

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

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

Friday, the 7th day of March 2014

O.P.Nos.34/2013, 35/2013& 36/2013

O.P.34/2013

Petitioner : Mercy Samuel,
W/o Samuel, Charuvil Prince
Cottage, Kuzhikala P.O.,
Pathanamthitta District., PIN 689 644.
Member, Ward No.09,
Mallapuzhassery Grama Panchayat.

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

Respondent : Elizabeth Ninan,
Member, Ward No.08,
Mallapuzhassery Grama Panchayat,
Pathanamthitta District,
PIN: 689 644.

(By Advocate G.Biju)

O.P.No.35/2013

Petitioner : Mercy Samuel,
W/o Samuel, Charuvil Prince
Cottage, Kuzhikala P.O.,
Pathanamthitta District., PIN 689 644.
Member, Ward No.09,
Mallapuzhassery Grama Panchayat.

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

Respondent : Thomas. M.Reji Oommen,
Member, Ward No.05,
Mallapuzhassery Grama Panchayat,
Pathanamthitta District,
PIN: 689 652.

(By Advocate G.Biju)

O.P.No.36/2013

Petitioner : Mercy Samuel,
W/o Samuel, Charuvil Prince
Cottage, Kuzhikala P.O.,
Pathanamthitta District., PIN 689 644.
Member, Ward No.09,
Mallapuzhassery Grama Panchayat.

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

Respondent : Sajeev K.Bhaskar,
Member, Ward No.04,
Mallapuzhassery Grama Panchayat,
Pathanamthitta District,
PIN: 689 644.

(By Advocate G.Biju)

These petitions having come up for hearing on 18th day of February 2014, in the presence of Advocates **Hashim Babu.M & Sajitha.S** for the petitioner and Advocate **G.Biju** 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 members of the Mallapuzhassery Grama Panhayat. The petitions are filed by a common petitioner and as common questions of law and facts arise for consideration in all these cases, they have been taken up together as per order on I.A No. 111/2013 and O.P. No.34/2013 is treated as the leading case.

2. The common allegations raised against the respondents in these cases are, in short, as follows:- The petitioner and respondents had contested as candidates of Indian National Congress in the General Election held in October, 2010 and were elected as members of Mallapuzhassery Grama Panchayat. Out of the 13 wards, the Indian National Congress secured 5 seats, Kerala Congress (M) secured 2 seats, CPI(M) secured 4 seats, CPI and BJP found victory in one seat each and one seat was secured by an independent. The UDF consisting of Indian National Congress and Kerala Congress (M) got majority and the petitioner was elected as the President. There was an agreement between Congress party and Kerala Congress(M) about the sharing of the Vice President ship and the respondent in O.P.No.36/2013 was decided as Vice President of the first two and

a half years and he has to resign from that post for accommodating a member of the Kerala Congress(M) as Vice President. In spite of the direction by the District Congress Committee President, the respondent in O.P.No.36/2013 Sri.Sjeev K. Bhaskar did not resign after two and a half years. The respondents became on hostile terms with the petitioner and they, without the permission or consent of the District Congress Committee moved a no confidence motion against the petitioner and the said no confidence motion was tabled for discussion on 19.06.2013. Then the District Congress Committee President held discussions with the respondents and specific instructions were given to them not to proceed with the motion. District Congress Committee President also issued whip to all the members of Indian National Congress on 11.06.2013 to vote against the no confidence motion and the said whips were served to the respondents by post as they declined to accept them same directly. The respondents, in gross defiance of the direction issued by the DCC President, voted in favour of the no confidence motion and ousted the petitioner from the post of President. Thus the respondents have voluntarily abandoned their membership from the Congress party which fielded them as candidates in the General Election. As a National party, Indian National Congress functions on the strength of its shared belief and the acts of the respondents have caused crack in the shared belief and tarnished its political image among the party workers and the Public. The respondents by

way of voting in favour of the no confidence motion against the decision and direction of the DCC President along with LDF members and ousting the President belonging to their own party have voluntarily abandoned their membership from the Congress party and thus they have become subject to disqualification for being members of Mallapuzhassery Grama Panchayat. Hence these petitions.

3. The respondents filed objections raising common contentions which are briefly, the following:- The petitions are not maintainable either in law or on facts. The petitioner was elected as President as per the settlement made by the District Congress Committee that she will continue only for two and a half years and the respondent in O.P.No.34/2013 was decided as President for the remaining period of two and a half years. After the President election, the petitioner was involving in corruption and other illegal activities and so majority of the members decided to take appropriate steps. Several complaints were filed against the petitioner before the party committees. In such a circumstance, the no confidence motion moved against the petitioner and it was tabled for discussion on 19.06.2013. The allegation that the District Congress Committee President issued whip to vote against the no confidence motion on 11.06.2013 is totally false. The alleged whip was neither communicated nor informed to the respondents. Further the District Congress Committee President has no authority

or power to issue whip. The respondents are still Congress members and they have not abandoned their membership from the Congress party. They have never acted against the interest of the Congress party and never showed any disloyalty as alleged. So the acts of the respondents will not come under the provisions of the Kerala Local Authorities (Prohibition of Defection) Act. There is no cause of action for these petitions and the petitioner has no authority to file such petitions. So the petitions deserve only dismissal with costs.

4. The evidence consists of the oral depositions of PWs1 and 2, RWs 1 to 3 and Exts.P1 to P13, R1 to R4 and X1.

5. Both sides were heard.

6. The following points arise for consideration;

- (i) Whether the petitions are not maintainable?
- (ii) Whether the respondents have moved and supported the no Confidence motion against the President by disobeying the direction and decision of the DCC President?
- (iii) Whether the respondents have voluntarily abandoned their membership from the party as alleged?
- (iv) Whether the respondents have become subject to disqualification for being members of Mallappuzhasseri Grama Panchayat?
- (v) Reliefs and costs?

7. **POINT No.(i)**: The common petitioner would allege that the respondents have moved a no confidence motion against the petitioner who was functioning as President and in spite of the direction issued by the DCC President to vote against the said motion, they supported the no confidence motion and ousted the petitioner from the post of President and thus they have voluntarily abandoned their membership from the party. The respondents would contend that there was a decision for sharing the post of President between the petitioner and the respondent in O.P.No.34/2013 and the petitioner did not comply with that understanding and so the majority of the members including the respondents moved and supported the no confidence motion on account of the reason that the petitioner was involving in corruption and illegal activities.

8. These petitions are filed under Section 4(1) of the Kerala Local Authorities (Prohibition of Defection) Act, for short the 'Act'. **Section 4(1)** of the Act reads as follows,-

“4.Decision on question as to disqualification on ground of defection, (1) if any question arises as to whether a member of the local authority has become subject to disqualification under the provisions of the Act a member of that local authority or the political party concerned or a person authorized by it in this

behalf may file a petition before the State Election Commission for decision.”

The allegation is that the respondents have voluntarily abandoned their membership from the Congress party. As per Section 3(1)(a) of the Act if a member of a local authority belonging to any political party voluntarily gives up his membership of such political party, he shall be disqualified for being a member of that local authority. From the facts and pleadings it is clearly found that a question arises as to whether the respondents have become subject to disqualification under Section 3(1) (a) of the Act. These petitions are filed by another member of the same local authority. As per Rule 4A(2) of the Kerala Local Authorities (Disqualification of Defected Members) Rules, such a petition is to be filed within 15 days from the date on which the member is deemed to have become disqualified. These petitions are filed within 15 days from the date on which the respondents have voted in favour of the no confidence motion by which the petitioner was ousted from the post of President. So it is found that the petitions are filed by a competent person within the prescribed time limit and as a question arises as to whether the respondents have become subject to disqualification under Section 3(1) (a) of the Act, I find that these petitions filed under Section 4(1) of the Act are maintainable. The point is answered accordingly.

9. **POINT Nos. (ii) to (v)**: Since common questions of law and facts arise for consideration in all these points, they are being discussed together for brevity and convenience. Certain facts are not in dispute. The petitioner and respondents had contested the election to Mallappuzhasseri Grama Panchayat as candidates of Indian National Congress and were elected as members. As decided by the Congress party and the UDF, the petitioner was elected as the President. Ext.P1, is the copy of the register showing the political relationship of the members maintained by the Panchayat as per Rule 3 of the Kerala Local Authorities (Disqualification of Defected Members) Rules and Exts.P2 series are the declarations submitted by the respondents stating their political relationship after being elected as members and Ext.P3 is the minutes of the election to the Post of President held on 23.10.2010. The respondents along with four LDF members moved a no confidence motion against the President, as seen from Ext.P5, and it was tabled for discussion on 19.06.2013. In the discussion on the no confidence motion all the said seven members participated and voted in favour of the same and thus the motion was carried. According to the petitioner, the respondents by moving and supporting the no confidence motion against the President along with LDF members and ousting the President belonging to their own party by disobeying the direction and decision of the District Congress

Committee President have incurred disqualification as provided by Section 3(1)(a) of the Kerala Local Authorities (Prohibition of Defection) Act,

10. The respondents on the other hand would contend that as per a settlement made by the party, the petitioner was elected as President only for a term of two and a half years and the respondent in O.P.No.34/2013 was decided as the President for the remaining period and the petitioner had involved in corruption and illegal activities for which the respondents had filed complaints before the party committees and in such circumstances, as the petitioner declined to resign from the post, they moved the no confidence motion and that they had not received any communication from the District Congress Committee President to vote against the said motion and that they are still continuing as members of the Congress party.

11. The petitioner has been examined as PW1. She has deposed that five members including the petitioner and respondents belonging to Congress party were elected as members and two members from Kerala Congress (M) also found victory and thereupon the petitioner was elected as President for the full term of five years and the Vice President ship was allotted to Kerala Congress (M) and Kerala Congress (M) decided to share that post among the two members of Kerala Congress (M) and accordingly Smt.Remma Bhaskar became the Vice President and after 2½ years she resigned from that post for electing Smt.

Mariyamma Philip, the other member of Kerala Congress (M) to that post. PW1 has further deposed that in the election to the post of Vice President after the resignation of Smt.Remma Bhaskar, Smt.Mariyamma Philip was the candidate of UDF and the respondent in O.P.No.36/2013 Sri.Sajeev K.Bhaskar contested against the official candidate of UDF and with the support of LDF members he became the Vice President. PW1 has further deposed that as Sri.Sajeev K. Bhaskar became the President against the decision of the Congress party, the DCC President directed him to resign from the post and the copy of that letter along with the postal receipt and acknowledgment are marked as Exts.P4 series. PW1 has also deposed that the respondents along with LDF members then moved a no confidence motion against the President and it was tabled for discussion on 19.06.2013. PW1 has also deposed that on receiving the said notice, the DCC President convened a meeting of all the members belonging to Congress party on 11.06.2013 and the copy of the notices along with the certificate of postings are marked as Exts.P6 series. PW1 has further deposed that the decision in that meeting was to defeat the no confidence motion and the DCC President issued whip to the respondents by post in their house addresses and official addresses which they refused and the returned postal articles as refused are marked as Exts.P9 series and P10 series. Ext.P8 series are the postal receipts and the copy of the whip communicated to the Secretary of the Panchayat. PW1 has then

deposed that the respondents by disobeying the direction and decision of the DCC President participated and voted in favour of the no confidence motion along with LDF members and thus the motion was carried. It is also deposed by her that in the subsequent election to the post of President, the respondent in O.P.No.34/2013 was got elected with the support of LDF members and thus the Congress party and UDF lost the rule in the Panchayat. In cross-examination it was suggested to PW1 that the term of the petitioner as President was fixed as 2½ years and that the petitioner refused to resign after the said period, to which PW1 has answered that she was elected for the full term of five years as decided by the DCC President. PW1 has further deposed in cross-examination that in the meeting of the parliamentary party convened by the DCC President, the respondents also participated and they did not put their attendance nor received the whip directly. It was then suggested to PW1 in cross-examination that the no confidence motion was moved on the basis of the decision of the majority members of the parliamentary party to which PW1 stated that she was not called for any such meeting.

12. PW2 is the Pathanamthitta DCC President and so his evidence is very crucial. He has categorically deposed that out of the 13 members, the Congress party alone secured 5 seats and the UDF consisting of Congress party and Kerala Congress(M) secured 7 seats and so the post of President was allotted to the

Congress Party and the post of Vice President was given to Kerala Congress(M) and the petitioner was elected as President for the full term and the Kerala Congress(M) decided to share the post of Vice President between their two members for a term of 2½ years each and as per that settlement, the Vice President Smt.Rema Bhaskar resigned and PW2 convened a meeting of the Congress members and gave direction to vote in favour of the candidate of Kerala Congress (M) in the election to the post of Vice President and the respondents refused to receive the direction and the respondent in O.P.No.36/2013 became the Vice President with the support of LDF members against the decision of the Congress party. PW2 has further deposed that he then issued direction to Sri.Sajeev K Bhaskaran to resign from the post of Vice President and the copy of that letter along with the postal receipt and acknowledgment are marked as Exts.P4 series. According to PW2 Sri.Sajeev K. Bhaskaran the respondent in O.P.No.36/2013 refused to resign from the post of Vice President and he along with other respondents colluded with the LDF members and moved a no confidence motion against the President. PW2 would further depose that he then convened a meeting of the Congress parliamentary party in his office and Ext.P6 are the copies of the notices given to the members along with the certificate of postings and in that meeting it was decided to vote against the no confidence motion and though the respondents also attended, they

refused to receive the whip nor affixed their signatures in the minutes and so their directions were sent by registered post in their official and house addresses and copies of the whip along with the postal receipts are marked as Exts.P8 series and the copy of the whip was given to the Secretary of Panchayat also. PW2 has further deposed that the whips sent to the respondents by post were returned as refused and the returned postal articles are Exts.P9 series and P10 series. PW2 has also produced Ext.X1 which is a record obtained from the postal authorities stating that the said postal articles were returned as refused. According to PW2, the respondents participated and voted in favour of the no confidence motion on 19.06.2013 along with LDF members by disobeying his direction and thus the President belonging to Congress party was ousted and the Congress party lost the rule in the Panchayat. PW2 has also deposed that thereafter the respondents were expelled from the party. Though PW2 has been cross-examined at length, nothing has been brought out to discredit his evidence. He has repeated in cross-examination that the post of Vice President was agreed to be shared in between the two members of Kerala Congress (M) and in consequence of that decision, Smt. Rema Bhaskar had resigned. It was suggested to PW2 in cross-examination that there was decision to share the post of President for a term of 2½ years each for the petitioner and the respondent in O.P.No.34/2013 which PW2 denied. It was suggested to PW2 that the respondent in O.P.No.36/2013 contested to the

post of Vice President as decided by the Congress parliamentary party to which PW2 has answered that a meeting of the Congress parliamentary party was convened by him in the DCC office on the previous date of the election and it was decided that the member belonging to Kerala Congress (M) should be elected and the respondents did not participate in that meeting. He has also deposed that no written notice was given to the members for that meeting for want of time. In cross-examination PW2 has reiterated that he issued direction to the respondent in O.P.No.36/2013 to resign from the post of Vice President and that respondent declined to resign and thereafter the no confidence motion was moved by them. According to PW2 the respondents refused to receive the whips directly and so they were sent by post. It was suggested to PW2 that the KPCC member Shri.K.K.Royson was in charge of the Panchayat and that he had given a letter stating that the term of the petitioner as President was only for 2½ years and PW2 has answered that Sri.K.K.Royson was not having any such charge and that the party had never decided to share the post of President.

13. The respondent in O.P.No.36/2013 has been examined as RW1. He has deposed that after getting majority in the Panchayat for UDF, the petitioner was elected as President on an understanding that he will continue for 2½ years and then vacate office for the respondent in O.P.No.34/2013 to become the President for the remaining term. He has further deposed that there was

understanding for sharing the post of Vice President between Kerala Congress (M) and Congress party and the first 2½ years was allotted to Kerala Congress (M) and the remaining period to the Congress party. RW1 would further state that the KPCC member Sri.K.K.Royson had involved in this settlement talk and he gave Ext.R1 letter dated 31.01.2010 to the respondent in O.P.No.34.2013. According to RW1 the petitioner declined to vacate the office after 2½ years and complaints were sent in this regard to the District Congress Committee President and the KPCC member and its copy is stated to be Ext.R2. RW1 has further deposed that a meeting of the Congress members of the Mallapuzhassery Grama Panchayat and Kozhancherry Grama Panchayat was convened in which also the said agreement was recorded and the minutes of that meeting is marked as Ext.R3. According to RW1 since the petitioner did not resign as per the understanding, the Congress parliamentary party of this Panchayat was convened on 09.06.2013 and it was decided to move a no confidence motion against the petitioner and the copy of that minutes is marked as Ext,R4. According to RW1 no meeting was convened by the DCC President after moving the no confidence motion and no whip was served to these respondents by the DCC President to vote against the motion and that in the subsequent election to the post of President, the respondent in O.P.No.34/2013 was elected and so the Congress party did not loose the Rule of the Panchayat and that the respondents are still

members of the Congress party. RW1 has also deposed that he had received a letter from the DCC President directing him to resign from the post of Vice President to which he sent a reply and thereafter no further actions were taken. In cross-examination RW1 has admitted that the respondents are bound to obey the decisions and directions of the DCC President. He has also stated that the DCC President did not inform him about the sharing of President and Vice President. It was suggested to RW1 in cross-examination that the agreement in the Kerala Congress (M) was to share the post of Vice President between their two members and accordingly Smt. Rema Bhaskar resigned after 2½ years for electing Mariyamma Philip as Vice President and RW1 has stated that he does not know of such an agreement in their party. RW1 has admitted that he contested against Mariyamma Philip in the election to the post of Vice President and that the Congress party did not nominate any person to that post in the said election and he was elected with the support of other respondents and CPI(M) members. RW1 has also admitted that it was against the policy of the Congress party to share the Rule with CPI(M) members and due to that reason the DCC President had given him Ext.P4 letter to resign from the post of Vice President. RW1 has also admitted that in Ext.P4 it is stated that joining with CPI(M) is improper and that RW1 should vacate the office of the Vice President for giving it to the Kerala Congress(M) member. RW1 would further admit that it is the DCC President

who is the competent person to give directions to members of Congress party in the Panchayat. Referring to Ext.P5 notice on the no confidence motion, RW1 has admitted that the members belonging to CPI(M) and CPI also had joined along with respondents and that the respondents did not give any information to the DCC President regarding moving of the no confidence motion and that they had moved the motion without the knowledge of the DCC President. RW1 has also admitted that he did not enquire about the stand of the Congress party on the no confidence motion. RW1 has categorically admitted that along with the respondents, the members belonging to CPI(M) and CPI voted in favour of the no confidence motion and that the respondents had voted in favour of the no confidence motion against the direction contained in Ext.P8. According to RW1, in the subsequent election to the post of President Congress party did not give consent to the respondent in O.P.No.34/2013 to contest and the respondents also did not seek the consent of the DCC President for the same.

14. The KPCC member Sri.K.K.Royson has been examined as RW2 and he has deposed that on 30.10.2010 the Mekhala Committee of the Congress party was convened and in that meeting persons were decided for the post of President, Vice President and Standing Committee Chairpersons and the minutes of that meeting is Ext.R3. He has further deposed that there was an agreement to share the post of President between the petitioner and the respondent in

O.P.No.34/2013 for 2½ years each and there was also agreement to share the post of Vice President between Kerala Congress(M) and Congress party for 2 ½ years each and accordingly Smt.Reman Bhaskar, the Kerala Congress (M) member resigned and then RW1 became the Vice President. Ext.R1 is stated to be the letter given by him in this regard. RW2 has further deposed that despite expiry of the term of 2½ years, the petitioner did not resign and complaints were given by the members to him and DCC President and Ext.R2 is stated to the said letter given to him and as the petitioner did not resign in spite of repeated demands, he directed the respondents to move the no confidence motion as stated in Ext.R4. According to RW2, the Panchayat is still ruled by the members of Congress party. In cross-examination RW2 has stated that the DCC President had informed him over phone to involve in the affairs of this Panchayat. It was suggested to RW2 that Exts. R1 to R4 are fabricated documents created after filing these petitions which he denied. RW2 has stated that there are 10 KPCC members and 3 executive members in Pathanamthitta District itself. To the question as to whether RW2 had directed the respondents to move a no confidence motion along with the LDF members his answer is that he has not given such a direction and his direction was to move the motion along with the available members. RW2 has admitted that the respondents had disobeyed the direction of the DCC President in having supported the no confidence motion.

15. The Elanthur Block Congress Committee Secretary has been examined as RW3 and he has stated that he is a signatory to Ext.R3 and that there was an agreement to share the post of President between the petitioner and the respondent in O.P.No.34/2013 and based on a former decision, RW1 became the Vice President after vacating that office by the Kerala Congress (M) member, Smt.Remma Bhaskar. RW3 has admitted that the petitioner was not present in that meeting. He has also stated that he participated in that meeting only for a short time and he came to know of the understanding regarding sharing of the post of President and Vice President only from others.

16. On a careful analysis of the entire evidence and materials on record, the following facts are disclosed. The petitioner was elected as President and Smt.Remma Bhaskar belonging to Kerala Congress (M) was elected as Vice President. The version of PW2, the DCC President that the petitioner was elected as President for the full term of five years is only to be believed. The contention of the respondents that there was an agreement for sharing the post of President between the petitioner and the respondent in O.P.No.34/2013 is found to be totally false. RW1 has admitted that the DCC President is the competent person to take decision and give direction to the members of the Panchayat belonging to Congress party. Admittedly PW2 was the DCC President who had recommend symbol for all these respondents for contesting as candidates in the election held

in October 2010. 'Direction in writing' has been defined in clause (iva) of section 2 of the Act and as per this provision 'direction in writing' means the direction given to the members of the political party by the person who is competent to recommend symbol to the candidates contesting in the election to the local bodies to vote in favour or against or to abstain from voting. This provision has been incorporated as per the amendment made by Act 6 of 2013 which came into force on 17.01.2012. So from this provision it is clear that in the case of a member belonging to Congress party, the person competent to recommend symbol being the District Congress Committee President is the person competent to issue direction to such member. As per Rule 4(1) of the Kerala Local Authorities (Disqualification of Defected Members) Rules also the person competent to issue direction (whip) to the members of a political party is the person who is competent to recommend symbol to the candidates of that political party contesting in the election. So it is clear that PW2 the DCC President is the competent person to take decisions and give directions to members belonging to Congress party in the Panchayat regarding voting in an election to the post of President, Vice President, Standing Committee members or Chairpersons or on a no confidence motion. Therefore, the evidence tendered by PW2 is most relevant in deciding the facts in issue in these cases.

17. According to RWs 1 to 3, the no confidence motion was moved as directed by RW2 and Exts. R1 to R4 are relied on in support of the same. According to the petitioner these are fabricated records created after filing these cases. Ext.R1 is stated to be a letter dated 31.01.2010 given by RW2 to the respondent in O.P.No.34/2013 stating that the post of President is agreed to be shared for 2½ years each between the petitioner and that respondent and directing her to vote in favour of the candidate contesting for the post of President. RW2 has no right or authority to give such a direction or to take a decision regarding sharing of the post of President. The DCC President alone is the competent person to decide on these issues and give direction to vote in favour or against a person contesting in the election to the post of President. As per the Act and the Rules, the direction in writing can be given to a member only by a person who is competent to recommend symbol. Ext.R2 is stated to be a letter given by four Congress members of this Panchayat to the Secretary stating that they are withdrawing support to the President. As a matter of fact, there is no possibility for giving such a letter to the Secretary for the simple reason that the Secretary is not competent to take any action upon such a letter. Copy of this letter is stated to have been given to the DCC President. But PW2 has not stated anything regarding the receipt of such a letter. Ext.R3 is seen to be recorded in a minutes book of the Congress Mekhala Committee which was maintained for the purpose

of the Loksabha elections conducted in 2009. Even though it is stated in the first page that this is a record of the Congress Mekhala Committee, the minutes recorded are that of UDF Mekhala Committee and also of Kozhanchery Mandalam Committee. Ext.R3 is the only minutes recorded in respect of an election of this Panchayt and the members stated as attended do not include the petitioner or the DCC President or any other leaders. It appears that an old record has been picked up for recording Ext.R3 minutes and it cannot be relied on for any purposes in these cases. Ext.R4 is stated to be the minutes of the parliamentary party convened on 09.06.2013 for discussing on the no confidence motion moved against the petitioner and it has been decided to vote in favour of the said motion and to elect the respondent in O.P.No.34/2013 as President. Only these respondents have signed in this record. At first it is seen to be only a record created by these respondents and cannot be considered as the minutes of a parliamentary party. Exts.R1 to R4 are found to be created documents with the oblique motive of defending these cases and they cannot be considered as genuine records. At the same time, the evidence of PW2 would establish the fact that the petitioner was elected as President for the full term and the post of Vice President was set apart to Kerala Congress (M) and they decided to share that post between their two members and accordingly Smt.Remma Bhaskar resigned and taking advantage of that situation, these respondents in liaison with LDF

members set up the respondent in O.P.No.36/2013 as a candidate for the post of Vice President and got him elected by defeating Smt.Mariyamma Philip who was the official candidate of UDF and thereafter a no confidence motion was moved against the petitioner in liaison with LDF members and by disobeying the direction of the DCC President, the respondents along with the LDF members, voted in favour of the no confidence motion and ousted the petitioner who was the President belonging to their own party. It is further seen that the respondent in O.P.No.36/2013 was directed to resign from the post of Vice President vide Ext.P4(b) letter and RW1 has admitted receipt of that letter. In Ext.P4(b) it is clearly stated that the respondent had become the Vice President with the support of CPI(M) and CPI members by defeating the UDF candidate and as the post of Vice President was set apart for Kerala Congress (M), PW2 wanted RW1 to resign from that post to elect the member of Kerala Congress (M) as Vice President. No written reply is seen to have been given to Ext.P4. Of course there is no record to prove that direction in writing was given to the members of Congress party in respect of the election to the post of Vice President. PW2 has deposed that he wanted to get another opportunity to give specific direction to the respondents and accordingly when the no confidence motion was moved, he issued direction to these respondents. It is also seen from Ext.P6 series that a meeting of the Congress members of this Panchayat was convened by PW2 in his

office on 11.06.2013 and postal communications were given to these respondents also. The evidence of PW2 would clearly prove that the decision in that meeting was to defeat the no confidence motion and accordingly as per Exts,P8 series, directions were given in writing to these respondents to vote against the no confidence motion. The said directions in writing were sent to the respondents by post in their official addresses as well as house addresses and all such postal articles were returned as refused. The no confidence motion was tabled for discussion on 19.06.2013 and the postal articles were refused by these respondents on 12.06.2013 as seen from the endorsement of the postal authorities contained on the postal covers. **Section 27 of the General Clauses Act states** that when any Act authorizes or requires any document to be served by post, the service shall be effected by properly addressing and posting by registered post the document and unless the contrary is proved the service shall be deemed to have been effected at the time at which the letter would be delivered in the ordinary course of post. In these cases the directions in writing were sent by post and the respondents had refused to receive the same and so returned to the sender with the endorsement "addressee refused" and the date of such refusal was well in advance of the date on which the no confidence motion was taken up for discussion. Further Ext.X1 also proves that these postal articles were refused by the respondents and were returned to the sender on 13.06.2013. So in the light of

Exts.P9 series, P10 series and X1 along with the oral evidence of PW2 it is proved beyond any doubt that the directions in writing were given to all these respondents well in advance of the discussion on the no confidence motion and as they had refused to receive such postal articles, there is deemed acceptance. These respondents had refused the postal articles deliberately with the full knowledge that they were the directions issued to them in writing by the DCC President. The from address noted on the postal covers is that of the DCC President which alone would be sufficient indication that the covers contained directions regarding the voting on the no confidence motion. Therefore, it is futile to contend that communications regarding whip were not received by the respondents. Despite the deemed service of the whip given by the DCC President to vote against the no confidence motion, the respondents supported the motion and ousted the petitioner from the post of President by aligning with the LDF members and in the subsequent election to the post of President, the petitioner in O.P No.34/2013 became the President with the support of LDF members.

18. Now the question to be considered is whether the conduct of the respondents in having moved a no confidence motion against the President of their own party along with LDF members and voted in favour of that motion by disobeying the direction and decision of the DCC President would constitute defection. Section 3 of the Act deals with disqualification on the ground of

defection and Section 3(1)(a) is the relevant provision regarding members of political parties. **Section 3(1)(a)** 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.”*

19. Section 3(1)(a) of the Act contains two limbs. The first limb is attracted when a member of the local authority belonging to any political party voluntarily gives up his membership of such political party and the second limb would apply when such member votes or abstain from voting against the direction in writing issued by the political party to which the member belongs or by a person or authority authorized by it in this behalf in the manner prescribed. Of course, as already pointed out, the person who is competent to issue such direction in writing is the person who is competent to recommend symbol as defined in Section 2(iva) of the Act and also under Rule 4(1) of the Rules and in the case of Congress party, it is the DCC President. In the cases on hand only the 1st limb has been invoked by the petitioner.

20. The Kerala Local Authorities (Prohibition of Defection) Act was enacted in exercise of the powers conferred under Articles 243 F and 243V of the Constitution of India which provide for disqualification of members. As per Clause (b) of Article 243 F and 243 V of the Constitution, a person shall be disqualified for being chosen as and for being a member of

Panchayat/Municipality, if he is so disqualified by or under any law made by the legislature of the State. This Act derived its source from the Xth schedule of the Constitution of India which provides for disqualification of the members of either house of Parliament or the Legislative Assemblies on the ground of defection. Clause (a) of sub Para-1 of Para-2 of the 10th Schedule is identical to the 1st limb of Section 3(1)(a) of the Act. However there are certain drastic distinctions between the 10th Schedule and this Act in so much as the 10th Schedule provides for condonation in respect of a member belonging to a political party within 15 days from the date of voting or abstaining from voting against the direction of such political party and also in the case of merger by not less than two third of the members of the Legislature party of a political party in another political party or as the case may be, of a new political party formed by such merger. It is also significant to note that Para 3 of the 10th Schedule was dealing with split by not less than one third of the members of the Legislature party and that Para was deleted by way of the 91st amendment to the Constitution which came into force in 2003. Paragraph 3 of the 10th Schedule as it then stood provided for defence against the charges of defection in the case of a split in the Legislature party of a political party and this Paragraph was subject to severe criticism since it provided Constitutional protection for defection in bulk while declaring individual defections as illegal. The Hon'ble Supreme Court in **Mayawati Vs.**

Markandeya Chand (AIR 1998 SC 3340) emphasized the need for scraping this provision. The statement of objects and reasons provided for the Constitution (Ninety-First amendment) Act, 2003 is relevant in this context and it is extracted below,-

*“Prefatory Note – Statement of objects and Reasons,-
Demands have been made from time to time in certain quarters for strengthening and amending the Anti-defection Law as contained in the 10th Schedule to the Constitution of India, on the ground that these provisions have not been able to achieve the desired goal of checking defection. The 10th Schedule has also been criticized on the ground that it allows bulk defections while declaring individual defections as illegal. The provision for exemption from disqualification in case of splits as provided in Paragraph 3 of the 10th Schedule to the Constitution of India has, in particular, come under severe criticism on account of its establishing effect on the Government.”*

21. So even as per the 10th Schedule, now the only defence in respect of defection is only the merger as provided in Para 4 of the 10th Schedule. However

in the Kerala Local Authorities (Prohibition of Defection) Act, there are no provisions for split or merger to escape from defection. Several Supreme Court decisions were rendered while Para 3 of the 10th Schedule was in force and accordingly recognized defection of bulk numbers among the legislature party. As far as Kerala Local Authorities (Prohibition of Defection) Act is concerned, the parliamentary party of a political party is not being recognized and even when the entire parliamentary party members of a political party voluntarily gives up their membership or votes or abstain from voting against the direction of the political party as provided by the first or second limb of Section 3(1)(a) of the Act, all such members would incur disqualification. In **Varghese Vs. Kerala State Election Commission (2009(3) KLT 1)** it has been held as follows,-

“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. One has to be loyal to his

political party. The situation would be different if the political party, itself, taking note of such strange realities, permits the elected members to cast conscience vote. In such situations the whip itself is for decision by the individual concerned according to his conscience. The Oxford dictionary defines conscience to mean “the part of your mind that tells you whether your actions are right or wrong”,. In the absence of a specific whip for conscience vote, an elected member, under law, is entitled and liable to cast only a conscious vote, being aware of the consequences of his decision, in terms of Section 3 of the Kerala Local Authorities (Prohibition of Defection) Act, 1999 on disqualification on the ground of defection on account of voluntarily giving up membership in the political party. Conscience vote is hence a matter of express whip in the absence of which an elected member is bound by the policies of his political party and he can cast only a conscious vote. That is nothing but an expected expression of his obligation to the political party and responsiveness to the people, by doing things carefully and correctly and if not the conduct would amount to

betrayal of the political conscience which is impermissible under law.”

22. In the cases on hand, out of the 5 members elected from Congress party, 3 members aligned with LDF members and moved a no confidence motion and in spite of the direction given by the DCC President to vote against the said motion, they supported the motion along with the LDF members and ousted the President belonging to their own party. The fact that majority members of the Congress party in the Panchayat had supported the no confidence motion dwindles in to insignificance for the reason that even bulk defection is not recognized under this Act. So now the question to be considered is whether the respondents by their conduct of having moved and supported the no confidence motion against the President belonging to their own party would constitute defection as provided by the first limb of Section 3(1)(a) of the Act. The **Apex Court in Ravi S.Naik Vs. Union of India (AIR 1994 SC 1558)** while interpreting the provisions of 10th Schedule to the Constitution of India held that even in the absence of a formal resignation from the membership of the party, 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. So it is the conduct of the person which determines whether he has voluntarily given up his membership from the party. In **Dharmamani Vs. Parassala Block Panchayat**

(2009(3) KLT 29) this position has been clarified and at **Paras 16 and 17** it is held as follows,-

“In the instant case, it is not in dispute that the petitioners were elected to the Parassala Block Panchayat as official candidates of the Indian National Congress. The Indian national Congress is admittedly a political party registered under Section 29A of the Representation of the People Act, 1951. It is also not in dispute that they had actively participated in the no confidence motions moved by the opposition against the President and Vice President, of the Parassala Block Panchayat, who were also official candidates of the Indian National Congress. The petitioners are admittedly signatories to the no confidence motions and the motions were carried with their support. Though their contention that no whip was issued was accepted by the Commission, the Commission disqualified them on the ground that they have voluntarily given up their membership of the Indian National Congress. Though the learned counsel for the petitioners contend that the finding of the Commission that the petitioners had acted contrary to the

directions issued by PW2, the President of the Thiruvananthapuram District Committee of the Indian National Congress cannot be sustained, I am of the opinion that on the admitted facts of this case, it is not necessary to go into the correctness of the said finding.

17. Under the Act, a member can be disqualified if he has voluntarily given up the membership of the political party to which he belongs or acts in defiance of a whip/direction issued by the political party. Disqualification for voluntarily giving up the membership of one's party, is not dependant on the violation of the whip. The intention of the Act is that the member who has violated the whip or has abandoned the membership of the political party to which he belongs shall be disqualified. It is not necessary to hold that the member has violated the whip in order to hold that he has voluntarily abandoned the membership of his political party. The grounds for disqualification are distinct and are not interlinked. Therefore even if this Court were to hold that the petitioner before the

Commission has not proved that PW2 had issued and served on the writ petitioners a direction regarding the voting on the no confidence motions that were tabled on 14.05.2008, the Commission was justified in holding that the petitioners have voluntarily abandoned their membership in the Indian National Congress.”

23. This decision has been confirmed in **Writ Appeal Nos.770/2009, 795/2009 and 798/2009 as per judgment dated 06.04.2009** by the Division Bench of the Hon’ble High Court and in that judgment the commentary by **Griffith and Ryle on Parliament Functions, Practice and Procedure, (1989 Edition Page 199)** has been quoted which is extracted as follows,-

“Loyalty to the party is the norm, being based on shared beliefs. A divided party is looked on with suspicion by the electorate. It is natural for Members to accept the opinion of their Leaders and Spokesmen on the wide variety of matters on which those Members have no specialist knowledge. Generally Members will accept majority decisions in the party even when they disagree. It is understandable therefore that a member who rejects the party whip even on a single occasion will attract attention and

more criticism than sympathy. To abstain from voting when required by the party to vote is to suggest a degree of unreliability. To vote against party is disloyalty. To join with others in abstention or voting with the other side smacks of conspiracy.”

The Hon’ble High Court has then held at Para 8 of the same judgment as follows,-

“8. In our view, these observations and principles set out by the Apex Court, though made while considering 10th Schedule of the Constitution of India aptly apply to the present case also. The appellants who were elected from the Indian National Congress party were parties to elect the President and Vice President of the Panchayat. Whatever may be their differences with the President and the Vice President, they could not have joined hands with the opposite LDF party, to move no confidence motion against their own partymen, and vote against their own men. Further, the fact that these appellants proposed and seconded the new President and Vice President

belonging to the opposite group, clerly indicates that, they were aligning themselves with the LDF and were not loyal to their party on the symbol of which they were elected. In our view, this conduct of the appellants, joining hands with the opposite party, clearly establishes that they had voluntarily given up their membership in the party.”

24. While considering the Constitutional validity of the 10th schedule, the Apex Court In **Kihoto Hollohan Vs.Zachillhu (1992) Supp.2 SCC 651** has held as follows,-

“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.”

25. Therefore, if a member or a group of elected 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. It is settled law that the moment one become disloyal by his conduct to the political party, the inevitable inference is that he has voluntarily given up his membership. In **Nazeerabeevi Vs. State Election Commission (2004(1) KLT 1108)**, the Single Bench of the Hon'ble High Court held that there is distinction between membership in the parliamentary party and membership in the political party and what has been made objectionable under law is the voluntary giving up membership of the political party and the decision of certain members to work as a separate block in the Panchayat will not be sufficient to hold that they had voluntarily given up their membership of the political party. But in Writ Appeal No.1127/2004, the Division Bench of the Hon'ble High Court set aside the above decision and moreover in **Varghese Vs. Kerala State Election Commission** cited supra, the Nazeera Beevi's has been overruled on finding that if a member or group of 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 and the moment one becomes disloyal by his contract to the political party, the inevitable inference is that he has voluntarily given up his membership.

26. In the Bench decision of the Hon'ble High Court in **Nazeerkhan.S Vs. Kerala State Election Commission (2009(1) KHC 681)** the finding 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 candidate and that he had been elected on the basis of the vote cast in his favour by the opposition LDF is clearly proof of the Writ petitioner having acted in such a manner as to render himself disqualified under the provisions of the Act has been upheld. In **Faisal Vs. Abdulla Kunhi (2008(3)KLT 534)** it has been held that from the conduct of a member, if an inference can be drawn that he has voluntarily given up his membership of the political party, he is liable to be disqualified and in fact that such member had acted against the directions of his party leadership and that he was arraying himself with the rival coalition was found to be sufficient to justify the inference that he had voluntarily given up his membership of the party in which he belonged. The decision in Writ Appeal No.1774/2009 rendered on 24.11.2009 by the Division Bench of the Hon'ble High Court also is relevant in this context. In that case the parliamentary party unanimously decided to move a no confidence motion against the Chairperson on the ground of her disloyalty to the party and direction was given to the Councillors to vote in favour of the no confidence motion and in spite of the same, the appellants abstained themselves from attending the discussion on the no confidence motion and thus the motion was defeated and it has been held at Para 9 of the above decision as follows,-

“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, the only inference that can be drawn is that the appellants had abandoned the party directions and decisions and thereby their conduct amounted to voluntarily giving up the membership. Both the Election Commission as well as the learned Single Judge had considered these aspects in detail and even after re-assessment of the entire materials, we do not find any ground to differ from the views taken by the two authorities.”

27. The fact that it is not necessary to prove that a member has disobeyed the direction issued by the competent person to attract the vice of disqualification and the conduct of such member is the relevant factor is clarified in **Muhammed Kunhi.B. Vs. K.Abdulla (2010 (4) KLT 736)**. At **Para 24** of the above decision, it has been held as follows,-

“ 24. The conduct of the members being important, going by the decision of the Apex Court in Ravi S.Naik’s case, the conduct of the petitioners herein in signing the no confidence motion along with the members of the BJP, voting in favour of the no confidence motion against the 1st respondent, a member of the very same political party and the then Vice President who belonged to the UDF and voting against the candidates of the UDF in the subsequent election and the conduct of the petitioner in WP (C) No.28051/2010 in contesting and getting elected as President against the nominee of the UDF, will squarely attract the vice of disqualification and are sufficient to imply that they have voluntarily given up membership of the political party which set them up as candidates in the election.”

28. On a careful analysis of the legal position as settled above it is clear that for attracting the first limb of Section 3(1)(a) of the Act, ie., voluntary giving up membership from the party, the conduct of the member is the relevant factor. If a member or a group of members belonging to a political party becomes disloyal to that party, he commits defection. If such member acts against the direction or decision of the political party in which they belonged, no doubt the above provision is attracted. It is immaterial whether majority of the members are acting against the decision or direction of the party. To be more precise, even if all the elected members of the political party acts against the direction and decision of the political party, no doubt all of them would be construed as having voluntarily given up their membership from the party. It is also significant to note that violation of the direction issued by the competent person of the party would be a conduct which would be sufficient to attract the vice of disqualification by voluntarily giving up his membership from the party. The question as to whether a member has voluntarily given up his membership is to be considered with reference to his conduct on the date of voting and if he has acted against the decision or policy of the political party, definitely he would become disqualified for having voluntarily given up his membership from the party. It is also the settled position of law that even if no whip is issued, if a member supports a no confidence motion moved against the President or Vice

President of his party against the mandate of his political party, then also such member would become disqualified as provided by the first limb of Section 3(1)(a) of the Act. It is not even necessary for the members of a political party to align with the rival faction to attract the vice of disqualification and if such member or members acts against the decision or direction of the competent person of their political party, that would constitute defection.

29. In the cases on hand the respondents have moved the no confidence motion along with LDF members without the mandate of the Congress party and after moving the no confidence motion, the DCC President convened a meeting of all the Congress members and decision was taken to vote against the no confidence motion and whip was issued to these respondents directing them to vote against the no confidence motion. The respondents refused to receive the whips sent by post both in their house and official address and such postal articles were returned as refused well before the date on which the no confidence motion was taken up for discussion. The respondents were fully aware of the decision and direction of the Congress party in respect of the no confidence motion and by disobeying the direction of the DCC President, they along with LDF members voted in favour of the no confidence motion and ousted the petitioner belonging to their own party from the post of President. Subsequently one of the respondent became the President with the support of LDF members. The above

conduct of the respondents in having moved and voted in favour of the no confidence motion against the President, in liaison with LDF members by disobeying the direction of the DCC President would definitely attract the mischief of disqualification by voluntarily giving up membership from the party. Hence I find that the respondents have voluntarily abandoned their membership from the Congress party and they have become subject to disqualification for being members of the Mallapuzhassery Grama Panchayat. The points are answered accordingly.

In the result, the petitions are allowed and the respondents are declared as disqualified for being members of the Mallapuzhassery Grama Panchayat 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 7th day of March 2014

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

APPENDIX

Witnesses examined on the side of the petitioner

- PW1 : Smt.Mercy Samuel, Charuvil Prince Cottage, Kuzhikkala
P.O., Pathanamthitta
- PW2 : Sri.Mohanraj, President DCC, Pathanamthitta

Witnesses examined on the side of the respondent

- RW1 : Sri.Sajeev K.Bhaskaran, Kannangattu Parambil
Punnakkadu.P.O.
- RW2 : Sri.K.K.Royson, Kaithavanamalayil, Thekkemala P.O.,
Kozhancherry
- RW3 : Sri.Jose Puthuparambil,Pthuparambil

Documents produced on the side of the petitioner

- P1 : True copy of the register showing party affiliation of the
members of Mallapuzhassery Grama Panchayat
- P2 : True copy of the Declaration in Form No.2 submitted by
Sri.Sajeev K.Bhaskar
- P2(a) : True copy of the Declaration in Form No.2 submitted by
Sri.Thomas M.Reji Oommen
- P2 (b) : True copy of the Declaration in Form No.2 submitted by
Smt.Elizabeth Ninan
- P3 : True copy of the minutes of the meeting to elect President
held on 23.10.2010
- P4 : Receipt of Registered letter addressed to
Sri.Sajeev K.Bhaskar
- P4 (a) : Acknowledgment card addressed to Sri.Sajeev K. Bhaskar

- P4 (b) : Letter addressed to Sri.Sajeev K.Bhaskar, dated 06.06.2013 of the President DCC Pathanamthitta
- P5 : True copy of the notice to no confidence motion against Smt.Mercy Samuel, President, Mallapuzhassery Grama Panchayat
- P6 : Receipt of BSNL
- P6(a) : Notice dated 08.06.2013 of the President DCC, Pathanamthitta addressed to Smt.Elizabeth Ninan
- P6(b) : Notice dated 08.06.2013 of the President DCC, Pathanamthitta addressed to Sri.Sajeev K.Bhaskar
- P6(c) : Notice dated 08.06.2013 of the President DCC, Pathanamthitta addressed to Sri. Thomas M.Reji Oomman
- P7 : Front office receipt of Mallapuzhassery Gramam Panchayat Dated 15.06.2013 No.1467/13
- P7(a) : Copy of the whip addressed to Smt.Elizabeth Ninan
- P7(b) : Front office Receipt M3.1463/13 dated 15.06.2013 of Mallapuzhassery Grama Panchayat
- P7(c) : Copy of the whip addressed to Sri.Sajeev.K.Bhaskar
- P7(d) : Front office Receipt No.M3.1465/13 dated 15.06.2013 of Mallapuzhassery Grama Panchayat
- P7(e) : Copy of the whip addressed to Sri.Thomas.M.Reji Oomman
- P8 : Copy of the whip addressed to Smt.Elizabeth Ninan
- P8 (a) : Copy of the whip addressed to Sri.Sajeev K.Bhaskar
- P8 (b) : Copy of the whip addressed to Sri.Thomas.M.Reji Oomman

- P9 : Returned Registered letter addressed to Smt.Elizabeth Ninan
- P9(a) : Returned Registered letter addressed to Sri.Thomas M.Reji Oomman
- P9(b) : Returned Registered letter addressed to Sri.Sajeev K.Bhaskar
- P10 : Returned Registered letter addressed to Smt.Elizabeth Ninan
- P10(a) : Returned Registered letter addressed to Sri.Sajeev K.Bhaskar
- P10(b) : Returned Registered letter addressed to Sri.Thomas M.Reji Oomman
- P11 : Copy of the minutes of the meeting of no confidence motion against Smt.Mercy Samuel
- P12 : Copy of the First Information Report No.822 dated 19.06.2013
- P13 : Copy of the minutes of the meeting to elect President, Mallapuzhassery Grama Panchayat held on 03.08.2013

Documents produced on the side of the Respondent

- R1 : Letter dated 31.10.2010, addressed to Smt.Elizabeth Ninan, Chakkittayil House, Punnakkad.P.O., of Sri.K.K.Royson
- R2 : Letter dated 01.06.2013 addressed to the Secretary, Mallapuzhassery Grama Panchayat signed by Sri.Sajeev K.Bhaskar and others
- R3 : Minutes Book of Congress Zonal Committee, Mallapuzhassery

R4 : Minutes of Congress Parliamentary Party held on
09.06.2013

Document produced on the side of the witness

X1 : Letter No.CCC/RTI/86/13-14 dated 09.10.2013 of
Superintendent of POs and CPIO, Department of Posts,
Pathanamthitta

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

//True Copy//