

BEFORE THE KERALA STATE ELECTION COMMISSION,
THIRUVANANTHAPURAM

PRESENT: SHRI. A. SHAJAHAN,
STATE ELECTION COMMISSIONER

Thursday, the 23rd day of October, 2025

O.P. No.18 of 2024

Petitioner : Smt. Mini Prince,
W/o Prince K. G,
Muruppel House,
Cumbummettu P.O,
Udumbunchola Taluk,
Idukki District-685551

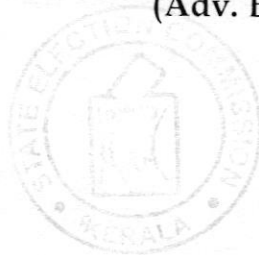
(Member, Ward No.13,
Karunapuram Grama Panchayat)

(Adv. A. Santhosh Kumar)

Respondent : Smt. Shobhanamma Gopinathan,
W/o. Gopinathan,
Mulloor House,
Cumbummettu P. O,
Attinkara, Udumbunchola Taluk,
Idukki District-685551

(Member, Ward No.12,
Karunapuram Grama Panchayat)

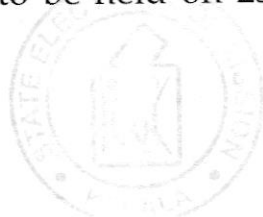
(Adv. B. Vasudevan Nair)



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 Karunapuram Grama Panchayat and also for declaring her as disqualified to contest as a candidate in any election to the local authorities for a period of six years.

2. Petitioner's case in brief is as below: Petitioner and respondent are elected members of Karunapuram Grama Panchayat representing ward 13 and 12 respectively. Both petitioner and respondent were contested and elected as candidate of Indian National Congress (hereinafter INC) in the General Election to local authorities held in 2020. After the election respondent filed sworn declaration before the Secretary of the panchayat stating that she is an elected member of INC, a constituent of UDF. On the basis of said declaration, the Secretary of the panchayat prepared a Party affiliation register, wherein also it is stated that respondent is an elected member of INC.
3. Karunapuram Grama Panchayat having a strength of 17 elected members. Out of which, both INC and LDF secured 8 members each and an independent supported by BDJS was also elected. Thus, no coalition or political party secured majority in the panchayat. After General Election the President of the panchayat was elected by draw of lots. The lot drawn in favour of the LDF candidate Smt. Vincy Vavachan, who belongs to CPI (M). Thereafter Smt. Vincy Vavachan was removed from the Presidentship by a no confidence motion during 2021. Thereafter petitioner, who belongs to INC was elected as President.
4. While so, Sri. C M Balakrishnan, an elected member belongs to CPI (M) moved a no confidence motion against the petitioner, which was scheduled for consideration on 25.01.2024. INC decided to defeat the no confidence motion and therefore the District President of the INC issued whip dated 17.01.2024 to all elected members of INC directing them to abstain from the meeting to be held on 25.01.2024. When the whip was



directly served to the respondent, she was reluctant to accept the same. Therefore, the whip was sent to the address of the respondent by registered post with acknowledgment due. The copy of whip was also communicated to the Secretary of the panchayat as provided under section 3 (2) of the Act and also to the Secretary of the Block Panchayat, who is the Authorised Officer. Both acknowledged the receipt of copy of whip. But the whip sent to the correct address of respondent was returned unserved to the sender with the endorsement addressee refused. Therefore, the whip was served by affixture at the residence of the respondent in the presence of the witnesses.

5. However, on 25.01.2024, when the no confidence motion against the petitioner was considered, respondent participated the meeting and voted in favour of the no confidence motion in defiance of the whip issued by her political party INC. Resultantly, the no confidence motion against the President of the panchayat, who belongs to INC was carried with majority and petitioner was removed from the post. The above acts of the respondents are in collusion with opposite LDF members. Respondent was fully aware of the existence of whip issued by her political party. Respondent withdrawn from the INC and voluntarily abandoned membership of the INC, which fielded her as a candidate in the General Election. It is a clear case of defection and therefore respondent is liable for disqualification under both the limbs of section 3 (1) (a) of the Kerala Local Authorities (Prohibition of Defection) Act.
6. Respondent's case in brief is as follows; Respondent has not violated the first or second limbs of section 3 (1) (a) of the Kerala Local Authorities (Prohibition of Defection) Act as alleged. It is true that no confidence motion against the LDF supported President was carried and thereafter the petitioner herein was elected as President of the panchayat with the support of an independent member supported by BDJS Sri. Binu P R. Thereafter Sri. Binu P R became the Vice President of the panchayat. Neither INC nor UDF has taken a decision to field the petitioner as



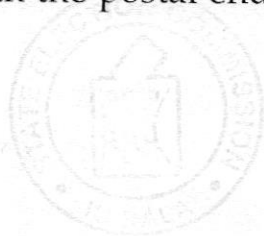
President of the panchayat. All those decisions are taken by the petitioner herself in collusion with Sri. Binu P R.

7. While so, some of the elected members of the Grama Panchayat moved no confidence motion against the petitioner, which was slated for consideration on 25.01.2024. INC never taken a decision to defeat the no confidence motion. It is incorrect that DCC President issued whip dated 17.01.2024 to the respondent to defeat the no confidence motion. No whip served to the respondent either directly or through registered post with acknowledgment due as alleged. Respondent never refused to accept the whip. No affixture of whip at the residence of the respondent as alleged. The copy of the whip was not served to the Secretary of the Grama Panchayat or Block panchayat as alleged. In the no confidence motion against the President respondent cast vote according to her conscience and not in support of the LDF coalition as alleged. There was no collusion between the LDF and respondent in the meeting of no confidence motion. The allegation against the respondent that she voluntarily given up membership of INC by joining the opposite LDF coalition is absolutely false. Petition is devoid of any merit and may be dismissed.
8. The evidence in this case consists of oral testimonies of PW1 to PW7, RW1 and documents Ext.A1 to A7, Ext.X1 to X6.
9. Both sides were heard.
10. The following points arise for consideration, namely; -
 - (i) Whether the whip issued by the INC has been served to the respondent?
 - (ii) Whether the whip issued by the INC has been served to the Secretary of the Karunapuram Grama Panchayat?
 - (iii) Whether respondent had disobeyed the decision and direction of INC political party in the meeting of no confidence motion against President held on 25.01.2024.?
 - (iv) Whether respondent had voluntarily abandoned membership of INC as alleged?



(v) Whether respondent had committed defection as contemplated under section 3(1) (a) of the Act?

11. 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. Admittedly, petitioner and respondent are elected members representing ward 13 and 12 of the Karunapuram Grama Panchayat. There is no dispute regarding the *locus standi* of the petitioner to file the original petition under section 3 (1) (a) of the Act. There is also no dispute that respondent was contested and elected as a candidate of INC. The said party affiliation of the respondent is further proved by Ext.A2 and Ext. X 3 Party affiliation register.
12. There is no dispute regarding the party position in the Karunapuram Grama Panchayat. Altogether 17 elected members in the Karunapuram Grama Panchayat. Out of which both LDF and UDF secured 8 seats each and one independent supported by BDJS was also elected. Since both UDF and LDF having equal strength in the panchayat, the result of President election was declared by draw of lots and the lot drawn in favour of Smt. Vincy Vavachan. Thereafter Smt. Vincy Vavachan was removed from the post of President through no confidence motion. Thereafter petitioner, who belongs to INC was elected as President.
13. While so, LDF member of the panchayat moved a no confidence motion against the petitioner, which is scheduled to be held on 25.01.2024. The Idukki District President of the INC issued Ext.A3 whip dated 17.01.2024 to the respondent directing her to abstain from the meeting of no confidence motion. The direction to abstain from the meeting is a method intended to defeat the no confidence motion. The District President of the INC was examined in this case as PW2, who identified Ext.A3 whip issued by him and clarified that he had served the whip to the respondent through the Mandalam President of the INC. The said whip was served to the respondent through registered post with acknowledgment due. However, the postal article containing the whip was returned unserved to the sender on 24.01.2024 with the postal endorsement addressee refused.



The returned postal article is marked as Ext.A5. There is no dispute with regard to the address of the respondent shown in Ext.A5. The very same address is relied on by the respondent in the objection filed by her. In addition to it, the whip had been served to the respondent by affixture at the residence of the respondent. Ext.A7 is the duplicate copy of the whip affixed. The Mandalam President of the INC who served whip to the respondent was examined as PW4. He identified Ext.A7 duplicate copy of whip served to the respondent by affixture in the presence of the witnesses Smt. Ancy Thomas and Smt.Molly Shaiju. Smt. Ancy Thomas, an elected member of the Grama Panchayat and Smt.Molly Shaiju were examined as PW5 and PW6 respectively. Both PW5 and PW6 supported the case of the petitioner.

14. The consistent case of the petitioner is that INC has taken a decision to defeat the no confidence motion moved against the President, who belongs to INC. However, respondent her objection and Chief affidavit as RW1, refuted the allegation. According to the respondent INC has never taken a decision to defeat the no confidence motion against the President. However from the testimony of PW2 District President of INC and Ext.A4 receipt petitioner has proved the existence of a valid whip issued by PW2 to all the elected members belonging to INC to abstain from the meeting of no confidence motion. Further, it is evident from Ext.A6 minutes of the meeting of no confidence motion that in obedience to the direction issued by District President of INC all elected members belonging to INC, except respondent abstained from the meeting. Admittedly in 17 members Karunapuram Grama Panchayat LDF having slender strength of 8 members. Therefore, LDF is not having the required strength to carry the no confidence motion against the President who belonged to INC. However, Ext.Ext.6 Minutes shows that LDF secured the required the majority of 9 votes in favour of the no confidence motion against President with the support of respondent. Respondent participated the meeting and voted in favour of no confidence motion along with LDF members. Resultantly, the INC supported President was removed from the post with



the support of respondent. It is also further evident from the testimony of PW2 District President of INC, PW4 the Mandalam President of the INC, who served the whip to the respondent through affixture, PW5 and PW6 witnesses present at the time of affixture of whip that whip was served to the respondent prior to the Presidential election held on 25.01.2024. PW4 in cross examination clarified that the whip was affixed at the residence of the respondent on 17.01.2024 at 3 pm. Therefore there is every reason to believe that respondent was aware of the decision and direction of the political party before the Presidential election held on 25.01.2024.

15. The specific case of the petitioner is that copy of the whip was served to the Secretary of the Karunapuram Grama Panchayat as mandated under section 3(2) of the Act and rule 4 (2) of the Rules framed thereunder. Ext. X1 Minutes shows that meeting to consider the no confidence motion against the President was commenced at 10.30 am on 25.01.2024 as scheduled. However, the copy of the whip was served to PW7 Secretary of the panchayat only at 11 am on 25.01.2024 as evident from Ext.X4 endorsement and Ext.6 receipt issued by PW7 Secretary of the panchayat. PW7 Secretary in cross examination categorically stated that copy of whip was received after the commencement of the meeting to consider no confidence motion and therefore it cannot be considered as a valid service of whip. Further, Ext.X1 Minutes further shows that meeting to consider the no confidence motion was concluded at 10.30 am on 25.01.2024. Neither petitioner nor PW2 District President of the INC has no case that copy of the whip has been served to the Secretary of the panchayat before the commencement of meeting held on 25.01.2024. Section 3 (2) of the Act and rule 4 (2) of the Rules framed there under requires that a copy of the whip shall be communicated to the Secretary of the local self government institution concerned. However, in the present case there is failure on the part of the political party to serve copy of whip to the Secretary of Grama Panchayat as mandated in the said provisions. Therefore the belated service of copy of whip cannot be considered as valid service of copy of the whip to Secretary as mandated under section 3 (2) of the Act.



16. In *Lizy Valsalan V Suja Salim* (2015 (3) KHC 968) (DB) the Hon'ble High Court observed as follows, -

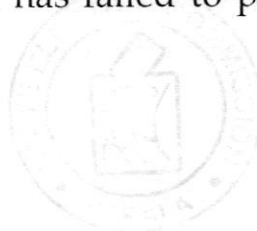
" The very purpose by which the rule making authority had imposed on a further stipulation to provide a copy of the direction to be given to the Secretary is to ensure existence of a valid direction by the political party to its members." (para 27)

17. Further, the Hon'ble High Court in *George Elamplakkadu V A V Mathew* (2020 (5) KHC 297) held that

" Serving of copy of the direction in writing (whip) to the Secretary of the local authority concerned is the only method by which a member of that local authority belonging to any other political party to come to know about the whip. In the enquiry conducted by the State Election Commission under sub-section(2) of section 4 of the Act, the petitioner has to establish the existence of a valid direction in writing (whip) by the political party to its members, in terms of clause (i) of sub-rule (1) of Rule 4 and that, it was given to the members concerned and also the Secretary of the local authority, in the manner prescribed in sub-rule (2) of Rule 4. Keeping in view of the intendment of the enactment and context in which the word "shall" has been used in sub-section (2) of section 3 of the Act and sub-rule (2) of Rule 4 of the Rules, conclusion is irresistible that the said provisions, which require tat copy of the direction in writing (whip) shall be given to the Secretary, are mandatory in nature."

18. In *Chinnamma Varghese V.State Election Commission of Kerala* (2009 (4) KHC 527) Division Bench of High Court held that " incurring of the disqualifications under any one of the contingencies depends upon the existance of a definite set of facts, which are required to specifically pleaded before they are sought to be proved to establish the allegation of disqualification under the Act."

19. Considering the facts and circumstances of the case and the ratio laid down by the Hon'ble High Court in the judgments cited above, I am of the considered view that petitioner has failed to prove that respondent has



committed defection and therefore she is liable for disqualification under Kerala Local Authorities (Prohibition of Defection) Act.

In the result, the original petition is dismissed.



Sd/-
A. SHAJAHAN
STATE ELECTION COMMISSIONER

APPENDIX

Witness examined on the side of the Petitioner

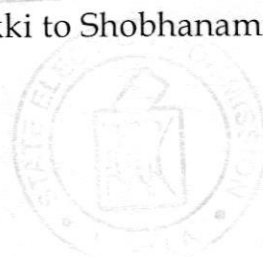
- PW1 - Smt. Mini Prince
PW2 - Sri. C. P. Mathew
PW3 - Sri. Hebi Mathew
PW4 - Sri. K. K. Kunjumon
PW5 - Smt. Ancy Thomas
PW6 - Smt. Moly Shaiju
PW7 - Sri. Santhosh S. R.

Witness examined on the side of the Respondent

- RW1 - Smt. Shobhanamma Gopinathan

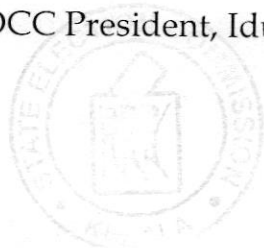
Documents produced on the side of the Petitioner

- A1 - Copy of ID card issued by Joint Secretary, LSGD to Smt. Mini Prince, President, Karunapuram Grama Panchayat.
A2 - Copy of the register showing the party affiliation of elected members of Karunapuram Grama Panchayat.
A3 - Copy of the whip dated, 17.01.2024 issued by C. P. Mathew DCC President, Idukki to Shobhanamma Gopinathan
A4 - Acknowledgement receipt No. A-86/2024 dated, 25.01.2024 issued by Secretary, Block Panchayat Nedumkandam.
A5 - Returned Postal article addressed to Shobhanamma Gopinathan
A6 - Copy of the minutes of the meeting held on 25.11.2024 in connection with the no-confidence motion against President of Karunapuram Grama Panchayat.
A7 - Copy of the whip dated, 17.01.2024 issued by C. P. Mathew, President DCC Idukki to Shobhanamma Gopinathan



Documents produced on the side of the Witness

- X1 - Copy of the minutes of the meeting held on 25.11.2024 in connection with the no-confidence motion against President of Karunapuram Grama Panchayat.
- X2 - Copy of the relevant page of the register showing the oath of Smt. Shobhanamma Gopinathan, Karunapuram Grama Panchayat.
- X3 - Copy of the register showing the party affiliation of elected members of Karunapuram Grama Panchayat.
- X4 - Copy of the receipt of intimation of whip by Secretary, Karunapuram Grama Panchayat.
- X5 - Copy of the whip dated, 07.02.2024 issued by K. Salim Kumar, Secretary CPI Idukki to Sathi Anil Kumar
- X5(a) - Copy of the letter dated 08.02.2024 issued to Secretary, Karunapuram Grama Panchayat by C. V. Varghese CPI(M) District Secretary, Idukki.
- X5(b) - Copy of the whip dated, 03.02.2024 issued to Sunil by C. P. Mathew DCC President, Idukki.
- X5(c) - Copy of the whip dated, 03.02.2024 issued to Ancy Thomas by C. P. Mathew DCC President, Idukki.
- X5(d) - Copy of the whip dated, 06.02.2024 issued to Mathukutty Thomas By Jose Palathinal President, Kerala Congress (M), Idukki.
- X5(e) - Copy of the whip dated, 03.02.2024 issued to Shobhanamma Gopinathan by C. P. Mathew DCC President, Idukki.
- X5(f) - Copy of the whip dated, 03.02.2024 issued to Jay Thomas by C. P. Mathew DCC President, Idukki.
- X5(g) - Copy of the whip dated, 03.02.2024 issued to Rabi Siddiq by C. P. Mathew DCC President, Idukki.



- X5(h) - Copy of the whip dated, 03.02.2024 issued to Mini Prince by C. P. Mathew DCC President, Idukki.
- X5(i) - Copy of the whip dated, 03.02.2024 issued to Shyamala Madhusoodanan by C. P. Mathew DCC President, Idukki.
- X5(j) - Copy of the whip dated, 07.02.2024 issued to Sathi Anil Kumar, by K. Salim Kumar Secretary, CPI Idukki District.
- X5(k) - Copy of the whip dated, 07.02.2024 issued to Sali Madhu Kumar, by K. Salim Kumar Secretary, CPI Idukki District.
- X5(l) - Copy of the whip dated, 06.02.2024 issued to Mathukkutty Thomas by Jose Palathinal, President Kerala Congress (M) Idukki, District Committee.
- X5(m)- Copy of the whip dated, 03.02.2024 issued to Shobhanamma Gopinathan by C. P. Mathew, DCC President Idukki.
- X5(n) - Copy of the whip dated, 03.02.2024 issued to Jay Thomas by C. P. Mathew, DCC President Idukki.
- X5(o) - Copy of the whip dated, 03.02.2024 issued to Rabi Siddiq by C. P. Mathew, DCC President Idukki.
- X5(p) - Copy of the letter dated 08.02.2024 issued to Secretary, Karunapuram Grama Panchayat by C. V. Varghese CPI(M) District Secretary, Idukki.
- X5(q) - Copy of the whip dated, 03.02.2024 issued to Nadarajapilla by C. P. Mathew, DCC President Idukki.
- X5(r) - Copy of the whip dated, 03.02.2024 issued to Mini Prince by C. P. Mathew, DCC President Idukki.
- X5(s) - Copy of the whip dated, 03.02.2024 issued to Shyamala Madhusoodanan by C. P. Mathew, DCC President Idukki.
- X5(t) - Copy of the whip dated, 03.02.2024 issued to Sunil



- by C. P. Mathew, DCC President Idukki.
- X5(u) - Copy of the whip dated, 03.02.2024 issued to Ancy Thomas by C. P. Mathew, DCC President Idukki.
- X5(v) - Copy of the whip dated, 03.02.2024 issued to Nadarajapilla D. by C. P. Mathew, DCC President Idukki.
- X5(w)- Copy of the whip dated, 17.01.2024 issued to Sunil by C. P. Mathew, DCC President Idukki.
- X5(x) - Copy of the whip dated, 17.01.2024 issued to Shyamala Madhusoodanan by C. P. Mathew, DCC President Idukki.
- X5(y) - Copy of the whip dated, 17.01.2024 issued to Nadarajapilla D. by C. P. Mathew, DCC President Idukki.
- X5(z) - Copy of the whip dated, 17.01.2024 issued to Shobhanamma Gopinathan by C. P. Mathew, DCC President Idukki.
- X5(aa)- Copy of the whip dated, 17.01.2024 issued to Mini Prince by C. P. Mathew, DCC President Idukki.
- X5(ab)- Copy of the whip dated, 17.01.2024 issued to Ancy Thomas by C. P. Mathew, DCC President Idukki.
- X5(ac)- Copy of the whip dated, 17.01.2024 issued to Mini Prince by C. P. Mathew, DCC President Idukki.
- X5(ad)- Copy of the whip dated, 17.01.2024 issued to Jay Thomas by C. P. Mathew, DCC President Idukki.
- X6 - Copy of the letter No. JC2-168/2024 dated, 24.01.2024 from Secretary Karunapuram Grama Panchayat to Sri. C. P. Mathew DCC President, Idukki.

Sd/-

A. SHAJAHAN

STATE ELECTION COMMISSIONER

//True Copy//



PRAKASH B.S
PEN No : 101452
SECRETARY

State Election Commission
Kerala Thiruvananthapuram

