



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

Date of decision: 29th NOVEMBER, 2023

IN THE MATTER OF:

+ **W.P.(C) 130/2023 & CM APPL. 487/2023**

SUNANDA AYARE

..... Petitioner

Through: Mr. M. S. Jadhav, Adv. with
Petitioner in person.

versus

PRINCIPLE SECRETARY-CUM-COMMISSIONER, GOVT. OF
NCT OF DELHI & ORS. Respondents

Through: Mr. Anupam Srivastava, ASC for
GNCTD with Mr. Vasuh Mishra,
Adv. for R-1,3 and 5.
Mr. Chirag Madan, ASC with Ms.
Ravleen Sabharwal, Mr. Manoviraj
Singh and Mr. Rahul Agarwal, Advs.
for R-2/MCD.
Mr. Deepak Vohra and Mr. Nishant
Gupta, Advs. for R-6 and 7.

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. Petitioner has approached this Court by filing the present Writ
Petition with the following prayers:

*"1. To kindly pass an appropriate order (s)/
direction(s) to the respondent no.1 and 2 to black-list
and cancel the authorized scrapping licence dated
11/02/2020 and the authority letter dated 15/02/2022
and 30/09/2022 for non non-compliance of the
Guidelines for Scrapping the Motor Vehicles in Delhi-
2018 intentionally and violated the provisions and*



guidelines of the Motor Vehicles (Registration and Functions of Vehicle Scrapping (Facility) Rules, 2021 and committed cognizable offences and liable to be struck off the name from the list of the authorized scrappers of End-of-Life Vehicle and infringed the legal and fundamental right of the petitioner by removing the fit condition live Hyundai Santro Car Regn.No.HP72C1989 by using criminal force from inside permanent residential parking slot of Flat No.76-C, Pocket-4, Mayur Vihar-I, New Delhi-110091 on 24/09/2022 under criminal conspiracy in furtherance and prosecution of common object and fraudulent removal and concealment by putting the petitioner in fear of injury and committed extortion, dishonest misappropriation, cheating and dishonestly induced for delivery the fit condition live car fraudulently by creating terror and fear, intentional insult with intent to provoke breach of the peace by using harass and abusive language against the petitioner by the respondent no. 6 and 7 in connivance and nexus with the officials of the respondent no.5 whereas the fit condition live car was insured vide Insurance Policy No.D038687201/30092021 on 30thSept., 2021 for validity period up to 30/09/2022 by the Go Digit General Insurance Ltd. as the life of the fit condition car will end in Oct., 2023 which was not declared End-of-Life Vehicle or unfit as per rules 3 (1) (f) the Motor Vehicles (Registration and Functions of Vehicle Scrapping Facility) Rules, 2021 notified by the respondent no. 3 in the interest of justice.

2. To pass an order/ direction(s) against the respondent no.5 i.e. the police officials on duty to initiate a disciplinary inquiry as they accompanied the officials of the respondent no. 6 and 7 and failed to take action to close down the illegal trade for harbouring the offenders, criminal, robbers and dacoits for using the criminal force, false information while lifting the old fit condition cars by putting the owners under fear and create mental pressure by



harassing and assaulting without written mandatory permission and did not pay the cost at the spot before taking away/ removing the fit condition live car from inside the permanent residential parking forcibly with preparation by using criminal force intentionally without consent and written permission and there is apprehension of endangering life and threat to personal safety of the petitioner so the criminal case be registered to punish the officials of the respondent no.7 in the interest of justice.

3. To pass further order(s)/ appropriate direction (s) to the respondent no. 1 to 5 to establish a proper monitoring committee for checking on the scrapping of motor vehicles as per guidelines by the respondent no. 6 and 7 and proper implementation of the provisions and guidelines of the Motor Vehicles (Registration and Functions of Vehicle Scrapping (Facility) Rules, 2021 to avoid harassment and torture of the petitioner in the interest of justice.

4. To pass further order (s) or appropriate direction to the respondent no. 4 to deregistered the registration of respondent no.7 who involved in illegal trade and committed cognizable offences by causing wrongful loss to the petitioner just to make illegal profit due to non-compliance of the Guidelines for Scrapping the Motor Vehicles in Delhi-2018 and violated the provisions and guidelines of the Motor Vehicles (Registration and Functions of Vehicle Scrapping (Facility) Rules, 2021 and the santro old live car was not declared End-of-Life Vehicle or unfit as per rules 3 (I) (f) the Motor Vehicles (Registration and Functions of Vehicle Scrapping Facility) Rules, 2021 — End-of-Life Vehicles in the interest of justice.

5. To pass any other order (s) or direction (s) as the Hon'ble Court may deem fit and proper in the facts and circumstances of the matter in favour of the petitioner in the interest of justice."



2. The case of the Petitioner is that she bought a Hyundai Santro Zing car bearing Registration No. HP72C1989, (*hereinafter referred to as 'the car in question'*). The date of registration of the car is 09.10.2003 and it is registered with the RTO, Una, Himachal Pradesh. It is stated that the car in question was lifted on 24.09.2022 from the permanent residential parking of the Petitioner herein by using criminal force by the officials of the Respondents No. 6 and 7, which is a company incorporated under the Companies Act and is an authorised scraper as provided in the Guidelines for Scrapping of Motor Vehicles in Delhi-2018 (*hereinafter referred to as 'the 2018 Guidelines'*). It is the case of the Petitioner that her car has been lifted unauthorisedly as it was in a fit condition having a valid insurance policy. It is stated that the car could not have been lifted by the Respondents without declaring the same as unfit or it surpassing its end life period for the purpose of scrapping. It is stated that the car was not rusted and the vehicle could have been permitted to run in Himachal Pradesh or in any other State under the Motor Vehicles (Registration and Functions of Vehicle Scrapping (Facility) Rules, 2021 (*hereinafter referred to as 'the 2021 Rules'*).

3. It is the contention of the Petitioner that Respondents have taken the aid of an order dated 26.11.2014 passed by the National Green Tribunal (NGT) in OA No.21/2014, titled as Vardhaman Kaushik v. Union of India, which provides that a petrol vehicle which is more than 15 years old cannot be permitted to ply in Delhi. According to the Petitioner, the car in question was not plying on the roads and it was only parked in the parking of a society which is a private parking. It is further stated that without complying to the scrapping procedure and in violation of the rules, the car of the Petitioner herein has been taken away. It is the submission of the Petitioner



herein that there are no guidelines to lift a private vehicle from a residential parking area which is in a fit condition. It is stated that the 2021 Rules provides for a procedure for scrapping the vehicles but the car of the Petitioner has been taken away without following the procedure in a high-handed manner.

4. Notice in the present Writ Petition was issued on 06.01.2023. Counter affidavits have been filed.

5. The National Green Tribunal (NGT) by an Order dated 26.11.2014 passed in **OA No.21/2014** in the case of Vardhaman Kaushik v. Union of India passed various directions to bring down the air pollution in Delhi. The NGT by the said Order, after observing that the air pollution in the National Capital Territory of Delhi is getting worse with each passing day, had directed that all the vehicles whether diesel or petrol which are more than 15 years old shall not be permitted to ply on the roads and wherever such vehicles of this age are noticed, the concerned authorities shall take appropriate steps in accordance with law, including the seizure of vehicles in accordance with the provisions of Motor Vehicles Act, 1988. The said Order also directed that the vehicles which are more than 15 years of age will not be permitted to be parked in any public area and they shall be towed away and challaned by the police in accordance with law. On 07.04.2015, another Order was passed by the NGT in the said matter directing that all diesel vehicles whether heavy or light which are more than 10 years old will not be permitted on the roads of National Capital Region of Delhi. A direction was also given to the registering authorities in the State of Haryana, U.P. and NCT of Delhi not to register any diesel vehicle which is more than 10 years old. *Vide* the said Order, the NGT also directed that the petrol vehicles



which are more than 15 years old and diesel vehicles that are more than 10 years old shall not be registered in the NCR of Delhi.

6. The Order dated 26.11.2014 passed by the NGT was challenged before the Apex Court in C.A. No.3111/2015 which was dismissed by the Apex Court *vide* Order dated 20.04.2015. The Apex Court, while considering the issue regarding pollution in the city of Delhi, by an Order dated 29.10.2018 in **W.P.(C) 13029/1985** in the case of M.C. Mehta vs. Union of India passed the following directions:

"1. The Transport Departments of NCR will immediately announce that all the diesel vehicles more than 10 years' old and petrol vehicles more than 15 years' old shall not ply in NCR in terms of the order of the National Green Tribunal dated 07.04.2015. The order of the National Green Tribunal was challenged in this Court and the Civil Appeal was dismissed. Vehicles violating the order will be impounded. The list of such vehicles should be published on the websites of the Central Pollution Control Board (CPCB) and the Transport Departments of NCR. Similarly, a meaningful advertisement should be published in a local newspaper for the convenience of the owners of the vehicles."

7. In pursuance to the directions passed by the NGT in Vardhaman Kaushik (supra) and the Apex Court, the GNCTD on 24.08.2018 brought out guidelines for scrapping of motor vehicles in Delhi, 2018. Clause 12 of the said guidelines reads as under:

**"12. SCRAPPING PROCEDURE FOR
IMPOUNDED & ABANDONED DUNK)
VEHICLES:**

(i) Diesel vehicles more than 15 years old:-



In compliance of the directions of the Hon'ble National Green Tribunal dated 26.11.2014 & 20.07.2016 in the matter titled "Vardhaman Kaushik v/s U01 & Others, Diesel vehicles more than 15 years old found plying or parked in public place or abandoned on public place as junk vehicle and Impounded by any Enforcement Agency shall not be released to registered owner and the same shall be handed over to the custody of an empanelled / licensed Authorised Scrapper of Transport Department. The Registered owner shall get the scrap value of scrapped vehicle directly from the Authorised Scrapper.

(ii) patrol / CNG vehicles more than 15 years old

The Hon'ble National Green Tribunal dated 26.11.2014 in the matter titled "Vardhaman Kaushik v/s U01 & Others ordered that:-

"...The vehicles which are more than 15 years old, will not be permitted to be parked in any public area and they shall be towed away and challaned by the police in accordance with law. This direction would be applicable to all vehicles without exception... "

In order to ensure compliance of these directions, in an effective manner, the vehicles seized as per above directions will be released to registered owner only upon an undertaking that he will neither ply the vehicle nor will park it at any public place alongwith furnishing adequate proof of parking in his private premises. Verification of existence of such parking place shall be done by the concerned local body. On satisfactory report, the vehicle will be handed over to the registered owner.

However, such vehicle, if found parked at any public place or found plying, necessary legal action will be initiated against the registered owner under Section



177 of the Indian Penal Code for furnishing false undertaking besides penalty action under the Motor Vehicles Act and Rules made thereunder."

8. The GNCTD also brought out the Motor Vehicles (Registration & Function of Vehicle Scrapping Facility) Rules, 2021. Rule 3(j) of 2021 Rules defines the 'Registered Scrapper' which means a person, firm, society, trust or company owning and operating a Registered Vehicle Scrapping Facility. Respondent Nos.6 and 7 herein are the Registered scrapper under the 2018 guidelines. Rule 10 of the Rules, 2021 reads as under:

"10. Scrapping Procedure.- (1) The scrapping of vehicles shall be carried out by a Registered Scrapper in respect of all End-of-Life Vehicles, by the following procedure, namely:-

(i) the registered owner or the authorised representative shall hand over the vehicle together with an application as per Form-2 in two originals to the Registered Scrapper or the designated Collection Centre for deposit and further treatment of the vehicle.

(ii) if the vehicle does not have a valid registration, then the Registered Scrapper or its designated centre shall match the identity of the registered owner as per the VAHAN database with the person handing over the vehicle and receive the vehicle and issue a receipt through digital platform linked to VAHAN database.

(iii) vehicles impounded by an enforcement agency shall be handed over to the Registered Scrapper.

(iv) the Registered Vehicle Scrapping Facility shall verify the records of the vehicles produced for scrapping with the database of the stolen vehicles held



by National Crime Records Bureau as well as with the local Police before scrapping a vehicle.

(v) the Registered Scrapper shall require, along with the Form-2, the following applicable original documents from the owner or the authorised representative, -

(a) original Certificate of Registration;

(b) authorisation from the registered owner;

(c) in case of inheritance, the death certificate of the registered owner accompanied with any proof of succession;

(d) certificate or order confirming the sale of the vehicle in a public auction in his favour duly signed by the person authorised to conduct the auction; and

(e) an undertaking, as per para 4 of Form-2 from the owner or representative, indicating that vehicle has no pending criminal record or litigation and there are no pending dues on the vehicle.

(vi) the Registered Scrapper shall verify that the hire-purchase, lease or hypothecation agreement in the certificate of registration of a motor vehicle required under sub-section (2) of section 51 of the Act has been duly discharged and an undertaking to this effect shall also be given by the owner or representative in para 4 of Form-2.

(vii) The Registered Scrapper shall accept self-certified copies from the owner or through authorised representative of the following documents,-

(a) copy of the Permanent Account Number card of the owner;



(b) cancelled cheque of the bank account of the owner;

(c) identity Proof of the authorised representative (if applicable) such as passport, voter card, Aadhar card, driving license or photo identity card issued by the State Government or the Central Government;

(d) address proof of the owner such as electricity bill, water bill, land line telephone bill or piped cooking gas bill etc; and

(e) digital photograph of the owner or authorised representative physically handing over the End-of- Life Vehicle to the Registered Scrapper, or a photograph of the owner or representative duly pasted in Form-2 and countersigned by the owner or representative.

(viii) The Registered Scrapper shall return the second Form-2, duly receipted, to the owner or his authorised representative and deface or punch the Registration Certificate in the presence of the owner or his authorised representative and issue the Certificate of Deposit as evidence of transfer of ownership of the vehicle.

(ix) The Registered Vehicle Scrapping Facility established in a State may accept and scrap the vehicles registered in any of the State or Union Territory under the jurisdiction of any Registration Authority.

(x) The whole process shall be smoothly linked with VAHAN and on pan India basis irrespective of the location of any vehicle registering authority.

(xi) The Registered Vehicle Scrapping Facility shall facilitate the process of submission of request electronically and transmission of registration certificate (defaced or punched) to road transport or



regional transport office in getting vehicle deregistered as per provisions of the Act.

(xii) The Certificate of Deposit' shall be a necessary and sufficient document for the owner to avail incentives and benefits for purchase of a new vehicle as may be declared from time to time.

(xiii) The Certificate of Deposit shall be tradeable and once utilised shall be collected by the agency or dealer providing the benefits to the holder of the said certificate.

(xiv) The Certificate of Deposit shall be stamped as —Cancelled by the agency or dealer and marked as such in the VAHAN database.

(xv) The regional transport office registering the new vehicle purchased against the Certificate of Deposit may verify and authenticate the Certificate of Deposit.

(xvi) The Registered Scrapper shall digitally remit or pay by an account payee cheque, the agreed consideration for the vehicle and obtain a receipt for the same from the owner or his authorised representative for record.

(xvii) The Registered Scrapper shall have the cut piece of the chassis number in safe custody for a period of six months from the date of issue of Certificate of Vehicle Scrapping issued under rule 11.

(xviii) The Registered Scrapper shall maintain a physical copy of all documents for a period of two years and a digital scanned copy of those documents for a period of ten years for record and examination during inspection;

(xix) The Registered Scrapper shall ensure that removal or re-cycling or disposal of hazardous parts of



the scrapped vehicle is done as per CPCB guidelines for Environmentally Sound Management of End-of-Live Vehicles and AIS-129.

(xx) Vehicles shall not be scrapped until the fuel, oil, antifreeze, and other gases, fluids etc. are drained and collected in certified standard containers.

(xxi) A digital register of vehicles scrapped shall be maintained in Form-3."

9. Government of NCT of Delhi has brought out a circular dated 03.01.2023 and the same reads as under:

" Ministry of Road Transport & Highways, Govt. of India has notified the Motor Vehicle (Registration and Functions of Vehicle Scrapping Facility, (RVSF)) Rules, 2021 vide Notification No.G.S.R.653(E) dated 23.09.2021 and G.S.R. 695(E) dated 13.09.2022 regarding RVSF amendment rules, to amend G.S.R. 653(E).

In view of this the scrapping guidelines issued by Transport Department vide order No.DC/OPS/TPT/1109/2017/3701-08 dated 24.08.2018 have become redundant. Accordingly, it is hereby directed henceforth the licenses for scrappers will be issued as per Notification dated 23.09.2021 issued by MORTH, Govt. of India and G.S.R. 695(E) dated 13.09.2022 regarding RVSF amendment rules, to amend G.S.R. 653(E).

This issues with the prior approval of Hon'ble Minister of Transport, GNCTD. "

10. Learned Counsel for the Respondents have also taken this Court through an Order dated 04.05.2023, passed by the Operations Branch of the



Transport Department of the Government of NCT of Delhi and the same reads as under:

"In compliance of direction vide Order dated 01.05.2023 of Hon'ble High Court of Delhi in the matter of Writ Petition No. W.P.(C) 4904/2023, titled: Pineview Technology Private Limited. Vs Government Of NCT of Delhi, it has been decided to give time to all Authorised scrappers, whom license issued under The Guidelines for Scrapping of Motor Vehicles in Delhi-2018" upto 31st May 2023 for winding up the activities in respect of vehicle taken for scrapping in their possession before 10.04.2023. and their certificate of scrapping will be considered by this department upto 31st May 2023.

Furthermore, Transport Department has also decided to grant permission to buy fresh inventory through mode of customer-business relation i.e. only from the individual who are voluntarily willing to scrap their vehicle from them or through auction of agency/department whose policy allows to scrap vehicles from them.

In this regard, firstly, all authorised scrapper whom license issued under " The Guidelines for Scrapping of Motor Vehicles in Delhi, 2018" have to submit information of old inventory i.e. collected before 10.04.2023 as per Annexure I, annexed herewith. Further, information of inventory and scrapped vehicle including fresh inventory will be sent to the Department on day to day basis with complete details as per format in Annexure-II without fail.

Scrapping certificate issued beyond 31st May 2023 will not be considered valid in any case.



This issues with the prior approval of Competent Authority."

11. The abovementioned circular dated 03.01.2023 shows that the 2018 guidelines have been scrapped and, therefore, the license given to Respondent Nos.6 and 7 no longer exists. In view of the above, the prayer clauses (1), (3) and (4) of the writ petition have become infructuous.

12. A Co-ordinate Bench of this Court in a batch of writ petitions being **W.P.(C) 10749/2023** etc. in the case of Ms. Seema Chopra vs. Govt. of NCT of Delhi And Ors. by Order dated 22.08.2023 has held that the vehicles even though might be older than 15 years but which have been parked at private parking places available to the owners cannot be impounded.

13. In the facts of the present case, the date of registration of the vehicle is 09.10.2003 and it is registered with the RTO, Una, Himachal Pradesh. The vehicle was lifted on 24.09.2022 from the residential parking in a society in Mayur Vihar. Whether the parking inside a residential society is a private parking place available to the owner or is a simple public place for parking would be a matter of debate. In any event, the police authorities did not have the benefit of the Order dated 22.08.2023 passed by a Co-ordinate Bench of this Court in Ms. Seema Chopra (supra). A perusal of the guidelines and the law as stood then cast obligation on the owner to produce the End-of-Life Vehicles before the scrapper for the purpose of scrapping the vehicle. The action of the Respondent Nos.6 and 7 along with police authorities, therefore, cannot be said to be completely malafide.

14. This Court is, therefore, not inclined to exercise its jurisdiction under Article 226 of the Constitution of India to proceed further to grant compensation or passing any further Orders in the facts of the present case wherein the vehicle has admittedly been found inside a housing society in



Mayur Vihar. The age of the vehicle is anyway above 15 years, and therefore, the same would come within the definition of end of life. The question as to whether the vehicle was actually being plied since it was having a sticker of an Advocate thereon or not is also purely a question of fact which this Court would not like to venture while adjudicating the list in the present case under Article 226 of the Constitution of India.

15. In view of the above, all the license under 2018 guidelines have been scrapped and in view of the fact that the vehicle is already 18 years and a few months old, this Court is not inclined to hold that the action of Respondent Nos.6 and 7 and the police authorities were so malicious which would require grant of any compensation to the Petitioner.

16. However, keeping in view the decision of the Co-ordinate Bench of this Court, if the vehicle has not already been scrapped, the Respondents are directed to release the vehicle back to the Petitioner with an undertaking that the Petitioner shall take the said vehicle outside the city and shall not park it in any public place.

17. With these observations, the writ petition is disposed of, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

NOVEMBER 29, 2023

S. Zakir