

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

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

Thursday, the 23rd day of October, 2025

O.P. No. 08 of 2023

Petitioner : Sri. Padmakumar P,
S/o M. R. Pankajashan Nair,
Ramamandiram,
Moncompu P.O.,
Alappuzha District

(Member, Ward No.13,
Pulinkunnoo Grama Panchayat)

(Advs. Mridul John Mathew &
Sajitha S.)

Respondent : Smt. Ambili T. Jose
W/o Biju Mathew,
Valancherry Valiyaveettil,
Kannadi Pulincunnoo P.O.
Alappuzha District

(Member, Ward No.04,
Pulincunnoo Grama Panchayat)

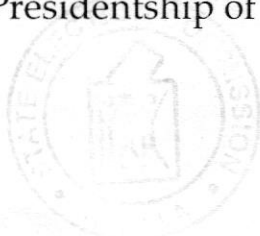
(Adv. Pallichal S. K. Pramod)



ORDER

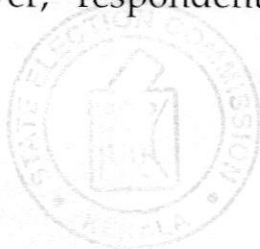
This is a petition filed under section 4 of the Kerala Local Authorities (Prohibition of Defection) Act, 1999 for declaring that this respondent committed defection and hence disqualified to continue as member of Pulincunnoo Grama Panchayat and also for declaring her as disqualified to contest as candidate 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 member of ward No. 13 and 4 respectively of the Pulincunnoo Grama Panchayat. Both petitioner and respondent were contested and elected as a member of Pulincunnoo Grama Panchayat as official candidates of Indian National Congress (hereinafter "INC") in the General Election to the local self government institutions held in the year 2020. After the election respondent had given sworn declaration before the Secretary of Pulincunnoo Grama Panchayat showing her political association with INC political party. On the basis of the said declaration Secretary of the panchayat had prepared a Party affiliation register showing that respondent is an elected member of INC, a constituent of UDF coalition.
3. Pulincunnoo Grama Panchayat is having a total strength of 16 members. Out of which 7 members belongs to INC, 3 members belongs to Kerala Congress (Jacob) and thus UDF coalition got 8 members. LDF coalition has 6 members and BJP and independent having 1 each. Thus UDF got majority of seats in the panchayat. On 29.12.2020 a meeting of elected members belonging to INC was held at residence of Sri. Manoj Kannasseril, an elected member of ward 9 and resolved to elect respondent as the Parliamentary party leader of INC in the panchayat and President of the panchayat for the initial two years period. After the expiry of her term Smt. Padmaja Abhilash for next one year and thereafter Smt. Neenu Joseph for the final two years and as per said understanding, the Presidentship of the panchayat was allotted to the



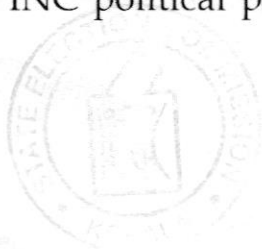
respondent for the initial two years period after General election. Accordingly, the District President of INC issued whip to the elected members belonging to INC to vote for respondent in the Presidential election and accordingly respondent was elected the President of Pulincunnoo Grama Panchayat with the support of all UDF members.

4. It is further submitted that after the completion of respondent's tenure of two years as President, the District President of the INC and Madalam President of the INC issued directions to the respondent to resign from the post in compliance with decision taken on 29.12.2020. However, respondent was reluctant to resign from the post of President. In the said background on 03.01.2023 the District President of the INC convened a parliamentary party meeting at Mancombu to decide the further action to be taken against the respondent. All the elected members belonging to INC in the panchayat, including the respondent were intimated about the meeting. But respondent did not attend the meeting. In the meeting it was decided to move no confidence motion against the respondent for removing her from the post of President. As per the said decision the UDF members of the panchayat submitted notice of intention to move the no confidence motion against the respondent to the Authorised Officer of Commission for the purpose. Accordingly, the Authorised Officer fixed the date and time of convening the meeting to consider the no confidence motion against President as 21.01.2023 and issued notice to all elected members of the panchayat, including the respondent.
5. In the aftermath of no confidence motion the District President of the INC Sri. B Babu Prasad issued whip to all elected members of INC including the respondent to attend the meeting and vote in favour of no confidence motion moved by INC members. On 14.01.2023 itself, the Mandalam President of INC Sri. Joshy along with the petitioner herein and Smt. Neenu Joseph reached the house of respondent and tried to serve whip issued by the District President directly to the respondent. However, respondent refused to accept the whip.



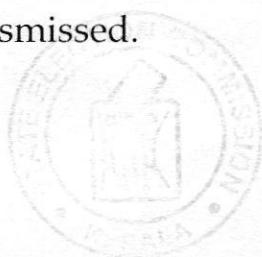
Therefore, the whip was affixed at the residence of the respondent in the presence of witnesses. In addition to it, the whip was sent to the residential as well as official addresses of the respondent by registered post with acknowledgment due. However, the registered letter sent to official address of the respondent was returned unserved to the sender on her refusal to accept the same. Respondent refused the registered letter after knowing the contents of the postal article. Respondent received the postal article addressed to her residential address belatedly as evident from the postal acknowledgment card. Respondent is having sufficient knowledge about the decision and direction of the political party. Copy of the whip was also communicated to the Secretary of Pulincunnoo Grama Panchayat as provided under rule 4(2) and who acknowledged the receipt.

6. Petitioner further submitted that respondent colluded with LDF and in gross defiance of the whip issued by the political party she abstained from the meeting to consider no confidence motion against the President. Respondent was fully aware of the content of the whip and the intention of her political party. But she intentionally defied the whip in collusion with opposite LDF members in the panchayat. She has voluntarily abandoned or given up membership of INC, in whose banner she was elected as member. Respondent by her conduct committed defection and hence she is liable to be disqualified under Kerala Local Authorities (Prohibition of Defection) Act.
7. The respondent's case in brief is that; - It is untrue that a meeting of elected members of INC was held on 29.12.2020 at the residence of Manoj Kannasseryil. It is true that respondent was elected as President of the panchayat after General Election with the support of UDF. However, there is no understanding to share the Presidentship with other elected members as alleged. She was elected for a period of five years. The A2 minutes of the alleged parliamentary party meeting is not served upon her. Respondent never received any oral or written directions from the INC political party to resign from the post. It is



untrue that parliamentary party meeting of the party held on 03.01.2023 at Mancombu to decide the future course of action against the respondent. No notice of the said meeting was served to the respondent. The notice of non confidence motion was submitted due to the inner factionalism within the political party. Respondent is not at all interested in the said factionalism. The notice of no confidence motion was not properly served to the respondent.

8. The District President of the INC never issued any directions to the members belonging to INC to attend the meeting and vote in favour of no confidence motion against the respondent. Respondent never received any whip. It is untrue that whip was affixed at the residence of the respondent on 14.01.2023 in the presence of witnesses. On 14.01.2023 respondent and her family members were away from her residence in connection with the funeral of her uncle at Kavalam. Respondent received a postal article after the date of no confidence motion.
9. It is untrue that respondent wilfully abstained from the meeting of no confidence motion. In fact, there occurred a delay in reaching the panchayat office on 21.01.2023 owing to failure of the panchayat to provide the official vehicle of President to her. It was due to the intervention of leaders of the INC. There is no collusion with LDF as alleged. The moment she realised that the non providing of vehicle to her is intentional act, she reached the panchayat office. By the time the proceedings of no confidence motion were at the final stage.
10. It is further submitted that in the President election held on 20.02.2023, respondent voted in favour of INC candidate. It is clearly proved from her subsequent conduct that the alleged conduct of the respondent on 21.01.2023 was not wilful or intentional. The no confidence motion was moved at the instigation of leaders of INC to humiliate her. Respondent has not committed any act of defection and therefore the petition may be dismissed.



11.The evidence in this case consists of the oral depositions of PW1 to PW5, RW1 & RW3 and documents Ext A1 to A9 and Ext.X1 to X5.

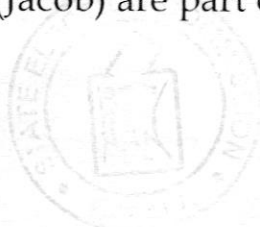
12.Both sides were heard

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

- (i) Whether the respondent had disobeyed the decision and direction of the INC in the meeting to consider no confidence motion against the President held on 21.01.2023 as alleged?
- (ii) Whether there was any sufficient reason for her abstinence in the meeting of no confidence motion as alleged?
- (iii) Whether the respondent has voluntarily given up membership of the INC as alleged?
- (iv) Whether the respondent has committed defection as contemplated under section 3 of Kerala Local Authorities (Prohibition of Defection) Act.

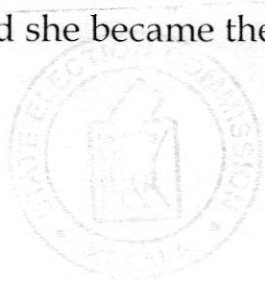
14.Point No. (i) to (iv);- As common questions of law and facts are arise for consideration in these points, they are considered together for convenience and to avoid repetition. Petitioner and respondent are elected members of Pulincunnoo grama panchayat representing ward 13 and 4 respectively. Admittedly, petitioner and respondent were contested and elected as candidate of INC in the General Election to the local authorities held in 2020. The certified extracts of the relevant page of Party affiliation register and office copy of it are marked as Ext. A1 and Ext.X1 respectively. Ext.A1 would goes to show that respondent belongs INC political party, a constituent of UDF. Further during the cross examination as RW1, respondent identified Ext.A1 register and confirmed the entries therein. Respondent further admitted in cross examination that it was the District President of the INC who recommended the symbol of political party to her for contesting election from ward 4.

15.Altogether 16 elected members in the Pulincunnoo grama panchayat. Out of which 7 members belonging to INC and 1 member belonging to Kerala Congress (Jacob) are part of UDF. The LDF coalition having

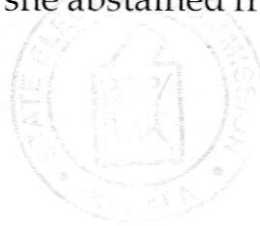


6 members in the panchayat. BJP and independent got 1 seat each. Thus, UDF got majority of seats in the panchayat. Respondent in cross examination admitted that after General Election INC got 7 seats in the panchayat. Thereupon UDF made arrangements for the governance of the panchayat. As part of it, a meeting of the elected members belonging to INC was held on 29.12.2020 at the residence of Sri. Manoj Kannasseril, an elected member of ward 9 and it was resolved in the meeting to elect respondent as the President of the panchayat for the initial 2 years, thereafter Smt. Padmaja Abhilash for 1 year and thereafter Smt. Neenu Joseph for the final 2 years. The minutes of the meeting dated 29.12.2020 is marked as Ext.A2. Ext.A2 minutes would go to show that respondent agreed the terms and conditions arrived at meeting by putting her signature thereon. It was agreed by the respondent that she would resign from the post of President after the tenure of two years viz. on 31.12.2022. During the cross examination respondent identified her signature appears in Ext.A2 and conceded her presence in the meeting held on 29.12.2020 .

16. As per the decision taken on 29.12.2020 the District President of the INC had issued whip to the elected members belonging to INC to vote for respondent in the President election. Respondent during the cross examination as RW3 admitted that District President of INC issued whip to the elected members to vote for her in the Presidential election and all the elected members of INC accepted the whip by signing the Ext.A2 minutes of the meeting held on 29.12.2020. Therefore, there is oral and documentary evidence that there is consensus among the elected members of INC to elect respondent for the initial two years, subject to the condition that she should resign from the post of President on expiry of two years and the said condition was agreed upon by respondent too. Accordingly, respondent stood as candidate for the post of President and all the elected members belonging to UDF voted for her and she became the President of the panchayat.

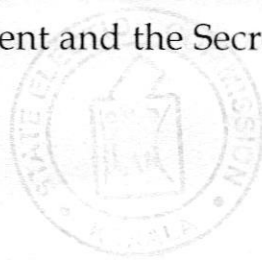


17. It has come out in the evidence of PW1 that on 22.12.2022 the District President of the INC issued directions to the respondent to resign from the post of President as agreed upon by her. However, there is no cross examination in this aspect by the respondent. District President of the INC confirmed that he had issued letter to the respondent to resign from the post on expiry of her term as agreed upon. There is evidence that respondent refused to step down from the post even after direction issued by her political party. In the said backdrop District President of INC convened a meeting of elected members of the panchayat on 03.01.2023 at Mancombu to decide the future course of action as evident from Ext.A3. Respondent did not turn up in the said meeting. In the meeting it was unanimously decided to move no confidence motion against respondent and accordingly notice of no confidence motion against respondent was submitted by elected members of INC. RW1 produced the office copy of the notice of intention to move the no confidence motion against respondent submitted by members belonged to INC, as Ext.X4.
18. The said no confidence motion against respondent was considered on 21.01.2023 as evident from Ext.A9 minutes. Ext.X2 is the office copy of the said minutes. Ext.A9 would go to show that all the elected members belonging to UDF except respondent were attended the meeting and voted in favour of the no confidence motion in obedience to whip issued by political party. However, respondent and LDF members in the panchayat abstained from the meeting to consider no confidence motion held on 21.01.2023. The abstinence from the meeting of no confidence motion is a method to defeat the no confidence motion. Both respondent and LDF acted in furtherance of common intention to defeat the no confidence motion. However, Ext.A9 minutes shows that no confidence motion was carried with majority of votes and respondent was removed from the post of President forthwith. During the cross examination respondent conceded the fact that she abstained from the meeting of no confidence



motion. Respondent admitted the fact that LDF members in the panchayat also abstained from the meeting.

19. The consistent case of the respondent is that no whip was served to her by the District President of the INC directing her to attend the meeting and vote in favour of the no confidence motion. However, the PW3 District President of the INC deposed that he had issued whip to the respondent directing her to vote in favour of the no confidence motion. PW3 further deposed that whip was served to the respondent by affixture at the residence of respondent in the presence of witnesses and whip was also sent to the residential address as well as official address of the respondent by registered post with acknowledgment due. PW5, who is the Mandalam President of the INC was deputed by the District President to serve the whip to the respondent directly at her residence. However, respondent refused accepted the whip. Therefore, the whip was affixed at the residence of the respondent by PW5 in the presence of witnesses. Ext.A5 is the duplicate copy of the whip affixed. The petitioner herein and PW4 Smt. Neenu Joseph, who is the incumbent President of the panchayat signed on Ext.A5 as attesting witnesses. In addition to the same District President of INC had issued the whip to respondent to her residential and official addresses. The former letter was accepted by the respondent belatedly on 23.01.2023, after date of meeting of no confidence motion as evident from Ext.A7 and latter letter was returned unserved, though postal intimations were given to the respondent on 17.01.2023 and again on 18.01.2023 as evident from Ext.A6. There is every reason to believe that respondent purposefully evaded from the acceptance notice after knowing the contents. The copy of the whip issued to the respondent was communicated to the Secretary of the panchayat as mandated under rule 4 (2) of the Rules. PW2 the Secretary of the panchayat produced the office copy of whip received by him as Ext.X3. Therefore, there is enough evidence on the record that the whip was properly served to the respondent and the Secretary of panchayat as mandated



under rule 4 (2) and respondent was aware of the stand of her political party well before the meeting of the no confidence motion held on 21.01.2023.

20. 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.
21. Ext.A2 minutes shows that a consensus was arrived at the meeting of elected members of the panchayat held on 29.12.2020 to elect respondent as President of the panchayat for a period of 2 years and share the Presidentship of the panchayat among other two elected members of the panchayat after the expiry of her term. However, on expiry of her term respondent was not inclined to resign from the post as agreed upon by her. According to respondent she was elected for a term of 5 years. However, respondent has not adduced any evidence in this regard. It has come out in evidence that District President of the INC himself has issued directions to the respondent to resign from the post of President. But she did not turn up. Therefore, the District President of INC convened a meeting of elected members on 03.01.2023 as disclosed from Ext.A3 minutes to decide the future course of action against the respondent. In the most democratic way elected members have taken a decision to move no confidence motion against the respondent for removing her from the post. Accordingly, elected members of INC submitted Ext.X4 notice of intention to move the no confidence motion against respondent before the Authorised Officer. Authorised officer for convening the meeting of no confidence motion in turn issued notice intimating the place, date and time of meeting to all elected members through registered post. District President of INC issued whip to the respondent directing her to attend

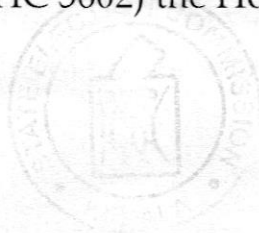


the meeting and vote in favour of no confidence motion. These developments are indicative of a prudent person to realize that she lost majority in the panchayat. However, respondent neither cared to resign from the post of resident nor attend the meeting or vote in favour of the no confidence motion in obedience to the whip issued by her political party. He chooses to abstain from the meeting of no confidence motion along with elected members of opposite LDF to defeat the no confidence motion moved by her political party. Abstinance from the meeting of no confidence motion is a method to defeat the no confidence motion, then the no confidence motion would be defeated by want of quorum.

22. In objection respondent attributed her absence from the meeting of no confidence motion held on 21.01.2023 due to the failure of panchayat to provide the official vehicle of the President to her to reach at the venue of meeting of no confidence motion. This is too flimsy ground considering the seriousness and importance of the meeting. Further in the chief affidavit filed by the respondent as RW3 there is no narration or even a mention of this alleged incident. Respondent has no case that she filed any complaint before authorities in this regard. Respondent has not adduced any evidence that panchayat failed to provide vehicle on the fateful day so as to prevent her from attending the meeting of no confidence motion. Therefore, the case of respondent in this regard is unbelievable.

23. In the present case there is breach of agreement and series of defiance of the directives of the political party on the part of the respondent, apart from violation of party directive to attend the meeting of no confidence motion held on 21.01.2023. There is also evidence on record that she intentionally refused and delayed to accept the directions issued by political party.

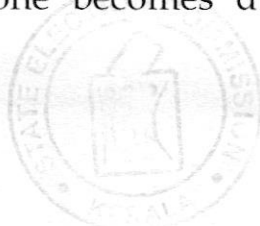
24. In *Varghese KV @ Thankachan Kanirakkakattu V State Election Commission and another* (2020 KHC 5602) the Hon'ble High Court observed that



"12.Shri. Varghese voted against him in the no confidence motion to remove him as the Chairman. That does not mean that he has not acted against the party. Shri. Varghese cannot be disqualified on the ground of violation of whip, but he can be disqualified for the reasons leading to the no confidence motion. The party again gave him an opportunity to step down through a letter dated 5/5/2027. He refused. This gave a cause of action. The series of defiance of the party directives would constitute a separate cause of action. However, nothing impedes the Election Commission considering the facts related to each cause of action to fortify the findings related to the cause of action on which the petition was filed. The cause of action arose on 18/5/2017 is a result of a series of actions compelling Shri. Varghese to step down from the post. The defiance of party directives by Shri. Varghese to step down on 18/05/2027 is nothing but voluntarily giving up membership of his own party."

The said judgment is upheld by the Hon'ble Division Bench in the judgment reported in 2020 KHC 841 (DB)

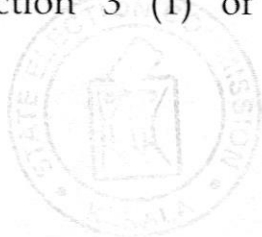
- 25.It has further come out in evidence that no confidence motion against respondent was carried with majority and respondent was removed from the office of President. Respondent has got several opportunities to avoid this situation by maintaining *lakshmana rekha* set by party. Respondent has taken a further case that in the fresh election to the post of President held on 20.02.2023 she voted for the candidate fielded by INC. Respondent produced the minutes of the said election meeting as Ext.X5 through RW2 Returning Officer of the election. This does not mean that everything is fine. During the cross examination of PW3 District President of the INC, he categorically stated that respondent left INC and now in LDF camp.
- 26.Moreover, In *Varghese V V and another V Kerala State Election Commission and another* (2009 (3) KHC 42) the Hon'ble High Court held that the moment one becomes disloyal his conduct towards the



political party, the inevitable inference is that, he has voluntarily given up membership from that party and subsequent change of heart and remorseful conduct of the member or the reconciliatory attitude of the political party cannot repair or undo the damage caused by the disloyalty conduct of the member.

27. Further in *Eruthavoor Chandran and Another V Kerala State Election Commission* (2018 (5) KHC 964) (DB) the Hon'ble High Court held that where a member of a political party is aware of the decisions taken by the political party, but failed to act in accordance with the political directive, it would amount to voluntarily abandoning of membership of the political party and he would be disqualified under section 3 (1) of the Act.
28. The Hon'ble High Court in *Rama Bhaskaran V Kerala State Election Commission and Others* (2018 (2) KHC 126) reiterated the position 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, or who has won the election with the support of members of rival coalition would be seen acting against the interest of his own political party, which has allied itself with a coalition.
29. It is settled law that if a member or group of elected members of a political party takes a different stand from that of political party in which they are members, it is nothing but disloyalty. There is evidence on the record that respondent is 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 no confidence motion moved by UDF. It would definitely attract the defection as provided under section 3 (1) (a) of the Kerala Local Authorities (Prohibition of Defection) Act and respondent is liable to be disqualified.

In the result OP is allowed and the respondent is declared as disqualified for being member of Pulincunnoo 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 6 years from this date, as provided under section 4 (3) of the Act.

Sd/-

A. SHAJAHAN

STATE ELECTION COMMISSIONER



APPENDIX

Witness examined on the side of the Petitioner

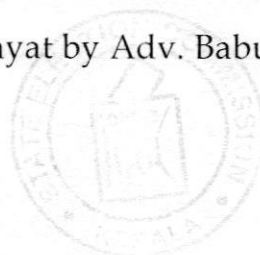
- PW1 - Sri. Padmakumar
PW2 - Sri. Ashly Nair
PW3 - Sri. B. Babu Prasad
PW4 - Smt. Neenu Joseph
PW5 - Joshy Varghese

Witness examined on the side of the Respondent

- RW1 - Smt. Bincy Mol Varghese
RW2 - Smt. Deepa S.
RW3 - Smt. Ambili T. Jose

Documents produced on the side of the Petitioner

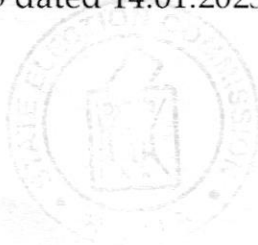
- A1 - Copy of the relevant page of party affiliation register of Pulinkunnu Grama Panchayat.
A2 - Copy of the minutes of the meeting of congress members of Pulinkunnoo Grama Panchayat held on 29.12.2020.
A3 - Copy of the minutes of the parliamentary party meeting of congress members of Pulinkunnoo Grama Panchayat held on 03.01.2023.
A4 - Copy of the whip dated, 14.01.2023 issued by Adv. B. Babu Prasad, President, DCC, Alappuzha to Sri. Padmakumar (Manoj)
A5 - Copy of the whip affixed on 14.01.2023 issued by Adv. B. Babu Prasad, President, DCC, Alappuzha to Smt. Ambili T. Jose
A6 - Returned Postal Article addressed to Smt. Ambili T. Jose, Pulikunnoo Grama Panchayat by Adv. Babu Prasad, President, DCC, Alapuzha,



- A7 - Acknowledgement card addressed to Smt. Ambili T. Jose
- A8 - Copy of the whip dated, 14.01.2023 showing the acknowledgement by the Secretary, Pulinkunnoo Grama Panchayat.
- A9 - Copy of the minutes of the meeting held on 21.01.2023 at Pulinkunnoo Grama Panchayat conference hall in connection with the no confidence motion against President, Pulinkunnoo Grama Panchayat.

Documents produced on the side of the Witness

- X1 - Copy of the relevant page of the register showing the party affiliation of Smt. Ambili T. Jose
- X2 - Copy of the minutes of the meeting held on 21.01.2023 at conference hall, Pulinkunnoo Grama Panchayat in connection with the no confidence motion against President Pulinkunnoo Grama Panchayat
- X3 (a) - Copy of the whip dated 14.01.2023 issued by DCC President Alappuzha to Smt. Neenu Joseph.
- X3 (b) - Copy of the whip dated 14.01.2023 issued by DCC President Alappuzha to Smt. Ambili T. Jose
- X3 (c) - Copy of the whip dated 14.01.2023 issued by DCC President Alappuzha to Sri. Joshi Kollara
- X3 (d) - Copy of the whip dated 14.01.2023 issued by DCC President Alappuzha to Sri. Manoj
- X3 (e) - Copy of the whip dated 14.01.2023 issued by DCC President Alappuzha to Sri. Joseph Joseph
- X3 (f) - Copy of the whip dated 14.01.2023 issued by DCC President



Alappuzha to Smt. Leena Joshi

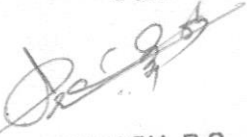
- X3 (g) - Copy of the whip dated 14.01.2023 issued by DCC President
Alappuzha to Sri. Padmakumar (Manoj)
- X3 (h) - Copy of the whip dated 14.01.2023 issued by DCC President
Alappuzha to Smt. Padmaja Abhilash
- X4 - Copy of the notice regarding the no confidence motion against
President, Pulinkunnoo Grma Panchayat dated, 05.01.2023
- X5 - Copy of the minutes of the meeting in connection with the
President election held on 20.02.2023 at Grama panchayat Hall,
Pulinkunnoo Grama Panchayat.

Sd/-

A. SHAJAHAN

STATE ELECTION COMMISSIONER

//True Copy//


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

