

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

**Original Application No. 500 of 2015**

**In the matter of:**

1. Madhu Sharan  
W/o Amarendra Sharan  
A-81, Sector 50  
Noida-201 301  
Uttar Pradesh
2. Manish Daga  
S/o Anil Kumar Daga  
A-73, Sector 50  
Noida-201 301  
Uttar Pradesh
3. Ajay Kanwar  
S/o C.S. Kanwar  
A-81, Sector 50  
Noida-201 301  
Uttar Pradesh
4. R.M. Chaudhry  
S/o Late C.M. Chaudhry  
A-77, Sector 50  
Noida-201 301  
Uttar Pradesh
5. V.K. Malik  
S/o Late C.M. Chaudhry  
A-77, Sector 50  
Noida-201 301  
Uttar Pradesh
6. Harsh Jaitly  
S/o Late Sh. Manohar Lal Jaitley  
A-83, Sector 50,  
Noida- 201 301  
Uttar Pradesh
7. Lalit Jaitly  
S/o Late Sh. Manohar Lal Jaitley  
A-84, Sector 50,  
Noida- 201 301

Uttar Pradesh

..... Applicants

Versus

1. Noida Authority  
Through CEO  
Adminstritive Complex  
Sector 6, Noida- 201 301,  
District Gautam Buddh Nagar  
Uttar Pradesh
2. Residents' Welfare Association  
Through President, Vimal Sharma  
Sector 50, Noida- 201301  
District Gautam Buddh Nagar  
Uttar Pradesh
3. ATS Society  
Through President  
Block A, Sector 50  
Noida- 201 301  
District Gautam Buddh Nagar  
Uttar Pradesh
4. State of UP  
Through Chief Secretary  
Lal Bahadur Shastri Bhavan  
UP Secretariat  
Lucknow- 226001
5. Uttar Pradesh Pollution Control Board  
Through the Member Secretary  
Picup Bhawan, 2<sup>nd</sup> floor, B-block  
Vibhuti Khand, Gomiti Nagar,  
Lucknow- 226010
6. Senior Superintendent of Police  
Gautam Buddh Nagar  
Sector- 27 Noida- 201 301  
Uttar Pradesh

.....Respondents

**Counsel for appellant:**

Ms. Aprajita Mukherjee, Advocate for Applicant

**Counsel for Respondents:**

Mr. Ravindra Kumar, Advocate for respondent no. 1

Mr. Milanka Chaudhary and Ms. Satakshi Sood, Advs.  
for respondent nos. 3.

Mr. Abhishek Yadav, Advocate. for respondent nos. 4 & 6

Mr. Pradeep Misra and Mr. Daleep Kumar Dhyani,  
Advocates for UPPCB

**Present:**

**Hon'ble Mr. Justice U.D. Salvi (Judicial Member)**

**Hon'ble Mr. Ranjan Chatterjee (Expert Member)**

**JUDGMENT**

**Per U.D. Salvi J.(Judicial Member)**

**Pronounced on: 24<sup>th</sup> May, 2016**

1. Few residents of Block A Sector 50, Noida- Members of the respondent no. 2 Resident Welfare Association for Sector 50 have moved this application seeking directions to the respondent authorities Noida- State of Uttar Pradesh and Uttar Pradesh Pollution Control Board to immediately take steps for preventing commercial vehicles from entering the residential area and to close the gate no. 13 and restrict entry of vehicles in the said lane abutting their residences and to permit only those vehicles belonging to the residents therein in the said lane; and further to re-route school buses and other vehicles not belonging to the residents staying in that lane. Virtually, the applicants are seeking exclusive use of the said lane by the local residents.
2. Except the Resident Welfare Association, all others responded to the present application and resisted the application refuting the case of the applicants and placing before us certain new facts which were not disclosed in the application.

3. Learned Counsel appearing on behalf of the applicants, having sensed the merit of the case that the applicants were espousing, gave up the prayer seeking direction to the respondent authority to re-route the school buses and other vehicles not belonging to the residents staying in the lane and to take to alternative main road. He also modified prayer-wise prayer clause B seeking direction to the respondent authorities to immediately close gate no. 13 and restrict the entry of vehicles in the said lane and permit only those vehicles belonging to the residents and their guests in the said lane; but instead he urged for making the said lane a one way lane for vehicular traffic.

4. Subject matter of the application has been described by the applicant as 12 mts wide road in front of their houses situate at Block no. A, Sector-50, Noida. According to the applicants one end of the said road/lane has gate no. 13 installed by Respondent no. 2-Residents Welfare Association and at another end there is school named "Ramagya Public School" as per the lay out plan of Sector 50 annexed to the application annexure A-1. Just opposite this lane, the applicant adds there is another gate referred to as ATS Gate leading to the apartment complex across the main road; and ATS Gate opens in front of A-81 and adjoining houses and this gate is used as bus stand by school going children of ATS Society. It is further revealed by the applicants that gate no. 13 opens at 6:00 AM everyday and a fleet of school buses and other

vehicles start entering this lane along the house of applicant and other residents from 7:00 AM and this continues upto 9:30 AM. Again this gate re-opens and remains open from 12:30 PM to 4:00 PM wherein the buses and other vehicles use this very lane to take back the school children. Even otherwise, the applicant reveals that whenever the gate opens this lane is used by passer-bys to go from one of the lane to other. All this, to sum up the application reveals, leads to heavy traffic congestion and immense of noise pollution in the said area.

5. It appears from the application that the Residents Welfare Association arranged a meeting between the residents of the lane and representatives of the Respondent no. 3-ATS Society and tried to resolve the issue by suggesting to the members of the respondent no. 3- ATS Society that re-routing of the buses would only require shifting of bus stand within 50 mts distance and this will not cause inconvenience to them and the respondent no. 3- ATS Society refused to cooperate with the applicants and other residents of the lane in reaching any solution. Coupled with this, the applicants grieve, Noida authority failed to pay any heed to the grievance of the residents regarding the environmental pollution caused by the traffic congestion and the vehicular traffic along the said lane.

6. Respondent no. 1- Noida Authority vide reply dated 12<sup>th</sup> January, 2016 contend that the lane being public lane, nobody can be denied access and the traffic on this road

cannot be stopped only because of another road is alleged to be at 50mts distance. Respondent no. 1 further contends that the gates were never installed by them and they have little role to play in the dispute between the residents along the road.

7. Respondent no. 3-ATS Society vide reply dated 13<sup>th</sup> January, 2016 contends that the applicant has raised false and frivolous grounds to invoke the jurisdiction of this Tribunal, particularly with an intention to grab the said road for personal use of applicants only. Respondent no. 3 ATS Society further points out that the applicants have encroached upon the 12 mts wide road in many ways such as creation of kitchen gardens with iron fences and installation of DG sets as per the photographs annexed at annexure R-3. Learned Counsel appearing on behalf of the respondent no. 3 further submitted that he has no objection if the concerned authorities enforce the 'silence zone' as per law within 100mts distance of the school and no parking along the road is permitted as well as encroachments are removed so as to facilitate smooth vehicular traffic along the lane. He submits that these measures would afford substantial redressal of the grievance the applicants are making.

8. Respondent no. 4-State of UP reveals in his reply dated 22<sup>nd</sup> February, 2016 contend that the applicants have raised no substantial question relating to environment and it is the outcome of some dispute between the local residents. Respondent no. 4- State of UP further contended in its reply

that the alleged traffic congestion is possible outcome of the cars being parked on the road and most of the cars parked are owned by the residents of the said locality. It is further submitted that the road in question is a public road and no exclusive use to the residents of sector 50, Noida can be allowed. Learned Counsel appearing on behalf of the respondent no. 4-State and the newly impleaded respondent no. 6-Senior Superintendent of Police of the area further made a statement that the Authorities would enforce the law and for that purpose would make the said lane a 'no parking zone' as well as put signages of "silence zone" within 100mts of the said school. He further made a statement that the authorities would also ensure no honking of pressure horns or violation of any of the provisions in relation thereto.

9. At this stage Learned Counsel appearing on behalf of the applicant invited our attention to the Reports annexed to the reply of respondent no. 5 UPPCB as annexure A-1 giving results of the monitoring conducted by the UPPCB. He submitted that this data speaks about the existence of air and noise pollution. He referred to the order passed by the Hon'ble High Court of Allahabad C.M.W.P (P.I.L) No. 59174/2012: R.K Sharma Vs. State of U.P on 25<sup>th</sup> April, 2014, particularly to the directions passed by the Hon'ble High Court in relation to the noise pollution and traffic congestion in Noida.

10 Monitoring data filed by the UPPCB with the reply dated 7<sup>th</sup> May, 2016 reveals that PM-10 and noise level at monitoring

station at the A-81 Sector 50, Noida exceeds standard parameters prescribed under law. Undoubtedly, this calls for some intervention. However, a fact cannot be ignored that such situation persists in most of the urban areas. Making the lane one way will only result in transferring the vehicular load to other areas in the vicinity and thereby aggravating the problem of environmental pollution in the said area in the vicinity. This cannot be, therefore, proper approach for regulating the environmental pollution in the said lane particularly, when the applicants have not shown any data collected its salubrious effect on the environment generally. Easing out the traffic in the said lane by making it 'No Parking Zone', removing encroachments on the said lane and observing rules made for regulating the noise pollution will in all probability bring much needed environmental change for good in the area.

11 Elaborate mechanism to regulate ambient air quality in respect of noise is spelled out in the Noise Pollution (Regulation and Control) Rules, 2000 as follows:

**3. Ambient air quality standards in respect of noise for different areas/zones.**

*(1) The ambient air quality standards in respect of noise for different areas/zones shall be such as specified in the Schedule annexed to these rules.*

*(2) The State Government may categorize the areas into industrial, commercial, residential or silence areas/zones for the purpose of implementation of noise standards for different areas.*

*(3) The State Government shall take measures for abatement of noise including noise emanating from vehicular movements and ensure that the existing noise levels do not exceed the ambient air quality standards specified under these rules.*



(4) All development authorities, local bodies and other concerned authorities while planning developmental activity or carrying out functions relating to town and country planning shall take into consideration all aspects of noise pollution as a parameter of quality of life to avoid noise menace and to achieve the objective of maintaining the ambient air quality standards in respect of noise.

(5) An area comprising not less than 100 metres around hospitals, educational institutions and courts may be declared as silence area/zone for the purpose of these rules.

#### **4. Responsibility as to enforcement of noise pollution control measures.**

(1) The noise levels in any area/zone shall not exceed the ambient air quality standards in respect of noise as specified in the Schedule.

(2) The authority shall be responsible for the enforcement of noise pollution control measures and the due compliance of the ambient air quality standards in respect of noise.

#### **5. Restrictions on the use of loud speakers/public address system.**

(1) A loud speaker or a public address system shall not be used except after obtaining written permission from the authority.

(2) A loud speaker or a public address system shall not be used at night (between 10.00 p.m. to 6.00 a.m.) except in closed premises for communication within, e.g. auditoria, conference rooms, community halls and banquet halls.

#### **5-A. Restrictions on the use of Horns, Sound Emitting Construction Equipments and Bursting of Fire Crackers.**

- (1) No horn shall be used in silence zones or during night time in residential areas except during a public emergency.
- (2) Sound emitting fire crackers shall not be burst in silence zone or during night time.
- (3) Sound emitting construction equipments shall not be used or operated during night time in residential areas and silence zones.

#### **6. Consequences of any violation in silence zone/area.**

Whoever, in any place covered under the silence zone/area commits any of the following offence, he shall be liable for penalty under the provisions of the Act:

(i) whoever, plays any music or uses any sound amplifiers,

(ii) whoever, beats a drum or tom-tom or blows a horn either musical or pressure, or trumpet or beats or sounds any instrument, or

(iii) whoever, exhibits any mimetic, musical or other performances of a nature to 44raq crowds.

#### **7. Complaints to be made to the authority.**

(1) A person may, if the noise level exceeds the ambient noise standards by 10 dB(A) or more given in the corresponding columns against any area/zone, make a complaint to the authority.

(2) The authority shall act on the complaint and take action against the violator in accordance with the provisions of these rules and any other law in force.

**8. Power to prohibit etc. continuance of music sound or noise.**

(1) If the authority is satisfied from the report of an officer incharge of a police station or other information received by him that it is necessary to do so in order to prevent annoyance, disturbance, discomfort or injury or risk of annoyance, disturbance, discomfort or injury to the public or to any person who dwell or occupy property on the vicinity, he may, by a written order issue such directions as he may consider necessary to any person for preventing, prohibiting, controlling or regulating:

(a) the incidence or continuance in or upon any premises of -

(i) any vocal or instrumental music,

(ii) sounds caused by playing, beating, clashing, blowing or use in any manner whatsoever of any instrument including loudspeakers, public address systems, appliance or apparatus or contrivance which is capable of producing or re-producing sound, or

(b) the carrying on in or upon, any premises of any trade, avocation or operation or process resulting in or attended with noise.

(2) The authority empowered under sub-rule (1) may, either on its own motion, or on the application of any person aggrieved by an order made under sub-rule (1), either rescind, modify or alter any such order:

Rule 2(C) of the said Rules:

(c) " Authority" means and includes any authority or officer authorized by the Central Government, or as the case may be, the State Government in accordance with laws in force and includes a District Magistrate, Police Commissioner, or any other officer not below the rank of the Deputy Superintendent of Police designated for the maintenance of the ambient air quality standards in respect of noise under any law for the time being in force;

12 Considering these provisions and the statement made on behalf of the authorities we pass the following directions:

1. The lane in Block A Sector 50, Noida shall be declared as 'No Parking Zone' as well as the area within the vicinity of 100 mts from 'Ramagya Public School' shall be declared as 'silence zone'.
2. Respondent no. 1- Noida Authority, Respondent no. 2- Residents Welfare Association, Respondent no. 5- UPPCB and respondent no. 6- Senior Superintendent of Police shall take action against the persons parking their vehicles in the said lane in accordance with law.
3. Respondent no. 1- Noida Authority, Respondent no. 2- Residents Welfare Association, Respondent no. 5- UPPCB and respondent no. 6- Senior Superintendent of Police shall cause action to be taken against any violation of 'silence zone' area or contravention of any provision of the Noise Rules in any manner whatsoever in accordance with law.
4. Respondent no.1- Noida Authority is directed to remove all such encroachments standing on the lane in question in accordance with law.
5. Respondent no. 5-UPPCB is directed to ensure strict compliance of Noise Rules and take action against violators of the said Rules in accordance with law.
6. With these directions we dispose of O.A. No. 500 of 2016 with no order as to cost.

.....,JM  
(U.D. Salvi)

.....,EM  
(Ranjan Chatterjee)



**NGT**