

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

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

Thursday, the 23rd day of October, 2025

O.P. No.43 of 2023

Petitioner : Sri. Sheheer A,
S/o Abdul Samad,
Chalil Veedu,
Near Fish Market,
Kayamkulam
Alappuzha District-690502

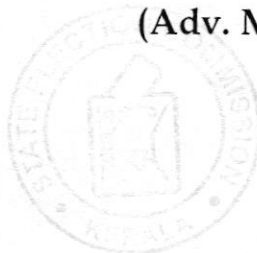
(Voter, Ward 09,
Kayamkulam Municipality)

(Adv.S. Chandrasekharan Nair)

Respondent : Sri. P. K.Ambili
D/o. P. K. Kochu Kunju,
Sheeja Manzil,
Kayamkulam,
Alappuzha District-690502

(Councilor, Ward 09,
Kayamkulam Municipality)

(Adv. M. Nizarudheen)



ORDER

This is a petition filed by the petitioner under Section 92 of the Kerala Municipality Act 1994, alleging that respondent has incurred disqualification as provided under Section 91(n) and 91(k) of the Kerala Municipality Act, 1994 and thereby disqualified from holding the office of elected member of Ward No.9 of the Kayamkulam Municipality.

2. Petitioner is a voter of Ward No.9 of Kayamkulam Municipality. It appears from the extract of electoral roll produced by him as Ext.A1 that his name is included in the electoral roll of Ward No.9 as Sl.No.584. Respondent is the Councilor of Ward No.9 of the Kayamkulam Municipality. By virtue of a elected member, respondent is holding the position of member of Health Standing Committee of the Municipality. According to the petitioner, he being a voter of Ward No.9, is having the locus standi to initiate proceedings under Section 92 of the Kerala Municipality Act 1994 for determining the disqualification of the Respondent.
3. Petitioner submitted that respondent is working as a teacher in a Government Aided School named as Lajanathul Muhamma diya Higher Secondary School, Alappuzha. While working as a teacher, respondent is holding another position as elected member of Ward No.9 of the Kayamkulam Municipality and availing dual benefits of salary as teacher from school and sitting fee as elected councilor from the Municipality. The specific case of the petitioner is that respondent marked attendance register of the school to enable her to get salary and on the very same dates, the respondent creates records to the effect that she attended Municipal Committee meetings and Health Standing Committee Meetings, and received the sitting fees and travelling allowances. Hence, she caused loss and misused the funds of the Municipality. The petitioner also contended that the respondent is drawing her full salary without even discharging her duty as a school



teacher and not even taking a leave from the school or from the Municipality.

4. According to the petitioner, respondent had marked Attendance Register of the Health Standing Committee on 23.04.2021, 11.11.2021, 24.01.2022. True Copy of the Attendance Register of the Standing Committee, Kayamkulam Municipality for the period from 21.01.2021 to 28.06.2022 is produced as Ext.A3. According to the petitioner, respondent had marked the Attendance Register of School, where she was employed as a teacher, on the very same days stated above. The Register of School is marked as Ext. A2. The Respondent has caused monetary loss to the Municipality by accepting sitting fee for attending the General Committee and also attended the school on the very same days by accepting salary too.
5. It is submitted that the 1st Respondent have not avail any leave attending the Council Meeting for the period 2021 January and 2022 June, the said fact would be revealed on going through the reply given to the Petitioner by the Kayamkulam Municipality in Letter No.PH1(G2)/13663/22. The Letter given by the Public Information Officer, Kayamkulam Municipality is produced as Ext. A4. The Respondent has also caused monetary loss to the Municipality by accepting sitting fees for attending the General Committee on the said dates. It is submitted that on the above dates she signed the Attendance Register of S C Higher Secondary School, Lajanathul Muhammadiya for obtaining her salary and she create false records to receive the Honorarium and sitting fee from the Municipality.
6. It is submitted that the 1st Respondent was consecutively absent on 18.05.2021, 03.06.2021, 12.08.2021, 09.09.2021, 23.09.2021 in five committees and have become ineligible to hold the post by said act. Even though the said fact was informed to the 2nd Respondent no action was taken and the 2nd Respondent is guilty of inaction. The 1st Respondent was also absent on 04.06.2022, 13.06.2022, 28.06.2022 in a consecutive manner and have indulged in corrupt and illegal activities



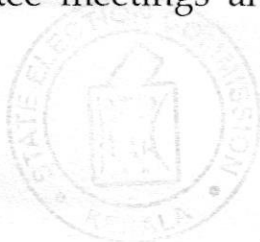
and caused loss to the Municipality. The 1st Respondent on 21.01.2021, 25.11.2021, 25.03.2022, 26.03.2022, 31.03.2022 was seen attended Kayamkulam Municipal Council Meeting as per the attendance register. The true Copy of Kayamkulam Municipal Council Meeting for the period of 19.01.2021 to 28.06.2022 is produced as Ext 5. Whereas on the same dates she was seen attended in the Lajanathul Muhammadiya School as per the Attendance Register and have collected money also.

7. The respondent case in brief is as follows: -Respondent is admittedly an elected member representing Ward No.7 of the Kayamkulam Municipality and who was subsequently elected as member of the Health Standing Committee of the Municipality. The respondent is working as a teacher in an aided school Lajanathul Muhamamadiya, Alappuzha. The State Government has permitted the aided school teachers to contest the local body election and permitted to attending the council/standing committee meetings and also permitted to perform as a teacher with salary. The Government also permitted to receive Sitting fees and also eligible for getting Honorarium from the Municipality on a monthly basis. Both sitting fees and honorarium are not the office of profit and not compared with salary for performing as a teacher.
8. As per Rule 3 (a) of the Kerala Municipality Honorarium and Allowances of the Representative of the People Rule, 1995, representatives of the people in the Municipality shall be eligible for honorarium even if they have income from Government or other source. During the last 4 years as a Counselor in Kayamkulam Municipality, the respondent has 3-time s attended the school after standing committee meetings ie.23/04/2021, 11/11/2021 and 24/01/2022 and one occasion to attend the school after the council meeting ie. on 25/11/2021. Certain dates mentioned above were also on the period of covid pandemic no regular classes, only the virtual classes. On 25/03/2022, 26/03/2022 and 31/03/2022 she had attended only in council meetings



and she was on commuted leave at school for the said dates and duly endorsed in the service book and attested by the school authorities.

9. The respondent contended that the 2nd allegation against her is that she was continuously absent in five committees, ie. on 18/05/2021, 03/06/2021, 12/08/2021, 09/09/2021 and 23/09/2021 absence from meetings on 04/06/2022, 13/06/2022 and 28/06/2022 and the prayer of the petitioner is to disqualify her under section 91 (k) of the KM Act. The respondent has not received any notice for attending the standing committee meetings alleged dated 18/05/2021, 03/06/2021, 12/08/2021, 09/09/2021 and 23/09/2021 and further 04/06/2022, 13/06/2022 and 28/06/2022. No notice issued from the Secretary, Kayamkulam Municipality under section 91(k) (i) of KM Act.
10. The petitioner's case in the O.P. and chief affidavit that she created a fabric document and illegally marking the attendance in the attendance register of the Municipality without attending the meeting and obtained the honorarium and sitting fees illegally and caused loss to municipal fund. At the time of cross examination, the petitioner has no such case that she had received the sitting fees and honorarium illegally by fabricating documents.
11. The Petitioner also approached the Hon'ble Ombudsman for Local Self Government Institution for the same issue. The Ombudsman of Local Self-Government Institution constituted under section 271 G of Kerala Panchayat Raj Act in respect of any action involving corruption or maladministration or irregularities in the discharge of administrative function by the local self-government institutions or by an employee or by the elected members of the local self-government institutions.
12. After perusing the records and obtained report from the secretary of Kayamkulam Municipality and Joint Director of Urban Affairs, the Ombudsman had issued a detailed order, the said order produced here with marked as Ext.B1 through petitioner.
13. It is false and incorrect that respondent marked the Attendance Register of Panchayat Committee meetings and Health Standing Committee



meetings without attending those meetings. Respondent is regularly participating in the Municipal Committee meetings and Health Standing Committee meetings by marking her attendance in the Registers concerned. It is true that she has accepted the eligible sitting free from the Municipality. Respondent attended the meetings by signing the attendance register with an intention to participate the discussions and not for getting the sitting fee.

14. The allegation that respondent caused loss, waste and misuse to the Municipality is denied. Respondent availed sitting fee in accordance with the law after attending the meeting. The respondent has neither marked attendance of meetings nor claimed any amount of sitting fee from the Municipality unlawfully or without attending the meetings. The petition is devoid of merit and may be dismissed.
15. Both sides were heard.
16. The evidence in this case consists of oral testimony of PW1, PW2 & PW3 documents Ext. A1 to A5, Ext. B1, Ext. X1 to X3

The following points arise for consideration, namely; -

- I. Whether the respondent has signed the Attendance Register of Standing Committee meeting and General Committee meeting of the Municipal Council and also attended the school and signed the School Attendance Register and received salary and honorarium of the very same dates.
 - II. Whether respondent has received the sitting fee of the meeting and the salary as a School Teacher on the same day.
 - III. Whether the respondent has caused any loss to the Municipality so as to suffer the disqualification provided under section 9 (1) (n) of the Kerala Municipality Act 1994.
 - IV. Whether the respondent has incurred disqualification under Section 91 (k) of the Kerala Municipality Act 1994.
17. Point (i) to (iv): As a common question of law and facts are arise for consideration on three points, they are considered together for convenience and to avoid repetition. It appears from Ext. A1 extract of



electoral roll that the petitioner is a voter of Ward No.9 of Kayamkulam Municipality. Respondent is admittedly an elected member of Ward No.9. Therefore, petitioner is having locus standi to initiate proceedings for the determination of disqualification of the respondent under Section 9(1)(n) and 91(k) of the Kerala Municipality Act.

18. The crest of the allegation in the petition is that respondent while holding the office of elected member of Kayamkulam Municipal Council caused loss to the Municipality by receiving the sitting fee for the meetings and also salary from the school by marking attendance in an illegal manner in the Attendance Register of School. Respondent denied the allegation. Therefore, the crucial question is whether respondent has attended the meetings of the Standing Committee on the dates and time mentioned in Ext.A3 and A2 Attendance Registers of Health Standing Committee. According to the petitioner respondent marked the Attendance Register of MGLC School, where she has been working as teacher on the very same days and hence it is quite impossible her to attend the Standing Committee meetings of the Council and therefore only conclusion possible is that she marked the Ext.A3 and A5 Attendance Registers in an illegal manner. The specific allegation of the petitioner is that, the 1st respondent on 11.11.2021 and 24.10.2022, attended and marked her attendance in the above said school and on the very same date, she attended the Standing Committee meeting and have signed Attendance Register and accepted the Honorarium.
19. In the objection respondent claimed that she had participated the meetings of the Health Standing Committee meetings in question and marked attendance and received the sitting fee as admissible. It is submitted by the respondent that online classes were conducted during the Covid 19 pandemic. Respondent attended the standing committee meetings after availing late permission from the school, conducting online classes without affecting the classes. Respondent can easily attend the meeting with prior permission. It is true that respondent



- received honorarium for the work. On 21.01.2021 respondents attended the Council meetings but she had no received as sitting fee on that date.
20. It appears from the date of meeting mentioned in Ext.A3 and A5 that majority of Council meetings in question were held during the midst of Covid 19 pandemic. In the objection clarified that she conducted online classes to students during the Covid 19 period. The said statement of the respondent cannot be unbelievable as online classes was the sole alternative teaching method during the pandemic period.
21. In the objection the respondent claimed that she had attended the school after the meeting of the Council on 25.11.2021. On 21.01.2022 she had not attended the Council meeting. Some other Councilor mistakenly signed her column and she had not received any fee on that date. Further stated in the objection that the aided school teachers are permitted to contest local body election and also attend the meetings and have the right to receive sittings fees and honorarium. And also, a teacher there is no restriction to receive the salary. Certain dates after committee/Council meeting, the respondent attended in the school also for the instruction from the school authorities and signed the attendance register with the permission of the HM.
22. The HM in charge was examined as PW3. At the time of cross examination, she deposed that "23/04/2021 കൊറോണ കാലമായിരുന്നു. അധ്യാപകർ ക്ലാസ്സിൽ കയറണമെന്ന് നിർബന്ധമില്ല. ഓൺലൈൻ ക്ലാസ്സ് ആയിരുന്നു. സ്കൂളിലേയ്ക്ക് വരുന്ന കുട്ടികൾക്ക് ആവശ്യമായ സപ്പോർട്ട് ഹാജരാകുന്ന അധ്യാപകൻ നൽകുന്ന രീതിയിലായിരുന്നു. പി.കെ.അമ്പിളി എന്ന ടീച്ചറേയും സ്കൂളിൽ ഹാജരാകുന്നതിന് HM & Management നിർദ്ദേശിച്ചിരുന്നു. അത് പ്രകാരമാണ് അവർ സ്കൂളിൽ ഹാജരായി Attendance ഒപ്പിട്ടിട്ടുള്ളത്. ടി യോഗങ്ങളിൽ പങ്കെടുത്തതിനു ശേഷം സ്കൂളിൽ ഹാജരാകുന്നതിന് ടീച്ചർ Late Permission ചോദിച്ചിരുന്നു. അത് അനുവദിച്ചിരുന്നു. 25.03.2024, 26.03.2024, 31.03.2024 ദിവസങ്ങളിൽ അമ്പിളി Commuted Leave ആയിരുന്നു. ടീച്ചറുടെ സർവ്വീസ് ബുക്ക് പ്രകാരം Commuted Leave അനുവദിച്ചിരുന്നു.
23. At the time of cross examination, the petitioner has no such case that she had received the sitting fees and honorarium illegally by fabricating



documents. പേജ് 3 സ്റ്റാൻഡിംഗ് കമ്മിറ്റി യോഗത്തിൽ എതിർകക്ഷി പങ്കെടുത്താണോ ഹാജർ രേഖപ്പെടുത്തിയത് (A) അതേ താങ്കൾ ഈ കോടതിയിൽ സമർപ്പിച്ച രേഖയിൽ സ്റ്റാൻഡിംഗ് കമ്മിറ്റി മീറ്റിംഗിൽ പങ്കെടുക്കാതെ കൃത്രിമമായി ഹാജർ ബുക്കിൽ ഒപ്പിട്ടതായി പറഞ്ഞത് സത്യമല്ലല്ലോ (A) അങ്ങനെ പറഞ്ഞത് ശരിയല്ല. യോഗ ദിവസം ടീച്ചറെന്ന നിലയിൽ ഡ്യൂട്ടി ചെയ്യേണ്ടതില്ല. സ്കൂളിൽ പോകേണ്ടതുമാണ്. അതു കാരണം അവരുടെ മാസ ശമ്പളത്തിൽ കുറവു വരില്ല. മീറ്റിംഗ് ദിവസം കൗൺസിൽ മീറ്റിംഗ് കഴിഞ്ഞാൽ കൗൺസിലർ നഗരസഭ ആഫീസിൽ തുടരേണ്ട കാര്യം നിർബന്ധമല്ല. അപ്രകാരം കൗൺസിലർ കൗൺസിൽ യോഗമുള്ള ദിവസം യോഗശേഷം അവർ ജോലി ചെയ്യുന്ന സ്കൂളിൽ പഠിപ്പിച്ചാൽ മുനിസിപ്പാലിറ്റിക്ക് നഷ്ടം ഉണ്ടാകുമോ (A) ഉണ്ടാകില്ല.

24. Petitioner is not an elected member of the Council. In cross examination petitioner admitted that he was no knowledge whether notice under 9(1)(2) has been issued by the Secretary intimating that the Respondent had not attended the Council meeting for 3 months.
25. Sitting fees and honorarium are not a matter of office of profit or of any pecuniary gain and not compared with her salary getting from the teaching profession. The government has permitted the aided school teachers to hold both the post of member and teacher simultaneously. In other words, one person can simultaneously hold both the posts.
26. In WP (C) No.2851 of 2018 Khadeeja VS State of Kerala, Hon'ble High Court of Kerala in 2024 KHC online 7300 dated 14th November. 2024, observed "Kerala Panchayat Raj (Honorarium and Allowances to Representatives of People) Rule 1995 - Rule 3, 3A - Whether an elected representative of a panchayat can receive honorarium while simultaneously drawing salary from Government employment. Held, representatives of people in the panchayat are eligible for getting the honorarium even if they have been receiving salary from other sources including that from the Government.
27. There is no cause of action against the respondent to institute this OP. By considering the facts of the case and relevant statute, this OP is devoid of merit and the petitioner misused the legal proceedings for the



personal enmity with the respondent, who got defeated in the 2020 Urban Local Body Election. Hence the petition is only liable to be to dismissed.

Sd/-

A. SHAJAHAN

STATE ELECTION COMMISSIONER



APPENDIX

Witness examined on the side of the Petitioner

- PW1 - Sri. Sheheer A.
PW2 - Sri. Sanil S.
PW3 - Smt. Haseenamol S.

Documents produced on the side of the Petitioner

- A1 - Copy of the relevant pages of voter's list 2020 of Ward No. 09, Kayamkulam Municipality
A2 - Attested copy of the teacher's attendance register of LMHS, from January 2021.
A2(a) - Page No. 07 of Ext. A2 showing the attendance on 23.04.2021
A2(b) - Copy of relevant page of Ext. A2 showing the attendance on 11.11.2021
A2(c) - Copy of the relevant page of Ext. A2 showing the attendance on 24.02.2022
A3 - Copy of the attendance register of the Standing Committee meetings from 19.01.2021 to 28.06.2022.
A4 - Letter No. PH1 (G2)/13663/22, (G2-8045/14) dated, nil issued by Public Information Officer, Kayamkulam Municipality to Sri. Sheheer A. Chalil House, Near Fish Market, Kayamkulam.
A5 - Copy of the attendance register of council meetings of Kayamkulam Municipality for the period from 19.01.2021 to 28.06.2022

Documents produced on the side of the Respondent

- B1 - Copy of the order in petition No. 740/2022, dated 13.07.2023 issued



by Ombudsman for the Local Self Government Institutions.

B1(a) - Copy of the petition No. 740/2022 submitted by Sheheer A. before the Ombudsman for the Local Self Government Institutions.

Documents produced on the side of the Witness

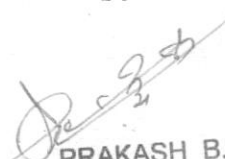
- X1 - Copy of voters list 2023 of Ward No. 09 of Kayamkulam Municipality.
- X2 - Copy of the attendance register for committee, Kayamkulam Municipality from 20.01.2021 to 23.09.2021.
- X3 - Copy of the attendance register of councilors of Kayamkulam Municipality from 19.01.2021 to 28.06.2022

Sd/-

A. SHAJAHAN

STATE ELECTION COMMISSIONER

//True Copy//


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

