

BEFORE THE KERALA STATE ELECTION COMMISSION,
THIRUVANANTHAPURAM

PRESENT: SHRI. A. SHAJAHAN,
STATE ELECTION COMMISSIONER

Tuesday, the 7th day of October, 2025

O.P. No.17 of 2024

Petitioner : Sri. Abdul Azeez M,
S/o Ibrahim,
Markkassery House,
Melmuri P.O, Pulassery,
Palakkad District -679307

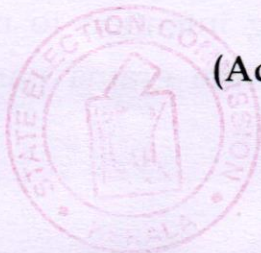
(Member, Ward No.13,
Koppam Grama Panchayat)

(Adv. Hisana Babu)

Respondent : Sri. Shafeek E. K.
S/o. Muhammed Kutty,
Eagakottil House,
Prabhapuram Mannengode,
Palakkad District -679307

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

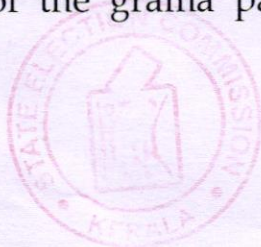
(Adv. Dil Mohan)



ORDER

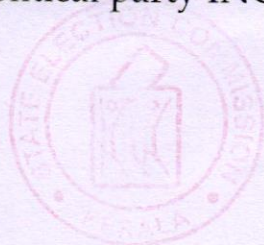
This is a petition filed under section 4 of the Kerala Local Authorities (Prohibition of Defection) Act, 1999 for declaring that this respondent committed defection and hence disqualified to continue as member of Koppam Grama Panchayat and also for declaring him as disqualified to contest as candidate in any election to the local authorities for a period of six years.

2. The petitioner's case in brief is as follows; - The petitioner and respondent are the elected members of Koppam Grama Panchayat representing ward No. 13 and 04 respectively. Petitioner was contested and elected as a candidate of Indian Union Muslim League (hereinafter 'IUML') and respondent was contested and elected as candidates of Indian National Congress (hereinafter 'INC') in the General Election to local authorities held in December, 2020. The Ernakulam District President of INC recommended the official symbol of the party "Hand" to the respondent for contesting in the election. After becoming as an elected member of the panchayat, respondent filed a sworn declaration before the Secretary of Koppam Grama Panchayat that he was contested as a candidate of INC. The certified copy of the sworn declaration is marked as Ext.A1. On the basis of said declaration, the Secretary of panchayat prepared a register showing the political affiliation of the members, wherein also it is stated that respondent belongs to INC. The political affiliation register is marked as Ext.X2.
3. Koppam Grama Panchayat having 17 wards. Out of which 8 members each belonging to UDF and LDF coalitions. Remaining one member belongs to BJP. After the General Election petitioner was elected as President of Koppam Grama Panchayat with the support of elected members of UDF including the respondent.
4. While so, certain members belonging to LDF coalition submitted a written notice of moving intention to move no confidence motion against the President of the grama panchayat. The no confidence



motion was slated for consideration on 31.01.2024 at 10.30 am. Accordingly the whips have been issued by the District President of the INC, who is the authorised person to recommend symbol of political party, directing elected members of the INC to attend the meeting and to vote against the no confidence motion against President moved by the LDF. The copy of whip issued to the respondent is marked as Ext.A3. The whip was served to the respondent through registered post as well as by affixture at the residence of the respondent in the presence of two witnesses. Respondent, who was well aware of the contents of the registered article has not been claimed the postal article before the date of no confidence motion. At last, her wife Smt. Asna accepted the postal article containing the whip on 01.02.2024. The original acknowledgment card duly signed on behalf of the respondent is marked as Ext.A4. The copy of the said whip was communicated to the Secretary of the panchayat on 29.01.2024 as mandated under law.

5. On 31.01.2024 when the no confidence motion was taken up for consideration all the 17 members were present. The respondent intentionally defied the whip issued by the District President of the INC and cast his votes in favour the no confidence motion moved against the President. Accordingly, the no confidence motion against President, who is the petitioner therein was carried with the support of respondent and elected members belonging to LDF and petitioner was removed from the office of President. All the elected members belonging to UDF, except respondent voted against the no confidence motion. The lone BJP member abstained from the meeting. The minutes of the meeting of no confidence motion held on 31.01.2024 is marked as Ext.A6. The respondent colluded with rival political party and intentionally defied the whip issued by the District President of the INC. The respondent by his conduct became disloyal to his political party and coalition and thereby voluntarily given up membership of the political party INC.



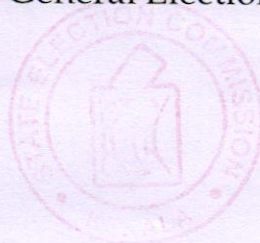
6. Respondent's case in brief is as follows; - The petition is filed with an experimental motive to oust respondent from the membership of the panchayat. There was no lawful direction from the party to the respondent on the stand to be taken in the no confidence motion held on 31.01.2024. No whip has been issued by the District President of the INC before the meeting of no confidence motion. Respondent has not been served any whip before the no confidence motion. The averments that whip was affixed at the residence of the respondent is false and hence denied. Respondent has no knowledge about the communication of alleged whip to the Secretary of the panchayat. According to his information certain documents were created by the petitioner and his men for filing the case. The Secretary has not conveyed the fact of receipt of alleged whip.
7. Respondent never violated the direction of his political party as alleged. The allegation that respondent supported and voted in favour of no confidence motion along with LDF members is utter falsehood. Respondent never colluded with any other political party and has never intended to defy the whip of his party as alleged. There was no parliamentary party meeting of the party prior to the no confidence motion. The no confidence motion was moved against a corrupt President and this respondent has every right to oust him from the post under the provisions of the Act. Respondent never cast his vote against an elected member of INC or UDF and as such there is no question of any voluntarily giving up of membership of the party. Respondent neither acted against the interest of the political party nor joined LDF as alleged. The original petition is filed without any bonafides. The petitioner has no authority to file the petition. The petition may be dismissed.
8. The evidence in this case consists of oral testimonies of PW1 to PW4, RW1 documents Ext.A1 to A7 and Ext.X1 to X5.
9. Both sides were heard.
10. The following points arise for consideration. namely; -



- (i) Whether respondent was contested and elected as a candidate of INC, a constituent of UDF coalition in the General Election to local authorities held in 2020?
- (ii) Whether respondent was aware of the decision and direction of the INC to cast vote against no confidence motion slated to be held on 31.01.2024?
- (iii) Whether respondent has disobeyed the direction of the INC to vote against the no confidence motion held on 31.01.2024?
- (iv) Whether respondent has voluntarily given up membership of the INC political party as alleged?
- (v) Whether respondent has committed defection as contemplated under section 3 (1) (a) of the Kerala Local Authorities (Prohibition of Defection) Act.

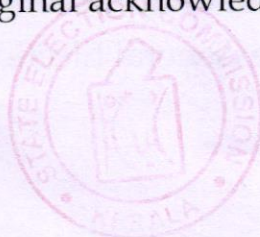
11. Point No. (i) to (v); - As common questions of law and facts are arise for consideration in these points, they are considered together for convenience and to avoid repetition. Petitioner and respondent are admittedly elected members of Koppam Grama Panchayat representing ward No. 13 and 4 respectively, as evident from the Ext.X2 Party affiliation Register produced by the PW4, who is Secretary of the panchayat. Therefore, the petitioner is having *locus standi* to file the original petition before the Commission as provided under section 4 of the of the Kerala Local Authorities (Prohibition of Defection) Act. It is further evident from Ext.X2 that petitioner was contested and elected as a candidate of IUML and respondent was contested and elected as a candidate of INC, both belonging to UDF coalition. Further, during the cross examination of respondent as RW1 he admitted the fact that he was contested and elected as a candidate of INC in the symbol " Hand".

12. It is evident from Ext.X2 that altogether 17 members in the Koppam grama panchayat. Out of which both UDF and LDF coalition got 8 seats each and the remaining 1 seat won by BJP. Respondent further admitted that after the General Election, elected member of ward 2 Sri.



T A Unnikrishnan was elected as the President of the Koppam grama panchayat. Thereafter during 2021, Sri. Sri. T A Unnikrishnan was ousted from the office through a no confidence motion. The petitioner herein was elected as the President of the panchayat in the resultant vacancy.

13. While so, elected members belonging to LDF submitted notice of intention to move the no confidence motion against the President, who belonging to UDF. Thereupon the Authorised Officer of the Commission fixed the date and time for convening the meeting to consider the no confidence against the President as on 31.01.2024 at 10.30 am and issued notices to all elected members of the panchayat.
14. In the aftermath of no confidence motion against the President, who belongs to UDF, the INC decided to vote against the no confidence motion. The Pallakkad District President of the INC, issued whip to all elected members belonging to INC, including the respondent directing them to attend the scheduled meeting on 31.01.2024 at 10.30 am and cast vote against the no confidence motion. The copy of the whip dated 25.01.2024 is marked as Ext.A3. Petitioner examined the Palakkad District President of the INC, who issued whip to the elected members of INC, including the respondent, as PW2. PW2 identified the Ext.A3 whip issued by him to the respondent. PW2 further deposed that he served whip to the respondent by registered post as well as by affixture at the residence of the respondent. Admittedly PW2 has been authorised by the political party to recommend the symbol of the INC to the respondent for contesting the election from ward 4 and as such he is competent to issue the whip to the respondent as per rule 4 (1) (i). According to the petitioner though the whip was issued sufficient early to the respondent by registered post, the latter evaded from the acceptance of whip before the meeting of no confidence motion. Thereafter his wife accepted the whip belatedly on 01.02.2024 as evident from Ext.A4 original acknowledgment card.



15.Ext.A3 is the copy of the whip affixed at the residence of the respondent. In order to prove the affixture of whip at the residence of the respondent petitioner examined PW3, who is residing at the nearby locality of respondent. PW3 deposed before the Commission that he along with the Mandalam Convenor of UDF took part in the affixture of whip to the residence of the respondent. PW3 identified Ext.A7 Mahazar prepared at the time of affixture of the whip. It appears from Ext.A7 that PW3 and one Biju V P were put their signature on Ext.A7 in token of their presence at the time of affixture of whip on 29.01.2024.

16.However, in the objection as well as evidence adduced as RW1, respondent vehemently denied the service of whip to him. According to him no whip was issued by the District President of INC before the meeting of no confidence motion held on 31.01.2024. Respondent denied the allegation that he purposely evaded the acceptance of registered article. In the present case petitioner has examined the Palakkad District President of the INC, who issued Ext.A3 whip to the respondent as PW2. However, petitioner has neither produced any proof of despatch of postal article containing the whip to the respondent before the meeting of no confidence motion nor shown any reason for it. It appears from Ext.A4 acknowledgment card that the whip was accepted by Smt. Asna on 01.02.2024, after the meeting of no confidence motion. According to respondent though the name of his wife is Asna, signature appears in Ext.A4 is not that of her. Pertinent to note that petitioner has not adduced any positive evidence to prove that respondent has evaded from the acceptance of whip even if intimations given by postal authorities. Therefore, service of whip through registered post as provided under rule 4 (2) of the Kerala Local Authorities (Disqualification of Defected members) Rules has not been proved by the petitioner. On the other hand, from the evidence of PW2 the District President of the INC and PW3 witness present at the time of affixture, petitioner has proved that Ext.A3 whip dated 25.01.2024



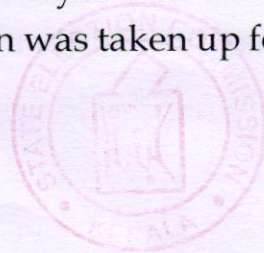
has been served by affixture at the residence of the respondent on 29.01.2024 and Ext.A7 Mahazar was prepared in the presence of two witnesses. Respondent has not raised any serious disputes with regard to the authenticity of Ext.A3 and A7 during the cross examination of PW2 and PW3. Therefore, petitioner has proved service of whip through affixture as provided under rule 4 (2) of the Kerala Local Authorities (Disqualification of Defected members) Rules.

17. Further, according to the petitioner copy of the whip was communicated to the Secretary of the panchayat as mandated under section 3 (2) of the Kerala Local Authorities (Prohibition of Defection) Act. PW2 during the examination identified the Ext.A5 copy of whip served to the Secretary of the panchayat. Petitioner has also examined the Secretary of the panchayat as PW4, who identified his signature on the reverse side of the Ext.A5 in token of acceptance of copy of whip on 29.01.2024. PW4 further produced the office copy of whips received by her as Ext.X3 series. The very purpose of informing the Secretary of such a direction is to ensure proof regarding existence of a valid direction in terms of Rule 4 (1) (i). In *Lizy Valsalan V Suja Salim* (2015 (3) KHC 968) (DB) the Hon'ble High Court observed as follows,

18." 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)

(i) It is further evident from Ext.X3 series that all elected members belonging to INC, except respondent duly accepted the whip when it tendered by the Secretary of the panchayat. It shows that respondent was deliberate to defy the decision and direction of his party even before the date of meeting.

19. It has come out in evidence that no confidence motion against the President of the panchayat moved by the elected members of the opposite LDF coalition was taken up for consideration on 31.01.2024 at



10.30 am. Ext.A6 is the copy of the Minutes. PW4 the Secretary of the panchayat has produced the office copy of the Minutes which is marked as Ext.X4. It appears from Ext.X4 that all the elected members of the panchayat were present in the meeting held on 31.01.2024. The no confidence motion moved by the LDF against the President of the panchayat who belonged to UDF tabled discussion. During the discussion, UDF members including the President of the panchayat spoke against the no confidence motion whereas LDF members spoke in favour of the no confidence motion. Thereafter the no confidence motion was put to vote. The lone elected member belongs to BJP abstained from the voting. All elected members belonging to UDF, except respondent voted against the no confidence motion as directed by party. All the elected members belonging to LDF voted in favour of the no confidence motion. Respondent in defiance of whip voted in favour of the no confidence motion along with LDF members. Thus total 9 votes cast in favour of the no confidence motion as against 7 votes cast against the no confidence motion. The no confidence motion against the President of the panchayat was carried with majority of votes.

20.It is pertinent to note that the vote cast by the respondent was decisive to decide the fate of incumbent President who belongs to UDF. At the crucial moment respondent took sides with opposite LDF coalition and resultantly the no confidence motion was carried with majority. If respondent had opposed the no confidence motion as directed by his party, no confidence motion would not be carried. The LDF coalition is not having the required majority to overthrow the UDF rule in the panchayat, however they removed the President who belongs to UDF with the support of the respondent.

Respondent during the cross examination as RW1 deposed that, -

" 31.01.2024 -ൽ കൊപ്പം ഗ്രാമ പഞ്ചായത്ത് പ്രസിഡന്റിന് എതിരെ അവിശ്വാസ ചർച്ച വന്നിരുന്നു. അതിൽ ഞാനും പങ്കെടുത്തു . Ext.A6 അവിശ്വാസ പ്രമേയത്തിന്റെ മിനുട്സ്



ആണ് എന്നെ കാണിച്ചത്. അതിൽ എന്റെ ഒപ്പ് ഉണ്ട്. അന്ന് നടന്ന അവിശ്വാസ ചർച്ചയിൽ അവിശ്വാസത്തെ അനുകൂലിക്കുകയാണ് ചെയ്തത്. അവിശ്വാസ പ്രമേയത്തെ അനുകൂലിച്ചു എന്നോടൊപ്പം വോട്ട് ചെയ്ത അംഗങ്ങൾ എല്ലാം LDF ആണ്. (Q) താങ്കളുടെ വോട്ട് കൂടി ഇല്ലായിരുന്നെങ്കിൽ അവിശ്വാസം പാസ്സാകില്ല എന്ന് പറയുന്നു (Ans) അതെ "

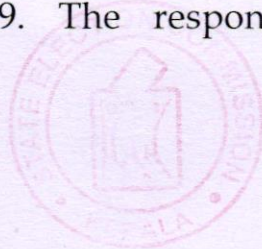
21. It appears from the evidence of RW1 that he belongs to INC and he had contested the election as such from ward 4. Further, there is no dispute with regard to the contents of Ext.X2 Party affiliation register. There is also no disputes over the contents of Ext.X4 Minutes that he attended the meeting held on 31.01.2024 and voted along with elected members of the LDF and resultantly the President belongs to UDF removed from the office.
22. From the admission of the respondent and evidence on record, petitioner has proved in unequivocal terms that respondent had defied the decision and direction of his political party and supported the no confidence motion moved by LDF. The collusion with the opposite LDF and shifting of loyalty to opposite LDF are apparent at the conduct of the respondent on 31.01.2024.
23. Further, respondent has no dispute regarding the contents of Ext.X4 minutes of the meeting held on 31.01.2024. The recitals of Ext.X4 minutes shows that during the debate on no confidence motion itself, UDF members, including the President of the Panchayat spoke against the no confidence motion whereas opposite LDF members spoke in favour of the no confidence motion. From the discussion itself respondent got opportunity to know the stand of his political party and coalition in the no confidence motion. It was further come out in evidence that all elected members, except respondent were collected the whip from the Secretary of the panchayat as evident from Ext.X3. Respondent evaded the service of whip at every opportunity. There is every reason to believe that despite fully knowing the party decision, respondent deliberately voted against the no confidence motion in collusion with opposite LDF. Moreover, the Ext.X5 minutes on the



record shows that in the subsequent election to the causal vacancy of President held on 23.02.2024 also respondent acted in defiance of the whip issued by his political party in collusion with LDF. Respondent by his aforementioned conducts voluntarily given up membership of his political party in whose banner he was elected as member.

24. In this context, it is relevant to refer to the decision in *Biju R S and Other V Kerala State Election Commission and Others* (2009 (4) KHC 527), wherein this Court had observed that disqualification for voluntarily giving up the membership of one's party is not dependent only on the violation of the whip. The facts of the aforementioned case also indicate that supporting a no confidence motion against the member's own political party was treated as conduct sufficient to fall within the scope of voluntarily giving up membership.
25. 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.
26. Considering the facts and circumstances of the case and the ratio laid down by the Hon'ble High Court in various judgments, I am of the considered opinion that the respondent has failed to obey the direction of his political party in the no confidence motion held on 31.01.2024 and also by his conduct voluntarily given up his membership of INC and therefore cannot be continued as a member of Koppam grama panchayat.

In the result OP is allowed and the respondent is declared as disqualified for being member Koppam Grama Panchayat as provided under section 3 (1) (a) 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.

Pronounced before the Commission on the 7th day of October 2025

Sd/-

A. SHAJAHAN

STATE ELECTION COMMISSIONER



APPENDIX

Witness examined on the side of the Petitioner

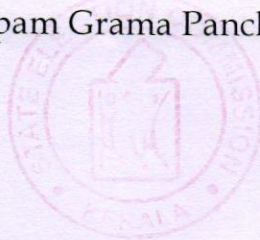
- PW1 - Sri. Abdul Azeez M.
PW2 - Sri. Thankappan A.
PW3 - Sri. Dinesh K.
PW4 - Smt. Ambili K.

Witness examined on the side of the Respondent

- RW1 - Sri. Shafeek E. K.

Documents produced on the side of the Petitioner

- A1 - Copy of the declaration in form in form-2 submitted by Shafeek E.K. dated, 21.12.2020.
A2 - Copy of the relevant page of the register showing the oath of Sri. Shafeek E. K, Koppam Grama Panchayat.
A3 - Copy of the whip dated, 25.01.2024 issued to Sri. Shafeek E. K. By A. Thankappan, DCC President, Palakkad.
A4 - Postal acknowledgement card addressed to Shafeek E. K, Koppam Grama Panchayat.
A5 - Copy of the whip dated, 25.01.2024 showing the acknowledgement of Secretary Koppam Grama Panchayat.
A6 - Copy of the minutes of the meeting held on 31.01.2024 in connection with the no confidence motion against the President, Koppam Grama Panchayat.
A7 - Mahasser of affixture of whip at the residence of Shafeek E. K. Member, Koppam Grama Panchayat.



Documents produced on the side of the Witness

- X1(a) - Copy of the declaration in form -2 submitted by Abhilash
- (b) - Copy of the declaration in form -2 submitted by T. Unnikrishnan
- (c) - Copy of the declaration in form -2 submitted by Punya Satheesh
- (d) - Copy of the declaration in form -2 submitted by Shafeek E. K.
- (e) - Copy of the declaration in form -2 submitted by
K. C. Gopala Krishnan
- (f) - Copy of the declaration in form -2 submitted by S. Mini
- (g) - Copy of the declaration in form -2 submitted by K. Velayudhan
- (h) - Copy of the declaration in form -2 submitted by Sreeja
- (i) - Copy of the declaration in form -2 submitted by
Sulaikha Anikallingal
- (j) - Copy of the declaration in form -2 submitted by Valsala
- (k) - Copy of the declaration in form -2 submitted by Fousiya K. P.
- (l) - Copy of the declaration in form -2 submitted by K. Beena
- (m) - Copy of the declaration in form -2 submitted by Abdul Azeez M.
- (n) - Copy of the declaration in form -2 submitted by A. P. Ramadas
- (o) - Copy of the declaration in form -2 submitted by Dhanya K. P.
- (p) - Copy of the declaration in form -2 submitted by Ibrahim Kutty
- (q) - Copy of the declaration in form -2 submitted by P. P. Dhanalekshmi
- X2 - Copy of the register showing the party affiliation of the elected
members of Koppam Grama Panchayat.
- X3 - Copy of the whip dated, 25.01.2024 issued to Shafeek E. K.
- X3(a) - Copy of the whip dated, 25.01.2024 issued to Punya Satheesh



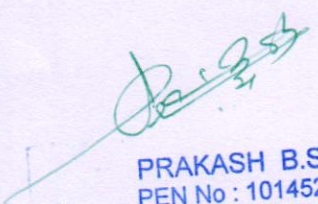
- (b) - Copy of the whip dated, 25.01.2024 issued to A. P. Ramadas
- (c) - Copy of the whip dated, 25.01.2024 issued to Fousiya K. P.
- (d) - Copy of the whip dated, 25.01.2024 issued to Dhanya K. P.
- (e) - Copy of the whip dated, 25.01.2024 issued to Sulaikha K.
- (f) - Copy of the whip dated, 25.01.2024 issued to Dhanalekshmi P. P.
- (g) - Copy of the whip dated, 25.01.2024 issued to Abdul Azeez M.
- X4 - Copy of the minutes of the meeting held on 31.01.2024 in Connection with the no confidence motion against President, Koppam Grama Panchayat
- X5 - Copy of the minutes of the meeting held on 23.02.2024 in connection With the election of President, Koppam Grama Panchayat.

Sd/-

A. SHAJAHAN

STATE ELECTION COMMISSIONER

//True Copy//


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

