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

+ **CRL.REV.P. 544/2023 & CRL.M.A. 13034/2023**

HARSH KAUL Petitioner

Through: Mr. Arun Nischal, Adv.

versus

THE STATE Respondent

Through: Mr. Yadhvir Singh
Chauhan, APP for the
State.

+ **CRL.REV.P. 545/2023 & CRL.M.A. 13060/2023**

HARSH KAUL Petitioner

Through: Mr. Arun Nischal, Adv.

versus

THE STATE Respondent

Through: Mr. Yadhvir Singh
Chauhan, APP for the
State.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
05.01.2024

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1. The present petitions are filed impugning the judgment dated 26.04.2023 (hereafter '**the impugned order**'), passed by the learned Additional Sessions Judge (Central), Tis Hazari Court in the case titled as "*Harsh Kaul v. State*".

2. The learned Additional Sessions Judge by the impugned order has dismissed the appeal filed by the petitioner challenging the order dated 17.04.2023, pursuant to which the vehicles of the petitioner were directed to be scraped. It was also directed that

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the scrap value of the vehicle be paid to the petitioner.

3. It is the case of the prosecution that the vehicles of the petitioner having registration Nos. HR-59-B-4754 and PB-03-AP-1226 were seen plying in Delhi in violation of the directions / order dated 26.11.2014, passed by the learned National Green Tribunal (NGT). Pursuant to the orders passed by the learned NGT, the plying of the diesel vehicles older than 10 years and petrol vehicles older than 15 years was banned. The vehicles belonging to the petitioner were impounded.

4. It is the case of the petitioner that petitioner had pleaded guilty and paid the requisite fine of ₹5,000/- imposed under Sections 39/192/207 of the Motor Vehicles Act, 1988.

5. Learned counsel for the petitioner submits that this Court in similar circumstances, in the case of ***Ms. Seema Chopra v. Govt. of NCT of Delhi And Ors. and other matters*** being **W.P.(C) 10749/2023**, had directed the respondent authorities to release the vehicles on an undertaking and an affidavit to the effect that the said vehicles when released will not be plied or parked in any public place within the territory of NCT of Delhi.

6. He submits that the petitioner is willing to abide by the similar terms and conditions as imposed by this Court in ***Ms. Seema Chopra (supra)***.

7. This Court in ***Ms. Seema Chopra (supra)*** had noted that the Govt. of NCTD was issuing no objection certificate for transfer of vehicles to different States upon applications made by the owners of the vehicles whose registrations have since expired pursuant to the orders passed by the learned NGT. It is not disputed that the vehicles, which are not permitted to be plied in the GNCT of Delhi, can legally be plied in the other States.

8. It is the case of the petitioner that the vehicles were being

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transported to Ludhiana, Punjab when they were impounded. The vehicles also bear the registration of State of Haryana and Punjab respectively. Therefore, this Court deems it apposite to accept the explanation that the vehicles were being taken to the other State where the plying of such vehicles is permitted. The GNCT of Delhi also in-principal cannot have any objection in case the vehicles are released to be transferred to another State.

9. This Court in ***Ms. Seema Chopra*** (*supra*) held as under:

“17. These directions are passed in view of the fact that the specific objective of the orders of the NGT, as affirmed by the Supreme Court, which were intended to address the vital and urgent issue of vehicular air pollution, is not compromised thereby, while recognising the petitioners’ interest in retaining their valuable assets. In addition to the aforesaid arguments regarding the legality of seizure of parked vehicles, learned counsel for the petitioners also point out that no public notice was issued by GNCTD after the aforesaid directions of CAQM which, according to GNCTD, have led to action against parked cars. Mr. Alam states that public notices were issued only in the year 2018 and 2022, but action against parked cars has been taken only pursuant to the CAQM order. The said public notice [Annexure-F to W.P.(C) 9166/2023] also does not specifically refer to seizure or scrapping of parked cars, but only to the fact that end of life vehicles cannot be parked in any public area under the orders of NGT. The order of NGT dated 07.04.2015 does not deal with seizure or impounding of parked cars, but only with challan thereof. Significantly, the order of the Supreme Court dated 29.10.2018 (extracted above), also refers to the necessity of an advertisement being published to put owners of vehicles at notice. No such advertisement was issued at all with regard to seizure of parked vehicles. In such circumstances, I am of the view that release of the vehicles to petitioners in terms of the undertakings given above would be appropriate, without occasioning any compromise with the objective of the orders of the Supreme Court and NGT.

18. For the aforesaid reasons, the petitions are disposed of with the following directions:

(A) W.P.(C) 10749/2023, W.P.(C) 10759/2023, W.P.(C) 10860/2023, W.P.(C) 10862/2023, W.P.(C) 10884/2023, W.P.(C) 3017/2023, W.P.(C) 11012/2023, W.P.(C)



**11072/2023, W.P.(C) 9864/2023, W.P.(C) 9528/2023,
W.P.(C) 9529/2023, W.P.(C) 10375/2023 & W.P.(C)
10480/2023**

- a. *The petitioners will file affidavits of undertakings with the Enforcement Officer, Department of Transport, GNCTD within two weeks from today to the effect that if the vehicles are released to them, they will not be plied or parked in any public space within the territory of NCT of Delhi, and will be removed from the NCT of Delhi within two weeks after release.*
- b. *The undertaking will also state that the vehicles will be towed or otherwise transported to the borders of the NCT of Delhi.*
- c. *Upon the affidavit of undertaking being received by the Enforcement Officer, he/she will facilitate the release of the vehicle by the scrapping agency to the petitioners within one week thereafter.*
- d. *The petitioners will also file an affidavit before the Enforcement Officer within four weeks after the release of the vehicle stating that the vehicle has been removed from the territory of the NCT of Delhi.*
- e. *In the case of vehicles registered in Delhi, the petitioners may apply for issuance of NOCs for transport of vehicles outside Delhi. The NOCs will be processed in accordance with law, within a period of two weeks from the date of the application.*

**(B) W.P.(C) 9158/2023, W.P.(C) 9166/2023, W.P.(C)
5508/2023, W.P.(C) 11254/2022 & W.P.(C) 87/2023**

- a. *The petitioners will file affidavits before the Enforcement Officer, Department of Transport, GNCTD within two weeks from today, undertaking that if the vehicles are released to them, they will not be plied on the streets of Delhi or parked in any public space within the NCT of Delhi, and that they will be kept in a private parking space available to the petitioners.*
- b. *Alongwith the aforesaid affidavits of undertaking, the petitioners will produce evidence of availability of private parking space, either owned or leased by them, or accompanied by a consent letter of the owner or lessee permitting them to park their vehicle indefinitely in the aforesaid private parking space.*
- c. *It is made clear that the private parking space must be one within the premises owned or leased by the vehicle owner, and not a space in a shared parking lot, even if it is part of a residential complex.*
- d. *The respondents may verify the availability of the aforesaid private parking space within a period of four*



weeks after the filing of the undertaking, and upon due verification, the vehicle may be released to the petitioners within a period of one week thereafter.”

10. In view of the above, this Court considers it apposite to dispose of the present petitions by imposing the similar conditions as were imposed on the petitioners in ***Ms. Seema Chopra*** (*supra*).

11. The respondents are directed to release the petitioner's vehicles, subject to the petitioner's complying with the following directions:

- a. The petitioner will file affidavits of undertaking with the Enforcement Officer, Department of Transport, GNCTD within two weeks from today to the effect that if the vehicles are released to him, they will not be plied or parked in any public space within the territory of NCT of Delhi, and will be removed from the NCT of Delhi within two weeks after release;
- b. The undertaking will also state that the vehicles will be towed or otherwise transported to the borders of the NCT of Delhi;
- c. Upon the affidavits of undertaking being received by the Enforcement Officer, he/she will facilitate the release of the vehicles by the scrapping agency to the petitioners within one week thereafter;
- d. The petitioners will also file an affidavit before the Enforcement Officer within four weeks after the release of the vehicle stating that the vehicles have been removed from the territory of the NCT of Delhi;

12. The learned counsel for the petitioner also submits that the petitioner will abide by all the conditions as imposed.



13. In view of the above, no further orders are required to be passed. The present petitions are disposed of.

AMIT MAHAJAN, J

JANUARY 5, 2024
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