

(2026) 02 KL CK 1679

In the High Court Of Kerala

Case No : Writ Petition (C) No. 38976 Of 2025

President Kizhakkambalam Grama Panchayath.
Kizhakkambalam Post, Kizhakkambalam, Represented By
Mini V.C. (President)

APPELLANT

Vs

State Of Kerala Represented By Secretary

RESPONDENT

Date of Decision : 13-02-2026

Acts Referred:

Kerala Panchayat Raj Act, 1994 — Section 156, 156(6)(b), 191, 191(1), 191(2),
191(3), 271S, 276

Kerala Panchayat Raj (Procedure for Panchayat Meeting) Rules, 1995 — Rule 26(4)

Citation : (2026) 02 KL CK 1679

Hon'ble Judges : N. Nagaresh, J

Bench : Single Bench

**Advocate : Blaze K.Jose, Gayathri A.L., Afrus Shahana, Shameena Salahudheen,
Jeleetta Gregory, Astrid Stereena Mathew, B.Ravisankar, K.R. Deepa**

Final Decision : Disposed Of

Judgement

N. Nagaresh, J

1. President of the Kizhakkambalam Grama Panchayat is the petitioner. By Ext.P6 order, the Government of Kerala freezed the decision taken by the Grama Panchayat suspending the Assistant Secretary of the Panchayat from service. The petitioner is challenging Ext.P6 decision of the Government.

2. There were certain issues between the Grama Panchayat Committee and a trade union relating to renovation of existing bus stand at Kizhakkambalam junction.

A Panchayat Committee meeting was held on 26.08.2025. The 4th respondent, who is Assistant Secretary of the Panchayat is not authorised to attend the Panchayat Committee meetings, contends the petitioner. During the meeting, the 4th respondent willfully obstructed the proceedings and interfered in the Committee deliberations in spite of repeated warnings from the petitioner. The

4th respondent was directed to leave the meeting hall. However, she continued the disruptive conduct.

3. The Secretary of the Panchayat and the 4th respondent did not record the decisions taken by the Panchayat Committee in spite of their duty to do so as per Rule 26(4) of the Kerala Panchayat Raj (Procedure for Panchayat Meeting) Rules, 1995. When the members of the Panchayat Committee questioned the said conduct, the 4th respondent invited outsiders into the Panchayat office and interrupted peaceful conduct of the Panchayat meeting.

4. Therefore, the petitioner issued Ext.P4 order dated 27.08.2025 suspending the 4th respondent from service in contemplation of disciplinary proceedings. The decision was ratified by the Panchayat Committee meeting held on 01.09.2025. The 4th respondent approached the Government challenging Ext.P4 suspension order. The Government, without giving the petitioner any notice or opportunity of hearing, issued Ext.P6 order dated 10.10.2025, suspending the decision of the Panchayat Committee and referring the matter to the Ombudsman for Local Self Government Institutions for consideration under Section 191(2).

5. The petitioner states that the action of the Government as per Ext.P6 is arbitrary and illegal. The Government has no jurisdiction to act in that manner. The order referring the matter to the Ombudsman is malafide. It is aggrieved by Ext.P6 that the petitioners have approached this Court.

6. The counsel for the petitioner argued that Section 156(6)(b) of the Kerala Panchayat Raj Act, 1994 read with the Kerala Panchayat Raj (Control over Officers) Rules, 1997 empowers the President of a Grama Panchayat to place a non-gazetted employee under suspension in contemplation of disciplinary proceedings. This is a statutory power. Ext.P4 order suspending the 4th respondent is therefore lawful.

7. The petitioner argued that under Section 191 of the Kerala Panchayat Raj Act, the Government has only supervisory or corrective power. Those powers do not extend to individual disputes or decisions taken by the Panchayat within the statutory frame work. The authority to initiate and regulate disciplinary proceedings against non-gazetted employees is with the Panchayat. Power to suspend an employee is vested in the President as per Section 156(6)(b) of the Act, subject to ratification by the Panchayat Committee. The Director or Joint Director of the Panchayat is not vested with any authority to independently conduct any enquiry or interfere in disciplinary matters.

8. The 4th respondent erred in approaching the Government against Ext.P4 decision. As per Section 191(3), if another remedy is available to the 4th respondent, the Government shall not consider any petition from her. The 4th respondent has effective alternate remedy against the decision to suspend her, under the Administrative Tribunals Act as also before the LSGD Tribunal. Ext.P6 order is therefore highly illegal, arbitrary and ultravires. Ext.P6 is liable to be quashed by this Court, urged the counsel for the petitioner.

9. The petitioner relied on the judgment of this Court in *Director of Panchayats v. Krishnan* [2001 (2) KLT 286] to contend that President of a Grama Panchayat has got power to take disciplinary action against a non-gazetted Government servant allotted to the Panchayat. Placing reliance on the judgment of the Hon'ble Apex Court in *State of Orissa v. Bimal Kumar Mohanty* [(1994) 4 SCC 126], the counsel for the petitioner contended that suspension is not a punishment and is only a step in aid to the ultimate result of the investigation or enquiry. The authorities should keep in mind public interest of the impact of the delinquents continuance in office while facing departmental enquiry. The respondents have not cared to consider relevant matters.

10. The petitioner also relied on the judgment of this Court in *Ayisha K.V. and others v. State of Kerala and others* [2015 (4) KHC 296] and stated that a comprehensive reading of Section 191 of the Kerala Panchayat Raj Act would show that the Government under the said provision exercises its supervisory or corrective powers only and individual disputes would not come within the ambit of Section 191.

11. The Special Government Pleader (LSGD) resisted the writ petition filing counter affidavit on behalf of the 1st respondent. On behalf of the 1st respondent, it is submitted that the Secretary of the Grama Panchayat required the Joint Director to cancel Ext.P4 suspension order. The Joint Director enquired about the incident. The preliminary investigation conducted by the Joint Director could not confirm the authenticity of the allegations against the 4th respondent. A Suspension Review Committee was convened by the Government on 24.09.2025. The Committee sought for a detailed investigation report.

12. The Principal Director submitted a report to the Government. The Assistant Secretary is also Project Implementing Officer and hence the 4th respondent can attend Panchayat Committee meetings. The Assistant Secretary has no role in preparing minutes of the meeting or uploading the same in "SAKARMA" portal. Therefore, charge against the 4th respondent is prima facie illegal.

13. The 1st respondent stated that there are no lapses on the part of the 4th respondent-Assistant Secretary or the Secretary of the Panchayat as alleged in the suspension order. The President has suspended a person who has a big responsibility in the Summary Revision of the voters list. The Government therefore suspended the decision of the Panchayat and referred the matter to the Ombudsman for Local Self Government Institutions. The Government is justified in doing so, urged the Special Government Pleader.

14. Counsel for the 4th respondent also resisted the writ petition. On behalf of the 4th respondent, it is submitted that the action of the petitioner in ordering suspension is highly arbitrary and motivated. The petitioner being an Assistant Secretary has no role in uploading a decision/resolution of the Panchayat Committee. The 4th respondent therefore cannot be suspended or proceeded against for not recording the decision of the Panchayat Committee.

15. The counsel for the 4th respondent further urged that the Government, under Section 191, has powers to suspend a decision taken by or resolution passed by a Panchayat Committee provided the conditions mentioned in Section 191 are satisfied. The Government has found that exercise of power by the Panchayat is illegal. Therefore, the Government freezed the suspension order and referred the matter to the Ombudsman. As the Government has taken action strictly in accordance with the powers conferred by the Panchayat Raj Act and the Rules made thereunder, no interference is warranted from this Court, at the instance of the writ petitioner, contended the Special Government Pleader.

16. I have heard the learned counsel for the petitioner, the learned Special Government Pleader (LSGD) representing respondents 1 to 3 and the learned counsel appearing for the 4th respondent.

17. The petitioner, who is President of the Kizhakkambalam Grama Panchayat suspended the 4th respondent, who is working as Assistant Secretary in the Panchayat, as per Ext.P4 order dated 27.08.2025. The 4th respondent was suspended in contemplation of disciplinary proceedings, as the 4th respondent had allegedly committed misconduct. The Panchayat Committee meeting held on 01.09.2025 ratified the decision taken by the President.

18. The 4th respondent challenged Ext.P4 suspension order approaching the Government. The Government suspended the decision of the Panchayat Committee issuing Ext.P6 order dated 10.10.2025.

19. The legality of Ext.P6 order is questioned by the petitioner. Ext.P6 order suspending the decision of the Panchayat Committee and referring the matter to the Ombudsman for Local Self Government Institutions for consideration is issued presumably under Section 191 of the Kerala Panchayat Raj Act, 1994. Section 191 of the Kerala Panchayat Raj Act, 1994 reads as follows:

191. Power of cancellation and suspension of resolutions etc. -

(1) Government may either suo motu or, on a reference by President, Secretary or a member, or on a petition received from a citizen, cancel or vary a resolution passed or a decision taken by the

(a) is not legally passed or taken; or

(b) is in excess of the powers conferred by this Act or any other law or its abuse; or

(c) is likely to endanger human life, health public safety, communal harmony or may lead to riot or quarrel; or

(d) is in violation of the directions or provisions of grant issued by Government in the matter of implementing the plans, schemes or programmes.

(2) Before cancelling or amending a resolution or decision as per sub-section (1), the Government may refer the matter for consideration either of the ombudsman

constituted under section 271G or the tribunal constituted under section 271S and the ombudsman or the tribunal, as the case may be; after giving the Panchayat an opportunity of being heard, send a report to the Government with its conclusions and the Government may, on its basis cancel, amend or confirm the resolution or decision.

(3) If another remedy is available to the petitioner through the tribunal under section 276, the Government shall not consider any petition for cancelling or amending any resolution or decision of the Panchayat.

(4) If Government consider that a resolution or decision of the Panchayat has to be cancelled or amended as per sub-section (1) it may suspend such resolution or decision temporarily and may direct the panchayat to defer its implementation till the final disposal after the completion of the procedure under sub-section (2).

20. Section 191(1) is clear that the Government may cancel or vary a resolution passed or decision taken by the Panchayat only on four eventualities. If the decision of the Panchayat Committee is not legally passed or taken, Government can cancel or vary a resolution. The Government can also cancel or vary a resolution if it is in excess of the powers conferred by the Kerala Panchayat Raj Act, 1994 or any other law or its abuse.

21. The third eventuality to invoke Section 191 is the likely danger to human life, health, public safety, communal harmony or likelihood of riot or quarrel. The Government can also invoke Section 191 if the resolution/decision is in violation of the directions or provisions of grant issued by the Government in the matter of implementing the plans, schemes or programs.

22. Before cancelling or amending a resolution or decision, as per sub-section (1), the Government may refer the matter for consideration either of the Ombudsman or of the Tribunal, in which case the Ombudsman or the Tribunal, as the case may be, after giving the Panchayat an opportunity of being heard, send a report to the Government with its conclusions. The Government, on the basis of the report, may cancel, amend or confirm the resolution or decision.

23. The power of the Government to initiate steps under Section 191 can be exercised only if one or more situations indicated in sub-clauses (a) to (d) of sub-section (1) of Section 191 exists. In the present case, the eventualities indicated in sub-clauses (b), (c) and (d) do not exist. The respondents would assert that the decision of the Panchayat Committee is not legally passed or taken and therefore the Government is justified in invoking the powers under Section 191(1) (a).

24. The question then is whether the decision of the Panchayat Committee in confirming the suspension imposed on the Assistant Secretary of the Panchayat is one legally passed or taken. Ext.P6 order issued by the Government would show that as soon a complaint is received from the Assistant Secretary, the Government ordered a preliminary enquiry by the Joint Director's office and it is

found that the allegations levelled against the Assistant Secretary are not established. After enquiry, it was reported that a preliminary enquiry conducted does not show that the allegations against the Assistant Secretary are correct. Suspension has been ordered without seeking any explanation from the Assistant Secretary. The Joint Director stated that suspension of the Assistant Secretary will affect the election process which is under way and therefore it is necessary to cancel the suspension order.

25. Subsequently, on 24.09.2025, a suspension review committee of the Local Self Government Institutions considered the matter and noted that the Joint Director has reported that the suspension was ordered without following due procedure. Ext.P6 states that the Government has examined the matter in detail and found that the Assistant Secretary has not committed any mistake. It is observing so that the Government suspended the decision of the Panchayat Committee and referred the matter to the Ombudsman for Local Self Government Institutions.

26. Section 156 of the Kerala Panchayat Raj Act provides for the functions of the Presidents and Vice Presidents of Panchayats. As per Section 156(6)(b) of the Kerala Panchayat Raj Act, 1994, the President of a Grama Panchayat has power to suspend from service any employee or officer under the control of the Panchayat other than the Secretary and government officers in the Gazetted rank who are transferred to the service of the Panchayat, when disciplinary proceedings are to be taken against them for dereliction of duty or insubordination or for violating of rules or standing orders.

27. In the case of the 4th respondent, suspension is ordered in contemplation of disciplinary proceedings as the 4th respondent is said to have committed dereliction of duty and insubordination. Therefore, the petitioner, who is the President of the Panchayat, indeed has power to suspend the Assistant Secretary. It is true that the Government can cancel or vary a resolution/decision taken by the Panchayat if it is not legally passed or taken. But, the legality of a decision shall be examined on the basis of competency of the Panchayat to take the decision. In exercise of the powers under Section 191, the Government cannot go into the merits of a decision and come to a conclusion of illegality.

28. The suspension of the Assistant Secretary is in contemplation of disciplinary proceedings alleging a misconduct. The misconduct has to be proved on the basis of a confronted enquiry by an Enquiry Officer as contemplated under the law and the rules. Whether the misconduct is committed or not can be proved only after a domestic enquiry giving opportunity to the prosecution as well as defence. When such domestic enquiry is contemplated, the Government is not expected to make an advance parallel enquiry and come to a conclusion regarding the guilt or otherwise of the employee. By Ext.P6, the Government has done such an exercise and has come to a conclusion that there are no prima facie materials. The action of the Government therefore is a highhanded one, exceeding its jurisdiction and usurping the powers of the Panchayat.

29. The President of the Panchayat is legally empowered to suspend an employee who is not a Secretary or Gazetted Officer when disciplinary proceedings are contemplated. Therefore, it cannot be said that the resolution/decision of the Panchayat approving the suspension "is not legally passed or taken".

30. In Director of Panchayats (supra), this Court has held that President of a Grama Panchayat has power to take disciplinary action against a non-gazetted government servant allotted to the Panchayat. In Ayisha K.V. and others (supra), this Court held that a comprehensive reading of Section 191 of the Kerala Panchayat Raj Act would show that the Government under the said provision exercises its supervisory or corrective powers only and individual disputes would not come within the ambit of Section 191.

31. In the facts and circumstances of the case, Ext.P6 order passed by the 1st respondent is highly illegal and arbitrary. Ext.P6 order dated 10.10.2025 of the 1st respondent is therefore set aside. The Panchayat will be at liberty to proceed against the 4th respondent in accordance with law.

The writ petition is disposed of as above.