

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

**Case: CM Nos.705 & 706/2024 in
SWP No.29/2009**

Shazia Hussain

.....Petitioner(s)

Through: Mr. Shamas Ud Din Shaaz, Advocate

Vs

State & Ors.

..... Respondent(s)

Through: Ms. Saliqa Sheikh, Advocate vice
Mr. Raman Sharma, AAG

Coram: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

ORDER
(01.04.2026)

CM Nos.705/2024 & 706/2024

1. This is an application filed by the writ petitioner for seeking condonation of delay in filing the application for restoration of the main writ petition, which was dismissed for non-prosecution on 16.05.2023.
2. No reply to the application has been filed by the respondents and their right to file reply stands already closed.
3. Heard learned counsel for the parties and perused the record of the case.
4. In the application, it has been submitted that the counsel for the writ petitioner-Mr. Kalil Ahmed,

Advocate could not appear on the date when the case was dismissed for non-prosecution because his mother was not well and she was admitted in the hospital. It has been further submitted that the mother of the counsel died on 18.09.2023 after a long illness.

5. According to the petitioner, she was assured by the counsel that he would cause his appearance in the Court on her behalf but the counsel did not inform her about the dismissal of the writ petition. It has been further submitted that it was only on 12.02.2024 that she came to know about the dismissal of her writ petition from the website of the High Court, whereafter she reached Jammu on 13.02.2024 and engaged another counsel who, after obtaining certified copy of the order 16.05.2023, filed the present application on 16.02.2024.
6. The main ground that has been projected by the petitioner for seeking condonation of delay in filing the application for restoration is that she was not informed by her earlier counsel about the dismissal of the writ petition and that her earlier counsel, because of the demise of his mother, could not appear before the Court.
7. There is a delay of 243 days in filing the present application. Merely because the counsel engaged by the

petitioner may not have informed the petitioner about the dismissal of the writ petition, does not absolve her from her duty to pursue the matter diligently. Even if she was not supposed to be present in Court on each and every day of hearing, at least she had a duty to get in touch with the counsel at regular intervals to know about the fate of her case.

- 8.** The fact that the petitioner did not come to know about the fate of the case for 243 days shows that there has been gross negligence on her part. If the petitioner could check the fate of her case on website of the High Court on 12.02.2024, she could have done so earlier also. It seems that the petitioner had failed to pursue her case diligently by not contacting her counsel at regular intervals. Thus it can safely be inferred that the petitioner has been negligent in pursuing her case.
- 9.** Negligence of a counsel cannot, in every case, offer a good ground for a litigant to get the case restored. It is only in those cases where a litigant has pursued his/her matter diligently that the negligence of a counsel can be excused but not otherwise.
- 10.** This is a classic case where the petitioner has slept over the matter and woken up from deep slumber to file the present application seeking condonation of delay in

filing the restoration application.

- 11.** Thus, no good ground is made out for condoning the long delay of 243 days in filing the restoration application. The same is accordingly dismissed. Consequently, the restoration application shall also stand dismissed.

**(SANJAY DHAR)
JUDGE**

**Jammu
01.04.2026
Sneha**

