

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

**PRESENT: SHRI.K.SASIDHARAN NAIR, STATE ELECTION COMMISSIONER**

**Tuesday, the 10<sup>th</sup> day of March 2015**

**O.P.Nos.31/2014, 32/2014, 33/2014, 35/2014 AND 36/2014**

**O.P.No.31/2014**

Petitioner : N.Asokan,  
S/o Narayanan Nair,  
Archana, Near Railway Station,  
Varkala.  
Councillor, Ward No.31  
Varkala Municipality

**(By Adv. A.Gopalakrishnan Nair)**

Respondent : Surya Prakash,  
S/o Kunjukrishnan, Prabhavathi  
Mandiram, Mundail, Varkala.  
Councillor, Ward No.25,  
Varkala Municipality,

**(By Advs. Hashim Babu.M & Sajitha.S)**

**O.P.No.32/2014**

Petitioner : N.Asokan,  
S/o Narayanan Nair,  
Archana, Near Railway Station,  
Varkala.  
Councillor, Ward No.31  
Varkala Municipality

**(By Adv. A.Gopalakrishnan Nair)**

Respondent : A.Davood,  
S/o Abu Shaiman, A.S.Villa, Erakkam,  
Chilakoor, Varkala.  
Councillor, Ward No.23,(Kottumoola)  
Varkala Municipality,

(By Advs. Hashim Babu.M & Sajitha.S)

**O.P.No.33/2014**

Petitioner : N.Asokan,  
S/o Narayanan Nair,  
Archana, Near Railway Station,  
Varkala.  
Councillor, Ward No.31  
Varkala Municipality

(By Adv. A.Gopalakrishnan Nair)

Respondent : P.S.Vinayakumari,  
D/o Sarojini, Puthenvila Veedu  
Thachamkonam, Varkala.  
  
Councillor, Ward No.19,(Ramanathala)  
Varkala Municipality,

(By Advs. Hashim Babu.M & Sajitha.S)

**O.P.No.35/2014**

Petitioner : N.Asokan,  
S/o Narayanan Nair,  
Archana, Near Railway Station,  
Varkala.  
Councillor, Ward No.31  
Varkala Municipality

(By Adv. A.Gopalakrishnan Nair)

Respondent : K.G.Suresh,  
S/o Govindan, Rama Sadanam,  
Thachankonam, Varkala.  
Councillor, Ward No.18,  
Varkala Municipality,

**(By Advs. Hashim Babu.M & Sajitha.S)**

**O.P.No.36/2014**

Petitioner : N.Asokan,  
S/o Narayanan Nair,  
Archana, Near Railway Station,  
Varkala.  
Councillor, Ward No.31  
Varkala Municipality

**(By Adv. A.Gopalakrishnan Nair)**

Respondent : S.Sanush,  
S/o Sathyanesan, Thenguvila Veedu,  
Korakanni, Varkala.  
Councillor, Ward No.28,  
Varkala Municipality,

**(By Advs. Hashim Babu.M & Sajitha.S)**

These petitions having come up for hearing on the 27<sup>th</sup> day of January 2015, in the presence of Adv. **A.Gopalakrishnan Nair** for the petitioner and Advs. **Hashim Babu.M & Sajitha.S** for the respondents and having stood over for consideration to this day, the Commission passed the following.

**COMMON ORDER**

These are petitions filed under Section 4(1) of the Kerala Local Authorities (Prohibition of Defection) Act for declaring that the respective respondents have

become subject to disqualification for being Councillors of Varkala Municipality. Since common questions of law and facts arise for consideration in all these cases, they have been taken up together and O.P.No.31/2014 is treated as the main case.

2. The short facts are as follows,- The petitioner and respondents contested the election in various wards of Varkala Municipality, in the General Election held in October 2010, as candidates of Indian National Congress and were elected as Councillors. Out of the 33 wards, Indian National Congress secured 17 seats and the Kerala Congress (M) which is a constituent of UDF secured one seat. After election the respondent in O.P.No.31/2014 was elected as parliamentary party leader of the Congress party and he was elected as Municipal Chairman. But after election, as Chairman, he was functioning in an improper and arbitrary manner and thus as per the decision of the District Congress Committee a no confidence motion was moved against him by the UDF Councillors and the same was passed on 26.03.2014. The District Congress Committee directed all the members to vote in favour of the no confidence motion. But the respondents in O.P.Nos.31/2014, 35/2014 and 36/2014, with the deliberate intention to violate the direction issued by the District Congress Committee, abstained from attending the meeting convened for discussing the no confidence motion. Thereupon the District Congress Committee suspended the

above respondents from the primary membership of the Congress party. Subsequently the District Congress Committee has frozen the order of suspension and their status as members were restored in the party. After that the District Congress Committee decided to elect a new Chairman and authorized Shri.A.A.Rouf to convene the Congress parliamentary party to take a decision in this behalf. Thus the Congress parliamentary party was convened and decided to entrust the District Congress Committee to decide and suggest the new Chairman candidate. Accordingly the District Congress Committee President convened the Congress Parliamentary Party meeting and decided Sri.A.A.Rouf as the Chairman candidate. The respondents did not attend that meeting and so the DCC President has given specific direction and whip to the respondents to vote in favour of Sri.A.A.Rouf in the election to the post of Chairman scheduled on 22.04.2014. The said whip was sent by registered post and the same were also served by affixture in front of the houses of the respondents as they were not ready to accept the same. But in the election to the post of Chairman held on 22.04.2014, the respondents aligned with the LDF Councillors and the respondent in O.P.No.31/2014 contested against the official candidate and all the respondents, by disobeying the whip issued by the DCC President voted in favour of the respondent in O.P.No.31/2014. The respondents who were elected as Councillors of Congress party are bound to show loyalty to that party. But they

have committed deliberate defection for their own personal gains. So the respondents are disqualified to continue as Councillors of Varkala Municipality. Hence these petitions.

3. Common contentions are raised by the respondents in all these cases which are in short as follows,- The petitions are not maintainable either in law or on facts. The petitioner has alleged that the District Congress Committee had suspended the respondents in O.P.Nos.31/2014, 35/2014 and 36/2014 and that the District Congress Committee had subsequently frozen the order of expulsion. Such an order of expulsion can only be made absolute or withdrawn and freezing of the same is alien to law. Going by the pleadings in the petitions in O.P.Nos.31/2014, 35/2014 and 36/2014, the respondents therein were suspended on 26.03.2014 and the documents produced by the petitioner along with the said original petitions show that the above respondents were expelled from the primary membership of the political party and as the order of expulsion has already taken effect there cannot be any question of non compliance of any subsequent whip issued by the political party in respect of these respondents. Out of the 33 wards, 17 wards were won by UDF of which one was won by Kerala Congress (M). Sri.A.A.Rouf was an utter failure as Chairman of the Municipality while he was functioning as a Chairman during 2003-2005 and so in the election held in 2010, the respondent in O.P No.31/2014 was projected as the

Chairman candidate and as the UDF secured majority the above respondent was elected as Chairman of the Municipality. Sri.A.A.Rouf wanted the respondent in O.P.No.31/2014 to act as rubberstamp so as to endorse his corrupt activities for which the said respondent was not amenable. There was no complaint against the respondent in O.P.No.31/2014 either in the parliamentary party or before the District Congress Committee and neither the parliamentary party nor the political party had instructed him resign from the post of Chairman. There was no approval from the District Congress Committee to move a no confidence motion against him. There was no direction from the District Congress Committee President to vote infavour of the no confidence motion. Out of the 26 members who support the no confidence motion, 8 were LDF Councillors which would indicate that the removal of the respondents was not with the support of the political party. After removal of the respondent in O.P.No.31.2014 from the post of Chairman Sri.A.A.Rouf made an unsuccessful attempt to become the Chairman. Sri.A.A.Rouf has no authority to convene the parliamentary party meeting. The District Congress Committee has not discussed the matter relating to the election of new Chairman with the respondents and the District Congress Committee did not suggest the name of Sri.A.A.Rouf as Chairman candidate. No meeting of the parliamentary party was convened to issue whip. However nothing regarding the meeting was communicated to the respondents. No whip

was served to the respondents in respect of the election to the post of Chairman. The District Congress Committee President is not expected to issue whips to the respondents in O.P.Nos. 31/2014, 35/2014 and 36/2014 as they have already been expelled from the party. After election the respondents received postal articles and on a perusal of the same it was revealed that most of the same did not contain the signature of the District Congress Committee President. The said record is prepared deliberately with the sole object of creating evidence and a cause of action to file these petitions. The respondent in O.P.No.31/2014 has not stood as rebel candidate. It is true that the respondents were away from the houses because of the constant threat on the side of Sri.A.A.Rouf and his associates. Even otherwise whip has no validity or sanctity as far as the respondents in O.P.Nos.31/2014, 35/2014 and 36/2014 are concerned. No whip was communicated to the respondent before election to the post of Chairman. The respondents have not voluntarily abandoned their membership from the party and they have not violated any directions issued by the party. So the petitions are only to be dismissed.

4. The evidence consists of the oral depositions of PWs1 to 6, RWs1 and 2 and Exts.P1 to P13, R1 to R5 and X1 to X14.
5. Both sides were heard
6. The following points arise for consideration;



- (i) Whether the petitions are not maintainable?
- (ii) Whether Sri.A.A.Rough was decided as the candidate for the post of Chairman by the Congress party in the election held on 22.04.2014?
- (iii) Whether the DCC President had issued direction to the respondents to vote in favour of Sri.A.A.Rouf in the election to the post of Chairman held on 22.04.2014?
- (iv) Whether the respondents in O.P.Nos.31/2014, 35/2014 and 36/2014 were bound to obey the decision and direction of the Congress party in the election to the post of Chairman held on 22.04.2014?
- (v) Whether the respondents have disobeyed the decision and direction of the Congress party in the election to the post of Chairman as alleged?
- (vi) Whether the respondents have become subject to disqualification for being Councillors of Varkala Municipality?
- (vii) Reliefs and costs?

7. **POINT No.(i)** : These are petitions filed by a common petitioner against the respondents alleging that the respondents have become subject to disqualification for being Councillors of Varkala Municipality on the ground of defection. According to the petitioner the respondents who are councilors belonging to Congress party had disobeyed the decision and direction of the Congress party in the election to the post of Chairman and by aligning with the LDF Councillors the respondent in O.P.No.31/2014 contested against the official candidate and all the respondents voted in his favour and thereby they in liaison

with LDF members defeated the official candidate and thus they have voluntarily given up their membership from the party. The respondents would deny the above allegations and states that they have not committed any defection. Admittedly the respondents were elected as Councillors belonging to Congress party. Section 3(1)(a) of the Act, Kerala Local Authorities (Prohibition of Defection) Act, for short the 'Act', states that if a member of local authority belonging to any political party voluntarily gives up his membership of such political party, or if such member, contrary to any direction in writing issued by the said political party or by a person or authority authorized by the party in this behalf votes or abstains from voting, in an election to the post of Chairman, Deputy Chairman etc., he shall become subject to disqualification for being a member of that Municipality. As the respondents were elected as Councillors to the Varkala Municipality by contesting as candidates of Indian National Congress, Section 3(1)(a) of the Act is applicable to them. These petitions are filed under Section 4(1) of the Act. Section 4(1) of the Act reads as follows,-

*“Decision on question as to disqualification on ground of defection,- if any question arises as to whether a member of a local authority has become subject to disqualification under the provisions of this Act, a member of that local authority or the political party concerned or a person*

*authorized by it in this behalf can file a petition before the State Election Commission for decision.”*

8. From the pleadings and evidence it is clear that a question arises as to whether the respondents have become subject to disqualification for being Councillors of Varkala Municipality as provided by Section 3(1)(a) of the Act. Admittedly these petitions are filed by a Councillor of the same Municipality of which the respondents also are Councillors. It is also found that these petitions are filed within the time limit prescribed under Rule 4A(2) of the Kerala Local Authorities (Disqualification of Defected Members) Rules. As per the said Rule a petition is to be filed within 15 days from the date on which the cause of action arises. No specific grounds are alleged challenging the maintainability of the petitions. From the facts and evidence it is found that as these petitions are filed within the time limit prescribed under Rule 4A(2) of the Kerala Local Authorities (Disqualification of Defected Members) Rules by a competent person and as a question arises as to whether the respondents have become subject to disqualification for being Councillors of Varkala Municipality, I hold that the petitions are maintainable. The point is answered accordingly.

9. **POINT No.(ii) and (iii):** Certain facts are not in dispute. The petitioner and respondents had contested the election in different wards of Varkala Municipality as candidates of Indian National Congress and were elected

as Councillors. The Congress party contested the election under UDF coalition of which Kerala Congress (M) also was another partner. Out of the total 33 seats, Congress party alone secured 17 seats and Kerala Congress (M) secured one seat. Since UDF secured majority, Sri.Surya Prakash the respondent in O.P.No.31/2014 was elected as Chairman. He was removed from that post by passing a no confidence motion moved by the UDF Councillors on 22.04.2014. Thereafter the election to the post of Chairman was scheduled on 22.04.2014 and in that election the respondent in O.P.No.31/2014 contested against Sri.A.A.Rouf and all the respondents voted in favour of the respondent in O.P.31/2014 and with the support of LDF members also, he won the election by defeating PW2-Sri.A.A.Rouf. According to the petitioner, PW2 was decided as the candidate for the post of Chairman in the parliamentary party meeting held on 19.04.2014 which was convened by the DCC President and it was for electing PW2 as the Chairman the respondent in O.P.No.31/2014 was removed by way of no confidence motion and that the respondents have defied the direction and decision of the DCC President and the party and thereby committed defection. So the first question to be considered is whether PW2 was decided as the official candidate for the post of Chairman in the election held on 22.04.2014.

10. The petitioner has been examined as PW1. He has deposed that as per the decision of the District Congress Committee a no confidence motion was

moved by the Congress Councillors on 22.04.2014 and all the Congress Councillors except the respondents in O.P.Nos.31/2014, 35/2014 and 36/2014 voted in favour of the said motion by obeying the whip issued by the DCC President and as the respondents in O.P.Nos.O.P.Nos.31/2014, 35/2014 and 36/2014 defied the whip they were suspended from party and that order was frozen in connection with the Lok Sabha election and they were allowed to continue as members in the party. PW1 has further deposed that the District President had convened a meeting of the Councillors of the parliamentary party at 3 pm on 19.04.2014 at his office and only ten Councillors attended that meeting and Sri.A.A.Rouf was decided as the official candidate for the post of Chairman and whip was given to all the Councillors present there and the DCC President authorized PW2 to serve the whip issued to others and accordingly PW2 along with the Mandalam President went to the houses of the respondents and served the whip by affixture. In cross-examination PW1 has deposed that the decision to remove the respondent in O.P.No.31/2014 from the post of Chairman was taken in the meeting of the parliamentary party held at the DCC office in February 2014. Ext.P6 is stated to be the minutes of the parliamentary party meetings and Ext.P6(a) is the minutes of the meeting held on 19.04.2014 at the DCC Office. It was suggested to PW1 in cross-examination that in this minutes the signature of the DCC President is not available to which PW1 has repeated that the DCC

President had convened the said meeting. PW1 has also deposed that the parliamentary party meeting was convened on 19.04.2014 to decide the candidate for the post of Chairman and as the suspension against the respondents in O.P.Nos.31/2014, 35/2014 and 36/2014 was frozen, they also were called in the said meeting.

11. Sri.A.A.Rouf as PW2 has deposed that in the election to the post of Chairman held on 22.04.2014, he contested as a candidate as per the decision and direction of the DCC President and that he was decided as the candidate in the meeting held at the DCC office on 19.04.2014. PW2 has further deposed that the DCC President had issued whips to all the Congress Councillors to vote in his favour and such whip to the respondents were sent by post and also were affixed in front of their houses. In cross examination PW2 has deposed that the respondent in O.P.No.31/2014 was elected as Chairman only for one year and thereafter he was to be elected as Chairman. PW2 has also deposed that direction was given by the DCC President to vote in favour of the no confidence motion moved against the respondent in O.P.No.31/2014 and the said motion was moved for electing PW2 as Chairman. PW2 also has stated that Ext.P6(a) is the minutes of the parliamentary party meeting held on 19.04.2014.

12. The evidence of PW6 who is the DCC President is of considerable importance in these cases. He has deposed that the respondent in

O.P.No.31/2014 was elected as Chairman only for one year and that a no confidence motion was moved against the said respondent and whip also was issued by him to vote in favour of that motion and as the respondents in O.P.Nos.31/2014, 35/2014 and 36/2014 had defied the said direction, they were expelled from the party and subsequently on their request they were taken back in the light of the Lok Sabha election and there was also direction by the AICC leader to freeze all disciplinary actions. PW6 would further depose that in the election to the post of Chairman, the Congress parliamentary party meeting was convened at his office and PW2 was decided as the candidate which was recognized by the KPCC also and whip was given to all persons who were present in that meeting and the whips to others were directed to be served by post and directly Ext.P1 is stated to be the copy of the whip given to the Secretary and Exts.R2 series are identified as the whips sent to the respondents. In cross-examination PW6 has deposed that he had directed the respondent in O.P.No.31/2014 to resign from the post of Chairman repeatedly and also in writing and that he is in custody of the copy of the written direction which he offered to produce. PW6 has also deposed that since the said respondent did not resign, no confidence motion was moved against him and that he had directed the Congress Councillors to vote in favour of the said motion and three Councillors who defied his direction were expelled from the party. Exts.R1 series are

identified as the letters given to such Councillors regarding their expulsion. He has also deposed that he had seen an agreement dated 05.11.2010 wherein it was agreed to share the term of the Chairman and the first one year term was for the respondent in O.P.No.31/2014 and next two years were to PW2 and the remaining two years were to the petitioner. PW6 has also identified Ext.P6(a) as the minutes of the meeting of the Parliamentary party convened by him on 19.04.2014. It was suggested to PWs 1 and 6 in cross-examination that Ext.P6(a) does not contain the signature of PW6 and that PW6 was not present in that meeting to which they have answered that the said meeting was convened by PW6 and the decision taken in that meeting was in his presence. PW2 who was decided as the candidate for the post of Chairman in the said meeting also has deposed that the decision to elect him as Chairman was taken in the meeting held on 19.04.2014 and that whip of the DCC President was served to all the Councillors, except these respondents, in the said meeting itself. PW3 who is the Varkala Mandalam President of the Congress party has deposed that in the meeting convened by the DCC President before the election to the post of Chairman he also participated as invited by the DCC President and that the DCC President had issued whip to all the Councillors of the party who were present in that meeting and it was decided to serve the whip of those who were not present by post and by taking the same to their respective houses.



13. From the evidence of PWs1 to 3 and 6 it is clearly found that the no confidence motion was moved against the respondent in O.P.No.31/2014 as decided by the Congress party and all the Councillors of Congress party except the respondents in O.P.Nos. 31/2014, 35/2014 and 36/2014 voted in favour of the said motion and against the above three respondents disciplinary proceedings were taken and they were expelled from the party. The fact that the disciplinary proceedings were taken against the respondents in O.P.Nos.31/2014, 35/2014 and 36/2014 for disobeying the decision of the party is evidenced by Ext.R5 series also. RW2, the General Secretary of Congress party had served Exts.X13 series to the respondents in O.P.Nos.31/2014, 35/2014 and 36/2014. Ext.X13(b) would indicate that the respondent in O.P.No.31/2014, the Chairman of the Municipality was disobeying the decisions of the party and in spite of the directions he did not resign from that post and so he was expelled from the party on 24.03.2014 which was two days prior to the date on which the no confidence motion was taken up for discussion. The respondents in O.P.Nos.35/2014 and 36/2014 were expelled from the party for having disobeyed the direction to vote in favour of the no confidence motion. RW2 has deposed that he had served the expulsion order as directed by the DCC President. It has come out in evidence that paper reports were published regarding the removal of the Chairman through the no confidence motion. Ext.P8 and P10 are the Malayala Manoram and Kerala Kaumudi dailies

dated 27.03.2014 respectively which contained reports regarding the removal of the Chairman through the no confidence motion moved against him. It has also come out in evidence that except the respondents in O.P.Nos.31/2014, 35/2014 and 36/2014, all the other Councillors belonging to Congress party and Kerala Congress (M) have voted in favour of the no confidence motion and the two independents who were giving support the UDF from the very beginning also had supported that motion. Even though the Councillors belonging to LDF also had supported the said motion, their support was not necessary to pass the said no confidence motion. The evidence of PWs1, 2 and 6 along with the materials on record would sufficiently prove that the no confidence motion was moved against the respondent in O.P.NO.31/2014 as decided by the Congress party and the DCC President had issued direction to all the Congress Councillors to vote in favour of the said motion and the party had expelled the respondents in O.P.Nos.31/2014, 35/2014 and 36/2014 for having disobeyed the direction and decision of the party in respect of voting on the no confidence motion. It is thereafter that the election to the post of Chairman was fixed on 22.04.2014.

14. The definite case of the petitioner is that in the subsequent election to the post of Chairman, PW2 was decided as the candidate and that decision was communicated to all the Congress Councillors. It cannot be forgotten that the respondent in O.P.No.31/2014 was removed for electing another Councillor

belonging to Congress party as Chairman. PW6 has categorically deposed that there was a consensus to elect PW2 as Chairman after expiry of a period of one year since the date of election of the respondent in O.P.No.31/2014 and PW2 was to continue for two years and the last two years was to be allotted to the petitioner and due to the recalcitrant attitude of the respondent in O.P.No.31/2014, that understanding was frustrated and the repeated direction given to the Chairman to resign from that post did not yield any result and so the no confidence motion was moved against him. In this context the evidence of RW1 also assumes importance. In cross-examination RW1 has deposed that from the minutes on the discussion regarding the no confidence motion it is clear that there was whip given by the party to support the said motion and that for disobeying that direction he along with two other respondents were expelled from the party. RW1 has further deposed that he came to know that the party had decided PW2 to the post of Chairman when he came for the election meeting and it is thereafter that he supported the respondent in O.P.No.31/2014 in the election to the post of Chairman. Even though the definite case of the respondent is that they were unaware of the direction regarding the candidature of PW2 for the post of Chairman, the evidence of RW1 would substantially prove that before the election meeting started, he and other Councillors were fully aware that PW2 was the candidate decided by the Congress party for the post of Chairman and it was

thereafter that these respondents had voted in favour of the respondent in O.P.No.31/2014. So from the above facts and materials on record, it is clearly found that Congress party had decided PW2 as the candidate for the post of Chairman in the election held on 22.04.2014 and all the Congress councilors including these respondents were fully aware of the said decision well before the said election meeting. Moreover the respondents do not have a case that the respondent in O.P.No.31/2014 was at any time decided as the Chairman by the Congress party after he was removed from that post through the no confidence motion.

15. The petitioner would allege that direction in writing was given by the DCC President to all the Congress Councillors to vote in favour of PW2 in the election scheduled on 22.04.2014 and that the respondents had disobeyed the said direction and thereby committed defection. Ext.P1 series are the copies of the said direction given by PW6 to vote in favour of PW2 in the election to the post of Chairman scheduled on 22.04.2014. Copy of the direction was given to the Secretary also as seen from Ext.P1(e). PW6 the DCC President has deposed that after receiving the notice regarding the election to the post of Chairman, the parliamentary party meeting was convened by him and in that meeting PW2 was decided as the candidate for the post of Chairman and that was approved by the KPCC also and whip was given to all the Congress Councillors who were present

in that meeting and the whip to the absentees were directed to be given by post and also directly and Ext.R2 series are identified as the said directions given by him to these respondents. PW2 has deposed that in the meeting held on 19.04.2014, he was decided as the candidate for the post of Chairman and the DCC President had issued direction to all the Congress Councillors and the direction to these respondents were sent by post and moreover he was authorized to serve the said directions directly to them and in case of their refusal, he was authorized to affix the same in front of their houses. PW2 has further deposed that on 19.04.2014 itself the said directions were sent by post and on 20.04.2014 he along with PW3 went to the houses of the respondents to serve the whip directly and as they refused to receive the same, such directions were affixed in front of their houses in the presence of PW3 and the Autorikshaw driver. PW3 has corroborated the version of PW2 regarding affixture of the whips issued by the DCC President in front of the houses of the respondents. The fact that the directions issued by DCC President were sent to the respondents by speed post on 19.04.2014 is evidenced by Exts.R3 series itself. Exts.R3 series are the postal covers which contained Exts.R2 series received by the Respondents. According to the respondents they had received these postal articles only on 23.04.2014 or 24.04.2014. In this context the evidence tendered by PW4 assumes importance. PW4 is the postmaster of the Varkala Post office. He has deposed that the speed

post articles sent on 19.04.2014 at the RMS, Thiruvananthapuram were received at his office and the Postman attempted to be deliver the articles to the addressees on 21.04.2014 and the records in this behalf are marked as Exts.P5 series. Exts.P2 series are the receipts regarding sending of Exts. R3 series by speed post and the postal articles are seen to have been sent on 19.04.2014 itself. Exts.P5 series would clearly show that the said postal articles were taken to the addressees on 21.04.2014 and on that date the service could not be made due to door lock and it is also seen that intimation was served on the same date. One postal article was seen to have been refused by the addressee on 22.04.2014 and the record in this behalf is marked as Ext.P5(e) which was the direction given to the respondent in O.P.No.35/2014 and he received the same on 23.04.2014. In this context it is significant note that all these respondents had filed applications for leave before the Municipality till 21.04.2014 as seen from Ext.P12. RW1 has deposed that they were under serious threat to their life on account of the issues connected with the no confidence motion and Chairman election and so they were keeping away from their houses during the above period and that is why they had availed leave as shown in Ext.P12. However from Ext.P12 and the evidence on record it was made to appear that these respondents were remaining away from their houses with a view to evade the service of any direction issued by the DCC President and that was the reason why the postman could not serve

the whip to them on 21.04.2014. From the facts and materials on record it is clearly found that these respondents were deliberately avoiding service of the whip by keeping away from their houses and as intimations of the postal articles were given on 21.04.2014 itself, it can only be considered that there was due service of the whip by post. The contention of the respondent in O.P.No.35/2014 is that the whip issued to him was not even having the signature of the DCC President. Ext.R2(d) is the direction issued to the said respondent and of course the signature of the DCC President is not available in the same. The DCC President as PW6 deposed that while putting his signatures in several directions one may have missed his signature and even otherwise the respondents were informed by mail also regarding the said direction. The absence of the signature in Ext.R2(d) is not very significant for the reason that the ground alleged is not violation of whip but voluntarily giving up membership from the party. So whether the conduct of the respondents was such that it would constitute disloyalty is the aspect to be considered. On a careful appreciation of all facts and evidence I am of the view that the direction issued by the DCC President to vote in favour of PW2 in the election to the post of Chairman was duly communicated by post to all these respondents and their conduct in having received such directions after the election meetings was only to make it appear that they had not

received the said directions in time. The fact that they were fully aware of such a direction cannot be doubted at all.

16. The petitioner would also allege that the whip issued by the DCC President was served to the respondents by affixture as they refused to receive the same. PW2 has deposed that he along with PW3 had went in an Autorikshaw to all the houses of the respondents on 20.04.2014 and as the respondents did not receive the said whip the same were affixed in front of their houses. PW3 also would further corroborate the evidence given by PW2 in this respect. Even though PWs 2 and 3 have been cross-examined at length, nothing has been brought out to discredit their evidence. Therefore I find that the whip issued by the DCC President was served by affixture also and thus the respondents were fully aware of the said direction given by the DCC President. The fact that the DCC President is the person competent to issue direction regarding voting in the election to the post of Chairman is not in dispute. The contention of the respondents is only that the direction said to have been issued by the DCC President were not served to them before the election meeting. But from the discussion held above and the admission of RW1 itself it is clearly found that the respondents were fully aware of the decision and direction of party to elect PW2 as a Chairman well before the election meeting commenced. In the light of the evidence and materials on record I hold that PW2 was decided as the candidate



for the post of Chairman in the election scheduled on 22.04.2014 and the respondents were fully aware of the said decision and the whip issued by the DCC President in this behalf. The points are answered accordingly.

17. **POINT No.(iv)**: The learned counsel for the respondents would argue that as the respondents in O.P.Nos. 31/2014, 35/2014 and 36/2014 were expelled from the Congress party, they were not bound to obey the direction or decision of the Congress party and so they cannot be construed as having committed defection. The respondent in O.P.No.35/2014 as RW1 has deposed that the petitioner has alleged that the respondents in O.P.Nos.31/2014, 35/2014 and 36/2014 as having disobeyed the direction issued by the Congress party in respect of voting on the no confidence motion were expelled from the Congress party and in the light of the said allegation itself, these respondents were not bound to obey the direction and decision of the party in the election to the post of Chairman. Exts.R1 series and X13 series are relied on to support the above argument. No doubt consequent to the no confidence motion moved against the respondent in O.P.No.31/2014, these respondents were expelled from the party and Exts.R1 series and X13 series were issued by RW2. So the evidence of RW2 in this respect is relevant. He has deposed that the respondents in O.P.Nos.31/2014, 35/2014 and 36/2014 were expelled from the Congress party as directed by the DCC President and he has communicated such decisions to the

above respondents by way of Exts.R1 series and X13 series. RW2 has further deposed that a member who has been expelled from the party can be re-inducted at any time and in the light of the ensuing Lok Sabha elections, all those persons who were expelled or suspended were re-inducted on the basis of a common decision by the party and they were allowed to work in the party consequent to the notification regarding the Lok Sabha elections. RW2 has further deposed that these respondents also were thus re-inducted in the party after freezing the proceedings and thereafter they were actively working in the party for the success of the Congress candidate in the Lok Sabha election. RW2 has deposed all these facts in his chief examination itself. The above unchallenged version given by RW2 in this respect has to be accepted as such by the respondents for the reason that they have not chosen to declare RW2 as hostile or to put questions in the nature of cross-examination after seeking permission from this Commission. RW2 in unambiguous terms has deposed that the expulsion against the above respondents was frozen and thereupon they were actively working for the Congress party in the Lok Sabha elections. This is further borne out from the evidence tendered by PW6 also. The DCC President as PW6 has stated that though these three respondents were expelled from the party for having disobeyed the direction given to them in respect of voting on no confidence motion, in the light of the ensuing Lok Sabha elections, they were re-inducted as

instructed by the KPCC and AICC member Sri.Deepak Babaria and thereupon these respondents who were facing disciplinary proceedings were actively working in the Congress party and thus they were bound by the decision and direction of the Congress party. The fact that these respondents were re-inducted into the party is evidenced by Exts.P9 and P11 also. These reports have been published on the basis of a press release given by PW6 himself. So, as on the date of the election to the post of Chairman, these respondents were working in the Congress party and as such they were bound by the decision and direction of the DCC President as well as the party. It is further seen that these respondents had cited the KPCC President as a witness to bring out the facts regarding their expulsion from the party and the witness has filed I.A No.209/2014 for dispensing his examination on the ground that it is the DCC President who is competent to take disciplinary proceedings against the respondents and that all records in connection with the disciplinary proceedings are with the DCC President and he stated that his examination is unnecessary. After hearing both parties this Commission allowed that application and even though the said order was challenged before the Hon'ble High Court, it was confirmed and the above aspects also would indicate that these respondents were re-inducted in the party as deposed by PW6 in connection with the ensuing the Lok Sabha elections and thus they were involving in all the activities of the Congress party and while so

the election to the post of Chairman was scheduled on 22.04.2014 and the Congress party and the DCC President had decided to elect PW2 as a Chairman and the said decision was communicated to these respondents. Therefore the contention of the above respondents that they were not bound to obey the decision or direction of the Congress party in the election to the post of Chairman held on 22.04.2014 cannot stand to legal scrutiny.

18. Even assuming that the above respondents were expelled from the party they are bound to follow the direction and decision of the party as long as they continue to function as Councillors of the Municipality. This position has been clarified in **G.Viswanathan V. Speaker of Tamilnadu (1996 SCC (2) 353)**. In the above decision it has been held as follows,-

*“It appears that since the explanation to paragraph 2(1) of the Tenth Schedule provides that an elected member of a House shall be deemed to belong to the political party, if any, by which he was set up as a candidate for election as such member, such person so set up as a candidate and elected as a member, shall continue to belong to that party. Even if such a member is thrown out or expelled from the party, for the purposes of the Tenth Schedule he will not cease to be a member of the political party that had set him up as a candidate for the election. He will*

*continue to belong to that political party even if he is treated as 'unattached'. The further question is when does a person 'voluntarily give up' his membership of such political party, as provided in paragraph 2(1)(a)? The act of voluntarily giving up the membership of the political party may be either express or implied. When a person who has been thrown out or expelled from the party which set him up as a candidate and got elected, joins another (new) party, it will certainly amount to his voluntarily giving up the membership of the political party which had set him up as a candidate for election as such member."*

19. The explanation given under Section 3 of the Act is in pari materia with the explanation to paragraph 2(1) of the Tenth Schedule and so in the light of the above decision it has to be held that even if the three respondents were expelled from the Congress party for the purpose of Kerala Local Authorities (Prohibition of Defection) Act, they will not cease to be members of the Congress party. Therefore they are bound to obey the decision and direction of the Congress party and admittedly DCC President who is the person competent to issue directions to the Councillors in respect of the election to the Chairman of the Municipality. The point is answered accordingly.

20. **POINT Nos.(v) to (vii):** Whether the conduct of the respondents in having set up the respondent in O.P.No.31/2014 and voted in his favour by defying the decision and direction of the Congress party and getting elected as Chairman with the support of LDF members would constitute defection deserves consideration. Section 3(1)(a) of the Act deals with defection regarding members belonging to a political party and it reads as follows,-

***“3. Disqualification on ground of Defection,-***

*1)Notwithstanding anything contained in the Kerala Panchayat Raj Act, 1994 (13 of 1994), or in the Kerala Municipality Act, 1994 (20 of 1994), or in any other law for the time being in force, subject to the other provisions of this Act.*

*(a)if a member of local authority belonging to any political party voluntarily gives up his membership of such political party, or if such member, contrary to any direction in writing issued by the political party to which he belongs or by a person or authority authorized by it in this behalf in the manner prescribed, votes or abstains from voting.*

*(i)in a meeting of Municipality, in an election of its Chairperson, Deputy Chairperson, a member of standing committee or the Chairman of a standing committee; or*

*(ii) in a meeting of a Panchayat, in an election of its President, Vice President, a member of a Standing Committee; or the Chairman of the Standing Committee; or in an voting on a no-confidence motion against any one of them except a member of a Standing Committee.*

*he shall be disqualified for being a member of that local authority.”*

21. The object sought to be achieved by the Act is to prohibit defection among members of the Local Authorities and to provide disqualification for the defecting members. What is ultimately sought to be prevented is the evil of the political defection motivated by lure of office or other similar considerations which endanger the foundations of our democracy. It is settled law that if an elected member or a group of members of a political party takes a different stand from that of the political party as such and acts against the policies of the political party in which they are members, it is nothing but disloyalty. The moment one becomes disloyal by his conduct to the political party, the inevitable inference is that he has voluntarily given up his membership. The **Kerala Local Authorities (Prohibition of defection) Act**, derived its source from the *10<sup>th</sup> schedule to the Constitution of India*. While considering the Constitutional validity of 10<sup>th</sup> schedule, the *Apex Court in Kihoto Hollohan Vs.Zachillhu (1992) Supp.2 SCC 651*” observed as follows:-

*“A political party goes before the electorate with a particular programme and it sets up candidates at the election on the basis of such programme. A person who gets elected as a candidate set up by a political party is so elected on the basis of the programme of that political party. .... ..If a member while remaining a member of the political party which had set him up as a candidate at the election votes or abstains from voting contrary to any ‘direction’ issued by the political party to which he belongs or by any person or authority authorized by it in this behalf, he incurse disqualification. .... A political party functions on the strength of shared beliefs. Its own political stability and social utility depends on such shared beliefs and concerted action of its members in furtherance of those commonly held principles. Any freedom of its members to vote as they please independently of the political party’s declared politics 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 survival. ....To vote against the party is disloyalty. To join*



*with others in abstention or voting with other side smacks of conspiracy.”*

22. In the cases on hand it has clearly come out in evidence that the respondent in O.P.No.31/2014, the Chairman of the Municipality was removed by way of a no confidence motion moved as directed by the Congress party and thereafter PW2 was decided as the candidate of the party for the post of Chairman. The respondents were fully aware of the decision and direction of the Congress party to elect PW2 as a Chairman. The election to the post of Chairman was scheduled on 22.04.2014. All these respondents kept away from their houses after submitting leave applications before the Municipality and they came back only on 21.04.2014 and this was a deliberate attempt on their part to evade from accepting the whip issued by the DCC President. In the election to the post of Chairman held on 22.04.2014, fully knowing that PW2 was the official candidate, the respondent in O.P.No.31/2014 contested against PW2 and all the respondents along with the LDF members voted in favour of the respondent in O.P.No.31/2014 and he became the Chairman by defeating the official candidate. The above conduct of the respondents would definitely amount to disloyalty to the Party. **In Nazeerkhan V. Kerala State Election Commission (2008 (3) KHC 322)** it has been held at **Para 18** as follows,-

*“18. Thus, the fact that he contested the election as Vice President with the support of the LDF against a Congress candidate and won the election with the votes of LDF members and an independent member is not in dispute. However, this argument against him is attempted to be resisted by the petitioner on the basis that there was no valid whip restraining him from contesting the election. According to counsel, in the absence of a whip, any member is entitled to contest against any other member, be it from his own political party. Counsel further contends that political affiliation of the members is irrelevant in so far as Panchayats are concerned. I do not find any substance in the contention. If it were so, the Panchayat would not have maintained political affiliation register (Ext.X1) and obtained declarations (Ext.X2) from the members.”*

This decision was confirmed by the **Division Bench of Hon’ble High Court in (2009 (1) KHC 681)**. In the above decision it has been held at **Para 13** as follows,-

*“13. We are also in agreement with the reasoning and findings of the learned Single Judge that the very act by which the writ petitioner had stood for election to the post of Vice President of*

*the Panchayat against the official Congress (1) candidate and that he had been elected on the basis of the votes cast in his favour en-block by the opposition LDF is clearly proof of the petitioner having acted in such a manner as to render himself disqualified under the provisions of the Act. We are also in agreement with the findings of the learned Single Judge that a court exercising power under Article 226 of the Constitution of India in proceedings, where in a challenge is mounted a challenge against the order passed by the State Election Commission is only expected to act in judicial review of the order impugned and not approach the same as an Appellate Court.”*

23. This position has been further clarified in **Shajahan Vs Chathannoor Grama Panchayat (2000 (2) KLJ 451)** wherein it has been held as follows,-

*“The Election Commission accepted the contention of the petitioner that no whip was issued by the party to him. However, Election Commission found from the conduct of the person and from the evidence that the petitioner voluntarily gave up his membership of original party and, therefore, found him disqualified. The fact that petitioner submitted*

*resignation is not disputed. Petitioner himself admitted that he submitted resignation. According to him, it was not accepted formally. Till there is acceptance, it cannot be found that he committed defection. But, the Election Commissioner noticed that after submission of his resignation he contested for president ship. He also submitted that he contested for president ship without getting permission from 'A' party on whose banner he was elected. It was admitted by him that none of the 'A' party members supported him in the subsequent President election after submission of his resignation letter and he was supported by the parties other than 'A' party. Therefore, the Election Commission came to the conclusion that he had voluntarily given up his membership from 'A' party. The word used in the section is not resignation; but 'voluntarily gives up his membership Considering the very same meaning used in Para 2(1) (a) of Schedule 10 of the Constitution of India, in the decision reported in Ravi S.Naik V.Union of Indian and others (AIR 1994 SC 1558), the Supreme Court held that the words 'voluntarily give up his membership are not synonymous with*

*'resignation' and have a wider connotation. A person may voluntarily give up his membership of a political party even though he has not tendered his resignation from the membership of that party. It follows that even in the absence of a formal resignation an inference can be drawn from the conduct of a member that he has voluntarily given up his membership of the political party to which he belongs. In that case, it was held by the Supreme Court that from the fact that the member in question accompanied the leader of opposite party to the Governor and told that the member supported to form a Council of Ministers, show that he is voluntarily giving up his membership from the original party. Similarly, the words used in Section 3(1) (a) of the Act 'voluntarily gives up his membership' has a wider meaning than resignation. In this case, it is admitted by the petitioner that after submission of his resignation he did not vote for the person who was supported by the 'A' party. The State Election Commissioner took a clear inference from the conduct that he has voluntarily gave up his membership in the party".*

24. In the cases on hand, admittedly the respondent in O.P.No.31/2014 contested to the post of Chairman not as the candidate decided by Congress party. He contested against the official candidate. The respondents aligned with the LDF members and only with their support the respondent in O.P.No.31/2014 became the Chairman. As a matter of fact all these respondents were expelled from Congress party immediately after this election for their disloyal conduct. In **Writ Appeal No.1774/2009 the Division Bench of the Hon'ble High Court has held at Para 9** as follows,-

*“9. Keeping in view these pronouncements when we analyze the facts and circumstances of the present case, it is clear that acting in violation of the instructions of the political party alone is sufficient to hold that the appellant has voluntarily given up the membership from the party. This is nothing but giving up her membership voluntarily. Similarly, in respect of other members, though they pretended to attend the meeting, their abstinence from voting is nothing but betrayal of the collective decision of the political party to which they belonged. If one considers all these aspects in sequence and cumulative only inference that can be drawn is that the appellants had abandoned the*

*party directions and decisions and thereby their conduct amounted to voluntary giving up the membership.”*

25. The above decision also is squarely applicable to the facts of these cases. In these cases, the respondents not only violated the direction and decision of the Congress party, but they also colluded with the LDF members for getting the respondent in O.P.No.31/2014 elected as Chairman. Without the support of the LDF members he could not have defeated PW2 who was the official candidate of Congress party.

26. The learned Counsel for the respondents would argue, relying on the decision in Joseph V.Babychan Mulangasseri (2015 (1) KHC 111) that there was no floor crossing or shifting of political loyalty to any rival political party or coalition and so it cannot be said that the respondents have committed defection. The above decision would only strengthen the case of the petitioner in these cases. As already stated, these respondents aligned with the members of the rival political party in the election to the post of Chairman. These respondents voted in favour of the respondent in O.P.No.31/2014 along with LDF members and defeated their official candidate. They defied the whip issued by PW6, the DCC President. The version of PWs1 and 6 that the DCC President is the competent person to recommend symbol to the candidates of Congress Party and as such he is the person competent to issue whip is not disputed Rule 4(1) of the Kerala

Local Authorities (Disqualification of Defected Members) Rules also provides that the person competent to recommend symbol is the person competent to issue direction in writing. Here PW6 in his capacity as the DCC President had issued whip to all the Congress members including the respondents to vote in favour of PW2 in the election to the post of Chairman. So that direction is to be treated as the decision of the party. The respondents who are Councillors belonging to Congress Party were bound to obey the direction of PW6. But they, in liaison with LDF members, have violated the same. In the celebrated decision in **Varghese V. State Election Commission (2009 (3) KLT 1)** it has been held at Para 8 as follows,-

*“ 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 10<sup>th</sup> Schedule to the Constitution of India and the Keral Local Authorities (Prohibition of Defection) Act, 1999 were brought into force. Looking from that angle we find it difficult to agree with the dictum in Naseera Beevi’s case. Not only that, there is no party as ‘parliamentary party’. That expression only*



*denotes the wing of the elected members of the political party. Therefore, if a member or a group of the elected members of the political party takes a different stand from that of the political party as such, and acts against the policies of the political party in which they are members, it is nothing but disloyalty. The moment one becomes disloyal by his conduct to the political party, the inevitable inference is that he has voluntarily given up his membership. In Naseera Beevi's case the rebel group in the parliamentary wing of the political party concerned had not only formed a separate group, but they had voted in favour of the no confidence motion moved by the rival political party. Thus, by their conduct of being disloyal to the political party in which they were members and by voting as they pleased independent of the political party's declared policy, they had incurred the disqualification."*

27. On a careful analysis of the entire facts and materials on record, in the light of the above settled position of law, I am of the view that the conduct of the respondent in O.P. No.31/2014 in having contested against PW2, the official candidate and all the respondents in having voted in favour of the above respondent by disobeying the decision and direction of the Congress party and that respondent getting elected with the support of the LDF Councillors would

constitute defection by voluntarily giving up membership from their party. It is also significant to note that these respondents were subsequently expelled from the party as seen from Exts.R5 series for having disobeyed the decision and direction of the Congress party. From the discussion held above I find that these respondents have committed defection as provided by the first limb of Section 3(1)(a) of the Act and so they have incurred disqualification for being Councillors of Varkala Municipality. The points are answered accordingly.

In the result, the petitions are allowed and the respondents are declared as disqualified for being Councillors of Varkala Municipality as provided by Section 3(1)(a) of the Kerala Local Authorities (Prohibition of Defection) Act and they are also declared as disqualified for contesting as candidates in an election to any local authorities for a period of 6 years from this date, as provided by Section 4(3) of the Act.

The parties shall bear their respective costs.

Pronounced before the Commission on this the 10<sup>th</sup> day of March 2015

Sd/-  
**K.SASIDHARAN NAIR,**  
**STATE ELECTION COMMISSIONER**

**APPENDIX**

**Witnesses examined on the side of the petitioner**

PW1 : Sri.N.Asokan, Archana, Near Railway Station,

Varkala

- PW2 : Sri.A.A.Rouf, Anilbhavan, Mythanam, Varkala
- PW3 : Sri.Habeebullah, Parappuram Veedu, Palachira, Varkala
- PW4 : Sri.K.K.Rajeev, Poomangalam, Vadasserikonam.P.O.
- PW5 : Sri.Radhakrishnan Achari.K.K., Municipal Secretary, Varkala Municipality
- PW6 : Sri. K.Mohankumar, SRA 64, Nalanchira Lane P.O., Thiruvananthapuram

**Witnesses examined on the side of the respondent**

- RW1 : Sri.Sri.K.G.Suresh, Rama Sadanam Thachankonam, Varkala P.O.
- RW2 : Sri.Jacob.K.G, Hill view, Kuravankonam, Thiruvananthapuram -3

**Documents produced on the side of the petitioner**

- P1 : Copy of the whip dated 19.04.2014 issued by Adv.K.Mohan Kumar, President, District congress (I) Committee addressed to Secretary, Varkala Municipality
- P1(a) : Copy of the whip dated 19.04.2014 issued by Adv.K.Mohan Kumar, President, District congress (I) Committee addressed to Secretary, Varkala Municipality
- P1(b) : Copy of the whip dated 19.04.2014 issued by Adv.K.Mohan Kumar, President, District congress (I) Committee addressed to Secretary, Varkala Municipality

- P1(c) : Copy of the whip dated 19.04.2014 issued by Adv.K.Mohan Kumar, President, District congress (I) Committee addressed to Secretary, Varkala Municipality
- P1(d) : Copy of the whip dated 19.04.2014 issued by Adv.K.Mohan Kumar, President, District congress (I) Committee addressed to Secretary, Varkala Municipality
- P1(e) : Copy of the whip dated 19.04.2014 issued by Adv.K.Mohan Kumar, President, District congress (I) Committee addressed to Secretary, Varkala Municipality
- P2 : Postal receipts of registered letter
- P2(a) : Postal receipt of registered letter
- P2(b) : Postal receipt of registered letter
- P2(c) : Postal receipt of registered letter
- P2(d) : Postal receipts of registered letter
- P2(e) : Postal receipts of registered letter
- P3 : Copy of the minutes of the meeting to elect the Chairperson of Varkala Municipality held on 22.04.2014
- P3(a) : Copy of the minutes of the meeting to elect the Chairperson of Varkala Municipality held on 22.04.2014
- P3(b) : Copy of the minutes of the meeting to elect the Chairperson of Varkala Municipality held on 22.04.2014
- P3(c) : Copy of the minutes of the meeting to elect the Chairperson of Varkala Municipality held on 22.04.2014
- P3(d) : Copy of the minutes of the meeting to elect the Chairperson of Varkala Municipality

held on 22.04.2014

- P3(e) : Copy of the minutes of the meeting to elect the Chairperson of Varkala Municipality held on 22.04.2014
- P4 : Copy of the register showing the political affiliation of the Councillors of Varkala Municipality
- P4(a) : Copy of the register showing the political affiliation of the Councillors of Varkala Municipality
- P4(b) : Copy of the register showing the political affiliation of the Councillors of Varkala Municipality
- P4(c) : Copy of the register showing the political affiliation of the Councillors of Varkala Municipality
- P4(d) : Copy of the register showing the political affiliation of the Councillors of Varkala Municipality
- P4(e) : Copy of the register showing the political affiliation of the Councillors of Varkala Municipality
- P5 : Copy of the statement of postal articles delivered on 24.04.2014
- P5(a) : Copy of the statement of postal articles delivered on 23.04.2014
- P5(b) : Copy of the statement of postal articles delivered on 23.04.2014
- P5(c) : Copy of the statement of postal articles delivered on 23.04.2014
- P5(d) : Copy of the statement of postal articles delivered on 23.04.2014
- P5(e) : Copy of the statement of postal articles delivered on 24.04.2014
- P6 : Minutes book of Indian National Congress Parliamentary party, Varkala Municipality
- P7 : Copy of the minutes of the meeting held on 16.04.2014, Indian National Congress Parliamentary party Varkala

## Municipality

- P7(a) : Copy of the minutes of the meeting held on 16.04.2014, Indian National Congress Parliamentary party Varkala Municipality
- P7(b) : Copy of the minutes of the meeting held on 16.04.2014, Indian National Congress Parliamentary party Varkala Municipality
- P7(c) : Copy of the minutes of the meeting held on 25.03.2014, Indian National Congress Parliamentary party Varkala Municipality
- P7(d) : Copy of the minutes of the meeting held on 16.04.2014, Indian National Congress Parliamentary party Varkala Municipality
- P8 : Malayala Manorama daily dated 27.03.2014
- P9 : Malayala Manorama daily dated 08.04.2014
- P10 : Kerala Kaumudi daily dated 27.3.2014
- P11 : Kerala Kaumudi daily dated 08.04.2014
- P12 : Copy of the statement showing details of leave of Councillors, Varkala Municipality
- P13 : Letter No.C-790/2014 dated 26.03.2014 of the Regional Joint Director, Urban affairs, Kollam

**Documents produced on the side of the respondent**

- R1 : Letter dated 27.03.2014 of the General Secretary, DCC, Thiruvananthapuram
- R1(a) : Letter dated 27.03.2014 of the General Secretary, DCC, Thiruvananthapuram
- R2 : Whip dated 19.04.2014 issued to Sri.S.Sanush by the President, District Congress (I) Committee Thiruvananthapuram

- R2(a) : Whip dated 19.04.2014 issued to Sri.A.Davood by the President, District Congress (I) Committee Thiruvananthapuram
- R2(b) : Whip dated 19.04.2014 issued to Smt.P.S.Vinayakumari by the President, District Congress (I) Committee Thiruvananthapuram
- R2 (c) : Whip dated 19.04.2014 issued to Sri.K.Surya Prakash by the President, District Congress (I) Committee Thiruvananthapuram
- R2(d) : Whip dated 19.04.2014 issued to Sri.K.G.Suresh by the President, District Congress (I) Committee Thiruvananthapuram
- R3 : Speed post envelop addressed to Sri.K.G.Suresh
- R3(a) : Speed post envelop addressed to Sri.P.Sreedevi Amma
- R3(b) : Speed post envelop addressed to Sri.Sanush
- R3(c) : Speed post envelop addressed to Sri.A.Davood
- R3(d) : Speed post envelop addressed to Sri.K.Suryapraksh
- R3(e) : Speed post envelop addressed to Smt.P.S.Vinayakumari
- R4 : Minutes of the meeting of Congress Councillors, Varkala Municipality held on 29.20.2010
- R5 : Statement dated 22.04.2014 of the General Secretary, District Congress (I) Committee, Thiruvananthapuram addressed to Smt. P.Sreedevi Amma
- R5(a) : Statement dated 22.04.2014 of the General Secretary, District Congress (I) Committee, Thiruvananthapuram addressed to Sri. K.Suryaprakash
- R5(b) : Statement dated 22.04.2014 of the General Secretary, District Congress (I) Committee, Thiruvananthapuram addressed to Sri. K.G.Suresh
- R5(c) : Statement dated 22.04.2014 of the General Secretary, District Congress (I) Committee Thiruvananthapuram

addressed to Smt P.S. Vinaya Kumari

R5(d) : Statement dated 22.04.2014 of the General Secretary, District Congress (I) Committee Thiruvananthapuram addressed to Sri S.Sanush

**Documents produced on the side of the witnesses:**

- X1 : Copy of the acquittance roll of contingent month of March, 2014 Varkala Municipality
- X2 : Copy of the acquittance roll of contingent month of April, 2014 Varkala Municipality
- X3 : Copy of the leave letter dated 28.03.2014 of Sri.K.G.Suresh, Municipal Councillor Varkala Municipality
- X4 : Copy of the application to cancel leave of Sri.K.G.Suresh, dated 21.04.2014 Municipal Councillor, Varkala Municipality
- X5 : Copy of the leave letter dated 31.03.2014 of Sri.S.Sanush, Municipal Councillor, Varkala Municipality
- X6 : Copy of the application to cancel leave of Sri.S.Sanush dated 21.04.2014 Municipal Councillor Varkala Municipality
- X7 : Copy of the leave letter dated 02.04.2014 of Smt.Vinayakumari P.S, Municipal Councillor Varkala Municipality
- X8 : Copy of the application to cancel leave of Smt.Vinaya Kumari P.S dated 21.04.2014, Municipal Councillor, Varkala Municipality
- X9 : Copy of the leave letter dated 02.04.2014 of Smt.P.Sreedevi Amma, Municipal Councillor,



## Varkala Municipality

- X10 : Copy of the application to cancel leave of Smt.P.Sreedevi Amma dated 21.04.2014, Municipal Councillor, Varkala Municipality
- X11 : Copy of the leave letter dated 31.03.2014 of Sri.K.Surya Prakash, Municipal Councillor, Varkala Municipality
- X12 : Copy of the application to cancel leave of Sri.K.Surya Prakash, dated 21.04.2014, Municipal Councillor, Varkala Municipality
- X13 : Copy of the statement dated 27.03.2014 of General Secretary, District Congress (I) Committee, Thiruvananthapuram
- X13(a) : Copy of the statement dated 27.03.2014 of the office Secretary, District Congress (I) Committee, Thiruvananthapuram
- X13(b) : Letter dated 24.03.2014 of the General Secretary District Congress (I) Committee, Thiruvananthapuram addressed to Sri. K.G.Suryaprakash
- X14 : Copy of the press release of General Secretary, District Congress (I) Committee, Thiruvananthapuram
- X14(a) : Copy of the statement dated 22.04.2014 of the General Secretary, District Congress (I) Committee, Thiruvananthapuram

Sd/-

K.SASIDHARAN NAIR,  
STATE ELECTION COMMISSIONER

//True Copy//