

BEFORE THE KERALA STATE ELECTION COMMISSION,
THIRUVANANTHAPURAM

PRESENT: SHRI. A. SHAJAHAN,
STATE ELECTION COMMISSIONER

Tuesday, the 7th day of May, 2024

O.P. No. 26 of 2022

Petitioner

: Muhammed Sha
S/o. Badharudeen
Pongamootil House, K.T. Kunnu,
K.T. Kunnu P.O., Kallara,
Trivandrum

(Member, Ward No.7,
Kallara Grama Panchayat)

(By Adv. Sajitha S.)

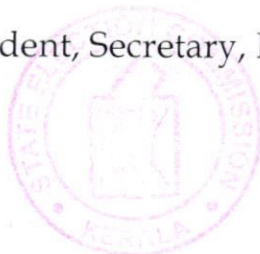
Respondent

: Secretary,
Kallara Grama Panchayat)

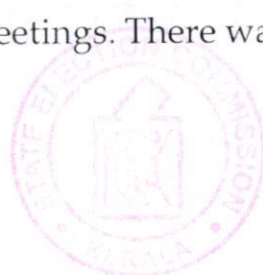
(By Adv. Pallichal S.K. Pramod)

ORDER

This is a petition filed under Section 36 (1) of the Kerala Panchayat Raj Act, 1994 to set aside the notice No. JC1-1486/2022 dated 02.11.2022 issued by the Respondent, Secretary, Kallara Grama Panchayat.



2. Petitioner's case in brief is as below:- The petitioner is an elected member of ward No. 7 of Kallara Grama panchayat. He was elected as a candidate of Indian National Congress in the election held on 23.05.2022. After the election he was elected as member of Finance standing committee. Chairman of Finance standing committee belongs to LDF. The Finance standing committee consists of 4 members, 2 UDF members, including the petitioner, 1 BJP member and 1 ex-officio member and Chairman belongs to LDF. All the time the ruling party tried to remove UDF members from the standing committee for which they abuse their administrative and political powers. In the panchayat there was no proper issuance of the notices regarding the meetings of standing committees as well as general committees. On 02.11.2022 the petitioner received a notice having No. J C 1-1486/2022 dated 02.11.2022 issued by the respondent-Secretary alleging that the petitioner has not attended the Finance Standing Committee meeting held on 20.08.2022, 24.09.2022 and 26.10.2022 and hence the petitioner has ceased to be a member of Kallara Grama panchayat under section 35 (k) of the Kerala Panchayat Raj Act. The said notice dated 02.11.2022 is marked as Ext. A1. According to the petitioner the meetings of Finance Standing Committee in which he is a member are not convened in accordance with law. He has attended the standing committee meeting held on 23.07.2022. Next meeting of Standing Committee was held on 20.08.2022, thereafter on 24.09.2022 and on 26.10.2022. Petitioner did not attend the meeting held on 20.08.2022, 24.09.2022 and 26.10.2022 as no proper notices were issued to the petitioner for the above meetings. There was no meeting once in a month



as stipulated in standing committee rules. The Ext.A1 notice is illegal and without authority of law. Hence petitioner filed this petition to set aside the Ext.A1 notice issued by the respondent.

3. The respondent filed objection contending as follows:- The petitioner failed to attend the consecutive meetings of Finance Standing Committee held on 20.08.2022,24.09.2022 and 26.10.2022 even after receipt of meeting notices. The absence of the petitioner in the standing committee meetings was reported to the respondent by Finance Standing Committee Chairman. On verifying the records, it is seen that his absence was intentional and deliberate and notice under section 37 (2) was warranted. All the meetings were held with proper notices including the publication of notice in the notice board of the panchayat. The petitioner who is always taking hostile attitude to accept the notice in person and so the respondent, Secretary, Kallara Grama Panchayat served the notice through post.
4. During the trial, petitioner appeared before the Commission, deposed in terms of the petition and section 37(2) notice was marked as Ext. A1 on his side. Despite opportunities were given to the respondent he has not cared to adduce any evidence in support of his case.
5. Both sides were heard

The following points arise for consideration

- (1) Whether the petitioner failed to attend three consecutive meetings of Finance Standing Committee after receipt of notice of meetings?
- (2) Whether petitioner incurred disqualification as provided under section 35 (k) of the Kerala Panchayat Raj Act as alleged

