

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

Original Application No. 59 of 2017

IN THE MATTER OF:

1. Baby Arshita Khatri & Ors.

D/o Sh. Amit Khatri aged 1.9 years
Through Mother and Natural Guardian
Dr. Parul Sharma
R/o Flat No. 392, SFS Flats,
L-Block, Phase IV Ashok Vihar,
Delhi-110052

2. L-Block, Residents Welfare Association,

SFS Flats, Phase IV
Ashok Vihar (Registered),
Delhi-110052
Through its Vice President

3. Residents Welfare Association,

SFS Flats, Phase IV
Ashok Vihar (Registered),
Delhi-110052
Through its Secretary

4. Parul Sharma

D/o Late. Sh. Raj Kamal Sharma
R/o 392, SFS Flats, Ashok Vihar,
Delhi-110052

5. Mrs. Harbir Kaur

W/o Late Sh. Prithipal Singh
R/o Flat NO. 376, SFS Flats,
L-Block, Phase IV Ashok Vihar,
Delhi-110052

6. Mrs. Meena Chaudhary Sharma

W/o Late Sh. Raj Kamal Sharma
R/o Flat No. 392, SFS Flats,
L-Block, Phase-IV Ashok Vihar,
Delhi-110052

..... Applicant(s)

Versus

- 1. Ministry of Environment, Forest and Climate Change,**
Through its Secretary,
Indra Paryawaran Bhawan,
Jorbagh Road, Aliganj
New Delhi-110003
- 2. Central Pollution Control Board**
Through its Secretary,
Parivesh Bhawan,
CBD-cum-Office Complex
East Arjun Nagar,
Delhi-110032
- 3. Delhi Pollution Control Committee**
(Department of Environment)
4th Floor, ISBT Building, Kashmere Gate,
Delhi-110006
- 4. Commissioner of Police,**
Police Headquarters, ITO,
New Delhi-110002
- 5. Deputy Commissioner of Police,**
District North-West,
Ashok Vihar,
Delhi-110052
- 6. The S.H.O**
Police Station Bharat Nagar,
New Delhi-110052
- 7. The S.D.M,**
Old Middle School Building,
Lawrence Road, Rampura,
Delhi-110035
- 8. The Deputy Commissioner (North-West),**
BDO Office Complex,
Village-Kanjhawla,
Delhi-110081
- 9. Delhi Development Authority**
Vikas Sadan, I.N.A
New Delhi-110023
Through Director
(Land and Management)
- 10. DAV Public School, Phase-IV,**
(Police Station Bharat Nagar),
Ashok Vihar,
Delhi-110052
Through its Principal

.....Respondent(s)

COUNSEL FOR APPLICANT:

Ms. Meena Choudhary Adv. for Ms. Isha Malhotra

COUNSEL FOR RESPONDENTS:

Dr. Abhishek Atrey, Advs for MoEF for respondent no.1

Mr. Tarunvir Singh Khehar, Ms. Guneet Khehar and Mr. Charan Jeet Singh, Advs. and Mr. Dinesh Jindal, LO

Mr. Rajiv Bansal, Mr. Kush Sharma, Ms. Arpita Advs for respondent no.9

Ms. Savitri Pandey, Adv for respondent no.10

JUDGEMENT

PRESENT:

Hon'ble Mr. Justice Swatanter Kumar (Chairperson)

Hon'ble Mr. Justice Raghuvendra S. Rathore (Judicial Member)

Hon'ble Mr. Bikram Singh Sajwan (Expert Member)

Hon'ble Dr. Ajay A. Deshpande (Expert Member)

Reserved on: 21st April, 2017
Pronounced on: 03rd July, 2017

- 1. Whether the judgment is allowed to be published on the net?**
- 2. Whether the judgment is allowed to be published in the NGT Reporter?**

RAGHUVENDRA S. RATHORE (JUDICIAL MEMBER) J

1. Being aggrieved of the alleged illegal activities of respondent no.10, DAV public school, Phase IV, Ashok Vihar, Delhi, the applicants have filed the present application under Section 14, 15 & 17 of the National Green Tribunal Act, 2010. All the applicants have given different causes for their grievances. Accordingly, they have sought various reliefs for redressal of their grievances, which are as follows:

- i) Directing respondent No. 10 to permanently stop the Noise & Air Pollution.*

ii) Directing respondent No. 10 to make arrangements of having their sports activities and other functions in public halls or sports complexes elsewhere and not in the school.

iii) Directing respondent No. 4 to 8 to immediately register F.I.Rs against the Principal and other responsible staff of the school, respondent No. 10 who are involved in violating norms of noise pollution and proceed against them as per law.

iv) Directing punitive action by the appointing authority against the errant government officials of respondents No. 1 to 9, who are hands in gloves with the violators who have abetted respondent No. 10 in their illegal motives of spreading Noise and Air Pollution.

v) To issue interim as well as permanent direction may be issued against respondent No. 10 for preventing, prohibiting, controlling and regulating the incidents continuing in the school premises by stopping the vocal or instrumental music like musical bells, amplifiers, beating of drums, accordions, blowing whistles or use of electronic musical instruments in any manner whatsoever including loudspeakers, public address system, musical applications or apparatus or contrivances, which are capable of producing or reducing high pitch in sounds by completely banning the respondents No. 10 from doing so.

vi) To direct respondent No. 10 to stop its teaching activities in the said area and shift it to any other alternative

site in case it does not deter from spreading the said noise pollution in or around the vicinity.

vii) Directing respondent No. 9 to cancel the Lease of respondent No. 10 and relocate land for the school at an alternative place so that the residents and the petitioners of the area are allowed to live in peace;

viii) Directing part of the area of the playground, which has been illegally encroached by respondent No. 10 to be restored to its original form of a park, to be handed back to the residents of the area for use and enjoyment as a public park;

ix) In the alternative, it is further prayed that the respondents be directed to shift the school from the residential area to any other area and use the said building for its administrative purpose, so that there is no further disturbance by noise pollution to the applicants and other residents of the area.

x) That exemplary damage kindly be imposed upon respondent No. 10 along with punitive damages upon respondent No. 4 to 9 for not taking action as per law and shirking from their statutory duties to prevent air and noise pollution.

xi) Pass any other relief that this Tribunal may deem fit and proper in the facts and circumstances of the case.

2. It is stated in the application that DAV school i.e. respondent no. 10, is situated in the locality of the

applicants. The school is being run by a registered society. It is alleged by the applicants that running of the school creates safety hazards, causes traffic congestion and endanger the safety of the residents of the locality. The vehicles which are parked outside the school premises also cause air as well as noise pollution because of honking of horns. Further, it is stated that noise pollution is caused by ringing of bells, beating of drums, shouting of students/teachers, blowing of whistles, blowing of amplifiers and loudspeakers in the school premises as well as in its open area which is causing irritation and health hazards.

- 3.** Further, it is alleged by the applicants that respondent school got the land illegally allotted in its favour in collusion with the DDA officials. The respondent DDA has not only allotted land to the school in residential area but also gave them the local park belonging to the residents of the colony which is in complete violation of Master Plan. According to the applicants, as per reliable information, several trees were cut down by the school at the time of construction and it caused severe impact on the ecological balance of the residential area, resulting in reduction of green area. A civil suit was also filed by applicant no.3, namely, Residents Welfare Association, SFS Flat, Phase IV, Ashok Vihar in High Court of Delhi, regarding the illegal allotment, about two decades ago. But the said suit could

not be properly managed and contested because of lack of complete information regarding procedure for allotment of land to the school. The applicant no.3 was unsuccessful in getting the allotment cancelled. It is alleged that the school authorities, therefore, kept a hostile attitude towards the residents of the colony. The school is said to have encroached upon certain areas which were delineated as a remaining park for the residents. Thus, the children of the residents are facing loss of park because of which they have to play on streets and corridors of the colony. Further, it is the case of the applicants that the school has not only made several violations and illegal construction of buildings but there is non-compliance with regard to maintenance of peace/silence zone.

4. It is also the case of the applicant that the school authorities are causing continuous noise pollution and they refuse to bring down the sound levels of loud speakers, drums and school bells. Applicant no.4, Ms. Parul Sharma, who is a President of an NGO, namely, Social Reformer, had along with her Lawyer met local Police to apprise them about the agony suffered by the applicants. But they met with hostile attitude of DCP, respondent no.5.

5. The efforts of local residents, residents Welfare Association and other citizens who had regularly complained about their sufferings from noise pollution had failed because the local authorities/Police had failed to curb such illegal

activities. It is further stated that the school authorities have high approaches and they do not abide by any rules or regulations. The applicants have been complaining for last several years against the noise pollution but no substantial action has been taken. It is said that excessive noise is creating permanent hearing loss, painful ears along with headache, irritable frame of mind to the neighbours, etc. The applicants have stated that Saturdays, Sundays and evenings are not spared because the school has sports meet. There are sessions and extra-curricular activities going on after school hours. It is alleged that respondents are leasing out their premises for holding social functions, public campaigns and other gatherings in the school premises which is not permissible.

- 6.** It has been stated in the application that there are various statutory enactments under the Civil, Criminal as well as Constitution laws, giving ample powers to implement and enforce the laws meant for preventing noise pollution *vis. a. vis.* pollution which are enumerated in different Acts and Laws.
- 7.** A reply affidavit to the application has been filed on behalf of Delhi Development Authority, respondent no.9, wherein it has been stated that the issue of spreading noise pollution comes under the purview of MoEF&CC and other Pollution Control Authorities such as CPCB, DPCC, Police etc. Further, it is submitted that answering respondent is

not responsible for noise pollution control and the allotment of the land cannot be cancelled as there has been no contravention of the provisions of DDA Act, 1957 or the DDA Rules, 1981. With respect to lease it is stated that it can only be cancelled on violation of the terms and conditions of lease deed.

8. The Learned counsel for the applicants had vehemently argued, in support of the relief sought from the Tribunal, by reiterating the submissions made in form of pleadings. It has been contended on behalf of applicant no.1, a Baby of 1.9 years old, that she is suffering from irritability, sleep disorder and has lack of playing area which has been taken over by respondent no.9 &10. The learned counsel had also represented applicants no. 2&3 who are the President and Secretary of residential flats and of the residential welfare association consisting of 45 and 300 flats respectively. Applicant no.4 is a Doctor of occupational therapy and a social activist. The counsel submitted that applicant no.5 is a senior citizen, a widow lady of 82 years living in flat no. 376, SFS flats, L Block, Phase IV, Ashok Vihar. She is said to have shifted to this flat in search of peace in old age. Applicant no.6 is a practicing lawyer since last 30 years and is living in the residential colony for last 8 years. It has been argued that all the applicants are sufferers of extreme noise pollution caused by respondent no.10.

- 9.** Further, it is contended on behalf of the applicants that the residents of society have complained, many times, to the Police officials and Pollution Board that the respondent school is spreading noise pollution through ringing of bells and electronic piano sound which causes extreme disturbance in the mind to the extent that the old age persons and the persons who are not keeping well cannot bear that noise which rings after every 30 to 40 minutes causing continuous nuisance, mental tension and health hazard. It has been submitted that beating of drum, blaring of loud speaker, blowing of whistle, in addition to the ringing of piano bells, are blown in full volume exceeding the permissible decibel limit of silence zone.
- 10.** The learned counsel for applicants has further submitted that respondent school authorities are continuously causing noise pollution which is ear splitting and mind blowing. They have refused to lower down the noise levels while operating loud speakers, drums and school bells. Applicant no.4 who is also the President of an NGO i.e. Social Reformer had along with her lawyer went to meet the local DCP, respondent no.5 to apprise him of the mental and physical agony suffered by the applicants. But they were met with hostile attitude of DCP who had asked them to knock the doors of the Court for their redressal. Being anguished of his behaviour, the applicant made a

complaint to the Commissioner of Police, Delhi regarding the misconduct of the Police officials.

According to the learned counsel for the applicants, efforts made by the local residents, Resident Welfare Association and other senior citizens by making regular complaints had failed because the local authorities and the Police did not curb down such illegal activity. The member of the school had also not done anything in the matter. Therefore, it was submitted that the Tribunal may grant the relief sought by the applicants so that their grievances are redressed.

11. The learned counsel for Delhi Development Authority, respondent no.9, has submitted that as the issue of spreading noise pollution comes under the Ministry of Environment, Forest and Climate Change and the Pollution Control Authorities such as DPCC and they are not responsible for the same. It has also been contended that unless there are contravention of the provision of Delhi Development Authority (Disposal of Developed Nazul Land) Rules, 1981 a lease granted cannot be cancelled. As regard to, the lease granted in favour of respondent school, it has been submitted by the counsel for Delhi Development Authority that it can only be cancelled in case the terms and conditions of the allotment/lease are violated.

12. The learned counsel for DAV Public School (respondent no.10) has emphatically denied of any noise pollution in the

area. He has submitted that the school has been running in that area for over 30 years by now. Further, it has been submitted that bells of the school are being rung in a routine when the classes are over and in a manner that the same is heard by the students. They have denied the use of loud speaker and high volume producing sound system. The use of piano etc. is done only at the relevant time with normal sound. There is no question of any musical instruments causing extreme disturbance in the mind of people living in the colony. The bell rings for a short duration only for the purpose of change of class by students and not for 30-40 minutes continuously. The whistles are blown only when the children are playing games and that too by the in-charge. On behalf of authorities of the State of (NCT) Delhi, it has been denied that there is any noise pollution in the area. It has been submitted by the counsel representing the authorities including the Police that respondent school is functioning in normal way, since a long time. There had never been any complaint about noise pollution being created by the school. Never an issue has been raised in this regard by member of public.

13. We have given our thoughtful consideration to the contentions raised by the learned counsel for the respective parties and carefully perused the material on record. A look to the prayer clause of the application shows that

directions have been sought against the respondent school to permanently stop the noise and air pollution. The school should be directed to make arrangements for their sports activities and functions in other public halls and complexes and not in the school. It has also been requested that respondent no. 4 to 8 be directed to immediately register FIR against the Principal and other responsible staff of the school who are involved in violating the norms of noise pollution and to proceed against them in accordance with law. The applicants have also sought directions that punitive action, by the appointing authority, should be taken against the erring government officials i.e. respondent no. 1 to 9 who are hand in glove with the violators and have abetted the respondent school in their illegal motives of spreading noise pollution. A request has also been made to issue directions against respondent school for prohibiting, controlling and regulating the incidents in the school premises by stopping music, bells, amplifiers, beating of drums, blowing of whistles or use of electronic instruments in any manner whatsoever including loud speaker, public address system, musical applications or apparatus which are producing high pitch sounds.

The applicants have further prayed to stop teaching activities in the area and shift the school to any other alternative site in case it does not stop spreading noise pollution. Directions have also been sought against Delhi

Development Authority, respondent no.9 to cancel lease of the respondent school and relocate the land for the school at an alternative area so that the applicants are allowed to live in peace. Applicants have also prayed that part of the area of playground be handed back to the residents for use as a public park. In the alternative it has been submitted that the school be shifted from the residential area to any other area and use its building for administrative purposes so that there is no disturbance to the applicants by noise pollution. Exemplary damages have been sought to be imposed on the respondent school, along with punitive damages upon the other respondents for not taking action in accordance with law and shirking from their statutory duties.

- 14.** Therefore, multiple reliefs have been sought by the applicant in the present application. The prayers made in the instant application are not only different in nature but also related to various authorities against whom different remedies, under respective laws, have been provided before the appropriate forums. In this application, we are primarily concerned with Section 14 and Schedule I appended to it enumerating seven enactments, under the National Green Tribunal Act, 2010. Moreover, National Green Tribunal Practice and Procedure Rules, 2011 prohibits plural remedies in an Original Application or Appeal. The said Rule reads as under:

"Rule 14. Plural remedies.--An application or appeal, as the case may be, shall be based upon a single cause of action and may seek one or more relief provided that they are consequential to one another."

It specifically provides that a single cause of action alone may form the basis of an Application or an Appeal. In case a cause of action is consequential to one another then the same may be included in an Application/Appeal.

For the sake of elaboration we may refer to the case of *Vikas K. Tripathi Mumbai v. The Secretary, MoEF, Manu/GT/0124/2014(01.10.2014* the relevant extract reads as under:

"22. Perusal of Rule 14, without any prejudicial notions in the mind, will make it amply clear that any Application or Appeal, as the opening words imply are distinct remedies under which the particular relief may be sought on single cause of action. Thus, if properly read the rule provide as follows:

i) There may be either single Application or Appeal. In other words, it cannot be a comprehensive or hybrid type of pleadings like Appeal-cum-Application, as captioned by the Appellant-cum-Applicant (Vikas Tripathy) as in the present Application/Appeals.

ii) The Appeal or Application, whatsoever it may be must be filed on single cause of action. Thus, it cannot be filed on several causes of action. In other words, an Appeal cannot be filed with combined

causes challenging different ECs or orders, nor an Application can be filed challenging different orders or different violations under the different laws.

iii) Still, however, choice given to the Appellant/Applicant is to ask for grant of more than one relief in case such reliefs are of consequential character. In other words, if a relief depends upon grant of another relief, then grant of more than one relief is permissible.

23. We cannot overlook and brush aside main provisions of the NGT Act, which do not provide for any kind of permission to allow filing of two Appeals, one against the time barred EC, coupled with another EC for revised construction plan along with an Application under Sections 14, 15 and 18 of the NGT Act, 2010. In case, Vikas Tripathi is genuinely interested in the cause of environment and feels that the project in question has caused violations of EC conditions/deterioration of the environment, then he is at liberty to file a separate Application under Section 14(1)(2) read with Sections 15 and 18 of the NGT Act, 2010 if so advised and if it is permissible under law. He cannot, however, club all such Appeals and Applications together and explore to examine whether one cap fits on another".

- 15.** In other words, cause of actions more than one cannot be the basis of an Original Application as has been done in the present case. The applicant has based the present Application on multiple cause of actions which relates to different laws, remedies and redressal to be sought before various authorities. Therefore, the present Original Application has to go and cannot be entertained on this

count alone. However, the matter has been argued on merits, we may proceed to deal with the points raised by the applicant individually, hereafter.

16. Coming to the question of issuance of directions by this Tribunal to respondent no. 4 to 8 for registration of FIR against the Principal of the respondent school and other members of staff, it may be mentioned that a First Information Report is to be registered by the Police or the Station House Officer (P.S Bharat Nagar in the present case) in accordance to the provisions of CrPC. The Code of Criminal Procedure, 1973 is complete in itself which provides the procedure, under Chapter XII, relating to “Information to the Police and their powers to investigate”. If an information is given orally by a person to an Officer In-charge of the Police Station, it shall be reduced in writing by him or under his directions, and be read over to the informant. Further, such information, whether given in writing or reduced in writing shall be signed by the person giving it and a substance there of shall be entered in a book to be kept by such officer as may be prescribed by the State Government.

If a person has a grievance that the Police is not registering his First Information Report, then he can approach the Superintendent of Police (154(3) CrPC) by an application in writing. Even if that does not yield any result and the First Information Report is still not

registered, it is open to the aggrieved person to file an application under (156(3) CrPC) before the Learned Magistrate concerned. On such application having been filed, the Magistrate can direct an FIR to be registered and also can direct an appropriate investigation to be made, where according to the aggrieved person no proper investigation was made. The Magistrate can also under the same provision monitor the investigation to ensure a proper investigation. The Hon'ble Supreme Court of India in the case of Sakiri Vasu v. State of Uttar Pradesh and Others (2008) 2 SCC 409 has elaborately dealt with the aforesaid provisions of CrPC and the relevant extracts of the judgement are as under:

“11. In this connection we would like to state that if a person has a grievance that the police station is not registering his FIR under Section 154 CrPC, then he can approach the Superintendent of Police under Section 154(3) CrPC by an application in writing. Even if that does not yield any satisfactory result in the sense that either the FIR is still not registered, or that even after registering it no proper investigation is held, it is open to the aggrieved person to file an application under Section 156(3) CrPC before the learned Magistrate concerned. If such an application under Section 156(3) is filed before the Magistrate, the Magistrate can direct the FIR to be registered and also can direct a proper investigation to be made, in a case where, according to the aggrieved person, no proper investigation was made. The Magistrate

can also under the same provision monitor the investigation to ensure a proper investigation.

17. *In our opinion Section 156(3) CrPC is wide enough to include all such powers in a Magistrate which are necessary for ensuring a proper investigation, and it includes the power to order registration of an FIR and of ordering a proper investigation if the Magistrate is satisfied that a proper investigation has not been done, or is not being done by the police. Section 156(3) CrPC, though briefly worded, in our opinion, is very wide and it will include all such incidental powers as are necessary for ensuring a proper investigation.”*

18. Therefore, the prayer made by the applicant for directing Commissioner of Police, respondent no.4, Deputy Commissioner of Police, respondent no. 5, the SHO, Police Station, Bharat Nagar, respondent no.6, the SDM, respondent no.7 and the Deputy Commissioner (North West), respondent no.8 to register a First Information Report against the Principal and other respondent staff of the school, respondent no.10, is not tenable. The Tribunal is not the forum for seeking directions to an In-charge of Police Station or to any other Police officer because it is not empowered to do so under the Code of Criminal Procedure or NGT Act, 2010. The proper course for redressal of such grievance is under the Noise Pollution (Regulation and Control) Rules, 2000. The applicant in the instant case has mentioned for lodging of First Information Report and

alleged that the same has not been done by the In Charge Police Station. Under the Rules of 2000, a complaint has to be lodged before the authority or even an officer authorised by the Central Government or the State Government, as the case may be, in accordance with the relevant law.

- 19.** In so far as cancellation of the lease deed of respondent school, relocate the land for school at alternative area, shifting of the school from residential area to any other area and to use its building for administrative purposes is concerned, it is in the domain of other respondents like Delhi Development Authority or the State Government and its authorities.

Similar Prayer has been made by the applicant for issuing direction to the appointing authorities to take punitive action against the Government officials, respondent no. 1 to 9 who are alleged to be hands in gloves with the violators. In other words, the applicant is desirous to have a departmental action against the officers, through their appointing authorities so as to take disciplinary action against them for inaction in doing their duties. The applicant has sought action against the respondent government officials under the service law. It is alleged that respondent officials are hands in gloves with the violators and they have failed to do their duties, in accordance to law. This Tribunal is not the appropriate forum nor such issues are covered under NGT Act, 2010.

20. The only question which remains for consideration of the Tribunal is the alleged violation of the norms of noise pollution by the respondent school. Allegations and counter allegations have been made by the parties and vehement arguments have been advanced before us. It would be appropriate to mention here the relevant provisions:

“In exercise of the powers conferred by Cl. (ii) of sub-section (2) of Sec. 3, sub-section (1) and Cl. (b) of sub-section (2) of Sec. 6 and Sec. 25 of the Environment (Protection) Act, 1986 (29 of 1986) read with rule 5 of the Environment (Protection) Rules, 1986, the Central Government has made the following rules vide Notification dated 14.02.2000 for the regulation and control of noise producing and generating sources, namely: -The Noise Pollution (Regulation and Control) Rules, 2000.

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

(1) *The ambient air quality standards in respect of noise 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 area.*

(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 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 meters 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.

(3) The respective State Pollution Control Boards or Pollution Control Committees in consultation with the Central Pollution Control Board shall collect, compile and publish technical and statistical data relating to noise pollution and measures devised for its effective prevention, control and abatement.

5. Restrictions on the use of loud speakers/public address system [and sound producing instruments]. – (1) A loudspeaker 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 or any sound producing instrument or a musical instrument

or a sound amplifier shall not be used at night time except in closed premises for communication within, like auditoria, conference rooms, community halls, banquet halls or during a public emergency.]

(3) Notwithstanding anything contained in sub-rule (2), the State Government may, subject to such terms and conditions as are necessary to reduce noise pollution, permit use of loud speakers or (public address system and the like during night hours) (between 10.00 pm to 12.00 midnight) on or during any cultural or religious festive occasion of a limited duration not exceeding fifteen days in all during a calendar year) (The concerned State Government shall generally specify in advance, the number and particulars of the days on which such exemption would be operative.)

(4). 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;)

((5). The peripheral noise level of a privately owned sound system or a sound producing instrument shall not, at the boundary of the private place, exceed by more than 5dB (A) the ambient noise standards specified for the area in which it is used.)

7. Complaints to be made to the authority.-*(1) A person may, if the noise level exceeds the ambient noise standards by 11) dB (A) or more given in the corresponding columns against any area/zone,[or, if there is a violation of any provision of these rules regarding restrictions imposed during night time], 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 in charge 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 risk of annoyance, disturbance, discomfort or injury to the public or any person who dwell or occupy property on the vicinity, he may, by 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 premise 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: Provided that before any such application is disposed of, the said authority shall afford to the applicant an opportunity of appearing before if either in person or by a person representing him and showing cause against the order and shall, if it reflects any such

application either wholly or in part, record its reasons for such rejection.”

- 21.** Under the aforesaid Rules of 2000, a complaint has to be made to the authority, which means and includes any authority or officer authorized by the Central Government, or as the case may be, the State Government in accordance with law in force. It includes the District Magistrate, Police Commissioner or any other officer not below the rank of Deputy Commissioner of Police designated for the maintenance of ambient air quality standards in respect of noise under the law for the time being in force. The ambient air quality standards in respect of noise be areas/zones such as specified in the Schedule annexed to the Rules of 2000. It shall be the responsibility of the authority for enforcement of noise pollution control measures and due compliance of ambient air quality standards in respect of noise.
- 22.** It further lays down the restriction on the use of loud speakers/public address system. They can be used only after obtaining written permission from the authority. The loud speaker/ public address system or a sound amplifier is not to be used at night time except in close premises. However, subject to terms and conditions as are necessary, permission may be given for use of such system between 10 to 12 at midnight, for a limited duration not exceeding 15 days in all, during a calendar year. Under the Rules of

2000, powers have been given to prohibit etc. or continuance of music sound or noise. In case an authority is satisfied from the report of an officer in-charge of the Police Station or other information received by him that it is necessary to prevent annoyance, disturbance or injury to the public or person dwelling in the vicinity, he may issue direction as may be considered necessary to any person for preventing, prohibiting, controlling or regulating the incidents or continuance in or upon any premise, any vocal or instrumental music noise caused by playing, blowing or use of loud speaker, carrying on in particular or operation resulting in noise.

Such orders passed by the authority, on an application of the aggrieved person or in its own motion can rescind or modify or alter such orders. However before disposal of any such application, the authority is to afford an opportunity of appearing to the applicant and showing cause against the order. The authority shall record its reasons for rejection, if any, of the application.

23. In the instant case, the applicants have raised grievance that the respondent school has violated noise pollution rules. But on perusal of the averments made in the application goes to show that there are general and vague averments made in this regard. The applicants have failed to mention as to how and in what manner the respondent have violated the rules. Merely by stating that the

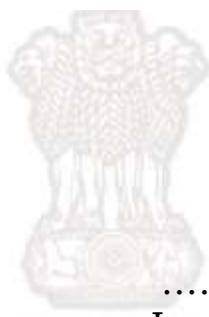
respondent school is creating noise through loud speaker, ringing of bells, etc. would not suffice to show as to what standards/parameters of noise have been violated by the respondent school. Moreover, no cogent evidence has been placed on record to show as to how the relevant rules have not been followed by the school. The very fact that the applicants have raised many objections starting from allotment of land, construction etc. since a long time further shows that the alleged noise pollution is not the primary cause and the motive behind several objections raised by the applicants, as reflected from the multiple prayers sought, is something else. In absence of any specific averment and evidence, it cannot be adjudicated as to whether respondent school is presently violating the noise pollution rules. The only mention made by the applicants is that, they are suffering from various diseases but without corroborative evidence to show that they are consequential to the noise pollution, it cannot be presumed that the alleged diseases being suffered by the applicants are directly connected with the activities of the respondent school.

- 24.** For the aforesaid reasons and after taking into consideration the case of the applicants in its entirety as well as the submissions made on behalf of the parties, we are of the considered view that in case a situation so arises, the applicants may file a complaint in respect of their

grievance, under Rules of 2000 before the authority i.e. Deputy Commissioner of Police, District North West Delhi. On receipt of a complaint in accordance to the Rules of 2000, if, the authority is satisfied from the report of the officer in-charge of Police Station or other information received by him that it is necessary to pass an order under Rules of 2000, he may pass an order as considered necessary to any person for preventing, controlling or regulating incidents or music or sound caused in any manner or carrying of any other activity in the premises relating to noise pollution. However, the authority may upon an application of any person aggrieved by an order so made, modify or alter the same after giving opportunity of appearing to the applicant, who has sought modification of the order and decide such applications with reasons.

Respondent No. 10 is directed to obtain permission from the authority under Noise Pollution (Regulation and Control) Rules 2000, for using of loud speakers/ public address system in the school. Further, they are directed to seek prior permission from the authorities in respect of incidents or operation or for any function which may fall within the purview of Noise Pollution (Regulation and Control) Rules 2000.

25. With the aforesaid directions the Original Application is disposed of, with no order as to cost.



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Justice Swatanter Kumar
(Chairperson)

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Justice Raghuvendra S. Rathore
(Judicial Member)

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Bikram Singh Sajwan
(Expert Member)

.....
Dr. Ajay. A. Deshpande
(Expert Member)

New Delhi.
Dated: 3rd July, 2017

NGT