

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

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

**Thursday, the 22<sup>nd</sup> day of February, 2024**

**O.P. No. 01 of 2023**

**Petitioner**

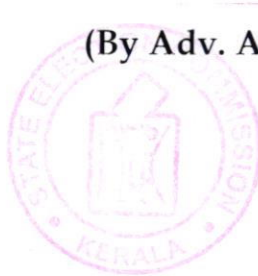
: Madhusoodanan Nair B.  
S/o. Balakrishnan Pillai,  
"Devendu",  
Karumkulam, Pulluvila P.O.,  
Thiruvananthapuram.  
(Member, Ward No.2  
Karumkulam Grama Panchayat)

**(By Adv. Karakulam P.J. Manoj)**

**Respondent**

: Soloman S.,  
S/o. Siluvadasan,  
KJM 13/111B, Pulluvila P.O.  
Thiruvananthapuram  
(Member, Ward No.18  
Karumkulam Grama Panchayat)

**(By Adv. A. Santhosh Kumar & Vinod)**



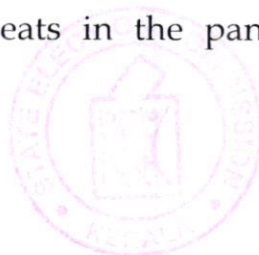
**ORDER**

This is a petition filed under Section 3 (1) (a) read with section 4 of the Kerala Local Authorities (Prohibition of Defection) Act, 1999 for declaring that respondent has committed defection and hence disqualified to continue as member of Karumkulam Grama Panchayat and also for declaring that respondent as disqualified to contest as a candidate in any elections to the local self government institutions for a period of 6 years.

2. The averments in the petition, are in short as follows:-

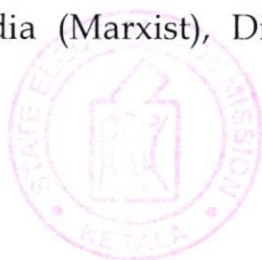
The Petitioner is the elected member representing Ward No.2 of Karumkulam Grama Panchayat. The Respondent is the elected member of Ward No.18 in General Election held to Local Authorities during November 2020. The Petitioner and the Respondent are contested in the election as the official candidates of Communist Party of India (Marxist) LDF coalition in its symbol Hammer Sickle Star. After the election the Petitioner and Respondent had given sworn declaration before the Secretary of Karumkulam Grama Panchayat showing their political allegiance as an elected member of CPI (M), a constituent of LDF coalition. On the basis of the same, Secretary of Karumkulam Grama Panchayat had prepared a register showing the political affiliation of the members wherein also it is stated that the Respondent is a member of Communist Party of India (Marxist).

3. There are 18 wards in the Karumkulam Grama Panchayat. 9 Seats won by LDF, 7 seats won by UDF and 2 seats won by independent candidate. Thus LDF got majority of seats in the panchayat and secured the



governance of the panchayat. However on 14.12.2022 a non confidence motion was successfully carried against the President Smt. Smt. Chinju and Vice President, who is the petitioner herein and they were removed from respective posts. Hence election to the vacant posts of President and Vice President of the Karumkulam Grama Panchayat necessitated. Returning Officer notified date of election to the post of President as 05.01.2023 11.00 am and date of election to the post of Vice President as 2 pm on the same day. As decided by the LDF Karumkulam Grama Panchayat parliamentary party meeting held on 01.01.2023, Communist Party of India (Marxist) issued whip to all elected members of Communist Party of India (Marxist) in the panchayat. The Whip dated 02.01.2023 was issued by the District Secretary of CPI (M) directing the respondent to vote in favour of petitioner as Vice President and Smt. Chinju as the President of the Karumkulam Grama Panchayat. They were the previous incumbents to the posts. But respondent kept away from the parliamentary party meetings held on 01.01.2023 and he refused to accept the whip by knowing its content. Hence the whip was affixed at his residence in the presence of the witnesses. The Respondent is having sufficient knowledge about the direction of Communist Party of India (Marxist). The copy of whip issued also communicated to Secretary of Karumkulam Grama Panchayat on 03.01.2023 and Secretary acknowledged its receipt.

4. In the election on 05.01.2023 the Respondent colluded with rival political parties and intentionally defied the whip issued by the Secretary, Communist Party of India (Marxist), District Committee and voted





against the petitioner and President candidate Smt. Chinju. The Respondent purposefully voted against the CPI (M) candidates and thereby cheated the party by committing defection. In both president election as well as vice president election held on 05.01.2023 the candidate put up by LDF were defeated by a single vote cast by the respondent. It is a clear case of defection and is liable for disqualification under Kerala Local Authorities (Prohibition of Defection) Act 1999. On 05.01.2023, the date on which the respondent voted against the President and Vice President election meeting and violated the whips issued by the political party and thereby expressly declared the voluntarily giving up of the membership. The Petitioner is the elected member representing Ward No.2 of Karumkulam Grama Panchayat and is competent to file this petition.

5. The contentions raised by the respondent in his objection in short are as follows:-

The Respondent is elected from Ward No.18 of Karumkulam Grama Panchayat in the General Election to the Local Body held during 2020 and he has sworn as the member on 21.12.2020. One Mr. B. Madhu has contested and elected as Member, Ward No.2 of the said Grama Panchayat and has given sworn declaration to the said effect. In the documents produced by the petitioner, the Member representing Ward No.2 is Madhusoodhanan B. Hence the identity of the petitioner is disputed and the averment that the said Madhusoodanan Nair has contested in the election as the official candidate of Communist Party of

