

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

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

Saturday, the 15th day of March 2014

O.P.No.01/2014

Petitioner : M.C.Aneesh Kumar,
Mundakkali Malayil, Iruvellipra,
Thirumoolapuram P.O., Thiruvalla.

(By Adv.B.Vasudevan Nair)

Respondent : Aruna Chellappan,
D/o Chellappan, Thuruthumallapra Veedu,
Thiruvananthapuram.

(By Advocate C.Rajeshkumar)

This petition having come up for hearing on the 14th day of March 2014, in the presence of Advocates **B.Vasudevan Nair** for the petitioner and Advocate **C.Rajeshkumar** for the respondent and having stood over for consideration to this day, the Commission passed the following,

ORDER

Petition for declaring that the respondent has become subject to disqualification for being a member of Thiruvalla Municipality under Section 91(1)(aa) of the Kerala Municipality Act.

2. The short facts are as follows:- The petitioner is a voter of ward No.17 of Thiruvalla Municipality and the respondent is the elected Councilor of this ward. The respondent contested the election as a reservation candidate belonging to Hindu Pulaya Community from ward No.17 which is reserved for scheduled caste community. While so the respondent was married to Sri. Sony John, who belongs to Christian Cheramar Community on 07.05.2012 at St.Johns CSI Church at Othara, in Thiruvalla Taluk. The respondent being a member elected from the reservation ward was bound to continue as a member of that community during the entire period of her tenure. But the respondent, before her marriage converted from her community to Christian Cheramar, a non reservation community through Baptism on 09.04.2012 at St.James CSI Church, West Prayer of Kuttoor Pastorate and obtained a baptism certificate. The acts and conduct of the respondent amounts to disqualification by way of converting her religion and caste, to another religion and caste which is not a Schedule Caste. So the

respondent is not entitled to continue as a member of Thiruvalla Municipality and hence this petition.

3. On issuing summons the respondent entered appearance and in spite of repeated adjournments she did not file objection and so she was set exparte on 26.02.2014. Even thereafter the respondent did not file any application to set aside the exparte order. On 11.03.2014 the petitioner filed affidavit and produced documents which are marked as Exts.P1 to P8 and the petitioner has been heard.

4. Ext.P1 is the voters list of Ward No.17 of Thiruvalla Municipality and the petitioner is shown as serial No.233 of part –I of this ward. Ext.P4 is the copy of the S.S.L.C in respect of the respondent which reveals that the respondent was belonging to Hindu Pulaya Community which is a reservation Community. Ward No.17 is a reservation ward and as the respondent was belonging to a reserved community, she has been elected as a member of that ward. Subsequently the respondent has converted to Christian religion and Ext.P3 is the baptism Certificate issued by the Diocese of Madhya Kerala from the Church of South India. As per Ext.P3 it is further found that the respondent has been converted to Christian Religion on 09.04.2012. Thereafter she was married to Sri. Sony John who belongs to Christian Community as seen from Ext.P2 certificate of marriage solemnized at St.John's CSI Church, Othara and the copy of the registration certificate issued form the Panchayat is marked as

Ext.P6. The fact that the respondent is now belonging to Christian religion and non-reservation community is clearly proved from Exts.P2, P3 and P5 to P8.

5. The petition is filed under Section 91(1)(aa) r/w 92 of the Kerala Municipality Act. Section 91(1)(aa) states that a Councillor shall cease to hold office as such if he has been proved under the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of issue of Community Certificates Act, or under any other law for the time being in force that he does not belong to Scheduled castes or Scheduled Tribe, as the case may be, and declared as such in the case of a member elected to an office reserved for Scheduled castes or Scheduled Tribes. As per Section 92 of the Act, whenever a question arises as to whether a Councillor has become disqualified under Section 91, after having been elected as a 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 Commission, for decision. It is as per the above provision that this petition has been filed for declaring that the respondent has ceased to hold office as a Councillor for having converted her religion and caste to a non reserved religion and caste. From the facts and evidence it is clearly found that the respondent has converted in to Christian religion which is not a reserved community and so the respondent is not entitled to continue as a Councillor of Thiruvalla Municipality.

In the result, the petition is allowed and the respondent is declared as disqualified to hold office as a Councillor of the Thiruvalla Municipality as provided by Section 91(1)(aa) read with Section 92 of the Kerala Municipality Act.

The parties shall bear their respective costs.

Pronounced before the Commission on this the 15th day of March 2014

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

Documents produced on the side of the petitioner

- P1 : Voters list of Ward No.17 of Thiruvalla Municipality
- P2 : True copy of the Marriage Certificate issued by CSI Diocese of Madhya Kerala dated 10.06.2012
- P3 : True Copy of Certificate of Baptism, issued by CSI, Diocese of Madhya Kerala
- P4 : True copy of SSLC of Smt.Aruna Chellappan
- P5 : True copy of SSLC of Sri.Sony John
- P6 : True copy of the application in Form No.I to Registering Marriage of Sri.Sony John and Aruna Chellappan
- P7 : True copy of the letter No.A3.2015/12 dated 23.06.2012 of the Secretary, Eraviperoor Grama Panchayat

P8 : True copy of the Marriage Certificate issued by the
Secretary, Eraviperoor Grama Panchayat

K.SASIDHARAN NAIR,
STATE ELECTION COMMISSIONER