

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 519/2016

WITH

Original Application No. 496/2018
(M.A. No. 1159/2018)

WITH

Original Application No. 196/2018

WITH

Original Application No. 197/2018

Hardeep Singh & Ors.

Applicant(s)

Versus

SDMC & Ors.

Respondent(s)

WITH

Akhand Bharat Morcha

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 15.11.2019

Date of uploading of order: 20.11.2019

CORAM:

**HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER**

ORDER

1. This order may be read in continuation of order dated 01.08.2019. The subject matter for consideration is the failure of the statutory authorities in Delhi in controlling noise pollution as per statutory mandate of Noise Pollution (Regulation and Control) Rules, 2000 (Noise Rules). The matter has been dealt with earlier by this Tribunal in the light of judgment of Delhi High Court in *Free Legal Aid Cell Vs.*

*Government of NCT of Delhi*¹ and of the Hon'ble Supreme Court in *In Re: Noise Pollution - Implementation of the Laws for restricting use of loud speakers and high volume producing sound systems.*²

2. The grievance of the Applicants is that in spite of the above orders, unsatisfactory state of affairs continues. By use of DJ systems, music systems, public address systems etc. during weddings or other functions, noise was being created at odd hours adversely affecting the health of the citizens. Reference is made to the order of this Tribunal dated 18.12.2012 in *Supreme Court Group Housing Vs. All India Panchayat Parishad, Original Application No. 34/2011*, directing establishment of call centers, drawing up of Standard Operating Procedure (SOP) regarding control of noise pollution and banning the use of generator sets of capacity of 5 KVA and above in the residential areas between 10 pm to 6 am, apart from other directions.
3. The steps taken pursuant to the earlier orders of this Tribunal, included the issuance of orders by the Commissioner of Police, DCP (Traffic) and SDM (East Delhi). Action plans were placed before the Tribunal for setting up of call centers and drawing up of detailed SOP for controlling noise pollution. The Ministry of Environment, Forest and Climate Change (MoEF&CC) amended the Noise Rules on 10.01.2010 prohibiting loud speakers, public address systems at night time except in closed premises. The DCP (Traffic) filed a status report indicating the number of challans etc.
4. In *Original Application No. 519 of 2016*, the Tribunal, vide order dated 27.09.2018, held that steps taken were hardly effective on the

¹ AIR 2001 Delhi 455

² (2005) 5 SCC 733

ground. The problem of noise pollution continued. Directions in the order of the Hon'ble Supreme court in *In Re: Noise Pollution - Implementation of the Laws for restricting use of loud speakers and high volume producing sound systems*³ had not been fully complied with. Accordingly, the Tribunal directed the Chief Secretary, Delhi, the Commissioner of Police, Delhi and the Delhi Pollution Control Committee (DPCC) to take steps for enforcing the directions of the Hon'ble Supreme Court and the Noise Rules with regard to control of use of loud speakers, control of vehicular noise and creation of awareness. The Commissioner of Police was to nominate a DCP and the Chief Secretary was to nominate a SDM who were to meet once in every week to take stock of the situation. They were to set up an exclusive website and dedicated helpline, apart from other steps. Report of compliance was to be filed.

5. In *Original Application No. 496/2018*, *Original Application No. 196/2018* and *Original Applicant No. 197/2018* also, similar grievance against non-enforcement of the Noise Rules in Delhi have been raised. Vide order dated 10.08.2018 in O.A No. 496/2018, joint inspection was directed to be conducted and report was directed to be furnished. The report dated 31.10.2018 was considered on 14.02.2019 along with O.A No. 196/2018 and O.A No. 197/2018 and directions were issued to take remedial action. The Tribunal also directed the presence of DCP (East), DCP (Shahdara) and DCP (South) with action plans. O.A No. 496/ 2018, O.A No. 196/2018 and O.A No. 197/2018 were again taken up on 14.03.2019, along with O.A 519/2016 and after interaction with the officers who are to enforce the Noise Rules, further directions were issued to identify and map

³ Supra at 2 and (2005) 5 SCC 728

hotspots, install noise measuring device on the devices causing high noise level, conduct surveillance and monitoring and conduct awareness and coordination with RWAs. The Commissioner of Police, Delhi was also to monitor and furnish a report to this Tribunal.

6. Noise is an underestimated threat that can cause a number of short- and long-term health problems. It is increasingly becoming a potential hazard to health, physically and psychologically, and affects the general well-being of an individual. ⁴Excessive noise interferes with people's daily activities at school, at work, at home, and during leisure time. It can disturb sleep, cause cardiovascular and psychophysiological effects, reduce performance and provoke annoyance responses and changes in social behavior.⁵ Environmental noise exposure is responsible for a range of health effects, including increased risk of ischaemic heart disease as well as sleep disturbance, cognitive impairment among children, annoyance, stress-related mental health risks, and tinnitus.⁶ According to a 2007 WHO estimate, almost six per cent people in India suffer from hearing loss.⁷ WHO says that exposure to excessive noise is one of the causes for loss of hearing.⁸ Delhi was the second worst city for noise pollution, followed by Cairo, Mumbai, Istanbul and Beijing.⁹ Residents of Vienna, Austria have the least amount of hearing loss proportionate to their age whilst citizens of Delhi, India have the most.¹⁰

⁴Community Noise Pollution in Urban India: Need for Public Health Action,<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3968587/>

⁵ <http://www.euro.who.int/en/health-topics/environment-and-health/noise/noise>

⁶ <https://www.who.int/sustainable-development/transport/health-risks/noise/en/>

⁷https://www.who.int/healthinfo/statistics/bod_hearingloss.pdf,<https://www.downtoearth.org.in/news/health/not-just-air-level-of-noise-pollution-in-delhi-is-also-deadly-study-57273>

⁸ <https://www.who.int/en/news-room/fact-sheets/detail/deafness-and-hearing-loss>

⁹<https://www.weforum.org/agenda/2017/03/these-are-the-cities-with-the-worst-noise-pollution/>

¹⁰<https://www.mimi.io/en/blog/2017/3/8/worldwide-hearing-index-2017>,

<https://www.theguardian.com/cities/2018/mar/08/where-world-noisiest-city>

7. In *Re: Ramlila Maidan Incident*¹¹, it was observed:

“.....(301). Deprivation of sleep has tumultuous adverse effects. It causes a stir and disturbs the quiet and peace of an individual’s physical state. A natural process which is inherent in human being if disturbed obviously affects basic life. It is for this reason that if a person is deprived of sleep, the effect thereof, is treated to be torturous. To take away the right of natural rest is also therefore violation of a human right. It becomes a violation of a fundamental right when it is disturbed intentionally, unlawfully and for no justification. (318). Thus, it is evident that right of privacy and the right to sleep have always been treated to be a fundamental right like a right to breath, to eat, to drink, to blink, etc. (327). An individual is entitled to sleep as comfortably and as freely as he breathes. Sleep is essential for a human being to maintain the delicate balance of health necessary for its very existence and survival. Sleep is, therefore, a fundamental and basic requirement without which the existence of life itself would be in peril. To disturb sleep, therefore, would amount to torture which is now accepted as a violation of human right. It would be similar to a third-degree method which at times is sought to be justified as a necessary police action to extract the truth out of an accused involved in heinous and cold-blooded crimes. It is also a device adopted during warfare where prisoners of war and those involved in espionage are subjected to treatments depriving them of normal sleep.”

8. In the matter of *Farhd K. Wadia vs. Union of India & Ors.*¹², the Hon’ble Supreme Court observed:

*“24. This Court has also taken suo motu cognizance as regards noise pollution. It passed various orders from time to time in noise pollution (I), In re, Noise Pollution (II), In re, Noise Pollution (III), In re and Noise Pollution (IV), In re. A detailed judgment was rendered by a Division Bench of this Court in the said writ petition, which has since been reported in Noise Pollution (V), In re. Several guidelines had been issued therein by this Court in exercise of its jurisdiction under Articles 141 and 142 of the Constitution of India. Therein, the decision of the Calcutta High Court in *Om Birangana Religious Society v. State* has been taken note of. As regards loudspeakers and amplifiers, it was directed: “171. Loudspeakers and amplifiers or other equipment or gadgets which produce offending noise once detected as violating the law should be liable to be seized and confiscated by making provision in the law in that behalf.”*

9. It is thus clear that noise has auditory as well as non-auditory effects on sleep, hearing, communication, mental and physical health and may even lead to madness. It can disturb work, rest, sleep, communication and damage the hearing and cause psychological and

¹¹ (2012) 5 SCC 1

¹² (2009) 2 SCC 442

pathological reactions. Long noise exposure can cause irreversible loss of hearing. The Rules were framed in view of increasing ambient noise levels and noticing its adverse effects on the health. The Rules categorized areas as industrial, commercial, residential (for extent of noise level) and silence zones (to maintain silence near hospitals, educational institutions and courts). The Hon'ble Supreme Court laid down that noise pollution above the specified level affects right to life. Silence was required to be maintained between 10:00 pm to 06:00 am, except for emergencies. It was also directed that provision for seizure and confiscation of equipments used for creating noise should be made.

10. Taking note of the judgments of the Hon'ble Supreme Court in *In Re: Noise Pollution - Implementation of the Laws for restricting use of loud speakers and high volume producing sound systems*¹³, *Re: Ramlila Maidan Incident, supra*, and *Farhd K. Wadia vs. Union of India & Ors., supra*, and the rules on the subjects, the Tribunal further directed that requisite action be taken including setting up of a website and helpline, The concerned authorities were also required to acquire noise monitoring devices for effective monitoring.
11. The matter was thereafter reviewed on 01.08.2019 in the light of the earlier proceedings and report dated 15.04.2019 furnished by the Special Commissioner of Police (Operation), Delhi and further report dated 30.06.2019 filed by the DCP (Control Room).
12. The Tribunal heard the DCP (East), DCP (Shahadra) and DCP (South) who were present in person and furnished their action taken reports dated 01.07.2019 on the subject of coordination with the RWAs,

¹³ (2005) 5 SCC 733

Schools and enforcement action. The revised action plan filed by the Commissioner of Police on 28.06.2019 was also considered. The Tribunal recorded its dissatisfaction about the progress in terms of number of monitoring stations, procurement of necessary equipments and compliance of Rule 4(3) of the Rules on the subject of publishing of data with regard to noise pollution and abatement measures. The Tribunal also considered the report filed by the CPCB in O.A. No. 681/2018 with regard to the noise control measures throughout India to the effect that 46 metropolitan cities in 7 States and UTs were identified for carrying out noise mapping. 10 States / UTs had prepared action plans for setting up of National Ambient Noise Monitoring Network. The States of Tripura and West Bengal had made policies for mandatory use of sound systems which was required to be adopted by other States.

13. The Tribunal held that apart from taking other steps, compensation regime was required to be developed.

14. Accordingly following directions were issued:-

“(a) Further steps for meaningful enforcement of Noise Rules be taken by the DPCC and concerned authorities.

(b) Delhi Government may issue appropriate notification on the pattern of Notification issue by the Tripura Government for mandatory use of sound limiters in all sound systems¹⁴. Delhi Government may address the observations of CPCB finding deficiency in its action plan with regard to training for use of measurement devices and developing robust protocol for action against defaulters¹⁵. A compliance report be filed.

(c) Sound measuring devices as sought by the DCP East, Shahdara and South Districts be made

¹⁴ See para 9 above

¹⁵ See para 12 above

available by the DCP logistics¹⁶. Let the Special CP (Traffic), in-charge of the Apex Committee, file an affidavit about the methodology for assessing working of the Committees which are being overseen by the Apex Committee which may include compliance of directions issued to the DCP Logistics.

(d) DPCC may undertake gap analysis and set up sufficient number of monitoring stations and acquire requisite number of equipment¹⁷, compile and publish statistical data relating to noise pollution¹⁸, prescribe interim scale of compensation pending finalization of the same by CPCB¹⁹. Compliance report may be filed by DPCC.”

15. We have reviewed the progress on the subject in light of the action taken report filed by Special Commissioner of Police (Traffic) of Delhi filed on 31.10.2019, report dated 11.11.2019 filed by the DPCC and the report dated 14.11.2019 filed by the CPCB.

16. Compliance status may be noted as follows. With regard to direction Nos. (a) and (d), there is hardly any further progress even after three months in the report of Special Commissioner of Police (Traffic) Delhi. Requisite equipments have not been procured. Monitoring stations have not been set up in terms in observation of paragraph 9 of the earlier order. Only report is that tender process is going on. Locations have been identified. Technical specification are in the process of being finalized. Further progress is that a workshop was organized on 16.04.2019 (which is prior even to the earlier order). Another workshop was scheduled for 13.11.2019. Template has been prepared.

17. Likewise, progress by the DPCC can hardly be held to be adequate. We are sorry to record that DPCC has been wholly amiss in

¹⁶ See para 7 above

¹⁷ See para 9 & 12 above

¹⁸ See para 11 above

¹⁹ See para 13 above

performance of its duties. There is no satisfactory data about the action for violations though violations are rampant and widespread which is failure on the part of all the concerned statutory authorities entrusted with the enforcement of law. Dr. M.P. George representing DPCC has made a statement that the requisite equipment will be procured within 60 days and monitoring stations will be set up within the said time. In view of the long and continued failures in the past, it becomes necessary to direct that if this is not done even by 31.01.2020, Member Secretary, DPCC and Dr. M.P. George will not be entitled to draw salary till the direction of this Tribunal is complied with.

18. Special Commissioner of Police, has stated in para 4 of the status report that the requisite equipments will be required by March, 2020. Accordingly, the Special Commissioner of Police and Deputy Commissioner of Police (Provisioning and Logistics) will not be entitled to draw salary, if there is non compliance even upto 01.04.2020, till compliance.

19. With regard to (b), it is stated that Notification of Delhi Government is ready and will be issued within one week from today. We hope that the statements will be faithfully complied with, failing which appropriate coercive action may have to be taken. Let the Chief Secretary, Govt. of Delhi coordinate this matter.

20. Compliance of directions with regard to training for use of the devices, and robust protocol for action against defaulters may be ensured. As already directed vide order dated 27.09.2018, a dedicated telephone line with recording facility and a dedicated online grievance redressal portal for redressal of noise pollution related

grievances be developed by Delhi Police and public awareness in this regard created. A minimum grievance redressal timeframe be fixed and monitored by a supervisory authority. Action taken report may be accordingly filed before the next date.

21. We are informed that there are 2000 Eco-clubs in schools/ colleges. Awareness programme may be coordinated in such a way that at least one programme on the subject is held once a month in all such institutions. The present level of awareness activities by Department of Environment, Govt. of NCT Delhi, is inadequate in terms of quality and quantity. It needs to be properly planned and coordinated. Yearly action plan covering different thematic areas of environmental problems needs to be clearly identified, awareness activities planned and monitored. It would be appropriate if target groups are properly identified, logistic and personnel earmarked and action taken is monitored. This may be ensured jointly by the Department of Environment, DPCC and the Special Commissioner of Police in coordination with the Education Department of Delhi and a compliance report furnished by the DPCC before the next by e-mail at judicial-ngt@gov.in.

22. Report of CPCB is that compensation for violation by using equipments should be 10%-25% of cost of such equipment. Compensation suggested as follows:-

S. No.	Violation of Noise Rules	Compensation (in Rupees) to be paid by defaulter	Action to be taken by designated authority
1.	Use of loud speakers/ public address	Rs. 10,000	Seizure

	system (clause 5(1)-5(2), 6(i,ii,iii&iv)		
2.	Violation WRT Generator Sets Norms (standards attached as annexure – IV to VI)		
a)	DG sets more than 1000 KVA	Rs. 1,00,000/-	Sealing of DG sets
b)	DG sets 62.5 to 1000 KVA	Rs. 25,000/-	
c)	DG sets upto 62.5 KVA	Rs. 10,000/-	
3.	Violation of use of sound emitting construction equipment	Rs. 50,000/-	Seizure / Sealing of equipment”
4.	Bursting of Firecrackers beyond the prescribed time limit prescribed (Hon’ble Supreme Court and Clause 5A (2) and 6 (iv)	Rs. 1000/-	

23. We are of the view that compensation for bursting of crackers at serial No. 4 needs to be suitably revised and needs to be different for different classes of defaulters and frequencies of default. Further, the CPCB has suggested that compensation should be 2-3 times for second and third violations accompanied by withdrawal of permission for installation/operation for their equipment.

24. The CPCB may also lay down stringent compensation for tampering with the sound limiters to ensure that the same is not restored to. Let compliance reports be filed by CPCB, Department of Environment, DPCC and Special Commissioner of Police, Delhi by 31.03.2020 by email at judicial-ngt@gov.in.

List again on 14.04.2020.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

Saibal Dasgupta, EM

November 20, 2019
Original Application No. 519/2016
and other connected matters

