

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

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

Tuesday, the 16th day of September 2014

O.P.No.25/2014

Petitioner : Rajesh.S,
S/o Soman, Velikattu Veedu,
Ambazha Vayal, Perinadu P.O.,
Kollam.

(By Adv.Vinaya Kumar.K.)

Respondent : Suvarnakumari Amma,
Ezhuvannur Veedu, Ambazha Vayal,
Panayam P.O., Perinadu,
Kollam.

**(By Advs. Kawadiar S.Mohandas
& Pushparajan Achari)**

This petition having come up for hearing on the 2nd day of September 2014, in the presence of Advocate **Vinayakumar.K** for the petitioner and Advocates **Kawadiar S.Mohandas & Pushparajan Achari** for the respondent and having stood over for consideration to this day, the Commission passed the following.

ORDER

Petition filed under Section 35(k) of the Kerala Panchayat Raj Act for declaring that the respondent has ceased to hold office as a member of Chittumala Block Panchayat.

2. The short facts are as follows:- The petitioner is a voter of Panayam Division No.09 of Chittumala Block Panchayat. The respondent is the elected member from this division of the Block Panchayat. The respondent is also a member of the Health and Education Standing Committee. Though the respondent has been elected to the Block Panchayat, she has miserably failed to discharge her duties as a member and she has even failed to attend the meetings of the Standing Committee for Health and Education. The respondent has intentionally abstained from attending the Health and Education Standing Committee meetings convened on 26.10.2013, 27.11.2013, 23.12.2013, 22.01.2014, 25.02.2014 and 18.03.2014 despite receiving due notices of the same. The respondent is liable to be disqualified as a member of the Block Panchayat for her failure to attend the continuous six consecutive meetings of the Health and Education Standing Committee as provided by Section 35 (k) of the Kerala Panchayat Raj Act. Hence this petition.

3. The respondent filed objection contenting in brief, as follows:-

The petition is not maintainable either in law or on facts. The respondent is liable to be disqualified under Section 35(k) of the Kerala Panchayat Raj Act, only if proper notice is given by the Secretary of the Panchayat and such disqualification cannot be agitated before this Commission. So the petition is not legally sustainable. It is true that the respondent is the elected member representing Panayam Division No.09 of Chittumala Block Panchayat. She is also a member of the Health and Education Standing Committee. The respondent had attended the Standing Committee meetings of Health and Education which have been convened legally. She is not duty bound to attend the meetings of the Standing Committee if proper notice was not given to her and also if the meetings were held after giving shorter notice than what is prescribed for an ordinary meeting. The meeting held on 27.11.2013 was illegal as the date of notice itself was on 27.11.2013. After serving the notice on 27.11.2013 the date of notice was corrected as 20.11.2013. The respondent was served with the notice only on 27.11.2013. So also the notices for the meetings held on 26.10.2013, 23.12.2013, 22.01.2014, 25.02.2014 and 18.03.2014 were served only on the dates of such meetings. Sufficient notices as prescribed by law were not given to the respondent in respect of the above meetings. So she was not bound to attend

such meetings. The respondent has not abstained from participating or attending the meetings of the Standing Committee for Health and Education for which due notices were served on her. Therefore the petition deserves only dismissal.

4. The evidence consists of the oral depositions of PWs1,2 and RW1 and Exts.P1, X1series and X2series.

5. Both sides were heard

6. The following points arise for consideration;

- (i) Whether the petition is not maintainable?
- (ii) Whether the respondent has failed to attend three consecutive meetings of the Standing Committee for Health and Education for which due notices were given as alleged?
- (iii) Whether the respondent has ceased to hold office as a member of Chittumala Block Panchayat as provided by clause (k) of Section 35 of the Kerala Panchayat Raj Act?
- (iv) Reliefs and costs?

7. POINT No.(i): This petition is filed under Section 35(k) of the Kerala Panchayat Raj Act, (hereinafter referred to as the 'Act'). According to the petitioner he is a voter of Panayam Division No.9 of Chittumala Block Panchayat and the respondent is the elected member of that division and so he is competent to file the petition. The respondent is admittedly the member of Panayam Division No.9 of Chittumala Block Panchayat. It is in

Para 1 of the petition that the petitioner has stated that he is a voter of Panayam Division No.9 of Chittumala Block Panchayat. In the objection the above averment is not denied. The respondent has not challenged the competency of the petitioner to file the petition. Section 35(k) of the Act states that a member shall cease to hold office as such if he absents himself without permission of the Panchayat concerned from its meetings or the meetings of the Standing Committee of which he is a member for a period of three consecutive months. The definite case of the petitioner is that the respondent has absented herself from the meetings of the Standing Committee of which she is a member from 26.10.2013 to 18.03.2014 and thus the respondent has ceased to hold office as a member. Section 36(1) of the Act states that whenever a question arises as to whether a member has become disqualified under any of the provisions of Section 35 except clause (n) thereof after having been elected as a member, any member of the Panchayat concerned or any other person entitled to vote at the election in which the member was elected, can file a petition before the State Election Commission, for decision. As per Section 36(3) of the Act, a petition referred to in sub section (1) of Section 36 shall be disposed of in accordance with the procedure applicable under the Code of Civil Procedure when trying a suit. So the Rules relating to pleadings under Civil Procedure

Code is applicable to a petition filed under Section 35(k) read with Section 36(1) of the Act. Order 8 Rule 3 of CPC states that it shall not be sufficient for a defendant in his written statement to deny generally the grounds alleged by the plaintiff, but the defendant must deal specifically with each allegations of facts of which he does not admit the truth. Order 8 Rule 4 states that where a defendant denies an allegation of the fact in the plaint, he must not do so evasively but answer the point of substance. Order 8 Rule 5 of CPC states that every allegation of the fact in the plaint, if not denied specifically or by necessary implication or stated to be not admitted in the pleading of the defendant shall be taken to be admitted. In the case on hand the respondent has not denied the allegation in the petition that the petitioner is a voter of Panayam Division No.9 of Chittumala Block Panchayat and in the absence of a denied of the above allegation the said allegation is to be treated as admitted and therefore no further proof is required to come to a conclusion that the petitioner is competent to file the petition as provided by Section 36(1) of the Act. This is more so in view of the reason that the competency of the petitioner to file the petition as provided under Section 36(1) of the Act is not challenged in the objection of the respondent. Therefore I find that the petitioner is competent to file the petition against

the respondent as he is a voter of Panayam Division No.09 of Chittumala Block Panchayat of which the respondent is the member.

8. The respondent has taken a contention that she is liable to be disqualified under Section 35(k) of the Kerala Panchayat Raj Act only if proper notice is given by the Secretary of the Panchayat and such disqualification cannot be agitated before this Commission and therefore the petition is not maintainable. The learned counsel for the respondent would rely on the decision in **Rajan Kannath V.P.R.Pradeep Kumar (2010(3) KLT 457)** to canvass for the position that in the absence of a proceedings by the Secretary under Section 37(2) of the Kerala Panchayat Raj Act, which is in pari materia with Section 93(2) of the Kerala Municipality Act, either suo moto or on a request by anybody requiring cessation of membership, no member will cease to hold office by virtue of the operation of Section 35(k) of the Kerala Panchayat Raj Act, which of course is similar to Section 91(k) of the Kerala Municipality Act. In the above decision the challenge was against the belated intimation given by the Secretary as provided by Section 93(2) of the Kerala Municipality Act and while considering this provision, the Hon'ble High Court held that there cannot be cessation of membership in the absence of proceedings under Section 93(2) by the Secretary. As a matter of fact the Hon'ble High Court was not considering the scope and

application of Section 92(1) of the Kerala Municipality Act which is similar to Section 36(1) of this Act. The Hon'ble High Court was only considering the legality or otherwise of the intimation given by the Secretary to the member under Section 93(2) of the Kerala Municipality Act in that case. However, whether in the absence of a proceedings under Section 37(2) of the Act, a petition seeking disqualification by a voter or member would be maintainable deserves consideration.

9. On a harmonious construction of Sections 35(k), 36(1) and Section 37(2) of the Act, it is clear that whenever a question arises as to whether a member has become disqualified under Section 35(k) of the Act, either any member of the Panchayat or a voter of the constituency from which the concerned member was elected can file a petition before this Commission for decision. It is settled law that even a member who has been served with an intimation under Section 37(2) of the Act also can file a petition under Section 36(1) of this Act and he need not try his luck by applying for restoration as provided by Section 37(2) of the Act. So in the case of an alleged disqualification under Section 35(k) of the Act, any member or voter can file a petition under Section 36(1) for declaring that the concerned member has ceased to hold office and if an intimation has been given under Section 37(2) of the Act, the concerned member also can file a

petition under Section 36(1) of the Act. Section 37 is a special provision whereby the Secretary of the Panchayat has to intimate the fact in writing to the member if he ceased to hold office under Section 35(k) of the Act and in such a context that member has two options i.e., he can admit the cessation and apply for restoration as provided by Section 37(2) or file a petition under Section 36(1) challenging such intimation. However if a member ceases to hold office as provided by Section 35(k) and no intimation is given as provided by Section 37(2) of the Act, any other member or a voter of the constituency from which the concerned has been elected can file a petition under section 36(1) of the Kerala Panchayat Raj Act. The Secretary can also make a reference under the proviso to Section 36(1) of the Act without resorting to Section 37(2) of the Act, seeking a decision regarding the question whether the said member has ceased to hold office in terms of Section 35(k) of the Act. Section 36(1) of the Act is a general provision and Section 37 is a special provision and both these provisions would operate under different situations. In *V. Anil Kumar V. Kerala State Election Commission* (2007 (2) KHC 273) it has been held at Paras 7 and 8 as follows,-

“7. We are of the view, whenever a question arises as to whether a member has become disqualified under

Section 35(k) that member can invoke Section 36(1) of the Act and seek a decision from the Election Commission. So also, such a person can invoke Section 37(1) for restoration of his membership by preferring an application under sub-section (2) of Section 37 before the Panchayat but a voter cannot invoke Section 36(1), if that elected member has already entailed disqualification and that order of disqualification has become final. An elected member can always invoke sub-section (1) of Section 36 even if the Panchayat Committee has rejected his application under sub-section (1) of Section 37 for restoration of his membership.

8. *We however, find it difficult to approve the reasoning in Rajan's case (supra) which says that remedies available under Sections 36 and 37(2) are inconsistent remedies. In our view those provisions operate on different situations. Section 36(1) calls upon the Election Commission to decide as to whether a member has entailed disqualification. Section 37(2)*

gives an opportunity for a disqualified member for restoration of his membership. On facts this case stands on a different footing, hence reference to a Larger Bench does not arise. In the instant case, petition was moved under Section 36(1) of the Act not by the person who entailed disqualification but by a voter. So far as a voter is concerned, in our view, once the member has already become disqualified and that order has become final, no question arises as to whether the elected member has become disqualified or not so as to enable a voter to invoke sub-section (1) of Section 36 of the Kerala Panchayat Raj Act.”

10. In the above decision it has been held that a member of the Panchayat can invoke Section 36(1) of the Act whenever a question arises as to whether he has become disqualified under Section 35(k) if he has been served with an intimation under Section 37(2) of the Act and such a member can also apply for restoration without resorting to Section 36(1) on getting such intimation and it has been further held that the said member even after the dismissal of his application for restoration can file a petition under

Section 36(1) of the Act. It has also been clarified that a voter can file a petition under Section 36(1) of the Act when a question arises as to whether a member has ceased to hold office as provided by Section 35(k) of the Act. In *Giji Mathew V. Kerala State Election Commission*(2006 (3) KLT 141) also this position has been clarified. In **Gopi V. Maneed Grama Panchayat (2002(2)KLT 753)** it has been held at **Para 4** as follows,-

*“4. Under Section 36 of the Kerala Panchayat Raj Act, 1994, whenever a question arises as to whether a member has become disqualified under Section 30 or under Section 35 (except under Section 35(n), it is open to any member of the Panchayat concerned or any person entitled to vote at the election in which the member was elected to file a petition for a decision by the Commission. It has now been held by a Bench decision of this Court in *Rajan V. Kerala State Election Commission, 1999(3) KLT 601* that an aggrieved member also is entitled to approach the Commission. After the amendment by Act 13/1999 with effect from 24.03.1999 the Secretary of the Grama Panchayat or*

any officer authorized by the Government are also entitled to refer such a question to the Commission. It is significant to note that as far as aggrieved member/members of the Panchayat/voters are concerned, they have to file a petition before the State Election Commission as and when the question arises; whereas in the case of the Secretary of the Grama Panchayat or the officer authorized by the Government they are entitled to refer a question for decision by the Commission.”

This position is further clarified at **Para 6** of the above decision as follows,-

“6. But a question may arise as to the disqualification of a member even before the Secretary of the Panchayat gives an intimation to the member or reports the matter to the Panchayat. It is significant to note that the expression ‘question’ has been understood as ‘dispute’ by the Division Bench in Rajan’s case (supra). Even otherwise the Legislature uses the expression under Section 36 “whenever a question arises.” The question is said to arise when the membership becomes questionable. The

membership becomes questionable not only at the instance of the member concerned but at the instance of (1) any other member, or (2) any voter, or (3) the Secretary, or (4) the Officer specifically authorized by the Government. Those persons are entitled to approach the Election Commission under Section 36, even before the Secretary of the Grama Panchayat intimates the fact to the member concerned. It is also to be noted that Section 36 operates in a wide range of situations under Section 30 and Section 35 whereas Section 37(2) deals only with Section 35(k) situation. As to whether it is a fact that a person has ceased to be a member can itself be a matter of reference as far as the Secretary or the authorized officer is concerned. The affected as well as aggrieved members and voters are concerned they are entitled to file petition before the Election Commission for a decision as to the acquisition of disqualification.”

11. On a careful reading of Section 36(1) of the Act itself there cannot be any doubt that a voter of the constituency from which the concerned member was elected, and on whom no intimation has been given

by the Secretary under Section 37(2) of the Act, is competent to file a petition for declaration that such member has ceased to hold office when a question so arises. So in the light of the settled position of law, I hold that a voter of the constituency from which the respondent has been elected is fully competent to file a petition under Section 36(1) of the Act. In the light of the allegation that the respondent has ceased to hold office for her failure to attend three consecutive meetings of the Standing Committee for Health and Education of which she is a member, this petition is found to be maintainable. It is also settled in law that the disqualification incurred due to failure of the member to attend three consecutive meetings will not be eschewed by attending the subsequent meetings. In Rajan Kannath's case cited supra also this position has been clarified. In the above decision it has been held at Para 4 as follows,-

“We are also not able to accept the proposition laid by the learned Single Judge that permission to participate in the subsequent meeting will give rise to a presumption that there is a deemed restoration of membership by the Council to such member. Logically the view taken by the learned Single Judge is quite acceptable, but the disability for a member from restoration of membership more than

once for violation of Section 91(k) will not justify any such presumption of deemed restoration of membership each time it is lost.”

So I find that the petition is maintainable. The point is answered accordingly.

12. POINT Nos.(ii) to (iv): The petitioner would allege that the respondent failed to attend the Health and Education Standing Committee Meetings held on 26.10.2013, 27.11.2013, 23.12.2013, 22.01.2014, 25.02.2014 and 18.03.2014 continuously for which due notices were given. According to the respondent she had attended all the meetings for which proper notices were given and she has further stated that the notice for the meeting held on 27.11.2013 was given only on that date and the notices for the other meetings mentioned in the petition also were given to her on the said dates of meetings and so she was not bound to attend such meetings. The petitioner has been examined as PW1. He has given a version in terms of his allegations in the petition. The Secretary of the panchayat has been examined as PW2. The Secretary produced the notice book and the attendance register regarding Health and Education Standing Committee meetings and they are marked as Exts.X1 series and E2 series. The respondent has been examined as RW1. The fact that the respondent failed

to attend the meetings held on the dates mentioned in the petition is not in dispute. The main contention is that no due notices were given to her for such meetings. In this context Section 35(k) becomes relevant and it reads as follows,-

“35. Disqualifications of members,-(1) Subject to the provisions of Section 36 or Section 102, a member shall cease to hold office as such, if he..

.....
.....

(k) absents himself without the permission of the Panchayat concerned from its meeting or the meeting of the Standing Committee thereof for a period of three consecutive months reckoned from the date of commencement of his term of office or of the last meeting that he attended, or of the restoration to office as member under sub-section (1) of Section 37, as the case may be, or if within the said period, only in less than three meetings of the panchayat or of the Standing Committee as the case may be, have been held, absents himself from three consecutive meetings held after the said date:

Provided that no meeting from which a member absented himself shall be counted against him under this clause if,-

- (i) due notice of that meeting was not given to him; or*
- (ii) the meeting was held after giving shorter notice than that prescribed for an ordinary meeting; or*
- (iii) the meeting was held on a requisition of members; or*

Provided further that no permission shall be granted by the Panchayat to a member for absenting himself from meetings of the Panchayat or of the Standing Committee for a continuous period of more than six months.”

13. So for attracting this provision, certain conditions are to be satisfied. Firstly the member should absent himself from the meeting of the Panchyat or of the Standing Committee of which he is a member for a period of three consecutive months reckoned from the date on which his term of office starts or of the last meeting that he attended. Secondly due notices of those meetings should have been served to him and such meetings were not held on requisition of members. There should have been three meetings within the period of the above three months. It is also important to point out that if within the said period of three months, only less than three meetings

of the Panchayat or of the Standing Committee as a case may be have been held, the member should have failed to attend the meetings of the subsequent three consecutive months to attract disqualification. The period of three consecutive months to be reckoned from the last date that the member has attended is to be calculated on the basis of the month starting from the date of the meeting which he last attended. This position has been clarified in **Krishna Kumar C. V. Kerala State Election Commission (2010 (3) KLT 315)**. At **Paras 11 and 12** of the above decision it has been held as follows,-

“11.It is clear from the principles laid down in the above decisions that the word “month” has to be reckoned, and the period has to be computed in the light of the language employed in the provision itself. When a particular date which is not the first of the month has to be reckoned, the first month will have to be computed by reckoning the said factor. When the period has to be counted from a date which is not the first day of the month, the method of computation as described in Halsbury’s Laws of England has to be adopted which is the safest method. This is clear from the decisions in Daryoth Sigh’s case, Bibi Salma

Khatoon's case and Surabhi's case. In all these three cases the word "month" is qualified by the words "from the date" etc. Therefore, when the word "month" is followed by such an expression indicating the date from which it has to be computed, the principles stated in the above three decisions will squarely apply and the period will expire upon the day in the succeeding month corresponding to the date upon which the period starts. Evidently, in Surabhi;s case (supra), this Court considered an identical situation like one herein, wherein under the Land Acquisition Act, viz. Section 28A(1), the application had to be made within " three months from the date of award of the Court." Therefore, the calendar month has to be reckoned from the date of the award. The Apex Court in Bibi Salma Khatoon,s case (supra), also has considered a similar issue. Therefore, the said dictum alone will apply to the facts of this case. The decision of this Court in Radhakrishnan's case," was one considering a case

where the wording of Section 33(1) of the Kerala Co-operative Societies Act, 1969 was not the like one in Section 35(k) of the Panchayat Raj Act. Therefore, it is in that context this Court said that when ‘month’ followed by the words, “consecutively six months” has to be reckoned based on British calendar, till the end of the six months period.

12. Herein, going by the facts of the case, the last meeting which the petitioner had attended, was on 16.10.2008. The notice Ext.P1 was issued on 24.01.2009. Therefore reckoned from the date 16.10.2008, on which he last attended the meeting and even excluding one day, the period of three months will expire before 24.01.2009, the date of Ext.P1 notice. It is not as if the Secretary should have waited till the end of January, ie., 31.01.2009. Therefore, the contention raised by the petitioner that the notice itself is without jurisdiction, cannot be accepted.”

14. As per Section 35(k) of the Act the period of three consecutive months for which a member is absent is to be reckoned from the date of meeting on which the member had last attended. On a perusal of Ext.X2 it is found that the respondent was present for the meeting held on 17.07.2013 and thereafter she was not present for the meetings held on 17.08.2013, 24.09.2013 and 26.10.2013. So as per section 35(k) the first period is to be reckoned from 17.07.2013 and the last date of the three consecutive months period would fall on 17.10.2013. But during the said period, three meetings due once in a month were not held as seen from Ext.X2 and only two meetings were held during the period up to 17.10.2013 which were on 17.08.2013 and 24.09.2013. More over it is found that for the meeting held on 24.09.2013 no notice was given to the respondent. Therefore a fresh period of three months is to be calculated from the next meeting onwards and that meeting was held on 26.10.2013. Whether the respondent was absent during the three consecutive meetings reckoned from 26.10.2013 and whether due notices were given for such meetings deserve consideration. The three meetings held during the three months period from 26.10.2013 were on 26.10.2013, 27.11.2013 and 23.12.2013. For the meeting held on 26.10.2013 notice was given to the respondent as seen from Ext.X1(a) and its notice date is 18.10.2013. For the next meeting held on 27.11.2013, the

original date shown in the notice book was 27.11.2013 as seen from Ext.X1(b) and that is seen corrected as 20.11.2013. The correction to the above date is admitted by PW2, the Secretary. Moreover the said correction is evident even on a look by the naked eye. The respondent has specifically stated in her objection that notice for this meeting was give to her only on 27.11.2013. The respondent as RW1 has given a consisting version in this regard. On account of the correction made in respect of Ext.X1(b) notice, it cannot be held that the respondent was given three clear days notice for this meetings. The next meeting was held on 23.12.2013 and the date shown in the notice is 16.12.2013. She though the respondent has signed in the notice book she did not attend that meeting as seen from Ext.X1(c). However as the respondent was not given due notice for the meeting held on 27.11.2013, she will not incur any disqualification as provided by Section 35(k) of the Act for the said three meetings. The next period of three consecutive months is to be reckoned from the meeting held on 22.01.2014. For the meeting held on 22.01.2014, the notice date shown in Ext.X1(d) is 15.01.2014. The next meeting was held on 25.02.2014 and the date shown in the notice as seen from Ext.X1(e) is 19.02.2014 and for the next meeting held on 18.03.2014, the notice date shown is 11.03.2014 as seen from Ext.X1(f). From Exts.X2(d), (e) and (f) which are the attendance sheets of

the above meetings, it is found that the respondent has not attended those meetings. It is found from Exts.X1(d) to (f) and Exts.X2(d) to (f) that the notices were given to the respondent for the meetings held on 22.01.2014, 25.02.2014 and 18.03.2014. It is also found that three meetings due once in a month were held during the period from 22.01.2014 till 22.03.2014 which is the period to be reckoned as provided by Section 35(k) of the Act. It is also found from Exts.X1(d) to (f) that the dates of notice would cover more than three clear days notices for these meetings. Even though the respondent has stated that she was given notice only on the dates of the meetings, that does not appear to be acceptable. Of course the date of acceptance of the notice is not shown by the respondent while acknowledging receipt. Her signatures are admittedly available in the notices of these meetings. The contention of the respondent that since the notices were given on the dates of the meetings alone, she was not bound to attend such meetings is totally untenable. The respondent as RW1 has deposed that she was given notice for these meetings at the Panchayat office itself. If that be so, she could have attended those meetings. Since the respondent is found to have put her signatures to the notices for the said meetings as seen from Exts.X1(d) to (f) and the dates shown in the notice book and the date of the meetings covers more than a period of three clear days, it can only be held that the

respondent was given due notices for such meetings. From Ext.X1 series it is found that the practice being followed in the Panchayat was to give notice directly and the members are putting signatures in taken of receipt of such notices. It appears that there was no practice of putting any date of acceptance of such notices. Since this was the routine practice being followed, it can only be found that the notices were given to the respondent on the dates shown in the notice book. However there is no evidence to show that only shorter notices were given to the respondent for the meetings held on 22.01.2014, 25.02.2014 and 18.03.2014. Admittedly the respondent has not attended the meetings held on 22.01.2014, 25.02.2014 and 18.03.2014. As per Rule 16(3) of the Kerala Panchayat Raj (Standing Committee) Rules, the Chairman of the Standing Committee has to give three clear days notice while convening its meeting. As per Rule 4 of the Kerala Panchayat Raj (Procedure for Panchayat Meetings) Rules, a notice showing the date and time of the meeting and the agenda to be discussed in the meeting shall be given to the members at least three clear days prior to the date fixed for beginning of the meeting. As per these provisions, there should be three clear day's notice to the members for attending the meetings. As already pointed out, from Exts.X1(d) to X1(f) it is found that due notices were given to the respondent for the said meetings. The version of the

respondent that she was given notice for the above meetings only on the dates on such meetings cannot be believed at all. On a careful appreciation of the entire facts and materials on record, I find that all the requirements as provided by Section 35(k) of the Act have been fully satisfied in respect of the meetings held on 22.01.2014, 25.02.2014 and 18.03.2014 for which the respondent failed to attend. Hence I find that the respondent has incurred disqualification on account of her failure to attend for the meetings of the Health and Education Standing Committee held on 22.01.2014, 25.02.2014 and 18.03.2014 for which due notices were given. The points are answered accordingly.

In the result, the petition is allowed and it is declared that the respondent has ceased to hold office as a member of the Chittumala Block Panchayat as provided by Section 35(k) of the Kerala Panchayat Raj Act.

The parties shall bear their respective costs.

Pronounced before the Commission on this the 16th day of September 2014

Sd/-
K.SASIDHARAN NAIR,
STATE ELECTION COMMISSIONER

APPENDIX

Witnesses examined of the side of the petitioner

- PW1 : Sri.Rajesh.S, Vellikattu Veedu, Ambazhavayal,
Perinadu P.O., Kollam
- PW2 : Secretary, Chittumala Block Panchayat

Witness examined on the side of the respondent

- RW1 : Smt.Suvarnakumari Amma, Member,
Chittumala Block Panchayat

Documents produced on the side of the petitioner

- P1 : Copy of the Notice of Health and
Education Standing Committee Chittumala Block
Panchayat dated 18.10.2013
- P1(a) : Copy of the notice to the meeting dated 27.11.2013
- P1(b) : Copy of the notice to the meeting dated 16.12.2013
- P1(c) : Copy of the notice to the meeting dated 15.01.2014
- P1(d) : Copy of the notice to the meeting dated 19.02.2014
- P1(e) : Copy of the notice to the meeting dated 11.03.2014
- P1(f) : Copy of the notice to the meeting dated 11.04.2014

Documents produced on the side of the witnesses

- X1 : Meeting notice book of Health and Education
Standing Committee Chittumala Block Panchayat
- X1(a) : Page No.35 of X1
- X1(b) : Page No.36 of X1

- X1(c) : Page No.37 of X1
- X1(d) : Page No.38 of X1
- X1(e) : Page No.39 of X1
- X1(f) : Page No.40 of X1
- X2 : Attendance Register of Health and Education
Standing Committee Chittumala Block Panchayat
- X2(a) : Page No.18 of X2
- X2(b) : Page No.19 of X2
- X2 (c) : Page No.20 of X2
- X2(d) : Page No.21 of X2
- X2(e) : Page No.22 of X2
- X2(f) : Page No.23 showing the attendance of Health and
Education Standing Committee held on 18.03.2014

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