



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

THURSDAY, THE 1ST DAY OF OCTOBER 2026 / 9TH ASWINA, 1948

WP(C) NO. 31188 OF 2026

PETITIONER :

DINESH MENON
AGED 69 YEARS
S/O LATE C. PADMAKARA MENON,
CHAIRMAN & MANAGING DIRECTOR,
MENNEN FINANCIAL SERVICES LTD,
504, 5TH FLOOR,
ACME INDUSTRIAL PARK,
WESTERN EXPRESS HIGHWAY,
GOREGAON (E), MUMBAI,
PIN - 400063

BY ADVS.
SRI.V.SETHUNATH
SHRI.THOMAS ABRAHAM (K/1051/2010)
SHRI.SREEGANESH U.
SHRI.SHAMNAS S.

RESPONDENTS :

- 1 STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY,
SECREATARIATE,
THIRUVNATHAPURAM,
PIN - 695001
- 2 ELECTION COMMISSION OF INDIA
REPRESENTED BY THE CHIEF ELECTORAL OFFICER,
KERALA, ELECTION DEPARTMENT
KERALA LEGISLATIVE COMPLEX
VIKAS BHAVAN P.O.



2026:KER:76276

2

THIRUVANANTHAPURAM,
PIN - 695033

3 HON'BLE SPEAKER
KERALA LEGISLATIVE ASSEMBLY,
NEETHI' LEGISLATURE COMPLEX,
VIKAS BHAVAN P.O.,
THIRUVANANTHAPURAM,
PIN - 695033

4 MANI.C.KAPPAN M.L.A
ROOM NO. 303,
CHANDRAGIRI BLOCK,
LEGISLATORS HOSTEL,
VIKAS BHAVAN P.O.,
THIRUVANANTHAPURAM,
PIN - 695033

BY ADVS.
SRI.JAJU BABU, ADVOCATE GENERAL
SRI.SACHIN RAMESH, GOVERNMENT PLEADER
SHRI.DEEPULAL MOHAN, SC, ELECTION COMMISSION OF
INDIA
SRI.SANTHOSH MATHEW (SR.)
ADV.UMMUL FIDA
SHRI.DEEPULAL THANKAN
SMT.LAKSHMI SREEDHAR
SMT.P.PARVATHY
SMT.POOJA CHANDRAN
SMT. T. J. JUBIL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 01.10.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



BECHU KURIAN THOMAS, J.

W.P.(C) No.31188 of 2026

Dated this the 1st day of October, 2026

JUDGMENT

Petitioner has approached this Court seeking the following reliefs :-

- (a) Issue a Writ of Mandamus or any other appropriate writ, order, or direction to declare that Respondent No. 4 is disqualified to continue as 8 Member of the Legislative Assembly from Pala constituency with effect from 1-9-2026 in view of the conviction in Ext.P2 to P5 Judgments.*
- (b) Issue a Writ of Mandamus or any other appropriate writ, order, or direction commanding Respondent No. 3 to issue a notification declaring the Pala assembly seat vacant with effect from 1-9-2026.*
- (c) Issue a Writ of Mandamus commanding Respondent No. 2 to initiate proceedings for holding a bye-election in the Pala constituency in accordance with the law;*
- (d) Pass any other or further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.*

2. Petitioner has raised the question of disqualification of the 4th respondent. Petitioner alleges that, the 4th respondent, who is an elected Member of the Legislative Assembly from Pala, has suffered disqualification, by virtue of the conviction and sentence imposed on him,



in four separate criminal cases, by the Metropolitan Magistrate, Borivali, Mumbai. The judgment convicting and imposing sentence on the 4th respondent is produced as Ext.P2 to Ext.P5. Petitioner further alleges that he has moved the Speaker of the Legislative Assembly of Kerala through Ext.P6 to issue a formal notification, declaring the disqualification of the 4th respondent from the Membership of the House with effect from the date of conviction.

3. A counter affidavit has been filed by the 4th respondent, controverting the contentions in the writ petition, and questioning its very maintainability. According to the respondent, the reliefs sought for in the writ petition cannot be granted by this Court as it is a matter to be decided by the Governor and no Writ of Mandamus can be issued to the Governor to exercise his powers under the Constitution. It is also stated that the sentence imposed in four separate criminal proceedings cannot be aggregated for the purposes of disqualification.

4. I have heard Sri.V.Sethunath, the learned counsel for the petitioner, Sri.Jaju Babu, the learned Advocate General instructed by Sri.Sachin Ramesh, the learned Government Pleader, Sri.Deepu Lal Mohan, the learned Standing Counsel for the 2nd respondent as well as Sri.Santhosh Mathew, the learned Senior Counsel, instructed by Adv.Ummul Fida on behalf of the 4th respondent.



5. Though various contentions have been raised by either side regarding the merits of the controversy, this Court is of the view that considering the limited scope of judicial review at this stage, in respect of a matter of disqualification, it is not proper for this Court to make any observation on merits.

6. Nevertheless, it is evident from the pleadings and Ext.P6, an application for issuing a formal notification declaring the disqualification of the 4th respondent, is pending before the Speaker of the Legislative Assembly. Though the learned Counsel for the petitioner submitted that a similar application has been filed before the Governor, the same has neither been produced in this writ petition nor has it been pleaded. Hence the latter cannot be taken into reckoning in this writ petition.

7. Be that as it may, Section 8(3) of the Representation of People Act, 1951, prescribes disqualification of an elected member on conviction and sentence of imprisonment imposed for more than two years. The period of disqualification shall be from the date of such conviction and continue for a period of six years. Article 191(e) of the Constitution of India stipulates that a person shall be disqualified for being chosen as, and for being a Member of the Legislative Assembly of a State if he is disqualified by or under any law made by the Parliament. The disqualification as prescribed by the Representation of People Act,



1951 read with the Constitution of India is immediate on conviction and sentence. However, if a question arises as to whether a Member of the House of Legislature has become subject to any of the disqualifications, the said question will have to be referred for the decision of the Governor, as per Article 192 of the Constitution of India. Who is the person who has to consider that question, is an issue in controversy.

8. Pursuant to the decision in **Lily Thomas v. Union of India and Others** [(2013) 7 SCC 653], the Election Commission of India has issued an instruction on 13.10.2015 to the Chief Secretaries of all the States to ensure that the Speakers or the Chairman, as the case may be of the House and the Chief Electoral Officer of the State to be informed of any order of conviction within a period of seven days of the passing of the order and if it leads to disqualification, to issue necessary notification in that regard, immediately, in any event within seven days of the information/ copy of the order. In **Lok Prahari, through its General Secretary S.N. Shukla v. Election Commission of India & Others** [AIR 2018 SC 4675], the Supreme Court has referred to the above instructions issued by the Election Commission of India, practically approving such a procedure.

9. In view of the above, since the Speaker of the Kerala Legislative Assembly would have been informed of the conviction of the



4th respondent, not only by the petitioner as per Ext.P6 but also by the officer mentioned in the above referred notification issued by the Election Commission of India, the Speaker, ought to take appropriate steps as he deems fit, in accordance with law.

Accordingly, there will be a direction to the 3rd respondent to take appropriate steps as he deems fit on Ext.P6, in accordance with law, bearing in mind the provisions of the Constitution of India as well as the Representation of People Act, 1951, at the earliest, without undue delay.

It is clarified that this Court has neither made any observations nor considered the matter on merits.

With the above directions, this writ petition is disposed of.

Sd/-

BECHU KURIAN THOMAS, JUDGE

RKM

APPENDIX OF WP(C) NO. 31188 OF 2026PETITIONER'S EXHIBITS :

- Exhibit P1 TRUE COPY OF THE AGREEMENT DATED 19-11-2013 UPON WHICH FOUR CHEQUES WERE ISSUED
- Exhibit P2 THE TRUE COPY OF THE JUDGMENT IN C. C. NO. : 4302394/SS/2019 ON THE FILE OF THE ADDITIONAL METROPOLITAN MAGISTRATE, BORIVALI, MUMBAI- JUDICIAL MAGISTRATE (FIRST CLASS), 43RD COURT DATED 1-9-2026 AND SENTENCING ORDER
- Exhibit P3 THE TRUE COPY OF THE JUDGMENT IN C. C. NO. : 4302080/SS/2016 ON THE FILE OF THE THE ADDITIONAL METROPOLITAN MAGISTRATE, BORIVALI, MUMBAI-JUDICIAL MAGISTRATE (FIRST CLASS), 43RD COURT DATED 1-9-2026 AND SENTENCING ORDER
- Exhibit P4 THE TRUE COPY OF THE JUDGMENT IN C. C. NO. : 4302081/SS/2016 ON THE FILE OF THE THE ADDITIONAL METROPOLITAN MAGISTRATE, BORIVALI, MUMBAI- JUDICIAL MAGISTRATE (FIRST CLASS), 43RD COURT DATED 1-9-2026
- Exhibit P5 THE TRUE COPY OF THE JUDGMENT IN C. C. NO. : 4303277/SS/2015 ON THE FILE OF THE THE ADDITIONAL METROPOLITAN MAGISTRATE, BORIVALI, MUMBAI- JUDICIAL MAGISTRATE (FIRST CLASS), 43RD COURT DATED 1-9-2026 AND SENTENCING ORDER
- Exhibit P6 THE TRUE COPY OF THE REPRESENTATION SENT MY EMAIL ON 8-9-2026 TO THE HON : SPEAKER OF THE KERALA LEGISLATIVE ASSEMBLY (WITHOUT EXHIBITS)