

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

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

Tuesday, the 25th day of February, 2025

O.P. No. 52 of 2023

Petitioner

: Jyothi Satheesh Kumar
W/o. Satheesh Kumar
Kannimalai Lower Division,
Kannimalai, Estate, Munnar
Idukki District - 685612

(Member, Ward No. 07,
Munnar Grama Panchayat)

(By Adv. B. Vasudevan Nair &
Praveen C.P.)

Respondent

: V. Balachandran
S/o. Varadan,
GH Staff Quarters.
M/s TATA Tea Limited, Munnar,
Idukki District - 685612

(Member, Ward No. 17,
Munnar Grama Panchayat)

(By Adv. A. Santhosh 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 Munnar Grama 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 Munnar Grama Panchayat representing ward No. 7 and 17 respectively. Respondent was contested and elected as an official candidate of Communist Party of India (Marxist) (hereinafter "CPI (M)) in the symbol "Hammer Sickle and Star", in the General Elections to local authorities held in 2020. It was the Idukki District Secretary of CPI (M) who recommended the official symbol of political party to the respondent for contesting the election. After the election, respondent filed sworn declaration before the Secretary of the Munnar Grama panchayat stating his political allegiance to CPI (M). On the basis of said declaration Secretary of the panchayat prepared a register, wherein it is stated that respondent is an elected member of CPI (M). Ext.A1 is the sworn declaration.
3. After the General Election, out of total 21 seats, the Indian National Congress (hereinafter "INC") secured 11 seats and Left Democratic Front (hereinafter "LDF") secured 10 seats. Thus INC secured majority in the Panchayat and accordingly Smt. Manimozhy and Sri. Marsh Peter, both belongs to INC were elected as President and Vice President respectively of Munnar Grama Panchayat. While so, no confidence motion was moved by LDF against the President and Vice President of the Panchayat. However,



Smt. Manimozhy resigned from the post of President prior to the meeting of no confidence motion. The no confidence motion against Vice President was carried and Sri. Marsh Peter was removed from the post.

4. In the subsequent election to the posts of President and Vice President held on 03.01.2022, Smt. Praveena Ravikumar and Sri. M Rajendran, both belong to INC were elected to the respective positions, with the support of LDF. However, subsequently Smt. Praveena Ravikumar resigned from the post of President.
5. Commission issued notification to fill the casual vacancy of President and Returning Officer, in turn issued election notice to the elected members of the panchayat, informing the date of election meeting scheduled on 14.07.2023. LDF took a decision to field Smt. Jyothi Satheeskumar, petitioner herein as its Presidential candidate. Accordingly, Idukki District Secretary of the CPI (M) issued specific directions by way of whip to both the elected members belonged to CPI (M), including respondent to vote in favour of Smt. Jyothi Satheeskumar in the election. When the whip was served directly to the respondent, he was reluctant to accept the whip. Hence the whip has been served through registered post with acknowledgment due on 12.07.2023. Ext.A2 is the original postal receipt. The copy of the whip and Tamil translation thereof are marked as Ext.A3 series.
6. The respondent, who was well aware of the contents of postal article avoided to claim it, even after intimation given by the postal authorities. Therefore the postal article was returned to the sender with the postal endorsement "addressee unclaimed". Ext.A4 is the returned postal article.



The whip was also served by political party to the respondent by affixture at his residence, in the presence of witnesses. Ext.A7 is the duplicate copy of the whip affixed. Ext.A5 series are the photographs evidencing affixture. The copy of whip was also communicated to the Secretary of panchayat as mandated under section 3 (2) of the Kerala Local Authorities (Prohibition of Defection) Act.

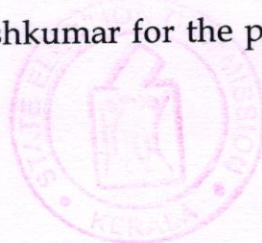
7. It is the case of petitioner that though the respondent has sufficient knowledge about the whip issued by his political party CPI (M), in the President election held on 14.07.2023 he voted in favour of Smt. Deepa Rajkumar, the candidate fielded by opposite INC for the post of President. However, both candidates secured equal number of votes and petitioner was elected by draw of lots.
8. It is further submitted by the petitioner that respondent colluded with opposite INC and in gross defiance of whip issued by his political party CPI (M) voted in favour of candidate fielded by INC and thereby the interests of CPI (M) and LDF are buried. The respondent by his conduct voluntarily abandoned his membership of CPI (M), which fielded him as a candidate in the General Election. Respondent has committed defection and liable to be disqualified under section 3 (1) (a) of the Kerala Local Authorities (Prohibition of Defection) Act.
9. Respondent's case in brief is as follows;- Respondent is an elected member of Munnar Grama Panchayat representing ward No.17. The respondent is a person belonging to scheduled caste community, who contested from ward No.17, reserved for scheduled caste community. Subsequently, he was elected as a member of Finance Standing Committee of the Panchayat. It is



true that no confidence motion was moved by LDF for removing Smt. Manimozhy and Sri. Marsh Peter, both belongs to INC, from the posts of President and Vice President respectively. Consequently Smt. Manimozhy resigned from the post and Sri. Marsh Peter removed from the post of Vice President through no confidence motion.

10. In the subsequent election to the posts of President and Vice President Smt. Praveena Ravikumar and Sri. M Rajendran, both belong to INC were elected as President and Vice President respectively with the active support of LDF. Based on the said cause of action Sri. Marsh Peter filed OP No. 1/2022 and OP No. 2/2022 before the Hon'ble Commission on 07.01.2022 for disqualifying Smt. Praveena Ravikumar and Sri. M Rajendran as being elected members of the panchayat. During the pendency of original petitions against them, no confidence motion was moved for removing them from the posts, which was tabled for discussion on 22.02.2023. Respondent further alleged that in order to keep him away from the meeting of no confidence motion and to deny him the voting rights, the Secretary of the panchayat in collusion with LDF coalition created a letter of resignation purportedly executed by him and reported the so called vacancy of member to the Commission. However, Commission after a detailed enquiry found the alleged resignation as void and permitted the respondent to continue as elected member. Thereafter LDF was in animosity with respondent, which coerced them to file this petition.

11. Due to resignation of Smt. Praveena Ravikumar from the post of President, fresh election to the post was necessitated, which was scheduled to be held on 14.07.2023. There was no decision by the political party CPI (M) or LDF to field Smt. Jyothi Satheeskumar for the post. No communication either



verbal or documentary was given to the respondent regarding the said stand of political party or coalition. It is false and incorrect to state that Idukki District Secretary of the CPI (M) issued direction in writing to the respondent to vote in favour of Smt. Jyothi Satheeshkumar. There is no whip of any kind to the respondent as alleged. Respondent never voluntarily abandoned his membership of CPI (M) as alleged. He never floor crossed or supported the opposite faction. He was always and still loyal to his political party CPI (M). There is no violation of any direction issued by his political party. The LDF was in a hunt of a situation on any tactics to expel the respondent due to their hostility and abhorrence towards him. Respondent has never committed any act of defection as alleged. This petition may be dismissed with costs to the respondent.

12. The evidence in this case consists of oral testimonies of PW1 to PW6, RW1 and documents Exts A1 to A11 and X1 to X4.

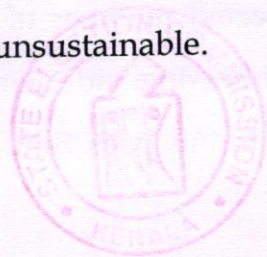
13. Both sides were heard.

14. The following points arise for consideration.

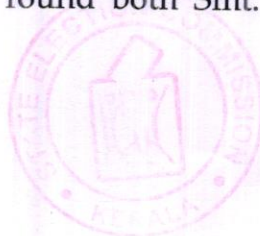
- (i) Whether respondent has disobeyed the decision and direction of the CPI (M) political party in the election to post of President held on 14.07.2023 as alleged?
- (ii) Whether respondent has voluntarily given up his membership of CPI (M) political party as alleged?
- (iii) Whether respondent has committed defection as contemplated under section 3 (1) (a) of the Kerala Local Authorities (Prohibition of Defection) Act?



15. 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 and respondent are admittedly elected member of Munnar Grama Panchayat representing ward No. 7 and 17 respectively. Admittedly, petitioner belongs to CPI and respondent belongs to CPI (M), both constituents of LDF coalition. The said fact is also evident from Ext. A1 declaration and Ext X2 party affiliation register. This petition is filed by the petitioner seeking disqualification of the respondent as being a member under section 3 (1) (a) of the Act. As per section 4 of the Act, *inter alia* a member of local authority concerned is competent to file a petition before the Commission for disqualifying an member section 3 (1) (a) of the Act. No dispute with regard to the *locus standi* of the petitioner has been raised by the respondent in his objection. However, in the affidavit *in lieu of* chief examination filed, respondent has raised a contention that petitioner being an elected member of CPI has no *locus standi* to file a petition against the respondent, who belongs to CPI (M), another political party, as his political party has no complaints against him. The said contention has no bearing and unsustainable in the light of relevant provisions of section 4 of the Act. Moreover, it is well settled that in the absence of pleading, evidence, if any produced by parties cannot be considered. Moreover, it has come out in evidence of PW1 that the petition against the respondent was filed as per the decision taken in the LDF and documents pertaining to the case were made available by the District Secretary of the CPI (M). District Secretary confirmed it when examined as PW3. Therefore contention of the respondent in this regard is unsustainable.



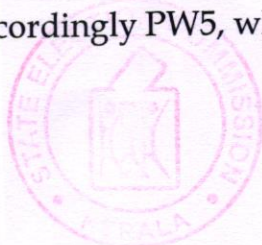
16. There is no dispute with regard to the political party position in the Munnar Grama Panchayat. Out of the total 21 seats, INC secure 11 seats and LDF secured 10 seats. Thus INC secured majority of seats in the Panchayat. Accordingly elected members of INC viz. Smt. Manimozhy and Sri. Marsh Peter were elected as President and Vice President respectively. While so, LDF members in the panchayat moved no confidence motion against the President and Vice President. Smt. Manimozhy resigned from the post prior to the meeting of no confidence motion. Later on, no confidence motion against Vice President was carried on 10.12.2021 and Sri. Marsh Peter was removed from the post.
17. In the casual vacancy of President and Vice President arose consequent to resignation or removal of Smt. Manimozhy and Sri. Marsh Peter respectively, fresh election to the posts of President and Vice President held on 03.01.2022. INC having majority in the panchayat fielded Smt. Deepa Raj kumar for the post of President. It has come out of the evidence of RW1 that LDF supported Smt. Praveena Ravikumar, an elected member of INC for the post of President. Another member of INC Sri. M Rajendran also voted in favour of Smt. Praveena Ravikumar. Hence Smt. Praveena Ravikumar has become the President of Munnar Grama Panchayat in the election held on 03.01.2022 with the support of LDF.
18. Thereupon Sri. Marsh Peter filed petition before the Commission under the provisions of the Kerala Local Authorities (Prohibition of Defection) Act seeking the disqualification of Smt. Praveena Ravikumar and Sri. M Rajendran as being elected member of the panchayat. Commission after adducing evidence and hearing, vide Common order dated 12.10.2023 in OP 01/2022 and 02/2022 found both Smt. Praveena Ravikumar and Sri. M



Rajendran as disqualified under section 4 (3) of the Act. The WP(C)s filed against the common order dated 12.10.2023 was dismissed by the Hon'ble High Court confirming the decision of the Commission.

19. Before the outcome of OP 01/2022 and 02/2022, Smt. Praveena Ravikumar resigned from the post of President of the panchayat on 27.06.2023. In the casual vacancy of President arose consequent to resignation, Commission issued notification for fresh election. Accordingly, the Returning Officer issued election notice to all elected members of the panchayat informing the date of election scheduled to be held on 14.07.2023. LDF took a decision to field petitioner Smt. Jyothi Satheeshkumar as its candidate for the post of President. The Idukki District Secretary of CPI (M), who had recommended the symbol of CPI (M) to its candidates, issued whip dated 11.07.2023 to both the elected members belonging to CPI (M), including the respondent. The whip and Tamil translation thereof are marked as Ext.A3 series. It was directed in the whip to vote for Smt. Jyothi Satheeshkumar in the election to be held on 14.07.2023.

20. The whip was sent to the respondent through registered post with acknowledgement due. Petitioner has produced the original postal receipt dated 12.07.2023 in proof of despatch of whip in the residential address of the respondent. Postal receipt is marked as Ext.A2. However, the postal article containing the whip was returned unserved to the sender, with the postal endorsement " addressee unclaimed". Ext.A4 is the returned postal article. Meanwhile it was decided in the meeting of Mandalam Committee of LDF held on 11.07.2023 to serve whip to the respondent by affixture at the residence of the respondent. Minutes of the meeting held on 11.07.2023 is marked as Ext.A10. Accordingly PW5, who is the Munnar Area Secretary



of CPI (M) served the whip along with Tamil translation thereof, by affixture at the residence of the respondent, in the presence of witnesses PW4 and PW6. It seems from the duplicate copy of whip, which is marked as Ext.A7 that proper endorsement as to the affixture of whip is made by PW5, in the presence of PW4 and PW6. Ext.A5 series are the photographs taken at the time of affixture of whip. Copy of the whip was duly communicated to the Secretary of the Munnar Grama Panchayat as evident from Ext.A11.

21. In the election to the post of President held on 14.07.2023, Smt. Jyothi Satheeshkumar and Smt. Deepa Rajkumar were contested for the post as candidates of LDF and INC respectively. Respondent cast his vote in favour of Smt. Deepa Rajkumar, the candidate fielded by INC, as evident from Minutes of the election held on 14.07.2023, which is marked as Ext.A6. During the cross examination as RW1, respondent admitted the fact that he had voted in favour of Smt. Smt. Deepa Rajkumar, the candidate fielded by INC . The respondent has not acted according to the directives of his political party. Smt. Praveena Ravikumar and Sri. M Rajendran, both elected members belong to INC voted in favour of Smt. Jyothi Satheeshkumar, candidate fielded by LDF. Sri. P. Thangamudi, elected member of CPI voted in favour of Smt. Deepa Rajkumar. However, unfortunately the vote cast by Smt. Deepa Rajkumar become invalid. Therefore, both Smt. Deepa Rajkumar and Smt. Jyothi Satheeshkumar secured equal number of votes. Therefore, Returning officer decided between those candidates by lot. The Returning Officer mistakenly declared Smt. Deepa Rajkumar as elected. However, he subsequently on the same day rectified the defect by declaring Smt. Jyothi Satheeshkumar as elected. It is pertinent to note that Commission as per order dated 05.11.2024 in O P No. 53/2023 disqualified



Sri. P Thangamudi as elected member of the panchayat as per the provisions of section 4 (3) of the Kerala Local Authorities (Prohibition of Defection) Act based on his erring conduct during the election held on 14.07.2023.

22. Petitioner's case is that respondent acted in defiance of the whip issued by the Idukki District Secretary of the CPI (M) in the election held on 14.07.2023. By his conduct respondent has voluntarily abandoned his membership of CPI (M) political party by moving with the INC by floor crossing any by voting in support of the INC candidate in the election held on 14.07.2023.
23. The specific case of the respondent is that there was no decision by CPI (M) or LDF to field Smt. Jyothi Satheeshkumar as a candidate for the post of President. No communication either verbal or documentary was given to him regarding any direction to vote for Smt. Jyothi Satheeshkumar. There is no specific direction in this regard from Idukki District Secretary of CPI (M). However, petitioner has examined the Idukki District Secretary of the CPI (M) as PW3, who categorically deposed before the Commission that the decision to field Smt. Jyothi Satheeshkumar as LDF candidate was taken by CPI (M) and LDF after deliberating the views of LDF members in the panchayat. He further stated that he had issued whip in this regard to elected members of CPI (M), including the respondent. Respondent was reluctant to accept the whip when it was directly served and therefore the whip was served to him by registered post. However, it was returned unserved with the postal endorsement "addressee unclaimed". He identified the returned postal article, which is marked as Ext.A4. In addition to it, the whip was served to the respondent through PW5, who is the Munnar Area Secretary of CPI (M), by affixture at the residence of the respondent as evident from Ext.A7.



24. Moreover, it is evident from Ext.A2 and Ext.A4 that the postal article containing the whip was despatched to the residential address of the respondent viz. "V Balachandran, 17-Ward Member, Munnar Grama panchayat, GH Quarters, High range Hospital, Munnar". During cross examination as RW1, respondent admitted the correctness of his above address. However, from the postal endorsement on the postal article, it seems that despite due intimation about the postal article was given on 13.07.2023, respondent was not claimed the article and hence it was ultimately returned to the sender.

25. 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).

26. From the evidence on record, it seems that the District Secretary of the CPI (M) 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 political party in the election to the post of President held on 14.07.2023. It is significant to note that the other elected member belongs to CPI (M) Smt. Reena S Muthukumar obeyed the direction of her political party by voting in favour of Smt. Jyothi Satheeshkumar as evident from Ext.A6 Minutes.

27. Moreover, it is evident from Ext.A6 Minutes and Ext.A8 reply under Right to Information Act that the Returning Officer has read over the contents of whip to the hearing of respondent at the commencement of election meeting held on 14.07.2023. During the cross examination as RW1 respondent deposed before the Commission that

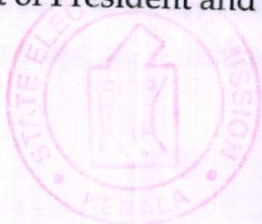
"CPI (M) തീരുമാനപ്രകാരം ഗ്രാമപഞ്ചായത്ത് പ്രസിഡന്റ് മണിമൊഴിക്കും വൈസ് പ്രസിഡന്റ് മാർഷ് പീറ്ററിനും എതിരായി കൊണ്ടുവന്ന അവിശ്വാസത്തിനെതിരെ ഞാനും വോട്ട് ചെയ്തിരുന്നു. തുടർന്ന് നടന്ന പ്രസിഡന്റ് തിരഞ്ഞെടുപ്പിൽ പാർട്ടി തീരുമാനപ്രകാരം പ്രവീണ രവീകുമാറിനും വൈസ് പ്രസിഡന്റായി രാജേന്ദ്രനും ഞാൻ വോട്ട് ചെയ്തിരുന്നു. പ്രവീണ രവീകുമാർ പ്രസിഡന്റ് സ്ഥാനം പിന്നീട് രാജിവെച്ചു. തീയതി ഓർമ്മയില്ല തുടർന്ന് നടന്ന പ്രസിഡന്റ് തിരഞ്ഞെടുപ്പിൽ LDF സ്ഥാനാർത്ഥി ജ്യോതി സതീഷ് കുമാർ ആയിരുന്നു. ദീപ രാജ്കുമാറും ജ്യോതി സതീഷ് കുമാറും മത്സരിച്ച തിരഞ്ഞെടുപ്പിൽ ദീപ രാജ്കുമാറിന് ആണ് പ്രസിഡന്റ് സ്ഥാനത്തേക്ക് ഞാൻ വോട്ട് ചെയ്തത്. തിരഞ്ഞെടുപ്പ് നടന്ന തീയതി ഓർമ്മയില്ല. ദീപ രാജ്കുമാർ INC യുടെ സ്ഥാനാർത്ഥിയാണ് എന്ന് എനിക്കറിയാം. അതിനേക്കുറിച്ചാണ് ഞാൻ ദീപരാജ് കുമാറിന് വോട്ട് ചെയ്തത്. ആ തിരഞ്ഞെടുപ്പിൽ ജ്യോതി സതീഷ് കുമാർ മത്സരിച്ചത് LDF സ്ഥാനാർത്ഥി ആയിട്ടാണെന്നും എനിക്കറിയാമായിരുന്നു. എൽഡിഎഫിലെ ഘടകകക്ഷികൾ ആയ CPM ഉം CPI യും തീരുമാനിച്ച സ്ഥാനാർത്ഥിയായിരുന്നു ജ്യോതി സതീഷ് കുമാർ, ആ വിവരങ്ങളെല്ലാം



എനിക്കറിയാമായിരുന്നു. 14.07.2023 -ന് നടക്കുന്ന പ്രസിഡന്റ് തിരഞ്ഞെടുപ്പിൽ ജ്യോതി സതീഷ് കുമാറിന് വോട്ട് ചെയ്യണമെന്ന് സിപിഐഎം ജില്ലാ സെക്രട്ടറിയുടെ നിർദ്ദേശങ്ങൾ അടങ്ങിയ വിപ് എനിക്ക് ലഭിച്ചിട്ടില്ല”.

28. It has also come out in the evidence that copy of whip was communicated to the Secretary of the panchayat as mandated under section 3 (2) of the Act. Petitioner has examined the Secretary of the Panchayat as PW2. He identified the Ext.A11 Acknowledgment of receipt of whip issued by him. He has further produced the office copy of Declaration filed by respondent, Party affiliation register, Acknowledgment of receipt of whip and Minutes of the meeting held on 14.07.2023. which are marked as Ext.X1 to X4 respectively.

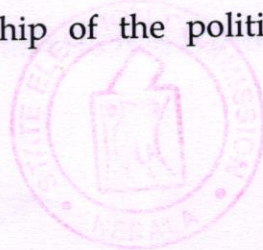
29. In the objection, respondent has taken a case that in previous election to the Post of President and Vice President held on 03.01.2022 he had voted in favour of Smt. Praveena Ravikumar and Sri. M Rajendran, both belongs to INC as per the direction of his political party CPI (M). Therefore in the President election held on 14.07.2023, consequent to the resignation of Smt. Praveena Ravikumar, he followed the suit by voting in favour of Smt. Deepa Rajkumar, the candidate fielded by INC, in the absence of any contrary direction by his political party. However, petitioner has proved that respondent was aware of the direction of his political party prior to the election held on 14.07.2023. It has come out in evidence that another elected member belongs to CPI (M) in the panchayat Smt. Reena S Muthukumar obeyed the direction of CPI (M) and voted in favour of Smt. Jyothi Satheeshkumar. It has also come out in evidence of RW1 that subsequently, UDF moved no confidence motion against Smt. Jyothi Satheeshkumar for removing her from the post of President and it was carried with the support



of respondent. In the election to consequent vacancy of President also, respondent voted in favour of Smt. Deepa Rajkumar, the candidate fielded by INC. In the Vice President election held on the same day respondent contested against LDF candidate and he was elected to the post with the support of INC members in the panchayat. There is every reason to believe that he voted for and supported the INC candidates in *quid pro que* to favours assured by INC. Therefore there is define elements of shifting of political loyalty and floor crossing to the opposite political party motivated by lure of office in the conduct of the respondent.

30. Respondent has another case that on 22.02.2023, the date of no confidence motion against Smt. Praveena Ravikumar and Sri. M Rajendran, the then Secretary of the panchayat colluded with LDF and created a resignation letter purportedly signed by him and tried to expel him from the membership in the panchayat. However respondent has not adduced any evidence to substantiate the above case. It is significant to note that in General Election 2020, INC got majority of seats, however due to political manoeuvrings of few elected members, they could not provide a stable governance in the Munnar Grama Panchayat. The political manoeuvring happened in Munnar Grama Panchayat is not an exemplary conduct to the elected members of other local authorities.

31. 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.

32. 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"

33. Further, in *Rama Bhaskaran V Kerala State Election Commission* (2018 (2) KHC 126) the Hon'ble High court held that " a person, who is a member of a political party, which in turn is part of coalition, who acts against the interest



of the coalition, would be seen as acting against the interest of his own political party, which has allied itself with a coalition."

34. There is evidence on the record that respondent was aware of the decision taken by CPI (M), but failed to act in accordance with the political directive and acted hand in glove with INC members to defeat the candidate fielded by LDF, by voting in favour of the candidate fielded by INC 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 CPI (M) and therefore cannot be continued as a member of the Munnar Grama Panchayat.

In the result, OP is allowed and the respondent is declared as disqualified for being a member of Munnar Grama 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 : Smt. Jyothi S.
PW2 : Sri. Abilash K.
PW3 : Sri. C.V. Varghese
PW4 : Sri. Chandrapal T.
PW5 : Sri. K.K. Vijayan
PW6 : V.P. Sivakumar

Witness examined on the side of the Respondent

- RW1 : Sri. V. Balachandran

Documents produced on the side of the Petitioner

- A1 : Copy of the Declaration in Form 2 submitted by V. Balachandran
A2 : Postal receipt
A3 : Whip dated, 11.07.2023 issued to Sri. V. Balachandran by C.V. Varghese, Secretary, CPI (M) District Committee, Idukki.
A4 : Returned postal article addressed to Sri. V. Balachandran.
A5 : Photograph
A5 (a) : Photograph
A5 (b) : Photograph
A5 (c) : Photograph
A6 : Copy of the Minutes dated, 14.07.2023 in connection with the President Election
A7 : Whip dated, 11.07.2023 issued to Sri. V. Balachandran showing the affixture details
A8 : Copy of the letter submitted by Sri. C.V. Varghese Under RTI dated 03.05.2024.



- A9 : Letter No. 70/2024/T SOD dated, 03.05.2024 from Taluk Statistical Officer/State Public Information Officer, Munnar issued to Sri. C.V. Varghese under RTI
- A9 (a) : Copy of the minutes of the meeting held on 14.07.2023 in connection with the President Election.
- A10 : Minutes of the LDF Mandalam Committee, Devikulam held on 11.07.2023.
- A11 : Copy of the Whip dated 11.07.2023 showing the receipt by Secretary Munnar Grama Panchayat

Documents produced by Witnesses

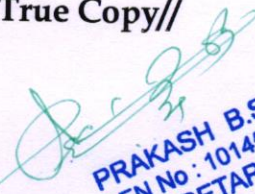
- X1 : Copy of the Declaration in form 2 submitted by Sri. V. Balachandran.
- X2 : Copy of the Register showing the party affiliation of the members of Munnar Grama Panchayat
- X3 : Copy of the whip dated 11.07.2023 showing the receipt by Secretary, Munnar Grama Panchayat
- X4 : Copy of the minutes of the meeting held on 14.07.2023 in connection with the President election, Munnar Grama Panchayat

Sd/-

A. SHAJAHAN

STATE ELECTION COMMISSIONER

//True Copy//


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

