

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

**PRESENT: SHRI. A SHAJAHAN,
STATE ELECTION COMMISSIONER**

Tuesday, the 25th day of February, 2025

O.P. No. 45 OF 2023

Petitioner

: Lalu Thomas
S/o. Thomas,
Kannettu Puthenpadiyil,
Puramattom P.O.,
Pathanamthitta (Dist.)

(Member, Division No.03,
Koipuram Block Panchayat)

(By Adv. Mridul John Mathew)

Respondent

: Saji @ Unni Placheri,
S/o Janardhanan,
Placherimannil,
Velliyara P.O, Ayroor,
Pathanamthitta (Dist.)

(Member, Division No.06,
Koipuram Block Panchayat)

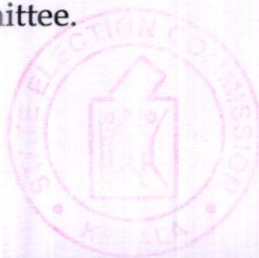
(By Adv. V.S. Sunil Kumar)



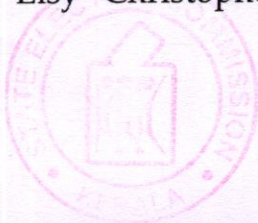
ORDER

This is a petition filed under section 4 of the Kerala Local Authorities (Prohibition of Defection) Act, 1999 for declaring that this respondent committed defection and hence disqualified to continue as member of Koipuram Block Panchayat and also for declaring him as disqualified to contest as candidate in any election to the local authorities for a period of six years.

2. The petitioner's case in brief is as follows;-Petitioner and respondent are elected members of ward No.3 and 6 respectively of Koipuram Block Panchayat. Petitioner and respondent were contested and elected as candidates of Indian National Congress (hereinafter 'INC') in the election symbol " hand", in the General Election to the local authorities held in 2020. INC is a constituent of United Democratic Front (hereinafter 'UDF'). After the election all the elected members of INC, including the petitioner and respondent filed sworn declarations before the Secretary of Koipuram Block Panchayat showing their political allegiance as elected members of INC. Based on said declarations, the Secretary of the Koipuram Block Panchayat prepared a register showing the political affiliation of the elected members, wherein also it is stated that respondent is an elected member belonging to INC. Respondent is presently the Vice President of the Koipuram Block Panchayat.
3. There are 13 wards in Koipuram Block Panchayat. Out of which INC got 6 seats, Kerala Congress (J), another constituent of UDF got 1 seat. Communist Party of India (Marxist) (hereinafter 'CPI (M)') a constituent of Left Democratic Front got 6 seats. Thus, UDF got 7 seats and secured majority in the Block Panchayat committee.

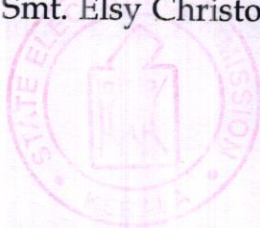


4. While so, Smt. Sosamma Joseph, the then President of Koipuram Block Panchayat resigned from the post, which paved the way for fresh election to the post of President. Commission notified election to the said causal vacancy and Retuning Officer in turn issued notice of election meeting to be held on 26.05.2023. Prior to the election INC convened a parliamentary party meeting of its elected members on 20.05.2023 for discussing about its candidate in the election. Even though notice were served to all elected members of INC, respondent did not attend the meeting. In the meeting it was decided to field Smt. Elsy Christopher as INC candidate for the post of President.
5. Accordingly, the District Congress Committee (hereinafter 'DCC') President issued written directions (whip) to all the elected members of INC, including the respondent to vote in favour for Smt. Elsy Christopher for the post of President. The whip was sent by registered post on both residential and official addresses of the respondent on 22.05.2023. However, knowing its contents, respondent refused to accept both the whip in spite of intimation given by the postal authorities. However, on 22.05.2023, whip was served to the respondent, at the behest of DCC President by affixture at the residence of the respondent, in the presence of witnesses. In addition to it, whip was sent to the respondent through WhatsApp and e-mail messages by DCC President on 25.05.2023. Both messages were delivered to the respondent. Copy of the whip was also communicated to the Secretary of Koipuram Block Panchayat. Respondent is having sufficient knowledge about the whip prior to the election.
6. However, in the President election held on 26.05.2023, contrary to the decision and direction of INC, respondent voted in favour of Smt. K K Valsala, the candidate fielded by LDF for the post of President and thereby the candidate fielded by INC Smt. Elsy Christopher was defeated in the election.



Respondent colluded with the opposite coalition LDF and in gross defiance of the whip issued by the INC, voted in favour of the candidate fielded by LDF. By the said conduct respondent voluntarily abandoned his membership of the INC, which fielded him as a candidate in the General Election. Thereby respondent has committed defection and liable to be disqualified under the provisions of the Kerala Local Authorities (Prohibition of Defection) Act.

7. The respondent's case in brief is that;- Respondent in his objection admitted the fact that he was contested and elected as a candidate of INC from ward No. 6 of the Koipuram Block Panchayat in the General Election to local authorities held in 2020. Respondent has also admitted the party position of Koipuram Block Panchayat after the General Election 2020 as stated in para 4 of the original petition. He has also admitted the fact that election to the post of President consequent on the resignation of Smt. Sosamma Joseph was scheduled on 26.05.2023. However, he denied the fact that a parliamentary party meeting was held on 20.05.2023 with due notice to him. The respondent has also no knowledge about the alleged decision in the parliamentary party meeting to field 'L.C Christopher' as the candidate of INC for the post of President. It is pertinent to note that all along the objection, respondent used the name of INC candidate as 'L.C Christopher' instead of her correct name 'Elsy Christopher' for the reason best known to him.
8. Respondent further submitted that in earlier on 20.06.2021, the then DCC President Sri. Babu George had issued a communication to the respondent informing him that he is expelled from the primary membership of the INC. Subsequent to his expulsion from the INC there had been no further intimations from the INC to participate in any of its meetings or programmes. There had been no direction either oral or in writing from the present DCC President to vote in favour of Smt. Elsy Christopher. It is false and incorrect



to state that the whip was sent by registered post on both residential and official addresses of the respondent. Respondent was never served with any intimation from the postal authorities relating to the alleged registered posts. No whip was affixed at the residence of the respondent by John Mathew in the presence of witnesses as alleged. The alleged whip is a fabricated document. The respondent did not see or had any occasion to watch or read the WhatsApp or e-mail messages allegedly sent by DCC President. The respondent was expelled from the INC and therefore the DCC President has no authority to issue whip to the respondent. Since the respondent did not voluntarily abandon his membership of the INC, he is not liable for any disqualification under the Kerala Local Authorities (Prohibition of Defection) Act.

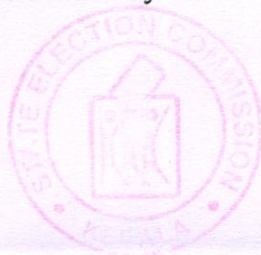
9. The evidence in this case consists of oral testimonies of PW1 to PW4, RW1 to RW7 and Exts. A1 to A7 and B1 to B6.

10. Both sides were heard.

11. The following points arise for consideration, namely;-

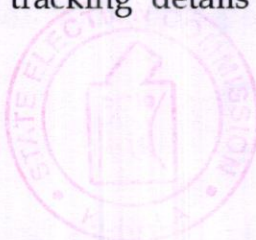
- i. Whether the respondent has disobeyed the decision and direction of the INC political party in the election to the post of President held on 26.05.2023 as alleged?
- ii. Whether the respondent has voluntarily given up his membership of the INC political party as alleged?
- iii. Whether the respondent has committed defection as contemplated under section 3 (1) of the Kerala Local Authorities (Prohibition of Defection) Act?

12. Point No. (i) to (iii); -As common questions of law and facts are arise for consideration in these points, they are considered together for convenience



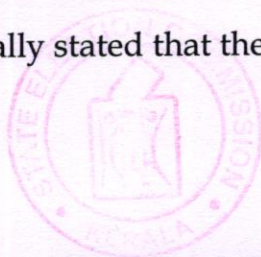
and to avoid repetition. Petitioner is admittedly an elected member of Koipuram Block Panchayat and as such competent to file petition before the Commission under the provisions of section 4 of the Kerala Local Authorities (Prohibition of Defection) Act. Respondent is admittedly an elected member of ward No. 6 of the Koipuram Block Panchayat, who was contested and elected as a candidate of INC during the General Election to local authorities held in 2020. There are 13 wards in Koipuram Block Panchayat. Admittedly, out of which UDF got 7 seats and LDF got 6 seats. Thus, UDF got majority of seats in the Koipuram Block Panchayat. Respondent admitted the fact that while so, Smt. Sosamma Joseph the then elected President of Koipuram Block Panchayat resigned from the post, which paved the way of fresh election to the post of President on 26.05.2023.

13. According to the petitioner, prior to the election INC convened a parliamentary party meeting of its elected members at DCC office on 20.05.2023 to discuss about the candidate to be fielded by INC in the President election. In the meeting all the elected members of the INC in the panchayat, except the respondent were attended. It was decided in the meeting to field Smt. Elsy Christopher as the candidate of the UDF in the President election. As per the decision, whip was issued by the DCC President to all elected members of the Koipuram Block Panchayat belonging to INC to vote in favour of Smt. Elsy Christopher in the election. All elected members except respondent accepted the whip. Therefore the whip was issued to the respondent through registered post with acknowledgment due to the official and residential addresses of the respondent. However, it was returned with the postal endorsement addressee "refused". Ext.A1 contains the postal receipts in proof of despatch of the whip to the official and residential addresses and the returned postal article sent to official address. Ext. A2 is the tracking details of postal article sent to



residential address of the respondent. It was corroborated by the DCC President, who was examined as PW4.

14. It has come out in evidence of PW4 that he has also entrusted PW2, John Mathew, who is the Aranmula Block Vice President of INC for effecting the service of whip to the respondent through affixture at the residence of respondent. Accordingly PW2 affixed the whip at the residence of respondent in the presence of PW3 and one Anish Varikkamala. Ext.A3 is the copy of the whip affixed. PW4 further stated that whip was also served to the respondent through WhatsApp messages. Ext.A4 is the delivery report of WhatsApp message.
15. However, in the objection respondent vehemently denied the allegation that DCC President has intimated the stand of the political party to him. Respondent denied the allegation that whip were sent by registered post on the residential and official addresses of the respondent. He was not served with any intimation from the postal authorities relating to Ext.A1 registered post. Respondent stoutly denied the fact that PW2 and PW3 visited his residence on 22.05.2023 for serving the whip through affixture. No whip was affixed at the residence of the respondent by PW2. The respondent did not see or had any occasion to watch or read WhatsApp or email allegedly sent by DCC President. Ext.A4 and Ext.A5 are fabricated documents.
16. Further, in para 9 of the objection respondent has taken a case that Ext.A1 and A2 are fabricated documents. However, when the Postmaster of Pullad Post office was examined as RW5 or when Postal Superintendent of Thiruvalla Postal Division was examined as RW7, respondent put nothing in this regard to them. RW5 deposed before the Commission that the Ext.A1 registered postal article was received in the Block Office on 23.05.2023 between 12.45 pm to 1 pm. RW7 categorically stated that the Ext.A1 postal article was served to



the Block Office on 23.05.2023 at 12.50 pm. RW7 corroborated the contents of Ext.B6 issued by her under Right to Information Act regarding the time of delivery of postal article to Block Panchayat office and the details of postwomen who delivered the postal article.

17. Respondent has also examined RW3, Head Clerk of Koipuram Block Panchayat, who issued Ext.B3 under the Right to Information Act. RW3 supported the contents of Ext.B3 that the respondent, who was in charge of President on 23.05.2023 was on official tour from 9.20 am to 6.20 pm on that day as per the entries of log book maintained in the Panchayat office. Respondent has also examined RW6, a daily waged Driver of Koipuram Block Panchayat, who deposed before the Commission that respondent was not in the office on 23.03.2023. Respondent examined all these witnesses to rebut the correctness of postal endorsement" refused" in the Ext.A1, since he was not available in the panchayat office on 23.05.2023 during the service of Ext. A1 by the Postwomen.
18. From the Ext.B6 issued by RW7, it seems that Postwomen Smt. Akshara Kamal, Dak Sevak Delivery, Beat 2 has served the Ext.A1 postal Article to the Block Panchayat Office on 23.05.2023 and made the endowment addressee "refused". However, it is pertinent to note that respondent has not cared to examine the Postwomen, who made the endorsement " refused " in Ext.A1 to substantiate his case. The postwoman is certainly a material witness who could provide essential information in this regard. Therefore adverse inference can be drawn for no-examination of Postwomen.
19. Further, the Postal Superintendent who was examined as RW7 deposed before the Commission that

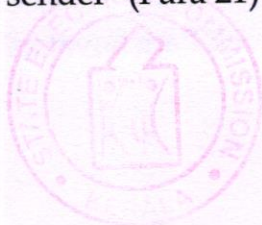


"കോയിപ്രം ബ്ലോക്ക് പഞ്ചായത്ത് ഏരിയയിൽ പോസ്റ്റൽ ഉരുപ്പടികൾ വിതരണം ചെയ്യുന്നത് ഒരേ പോസ്റ്റമാനാണ്. പോസ്റ്റൽ ഉരുപ്പടികൾ യഥാസമയം വിതരണം ചെയ്യാൻ കഴിഞ്ഞില്ലെങ്കിൽ അധികസമയം എടുത്ത് വിതരണം ചെയ്യാറുണ്ട്. Registered Articles addressee -ക്ക് തന്നെയാണ് കൈമാറേണ്ടത്. അഡ്രസ്സീ സ്വീകരിച്ചില്ലായെങ്കിൽ Refused to receive എന്ന് രേഖപ്പെടുത്തി പോസ്റ്റമാൻ പോസ്റ്റ് ഓഫീസിൽ തിരിച്ചെൽപ്പിക്കും. അന്നുതന്നെ Sender- ക്ക് തിരിച്ചയയ്ക്കും. Addressee-യെ കണ്ടില്ലെങ്കിൽ പോസ്റ്റമാൻ അഡ്രസ്സിയുടെ മേൽവിലാസമുള്ള വീട്ടിലോ ഓഫീസിലോ Intimation കൊടുക്കും ഇന്റീമേഷൻ ലഭിച്ചിട്ടും പോസ്റ്റൽ ആർട്ടിക്കിൾ 7 ദിവസത്തിനുള്ളിൽ വാങ്ങാൻ എത്തിയില്ല എങ്കിൽ Sender-ക്ക് തിരിച്ചയയ്ക്കും, തിരിച്ചയക്കുമ്പോൾ Unclaimed Return to Sender എന്ന് രേഖപ്പെടുത്തിയാണ് അയക്കുന്നത് Registered Articles Addressee-ക്കോ Addressee authorize ചെയ്യുന്ന ആൾക്കോ ആണ് കൊടുക്കുന്നത്. Ext. A 1 Addressee Intimation നൽകിയിട്ടും കൈപ്പറ്റാത്തത് കാരണമാണ് രേഖപ്പെടുത്തലുകൾ വരുത്തി Sender-ക്ക് തിരിച്ചയച്ചത്. പോസ്റ്റമാൻ Registered പോസ്റ്റമായി ചെല്ലുമ്പോൾ Addressee സ്വീകരിക്കാൻ വിസമ്മതിക്കുന്ന സമയത്താണ് Refused എന്ന് എഴുതി തിരിച്ചയക്കുന്നത്"

20. It is evident from Ext.A1 postal receipts that the registered articles were despatched to the official and residential addresses of the respondent on 22.05.2023. It is also evident from the endorsement on the postal article that it was returned to the sender since addressee "refused" to accept the postal article. Respondent has no case that the addresses shown in the Ext.A1 is incorrect or he is not residing in the said addresses. Respondent has failed to rebut the correctness of postal endorsement in Ext.A1 despite examining RW3, RW5 to RW7.

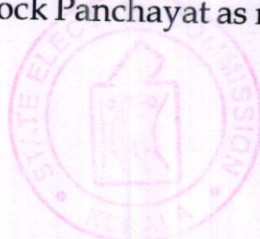
21. In *Praveena Ravikumar V State Election Commission* (2023 (6) KLT 845) the Hon'ble High Court has examined the legal effect of returning the postal article either as addressee "unclaimed" or "refused" and held that,-

"If the notice sent to the correct address is returned either as unclaimed or as addressee left, the failure to serve the notice can only be attributed to the addressee and not to the sender" (Para 21)



"Refusal of notice and notice returned as unclaimed, both tantamount to service of notice, if it was intimated within time especially in the context of the Act. Otherwise, every wily recipient would be able to defeat the process of law by allowing the postal article to be returned as unclaimed. In *Harcharan Singh V Smt. Shivani and Others* (1981) 2 SCC 535) and in *Jagadish Singh V Nattu Singh* (1992) 1 SCC 647) the Supreme Court had observed that a notice refused to be accepted can be presumed to have been served on him. In the said decisions, the Supreme Court observed that when a notice is sent to the correct address, the obligation of the sender ends with that, and if he does not claim the notice, it shall be deemed that there was valid service of notice. Viewed in the above perspective, it is evident that the respondents were served with the whip" (Para 22).

22. In the present case, it has come out that all other elected members belonging to INC in the Koipuram Block Panchayat, except respondent have accepted the whip when it was served directly. From the evidence on record, it seems that DCC President has taken all means possible to serve the whip to the respondent. From the ratio of above judgments and evidence on record it can be inferred that respondent was aware of the decision and direction of the INC political party in the election to the post of President held on 26.05.2023.
23. In para 8 of the original petition, petitioner has taken a plea that intimation regarding the whip and the copies of the whip issued to the INC members were given to the Secretary of the Koipuram Block panchayat and the same was acknowledged by him. In order to substantiate his case petitioner has produced the Ext.A6 copy of the whip duly acknowledged by the Secretary with his seals and signature. Even though respondent has no case in the objection filed by him that copy of the direction in writing (whip) was not served to the Secretary of the Block Panchayat as mandated under section 3(2)



of the Kerala Local Authorities (Prohibition of Defection) Act, he has taken such a contention during the trial. It is well settled legal principle that no evidence could be led beyond pleadings. However, in order to destruct the evidentiary value of Ext.A6, respondent has examined none other than the then Secretary of the Koipuram Block Panchayat as RW4. RW4 deposed before the Commission that Ext.A6 does not bear her signature and she does not remember the acceptance of such a document. However, RW4 deposed before the Commission to specific questions put by the petitioner that

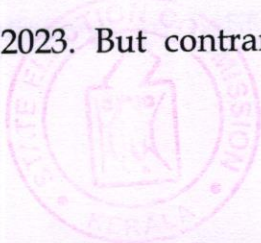
“(Q) Ext.A6 രേഖ താങ്കളുടെ ഓഫീസിൽ ലഭിച്ചത് കൊണ്ടാണ് ഓഫീസ് സീലും റൗണ്ട് സീലും പതിച്ചു നൽകിയത് എന്ന് പറയുന്നു (Ans) അതെ.

(Q) ഇപ്രകാരം ഒരു രേഖ താങ്കളുടെ ഓഫീസിൽ ലഭിച്ചിട്ടില്ലെന്ന് താങ്കൾ പറഞ്ഞത് കളവാണെന്ന് പറയുന്നു.

(Ans) ഞാൻ നേരിട്ട് സ്വീകരിച്ചില്ല എന്നാണ് പറഞ്ഞത്.”

24. It is well settled law that when documentary evidence is available, oral testimony of witnesses would not be able to rebut its probative value. The Hon'ble High Court in *Anitha Baby V Kunjappan Painkily and Another* (2015 KHC 33) held that "oral evidence contrary to the facts obtained from the documentary evidence is impermissible". Therefore it appears that copy of the direction in writing was duly communicated to Secretary of the panchayat as evident from Ext.A6 in adherence to the provisions of section 3 (2) of the Kerala Local Authorities (Prohibition of Defection) Act and no other conclusion is possible.

25. In para 8 of the petition, petitioner has taken a case that respondent is having sufficient knowledge about the direction of the political party in the President election held on 26.05.2023. But contrary to the direction issued by the



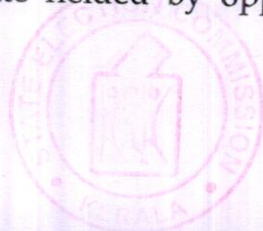
political party, he voted in favour of the LDF candidate Smt. K K Valsala and defeated the Presidential candidate of his own political party. However in the objection respondent not denied the allegation. It is evident from Ext.A3 whip that the direction issued to the respondent was to vote in favour of Smt. Elsy Christopher, the UDF candidate. But it has come out that respondent voted in favour of K K Valsala, the LDF candidate in the Presidential election.

26. Respondent has neither been examined in this case as a witness nor adduced any evidence to rebut the allegation in the original petition that respondent has voluntarily given up his membership of the INC. In page 4 of the affidavit filed by the petitioner *in lieu of* chief examination he stated that,-

"പ്രസിഡന്റ് തിരഞ്ഞെടുപ്പിൽ പാർട്ടി തീരുമാനത്തെ കുറിച്ച് എതിർക്കുകയ്ക്ക് വ്യക്തമായ അറിവ് ഉണ്ടായിരുന്നതും എന്നാൽ പാർട്ടി തീരുമാനത്തിനും വിപ്ലിനും വിരുദ്ധമായി ടി തിരഞ്ഞെടുപ്പിൽ എതിർക്കുക എൽഡിഎഫ് സ്ഥാനാർത്ഥിയായ കെ കെ വത്സലയ്ക്ക് പ്രസിഡന്റ് സ്ഥാനാർത്ഥിയായി വോട്ട് നൽകി, അദ്ദേഹത്തിന്റെ പാർട്ടി സ്ഥാനാർത്ഥിയെ എൽഡിഎഫ് അംഗങ്ങളോടൊപ്പം ചേർന്ന് തോൽപ്പിച്ചിട്ടുള്ളതാണ്."

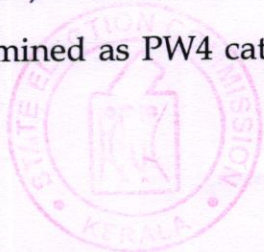
However, there is no cross examination on the above evidence. The above statement remains uncontroverted.

27. Admittedly, Koipuram block Panchayat has 13 wards. The respondent was nominated and elected as a candidate of INC from ward No. 6 of Koipuram Block Panchayat. Out of 13 wards, UDF secured 7 seats and LDF secured 6 seats. Therefore when the election to the post of President was held on 26.05.2023, the candidate nominated by UDF could have won the election, if all UDF members voted for their candidate. But in the present case, though Smt. Elsy Christopher was contested the election for President from UDF, of which respondent is an elected member, respondent voted in favour of Smt. K K Valsala, the candidate fielded by opposite LDF and because of the



respondent's one vote, the person from opposite party got elected. Though UDF got majority in the panchayat, they lost governance of the panchayat. This is a clear shifting of political loyalty to opposite LDF coalition by the conduct of the respondent, at the crucial moment of UDF.

28. It has further come out in the evidence of PW1 that after General Election to local authorities held in 2020, Smt. Jiji Mathew and petitioner herein, both belonging to UDF were elected as President and Vice President respectively. However, they were removed from the posts through a no confidence motion moved by LDF with the support of the respondent herein. In the subsequent election to the vacant posts of President and Vice President, Smt. Sosamma Joseph from LDF and respondent were elected as President and Vice President respectively of the Koipuram Block Panchayat. Respondent contested the election of Vice President with complete support from LDF and won the election and still continuing as Vice President of Koipuram Block Panchayat. However, PW1 admitted that no petition seeking the disqualification of respondent had been filed before the Commission in respect of the above stated cause of action.
29. In the objection respondent has raised a further plea that he was expelled from the primary membership of INC by Ext.B1 communication dated 20.06.2021 issued by DCC President and therefore the INC cannot issue any whip to him. According to the respondent since he was expelled from the primary membership of the INC, the Ext.A3 whip is not binding on him. In order to prove the fact that he was expelled from INC in 2021, he examined the then DCC President Sri. Babu George as RW1. RW1 deposed before the Commission that respondent had been expelled from INC through Ext.B1 communication. However, Prof. Satheesh Kochuparambil, the present DCC President who was examined as PW4 categorically denied that respondent



had been expelled from the INC. From the appreciation of evidence in its entirety, it seems that the alleged expulsion of the respondent from INC has not been acted upon so far.

30. Further, the Hon'ble High Court examined the above aspect in *Surya Praksh V. Kerala State Election Commission* (2015 KHC 454 DB) by relying on the judgment in *G.Viswanathan V Speaker, Tamilnadu Legislative Assembly* (1996 (2) SCC 353) it was held that merely for the reason that a person is expelled from the political party, he does not cease to be a member of the political party that had set him up as a candidate for the election unless he resigns by voluntarily giving up his membership or he joins another party." (para 15)
31. The words " voluntarily giving up of one's membership has been examined in detail in *Shajahan V Chathanoor Grama panchayat* (2002 (2) KLJ 451), wherein it has been specifically held that these words have wider connotation and are not synonymous with resignation. Therefore even if there is no resignation, the respondents' conduct can result him from becoming disqualified to continue as if he is no longer a member of the political party under whose banner he had contested and won the election. It is now well settled that in order to attract the disqualification of voluntarily giving up of membership in the political party, the elected member need not resign from the party.
32. In *Lissy Valsalan V Suja Salim and Another* (2015 (3) KHC 968) the Hon'ble Division Bench of High Court held that where a member of a political party is aware of the decision taken by the political party but failed to act in accordance with the political directive, it would amount to voluntarily abandoning the membership of the political party and he would be disqualified under section 3 (1) of the Kerala Local Authorities (Prohibition of Defection) Act.



33. In reaching the above conclusion, the Hon'ble High Court had referred to the decision in *Kihoto Hillohan V Zachillhu* ((1992) Supp 2 SCC 651, where the Supreme Court had explained the objectives of the 10th Schedule to the Constitution in the following passage: -

"Any freedom of its members to vote as they please independently of the political party's declared policies 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 very survival. "Referring to the object behind the 10th Schedule to the Constitution of India dealing with disqualification on the ground of defection, it was held therein that," provision is to curb the evil of political defection motivated by lure of office or other similar considerations which endanger the foundations of our democracy. The only remedy would be to disqualify the member." The Father of our Nation had foreseen the possibility of such cancerous and endangering tendencies in the practice of democracy and hence only the Mahatma said that politics without principle is a vice. No doubt politics is an art. But the beauty of the art is lost when no value is attached to the art. It is to check erosion of the values in democracy the 10th Schedule to the Constitution of India and the Kerala Local Authorities (Prohibition of Defection) Act, 1999 were brought into force"

34. There is evidence on the record that respondent was aware of the decision taken by INC, but failed to act in accordance with the political directive and acted hand in glove with LDF members to defeat the candidate fielded by UDF by voting in favour of the candidate fielded by LDF for the post of President. Considering the facts and circumstances of the case, I am of the considered opinion that respondent has voluntarily given up his membership



of the INC and therefore cannot be continue as a member of the Koipuram Block Panchayat.

In the result OP is allowed and the respondent is declared as disqualified for being a member of Koipuram Block Panchayat as provided under section 3 (1) of the Kerala Local Authorities (Prohibition of Defection) Act, 1999. The respondent is further declared as disqualified from contesting as a candidate in an election to any local authorities for a period of Six years from this date, as provided under section 4 (3) of the Act.

Pronounced before the Commission on the 25th day of February 2025.

Sd/-

A. SHAJAHAN

STATE ELECTION COMMISSIONER



APPENDIX

Witness examined on the side of the Petitioner

- PW1 : Sri. Lalu Thomas
 PW2 : Sri. Saji Chakkummoottil
 PW3 : Sri. Aby Mekkaringattu
 PW4 : Prof. Satheesh Kochuparambil

Witness examined on the side of the Respondent

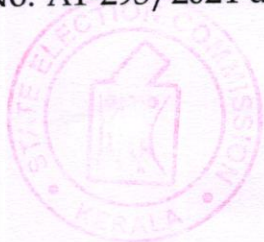
- RW1 : Sri. Babu George
 RW2 : Sri. K. Pavithran
 RW3 : Smt. Aseela K.M.
 RW4 : Smt. Mini K.R.
 RW5 : Sri. Renju T
 RW6 : Sri. Baby Thomas
 RW7 : Smt. Bindhu B

Documents produced on the side of the Petitioner

- A1 - Returned Postal Article addressed to Mr. Saji @ Unni placheri, sent by Prof. Satheesh Kochuparambil, DCC President, Rajeev Bhavan, Pathanamthitta
 A2 - Postal tracking details
 A3 - Copy of the whip showing the affixture details of whip dated, 22.05.2023.
 A4 - Copy of the WhatsApp screen shot
 A5 - Copy of the WhatsApp screen shot
 A6 - Copy of the letter showing the receipt of intimation of whip by secretary, Koipuram Block Panchayat.
 A7 - One and Same Certificate issued by village officer

Documents produced on the side of the Respondent

- B1 - Letter dated, 20.06.2021 of Sri. Babu George, DCC President, Pathanamthitta.
 B2 - Copy of the letter No. A1-2398/2023 dated, 27.12.2023 issued under RTI Act.
 B3 - Copy of the letter No. A1-293/2024 dated, 02.03.2024 issued under RTI Act.



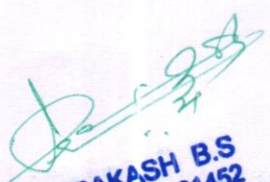
- B4 - Copy of the letter No. A1-293/2024 dated, 07.03.2024 issued under RTI Act.
- B5 - Copy of the letter No. A1-296/2024 dated, 04.03.2024 issued under RTI Act.
- B6 - Copy of the letter No. RTI /13/2024 dated, 09.07.2024 issued under RTI Act.

Sd/-

A. SHAJAHAN

STATE ELECTION COMMISSIONER

//True Copy//


PRAKASH B.S
PEN No : 101452
SECRETARY
State Election Commission
Kerala, Thiruvananthapuram

