

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC  
&  
THE HONOURABLE SMT. JUSTICE P.VASHA

WEDNESDAY, THE 16TH DAY OF DECEMBER 2015/25TH AGRAHAYANA, 1937

WA.No. 1936 of 2014 IN WP(C).21823/2008  
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AGAINST THE JUDGMENT IN WP(C) 21823/2008 of HIGH COURT OF KERALA DATED 3.7.13

APPELLANT/PETITIONER:  
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KANTHAPURAM A.P.ABOOBACKER MUSALIYAR  
MANAGER, MARKAZ HIGHER SECONDARY SCHOOL, KARANTHUR.

BY ADVS.SRI.A.A.ZIYAD RAHMAN  
SRI.LAL K.JOSEPH  
SRI.VS.SHIRAZ BAVA

RESPONDENTS:  
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1. STATE OF KERALA  
REP. BY ITS SECRETARY TO GOVERNMENT  
GENERAL EDUCATION (HSE) DEPARTMENT.
2. THE DIRECTOR OF HIGHER SECONDARY EDUCATION  
HOUSING BOARD, SANTHI NAGAR, THIRUVANANTHAPURAM.
3. THE DISTRICT EDUCATIONAL OFFICE,  
KOZHIKODE.

R BY SR. GOVERNMENT PLEADER SRI.SHYSON P MANGUZHA

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 16-12-2015, THE COURT  
ON THE SAME DAY DELIVERED THE FOLLOWING:

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

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**C.M.Appln.1015 of 2014 in  
Writ Appeal No.1936 of 2015**  
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**Dated this the 16<sup>th</sup> day of December, 2015**

**JUDGMENT**

**Antony Dominic, J.**

This is an application is filed to condone the delay of 420 days in filing this appeal. After service of notice, this application came up for consideration before this court on 1.12.2015, when it was adjourned for the counter affidavit, if any to the delay petition. However, when the matter was taken up today, learned Government Pleader submitted that the application can be allowed on terms.

2. We have gone through the affidavit filed in support of the petition.

3. In the petition, two reasons have been stated. First one is that though certified copy of the judgment was received on 4.9.2013, the clerk of the petitioner's counsel did not intimate the same to the counsel and that the receipt of the certified copy came to the knowledge of the counsel only in January, 2014. It is stated that thereafter in February 2014, instruction was given to the counsel to file an appeal immediately. According to the petitioner, by that time the case bundle was misplaced in the office of the counsel and the said omission came to the notice of the

counsel only during the month of October 2014. It is stated that thereafter the file was traced out and the appeal could be filed only in November 2014 and that in the meanwhile the delay of 420 days has occurred.

4. In our view, these are not reasons which could have been explained by the petitioner but should have been explained by the persons concerned who are responsible for the delay. However, no affidavit of such persons have been filed. Therefore, we are not satisfied with the explanation offered by the appellant. Hence, we dismiss the delay petition.

In view of the dismissal of the delay condonation petition, appeal is also dismissed.

**ANTONY DOMINIC  
JUDGE**

**P.V.ASHA  
JUDGE**

*jes*