



\$~ 28, 33 to 36, 38, 40 & 41

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

% *Date of Decision: 16.05.2024*

- + W.P.(C) 15637/2023, CM APPL. 62618/2023
(28) GEETA NARULA Petitioner
versus
GOVT OF NCT OF DELHI & ORS. Respondents
- + W.P.(C) 2684/2024, CM APPL. 19189/2024, CM APPL. 19190/2024
(33) RAHUL ARORA Petitioner
versus
GOVT OF NCT OF DELHI & ORS. Respondents
- + W.P.(C) 2730/2024, CM APPL. 11124/2024, CM APPL. 14904/2024
CM APPL. 14905/2024
(34) ISHWAR SINGH DHANKAR Petitioner
versus
GOVT. OF NCT OF DELHI & ORS. Respondents
- + W.P.(C) 2737/2024, CM APPL. 11140/2024, CM APPL. 15062/2024
CM APPL. 15063/2024
(35) RAM CHANDER Petitioner
versus
GOVT. OF NCT OF DELHI & ORS. Respondents
- + W.P.(C) 2740/2024, CM APPL. 11148/2024, CM APPL. 15042/2024
CM APPL. 15043/2024
(36) SANJU Petitioner
versus
GOVT. OF NCT OF DELHI & ORS. Respondents
- + W.P.(C) 3845/2024, CM APPL. 15836/2024
(38) PREM CHAND JAIN Petitioner
versus



GOVT. OF NCT OF DELHI & ORS.

..... Respondents

+ W.P.(C) 4891/2024

(40) SUBHASH CHANDRA BHABHAI

..... Petitioner

versus

MUNICIPAL COPORATION OF DELHI & ORS..... Respondents

+ W.P.(C) 5385/2024, CM APPL. 25178/2024

(41) SHRI MANJEET KAUSHIK

..... Petitioner

versus

THE GOVT. OF NCT OF DELHI & ORS.

..... Respondents

Presence:

Mr. Aayush Agarwala, Mr. Kunj Mehra and Ms. Bhumika Sharma, Advs. for petitioner in Item No.28.

Mr. Mohit Bhardwaj, Adv. for GNCTD in Item No.28.

Mr. Vishnu Deo Yadav, Adv. for petitioner in item no.31.

Mr. S.S. Ahluwalia, Mr. Yuvraj, Ms. Saniya Zehra and Mr. Sukhjeet Puri, Advs. for petitioner in Item No.33.

Mr. Dhruv Gautam, Adv. along with Mr. Tushar Tyagi and Mr. Abhishek Tongar, Advs. for R-3 in item no.33.

Ms. Kannopriya Gupta, Adv. for R-2 in item no.33.

Mr. Mohit Bhardwaj, Adv. for GNCTD and Mr. Kannopriya Gupta, Adv. for R-2 in Item Nos.33 and 35.

Mr. Madhu Sudan Bhayana and Mr. Suresh Chaudhari, Advs. for Nirwana Scrappers in item no.28 to 40.

Ms. Shipla Ohri, ASC for MCD in item no.34.

Mr. Akshit Sachdeva, Adv. for petitioner in item no.35, 36 and 38.

Mr. Akshit Sachdeva, Adv. for petitioner in Item No.34.

Mr. Dhruv Gautam, Adv. along with Mr. Tushar Tyagi and Mr. Abhishek Tongar, Advs. for R-3 in item no.34.

Mr. Praveen Kumar, ASC along with Mr. Shubham Verma, Mr. Keshav Chauhan, Mr. Sayed Mohd. Fahim and Ms. Aparajita Pal, Advs. for R-2 in Item No.35.

Mr. Dhruv Gautam, Adv. along with Mr. Tushar Tyagi and Mr. Abhishek Tongar, Advs. for R-3 in item no.35.

Mr. Dhruv Gautam, Adv. along with Mr. Tushar Tyagi and Mr. Abhishek Tongar, Advs. for R-3 in item no.36.



Mr. Tushar Sannu, Mr. Sahaj Karan Singh, Adv. and Mr. Rustam Kumar, Nodel Officer, Transport Deptt. In Item Nos.35, 36, 38.

Mr. Mayank, Adv. for MCD in Item No.38.

Mr. Dhruv Gautam, Adv. along with Mr. Tushar Tyagi and Mr. Abhishek Tongar, Adv. for R-3 in item no.38.

Mr. Puneet Yadav, Additional Standing Counsel for MCD in item no.38.

Mr. Vishnu Deo Yadav, Adv. for petitioner in item no.39.

Mr. Mohit Auluck, Adv. for petitioner in item no.40.

Mr. Dhruv Gautam, Adv. along with Mr. Tushar Tyagi and Mr. Abhishek Tongar, Adv. for R-3 in item no.40.

Mr. Sunil Goyal, ASC for MCD along with Ms. Shivani and Ms. Pooja Joshi, Adv. for MCD in item no.40.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (Oral)

1. The present batch of petitions have been filed by the petitioners seeking release of their respective vehicles which have been seized by the respondents on account of being “End-of-life vehicles” in terms of Motor Vehicles (Registration and Functions of Vehicle Scrapping Facility) Rules, 2021.
2. The petitioners seek release of their respective vehicles in terms of the judgement dated 22.08.2023 passed by this Court in W.P.(C) No. 10749/2023 titled “*Seema Chopra v. Government of NCT of Delhi*”, wherein certain directions have been passed by this court to release the seized “End of Life Vehicles”.
3. During the course of hearing, it transpires that the vehicles of petitioners have already been scrapped by the Registered Vehicle Scrapping Facilities (“RVSFs”) to whom the vehicles were handed over by the GNCTD and/or MCD upon being seized.



4. Learned counsels for the petitioners submit that the action of RVSFs in scrapping the vehicles of the petitioners was in connivance with GNCTD and MCD and was done without even putting the petitioners to notice and reflects the high handedness of the authorities. It is submitted that the petitioners were denied their right to seek release of their vehicles in terms of aforesaid judgement in *Seema Chopra*. It is further submitted that in some cases, as directed in *Seema Chopra*, the petitioners had filed an undertaking before the concerned authority seeking release of their vehicles; however, the concerned authorities / RVSPs without taking cognizance of the same went ahead and scrapped the vehicles of the petitioners. It is submitted that the RVSFs were obliged under the Motor Vehicles (Registration and Functions of Vehicle Scrapping Facility) Rules, 2021 to intimate to the petitioners the factum of the scrapping of their vehicles before scrapping thereof. It is further submitted that as per policy of GNCTD, the RVSFs had to keep the seized vehicles for 90 days after seizing the same; however, in some cases the vehicles have been scrapped by the RVSFs before expiry of 90 days. It is orally prayed that this court grant adequate compensation to petitioners for the patently illegal and negligent acts committed by the respondents.

5. Learned counsels for the RVSFs vehemently deny any wrongdoing on their part. It is submitted that the seized vehicles were handed over to the RVSFs by GNCTD and/or MCD and thereafter the vehicles were scrapped as per the extant policy i.e. Motor Vehicles (Registration and Functions of Vehicle Scrapping Facility) Rules, 2021. It is submitted that there was no infraction of the said Rules by the concerned RVSFs. It further submitted that said Rules do not contemplate any prior notice being given to the owner of vehicles before scrapping of their vehicles. Further, the



requirement of the vehicle owner submitting Form-2 under the said Rules is stated to be applicable only when the vehicle owner voluntarily submits his vehicle for scrapping to the registered scrapper, not when the vehicle was seized by the enforcement authority and handed over to the RVSF. In the affidavit filed by the concerned RVSF in W.P. (C) 2684/2024, 2730/2024, 2737/2024 and 2740/2024, it has been brought out that the petitioners' vehicle numbers were duly published in the newspaper and 3 days' notice was given to the petitioners before scrapping of their vehicles. It is submitted that the petitioners are entitled to get only the scrap value of their respective vehicles on production of relevant ownership documents. The same, it is submitted, was not paid to the petitioners earlier since none of the petitioners had come forward to claim the scrap value.

6. Learned counsel for the GNCTD has submitted that the transport department after seizing an End-of-life vehicle hands over the same to the RVSFs and the RVSFs were directed to not scrap the vehicle within 90 days from the date of seizure. In cases where the vehicle owner was granted relief by this Court, the vehicle has been released by the transport department. It is emphasised that in the judgement of *Seema Chopra* there is no direction to the transport department to accept an affidavit/undertaking directly from the concerned owner of the seized vehicle. It is submitted that, as directed in the judgement of *Seema Chopra*, GNCTD has framed a policy on 20.02.2024 for releasing the seized vehicles; however, before promulgation of the said policy it was mandatory for the owner of the seized vehicle to approach the court and get appropriate relief. It is emphasised that the department has, and was obligated to, release the seized vehicles only in the eventuality of the concerned owner being granted relief by this Court.



7. Having given my anxious consideration to the matter, I am unable to accede to the request of the petitioners to grant them compensation on their oral prayer in these proceedings, in the absence of any foundation for the same in the pleadings.

8. As noticed above, the present petitions have been filed by the petitioners seeking release of their seized vehicle. In none of the petitions, the petitioners have prayed for compensation from the respondents for unlawful scrapping of their vehicle. There is no averment in the pleadings alleging violation of any specific law, rule and/or direction that was required to be followed by the respondents while scrapping vehicles of the petitioners. This is obviously on account of the fact that the factum of the petitioners' vehicles having been scrapped, came to be disclosed to the petitioners only after filing of these writ petitions. By way of oral submissions, a case of unlawful/illegal scrapping and entitlement to compensation, is sought to be made out. Given the factual matrix, it is certainly open for the petitioners to make out a case for grant of compensation; however, the same cannot be considered in the context of the pleadings and the prayers set out in the present petitions.

9. The Supreme Court has consistently emphasised the importance of ensuring that there is no discord between the case made out in the pleadings and the relief granted. Further, it has been emphasized that the decision of a case cannot be based on grounds outside the pleadings of the parties. In this regard reference may be made to the following judicial pronouncements:

- i. *Trojan & Co. Ltd. v. Nagappa Chettiar*, (1953) 1 SCC 456 para. 38
- ii. *Bachhaj Nahar v. Nilima Mandal*, (2008) 17 SCC 491, para.12-13;
- iii. *Bharat Amratlal Kothari v. Dosukhan Samadkhan Sindhi*, (2010) 1 SCC 234, para. 29-33; and



iv. *Manohar Lal v. Ugrasen*, (2010) 11 SCC 55, para 30-34.

10. Learned counsel for the petitioner in W.P.(C) 15637/2023 and W.P.(C) 2684/2024 have relied upon judgments of this Court in *Ram Kishore v. Municipal Corpn. of Delhi*, 2007 SCC OnLine Del 992 and *Keher Singh v. Govt. of NCT and Ors.*, 2021 SCC OnLine Del 4198 respectively, to submit that this court has ample power to award compensation in writ proceedings. There is no quarrel with the said proposition. However, in *Ram Kishore* (supra), there was a specific prayer seeking compensation from the respondents therein, and foundation for the same had been laid in the pleadings.

11. The power of the writ court to mould the relief, according to the demands of the situation is also well recognised; however, in the facts of the present cases, where allegation of unlawful/illegal scrapping is not part of the pleaded case of the petitioners, it would not be apposite for this court to award compensation to the petitioners. However, the petitioners are not precluded from initiating appropriate proceedings making out a case for grant of compensation, clearly setting out the rationale and basis thereof, and based on the factual matrix. The same would necessarily be considered on its own merits, after affording an opportunity to the respondents to meet the case set up for grant of compensation.

12. It is however, undisputed that since the vehicles in question have been scrapped, the concerned owner/s are entitled to the scrap value of their respective vehicles. Learned counsels for the RVSFs have also submitted that scrap value of the vehicle is to be released to the petitioners upon the petitioners approaching the concerned RVSFs with relevant document/s establishing their ownership of the vehicle.



13. Accordingly, it is directed that upon the petitioners furnishing relevant document/s, along with their bank account details, to the concerned RVSF which scrapped their vehicle, the said RVSFs shall remit/pay the scrap value of the vehicle to the petitioners forthwith. The RVSFs shall also intimate to the petitioners the methodology used by them to arrive at the scrap value of the concerned vehicles.

14. The RVSFs shall also provide to the petitioners a digital photograph of the cut out of the chassis of the concerned vehicles which is also required to be submitted by the RVSFs, alongwith Form 4 (certificate of vehicle scrapping), as prescribed in Rule 11 of the Motor Vehicles (Registration and Functions of Vehicle Scrapping Facility) Rules, 2021. A copy of the said Form 4 shall also be provided to the concerned owner of the vehicle.

15. The petitioners are at liberty to avail appropriate remedies in case there is any deficiency in compliance with the above directions. The petitioners shall also be at liberty to initiate appropriate proceedings to seek compensation over and above the scrap value of their vehicles. All rights and contentions of the parties in this regard, are kept open for consideration in appropriate proceedings.

16. The present writ petitions, along with pending applications, are disposed of in the above terms.

SACHIN DATTA, J

MAY 16, 2024/hg