

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

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

**Tuesday, the 18<sup>th</sup> day of October 2016**

**O.P.Nos.100/2014 & 101/2014**

**O.P.No.100/2014**

Petitioner : Saju George,  
S/o George, Kongolayil House,  
Arakulam P.O., Arakulamkara,  
Arakulam Village, Thoudupuzha  
Taluk, Idukki District.

**(By Advs. Jose Mathew & S. Ajith Kumar)**

Respondent : Lalitha Jayarajan,  
W/o Jayarajan, Thaiparambil House,  
Arakulam P.O., Arakulam Kara,  
Asoka Junction, Arakulam Village,  
Thodupuzha Taluk.

**(By Advs. M. Hashim Babu & Sajitha S.)**

**O.P.No.101/2014**

Petitioner : Usha Gopinath,  
W/o Gopinathan Nair,  
Vallithekkedathu House,  
Moolamattom P.O., Moolamattom  
kara, Arakulam Village,  
Thoudupuzha Taluk, Idukki District.

**(By Advs. Jose Mathew & S. Ajith Kumar)**

Respondent : BrijitCyriac,  
W/o Kuriachan @ Cyriac,  
Thekkumkattil  
House, Kavumpadibhagam  
Arakulam P.O., Arakulam Kara,  
Arakulam Village,  
Thodupuzha Taluk.

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

These petitions having come up for hearing on the 30<sup>th</sup> day of September 2016, in the presence of Advs. **Jose Mathew&AjithKumar.S** for the petitioner and Advs. **M.HashimBabu&Sajitha.S** for the respondents and having stood over for consideration to this day, the Commission passed the following.

### **COMMON ORDER**

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

2. As the questions of law and facts involved in both petitions are common, they were taken up together treating O.P.No.101/2014 as the main case.

3. Common case of the petitioners in both the petitions in brief is as below:- The petitioners and respondents were elected members of Arakkulam Grama Panchayat in Idukki District in the election held in October 2010. The petitioner in O.P.No.100/2014 was elected from ward No.3 and petitioner in O.P.No.101/2014 was elected from ward No.13 of Arakkulam Grama Panchayat. Both of them were elected as candidates of Indian National Congress. The respondent in O.P.No.100/2014 was elected from ward No.12 and the respondent in O.P.No.101/2014 was elected from ward No.1 and both of them were also elected as candidates of Indian National Congress. The Kerala Congress (M) and Indian National Congress are constituent of United Democratic Front coalition. There are 15 wards in Arakkulam Grama Panchayat and out of which the Congress led UDF got 9 seats. LDF secured four including one independent supported by LDF. One seat was won by BJP and the remaining one seat was won by an independent. As the Congress led UDF got majority they decided to form the Panchayat board and the petitioner in O.P.No.101/2014 Smt. Usha Gopinath was elected as the President of the Panchayat. Later, on 14.07.2014 Smt.UshaGopinath resigned from the Presidentship due to personal reasons and thereafter the election of the new President was scheduled to be held on 05.08.2014. On 04.08.2014 at about 11 am a meeting of the parliamentary party of Indian National Congress was convened in the presence of the Idukki DCC President and the President of

ArakkulamMandalamCongress Committee.In the meeting it was decided to nominate Smt.Elsamma Thomas as the President candidate. Accordingly the DCC President issued whips directing all the elected Indian National Congress members to vote in favour of the Congress nominee Smt.Elsamma Thomas. Six elected members of the Indian National Congress attended the parliamentary party meeting. The respondents and another member did not accept the whips tendered from there and hence whips were affixed on the doors of their respective houses. The respondents disobeyed and violated the direction and decision of the party. Further, the respondent in O.P.No.101/2014Smt.BrijithCyriac herself contested for the presidentship against the official candidate of Indian National Congress and was elected as the President with the support of the four rival Left Democratic Front members. The respondent in O.P.No.100/2014 also supported Smt.BrijitCyriac.The respondents deliberately voted against the candidate nominated by their own party and they abandoned their party. The respondents in O.P.No.101/2014 Smt.BrijitCyriac contested the election against the official candidate of the Indian National Congress with the support of the rival Left Democratic Front. Respondent in O.P.No.100/2014 Smt.LalithaJayarajan supported Smt.BrijitCyriac violating the direction of the party. Contesting the election against the party direction and voting against the candidate of Indian National Congress and defeating are glaring examples of their anti-parties activities. The respondents committed

defection and hence they are disqualified to be the members of Arakkulam Grama Panchayat. The acts and conduct of the respondents amounts to voluntarily giving up their membership of their political party and thereby they are disqualified to contest the election for a period of six years. Hence these petitions.

4. The respondents filed statement of objections raising common contentions which in brief are as below,-There is no violation of provisions of the Kerala Local Authorities (Prohibition of Defection) Act. There was no whip as alleged. As the UDF got majority in Arakkulam Grama Panchayat it decided to form the Panchayat board. The Presidentship of the Panchayat was allotted to the Indian National Congress and Vice Presidentship to the Kerala Congress (M) in the UDF. In the parliamentary party meeting held on 01.11.2010 there was specific understanding to share the post of the President in two equal terms between the petitioner Smt.UshaGopinath and the respondent Smt.BrijithCyriac. Accordingly Smt.UshaGopinath was elected as the President for a term of 2 ½ years w.e.f 08.11.2010 and she agreed to resign on completion of 2 ½ years. But she did not resign even after her term. When leaders intervened she resigned from the post on 14.07.2014. The election of the new President was scheduled to be held on 05.08.2014. The parliamentary party meeting was convened on 04.08.2014 to decide the Presidential candidate. In the meeting the petitioner and two others proposed the name of Smt.Elsamma Thomas

representing ward No.9 as the candidate. Other three members objected that proposal and they proposed the name of Smt.BrijithCyriac. The DCC President informed the meeting that the official candidate was Smt.BrijitCyriac, the respondent in O.P.No.101/2014 and the change if any will be intimated. But thereafter there was no communication from the DCC President in the matter. As the decision was to elect Smt.BrijitCyriac as the President there was no direction. No whip was issued and served by affixture. In the election three members of Kerala Congress (M) were directed to vote in favour of Smt.BrijitCyriac. As there was rival candidate from Indian National Congress one member from Kerala Congress (M) voted infavour of Smt.BrijitCyriac, another infavour of Smt.Elsamma Thomas and the remaining member refrained from voting in the election. The respondents have not abandoned their membership in the Indian National Congress. No direction was issued from the party. The political immorality was on the part of the petitioners and unfortunately some of the District leaders supported the petitioners due to internal dispute. The respondents are loyal to the party and the political front. The respondents did not commit any defection. The petitioners are not entitled to get any relief in the petition and hence the same are to be dismissed.

5. The evidence in these cases consists of the oral testimonies of PWs1 to5, RWs1 to 3 and Exts.P1 to P4(a) and X1 to X6(a).

6. Both sides were heard.

7.The following points arise for consideration;

- (1) Whether the respondents have disobeyed the decision and direction of the Indian National Congress as alleged?
- (2) Whether the respondents have committed defection as alleged?
- (3) Whether the respondents have voluntarily given up their membership from the Indian National Congress as alleged?
- (4) Reliefs and costs?

8. **POINT Nos.(1) to 4**: The petitioners seeks a declaration that the respondents are disqualified to be the members of ArakkulamGrama Panchayat and also from contesting as candidates in the election to local bodies for a period of six years.According to petitioners the respondents committed defection by contesting and voting against the official candidate of their party Indian National Congress in the Panchayat President election held on 05.08.2014 and by their above conducts they voluntarily gave up their membership in the party. To the petitioners the above acts of the respondents warrant disqualification.

9. The petitioners and respondents were elected members of ArakkulamGrama Panchayat admittedly as candidates of Indian National Congress. In the election the Congress led UDF got majority as they secured nine seats out of the total 15 seats in the ArakkulamGrama Panchayat. Initially, the petitioner in O.P.No.101/2014 Smt.UshaGopinath was elected as the President. Later she resigned from the post on

14.07.2014. Thereafter election for the new President was fixed to be held on 05.08.2014 and steps were taken for the election.

10. PW1 is the petitioner in O.P.No.101/2014 and PW4 is the petitioner in O.P.No.100/2014. According to PWs 1 and 4 the parliamentary party meeting of the Indian National Congress was convened on 04.08.2014 at Rajeev Bhavan, Thodupuzha in the presence of DCC President PW3 and all the elected members of the Indian National Congress including the petitioners and respondents attended the said meeting. Ext.P4(a) is the minutes of the said meeting. In the said meeting Smt.Elsamma Thomas was decided to be the President candidate of the party in the election to be held on 05.08.2014. Whips were issued to all the elected members of Indian National Congress by the DCC President PW3 directing them to vote and elect Smt.Elsamma Thomas. Exts.X3 series are the copies of the whips issued to the members. Ext.X3 is the copy of the whip issued to the petitioner Smt.UshaGopinath, Ext.X3(a) is the copy of the whip issued to the petitioner Shri.Saju George, Ext.X3(b) is the copy of the whip issued to Smt. Elsamma Thomas, Ext.X3(c ) is the copy of the whip issued to Shri.Sebastian, Ext.X3(d) is the copy of the whip issued to the respondent Smt.LalithaJayarajan, Ext.(e) is the copy of the whip issued to the respondent Smt.BrijithCyriac. Copies of the whips were given to PW2 the Secretary of ArakkulamGramma Panchayat also and Exts.X1 series are the said copies. But when the election was held on 05.08.2014 the respondent

in O.P.No.101/2014 Smt.BrijithCyriac herself became a candidate and contested against the official candidate of Indian National Congress Smt.Elsamma Thomas with the support of the rival LDF members and got her elected, defying the direction of her party. The respondent in O.P.No.100/2014 supported Smt.BrijithCyriac the respondent in O.P.No.101/2014 along with LDF members and voted her disobeying and defying the direction of her party. Instead of casting their vote in favour of the candidate nominated by their party the respondent in O.P.No.101/2014 herself contested against the official candidate and got elected with the support of the respondent in O.P.No.100/2014 and members of the rival front LDF. They defied the direction of their party Indian National Congress and became subject to disqualification under Section 3(1)(a) of the Kerala Local Authorities (Prohibition of Defection) Act, the petitioners further contend.

11. PW3 is the President of Idukki DCC. He gave evidence supporting the case of the petitioners. It is stated by him that the parliamentary party meeting of Indian National Congress members was held on 04.08.2014 at Rajeev Bhavan, Thodupuzha in his presence and in the meeting it was decided to nominate Smt.Elsamma Thomas as a candidate for the post of President and whip was issued by him to all the members directing them to vote and elect Smt.Elsamma Thomas. According to PW3 Ext.P4 is the minutes book in respect of the parliamentary party meetings of

the members of Indian National Congress and Ext.P4(a) is the minutes of the parliamentary party meeting held on 04.08.2014. All the elected members of Indian National Congress attended the said meeting. PW3 is a signatory to Ext.P4(a) minutes of the meeting. The said meeting was convened to decide the candidate for the post of the President of ArakkulamGrama Panchayat. In the meeting the petitioners suggested the name of Smt.Elsamma Thomas. The respondent in O.P.No.100/2014 and one TomyValikkulam suggested the name of the respondent in O.P.No.101/2014 Smt.BrijithCyriac. After detailed discussion in the meeting it was decided to nominate Smt.Elsamma Thomas as the candidate for the post of President, PW3 further states.

12. It is also stated by PW3 that he has issued whips to all the members in the letterhead of the DCC President therein the meeting itself directing them to vote in favour of Smt.Elsamma Thomas. The respondents left the meeting without receiving the whip. Exts.X3 series are the copies of the minutes. As the respondents and Shri.TomyValikkulam did not receive the whip from there the same were entrusted with the parliamentary party leader PW4 for service. PW4 later went to their respective houses along with PW5 and another and as the respondents were not in their houses, it is stated, the whips were affixed on doors of their houses. According to PW3 copy of the whip was given to PW2 also who is the Secretary of ArakkulamGrama Panchayat. The respondents deliberately refused to

accept the whips issued to them. They, PW3 states, were very well aware of the whips issued by him and disobeying and defying the direction of the party the respondents with the support of rival LDF members got elected Smt.BrijithCyriac, the respondent in O.P.No.101/2014 as the Panchayat President.

13. PW2 is the Secretary of ArakkulamGrama Panchayat. According to him copies of the whips were given to him along with a covering letter. Exts.X1 series are the said covering letter and copies of whips received by him. It is further stated that PW2 received Exts.X1 series on 04.08.2014 at about 4.30 pm and the same was published in the Panchayat office notice board. PW5 is a witness to the affixture of the whips on the walls of the house of the respondents and Shri.TomyValikkulam. It is stated by PW5 that he went to the house of the respondents and Shri.TomyValikkulam along with PW4 and affixture was in his presence. His friendShri.Ansal Antonywas also present at that time. Exts. X3(d) and X3(e) are the copies of the whips in respect of the respondents Smt.LalithaJayarajan and Smt.BrijithCyriac. The endorsementson Exts.X3 (d) and (e) would show the fact of the above affixture of whips.

14. Respondents admit that they did not cast their votes in favour of Smt.Elsamma Thomas and the contest of Smt.BrijithCyriac against Smt.Elsamma Thomas in the election for the post of the President. It is also admitted by them that a parliamentary party meeting was held on

04.08.2014 in the presence of the DCC President at Rajeev Bhavan, Thodupuzha to decide the president candidate in the said meeting. Out of the six Indian National Congress members three members including the petitioners proposed the name of Smt.Elsamma Thomas and the remaining three including the respondents members proposed the name of Smt.BrijithCyriac. As there was dispute over the candidate, RW1 states, no decision was taken in the meeting. The DCC President informed that the decision of the party will be intimated later. There was no communication from the DCC and no whip was issued and served also. The alleged affixture of whip is false. The respondents did not violate any direction of the party as alleged and hence the question of disqualification does not arise, it is further contended.

15. RW1 is the respondent in O.P.No.100/2014. RW2 is the ArakkulamMandalam President of the Indian National Congress at that time. He also stated that no decision regarding the candidate for the post of the President was taken in the meeting held on 04.08.2014. It is admitted by him that a parliamentary party meeting was held on 04.08.2014 and he admits a portion of Ext.P4(a) minutes. According to him the portion of the minutes showing the decision regarding the candidature of Smt.Elsamma Thomas was recorded later. RW3 is an elected member of ArakkulmGrama Panchayat and he was elected as the candidate of Kerala Congress (M). According to him he is the convener of UDF parliamentary party. To him

there was a parliamentary party meeting of UDF on 03.08.2014 and in that meeting Smt.BrijithCyriac, the respondent in O.P.No.101/2014 was decided to be the candidate for the President. It is also stated by him that Indian National Congress party has not decided any candidate for the post of the President.

16. It is a fact that the respondent in O.P.No.101/2014 Smt.BrijithCyriac contested for the post of the President against Smt.Elsamma Thomas and she became the President with the support of the members of rival LDF. According to them no decision was taken in the parliamentary party meeting regarding the presidential candidate. Though PW3 informed them that he would intimate the decision of the party later he did not intimate any such decision. Admittedly they did not enquire also. Then it can be seen that they have taken a decision of their own without consulting with their party and ignoring the party. According to PWs1 and 4 Smt.Elsamma Thomas became the candidate of Indian National Congress for the Presidentship as per the decision of the parliamentary party meeting of Indian National Congress held in the presence of PW3, the DCC President. PW3 admits the said fact. It is clearly stated by PW3 that Smt.Elsamma Thomas was decided to be the candidate of the Indian National Congress as per the decision of the above parliamentary party meeting held for that purpose. Ext.P4(a) is the minutes of the said meeting. RW1 also admits the parliamentary party meeting on 04.08.2014. But she

approves only a portion of Ext.P4(a) minutes. According to RW1 there was no decision regarding the candidature of Smt.Elsamma Thomas in that meeting and the portion of the minutes regarding the decision of Smt.Elsamma Thomas was subsequently added. But Ext.P4(a) minutes will not show that the said portion was subsequently added as alleged. It will show that the entire business in the meeting was minuted at a stretch.

17. Though the respondents claim that Smt.BrijithCyriac is the official candidate of Indian National Congress there is nothing to show that the Indian National Congress parliamentary party has taken such a decision. In the objection statement the contention of the respondents is that Smt.BrijithCyriac was decided to be the official candidate of Indian National Congress and the DCC President PW3 informed the said fact in the meeting on 04.08.2014. If there was any change in the matter the same would be intimated to them. But no communication was issued thereafter. It is to be stated that at the time of evidence the respondents have no such case. At the time of evidence RW1 admitted that no decision was arrived at regarding the Presidential candidate, in the parliamentary party meeting of Indian National Congress held on 04.08.2014. RW2 also admits the said fact. It may be noted that no such meeting of parliamentary party meeting of Indian National Congress was held thereafter or prior to that to decide the candidate. Ext.P4 minutes book would show the said fact.

18. At the time of evidence the case RW1 is that there was a meeting of UDF on 03.08.2014 and in that meeting Smt.BrijithCyriac was decided to be the candidate of UDF for the post of the President. Ext.X6 is stated to be the minutes for that. The respondents have no such case of such meeting of UDF and its above decision in their objection statements. Now after the evidence on the side of the petitioners such a contention is put forward and Ext.X6 minutes was produced and RW3 was examined to support that contention. There was not even a suggestion either to PW1 or PW4 on that aspect.RW3 is stated to be the convener of ArakkulamGrama Panchayat UDF Committee. It is stated by RW3 that it is the Congress party which is to decide its candidate for the post of the President and no decision was arrived at in their parliamentary party meeting and informed him. RW1 also stated that a candidate of Indian National Congress for the post of President is to be decided by Indian National Congress and not by UDF. Under the above facts and circumstances no reliance can be placed on the evidence of RW3 and Ext.X6 in that regard. Further,the evidence of RW2 and RW3 would only show that they came before the Commission only to help the respondents and not to tell truth.

19. Contention of the learned counsel for the respondents is that there was no decision to nominate Smt.Elsamma Thomas in the parliamentary party meeting held on 04.08.2014 and no whip was issued by the DCC President to vote in favour of Smt.Elsama Thomas. But the evidence

adduced in this case would only show otherwise. Evidence of PWs 1, 3 and 4 and Ext.P4(a) minutes would clearly show that in the parliamentary party meeting it was decided to nominate Smt.Elsamma Thomas as the candidate of Indian National Congress for the post of President.

20. It may be noted that PW3 is the Idukki DCC President. He has clearly stated about the decision of the parliamentary party meeting held in his presence. In that meeting Smt.Elsamma Thomas was decided to be the Indian National Congress candidate. PW3 has further stated that whips were issued to the elected Indian national Congress members in the parliamentary party meeting and Exts.X3 series are the copies of the same. Admittedly he is the competent authority to issue the whips to the members of Indian National Congress. As per the whips the respondents and other Indian National Congress members were directed to vote and elect Smt.Elsamma Thomas as the President of ArakkulamGrama Panchayat in the election held on 05.08.2014. As the respondents refused to accept the whips when tendered in the meeting it is evidence that the same were served by affixture. Evidence of PW4 and PW5 and the endorsements on Exts.X3(d) and X3(e) would show the said fact. Copies of the whips were given to PW2, the ArakkulamGrama Panchayat Secretary on 04.08.2014 and it was published in the Panchayat board. Evidence of PW2 and his endorsements on Exts.X1 series would show the said fact. I do not find anything to disbelieve the evidence of PWs 2 and 3 and Exts.X1 series and X3 series in that regard.

21. It is evidence that the respondents were very well aware of the existence of whip prior to the election meeting on 05.08.2014. It may be noted that the respondents were elected as Congress candidates and there is no dispute over that. They are responsible elected members of Arakkulam Grama Panchayat and they cannot act according to their whims and fancies and that too against their own party direction in the matter. They are bound by the decision of their party and disobedience and acting against the interest of the party is nothing but disloyalty. The decision of the party to vote in favour of Smt. Elsamma Thomas and elect her as the Panchayat President in the election held on 05.08.2014 was intimated to all the Indian National Congress members including the respondents and whips were issued to them on 04.08.2014 in the parliamentary party meeting. As the respondents and one Tomy Valikkulam refused to accept the whip, from there, whips were taken to their houses and it is in evidence that the whips were served to them by affixture. It is also in evidence that the copies of the whips were given to PW2 the Secretary of Arakkulam Grama Panchayat on 04.08.2014 and the same was published in the Panchayat notice board. From the evidence and circumstances in these cases it cannot be said that the respondents were not aware of the direction of the party to vote in favour of Smt. Elsamma Thomas. But they did not vote and elect Smt. Elsamma Thomas nominated by their party. Instead they disobeyed and defied the direction of the party. The respondent Smt. Brijith Cyriac herself contested

against the candidate nominated by the party and the respondent Smt.LalithaJayarajan supported her and defeated the candidate of their party.

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

23. The object sought to be achieved by the Act is to prohibit defection among members of the Local Authorities and to provide disqualification for the defecting members. What is ultimately sought to be prevented is the evil of political defection motivated by lure of office or other similar considerations which endanger the foundations of our democracy. It is settled law that if a member or a group of elected members of a political party takes a different stand from that of the political party as such and acts against the policies of the political party in which they are members, it is nothing but disloyalty. The moment one becomes disloyal by his conduct to the political party, the inevitable inference is that he has

voluntarily given up his membership. The **Kerala Local Authorities (Prohibition of defection) Act**, derived its source from the *10<sup>th</sup> schedule to the Constitution of India*. While upholding the Constitutional validity of 10<sup>th</sup> schedule, the *Apex Court in KihotoHollohanVs.Zachillhu AIR (1993) SCC 412*” observed as follows:-

*“A political party goes before the electorate with a particular programme and it sets up candidates at the election on the basis of such programme. A person who gets elected as a candidate set up by a political party is so elected on the basis of the programme of that political party. .... ..If a member while remaining a member of the political party which had set him up as a candidate at the election votes or abstains from voting contrary to any ‘direction’ issued by the political party to which he belongs or by any person or authority authorized by it in this behalf, he incurse disqualification. .... A political party functions on the strength of shared beliefs. Its own political stability and social utility depends on such shared beliefs and concerted action of its members in furtherance of those commonly held principles. Any freedom of its members to vote*

*as they please independently of the political party's declared politics will not only embarrass its public image and popularity but also undermine public confidence in it which, in the ultimate analysis, is its source of sustenance-nay indeed its survival. ....To vote against the party is disloyalty. To join with others in abstention or voting with other side smacks of conspiracy."*

24. In the decision reported in 2008 (3) KHC 267 in (Faisal P.A. Vs. K.A.AbdullaKunhi) it was held as follows,-

*"Since the words voluntarily giving up membership of his political party is not to be equated with ceasing to be a member of his party by resignation, from the conduct of the petitioner if an inference can be drawn that he has voluntarily given up his membership of his political party, he is liable to be disqualified. From the facts noticed by the second respondent, it is evident that the petitioner had acted against the directions of his party leadership and that he was arraying himself with the rival coalition. These facts certainly justify the inference that the petitioner had voluntarily given up his membership in Indian Union Muslim League, although he had not tendered his resignation."*

25. A member belonging to a political party has to be loyal to his/her party and the moment he/she becomes disloyal he/she would become subject to disqualification on the ground of voluntarily giving up his/her membership from the party. The conduct of the respondent Smt. BrijithCyriac to contest against the candidate nominated by her party in the Panchayat President election and of the respondent Smt.LalithaJayarajansupporting Smt.BrijithCyriac, colluding with LDF members defying the direction of herparty would clearly demonstrate that they became disloyal to the party which elected them as members of the Panchayat. Their above acts would amount to defection inviting disqualification and the case put forward by the petitioners against the respondents is clearly established. According to the Father of Nation Mahatma Gandhi politics without principle is one of the grave vices in that group. The menace of defection is, certainly, to be curbed. The evil of political defections has been a matter of national concern. If it is not combated, it is likely to undermine the very foundations of our democracy and the principles which sustain it.

26. From the available evidence and the circumstances emanating there from it can be safely concluded that the respondents have committed defection and they have voluntarily given up their membership from the party which elected them as members as provided by Section 3(1)(a) of the Act and therefore they became subject to disqualification for being

members of ArakkulamGrama Panchayat. Points are answered accordingly.

In the result, the above two petitions are allowed and the respondents are declared as disqualified for being members of ArakkulamGrama Panchayat as provided by Section 3(1)(a) of the Kerala Local Authorities (Prohibition of Defection) Act and the respondents are also declared as disqualified for contesting as candidates in an election to any local authorities for a period of 6 years from this date, as provided by Section 4(3) of the Act.

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

Pronounced before the Commission on this the 18<sup>th</sup> day of October 2016

Sd/-

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

**APPENDIX**

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

PW1 : Smt.UshaGopinath,  
PW2 : Sri.Saji Thomas, Secretary,  
ArakkulamGrama Panchayat  
PW3 : Shri.Roy K.Paulose

PW4 : Shri.Saju George  
 PW5 : Shri.Samson Samuel

**Witnesses examined on the side of the respondent**

RW1 : Smt.LalithaJayarajan  
 RW2 : Shri. Radhakrishan  
 RW3 : Tomy

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

P1 : Copy of the register showing the party affiliation of the members of ArakkulamGrama Panchayat  
 P1(a) to P1(n) : Copies of the pages 2 to 15 of the register showing the party affiliation of the members of ArakkulamGrama Panchayat  
 P2 : Copy of the declaration in Form No.2 filed by Smt.BrijithCyriac, Member, ArakkulamGrama Panchayat  
 P2(a) : Copy of the declaration in From No.2 filed by Shri.Tomy Joseph Kunnel, Member, Arakkulam GramaPanchayat  
 P2(b) : Copy of the declaration in Form No.2 filed by Shri.Saju George, Member, ArakkulamGrama Panchayat  
 P2(c) : Copy of the declaration in Form No.2 filed by Shri.RajuSankaran, Member, ArakkulamGrama Panchayat  
 P2(d) : Copy of the declaration in Form No.2 filed by Smt.SherlySatheeshBabu, Member, Arakkulam GramaPanchayat  
 P2(e) : Copy of the declaration in Form No.2 filed by Shri.Rajasekharan Raman, Member, Arakkulam GramaPanchayat  
 P2(f) : Copy of the declaration in Form No.2 filed by Shri.BhaskaranVelayudhan, Member, Arakkulam

- P2(g) : GramaPanchayat  
Copy of the declaration in Form No.2 filed by Smt.BindhuAnilkumar, Member, Arakkulam GramaPanchayat
- P2(h) : Copy of the declaration in Form No.2 filed by Smt.Elsamma Thomas, Member, Arakkulam GramaPanchayat
- P2(i) : Copy of the declaration in Form No.2 filed by Shri.TomyValikkulam, Member, Arakkulam GramaPanchayat
- P2(j) : Copy of the declaration in Form No.2 filed by Smt.GeethaThulaseedharan, Member, Arakkulam GramaPanchayat
- P2(k) : Copy of the declaration in Form No.2 filed by Smt.LalithaJayarajan, Member, Arakkulam GramaPanchayat
- P2(l) : Copy of the declaration in Form No.2 filed by Smt.UshaGopinath, Member, Arakkulam Grama Panchayat
- P2(m) : Copy of the declaration in Form No.2 filed by Shri.P.A.Velukkuttan, Member, Arakkulam Grama Panchayat
- P2(n) : Copy of the declaration in Form No.2 filed by Smt.Omana Johnson, Member, Arakkulam Grama Panchayat
- P3 : Whip issued by Shri.Roy K. Poulose, President DCC, Idukki, addressed to Smt.UshaGopinath
- P3(a) : Whip issued by Shri.Roy K. Poulose, President DCC, Idukki, addressed to Shri.Saju George
- P4 : Minutes Book of Indian National Congress Parliamentary party
- P4(a) : Minutes Book of the meeting held on 04.08.2014

**Documents produced on the side of the Court Witnesses**

- X1 : Letter dated 04.08.2014 of Shri.Roy K Poulse,  
President DCC Idukki addressed to the Secretary,  
Arakkulam Grama Panchayat
- X1(a) : Copy of the whip addressed to Smt.Lalitha  
Jayarajan (marked through PW2)
- X1(b) : Copy of the whip issued to Shri.Tomy  
Sebastian(marked through PW2)
- X1(c) : Copy of the whip issued to Smt.Elsamma  
Thomas(marked through PW2)
- X1(d) : Copy of the whip issued to Shri.Saju George  
(marked through PW2)
- X1(e) : Copy of the whip issued to Smt.UshaGopinath  
(marked through PW2)
- X1(f) : Copy of the whip issued to Smt.BrijithCyriac  
(marked through PW2)
- X2 : Copy of the minutes of the meeting of Arakkulam  
Grama Panchayat held on 05.08.2014
- X3 : Copy of the whip issued to Smt.UshaGopinath  
(Marked through PW3)
- X3(a) : Copy of the whip issued to Shri.Saju George  
(Marked through PW3)
- X3(b) : Copy of the whip issued to Smt.Elsamma Thomas  
(Marked through PW3)
- X3(c) : Copy of the whip issued to Shri.Tomy Sebastian  
(Marked through PW3)
- X3(d) : Copy of the whip issued to Smt.LalithaJayarajan  
(Marked through PW3)
- X3(e) : Copy of the whip issued to Smt.BrijithCyriac  
(Marked through PW3)
- X4 : Receipt issued by the Secretary, Arakkulam  
Grama Panchayat (Marked through PW3)
- X5 : Representation of 4 members of Arakkulam

Grama panchayat submitted to President, DCC  
Idukki (Marked through PW3)

X6 : Minutes Book of UDF Committee, Arakkulam  
(Marked Through RW3)

X6(a) : Minutes of the meeting held on 03.08.2014  
(Marked Through RW3)

Sd/-

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

//True Copy//