

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

WA.No. 1471 of 2011 () IN WP(C).28056/2010

AGAINST THE JUDGMENT IN WP(C) 28056/2010 of HIGH COURT OF KERALA
DATED 30-09-2010

APPELLANT(S)/PETITIONER:

BEEFATHIMA, EX-MEMBER, WARD NO.1,
MEENJA GRAMA PANCHAYATH, RESIDING AT
SHETTY BETTU HOUSE, VORKADY P.O., MANJESWAR VIA.
KASARAGOD DISTRICT.

BY ADV. SMT.SUMATHY DANDAPANI (SR.)

RESPONDENT(S)/RESPONDENTS:

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1. K.ABDULLA, MEMBER, WARD NO.IV,
MEENCHA GRAMA PANCHAYATH
KASARAGOD DISTRICT - 671 121.
 2. THE SECRETARY,
STATE ELECTION COMMISSION, VIKAS BHAVAN P.O.
THIRUVANANTHAPURAM. 695033.

R2 BY ADV. SRI.MURALI PURUSHOTHAMAN, SC,K.S.E.COMM
R1 BY ADV. SRI.S.SANTHOSH KUMAR

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 04-03-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

W.A.No.1471 of 2011

Dated this the 4th day of March, 2015

JUDGMENT

Antony Dominic, J.

- 1.This appeal is filed against the judgment of the learned single Judge in W.P(C).28056/10, whereby, Ext.P4 order passed by the second respondent, disqualifying the appellant from the membership of the Meenja Grama Panchayat in Kasaragod district was upheld.
- 2.We heard the learned counsel for the appellant and the learned counsel appearing for the respondents.
- 3.Facts of the case are that the appellant who belongs to the Indian Union Muslim League (IUML) was a member of ward No.1 of Meenja Grama Panchayat. The Panchayat has 14 wards. There were 6 members from the United Democratic Front (UDF), among whom, 3, including the appellant, were from Indian Union Muslim League, 2 from Congress and one from Kerala Congress (M); 4 members from the Left Democratic

Front (LDF) and the remaining 4 were from the Bharathiya Janatha Party (BJP).

4.The first respondent, a member of the IUML, was the President of the Panchayat. The appellant, who also was a member of IUML, along with another member of the IUML and the members of the BJP, moved a notice of intention to move a no-confidence motion against the President. In the meeting of the Panchayat held on 9.11.2009, the motion of no-confidence was carried with the support of the appellant, another member from the IUML, 4 members of the BJP and 2 members of the CPI(M) supporting it. It is also disclosed that 4 members of the UDF opposed to the motion and 2 members of CPI absented from voting. In the same manner, a no-confidence motion moved by the appellant along with others as stated above was carried against the Vice-president of the Panchayat also, who belonged to the Congress party.

5.The first respondent, the ousted president, moved before the second respondent for disqualification of

the appellant as provided in the Kerala Local Authorities (Prohibition of defection) Act, 1999. On adjudication of the matter, Ext.P4 order was passed by the second respondent disqualifying the appellant. In this order, the allegation of disobedience of whip was found in favour of the appellant. But however, the appellant was found to have voluntarily given up her membership of IUML, her political party, attracting disqualification as provided under section 3(1)(a) of the Act. It was this order, which was unsuccessfully challenged in the writ petition.

6. In our view, in the facts as noticed above, learned single Judge was fully justified in deciding the issue against the appellant. This we say for the reason that in view of the principles laid down by this Court in the judgments in Faisal v. Abdulla Kunhi [2008 (3) KLT 534] and Nazeerkhan v. Kerala State Election Commission [2008 (3) KHC 322] as confirmed in Varghese v. Kerala State Election Commission [2009 (3) KLT 1] and Dharma Mani v. Parassala Block Panchayat [2009 (3) KLT 29] as

confirmed in W.A.1774/09, the issues canvassed by the appellant in regard to the invalidity of the findings against her can only be held against her. In such circumstances, we fully endorse the judgment of the learned single Judge.

Appeal fails. It is therefore dismissed.

Sd/-
ANTONY DOMINIC, Judge.

Sd/-
ALEXANDER THOMAS, Judge.

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PS to Judge