

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONAL BENCH, BHOPAL**

Original Application No. 78/2016 (CZ)

CORAM

**Hon'ble Mr. Justice Dalip Singh
(Judicial Member)**

**Hon'ble Dr. S.S. Garbyal
(Expert Member)**

BETWEEN

Chhattisgarh Nagrik Sangarsh Samiti
F-8 Pink City, New Gayatri Nagar
Raipur, 492007 Chhattisgarh

.....Applicant

Versus

1. The Principal Secretary,
Nagariya Parishashan and vikas Vibhag,
MahanadiBhawan, Naya Raipur C.G.
2. The Principal Secretary,
Aawasaur Parayawaran Vibhag,
Mahanadi Bhawan, Naya Raipur,
Raipur, Chhattisgarh
3. The Member Secretary,
Chhattisgarh State Environment Conservation Board,
Kabir Nagar, Raipur C.G.
4. The Collector
Raipur
5. The Superintendent of Police,
Raipur Municipal Corporation,
Raipur
6. The Commissioner,
Raipur Municipal Corporation,
Raipur
7. The Commissioner,
Transport Department Naya Bus Stand,
Pandri, Raipur

8. Managing Director,
Chhattisgarh Power Distribution Co. Ltd.,
Daganiya, Raipur

.....Respondents

Counsel for Applicant : Shri Yugantar Tiwari, Adv.

Counsel for Respondent No. 8: Shri Shri Rohit Sharma, Adv. for
Shri Deepesh Joshi, Adv.

Counsel for CECB: Ms. Parul Bhadoria, Adv. for
Shri Purushendra Kaurav, Adv.

Counsel for State of C.G.: Shri Rohit Sharma, Advocate for
Shri Siddhartha Chauhan, Adv

JUDGEMENT

- 1) Whether the judgement is allowed to be published on the internet -- yes
2) Whether the Judgement is to be published in the All India NGT Report -- no

Dated : September 27th, 2016

MR. JUSTICE DALIP SINGH, JM

1. This Original Application raised similar issues as in O.A. No. 77/2015 *N. Vaidraj V/s Union of India* and Ors. and O.A No. 109/2015 *Hopwell Society V/s State of M.P.* and Ors. The prayer inter-alia was in respect of imposing a ban on the use of DJs and loudspeakers along with the all types of processions including rallies (1) for a direction that the Respondents particularly in Chhattisgarh Environment Conservation Board (CECB), District Collectors, SPs be equipped with instruments to measure the noise pollution and the said be done during public and private events (2) the Respondents be directed to take effective action against noise and air pollution and take prompt action in the event of the complaint being filed.

2. It was further prayed that erection of *pandals* and welcome gates on public properties and on roads leads to congestion and blockages of traffic which also causes high levels of air pollution and noise pollution as such permissions should not be accorded. Another issue raised is with regard to the air pollution particularly Pm 2.5 and Pm 10. It is prayed that directions be issued for continuous monitoring not only along the major highways and major points in the city but also at marriage halls marriage grounds etc.
3. As we have stated above in the case of *N. Vaidraj Vs. Union of India* supra the issue has been dealt with by us in our order dated 18.04.2016 while disposing of the Application we had also taken into consideration the directions issued by the Hon'ble Supreme Court in the case IN RE: Noise pollution Vs. unknown reported in 2005 SCC 3136 as also in the judgment of the Principal Bench NGT in the case of Supreme Court Housing Society and another Vs. All India Panchayat Parishad decided on 18.12.2012. For ready reference the heart of the order in the light of the Supreme Court and NGT Principal Bench Judgment reads as follows :

“The Hon'ble Supreme Court had issued detailed directions on the following questions :

(i) interference with communication (ii) disturbance of sleep (iii) annoyance (iv) effect on performance (v) psychological effects (vi) adverse health effect particularly to persons suffering from high blood pressure and to the extent of aggravating stomach ulcer as a result of secretion of various kinds of juices etc. in the body, the impact on un-born children and infants, to name a few. The Hon'ble Supreme Court while dealing with the question of

the right of the individual to celebrate the festivities and the likelihood of curb on such rights as a result of any impeding action clearly spelt out that the freedoms and the rights which a citizen enjoys is restricted to the limit till such time as it does not interfere with similar rights or other rights of other citizens to enjoy peace, tranquillity etc.

The Principal Bench at New Delhi in its judgement also directed that there was a need for creating awareness in this regard particularly in situation to take measure in the celebration and the festivities. It was noted that the lack of awareness and ignoring somehow the harmful impact and the use of such crackers of high decibel levels often results in accident and unwanted harm and therefore direction were also issued to the Government of the States to issue necessary instruction and circulars to the education department through the Principal of all schools for creating awareness among these peoples and the children. We only reiterated that the directions given by the Hon'ble Supreme Court and by the Principal Bench, National Green Tribunal need to be followed and complied with and on a regular basis such awareness should be created particularly among the younger generation through the curriculum in the school regarding the adverse impact and precaution to be taken with regard to the use of fire crackers during the festivities and the adverse impact of various crackers on persons which have been noted above in the judgement of the Hon'ble Supreme Court."

4. In the present case apart from the noise pollution since there was also the question involved of air and noise pollution due to vehicular disturbances and other issues we had directed the CECEB as well as the State of Chhattisgarh to separately file their response. The Chhattisgarh Environment Control Board (CECEB)

had carried out a study and submitted data of air and noise monitoring at various locations in Raipur the capital city of Chhattisgarh during various periods commencing from 2013 to 2016.

5. While, there is some amount of fluctuations in the levels during the day and night time as also between normal days and festivals days we find that the noise levels are on the higher side than the prescribed limits. This is cause of concern as even at places like the AIIMS hospital at Raipur and the Collectorate the noise levels are exceeding to prescribed limits.
6. Learned Counsel appearing for the CECB submitted that in the last two years vehicular traffic has increased considerably and this would be one of the possible causes for noise levels being on the higher side. While this may be so as it cannot be disputed without proper studies there is a need for the CECB as well as the Transport Department and the Environment Department of the Government as also the local municipality to consider ways and means for smoothen flow of traffic without obstruction so that there is no excessive use of horns which generally add to the noise levels particularly when the movement of traffic is slow or there is congestion on the roads due to heavy traffic. Suitable remedies like widening of roads or proper traffic management would need to be worked out by the local administration and the traffic department and Transport Department. At the same time, too much inconvenience to the public as a result of such measures also needs to be taken into account. The very fact that even in silence zone near the AIIMS hospital the noise levels are

particularly high as mentioned in the reply in paragraph 3 is a cause of concern and must be addressed at the earliest. What is true in the case of silence zone like hospitals and other institutions also holds good for other areas wherever noise levels are on the higher side. The Transport Department and the Police Department also need to view seriously the use of pressure horns which are otherwise prescribed again needs to be initiated against such violators who use pressure horns in urban areas.

7. Noise levels during festival season of *Durga Puja, Diwali & Ganesh Utsav* though temporary but can be quite annoying and a cause of concern in this behalf. The directions issued by the Hon'ble Supreme Court and the Judgment of the Principal Bench NGT referred to above need to be implemented by the administration. Past experience has generally shown that people are reluctant to complaint for fear of internalising the people who resort to such use of loudspeakers etc. particularly in the name of religious functions and festivities. The District administration and police therefore, without waiting for formal complaints in this behalf need to act suo-moto promptly. Whenever, such complaints are filed or reported on telephone action must be initiated by the administration in accordance with law.
8. The issue with regard to the erection of *pandals* and welcome gates is something that needs to be viewed seriously by District administration and the local authorities and the local personnel. With high increase in the volume of traffic in the cities permission for erection of such gates and *pandals* on the roads should not be granted at all. Wherever, such *pandals* and

welcome gates (*toran*) are erected without permission also immediate action should be taken by the local municipality and police and district administration for removal of the same as also for penalising persons responsible. Since, it is common administrative practice that without taking permission from the District administration and police no procession etc. can be taken out. The District administration must therefore, be vigilant to ensure that along the route there are no such *pandals* or welcome gates and even during the course of the procession no obstruction is caused to the smooth flow of traffic which may result in adding to the air and noise pollution. As far as, the noise pollution during festivities *Durga Puja, Diwali & Ganesh Utsav* is concerned the report submitted by the CECB confirms the fact that the air ambience quality during the times of such festivities is not satisfactory or within the prescribed norms. Similarly, due to vehicular pollution levels of PM 2.5 and PM 10 are also on the higher side. It has been stated by the CECB as also by the State in their reply that the State had undertaken a massive drive for checking the vehicular pollution and as issue notification on 10.09.2001 in exercise of the powers conferred under the Motor Vehicle Act 1989 and the rules framed there under particularly Rule 115 of the Motor Vehicle Rules. A statistics chart has also been provided by way of Annexure R5 which shows that there has been a two fold increase in the number of *chalans* in violation of the Motor Vehicle Rules in so far as the use of pressure horns is concerned. Use of pressure horns and checking for pollution under control certificates (PUC), this need to be

done on a regular basis and at more places by establishing checkpoints. As regards the, festive season during the course of hearing in *N. Vaidraj* case a response had been filed by the Central Pollution Control Board (CPCB) which is as follows :

“The CPCB to whom notices were also issued have filed their response.

It has been submitted in the same as follows :

That, CPCB has not conducted any study related to health impacts due to air emissions from firecrackers as the same is not a domain in which the board exercises its statutory mandate. Ministry of Health and Family Welfare is the competent authority for the health impact issues. However, from online literature survey, it is evident that there are health impacts due to air emissions from firecrackers. The frequent use of fireworks in the Deepawali like events and /or in different celebration issues, may have potential and /or dangerous impact on air quality / health as a cumulative effect of pollution. The ingredients of fireworks have hazardous / toxic effects that is Aluminium causes contact dermatitis & bioaccumulation; Sulfur Dioxide causes acid rain from sulphuric acid affecting water resources, vegetation and property damage; potassium nitrate emits toxic dusts and carcinogenic sulphur-coal compounds; ammonium and potassium perchlorate can contaminate ground and surface water, and can cause thyroide in humans and animals; nitrogen dioxide is highly toxic by inhalation. Also, children breathe toxic air and suffer from nasal irritation and throat congestion. The smoke also irritates the eyes, cause tears and redness. Bursting crackers may increase blood pressure and aggravate heart disease. Nausea, headache and giddiness are common effects of bursting firecrackers. Lung infections such as coughing, sneezing, respiratory disorders like asthma, wheezing often get severe during Diwali festival. The poisonous gas can also affect pregnant women adversely. It may also affect the mentally ill patients leading to depression, fear and stress. The submission on “Firecrackers – Air Emission and Health Impacts” has been prepared through the online literature survey.

9. The administration therefore, needs to take effective steps in the light of the issues mentioned by the CPCB in its response quoted above. Even the general public needs to be apprised and made aware of the hazards as a result of use of such fire crackers during festivities. Awareness programmes by print and electronic media as also by pamphlets to be distributed by the Government and local authority can be carried out so that people are made aware about the harmful impact by such air and noise pollution. While deciding the case of *N. Vaidraj* in our order dated 18.04.2016 we had specifically directed the State Governments including that of Chhattisgarh to ensure strict compliance of the rules along with the directions issued by the Hon'ble Supreme Court as well as PB NGT contained in its judgment dated 18.12.2012. The researchers are in the continuous process of studying the impact of such air and noise pollution not only on humans but even on animals and birds and plants. There is a duty under Article 48 (A) of the Constitution as well as under Article 51 (A) clause (g) for the State and individual citizens for having compassion for all living creatures something that can be explained in educational institutions and elsewhere for younger generation to take note of.
10. We may also add here what we had said with respect to the need for the administration to take effective steps in so far as grant of permission under the explosive incenses and setting up of *pataka* shops etc. are concerned while still on the issue of noise pollution and air pollution as a result of the use of crackers. In *N.Vaidraj* case we had drawn the attention in the following terms:

“The second issue which requires our attention is with regard to the alleged availability of imported crackers in the market. Very often we find that on the packaging and the labels there is no caution appended on the same as decibel level of the crackers are not reflected, since under the Rules of 2006 the permissible decibel level have been prescribed. We would therefore, direct that the MoEF Government of India through the Home Ministry as well as the Commerce Ministry issue directives to the manufactures informing the prescribed decibel level of the crackers so that no cracker crossed the prescribed decibel levels as provided under the Rules.

Secondly, more importantly in our opinion, is the issue with regard to the composition of the compounds which are used in the manufacture of these crackers. There is need for all persons using such crackers to be aware of composition and their adverse impact on them individually on account of the air pollution and its adverse impact on the Air Ambient Quality. Since, the bursting of crackers during festivities most often take place on the streets which are very often very narrow and congested and in such places, the harmful impact last for a longer duration because of the cumulative impact of large number of such crackers of various intensity and decibel levels being burst within the short span of 3 to 4 hours. Adverse health problems particularly with regard to the patients suffering from respiratory diseases and other ailments as noticed by the Hon’ble Supreme Court need to be considered and therefore, the directions of notifying the compound which are permissible in the manufacture of such crackers need to be regulated and whatever compounds are considered to be hazardous need to be banned.

We have been informed that till date no permissions have been granted by the Government of India for the import of crackers yet there is widespread belief that imported crackers are available in large quantities in the markets throughout the country. Their popularity has further risen on account of the fact that their cost in comparison to indigenous crackers is much lower and therefore, preferred by people. The District Administration that is the District Magistrate / Collector as

well as the police Department therefore, have to be vigilant and ensure that such crackers whose compositions and decibel levels are not at all known and whose import has not been sanctioned should be impounded and vigil be kept in this behalf.

11. The use of DJs during marriages and other ceremonies and parties may add to enjoyment and entertainment for those organising and participating in such functions but it adds to the noise to residents of the locality and need is, therefore, for the administration to ensure that these are not allowed to interfere with the rights of other citizens. In so far as their right to a peaceful environment and sleep are concerned, we have earlier in the case of *Alankrita Mehra Vs Union of India* O.A No. 21/2013 given detailed directions so also a similar matter in the case of *Arjun Gopal Vs. Union of India* is reported to be pending before the Hon'ble Supreme Court as such detailed directions in that behalf are not being given separately but the administration must take care that such DJs act in accordance with law and the rules framed there under for maintaining the decible levels and the timings prescribed there under. Along with the DJs more often we find that there are diesel generators (DG sets) which are unlicensed and have not been approved under the EP Rules 1986, use of such DG sets should not be allowed as in order to overreach the noise levels of such DG sets the music etc. being played by the DJs reaches at level far beyond the prescribed ones. The DG sets are also a source of noise and air pollution and therefore, the CECB must undertake the task of effectively monitoring and implementing the rules in this behalf.

12. Since the whole issue is of effective implementation of the rules and monitoring of the air and noise level, the administration needs to have effective monitoring mechanism and equipments to deal with the issue. The prayer made by the Applicant, therefore, for directing the Respondents to equip themselves sufficiently with adequate number of such devices is a valid one. We would, therefore, direct the State of Chhattisgarh to ensure that sufficient number of monitoring stations in urban areas with specialized equipments for monitoring air and noise pollution levels be installed with the data being made available at the level of the CECB for taking effective steps in this behalf. During festivities and the marriage season the pollution authorities along with the District administration may also be provided with mobile units for the aforesaid periods.
13. In the light of our order dated 18.04.2016 in *N. Vaidraj* case and also taking note of the earlier decisions of the Hon'ble Supreme Court and the Principal Bench of the NGT we **dispose of** this Original Application with the additional points and directions given hereinabove. M.A. No. 870/2016 also stands disposed of.

(Mr. Justice Dalip Singh)
Judicial Member

(Dr. S.S Garbyal)
Expert Member

Bhopal:

September 27th, 2016