

13.

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 8639/2009

% **Date of decision : 11th September, 2009**

RAM BABU MISHRA Petitioner
Through Mr. Arvind Sah, Advocate.

versus

SECRETARY , STATE TRANSPORT
AUTHORITY GOVT. OF NCT OF DELHI Respondent
Through Mohd. Sajid, Advocate.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA

ORDER (ORAL)

1. The policy relied upon by the respondent is not applicable and does not deal with the factual background of the present case. The petitioner had a permit to operate a three wheeler scooter in Delhi with the number plate DL 1 RD 0648, a scooter registered in the name of the petitioner.

2. As per the petitioner on 20th August, 2008, the scooter was stolen and FIR No. 378/2008 was filed with the Police Station Sarojini Nagar. The police have given an untraced report stating that despite best efforts the stolen property has not been recovered and the case has been treated as untraced.

3. The petitioner now wants to purchase a new scooter and operate on

the basis of the earlier permit. The respondents, however, claim that this is not permissible as under the policy dated 17th July, 2006, permission to register a new vehicle can be granted only on submission of proof of scrapping of old vehicle. The petitioner obviously does not have proof of scrapping of old vehicle, in the sense that the vehicle has been destroyed. The petitioner has given proof that the scooter was stolen and has not been recovered in the form of the untraced report issued by the Station House Officer, Sarojini Nagar, Police Station. The effect and impact of the said untraced report is that the vehicle cannot be found by the Delhi Police. Such situation was not visualized and envisaged in the policy decision dated 17th July, 2006. Policy decision dated 17th July, 2006 does not specifically deal with the present situation. It does not bar/prohibit or stipulate that permit will be issued in such situations. A pragmatic view has to be taken, keeping in mind the object and purpose behind the policy decision dated 17th July, 2006.

4. The object and purpose behind the policy decision dated 17th July, 2006 is to ensure that old retro-fitted two-stroke TSRs do not operate in the National Capital Region of Delhi and these are replaced by new four-stroke engine technology. The policy decision also seeks to regulate the total number of three wheeler scooters in Delhi.

5. Keeping in view the object and purpose of the policy, I do not think the scheme or the policy prevents issue of number plate DL 1 RD 0648 in

the name of the petitioner in respect of a new three wheeler scooter. The new registration will replace the earlier registration. The registration of the earlier three wheeler scooter shall stand cancelled/revoked.

6. It is clarified that this Court has not expressed any opinion on the question whether the petitioner is entitled to grant of any subsidy on purchase of a three wheeler scooter. It will be open to the petitioner to make a representation in this regard and it will be open to the respondents to accept or reject the said representation.

The writ petition is disposed of.

SANJIV KHANNA, J.

SEPTEMBER 11, 2009
VKR/P