

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

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

**Friday, the 11<sup>th</sup> day of April 2014**

**O.P.Nos.108/2012 & 109/2012**

**O.P.108/2012**

Petitioner : Ibrahim (Vappu),  
S/o Thiyyattil Yousuf, Residing at  
Thiyyattil, Karakkad, Pallippuram,  
Pattambi, Palakkad District.

**(By Adv.S.Ajith Kumar)**

Respondent : 1. Secretary,  
Ongallur Grama Panchayat.  
(By Adv.Sohanlal)

2. C.A.M.A. Kareem,  
S/o Abdul Musaliya,  
Chirackal House, Sankaramangalam P.O.,  
Pattambi, Palakkad District.

**(By Advocates Fathahudeen.M &  
Rubeena Shabu)**

**O.P.No.109/2012**

Petitioner : Ibrahim (Vappu),  
S/o Thiyyattil Yousuf, Residing at  
Thiyyattil, Karakkad, Pallippuram,  
Pattambi, Palakkad District.

**(By Adv.S.Ajith Kumar)**

- Respondent : 1. Secretary,  
Ongallur Grama Panchayat.  
(By Adv.Sohanlal)
2. C.A.M.A. Kareem,  
S/o Abdul Musaliya,  
Chirackal House, Sankaramangalam P.O.,  
Pattambi, Palakkad District.

**(By Advocates Fathahudeen.M &  
Rubeena Shabu)**

These petitions having come up for hearing on the 15<sup>th</sup> day of March 2014, in the presence of Advocate **S.Ajith Kumar** for the petitioner and Advocates **Sohanlal, Fathahudeen.M & Rubeena Shabu** for the respondents and having stood over for consideration to this day, the Commission passed the following;

### **COMMON ORDER**

These are Petitions filed by a common petitioner against a common respondent for declaring that the petitioner has not resigned from the membership of Ongallur Grama Panchayat. O.P.No.108/2013 is taken on file on the basis of a petition filed by the petitioner in person before the Commission and O.P.No.109/2012 has been taken on file on the basis of another petition filed by him through his counsel. Since both these petitions are filed against a common

respondent, they have been taken up jointly. The 2<sup>nd</sup> respondent has been impleaded in both cases on his applications.

2. The short facts are as follows,- The petitioner is the member representing ward No.13 of Ongallur Grama Panchayat. He contested the election as a candidate of Muslim League and after election he was elected as the Welfare Standing Committee Chairman and he is still continuing in that post. In the year 2011 some issues arose in between the members of the Panchayat including the petitioner and their political party and due to the intervention of some party leaders, certain blank papers and blank forms were forcibly obtained from the members belonging to the Muslim League by the leaders of that party. Immediately thereafter the petitioner and other members informed the same to the Secretary of the Panchayat through a petition dated 29.11.2011. It is stated in that petition that certain persons are trying to oust the petitioner from his membership using the said signed blank papers and signed forms and that the petitioner has not intended to resign from the post and any communication received to that effect should not be accepted. There are some problems between the members of the UDF and there was change in the administration of the Panchayat. Due to that reason some of the Muslim League members are against the petitioner. In this context, one Sri.Soman took charge as Secretary of the Panchayat. He has involved in several corruption activities and the petitioner in

his capacity of the Standing Committee Chairman warned him many times. The Panchayat Committee also took decision against him. While so, on 06.11.2012 the Vice President of the Panchayat Sri.K.P.Shahid informed the petitioner over phone that a resignation letter dated 05.11.2012 alleged to be submitted by the petitioner has been found from the table of the Head Clerk of the Panchayat. The petitioner enquired about the matter and it is known that the Secretary of the Panchayat was relieved on 05.11.2012 and he, in connivance with the local Muslim leaders forged the above mentioned form and papers and converted the same as a resignation letter of the petitioner and is now trying to use the said document as genuine. The petitioner has never resigned from his post and he has no intention to do so. He never gave any letter to the Secretary at any point of time with respect to his resignation. Since the petitioner is the Welfare Standing Committee Chairman, he issued notice to the Standing Committee members to attend the Standing Committee meeting to be held on 08.11.2012. The Panchayat has not published any notice regarding the resignation of the petitioner and no one has any knowledge in the Panchayat with respect to the alleged acts done by the Secretary namely Sri.Soman who relieved from the Panchayat on the very same date on which the alleged forged resignation letter was said to have been received. Immediately on 06.11.2012, the petitioner filed complaint before the Sub Inspector of Police against the Secretary and the matter was informed to the

Election Commission Office also. The petitioner has never resigned from his post and he has never submitted any resignation letter either directly or by post to the Secretary. No one has published any matter in the notice board of the Panchayat with respect to the alleged resignation to the petitioner. But it is known that the former Secretary who created these issues fraudulently informed the alleged resignation of the petitioner to the Election Commission for taking further action. The intention of the then Secretary is illegal, improper and was done by playing fraud. Under the cover of the said forged document, 1<sup>st</sup> respondent is not allowing the petitioner to continue as a member of the Panchayat on the pretext that the petitioner has resigned from his membership. Hence this petition for declaring that the resignation letter dated 05.11.2012 alleged to be submitted by the petitioner as null and void and to set aside the same and also to allow the petitioner to continue as a member of the Ongallur Grama Panchayat.

3. 1<sup>st</sup> respondent filed objections in both these petitions raising common contentions which are in short as follows:- It is true that the petitioner was elected as member from ward No.13 of Ongallur Grama Panchayat and then he was elected as Welfare Standing Committee Chairman. The Secretary as on the date of receiving the alleged resignation letter under challenge relieved him from the membership of Ongallur Grama Panchayat on 05.11.2012. After the

Secretary was relieved from the Panchayat, a resignation letter alleged to have been given by the member was seen in the drawer of the table of U.D Clerk named Sri.Hydros. On enquiry it is found that the then Secretary approached the front office clerk who was attending the duty of the inward and caused to register the alleged letter. From the file it is seen that the said resignation letter was sent to the office of the State Election Commission and the Deputy Director of Panchayat for further action. The alleged resignation letter was not included in the Distribution Register or any other register of the Panchayat. The alleged resignation was not published in the notice board of the Panchayat. The petitioner had filed a petition before the Panchayat on 29.11.2011 alleging that some persons had forcibly obtained the signatures in blank papers and tried to oust him from the Panchayat and requested that if any resignation letter is received through registered post or by other means, it may not be accepted. The Panchayat committee took a decision against the acts of the former Secretary with respect to the issue involved in this case and sought action against him. The records of the Panchayat also show that no receipt has been given to the member with respect to the alleged resignation letter. On 05.11.2012 Sri.Soman was the Secretary of the Ongallur Grama Panchayat and he was relieved from that post on the very same date and later he joined the Thirunavaya Grana Panchayat. The

present Secretary has no knowledge about the receipt of the alleged resignation letter of the petitioner.

4. The President of the Kerala State Muslim League, Palakkad District Committee has been impleaded as additional 2<sup>nd</sup> respondent in both these cases as per orders on I.A.Nos.144/2012 and 145/2012 respectively. Common contentions are raised by 2<sup>nd</sup> respondent which are briefly the following,- The petition is not maintainable either in law or on facts. The petition is bad for non joinder of Sri.Soman who was the former Secretary of the Panchayat as a party. The petitioner after his resignation has issued press release in leading news dailies which are published in such papers. Thereafter he filed the present petition as a result of an after thought. The petitioner has not specifically stated as to who had forcibly obtained blank forms and papers from him. The petitioner does not have a case that he did not put the signature contained in the resignation letter. The petitioner, who was a nominee of Muslim League, was reluctant to comply with the directions of the political party including the direction to resign from the post of Chairman of Welfare Standing Committee so as to implement the political understanding of the UDF coalition. Then he started to take a stand against his political party and the UDF coalition. At that juncture, this respondent warned him against repetition of such acts. It was in this context that the petitioner had submitted his resignation from his membership before the Secretary. Another

member from ward No.1 informed this respondent that he had seen the petitioner tendering the resignation letter to the Secretary on 05.11.2012. This respondent had seen the news item in Mathrubhoomi and Chandrika Dailies dated 08.11.2012 regarding the resignation of the petitioner. Thereafter the petitioner, at the instances of rival political parties, had filed the present petition raising false allegations. The allegations raised against his party are totally false. The petitioner has not submitted any petition before the Secretary of the Panchayat and not filed any complaint against the Secretary regarding the alleged forgery. The former Secretary had relieved from Panchayat only on 06.11.2012. The allegations raised by the petitioner are totally false and the petitions deserve only dismissal.

5. The evidence consists of the oral depositions of PWs1 to 4, RWs 1 and 2 and Exts.P1 to P6, R1 to R7 and C1 series.

6. All parties were heard.

7. The following points arise for consideration;

- (i) Whether the petitions are not maintainable?
- (ii) Whether the petitions are bad for non joinder of the then Secretary as a party?
- (iii) Whether the petitioner has resigned from the membership of Ongallur Grama Panchayat?

- (iv) Whether the resignation letter alleged to be submitted in the name of the petitioner was tendered to the then Secretary in person by the petitioner?
- (v) Whether the alleged resignation letter is liable to be set aside as prayed for?
- (v) Reliefs and costs?

8. **POINT No.(i)**: According to the petitioner he has never tendered his resignation letter on 05.11.2012 to the then Secretary of the Ongallur Grama Panchayat and that the signed blank form which was forcibly taken from him by the leaders of his party was misused by the Secretary in collusion with certain leaders of his party and that the petitioner had never intended to resign from his membership of the Panchayat and that the said resignation letter is null and void. The 2<sup>nd</sup> respondent on the other hand would contend that the petitioner had resigned from his membership of the Panchayat and that the story developed by him is totally false. The petitioner is found to have forwarded a petition challenging the resignation letter and it was received by this Commission on 07.11.2012 itself and that was received on file as O.P.No.108/2012. From the rival claims it is found that a dispute regarding the resignation of the petitioner from his membership in the Panchayat is raised and the petitioner has prayed for declaring that he has not resigned as member and that he is still continuing as

member. **Rule 5 of the Kerala Panchayat Raj (Resignation of President, Vice President or Members) Rules** is relevant in this context and it reads as follows,-

*“Any person having a dispute regarding the resignation of the President or the Vice President or the Member may, within fifteen days from the date on which the resignation is deemed to have taken effect, prefer a petition before the State Election Commission for its decision and the decision of the Commission thereon shall be final.”*

In **Mani Vs. Anad Grama Panchayat (2009 (1) KLT 298)** it has been held that the Secretary may refer the dispute regarding resignation which arises, to the Commission or the person himself may file a petition before the State Election Commission under **Rule 5**. In the case on hand the petitioner himself has filed the petitions before this Commission as provided by Rule 5 within the period prescribed under that Rule. Since a dispute arises as to whether the petitioner has resigned as member of the Panchayat and a petition has been filed before this Commission, a decision is to be taken on the same. Therefore, the petition is found to be maintainable. The point is answered accordingly.

9. **POINT No. (ii)**: The additional respondent would contend that the petitions are bad for non joinder of the then Secretary of the Panchayat as a party. According to this respondent serious allegations are raised against the then

Secretary and so he should have been arrayed as respondent in the petition. The petitions are taken on file originally against the Secretary of the Panchayat only. The necessary parties in a case of this nature are only the petitioner and the Secretary of the Panchayat. 2<sup>nd</sup> respondent has been impleaded on his application, being a proper party. The then Secretary of the panchayat has already been examined as PW4 on the side of the petitioner himself. In the above circumstances I find that the then Secretary of the Panchayat is not a necessary party and the petition is not bad for non joinder of parties. The point is answered accordingly.

10. **POINT Nos.(iii) to (vi)**: Since common questions of law and facts arise for consideration in all these points, they are being discussed together for brevity and convenience. This petition has been filed under Section 155(3) of the Kerala Panchayat Raj Act r/w Rule 5 of the (Resignation of President, Vice President and Members) Rules. The petitioner was elected from ward No.13 of Ongallur Grama Panchayat as a member belonging to Muslim League. According to the petitioner some issues cropped up between the members including himself and party leaders in 2011 and the party leaders forcibly obtained certain signed blank papers and forms from the members and immediately thereafter he informed this matter to the Secretary of the Panchayat as per a petition dated 29.11.2011 and requested the Secretary not to act upon any

communication styling as his resignation letter if received by the Secretary and that one Sri.Soman who took charge as Secretary of the Panchayat had involved in several acts of corruption and the petitioner in his capacity as Standing Committee Chairman warned him several times and on 06.11.2012 the Vice President of the Panchayat informed the petitioner over phone that a resignation letter in his name dated 05.11.2012 was found from the table of the Head Clerk and on enquiry it was understood that the Secretary of the Panchayat who relieved on the same date in connivance with certain others had forged signed blank form and papers as his resignation letter and that they are trying to use the same as genuine and the petitioner had never intended to resign from the post of Standing Committee Chairman or from the membership of the Panchayat and he immediately took up the matter with the Sub Inspector of Police as well as this Commission.

11. The petitioner has been examined as PW1. He has filed an affidavit in lieu of his chief examination reiterating the allegations contained in his petition. He has deposed that the then Secretary in collusion with certain leaders of the petitioner's political party had fraudulently created the resignation letter by using the signed blank form and papers and that the petitioner had never intended to resign nor resigned from the membership of the Panchayat. It was suggested to PW1 in the cross-examination by 1<sup>st</sup> respondent that the then Secretary had only

forwarded the resignation letter of the petitioner received by him for further action to which PW1 has stated that he had complained to the Police regarding the action of the then Secretary. In cross-examination by 2<sup>nd</sup> respondent, PW1 has admitted that the signature contained in the resignation letter is belonging to him. The file containing the resignation letter maintained by this Commission has been marked as Ext.C1 and the said resignation letter is marked as Ext.C1(a). PW1 has further stated that Ext.C1(a) was a blank signed form obtained from him and he also stated that he had never submitted his resignation letter before the Secretary. It was then suggested to PW1 that he had given a press release regarding his resignation on 06.11.2012 and it has come in many news dailies to which PW1 has stated that he had never given any such release and the news items were given by persons who were working against him. He has also deposed that he informed the reporters of the news paper that he had not resigned from the membership of the Panchayat. Exts.R1 and R2 are the Mathrubhoomi and Chandrika newspapers containing the report regarding the resignation of PW1. PW1 has further stated that all these have been done by persons connected with that newspaper. It was then suggested to PW1 that the District President of Muslim League had directed him to resign from the post of Welfare Standing Committee Chairman, he answered in the negative. It was further suggested to PW1 that since he had taken a stand against the party and UDF, several problems

arose which he denied. He was again asked whether he received a letter by registered post stating that he will be disqualified for disobeying the direction of the party he answered that he did not receive any such letter. It was again suggested that in the above context he resigned from the membership of the Panchayat which he denied and stated that he did not resign from membership. It was again suggested to PW1 that the Secretary Sri.Soman had forwarded his resignation letter to State Election Commission to which he answered that the Secretary had left the Panchayat office on 05.11.2012 very late in the night. In re-examination PW1 has deposed that the writings contained in Ext.C1(a) are not written by him. Even though PW1 has been cross-examined at length, nothing has been brought out to discredit his evidence. PW1 has categorically deposed that he was informed by the Vice President on 06.11.2012 that Sri.Hydros the Clerk of the Panchayat had told the Vice President that the resignation letter of the petitioner has been found in the table of Hydros and accordingly PW1 came to know of such a resignation letter.

12. Sri.Hydros, U.D.Clerk, Ongallur Grama Panchayat has been examined as PW2. He has deposed that on 05.11.2012 Sri.Soman was the Secretary of the Panchayat and on that day the petitioner did not give any letter in his A3 section and that he did not see any letter submitted by the petitioner on 05.11.2012. He would further depose that on 05.11.2012 the Head Clerk was on leave and PW2

was dealing with matters in charge of the Head Clerk. PW2 has further deposed that on 06.11.2012 he found the resignation letter lying in the drawer of his table and the initial of the Secretary was available in that letter and that he did not see any notice published on the notice board regarding the resignation of the petitioner. He has also deposed that he cannot say whether the then Secretary Sri.Soman was on duty in the Panchayat office on 06.11.2012 and that he did not see the Secretary on that day. PW2 has also deposed that he does not know whether the petitioner has submitted any resignation letter before the Secretary and that he did not receive any resignation letter of the petitioner on 05.11.2012. PW2 has stated in cross-examination that it was the resignation letter along with the file that was seen in the draw of his table. He has also stated that by the time he found out this letter from the draw of his table, the Secretary had already relieved.

13. PW3 is a staff of the Panchayat who was working in the Front Office on 05.11.2012. She has deposed that Ext.P1 is the copy of the distribution register maintained in the Front Office of the Panchayat and those papers which are filed in the Front Office used to be recorded in the distribution register and the concerned section used to obtain such papers after noting in the distribution register. PW3 has further deposed that the petitioner did not submit any petition in the Front office on 05.11.2012 and that in Ext.P1, a letter in the name of

petitioner was received in the Front Office which has been recorded as serial No.46 in Ext.P1. She further states that if such a letter is a resignation letter, it would have been mentioned as such in the said record. The evidence of PW3 reveal that the Secretary had directed her to make an entry in the record of the front office regarding a letter in the name of the petitioner and she made the entry without even seeing that letter or mentioning its nature. She has asserted that it was only as directed by the Secretary that she has noted regarding this letter in the register and so it was not mentioned in the distribution register. There was no cross-examination for 1<sup>st</sup> respondent the Secretary of the Panchayat. There is also no serious cross-examination on the part of 2<sup>nd</sup> respondent on the evidence of PW3.

14. PW4 is the then Secretary Sri.Soman and his evidence is very crucial in this case. He has deposed that he has already retired from service. He was working in the Ongallur Grama Panchayat from 01.01.2012 to 06.11.2012. The copy of a letter submitted before the Panchayat by the petitioner was shown to PW4 and asked whether it was a copy of his petition filed on 29.11.2012, PW4 has admitted it to be copy of such a letter and it is marked as Ext.P2. PW4 has deposed that he had relieved from Ongallur Grama Panchayat at 12 noon on 06.11.2012. PW4 has stated that on 05.11.2012, the petitioner was available in the Panchayat Office from morning till 5.30 pm and that the petitioner was

available in his room from 2 pm to 3 pm. PW4 has admitted that on receiving a resignation letter from a member he should be given proper receipt and the report should be forwarded to the Election Commission by the Secretary himself. He has also deposed that normally all letters used to be registered in the front office and that resignation letters are being received directly by the Secretary. He further deposed that on 05.11.2012 he had taken the letter of the petitioner to the front office and got it registered and Ext.P1 is stated to be the said record. He has also deposed that regarding this resignation letter it was only mentioned as a letter in the front office inward register and this noting was made by PW3 as directed by him. He has also stated that he took back this letter after noting in the inward register. He has further stated that Ext.C1(a) is the copy of the resignation letter submitted by the petitioner and that he does not know whether the writings contained therein were written by the petitioner. It was suggested to PW4 that the petitioner had never approached him on 05.11.2012 nor submitted a resignation letter to which he has answered in the negative. PW4 was sought to be declared as hostile and permission was granted to put questions in the nature of cross-examination. The facts brought out in the further examination of PW4 are quite surprising. PW4 has stated that he does not remember how many times he had been suspended from service. He has admitted that he was suspended from service several times. He has also admitted that Vigilance case is pending

against him and that he did not get any pension benefits. He has also admitted that Vigilance case is pending before the Thrissur Vigilance Court against him for corruption in roadworks and Ext.P3 is the final report of that case. He has also admitted if he was charged for the offences under Section 116(a) of the Kerala Police Act, and Ext.P4 is the copy of the Final Report of that case. He was suspended for corruption in publishing voters list illegally and Ext.P5 is the copy of the suspension order. He has also admitted that case is pending before the Hon'ble High Court regarding issue of licence for mobile tower without sanction. He has stated that he had given D and O licence for a plastic reprocessing unit while working a Secretary of Ongallur Grama Panchayat to one Mohinudeen and that was issued on his undertaking that the NOC will be produced within seven days and as NOC was not submitted PW4 got back that licence and made an entry therein as cancelled. It is also suggested to PW4 that he used to issue such unauthorized licences and that the blank columns left in Ext.P6, the copy of the minutes of the Panchayat Committee were for filling up the same with the names of such licences and his answer is that he left such columns to fill up the same after confirming the persons. It was also suggested to PW4 that due to such illegal activities the petitioner had warned him several times which PW4 denied. It was further suggested to PW4 that he had colluded with persons who were on enimical terms with petitioner and forged the

resignation letter of the petitioner which PW4 denied. In re-examination PW4 has stated that the number assigned to the resignation letter was by him and that he had put this resignation letter in the table of the clerk after reporting the matter to the authorities and left the office after informing the same to the Clerk. In further cross-examination by 2<sup>nd</sup> respondent, PW4 has stated that the file containing a resignation letter was put in the table of A3 section Clerk by him.

15. The 2<sup>nd</sup> respondent has been examined as RW1. He has deposed that he is the Muslim League Palakkad District President and that the petitioner who was elected as the official member of Muslim League was subsequently elected as Welfare Standing Committee Chairman for the first 1½ years and as per the understanding he had to vacate that office after the said 1½ years for a Congress member to become Chairman for two years and the last 1½ years was again for a Muslim League member and the petitioner after his term of 1½ years refused to resign and RW1 issued direction by registered post on 12.06.2012 directing him to resign from the post of Chairman and the copy of that letter along with the copy of the receipt of the same by the Panchayat Secretary are Exts.R3 and R4. RW1 has further deposed that since the petitioner did not resign he again sent another letter by registered post informing him that steps for disqualifying the petitioner would be taken if he did not resign as Chairman and the copy of that letter along with the copy of receipt are Exts. R5 and R6. RW1 has also deposed that the

petitioner did not comply with the direction of the party and subsequently it was informed by the petitioner that he would resign from the membership of the Panchayat and news item came in Mathrubhoomi and Chandrika Dailys stating that the petitioner had resigned from the membership of the Panchayat. RW1 has further deposed that after having resigned as member, he had filed the petition under the influence of the rival political parties. To the suggestive question put to RW1 in cross-examination whether the other members of the Muslim League were against the petitioner as he did not resign from the post of Chairman of the Standing Committee, he answered that the petitioner was directed to resign from that post. It was also suggested to RW1 that a petition was filed by petitioner to the Panchayat Secretary stating that several signed papers and form have been obtained from him to which RW1 pleaded ignorance. According to RW1 the Panchayat League President and Secretary had informed him about the resignation of the petitioner from the membership of the Panchayat. RW1 has admitted that when a Panchayat member belonging to his party is resigning, the same would usually be informed to the party. RW1 has also admitted that he does not know what happened in the Panchayat on 05.11.2012 in relation to this matter. RW1 has stated that no letter was given to the petitioner to resign from the membership of the Panchayat.

16. RW2 was the Secretary who filed the objections in these cases. He has deposed that in the objections the date of relief by the former Secretary from the office was noted as on 05.11.2012. He has then stated that Ext.R7 is the report of transfer of the former Secretary. RW2 has stated that there is correction in the date noted in Ext.R7. RW2 took charge as Secretary of this Panchayat only on 19.11.2012 and so his evidence is not of much use to consider the facts in issue in these cases.

17. The definite case of the petitioner is that he has not resigned from the membership of the panchayat and that a signed blank resignation letter obtained from him by his party leaders has been misused by the Secretary of the panchayat in collusion with party leaders and reported the Commission that he has resigned from the membership of the Panchayat on 05.11.2012. The alleged resignation letter along with the covering letter of the Secretary was received by this Commission on 07.11.2012. Of course the resignation letter as well as the covering letter bears the date 05.11.2012. On 07.11.2012 itself the complaint of the petitioner also was received in the Commission. In that complaint dated 07.11.2012, forwarded in the letter pad of the petitioner, it is stated that a fraudulent resignation letter is understood have been created by the Secretary Sri.Soman and forwarded to the Commission and that he has not resigned from the membership of the Panchayat and no circumstances exist for his resignation

and he prayed for not accepting any such record as his resignation letter. On 08.11.2012 he has forwarded another letter to this Commission which also is contained in Ext.C1 file. In that letter he has stated as follows.- He is the member representing ward No.13 and also the Chairman of the Welfare Standing Committee. On 29.11.2011 five Panchayat members belonging to the Muslim League including himself were summoned to the Pattambi Chandrika Office and the party leaders forcibly obtained signed blank resignation letters from them and that on the same day at 5 pm he had submitted a letter to the Secretary stating that if any resignation letter was received by the Secretary that should not be accepted by him and the blank resignation letter obtained from the then President Smt.Ayishabi was fraudulently converted as her resignation and sent to the Secretary and the case challenging that resignation letter was allowed in her favour and certain Muslim League leaders are not on smooth terms with him and the Vice President Sri.K.P.Shahid informed him on 06.11.2012 that his resignation letter was found from the table of UD Clerk Sri.Hydros and on enquiry he came to know that the Secretary had relieved on the previous date after creating that blank resignation form as his resignation. It is further stated that he has not resigned from the membership of the Panchayat and no resignation letter was given by him to the Secretary and he has prayed for not accepting any resignation letter if received by the Commission. In the evidence

of PW1 he has stated that in 2011, signed blank resignation forms were obtained by the party leaders from him and other party members and that he had submitted a letter in this behalf to the Secretary on 29.11.2011 and it is also stated that the blank resignation letter obtained from Smt.Ayishaby the then President was sent to the Secretary against which a case was filed before this Commission and that resignation letter was already set aside. Ext.P2 is stated to be the copy of the letter submitted by the petitioner before the Secretary and this contains endorsement of the Secretary dated 29.11.2011, 5 pm acknowledging receipt of the said letter. Even though 2<sup>nd</sup> respondent has challenged this letter and stated that no such letter was submitted by the petitioner, from Ext.P2 it is clear that the original of this letter was submitted before the then Secretary on 29.11.2011 at 5 pm. The fact that a similar letter was submitted by the then President Smt.Ayishabi and a case was filed by her challenging the resignation letter stating that she had not resigned from the post of President was allowed by this Commission is not in dispute and that case is reported to be now pending before the Hon'ble High Court. PW1 has further deposed that on 06.11.2012 the Vice President Sri.K.P.Shahid informed him over phone that a resignation letter dated 05.11.2012 stated to have been submitted by him was received from the table of the Head Clerk and on enquiry PW1 came to know that the then Secretary Sri.Soman had relieved as Secretary on 05.11.2012 and that the said Secretary in

collusion with certain persons who were entertaining enmity towards PW1 has fabricated the signed resignation letter obtained from him earlier by the party leaders and converted it as his resignation and put it in the table of the UD Clerk and that he has never submitted any such resignation letter before the Secretary. The said UD Clerk is PW2. As already pointed out, he has deposed that on 05.11.2012 he was in the office through out and that he had not seen any resignation letter submitted by the petitioner on 05.11.2012 and on 06.11.2012 he saw the resignation letter of the petitioner lying in his table and it contained the initial of the Secretary also. To the specific question as to whether the petitioner had submitted the resignation letter before the Secretary, his answer is that he does not know the same. PW2 has also stated that on 06.11.2012, he did not see the then Secretary Sri.Soman at the Panchayat Office and he only knew that the said Secretary had relieved from the office. PW2 has stated in cross-examination that he does not know whether the petitioner was available in the Panchayat office on 05.11.2012. He also states that he does not know whether the resignation letter was published in the notice board. In this context the evidence of PW3 assumes importance. From her evidence, which has already been discussed earlier, it is seen that on 05.11.2012 the then Secretary Sri.Soman came to her while she was working in the front office and got a letter, stated to be of the petitioner, recorded in the distribution register without even showing that

letter to PW3 and the Secretary went back with that letter. Ext.P1 is the copy of the distribution register maintained at the Front Office which contains the entry of a letter said to have been submitted by the petitioner without referring it as a resignation letter. The fact that a short gist of the letters received in the front office used to be written in the register has been disclosed by PW3. PW3 has admitted that she does not know whether the petitioner had submitted a resignation letter before the Secretary on 05.11.2012. The manner in which an entry regarding the letter of the petitioner was got recorded by PW3 at the instance of the then Secretary raises suspicion in this matter. From the evidence of PW2 it is clear that he did not see the petitioner in his office on 05.11.12. PW3 also does not say that she had seen the petitioner in the office on that day. According to the then Secretary the petitioner was available in the office from the morning till 5.30 pm and that the petitioner was in his office room from 2 p.m to 3 pm. If the petitioner was available in the Panchayat office from the morning till 5.30 pm and submitted his resignation letter to the Secretary on 05.11.2012, the other staff members also would have seen him and known about the said resignation. There was no reason for putting the resignation letter in the table of PW2 by the then Secretary if it was actually received from the petitioner in person by him. The fact that the then Secretary, examined as PW4, was not seen on 06.11.2012 in the Panchayat office by PWs 2 or 3 is a strong indication that

he had left the office on 05.11.2012 itself and only a record has been created to make it appear that he had relieved only on 06.11.2012. In this context Ext.R7 which is his report of transfer also lent credence to the claim of the petitioner that the Secretary had left the office on 05.11.2012 itself. The date of relief shown in Ext.R7 has been corrected as 06.11.2012 and the date '6' could be identified as originally '5' and this correction to the date also supports the claim of the petitioner in this regard. PW4 has deposed that he was in the Panchayat office on 06.11.2012 till 12 noon and that he relieved only on that day. If he was available in the Panchayat office on 06.11.2012, PWs 2 and 3 would have surely seen him. On an evaluation of the entire evidence, it is clearly found that the petitioner did not submit Ext.C1(a) resignation letter in person before PW4 on 05.11.2012 and this has been created on the signed blank form obtained from the petitioner by certain leaders of his party. The fact that PW4 would go to any extent in doing any illegal act is borne out by his own evidence. He has no hesitation in saying that he is involved in several cases including corruption cases. He does not even remember as to how many times he was suspended from service. Even though he had retired from service some time back, he has not received any pension. Exts.P3 to P6 records are regarding his illegal activities. According to PW1 the contents of Ext.C1(a) were not written by him. PW4 admits that Ext.C1(a) were not written in his presence. So I find force in the statement of the petitioner that

the contents of Ext.C1(a) were not written by him. The contentions raised by additional 2<sup>nd</sup> respondent and his evidence as RW1 would reveal that certain party leaders were not on good terms with the petitioner. The petitioner who was the Chairman of a Standing Committee was not willing to resign from that post despite repeated directions from 2<sup>nd</sup> respondent himself. So the party leadership had displeasure towards the petitioner. According to 2<sup>nd</sup> respondent the petitioner, after having resigned from the membership, had given a press release in newspapers regarding his resignation and Exts.R1 and R2 are relied on to support the above contention. Ext.R1 is Mathrubhoomi daily dated 07.11.2012 which contains news item that the petitioner had resigned after discussing with his party and that has been noted in his resignation letter. But no such statement is available in Ext.C1(a). Moreover this news item is not reported to be on the basis of a press release given by the petitioner. Ext.R2 is the Chandrika daily dated 08.11.2012 which contains a news item that the petitioner had resigned after discussing with the party leadership. This news also is not reported to be on the basis of a press release given by the petitioner. Ext.R2 is admittedly the mouth piece of Muslim League party and if any press release was given by the petitioner, 2<sup>nd</sup> respondent could have produced it in these cases. The petitioner has categorically stated that he has never given any such press release which can only be believed. Even before this news item came in papers, he submitted

petition before this Commission. On a careful examination of all the facts and materials on record it is found that Ext.C1(a) was not submitted by the petitioner in person before the then Secretary and that he had not voluntarily resigned from the membership of the Panchayat and that Ext.C1(a) is only a created document so as to make it appear that he has resigned from the membership of the Panchayat. So Ext.C1(a) cannot be accepted as a genuine resignation letter submitted by the petitioner before the then Secretary of the Panchayat.

18. From the discussion held above I hold that Ext.C1(a) is a vitiated record and that the petitioner has not voluntarily resigned from the membership of Ongallur Grama Panchayat and so these petitions are only to be allowed. The points are answered accordingly.

In the result, the petitions are allowed and Ext.C1(a) resignation letter is declared as a vitiated and void letter and it is further declared that the petitioner has not voluntarily resigned from the membership of Ongallur Grama Panchayat and that he is entitled to continue as member of this Panchayat.

The parties shall bear their respective costs.

Pronounced before the Commission on this the 11<sup>th</sup> day of April 2014

Sd/-  
**K.SASIDHARAN NAIR,**  
**STATE ELECTION COMMISSIONER.**

**APPENDIX**

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

- PW1 : Sri.Ibrahim, Thiyyattil House, Pallippuram, Palakkad
- PW2 : Sri.Hydros, Accountant, Koppam Grama Panchayat
- PW3 : Smt.Hanna Mary Philip, L.D.Clerk, Pulickathadathil House,  
Karamole Peedika, Kolanchery P.O. Ernakulam District
- PW4 : Sri.Soman, Secretary (Former), Ongallur Grama Panchayat

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

- RW1 : Sri.C.A.M.A.Kareem, Sankaramangalam.P.O., Pattambi
- RW2 : Sri.Sasidhara Panicker, Panchayat Secretary,  
Vadakkekalappurackal, Chandirur P.O. Cherthala Taluk

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

- P1 : True copy of the front office register of Ongallur Grama Panchayat dated 05.11.2012
- P2 : Copy of the letter addressed to the Secretary, Ongallur Grama Panchayat from Sri.P.Ibrahim (Vappu), Member, Ward No.13, Ongallur Grama Panchayat
- P3 : Copy of the letter No.VC-09/00/Ekm Dated 18.11.2006 and attachments
- P4 : Copy of FIR
- P5 : Order No.D2-34846/10 dated 12.10.2011 of the Director of Panchayats
- P6 : Copy of the minutes of the meeting of Ongallur Grama Panchayat, held on 28.04.2012

**Documents produced on the side of the Respondent**

- R1 : Mathrubhoomi daily dated 07.11.2012
- R2 : Chandrika daily dated 08.11.2012
- R3 : Letter dated 12.06.2012 addressed to Sri.Ibrahim of Sri.C.A.M.A.Kareem, President, Kerala State Muslim League, Palakkad District Committee
- R4 : Front Office receipt dated 13.06.2012 showing inward No.5371 of Ongallur Grama Panchayat.
- R5 : Copy of the letter dated 07.09.2012 of C.A.M.A Kareem copy addressed to the Secretary, Ongallur Grama Panchayat
- R6 : Front Office Receipt dated 12.09.2012 showing inward No.7568 of Ongallur Grama Panchayat.
- R7 : Copy of report of transfer of Secretary, Ongallur Grama Panchayat

**Document produced on the side of the Court Witness**

- C1 : File No.8064/H/2012/Sec
- C1(a) : Copy of the resignation letter

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