



2026:KER:45209

'CR'

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 24TH DAY OF JUNE 2026 / 3RD ASHADHA, 1948

WP(C) NO. 1502 OF 2026

PETITIONER/S:

ADV. S. P. DEEPAK
AGED 56 YEARS
SON OF SREENIVASAN, RESIDING AT TC 30/1240 ROSE
COTTAGE, NEAR PETTAH RAILWAY STATION, PETTAH P.O.,
THIRUVANANTHAPURAM, PIN - 695024

BY ADVS.
SHRI.BAPPU GALIB SALAM
SRI.BENOJ C AUGUSTIN
SRI.E.K.NANDAKUMAR (SR.)

RESPONDENT/S:

- 1 THE KERALA STATE ELECTION COMMISSIONER
JANAHITHAM, TC -27/6(2), VIKAS BHAVAN P.O.,
THIRUVANANTHAPURAM, PIN - 695033
- 2 STATE OF KERALA
REPRESENTED BY ITS SECRETARY, LOCAL SELF GOVERNMENT
DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 3 THE SECRETARY
THIRUVANANTHAPURAM MUNICIPAL CORPORATION,



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CORPORATION OFFICE, THIRUVANANTHAPURAM, PIN -
695003

- 4 CHEMBAZHANTHI UDAYAN
COUNCILLOR, WARD NO. 13 (MANNANTHALA),
THIRUVANANTHAPURAM MUNICIPAL CORPORATION, RESIDING
AT: T.C. 9/737, MADATHUVILAKATHU VEEDU,
UDAYAMANGALAM, AANIYOOR, CHEMBAZHANTHI P.O.,
THIRUVANANTHAPURAM, PIN - 695587
- 5 SUGATHAN R.
COUNCILLOR, WARD NO. 20 (VAZHOTTUKONAM),
THIRUVANANTHAPURAM MUNICIPAL CORPORATION, RESIDING
AT: T.C. 36/1223, PUTHENVILA VEEDU, VATTIYOORKAVU
P.O., THIRUVANANTHAPURAM, PIN - 695013
- 6 VISHNU MOHAN
COUNCILLOR, WARD NO. 42 (PANGODE),
THIRUVANANTHAPURAM MUNICIPAL CORPORATION, RESIDING
AT: JANANI, PRA 87, 1107 PADAYANI ROAD,
VATTIYOORKAVU P.O., THIRUVANANTHAPURAM, PIN -
695013
- 7 SURYA V.S.
COUNCILLOR, WARD NO. 50 (VALIYASALA),
THIRUVANANTHAPURAM MUNICIPAL CORPORATION, RESIDING
AT: SEETHALAKSHMI COMPOUND, 23/19, VALIASALA, CHALA
P.O., THIRUVANANTHAPURAM, PIN - 695036
- 8 SREEDEVI S.K.
COUNCILLOR, WARD NO. 55 (PONNUMANGALAM),
THIRUVANANTHAPURAM MUNICIPAL CORPORATION, RESIDING
AT: NADUVATHA KIZHE VILA VEEDU, 880, MELAMCODE,
NEMOM P.O., THIRUVANANTHAPURAM, PIN - 695020
- 9 PAPPANAMCODE SAJI
COUNCILLOR, WARD NO. 56 (MELAMCODE),
THIRUVANANTHAPURAM MUNICIPAL CORPORATION, RESIDING
AT: SREE VISHAKH, 3410, PAPPANAMCODE P.O.,
THIRUVANANTHAPURAM, PIN - 695018
- 0 R.C. BEENA
COUNCILLOR, WARD NO. 59 (NEDUMCAUD),



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THIRUVANANTHAPURAM MUNICIPAL CORPORATION, RESIDING
AT: RAJEEVAM, 756/1, ATTUKAL, MANACAUD P.O.,
THIRUVANANTHAPURAM, PIN - 695009

- 11 ASHANATH G.S.
COUNCILLOR, WARD NO. 61 (KARUMAM),
THIRUVANANTHAPURAM MUNICIPAL CORPORATION, RESIDING
AT: SOUDHANIVAS, 2494, VIVEK NAGAR, KAIMANAM P.O.,
THIRUVANANTHAPURAM, PIN - 695018
- 12 VAYALKKARA RATHEESH
COUNCILLOR, WARD NO. 63 (PUNKULAM),
THIRUVANANTHAPURAM MUNICIPAL CORPORATION, RESIDING
AT: VAYALKKARA VEEDU, 1479, PUNKULAM, VELLAYANI
P.O., THIRUVANANTHAPURAM, PIN - 695022
- 13 VINOD R.
COUNCILLOR, WARD NO. 66 (CHERUVAIKKAL),
THIRUVANANTHAPURAM MUNICIPAL CORPORATION, RESIDING
AT: KUNNIL VEEDU, 2644, CHOOLOORKONAM, SREEKARIYAM
P.O., THIRUVANANTHAPURAM, PIN - 695017
- 14 GOPAKUMAR
COUNCILLOR, WARD NO. 69 (THIRUVALLAM),
THIRUVANANTHAPURAM MUNICIPAL CORPORATION, RESIDING
AT: MADHAVA NIWAS, 2011, PACHALLOOR, PACHALLOOR
P.O., THIRUVANANTHAPURAM, PIN - 695027
- 15 SRUTHI S.S.
COUNCILLOR, WARD NO. 73 (ATTUKAL),
THIRUVANANTHAPURAM MUNICIPAL CORPORATION, RESIDING
AT: THOPPU VILAKATHU VEEDU, 641, CHIRAMUKKU,
ATTUKAL, MANACAUD P.O., THIRUVANANTHAPURAM, PIN -
695009
- 16 V. GIRI
COUNCILLOR, WARD NO. 75 (KMALESWARAM),
THIRUVANANTHAPURAM MUNICIPAL CORPORATION, RESIDING
AT: VISWESWARAM, 997, KBAC LANE, 38, MUTTATHARA,
VALLAKKADAVU P.O., THIRUVANANTHAPURAM, PIN - 695008
- 17 SARITHA P.
COUNCILLOR, WARD NO. 80 (MANACAUD),



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THIRUVANANTHAPURAM MUNICIPAL CORPORATION, RESIDING
AT: SABARI GIRI, 976, SREEVARAHAM, MANACAUD P.O.,
THIRUVANANTHAPURAM, PIN - 695009

- 18 HARIKUMAR S.
COUNCILLOR, WARD NO. 82 (FORT), THIRUVANANTHAPURAM
MUNICIPAL CORPORATION, RESIDING AT: ONNAMPUTHAN
THERUVU-2857, MANACAUD, MANACAUD P.O.,
THIRUVANANTHAPURAM, PIN - 695009
- 19 DEEPA S. NAIR
COUNCILLOR, WARD NO. 83 (PERUNTHANNI),
THIRUVANANTHAPURAM MUNICIPAL CORPORATION, RESIDING
AT: T.C. 29/556, VATTAVILAKATHU PUTHEN VEEDU,
PETTAH 195, PALKULANGARA, PETTAH P.O.,
THIRUVANANTHAPURAM, PIN - 695024
- 0 SUKANYA O.
COUNCILLOR, WARD NO. 84 (SREEKANTESWARAM),
THIRUVANANTHAPURAM MUNICIPAL CORPORATION, RESIDING
AT: UTHRADI VILAKAM VEEDU, 1259, SREEKANTESWARAM,
SREEKANTEESWARAM P.O., THIRUVANANTHAPURAM, PIN -
695023
- 21 JAYA RAJEEV
COUNCILLOR, WARD NO. 92 (KADAKAMPALLY),
THIRUVANANTHAPURAM MUNICIPAL CORPORATION, RESIDING
AT: VAYYAKAL VEEDU, 1911, ANAYARA, ANAYARA P.O.,
THIRUVANANTHAPURAM, PIN - 695029
- 22 SUNIL S.S.
COUNCILLOR, WARD NO. 98 (ATTIPRA),
THIRUVANANTHAPURAM MUNICIPAL CORPORATION, RESIDING
AT: MATHRAVILA VEEDU, 546, KARIAVATTOM, KARIAVATTOM
P.O., THIRUVANANTHAPURAM, PIN - 695581
- 23 ADV. MINI P.S.
COUNCILLOR, WARD NO. 101 (AKKULAM),
THIRUVANANTHAPURAM MUNICIPAL CORPORATION, RESIDING
AT: MINI VILASAM, 1447, THURUVIKKAL, THURUVIKKAL
P.O., THIRUVANANTHAPURAM, PIN - 695011
- 24 THE DISTRICT COLLECTOR



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2ND FLOOR, CIVIL STATION, COLLECTORATE,
KUDAPPANAKUNNU, THIRUVANANTHAPURAM, PIN - 695043

BY ADVS.

SHRI.DEEPULAL MOHAN, SC, STATE ELECTION
COMMISSION, KERALA

SHRI.SUMAN CHAKRAVARTHY, SC, THIRUVANANTHAPURAM
CORPORATION

SHRI.P.ABDUL NISHAD, GP

SHRI.MAHADEV M.J.

SHRI.T.C.KRISHNA

SHRI.RENJISH S. MENON

SRI.C.DINESH

SRI.S.BIJU (KIZHAKKANELA)

SRI.S.SREEKUMAR (SR.)

SRI.V.GIRISHKUMAR

SMT.ARATHI KARUNAKARAN

SMT.PARSHATHY S.R.

SHRI.ACHUTH KRISHNAN R.

SMT.CRISTY THERASA SURESH

SHRI.GOKUL KRISHNA

SMT.HELEN P.A.

SHRI.GOVIND P.

SHRI.P.ANIRUDHAN

SHRI.SURAJ KUMAR D.

SRI.R.V.SREEJITH

SMT.G.MAHESWARY

SMT.KEERTHANA M. NAIR

SMT.CHANDANA C.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 15.06.2026, ALONG WITH WP(C).48425/2025, THE COURT ON
24.06.2026 DELIVERED THE FOLLOWING:



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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 24TH DAY OF JUNE 2026 / 3RD ASHADHA, 1948

WP(C) NO. 48425 OF 2025

PETITIONER/S:

C. KANNAN
AGED 48 YEARS, S/O CHINNA SWAMI
RESIDING AT PRADHANI VAKKODE HOUSE, VADAKKENCHERRY
P.O ALATHUR TALUK, PALAKKAD, PIN - 678683

BY ADVS.
SHRI.D.G.VIPIN
SHRI.DANIEL A.J.
SMT.MANISHA V.V
SHRI.J.AMALDEV

RESPONDENT/S:

- 1 KERALA STATE ELECTION COMMISSIONER
JANAHITHAM, TC-27/6(2), VIKAS BHAVAN P.O,
THIRUVANANTHAPURAM, REPRESENTED BY ITS SECRETARY,
PIN - 695033
- 2 THE DISTRICT COLLECTOR AND DISTRICT RETURNING
OFFICER
CIVIL STATION, PALAKKAD, KERALA, PIN - 678001
- 3 VADAKKENCHERRY GRAMA PANCHAYAT
VADAKKENCHERY, PALAKKAD DISTRICT, KERALA,
REPRESENTED BY ITS SECRETARY, PIN - 678683



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- 4 THE SECRETARY
VADAKKENCHERRY GRAMA PANCHAYAT, VADAKKENCHERY,
PALAKKAD DISTRICT, KERALA, PIN - 678683
- 5 BLISSON DAVIS
ASSISTANT REGISTRAR, CO-OPERATIVE DEPARTMENT,
ALATHUR, RETURNING OFFICER, VADAKKENCHERRY GRAMA
PANCHAYAT, PIN - 678683
- 6 SUNIL CHUVATTUPADAM
AGED 34 YEARS
S/O LATE SASI RESIDING AT KADARIKIL HOUSE,
CHUVATTUPADAM, KANAKKAMTHURUTTI POST, PALAKKAD, PIN
- 678001

ADDL.R7 M. R. AJAYAN
S/O M.K.RAGHU, AGED 61 YEARS, THEKKETHALAKKAL
HOUSE, CHERIYA PALLAM THURUTH, KOTTICHIRA, NORTH
PARUR.P.O, ERNAKULAM DISTRICT 683513 (IS IMPLEADED
AS ADDL.R7 IN THIS WRIT PETITION AS PER ORDER DATED
15.06.2026 IN IA NO.1/26)

BY ADVS.
SHRI.DEEPULAL MOHAN, SC, STATE ELECTION
COMMISSION, KERALA
SHRI.KABEER S, GP
SHRI.N.KRISHNA PRASAD
SRI.N.ANAND
SRI.V.R.MANORANJAN (MUVATTUPUZHA)
SRI.P.SHANES METHAR
SHRI.ARJUN P.V.
SHRI.HARKISH SREETHU V.S.
SHRI.PUSHPARAJ.K.P
SHRI.RAJESH O.N.
SHRI.AMEER SALIM
SHRI.SADIQ NAZAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 15.06.2026, ALONG WITH WP(C).1502/2026, THE COURT ON
24.06.2026 DELIVERED THE FOLLOWING:



'CR'

P.V.KUNHIKRISHNAN, J

W.P(C) Nos. 1502 of 2026 & 48425 of 2025

Dated this the 24th day of June, 2026

JUDGMENT

Taking an oath by an elected person in a democracy means that the elected person is promising the electorate that he will be honest, he will follow the constitution and the rule of law, and he will serve the people with sincerity. Therefore, when he takes the oath, it should be taken as prescribed by the relevant statute and rules.

2. The Kerala Municipality Act, 1994 (the "Municipality Act", for brevity) and the Kerala Panchayat Raj Act, 1994 (the "Panchayat Raj Act", for brevity) say that the elected members should take an oath either in the name of God or make a solemn affirmation. The party respondents in W.P.(C) No. 1502 of 2026, who were elected Councillors of



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Thiruvananthapuram Corporation, took oath in the name of “ഭാരതാംബയുടെ നാമത്തിൽ” (In the name of Mother India), “എന്റെ പ്രസ്ഥാനത്തിലെ ബലിദാനികളുടെ പേരിൽ” (In the name of the martyrs of my organisation/movement), “ഗുരുദേവന്റെ നാമത്തിൽ” (In the name of Gurudeva) and in the name of different Hindu Gods of their choice. The 6th respondent in W.P.(C) No. 48425 of 2025, who is an elected member of Vadakkencherry Grama Panchayat, took the oath in the name of “ഈശ്വരന്റെ അനുഗ്രഹത്താൽ ഉമ്മൻ ചാണ്ടിയുടെ നാമത്താൽ” (By God's blessing in the name of Oommen Chandy).

3. The question to be decided in these cases is whether the oaths taken by the party respondents in these two writ petitions are in accordance with the Municipality Act and the Panchayat Raj Act.

4. I will narrate the facts in W.P.(C) No. 1502 of 2026 first: The petitioner in this Writ Petition is an elected Councillor representing the Pettah Ward (Ward No.88) of



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Thiruvananthapuram Municipal Corporation. He is the Parliamentary Party Leader of the Communist Party of India (Marxist) in the Corporation's Council. The election to the Thiruvananthapuram Corporation was held in December 2025, and all the Councillors took office on 21.12.2025 after taking the oath.

5. Respondent Nos. 4 to 23 are the elected councillors of the Thiruvananthapuram Corporation. As per the Ext.P1 circular, the guidelines for the swearing-in ceremony were prescribed by the 1st respondent. Pursuant to Ext.P1, the statutory meeting of the swearing-in of the elected councillors was convened on 21.12.2025 at the Corporation Office. According to the petitioner, the oaths taken by the party respondents do not comply with the provisions of the Kerala Municipality Act. It is submitted that, instead of swearing in the name of God or making a solemn affirmation, they subscribed to oaths in the name of various local deities, political martyrs, political movements, etc. A table is extracted



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in the writ petition showing the manner in which the party respondents took the oath. There is no dispute on that. It will be better to extract the table shown in paragraph 4 of the writ petition.

Sl. No.	Councillor Name	Ward	Oath Taken In the Name of (Translation/Original)
1	Chembazhanthi Udayan	13 (Mannanthala)	"Gurudeva Namathil" (In the name of Gurudeva)
2	Sugathan R	20 (Vazhottukonam)	"Gurudeva Namathil" (In the name of Gurudeva)
3	Vishnu Mohan	42 (Pangode)	"Sree Udayannoor Deviyude Namathil"
4	Surya V.S	50 (Valiyasala)	"Kavilammayude Namathil"
5	Sreedevi S.K.	55 (Ponnumangalam)	"Bhagavath Namathil"
6	Pappanamcode Saji	56 (Melamcode)	"Sree Padmanabha Swamyude Namathil"
7	R.C. Beena	59 (Nedumcaud)	"Sree Padmanabha Swamyude Namathil"
8	Ashanath G.S.	61 (Karumam)	"Bharathambayude Namathil" (In the name of Mother India)
9	Vayalkkara Ratheesh	63 (Ponkulam)	"Ente Prasthanathile Balidanikalude Peril" (in the name of martyrs of my organisation or movement)
10	Vinod R.	66 (Cheruvaikkal)	"Bharatha Mathavinte Namathil" (In the name of Mother India)
11	Gopakumar	69 (Thiruvallam)	"Thiruvallam Parasuramante Namathil"
12	Sruthi S.S.	73 (Attukal)	"Attukal Ammayude Namathil"
13	V. Giri	75 (Kamaleswaram)	"Sree Irumkulangara Durga Bhagavathiyude



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			Namathil"
14	Saritha. P.	80 (Manacaud)	"Sree Padmanabhante Namathil"
15	Harikumar	82 (Fort)	"Sree Padmanabha Swamyude Namathil"
16	Deepa S. Nair	83 (Perunthanni)	"Padmanabhanteyum Sree Mahavishnuvinteyum Namathil"
17	Sukanya. O.	84 (Sreekanteswaram)	"Sreekanteswaran Ammayappan Namathil"
18	Jaya Rajeev	92 (Kadakampally)	"Ayyappa Namathil"
19	Sunil S.S.	98 (Attipra)	"Karyavattom Sree Dharma Sasthavinte Namathil"
20	Adv. Mini P.S.	101 (Akkulam)	"Gurudeva Namathilum Ente Prasthanathinu Vendi Balidanikalayavarude Namathilum" (In the name of Gurudeva and in the name of martyrs of my organisation)

6. According to the petitioner, when the statute prescribes that the oath is to be taken either in the name of god or by making a solemn affirmation, the party respondents have violated the same, and therefore, the above writ petition is filed to declare that the respondent Nos. 4 to 23 have not taken a valid oath or affirmation. It will be better to extract the prayers in W.P.(C.) No. 1502/2026.

i. "Issue a Writ of Quo Warranto calling upon the



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contesting Respondents (Respondents 4 to 23) to show cause under what authority they are holding the office of Councillor of the Thiruvananthapuram Municipal Corporation;

ii. To issue a writ, order or direction quashing the oath taken by the respondents 4 to 23 and to declare that the respondents 4 to 23 have not taken valid oath or affirmation;

iii. To declare that the respondents 4 to 23 have never acquired the legal status of a member of the Thiruvananthapuram Municipal Corporation and is disentitled from participating in the proceedings of the Thiruvananthapuram Municipal Corporation or exercising voting rights in the matter of election of its President.

iv. Issue a Writ of Mandamus declaring that the oaths purportedly taken by the contesting Respondents on 21.12.2025 in the names of various deities, martyrs, and political movements are illegal, void, and non est in the eye of law;

v. Issue a Writ of Mandamus directing the 1st Respondent to declare the seats of the contesting Respondents as vacant for failure to make and subscribe to a valid oath within the time prescribed by Section 143 of the Kerala Municipality Act, 1994;

vi. to dispense with filing of the English translation of vernacular documents as per order; and

vii. Pass such other orders or directions as this Hon'ble Court may deem fit and proper in the facts and



circumstances of the case” [sic]

7. W.P.(C) No. 48425/2025 is filed by an elected ward member from ward No. 15 of Vadakkencherry Grama Panchayat in the General Election to the Kerala Local Self Government Institutions held on 11.12.2025. The 6th respondent in that writ petition was elected from Ward No. 21, Panniyankara of the Vadakkencherry Grama Panchayat in the same election. The 6th respondent took oath not in the name of God or a solemn affirmation, but he took oath as “ഈശ്വരന്റെ അനുഗ്രഹത്താൽ ഉമ്മൻ ചാണ്ടിയുടെ നാമത്താൽ”, which means that, “by God's blessing in the name of Oommen Chandy”. Mr Oommen Chandy is the former Chief Minister of Kerala and a prominent leader of the Indian National Congress. According to the petitioner, the oath taken by the 6th respondent does not comply with the Municipality Act. Hence, the above writ petition is filed with the following prayers :

a) *“To declare that the 6th respondent has not taken*



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valid oath or affirmation as contemplated under Section 152 of the Kerala Panchayat Raj Act, 1994.

b) To declare that the 6th respondent has never acquired the legal status of a member of the Grama Panchayat and is disentitled from participating in the proceedings of the Vadakkencherry Grama Panchayat or exercising voting rights in the matter of election of its President.

c) To issue a writ, order or direction quashing the oath taken by the 6th respondent before the eldest elected member of the Vadakkencherry Grama Panchayat on 21.12.2025.

d) To issue a writ of mandamus or any other appropriate writ, order or direction, directing the respondent 1 to 5 to prevent the 6th respondent from participating in the proceeding of the Vadakkencherry Grama Panchayat and exercising his voting powers in the matter of election of its President.

e) Dispense with the production of the English translation of the documents in vernacular. AND

f) Any other appropriate writ, order or direction as this Hon'ble court deems fit to be granted in the facts and circumstances of the case." [sic]

8. Heard the learned counsel for the petitioners in W.P.(C.) No. 1502/2026 and W.P.(C.) No.48425/2025, the



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counsel appearing for the party respondents, Government Pleader and the learned Standing Counsel appearing for the Election Commission. I also heard the learned Standing Counsel appearing for the Corporation and the Panchayat.

9. Adv. E. K. Nandakumar, Senior Counsel, appearing for the petitioner in one of the cases, submitted that if a particular thing is required to be done in a particular way, it must be done in that way itself. The Senior Counsel takes me through the relevant provisions of the Kerala Municipality Act, 1994, and the Kerala Municipality (Oath of Councillors, Chairperson and Deputy Chairperson) Rules, 1995. The counsel submitted that the oath is to be taken either in the name of God or as a solemn affirmation. If elected members of the Corporation take an oath in the name of the God of their choice, it would be against the statute, and the oath would be invalid, according to the submission. The Senior Counsel also relied on the judgment of this Court in ***Haridasan Palayil v. Speaker, Kerala Legislative Assembly*** [2003 KHC 1078].



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The counsel for the petitioner in W.P.(C) No. 48425/2025 also supported the arguments raised by the Senior Counsel in W.P.(C) No. 1502/2026, and he added that all subsequent actions of the 6th respondent as an elected member in the Panchayat are invalid.

10. The counsel appearing for the party respondents opposed the contentions raised by the petitioners. They submitted that the statute prescribes that they can take an oath in the name of God. They believe that certain persons and deities are their God. Therefore, they took an oath in the name of their belief, and hence, the petitioners' contention will not stand. A counter-affidavit is also filed by the party respondents.

11. The Standing Counsel appearing for the Election Commission submitted that, after the judgment in ***Haridasan Palayil's*** case (supra), a Division Bench of this Court in ***Madhu Parumala v. The Speaker and others*** [2006 KHC 848] considered the same point and observed



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that, when a person belonging to a Muslim community takes an oath in the name of Allah, he is not violating any constitutional principles. Government Pleader submitted that the oath should be taken in accordance with the statute. The Standing Counsel appearing for the Corporation submitted that a counter affidavit has been filed, and he argued based on the contentions in the counter affidavit.

12. This Court considered the contentions of the petitioners and the respondents. The respondent Nos. 4 to 23 in W.P(c) No. 1502 of 2026 admits that they took oath in the names mentioned in the fourth column of the table extracted in paragraph 5 of this judgment. Similarly, the 6th respondent in WP(C) No 48425 of 2025 also admits that he took oath as “ഈശ്വരന്റെ അനുഗ്രഹത്താൽ ഉമ്മൻ ചാണ്ടിയുടെ നാമത്താൽ”, which means that, “by God's blessing in the name of Oommen Chandy”. Their only contention is that it is in substantial compliance with the Panchayat Raj Act and Municipality Act. Therefore, there are no disputes on facts. This court can go



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straight to the legal provisions. Hence, I will examine the relevant provisions in the Kerala Municipality Act and Kerala Panchayat Raj Act. Section 143 of the Kerala Municipality Act deals with oath or affirmation. It would be better to extract Sec 143 of the Kerala Municipality Act.

"143. Oath or Affirmation —

(1) The Government, after each general election shall nominate a member elected as Councillor for convening the first meeting of the Municipality and before convening such meeting he shall make and subscribe an oath or affirmation in the form specified in the Third Schedule for the purpose before the officer nominated by the Government in this behalf. Provided that the member nominated by the Government shall, as far as possible, be the eldest among the Councillors elected in the Municipality.

(1A) All other Councillors shall before assuming charge of their office, make and subscribe an oath or affirmation, in the form set out for this purpose in the Third Schedule, before the Councillor nominated under sub-section (1), on the date specified by the Government and before the date fixed by the State Election Commission for conducting the election of the Chairperson under sub-section (1) of Section 12.

(IB) A Councillor who was not able to make an oath or affirmation under sub-section (1A) or a Councillor elected in the bye-election may make such oath or affirmation before the



Chairperson.

(2) The Chairperson and the Deputy Chairperson shall also, before entering upon their offices, make and subscribe an oath or affirmation in the form set out in the said Schedule. The Chairperson shall make and subscribe such oath or affirmation before the Officer authorised by the Government in this behalf, and the Deputy Chairperson shall make and subscribe such oath or affirmation before the Chairperson after the Chairperson has been elected.

(3) No Councillor who has not taken an oath or affirmation under sub-section (1A) or under subsection (IB) shall vote or take part in the proceedings of any meeting of the Municipality, nor shall be included as a member of any of the Committee constituted by the Municipality.

(4) The Government may by notification in the Gazette, declare the office of Councillor as vacated in his own motion where such a Councillor has not assumed charge of his office by making an oath or affirmation without sufficient cause within a maximum period of thirty days from the date by which he was elected as a Councillor."

13. Sec. 143 (1A) of the Kerala Municipality Act says that the councillors, before assuming charge of their office, make and subscribe an oath or affirmation, in the form set out for this purpose in the third schedule, before the Councillor nominated under sub-section (1), on the date



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specified by the Government and before the date fixed by the State Election Commission for conducting the election of the Chairperson under sub-section (1) of Section 12. The third schedule of the Municipality Act prescribes a Form of oath or affirmation. The Third Schedule of the Kerala Municipality Act is extracted hereunder :

"Form of Oath or Affirmation

*I,.....having been elected Councillor/Mayor/Deputy Mayor/Chairman/Vice Chairman ofMunicipal Corporation/Municipal Council/.....Town Panchayat do swear **in the name of God/solemnly affirm** that I will bear true faith and allegiance and maintain sovereignty and integrity of India to the Constitution of India as by law established and I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour or affection or illwill."*

(Underline and emphasis supplied)

14. As far as the Kerala Panchayat Raj Act is concerned, the relevant provision is Sec.152. Sec. 152 of the Kerala Panchayat Raj Act, 1994 is extracted hereunder:

"152. Oath or affirmation by members. -



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(1) *After every General election, the Government shall, for convening the first meeting of the panchayat, nominate a person elected as a member of the panchayat and he shall, before convening such meeting, make and subscribe an oath or affirmation in the forms set out for the purpose in the second schedule before the Government officer nominated by the Government for the purpose:*

Provided that, as far as possible, the member nominated by the Government shall be the eldest among the members elected to that panchayat.

(2) *All other members shall, before assuming office make and subscribe an oath or affirmation in the form set out for the purpose in the second schedule before the member of the panchayat who has been nominated under sub-section (1) on a date specified by the Government and before the date fixed by the State Election Commission for the election of the President under sub-section (5) of section 153.*

(3) *A member who could not take an oath or affirmation under sub-election (2) or a member elected in a bye-election may take such oath before the president.*

(4) *No elected member who has not taken an oath or affirmation under sub-section (1) or sub-section (2) or sub-section (3) shall vote or take part in the proceedings of any meeting of the Panchayat in which he is a member nor shall he be included as a member of any committee constituted by that Panchayat.*

(5) *State Election Commission may declare the office of the member as vacated on his own motion, when such a*



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member has not entered upon his office without sufficient cause by taking, oath or affirmation within a maximum period of thirty days from the date he was declared as elected."

15. As far as Sec.152(2) is concerned, all members before assuming office make and subscribe an oath or affirmation in the form set out for the purpose in the second schedule before the member of the Panchayat who has been nominated under sub-section (1) on a date specified by the Government and before the date fixed by the State Election Commission for the election of the President under sub-section (5) of section 153. The second schedule prescribes the Form of Oath or affirmation. The second schedule of the Kerala Panchayat Raj Act is extracted hereunder :

"Form of Oath or Affirmation

*I,....., having been elected member/ President/ Vice President of the.....village/ block/ district panchayat, do swear **in the name of God/solemnly affirm**, that I will bear true faith and allegiance to the Constitution of India as by law established, and uphold the sovereignty and integrity of India that I will duly and faithfully and to the best of my ability, knowledge*



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*and judgment perform the duties of my office without fear
or favour or affection or illwill.”*

(Underline and emphasis supplied)

16. From the above provisions, it is clear that the oath is to be taken either in the name of God or as a solemn affirmation. A Division Bench of this Court in **Haridasan Palayil's** case (supra) considered the same question in connection with Article 188 read with the third Schedule of the Constitution, which deals with the swearing of members of the Legislative Assembly. Article 188 of the Constitution of India says that every member of the Legislative Assembly or the Legislative Council of a State shall, before taking his seat, make and subscribe before the Governor, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule of the Constitution. The Third Schedule prescribes the forms of oath or affirmation for the Minister of the Union, Members of Parliament, Members of the Legislature, etc. The



Constitution of India also clearly states that the oath must be taken in the name of God or by solemn affirmation.

17. In ***Haridasan Palayil's*** case (supra), a Division Bench of this Court observed like this :

27. "One of the settled principles of law is that if a particular thing is required to be done in a particular way, it must be done in that way and no other. In the present case, the Constitution lays down the form. It gives a limited option. One can either subscribe to the oath, or make an affirmation. In case, the person chooses to take the oath he has to swear in the name of God. None else. The Constitution does not permit any deviation or variation. For if any deviation were permitted, we may not know where to stop.

28. In this context, it deserves mention that India is a land of immense diversities. To some God is just a short form of Good. To some He is Allah, Bhagwan or Father. Some of us show reverence to even reptiles. Undoubtedly, every one of us has the freedom to act according to his faith. But only in our private lives. When a person occupies a constitutional position, he has to scrupulously abide by and observe the constitutional mandate. A Member of the Legislature, Union or State, represents a constituency. He is the spokesman of all the people belonging to the area. He has to stand for all, irrespective of their shade of faith and religion. He is the peoples representative. He is not free to



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cater to the belief of a sect or section of the society. He does not represent the Christians, Hindus or Muslims only. But even the Buddhists, Jains and all others. By the very nature of his office, he is bound to inspire equal confidence and faith in the minds of all. The perception of God has to be as that of the entire people. Not personal. The society at large and not merely the Assembly must get the confidence that the legislator shall work under the fear of God as understood by all and not by him as an individual. This is essential to ensure that he represents everyone, irrespective of the caste or creed, faith or religion, it is meant to help in maintaining national harmony. It is intended to foster Unity in Diversity so as to preserve the integrity of India as a country. That is the apparent rationale and reason for the prescription of a Form in the Constitution. And then, why does the provision provide for a penalty? For the reason that the Constitution does not permit any deviation. It insists upon a strict compliance. A deviation is not a mere irregularity. It is a manifest illegality. Thus, every person has to conform to the form as prescribed. Otherwise, it has to be assumed that he has not taken the oath. He has not duly entered upon the office.

29. *The people who are not punctilious in the matter of ceremonial observances are likely to be neglectful in performing the higher duties of the office or observing the principles. It is to ensure this that the Constitution lays down the form. The oath is not a matter of formality. Nor a superstition. It is not a mere ritual. It is a constitutional*



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mandate. Just as the seven steps around the holy fire or the tying of Mangal Sutra are essential to sanctify a marriage, the oath to be valid, has to be subscribed in the prescribed form. The person has to demonstrate his allegiance to the Constitution of India by scrupulously abiding by the form. Not by altering it. Otherwise, there would be no end to the modifications or variations. The purpose of prescribing the form is to induce a sense of subordination to the Constitution in men of all faiths. Not to submit to it is illegal and carries with it a recurring penalty. The constitutional boundaries cannot be crossed. The Constitution does not condone the violation.

30. *Conventions in a society are the ripened result of a long and varied experience. Neglect of little things carries the danger of the big things being violated with impunity. The Constitution does not grant the liberty to vary the words of the oath to the holders of Constitutional Offices. It lays down the form. It has to be followed in letter and spirit.*

31. *It is in this background that the validity of the oath as subscribed by the third respondent has to be examined. It is the admitted that he had sworn in the name of Sree Narayana Guru whom he worships as God. We have no doubt that the great Guru was an apostle of virtue. He had truly done good to the society. Yet, we think that the Constitution does not permit such variation of the prescribed form. The obvious reason, as already mentioned, is that if any variation were to be allowed, there would be*



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no end to the variations. We shall have countless versions of God. This variety might provide the proverbial spice to some but has the danger of spelling the doom for all.
[underline supplied]

18. From the above dictum, it is clear that the oath should be either in the name of god or it should be a solemn affirmation. As observed by the Division Bench in the above decision, *'if any deviation were permitted, we may not know where to stop....The person has to demonstrate his allegiance to the Constitution of India by scrupulously abiding by the form. Not by altering it. Otherwise, there would be no end to the modifications or variations.'* I respectfully agree with the above dictum laid down by the Division Bench headed by the then Chief Justice of Kerala.

19. At this stage, the Standing Counsel appearing for the Election Commission takes me through the dictum laid down by this Court in **Madhu Parumala's case (supra)**. It will be better to extract paragraphs no. 8 and 10 of the above



judgment.

" 8. We have to examine whether using the word "Allah" in the place of God would therefore be sufficient compliance with the form prescribed. The word God in Form VIIB of the Third Schedule is a relative expression so far as the person who takes oath. In that sense the word God used is not wide but in a restricted manner vis a vis the person who takes oath. When a member of the Muslim Community takes oath in Form VIIB he takes oath in the name of Allah, the supreme God as far as the members of that community is concerned. The word God used in Form VIIB is not in general term but takes in God in its restricted term particularly to the person who takes the oath. An elected member is expected to swear in the name of God in which he and not his electorate believes. Then only the purpose and object of Art.188 would be achieved. The word "God" in Form VIIB takes in Allah also. Allah is a synonym for God. Similarly, a person who belongs to Christian community when taking oath as a member of the Legislative Assembly, in the name of God, swears in the name of Jesus Christ, whom he believes as his God. When a member of the Hindu community takes oath in the name of God, the God which he refers may be Lord Ayyappa, Lord Siva, Lord Krishna and so on since God in Hinduism has several manifestations. We cannot accept the contention that an elected member takes oath not on his behalf but on behalf of the members of the constituency he represents. If the



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contention of the petitioner that a person who takes oath in the name of a particular God excludes all other Gods, is stretched to its logical conclusion, then a Hindu member will have to be presumed to take oath in the name of Allah or Jesus Christ also whom he does not worship or believe. Same will be the position of persons following other religious faith. Oath taking, in our view, is purely personal and its purpose is to give sanctity to the pledge by which the oath taker binds himself. What is important is not whether a person swears in the name of God or by way of solemn affirmation but whether he has affirmed that he would bear true faith and allegiance to the Constitution and whether he has affirmed that he would uphold the sovereignty and integrity of India and whether he has affirmed that he would faithfully discharge the duty of the office upon which he is about to enter. To insist that a person who takes oath in the name of God should take the oath not only in the name of God in whom he believes, but also in the names of the Gods in whom the members of the constituency believe is clearly illegal and unconstitutional.

XXXX XXXX XXXX

10. *In our view, when a person belonging to Muslim community takes oath in the name of Allah he is not violating any constitutional provisions. Constitution permits to take oath in the name of God. Muslims who believe in Allah have therefore to take oath in the name of God in whom they believe. Otherwise he may not be taking oath as specified in the Third Schedule to the Constitution. India is*



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a secular country consisting of various religious faith. Religious teachings would help the people to serve the country in a better way. It is in the above background that we have to examine whether the oath taken by respondents 6 to 16 in the name of Allah is legal or not. By taking oath in the name of Allah they reaffirm their faith and allegiance to the Constitution of India. We may in this connection strike a different note with regard to the reasoning adopted in Haridasan Palayil's case, supra. In the above case a Bench of this court held that the perception of God has to be as that of the entire people and not personal. The court further held:

"The society at large and not merely the 'Assembly' must get the confidence that the legislator shall work under the fear of God as understood by all and not by him as an individual. This is essential to ensure that he represents everyone, irrespective of the caste or creed, faith or religion, it is meant to help in maintaining national harmony. It is intended to foster Unity in Diversity so as to preserve the integrity of India as a country. That is the apparent rationale and reason for the prescription of a Form in the Constitution."

We reiterate that when a person takes oath as per Form VIIB of the Third Schedule to the Constitution it is purely personal and not on behalf of the voters of the constituency. By the sacrosanct act of oath or affirmation, he is binding himself (and not his electorate) against any breach of the pledge which he has undertaken. The oath which is thus personal as against the



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oath taker cannot and is not expected to bind other believers in God, agnostics and atheists in the constituency which the oath taker represents and he alone incurs the consequences of any breach. We are therefore unable to agree with the reasoning that the prescription of God that we get in the form is general and not personal because the constituency consists of not only believers in God, but also atheists."

20. It is true that the Division Bench in **Madhu Parumala's case (supra)** took a different view from **Haridasan Palayil's case (supra)**. But I think the circumstances in which the above judgment was delivered are to be considered. Moreover, I am sure that the Division Bench in **Madhu Parumala's case (supra)** never imagined that in future the elected people would take an oath in the name of the martyrs of the political parties of the elected person, or in the name of his political party or in the name of Oommen Chandy, the former Chief Minister of Kerala. I am not saying that the name by which the party respondents took oath is not in accordance with their belief, or that it cannot be accepted. To some, Late Shri. Oommen Chandy may be a god, and to



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some, the martyrs of their political party are their god, and to some, their political party itself may be their god. But I have a serious doubt that Late Shri.Oommen Chandy, who was a popular leader and the former Chief Minister of Kerala, would, if alive now, allow an elected person to take an oath in his name by treating him as a god. As observed in **Haridasan Palayil's case (supra)**, if this is allowed, there will be no end, and the name of 'god' mentioned in the form of an oath in the Act and Rules will be rewritten based on the belief of the person taking the oath. "**Matha Pitha Guru Daivam**" is a Sanskrit adage used in Hindu religious and cultural discourse. If an elected person in a democracy takes an oath in the name of his father or mother, who, according to him, is his visible god, he cannot be blamed if we accept the principle in **Madhu Parumala's case (supra)**. Similarly, if an elected person says that, his god is his primary school teacher, "**Madhavan mash**" or "**Kesavan Mash**" or "**Damodaran Mash**" (I mention these names only as symbolic examples), who taught



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him the ആദ്യക്ഷരം (first alphabet of Malayalam) or ഗുണനപ്പട്ടിക (multiplication table) in mathematics and therefore he is taking oath in the name of **"Madhavan mash" or "Kesavan Mash" or "Damodaran Mash"** nobody can blame him because he believe them as his god. It is heard from newspapers that **"Veerappan"**, a forest bandit, poacher and a sandalwood smuggler, who was in Satyamangalam forest situated in the Tamil Nadu-Karnataka border, involved in several criminal cases, including murder, kidnapping, etc., is treated as a God by a section of people in that area. If an elected person in a democracy says that, **"Veerappan"** is his hero and god therefore he wants to take an oath in the name of Veerappan, if the principles in **Madhu Parumala's case (supra)** is strictly followed, nobody can blame him because in that judgment this court observed that, *"to insist that a person who takes oath in the name of God should take the oath not only in the name of God in whom he believes, but also in the names of the Gods in whom the members of the constituency believe is clearly*



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illegal and unconstitutional.” That is why I said earlier that while interpreting a judgment, the circumstances in which such a judgment was delivered are to be considered. Therefore, the facts of the case in **Madhu Parumala's case (supra)** are to be considered first. In that case, 11 elected members of the Kerala State Legislative Assembly took oath in the name of “Allah”, who is the god of the Muslim community. This court said that the expansion of the “God” mentioned in the form of an oath in the third schedule of the Constitution is possible according to the belief of the person taking the oath. But as I said earlier, the Division Bench of this court in **Madhu Parumala's case (supra)** never imagined that the elected people would take an oath in the name of the martyrs of the political parties of the elected person, or in the name of Oommen Chandy, the former Chief Minister of Kerala or in the name of their political parties, treating them as their god. Therefore, the question is which decision to follow.

21. The general rule is that if two division benches



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of a high court delivered two conflicting decisions on a point, the single judge must follow the latter decision. But the single judge can try to distinguish or reconcile both judgments, or, if irreconcilable, follow the decision that is better in point of law or more elaborate in reasoning.

22. In **Haridasan Palayil's case (supra)**, after referring to Article 188 and the third schedule of the Constitution, this court observed that, "One of the settled principles of law is that if a particular thing is required to be done in a particular way, it must be done in that way and no other. In the present case, the Constitution lays down the form. It gives a limited option. One can either subscribe to the oath or make an affirmation. In case, the person chooses to take the oath he has to swear in the name of God. None else. The Constitution does not permit any deviation or variation. For if any deviation were permitted, we may not know where to stop." The form of oath or affirmation in the schedule of the Panchayat Raj Act and the Municipality Act are *in pari materia*



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to the oath or affirmation mentioned in the third schedule of the Constitution. The oath is to be taken "in the name of god/solemn affirmation". The third schedule of the Constitution, and the schedule of the Municipality Act and Panchayat Raj Act, mandate that it should be "in the name of god" or a "solemn affirmation". When a form is prescribed for taking an oath, none can vary from it on the basis of personal belief. The elected persons can add their names and the details of their constituencies in the blank space shown on the form, nothing else. This is because of the settled principle that, if a particular thing is required to be done in a particular way, it must be done that way alone, and no other way can be adopted. The apex court in **Chandra Kishore Jha v. Mahavir Prasad and others [1999 KHC 1404]** has observed like this:

"16. In our opinion, reliance on R.24 of Chap.21E read with R.13(iii) of Chap.2 Part.1 of the High Court Rules is misplaced. The plain phraseology of R.6 read with the proviso thereto makes it abundantly clear that formal presentation of an election petition can be made only to the Designated Election Judge in the open court and "if on any court day the Judge is



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not available on account of temporary absence or otherwise, the petition may be presented before the Bench hearing civil applications and motions". (emphasis supplied) Thus, the High Court Rules do not prescribe any other mode of presentation of an election petition except in the open court either before the Designated Election Judge or before the Bench hearing civil applications and motions, where the Designated Election Judge is not available on account of temporary absence or otherwise. The presentation of an election petition to the Registrar has not been prescribed as a mode of presentation of an election petition by the rules. An election petition is not included in any of the clauses of R.13. The learned Designated Election Judge rightly found that presentation of the election petition to the Bench Clerk on 16-5-1995 at 4.05 p.m. was not a proper presentation under the rules. In the absence of any provision in the rules, presentation of an election petition to the Registrar would not stand at any better footing than the presentation of the petition to the Bench Clerk. An election petition being a purely statutory remedy, nothing is to be read into the rules -- nothing is to be presumed -- which is not provided for in the rules. R.24 (supra) cannot advance the case of the returned candidate any further because of the absence of mention of an election petition in R.13 (supra).

17. In our opinion insofar as an election petition is concerned, proper presentation of an election petition in the Patna High Court can only be made in the manner prescribed by R.6 of Chap.21E. No other mode of presentation of an election petition is envisaged under the Act or the rules thereunder and,



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*therefore, an election petition could, under no circumstances, be presented to the Registrar to save the period of limitation. It is a well settled salutary principle that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner. (See with advantage: Nazir Ahmad v. King Emperor [(1935-36) 63 IA 372 : AIR 1936 PC 253 (II)], Rao Shiv Bahadur Singh v. State of V. P. (AIR 1954 SC 322 : 1954 SCR 1098), State of U.P. v. Singhara Singh (AIR 1964 SC 358 : 1964 (1) SCWR 57).) An election petition under the rules could only have been presented in the open court up to 16-5-1995 till 4.15 p.m. (working hours of the Court) in the manner prescribed by R.6 {supra} either to the Judge or the Bench as the case may be to save the period of limitation. That, however, was not done. However, we cannot ignore that the situation in the present case was not of the making of the appellant. Neither the Designated Election Judge before whom the election petition could be formally presented in the open court nor the Bench hearing civil applications and motions was admittedly available on 16-5-1995 after 3.15 p.m., after the obituary reference since admittedly the Chief Justice of the High Court had declared that "the Court shall not sit for the rest of the day" after 3.15 p.m. Law does not expect a party to do the impossible -- *impossibilium nulla obligatio est* -- as in the instant case, the election petition could not be filed on 16-5-1995 during the court hours, as for all intents and purposes, the Court was closed on 16-5-1995 after 3.15 p.m." (underline supplied)*



23. In **Meera Sahni v. Lieutenant Governor of Delhi and Others [2008 KHC 4944]**, the Apex Court has taken the same view and the same is extracted below:

"20. It is by now a certain law that an action to be taken in a particular manner as provided by a statute, must be taken, done or performed in the manner prescribed and in no other manner. In this connection we may appropriately refer to the decision of this Court in Babu Verghese v. Bar Council of Kerala, 1999 (3) SCC 422, wherein it was held as under:

31. It is the basic principle of law long settled that if the manner of doing a particular act is prescribed under any statute, the act must be done in that manner or not at all. The origin of this rule is traceable to the decision in Taylor v. Taylor (1875) 1 Ch D 426 which was followed by Lord Roche in Nazir Ahmad v. King Emperor AIR 1936 PC 253 who stated as under:

"Where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all."

32. This rule has since been approved by this Court in Rao Shiv Bahadur Singh v. State of V.P. AIR 1954 SC 322 and again in Deep Chand v. State of Rajasthan AIR 1961 SC 1527. These cases were considered by a three Judge Bench of this Court in



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State of U.P. v. Singhara Singh AIR 1964 SC 358 and the rule laid down in Nazir Ahmad case (supra) was again upheld. This rule has since been applied to the exercise of jurisdiction by courts and has also been recognised as a salutary principle of administrative law."

24. The Apex court in **Opta Circuit India Limited v. Axis Bank and Others [2021 KHC 6047]** observed like this:

"15. This Court has time and again emphasised that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner alone and in no other manner. Among others, in a matter relating to the presentation of an Election Petition, as per the procedure prescribed under the Patna High Court Rules, this Court had an occasion to consider the Rules to find out as to what would be a valid presentation of an Election Petition in the case of Chandra Kishor Jha vs. Mahavir Prasad and Ors. (1999) 8 SCC 266 and in the course of consideration observed as hereunder:

"It is a well settled salutary principle that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner".

Therefore, if the salutary principle is kept in perspective, in the



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instant case, though the Authorised Officer is vested with sufficient power; such power is circumscribed by a procedure laid down under the statute. As such the power is to be exercised in that manner alone, failing which it would fall foul of the requirement of complying due process under law. We have found fault with the Authorised Officer and declared the action bad only in so far as not following the legal requirement before and after freezing the account. This shall not be construed as an opinion expressed on the merit of the allegation or any other aspect relating to the matter and the action initiated against the appellant and its Directors which is a matter to be taken note in appropriate proceedings if at all any issue is raised by the aggrieved party.” (underline supplied).

25. In **Union Bank of India v. Rajat Infrastructure Private Limited and others [2023 KHC 6888]**, the Apex court has observed like this;

"8. Now, it is well-settled proposition of law that when a statute requires a particular thing to be done in a particular manner, it must be done in that manner or not at all, and other methods of performance are necessarily forbidden."

26. It seems that, while deciding **Madhu**



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Parumala's case (supra) the division bench of this court has not considered the settled legal principle that laid down by the apex court, which says that; *"It is a well settled salutary principle that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner."* The apex court in **Bilkis Yakub Rasul v. Union of India [2024 KHC 6020]** observed like this:

"Thus, although it is the ratio decidendi which is a precedent and not the final order in the judgment, however, there are certain exceptions to the rule of precedents which are expressed by the doctrines of per incurium and sub silentio. Incuria legally means carelessness and per incurium may be equated with per ignorantium. If a judgment is rendered in ignorantium of a statute or a binding authority, it becomes a decision per incurium. Thus, a decision rendered by ignorance of a previous binding decision of its own or of a court of coordinate or higher jurisdiction or in ignorance of the terms of a statute or of a rule having the force of law is per incurium. Such a per incurium decision would not have a precedential value."

27. In the light of the dictum laid down by the



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Supreme Court in the above judgments, this court can safely accept the dictum laid down by the Division Bench in **Haridasan Palayil's case (supra)**, in which this Court clearly followed the settled principles that, if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner. The Division Bench also relied on the 'Form' prescribed by the Constitution, which offers only a limited option. The Division Bench observed that one can either subscribe to the oath or make an affirmation. The Division Bench observed that in case the person chooses to take an oath, he has to swear in the name of God and no one else. The Division Bench also observed that the Constitution does not permit any deviation or variation. The Division Bench also observed that, if any deviations are permitted, we may not know where to stop.

28. A perusal of the table extracted in paragraph 5 of this judgment would show the manner in which oath is taken by the party respondents in WP(C) No.1502 of 2026. In



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Haridasan Palayil's case (supra), the member of the legislature took oath in the name of 'Sree Narayana Guru'. As far as the party respondents in WP(C) No.1502 of 2026 are concerned, they took oath in the name of the "ഗുരുദേവ നാമത്തിൽ" (In the name of Gurudeva), "ശ്രീ ഉദയന്നൂർ ദേവിയുടെ നാമത്തിൽ" (In the name of Sree Udayannoor Devi), "കാവിലമ്മയുടെ നാമത്തിൽ" (In the name of Kaavilamma), "ഭഗവത് നാമത്തിൽ" (In the name of Bhagavath), "ശ്രീപദ്മനാഭ സ്വാമിയുടെ നാമത്തിൽ" (In the name of Sree Padmanabha Swami), "ഭാരതാംബയുടെ നാമത്തിൽ" (In the name of Bharathamba), "എന്റെ പ്രസ്ഥാനത്തിലെ ബലിദാനികളുടെ പേരിൽ" (In the name of the martyrs of my organisation/movement), "ഭാരത മാതാവിന്റെ നാമത്തിൽ" (In the name of Mother India), "തിരുവല്ലം പരശുരാമന്റെ നാമത്തിൽ" (In the name of Thiruvallam Parasuraman), "ആറ്റുകാൽ അമ്മയുടെ നാമത്തിൽ" (In the name of Attukal Amma), "ശ്രീ ഇരംകുളങ്ങര ദുർഗ്ഗാഭഗവതിയുടെ നാമത്തിൽ" (In the name of Sree



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Irumkulangara Durga Bhagavathi), "ശ്രീ പത്മനാഭന്റെ നാമത്തിൽ" (In the name of Sree Padmanabhan), "പത്മനാഭന്റെയും ശ്രീ മഹാവിഷ്ണുവിന്റെയും നാമത്തിൽ" (In the name of Padmanabhan and Sree Mahavishnu), "ശ്രീകണ്ഠേശ്വരൻ അമ്മയപ്പൻ നാമത്തിൽ" (In the name of Sreekanteswaran Ammayappan), "അയ്യപ്പ നാമത്തിൽ" (In the name of Ayappa), "കാര്യവട്ടം ശ്രീ ധർമ്മ ശാസ്താവിന്റെ നാമത്തിൽ" (In the name of Karyavattom Sree Dharma Sasthav) and "ഗുരുദേവ നാമത്തിലും എന്റെ പ്രസ്ഥാനത്തിനു വേണ്ടി ബലിദാനികളായവരുടെ നാമത്തിലും" (In the name of Gurudeva and in the name of the martyrs of my organisation/movement). Whether the oath taken by them is in accordance with the statutes is the question to be decided. In the light of the principle laid down by this Court in **Haridasan Palayil's case (supra)**, there is no doubt that the oath taken by the Respondent Nos. 4 to 23 in WP (C) No.1502 of 2026, is not as per the Municipality Act. Similarly, the 6th respondent in WP (C) No.48425 of 2025 took oath stating that



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“ഇശ്വരന്റെ അനുഗ്രഹത്താൽ ഉമ്മൻ ചാണ്ടിയുടെ നാമത്താൽ” (By God's blessing in the name of Oommen Chandy). This is also not in accordance with the Panchayat Raj Act. It is true that the constitution allow a citizen to believe in gods of their choice. Therefore I make it clear that, this court never intended that the persons or deities on which the party respondents took oath are not their god. They can believe them as god and it is their constitutional right. But when an oath is taken based on a statute, none can add or substitute anything to the form prescribed in the statute.

29. The upshot of the above discussion is that the oath taken by the respondents Nos 4 to 23 in WP (C) No. 1502 of 2026, who are the elected members of Thiruvananthapuram Corporation, is not a valid oath, and similarly, the oath taken by the 6th respondent in WP (C) No.48425 of 2025 as a member of the Vadakkencherry Grama panchayat is also not in conformity with the Panchayat Raj Act. Then what is the consequence of the same is the next point to



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be decided by this Court. If this Court declares that the oaths taken by these party respondents in this case are invalid, whether all their actions as members of the elected local authority will also automatically become invalid is the point to be decided. As far as the Municipality Act is concerned, Section 531 is there to protect their rights, and the same reads like this:

"531. Act of council, etc., not to be invalid.—

No Act or proceedings of the Council of a Municipality or a Standing Committee or any other Committee thereof shall be invalid merely by reason of any-

(i) defect in its constitution;

(ii) vacancy therein; or

(iii) irregularity or illegality in the election of a person to, or disqualification of a person to hold or continue in, any of the offices of a Council or a Committee."

30. From Section 531 of the Municipality Act, it is clear that, no act or proceedings of the Council of a Municipality or a Standing Committee or any other Committee thereof shall be invalid merely by reason of any defect in its



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constitution, vacancy therein or irregularity or illegality in the election of a person to, or disqualification of a person to hold or continue in, any of the offices of a Council or a Committee. In the light of the above discussion, there is illegality in the oath taken by the party respondents in WP (C) No. 1502 of 2026 while taking charge; however, their actions or proceedings of the council in which they attended or a standing committee or any other committee thereof in which they were members till today, will not be invalid. But, the party respondents have to again take an oath in accordance with Section 143 of the Municipality Act, coupled with the form prescribed in the Third Schedule of the Municipality Act. But there is no such provision in the Panchayat Raj Act to save the acts of a member who commits an illegality while taking the oath. This court specifically directed the standing counsel appearing for the State Election Commission to find out whether there is any such provision. The Standing counsel, after verification, informed this court that there is no such



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saving provision in the Panchayat Raj Act. Therefore, this Court is not in a position to save the acts of the 6th respondent in WP (C) No.48425 of 2025. The consequence is that all the actions of the 6th respondent in WP (C) No.48425 of 2025 as a member of the Panchayat are illegal, because he has not taken an oath in accordance with the provisions of the Panchayat Raj Act.

31. Then the Standing Counsel appearing for the Commission takes me through Section 512 of the Municipality Act and Section 258 of the Panchayat Raj Act and said that if this court declares that the oath taken is not in accordance with the statute, they are liable to pay a fine. Section 512 of the Municipality Act is extracted hereunder:

"512. Penalty for acting as councillor, chairperson or deputy chairperson when disqualified.—

(1) Whoever acts as a Councillor of a Municipality knowing that under this Act or the Rules made thereunder he is not entitled or has ceased to be entitled to hold such office shall, on conviction, be punished with fine not exceeding ten thousand rupees for such offence.



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(2) Whoever acts as, or exercise the functions of the Chairperson or Deputy Chairperson of a Municipality knowing that under this Act or the rules made thereunder he is not entitled or has ceased to be entitled to hold such office or to exercise such functions shall, on conviction, be punished with fine not exceeding -fifteen thousand rupees for such offence.

(3) Where the Chairperson or Deputy Chairperson of a Municipality refuses to hand over charge of his office or any documents of or any moneys or other properties vested in, or belonging to the Municipality which are in or has come into his possession or control, to his successor in office or other prescribed authority as soon as his term of office as Chairperson or Deputy Chairperson expires and in the case of the Deputy Chairperson also on demand by the Chairperson, such Chairperson or Deputy Chairperson shall, on conviction be punished with fine not exceeding ten thousand rupees for such offence."

32. Similarly, Section 258 of the Panchayat Raj Act is also extracted hereunder:

"258. Penalty for acting as President, Vice President or member of a Panchayat when disqualified. -

(1) Whoever acts as the President, acting President, or Vice-President of a Panchayat, or exercises any of his functions knowing that under this Act or the rules made



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thereunder, he is not entitled or has ceased to be entitled to hold office as such, or to exercise such functions, shall be punishable with fine not exceeding five thousand rupees for every such offence.

(2) Whoever acts as a member of a Panchayat knowing that, under this act or the rules made thereunder, he is not entitled or has ceased to be entitled to hold office as such, shall be punishable with fine not exceeding one thousand rupees for every such offence."

33. The stand of the Election Commission is that, if this Court declares that the swearing of the party respondents is not in tune with the Municipality Act, the Panchayat Raj Act and Rules, they are bound to pay a fine. But a perusal of Section 512 of the Municipality Act and 258 of the Panchayat Raj Act, it is clear that a fine can be imposed only when a person acts as a councillor/member of a Municipality/Panchayat, **knowing that** under the respective Acts or Rules made thereunder, they are not entitled or have ceased to be entitled to hold such office. A perusal of the above section itself shows that it applies only if the



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councillor/member **knowingly commits the acts.** In these cases, the acts of the Councillor/Member of the Municipality were in a bona fide belief that the same is legal. It became illegal only after this Court declared the oath taken as illegal. Therefore, no penalty can be imposed on the party respondents in these cases based on Section 512 of the Municipality Act and Section 258 of the Panchayat Raj Act.

34. The upshot of the above discussion is that the oaths taken by the party respondents in these writ petitions are invalid. But the party respondents were elected by the electorate in a democratic process. Simply because the party respondents committed an illegality during the oath-taking ceremony, their election cannot be set aside. The mandate of the people is supreme in a democracy. They can be given an opportunity to take an oath in accordance with the provisions of the Municipality Act and the Panchayat Raj Act. As far as the party respondents in these writ petitions are concerned, they are not liable to pay any penalty as per Section 512 of the



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Municipality Act or Section 258 of the Panchayat Raj Act. The acts of the party respondents in WP(C) No.1502/2026 as members of the corporation council till today are protected by Section 531 of the Municipality Act. But they are not entitled to perform any acts as members of the council until they take a fresh oath or affirmation in accordance with the law. But since there is no corresponding provision in the Panchayat Raj Act similar to Section 531 of the Municipality Act, all the acts of the 6th respondent as a member of the 3rd respondent, Gram Panchayat in WP(C) No.48425 of 2025 till today are invalid. But he can take an oath once again within the time prescribed by this Court.

35. Before concluding, I am forced to say why we do not call the almighty of all religions with a common name, God? If that happens, there ends the whole problem. We are forgetting the declaration of Sree Narayana Guru, a century back, which says that "ഒരു ജാതി, ഒരു മതം, ഒരു ദൈവം മനുഷ്യന്" (One Caste One Religion One God to Humankind). **Adi**



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Sankaracharya, born in Kerala, propagated "**Advaita Vedanta**," a form of Non-dualism. As per our Constitution, India is a Sovereign, Socialistic, Secular, Democratic Republic. The Constitution provides the right to freedom of religion, including freedom of conscience and the right to freely profess, practice, and propagate religion. It also grants the right to manage religious affairs, among other things. This also includes the right to believe in any God, and the citizen can choose any god of their choice. In Hindu mythology, there are many Gods. Thunchath Ezhuthachan, in his Harinamakeerthanam, also spoke of non-dualism in his own style. It will be better to extract the same:

“ഒന്നായ നിന്നെയിഹ രണ്ടെന്നു കണ്ടുവി
ലുണ്ടായൊരിങ്ങൽ ബത മിണ്ടാവതല്ല മമ;
പണ്ടേക്കണക്കെ വരുവാൻ
നിൻകൃപാവലിക -
ഊണ്ടാകയെങ്കലിഹ; നാരായണായ നമ :”

36. The crux of the meaning of the above lines is nothing but non-dualism. In the **Rig Veda**, it is stated like this, "**Ekam sat viprah bahudha vadanti**" – (*Rg Veda*



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1.164.46). (*Truth is one, the wise call it by many names*). It can be interpreted that all deities are manifestations of one being. In other words, God is one for all. Hindus believe that their God is "Rama, Krishna, Siva, Devi, etc.", Muslims say that it is "Allah", and Christians say that it is "Jesus". That is why our Constitution grants every citizen the freedom of belief. That may be the reason why the legislature, in Section 152 of the Kerala Panchayat Raj Act and Section 143 of the Kerala Municipality Act, read with the respective Schedules, has provided that the oath is to be taken by elected members either in the name of God or by solemn affirmation without any expansion. The term "God" is not defined either in the Panchayat Raj Act or in the Municipality Act. The situation is similar under Article 188, coupled with the Third Schedule of our Constitution, where also, the oath is to be taken either in the name of God or by solemn affirmation. When the statute prescribes a particular manner in which an oath is to be taken by the elected members in a democracy, i.e., either in the



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name of God or a solemn affirmation, the expansion of "God" is not permissible. After all, regardless of religion, everyone, except atheists, believes in the Almighty God. Sri. M.D Rajendran, a famous lyricist, wrote a Malayalam film song, which starts like this:

“കുറി വരാച്ചാലും
കുരിശു വരാച്ചാലും
കുമ്പിട്ടു നിസ്കരിച്ചാലും
കാണുന്നതും ഒന്ന്
കേൾക്കുന്നതും ഒന്ന്
കരുണാമയനാം ദൈവം ഒന്ന് ദൈവം ഒന്ന്.”

37. It means that if a Hindu puts a sacred mark on his forehead, a Christian puts a cross, or a Muslim while praying, bows his head to the earth, all are seeing the same almighty god. This is the crux of Sree Narayana Guru's message, which I summarised in the second sentence of paragraph No.35. The believers have to achieve the message of Sree Narayana Guru. We need not expand God by name. Let the almighty bless all! I leave it there. The upshot of the above discussion is that the writ petitions are to be allowed.



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Therefore, these Writ Petitions are allowed in the following manner:

1. The oath taken by respondent Nos. 4 to 23 in W.P.(C) No. 1502 of 2026 is declared invalid. The competent authority among respondent Nos. 1 to 3 will make necessary arrangements to facilitate respondent Nos. 4 to 23 to take the oath once again within four weeks from the date of receipt of a certified copy of this judgment. I also declare that the benefit of Section 531 of the Municipality Act is available to the acts of respondent Nos. 4 to 23 till today.
2. The oath taken by the 6th respondent in W.P.(C) No. 48425 of 2025 is declared as invalid. The competent authority among respondents Nos 1 to 4 will make necessary arrangements for the 6th respondent to take the oath once again



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within four weeks from the date of receipt of a
certified copy of this judgment.

Sd/-

**P.V.KUNHIKRISHNAN
JUDGE**

DM/SKS/SSG/JV/nvj/AJ

Judgment reserved	15.06.2026
Date of judgment	24.06.2026
Judgment dictated	15.06.2026
Draft Judgment Placed	19.06.2026
Final Judgment Uploaded	24.06.2026



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APPENDIX OF WP(C) NO. 1502 OF 2026

PETITIONER EXHIBITS

- Exhibit P1 A TRUE COPY OF CIRCULAR NO. B2/132/2025-
SEC DATED 15.12.2025 ISSUED BY THE 1ST
RESPONDENT
- Exhibit P2 A TRUE COPY OF THE VIDEO FOOTAGE OF THE
SWEARING-IN CEREMONY OF ALL THE
RESPONDENTS NOS. 4 TO 23 ON 21.12.2025,
STORED IN A PEN DRIVE
- Exhibit P3 A TRUE COPY OF THE COMPLAINT SUBMITTED BY
THE PETITIONER TO THE 1ST RESPONDENT
DATED 23.12.2025



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APPENDIX OF WP(C) NO. 48425 OF 2025

PETITIONER EXHIBITS

- Exhibit P-1 A TRUE COPY OF THE SAID CIRCULAR NO. B2/132/2025-SEC DATED 15.12.2025 ISSUED BY THE 1ST RESPONDENT
- Exhibit P-2 A TRUE COPY OF THE PHOTOGRAPH SHOWING THE PEN DRIVE CONTAINING THE VIDEO OF THE 6TH RESPONDENT'S OATH-TAKING CEREMONY
- Exhibit P-3 A TRUE COPY OF THE COMPLAINT DATED 22.12.2025 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT
- EXT.P4 PEN DRIVE CONTAINING THE VIDEO FOOTAGE OF THE OATH TAKING CEREMONY OF THE 6TH RESPONDENT.

RESPONDENT EXHIBITS

- Exhibit R6 (a) A true copy of the election certificate dated 13.12.2025 issued by the Returning Officer, Vadakkencherry Grama Panchayat
- Exhibit R6 (b) A true copy of the Register in Form No. 1 maintained by Respondent No. 3 Panchayat