

(2025) 11 KL CK 1902

In the High Court Of Kerala

Case No : Writ Appeal Nos.2738, 2740 Of 2025

Jomy Joseph

APPELLANT

Vs

Raju Chacko

RESPONDENT

Date of Decision : 20-11-2025

Acts Referred:

Constitution of India, 1950 — Article 102(2), 105, 191(2), 194, 226, 243K, 243V, 243ZA
Kerala High Court Act, 1958 — Section 5(i)
Kerala Local Authorities (Prohibition of Defection) Act, 1999 — Section 3, 3(1)(a), 4, 4(1), 4(2), 4(3)
Kerala Municipality Act, 1994 — Section 19, 19(9), 91
Representation of the People Act, 1951 — Section 8, 8(3)
Kerala Municipality (Conduct of Election) Rules, 1995 — Rule 12

Citation : (2025) 11 KL CK 1902

Hon'ble Judges : Anil K. Narendran, J; Muralee Krishna S., J

Bench : Division Bench

Advocate : K.C.Vincent, Deepu Lal Mohan, Sanal Kumar, K.R. Deepa

Final Decision : Allowed

Judgement

Anil K. Narendran, J

1. These writ appeals filed under Section 5(i) of the Kerala High Court Act, 1958 arise out of the interim order dated 13.11.2025 of the learned Single Judge in W.P.(C)Nos.33894 of 2025 and 33995 of 2025. The appellant is the 3rd respondent in those writ petitions. W.A.No.2738 of 2025 arises out of the order dated 13.11.2025 in W.P.(C)No.33894 of 2025, whereas W.A.No.2740 of 2025 arises out of the order dated 13.11.2025 in W.P.(C)No.33995 of 2025.

2. In the writ petitions filed by the 1st respondent-petitioner, invoking the writ jurisdiction of this Court under Article 226 of the Constitution of India, a writ of certiorari is sought for against the common order dated 05.08.2025 of the Kerala State Election Commission in O.P.Nos.59 and 60 of 2025. The order in O.P.No.59 of 2025 is under challenge in W.P.(C)No.33894 of 2025 and the order in

O.P.No.60 of 2025 is under challenge in W.P.(C)No.33995 of 2025.

3. The 1st respondent in W.A.No.2738 of 2025, who is the petitioner in W.P.(C)No.33894 of 2025, is an elected representative of Ward No.33 of Changanassery Municipality, who is disqualified by Ext.P3 order dated 05.08.2025 of the State Election Commission in O.P.No.59 of 2023. Similarly, the 1st respondent in W.A.No.2740 of 2025, who is the petitioner in W.P.(C)No.33995 of 2025, is an elected representative of Ward No.17 of Changanassery Municipality, who is disqualified by the order dated 05.08.2025 in O.P.No.60 of 2023.

4. O.P.No.59 of 2023 was filed by the appellant in W.A.No.2738 of 2025, who is a Councillor in Ward No.7 of Changanassery Municipality, invoking the provisions under Sections 3 and 4(1) of the Kerala Local Authorities (Prohibition of Defection) Act, 1999 (for brevity 'the Defection Act'), seeking a declaration that the respondent therein has become subject to disqualification under both limbs and the provisions of the Defection Act, who committed defection and is disqualified to continue as a Councillor of Changanassery Municipality. A declaration was also sought that the respondent therein is disqualified to contest in any election to the local bodies for a period of 6 years. A copy of O.P.No.59 of 2025 is marked as Ext.P1 in W.P.(C)No.33894 of 2025. In the original petition, the respondent therein filed an objection, which is marked as Ext.P2. O.P.No.60 of 2023 was filed by the appellant in W.A.No.2740 of 2025, seeking similar declarations in respect of the respondent therein. A copy of O.P.No.60 of 2025 is marked as Ext.P1 in W.P.(C)No.33995 of 2025. In the original petition, the respondent therein filed an objection, which is marked as Ext.P2.

5. Before the State Election Commission, on the side of the petitioner in O.P.Nos.59 of 2025 and 60 of 2025, PWs 1 to 7 were examined and Exts.A1 to A23 were marked. On the side of the respondent, RWs 1 to 5 were examined and Ext.B1 was marked. Exts.X1 to X5 were marked through the Secretary of the Municipality. After considering the pleadings and evidence on record, the State Election Commission by Ext.P3 order dated 05.08.2025 allowed O.P.Nos.59 and 60 of 2023, and the respondent therein is declared as disqualified for being a Councillor of Changanassery Municipality, as provided under Section 3(1)(a) of the Defection Act. The respondent therein is further declared as disqualified from contesting as a candidate in an election to any local authorities for a period of 6 years from the date of that order, as provided under Section 4(3) of the said Act. Challenging the order dated 05.08.2025 of the State Election Commission, which is marked as Ext.P3 in the respective writ petitions, the 1st respondent in these writ appeals filed W.P.(C)No.33894 and 33995 of 2025 on 11.09.2025.

6. On 16.09.2025, when the writ petitions came up for admission, it was admitted on file. The party respondent entered appearance through counsel, the learned Special Government Pleader for the State and the learned Standing Counsel for the State Election Commission. On 13.11.2025, when the writ petitions came up for consideration, the learned Single Judge passed an interim

order dated 13.11.2025, granting a stay of operation of the common order dated 05.08.2025 of the State Election Commission, which is under challenge in these writ appeals. The said order reads thus;

"Heard the counsel for the petitioner, the Special Government Pleader, and the counsel appearing for the 3rd respondent.

2. These writ petitions have been pending before this Court since 11.09.2025. Even though, these writ petitions are admitted long back, no counter-affidavit is filed by the respondents. The Senior Counsel, Adv.Sanal Kumar, instructed by Adv.Seema, submitted that the petitioners intend to contest in the ensuing general election of 2025.

The petitioners are pressing for an interim order. The short point raised by the Senior Counsel is that the whip is not applicable in the case of abstention directions issued by the political party. It goes against Section 19(4) [sic: Section 19(9)] of the Municipalities Act.

3. The counsel appearing for the 3rd respondent takes me through Section 4(3) of the Kerala Local Authorities (Prohibition of Defection) Act, 1999 (for short, Act 1999). It states that, where the State Election Commission decides that a member has become subject to disqualification under sub-section (2), he shall cease to be a member from the date of such decision and shall be disqualified for contesting as a candidate in an election to any local authority for six years from that date. The counsel also relied on the judgment of this Court in Padmakumar v. Unnikrishnan [2004 (1) KLT 1097] and submitted that blanket interim orders may not be passed.

4. This Court considered the contentions of the petitioners and the respondents. The petitioners want to participate in the democratic process. It is true that Section 4(3) of the Act 1999 prohibits the same in the light of the Ext.P3. An arguable point is raised by the petitioners. Since no counter has been filed in these writ petitions, I am not in a position to hear these writ petitions finally. When an arguable point is raised, this Court cannot deny the right of a citizen to participate in a democratic process. Therefore, the impugned order can be stayed. Respondents can file a counter-affidavit and bring up the matter if there is any urgency.

Therefore, the common order dated 05.08.2025 in O.P.No. 59 of 2023 and O.P.No.60 of 2023 of the 2nd respondent is hereby stayed."

7. On 18.11.2025, when these writ appeals came up for consideration, we heard arguments of the learned counsel for the appellant-3rd respondent, the learned Senior Counsel for the 1st respondent-writ petitioner, the learned Special Government Pleader for the 2nd respondent State and also the learned Standing Counsel for the State Election Commission for the 3rd respondent. The matter was ordered to be listed on 19.11.2025 at 10.15 a.m. for judgment. On 19.11.2025, the learned Senior Counsel for the 1st respondent in the respective

writ appeals sought permission to address further arguments. Therefore, both sides were permitted to address further arguments, and the writ appeals were ordered to be listed today (20.11.2025). Today, both sides addressed further arguments. On behalf of the learned Special Government Pleader, the learned Senior Government Pleader addressed the arguments.

8. During the course of arguments, the learned counsel for the appellants and the learned Senior Counsel for the 1st respondent addressed arguments touching the merits of the matter pending consideration before the learned Single Judge in the respective writ petitions. We do not propose to consider in detail the rival contentions touching the merits of the matter, since the writ petitions are pending consideration before the learned Single Judge, and the common challenge made in these writ appeals is against the interim order dated 13.11.2025 of the learned Single Judge.

9. The common reliefs sought for in the writ petitions are as follows;

“(i) Issue a writ of certiorari calling for records leading up to Ext.P3 order and to quash the same;

(ii) Issue a Writ of certiorari calling for records leading up to Ext.P4 order and to quash the same;

(iii) Declare that the Kerala Local Authorities (Prohibition of Defection) Act, 1999, is unconstitutional, arbitrary, and beyond the legislative competence of the State;

(iv) Declare that Rule 12 of Kerala Municipality (Conduct of Election) Rules, 1995, is unconstitutional, arbitrary, and beyond the legislative competence of the State.”

(underline supplied)

10. The learned Senior Counsel for the 1st respondent addressed arguments in detail, relying on various decisions, to contend that the Kerala Local Authorities (Prohibition of Defection) Act, 1999, is unconstitutional, arbitrary, and beyond the legislative competence of the State.

11. On the above aspect, the learned counsel for the appellant in the respective appeals and also the learned Standing Counsel for the State Election Commission would point out the provisions in Article 243-V of the Constitution of India and Section 91 of the Kerala Municipality Act, 1994.

12. Article 243-V of Part IX-A of the Constitution of India deals with disqualification for membership. The said provision reads thus;

“Article 243-V.-Disqualifications for membership.- (1) A person shall be disqualified for being chosen as, and for being, a member of a Municipality –

(a) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State concerned:

Provided that no person shall be disqualified on the ground that he is less than

twenty-five years of age, if he has attained the age of twenty-one years;

(b) if he is so disqualified by or under any law made by the Legislature of the State.

(2) If any question arises as to whether a member of a Municipality has become subject to any of the disqualifications mentioned in clause (1), the question shall be referred for the decision of such authority and in such manner as the Legislature of a State may, by law, provide."

(underline supplied)

13. Section 91 of the Kerala Municipality Act deals with the disqualification of Councillors. As per clause (II) of sub-section (1) of Section 91, a Councillor shall cease to hold office as such if he has been disqualified under the provisions of the Kerala Local Authorities (Prohibition of Defection) Act 1999.

14. Section 3 of the Defection Act deals with disqualification on the ground of defection. Clause (a) of sub-section (1) of Section 3 of the Act reads thus;

"Section 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 a 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 a 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;

xxx xxx xxx xxx "

15. Sub-section (1) of Section 3 of the Defection Act contains a non-obstante clause, which provides that, "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,".

16. Section 4 of the Defection Act deals with a decision on a question as to disqualification on the ground of defection. Section 4 reads thus;

"4. Decision on question as to disqualification on ground of defection.- (1) If any question arises as to whether a member of a local authority has become subject to disqualification under the provisions of this Act, a member of that local authority or the political party concerned or a person authorised by it in this behalf may file a petition before the State Election Commission for decision.

(2) The State Election Commission shall, after making such enquiry as it deems necessary, decide whether such member has become subject to such disqualification or not and its decision thereon shall be final.

(3) Where the State Election Commission decides that a member has become subject to disqualification under sub-section (2), he shall cease to be a member from the date of such decision and shall be disqualified for contesting as a candidate in an election to any local authority for six years from that date." (underline supplied)

17. In view of the provisions under sub-section (2) of Section 4 of the Defection Act, the State Election Commission shall, after making such enquiry as it deems necessary, decide whether such member has become subject to such disqualification or not, and its decision thereon shall be final. As per sub-section (3) of Section 4, where the State Election Commission decides that a member has become subject to disqualification under sub-section (2), he shall cease to be a member from the date of such decision and shall be disqualified for contesting as a candidate in an election to any local authority for six years from that date.

18. In *Kihota Hollohon v. Zachillhu* [(1992) Supp 2 SCC 651], before a Constitution Bench of the Apex Court, the constitutional validity of the Tenth Schedule of the Constitution introduced by the Constitution (Fifty-second Amendment) Act, 1985, was assailed. On the contentions raised and urged at the hearing, the Constitution Bench formulated questions (A) to (H) at paragraph 24 of the said decision. Question (A) reads thus;

"(A) The Constitution (Fifty-second Amendment) Act, 1985, insofar as it seeks to introduce the Tenth Schedule is destructive of the basic structure of the Constitution as it is violative of the fundamental principles of Parliamentary democracy, a basic feature of the Indian constitutionalism and is destructive of the freedom of speech, right to dissent and freedom of conscience as the provisions of the Tenth Schedule seek to penalise and disqualify elected representatives for the exercise of these rights and freedoms which are essential to the sustenance of the system of Parliamentary democracy."

(underline supplied)

19. In *Kihota Hollohon* [(1992) Supp 2 SCC 651], the Constitution Bench answered the question at 53 of the said decision, which reads thus;

"53. Accordingly, we hold:

"That the Paragraph 2 of the Tenth Schedule to the Constitution is valid. Its

provisions do not suffer from the vice of subverting democratic rights of elected Members of Parliament and the Legislatures of the States. It does not violate their freedom of speech, freedom of vote and conscience as contended.

The provisions of Paragraph 2 do not violate any rights or freedom under Articles 105 and 194 of the Constitution.

The provisions are salutary and are intended to strengthen the fabric of Indian parliamentary democracy by curbing unprincipled and unethical political defections.

The contention that the provisions of the Tenth Schedule, even with the exclusion of Paragraph 7, violate the basic structure of the Constitution in that they affect the democratic rights of elected Members and, therefore, of the principles of Parliamentary democracy is unsound and is rejected.” (underline supplied)

20. In *Kihota Hollohon* [(1992) Supp 2 SCC 651], while answering Question (A), the Constitution Bench has stated in categorical terms that the provisions of paragraph 2 of the Tenth Schedule of the Constitution are salutary and are intended to strengthen the fabric of Indian parliamentary democracy by curbing unprincipled and unethical political defections.

21. The argument of the learned Senior Counsel for the 1st respondent-petitioner is that imposing party discipline and outside political control would defeat the very meaning of election under Part IX and Part IX-A of the Constitution of India, where representatives are intended to act in the interest of their constituencies and not merely as delegates of political parties. According to the learned Senior Counsel, in view of the Constitutional scheme, and the absence of a legal basis for coalitions, whips and symbols at the local body level, the Defection Act, 1999, is ultra vires the Constitution.

22. In *Health for Millions v. Union of India* [(2014) 14 SCC 496], a decision relied on by the learned Senior Government Pleader, a Two-Judge Bench of the Apex Court held that in matters involving challenge to the constitutionality of any legislation enacted by the legislature and the rules framed thereunder the Courts should be extremely loath to pass an interim order. At the time of final adjudication, the Court can strike down the statute if it is found to be ultra vires the Constitution. Likewise, the rules can be quashed if the same are found to be unconstitutional or ultra vires the provisions of the Act. However, the operation of the statutory provisions cannot be stultified by granting an interim order except when the Court is fully convinced that the particular enactment or the rules are ex facie unconstitutional and the factors, like balance of convenience, irreparable injury and public interest are in favour of passing an interim order. Paragraph 13 of the said decision reads thus;

“13. We have considered the respective arguments and submissions and carefully perused the record. Since the matter is pending adjudication before the High Court, we do not want to express any opinion on the merits and demerits of the

writ petitioner's challenge to the constitutional validity of the 2003 Act and the 2004 Rules as amended in 2005 but have no hesitation in holding that the High Court was not at all justified in passing the impugned orders ignoring the well-settled proposition of law that in matters involving challenge to the constitutionality of any legislation enacted by the legislature and the rules framed thereunder the courts should be extremely loath to pass an interim order. At the time of final adjudication, the court can strike down the statute if it is found to be ultra vires the Constitution. Likewise, the rules can be quashed if the same are found to be unconstitutional or ultra vires the provisions of the Act. However, the operation of the statutory provisions cannot be stultified by granting an interim order except when the court is fully convinced that the particular enactment or the rules are ex facie unconstitutional and the factors, like balance of convenience, irreparable injury and public interest are in favour of passing an interim order."

(underline supplied)

23. The learned Senior Counsel for the 1st respondent petitioner would rely on the decision of the Apex Court in *Rahul Gandhi v. Purnesh Ishwarbhai Modi* [(2024) 2 SCC 595] and *Union Territory Administration of Lakshadweep v. Mohammed Faizal* - order dated 22.08.2023 in Crl.A.No.2501 of 2023 – to contend that the learned Single Judge committed no error in granting an interim stay of Ext.P3 order of the State Election Commission, thereby staying the disqualification of the 1st respondent-petition under the Defection Act.

24. The said decisions of the Apex Court are in the context of sub-section (3) of Section 8 of the Representation of the People Act, 1951. Section 8 of the said Act deals with disqualification on conviction for certain offences. As per sub-section (3) of Section 8, a person convicted of any offence and sentenced to imprisonment for not less than two years, other than any offence referred to in sub-section (1) or sub-section (2), shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.

25. As pointed out by the learned counsel for the appellant and the learned Standing Counsel for the State Election Commission, in view of the provisions under Article 243-V of the Constitution of India, Section 91 of the Kerala Municipality Act and Sections 3 and 4 of the Defection Act, the decision of the State Election Commission on the question as to whether a member has become subject to disqualification or not shall be final and he shall cease to be a member from the date of such decision and shall be disqualified for contesting as a candidate in an election to any local authority for six years from that date. The provisions under sub-section (3) of Section 8 of the Representation of the People Act are not pari materia with the provisions under the Defection Act.

26. Section 19 of the Kerala Municipality Act deals with motion of no-confidence. Sub-section (9) of Section 19, relied on by the learned Senior Counsel for the 1st

respondent-writ petitioner, provides that the debate shall automatically terminate on the expiry of four hours from the time appointed for the commencement of the meeting, if it is not concluded earlier. Upon the conclusion of the debate or upon the expiry of the said period of four hours, as the case may be, the motion shall be put to vote, which shall be by means of open ballot and the Councillor who casts his vote shall write his name and affix his signature on the reverse side of the ballot paper.

27. As already noticed hereinbefore, sub-section (1) of Section 3 of the Defection Act contains a non-obstante clause, which provides that "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,

.....".

28. Another contention raised by the learned Senior Counsel for 1st respondent-petitioner is that Rule 12 of Kerala Municipality (Conduct of Election) Rules, 1995, is unconstitutional, arbitrary, and beyond the legislative competence of the State. The learned Standing Counsel for the State Election Commission would point out the decision of a Division Bench of this Court in John Joseph v. State of Kerala [2020 (5) KHC SN 4], wherein it was held that Rule 12 of the Kerala Panchayat Raj (Conduct of Election) Rules, 1995 and the Kerala Municipality (Conduct of Election) Rules, 1995 are not in dissonance with the object and intention of the Parliament in making the 73rd and 74th Constitutional Amendment. Paragraphs 21, 22 and 41 of the said decision read thus;

"21. Taking into account the provisions of law discussed above, it is clear that it was in exercise of the powers under Rule 12 of the Kerala Panchayat Raj (Conduct of Election) Rules, 1995 and the Kerala Municipality (Conduct of Election) Rules, 1995 and the powers conferred by Articles 243K and Article 243ZA of the Constitution of India, the State Election Commission, Kerala has issued the Local Authorities Election Symbols (Reservation and Allotment) Order, 2017 for the allotment and assignment of symbols as provided under Rule 12 of the Kerala Panchayat Raj (Conduct of Election) Rules, 1995 and the Kerala Municipality (Conduct of Election) Rules, 1995.

22. Therefore, on an overhaul appreciation of the aforesaid provisions, it is clear that Rule 12 of the Kerala Panchayat Raj (Conduct of Election) Rules, 1995 and the Kerala Municipality (Conduct of Election) Rules, 1995 are not in dissonance with the object and intention of the Parliament in making the 73rd and 74th Constitutional Amendment.

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41. This is more so because, by introduction of 10th schedule on and with effect from 01.03.1985, as per the 52nd Amendment Act, 1985, thus incorporating provisions as to disqualifications in contemplation of Articles 102(2) and 191(2)

of the Constitution of India. Though inclusion of the 10th Schedule and the provisions of Articles 102(2) and 191(2) are referring to the disqualifications for membership to either house of parliament and the State legislature, the State has made a law to deal with the defection, so as to protect the democratic principles, and the Parliamentary and Democratic interest in the functioning of the Local Self Government institutions which is clearly a state subject as per entry 5 of list 11 of schedule 7 of the Constitution of India dealing with local authorities. Therefore, the defection laws of the Local Self Government Institutions discussed above and all other laws framed by the State Government are in accordance with law and made with the intention to sustain the democratic principles and moral values on the basis that the political parties contest the election in the panchayats and the Municipalities.”

29. On the question of maintainability of the writ appeals against interim orders, the learned Senior Counsel for the 1st respondent-writ petitioner placed reliance on the decision of a Larger Bench of this Court in *K. S. Das v. State of Kerala* [1992 (2) KLT 358], which was followed by this Court in *State of Kerala v. Pradeepkumar A.V.* [2025 (1) KHC 672].

30. In *K.S. Das* [1992 (2) KLT 358] the Larger Bench held that the word ‘order’ in Section 5(i) of the Kerala High Court Act includes, apart from other orders, orders passed by the High Court in miscellaneous petitions filed in the writ petitions provided the orders are to be in force pending the writ petition. An appeal would lie against such orders only if the orders substantially affect or touch upon the substantial rights or liabilities of the parties or are matters of moment and cause substantial prejudice to the parties. The nature of the ‘order’ appealable belongs to the category of ‘intermediate orders’ referred to by the Apex Court in *Madhu Limaye v. State of Maharashtra* [(1977) 4 SCC 551].

The word ‘order’ is not confined to ‘final order’ which disposes of the writ petition. The ‘orders’ should not however, be ad-interim orders in force pending the miscellaneous petition or orders merely of a procedural nature.

31. In *Thomas P. T. and another v. Bijo Thomas and others* [2021 (6) KLT 196], a Division Bench of this Court noticed that the view that was upheld by the Larger Bench in *K.S. Das* [1992 (2) KLT 358] was that even though an appeal could be filed against an interlocutory order passed in a writ petition, in order to be qualified for challenge in an appeal, the order shall be either substantially affecting or touching upon the substantial rights or liabilities of the parties or which are matters of moment and cause substantial prejudice to the parties. According to the Larger Bench, the nature of the order appealable belongs to the category of intermediate orders referred to by the Apex Court in *Madhu Limaye* [(1977) 4 SCC 551]. It was, however, clarified by the Larger Bench that such orders should not, however, be ad interim orders or orders merely of a procedural nature.

32. In the instant case, O.P.Nos.59 of 2025 and 60 of 2025 were filed by the

appellant-3rd respondent, invoking the provisions under Sections 3 and 4(1) of the Defection Act, seeking a declaration that the respondent therein has become subject to disqualification under both limbs and the provisions of the Defection Act, who committed defection and is disqualified to continue as a Councillor of Changanassery Municipality. A declaration was also sought that the respondent therein is disqualified to contest in any election to the local bodies for a period of 6 years. By Ext.P3 common order of the State Election Commission, the respondent therein is declared as disqualified for being a Councillor of Changanassery Municipality, as provided under Section 3(1)(a) of the Defection Act. The respondent therein is further declared as disqualified from contesting as a candidate in an election to any local authorities for a period of 6 years from the date of that order, as provided under Section 4(3) of the said Act.

33. In terms of the direction contained in the order of the learned Single Judge dated 12.11.2025, the 1st respondent-petitioner has sworn to an affidavit dated 13.11.2025 in the writ petitions. Paragraphs 2 and 3 of that affidavit read thus;

"2. This Hon'ble Court on 12.11.2025 had directed the petitioner to submit an affidavit as to whether the petitioner intends to contest the elections to local self-government institutions in Kerala for the year 2025 and if so, on which seat and under what banner. It is pursuant to the same that the instant affidavit is being filed.

3. It is submitted that the petitioner intends to contest in the elections to local self-government institutions in Kerala for the year 2025, in the Changanassery Municipality, in ward No.30, as a candidate of Indian National Congress (I). The petitioner has sought permission from leaders of the said party for the same. However, if at all, such permission is denied, the petitioner intends to contest in the above elections as an independent candidate or a nominee of any other political party." (underline supplied)

34. When the effect of the order of stay granted by the learned Single Judge by the order dated 13.11.2025 is that the 1st respondent-petitioner in the respective writ petitions, who are disqualified on defection by Ext.P3 order of the State Election Commission, can contest in the elections to local self-government institutions in Kerala for the year 2025, the said order falls under the purview of an appealable order under Section 5(i) of the Kerala High Court Act, 1958, in view of the law laid down by the Larger Bench in K.S. Das [1992 (2) KLT 358], and these writ appeals filed by the appellant-3rd respondent, who was the petitioner in O.P.Nos.59 of 2025 and 60 of 2025 before the State Election Commission are maintainable in law.

35. In such circumstances, we find absolutely no reason to sustain the interim order dated 13.11.2025 in W.P.(C)Nos.33894 of 2025 and 33995 of 2025, and the writ appeals are allowed by setting aside the aforesaid interim order.

It is made clear that the observations, if any, contained in this judgment touching the merits of the matter pending before the learned Single Judge in W.P.

(C)Nos.33894 of 2025 and 33995 of 2025 are made for the limited purpose of deciding the writ appeals.