

M.A. No. 168/2013 & M.A. No. 169/2013 (CZ)

in

Original Application No. 18/2013

Neel Choudhary Vs. State of M.P. & Ors

CORAM : HON'BLE MR. JUSTICE DALIP SINGH, JUDICIAL MEMBER
HON'BLE MR. P.S.RAO, EXPERT MEMBER

PRESENT : Applicant : Shri Vivek Choudhary, Adv.
Respondent No. 1, 3 & 5 : Shri Sachin K.Verma Adv.
with Shri Ayush Dev Bajpai, Adv.
Respondent No. 2 : Shri Asadullah Khan, Adv.
Respondent No. 4 : Shri Vishal Vijayvargiya, Adv.
for Shri Purushaindra Kaurav, Adv.
Shri R.R.Singh Sengar, AE
Respondent No. 6, 82, 83, 89, 90: Mr. Ravi Kant, Advocate with Mr.
Ajay Gupta, Advocate
Respondent No. 7, 8, 17, 18, 32, 64 &79 : Shri Shantanu Saxena, Adv.
Ms. Sheetal Saraswat
Respondent No. 9, 11 to 13, 15 & 16,
23, & 31 : Shri Deepesh Joshi, Adv.
Respondent No.10, 26,28,41,45,54,55, : Shri Om.S. Shrivastava, Adv.
72,73,75,78,103,105,107
Respondent No. 14 & 48 : Shri Sudhir Shrivastav, Adv.
Respondent No. 24 & 65 : Shri Pushendra Tiwari,Adv.
Respondent No. 29 : Shri Rajesh Arya, Adv.
Respondent No. 69 & 105 : Shri S.K.Dubey & Shri B.B.Dubey
Respondent No. 74 & 104 : Shri Rafique Khan, Adv.
Respondent No. 95 : Shri B.K.Chaturvedi, Adv.

Date and Remarks	Order of the Tribunal
<p>Item No. 2 21st February, 2014</p>	<p>Heard learned counsel for the parties. Learned counsel Shri Verma appearing for the State submitted that the draft guidelines/rules framed are to be submitted to the Cabinet. Once they are approved, they shall be brought on the Statute Book. In the meanwhile, Shri Verma stated that all necessary steps which have been highlighted, have been incorporated in the draft rules and also the directions issued by the Hon'ble High Court of Madhya Pradesh, Indore Bench shall be implemented in letter and spirit. He has also submitted that the Home Department of Madhya Pradesh shall issue necessary instructions to the Police Department for ensuring proper parking, smooth flow of traffic so as to avoid air pollution as also observance of the directives contained in the Notification issued by the MoEF, Govt. of India with regard to noise pollution and playing of music in open areas which is required to be confined during the timings as contained in the said Notification upto 10 p.m and also maintain the decibel levels.</p>

Learned counsel appearing for the Municipal Corporation, Bhopal submitted that steps for collection of garbage post event is being done on a regular basis and in case there is any violation, the Municipal Corporation would take necessary action against the violators.

Shri Joshi, learned counsel appearing for the Pollution Control Board has submitted that the Pollution Control Board authorities shall also take all necessary steps to ensure that no waste is thrown into the lakes and thereby polluting the water. He has also submitted that the Pollution Control Board shall take effective measures for controlling the nuisance as a result of noise pollution. We may only add that apart from the requirement of adhering to and implementing the statutory provisions with regard to water, air and noise pollution there is also the humanitarian aspect which must be taken care of particularly looking to the fact that the laminations to various boards and advertisements are in the process. The administration, therefore, must ensure that the observance with regard to the aforesaid requirements is complied with in letter and spirit. In case there are any violators, we would expect the administrative authorities to take action against them in accordance with law so that a right message is conveyed and people would refrain from indulging in such activities.

Shri Verma, learned counsel has prayed for some time to apprise the Tribunal about the progress with regard to the framing and bringing into force the rules which are pending consideration and approval by the Cabinet. We may also add that in regard to noise pollution, the Principal Bench of NGT at New Delhi in its judgment of Supreme Court Group Housing Society vs. All India Panchyat Parishad & Ors. decided on 18th December, 2012 has given detailed directions after considering the relevant provisions of the Notification in the Act on aspects. The Para 9 of the abovesaid judgment is reproduced as under: -

“In compliance with our directions, it appears a detailed Action Plan has been prepared in the meeting conveyed by the Divisional Commissioner, Delhi, the decisions taken, modalities adopted and duties assigned to various departments which attended the meeting. On perusal of this Action Plan, we feel that by and large it should be able to reduce/mitigate noise pollution. However, to make it more effective, few modifications have been suggested by us and modified Action Plan is placed below : -

(a) *To establish and run a call centre where the complaints related to noise pollution can be lodged 24 x 7 hours by the citizen.*

(b) *To draw a detailed action plan / standard operating*

procedure (SOP) regarding control of noise pollution in industrial, hospitals and educational/institutional areas including monitoring mechanism and surveillance system.

- (c) To draw a detailed action plan / standard operating procedure (SOP) to implement ban or use of generator sets of capacity of 5 KVA and above in the residential area between 10 p.m. to 6 a.m.
 - (d) To examine and issue notification regarding inclusion of provisions for compounding of offences of noise pollution
 - (e) To examine in details the requirement of use of decibel meters and to prepare a detailed standard operating procedure in this respect including maintenance and up-keep of sound decibel meters.
- (ii) **Actions to be taken by Transport Department** :-
- (a) Inclusion of status of pressure horn in the vehicle at the level of issuing pollution control certificate.
 - (b) To issue notifications with respect to increase of fine amount, ban on manufacturing / distribution / sale of pressure horn and ban on modification of vehicular silencers in the NCT of Delhi.
 - (c) To check and prohibit the entry of heavy vehicles fitted with pressure horn and to arrange for awareness in the form of pamphlets / slips etc. in association with DCs and Traffic Police.
 - (d) To conduct Information Education and Communication (IEC) programmes in association with Education Department and the DCs.
- (iii) **Actions to be taken by the Traffic Police** :-
- (a) Mandatory Challan and prosecutions of noise polluting vehicles
 - (b) Strict implementation of the acts/rules/directions.
- (iv) **Actions to be taken by the Delhi Police** :-
- (a) The complaints so forwarded by the call centre be attended immediately by the Area SHO and confiscation and seizure of the amplifiers and other noise pollutants. Production of the case before the area SDM within 24 hours of such seizure.
 - (b) To assist the area SDM in survey of the religious places causing noise pollution and provide necessary infrastructure to remove noise causing instruments and gadgets.
 - (c) To provide full support to the executing agencies as and when required.
- (v) **Action to be taken by the Office of the Deputy Commissioner:** -
- (a) SDMs to hear the cases and file prosecutions.
 - (b) SDMs to complete survey of religious places causing noise pollution and take steps to remove such installations.
 - (c) DCs to chalk out modalities in consultation with Transport Department for checking the vehicles fitted with pressure horn at the borders of Delhi with neighbouring states.
 - (d) To conduct Information Education and Communication (IEC) programmes in association with Education Department and the Transport Department.
- (iv) **Actions to be taken by the Education Department, GNCT of Delhi** :
- (a) To incorporate education materials in the curriculum of the schools with respect to control of noise pollution.
 - (b) To organize the IEC activities amongst the students and youth in consultation with the DCs.”

In the light of the above directions we would expect the authorities including the District Collector, Superintendent of Police, Regional Office of PCB, Municipal Authorities and the Education Department to ensure that the aforesaid directions are implemented in letter and spirit and also publicise the helpline / complaint filing Mobile Phone No. of the Authority in various Zones / Thanas for people to lodge their complaints which should be taken case of immediately after entering the same in a register/logbook with time of receipt of complaint.

List on 26th March, 2014.

.....JM
(DALIP SINGH)

.....EM
(P.S.RAO)

