

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CM(M) No. 582/2025

CM No. 8711/2025

Mst. Tasleema Bano Aged 50 years
D/o Ghulam Hassan Bhat
R/o Kralkhud, Chandpora,
Habba Kadal, Srinagar

...Petitioner(s)/Appellant(s)

Through: Mr. Manzoor Ahmad Dar, Adv.

Vs.

- 1. Bajaj Allianz General Insurance Company Ltd. Th.** ...Respondent(s)
its Divisional Manager at Lake City Plaza opposite
Church, M. A. Road, Srinagar.
- 2. Branch Manager J&K Bank**
B/O Habakadal, Srinagar.

Through: Mr. Nasir Ahmad, Adv.
Mr. Syed Avees Geelani, Adv.

CORAM:

HON'BLE MS. JUSTICE SINDHU SHARMA, JUDGE
HON'BLE MR. JUSTICE SHAHZAD AZEEM, JUDGE

ORDER
04.03.2026

1. With the consensus of learned counsel for the parties, the matter is taken up on board for hearing
2. The petitioner has invoked the extraordinary writ jurisdiction of this Court questioning the legal pregnability of the order dated 9th June 2023, passed by the J&K State Consumer Disputes Redressal Commission, Srinagar ["the Commission"], by virtue of which, *inter alia*, challenge thrown to the imposition of cost while condoning the delay in filing the complaint, came to be dismissed.
3. To be brief, the petitioner stated to have set-up a small unit for the production of artisan goods (Handicrafts), and for this purpose, she had raised loan and to secure the goods, had obtained an insurance cover from respondent-Bajaj Allianz (Insurer) for an amount of Rs. 1.00 lacs, for the

period, 18th December 2023 to 17th December 2014. The case set up by the petitioner is that during the currency of the insurance period, due to devastating floods of September 2014, the handicraft unit of the petitioner got submerged, resultantly the entire stock got damaged. Therefore, she has raised a claim for indemnification of loss with the insurer, but same was not settled, therefore, she was forced to file a complaint before the District Consumer Protection Forum, [“the Forum”].

4. The delay had occurred in filing the complaint, which was condoned by the Forum vide order dated 25th April, 2018, subject to payment of cost of Rs. 5,000/.

5. Against the said order, the insurer has also filed a bunch of revision petitions before the Commission, and the petitioner herein also challenged the part of the said order whereby cost was imposed. However, the Commission, after considering the rival contentions of the parties, dismissed the plea of the insurer company as well as the petitioner herein.

6. It is this order of the Commission which has been sought to be assailed by virtue of the present writ petition.

7. The controversy lies in narrow compass; that as to whether the Forum, while condoning the delay has imposed a reasonable or excessive cost in the given facts and circumstances.

8. There is no gainsaying that the order passed by the Forum condoning the delay in filing the complaint is typically conditional and composite, as the delay is condoned subject to payment of the cost. It also goes without saying that cost is imposed precisely to balance the prejudice caused to the opposite party due to the delay and same would also serve as a deterrent.

9. Therefore, by accepting the part of the order passed by the Forum whereby the delay is condoned, the petitioner has approbated the order and simultaneously thrown challenge to the part of the order whereby cost is imposed, such act amounts to reprobating the same condition as incorporated in the order whereby the delay is condoned.

10. It is well settled that a party cannot blow hot and cold, in that, can conveniently accept benefits while disputing the attached conditions. This

tendency amounts to being inequitable and against the Principles of Estoppel.

11. Since the amount of Rs. 5,000/- imposed as cost, in our opinion, is reasonable, and the petitioner has effectively accepted the condonation by not seeking to set aside the entire order or to withdraw the complaint, therefore, we do not see any reason to interfere with the order passed by the Commission, or for that matter, the order passed by the Forum.

12. The petitioner cannot have it both ways, in that to retain the advantage of the complaint being heard on merits while avoiding the modest cost imposed for the delay.

13. For the foregoing reasons, we do not find any merit in the petition. Accordingly, same is dismissed along with connected CM.

SRINAGAR:
04.03.2026
Altaf

(SHAHZAD AZEEM)
JUDGE

(SINDHU SHARMA)
JUDGE

Whether approved for reporting? Yes/No

सत्यमेव जयते