

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

Original Application No. 519/2016

Hardeep Singh & Ors.

Applicant(s)

Versus

SDMC & Ors.

Respondent(s)

Date of hearing: 14.03.2019

**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**

For Applicant(s): Mr. Manish Garg, Advocate

For Respondent (s): Mr. Krishna Kumar Singh, Advocate for MoEF
Mr. Ajay Jain and Mr. Pranay Jain, Advocates
for
GNCT Delhi
Ms. Apoorva Choudhary, Advocate for R-20&21
Mr. Biraja Mohapatra, Advocate with Mr.
Dinesh
Jindal, Law Officer, DPCC
Ms. Puja Kalra, Advocate for SDMC
Mr. Deepak Purohit, IPS, DCP, PCR
Mr. Nitin Jindal, DANICS, SDM, South

ORDER

1. The issue for consideration is the control of noise pollution in accordance with the statutory mandate of Noise Pollution (Regulation and Control) Rules, 2000.
2. The Tribunal considered the matter vide order dated 27.09.2018 in the light of judgements of the Delhi High Court in *Free Legal Aid Cell Vs. Government of NCT of Delhi*¹ and the Hon'ble Supreme Court in *Re: Noise Pollution - Implementation of the Laws for restricting use of*

¹ AIR 2001 Delhi 455

*loud speakers and high volume producing sound systems*². The applicant pointed out that in the restaurants and other events, loudspeakers, DJ systems, music systems, public address systems are used and operated at high noise levels disturbing the health of the residents until past midnight. This affects sleep of the residents, particularly infants and aged persons, apart from affecting studies or other legitimate activities.

3. The Hon'ble Supreme Court observed 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 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.

4. The matter was earlier dealt with by the Tribunal vide order dated 18.12.2012 in *O.A. No. 34/2011, Supreme Court Group Housing Society & Anr. Vs. All India Panchayat Parishad & Ors.* It was noted that standing orders have been issued by the Commissioner of

² (2005) 5 SCC 733

Police and the DCP (Traffic). An action plan was placed before the Tribunal providing for call centres where complaints can be received 24 x 7. The plan also provided for Standard Operating Procedure (SOP) for controlling noise, banning generator sets of capacity of 5 KVA and noise between 10 pm to 6 am. The Transport Department was to issue Notification to increase the fine amount and to ban pressure horns.

5. The Tribunal also noted that the 2000 Rules have been amended in 2010, prohibiting public address systems and loudspeakers at night time, except in closed premises. The noise level should not exceed 75 dB(A) or 10dB(A) above the ambient noise standards in the specified areas (as per Schedule to the Rules). No horn can be used in silence zones. Fire crackers cannot be burst in silence zones or during night time. It was further noted that noise pollution was also offence under Section 268 read with Sections 290 and 291 IPC. Proceedings can also be taken under Section 133 Cr. PC before the Magistrate.

6. In the order dated 27.09.2018, the Tribunal also referred to directions of the Hon'ble Supreme Court in para 119 of the above judgment to the effect that educational institutions must take appropriate steps to educate students about the ill effects of the noise pollution. Directions in paras 175 to 177 in the order of the Hon'ble Supreme Court are as follows:

“(ii) Loudspeakers

175.1. The noise level at the boundary of the public place, where loudspeaker or public address system or any other noise source is being used shall not exceed 10 dB(A) above the ambient noise standards for the area or 75 dB(A) whichever is lower.

2. No one shall beat a drum or tom-tom or blow a trumpet or beat or sound any instrument or use any sound amplifier at night (between 10.00 p.m. and 6 a.m.) except in public emergencies.

3. The peripheral noise level of privately-owned sound system shall not exceed by more than 5 dB(A) than the ambient air-quality standard specified for the area in which it is used, at the boundary of the private place.

(iii) Vehicular Noise

176. No horn should be allowed to be used at night (between 10 p.m. and 6 a.m.) in residential area except in exceptional circumstances.

(iv) Awareness

177.1. xxxxx

2. The State must play an active role in this process. Resident Welfare Associations, service clubs and societies engaged in preventing noise pollution as a part of their projects need to be encouraged and actively involved by the local administration.

3. Special public awareness campaigns in anticipation of festivals, events and ceremonial occasions whereat firecrackers are likely to be used, need to be carried out.”

7. The Tribunal directed that the directions of the Hon'ble Supreme Court be enforced for which purpose the Commissioner of Police may nominate a DCP and the Chief Secretary, Delhi may nominate SDM who may have their website and dedicated help. The Joint Committee may evolve a public redressal mechanism for receiving complaints by SMS, telephones or e-mails and the said Committee may also coordinate with the statutory authorities to ensure seizure of equipment and cancellation of licence for using such equipment, apart from prosecution and recovery of fine. The fine amount may be utilised for creating awareness, including among the educational institutions.

8. The enforcement of the above order was reviewed on 12.02.2019 and it was noticed that even after four months, there was no sufficient progress. Direction was issued to deposit a sum of Rs. 5 Lakhs towards cost with the Central Pollution Control Board (CPCB) which was to be spent for restoration of environment and nominated DCP and the SDM were required to be present in person.
9. Accordingly, Mr. Deepak Purohit, DCP and Mr. Nitin Jindal, SDM are present in person. They have also filed an action taken report stating that the issue of setting up exclusive website was being pursued and website will be developed by the Delhi Pollution Control Committee (DPCC). DPCC has been asked to develop helpline number and website. DPCC has been asked to undertake programme of awareness. A separate head has been created for the calls relating to noise pollution.
10. We find that the action taken report is in fact "Inaction Report". The DCP and the SDM need to be trained for the job for which they have been appointed. They are merely avoiding the responsibility and shifting the burden to the DPCC or others. It is difficult to accept that only DPCC can create awareness or that only DPCC can create website and DCP and SDM are unfit for the job. Moreover, under Rule 4 of the Noise Pollution (Regulation and Control) Rules, 2000, the responsibility of SPCB is to compile and publish technical data for assistance and the responsibility of authority as defined under Rule 2(c) is the enforcement of noise pollution measures and the due compliance of the ambient air quality standards in respect of noise. In case of difficulty, they could have reported to the Chief Secretary or the Police Commissioner whom they represent instead of taking

escapist route. The Chief Secretary and the Police Commissioner must monitor the inaction and competence of their nominees. Their task does not end with nomination. If nominees are not fit for the job, they should be made accountable and replaced by suitable officers. Let such monitoring take place now within one month and a report furnished by the Chief Secretary and the Commissioner of Police by e-mail at ngt.filing@gmail.com.

11. Let the DCP and SDM now take steps for having the website in place within one month from today and furnish a compliance report. It will be open to them to take assistance from any experts but not to shift responsibility. The website should be interactive. Hot spots should be identified and mapped and kept under surveillance. They may take guidance from experts including the DPCC and CPCB to understand their mandate and acquire minimum knowledge required for the job. They may procure monitoring equipments. DPCC may provide its assistance/technical inputs. They may undergo necessary training at Police Training Institute or other Institute and also arrange such training for their team.
12. Needless to say that violation of noise pollution norms is a criminal offence under Section 15 of the Environment (Protection) Act, 1986, apart from Sections 268/290/291 IPC and it is mandate of Delhi Police to enforce the law. Noise free environment is a part of fundamental right to life for the citizens.
13. We may notice the consequences of uncontrolled noise on the health and welfare of citizens in violation of their fundamental rights

acknowledged in the judgment of the Hon'ble Supreme Court in *Re: Ramlila Maidan Incident*³:

“.....(301). Deprivation of sleep has tumultuous adverse effects. It causes a stir and disturbs the quiet and peach 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 e 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.”

14. In the matter of *Farhd K. Wadia vs. Union of India & Ors.*⁴, 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

³ (2012) 5 SCC 1

⁴ (2009) 2 SCC 442

be liable to be seized and confiscated by making provision in the law in that behalf.”

15. The Committee specially constituted for the purpose is expected to acquire the minimum knowledge and not plead helplessness or shift responsibility to others if the Rule of law is to have a meaning. If they are found to be unfit for the job, it is for the Commissioner of Police or the Chief Secretary to replace them by suitable persons who can understand and carry out their job. There can be no difficulty in requiring the use of such noise measuring equipments by user or noise creating equipment of impermissible levels. There is also no difficulty for Delhi Police to seize the equipments not having the prescribed noise measuring devices or not following the norms prescribed. If any orders are required to be passed, such orders may be passed which should be ensured by the Joint Committee set up for this purpose. Joint Committee itself can notify such orders in execution of order of this Tribunal.
16. We also direct the three Municipal Corporations in Delhi, the New Delhi Municipal Council (NDMC) and the Delhi Cantonment Board (DCB) to acquire noise monitoring devices at the earliest. Technical assistance for the purpose can be taken from CPCB/DPCC.
17. Awareness programmes may be undertaken by the Joint Committee by coordinating with the Residents Welfare Associations (RWAs) and the educational departments or other volunteers.
18. In the present case, unfortunately the Committee has simply avoided its responsibility in this regard by taking the plea that it has asked DPCC to do so. The Committee is either not competent or not

sincere. The higher authorities are not monitoring their working as expected.

19. Let a fresh action taken report be furnished by the Joint Committee after three months but before 30.06.2019 by e-mail at ngt.filing@gmail.com.
20. The DCP and the SDM may remain present in person on the next date.

List for further consideration on 12.07.2019.



Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

March 14, 2019
Original Application No. 519/2016
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