

**BEFORE THE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE) BENCH, PUNE
APPLICATION NO.2/2014**

CORAM :

**HON'BLE SHRI JUSTICE V.R. KINGAONKAR
(JUDICIAL MEMBER)
HON'BLE DR. AJAY A.DESHPANDE
(EXPERT MEMBER)**

B E T W E E N:

DILEEP B. NEVATIA

Shashi Deep, 5-A, Worli Sea Face,
Mumbai-400030.

....APPLICANT

A N D

1. UNION OF INDIA

Through the Secretary,
Ministry of Environment & Forests,
Paryavaran Bhawan, CGO Complex,
Lodhi Road, New Delhi-110003.

2. MINISTRY OF ROAD TRANSPORT & HIGHWAYS

Through the Secretary,
Transport Bhavan, 1, Parliament Street
New Delhi 110 001.

3. CENTRAL POLLUTION CONTROL BOARD

Through the Member Secretary
Parivesh Bhavan, CBD cum Office Complex
East Arjun Nagar, New Delhi 110 032.

4. Maharashtra Pollution Control Board

Through its Member Secretary
Kalpatru Point, 3rd& 4th Floor,
Sion Matunga Road, No.8
Sion Circle, Sion (East), Mumbai-400026.

5. AUTOMOTIVE RESEARCH ASSOCIATION OF INDIA

Through the Director
Survey No.102, Vetal Hill, Off Paud Road
Kothrud, Pune-411 038.

6. State of Maharashtra,

Through its Chief Secretary, Mantralaya,
Mumbai-400023.

7. The Transport Commissioner

Government of Maharashtra
Administrative Building, 4th Floor,
Bandra East, Mumbai-400 051.

.....**Respondents**

Counsel for Applicant

In Person.

Counsel for Respondent(s):

Mr. Neharu Advocate a/w Shweta Busar for Respondent No.1.

Mr. K.D.Ratnaparkhi, Advocate for Respondent No.2.

Mr. A.B.Avhad Advocate a/w R.A.Andhale Advocate for Respondent No.3.

Mr.D.M.Gupte Advocate a/w Supriya Dangare Advocate for Respondent Nos.4 & 5.

Mrs. Ujwala Pawar DGP/Mr.A.S. Mulchandani, AGP, a/w Mr. Jitendra Patil, Mr. Yogesh Bag RTOs for Respondent Nos. 6 & 7.

Date: September 23rd, 2014

1.

J U D G M E N T

1. This Application has been filed under Section 14 read with Section 18 of the National Green Tribunal Act, 2010. Briefly stated the Applicant, named above, has raised substantial issue relating to environment by contending that the present regulatory framework is not being effectively implemented by Respondents in terms of standards specified for noise limits for automobiles at the manufacturing stage.

2. In the Present Application, Respondent No.1 is a Central Government Ministry for the planning, promotion, co-ordination and overseeing the implementation of the country's environmental and forestry policies and programmes. Respondent No.2 is also a Central Government Ministry and amongst its main responsibility is to administer the Motor Vehicles Act, 1988 and the Rules made thereunder. Respondent No.3 is a statutory Board, and its main functions are to improve the quality of air and to prevent, control and abate air pollution in the country. Respondent No.4 is also a statutory Board which has a mandate for air pollution control, abatement, fixing standards etc for the State of Maharashtra. Respondent No.5 is a co-operative industrial research association established by the automotive industry with the Ministry of Industries, Government of India

and amongst its main activities is research in automotive sector and testing the vehicles/automobiles. Respondent No.6 is the State of Maharashtra and Respondent No.7 is responsible to give effect to the provisions of Motor Vehicles Act, 1988 and Rules made there-under for the State of Maharashtra.

3. The Applicant submits that Schedule VI, in part E of the Environment (Protection) Rules, 1986 specify the noise limits relating to noise standards for construction of vehicles at the manufacturing stage with effect from 1st July, 2005, which is to be monitored as per test method IS: 3028-1988,. The Applicant claims that he came to know recently that the Respondents are neither monitoring the noise levels of constructed vehicles at the manufacturing stage, in accordance with IS: 3028-1988 nor they are ensuring compliance of noise limits by these vehicles, as specified in Schedule VI, Part E, of the Environment (Protection) Rules, 1986.

4. The Applicant further submits that the noise pollution caused by the moving vehicles is, by far the biggest contributor to the noise pollution all over the country and, therefore, it is necessary to enforce and monitor the compliance of noise standards for the vehicles at manufacturing stage, as prescribed under Schedule VI, Part E, of the Environment (Protection) Rules, 1986. The

Applicant further submits that the Air (Prevention and Control of Pollution) Act, 1981, has defined the “air pollutants” as any solid, liquid or gaseous substance (including noise) in the atmosphere in such concentration as may be or tend to be injurious to human beings or other living creatures or plants or the property or environment. He further submits that by subsequent amendment the ‘noise’ has also been included as an ‘air pollutant’ in the said Act. The Applicant further submits that under Section 16 of the said Act, the Central Pollution Control Board, i.e. Respondent No.3, has overall responsibility to improve quality of air and to prevent, control or abate air pollution in the country. Further, it is contended that as per Sub Section (2) (h) of Section 16 of this Act, the Respondent No.3, is required to lay down standards for the quality of air. The applicant also submits that State Pollution Control Board, i.e. Respondent No.4 is required under Section 17(i) (g) of this Act, to lay down, in consultation with the Central Board, and having regard to standards for quality of air, laid down by the Central Board, standards for emission of air pollutants into the atmosphere. The Applicant also submits that Respondent No.4, i.e. Maharashtra Pollution Control Board (MPCB), has powers to give instructions and directions under Section 31 A of the said Act for ensuring implementation of emissions standards

discharged by automobiles, any vehicles or machinery in the atmosphere.

5. The Applicant further submits that the Central Govt. in MoEF i.e. the Respondent No.1, has framed the Environment (Protection) Rules, specifying the noise limits for automobiles with effect from 31st December, 1993, subsequently amended on 30.12.2002 as under;

- A. Noise Limits for Automobiles [(Free Field Distance at 7.5 Metre) in dB (A) at the manufacturing stage
- (a) Motorcycles, Scooters & Three wheelers 80
 - (b) Passenger Cars 82
 - (c) Passenger or Commercial vehicles up to 4 MT 85
 - (d) Passenger or Commercial vehicles above 4 MT and up to 12 MT 89
 - (e) Passenger or Commercial vehicles exceeding 12 MT 91

[AA. Noise limits for vehicles at manufacturing stage. The test method to be followed shall be IS:3028-1998

Noise limits for vehicles applicable at manufacturing stage from the year 2003.

Sr. No.	Type of vehicle	Noise Limits dB (A)	Date of implementation
(1)	(2)	(3)	(4)
1.	Two wheeler Displacement up to 80 cm ³ Displacement more than 80 cm ³ but Displacement more than 175 cm ³	75 77 80	1 st January. 2003
2.	Three wheeler Displacement up to 175 cm ³ Displacement more than 175 cm ³	77 80	1 st January. 2003
3.	Passenger car	75	1 st January. 2003
4.	Passenger or commercial vehicles Gross vehicle weight upto 4 tonnes Gross vehicle weight more than 4 Gross vehicle weight more than 12 tonnes	80 83 85	1 st July. 2003

(2) Noise limits for vehicles at manufacturing stage applicable on and from 1st April, 2005.

Sr. No.	Type of vehicle	Noise limits dB(A)
1.0	Two wheelers	
1.1	Displacement upto 80 cc	75
1.2	Displacement more than 80 cc but upto 175 cc	77
1.3	Displacement more than 175 cc	80
2.0	Three wheelers	
2.1	Displacement up to 175 cc	77
2.2	Displacement more than 175 cc	80
3.0	Vehicles used for the carriage of passengers and capable of having not more than nine seats including the driver's seat	74
4.0	Vehicles used for the carriage of passengers having Than nine seats, including the driver's seat, and a maximum Vehicle Weight (GVW) of more than 3.5 tonnes	
4.1	With an engine power less than 150 KW	78
4.2	With an engine power of 150 KW or above	80
5.0	Vehicles used for the carriage of passengers having including the driver's seat: vehicles used for the carriage of goods	
5.1	With 8 maximum GVW not exceeding 2 tonnes	76

[Provided that for vehicles mentioned at Serial Numbers 3.0 to 6.3. the noise limits for the following States shall be applicable on and from the date specified against that State.-

- (I) Himachal Pradesh with effect from 1st October. 2005
- (II) Jammu and Kashmir with effect from 1stOctober. 2005.
- (III) Madhya Pradesh with effect from 1st September. 2005.
- (IV) Punjab with effect from 1stOctober, 2005.
- (V) Rajasthan with effect from 1st June. 2005.
- (VI) Uttar Pradesh (Mathura, Kannauj, Muzaffarnagar, Aligarh, Farukhabad, Saharanpur. Badaun, Barreily. Moradabad, Hathras, Rampur. Bijnor. Agra, Pilibhit, J.P. Nagar, Mainpuri, Lalitpur, Hardoi, Ferozabad. Jhansi, Shahjahanpur, Etawah, Jalon, LakhimpurKhcri, Etah, Mahoba and Sitapur) with effect from 1stJune, 2005.
- (VII) Uttaranchal with effect from 1st July. 2005.]

6. The Applicant submits that on 14th October, 1988, the Motor Vehicles Act relating to the Motor Vehicles was enacted, followed by the Central Motor Vehicles Rules, (CMVR) 1989. The Applicant submits that somewhere in 1988, a Committee constituted by the Indian Standard of Institutes (ISI), approved and specified IS: 3028-1988, in respect of method of

measurement of external noise emitted by the moving vehicles. The Applicant pleads that the Committee had no representation of the environmental regulating agencies, namely; the Respondent Nos.1, 3 and 4 and said standards have been updated from time to time. He further submits that the said test procedure has neither been approved nor prescribed under the provisions of Air Act by Respondent 3 and 4, who are the competent authorities for the measurement and monitoring of air pollutants. The Applicant further submits that Sub Rule (2) of Rule 120 of Motor Vehicle Rules, has been amended vide GSR III (e) dated 10thFebruary, 2004 for the noise standards, as under:

“ **120.**

1. xxxx xxxx xxxx xxx xxxx

2. **Noise Standards-** *every motor vehicle shall be constructed and maintained, so as to conform to the noise standards specified in part E of the Schedule VI, of the Environment (Protection) Rules, 1986, when tested as per IS: 3028: 1988, as amended from time to time.”*

7. The main contention of the Applicant is that the said IS: 3028-1988, while specifying the measurement of sound from moving vehicle at a distance of 7.5 meters from the vehicle, did not provide for compensation/adjustment of noise levels due to distance from source i.e. the vehicle and therefore, it is contention of the Applicant that IS:3028-1988 is in violation of the provisions of the Air (Prevention and Control

of Pollution) Act, 1981 and the Environment (Protection) Rules, 1986 and Noise Pollution (Regulation and Control) Rules, 2000.

8. Applicant further submits that when inquired through RTI, the Respondent No.2 has not provided any information on monitoring and implementation of such standards for noise limits for automobiles at manufacturing stage. However, the Applicant claims to be separately following the matter through the provisions of RTI Act. The Applicant further submits that he also sought the information from Respondent No.5, as to whether the Respondent No.5 is conducting tests of automobiles in terms of Rule 120, Sub-Rule (2) of the Central Motor Vehicles Rules, 1989 for checking noise limits for automobiles at the manufacturing stage. The Applicant submits that the Respondent No.5, vide communication dated 2nd December, 2013, informed that the Respondent No.5, is not conducting such tests and the same is out of scope and purview of the Respondent No.5. The Applicant, therefore, submits that neither the Respondent Nos.1 and 2, nor any of its approved organizations are conducting tests on automobiles for ensuring the noise levels are maintained within levels specified in Rule 120, Sub Rule (2) of the Central Motor Vehicles Rules, 1989. Moreover, in absence of any guidelines given to the Central and the State Boards, i.e. the

Respondent Nos.3 and 4, by the Respondent No.1, for enforcing the standards specified under Part-E of Schedule VI of Part of the Environment (Protection) Rules, 1986, these Respondents Nos.3 and 4 are neither monitoring nor controlling the noise limits for automobiles at the manufacturing stage, as specified under the said Rules. The Applicant relied on following citations:

1. Om Birangana Relligious Society vs State &Ors 1996 (100) CAL WN 617,
2. P.A.Jacobvs The Superintendent of Police Kottayam and Anr (AIR 1993 KERALA)
3. Yashwant Trimbak Oke & Ors vs State of Maharashtra, AIR (1998) BOM 121
4. Noise Pollution (v) in Re (2005) 5 SCC 733
5. Enviro-Legal vs Union of India & Ors JT 1996 (4) 263

9. The Applicant further prays that:

- (i) Directing that the Respondent No.1 give guidelines to Respondents Nos. 3 and 4 and also the other State Boards for monitoring and enforcing the standards for automobile Noise as more particularly specified under Part E of Schedule VI of the Environment (Protection) Rules, 1986;
- (ii) Directing that the Respondent No.1 amends IS:3028-1998 in order to comply with the provisions of the Air (Prevention and Control of Pollution) Act, Environment (Protection) Act and the Noise Pollution (Regulation and Control) Rules (2000);
- (iii) Directing that no new vehicle should be allowed to ply with in excess of the stipulated standards;
- (iv) Directing that the Respondent Nos.2,5,6, and 7 do submit a time bound schedule for approval of this Hon'ble Tribunal, so as to ensure that the Noise levels on existing vehicles comply with the standards as more particularly specified under Part E of

Schedule VI of the Environment (Protection) Rules, 1986;

- (v) Pass any such other or further order as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

10. The Respondent No.1, Ministry of Environment and Forests (MoEF), Govt. of India, filed the affidavit in March, 2014, through Mr. R.N.Jindal, Addl. Director. The Respondent No.1 submits that the revised noise limits for automobiles at the manufacturing stage have been identified by the Respondent No.1, vide the Notification dated 5th May, 2005, as Sr. No.46, under the Schedule I of the Environment (Protection) Rules, 1986. The Respondent No.1 submits that these noise limits are implemented under the Central Motor Vehicles Rules, 1989, by the Respondent No.2, i.e. the Ministry of Road Transport and Highways (MoRTH) Govt of India. The Respondent No.1, further submits that testing method to seek compliance of above noise limits for automobiles, has been published by the Bureau of Indian Standards (BIS) i.e. IS: 3028-1988, as amended up to date. The Respondent No.1, therefore, submits that no separate guidelines are required to be issued by the Respondent No.1, in the matter. The Respondent No.1, submits that the Law in terms of Environment (Protection) Rules, is addressing source specific standards under the Schedule I and Schedule VI (Part-E), whereas, the Noise Pollution (Regulation and Control) Rules, 2000, addresses ambient noise quality

standards for various areas/zones. The Respondent No.1, therefore, pleads that no action is pending on the part of the Respondent No.1 and therefore, the Application is not maintainable against this Respondent.

11. However, when the matter was heard on 2nd July, 2014, various submissions contained in this affidavit were contested by the Applicant and considering deliberation, the Respondent No.1, was directed to submit the affidavit in clarification, as to under what provisions the implementing agencies are given powers and legal authorities under the Environment (Protection) Act, 1986, to be exercised by the Respondent No.2 for implementation of the relevant rules, indicated under the Environment (Protection) Rules, 1986. During final hearing the learned Counsel for the Respondent No.1 argued that they stand by to the contentions shown in of the affidavit filed earlier and also submits that as per the Section 24 of the Environment (Protection) Act, 1986, effect of other Laws are well definition as per Section 24 (2), where any act or omission constitutes an offence punishable this Act, and also under any other Act, will be applicable and any offender found to be guilty of such offence, shall be liable for punishment under the relevant Act and not under this Act.

12. The Respondent No.2, has not filed any separate affidavit, though it was represented by the Counsel. Learned Advocate Sh. K.D. Ratnaparkhi, appearing for the Respondent

No.2, submitted that he has instructions to submit that the Respondent No.2, is not filing any affidavit as there are no averments against the Respondent No.2, no relief is claimed in the prayers of the Application, as against the Respondent No.2.

13. The Respondent No.3, i.e. Central Pollution Control Board (CPCB), filed an affidavit on 10th February, 2014, through Sh. B.R. Naidu, Scientist-E. The Respondent No.2, submits that State Pollution Control Board, is the authority to prescribe standards under Section 17 (1) (g) of the Air (Prevention and Control of Pollution) Act, 1981. The Respondent No.3, further submits that the Respondent No.2, MoRTH, is regulating vehicle noise at the manufacturing stage through seven (7) Agencies mentioned at Rule-126 of the Central Motor Vehicles Rules, 1989 (CMVR). A copy of one such Type Approval given by such identified agency for both pass by noise and component level noise was also submitted along with the affidavit.

14. The Respondent No.4, filed affidavit through Shri. V.M. Motghare, Joint Director, on 5th March, 2014. The Respondent No.4, submits that as per the Maharashtra Govt. Resolution dated 21st April, 2009, the Home Department (Transport) is the Authority declared for enforcement and maintenance of noise standards laid down under the Motor Vehicles Act,1989, for a new and operating vehicle within

their respective jurisdiction, as per entry No.8, of the Schedule of notification mentioning the notified Authorities, which is reproduced :

8	<p>(i) Any officer from the state transport Department/Deputy Regional Transport officer in their respective jurisdiction not below the rank of Deputy Superintendent of Police</p> <p>(ii) Head of Maharashtra State Road Transport Corporation or any officer/Depot Manager not below the rank of the Deputy Superintendent of Police.</p> <p>(iii) Traffic Police Authorities not below the rank of the Deputy Superintendent of Police.</p>	Home Department (Transport)	<p>Enforcement and maintenance of the noise standards laid down under Environment (Protection) Rules, 1986 and Motor Vehicles Act, 1989 for the new an operating vehicles within their respective jurisdiction.</p> <p>The noise levels granted by the in-use vehicles should be monitored while grant of Pollution Under Control Certificate.</p>
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15. The Respondent No.4, further submits that it is appropriate that instead of creating separate authority with regard to the vehicles only for limited purpose of noise, the Transport Department which regulates the majority of issues related to vehicles performs this duty too.

16. The Respondent No.5 i.e. the Automotive Research Association of India (ARAI), Pune filed an affidavit on 2nd April, 2014. The Respondent No.5 submits that it is one of six (6) testing and certifying Agencies authorized by the Central Government, under Rule 126 of the Central Motor Vehicles Rules, 1989. The Respondent No.5 submits that the vehicle manufacturers have to submit their product type for type approval to any of the six Agencies mentioned in Rule 126 of

the Central Motor Vehicles Rules, 1989. Further, Automotive Industry Standard Committee (AISC) is constituted by the MoRTH, Govt. of India for preparation of standards and review of the existing standards and the Respondent No.5, only publishes these standards on its website for information of all the concerned. The Respondent No.5, submits that the Respondent No.5, tests and certifies the vehicle as per the Law and the standards applicable for type of vehicle. The Respondent No.5, submits that actual decibel level of the vehicle is a part of test report and the test report contains proprietary information such as design – dimensions, material characteristic etc. of all the vehicle systems, which are intellectual property of the manufacturer concerned. The Respondent No.5, submits that in the light of above and also objections raised by the several vehicle manufacturers regarding disclosure of test reports, test report cannot be disclosed as it is third party information and, therefore, the Applicant was refused all this information. This issue was deliberated upon during hearing dated 21st April, 2014, when Advocate for Respondent No.5, showed willingness to place relevant file for perusal of the Tribunal and accordingly, copy of one such Type approval for grant of test certificate was placed on record.

17. The Respondent No.7 i.e. Transport Commissioner, Govt. of Maharashtra filed the affidavit through Sh.Y.K. Bag,

Assistant RTO, Pune. The Respondent No.7 submits that the Transport Commissioner, Govt. of Maharashtra, i.e the Respondent No.7, is responsible to give effect to the provisions of the Motor Vehicles Act and the Rules made there-under for the State of Maharashtra. The Respondent No.7 further submits that registration of the motor vehicle is made by the Registering Authority only after verifying that the certificate of compliance has been issued by the Testing Agencies, as prescribed under Rule 126 of the CMVR, 1989, which includes compliance with maximum permissible noise levels for horns, engines and silencers at the time of registration of vehicles. The Respondent No.7 submits that as per Rule 126 (a) of the CMVR, it is duty of the testing agencies to conduct a test on vehicles drawn from production line of the manufacturer to verify whether these vehicles confirm to the provisions of regulations. Further, as per Rule 127 of CMVR, it is mandatory on the manufacturer that sale of every motor vehicle manufactured shall be accompanied by the certificate of roadworthiness issued by the manufacturer in the form No.22 and, therefore, the Respondent No.7 pleads that they do not have any role or control on monitoring noise levels at the manufacturing stage.

18. Considering the pleadings and documents available on record and arguments advanced by learned Counsel for

the parties, following issues emerge for effective adjudication of the present Application.

- i)** Whether there is a mechanism for enforcing the noise related standards for automobiles as prescribed under Environmental (Protection) Rules?
- ii)** Whether there is necessity for amending IS: 3028-1998 to comply with the provisions of Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986 and the Rules made thereunder?
- iii)** Whether present enforcement of noise related standards for automobiles require specific directions from the Tribunal?

19. Before entering into the arena of above issues, we would like to lay emphasis on fact that increasing noise levels in the urban areas, is posing a serious threat to health of the people in general and especially to the children and old, in particular. The Hon'ble Supreme Court and various High Courts, have time and again emphasized the need to control noise pollution and we do not wish to reproduce all such catena of Judgments, as importance of maintaining noise levels within urban areas was generally agreed by the learned Counsel appearing in the present Application too. It is also an admitted fact that automobiles, due to its engine (auto mechanism) noise and also, noise generated by blowing of horns contribute significantly to ambient noise levels in urban areas. Needless to say that various reports available in the public domain, record that ambient noise levels in most of the

urban areas in the country are exceeding the ambient noise level standards as set out in the Noise Pollution (Regulation and Control) Rules, 2000.

20. Noise pollution is a significant environmental problem in many urban areas. This problem has not been adequately addressed and remedied despite the fact that it is growing in developing countries. This widespread non-recognition of noise pollution problem, in a similar fashion as to air and water pollution problems, could be attributed to reasons such as; by the definition and perception of noise as a subjective experience, short decay time, and difficulty to associate cause with effect when it comes to health impacts. Depending on its duration and volume, the effects of noise on human health and comfort are divided into four categories; physical effects, such as hearing defects; physiological effects, such as increased blood pressure, irregularity of heart rhythms and ulcers; psychological effects, such as disorders, sleeplessness and going to sleep late, irritability and stress; and finally effects on work performance, such as reduction of productivity and misunderstanding what is heard.

21. The present Application raises a substantial issue of implementation of noise standards of automobiles as defined under Environment Protection Rules. We have noted that Govt. of India has already notified such standards under the provisions of Environment (Protection) Rules, 1986, Part-

E. These standards have two phases of implementation of noise limits, for vehicles at manufacturing stage: (1) for the vehicles manufactures from 2003 and (2) for the vehicles manufactured from 1st April, 2005. The standards also stipulate that test method to be followed for enforcing such noise limits, shall be IS: 3028-1998. These standards are mentioned in paragraphs (5) and (6), as shown herein above.

22. It is grievance of the Applicant that though such standards are in place since year 2002, however, the MoEF has not issued any guidelines for enforcing such standards, nor have delegated any powers for enforcement of these standards to the any local authority. The MoEF has countered such arguments by stating that revised noise limits for automobiles at the manufacturing stage, have been identified by the MoEF vide Notification dated 5.5.2005. However, MoEF mentions that these noise limits were notified at Sr.No.46, under Schedule-I of the Environment (Protection) Rules, 1986, are within Part-E of Schedule-VI. The MoEF further contends that these noise limits are implemented under the Central Motor Vehicles Rules, 1989, by the Respondent No.2 i.e. MoRTH. In order to get clarity on the issue, , we directed the MoEF, vide order dated July 2nd, 2014, to clarify as to under what provisions, such implementing agencies, are given powers and authority under the Environment (Protection) Act, 1986, to be exercised by the Respondent No.2, for

implementation of relevant Rules. The order dated **July 2nd, 2014**, is reproduced here for clarity:

“Heard the Applicant in person.

The affidavit of MoEF, is silent as regards the manner in which the standards notified by the MoEF, can be properly implemented and that what is the mechanism to ensure that violations are to be dealt with. It is stated in paragraph 3 of the reply affidavit that noise limits were notified at Sr. No.46, under the Schedule-I, of the Environment (Protection) Rules, 1986, rather than part-E of the Schedule-VI. It is vaguely stated that these noises are implemented under the Central Motor Vehicles Rules, 1989, by the Respondent No.2. However, it needs clarification as to under what provisions, the implementing Agencies are given powers and legal authority under the Environment (Protection) Act, 1986 to be exercised by the Respondent No.2, for implementation of the relevant Rules, indicated under the Environment (Protection) Rules. It appears prima facie that the MoEF, has made the Rules, the implementing machinery is the local authority i.e. RTO, and it is stated that implementation has to be done under the Central Motor Vehicles Rules, 1989. The Respondent No.1, may file additional affidavit in this behalf. The Counsel seeks time to clarify the position. The Automotive Research Association of India (ARAI) also shall bring the relevant files for perusal of the Tribunal on the same day, inasmuch as today when called, the representative is absent.

Stand over to 28th July 2014. “

23. We have taken a note that in spite of such assurance, MoEF did file its response only on 30/8/2014. MoEF has reiterated the stand taken earlier and submits that the Central Govt. has laid down the Central Motor Vehicles Rules, 1989 and the Rule 120(2), stipulates that the every motor vehicle shall be constructed and maintained so as to

conform to the noise standards specified in Part E, of Schedule VI, to the Environment (Protection) Rules, 1986, when tested as per IS: 3028 -1998, as amended from time to time. It is the stand of MoEF that as these standards have been incorporated in the Motor Vehicles Rules, under Section 24 of the Environment (Protection) Act, 1986, any violation in respect of noise standards, stipulated under the Central Motor vehicles Rules, is punishable under the Motor Vehicles Act, 1988.

24. The Motor vehicle rule 120 prescribes the noise standards for automobiles at manufacturing stage and are as under:

120. (1) xxx xxx xxxx xxxx

(2) Noise standards—Every motor vehicle shall be constructed and maintained so as to conform to noise standards specified in Part E of the Schedule VI to the Environment (Protection) Rules, 1986, when tested as per IS: 3028-1998, as amended from time to time.

Similarly, Section 126 of the Central Motor Vehicles Rules, stipulate the requirement that prototype every motor vehicle to be subjected to test. The Rule is reproduced below:

126. Prototype of every motor vehicle to be subject to test--- On and from the date of 'Commencement' of Central Motor Vehicles (Amendment) Rules 1993, every [manufacturer or importer] of motor vehicles other than trailers and semi-trailers shall submit the prototype of the vehicle [to be manufactured or imported by him] for test by the Vehicle Research and Development Establishment of the Ministry of Defence of the Government of India or Automotive Research Association of India, Pune, [or the, Central Farm Machinery Testing and Training Institute, Budni (MP)] or the Indian Institute of Petroleum, Dehradun, [or the Central Institute of Road Transport, Pune, or the International Centre, for Automotive Technology. Manesar,] [or the Northern. Region Farm Machinery Training and Testing Institute, Hissar (for

testing of combine harvester)] and such other agencies as may be specified by the Central Government or granting a certificate by that agency as to the compliance of provisions of the Act and these rules:

[Provided that the procedure for type approval and certification of motor vehicles of compliance to these rules shall be in accordance with the AIS; 017-2000, as amended from time to time:]

[Provided further that in respect to the vehicles imported into India as completely built units (CBU), the importer shall submit a vehicle of that particular model and type to the testing agencies for granting a certificate by that agency as to the compliance to the provision of the Act and these rules.]

[**126A.** The testing agencies referred to in rule 126 shall in accordance with the procedures laid down by the Central Government also conduct tests on vehicles drawn from the production line of the manufacturer to verify whether these vehicles conform to the provisions of [rules made under section 110 of the Act]:]

[Provided that in case the number of vehicles sold in India for a given base model and its variants (manufactured in India or imported to India) are less than 250 in any consecutive period of six months in a year, then such base model and its variants need not be subjected to the above test, if at least one model or its variants manufactured or imported by that manufacturer or importer, as the case may be, is subjected to such tests at least once in a year:

Provided further that, in case the number of base models and its variants manufactured/imported is more than one and if the individual base model and its variants are less than 250 in any consecutive period of six months in a year, then the testing agencies can pick up one of the vehicle out of such models and their variants once in a year for carrying out such test.]

25. We have also perused the affidavit of Respondent No.5 and the Rule 120,126 and 127 of Motor Vehicle Rules. Rule 120(2) sets out noise standards for automobiles at manufacturing and operating stage to be measured as per IS: 3028-1998. Rule 126 prescribes Type Approval to be granted by any of the six identified agencies, but the interesting part

is that the procedure given for such Type approval is AIS:017-2000, and does not refer to IS-3028-1998. It is therefore not clear whether such type approval includes any verification of compliance of the noise standards as specified in Rule 120 (2) of the said rules, which have adopted the noise standards prescribed under the Environmental protection Rules. This aspect of implementation of such noise standards further gets more clarified by the response of Respondent-5 to RTI query dated 2/12/2013, related monitoring of standards prescribed in rule 120 (2) of the MVR. The response clearly says that conducting the test as per noise standards specified in rule 120(2) at the stage of manufacturing is out of scope and purview of the institute.

26. The provisions of Rule 120 of the Central Motor Vehicles Rules, 1989 are very specific as standards specified under the Environment (Protection) Rules, 1986 have been adopted for every motor vehicle at construction stage and also while it is put to use. Therefore it is necessary that compliance of such standards, need to be independently verified and assessed by the concern agencies while granting Certificate of Test, under the Rule 126 of the Central Motor Vehicles Rules, 1989. It is necessary that the provisions of IS: 3028-1998, shall be strictly adhered to while testing noise limits from the automobiles. This is very important, as we have directed the Respondent No.5 (ARAI) to file copies of

such certificate and on perusal of certificate granted to Ashok Leyland dated 29th May, 2013, what we found is that there is total absence of mention of vehicle noise as monitored under IS: 3028-1998. We have also perused the copy of such certificate produced by the CPCB along with affidavit, where one certificate issued to M/s Umbrella Corporation and in the said certificate, noise level measurement has been made as per IS: 3028-1998, though measurement parameters are different than as specified in the standard for RPM and also speed.

27. The above submissions clearly shows that there is absence of well-defined mechanism to implement and enforce the noise standards prescribed for automobiles at manufacturing stage, though they have been prescribed under Environmental (Protection) rules, and have also been incorporated under rule 120(2) of the Motor Vehicle rules, 1989. In our opinion, all the concerned agencies are tossing the responsibility on other agencies, with the result, the prescribed noise standards are not being implemented resulting in unabated noise pollution. And, therefore, we record our finding on Issue-I in NEGATIVE.

28. We have also gone through the contents of BIS standards IS: 3028-1998 and the revisions made from time to time. It is found that the standards give elaborate technical procedure and methodologies for measurements of noise from

the automobiles. As these standards are evolved by the Committee of Experts, we do not wish to enter into arena of evaluating the correctness or otherwise, of the standards. However, we would like to appreciate the point raised by the Applicant that as these standards deal with the noise standards, it will be prudent to include the Environment Regulatory Authorities like CPCB or SPCB, which are also technical organizations, on such Committee for review and to ensure that environmental regulations are holistically considered while revising such standards. It is also open for MoEF/CPCB/SPCB to prepare their own test procedure for measurement of noise from automobiles, if required. The Issue (2) is accordingly answered in NEGATIVE, with above suggestion.

29. In the absence of an effective mechanism to enforce and implement the Noise standards prescribed under the EP Rules and Motor Vehicles Rules, the noise pollution mainly in urban areas cannot be effectively controlled. Hon'ble Apex Court and High Court decisions referred by Applicant in the Application have given significant impetus to the implementation of noise related regulations. The Apex Court in WP (c) No.72 of 1998 with CA No.3735 of 2005 (arising out of SLP (c) No.2185) (2005) 5 SCC 733 in **“Re: Noise Pollution vs Unknown 18 July, 2005”** observed that:

“98. Not that the Legislature and the Executive in India are completely unmindful of the menace of noise pollution. Laws have been enacted and the Rules have been framed by the Executive for carrying on the purposes of the legislation. The real issue is with the implementation of the laws. What is needed is the will to implement the laws. It would be useful to have a brief resume of some of the laws which are already available on the Statute Book. Treatment of the problem of noise pollution can be dealt under the Law of Crimes and Civil Law. Civil law can be divided under two heads (i) The Law of Torts and (ii) The General Civil Law. The cases regarding noise have not come before the law courts in large quantity. The reason behind this is that many people in India did not consider noise as a sort of pollution and they are not very much conscious about the evil consequences of noise pollution. The level of noise pollution is relative and depends upon a person and a particular place. The law will not take care of a super sensitive person but the standard is of an average and rational human being in the society.”

30.

The Apex Court further observed that:

“How to check/control noise pollution

169. *The need for checking noise pollution as highlighted by the petitioners and several interveners deserves appreciation.*

170. *Need for specific legislation to control and prevent noise pollution still needs some emphasis. Undoubtedly, some laws have been enacted. Yet, compared with the legislation in developed countries India is still lagging behind in enacting adequate and scientific legislations. We need to have one simple but specific and detailed legislation dealing with several aspects referable to noise pollution and providing measures of control therefore.*

171. *There is an equal need of developing mechanism and infrastructure for enforcement of the prevalent laws. Those who are entrusted with the task of enforcing laws directed towards controlling noise pollution, must be so trained as to acquire expertize in the matter of fighting against noise pollution by taking preventive and deterrent measures both. They need to be equipped with the requisite equipments such as audio meters as would help them in detecting the level of noise*

pollution more so when it crosses the permissible limits and the source thereof.

172. Above all, there is need for creating general awareness towards the hazardous effects of noise pollution.....”

30. In substance, it can be observed that there is no effective mechanism for implementation of noise standards for automobiles. Though the Respondents have taken some steps, but they are pointing fingers towards others in the context of duty to perform the Rules. There is lack of synergy and coordination amongst the Respondents. This cannot be allowed to continue, in view of the serious impacts of noise pollution. The Apex court has clearly focused on implementation of existing regulations and also, need of specific regulations while dealing with noise pollution. In para 95 of the above referred Judgment, the Apex court has referred to The Noise Control (Motor Vehicles and Motor Vehicle Accessories) Regulation 1995. This regulation seems to be of New South Wales of Australia which is a comprehensive regulation for noise pollution control from automobile. The Regulation makes provisions for the following matters:

- (a) the maximum noise levels in relation to certain classes of motor vehicles and motor vehicle accessories, such that vehicles and accessories capable of emitting those noise levels cannot be sold,
- (b) the use of motor vehicles on roads and other places,

- (c) the use of motor vehicle horns and motor vehicle intruder alarms,
- (d) the times during which it is not permissible to use certain motor vehicles if they emit noise that can be heard in other residential premises,
- (e) the sounding of sirens and similar devices on vessels,
- (f) the emission of noise from the engines or exhausts of vessels,
- (g) the times during which it is not permissible to use certain sound systems on vessels if they emit noise that can be heard in any residential premises,
- (h) the maintenance of noise control equipment on motor vehicles and vessels,
- (i) the issue of defective vehicle notices and defective vessel notices

31. While dealing with local level implementation of such standards, the Learned Counsel for MPCB, invites our attention towards the GR of Govt. of Maharashtra dated 21st April, 2009, which has outlined a scheme of enforcement of various noise related standards and regulations and have identified authorities for implementation of such standards/regulations. Paragraph 8 of Annexure attached to the said GR is reproduced below:

8	<ul style="list-style-type: none"> (iv) Any officer from the state transport Department/Deputy Regional Transport officer in their respective jurisdiction not below the rank of Deputy Superintendent of Police (v) Head of Maharashtra State Road Transport Corporation or any officer/Depot Manager not below the rank of the Deputy Superintendent of Police (vi) Traffic Police Authorities not below the rank of the Deputy Superintendent of Police. 	Home Department (Transport)	<p>Enforcement and maintenance of the noise standards laid down under Environment (Protection) Rules, 1986 and Motor Vehicles Act, 1989 for the new an operating vehicles within their respective jurisdiction.</p> <p style="text-align: center;">The noise levels granted by the in-use</p>
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			vehicles should be monitored while grant of Pollution Under Control Certificate.
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32. We have gone through the provisions of the Air (Prevention and Control of Pollution) Act, 1981 and have already observed in M.A.No.202/2013 in Application No.30/2014, that the SPCB, is the Competent Authority for prescribing the noise standards under Section 17 (1) (g) of the Air (Prevention and Control of Pollution) Act, 1981. Section 20 of the said Act, deals with enforcement of standards for emissions under the Automobile, which is as under:

20. Power to give instructions for ensuring standards for emission from automobiles:

with a view to ensure that the standards for emission of air pollutants from automobiles laid down by the State Board under clause (g) of sub-section (1) of Section 17 are complied with, the State Government shall, in consultation with the State Board, give such instructions as may be deemed necessary to the concerned authority in charge of registration of motor vehicles under the Motor Vehicles Act, 1939 (4 of 1939) and such authority shall, notwithstanding anything contained in that Act or the rules made thereunder be bound to comply with such instructions.

33. This particular provision clearly implies that once the standard is prescribed by the State-Board for emission of air pollutants from automobiles under Section 17 (1) (g) of the Air (Prevention and Control of Pollution) Act, 1981, State Govt. is required to give such instructions, on recommendations of SPCBs, as may be deemed necessary to the concerned Authority in-charge of registration of the motor vehicles under the Central Motor Vehicles Act and such Authority shall notwithstanding anything containing in

that Act, or Rules made there under be bound to comply with such instructions.

34. Govt. of Maharashtra vide GR dated 21st April, 2009, has directed the Transport Authorities to implement the noise standards identified under the Environment (Protection) Rules, 1986. Though we appreciate the initiatives taken by State of Maharashtra and MPCB, we find that this delegation of powers, is not backed up by provisions of Section 17 and 20 of Air Act, 1981 or other regulations. It is also not clear how the Transport department, i.e. R-7 will implement this provision, as they have already filed affidavit that they just rely on the certificate of road worthiness as contemplated under the MV Rules. What we find is that the Authorities need to consider either prescribing new standards for the vehicle noise in the State under the provisions of Air Act or may even like to adopt the standards specified under the Environment (Protection) Rules, 1986 for the purpose under Section 17 (1) (g) of the Air (Prevention and Control of Pollution) Act, 1981, and then the State Govt. can direct the Transport Authorities, under Section 20 read with Section 17 (1) (g) of the Air (Prevention and Control of Pollution) Act, 1981, which will enable them with legal powers and empower to implement such directions.

35. Noise pollution is primarily a local (urban area) problem, but one which calls for a state-wide solution. The first step in any sustainable noise emissions policy should be to devise measures to reduce sound levels at source. Since the target of this Regulation is the noise source that motor vehicles represent, and given that that noise source is by definition a mobile one, even state level measures alone are not sufficient. At the national level too, it is necessary that the MoEF, needs to delegate the powers to the Respondent No.2, if so deemed fit or any other Authority, as may be required to enforce their standards. Similarly, Respondent No.3 i.e. which has an overall responsibility to maintain the ambient air quality under the provisions of section 16 (1) of Air Act, besides the supervisory and co-coordinating role as empowered under section 18 of the said Act, needs to take national level initiative. We do not agree with the stand taken by CPCB that SPCBs are solely responsible for setting the standards. The section 16 of Air Act, gives a mandate to CPCB to maintain the desired air quality in the country and empowers it to take all necessary measures for that. Besides this Section 18 gives powers to CPCB to issue specific directions to SPCBs to perform functions as specified in the Act. And therefore, we are of the considered view that CPCB has an important role to play when national level air quality related issues needs to be addressed. It cannot just shirk the

responsibility by only selective mention of section 17 (i) (g) of Air Act, while conveniently not addressing the provisions of section 16 read with 18 of the said Act.

36. Public awareness, education and information dissemination related to environmental issues have already been identified as important initiatives by various judgments of Apex court. Apex Court in Writ Petition (C) No. 72 of 1998 with Civil Appeal No. 3735 of 2005 [Arising out of SLP (C) No. 2185 (2005) 5 SCC 733 has issued directions as directed in para 179 of the judgment, issued in exercise of power conferred on Apex Court under Articles 141 and 142 of the Constitution of India, which would remain in force until modified by this Court or superseded by an appropriate legislation, which are as under:

“ 1. There is a need for creating general awareness towards the hazardous effects of noise pollution. Suitable chapters may be added in the text-books which teach civic sense to the children and youth at the initial/early level of education. Special talks and lectures be organised in the schools to highlight the menace of noise pollution and the role of the children and younger generation in preventing it. Police and civic administration should be trained to understand the various methods to curb the problem and also the laws on the subject.

2. The State must play an active role in this process. Residents 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.”

37. The provision of information on sound emissions due to automobile to consumers and public authorities has the potential to influence purchasing decisions and accelerate the transition to a quieter vehicle fleet. Accordingly, we hold that the automobile manufacturers should provide information on sound levels of vehicles at the point of sale and in technical promotional material, providing information to the consumers about the sound emissions of a vehicle and also the horns based on Precautionary Principle. It is also necessary that the certificate of compliance issued under rule 120 (2) or even that of horn/silencer etc. for each type approval shall also be provided to the automobile purchaser and also, the same shall be available on automobile manufacturer's website in public domain, for each prototype of vehicle.

38. In the result, the Application is partly allowed with following directions, as per section 14 read with section 20 of NGT Act, 2010:

- i)** The MPCB shall notify the noise emission standards for vehicles at manufacturing and in-use stage within a period of three (3) months in State of Maharashtra, shall thereafter issue necessary directions under Section 20 of the Air (Prevention and Control of Pollution) Act, 1981, to

the concerned Authorities for enforcement of such standards within next four (4) months.

- ii)** Respondent-3 i.e. CPCB shall co-ordinate with other state Boards under the provisions of Section 16 and 18 of the Air (P&CP) Act for notifying the noise standards for automobiles within next six (6) months.
- iii)** Respondent-2 and 7 shall ensure that no vehicle is registered, till such standards are finalized by Respondents- 3 and 4, without ensuring the strict compliance of the noise standards as specified in Rule 120(2) of Motor vehicle Rules, 1989. A compliance report on this direction shall be filed by R-2 and R-7 within two (2) months.
- iv)** We direct the Respondent Nos.2 and 7, that certificate of compliance issued by the specified agencies under Rule 120 read with rule 126 of the Central Motor Vehicles Rules, 1989, related to compliance of noise standards for horns, vehicle, etc, as notified, shall be made available along with every vehicles which will be sold in the market henceforth and also, a copy of such certificate for each prototype shall be available on the website of the department. This is very important as a citizen, who is consumer/purchaser of the automobile, is entitled to know the level of pollution caused by the vehicle.
- v)** These Directions shall be brought to the notice of all concerned transport authorities by Respondent 3 i.e. CPCB and Respondent 4 i.e. MPCB immediately.

The Application is accordingly disposed of. No costs.
Considering the nature of directions, the Application is listed for
compliances on **November 27th, 2014**.

....., **JM**
(Justice V. R. Kingaonkar)

....., **EM**
(Dr.Ajay A. Deshpande)

Date: September 23rd, 2014