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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 11712/2024 & CM APPL. 48681/2024

PAWAN KUMAR

.....Petitioner

Through:

versus

MUNICIPAL CORPORATION OF DELHI

AND ORS

.....Respondents

Through: Ms. Harshita Nathrani, Advocate
for Mr. Sameer Vashisht, ASC
GNCTD.

Mr. Sarthak Bhardwaj, Advocate
for Mr. Siddhant Nath, SC for
MCD.

Mr. Dhruv Gautam and Mr. Tushar
Tyagi, Advocate for R-4.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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06.12.2024

1. The petitioner has filed this writ petition for a direction upon respondent No.2 to release the vehicle bearing No. DL2CAJ1738, which was seized by Municipal Corporation of Delhi ["MCD"] under a removal order dated 28.03.2024. The vehicle is registered in the name of the petitioner's wife, who has executed a General Power of Attorney dated 20.08.2024, in favour of the petitioner.

2. It is the admitted position that the vehicle in question is a petrol vehicle registered on 27.03.2009. It was, thus, more than 15 years of age on the date when it was removed, and it fell in the category of "End-of-

W.P.(C) 11712/2024

Page 1 of 4



Life” vehicle under the Motor Vehicles (Registration and Functions of Vehicle Scrapping Facility) Rules, 2021.

3. The registered owner first requested the respondents to release the vehicle on 04.04.2024, stating that the vehicle was parked in front of her house and not in a public place. By a communication dated 25.04.2024, MCD required the petitioner to submit various documents, including the residence document, undertaking that the vehicle would not be plied in Delhi, proof of allotment of a private parking space etc. By a letter dated 29.04.2024, the registered owner stated that the car was parked *“at open space of Government property as residential housing society Space under gateway of 24*7 security all around the specified location...”*. With regard to proof of private parking, she stated that every allottee of a government flat at Timarpur has open space for the purpose for parking of their vehicle, which is mutually shared by other residents and no separate parking space is allotted to government residents.

4. MCD agreed to release the vehicle upon deposit of penalty of Rs.10,000/- as per guidelines issued by the Government of NCT of Delhi [“GNCTD”] dated 20.02.2024, alongwith towing and parking charges. According to the petitioner, the towing charges and parking charges have been calculated at Rs.68,322/-. The petitioner has approached this Court, aggrieved by the said towing and parking charges.

5. The matter is governed by the Policy dated 20.02.2024. It provides for the conditions upon which seized vehicles may be released to the owners, either for transport outside NCT of Delhi, or for parking in a private space, which is not a shared parking space. The relevant contents of the Policy, in respect of parking in the owner’s private parking space,



are as follows:

“Category 2: Those who wish to park their vehicle in Private space which is not shared Parking place.

(i) On plying and parking of ELVs in public place, the vehicles impounded for the first time can be released on the basis of submission of following vehicles documents

a) An undertaking that if the vehicle is released, it will not be plied in Delhi or parked in any public space within NCT of Delhi, and they be kept in private parking space available to the applicant and not a space in a shared parking lot, even if it is part of a residential complex. A parking space which has been allotted to the owner inside the residential complex will be considered as a private parking space.

b) Proof of Private Parking space within the premises of applicant is to be

submitted by the applicant which can be allotment letter from the RWA or any concerned authority whichever is applicable.

c) A copy of Registration certificate of the vehicle.

d) In the case of 4-wheeler, a penalty of Rs 10,000 along with towing charge and parking fee as notified in Parking Rules 2019 shall be charged before releasing of such ELVs.

e) In the case of 2-wheeler, a penalty of Rs 5,000 along with towing charge and parking fee as notified in Parking Rules 2019 shall be charged before releasing of such ELVs.

(ii) On submission of above documents, Enforcement agency will issue releasing order based on which concerned RVSF can release the vehicle from their scrapping yard. In case, vehicle is already outside of Delhi-NCR in scrapping yard, it should be transported by owner of vehicle by way of towing to the private parking space of vehicle owner.”

6. In the present case, it is the petitioner’s own position that the owner does not have a private parking space, but proposes to park the car in a shared parking space, which is part of a residential complex. This is insufficient for the purposes of the Policy.

7. The Policy also provides for payment of towing and parking charges. As the petitioner has not yet made an application for release of



the vehicle consistent with the said Policy, alongwith documentary proof as required, there is no infirmity in the levy of towing and parking charges. The submission of the petitioner to the contrary is rejected.

8. Learned counsel for the petitioner states that the petitioner would like to apply under the Policy for release of the vehicle, either for shifting the vehicle out of Delhi – NCR or for parking in a private parking space, consistent with the Policy. If the registered owner applies for the same within a period of one week from today, the respondents will consider the same in accordance with the Policy. It is made clear that the petitioner will be liable for payment of towing and parking charges under the Policy. It is stated that she has already paid the penalty amount of Rs.10,000/-.

9. The petition, alongwith pending application, is disposed of in terms of the aforesaid observations.

PRATEEK JALAN, J

DECEMBER 6, 2024
SS/kb/