



2024 :DHC :8267



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

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Date of Decision: 21.10.2024

+ CRL.M.C. 6071/2024 & CRL.M.A. 23237/2024

BENETTON INDIA PRIVATE LIMITED

.....Petitioner

Through: Mr. Tanmaya Mehta, Mr. Karan Nagrath, Ms. Nupur Kumar, Ms. Rashmi Gogoi, Mr. Laksh Kundlas, Mr. Krishnagopal Abhay, Mr. Karmanya Singh and Mr. Ambuj Tiwari and Ms. Niharika Tanwar, Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Ms. Manjeet Arya, APP for State with Mr.Dheeraj Narrang, ACP / Traffic / New and Mr. Amit Issar, ACP / Traffic / HQ.
Mr. Rajeev Kumar, AOJ on behalf of Registrar General, High Court of Delhi.

CORAM:**HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA**

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J U D G M E N T**ANOOP KUMAR MENDIRATTA, J (ORAL)**

1. A Petition under Section 530 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') has been preferred on behalf of petitioner for quashing of orders dated 19.07.2024 and 27.07.2024 passed by learned JMFC-02 (South), Saket Courts, Delhi whereby MD/CEO of M/s Benetton India Private Limited was directed to appear in the proceedings taken up for disposal of traffic challans, which were issued for over speeding in respect of



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a vehicle registered in the name of the petitioner.

2. In brief, the Authorized Representative of M/s Benetton India Pvt. Ltd. (petitioner) appeared before the learned Trial Court on 19.07.2024 for the purpose of disposal of two traffic challans issued in the name of the company in the year 2020 and were required to be disposed prior to initiation of process for scrapping of the vehicle owned by the company. However, since the Authorized Representative (AR) was in possession of a stamp of the company which was similar to the stamp affixed on the authority letter by which the AR was authorized by the MD and CEO of the company, learned JMFC-02 directed presence of the concerned Notary Shri Kamlesh Sharma as well as MD and CEO of the petitioner company, for making an inquiry in this regard. Thereafter, on 27.07.2024 on appearance of Notary and after observing that the entries in the Register had not been properly maintained, he was discharged after a warning to be careful in future. Further the learned JMFC-02 directed that without the physical appearance of CEO and MD of the petitioner company, the fine cannot be imposed in view of observations made vide order dated 19.07.2024.

3. In the aforesaid background, aggrieved against the aforesaid orders, present petition has been preferred on behalf of the petitioner pointing out that the vehicle in respect of which the challans have been issued, had been purchased for business purposes and is in the process of being scrapped. Further, since two traffic challans referred to as notices were pending against the aforesaid vehicle, the Authorized Representative was directed to appear after due authorization. Shri Tanmaya Mehta, learned Senior Counsel for the petitioner submits that instead of disposal of the challans in accordance with



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law, the learned Trial Court erred in entering into a fishing and roving enquiry in respect of the stamp of the company possessed by the Authorized Representative, who had been duly authorized in this regard. It is urged that despite the fact that the petitioner is willing for disposal of the challans in accordance with law, the direction for appearance of CEO and MD of the petitioner company is uncalled for.

4. This Court is of the considered opinion that since the Authorized Representative was duly authorized, the insistence for presence of CEO is not required as the company may be in possession of several vehicles for the purpose of running its business operations and it may not be feasible for the CEO/MD of the company to appear merely for purpose of disposal of traffic challans. The exercise undertaken by learned Trial Court by directing the summoning of CEO and MD is unfounded, uncalled for and irrational, since the Authorized Representative was duly authorized and the said fact has been admitted on behalf of the petitioner. The direction for appearance of CEO and MD of the company is accordingly set aside. Learned Trial Court is directed to dispose of the challans in accordance with law, on appearance of the Authorized Representative of the company.

5. It may also be observed that the integration of technology has led to automated issuance of challan on detection through CCTV cameras. It is pertinent to note that when an offence is made out against a person, the creation of e-challan stands entered into the offence history of the registered vehicle in the database in Vahan (for the vehicle) and Sarathi (for the driver) respectively, which is available to the enforcement officers. The violator can pay the penalty or the compounding amount online and after the disposal, the



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same is reflected in the database.

The amendments in the Motor Vehicles Act have been implemented in NCT of Delhi and presently, multiple options are available for purpose of disposal of challans which includes ‘on the spot payment’ to the Challaning Officer, ‘online payment’ on the official website of the Delhi Traffic Police, ‘e-Courts’ and ‘settlement’ through Lok Adalats in respect of compoundable offences.

The introduction and adjudication of traffic challans through e-Traffic Courts has revolutionized the process of disposals of challans and has advanced the public services to the common litigant. Since contesting a minor traffic challan can be a daunting experience and an extremely expensive process in comparison to the fine to be imposed, there is a tendency to get the challans disposed in the Lok Adalats as the same are treated to be compoundable and a pragmatic lenient approach is taken up. However, since certain gaps/deficiencies in respect of the disposal of challans has been brought to the notice of this Court, a response was sought on behalf of the respondent as well as Commissioner of Police, Delhi to ensure that the alleged violator is able to exercise appropriate option for compounding the offence as provided under the Motor Vehicles Act.

6. The observations made by this Court vide order dated 27.09.2024 may be reproduced for reference:

“1. In the light of the report filed on behalf of Delhi Police, learned Senior counsel for the petitioner points out:

- i. That presently the mobile numbers as provided in the registration certificates of new vehicles are linked with e-Parivahan, on the basis of which the notice of challan is received by the offender through Delhi Traffic Police. However, no such message is received online by the registered owners, in respect of the vehicles*



which were earlier registered and they are still informed through speed post. It is urged that the relevant e-Parivahan website needs to be modified for providing an option to the registered owners to reflect their mobile numbers, if not originally reflected along with the registration certificate or in case ownership of the vehicle is transferred or if mobile number is changed.

- ii. It is further pointed out that though an offender can raise a dispute online in case the 'notice of challan' is disputed, but the same remains ineffective at times for number of reasons, as the matter does not receive due consideration at subordinate level. It is emphasized that an option to take up the grievance in respect of disputed notice of challan, with a nominated Officer/Official in concerned Zone of Delhi Traffic Police, would provide an alternate effective mechanism for resolution of grievance.*

2. Time is sought on behalf of Delhi Traffic Police for seeking instructions and placing report on record. It is urged that option for updation of mobile numbers in respect of old vehicles, as well as in case of sale/transfer of vehicles shall have to be taken up by the State Government in consultation with Delhi Traffic Police, as the subject matter falls within State List.

3. During course of hearing, it has also been pointed out by learned counsel for the petitioner that the website for e-Court/Virtual Court for disposal of challans requires some modifications i.e.

- i. The website does not provide an option to the offender, if the user of the vehicle at the relevant time was the registered owner or was driven by another person/driver. It is pointed out that in case the registered owner does not receive the notice of challan issued by the Delhi Traffic Police, the option for reflecting the name of driver/user stands foreclosed, after the challan is forwarded to e-Court. It is urged that the replication of the aforesaid option, which is available to the offender on receipt of notice by the Traffic Police shall facilitate the disposal of challans, since in absence of such option, the registered owner/alleged offender is forced to contest the challan and appear before the concerned Court.*
- ii. It is also pointed out that the Virtual Court for disposal of challans does not reflect, if the offences charged can be compounded, and the option of pleading guilty leads to an inference that the offender stands convicted on payment of fine. Learned counsel for the petitioner submits that in case the option correctly reflects that the offence can be compounded, the same shall go a long way, in*



*enabling the offenders to compound the offences and deposit the compounding fee in accordance with law, failing which they are constrained to get the challans disposed of in the Lok Adalats, wherein the offence is treated to have been compounded. It is pointed out that aforesaid notification in the website, if considered, would enable large number of offenders to get the challans compounded in the Virtual Court itself without waiting to get the same disposed in the Lok Adalats.
.....”*

7. In response thereto, a status report has been filed on behalf of by Delhi Traffic Police whereby it is submitted that the option for updation of mobile numbers in respect of old vehicles as well as in case of sale/transfer of vehicles is already available on Vahan Portal of MoRTH, Govt of India at the following URL:

<https://vahan.parivahan.gov.in/vahanservice/vahan/ui/otherservices/editMobileNumberVahan.xhtml>”.

Further, the portal facilitates the updating the mobile numbers by the RTO and in case the person desiring to update his mobile number does not have any of the requisite information which is mandatory required for updating the mobile number, may approach the concerned RTO for getting the details updated.

8. In response to observations made in para 1 (ii) for appointment of a nominated officer/official in the concerned zone of Delhi Traffic Police to provide an alternative effective mechanism for resolution of grievance, it is submitted that the aggrieved person may approach concerned ACP/Traffic District according to the area where said violation was committed as mentioned on the notice/SMS from 1100 hrs to 1330 hrs on every Wednesday and Friday in their designated offices. Further, specific directions are stated to have been issued that as and when any



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complaint/grievance with respect to the notice/challans issued for violations captured through the electronic monitoring and enforcement system is received, the same shall be thoroughly examined and disposed of within seven working days from the date of receipt of grievance/complaint and also the outcome of the grievance raised would be communicated to the complainant. The communiqué to be made to the complainant shall include the details of the Nodal Officer to whom the complainant can meet in case he is not satisfied with the outcome of his grievance and copy of order issued in this regard has also been enclosed.

9. This Court appreciates the able assistance rendered by Shri Tanmaya Mehta, Senior counsel as well as the stand taken on behalf of Delhi Traffic Police for providing an alternative effective mechanism for resolution of grievance, as observed herein above and directs that the order dated 03.10.2024 issued by Shri S.K. Singh, Deputy Commissioner of Police: Traffic (HQ-II), Delhi in this regard be given wide circulation along with the link provided by *e-Parivahan* website for updation of mobile numbers, for information of the citizens.

Further, the suggestions, gaps noticed in para 3 of the order dated 29.07.2024 as reproduced in para 6 above, may be forwarded through Registrar General, High Court of Delhi for kind consideration of the Hon'ble e-Committee of the Hon'ble Supreme Court of India, for incorporating suitable modifications in the website for purpose of online disposal of challans.

Petition is accordingly disposed of. Pending applications, if any, also stand disposed of.



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A copy of this order be forwarded to the learned Trial Court for information and compliance.

ANOOP KUMAR MENDIRATTA, J.

OCTOBER 21, 2024/sd