

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

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

**Tuesday day, the 25<sup>th</sup> day of February, 2025**

**I.A. No. 05 of 2025**

in

**O.P. No. 01 of 2025**

**Petitioner** : Suni Kailasan,  
W/o. Kailasan,  
Mekkarra House,  
Thengode P.O., Kakkanad,  
Kochi 682030

(Councilor, Ward No. 06,  
Thrikkakara Municipality)

**(Adv. K.R. Vinod)**

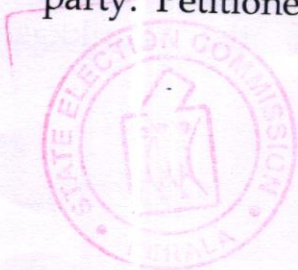
**Respondent** : The Secretary,  
Thrikkakara Municipality  
Kakkanad P.O. PIN-682030

**ORDER**

The IA is filed by the petitioner in O P No. 01/2025 for staying the notice dated 13.12.2024 (document No. 2) issued by the Secretary of the Thrikkakara Municipality and permitting her to continue as Councilor of Thrikkakara Municipality. Secretary of the Thrikkakara Municipality is the 2<sup>nd</sup> respondent in this case.



2. The original petition is filed by the petitioner under section 92 (1) read with section 91 (1) (k) of the Kerala Municipality Act, challenging the notice dated 13.12.2024 (document No.2) issued by the respondent Secretary of the Thrikkakara Municipality under the provisions of section 93 (2) of the Act. The Petitioner is an elected Councillor of ward No. 6 of Thirikkakara Municipality.
3. From the impugned notice dated 13.12.2024 issued by the Secretary addressed to the petitioner, it seems that petitioner was absent for a period of more than three months from the meetings of the Municipal Council and thereby incurred a disqualification under section 91 (1) (k) of the Kerala Municipality Act. The impugned notice dated 13.12.2024 purportedly issued under section 93 (2) of the Kerala Municipality Act intimating the fact of disqualification to the petitioner.
4. It further appears that petitioner had preferred application dated 16.12.2024 (Document No. 11) before the Municipal Council for restoring her membership in the Council as provided under section 93 (2) of the Kerala Municipality Act However, Municipal Council vide resolution No. 36 dated 06.01.2025 (document No.12) rejected her application. Therefore, the Municipal Chairperson and Thrikkakara Municipal council are impleaded in this case as respondents 3 and 4.
5. However, from the pleadings in the original petition and the copy of attendance Register produced as documents No. 3 to 10, it seems that petitioner was present in the meetings held on 05.09.2024, 11.09.2024, 04.10.2024, 23.10.2024, 28.10.2024, 13.11.2024, 27.11.2024 and 10.12.2024. It is pertinent to note that date or duration of the absence of the petitioner from the meeting are not mentioned in the impugned notice dated 13.12.2024. According to the petitioner, the notice dated 13.12.2024 is illegal, unjust and arbitrary and it was issued at the behest of Ruling political party in the Municipality to disqualify the petitioner, who is a Councillor belonging to opposite political party. Petitioner has got a *prima facie* case in the matter.



6. Hon'ble High Court in *Anil kumar V Kerala State Election Commission* ( 2007 (2) KHC 273) held that a member disqualified for remaining absent for four consecutive times even if Panchayat Committee rejects application for restoration of membership, an elected member can seek a decision from the Election Commission. Therefore, petition is maintainable before the Commission
7. Section 92 (2) enables the Commission to pass an interim order as to whether a member may continue in office or not till a decision is taken on the petition.
8. Petitioner has moved this IA for staying the notice dated 13.12.2024 (document No. 2). On going through the pleadings and contentions set forth by the petitioner, I am convinced that petitioner has established a *prima facie* case for granting the interim relief. Therefore, the IA is allowed.
9. Petitioner is permitted to continue as a Councillor of ward No.6 the Thrikkakara Municipality, till a final decision is taken on the original petition.

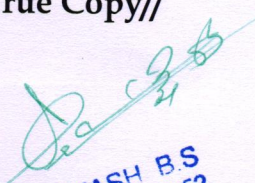
Dated this, 25<sup>th</sup> day of February 2025.

Sd/-

A. SHAJAHAN

STATE ELECTION COMMISSIONER

//True Copy//

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

