IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

MONDAY, THE 5TH DAY OF AUGUST 2024 / 14TH SRAVANA, 1946

WP(C) NO. 43295 OF 2023

PETITIONER:

ADV.JACOB ABRAHAM
AGED 65 YEARS
S/O ABRAHAM, VADAKKEPARAMBIL HOUSE,
VELIYANAD P.O.,
ALAPUZHA, PIN - 689590

BY ADV K.C.VINCENT

RESPONDENTS:

1 **THE KERALA STATE ELECTION COMMISSION**
VIKAS BHAVAN P.O., THIRUVANANTHAPURAM,
REPRESENTED BY ITS SECRETARY, PIN - 695033

2 **BOBAN JOSE , AGED 52 YEARS**
S/O JOSE, CHOORAKUTTIL HOUSE,
MITHRAKARI P.O., ALAPUZHA, PIN - 689595

BY ADVS.
SRI.DEEPU LAL MOHAN, SC
B.S.SIVAJI
K.N.VENUGOPALA PANICKER(K/169/1979)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05.08.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

MOHAMMED NIAS C.P., J.

WP(C)No.43295 of 2023

Dated this the 5th day of August, 2024

JUDGMENT

The petitioner challenges Ext.P2 order of the Kerala State Election Commission that dismissed the application preferred by him seeking to disqualify the respondents for having allegedly committed defection and to disqualify them from continuing as members of the Muttar Grama Panchayat. The reason stated in Ext.P2 that the Kerala Congress (M) P.J.Joseph Group cannot be considered a political party as defined under Section 2(xi) of Kerala Local Authorities (Prohibition of Defection) Act, 1999 to authorise whip/direction in writing.

2. It is submitted by both sides that as per the judgment of this Court in **Deepak v. Kerala State Election Commission** [2023 (7) KHC 141], Kerala Congress (M) P. J. Joseph Group is directed to be treated as a political party for elections held to the local authorities for the year, 2020 and the judgment was affirmed by the Division Bench.

3. Accordingly, Ext.P2 order of the Commission is set aside and there will be a direction to the Commission to reconsider OP Nos.11 and 12 of 2021 and pass orders, as expeditiously as possible within six weeks from the date of receipt of a copy of this judgment.

The Writ Petition is allowed as above.

Sd/- MOHAMMED NIAS C.P.

JUDGE

dlk/5.8.2024

APPENDIX OF WP(C) 43295/2023

PETITIONER'S EXHIBITS

EXHIBIT P1	**A TRUE COPY OF THE PETITION IN O.P. NO. 11 OF 2021 BEFORE THE 1ST RESPONDENT DATED 19.01.2021, WITHOUT ANNEXURES**
EXHIBIT P2	**. A TRUE COPY OF THE COMMON ORDER DATED 04.07.2023 PASSED BY THE 1ST RESPONDENT IN O.P. NO. 11 AND 12**
EXHIBIT P3	**A TRUE COPY OF THE PROCEEDINGS OF THE STATE ELECTION COMMISSION DATED 17.11.2020 ALLOTTING ELECTION SYMBOL "CHENDA" TO KERALA CONGRESS (M) P.J. JOSEPH GROUP**
EXHIBIT P4	**A TRUE COPY OF THE JUDGMENT DATED 11.12.2020 IN W.P.(C) NO. 27221 OF 2020**
EXHIBIT P5	**A TRUE PRINTOUT OF THE DATA AVAILABLE AS ON 19.12.2023 ON THE WEBSITE OF THE LSGD RELATING TO THE GENERAL ELECTION 2020**
EXHIBIT P6	**A TRUE COPY OF THE LETTER DATED 18.11.2020 AUTHORISING THE PETITIONER TO RECOMMEND THE SYMBOL TO THE CANDIDATES IN ALAPUZHA DISTRICT ISSUED BY SRI. P.J.JOSEPH**
EXHIBIT P7	**A TRUE COPY OF THE REQUEST -CUM-DECLARATION GIVEN BY THE 2ND RESPONDENT TO THE PETITIONER DATED NIL I**
EXHIBIT P8	**A TRUE COPY OF THE DECLARATION IN FORM 2 DATED 21.12.2020 SUBMITTED BY THE 2ND RESPONDENT**
EXHIBIT P9	**A TRUE COPY OF THE REGISTER IN FORM 1 RELATING TO THE MUTTAR GRAMA PANCHAYAT DATED NIL**

EXHIBIT P10	**A TRUE COPY OF THE WHIP/DIRECTION ISSUED BY THE PETITIONER TO THE 2ND RESPONDENT DATED 29.12.2020 WITH ACKNOWLEDGEMENT FOR RECEIPT**
EXHIBIT P11	**A TRUE COPY OF THE MINUTES OF THE MEETINGS OF THE MUTTAR GRAMA PANCHAYAT FOR THE ELECTION OF PRESIDENT DATED 30.12.2020**
EXHIBIT P12	**A TRUE COPY OF THE OBJECTION FILED BY THE 2ND RESPONDENT IN O.P. NO. 11 OF 2021 BEFORE THE 1ST RESPONDENT DATED 18.11.2021**