

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

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

Tuesday, the 7th day of October, 2025

O.P. No. 36 of 2024

Petitioner

**: Sri. Ashraf P. K.
S/o Veeran Kutty
Kozhisserikuthu House,
Thuvvakkad P. O,
Malappuram District - 676541**

**(Adv. E. M. Krishnan Namboothiri
& Abdul Shukkur Arakkal)**

Respondent

**: Smt. Husna C. P,
W/o. Mansoor,
Cholayil House,
Thuvvakkad, Pannippara P.O,
Malappuram District - 676541**

**(Member, Ward No.17,
Edavanna Grama Panchayat)**

(Adv. Abdulla N. M.)



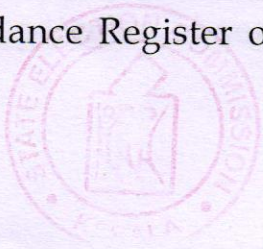
ORDER

This is a petition filed by the petitioner under section 36 of the Kerala Panchayat Raj Act, 1994 alleging that respondent has incurred disqualification as provided under section 35 (1) (o) of the Kerala Panchayat Raj Act, 1994 and thereby disqualified from holding the office of elected member of Ward No. 17 of the Edavanna grama panchayat.

2. Petitioner is a voter of ward No.17 of Edavanna grama panchayat. 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.17 as Part No.1, Sl.No.809. Respondent is an elected member of ward No. 17 of the Edavanna grama panchayat. By virtue of elected member, respondent is holding the position of member of Finance Standing Committee of the panchayat. According to the petitioner, he being a voter of ward No. 17, is having *locus standi* to initiate proceedings under section 36 of the Kerala Panchayat Raj Act for determining the disqualification of the respondent.
3. Petitioner submitted that respondent is working as a teacher in Multi Grade Learning Centre (M G L C, School), Arimangalam, Edavanna grama panchayat. The salary for teacher of the M G L C, School is being paid by the Education Department from the Government Exchequer. While working as teacher in M G L C School, respondent is holding another position as elected member of Ward No. 17 of the Edavanna grama panchayat and availing the dual benefits of salary as teacher from School and sitting fee as an elected member from the panchayat. The specific case of the petitioner is that respondent had marked the attendance registers of Panchayat committee meetings and Finance Standing Committee meetings regularly without attending those meetings and availed the sitting fee as admissible from the panchayat and thereby caused loss to the panchayat. Ext.A3 and Ext.A5 are the Attendance Registers of Finance Standing Committee and Panchayat committee meetings respectively. In order to corroborate the fact that she has not attended the meetings of Panchayat committees and Standing committees, petitioner produced the Attendance Register of M G L C,

School marked by her on the very same days. The respondent marked the Attendance registers of both institutions on the very same days. However, respondent has not actually attended the meetings of panchayat committees and standing committees held on the very same days. She was present in the school on all those days as evident from Ext.A4. She availed the benefits from the panchayat without attending the meetings, thereby caused loss to the panchayat and acquired a disqualification under section 35 (1) (o) of the Act.

4. According to the petitioner respondent had marked Attendance Register of Finance Standing Committee meetings held on 18.01.2021, 09.02.2021, 15.02.2021, 09.03.2021, 16.04.2021, 06.05.2021, 16.06.2021, 09.09.2021, 28.09.2021, 07.10.2021, 08.12.2021, 23.03.2022, 18.04.2022, 12.05.2022, 05.07.2022, 09.12.2022, 27.04.2023, 10.07.2023, 17.01.2024 and 24.01.2024 without attending those meetings and availed Rs.200/- for each meetings and thus a total amount of Rs.4000/-received from the panchayat. The Attendance Register of Finance standing committee meeting is marked as Ext.A3. According to the petitioner respondent had marked the attendance Register of M G L C School, Arimangalam where she was employed as a teacher, on the very same days. The attendance Register of M G L C School is marked as Ext.A4.
5. Petitioner has a further case that respondent had marked Attendance Register of Panchayat Committee meetings held on 11.01.2021, 12.02.2021, 16.02.2021, 17.02.2021, 15.03.2021, 17.06.2021, 25.08.2021, 09.12.2021, 16.12.2021, 24.03.2021, 05.05.2022, 01.08.2022, 17.10.2022, 27.10.2022, 15.03.2023, 17.04.2023, 02.05.2023, 09.05.2023, 14.09.2023, 24.01.2024, 07.02.2024, 08.02.2024 and 13.02.2024 without attending those meetings and availed Rs.200/- for each meetings and thus a total amount of Rs.5200/-received from the panchayat. The Attendance Register of Panchayat Committee meetings is marked as Ext.A5. According to the petitioner respondent had marked the attendance Register of M G L C School, Arimangalam where she was employed as a teacher, on the very same days. The attendance Register of M G L C School is marked as



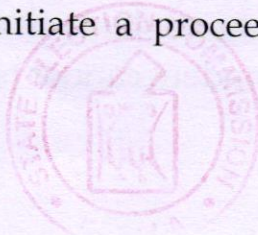
Ext.A4. The above acts or abstinence of the respondent caused loss to the Edavanna grama panchayat and the respondent is liable to be disqualified under the provisions of section 35 (1) (o) of the Kerala Panchayat Raj Act.

6. The respondent case in brief is as follows: - Respondent is admittedly an elected member of Edavanna grama panchayat representing ward No.17 and who was subsequently elected as member of Finance standing committee of the panchayat. It is true that respondent is working as an instructor at of M G L C School, Arimangalam. There is no salary for an instructor but meager amount as honorarium. The total student strength of the school is 14. Due to lack of students, the Government had abolished the school in 2022. However, the said decision was stayed by Hon'ble High Court due to intervention of people of the area. After abolition the student's strength become reduced and now only 14 students in the school. The teacher strength in the school was 4, but after abolition, the strength of teachers was reduced to 2.
7. It is false and incorrect that respondent is not attending the meetings of panchayats on the very same days of her duty as teacher. It is submitted that she had conducted online classes during the Covid 19 pandemic. Summer vacation and other vacations are applicable to the school. The casual leaves and other eligible leave are applicable to the respondent. Respondent attended the standing committee meetings after availing casual leaves from the school, during vacations, conducting online classes, teaching arrangements with colleagues, during lunch time etc. without affecting the classes. Respondent can easily attend the meeting with prior permission and also by substitute arrangements. It is true that respondent has received honorarium for the work.
8. It is false and incorrect that respondent marked the Attendance Register of Panchayat committee meetings and Finance committee meetings without attending those meetings. Respondent is regularly participating in the Panchayat Committee meetings and Finance Standing Committee meetings by marking her attendance in the Registers concerned. It is true

that she has accepted the eligible sitting fee from the panchayat. Respondent attended the meetings by signing the attendance register with an intention to participate the discussions and not for getting the sitting fee.

The allegation that respondent caused loss, waste and misuse to the panchayat 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 panchayat unlawfully or without attending the meetings. The Audit department or any other body never mentioned any misuse of money by the respondent. The petition is devoid of merit and may be dismissed.

9. The evidence in this case consists of oral testimonies of PW1, RW1, documents Ext.A1 to A5.
10. Both sides were heard.
11. The following points arise for consideration, namely; -
 - (i) Whether respondent has signed the Attendance Register of panchayat meetings as an elected member, without attending the meetings as alleged?
 - (ii) Whether the Ext.A4 Attendance Register of School alone is sufficient to give credence to the case of petitioner that respondent was not attended the meetings of panchayat on the very same days?
 - (iii) Whether respondent has received the sitting fee of the meetings?
 - (iv) Whether respondent has caused any loss to the panchayat so as to suffer the disqualification provided under section 35 (1) (o) of the Kerala Panchayat Raj Act?
12. Point No. (i) to (iv); - As common questions of law and facts are arise for consideration on these points, they are considered together for convenience and to avoid repetition. It appears from Ext.A1 extract of electoral roll that petitioner is a voter of ward No.17. Respondent is admittedly an elected member of ward No. 17. Therefore, petitioner is having *locus standi* to initiate a proceeding for the determination of



disqualification of the respondent under section 36 (1) of the Kerala Panchayat Raj Act.

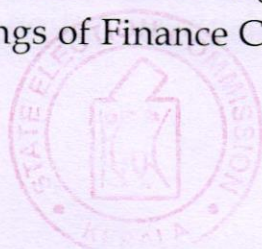
13. The crest of the allegations in the petition is that respondent while holding the office of elected member of Edavanna grama panchayat caused loss to the panchayat by receiving the sitting fee for the meetings not attended by her. Respondent denied the allegation. Therefore, the crucial question is whether respondent has attended the meetings of the panchayat committees on the dates and time mentioned in Ext.A3 and A5 Attendance Registers of panchayat committee meetings. According to the petitioner respondent marked the attendance register of M G L C School, where she has been working as teacher on the very same days and hence it is quite impossible her to attend the panchayat committee meetings and therefore only conclusion possible is that she marked the EXt.A3 and A5 Attendance Registers without attending the meeting.
14. In the objection respondent claimed that she had participated the meetings of the panchayat committee meetings in question and marked attendance and received the sitting fee for attending the meeting as admissible. It is submitted by the respondent that online classes were conducted during the Covid 19 pandemic. Further, summer vacation and other vacations are applicable to the school. The causal leaves and other eligible leave are applicable to the respondent. Respondent attended the standing committee meetings after availing casual leaves from the School, during vacations, conducting online classes, teaching arrangements with colleagues, during lunch time etc. without affecting the classes. Respondent can easily attend the meeting with prior permission and also by substitute arrangements. It is true that respondent received honorarium for the work.
15. It appears from the dates of meeting mentioned in Ext.A3 and A5 that majority of panchayat meetings in question were held during the midst of Covid 19 pandemic. In the objection respondent 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. In cross examination the Counsel for the petitioner put a question to the respondent that

(Q) സ്റ്റാൻഡിംഗ് കമ്മിറ്റി യോഗത്തിൽ പങ്കെടുത്ത ദിവസം MGLC - യിലും പങ്കെടുത്തതായി കാണുന്നു. എന്തെങ്കിലും പറയാനുണ്ടോ?

(Ans) 2021-ൽ പൂർണ്ണമായും ഓൺലൈൻ ക്ലാസ് ആയിരുന്നു. മറ്റു ദിവസങ്ങളിൽ മറ്റൊരു ടീച്ചർക്ക് ചാർജ് കൊടുത്തു പഞ്ചായത്ത് കമ്മിറ്റി യോഗത്തിൽ പങ്കെടുത്തിനുശേഷം ഞാൻ MGLC-യിൽ പങ്കെടുത്തു."

16. Petitioner is not an elected member of the panchayat. In cross examination petitioner admitted that he has no direct knowledge about panchayat committee meetings and the fact of respondent's attendance in the meetings. Ext.A4 Attendance Register of MGLC School on the very same days is the sole piece of evidence relied on by the petitioner to assail the attendance of the respondent in the panchayat meetings. According to the petitioner the school hours of MGLC is from 10 am to 4.30 pm. However, during the cross examination of respondent as RW1 petitioner did not put any such questions to her. Petitioner has not even cited a witness from School to prove that respondent was engaged in school in all working days from 10 am to 4.30 pm. Moreover, the consistent case of the respondent is that the casual leaves and other eligible leave are applicable to the respondent. Respondent attended the standing committee meetings after availing casual leaves from the school, during vacations, conducting online classes, teaching arrangements with colleagues, during lunch time etc. without affecting the classes. Respondent can easily attend the meeting with prior permission and also by substitute arrangements. Petitioner has not cited any witnesses to rebut the above contention of the respondent that she made arrangements in the school to attend the panchayat committee meetings to be held even on the very same days.
17. Ext.A3 and Ext.A5 Attendance Registers would show that respondent attended the meetings of Finance Committee and panchayat committee.



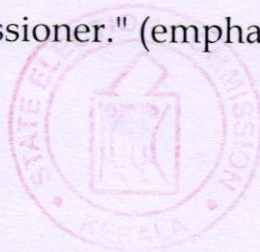
Petitioner has no case that Ext.A3 and Ext.A5 forged or fabricated documents. The day-to-day entries in Ext.A3 and Ext.A5 are prepared during the course of each panchayat meeting for a long period of more than three years. Ext.A3 and Ext.A5 are regularly kept in the course of business of the panchayat and as such relevant under section 14 of Bharatiya Sakshya Adhiniyam, 2023. It appears that all elected members of the Panchayat Committee and Finance Standing committee have been regularly signing the Ext.A3 and Ext.A5, along with respondent as mark of their attendance. The elected members of the Edavanna grama panchayat consists of members from CPI (M), INC, IUML, Independents etc. and as such there exists a conflict of interest among the members. Therefore, there is no possibility of any collusion among them to assist the respondent to make any unjust enrichment to her. It further appears that President, Vice President and Standing Committee Chairman had signed the Attendance Register along respondent. Petitioner has also no case that respondent signed the Ext.A3 and Ext.A5 Attendance Registers with connivance of other elected members, President, Vice President and Standing Committee Chairman of the panchayat.

18. As per rule 30 of the Kerala Panchayat Raj (Procedure for panchayat meeting) Rules, 1995, the minutes and record of panchayat and other committees shall be under the custody of the Secretary of the Panchayat. Further, as per section 161 (9) of the Kerala Panchayat Raj Act the Secretary shall forward copy of Minutes of every meeting of the panchayat and the copy of the note of dissent, if any received under sub-section (8) to the Government or to the officer authorized by the Government in this behalf, within ten days after the date of meetings. However, petitioner has not examined the Secretary of the panchayat or any elected member of the panchayat to substantiate his case that respondent has not been attended the meetings in question.
19. Ext.A3 and A5 are certified copies of public documents. Section 78 of the Bharatiya Sakshya Adhiniyam, 2023 presumes the genuines of certified copies of public documents. This presumption is not conclusive and can

be rebutted if evidence is presented to show that the documents is not genuine. However, petitioner has not made any attempt to rebut the geniuses of Ext.A3 or A5. In other words, Ext.A3 and A5 *prima facie* established that respondent has attended the meetings. Petitioner has not cared to adduce any evidence in rebuttal of entries in Ext.A3 and A5. The entries in Ext.A4 Attendance Register alone are insufficient to assail or destruct the evidentiary value of Ext.A3 and A5. Therefore, there is no adequate material on the record that respondent has not attended the panchayat meetings in question.

20. In a similar matter, Hon'ble High Court in W A No. 482/2010 observed that

"7. In the first place, we feel the complainant or Election Commission could have taken evidence from the Officers whom the appellant is said to have visited and verified whether the appellant in fact had visited and represented the Panchayat for any matter before them. No evidence was produced or attempted to be collected either by the complainant or by the Election Commission to disprove appellants claim. Disqualification of a member for any reason whatsoever has serious consequences and is obviously penal in nature. We are of the view that unless there is sufficient evidence to prove the loss caused to the Panchayat, which in this case arise only if the appellant's claim of offical travel is bogus, the appellant cannot be said to have acquired any disqualification warranting his removal from the membership. Since the findings are based on only surmises and conjectures, we are unable to sustain the impugned judgment of the learned Signle Judge upholding the order of the Election Commissioner." (emphasis supplied)



21. From the available evidence on record and in the light of the dictum laid down by the Hon'ble High Court, it is not possible to say that the respondent has incurred the disqualification put forward against her. The petitioner failed to make out a case under section 35 (1) (o) of the Kerala Panchayat Raj Act. Therefore, I hold that the respondent has not ceased to be a member of Edavanna Grama Panchayat as alleged. Points answered accordingly.

In the result, the original petition is dismissed.

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. Ashraf P. K.

Witness examined on the side of the Respondent

RW1 : Smt. Husna C. P.

Documents produced on the side of the Petitioner

- A1 : Copy of form No.1 voters list 2024 of Edavanna Grama Panchayat ward No. 17 Thuvvakkad (Relevant pages)
- A2 : Copy of form No.1 voters list 2024 of Edavanna Grama Panchayat ward No. 16 Kalpalam (Relevant pages)
- A3 : Attendance register of members of Edavanna Grama Panchayat from 18.01.2021 to 19.02.2022
- A4 : Attendance register of Teachers Arimangalam M.G.L.C. School from December 2020 to February 2024.
- A5 : Attendance register of members of Edavanna Grama Panchayat on 11.01.2021

Sd/-

A. SHAJAHAN

STATE ELECTION COMMISSIONER

//True Copy//


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

