

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

TUESDAY, THE 15TH DAY OF SEPTEMBER 2015/24TH BHADRA, 1937

WA.No. 1050 of 2015 () IN WP(C).14093/2006

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AGAINST THE JUDGMENT IN WP(C) 14093/2006 of HIGH COURT OF KERALA  
DATED 15-01-2013

APPELLANT(S)/RESPONDENTS 1-3 & 5 IN WPC.:

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1. THE STATE OF KERALA  
REPRESENTED BY THE SECRETARY TO GOVERNMENT,  
GENERAL EDUCATION DEPARTMENT,  
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR OF PUBLIC INSTRUCTION, JAGATHY,  
THIRUVANANTHAPURAM-14.

3. THE DEPUTY DIRECTOR OF EDUCATION,  
AYYANTHOLE, THRISSUR DISTRICT.

4. THE DISTRICT EDUCATIONAL OFFICER, CHAVAKKAD.  
THRISSUR DISTRICT.

BY SENIOR GOVERNMENT PLEADER SRI M.A.FAYAZ

RESPONDENT(S)/PETITIONER AND 4TH RESPONDENT IN WPC.:

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1. ANNIE JOHN CHUNGATH  
HIGH SCHOOL ASSISTANT (MATHS)  
TVM HIGHER SECONDARY SCHOOL, PERUMPILAVU  
THRISSUR DISTRICT-680 519.

2. THE HEADMASTER  
TVM HIGHR SECONDARY SCHOOL, PRUMPILAVU  
THRISSUR DISTRICT-680 519.

R1 BY ADV. SRI.V.A.MUHAMMED  
R1 BY ADV. SRI.M.SAJJAD  
R2 BY ADV. SRI.M.S.UNNIKRISHNAN  
R2 BY ADV. SRI.JITHIN PAUL VARGHESE  
R2 BY ADV. SMT.CHITHRA.S.BABU  
R2 BY ADV. SRI.C.DHEERAJ RAJAN  
R2 BY ADV. SMT.T.P.SHELNA  
R2 BY ADV. SMT.M.PPRIYANKA  
R BY SRI.K.A.MANZOOR ALI

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD  
ON 15-09-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

WA.No. 1050 of 2015 () IN WP(C).14093/2006

**A P P E N D I X**

APPELLANTS' EXHIBITS

ANNEXURE A1: TRUE COPY OF THE CIRCULAR NO.26790/J2/07/G.Edn DATED 23.06.2009.

ANNEXURE A2: TRUE COPY OF THE G.O(P) NO.85/11/G.Edn DATED 7.3.2011.

RESPONDENTS' EXHIBITS

NIL.

/TRUE COPY/

P.S TO JUDGE

**ANTONY DOMINIC & P.V ASHA, JJ.**

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**C.M.Appl.No.544 of 2015**

**and**

**W.A No.1050 of 2015**  
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**Dated this the 15<sup>th</sup> day of September, 2015**

**ORDER/JUDGMENT**

Antony Dominic, J.

This is an application filed by the appellants to condone the delay of 769 days in filing the appeal, which is filed against the judgment of the learned Single Judge in Writ Petition No.14093 of 2006, which was filed by the 1<sup>st</sup> respondent herein.

2. We heard the learned Government Pleader and the learned counsel for the 1<sup>st</sup> respondent, who has also filed a counter affidavit objecting to the prayer made. Though this petition was supported by an affidavit dated 09.4.2015, this Court was not satisfied with the explanation offered for the condonation of the long and inordinate delay and therefore after taking time from this court, further affidavit dated 09.06.2015 has been filed. As per this affidavit, after the judgment was rendered on 15.01.2013, certified copy was received by the second appellant's office on 01.02.2013. It is stated that initially a legal opinion was furnished from the Advocate General's office

on 06.03.2013 stating that there was no scope for filing an appeal. As per this affidavit, this opinion was not received in the office of the Director of Public Instructions or the Government.

3. Subsequently the Government is seen to have issued a letter dated 26.04.2014 to the office of the Advocate General to take steps for filing a Writ Appeal against the judgment, which is stated to have been received in the Advocate General's office on 21.05.2014. Accordingly the matter was reviewed and by letter dated 14.07.2014, the Government Pleader has required to depute a competent officer in the matter. It is stated that this was done by letter dated 14.07.2014 and reply thereof was issued by the Government only by order dated 15.10.2014 deputing a Section Officer of the General Education Department. Subsequently it was only on 12.03.2015, further discussions were held by a Senior Finance Officer of the D.P.I.

4. Suffice it to say that the appeal was thereafter finalised only on 06.04.2015 and was filed only on 10.04.2015. The above dates that are disclosed in the affidavit dated 09.06.2015 disclose that there was absolute failure in earnestly prosecuting the case and that has caused the delay. We are

therefore not satisfied that there is any satisfactory explanation for condoning the inordinate delay of 769 days caused in filing this appeal.

Accordingly, the C.M.Application is dismissed. Consequently the appeal also stand dismissed.

*Sd/-*

***ANTONY DOMINIC***  
***Judge***

*Sd/-*

***P.V.ASHA***  
***Judge***

rtr/

/true copy/

P.S to Judge