

BEFORE THE KERALA STATE ELECTION COMMISSION,
THIRUVANANTHAPURAM

PRESENT: SHRI. A. SHAJAHAN,
STATE ELECTION COMMISSIONER

Thursday, the 22nd day of February, 2024

O.P. No. 20 of 2022

Petitioner

: Munavar P.,
Palasseri House,
Karuvambram West P.O.,
Eranad Taluk, Malappuram

(Voter, Ward No.49,
Manjeri Municipality)

(By Adv. U.A. Amir &
Adv. A. Ismail Sait)

Respondent

: Viswanathan,
Puthan Madathil House,
Karuvambram West P.O.,
Ernad Taluk, Malappuram

(Councilor, Ward No.49,
Manjeri Municipality)

(By Adv. P.K. Varghese)



ORDER

This is a petition filed under Section 86 of Kerala Municipality Act, 1994 to declare the respondent as disqualified to continue as a Councilor of Manjeri Municipality.

2. The case of the Petitioner in brief is as follows:

The Petitioner is a voter in Ward No.49 of Manjeri Municipality. Both the Petitioner and the Respondent contested Municipal Election from Ward No.49 Karuvambram of Manjeri Municipality General Election held December 2020 and the Respondent won and continuing as a Councilor. The Respondent was an employee as the "Vazhipadu Assistant Clerk" of Shri. Vishnu-Karimkalikavu Temple at Narukara, Manjeri which is under the control of the Malabar Devaswom Board and administered by the Malabar Devaswom Board Commissioner. Since respondent was a paid employee of the said temple at the time of scrutiny of his nomination, objection was raised by one Faisal Mon P.A. another candidate, against the acceptance of his nomination. But the Returning Officer overruled the objection stating that he was resigned from the employment of the temple on 19.11.2020, prior to the date of scrutiny of nominations. After the election the Respondent has submitted an application before the authorities with an intention of withdrawing his resignation from the post of the "Vazhipadu Assistant Clerk" of the temple and further requested to rejoin in the service as an employee. On the basis of his application on 30.10.2021 the Assistant Commissioner, Malabar Devaswom Board, Kozhikode issued an order permitting Respondent to withdraw his resignation from the post of "Vazhipadu Assistant Clerk" and permitted him to re-join in the service of the Devaswom Board. Thereafter as per the above said order he has joined in the duty of the temple controlled by



the Malabar Devaswom Board with effect from 30.10.2021 and has been working as a paid employee at the temple under Malabar Devaswom Board. As per Section 86 of the Kerala Municipality Act, 1994 the petitioner is disqualified to continue as a member of Municipality and is liable to be disqualified from continuing as a Councilor of the Municipality.

3. The Respondent contended that the Petition is not maintainable either in law or in facts. The Petitioner has no locus standi to approach this Commission and file the petition. The Respondent was working as a temporary staff in Narukara Vishnu-Karimkalikavu Temple, Manjeri since 2010 onwards without any remuneration. The Respondent is an employee in a temple and there can be no set up placed on such power by the Malabar Devaswom Board under the guise of superintendence as per Section 20 of the Madras Hindu Charitable Endowments Act, 1951. The salaries, allowances of the employees of Sree Vishnu-Karimkalikavu Temple at Narukara, Manjeri is being met by the income derived from the temple itself and the petitioner is also being paid by using the income derived from the temple. The Board has not paid any amount to this respondent and employees of the temple and it has only a power of superintendence. The Malabar Devaswom Board has issued a circular H2/6360/2015/MDB dated 12.10.2015 permitting the employees of the temple to file nominations with the concurrence of the administrator of the temple. The respondent has contested the election with the permission of temple authorities. The respondent resigned from employment of the temple since otherwise he was not able to take leaves for a longer period in order to have the proper propaganda of the election. The power to appoint employees in the temple is not specifically or otherwise conferred to the Malabar Devaswom Board. The Malabar Devaswom Board

