

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

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

**Thursday, the 22<sup>nd</sup> day of February, 2024**

**O.P. No. 17 of 2022**

**Petitioner**

: Manoj C Gerge  
S/o. C.J. George,  
Cheenkallel,  
Ramapuram Bazar P.O.,  
Kottayam - 686 576

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

**(By Advs.A. Santhosh Kumar &  
K. Vinod)**

**Respondent**

: Shiny Santhosh,  
W/o. Santhosh,  
Kizhakkekkara Veedu,  
Ramapram Bazar P.O.,  
Vellilapilly, Kottayam - 686 576

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

**(By Adv.Kallambalam S. Sreekumar)**

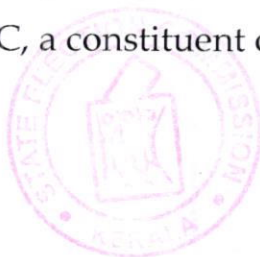


### ORDER

This is a petition filed under Section 3 and Section 4(1) of the Kerala Local Authorities (Prohibition of Defection) Act, 1999 for declaring that the respondent had committed defection and hence disqualified to continue as a member of Ramapuram Grama Panchayat and also for declaring as disqualified to contest any election to the Local Body for a period of six years.

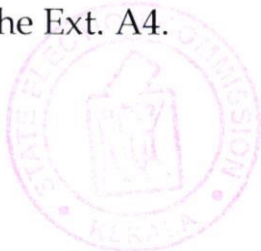
2. The petitioner's case in brief is as follows:

The Petitioner and the Respondent contested and won the election to the Ramapuram Grama Panchayat as official candidates of Indian National Congress, (here in after referred as INC), in official symbol "Hand" and is a constituent of United Democratic Front (UDF), and become the Panchayat Members, from Ward No.13 and 7 respectively in the General Election held to the Local Self Government Institutions, during December 2020. In the nomination submitted to the Returning Officer, respondent stated that she is contesting the election as INC candidate in the symbol "Hand". The District Congress President recommended the official symbol of INC "Hand" to the respondent. After the election respondent had given a sworn declaration in form No. 2 before the Secretary of the Panchayat as prescribed under rule 3(1) stating her political allegiance as an elected member of INC. On the basis of the same, the Secretary of Ramapuram Grama Panchayat prepared a Register in form No.1 showing the political affiliation of the respondent as an elected member of INC, a constituent of UDF.



In Ramapuram Grama Panchayat the contest was mainly between UDF, LDF and BJP. Based upon the statewide allegiance, the candidates belonging to INC and Kerala Congress (M) P.J. Joseph Group were the constituent of UDF. Ramapuram Grama Panchayat is having a total 18 ward members. Out of which, six members belong to INC and two members belong to KC(M) Joseph Group is under UDF banner. Five members belong to Kerala Congress (M) Jose Group is under LDF banner. Three members belong to BJP and two members are elected as pure independent candidate. Thus UDF coalition secured majority of seats.

As per the understanding among the UDF coalition, a consent deed was executed by the leaders. As per the said deed, it was jointly decided that the Respondent, Smt. Shiny Santhosh shall be the President of Panchayat for initial 1 ½ years continued by Smt. Lissamma Mathachan of Ward No.4, who belongs to KC(M) Joseph Group for two years and the balance term to Smt. Soumya Xavier of Ward No.11, who belongs to INC. Likewise in Vice President election the first 1 ½ years was allotted to Sri. Joshy Joseph Kumbalath of Ward No. 3, who belongs to KC (M) P J Joseph Group. The consent deed dated 29.12.2020 marked as Ext.A3. In pursuance of the Ext. A3 agreement another agreement was entered in between the President of INC Ramapuram mandalam Committee and elected members of the panchayat for sharing the presidentship and vice presidentship, which is marked Ext. A4. The respondent and petitioner were the signatories to the Ext. A4.





In compliance with the terms of the consent deed, both the President of the panchayat , who is the respondent herein and Vice President are resigned on 11.07.2022. The election for the new President and Vice President of the Panchayat was scheduled on 27.07.2022. As agreed among UDF constituents, Smt. Lisamma Mathachan of Ward No.4, who belongs to KC ( M) PJ Joseph group was to become the new President and Sri. K.K. Santharam of Ward No.9 , who belongs to INC as the new Vice President of the Panchayat. The INC through its District President Kottayam District Congress Committee, who is authorized person and is empowered to grant symbol of its candidates, has given a written instruction by way of whip (direction in writing) dated 21.07.2022, to all the members belonging to the INC including the respondent. Copy of the whip addressed to the respondent is Ext. A5. Ext. A6 is the acknowledgement of receipt issued by the respondent. It was directed in the whip to cast her vote in favour of Smt. Lisamma Mathachan for election to the post of president and to vote in favour of Sri. K.K. Santharam for election to the post of vice president. A copy of the whip was also communicated to the Secretary of Ramapuram Grama Panchayat in the manner prescribed under Sub Rule (2) of the Rule 4 of the Kerala Local Authorities (Prohibition of Defection) Act, 2000, which was duly acknowledged by the Secretary. Acknowledgment of receipt of copy whip by the Secretary is Ext. A7.

The Respondent who is legally bound to obey the direction by way of whip issued by INC, contested for the post of President supported by the

