municipality.

**(By Adv.E.Sulfickar)**

**O.P.No.47/2018**

Petitioner : K.C.Girish,  
Latha Mandiram, Vadakkumuri,  
Pattambi P.O. Palakkad District.  
Councillor, Division No.26,  
Pattambi Municipality.

**(By Adv.Kallambalam S.Sreekumar)**

Respondent : Sheeja,  
D/o Abbulu,  
Cherkuzhiyathu House,  
Liberty Street,  
Pattambi P.O,  
Palakkad District.  
Councillor, Division No.25,  
Pattambi Municipality.

**(By Adv.E.Sulfickar)**



**O.P.No.48/2018**

Petitioner : K.C.Girish,  
Latha Mandiram, Vadakkumuri,  
Pattambi P.O. Palakkad District.  
Councillor, Division No.26,  
Pattambi Municipality.

**(By Adv.Kallambalam S.Sreekumar)**

Respondent : Sangeetha,  
D/o Prabhakaran Nair,  
Sreevilas,  
Mele Pattambi P.O.,  
Palakkad District.  
Councillor, Division No.23,  
Pattambi Municipality.

**(By Adv.E.Sulfickar)**

These petitions having come up for hearing on the 27<sup>th</sup> day of **February 2019** in the presence of Advocate **Kallambalam S.Sreekumar** for the petitioner, Advocate E.Sulfiker for respondents in O.P.31/2018 to 39/3018, 41/2018, 42/2018 and OP 45/2018 to 48/2018 and Advocate Geetha Nair for the respondents in O.P. 40/2018, O.P.43/2018 and O.P.44/2018 and having stood over for consideration to this day, the Commission passed the following

**COMMON ORDER**

These petitions are filed under Sections 92 r/w 91(p) of the Kerala Municipality Act for a declaration that the respective respondents have

incurred disqualification under Section 91(p) of the Kerala Municipality Act and they ceased to hold the office of the Councillors of Pattambi Municipality as they failed to file the statement of assets and liabilities as required under Section 143 A of Kerala Municipality Act.

2. As the questions of law and facts involved in these petitions are common, they were tried together treating O.P.No.31/2018 as the main case. The petitioner in all the petitions is one and the same person.

3. Common case of the petitioner in all the petitions in brief is as below,- The petitioner and respondents are elected Councillors of Pattambi Municipality in the election held in November 2015. After being elected the respondents assumed their office as Councillors on 12.11.2015. As per Section 143A of the Kerala Municipality Act a Councillor shall within 30 months from the date of assuming his office shall submit a statement of assets and liabilities of himself and of other members of his family in the prescribed form, before the competent authority authorised in this behalf by the Government by notification. The authority notified under the section is the Regional Joint Director, Kochi for the Pattambi Municipality. Sub section 4 of Section 143A provides that where a Councillor of Municipality fails to file such a statement to the competent authority within the specified date, action can be taken to disqualify him from continuing as Councillor under Section 91 of the Act. Section 91(p) of the Act provides that if a member has failed to file declaration of his assets within the time prescribed

he shall cease to hold office as such. The respondents assumed their office as Councillors on 12.11.2015 and as per the amended Section 143A of the Act the respondents were to file the statement of their assets and liabilities before the competent authority on or before 12.05.2018. But they did not file the statement of assets within the prescribed time. As the respondents failed to submit the statement and to comply the requirements of Section 143A of the Kerala Municipality Act they have incurred disqualification under Section 91(p) of the Act. The petitioner seeks a declaration to that effect.

4. The respondents in O.P.Nos.31/2018 to 39/2018, 41/2018, 42/2018 and 45/2018 to 48/2018 filed separate counter statement raising common contentions which in brief are as below,- The petitions are not maintainable. The affidavit furnished verifying the pleading is not the one as required in the law. The averments that the respondents have not filed the statement of their assets and liabilities are not correct. The respondents in O.P.31/2018 and 38/2018 filed their statement of assets on 05.03.2018. The respondents in O.P.Nos.32/2018, 33/2018, 35/2018, 37/2018, 39/2018, 45/2018 and 48/2018 filed their statement of assets on 07.03.2018. The respondents in O.P.Nos.34/2018 and 42/2018 filed their statement of their assets on 06.03.2018. The respondents in O.P.Nos.36/2018 and 47/2018 filed their statements of assets on 04.03.2018. The respondents in O.P.Nos.41/2018 and 46/2018 filed their statement of assets on 03.03.2018. As the respondents

filed the statement of their assets and liabilities within the specified time there is no cause of action for the petitions. The petitioner is not entitled to get any relief in the petition and they are only to be dismissed.

5. Respondents in O.P.Nos.40/2018, 43/2018 and 44/2018 filed separate counter statements raising common contentions as below,- The petitioner himself did not file his statement of his assets and liabilities and hence he ceased to hold the office of Councillor of Pattambi Municipality. The respondents filed statement of their assets and liabilities on 10.01.2018 before the competent authority through the Secretary of Pattambi Municipality and hence they did not incur any disqualification as alleged. Further, by way of an abundant caution the respondents in O.P.Nos.43/2018 and 44/2018 again filed the statement of their assets and liabilities on 13.06.2019 before the competent authority after filing the original petition and the respondent in O.P.40/2018 filed statement of assets and liabilities on 21.06.2018. The averments that the respondents did not file the statement of their assets and liabilities before the competent authority are not correct. The petitions are without any bonafides and they are only to be dismissed.

6. The evidence in these cases consists of the oral testimonies of PW1, PW2, RWs1 to RW18 and Exts.A1to A3, B1 toB15 and X1 to X3.

7. Both sides were heard.

8. The following points arise for consideration.

(1) Whether the petitions are maintainable?

(2) Whether the respondents have filed the statement of their assets and liabilities as required under Section 143A of the Kerala Municipality Act as alleged?

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

(4) Reliefs and costs?

9. **POINT NO.1:** The respondents had earlier filed petitions as I.A.121/2018 to 135/2018 to consider this point as a preliminary point. Following that the question of maintainability was considered as a preliminary point and found that the above original petitions are maintainable.

10. **POINT Nos.(2) to (4):** The petitioner and respondents are elected Councillors of Pattambi Municipality for the period 2015-2010 in the election held in November 2015. After the election they assumed their office on 12.11.2015. Case of the petitioner is that the respondents failed to file the statements of their assets and liabilities before the competent authority as required under Section 143A of the Kerala Municipality Act. The competent authority notified under the section for Pattambi Municipality is the Regional Joint Director, Urban Affairs, Kochi.

11. As the respondents failed to comply the requirements of Section 143A of the Kerala Municipality Act they, it is stated, incurred disqualification under Section 91(p) of the Kerala Municipality Act.

According to PW1 he got the details of the Councillors who failed to submit the statements of assets and liabilities, by applying before the Regional Joint Director through his friend Shri.Zakeer under the RTI Act and Exts.A1 and A2 are the replies received from the office of the Regional Joint Director Urban Affairs, Kochi. Ext.A1 is the details of the Councillors of Pttambi Municipality who failed to submit the statement of their assets and liabilities within the time prescribed. Names of the respondents are there in Ext.A1 and it would show that the respondents did not file the statement of their assets and liabilities on or before 12.05.2015, the date on which the time expires. Ext.A2 is the list of the Councillors who filed the statement of their assets within the prescribed time. As per Ext.A2 only four Councillors named therein filed the statement of assets within the stipulated time and none of the respondents is included in that list.

12. PW2 is the Regional Joint Director, Urban Affairs, Kochi (incharge). Evidence of PW2 is also to the effect that the respondents did not file the statement of their assets and liabilities before 12.05.2018. It is admitted by him that Exts.A1 and A2 are the documents issued from his office. Further he has produced Exts.X1 to X3 documents. Ext.X1 is the file notes regarding the filing of statements by the Councillors. As per Ext.X1 four Councillors mentioned in Ext.A2 alone filed the statements in the office of the Regional Joint Director, Urban Affairs, Kochi before

12.05.2018 and they are Shri.K.S.B.A.Thangal, Smt.Rukiya.K.T., Shri.Abdul Sajad and Shri.T.P.Shajahan. They filed the statements on 10.08.2016 and 03.05.2018 respectively. Ext.X3 is the file containing the statement of assets and liabilities filed by the above four Councillors. Ext.X2 is the register of assets and liabilities of the Municipal Councillors coming under the Regional Joint Director, Urban Affairs, Kochi for the period 2015-2020. As per the evidence of PW2 the respondents had filed the statements of their assets only after 12.05.2018. As per Ext.X2 register the respondents filed their statements of assets and liabilities only on 13.06.2018. The entries regarding the Councillors of Pattambi Municipality are shown at pages 88 and 89 of Ext.X2 register.

13. Contention of the respondents on the other hand is that they filed the statement of their assets and liabilities within the time prescribed as required under Section 143A of the Kerala Municipality Act and hence Section 91(p) of the Act is not attracted in these cases. The respondents in the above original petitions are examined as RWs 1 to RW18. RW1 is the respondent in O.P.33/2018. It is stated by him that he has filed the statement of his assets and liabilities and his family members before the Regional Joint Director on 07.03.2018 and Ext.B1 is the copy of the same. According to him the contention that he has filed the statement of assets and liabilities only on 13.06.2018 is not correct. RW2 is the respondent in O.P.37/2018, RW3 is the respondent in O.P.48/2018 and RW4 is the

respondent in O.P.39/2018. According to them also they have filed the statement of their assets and liabilities on 07.03.2018 and Exts.B2 to B4 are the copies of the statements respectively. RW5 is the respondent in O.P. 36/2018 and RW16 is the respondent in O.P.47/2018. According to them they filed the statement of assets and liabilities before the Regional Joint Director, Urban Affairs, Kochi on 04.03.2018 and Exts.B5 and B13 are the copies of the statements so filed. RW6 is the respondent in O.P.42/2018. RW14 is the respondent in O.P.34/2018. According to them they filed the statement of their assets and liabilities before Regional Joint Director, Urban Affairs, Kochi on 06.03.2018 and Exts.B6 and B12 are the copies of their statements.

14. RW7 is the respondent in O.P.43/2018, RW8 is the respondent in O.P.44/2018 and RW15 is the respondent in O.P.40/2018. Their evidence is that they have filed the statement of their assets and liabilities before the Secretary, Pattambi Municipality on 10.01.2018 to forward the same to the Regional Joint Director. Here itself it is to be stated that they did not produce any document to show that they have filed the statements before the Secretary or the statements reached before the Regional Joint Director. Anyway, admittedly they did not file the statement of assets and liabilities before the Regional Joint Director. Similarly there is nothing to show that the statements allegedly filed before the Secretary reached the office of the Regional Joint Director and they have no such case also.



15. RW9 is the respondent in O.P.31/2018 and RW18 is the respondent in O.P.38/2018. According to them they filed the statement of their assets and liabilities on 05.03.2018 and Exts.B7 and B15 are the copies of their statements. RW10 is the respondent in O.P.32/2018 and RW11 is the respondent in O.P.35/2018. RW17 is the respondent in O.P.45/2018. They also stated that they filed their statement of assets and liabilities before the Regional Joint Director on 07.03.2018 and Exts.B8, B9 and B14 are the copies of the said statement. RW12 is the respondent in O.P.41/2018 and RW13 is the respondent in O.P.46/2018 and they also stated that they filed their statement of assets and liabilities before the Regional Joint Director on 03.03.2018 and Exts.B10 and B11 are the copies of the said statements.

16. Submission of the learned counsel for the petitioner is that the respondents incurred disqualification as provided under Section 91(p) of the Kerala Municipality Act and they ceased to be the Councillors of Pattambi Municipality as they failed to submit the statement of their assets and liabilities as required under Section 143A of the Kerala Municipality Act. As per Section 143A of the Act they were to file the statements before the Regional Joint Director, Urban Affairs, Kochi within 30 months from the date of assuming their office (earlier it was 15 months and now amended as 30 months). The respondents and other Councillors assumed their office on 12.11.2015 and 30 months from that date would expire on

12.05.2018. The respondents filed their statements/declarations of their assets and liabilities only on 13.06.2018. As they failed to submit the statement of assets and liabilities before 12.05.2018 respondents incurred disqualification under Section 91(p) of the Act, the counsel further submits. Contention of the learned counsel for the respondents is that the respondents have filed the statement of assets and liabilities in the first week of March 2018 as required under Section 143A of the Act and hence Section 91(p) of the Act cannot be invoked in these cases. The total number of seats (wards) in Pattambi Municipality is 28 and out of 28 seats the Congress led UDF got 19 seats and LDF got 6 seats. The BJP secured the remaining 3 seats. From day one onwards the LDF has been taking illegal steps to pulldown the UDF Council and to sabotage the will of the voters. Petitioner is a CPI(M) member and it is with the intention of somehow ousting the respondents the petitioner filed these petitions, the counsel further contends

17. Let us now verify whether the respondents incurred disqualification under Section 91(p) of the Kerala Municipality Act. As per Section 91(p) a Councillor shall cease to hold his office if he has failed to file declaration of his assets and also of his family members within the time prescribed under Section 143A of the Act.

Section 143A of the Act reads as below,-

**Councillors to declare assets:-** (1) A Councillor shall within thirty months from the date of assuming his office submit a statement of assets and liabilities of himself and of other members of his family in the prescribed form, before the competent authority as may be authorised by the Government by notification in this behalf:

Provided that a person who is a Councillor at the time when this Act comes into force, shall submit such a statement before the competent authority, before the date specified by the Government in this behalf.

(2) Where a Councillor after submitting a statement under sub-section (1), acquires any further assets in his name or in the name of any other members of his family, or disposes of or mortgages any property specified in the statement, he shall submit a statement to that effect before the competent authority within three months from the date of such acquisition or disposal or mortgage; as the case may be.

(3) A Councillor who makes a statement under sub-section(1) and sub-section (2) which is false or which he knows or believes to be false or does not believe to be true; shall be liable to be produced against that Councillor in accordance with law for giving such false declaration.

(4) Where a Councillor fails to submit the statement before the competent authority within the date specified under sub-section(1) and sub-section (2), action may be taken to disqualify him from continuing as a Councillor under Section 91.

Explanation 1,- For the purpose of this section “family” of a Councillor means wife or husband of the Councillor, and his parents and unmarried sisters and children depending on him

Explanation 2,- For the purpose of this section “asset” means all immovable properties and movable properties worth more than rupees ten thousand.

18.As stated above the contention of the respondents is that they have filed the statements of their assets and liabilities before the Regional Joint Director, Urban Affairs, Kochi in the 1<sup>st</sup> week of March 2018 and earlier. The dates stated by RWs 1 to 18 were mentioned above. But there is absolutely no document to support their above contention. They did not produce any document to show that they have filed their statement of assets before the Regional Joint Director on or before 12.05.2018, the last date for filing their statements. At the same time it is in evidence that the respondents have filed the statements of their assets and liabilities only on 13.06.2018. Exts.A1, A2, Exts.X1 to X3 and the evidence of PW2 Regional Joint Director himself would clearly show that the respondents have filed their statements of assets and liabilities before the Regional Joint Director, Urban Affairs, Kochi only on 13.06.2018 and thereafter. As per Ext.X2 register the respondent in O.P.40/2018 filed her declaration/statement before the Regional Joint Director only on 21.06.2018.

19. The respondents produced EXts.B1 to B15 to show that all the respondents except the respondents in O.P.40/2018, 43/2018 and 44/2018, filed their statement of assets and liabilities in the first week of March 2018. Exts.B1 to B15 are the certified photo copies of the statements filed by the respondents in O.P.Nos. 31/2018 to 39/2018, 41/2018, 42/2018 and 45/2018 to 48/2018. But their own documents would show that their statements were filed in the office of the Regional Joint Director, Urban Affairs, Kochi only on 13.06.2018. The seals affixed on them would clearly show that Exts.B1 to B15 were filed before the Regional Joint Director only on 13.06.2018. Contention of the learned counsel for the petitioner is that the above respondents filed the statement of assets on 13.06.2018 putting back dates. They filed ante dated statements on 13.06.2018 after knowing about the filing of these cases on 12.06.2018 with a view to make out a defence in these cases. The evidence and circumstances in these cases tempt me also to think on that lines. The date of receipt of Exts.B1 to B15 in the office of Regional Joint Director was noted on them and the date noted on them was on 13.06.2018. The date noted on Exts.B1 to B15 and the entries in Ext.X2 register would only falsify the above contention of the respondents.

20. Submission of the learned counsel for the respondents is that the entries regarding the Councillors of Pattambi Municipality in Ext.X2 were made on a single day for the purpose of these cases and hence no reliance

can be placed on that register. It may be noted that Ext.X2 is an official register maintained in the office of Regional Joint Director showing the details of the statement of assets and liabilities filed not only by the Councillor of Pattambi Municipality but also the Councillors of other Municipalities coming under the Regional Joint Director, Urban Affairs, Kochi. Ext.X2 register would show that the Councillor Shri.K.S.B.A.Thangal filed his statement of assets on 10.08.2016. The Councillors Smt.Rukiya.K.T., Shri.Abdul Sajad and Shri.T.P.Shajahan filed their statements on 03.05.2018. Smt.Vineetha Girish filed her statement of assets and liabilities on 21.06.2018. All other respondents filed their statements only on 13.06.2018 as per Ext.X2.

21. As stated above Ext.X2 is the assets and liabilities statements register of Municipal Councillors coming under the Regional Joint Director, Urban Affairs, Kochi. On verifying the entries in Ext.X2 it can be seen that the practice in the office of the Regional Joint Director is that they would fill up the column of the names of all the Councillors first and thereafter put the date of submission of the declaration/statement as and when they are filed. That will not make the register unreliable. It may be noted that even the name of the petitioner is there in the defaulters' list. I do not find anything in this case to doubt the genuineness of Ext.X2 register. Further, there is no material from the side of the respondents to show that they have filed the statement of their assets and liabilities before

12.05.2018. It is their burden. When the respondents have a case that they filed the statement of assets before 12.05.2018 they must take the responsibility to prove the same. Even according to RWs1 to 18 there is no document for them to prove their above contentions. Therefore the contention put forward above by the learned counsel for the respondents is only to be ignored.

22. At the time of evidence the respondents have a contention that they did not get any receipt from the office of Regional Joint Direction when they filed the statement of assets and liabilities in that office and they were told that the receipts would be sent to them. It may be noted that the respondents are responsible elected Councillors of Pattambi Municipality. It is difficult to believe that they would return from the office before getting any receipt for filing the statements if really they had filed the statements. It is also difficult to believe that they would keep quiet till the filing of these cases waiting for receipts. Further they have no such case anywhere in the counter statement filed by them. The present contention regarding the alleged non issuance of receipts can only be the result of an afterthought as contended by the learned counsel for the petitioner.

23. It is further to be noted that RW18, the respondent in O.P.38/2018 and other two persons earlier filed a Writ Petition before the Hon'ble High Court as Writ Petition(c) 29858/2018 and in that petition his contention was that he and other elected representatives could not submit

their statement of assets and liabilities within the prescribed time satisfying the requirements of Section 143A of the Kerala Municipality Act. RW18 and two others filed the said Writ Petition for a direction for an amendment of Section 143A of the Kerala Municipality Act to enable further time for the elected Municipal Councilors and other elected representatives to submit the statement of their assets and liabilities. After hearing the parties the Hon'ble High Court dismissed the above Writ Petition. Ext.A3 is the copy of the judgment in the above Writ Petition. It was suppressing the pendency of the above original petitions RW18 and others filed the above Writ Petition.

24. In the Writ Petition RW18 has clearly stated that he and other elected Councillors could not submit the statement of their assets and liabilities as required by Section 143A of the Kerala Municipality Act within the prescribed time. Ext.A3 judgment would show the said fact. Even after stating so in the Writ Petition RW18 now comes up with the contention that he has filed the statement of assets on 05.03.2018 ie before 12.05.2018 and produced Ext.B15 copy of the statement. Ext.B15 reached the office of the Regional Joint Director only on 13.06.2018 and the dated seal on it would show the said fact. The Present contention of RW18 that he has filed his statement on 05.03.2018 is to be considered in that background. Evidence of RW18 is that he does not know anything about the said Writ Petition and he has only executed a Vakalath in that case as



instructed by his party. As the judgment went against him he conveniently pleads ignorance of that case now. It seems that he would go to any extent to escape from the mischief of Section 91(p) of the Act. After executing Vakalath and filing the above Writ Petition he cannot now say that he does not know anything about that case and that he has put his signature in the Vakalath as per the instruction of his party. He cannot put forward such a contention now and it cannot be accepted also.

25. Contention RW15, RW7 and RW8 the respondents in O.P.40/2018, 43/2018 and 44/2018 respectively is that they filed the statement on 10.01.2018 before the Secretary Pattambi Municipality to forward the same to the office of Regional Joint Director, Urban Affairs, Kochi. Even according to them they did not file the statement of assets before the competent authority, Regional Joint Director, Urban Affairs, Kochi. According to them they filed the statements before the Secretary Pattambi Municipality. Admittedly the Secretary is not the competent authority in these cases. They did not file the statement before the Regional Joint Director. They have no case also that their statements reached the office of Regional Joint Director. Further, there is absolutely nothing from their side even to show that they filed the statement of assets before the Secretary, Pattambi Municipality. It is their duty to prove that the statements are delivered to the office of the competent authority.

26. Law mandates a Councillor to file a statement of his assets and liabilities and also of his family members before the competent authority within 30 months from the date of assuming his office. The Regional Joint Director, Urban Affairs, Kochi is the competent authority for Pattambi Municipality and there is no dispute over that. If the Councillor fails to file the statement of his assets and liabilities as required under Section 143A of the Act, undoubtedly he would incur disqualification under Section 91(p) of the Kerala Municipality Act. The respondents assumed their office on 12.11.2015 and admittedly the last date for filing the statement of assets and liabilities was on 12.05.2018 after the amendment. There is nothing from the side of the respondents to show that they filed their statements before the Regional Joint Director, Urban Affairs, Kochi on or before 12.05.2018. On the other hand it is in evidence that they have filed statements of their assets and liabilities only on 13.06.2018 ie., after the expiry of the prescribed time.

27. From the evidence and circumstances in this case it can be seen that the respondents have not filed the statement of assets and Liabilities within the prescribed time as required by law. They failed to submit the statements as required under Section 143A of the Kerala Municipality Act and hence they incurred disqualification under Section 91(p) of the Act and ceased to be the Councillors of Pattambi Municipality. The case put

forward by the petitioner against the respondents is clearly established.

Points are answered accordingly.

In the result these petitions are allowed and respondents are declared as disqualified to continue as Councillors and they ceased to hold the office of the Councillors of Pattambi Municipality as provided by Section 91(p) of Kerala Municipality Act.

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

Pronounced before the Commission on this the 12<sup>th</sup> day of March 2019

Sd/-  
V.BHASKARAN  
STATE ELECTION COMMISSIONER

**APPENDIX**

**Witnesses examined on the side of the petitioner**

PW1 : Shri.K.C.Gireesh  
PW2 : Shri.Rammohan Roy

**Witnesses examined on the side of the respondents**

RW1 : Shri.K.V.A.Jabbar  
RW2 : Shri.Abdul Hakkim Razy  
RW3 : Smt.Sangeetha  
RW4 : Smt.Bulkeez

RW5 : Shri.A.K.Akbar

RW6 : Smt.K.Jayalekha

RW7 : Smt.Krishnaveni

RW8 : Smt.Girija

- RW9 : Shri.Ummar Palathinkal
- RW10 : Shri.Manikantan.K.C
- RW11 : Shri.Mushtak Abdul Nazeer
- RW12 : Smt.Muneera
- RW13 : Smt.Amina
- RW14 : Shri.Kunjumammed Rasheed
- RW15 : Smt.Vineetha Gireesh
- RW16 : Smt.Sheeja
- RW17 : Smt.Sunitha.P.P
- RW18 : Shri.K.Basheer

**Documents produced on the side of the Petitioner**

- A1 : Reply received from the office of the Regional Joint Director Urban Affairs, Kochi by Shri.Sakkeer dated 22.05.2018 under the RTI Act
- A2 : Reply received from the office of the Regional Joint Director Urban Affairs, Kochi by Shri.Sakkeer dated 21.05.2018 under the RTI Act
- A3 : Copy of the Judgment WP(c)N.29858/2018 dated 11.09.2018 by the Hon'ble High Court of Kerala

**Documents produced on the side of the respondents**

- B1 : Copy of the statement of assets and liabilities filed by Shri.K.V.A.Jabbar, Councillor, Pattambi Municipality
- B2 : Copy of the statement of assets and liabilities filed by Shri.Rasi, Councillor, Pattambi Municipality

- B3 : Copy of the statement of assets and liabilities filed by Smt.Sangeetha, Councillor, Pattambi Municipality
- B4 : Copy of the statement of assets and liabilities filed by Smt.Bulkeez, Councillor, Pattambi Municipality
- B5 : Copy of the statement of assets and liabilities filed by Shri.A.K.Akbar, Councillor, Pattambi Municipality
- B6 : Copy of the statement of assets and liabilities filed by Smt.Jayalekha.K, Councillor, Pattambi Municipality
- B7 : Copy of the statement of assets and liabilities filed by Shri.Ummar Palathinkal, Councillor, Pattambi Municipality
- B8 : Copy of the statement of assets and liabilities filed by Shri.Manikantan K.C, Councillor, Pattambi Municipality
- B9 : Copy of the statement of assets and liabilities filed by Shri.Muhammed Abdul Nazeer, Councillor, Pattambi Municipality
- B10 : Copy of the statement of assets and liabilities filed by Smt.Muneera, Councillor, Pattambi Municipality
- B11 : Copy of the statement of assets and liabilities filed by Smt.Amina, Councillor Pattambi Municipality
- B12 : Copy of the statement of assets and liabilities filed by Shri.K.V.A.Jabbar, Councillor, Pattambi Municipality
- B13 : Copy of the statement of assets and liabilities filed by Shri.Kunju Muhammed Rasheed, Councillor, Pattambi Municipality
- B14 : Copy of the statement of assets and liabilities filed by Smt.Sunitha, Councillor, Pattambi Municipality
- B15 : Copy of the statement of assets and liabilities filed by Shri.Basheer, Councillor, Pattambi Municipality

**Documents produced on the side of the witnesses**

- X1 : Note file No.G2-2079/2016 on the file of the Regional Joint Director, Urban Affairs, Kochi
- X2 : Assets and Liabilities statement register of Municipal Councillors
- X3 : File containing the statement of assets and liabilities of the Councillors of Pattambi Municipality

Sd/-

**V.BHASKARAN**  
**STATE ELECTION COMMISSIONER**

//True Copy//

BEFORE THE KERALA STATE ELECTION COMMISSION,  
THIRUVANANTHAPURAM

**PRESENT: SHRI.V.BHASKARAN, STATE ELECTION COMMISSIONER**

**Tuesday, the 12<sup>th</sup> day of March 2019**

**O.P.No.84/2018**

Petitioner : P.Gopalan,  
Pallippattil House,  
Sankaramangalam P.O.,  
Palakkad District – 679 303.

**(By Adv. E.Sulficker)**

Respondent : Subramanian.P,  
Pallippattil House,  
Sankaramangalam P.O.,  
Palakkad District – 679 303.

**(By Adv. KallambalamS.Sreekumar)**

This petition having come up for hearing on the 27<sup>th</sup> day of February 2019, in the presence of **Adv.E.Sulficker** for the petitioner and **Adv.KallambalamS.Sreekumar** for the respondent and having stood over for consideration to this day, the Commission passed the following ,-

**ORDER**

This is a petition filed under Sections 92 r/w 91(p) of the Kerala Municipality Act for a declaration that the respondent incurred disqualification under Section 91(p) of the Kerala Municipality Act and he ceased to hold the office of the Councillor of Pattambi Municipality as he

failed to file the statement of assets and liabilities as required under Section 143 A of Kerala Municipality Act.

2. The petitioner's case in brief is as below,- The petitioner is a voter in ward No.28 of Pattambi Municipality and respondent is the elected Councillor of the said ward in the election held in November 2015. As per Section 143A of the Kerala Municipality Act the respondent has to submit a statement of his assets and liabilities of himself and of the members of his family within 30 months from the date of assuming his office, before the competent authority authorised in this behalf by the Government by notification. The competent authority notified for the Pattambi Municipality is the Regional Joint Director Urban Affairs, Kochi. The respondent assumed his office on 12.11.2015 and hence he was to file the statement of his assets and liabilities before the competent authority on or before 12.05.2015. But the respondent failed to file the statement of assets and liabilities before the competent authority within the statutory period. As the respondent failed to submit the statement of his assets and liabilities and to comply the requirements of Section 143A of the Kerala Municipality Act he incurred disqualification under Section 91(p) of the Act. The petitioner seeks a declaration to that effect.

3. The respondent filed counter statement contending as below,- The petition is not maintainable. The averments that the respondent did not submit the statement of his assets and liabilities within the prescribed time



is not correct. The respondent has filed the statement of his assets and liabilities before the Secretary Pattambi Municipality within the time to forward the same to the Regional Joint Director Urban Affairs, Kochi. This petition is filed with ulterior motives and to harass the respondent. There is no merit in the petition and it is only to be dismissed.

4 The evidence in this case consists of the oral testimonies of PW1 and RW1 and Exts.A1 and A2.

5. Both sides were heard.

6. The following points arise for consideration.

(1) Whether the petition is maintainable?

(2) Whether the respondent has filed the statement of his assets and liabilities as required under Section 143A of the Kerala Municipality Act as alleged?

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

(6) Reliefs and costs?

7. **POINT NO.1:** The respondent has contention that the above original petition is not maintainable. But except stating that the original petition is not maintainable there is nothing from the side of the respondent to show that the original petition is not maintainable. According to the petitioner he is a voter of ward No.28 of Pattambi Municipality and the respondent is the elected Councillor of that ward. To show that he is a voter in ward No.28 PW1 has produced Ext.A1 copy of voters list in

respect of ward No.28. Ext.A1 would show that he is a voter of ward No.28 and there is nothing to discard Ext.A1. As a voter the petitioner is entitled to file this petition. Contention of the petitioner is that the respondent failed to file the statement of his assets and liabilities within the prescribed time as required under Section 143A of the Act and hence he incurred disqualification under Section 91(p) of the Act. Contention of the respondent on the other hand is that he has filed statement of his assets and liabilities within the prescribed time of 30 months as required under Section 143A of the Act. As he filed the statement as required by law Section 91(p) is not attracted in this case, he further contends.

8. As per Section 91(p) of the Kerala Municipality Act if a Councillor fails to file the statement of his assets and liabilities within the prescribed time as required under Section 143A of the Act he would cease to be a Councillor. It may be noted that the above petition is filed under Section 92 of the Act. As per Section 92, whenever a question arises as to whether a Councillor has become disqualified under section 86 or section 91, except clause(ii) after having been elected as such Councillor, any Councillor of a Municipality concerned or any other person entitled to vote at the election in which the Councillor was elected, can file a petition before the State Election Commission, for decision.

9. Ongoing through the contention of the parties it can be seen that a question arises as to whether the respondent incurred disqualification under

Section 91(p) of the Act. The petitioner is a voter of ward No.28. As a voter he is entitled to file this petition as per law. As this petition is filed by a competent person and a question arises as to whether the respondent has become subject to disqualification as provided under Section 91(p) of the Act this petition is held to be maintainable. Point is answered accordingly.

**10. POINT Nos.(2) to (4):** Respondent is an elected Councillor of Pattambi Municipality and he assumed the office of Councillor on 12.11.2015. Case of PW1, the petitioner is that the respondent failed to submit the statement of his assets and liabilities before the competent authority as required under Section 143A of the Kerala Municipality Act. As per Section 143A a Councillor has to file the statement of his assets and liabilities within 30 months from the date of assuming his office. He assumed his office on 12.11.2015 and the 30 months time would then expire on 12.05.2018. But the respondent did not file the statement of his assets and liabilities before 12.05.2018. He filed the statement only on 13.06.2018 and Ext.A2 is the copy of the said statement filed on 13.06.2018. As the respondent failed to comply the requirements of Section 143A of the Act the respondent, it is stated, incurred disqualification under Section 91(p) of the Kerala Municipality Act and he ceased to be a Councilor of Pattambi Municipality.

11. The respondent is examined as RW1. According to him he filed the statement of his assets and liabilities in March 2018 within the prescribed time before the Secretary Pattambi Municipality to forward the same to the competent authority, the Regional Joint Director Urban Affairs, Kochi and hence Section 91(p) of the Act is not attracted in this case.

12. As per Section 91(p) a Councillor shall cease to hold his office if he has failed to file declaration of his assets and liabilities and also of his family members within the time prescribed under Section 143A of the Act.

Section 143A of the Act reads as below,-

**Councillors to declare assets,-** (1) A Councillor shall within thirty months (as amended now) from the date of assuming his office submit a statement of assets and liabilities of himself and of other members of his family in the prescribed form, before the competent authority as may be authorised by the Government by notification in this behalf:

Provided that a person who is a Councillor at the time when this Act comes into force, shall submit such a statement before the competent authority, before the date specified by the Government in this behalf.

(2) Where a Councillor after submitting a statement under subsection (1), acquires any further assets in his name or in the name of any other members of his family, or disposes of or mortgages any property specified in the statement, he shall submit a statement to that effect before

the competent authority within three months from the date of such acquisition or disposal or mortgage; as the case may be.

(3) A Councillor who makes a statement under sub-section(1) and sub-section (2) which is false or which he knows or believes to be false or does not believe to be true; shall be liable to be produced against that Councillor in accordance with law for giving such false declaration.

(4) Where a Councillor fails to submit the statement before the competent authority within the date specified under sub-section(1) and sub-section (2), action may be taken to disqualify him from continuing as a Councillor under Section 91.

Explanation 1,- For the purpose of this section “family” of a Councillor means wife or husband of the Councillor, and his parents and unmarried sisters and children depending on him

Explanation 2,- For the purpose of this section “asset” means all immovable properties and movable properties worth more than rupees ten thousand.

13. As stated above the respondent assumed of his office on 12.11.2015. As per Section 143A of the Act the respondent was to file his statement of assets and liabilities before the competent authority within 30 months from the date of assuming his office. The competent authority under the section for Pattambi Municipality is the Regional Joint Director Urban Affairs, Kochi. The respondent did not file a statement of his assets

and liabilities before the competent authority the Regional Joint Director. RW1 admitted the said fact when he was examined. According to him he submitted the statement of his assets and liabilities before the Secretary Pattambi Municipality and he handed over the same to Municipal Chairman. He has no case that the Secretary forwarded the same to the Regional Joint Director Urban Affairs, Kochi. Further, there is absolutely nothing from his side to show that he has filed the statement before the Secretary also. Regarding Ex.A2 his contention is that it is not the copy of the statement filed by him and he did not file any such statement before Regional Joint Director. At the same time RW1 admitted his signature in Ext.A2 and as per the official seal on it the said statement was received in the office of Regional Joint Director Urban Affairs, Kochion 13.06.2018.

14. According to the learned counsel for the petitioner the respondent now conveniently disowns Ext.A2 to save his face as it would show that he has filed the statement only on 13.06.2018. The evidence and circumstances in this case would only lend support to the said contention. Anyway the respondent has no case that he has filed the statement of assets before the Regional Joint Director within the period prescribed.

15. Law mandates a Councillor to file a statement of his assets and liabilities and also of his family members before the competent authority within 30 months from the date of assuming his office. The Regional Joint Director, Kochi is the competent authority for Pattambi Municipality and

there is no dispute over that. If the Councillor fails to file the statement of his assets and liabilities as required under Section 143A of the Act, undoubtedly he would incur disqualification under Section 91(p) of the Kerala Municipality Act. The respondent assumed his office of Councillor on 12.11.2015 and admittedly the last date for filing the statement of assets and liabilities was on 12.05.2018 after the amendment. There is nothing from the side of the respondent to show that he filed the statement of assets before the Regional Joint Director on or before 12.05.2018 as required under Section 143A of the Act. He has no case also that he has filed any statement before the Regional Joint Director. As the respondent failed to submit a statement of his assets and liabilities before the Regional Joint Director Urban Affairs, Kochi within the prescribed time as required under Section 143A of the Act I find that the respondent incurred disqualification under Section 91(p) of the Act and he ceased to be a Councillor of Pattambi Municipality. The case put forward by the petitioner against the respondent is clearly established. Points are answered accordingly.

In the result the petition is allowed and the respondent is declared as disqualified to continue as Councillor and that he ceased to hold the office of the Councillor of Pattambi Municipality as provided by Section 91(p) of Kerala Municipality Act.

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

Pronounced before the Commission on this the 12<sup>th</sup> day of March 2019

Sd/-  
V.BHASKARAN  
STATE ELECTION COMMISSIONER

**APPENDIX**

**Witness examined on the side of the petitioner**

PW1 : Shri.P.Gopalan

**Witness examined on the side of the Petitioner**

RW1 : Shri.P.Subramanian

**Documents produced on the side of the petitioner**

A1 : Copy of the voters list in respect of ward No.28 of Pattambi Municipality

A2 : Copy of the statement of assets and liabilities filed by Shri.Subramanian.P in Form A & B

Sd/-  
V.BHASKARAN  
STATE ELECTION COMMISSIONER

//True Copy//



BEFORE THE KERALA STATE ELECTION COMMISSION,  
THIRUVANANTHAPURAM

PRESENT: SHRI.V.BHASKARAN, STATE ELECTION COMMISSIONER

Tuesday, the 12<sup>th</sup> day of March 2019

**O.P.No.85/2018**

Petitioner : Prakasan,  
Kalluparambil House,  
Sankaramangalam P.O.,  
Palakkad District – 679 306.

**(By Adv. E.Sulficker)**

Respondent : Rahnabi,  
W/o Hameed,  
Kalathilthody House,  
Sankaramangalam P.O.,  
Palakkad District.  
Councillor, Division No.7,  
Pattambi Municipality.

**(By Adv. KallambalamS.Sreekumar)**

This petition having come up for hearing on the 27<sup>th</sup> day of February 2019, in the presence of **Adv.E.Sulficker** for the petitioner and **Adv.KallambalamS.Sreekumar** for the respondent and having stood over for consideration to this day, the Commission passed the following ,-

**ORDER**

This is a petition filed under Sections 92 r/w 91(p) of the Kerala Municipality Act for a declaration that the respondent incurred disqualification under Section 91(p) of the Kerala Municipality Act and she

ceased to hold the office of the Councillor of Pattambi Municipality as she failed to file the statement of assets and liabilities as required under Section 143 A of Kerala Municipality Act.

2. The petitioner's case in brief is as below,- The petitioner is a voter in ward No.7 of Pattambi Municipality and respondent is the elected Councillor of the said ward in the election held in November 2015. As per Section 143A of the Kerala Municipality Act the respondent has to submit a statement of her assets and liabilities of herself and of the members of her family within 30 months from the date of assuming her office, before the competent authority authorised in this behalf by the Government by notification. The competent authority notified for the Pattambi Municipality is the Regional Joint Director Urban Affairs, Kochi. The respondent assumed her office on 12.11.2015 and hence she was to file the statement of her assets and liabilities before the competent authority on or before 12.05.2015. But the respondent failed to file the statement of assets and liabilities before the competent authority within the statutory period. As the respondent failed to submit the statement of her assets and liabilities and to comply the requirements of Section 143A of the Kerala Municipality Act she incurred disqualification under Section 91(p) of the Act. The petitioner seeks a declaration to that effect.

3. The respondent filed counter statement contending as below,- The petition is not maintainable. The averments that the respondent did not

submit the statement of her assets and liabilities within the prescribed time is not correct. The respondent has filed the statement of her assets and liabilities before the Secretary Pattambi Municipality within the time to forward the same to the Regional Joint Director Urban Affairs, Kochi. This petition is filed with ulterior motives and to harass the respondent. There is no merit in the petition and it is only to be dismissed.

4 The evidence in this case consists of the oral testimonies of PW1 and RW1 and Exts.A1 and A2.

5. Both sides were heard.

6. The following points arise for consideration.

(1) Whether the petition is maintainable?

(2) Whether the respondent has filed the statement of her assets and liabilities as required under Section 143A of the Kerala Municipality Act as alleged?

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

(8) Reliefs and costs?

7. **POINT NO.1:** The respondent has contention that the above original petition is not maintainable. But except stating that the original petition is not maintainable there is nothing from the side of the respondent to show that the original petition is not maintainable. According to the petitioner he is a voter of ward No.7 of Pattambi Municipality and the respondent is the elected Councillor of that ward. To show that he is a

voter in ward No.7 PW1 has produced Ext.A1 copy of voters list in respect of ward No.7. Ext.A1 would show that he is a voter of ward No.7 and there is nothing to discard Ext.A1. As a voter the petitioner is entitled to file this petition. Contention of the petitioner is that the respondent failed to file the statement of her assets and liabilities within the prescribed time as required under Section 143A of the Act and hence she incurred disqualification under Section 91(p) of the Act. Contention of the respondent on the other hand is that she has filed statement of her assets and liabilities within the prescribed time of 30 months as required under Section 143A of the Act. As she filed the statement as required by law Section 91(p) is not attracted in this case, she further contends.

8. As per Section 91(p) of the Kerala Municipality Act if a Councillor fails to file the statement of her assets and liabilities within the prescribed time as required under Section 143A of the Act she would cease to be a Councillor. It may be noted that the above petition is filed under Section 92 of the Act. As per Section 92, whenever a question arises as to whether a Councillor has become disqualified under section 86 or section 91, except clause(II) after having been elected as such Councillor, any Councillor of a Municipality concerned or any other person entitled to vote at the election in which the Councillor was elected, can file a petition before the State Election Commission, for decision.

9. Ongoing through the contention of the parties it can be seen that a question arises as to whether the respondent incurred disqualification under Section 91(p) of the Act. The petitioner is a voter of ward No.7. As a voter he is entitled to file this petition as per law. As this petition is filed by a competent person and a question arises as to whether the respondent has become subject to disqualification as provided under Section 91(p) of the Act this petition is held to be maintainable. Point is answered accordingly.

10. **POINT Nos.(2) to (4)**: Respondent is an elected Councillor of Pattambi Municipality and she assumed the office of Councillor on 12.11.2015. Case of PW1, the petitioner is that the respondent failed to submit the statement of her assets and liabilities before the competent authority as required under Section 143A of the Kerala Municipality Act. As per Section 143A a Councillor has to file the statement of her assets and liabilities within 30 months from the date of assuming her office. She assumed her office on 12.11.2015 and the 30 months time would then expire on 12.05.2018. But the respondent did not file the statement of her assets and liabilities before 12.05.2018. She filed the statement only on 13.06.2018 and Ext.A2 is the copy of the said statement filed on 13.06.2018. As the respondent failed to comply the requirements of Section 143A of the Act the respondent, it is stated, incurred

disqualification under Section 91(p) of the Kerala Municipality Act and she ceased to be a Councilor of Pattambi Municipality.

11. The respondent is examined as RW1. According to hershe filed the statement of her assets and liabilities in March 2018 within the prescribed time before the Secretary Pattambi Municipality to forward the same to the competent authority, the Regional Joint Director Urban Affairs, Kochi and hence Section 91(p) of the Act is not attracted in this case.

12. As per Section 91(p) a Councillor shall cease to hold her office if she has failed to file declaration of her assets and liabilities and also of her family members within the time prescribed under Section 143A of the Act.

Section 143A of the Act reads as below,-

**Councilors to declare assets,-** (1) A Councillor shall within thirty months (as amended now) from the date of assuming his office submit a statement of assets and liabilities of himself and of other members of his family in the prescribed form, before the competent authority as may be authorised by the Government by notification in this behalf:

Provided that a person who is a Councillor at the time when this Act comes into force, shall submit such a statement before the competent authority, before the date specified by the Government in this behalf.

(2) Where a Councillor after submitting a statement under subsection (1), acquires any further assets in his name or in the name of any other members of his family, or disposes of or mortgages any property

specified in the statement, he shall submit a statement to that effect before the competent authority within three months from the date of such acquisition or disposal or mortgage; as the case may be.

(3) A Councillor who makes a statement under sub-section(1) and sub-section (2) which is false or which he knows or believes to be false or does not believe to be true; shall be liable to be produced against that Councillor in accordance with law for giving such false declaration.

(4) Where a Councillor fails to submit the statement before the competent authority within the date specified under sub-section(1) and sub-section (2), action may be taken to disqualify him from continuing as a Councillor under Section 91.

Explanation 1,- For the purpose of this section “family” of a Councillor means wife or husband of the Councillor, and his parents and unmarried sisters and children depending on him

Explanation 2,- For the purpose of this section “asset” means all immovable properties and movable properties worth more than rupees ten thousand.

13. As stated above the respondent assumed of her office on 12.11.2015. As per Section 143A of the Act the respondent was to file her statement of assets and liabilities before the competent authority within 30 months from the date of assuming her office. The competent authority under the section for Pattambi Municipality is the Regional Joint Director

Urban Affairs, Kochi. The respondent did not file a statement of her assets and liabilities before the competent authority the Regional Joint Director Urban Affairs, Kochi. RW1 admitted the said fact when she was examined. According to her she submitted the statement of her assets and liabilities before the Secretary Pattambi Municipality and he handed over the same to Municipal Chairman. She has no case that the Secretary forwarded the same to the Regional Joint Director Urban Affairs, Kochi. Further, there is absolutely nothing from her side to show that she has filed the statement before the Secretary also. Regarding Ex.A2 her contention is that it is not the copy of the statement filed by her and she did not file any such statement before Regional Joint Director Urban Affairs, Kochi. At the same time RW1 admitted his signature in Ext.A2 and as per the official seal on it the said statement was received in the office of Regional Joint Director Urban Affairs, Kochi on 13.06.2018.

14. According to the learned counsel for the petitioner the respondent now conveniently disowns Ext.A2 to save her face as it would show that she has filed the statement only on 13.06.2018. The evidence and circumstances in this case would only lend support to the said contention. Anyway the respondent has no case that she has filed the statement of assets before the Regional Joint Director within the period prescribed.

15. Law mandates a Councillor to file a statement of her assets and liabilities and also of her family members before the competent authority



within 30 months from the date of assuming her office. The Regional Joint Director, Kochi is the competent authority for Pattambi Municipality and there is no dispute over that. If the Councillor fails to file the statement of her assets and liabilities as required under Section 143A of the Act, undoubtedly he would incur disqualification under Section 91(p) of the Kerala Municipality Act. The respondent assumed her office of Councillor on 12.11.2015 and admittedly the last date for filing the statement of assets and liabilities was on 12.5.2018 after the amendment. There is nothing from the side of the respondent to show that she has filed the statement before the Regional Joint Director on or before 12.05.2018 as required under Section 143A of the Act. She has no case also that she has filed any statement before the Regional Joint Director. As the respondent failed to submit a statement of her assets and liabilities before the Regional Joint Director Urban Affairs, Kochi within the prescribed time as required under Section 143A of the Act I find that the respondent incurred disqualification under Section 91(p) of the Act and he ceased to be a Councillor of Pattambi Municipality. The case put forward by the petitioner against the respondent is clearly established. Points are answered accordingly.

In the result the petition is allowed and the respondent is declared as disqualified to continue as Councillor and that she ceased to hold the

office of the Councillor of Pattambi Municipality as provided by Section 91(p) of Kerala Municipality Act.

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

Pronounced before the Commission on this the 12<sup>th</sup> day of March 2019

Sd/-  
V.BHASKARAN  
STATE ELECTION COMMISSIONER

**APPENDIX**

**Witness examined on the side of the petitioner**

PW1 : Shri.K.Prakasan

**Witness examined on the side of the Petitioner**

RW1 : Smt.Rahnabi

**Documents produced on the side of the petitioner**

A1 : Copy of the voters list in respect of ward No.07 of Pattambi Municipality

A2 : Copy of the statement of assets and liabilities filed by Smt.Rahanabi in Form A & B

Sd/-  
V.BHASKARAN  
STATE ELECTION COMMISSIONER

//True Copy//

BEFORE THE KERALA STATE ELECTION COMMISSION,  
THIRUVANANTHAPURAM

**PRESENT: SHRI.V.BHASKARAN, STATE ELECTION COMMISSIONER**

**Tuesday, the 12<sup>th</sup> day of March 2019**

**O.P.No.86/2018**

Petitioner : Irshad.C.M.,  
Chamaparambil House,  
Melepattambi P.O.,  
Palakkad District – 679 306.

**(By Adv. E.Sulficker)**

Respondent : M.V.Leela,  
W/o Suryan,  
Kuzhiparambil House,  
Kodalur.Melepattambi P.O.,  
Palakkad District.  
Councillor, Division No.9,  
Pattambi Municipality.

**(By Adv. KallambalamS.Sreekumar)**

This petition having come up for hearing on the 27<sup>th</sup> day of February 2019, in the presence of **Adv.E.Sulficker** for the petitioner and **Adv.KallambalamS.Sreekumar** for the respondent and having stood over for consideration to this day, the Commission passed the following ,-

**ORDER**

This is a petition filed under Sections 92 r/w 91(p) of the Kerala Municipality Act for a declaration that the respondent incurred

disqualification under Section 91(p) of the Kerala Municipality Act and she ceased to hold the office of the Councillor of Pattambi Municipality as she failed to file the statement of assets and liabilities as required under Section 143 A of Kerala Municipality Act.

2. The petitioner's case in brief is as below,- The petitioner is a voter in ward No.9 of Pattambi Municipality and respondent is the elected Councillor of the said ward in the election held in November 2015. As per Section 143A of the Kerala Municipality Act the respondent has to submit a statement of her assets and liabilities of herself and of the members of her family within 30 months from the date of assuming her office, before the competent authority authorised in this behalf by the Government by notification. The competent authority notified for the Pattambi Municipality is the Regional Joint Director Urban Affairs, Kochi. The respondent assumed her office on 12.11.2015 and hence she was to file the statement of her assets and liabilities before the competent authority on or before 12.05.2015. But the respondent failed to file the statement of assets and liabilities before the competent authority within the statutory period. As the respondent failed to submit the statement of her assets and liabilities and to comply the requirements of Section 143A of the Kerala Municipality Act she incurred disqualification under Section 91(p) of the Act. The petitioner seeks a declaration to that effect.

3. The respondent filed counter statement contending as below,- The petition is not maintainable. The averments that the respondent did not submit the statement of her assets and liabilities within the prescribed time is not correct. The respondent has filed the statement of her assets and liabilities before the Secretary Pattambi Municipality within the time to forward the same to the Regional Joint Director Urban Affairs, Kochi. This petition is filed with ulterior motives and to harass the respondent. There is no merit in the petition and it is only to be dismissed.

4 The evidence in this case consists of the oral testimonies of PW1and RW1 and Exts.A1and A2.

5. Both sides were heard.

6. The following points arise for consideration.

(1) Whether the petition is maintainable?

(2) Whether the respondent has filed the statement of her assets and liabilities as required under Section 143A of the Kerala Municipality Act as alleged?

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

(10) Reliefs and costs?

7. **POINT NO.1:** The respondent has contention that the above original petition is not maintainable. But except stating that the original petition is not maintainable there is nothing from the side of the respondent to show that the original petition is not maintainable. According to the

petitioner he is a voter of ward No.9 of Pattambi Municipality and the respondent is the elected Councillor of that ward. To show that he is a voter in ward No.9 PW1 has produced Ext.A1 copy of voters list in respect of ward No.9. Ext.A1 would show that he is a voter of ward No.9 and there is nothing to discard Ext.A1. As a voter the petitioner is entitled to file this petition. Contention of the petitioner is that the respondent failed to file the statement of her assets and liabilities within the prescribed time as required under Section 143A of the Act and hence she incurred disqualification under Section 91(p) of the Act. Contention of the respondent on the other hand is that she has filed statement of her assets and liabilities within the prescribed time of 30 months as required under Section 143A of the Act. As she filed the statement as required by law Section 91(p) is not attracted in this case, she further contends.

8. As per Section 91(p) of the Kerala Municipality Act if a Councillor fails to file the statement of her assets and liabilities within the prescribed time as required under Section 143A of the Act she would cease to be a Councillor. It may be noted that the above petition is filed under Section 92 of the Act. As per Section 92, whenever a question arises as to whether a Councillor has become disqualified under section 86 or section 91, except clause(ii) after having been elected as such Councillor, any Councillor of a Municipality concerned or any other person entitled to vote at the election

in which the Councillor was elected, can file a petition before the State Election Commission, for decision.

9. Ongoing through the contention of the parties it can be seen that a question arises as to whether the respondent incurred disqualification under Section 91(p) of the Act. The petitioner is a voter of ward No.9. As a voter he is entitled to file this petition as per law. As this petition is filed by a competent person and a question arises as to whether the respondent has become subject to disqualification as provided under Section 91(p) of the Act this petition is held to be maintainable. Point is answered accordingly.

10. **POINT Nos.(2) to (4)**: Respondent is an elected Councillor of Pattambi Municipality and she assumed the office of Councillor on 12.11.2015. Case of PW1, the petitioner is that the respondent failed to submit the statement of her assets and liabilities before the competent authority as required under Section 143A of the Kerala Municipality Act. As per Section 143A a Councillor has to file the statement of her assets and liabilities within 30 months from the date of assuming her office. She assumed her office on 12.11.2015 and the 30 months time would then expire on 12.05.2018. But the respondent did not file the statement of her assets and liabilities before 12.05.2018. She filed the statement only on 13.06.2018 and Ext.A2 is the copy of the said statement filed on 13.06.2018. As the respondent failed to comply the requirements of

Section 143A of the Act the respondent, it is stated, incurred disqualification under Section 91(p) of the Kerala Municipality Act and she ceased to be a Councilor of Pattambi Municipality.

11. The respondent is examined as RW1. According to her she filed the statement of her assets and liabilities in March 2018 within the prescribed time before the Secretary Pattambi Municipality to forward the same to the competent authority, the Regional Joint Director Urban Affairs, Kochi and hence Section 91(p) of the Act is not attracted in this case.

12. As per Section 91(p) a Councillor shall cease to hold her office if she has failed to file declaration of her assets and liabilities and also of her family members within the time prescribed under Section 143A of the Act.

Section 143A of the Act reads as below,-

**Councillors to declare assets,-** (1) A Councillor shall within thirty months (as amended now) from the date of assuming his office submit a statement of assets and liabilities of himself and of other members of his family in the prescribed form, before the competent authority as may be authorised by the Government by notification in this behalf:

Provided that a person who is a Councillor at the time when this Act comes into force, shall submit such a statement before the competent authority, before the date specified by the Government in this behalf.

(2) Where a Councillor after submitting a statement under subsection (1), acquires any further assets in his name or in the name of any



other members of his family, or disposes of or mortgages any property specified in the statement, he shall submit a statement to that effect before the competent authority within three months from the date of such acquisition or disposal or mortgage; as the case may be.

(3) A Councillor who makes a statement under sub-section(1) and sub-section (2) which is false or which he knows or believes to be false or does not believe to be true; shall be liable to be produced against that Councillor in accordance with law for giving such false declaration.

(4) Where a Councillor fails to submit the statement before the competent authority within the date specified under sub-section(1) and sub-section (2), action may be taken to disqualify him from continuing as a Councillor under Section 91.

Explanation 1,- For the purpose of this section “family” of a Councillor means wife or husband of the Councillor, and his parents and unmarried sisters and children depending on him

Explanation 2,- For the purpose of this section “asset” means all immovable properties and movable properties worth more than rupees ten thousand.

13. As stated above the respondent assumed of her office on 12.11.2015. As per Section 143A of the Act the respondent was to file her statement of assets and liabilities before the competent authority within 30 months from the date of assuming her office. The competent authority

under the section for Pattambi Municipality is the Regional Joint Director Urban Affairs, Kochi. The respondent did not file a statement of her assets and liabilities before the competent authority the Regional Joint Director Urban Affairs, Kochi. RW1 admitted the said fact when she was examined. According to her she submitted the statement of her assets and liabilities before the Secretary Pattambi Municipality and he handed over the same to Municipal Chairman. She has no case that the Secretary forwarded the same to the Regional Joint Director Urban Affairs, Kochi. Further, there is absolutely nothing from her side to show that she has filed the statement before the Secretary also. Regarding Ex.A2 her contention is that it is not the copy of the statement filed by her and she did not file any such statement before Regional Joint Director Urban Affairs, Kochi. At the same time RW1 admitted his signature in Ext.A2 and as per the official seal on it the said statement was received in the office of Regional Joint Director Urban Affairs, Kochi on 13.06.2018.

14. According to the learned counsel for the petitioner the respondent now conveniently disowns Ext.A2 to save her face as it would show that she has filed the statement only on 13.06.2018. The evidence and circumstances in this case would only lend support to the said contention. Anyway the respondent has no case that she has filed the statement of assets before the Regional Joint Director within the period prescribed.

15. Law mandates a Councillor to file a statement of her assets and liabilities and also of her family members before the competent authority within 30 months from the date of assuming her office. The Regional Joint Director, Kochi is the competent authority for Pattambi Municipality and there is no dispute over that. If the Councillor fails to file the statement of her assets and liabilities as required under Section 143A of the Act, undoubtedly she would incur disqualification under Section 91(p) of the Kerala Municipality Act. The respondent assumed her office of Councillor on 12.11.2015 and admittedly the last date for filing the statement of assets and liabilities was on 12.5.2018 after the amendment. There is nothing from the side of the respondent to show that she has filed the statement of assets before the Regional Joint Director on or before 12.05.2018 as required under Section 143A of the Act. She has no case also that she has filed any statement before the Regional Joint Director. As the respondent failed to submit a statement of her assets and liabilities before the Regional Joint Director Urban Affairs, Kochi within the prescribed time as required under Section 143A of the Act I find that the respondent incurred disqualification under Section 91(p) of the Act and she ceased to be a Councillor of Pattambi Municipality. The case put forward by the petitioner against the respondent is clearly established. Points are answered accordingly.

In the result the petition is allowed and the respondent is declared as disqualified to continue as Councillor and that she ceased to hold the office of the Councillor of Pattambi Municipality as provided by Section 91(p) of Kerala Municipality Act.

One Krishnaveni also filed a similar petition before the Commission against the respondent with the same prayer as O.P.91/2018 and the said original petition is also being disposed of this day. The effect of the order in both the original petitions is one and the same.

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

Pronounced before the Commission on this the 12<sup>th</sup> day of March 2019

Sd/-  
V.BHASKARAN  
STATE ELECTION COMMISSIONER

**APPENDIX**

**Witness examined on the side of the petitioner**

PW1 : Shri.Irshad C.M.

**Witness examined on the side of the Petitioner**

RW1 : Smt.M.V.Leela

**Documents produced on the side of the petitioner**

A1 : Copy of the voters list in respect of ward No.09 of Pattambi Municipality

A2 : Copy of the statement of assets and liabilities filed by  
Smt.LeelaM.V in Form A & B

Sd/-  
V.BHASKARAN  
**STATE ELECTION COMMISSIONER**

//True Copy//

BEFORE THE KERALA STATE ELECTION COMMISSION,  
THIRUVANANTHAPURAM

**PRESENT: SHRI.V.BHASKARAN, STATE ELECTION COMMISSIONER**

**Tuesday, the 12<sup>th</sup> day of March 2019**

**O.P.No.87/2018**

Petitioner : JitheshMozhikunnam,  
Mozhikunnath Mana,  
Melepattambi P.O.,  
Palakkad District – 679 306.

**(By Adv. E.Sulficker)**

Respondent : N.Mohanasundaran  
NambrathuHouse,  
K.E.Thangal Road,  
Pattambi P.O.,  
Palakkad District – 679 303.

**(By Adv. KallambalamS.Sreekumar)**

This petition having come up for hearing on the 27<sup>th</sup> day of February 2019, in the presence of **Adv.E.Sulficker** for the petitioner and **Adv.KallambalamS.Sreekumar** for the respondent and having stood over for consideration to this day, the Commission passed the following ,-

**ORDER**

This is a petition filed under Sections 92 r/w 91(p) of the Kerala Municipality Act for a declaration that the respondent incurred disqualification under Section 91(p) of the Kerala Municipality Act and he ceased to hold the office of the Councillor of Pattambi Municipality as he

failed to file the statement of assets and liabilities as required under Section 143 A of Kerala Municipality Act.

2. The petitioner's case in brief is as below,- The petitioner is a voter in ward No.21 of Pattambi Municipality and respondent is the elected Councillor of the said ward in the election held in November 2015. As per Section 143A of the Kerala Municipality Act the respondent has to submit a statement of his assets and liabilities of himself and of the members of his family within 30 months from the date of assuming his office, before the competent authority authorised in this behalf by the Government by notification. The competent authority notified for the Pattambi Municipality is the Regional Joint Director Urban Affairs, Kochi. The respondent assumed his office on 12.11.2015 and hence he was to file the statement of his assets and liabilities before the competent authority on or before 12.05.2015. But the respondent failed to file the statement of assets and liabilities before the competent authority within the statutory period. As the respondent failed to submit the statement of his assets and liabilities and to comply the requirements of Section 143A of the Kerala Municipality Act he incurred disqualification under Section 91(p) of the Act. The petitioner seeks a declaration to that effect.

3. The respondent filed counter statement contending as below,- The petition is not maintainable. The averments that the respondent did not submit the statement of his assets and liabilities within the prescribed time

is not correct. The respondent has filed the statement of his assets and liabilities before the Secretary Pattambi Municipality within the time to forward the same to the Regional Joint Director Urban Affairs, Kochi. This petition is filed with ulterior motives and to harass the respondent. There is no merit in the petition and it is only to be dismissed.

4 The evidence in this case consists of the oral testimonies of PW1 and RW1 and Exts.A1 and A2.

5. Both sides were heard.

6. The following points arise for consideration.

(1) Whether the petition is maintainable?

(2) Whether the respondent has filed the statement of his assets and liabilities as required under Section 143A of the Kerala Municipality Act as alleged?

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

(12) Reliefs and costs?

7. **POINT NO.1:** The respondent has contention that the above original petition is not maintainable. But except stating that the original petition is not maintainable there is nothing from the side of the respondent to show that the original petition is not maintainable. According to the petitioner he is a voter of ward No.21 of Pattambi Municipality and the respondent is the elected Councillor of that ward. To show that he is a voter in ward No.21 PW1 has produced Ext.A1 copy of voters list in



respect of ward No.21. Ext.A1 would show that he is a voter of ward No.21 and there is nothing to discard Ext.A1. As a voter the petitioner is entitled to file this petition. Contention of the petitioner is that the respondent failed to file the statement of his assets and liabilities within the prescribed time as required under Section 143A of the Act and hence he incurred disqualification under Section 91(p) of the Act. Contention of the respondent on the other hand is that he has filed statement of his assets and liabilities within the prescribed time of 30 months as required under Section 143A of the Act. As he filed the statement as required by law Section 91(p) is not attracted in this case, he further contends.

8. As per Section 91(p) of the Kerala Municipality Act if a Councillor fails to file the statement of his assets and liabilities within the prescribed time as required under Section 143A of the Act he would cease to be a Councillor. It may be noted that the above petition is filed under Section 92 of the Act. As per Section 92, whenever a question arises as to whether a Councillor has become disqualified under section 86 or section 91, except clause(II) after having been elected as such Councillor, any Councillor of a Municipality concerned or any other person entitled to vote at the election in which the Councillor was elected, can file a petition before the State Election Commission, for decision.

9. Ongoing through the contention of the parties it can be seen that a question arises as to whether the respondent incurred disqualification under

Section 91(p) of the Act. The petitioner is a voter of ward No.21. As a voter he is entitled to file this petition as per law. As this petition is filed by a competent person and a question arises as to whether the respondent has become subject to disqualification as provided under Section 91(p) of the Act this petition is held to be maintainable. Point is answered accordingly.

**10. POINT Nos.(2) to (4):** Respondent is an elected Councillor of Pattambi Municipality and he assumed the office of Councillor on 12.11.2015. Case of PW1, the petitioner is that the respondent failed to submit the statement of his assets and liabilities before the competent authority as required under Section 143A of the Kerala Municipality Act. As per Section 143A a Councillor has to file the statement of his assets and liabilities within 30 months from the date of assuming his office. He assumed his office on 12.11.2015 and the 30 months time would then expire on 12.05.2018. But the respondent did not file the statement of his assets and liabilities before 12.05.2018. He filed the statement only on 13.06.2018 and Ext.A2 is the copy of the said statement filed on 13.06.2018. As the respondent failed to comply the requirements of Section 143A of the Act the respondent, it is stated, incurred disqualification under Section 91(p) of the Kerala Municipality Act and he ceased to be a Councilor of Pattambi Municipality.

11. The respondent is examined as RW1. According to him he filed the statement of his assets and liabilities in March 2018 within the prescribed time before the Secretary Pattambi Municipality to forward the same to the competent authority, the Regional Joint Director Urban Affairs, Kochi and hence Section 91(p) of the Act is not attracted in this case.

12. As per Section 91(p) a Councillor shall cease to hold his office if he has failed to file declaration of his assets and liabilities and also of his family members within the time prescribed under Section 143A of the Act.

Section 143A of the Act reads as below,-

**Councilors to declare assets,-** (1) A Councillor shall within thirty months (as amended now) from the date of assuming his office submit a statement of assets and liabilities of himself and of other members of his family in the prescribed form, before the competent authority as may be authorised by the Government by notification in this behalf:

Provided that a person who is a Councillor at the time when this Act comes into force, shall submit such a statement before the competent authority, before the date specified by the Government in this behalf.

(2) Where a Councillor after submitting a statement under subsection (1), acquires any further assets in his name or in the name of any other members of his family, or disposes of or mortgages any property specified in the statement, he shall submit a statement to that effect before

the competent authority within three months from the date of such acquisition or disposal or mortgage; as the case may be.

(3) A Councillor who makes a statement under sub-section(1) and sub-section (2) which is false or which he knows or believes to be false or does not believe to be true; shall be liable to be produced against that Councillor in accordance with law for giving such false declaration.

(4) Where a Councillor fails to submit the statement before the competent authority within the date specified under sub-section(1) and sub-section (2), action may be taken to disqualify him from continuing as a Councillor under Section 91.

Explanation 1,- For the purpose of this section “family” of a Councillor means wife or husband of the Councillor, and his parents and unmarried sisters and children depending on him

Explanation 2,- For the purpose of this section “asset” means all immovable properties and movable properties worth more than rupees ten thousand.

13. As stated above the respondent assumed of his office on 12.11.2015. As per Section 143A of the Act the respondent was to file his statement of assets and liabilities before the competent authority within 30 months from the date of assuming his office. The competent authority under the section for Pattambi Municipality is the Regional Joint Director

Urban Affairs, Kochi. The respondent did not file a statement of his assets and liabilities before the competent authority the Regional Joint Director Urban Affairs, Kochi. RW1 admitted the said fact when he was examined. According to him he submitted the statement of his assets and liabilities before the Secretary Pattambi Municipality and he handed over the same to Municipal Chairman. He has no case that the Secretary forwarded the same to the Regional Joint Director Urban Affairs, Kochi. Further, there is absolutely nothing from his side to show that he has filed the statement before the Secretary also. Regarding Ex.A2 his contention is that it is not the copy of the statement filed by him and he did not file any such statement before Regional Joint Director. At the same time RW1 admitted his signature in Ext.A2 and as per the official seal on it the said statement was received in the office of Regional Joint Director Urban Affairs, Kochi on 13.06.2018.

14. According to the learned counsel for the petitioner the respondent now conveniently disowns Ext.A2 to save his face as it would show that he has filed the statement only on 13.06.2018. The evidence and circumstances in this case would only lend support to the said contention. Anyway the respondent has no case that he has filed the statement of assets before the Regional Joint Director within the period prescribed.

15. Law mandates a Councillor to file a statement of his assets and liabilities and also of his family members before the competent authority within 30 months from the date of assuming his office. The Regional Joint Director, Kochi is the competent authority for Pattambi Municipality and there is no dispute over that. If the Councillor fails to file the statement of his assets and liabilities as required under Section 143A of the Act, undoubtedly he would incur disqualification under Section 91(p) of the Kerala Municipality Act. The respondent assumed his office of Councillor on 12.11.2015 and admittedly the last date for filing the statement of assets and liabilities was on 12.5.2018 after the amendment. There is nothing from the side of the respondent to show that he has filed the statement of assets and liabilities before the Regional Joint Director on or before 12.05.2018 as required under Section 143A of the Act. He has no case also that he has filed any statement before the Regional Joint Director. As the respondent failed to submit a statement of his assets and liabilities before the Regional Joint Director Urban Affairs, Kochi within the prescribed time as required under Section 143A of the Act I find that the respondent incurred disqualification under Section 91(p) of the Act and he ceased to be a Councillor of Pattambi Municipality. The case put forward by the petitioner against the respondent is clearly established. Points are answered accordingly.

In the result the petition is allowed and the respondent is declared as disqualified to continue as Councillor and that he ceased to hold the office of the Councillor of Pattambi Municipality as provided by Section 91(p) of Kerala Municipality Act.

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

Pronounced before the Commission on this the 12<sup>th</sup> day of March 2019

Sd/-  
V.BHASKARAN  
STATE ELECTION COMMISSIONER

**APPENDIX**

**Witness examined on the side of the petitioner**

PW1 : Shri.Jithesh

**Witness examined on the side of the Petitioner**

RW1 : Shri.Mohanasundaran.N

**Documents produced on the side of the petitioner**

A1 : Copy of the voters list in respect of ward No.21 of Pattambi Municipality

A2 : Copy of the statement of assets and liabilities filed by Shri.Mohanasundaran.N in Form A & B

Sd/-  
V.BHASKARAN  
STATE ELECTION COMMISSIONER

//True Copy//

BEFORE THE KERALA STATE ELECTION COMMISSION,  
THIRUVANANTHAPURAM

**PRESENT: SHRI.V.BHASKARAN, STATE ELECTION COMMISSIONER**

**Tuesday, the 12<sup>th</sup> day of March 2019**

**O.P.No.88/2018**

Petitioner : M.Azeez,  
Mundath House,  
Keezhayur,PattambiP.O.,  
Palakkad District – 679 303.

**(By Adv. E.Sulficker)**

Respondent : Geetha.P.,  
Kandappathodi,  
Keezhayur,PattambiP.O.,  
Palakkad District.

Councillor, Division No.14,  
Pattambi Municipality.

**(By Adv. KallambalamS.Sreekumar)**

This petition having come up for hearing on the 27<sup>th</sup> day of February 2019, in the presence of **Adv.E.Sulficker** for the petitioner and **Adv.KallambalamS.Sreekumar** for the respondent and having stood over for consideration to this day, the Commission passed the following ,-

**ORDER**

This is a petition filed under Sections 92 r/w 91(p) of the Kerala Municipality Act for a declaration that the respondent incurred disqualification under Section 91(p) of the Kerala Municipality Act and she



ceased to hold the office of the Councillor of Pattambi Municipality as she failed to file the statement of assets and liabilities as required under Section 143 A of Kerala Municipality Act.

2. The petitioner's case in brief is as below,- The petitioner is a voter in ward No.14 of Pattambi Municipality and respondent is the elected Councillor of the said ward in the election held in November 2015. As per Section 143A of the Kerala Municipality Act the respondent has to submit a statement of her assets and liabilities of herself and of the members of her family within 30 months from the date of assuming her office, before the competent authority authorised in this behalf by the Government by notification. The competent authority notified for the Pattambi Municipality is the Regional Joint Director Urban Affairs, Kochi. The respondent assumed her office on 12.11.2015 and hence she was to file the statement of her assets and liabilities before the competent authority on or before 12.05.2015. But the respondent failed to file the statement of assets and liabilities before the competent authority within the statutory period. As the respondent failed to submit the statement of her assets and liabilities and to comply the requirements of Section 143A of the Kerala Municipality Act she incurred disqualification under Section 91(p) of the Act. The petitioner seeks a declaration to that effect.

3. The respondent filed counter statement contending as below,- The petition is not maintainable. The averments that the respondent did not

submit the statement of her assets and liabilities within the prescribed time is not correct. The respondent has filed the statement of her assets and liabilities before the Secretary Pattambi Municipality within the time to forward the same to the Regional Joint Director Urban Affairs, Kochi. This petition is filed with ulterior motives and to harass the respondent. There is no merit in the petition and it is only to be dismissed.

4 The evidence in this case consists of the oral testimonies of PW1 and RW1 and Exts.A1 and A2.

5. Both sides were heard.

6. The following points arise for consideration.

(1) Whether the petition is maintainable?

(2) Whether the respondent has filed the statement of her assets and liabilities as required under Section 143A of the Kerala Municipality Act as alleged?

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

(14) Reliefs and costs?

7. **POINT NO.1:** The respondent has contention that the above original petition is not maintainable. But except stating that the original petition is not maintainable there is nothing from the side of the respondent to show that the original petition is not maintainable. According to the petitioner he is a voter of ward No.14 of Pattambi Municipality and the respondent is the elected Councillor of that ward. To show that he is a

voter in ward No.14 PW1 has produced Ext.A1 copy of voters list in respect of ward No.14. Ext.A1 would show that he is a voter of ward No.14 and there is nothing to discard Ext.A1. As a voter the petitioner is entitled to file this petition. Contention of the petitioner is that the respondent failed to file the statement of her assets and liabilities within the prescribed time as required under Section 143A of the Act and hence she incurred disqualification under Section 91(p) of the Act. Contention of the respondent on the other hand is that she has filed statement of her assets and liabilities within the prescribed time of 30 months as required under Section 143A of the Act. As she filed the statement as required by law Section 91(p) is not attracted in this case, she further contends.

8. As per Section 91(p) of the Kerala Municipality Act if a Councillor fails to file the statement of her assets and liabilities within the prescribed time as required under Section 143A of the Act she would cease to be a Councillor. It may be noted that the above petition is filed under Section 92 of the Act. As per Section 92, whenever a question arises as to whether a Councillor has become disqualified under section 86 or section 91, except clause(II) after having been elected as such Councillor, any Councillor of a Municipality concerned or any other person entitled to vote at the election in which the Councillor was elected, can file a petition before the State Election Commission, for decision.

9. Ongoing through the contention of the parties it can be seen that a question arises as to whether the respondent incurred disqualification under Section 91(p) of the Act. The petitioner is a voter of ward No.14. As a voter he is entitled to file this petition as per law. As this petition is filed by a competent person and a question arises as to whether the respondent has become subject to disqualification as provided under Section 91(p) of the Act this petition is held to be maintainable. Point is answered accordingly.

10. **POINT Nos.(2) to (4)**: Respondent is an elected Councillor of Pattambi Municipality and she assumed the office of Councillor on 12.11.2015. Case of PW1, the petitioner is that the respondent failed to submit the statement of her assets and liabilities before the competent authority as required under Section 143A of the Kerala Municipality Act. As per Section 143A a Councillor has to file the statement of her assets and liabilities within 30 months from the date of assuming her office. She assumed her office on 12.11.2015 and the 30 months time would then expire on 12.05.2018. But the respondent did not file the statement of her assets and liabilities before 12.05.2018. She filed the statement only on 13.06.2018 and Ext.A2 is the copy of the said statement filed on 13.06.2018. As the respondent failed to comply the requirements of Section 143A of the Act the respondent, it is stated, incurred

disqualification under Section 91(p) of the Kerala Municipality Act and she ceased to be a Councilor of Pattambi Municipality.

11. The respondent is examined as RW1. According to her she filed the statement of her assets and liabilities in March 2018 within the prescribed time before the Secretary Pattambi Municipality to forward the same to the competent authority, the Regional Joint Director Urban Affairs, Kochi and hence Section 91(p) of the Act is not attracted in this case.

12. As per Section 91(p) a Councillor shall cease to hold her office if she has failed to file declaration of her assets and liabilities and also of her family members within the time prescribed under Section 143A of the Act.

Section 143A of the Act reads as below,-

**Councilors to declare assets,-** (1) A Councillor shall within thirty months (as amended now) from the date of assuming his office submit a statement of assets and liabilities of himself and of other members of his family in the prescribed form, before the competent authority as may be authorised by the Government by notification in this behalf:

Provided that a person who is a Councillor at the time when this Act comes into force, shall submit such a statement before the competent authority, before the date specified by the Government in this behalf.

(2) Where a Councillor after submitting a statement under subsection (1), acquires any further assets in his name or in the name of any other members of his family, or disposes of or mortgages any property

specified in the statement, he shall submit a statement to that effect before the competent authority within three months from the date of such acquisition or disposal or mortgage; as the case may be.

(3) A Councillor who makes a statement under sub-section(1) and sub-section (2) which is false or which he knows or believes to be false or does not believe to be true; shall be liable to be produced against that Councillor in accordance with law for giving such false declaration.

(4) Where a Councillor fails to submit the statement before the competent authority within the date specified under sub-section(1) and sub-section (2), action may be taken to disqualify him from continuing as a Councillor under Section 91.

Explanation 1,- For the purpose of this section “family” of a Councillor means wife or husband of the Councillor, and his parents and unmarried sisters and children depending on him

Explanation 2,- For the purpose of this section “asset” means all immovable properties and movable properties worth more than rupees ten thousand.

13. As stated above the respondent assumed of her office on 12.11.2015. As per Section 143A of the Act the respondent was to file her statement of assets and liabilities before the competent authority within 30 months from the date of assuming her office. The competent authority under the section for Pattambi Municipality is the Regional Joint Director

Urban Affairs, Kochi. She did not file a statement of her assets and liabilities before the competent authority the Regional Joint Director Urban Affairs, Kochi. The respondent admitted the said fact when she was examined. According to her she submitted the statement of her assets and liabilities before the Secretary Pattambi Municipality and he handed over the same to Municipal Chairman. She has no case that the Secretary forwarded the same to the Regional Joint Director Urban Affairs, Kochi. Further, there is absolutely nothing from her side to show that she has filed the statement before the Secretary also. Regarding Ex.A2 her contention is that it is not the copy of the statement filed by her and she did not file any such statement before Regional Joint Director Urban Affairs, Kochi. At the same time RW1 admitted his signature in Ext.A2 and as per the official seal on it the said statement was received in the office of Regional Joint Director Urban Affairs, Kochi on 13.06.2018.

14. According to the learned counsel for the petitioner the respondent now conveniently disowns Ext.A2 to save her face as it would show that she has filed the statement only on 13.06.2018. The evidence and circumstances in this case would only lend support to the said contention. Anyway the respondent has no case that she has filed the statement of assets before the Regional Joint Director within the period prescribed.

15. Law mandates a Councillor to file a statement of her assets and liabilities and also of her family members before the competent authority within 30 months from the date of assuming her office. The Regional Joint Director, Kochi is the competent authority for Pattambi Municipality and there is no dispute over that. If the Councillor fails to file the statement of her assets and liabilities as required under Section 143A of the Act, undoubtedly she would incur disqualification under Section 91(p) of the Kerala Municipality Act. The respondent assumed her office of Councillor on 12.11.2015 and admittedly the last date for filing the statement of assets and liabilities was on 12.5.2018 after the amendment. There is nothing from the side of the respondent to show that she has filed the statement of assets before the Regional Joint Director on or before 12.05.2018 as required under Section 143A of the Act. She has no case also that she has filed any statement before the Regional Joint Director. As the respondent failed to submit a statement of her assets and liabilities before the Regional Joint Director Urban Affairs, Kochi within the prescribed time as required under Section 143A of the Act I find that the respondent hence incurred disqualification under Section 91(p) of the Act and she ceased to be a Councillor of Pattambi Municipality. The case put forward by the petitioner against the respondent is clearly established. Points are answered accordingly.



In the result the petition is allowed and the respondent is declared as disqualified to continue as Councillor and that she ceased to hold the office of the Councillor of Pattambi Municipality as provided by Section 91(p) of Kerala Municipality Act.

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

Pronounced before the Commission on this the 12<sup>th</sup> day of March 2019

Sd/-  
V.BHASKARAN  
**STATE ELECTION COMMISSIONER**

**APPENDIX**

**Witness examined on the side of the petitioner**

PW1 : Shri.Azeez.M

**Witness examined on the side of the Petitioner**

RW1 : Smt.Geetha.P

**Documents produced on the side of the petitioner**

A1 : Copy of the voters list in respect of ward No.14 of Pattambi Municipality

A2 : Copy of the statement of assets and liabilities filed by Smt.Geetha.P in Form A & B

Sd-  
V.BHASKARAN  
**STATE ELECTION COMMISSIONER**

//True Copy//

BEFORE THE KERALA STATE ELECTION COMMISSION,  
THIRUVANANTHAPURAM

**PRESENT: SHRI.V.BHASKARAN, STATE ELECTION COMMISSIONER**

**Tuesday, the 12<sup>th</sup> day of March 2019**

**O.P.No.89/2018**

Petitioner : M.K.Sundaran,  
Moorkkattu House,  
Vadakkumuri, Pattambi P.O.,  
Palakkad District – 679 303.

**(By Adv. E.Sulficker)**

Respondent : K.C.Gireesh,  
Lathamandiram,  
Vadakkumuri, Pattambi P.O.,  
Palakkad District – 679 303.

**(By Adv. KallambalamS.Sreekumar)**

This petition having come up for hearing on the 27<sup>th</sup> day of February 2019, in the presence of **Adv.E.Sulficker** for the petitioner and **Adv.KallambalamS.Sreekumar** for the respondent and having stood over for consideration to this day, the Commission passed the following ,-

**ORDER**

This is a petition filed under Sections 92 r/w 91(p) of the Kerala Municipality Act for a declaration that the respondent incurred disqualification under Section 91(p) of the Kerala Municipality Act and he ceased to hold the office of the Councillor of Pattambi Municipality as he

failed to file the statement of assets and liabilities as required under Section 143 A of Kerala Municipality Act.

2. The petitioner's case in brief is as below,- The petitioner is a voter in ward No.26 of Pattambi Municipality and respondent is the elected Councillor of the said ward in the election held in November 2015. As per Section 143A of the Kerala Municipality Act the respondent has to submit a statement of his assets and liabilities of himself and of the members of his family within 30 months from the date of assuming his office, before the competent authority authorised in this behalf by the Government by notification. The competent authority notified for the Pattambi Municipality is the Regional Joint Director Urban Affairs, Kochi. The respondent assumed his office on 12.11.2015 and hence he was to file the statement of his assets and liabilities before the competent authority on or before 12.05.2015. But the respondent failed to file the statement of assets and liabilities before the competent authority within the statutory period. As the respondent failed to submit the statement of his assets and liabilities and to comply the requirements of Section 143A of the Kerala Municipality Act he incurred disqualification under Section 91(p) of the Act. The petitioner seeks a declaration to that effect.

3. The respondent filed counter statement contending as below,- The petition is not maintainable. The averments that the respondent did not submit the statement of his assets and liabilities within the prescribed time

is not correct. The respondent has filed the statement of his assets and liabilities before the Secretary Pattambi Municipality within the time to forward the same to the Regional Joint Director Urban Affairs, Kochi. This petition is filed with ulterior motives and to harass the respondent. There is no merit in the petition and it is only to be dismissed.

4 The evidence in this case consists of the oral testimonies of PW1 and RW1 and Exts.A1 and A2.

5. Both sides were heard.

6. The following points arise for consideration.

(1) Whether the petition is maintainable?

(2) Whether the respondent has filed the statement of his assets and liabilities as required under Section 143A of the Kerala Municipality Act as alleged?

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

(16) Reliefs and costs?

7. **POINT NO.1:** The respondent has contention that the above original petition is not maintainable. But except stating that the original petition is not maintainable there is nothing from the side of the respondent to show that the original petition is not maintainable. According to the petitioner he is a voter of ward No.26 of Pattambi Municipality and the respondent is the elected Councillor of that ward. To show that he is a voter in ward No.26 PW1 has produced Ext.A1 copy of voters list in

respect of ward No.26. Ext.A1 would show that he is a voter of ward No.26 and there is nothing to discard Ext.A1. As a voter the petitioner is entitled to file this petition. Contention of the petitioner is that the respondent failed to file the statement of his assets and liabilities within the prescribed time as required under Section 143A of the Act and hence he incurred disqualification under Section 91(p) of the Act. Contention of the respondent on the other hand is that he has filed statement of his assets and liabilities within the prescribed time of 30 months as required under Section 143A of the Act. As he filed the statement as required by law Section 91(p) is not attracted in this case, he further contends.

8. As per Section 91(p) of the Kerala Municipality Act if a Councillor fails to file the statement of his assets and liabilities within the prescribed time as required under Section 143A of the Act he would cease to be a Councillor. It may be noted that the above petition is filed under Section 92 of the Act. As per Section 92, whenever a question arises as to whether a Councillor has become disqualified under section 86 or section 91, except clause(ii) after having been elected as such Councillor, any Councillor of a Municipality concerned or any other person entitled to vote at the election in which the Councillor was elected, can file a petition before the State Election Commission, for decision.

9. Ongoing through the contention of the parties it can be seen that a question arises as to whether the respondent incurred disqualification under

Section 91(p) of the Act. The petitioner is a voter of ward No.26. As a voter he is entitled to file this petition as per law. As this petition is filed by a competent person and a question arises as to whether the respondent has become subject to disqualification as provided under Section 91(p) of the Act this petition is held to be maintainable. Point is answered accordingly.

**10. POINT Nos.(2) to (4):** Respondent is an elected Councillor of Pattambi Municipality and he assumed the office of Councillor on 12.11.2015. Case of PW1, the petitioner is that the respondent failed to submit the statement of his assets and liabilities before the competent authority as required under Section 143A of the Kerala Municipality Act. As per Section 143A a Councillor has to file the statement of his assets and liabilities within 30 months from the date of assuming his office. He assumed his office on 12.11.2015 and the 30 months time would then expire on 12.05.2018. But the respondent did not file the statement of his assets and liabilities before 12.05.2018. He filed the statement only on 13.06.2018 and Ext.A2 is the copy of the said statement filed on 13.06.2018. As the respondent failed to comply the requirements of Section 143A of the Act the respondent, it is stated, incurred disqualification under Section 91(p) of the Kerala Municipality Act and he ceased to be a Councilor of Pattambi Municipality.

11. The respondent is examined as RW1. According to him he filed the statement of his assets and liabilities in March 2018 within the prescribed time before the Secretary Pattambi Municipality to forward the same to the competent authority, the Regional Joint Director Urban Affairs, Kochi and hence Section 91(p) of the Act is not attracted in this case.

12. As per Section 91(p) a Councillor shall cease to hold his office if he has failed to file declaration of his assets and liabilities and also of his family members within the time prescribed under Section 143A of the Act.

Section 143A of the Act reads as below,-

**Councilors to declare assets,-** (1) A Councillor shall within thirty months (as amended now) from the date of assuming his office submit a statement of assets and liabilities of himself and of other members of his family in the prescribed form, before the competent authority as may be authorised by the Government by notification in this behalf:

Provided that a person who is a Councillor at the time when this Act comes into force, shall submit such a statement before the competent authority, before the date specified by the Government in this behalf.

(2) Where a Councillor after submitting a statement under subsection (1), acquires any further assets in his name or in the name of any other members of his family, or disposes of or mortgages any property specified in the statement, he shall submit a statement to that effect before

the competent authority within three months from the date of such acquisition or disposal or mortgage; as the case may be.

(3) A Councillor who makes a statement under sub-section(1) and sub-section (2) which is false or which he knows or believes to be false or does not believe to be true; shall be liable to be produced against that Councillor in accordance with law for giving such false declaration.

(4) Where a Councillor fails to submit the statement before the competent authority within the date specified under sub-section(1) and sub-section (2), action may be taken to disqualify him from continuing as a Councillor under Section 91.

Explanation 1,- For the purpose of this section “family” of a Councillor means wife or husband of the Councillor, and his parents and unmarried sisters and children depending on him

Explanation 2,- For the purpose of this section “asset” means all immovable properties and movable properties worth more than rupees ten thousand.

13. As stated above the respondent assumed of his office on 12.11.2015. As per Section 143A of the Act the respondent was to file his statement of assets and liabilities before the competent authority within 30 months from the date of assuming his office. The competent authority under the section for Pattambi Municipality is the Regional Joint Director Urban Affairs, Kochi. The respondent did not file a statement of his assets and liabilities



before the competent authority the Regional Joint Director. RW1 admitted the said fact when he was examined. According to him he submitted the statement of his assets and liabilities before the Secretary Pattambi Municipality and he handed over the same to Municipal Chairman. He has no case that the Secretary forwarded the same to the Regional Joint Director Urban Affairs, Kochi. Further, there is absolutely nothing from his side to show that he has filed the statement before the Secretary also. Regarding Ex.A2 his contention is that it is not the copy of the statement filed by him and he did not file any such statement before Regional Joint Director. At the same time RW1 admitted his signature in Ext.A2 and as per the official seal on it the said statement was received in the office of Regional Joint Director Urban Affairs, Kochi on 13.06.2018.

14. According to the learned counsel for the petitioner the respondent now conveniently disowns Ext.A2 to save his face as it would show that he has filed the statement only on 13.06.2018. The evidence and circumstances in this case would only lend support to the said contention. Anyway the respondent has no case that he has filed the statement of assets before the Regional Joint Director within the period prescribed.

15. Law mandates a Councillor to file a statement of his assets and liabilities and also of his family members before the competent authority within 30 months from the date of assuming his office. The Regional Joint Director is the competent authority for Pattambi Municipality and there is

no dispute over that. If the Councillor fails to file the statement of his assets and liabilities as required under Section 143A of the Act, undoubtedly he would incur disqualification under Section 91(p) of the Kerala Municipality Act. The respondent assumed his office of Councillor on 12.11.2015 and admittedly the last date for filing the statement of assets and liabilities was on 12.5.2018 after the amendment. There is nothing from the side of the respondent to show that he has filed the statement of assets before the Regional Joint Director on or before 12.05.2018 as required under Section 143A of the Act. He has no case that he has filed any statement before the Regional Joint Director. As the respondent failed to submit a statement of his assets and liabilities before the Regional Joint Director Urban Affairs, Kochi within the prescribed time as required under Section 143A of the Act I find that the respondent hence incurred disqualification under Section 91(p) of the Act and he ceased to be a Councillor of Pattambi Municipality. The case put forward by the petitioner against the respondent is clearly established. Points are answered accordingly.

In the result the petition is allowed and the respondent is declared as disqualified to continue as Councillor and that he ceased to hold the office of the Councillor of Pattambi Municipality as provided by Section 91(p) of Kerala Municipality Act.

One Krishnaveni also filed a similar petition before the Commission against the respondent as O.P.90/2018 and the said original petition is also being disposed of this day. The effect of the order in both the original petitions is one and the same.

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

Pronounced before the Commission on this the 12<sup>th</sup> day of March 2019

Sd/-  
V.BHASKARAN  
STATE ELECTION COMMISSIONER

**APPENDIX**

**Witness examined on the side of the petitioner**

PW1 : Shri.M.K.Sundaran

**Witness examined on the side of the Petitioner**

RW1 : Shri.K.C,Gireesh

**Documents produced on the side of the petitioner**

A1 : Copy of the voters list in respect of ward No.26 of Pattambi Municipality

A2 : Copy of the statement of assets and liabilities filed by Shri.K.C.Gireesh in Form A & B

Sd/-  
V.BHASKARAN  
STATE ELECTION COMMISSIONER

//True Copy//

BEFORE THE KERALA STATE ELECTION COMMISSION,  
THIRUVANANTHAPURAM

PRESENT: SHRI.V.BHASKARAN, STATE ELECTION COMMISSIONER

Tuesday, the 12<sup>th</sup> day of March 2019

**O.P.Nos.90/2018 AND 91/2018**

**O.P.No.90/2018**

Petitioner : A.P.Krishnaveni,  
W/o Unnikrishnan,  
Achathu Palliyalil House, Amayur. P.O.,  
Palakkad District – 679 303.  
Councillor, Division No.2.  
Pattambi Municipality.

**(By Adv. Geetha Nair.S)**

Respondent : K.C.Gireesh,  
Lathamandiram,  
  
Vadakkumuri, Pattambi P.O.,  
Palakkad District – 679 303.  
Councillor, Division No.26,  
Pattambi Municipality

**(By Adv. Kallambalam S.Sreekumar)**

**O.P.No.91/2018**

Petitioner : A.P.Krishnaveni,  
W/o Unnikrishnan,  
Achathu Palliyalil House, Amayur. P.O.,  
Palakkad District – 679 303.  
Councillor, Division No.2.  
Pattambi Municipality.

**(By Adv. Geetha Nair.S)**

Respondent : Leela.M.V.,

W/o Sooryan,  
Kuzhiparambil House, Kadaloor,  
Melepattambi P.O.,  
Palakkad District – 679 306.  
Councillor, Division No.09,  
Pattambi Municipality

**(By Adv. Kallambalam S.Sreekumar)**

These petitions having come up for hearing on the 27<sup>th</sup> day of February 2019, in the presence of **Adv.Geetha S.Nair**for the petitioner and **Adv.Kallambalam S.Sreekumar** 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 Sections 92 r/w 91(p) of the Kerala Municipality Act for a declaration that the respective respondents have incurred disqualification under Section 91(p) of the Kerala Municipality Act and they ceased to hold the office of the Councillors of Pattambi Municipality as they failed to file the statement of assets and liabilities as required under Section 143 A of Kerala Municipality Act.

2. As the questions of law and facts involved in both the petitions are common, they were tried together treating O.P.No.90/2018 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,- Petitioner and respondents are elected Councillors of Pattambi Municipality in the election held in November 2015. As per Section 143A

of the Kerala Municipality Act a Councillor shall file a statement of assets and liabilities of himself and of other members his family within 30 months(as amended now) from the date of assuming his office, before the competent authority authorised in this behalf by the Government by notification. If he fails to file such a statement before the competent authority action can be taken to disqualify him from continuing as members of the Municipality under Section 91(p) of the Act. Section 91(p) of the Act provides that if a Councillor has failed to file declaration of his assets and liabilities within the prescribed time limit under Section 143A he shall cease to hold the office as such. The competent authority under Section 143A of the Act of the Pattambi Municipality is the Regional Joint Director, Urban Affairs, Kochi. The respondents assumed the office of Councillors of Municipality on 12.11.2015 and in view of Section 143A of the Act the Respondents ought to have filed the statements of their assets and liabilities on or before 12.05.2018. But they did not file the statements of their assets and liabilities as required by law and they ceased to hold the office as per Section 91(p) of the Act. As the respondents failed to submit the statement of their assets and liabilities and to comply the requirements of Section 143A of the Kerala Municipality Act they have incurred disqualification under Section 91(p) of the Act. The petitioner seeks a declaration to that effect.

4. The respondents filed separate counter statement raising common contentions which in brief are as below,- Both the petitions are not maintainable. The averments that the respondents did not submit the statements of their assets and liabilities before the competent authority within the prescribed time are not correct. The respondents had filed the statements of their assets and liabilities before the Secretary Pattambi Municipality within the time to forward the same to the Regional Joint Director Urban Affairs, Kochi. These petitions are filed with ulterior motives and to harass the respondents. There is no merit in the petitions and they are only to be dismissed.

5. The evidence in the cases consists of the oral testimonies of PW1, RW1 and RW2 and Ext.A1.

6. Both sides were heard.

7. The following points arise for consideration.

- (1) Whether the petitions are maintainable?
- (2) Whether the respondents have filed the statement of their assets and liabilities as required under Section 143A of the Kerala Municipality Act as alleged?
- (17) Whether the petitioner is entitled to the declaration prayed for?
- (18) Reliefs and costs?

8. **POINT NO.1**: The respondents have contention that the above original petitions are not maintainable. But except stating that the original

petitions are not maintainable there is nothing from the side of the respondents to show that the original petitions are not maintainable. The petitioner and respondents are elected Councillors of Pattambi Municipality. According to the petitioner the respondents failed to submit the statements of their assets and liabilities before the competent authority within the prescribed time as required under Section 143A of the Act and hence they incurred disqualification under Section 91(p) of the Act. Contention of the respondents on the other hand is that they have filed statements of their assets and liabilities within the prescribed time of 30 months as required under Section 143A of the Act. As they filed the statements as required by law Section 91(p) is not attracted in this case, they further contend.

9. It may be noted that the original petitions are filed under Section 92 of the Act. As per Section 92, whenever a question arises as to whether a Councillor has become disqualified under section 86 or section 91, except clause (II) after having been elected as such Councillor, any Councillor of a Municipality concerned or any other person entitled to vote at the election in which the Councillor was elected, can file a petition before the State Election Commission, for decision.

10. Ongoing through the contentions of the parties it can be seen that a question arises as to whether the respondents incurred disqualification under Section 91(p) of the Act. The petitioner is a Councillor of Pattambi



Municipality in which the respondents are also Councillors. The petitioner being a Councillor of the local authority is entitled to file the petitions as per law. As both the petitions are filed by a competent person and a question arises as to whether the respondents have become subject to disqualification as provided under Section 91(p) of the Act both petitions are held to be maintainable. Point is answered accordingly.

**11. POINT Nos.(2) to (4):** Respondents are elected Councillors of Pattambi Municipality and they assumed the office of Councillors on 12.11.2015. Case of PW1, the petitioner is that the respondents failed to submit the statements of their assets and liabilities before the competent authority as required under Section 143A of the Kerala Municipality Act. As per Section 143A a Councillor has to file the statement of his assets and liabilities within 30 months from the date of assuming his office. The respondents as noted above assumed the office on 12.11.2015 and the 30 months time would then expire on 12.05.2018. But the respondents did not file the statements of their assets and liabilities before 12.05.2018. Ext.A1 document would show the said fact. The petitioner got the details of the Councillors who failed to submit the statement of their assets and liabilities by applying before the Regional Joint Director, Kochi through her friend Shri.Anil Kumar under the RTI Act and Ext.A1 is the reply received from the office of the Regional Joint Director. The details of the Councillors who did not file the statements of their assets and liabilities are shown in

Ext.A1. The respondent in O.P.90/2018 is serial No.22 in Ext.A1 and the respondent in O.P.91/2018 is serial No.9 therein.

12. The respondent in O.P.90/2018 is examined as RW1 and the respondent in O.P.91/2018 as RW2. According to RWs1 and 2 they filed the statements of their assets and liabilities before the Secretary, Pattambi Municipality on 02.03.2018 and as they filed the statement within the prescribed time Section 91(p) is not attracted in the above original Petitions.

13. As per Section 91(p) a Councillor shall cease to hold his office if he has failed to file declaration of his assets and liabilities and also of his family members within the time prescribed under Section 143A of the Act.

Section 143A of the Act reads as below,-

**Councillors to declare assets,-** (1) A Councillor shall within thirty months (as amended now) from the date of assuming his office submit a statement of assets and liabilities of himself and of other members of his family in the prescribed form, before the competent authority as may be authorised by the Government by notification in this behalf:

Provided that a person who is a Councillor at the time when this Act comes into force, shall submit such a statement before the competent authority, before the date specified by the Government in this behalf.

(2) Where a Councillor after submitting a statement under subsection (1), acquires any further assets in his name or in the name of any

other members of his family, or disposes of or mortgages any property specified in the statement, he shall submit a statement to that effect before the competent authority within three months from the date of such acquisition or disposal or mortgage; as the case may be.

(3) A Councillor who makes a statement under sub-section(1) and sub-section (2) which is false or which he knows or believes to be false or does not believe to be true; shall be liable to be produced against that Councillor in accordance with law for giving such false declaration.

(4) Where a Councillor fails to submit the statement before the competent authority within the date specified under sub-section(1) and sub-section (2), action may be taken to disqualify him from continuing as a Councillor under Section 91.

Explanation 1,- For the purpose of this section “family” of a Councillor means wife or husband of the Councillor, and his parents and unmarried sisters and children depending on him

Explanation 2,- For the purpose of this section “asset” means all immovable properties and movable properties worth more than rupees ten thousand.

14. It is a fact that the respondents have not submitted statements of their assets and liabilities before the competent authority Regional Joint Director. Even as per their contentions they filed the statements only before the Secretary Pattambi Municipality. Admittedly he is not the

competent authority. At the time of evidence RWs 1 and 2 have a case that they have filed statement of their assets and liabilities before the Secretary on 02.03.2018. But no such date we find in their counter statement. Further, there is absolutely nothing from the side of the respondents to show that they have filed the statements even before the Secretary Pattambi Municipality.

15. Law mandates a Councillor to file a statement of his assets and liabilities and also of his family members before the competent authority within 30 months from the date of assuming his office. The Regional Joint Director Kochi is the competent authority for Pattambi Municipality and there is no dispute over that. If the Councillor fails to file the statement of assets and liabilities as required under Section 143A of the Act, undoubtedly he would incur disqualification under Section 91(p) of the Kerala Municipality Act. The respondents assumed their office of Councillors on 12.11.2015 and admittedly the last date for filing the statement of assets and liabilities was on 12.05.2018 after the amendment. There is nothing from the side of the respondents to show that they filed statement of assets before the Regional Joint Director on or before 12.05.2018 as required under Section 143A of the Act. The respondents have no case also that they have filed any statement before the RJD. As the respondents failed to submit the declarations/statements of assets and

liabilities as required by law I find that the respondents incurred disqualification under Section 91(p) of the Act and they ceased to be the Councillors of Pattambi Municipality. The petitioner has clearly established the case put forward against the respondents. Points are answered accordingly.

In the result both the petitions are allowed and the respondents are declared as disqualified to continue as Councillors and that they ceased to hold the office of the Councillors of Pattambi Municipality as provided by Section 91(p) of Kerala Municipality Act.

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

Pronounced before the Commission on this the 12<sup>th</sup> day of March 2019

Sd/-  
V.BHASKARAN  
STATE ELECTION COMMISSIONER

**APPENDIX**

**Witness examined on the side of the petitioner**

PW1 : Smt.Krishnaveni A.P.

**Witness examined on the side of the Petitioner**

RW1 : Shri.K.C,Gireesh

RW2 : Smt.Leela.M.V

**Documents produced on the side of the petitioner**

A1 : Reply received from the office of the Regional Joint

Director Urban Affairs, Kochi by the petitioner  
Shri.C.Anil Kumar dated 23.10.2018 under the RTI

Act

Sd/-  
V.BHASKARAN  
**STATE ELECTION COMMISSIONER**

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