

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

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

Friday, the 27th day of December 2013

R.C.No.08/2013

Reference Petitioner : Secretary,
Annamanada Grama Panchayat,
Thrissur District

Respondent : K.K.Thomas,
Member, Ward No.14,
Annamanada Grama Panchayat,
Annamanada P.O.,
Thrissur-PIN 680 741.

**(By Advs.P.P.Thajudeen &
Saju Raghavan)**

This case having been heard on 10th day of December 2013, in the presence of the Secretary and Advocates **P.P.Thajudeen & Saju Raghavan** for the respondent and having stood over for consideration to this day, the Commission passed the following.

ORDER

This case arose on a reference made by the Secretary of Annamanada Grama Panchayat to decide the question as to whether the respondent has

become disqualified for being a member of Annamanada Grama Panchayat, on account of his appointment as SLR Worker.

2. The short facts are as follows: According to the reference petitioner the respondent who is a member of Annamanada Grama Panchayat has been appointed as SLR worker and so the petitioner prays for deciding the question whether the respondent has become disqualified to continue as a member under Section 30 of the Kerala Panchayat Raj Act.

3. The respondent has filed objection contending in short as follows:-
The respondent was working as an HR Worker and vide G.O (MS) No.06/2013/WRD dated 16/01.2013 his service has been regularize as an SLR worker along with other similar persons, in the Minor Irrigation Department. The SLR Worker is not a Government Employee and he is not entitled for any other benefits granted to Government Employees nor he is enjoying the status of a Civil servant or Government servant. So they cannot be considered as regular State Government Employees and the leave rules in KSR are not applicable to him. So the respondent does not come under the purview of Section 30 of the Kerala Panchayat Raj Act. It is to be pointed out that the decision of the Hon'ble High Court reported in 2010 (4) KHC 140 wherein it has been held that SLR Workers are not entitled to contest in the election or to hold office of the member of the panchayat cannot be held as laying the

correct position of law and the finding in that case was arrived at without properly comprehending the conditions of service of SLR Workers. As SLR Workers are not Government Servants, the respondent is entitled to continue as a member of the panchayat.

4. Both sides were heard.

5. The following points arise for consideration.

- (i) Whether the SLR job is a disqualification coming under Section 30 of the Kerala Panchayat Raj Act?
- (ii) Whether the respondent has become disqualified for being a member of the Annamanada Grama Panchayat?

6. POINT Nos.1 and ii: For brevity and convenience both these points are taken up jointly. This case is taken on file on the basis of the reference made by the Secretary of the Annamanada Grama Panchayat. Admittedly the respondent has been appointed as SLR Worker in the Minor Irrigation Department. It is in the above context that this reference has been made as provided by the proviso to Section 36 of the Act. **Section 36(1)** reads as follows:-

“ 36. *Determination of subsequent disqualification of a member,-*

(1) Whenever a question arises as to whether a member has become disqualified under Section 30 [or Section 35 except clause (n)] thereof after having been elected as a member, any

member of the panchayat concerned or any other person entitled to vote at the election in which the member was elected, may file a petition before the State Election Commission, for decision.

Provided that, the Secretary of the Officer authorized by the Government in this behalf may refer such a question to the State Election Commission for decisions.”

7. As per the above proviso, the Secretary of the Panchayat can refer a dispute arising under Section 30 of the Act for decision by the State Election Commission. So the reference is found to be maintainable.

8. The question to be considered in this case is whether the SLR worker would come within the purview of Section 30 of the Panchayat Raj Act. **Section 30 of the Kerala Panchayat Raj Act** which is same as **Section 86 of the Kerala Municipality Act** reads as follows:-

“30. Disqualification of officers and employees of Government, local authorities, etc,- (1) No officer or employee in the service of the State or Central Government or of a local authority or a corporation controlled by the State or Central Government or of a local authority or any company in which the State or Central Government or a local authority [not less than

fifty one percent share] or of a Statutory Board or of any University in the State shall be qualified for election or for holding office as a member of a Panchayat at any level”

9. The respondent would contend that SLR workers are not Government Employees and they are not governed by the Kerala Service Rules and the Service benefits which are applicable to Government employees are not being extended to them and also that they are only seasonal workers and so such job will not come under the purview of the Section 30 of the Act. The question as to whether the employment as SLR would come under the purview of Section 86 of the Kerala Municipality Act which is in pari materia with Section 30 of the Kerala Panchayat Raj Act is no more a res-integre. In **Rajesh.O. Vs. Kerala State Election Commission (2010 (4) KLT 124)** this question has been considered and at Para 2 of the said decision it has been held as follows:-

“The words “in the service of” occurring in Section 86(1) of the Kerala Municipality Act, 1994 are not used in the context in which the word “service” is used in the Kerala Civil Services (Classification, Control and Appeal) Rules or in the Kerala State and Subordinate Services Rules. The purpose of Section 86(1) of the Kerala Municipality Act is to prohibit Government servants,

namely officers and employees of the State and Central Governments from contesting elections to local bodies. The words “in the service of” only denote the condition of being a Government servant, either of the State Government or the Central Government. Besides employees of the State Government and the Central Government, employees of a local authority or a Corporation owned or controlled by the State or the Central Government or of a company in which the State or Central Government or local authority has not less than fifty one per cent share or of Boards or any University established under a State enactment are also disqualified from contesting the elections to local bodies. Therefore, the words “in the service of” occurring in Section 86(1) of the Kerala Municipality Act can only mean the condition of being an employee of the various categories of bodies mentioned therein. The prohibition is against persons in Government service and not merely on the members of a State or Subordinate Service within the meaning of the said terms occurring in the Kerala State and Subordinate Services Rules, 1958 or the Kerala Civil Services (Classification, Control and Appeal) Rules, 1960.”

10. The above decision is directly applicable to the facts of this case. The contention of the respondent that the above decision is not laying the correct legal position is totally unsustainable.

11. The above decision is a binding precedent as far as this Commission is concerned and in the light of the above decision of the Hon'ble High Court, no detailed discussion is warranted to come to a conclusion that the respondent, as having being employed as SLR Worker in the Minor Irrigation Department, is disqualified for being a member of the Annamanada Grama Panchayat as provided by Section 30(1) r/w Section 36(1) of the Kerala Panchayat Raj Act. The points are answered accordingly.

In the result, the reference petition is allowed and the respondent is declared as disqualified for being a member of the Annamanada Grama Panchayat as provided by Section 30(1) r/w Section 36(1) of the Kerala Panchayat Raj Act.

The parties shall bear their respective costs.

Pronounced before the Commission on this the 27th day of December 2013

K.SASIDHARAN NAIR,
STATE ELECTION COMMISSIONER