

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

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

Tuesday, the 5th day of August, 2025

O.P. No.54 of 2023, O.P. No.55 of 2023 & O.P. No.56 of 2023

O.P. No.54 of 2023

Petitioner

**: Saijant Chacko
S/o Chacko,
Kallampally, Neriyaamangalam Village
Thalakode P.O.,
Ernakulam District**

**(Member, Ward No.06,
Kavalangad Grama Panchayat)**

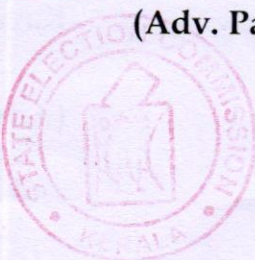
(Adv. A. Santhosh Kumar.)

Respondent

**: Lissy Jolly
W/o. Jolly,
Avirapattu House,
Perumannoor P. O.,
Ernakulam District - 686613**

**(Member, Ward No.02,
Kavalangad Grama Panchayat)**

(Adv. Pallichal S. K. Pramod)



O.P. No.55 of 2023

Petitioner : Saijant Chacko
S/o Chacko,
Kallampally, Neriyaamangalam Village
Thalakode P.O.,
Ernakulam District

(Member, Ward No.06,
Kavalangad Grama Panchayat)

(Adv. A. Santhosh Kumar.)

Respondent : Usha Sivan
W/o. Sivan,
Puthenpurakkal Veedu,
Oonnukal P. O.,
Ernakulam District - 686693

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

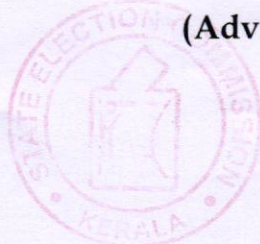
(Adv. Pallichal S. K. Pramod)

O.P. No.56 of 2023

Petitioner : Saijant Chacko
S/o Chacko,
Kallampally, Neriyaamangalam Village
Thalakode P.O.,
Ernakulam District

(Member, Ward No.06,
Kavalangad Grama Panchayat)

(Adv. A. Santhosh Kumar.)



Respondent

: Siby Mathew
S/o. Mathew,
Nedumpurath House,
Kuthukuzhi P. O.,
Ernakulam District - 686691

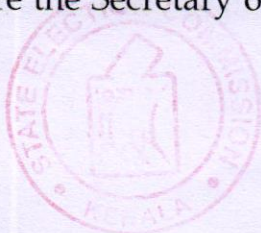
(Member, Ward No.18,
Kavalangad Grama Panchayat)

(Adv. Pallichal S. K. Pramod)

COMMON ORDER

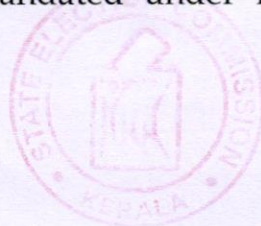
These original petitions are filed under section 4 of the Kerala Local Authorities (Prohibition of Defection) Act, 1999 by the petitioner herein for declaring that respondents, who are the elected members of Kavalangad Grama Panchayat, have committed defection and hence disqualified to continue as members of Kavalangad Grama Panchayat and also for declaring them as disqualified to contest as a candidate in any election to the local authorities for a period of six years. Since common questions of law and facts arise in all these cases, they are tried together, as OP No. 54/2023 as leading case.

2. The petitioner's case is that: -Petitioner is an elected member of ward No. 6 of Kavalangad grama panchayat. Respondents are elected members representing ward Nos.2,4 and 18 of Kavalangad grama panchayat. Petitioner and respondents were contested and elected as candidate of Indian National Congress (hereinafter 'INC'), in the General Election to the local authorities held in December, 2020. The Ernakulam District President of INC had recommended the symbol " Hand" to the respondents for contesting election as INC candidates from the respective wards. Respondents won the election by defeating the candidates fielded by Communist Party of India (Marxist) (hereinafter 'CPI (M)') in respective wards. Immediately after the General Election, all the elected members belonged to INC in the panchayat, including the respondents have given sworn declarations before the Secretary of Kavalangad Grama Panchayat



stating that they were elected as candidates of INC. On the basis of the same Panchayat Secretary of Kavalangad Grama Panchayat recorded the political affiliation of respondents in the Political affiliation Register as elected members of INC.

3. Altogether there are 18 members in Kavalangad grama panchayat. Out of which 8 members, including the petitioner and respondents belonging to INC, 1 member belonging to Indian Union Muslim League, which are part of UDF coalition. LDF coalition in the panchayat consists of CPI (M) and CPI. CPI (M) and CPI got 5 members and 3 members respectively in the panchayat. One member elected as independent supported UDF. Thus, INC got clear majority and came to power in the Panchayat. After the General election petitioner, who belongs to INC was elected as President of the panchayat. However, after the expiry of two and half years, petitioner resigned from the post of President and resultantly fresh election to the post of President was slated to be on 02.08.2023.
4. Petitioner further stated that in the wake of President election to be held on 02.08.2023, the parliamentary party meeting of elected members belonging to INC was held on 27.07.2023. Prior to the said meeting, the Block Committee President of INC had issued letters calling upon the respondents to attend the meeting convened in the backdrop of Presidential election. However, respondents were not turned up in the meeting. The Parliamentary party meeting attended by District President of INC resolved by majority to field Smt. Soumya Sasi as the Presidential candidate of INC in the election to be held on 02.08.2023.
5. Accordingly, the District President of INC has issued direction by way of whip dated 28.07.2023 to all elected members belonging to INC, including the respondents directing them to cast their valid vote in favour of Smt. Soumya Sasi in the Presidential election to be held on 02.08.2023. The whips were served directly to the respondents, who accepted the whips by signing the duplicate copy in token of acceptance. In addition to it, the whips were served to the respondents by registered post with acknowledgment due. Respondents have accepted the whip sent through registered post too. Further, copy of whip served individually to the respondents, have been communicated the Secretary of the Kavalangad grama panchayat as mandated under rule 4 (2) of the Kerala Local



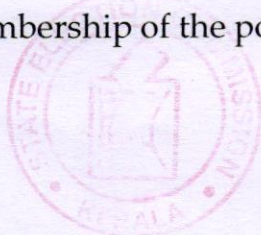
Authorities (Disqualification of Defected Members) Rules. Secretary accepted the copy of whip by affixing his seal and signature on the duplicate copy in token of acceptance of documents. Therefore, respondent have sufficient knowledge about the decision and direction of the political party.

6. Petitioner further submitted that however, in the President election held on 02.08.2023, the respondent in OP No. 56/2023 Sri. Siby Mathew stood as candidate against the official candidate of INC Smt. Soumya Sasi. The candidature of Sri. Siby Mathew was proposed by Smt. Lissy Mathew, the respondent in OP No. 54/2023 and seconded by Smt. Usha Sivan, the respondent in OP No. 55/2023. In the subsequent voting, the respondents, who were directed by their political party INC to vote for Smt. Soumya Sasi, defied the direction and voted in favour of Sri. Siby Mathew. All the elected members belonging to LDF voted in favour of Sri. Siby Mathew. Accordingly, Sri. Siby Mathew managed to secure majority votes with the support of respondents and LDF and elected as President. Though UDF having majority in the panchayat, the official candidate of UDF has been defeated.
7. The respondent in OP No.56/2023 stood as candidate against the official candidate fielded by INC with the connivance of the opposite LDF. The respondents disobeyed the whip issued by their political party and voted against the candidate fielded by the political party. In the Presidential election the respondents acted as per the decision of the opposite LDF and by their conduct respondent voluntarily abandoned the membership of INC. The respondents have committed defection under both limbs of section 3 (1) (a) of the Kerala Local Authorities (Prohibition of Defection) Act and therefore liable to be disqualified under the Act.
8. Respondents filed objection contending as follows,-In the separate objections filed by the respondents, it was alleged that respondents have not received any notice dated 25.07.2023 allegedly issued by the Block Committee President of INC informing the parliamentary party meeting to be held on 27.07.2023. To the knowledge of the respondents no such meeting was convened as alleged. After the General Election, 2020, the parliamentary party meeting of INC was held under District Congress Committee leaders, has resolved that the tenure of the petitioner as



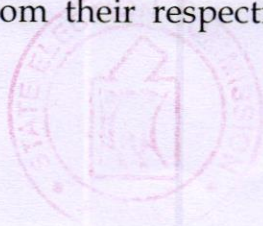
President of the Kavalangad Grama Panchayat would be for the initial two and half years and rest of the term would go to Adv. M K Vijayan, another elected member belongs to INC. According to the respondents, the said decision was reduced into writing as an agreement and all INC members accepted the accord. But petitioner failed to honour the said agreement and tried to continue in the post even after the expiry of his term of two and half years. Ultimately petitioner resigned from the post of President fearing no confidence motion, with the intervention of INC leaders.

9. According to the respondents, the petitioner committed disloyalty to the political party by not resigning from the post of President as agreed upon. It has also created factionalism in the INC. The political understanding and decision of INC was to elect Adv. K Vijayan as President in the second half of five years duration. Petitioner's stand to continue as President was challenged in the party forum, which resulted in personal vengeance and out of the same the present original petitions are filed against the respondents. Petitioner flouted the candidature of Adv. M K Vijayan by fielding his candidate for the post of President and violated the party decision.
10. Respondent further submitted that petitioner was always disloyal to the party and several occasions he flouted the party decisions with help of opposite CPI (M) members in the general committee of the panchayat and thereby committed defection. Respondent neither committed any disloyal acts nor voluntarily abandoned the membership of political party. The leaders of District Committee of INC failed to convey the details of alleged parliamentary party meeting held on 27.07.2023 to the respondents.
11. Respondent never received any lawful directions from the political party as alleged. The District President of INC cannot unilaterally issue whip without holding a parliamentary party meeting beforehand. The whip was issued at the instance and instigation of the petitioner. The respondents are having no direct or indirect knowledge regarding the alleged whip, which was issued without authority and same is not at all a whip. The original petitions are filed only to wreak vengeance against the respondents due to inner factionalism in the INC. No valid whip was served or communicated to the respondent and hence no wilful disobedience or voluntarily abandonment of membership of the political party. Present petition is filed



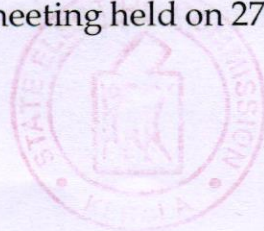
without proper authority. Petition is filed only to defame, humiliate and wreck vengeance to the respondents. Respondents have not committed any act of defection as alleged and therefore the original petitions may be dismissed with cost.

12. The evidence in this case consists of oral testimonies of PW1 to PW4, RW1 and RW2, documents Ext.A1 to A28 and Ext.X1 to X10.
13. Both sides were heard.
14. The following points arise for consideration, namely; -
 - (i) Whether direction in writing (whip) have been served to the respondents as mandated under rule 4(2) of the Kerala Local Authorise (Disqualification of Defected Members) Rules?
 - (ii) Whether respondents were aware of the decision and direction of the INC to field Smt. Soumya Sasi as the Presidential candidate of INC in the election to be held on 02.08.2023?
 - (iii) Whether respondents have disobeyed the decision and direction of the INC in the Presidential election held on 02.08.2023?
 - (iv) Whether respondents have voluntarily given up their membership of the INC as alleged?
 - (v) Whether respondents have committed defection as contemplated under section 3 (1) (a) of the Kerala Local Authorities (Prohibition of Defection) Act?
15. Points (i) to (v);-As common questions of law and facts arise for consideration on these points, they are considered together for convenience and to avoid repetition. Petitioner is admittedly an elected member of Kavalangad grama panchayat representing ward No.6. Petitioner has produced the Ext.A1 identity card in proof of the same. There are no serious contentions challenging the *locus standi* of the petitioner. Respondents in OP No. 54/2023 to 56/2023 are admittedly elected members representing ward Nos.2,4 and 17 respectively of the Kavalangad grama panchayat. Petitioner and respondents were contested and elected as candidate of INC in the General Election to local authorities held in December, 2020. Admittedly, the District President of the INC had recommended the official symbol of INC 'hand' to the respondents for contesting election from their respective wards. After being elected as



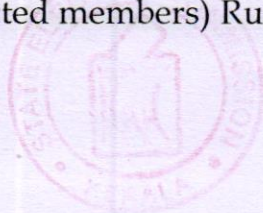
members of the panchayat, respondents filed sworn declarations before the Secretary of the panchayat stating their political allegiance as elected members of the INC. Ext.A2 to A4 are the certified copy of the sworn declarations filed by the respondents. On the basis of such sworn declarations of the respondents and other elected members, the Secretary of the panchayat had prepared a Register showing the Political Affiliation of members. Ext.A5 to Ext.A7 are the relevant pages of the Political affiliation Register, wherein also it is stated that respondents are elected members of INC.

16. In the Kavalangad grama panchayat, the contest was mainly between UDF and LDF. INC and IUML are constituents UDF coalition and CPI (M) and CPI are the constituents of LDF coalition. It has come out in evidence that altogether 18 members in the Kavalangad grama panchayat. Out of which INC got 8 members, IUML got One, One independent member supported UDF. CPI (M) got 5 members and CPI got 3 members. Thus, UDF got majority of seats in the panchayat. There is no dispute over the party affiliation of members as stated in the petition. After General Election, on getting majority of seats, the petitioner who belonging to INC was admittedly elected as the President of the Kavalangad grama panchayat. Subsequently, as per understanding in the UDF to share the Presidentship of the panchayat, the petitioner resigned from the post of President. Fresh election to the said causal vacancy of President was slated to be on 02.08.2023. There is no dispute with regard to the fact of resignation and consequent election held on 02.08.2023.
17. In the wake of Presidential election, the parliamentary party meeting of elected members belonging to INC was convened on 27.07.2023 for resolving the issue of new Presidential candidate for INC. Prior to the said meeting, Block Committee President of INC, Sri. Babu Alias, who was examined as PW4 issued intimations to the respondents to attend the meeting to be attended by the District President of INC. The intimations were issued through registered post. The intimations dated 25.07.2023 addressed to the respondents are marked as Ext.A8 to A10. Ext.A11 to A13 are the postal receipts in proof of despatch of the intimations. During examination PW4 identified Ext.A8 to A10 and Ext.A27 Minutes of the parliamentary party meeting held on 27.07.2023. In cross examination PW4



admitted that the respondents did not attend the parliamentary party meeting held on 27.07.2023. It is evident from Ext.A27 that PW2 District President INC had attended the meeting. During cross examination PW2 confirmed the position.

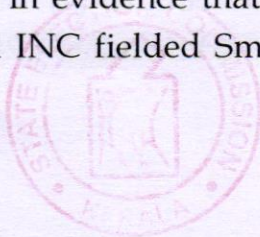
18. Ext.A27 would go to show that parliamentary party meeting of INC was held on 27.07.2023 had taken a decision to field Smt. Soumya Sasi, the senior member of INC as its candidate to the impending Presidential election. The District President of INC, who was present in the meeting authorised PW4, who is the Block Committee President of INC to serve whip to the elected members of INC, personally and through registered post. District President of INC Sri. Muhammed Shias, who was examined as PW2 identified the Ext.A14 to A16 whips issued by him to the respondents, through PW4. Ext.A14 to A16 would show that the direction has been given in writing in the letter head and the communication bears seal of the political party. PW2 further identified the signatures of respondents in the Ext.A14 to A16 in token of acceptance of whip. PW4, in cross examination supported the case of the petitioner and confirmed that as per the decision of the parliamentary party meeting, he collected whips from District President of INC and served whip to the elected members belonging to INC, including the respondents, through directly and by registered post. Ext.A14 to A16 are the duplicate copy of the whip served directly. PW4 further clarified that he served the whip to the respondents at their residences and obtained acknowledgment of receipts thereof in the whip. In addition to direct service of whip to the respondents, PW4 served whip issued by District President of INC to the respondents by registered post with acknowledgment of due. Ext.A17 to A19 are the postal receipts, in proof of despatch of whips to the residential addresses of the respondents. It appears that all the respondents accepted the registered post containing the whip. Ext.A20 to A22 are the postal acknowledgment cards duly signed by the respondents. Though PW4 was cross examined at length by the Counsel for the respondents, the latter failed to discredit the testimony of former.
19. The manner in which a political party or coalition may give direction to its members is provided in rule 4 (2) of the Kerala Local Authorities (Disqualification of Defected members) Rules, which reads as follows:-



"(2) While issuing a direction under sub-rule (1) directly, the person who gives it shall obtain a receipt from the member and while sending it by registered post it shall be done along with acknowledgment due and while effecting it by affixing it shall be done in the presence of at least two witnesses. Copy of the direction in writing shall also be given to the Secretary."

Therefore, the requirements of the Act and Rules framed thereunder to serve the whip to elected members have been properly complied in the present case.

20. However, during the cross examination of respondent in OP No. 56/2023 as RW1, he denied his signature in Ext.A16 allegedly issued by him when the whip was directly served upon him and his signature in Ext.A22 postal acknowledgment card. Therefore, his disputed signatures are compared with admitted signatures in objection and chief affidavit filed by him. On such comparison there seems no material difference in signatures. It is settled that a postal acknowledgment card with addressee's signature generally raises a presumption that the letter was duly served to the addressee. However, this presumption can be rebutted by the addressee. In the present case respondent has not taken any steps to examine the postman to rebut the presumption. As a matter of fact, RW1 admitted the correctness of his address shown in Ext.A16 and Ext.A22. The other respondents in the petition have not raised any disputes regarding their addresses in the objection. Therefore, the contentions of the respondent in this regard have no bonafides and unsustainable.
21. The copy of whip issued to each respondent has been communicated to the Secretary of the Kavalangad grama panchayat as mandated under section 3 (2) of the Act and 4 (2) of the Rules. In order to prove said service, petitioner has examined the Secretary of Kavalangad grama panchayat as PW3. PW3 produced the office copy of whip received in the panchayat office, which are marked as Ext.X7, X8 and X9. He identified the Ext.A23, A24 and A25 whips and seal and signature of the panchayat Secretary appear therein. Therefore, petitioner has undisputedly proved the service of whip as mandated under the Act and Rules.
22. It is further come out in evidence that in the President election held on 02.08.2023, as decided INC fielded Smt. Soumya Sasi as its Presidential



candidate. The name of Smt. Soumya Sasi was proposed by Sri. Saijant Chacko, the petitioner herein and seconded by Smt. Jancy Mathew, another INC member. The opposite LDF has not fielded any candidate for the post of President. However, respondent in OP NO. 56/2023 Sri. Siby Mathew, who belonging to INC stood as a candidate against the official candidate of INC. His name proposed by the respondent in OP No. 54/2023, Smt. Lissy Jolly and seconded by respondent in OP No.55/2023 Smt. Usha Sivan. In the subsequent voting the respondents and elected members belonging to LDF acted in unison manner and voted in favour of Sri. Siby Mathew. All the elected members belonging to UDF, except the respondents voted in favour of Smt. Soumya Sasi in obedience to the whip issued by INC. The respondents in OP No. 56/2023 won the election with the support of opposite LDF and respondents. Though UDF having majority in the panchayat, the official candidate of INC defeated because of the shifting of loyalty on the part of respondents. LDF could overthrow the UDF rule in the panchayat with the help of respondents. In quid pro quo they *en masse* voted in favour of Sri. Siby Mathew and he was elected as President.

23. During the cross examination of Sri. Siby Mathew, the respondent in O P No. 56/2023 deposed that "ആക്ഷേപത്തിലെ അഞ്ചാം പാഠഗ്രാഫിൽ സൗമ്യ ശശി മൽസരിച്ചു എന്നത് എനിക്കറിവുള്ള കാര്യമാണ്. പാർട്ടിയുടെ സ്ഥാനാർത്ഥിയായിരുന്നു എന്നത് ഇപ്പോഴാണ് അറിഞ്ഞത്. 02.08.2023 -ന് നടന്ന പ്രസിഡന്റ് തിരഞ്ഞെടുപ്പിൽ സൗമ്യ ശശിക്കെതിരെ ഞാൻ മത്സരിച്ചിരുന്നു. തിരഞ്ഞെടുപ്പിൽ ഞാൻ വിജയിച്ചു. എനിക്ക് ലഭിച്ച വോട്ടുകൾ സിപിഎം, സിപിഐ അംഗങ്ങളുടെയും രണ്ട് കോൺഗ്രസ് അംഗങ്ങളുടെയും ആയിരുന്നു. ആ രണ്ട് കോൺഗ്രസ് അംഗങ്ങളാണ് OP 55/2023, OP 54/2023-ലെയും എതിർകക്ഷികളായ യഥാക്രമം ഉഷ ശിവൻ, ലിസി ജോളി എന്നിവർ. Ext. A26 മിനിറ്റ്സ് പ്രകാരം കോൺഗ്രസിലെ മറ്റ് 6 അംഗങ്ങൾ സൗമ്യ ശശിക്ക് വോട്ട് ചെയ്തിട്ടുണ്ട്. പൊതു തിരഞ്ഞെടുപ്പിൽ പഞ്ചായത്തിൽ എന്റെയും കോൺഗ്രസിന്റെയും രാഷ്ട്രീയ എതിരാളികൾ ആയിരുന്നു സിപിഐ, സിപിഎം പൊതു തിരഞ്ഞെടുപ്പിനെ തുടർന്ന് പഞ്ചായത്തിൽ ഭരണം ലഭിച്ചത് യുഡിഎഫിനായിരുന്നു (Q) ഭരണം യുഡിഎഫിൽ നിന്നും നഷ്ടപ്പെടുത്തുവാൻ താങ്കൾ പ്രസിഡന്റായി എൽഡിഎഫ് ഭരണം വരികയായിരുന്നു എന്നു പറയുന്നു. (Ans) ഞാൻ പ്രസിഡന്റായി അവർ എന്നെ പിന്തുണയ്ക്കുകയായിരുന്നു. OP 54/2023, OP 56/2023 -ലെ എതിർകക്ഷികൾ ഒഴികെയുള്ള കോൺഗ്രസ് അംഗങ്ങൾ എന്നെ പിന്തുണച്ചില്ല എന്ന് കാണുന്നു. (Q) കവലങ്ങാട് ഗ്രാമപഞ്ചായത്തിൽ എൽഡിഎഫ് അംഗങ്ങൾ വോട്ട് ചെയ്തില്ലായിരുന്നു എങ്കിൽ താങ്കൾക്ക് പഞ്ചായത്ത് പ്രസിഡണ്ട് ആകാൻ കഴിയുമായിരുന്നോ? (Ans) ഇല്ല."

24. Admittedly, respondent Sri. Siby Mathew contested against the official candidate of INC and opposite LDF members and respondents voted in



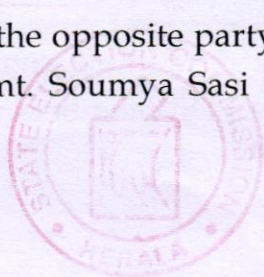
favour of Sri. Siby Mathew. Sri. Siby Mathew was elected as President with the votes of opposite LDF. UDF lost rule in the panchayat. No UDF member except respondents voted for Sri. Siby Mathew. If LDF members decided to abstain from voting he could not win the President election.

25. In the objection as well as the Chief affidavit filed by RW1, respondents have taken a consistent case that after general election, it was mutually agreed upon that petitioner's tenure as President would be for initial two and half years and the rest of the term would go to Adv. K M Vijayan, another member of INC. However, according to the respondents, petitioner failed to honour the conditions in the written agreement by overstaying the post of President and by fielding Smt. Soumya Sasi instead of Adv. M K Vijayan as the President candidate and it created factionalism in the political party. However, during the cross examination of District President of INC as PW2, he dismissed the suggestion of the Counsel for the respondents in this regard. PW2 deposed that there is neither any decision nor agreement that petitioner would resign from the post of President after two and half years. During the cross examination respondents put nothing to PW2 regarding the alleged decision of political party to field Adv. M K Vijayan as Presidential candidate.

26. Respondent examined Adv. M K Vijayan as RW2, who deposed that

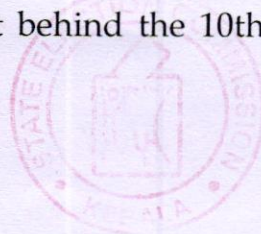
"2020 -ലെ തിരഞ്ഞെടുപ്പിനെ തുടർന്ന് ആദ്യ രണ്ടു വർഷക്കാലം സൈജന്റെ ചാക്കോയും പിന്നീടുള്ള രണ്ടുവർഷം എനിക്കും എന്നായിരുന്നു പ്രസിഡണ്ട് സ്ഥാനം എന്നാണ് DCC തീരുമാനിച്ചിരുന്നത്. (Q) DCC യുടെ തീരുമാനം എപ്രകാരമാണ് നിങ്ങളെ അറിയിച്ചത്? (Ans) DCC രേഖാമൂലം അറിയിച്ചു. ആ രേഖ DCC യിൽ ഉണ്ട്. എന്റെ കൈവശമില്ല അന്നത്തെ DCC പ്രസിഡന്റ് റ്റി . കെ. വിനോദ് MLA ആണ്. സൈജന്റെ ചാക്കോ രണ്ടര വർഷം കഴിഞ്ഞപ്പോൾ പാർട്ടി തീരുമാനം അനുസരിച്ച് രാജിവച്ചു. എന്നോട് മത്സരിക്കാൻ പാർട്ടി ആവശ്യപ്പെട്ടു. UDF ന്റെ 3 പേർ മത്സരിക്കാൻ തയ്യാറായ സാഹചര്യത്തിൽ എനിക്ക് മത്സരത്തിൽ നിന്ന് പിന്മാറണമെന്ന് ഞാൻ ആവശ്യപ്പെട്ടു. പിന്നീട് സൗമ്യ ശശി മത്സരിച്ചു ഞാൻ സൗമ്യ ശശിക്ക് വോട്ട് ചെയ്തു. UDF സംവിധാനത്തിലെ 3 പേർ LDF - ലേക്ക് പോകുന്നു എന്ന് എന്നോട് പറഞ്ഞാണ് ഞാൻ അറിഞ്ഞത്."

Though RW2 is some extent supported the case of respondents, it would neither advance nor improve the case of respondent or justify the conduct of the respondents in contesting against the official candidate of INC and voting against the official candidate, with the connivance of LDF. RW2 was not defected to the opposite party or coalition. In the Presidential election he voted for Smt. Soumya Sasi in obedience to the whip issued by his



political party INC. Respondents failed to convince that not fielding Adv. M K Vijayan as Presidential candidate of UDF would whatsoever manner influence their conduct in the Presidential election.

27. On evaluation of the evidence on record, it appears that the case of respondents that they were unaware of any decision or direction of INC is unsustainable. There is also concrete proof that respondents acted in defiance of the direction issued by their political party with the connivance of the opposite LDF. Both respondents and LDF coalition got enrichment out of the same transaction. There is also element of *quid pro quo* in this transaction.
28. The respondent being aware of the decision of the political party INC, took different stand from political party and acted against the policy of the political party in which they were members, in collusion with opposite political party. By the conduct of respondent, UDF lost governance of the panchayat, though majority in the panchayat. By supporting respondent LDF could effectively prevent the continuance of UDF rule in the panchayat. There is also shifting of political loyalty to LDF by the conduct of the respondent and only inference possible is that respondents had voluntarily given up their membership of the political party, INC.
29. In *Lissy Valsalan V Suja Salim and Another* (2015 (3) KHC 968) the Hon'ble Division Bench of High Court held that where a member of a political party is aware of the decision taken by the political party but failed to act in accordance with the political directive, it would amount to voluntarily abandoning the membership of the political party and he would be disqualified under section 3 (1) of the Kerala Local Authorities (Prohibition of Defection) Act.
30. In reaching the above conclusion, the Hon'ble High Court had referred to the decision in *Kihoto Hillohan V Zachillhu* ((1992) Supp 2 SCC 651, where the Supreme Court had explained the objectives of the 10th Schedule to the Constitution in the following passage: -
"Any freedom of its members to vote as they please independently of the political party's declared policies will not only embarrass its public image and popularity but also undermine public confidence in it which, in the ultimate analysis, is its source of sustenance-nay, indeed, its very survival.
"referring to the object behind the 10th Schedule to the Constitution of



India dealing with disqualification on the ground of defection, it was held therein that," provision is to curb the evil of political defection motivated by lure of office or other similar considerations which endanger the foundations of our democracy. The only remedy would be to disqualify the member." The Father of our Nation had foreseen the possibility of such cancerous and endangering tendencies in the practice of democracy and hence only the Mahatma said that politics without principle is a vice. No doubt politics is an art. But the beauty of the art is lost when no value is attached to the art. It is to check erosion of the values in democracy the 10th Schedule to the Constitution of India and the Kerala Local Authorities (Prohibition of Defection) Act, 1999 were brought into force"

31. 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.

In the result, original petitions are allowed and the respondents in OP No.54/2023, 55/2023 and 56/2023 are declared as disqualified for being members of Kavalangad Grama Panchayat as provided under both limbs of section 3 (1) (a) of the Kerala Local Authorities (Prohibition of Defection) Act, 1999. The respondents are 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 5th day of August 2025

Sd/-

A. SHAJAHAN

STATE ELECTION COMMISSIONER



APPENDIX

Witness examined on the side of the Petitioner

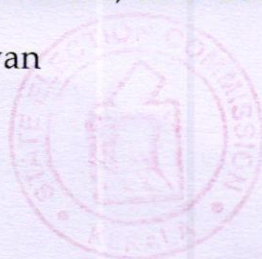
- PW1 - Saijant Chacko
PW2 - Muhammed Shiyas
PW3 - A. V. Ajikumar
PW4 - Babu Alias

Witness examined on the side of the Respondent

- RW1 - Siby Mathew
RW2 - Adv. M. K. Vijayan

Documents produced on the side of the Petitioner

- A1 - Copy of ID card in respect of Sri. Saijant Chacko.
A2 - Copy of the declaration in form No. 2 submitted by Lissy Jolly.
A3 - Copy of the declaration in form No. 2 submitted by Usha Sivan.
A4 - Copy of the declaration in form No. 2 submitted by Siby Mathew.
A5 - Copy of the relevant page of the register showing the party affiliation of Smt. Lissy Jolly.
A6 - Copy of the relevant page of the register showing the party affiliation of Smt. Usha Sivan.
A7 - Copy of the relevant page of the register showing the party affiliation of Sri. Sibi Mathew.
A8 - Copy of the letter dated, 25.07.2023 issued by Sri. Babu Alias to Smt. Lissy Jolly.
A9 - Copy of the letter dated, 25.07.2023 issued by Sri. Babu Alias to Smt. Usha Sivan



- A10 - Copy of the letter dated, 25.07.2023 issued by Sri. Babu Alias to Sri. Sibi Mathew
- A11 - Postal Receipt.
- A12 - Postal Receipt.
- A13 - Postal Receipt.
- A14 - Acknowledgement of whip by Smt. Lissy Jolly.
- A15 - Acknowledgement of whip by Smt. Usha Sivan.
- A16 - Acknowledgement of whip by Sri. Siby Mathew.
- A17 - Postal receipt.
- A18 - Postal receipt.
- A19 - Postal receipt.
- A20 - Postal acknowledgement card addressed to Smt. Lissy Jolly.
- A21 - Postal acknowledgement card addressed to Smt. Usha Sivan
- A22 - Postal acknowledgement card addressed to Sri. Siby Mathew
- A23 - Copy of the whip dated, 28.07.2023 showing the receipt by Secretary, Kavalangad Grama Panchayath.
- A24 - Copy of the whip dated, 28.07.2023 showing the receipt by Secretary, Kavalangad Grama Panchayath.
- A25 - Copy of the whip dated, 28.07.2023 showing the receipt by Secretary, Kavalangad Grama Panchayath.
- A26 - Copy of the minutes of the meeting held on 02.08.2023 in connection with the President election, Kavalangad Grama Panchayath.
- A27 - Minutes Book of UDF Parliamentary Party, Kavalangad Grama Panchayath



A28 - Signatures of Sri. Siby Mathew dated, 01.10.2024.

Documents produced on the side of the Witness

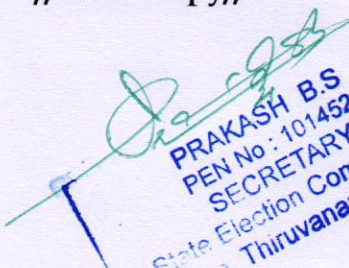
- X1 - Copy of the declaration in Form No. 02 submitted by Smt. Lissy Jolly
- X2 - Copy of the declaration in Form No. 02 submitted by Smt. Usha Sivan
- X3 - Copy of the declaration in Form No. 02 submitted by Sri. Siby Mathew
- X4 - Copy of the relevant page of the register showing the party affiliation of Smt. Lissy Jolly.
- X5 - Copy of the relevant page of the register showing the party affiliation of Smt. Usha Sivan
- X6 - Copy of the relevant page of the register showing the party affiliation of Sri. Siby Mathew
- X7 - Copy of the whip dated, 28.07.2023 showing the receipt by Secretary, Kavalangad Grama Panchayath.
- X8 - Copy of the whip dated, 28.07.2023 showing the receipt by Secretary, Kavalangad Grama Panchayath.
- X9 - Copy of the whip dated, 28.07.2023 showing the receipt by Secretary, Kavalangad Grama Panchayath.
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Sd/-

A. SHAJAHAN

STATE ELECTION COMMISSIONER

//True Copy//


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

