

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI**

Application No .140 of 2013 (SZ) (THC)
(W.P. (C) No. 9166 of 2010, High Court of Kerala)

Applicant
Forum for the Prevention of Environmental
and Sound Pollution rep. by its Secretary

Respondents:
The State of Kerala and others

Legal Practitioners for the applicant(s):
M/s. P.B. Sahasarnamam, K. Jagadeesah
and T.S. Harikumar, Advocates

Legal practitioners for respondents
Ms. A.S. Suvitha, Advocate
for R-1 and R-2
M/s. Mohamed Rafi and
R. Maikandan, Advocates for R-3

Application No. 145 of 2013 (SZ) (THC)
(W.P. (C) No. 512 of 2013, High Court of Kerala)

Applicant
Shri Jacob Neroth, Alleppey

Respondents:
The Superintendent of Police,
Allappuzha and others

Legal Practitioners for the applicant(s):
M/s. P.B. Sahasarnamam,
K. Jagadeesah and T.S. Harikumar,
Advocates

Legal practitioners for respondents
Legal practitioners for respondents
Ms. A.S. Suvitha, Advocate
for R-1 and R-2
M/s. Mohamed Rafi and
R. Maikandan, Advocates for R-3

COMMON ORDER

Note of the Registry	Orders of the Tribunal
Order No. 6	Date: 3 rd December 2013 When the matters are taken up for hearing this day, the counsel for the applicants and for the respondents are present. Shri R. Manikandan, counsel appears for the 3 rd respondent.

Despite direction by the Tribunal, the Deputy Superintendent of Police, Alappuzha, shown as the 2nd respondent, has not appeared today. The counsel appearing for the 2nd respondent has filed a memo seeking extension of time for the personal appearance of the 2nd respondent on the grounds that he is engaged in some other duty assigned to him. In view of the reasons adduced therein, his absence this day is condoned and he is directed to appear in the next date of hearing without fail.

The counsel appearing for the applicant in both these applications brought to the notice of the Tribunal that two miscellaneous applications were filed before the Hon'ble High Court of Kerala for appointment of an Advocate Commissioner since a report filed by the 2nd respondent along with the inspection report made by the District Environmental Engineer, Allapuzha were not satisfactory.

In answer to the same, it is contended by the counsel for the 2nd respondent that pursuant to an order of the Hon'ble High Court of Kerala, an inspection was made on 16.07.2012 to measure the noise level and it was noticed that the noise level was within limits and as such there was no pollution that was caused.

It is pertinent to point out that both the Writ Applications were filed complaining that the 3rd respondent is making use of loudspeakers for the purpose of making Azan calls, broadcasting speeches and songs in high volume even during night time and early morning hours. It is causing nuisance and annoyance to the residents nearby and the noise level has greatly

affected the health of the general public and hence both the Writ Petitions are filed seeking directions to the 2nd respondent, the Deputy Superintendent of Police, Alappuzha and also against the 3rd respondent for using loudspeakers.

While both the Writ Petitions are pending, the Hon'ble High Court of Kerala issued a direction to the 2nd respondent, the Deputy Superintendent of Police, to measure the noise level by taking the District Environmental Engineer of the district. A report was filed by the Deputy Superintendent of Police along with an inspection report alleging that the noise was within permissible levels.

Not satisfied with the same, the applicant has filed an application for appointment of an Advocate Commissioner to measure the noise level, reiterating his case. The court heard the counsel for the applicant and also the objections raised by the counsel for the respondents on the question of appointment of an Advocate Commissioner. Admittedly, though an inspection is alleged to have taken place pursuant to the directions of the Hon'ble High Court of Kerala by the 2nd respondent along with the District Environmental Engineer, Alappuzha, no notice was served upon the petitioner. The scrutiny of the report clearly indicates that the same is not only not satisfactory, but it could not be taken as a document which could be acted upon to take any decision.

Under the circumstances, the Tribunal is of the view that it is a fit case where an Advocate Commissioner has to be appointed for making an inspection along

with the District Environmental Engineer, Alappuzha in order to measure the noise levels employing scientific methods and place a report before the Tribunal. For this purpose, Shri Sai Sathyajith, Advocate is appointed as Advocate Commissioner with a direction to make an inspection and the District Environmental Engineer, Alappuzha is directed to accompany the Advocate Commissioner along with the 2nd respondent and measure the noise level following scientific methods and file a report in the next hearing. The initial remuneration of the Advocate Commissioner is fixed as Rs.25,000/- (Rupees twenty five thousand) only. The Advocate Commissioner is directed to conduct the above inspection after serving notice to all the parties and file the report on 28.01.2014. The matter is posted to 28.01.2014.

Prof. Dr. R. Nagendran
Expert Member

Justice M. Chockalingam
Judicial Member

