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

+ **W.P.(C) 2153/2025 and CM APPL. 10139/2025**

ASHPAL SINGH BHULLAR

.....Petitioner

Through: Mr. Balwan Singh, Mr. Ashok Singh
and Ms. Aditi, Advocates.

versus

GOVT OF NCT OF DELHI & ORS.

.....Respondents

Through: Ms. Astha Gupta, Panel Counsel with
Ms. Aditi Mishra, Advocate for GNCTD.

Mr. Devashish Bhadauria, SPC for
UOI/Respondent No. 2 with ASI Devender Singl,
Parvi Officer Traffic and ASI Ashok Kumar, Parvi
Officer, Punjabi Bagh, Traffic Circle.

Mr. Akbar Siddique and Mr. Parv K. Garg,
Advocates for R-3.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

24.02.2025

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1. This writ petition is preferred on behalf of the Petitioner under Article 226 of the Constitution of India seeking release of his vehicle bearing no. PB11CP9011 which is a transport vehicle and was impounded and seized by Respondent No.3.
2. Issue notice.
3. Counsels, as above, accept notice on behalf of the respective Respondents.
4. Learned counsel appearing for Respondent No.1 submits that the vehicle in question is a transport vehicle and cannot be released in view of Clause 8(ii) of the "*Guidelines for Handling End of Life Vehicles in Public*



Places of Delhi, 2024”. It is urged that Clause 8(ii) provides that transport vehicles running on diesel fuel and aged more than 10 years will not be released on impounding and therefore, the answering Respondent has no power to release the vehicle contrary to the Guidelines.

5. Learned counsel for the Petitioner, on the other hand, submits that the Transport Department cannot take shield of Clause 8(ii) of the Guidelines since Co-ordinate Bench of this Court in a batch of writ petitions one of them being *W.P. (C) No. 3124/2024 and others, ‘Sunil Rathore v. Govt. of NCT of Delhi and Anr.’*, decided on 29.05.2024 has held the said clause to be violative of Article 14 of the Constitution of India.

6. Heard learned counsels for the parties and examined their rival submissions.

7. Petitioner is the owner of transport vehicle in question which is registered in Punjab and has a valid permit till 25.09.2028 with a fitness certificate valid up to 22.08.2025, as per the averments in the writ petition. It is the case of the Petitioner that the vehicle was registered on 28.01.2015 and could be used in Delhi till 28.01.2025. The endorsement of hazardous material on the driving license of the driver of the vehicle was expiring on 24.01.2025 and for renewal of the same, the driver brought the vehicle to Delhi. While the vehicle was parked near the residence of the helper of the vehicle and the driver was to approach the Licensing Authority for updating the endorsement on the license, officials of Respondent No.3 seized the vehicle on 31.01.2025. Attempt to have the vehicle released failed and Petitioner was informed that being a transport vehicle, it cannot be released on account of the embargo in Clause 8(ii) of the Guidelines.

8. In my view, there is merit in the contention of the Petitioner that in



light of the judgment of the Co-ordinate Bench in ***Sunil Rathore (supra)***, where Clause 8(ii) of the Guidelines has been held to be bad in law, Respondent No.3 cannot take shelter under the said provision. The judgment dated 29.05.2024 decides a batch of petitions filed by Petitioners seeking release of their respective vehicles which were seized on account of being “End of Life Vehicle”. The vehicles in question were transport vehicles running on diesel fuel and were aged more than 10 years and save and except, for vehicles in W.P.(C) 6822/2024, the others were registered outside Delhi, as in the present case. GNCTD took an objection against the release of vehicles citing Clause 8(ii) of the Guidelines, which reads as follows:-

“8. IMPOUNDED VEHICLE WHICH CAN NOT BE RELEASED

(ii) *Transport vehicles running on diesel fuel and aged more than 10 years old.*"

9. After examining the aforesaid clause, the Court held as follows:-

“19. The 2024 Guidelines have been framed pursuant to the aforesaid directions. Clause 6 and 7 of the said Guidelines prescribe the procedure for releasing the impounded vehicles. Clause 8 contemplates that a category of impounded vehicles which cannot be released.

20. A perusal of the instruction/ guidelines incorporated in Clause 8(ii) leads to an inevitable conclusion that the categorization/distinction sought to be made between diesel transport vehicles and other diesel vehicles has no statutory basis. The same is also not borne out from the order/s of the NGT. To restrict a particular class of vehicles from being released is manifestly arbitrary and discriminatory. The guidelines do not disclose the basis or rationale for creating such a dispensation. The attempt on the part of learned counsel for the respondents to find/cite justification for the differential treatment accorded to one particular class of vehicles, cannot be countenanced, when the policy/ guidelines itself does not disclose the basis thereof.

21. It is well settled that courts can examine a policy of the Government to check whether it violates the fundamental rights of the citizens or is



opposed to the provisions of the Constitution, or opposed to any statutory provision or manifestly arbitrary. [Directorate of Film Festivals v. Gaurav Ashwin Jain, (2007) 4 SCC 737, para 16]

22. Once vehicles have been classified on the basis of type of fuel/pollution emissions - diesel vehicle more than 10 years old and petrol vehicle more than 15 years old - and certain rights/obligations have been imposed thereon, there is no intelligible differentia, discernable from the guidelines, in prescribing a further sub-classification of the diesel vehicles on the basis of the vehicle being a transport vehicle or otherwise. Such exclusion of one sub-category of vehicles from Clause 6 and 7 is impermissible, especially when the excluded sub-category belongs to the same genus. In Union of India v. N.S. Rathnam, (2015) 10 SCC 681, it has been held as under:

“12 ...When the exemption is granted to a particular class of persons, then the benefit thereof is to be extended to all similarly situated persons. The notification has to apply to the entire class and the Government cannot create sub-classification thereby excluding one sub-category, even when both the sub-categories are of same genus. If that is done, it would be considered as violating the equality clause enshrined in Article 14 of the Constitution. Therefore, judicial review of such notifications is permissible in order to undertake the scrutiny as to whether the notification results in invidious discrimination between two persons though they belong to the same class.”

23. The NGT in its orders (supra) was specifically dealing with air pollution caused in Delhi by diesel trucks aged more than 10 years. It was observed that trucks are a serious contributor to air pollution. At the same time, it was observed that these vehicles could be sent outside to areas where air dispersion is much higher and vehicular density is less. The dispensation created under Clause 6 and 7 of the 2024 Guidelines, to release the impounded diesel vehicles (for first time violation) on certain conditions will necessarily include the transport vehicles running on diesel fuel. To hold otherwise, will be violative of Article 14 and unreasonably deprive the petitioners' of their right to property.

24. As noticed above, orders passed by NGT were intended to address the issue of vehicular air pollution in Delhi. The said orders contemplate a classification of vehicles on the basis of type of fuel/emission caused by the vehicle. Diesel vehicles are stated to be more polluting than petrol vehicles. However, NGT noted that these vehicles can be plied outside Delhi subject to certain conditions. In fact, the NGT directed the authorities to issue NOC for such vehicles (diesel vehicles aged 10 years but below 15 years) to be registered outside Delhi. In Seema Chopra (supra), this court observed that where the vehicle is registered outside



Delhi and can be legally plied there, GNCTD can have no objection to the release of such vehicles for removal to other states. In said conspectus, the classification created under Clause 8(ii), which purports to exclude transport vehicles running on diesel fuel from ambit of Clause 6 and 7, has no rational nexus with object of the 2024 Guidelines.

25. Consequently, Clause 8(ii) of the 2024 Guidelines is held to be violative of Article 14, and not in consonance with law.”

(emphasis supplied)

10. In view of the observations of the Court in the aforesaid judgment, the writ petition is allowed. Petitioner shall furnish an undertaking to the Transport Department within three weeks from today in the required format and in consonance with the directions of this Court in ***Seema Chopra v. Govt. of NCT of Delhi and Others, 2023 SCC OnLine Del 8687***, that he will not ply the vehicle in question on the streets of National Capital Territory of Delhi and/or park the same in any public space in Delhi and that he shall remove the vehicle outside the Delhi NCR by towing or any other means except by plying the same on the streets of Delhi. On the undertaking being given and subject to any other formalities/charges that are required to be fulfilled/paid, the vehicle in question will be released within two weeks thereafter. Post the release of the vehicle, Petitioner will file another undertaking with the Transport Department that vehicle has been removed from NCT of Delhi and shall not be brought back. It is further directed that till the vehicle is released to the Petitioner, the same shall be kept in safe custody by the Scrapper/Respondent No.3 and shall not be scrapped.
11. Writ petition along with pending application stands disposed of in the aforesaid terms.

JYOTI SINGH, J

FEBRUARY 24, 2025/shivam/BSR