

\$~1 to 5, 9, 10, 40, 43, 64, 65, 70, 73 to 78

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

1

+ **W.P.(C) 10749/2023**

MS. SEEMA CHOPRA Petitioner

versus

GOVT. OF NCT OF DELHI AND ORS. Respondents

2

+ **W.P.(C) 10759/2023 & CM APPL. 41686/2023**

NEERAJ Petitioner

versus

TRANSPORT DEPARTMENT
(GOVT. OF NCT OF DELHI) & ORS. Respondents

3

+ **W.P.(C) 10860/2023 & CM APPL. 42065/2023**

SUPER FIREL PVT. LTD. THROUGH ITS
REPRESENTATIVE SH. SOURABH MALHOTRA Petitioner

versus

GOVT. OF NCT OF DELHI & ORS. Respondents

4

+ **W.P.(C) 10862/2023 & CM APPL. 42069/2023**

IAPL GROUP PVT. LTD. Petitioner

versus

GOVT. OF NCT OF DELHI & ORS. Respondents

SANJEEV BHAMBI Petitioner

versus

MUNICIPAL CORPORATION
OF DELHI AND ANR Respondents

65

+ W.P.(C) 11072/2023 & CM APPL. 42934/2023
ANIL WASUJA & ANR. Petitioners

versus

GOVT. OF NCT DELHI AND ORS. Respondents

70

+ W.P.(C) 9864/2023
HARIOM SINGH Petitioner

versus

GOVERNMENT OF NCT DELHI & ANR. Respondents

73

+ W.P.(C) 11254/2022 & CM APPL. 33039/2022
PRABHAT KUMAR Petitioner

versus

MUNICIPAL CORPORATION
OF DELHI & ORS. Respondents

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+ W.P.(C) 87/2023 & CM APPL. 280/2023
AKSHEY JAIN Petitioner

versus

MUNICIPAL CORPORATION
OF DELHI & ANR Respondents

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+ W.P.(C) 9528/2023 & CM APPL. 36409/2023

J. BALAJI Petitioner

versus

GOVT OF NCT OF DELHI & ANR. Respondents

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+ W.P.(C) 9529/2023 & CM APPL. 36411/2023
J BALAJI Petitioner

versus

GOVT OF NCT OF DELHI & ANR. Respondents

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+ W.P.(C) 10375/2023 & CM APPL. 40183/2023
JONSON RUBBER INDUSTRIES LTD THROUGH
ITS DIRECTOR SH. PARAMJIT SINGH Petitioner

versus

GOVT. OF NCT OF DELHI & ORS. Respondents

78

+ W.P.(C) 10480/2023 & CM APPL. 40625/2023
RAHUL CHAWLA Petitioner

versus

GOVT. OF NCT OF DELHI & ANR. Respondents

Appearance:

For petitioners:

Mr. K.K. Bhuchar and Mr. Atul Bhuchar, Advocates in Item 1.

Mr. Kanwal Chaudhary, Advocate in Item No. 2.

Mr. Shubham Ahlawat, Advocate in Item No. 4
Mr. Ajay Kohli, Ms. Dipika Prasad and Mr. S.S. Sobhi, Advocates in Item No. 5.
Mr. Prabhjit Jauhar, Ms. Ajunee Singh, Ms. Gauri Rajput & Mr. Bhanu Thakur, Advocates in Item No. 9.
Mr. Arijit Prasad, Senior Advocate with Mr. Ishan Kapoor, Ms. Gargi Khanna & Mr. Lalit Khanna, Advocates in Item No. 10.
Mr. Adviteeya, Advocate in Item No. 40.
Mr. Piyush Sharma, Mr. Aditya Naryan Prasad, Ms. Arani Mukherjee & Mr. Armaan Verma, Advocates in Item No. 43.
Mr. Umang Tyagi, Advocate in Item No. 64.
Mr. Varun Goswami, Mr. Naveen Grover, Mr. Hritik Chaudhary, Advocate for petitioners in Item No. 65.
Mr. Abhigyan and Mr. Nitin, Advocates in Item No. 70.
Mr. Siddharth & Mr. Amit Kumar Agrawal, Advocates in Item No. 73.
Mr. Kshitiz Garg, Advocate in Item No. 74.
Mr. Rohit Job, Advocates in Item No. 75 and 76.
Mr. Shubham Ahlawat, Advocate in Item No. 77.
Mr. Sahil Mongia, Mr. Rahul Yadav and Mr. Shahil Rao, Advocates in Item No. 78.

For respondents:

Mr. Sameer Vashisht, ASC GNCTD with Mr. Vanshay Kaul, Mr. Aman Singh Bhadoria, Ms. Harshita, Advocates with Mr. Shahzad Alam, Special Commissioner, Transport in Item No. 1 to 5, 64, 65, 75 to 78.
Mr. Prabhat Kumar, Advocate for R-2 in Item No. 2.
Ms. Meghna Mishra, Mr. Ankit, Mr. Rohit Kumar and Mr. Atul Sinha, Advocates in Item No. 4.
Mr. Chirag Madan, ASC with Ms. Ravleen Sabharwal, Mr. Manoviraj Singh & Mr. Rahul Agarwal, Advocates for R-1/MCD.
Mr. Anurag Nasir, Advocate for R-3 in Item No. 73.
Mr. Dhruv Gautam, Advocate for R-2 in Item No. 40.
Mr. Sanjeev Sabharwal, SC for MCD in Item No. 40.
Ms. Meghna Mishra, Mr. Ankit Rajgarhia, Mr. Rohit Kumar and Mr. Atul Sinha, Advocates for R-2 in Item No. 64.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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22.08.2023

1. These petitions concern seizure of vehicles by the Government of the National Capital Territory of Delhi ["GNCTD"] on the ground that they are petrol vehicles of over 15 years of age or diesel vehicles of over 10 years of age, and thus classified as "*End-of-Life Vehicles*" under the Motor Vehicles (Registration and Functions of Vehicle Scrapping Facility) Rules, 2021.
2. The genesis of the issue lies in two orders passed by the National Green Tribunal ["NGT"] in O.A. No. 21/2014 [*Vardhaman Kaushik vs. Union of India and Ors.*]. By an order dated 26.11.2014, the NGT passed various directions aimed at combatting the problem of air pollution in Delhi. The order of the NGT, insofar as it is relevant to the present case, is extracted below:

*"... We have heard the Learned Counsel appearing for the parties. **It is undisputed and in fact unquestionable that the air pollution of NCT, Delhi is getting worse with each passing day.** An article published in the Times of India today has been brought to the Notice of the Tribunal. It is based on the studies carried out. It not only projects the very dismayed state of affairs existing with clear indication that worst is likely to follow. This article even declares that it may not be safe for the residents of Delhi to go out for morning arising to heavy pollutants present in the air. It is primarily carbon and particulate matters which are injurious to human health, particularly to lungs and ENT diseases. **The time is more than right at this stage, when mere consideration of these issues at different levels, could not resolve the issue and no one would help in controlling the increasing air pollution in Delhi. It is a constitutional and statutory duty of all the authorities and Ministries to provide clean air to the people to breathe.** It is their fundamental right and it cannot be subjected to limitation of the state of any kind*

and be permitted to loose sight in the realm of planning and anticipated actions....

...In the meanwhile, we issue the following directions:

1. All vehicles, 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 seizure of the vehicles in accordance with the provisions of the Motor Vehicle Act, 1988.

2. 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 i.e. two wheelers, three wheelers, four wheelers, light vehicles and heavy vehicles irrespective of whether commercial or otherwise....”

[Emphasis supplied.]

3. By a further order dated 07.04.2015, the NGT again expressed its concern at increasing air pollution in the city of Delhi, leading to deteriorating ambient air quality and adverse health consequences. Referring to the principle of inter-generational equity, the NGT identified three major causes of air pollution, being burning of plastic and other waste, pollution from construction and allied activities, and pollution from vehicular traffic and industrial emission. With regard to vehicular pollution, the NGT directs as follows:

“... We have already noticed that certain stringent measures need to be taken to improve the ambient air quality in NCR, Delhi and to ensure that the residents of this area do not travel closer to ill-health by each breath that they take. Thus we hereby direct that all diesel vehicles (heavy or light) which are more than 10 years old, will not be permitted on the roads of NCR, Delhi. All the registering authorities in the state of Haryana, U.P. and NCT, Delhi would not register any diesel vehicle which is more than 10 years old and shall file the list of vehicles before the Tribunal and provide the same to the Police and other concerned authorities. 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, Delhi.”

[Emphasis Supplied.]

4. The order dated 26.11.2014 of the NGT (alongwith an order dated 04.03.2015 of NGT which, I am informed, does not pertain to the issue at hand), were challenged before the Supreme Court in C.A. No. 3111/2015. The Supreme Court rejected the appeals by an order dated 20.04.2015. The issue was also considered by the Supreme Court in an order dated 29.10.2018 in W.P.(C) 13029/1985 [*M.C. Mehta vs Union of India & ors.*]. By this order, the Court issued 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.”

[Emphasis supplied.]

5. Pursuant to these orders, GNCTD has issued directions for seizure of end-of-life vehicles found plying on the streets of National Capital Territory of Delhi [“NCT of Delhi”]. In this batch of cases, the contention of learned counsel for the petitioners, which is factually undisputed, is that the vehicles have been picked up while they were parked in or near the petitioners’ residences or, in a few cases, from garages/workshops where they had been sent for repairs. Learned counsel for the petitioners submit that parked vehicles, particularly those parked in private spaces, or on streets proximate to the places of residence of the owners, are not covered by the aforesaid orders of the NGT or the Supreme Court.

6. On behalf of the respondents, I have heard Mr. Sameer Vashisht, learned Additional Standing Counsel for GNCTD, and Mr. Shahzad Alam, Special Commissioner, Department of Transport, GNCTD, who is also present in Court in terms of order dated 04.08.2023 in W.P.(C) 9158/2023 and W.P.(C) 9166/2023. There is, unfortunately, some dissonance in the stand taken by Mr. Alam, as compared to the submissions of Mr. Vashisht but I am of the view that this batch of petitions can be disposed of without being distracted by this curious circumstance.

7. Although Mr. Vashisht does not suggest that vehicles parked near the residence of their owners can be considered as “plying”, Mr. Alam relies upon a communication dated 25.05.2023, addressed by Commission for Air Quality Management [“CAQM”] to the Principal Secretary-cum-Commissioner, Department of Transport, GNCTD and an Office Memorandum [“OM”] dated 27.06.2023 issued by the Commissioner. In the OM, the Commissioner has characterised vehicles parked in public places as “deemed to be plying”.

8. The relevant extracts of the aforesaid communication of CAQM dated 25.05.2023 reads as follows:

“2. Extant instructions related to not permitting all Diesel vehicles more than 10 yrs. old and all Petrol vehicles more than 15 yrs. old to ply in NCR, flow from Hon’ble NGT’s Order dated 26.11.2014 and 07.04.2015 vide OA No. 21 of 2014 in the matter of Vardhman Kaushik Vs UoI and Ors., which were duly upheld in terms of Hon’ble Supreme Court’s Order dated 29.10.2018 in WP no. 13029/1985 in the matter of M.C. Mehta Vs. UoI and Ors.”

3. On a related subject of scrapping of old vehicles, the Ministry of Road Transport and Highways, Gol vide its notification GSR 653(E) dated 23.09.2021 notified the Motor Vehicles (Registration and

Functions of Vehicle Scrapping Facility) Rules, 2021, followed by Motor Vehicles (Registration and Functions of Vehicle Scrapping Facility Amendment) Rules, 2022 notified vide GSR 695(E) dated 13.09.2022, under the Motor Vehicles Act, 1988.

4. Under Clause 3(f) of the above said Rules, the “End-of-Life Vehicles” have been defined as:

“End-of-life Vehicles” means all vehicles which are no longer validly registered or declared unfit through automated fitness centres or their registrations have been cancelled under Chapter IV of the Act or due to an Order of a court of law or are self-declared by the legitimate registered owner as a waste vehicle due to any circumstances as specified in these rules;

5. Clause (vi) of sub-Rule 1 under Rule 10 of the above referred rules reads as under:

“Vehicles impounded by an enforcement agency shall be handed over to the Registered Vehicles Scrapping Facility, if they meet the criteria for vehicles scrapping as provided under Rule 8.”

Rule 8 inter-alia includes the following criteria related to scrapping of vehicles:

Vehicles which have not renewed their certification of registration in accordance with Rule 52 of the Central Motor Vehicles Rules, 1989.

Vehicles which have not been granted a certificate of fitness in accordance with Rule 62 of the Central Motor Vehicles Rules, 1989.

Auctioned, impounded or abandoned vehicles by any enforcement agency.

6. It may be noted from the above that there is absolute clarity as to how to deal with “End-of-Life Vehicles”.

*7. It has been reported by the GNCTD that about 55 lakhs of overaged vehicles have already been deregistered in Delhi. **Accordingly, appropriate action may be initiated against all such End-of Life Vehicles/ overaged vehicles either plying on roads or parked in public places in the NCT of Delhi, in pursuance of Hon’ble NGT’s and Hon’ble Supreme Court’s Orders referred to above and in***

consonance with the above noted rule provisions.

This issue with the approval of the Chairperson, CAQM....”

[Emphasis supplied]

9. In the OM dated 27.06.2023, after quoting *verbatim* from the communication of CAQM, the Commissioner has directed as follows:

*“...Therefore, I, Commissioner of Transport, **under power vested in me through Section 2(d) of Delhi Motor Vehicle Rules 1993** hereby order that "Enforcement wing of Transport Department **to impound all such vehicle plying or deemed to be plying (parked in public place)**, even if NOC has been issued but vehicle has not been shifted out of Delhi even after one month of issuance of such NOC and handover directly to the Registered Vehicle Scrapping Facilities (RVSFs) empanelled by Transport Department, GNCT under RVSF Rules (which is available on the website).*

***The Civic agencies New Delhi Municipal Council, Municipal Corporation of Delhi and Traffic Police to also initiate drive for in spirit implementation of Hon'ble NGT/Supreme Court order.** The drive may be carried out in conjunction with scrappers empanelled by Transport Department, GNCTD under RVSF Rules (which is available on the website)...”*

[Emphasis supplied.]

10. While considering these submissions, reference may also be made to the seizure memos which have been placed on record in these petitions. The memos are admittedly identical in all material respects. A sample seizure memo dated 02.06.2023 [Annexure P-3] to W.P.(C) 10749/2023 is reproduced below:

Ann - P3
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**GOVERNMENT OF NCT OF DELHI
TRANSPORT DEPARTMENT (ENFORCEMENT BRANCH)
5/9, UNDER HILL ROAD: DELHI-110054**

Enf.: 2022/ 16 March 2021 Dated: 2/6/23

SEIZURE MEMO
Diesel / Cor 2/6/23

- Hon'ble national Green tribunal in the matter of Vardhman kaushik. V/s union of India & Ors. in OA nos. 21 of 2014 and 94 of 2014 where directions have been issued relating to restrictions on registration and plying or deemed to be plying (parked in public place) end of life vehicle that is diesel vehicle more than 10 years old and petrol vehicle more than 15 years old.
- As per directions from CAQM and approval of Commissioner (transport), the only recourse for plying or deemed to be plying (parked in public place) end of life vehicle to be scrapped with registered vehicle scrapping facility (RVSF) in Delhi NCR region.

Whereas, effective measures are required to be taken against such polluting vehicles, including the vehicles referred in the order of Honble NGT. The matter is also being regularly reviewed by the Commission for Air quality management (CAQM).

It has been decided to seize diesel/ petrol Vehicles which are end of life vehicles found plying for deemed to be plying vehicle (parked vehicle in public place) handed over to the authorized scrappers.

Whereas on dated 2/6/23 at 12.50 PM (time), the vehicle No. PB-3F-3426 which has ended of life has been found plying / or deemed to be plying vehicle (parked vehicle in public place) at Nehru Park, Sector 15, Connaught Place, Delhi-110001 the above said vehicle is hereby seized and handed over to M/s GO GREEN ELY HANDLERS who is authorized scrapper of RVSF for scrapping as per RVSF Rules, 2021.

The scrapper will make the payment of scrapped value directly to the registered owner of the above said vehicle as per OM NO. F. No. S-31037/1/2022-MFH dated 23/01/2023 by ministry of Steel.

GO GREEN ELY HANDLERS
171, Delhi - Saharanpur Road,
Opposite Tehsil, Khakra,
Uttar Pradesh - 250101
Contact : +91-8447335577
(Name & Sign of Authorized Scrapper)

Name & Signature ASIT SATVEER SINGH
C C No. 6514/2022-Enf. Staff
Transport Department
Govt. of NCT of Delhi

Copy to:

- Owner/ Person in possession of vehicle/ Signature At. Yudhvir
- Witness- [Signature]
- id. Witness - [Signature]

True Copy
For Payment
Contact : 08447335577

11. It is evident from the aforesaid communication of CAQM and the seizure memo, that the actions of GNCTD have been taken with the intention of complying with the aforesaid orders of NGT and the Supreme Court, which were clearly intended to tackle the problem of worsening air pollution in the NCT of Delhi. No other orders of the

Supreme Court or NGT have been relied upon by any of the parties.

12. Learned counsel for the petitioners submit that the orders do not refer to parked vehicles at all, except to the extent that the order of NGT dated 26.11.2014, requires vehicles which are more than 15 years old and are parked in a public area to be towed away and *challaned* by the police in accordance with law. They submit that seizure of vehicles is not contemplated by the order of NGT in respect of parked vehicles. Learned counsel point out that, even in the communication dated 25.05.2023, CAQM did not specifically require parked vehicles to be treated as “*deemed to be plying*” but only required “*appropriate action*” to be initiated against end-of-life vehicles, either plying on roads or parked in public places in the NCT of Delhi. They submit that the concept of treating vehicles parked on public streets as “*deemed to be plying*” has been inserted in the OM dated 27.06.2023, in excess of the directions of NGT and the Supreme Court, upon which it is purportedly based. It is also pointed out that the Commissioner has invoked power under “*Rule 2(d) of the Delhi Motor Vehicles Rules, 1993*”, which is misconceived, as the said Rule only deals with the definition of the “Commissioner” for the purposes of the Delhi Motor Vehicles Rules, 1993, and does not vest any specific power in the Commissioner to make the directions sought to be made. Mr. Vashisht also submits that the Minister of Transport, GNCTD, has, by an order dated 21.08.2023, noted that the aforesaid OM was issued without approval of the State Government and expressed his concern about seizure of vehicles parked outside the houses of their owners.

13. Whilst noting these contentions, which have been advanced to

assail the validity of the seizure of vehicles, I am of the view that the aforesaid questions need not be conclusively determined in this batch of petitions, as learned counsel for the petitioners have all undertaken that the vehicles will either be removed from the NCT of Delhi to other States, or that the vehicles will be parked in a private parking space available to the owners.

14. As far as removal of vehicles outside the NCT of Delhi is concerned, there is no dispute that GNCTD was issuing No Objection Certificates [“NOCs”] for transfer of vehicles to a different State upon applications made by the owners of end-of-life vehicles prior to their seizure. In the present batch of cases, in fact, several of the vehicles in question are registered in other States, where the registrations remain valid, and the vehicles can legally be plied. It is also the accepted position that the orders upon which GNCTD has based the seizure of these vehicles are confined to the NCT of Delhi, and that the vehicles can legally be plied in other States. GNCTD, thus, can have no objection, in principle, to the release and transfer of the vehicle to another State or for removal of the vehicles registered outside Delhi. The factual details with regard to the petitions in which the petitioners wish to give such an undertaking are captured in the table below:

S. No.	Case No.	Type of Vehicle (Car/Scooter/Motor cycle), (Registration number)	Petrol or Diesel	State of Registration	Destination State
1.	W.P.(C) 10749/2023	Car (PB25E3926)	Diesel	Punjab	Punjab

2.	W.P.(C) 10759/2023	Car (HP14D6768)	Diesel	Himachal Pradesh	Himachal Pradesh
3.	W.P.(C) 10860/2023	Car (UP16AJ0606)	Diesel	UP	Puducherry (NOC Issued)
4.	W.P.(C) 10862/2023	Car (DL10CD1008)	Diesel	Delhi	UP
5.	W.P.(C) 10884/2023	Car (DL3CBD6286)	Diesel	Delhi	Maharashtra (NOC required)
6.	W.P.(C) 3017/2023	Car (DL7CF5345)	Petrol	Delhi	Karnataka
7.	W.P.(C) 11012/2023	Scooter (DLQ6247)	Petrol	Delhi	Haryana
8.	W.P.(C) 11072/2023	Car (DL9CP6329), Car (DL3CBD2459)	Petrol, Diesel	Delhi	Karnataka
9.	W.P.(C) 9864/2023	Car (UP16BT3248)	Diesel	UP	UP
10.	W.P.(C) 9528/2023	Car (DL3CBN0981)	Diesel	Delhi	Tamil Nadu
11.	W.P.(C) 9529/2023	Motorcycle (TN09D8336)	Petrol	Delhi	Tamil Nadu
12.	W.P.(C) 10375/2023	Car (DL6CM0198)	Diesel	Delhi	Punjab
13.	W.P.(C) 10480/2023	Car (HR26BN1303)	Diesel	Haryana	Haryana

15. As far as parking of the vehicles in private parking places within Delhi is concerned, with an undertaking that they will not be plied on the streets of Delhi or parked in any public place in Delhi, the petitioners in, 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, seek release of their vehicles on such an undertaking.

16. Learned counsel for the petitioners in these petitions state that they initially wished to retrofit their vehicles with electric kits, so as to convert them into electric vehicles in accordance with the Delhi Electric Vehicles Policy, 2020. However, no vendors have been authorised for the purpose of retrofitting. Mr. Vashisht and Mr. Alam submit that GNCTD has been unable to identify any willing manufacturers/service providers in the NCT of Delhi for retrofitting of electric kits in four wheelers in compliance with required safety standards. Consequently, it is not possible at this stage to release the vehicles for the purpose of retrofitting as electric vehicles. However, if the petitioners are able to demonstrate that they have private parking places available to them, the release of vehicles to them in terms of the aforesaid undertaking will not impede the objective with which the orders of the Supreme Court and NGT were passed.

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.

19. The petitioners have expressed an apprehension that they will be charged towing charges or parking charges by the scrapping agencies. Mr. Alam states that the petitioners will be liable for towing charges of approximately Rs.2,000/- or Rs.2,500/- per vehicle, but no parking charges will be payable by them to the scrapping agencies. He states that his office will act as the Nodal Office to facilitate release of the vehicles by the scrapping agencies to the petitioners in terms of these directions, and that if any excess amount is sought by any scrapping agency, the petitioners may approach his office with their grievance.

20. Mr. Alam expresses an apprehension that if the vehicles are released to the petitioners, they will, in fact, be plied within the NCT of Delhi. To allay this apprehension, it is made clear that the aforesaid undertakings recorded on behalf of the petitioners will be treated as undertakings made to this Court, and that any breach of these undertakings may invite action for Contempt of Court.

21. As there are several vehicles which have been seized in similar

circumstances, in which the owners may be willing to give undertakings as directed by this order, GNCTD is directed to frame a policy for release of such vehicles on the aforesaid undertakings by the owners, and to give due publicity to the same.

22. The writ petitions, alongwith pending applications, are disposed of with the aforesaid directions.

PRATEEK JALAN, J

AUGUST 22, 2023

SS/