

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

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

**Tuesday the 30<sup>th</sup> day of June, 2015**

**RC. No.1/2015**

Petitioner : Secretary,  
Mundathikodu Grama Panchayat,  
Thrissur District.

Respondent : K.T.Joy,  
Kunalil House, Puduruthy P.O.,  
Thrissur District. PIN-680 623.

**(By Adv.K.Vinod)**

This case having been heard on 5<sup>th</sup> May 2015, in the presence of the Secretary and Adv.K.Vinod for the respondent and having stood over for consideration to this day, the Commission passed the following,-

**ORDER**

This reference case is taken on the basis of the letter sent by the Secretary, Mundathikode Grama Panchayat stating that Sri.K.T.Joy the elected member from ward No.3 of this Panchayat submitted resignation letter and subsequently he has filed an application on 29/01.2015 for

withdrawing the resignation letter and the Secretary has forwarded both letters for the purpose of further action.

2. The member who is stated to have resigned has been arrayed as respondent and he has filed an objection stating that there were some issues in his party and due to the intervention of some party leaders some blank papers and official letter heads were forcibly obtained from him and someone has forged the above mentioned letter and made it as his resignation letter and the same was sent to the Secretary of the Panchayat by registered post and when he came to know of this illegal act, he filed a petition before the Secretary to withdraw the said letter and also requested not to take any further action on the fabricated resignation letter and the so called resignation letter in the letterhead of respondent is unsustainable in law and prays for allowing him to continue as a member.

3. The evidence consists of the oral depositions of PW1 and RW1 and Exts.C1 and C2.

4. Both sides were heard.

5. Point for consideration is.

Whether the resignation letter said to have been sent by the respondent is legally sustainable?

6. **THE POINT:** The Secretary of the Mundathikode Grama Panchayat would state that she received the resignation letter by registered post and subsequently another letter of the said member for permitting him

to withdraw the resignation letter also has been received by him and so she has forwarded both letters to this Commission for taking further action. The above letters are marked as Exts.C1 and C2. The Secretary has been examined as PW1. She has deposed that on 29.01.2015 at 12.30 pm she received the registered letter through front office stating that Sri.K.T.Joy the member of the Panchayat has resigned his membership and letter was received after attestation by a Gazetted Officer and another letter was received without any signature and it was forwarded to this Commission. In cross-examination she has stated that at 5pm on the same date, the respondent came to her office and filed a petition stating that he was withdrawing the resignation letter. The respondent as RW1 has deposed in terms of his objection. He as answer to a question by Commission stated that the resignation letter stated to have been sent by him was not written by him.

7. Section 155(3) of the Kerala Panchayat Raj Act states that if any dispute arises regarding any resignation of President, Vice President or member, it shall be referred to the State Election Commission for decision and its decision thereon shall be final. It is also provided that such a reference is to be made within 15 days from the date on which resignation takes effect. Section 155(1) of the Act is relevant in this context and it reads as follows:-

*“155.Resignation of President, Vice-President or members,- (1) The President or Vice President or any other member of a Panchayat may resign his office by tendering his resignation in the prescribed form to the Secretary and the resignation shall take effect from the date on which it is received by the Secretary and the Secretary shall immediately report the fact to the Panchayat and the State Election Commission.”*

8. So as per the above provision the resignation letter is to be submitted in the prescribed form to the Secretary. As per sub-section 2 of Section 155 such resignation letter should be submitted either in person or by registered post and if it is sent by registered post it has to be attested by a Gazetted Officer. The form prescribed for resignation is shown in the appendix of Kerala Panchayat Raj (Resignation of President, Vice President and Members) Rules. On a perusal of Ext.C1 it is found that the letter allegedly sent by the member is in his letter pad. Moreover the said letter does not specify that he is voluntarily resigning from the membership of the Panchayat. So the letter received by the Secretary as the resignation of the respondent does not satisfy the requirements of Section 155(1) and (2) of the Act and it is not in the format prescribed under the appendix of the Panchayat Raj (Resignation of President, Vice President and Members) Rules. On a reading of Ext.C1 letter itself, it is found that his resignation is

not voluntary. Therefore it cannot be said that the respondent has resigned from the membership of the Panchayat as provided by law. Moreover there is some apprehension in having received such a resignation letter by registered post. Admittedly the respondent has filed another letter before the Secretary stating that he is withdrawing the resignation. So he was very much available there and if he wanted to resign from the membership of the Panchayat, he would have submitted the resignation in person as provided by law. So there is force in the contention of the respondent that the said letter was not sent by him. Therefore I find that the respondent has not resigned from the membership of the Panchayat. The point is answered accordingly.

In the result, the reference is answered declaring that the respondent has not resigned from the membership of the Mundathikode Grama Panchayat and he is fully entitled to continue as a member of the Panchayat. No costs.

Pronounced before the Commission on this the 30<sup>th</sup> day of June 2015

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

**APPENDIX****Witness examined of the side of the petitioner**

PW1 : Smt.Jessy M.Y,  
Secretary, Mundathikode Grama Panchayat

**Witness examined on the side of the respondent**

RW1 : Sri.Thomas, Kunjalil Veedu.

**Documents marked on the side of the Commission**

C1 : Copy of letter dated 28/01/2015 give by  
Sri.K.T.Joy, Member to the Secretary,  
Mundathicode Grama Panchayat.

C2 : Representation submitted by Sri.K.T.Joy,  
Dated 29.01.2015 before the Secretary,  
Mundathikode Grama Panchayt

Sd/-

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