
(2010) 07 KL CK 0158
In the High Court Of Kerala
Case No : W.A. No. 574 of 2010

Chinnamma Varghese

APPELLANT

Vs

State Election Commission

RESPONDENT

Date of Decision : 07-07-2010

Acts Referred:

Constitution of India, 1950 — Article 243K
Kerala Local Authorities (Disqualification of Defected Members) Rules, 2000 — Rule 3
Kerala Local Authorities (Prohibition of Defection) Act, 1999 — Section 2, 3, 3(1)
Representation of the People Act, 1951 — Section 29A

Citation : (2010) 3 KLT 426

Hon'ble Judges : J. Chelameswar, C.J.; P.N. Ravindran, J

Bench : Division Bench

Advocate : Shaji Thomas Porkkattil and Binu Paul, for the Appellant; Murali Purushothaman and C.A. Chacko, for the Respondent

Judgement

J. Chelameswar, C.J.—Aggrieved by the judgment in W.P.(C) No. 3130 of 2010 dated 19th March, 2010 the unsuccessful petitioner therein has preferred the present appeal. The Rayamangalam Grama Panchayat consists of 19 wards and therefore, under the provision of the Kerala Panchayat Raj Act, 19 members are required to be elected to the Grama Panchayat. The appellant contested the election to the office of the "Ward Member" of Rayamanaglam Grama Panchayat as an independent candidate. The election took place on 24.9.2005.

2. The appellant, though contested the election as an independent, she was admittedly supported by a political party, C.P.I.(M). The said C.P.I.(M) in turn had a political arrangement with C.P.I., what is known in the political parlance as a coalition. In the said election the coalition of L.D.F. got 10 seats out of the 19 seats, the opposing coalition known as U.D.F. got 8 seats and the appellant won the 19th seat. The said 19 members of the Panchayat in turn elected the President and Vice President of the Grama Panchayat. In view of the majority acquired by the L.D.F., the candidates belonging to the L.D.F. got elected to the above mentioned offices.

3. However, one of the elected members of the Grama Panchayat belonging to the L.D.F. coalition resigned his membership on 7.1.2008. In the resultant bye-election a candidate belonging to the U.D.F. coalition won the said election. As a result both the L.D.F. as well as the U.D.F. coalitions came to have 9 seats each in Rayamangalam Grama Panchayat.

4. On 21st February, 2008 the coalition of U.D.F. moved a no confidence motion, both against the President and Vice President by issuing an appropriate notice. Admittedly the appellant herein also signed the said notice. It is not necessary to give the details of the prescription of law under the Kerala Panchayat Raj Act. Suffice it to say that the Act provides for the movement of such no confidence motion after following the appropriate procedure. The admitted fact is that on 10th March, 2008 the no confidence motion was carried by ten votes against the President and Vice President of the Grama Panchayat.

5. Thereafter the appellant herein contested the election to the office of the President of the above mentioned Panchayat and came to be elected as the President of the said Panchayat on 3.4.2008. In the interregnum between the date on which the no confidence motion was carried and the date of the election of the appellant herein as the President of the Panchayat, the second respondent herein filed a petition (Ext.P6) before the first respondent (the State Election Commission constituted under Article 243-K of the Constitution of India). The said petition came to be filed on 18th March, 2008. In the said petition a declaration was sought that the appellant herein has become subject to disqualification u/s 3 of the Kerala Local Authorities (Prohibition of Defection) Act, 1999 and therefore, ceased to be a member of the Rayamangalam Grama Panchayat and is further disqualified to contest any election to any local authority within the State of Kerala for a period of six years from the date of the decision by the first respondent. By the order dated 27.1.2010 the first respondent allowed the above mentioned petition of the second respondent herein granting the declaration as sought for. It may also be mentioned here that as a matter of fact two separate petitions came to be filed by the second respondent herein seeking the disqualification of the appellant herein in view of the fact that the appellant herein signed the notice of no confidence motion, both against the President as well as the Vice President of the Rayamangalam Grama Panchayat. The order dated 27th January, 2010 of the first respondent purports to be a common order passed in both the above mentioned petitions filed by the second respondent.

6. Aggrieved by the decision of the first respondent dated 27.1.2010 the appellant moved this Court by a Writ Petition, W.P.(C) No. 3130 of 2010 which was dismissed by the judgment under appeal dated 19.3.2010. Hence the appeal.

7. Heard Sri. Shaji Thomas, learned Counsel for the appellant, Sri. Murali Purushothaman, learned Counsel for the first respondent and Sri. C. A. Chacko, learned Counsel for the second respondent.

8. The case of the second respondent before the Election Commission as evidenced by Ext.P6 is as follows. That the appellant herein was elected as the member of the Rayamangalam Grama Panchayat initially with the support of a coalition named L.D.F. of which C.P.I. (M), (a registered political party), is a constituent and in view of the said fact the appellant is also a member of the political party C.P.I. (M) for the purpose of the applicability of the provisions of the Kerala Local Authorities (Prohibition of Defection) Act, 1999. Therefore, it is pleaded that by the subsequent conduct of the appellant detailed in Ext.P6 the appellant herein chose to voluntarily give up her membership of the said political party, C.P.I.(M). The second ground pleaded is that the appellant herein acted contrary to the directions issued in writing by the political party, C.P.I.(M), by voting in favour of the no confidence motion on 10th March, 2008. At paragraph 7 of Ext.P6 the second respondent averred as follows:

7. It is humbly submitted that as the respondent gave up his membership of the political party she belonged, and/or voted contrary to the direction in writing issued by the political party to which she belonged in a meeting of the members of the Rayamangalam Grama Panchayat on a no-confidence motion against the President of the Rayamangalam Grama Panchayat, she has become disqualified for being a member of Rayamangalam Grama Panchayat, and she is liable to be declared that she has become subject to disqualification u/s 3 of the Kerala Local Authorities (Prohibition of Defection) Act, 1999...

9. The first respondent framed the following issues for determination:

- (i) Whether the petition is maintainable?
- (ii) Whether the respondent is liable to be disqualified:
 - (a) for defying the whip issued by the political party and
 - (b) for withdrawing from the coalition.
- (iii) issue regarding costs.

On the first of the above mentioned three issues no arguments are advanced before us. Therefore, it may not be necessary to go into the first issue framed by the first respondent. What we may really consider is issue No. 2. Issue No. 2 is sub-divided into two parts, that is, whether the appellant herein is liable to be disqualified for defying the whip issued by the political party, and/or for withdrawing from the coalition.

10. On the question of defying the whip issued by a political party, the first respondent held that the appellant is not liable to be disqualified on that count as there is no valid whip issued by which the appellant herein is bound. The finding of the first respondent in this regard is as follows:

As the whip of the C.P.I. parliamentary party he has no authority to issue whip to the independent member in the L.D.F.. Similarly the Secretary of the C.P.I. (M) District Committee is not entitled to issue whip to the L.D.F. independent in the

Panchayat, even if it is admitted that Smt. Chinnamma Varghese is in the L.D.F. parliamentary party. Hence the respondent cannot be found fault with for violating the duly issued whip.

Coming to the question of withdrawing from the coalition the first respondent held that the appellant is guilty of withdrawing from the coalition, viz, L.D.F., and therefore, held that the appellant incurred the disqualification for continuing to be a member of the Rayamangalam Grama Panchayat and also further disqualified for a period of six years from contesting the election to any local body in the State of Kerala.

11. By the judgment under appeal a learned Judge of this Court held that there was no need to interfere with the conclusions reached by the first respondent, though a specific submission was made before the learned Judge that the issue that was found against the appellant herein, viz. that the appellant had withdrawn from the coalition, is not based on any proper pleading. The more specific ease of the appellant is that while the pleading of the second respondent was that the appellant had voluntarily given up the membership of the "political party", the finding arrived at by the first respondent is that the appellant has voluntarily withdrawn from the "coalition". The learned Judge, by the judgment under appeal, however, rejected the submission of the appellant in view of an earlier decision of this Court in *Nazeerkhan v. Kerala State Election Commission* 2008 (3) KLT 57 SN (C. No. 70). That judgment, in substance, held that an imprecise pleading is of no consequence after a specific issue was framed.

12. The learned Counsel for the appellant submitted that the conclusion of the first respondent affirmed by the learned Judge in the judgment under appeal that the appellant is guilty of "withdrawing from the coalition" is without any basis on the pleadings of the second respondent and therefore, wholly unsustainable. On the other hand learned Counsel for the respondents herein sought to support the judgment under appeal on the basis of the above referred decision of this Court which was affirmed by a Division Bench subsequently in *Nazeerkhan v. Kerala State Election Commission* 2009 (2) KLT 28 SN (C. No. 33) : 2009 (1) KHC 681.

13. Before we proceed to examine the rival submissions we deem it appropriate to examine the scheme of the Kerala Local Authorities (Prohibition of Defection) Act, 1999 in so far as it is relevant for the disposal of the present appeal. Section 3(1)(a) of the said Act declares that a member of a local authority shall be disqualified from being a member of the "local authority"/Panchayat on the happening of anyone of the contingencies specified in the Sub-section. They are; (A) if a member of the local authority belonging to any political party voluntarily gives up his membership of such political party; (B) if such member belonging to a political party votes or abstains from voting contrary to any direction issued in writing by that political party to which he belongs or by a person or authority authorized by such political party in that behalf. Such a voting/abstinence should be in relation to the meetings specified in Clauses (i) and (ii) of Sub-section (a) of Section 3(1) or on a no confidence motion. (C) Coming to the independent

members of a Grama Panchayat, Section 3(1)(b) imposes a similar disqualification only in those cases of independent members who belonged to any coalition when they withdraw from such coalition or join any political party or any other coalition or votes or abstains from voting contrary to any written direction issued by a person or authority authorized by the coalition in its behalf. (D) In the case of an independent member who did not belong to any coalition initially if he joins any political party or coalition subsequently. Section 3 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 authorised by it in this behalf in the manner prescribed, votes or abstains from voting,-

(i) in a meeting of a 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 a voting on a no-confidence motion against any one of them except a member of a Standing Committee.

(b) If an independent member belonging to any coalition withdraws from such coalition or joins any political party or any other coalition, or if such a member, contrary to any direction in writing issued by a person or authority authorised by the coalition in its behalf in the manner prescribed, votes or abstains from voting,

(i) in a meeting of a Municipality, in an election of its President, Vice President, a member of Standing Committee or the Chairman of the 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 a voting on a no-confidence motion against any one of them except a member of a Standing Committee;

(c) if an independent member not belonging to any coalition, joins any political party or coalition; he shall be disqualified for being a member of that local authority.

Explanation: For the purpose of this section an elected member of a local authority shall be deemed to be a member belonging to the political party, if there is any such party, by which he was set up as a candidate for the election.

The expressions "coalition", "independent" and "political party" are defined u/s 2 (ii), (vi) and (xi) and they read as follows:

2 (ii) "coalition" means a coalition made between more than one political parties or between more than one political parties and one or more independents or between one political party and one or more than one independents or between more than one independents for the purpose of contesting any election of a local authority.

Explanation: A member who stood as a candidate in an election with the support of any one of the political parties or coalition shall be deemed to be a member included in that political party or coalition;

(vi) "Independent" means a person not belonging to any political party;

(xi) "political party" means a political party registered u/s 29A of the Representation of the People Act, 1951 (Central Act 43 of 1951);

It can be seen from the definition of the expression "coalition" that there are various combinations by which a coalition can be brought into existence. (1) A coalition can come into existence when more than one political party enters into an arrangement, or (2) more than one political party and one or more independents enter into an arrangement, (3) there can be a coalition with only one political party and one or more than one independent, and (4) two or more independents can form a coalition. The Explanation appended to the definition of the expression "coalition" declares that a person who contests an election, either with the support of a political party or a coalition, shall be deemed to be a member of that political party or the coalition as the case may be.

14. It is not the case of any one of the parties herein that the appellant herein is a member of any political party as a matter of fact. Though it is the case of the 2nd respondent that the appellant is a member of the C.P.I. (M) by virtue of the fiction created under the explanation to the definition of the expression coalition. On the other hand, it is the admitted case of both the appellant and the second respondent that the appellant contested the election to the Ward Membership of the Rayamangalam Grama Panchayat with the support of a coalition known as L.D.F. of which both C.P.I. (M) and C.P.I. are parties. It may be mentioned here that both the above mentioned parties are registered political parties u/s 29A of the Representation of People Act, 1951. The respondent in Ext.P6 in this regard pleaded as follows:

The respondent is a member of the said Grama Panchayat elected from Ward No. 6. She was elected as a candidate set up by Communist Party of India (Marxist) (C.P.I. (M) for short) which is a recognized political party, to contest election as member of the Grama Panchayat from Ward No. 6, as an independent candidate with the support of the above said political party. She won the election as a candidate set up by C.P.I. (M) and with the support of the said political party. When assumed office as member of the Rayamangalam Grama Panchayat, she

duly made declaration under Rule 3 of the Kerala Local Authorities (Disqualification of Defected Members) Rules, 2000 to the effect that she was a candidate having support of the political party C.P.I. (M) and as the said political party is a constituent in the coalition by name L.D.F.... In the declaration she has named the other members of Panchayat who belongs to the coalition-L.D.F. along with her. The respondent is thus a member of the political party - C.P.I. (M), for the purpose of applicability of the provisions in the Kerala Local Authorities (Prohibition of Defection) Act, 1999, vide explanation to Clause (ii) of Section 2 of the Act.

The above extracted pleading, in our view itself is imprecise and confusing. The second respondent asserts in one breath that the appellant contested the election as a candidate set up by one political party, i.e. C.P.I. (M). In the next breath asserting that the appellant "...is an independent candidate with the support of the above said political party" and such a political party is a constituent in a coalition by name L.D.F., on the other hand successfully argued that the appellant is guilty of withdrawing from the coalition! Whereas it is the case of the appellant in Ext.R2(a) that she was an independent candidate with the support of the coalition L.D.F. which include C.P.I. and C.P.I.(M). Whether the coalition consists of only one political party and the appellant and more than one political party and the appellant herein, in our view, certainly makes some difference for deciding the question whether there is any violation of any written instructions (whip) issued by the coalition. As we have already noticed even a coalition is capable of issuing such written instructions regarding the voting or abstaining from voting on the no confidence motion u/s 3 of the Act. However, we do not propose to go further into the question as this issue is found in favour of the appellant by the first respondent. The said finding is not challenged by the 2nd respondent.

15. The first respondent by the decision impugned in the Writ Petition posed the question to be decided as to "whether the respondent is liable to be disqualified for withdrawing from the coalition" and answered the question in the affirmative. The relevant portion of the said order reads as follows:

An analysis of the evidence both oral and documentary produced by both the sides leads me to conclude that the respondent has committed defection by withdrawing from the coalition namely the L.D.F.... Hence this issue is found against the respondent (appellant herein).

16. The specific challenge to the above mentioned finding of the first respondent, both in the Writ Petition as well as the instant appeal, is that such a conclusion was reached by the first respondent without an appropriate pleading in that regard. Confronted with the question of an appropriate pleading the learned Counsel for the second respondent pointed to ground A in Ext.P6 as the basis on which Issue No. 2(b) came to be framed by the first respondent. Ground A reads as follows:

A. The respondent was elected as a member of Rayamangalam Grama Panchayat, as she was set up in election as an independent candidate by C.P.I. (M) which is a political party and she contested the election with the support of the said political party. The respondent has expressly admitted the above said facts before the Grama Panchayat in the declaration she made when she assumed office as a member of Rayamangalam Grama Panchayat, for the purpose of recording her party connections in the register maintained under Rule 3 of the Kerala Local Authorities (Disqualification of Defected Members) Rules, 2000. She is thus deemed to be a member of C.P.I. (M) political party for the purpose of applicability of the provisions in the Kerala Local Authorities (Prohibition of Defection) Act, 1999. C.P.I. (M) is a constituent of a "coalition" among the members of the Rayamangalam Grama Panchayat by name L.D.F. which had majority among the members of Grama Panchayat. The President of the Grama Panchayat was therefore one elected by the members of coalition - L.D.F. including the respondent herein. By signing the notice of no confidence motion as well as the no confidence motion along with the members of the Grama Panchayat belonging to the rival coalition by name U.D.F...the respondent has given up her membership of C.P.I.(M) voluntarily and thus became disqualified for being a member of Rayamangalam Grama Panchayat u/s 3 of the Kerala Local Authorities (Prohibition of Defection) Act, 1999.

(emphasis supplied)

A reading of the ground A clearly indicates that the second respondent proceeded on the belief that the appellant herein is deemed to be a member of the political party known as C.P.I.(M) for the purpose of the Kerala Local Authorities (Prohibition of Defection) Act, 1999 and by the various acts of the appellant specified in the above extracted "ground A", the appellant herein had voluntarily given up her membership in the said political party and therefore, became disqualified for being a member of the Rayamangalam Grama Panchayat.

17. We may also extract here the other ground B urged by the second respondent.

B. Assuming but not admitting that signing of no-confidence motion and the notice proposed to move the same against the President of the Grama Panchayat, along with the members of the Grama Panchayat belonging to the rival coalition U.D.F. the respondent cannot be considered to have "voluntarily given up her membership" of the political party of which she is deemed to be a member, she has incurred the disqualification by voting contrary to be a member, she has incurred the disqualification by voting contrary to the direction issued by the political party to which she deemingly belongs, in the voting of no-confidence motion against the President of Rayamangalam Grama Panchayat

Ground B also proceeds on the basis that the appellant belongs to the above mentioned political party, C.P.I. (M) and by the act of participating in the voting on the no confidence motion referred to earlier in the judgment, the appellant

acted contrary to the direction issued by the political party. We have already noticed that even the first respondent reached a conclusion that there was no valid and legally enforceable direction given by the political party within the meaning of the Kerala Local Authorities (Prohibition of Defection) Act, 1999 to render the appellant disqualified under the provisions of the above mentioned Act. The first respondent categorically held at paragraph 4 after an analysis of the evidence that the appellant herein "is not an official candidate of any political party". It is an admitted fact by the appellant that she was a member of a coalition named as L.D.F.... The first respondent, however, framed an issue (in the absence of a specific plea) that the various acts of the appellant tantamount to withdrawing from the coalition of L.D.F. and consequentially render her disqualified u/s 3 of the Kerala Local Authorities (Prohibition of Defection) Act, 1999. The evidence let in, according to the first respondent is capable of suggesting an inference that the appellant had withdrawn from the coalition.

18. We have already noticed from the scheme of Section 3 that there are three distinct heads under which a person can incur a disqualification for being a member of the local authority. Under the scheme of the Act an independent candidate incurs a disqualification only if the independent candidate belongs to a coalition as defined under the Act and being a member of such coalition either withdraws from the coalition subsequently or joins any other political party or coalition. Secondly, such a disqualification comes to visit upon the independent candidate in the event of such an independent candidate voting contrary to any legally binding written direction issued by a person duly authorised by the coalition.

19. Incurring of the disqualification under any one of the above mentioned contingencies depends upon the existence of a definite set of facts, which facts are required to be specifically pleaded before they are sought to be proved to establish the allegation of disqualification under the Act.

20. The law of pleadings has been very definite in this country from atleast 1930 onwards. In the judgment reported in AIR 1930 57 (Privy Council) , the Privy Council held that no amount of evidence can be looked into upon a plea which was never put forward. The said principle had been approved by the Supreme Court in Kashi Nath (Dead) through Lrs. Vs. Jaganath, at para. 17 as follows:

As noted by the Privy Council in AIR 1930 57 (Privy Council) and Trojan and Co. Ltd. Vs. Rm. N.N. Nagappa Chettiar, when the evidence is not in line with the pleadings and is at variance with it and as in this case, in virtual self-contradiction, adverse inference has to be drawn and the evidence cannot be looked into or relied upon.

21. The insistence upon a specific plea has a rationale behind it. It is only the pleading in a legal proceeding that puts the opposite parties on notice of what is sought to be asserted against them and what are the rights or obligations sought to be enforced against them. Therefore, the order of the first respondent, in so

far as it chose to permit evidence against the appellant herein to the effect that the appellant withdrew from the coalition of L.D.F., is without any pleading and therefore, in the light of the principle of law extracted earlier could not have been looked into. To that extent we are of the opinion that the first respondent as well as the learned Judge fell in error in coming to the conclusion that such a course of action is permissible in view of the decision of the Supreme Court reported in *Sardul Singh Vs. Pritam Singh and Others*, . In the said judgment the Supreme Court at para. 12 observed as follows:

It is well settled that notwithstanding the absence of pleadings before a court or authority, still if an issue is framed and the parties were conscious of it and went to trial on that issue and adduced evidence and had an opportunity to produce evidence or cross-examine witnesses in relation to the said issue, no objection as to want of a specific pleading can be permitted to be raised later.

In our view the above observation is to be understood in its context. At any rate the law regarding the election disputes in this country always insisted upon a more stringent rules of pleading and proof.

22. Taking the case on hand, the activity of the appellant which was found to tantamount to withdrawal from the coalition is stated to be signing of the notice in the no confidence motion by the appellant herein. Even in the matter of an elected representative belonging to a political party such a signing of the notice of no confidence motion per se is not declared under the above mentioned Act to be an activity attracting disqualification on the ground of defection. It is only the specific overt act of voting or abstaining from voting contrary to any written directions issued by the political party on a no confidence motion that tantamount to defection. If that is the legal position with regard to a member of the Panchayat belonging to a political party, a member of a coalition, in our opinion, cannot be logically said to have committed an act of withdrawal from the coalition which has the serious consequence of rendering such a member disqualified from being a member of the Panchayat, on the mere ground that he or she has signed the notice of no confidence motion.

23. No doubt in the case of the appellant, the appellant not only signed the notice of no confidence motion but also voted in favour of the no confidence motion which eventually resulted in the ouster of the President of the Panchayat who belonged to the L.D.F. coalition. But coming to the question of voting there is nothing in the law which binds the appellant who is established to be an independent member of the Panchayat to vote in accordance with the desires of the coalition partners. No binding legal direction was ever issued against the appellant. A no confidence motion is essentially a matter of conscience of the voter (member of the Panchayat). The Kerala Local Authorities (Prohibition of Defection) Act, 1999, to some extent, restricts the free choice of the voter (member of the Panchayat) in this regard. Such restriction first came to be introduced by the amendment to the Constitution and introduction of the Tenth Schedule to the Constitution with reference to the Members of the Parliament

and the State Legislatures. The law makers thought it fit to bring in such restrictions on the free choice of the holders of the elected offices to vote in any manner as they please during their tenure. The perceived distortions in the political morality prompted the law makers to introduce such provisions which curtail the right of the elected representatives of the various bodies to exercise their voting rights freely in certain contingencies. In the ultimate analysis voting is nothing but a mode of expression of the opinion. Such restrictions, in our view, are required to be enforced strictly in accordance with the tenor of the law. If under the scheme of the Act voting or abstaining from voting contrary to the specific direction of either the political party or the coalition renders the person violating the whip disqualified on the ground of defection, the same conclusion cannot be logically reached in the cases of persons who are not obliged to obey such directions or against whom no direction whatsoever was ever legally issued on the ground that such a conduct would render such a person disqualified on the ground that the conduct would tantamount to withdrawing from the coalition.

24. In the circumstances we are of the opinion that the judgment under appeal cannot be sustained for the reasons mentioned above and the same is required to be reversed. Consequentially the order of the first respondent, which is impugned in the Writ Petition, is required to be set aside and accordingly set aside. The Writ Appeal is allowed.

25. After the judgment was delivered it is brought to our notice by the Counsel for the first respondent Sri. Murali Purushothaman that during the pendency of the instant appeal as there was no interim direction in favour of the appellant and in view of the impugned order of the first respondent declaring the appellant to have incurred the disqualification for continuing as a member of the Rayamangalam Grama Panchayat and also as the President of the said Panchayat an election came to be held for the post of the President of the Rayamangalam Grama Panchayat and somebody else came to be elected as the President. In view of the fact that such an election took place during the pendency of the appeal, the election is necessarily subject to the result of the appeal and in view of the result in the appeal we recorded today the election held during the pendency of the appeal is declared illegal and in consequence the appellant shall continue to be the President of the Rayamangalam Grama Panchayat.