

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, SOUTHERN ZONE
CHENNAI**

O.A. No. 66 of 2023 (SZ)

IN THE MATTER OF

P. Bala Murali Krishna
No.8 (New No. 1052), Sri Sai Nilayam
8th Main, Chowdeswari Layout
Marathahalli
Bengaluru-560037

... .. Applicant

Vs.

- a) Hindustan Aeronautics Limited
Airport Services Centre (BC)
HAL – Bangalore Complex
Gate No. 30, Vimanapura
Bangalore-560017
- b) Union of India, Represented by its
Secretary
Ministry of Environment, Forests and Climate Change
Indira Paryavaran Bhavan
Jorbagh Road
New Delhi-110003
- c) Karnataka State Pollution Control Board, Represented by its
Chairman
Parisara Bhavan
No. 49, Church Street
Bangalore-560001
- d) The Chief Secretary to Govt. of Karnataka
Govt. Secretariat, Room No. 320
3rd Floor, Vidhana Soudha
Ambedkar Veedhi, Sampangi Rama Nagara
Bangalore-560001
- e) Central Pollution Control Board, Represented by its
Chairman
Parivesh Bhavan, East Arjun Nagar
Shahdara
Delhi-110032

... .. Respondents

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Vs.

Hindustan Aeronautics Limited
Airport Services Centre (BC)
Bangalore

& Ors.

... .. Respondents

Response to Additional Report

to be filed on 19.03.2024

by HAL-Airport Services Centre

P. BALA MURALI KRISHNA
APPLICANT

Mobile: 7975393182
e-mail: tulasimurali2011@gmail.com

Response to Additional Report to be filed on 19.03.2024
by the HAL - Airport Services Centre

My humble apologies to the Hon'ble NGT that I will be absent in the hearing. I will be traveling to Hyderabad on this day for unavoidable reasons. I would however like to record my response against the content of the Additional Report, to be submitted on 19.03.2024 by the HAL-ASC. My comments are given below, parawise.

Para-1 is nothing but the para-3 of its reply statement submitted on 17/11/2023, carefully edited to suppress the fact that it is a manufacturing unit too. This has become necessary because it attracted criticism earlier from media when the Airport stated that it was “engaged in the design, development and manufacture of Aircraft, Defence systems and accessories.”

If, as HAL have themselves conceded, Hindustan Aeronautics is a manufacturing facility then the provisions of the Karnataka State Pollution Control Board (KSPCB) certainly apply to it. **KSPCB has categorised industries** into colours — Red, Orange, Green and White. Out of these, the red category is reserved for highly polluting or sensitive industrial activities and operations. The very first item in the KSPCB red list is listed as “1,100 Airports and Commercial Air Strips”

It is very clear, therefore, that HAL falls squarely within the ambit of the KSPCB regulations on noise pollution both on account of it conducting manufacturing activity and because it operates as an airport. Units operating with a Consent to Operate (CTO), issued by the KSPCB, cannot change the scope of activity without a fresh CTO application. There is no indication of HAL having applied for the same from the KSPCB.

Paragraphs-2&3: The First Respondent reveals a statement for the first time, that it never has undertaken commercial civil aviation operations after 2008 but it is “being used” for aircraft operations other than commercial air transport operations, termed by the International Civil Aviation Organization (ICAO) as “General Aviation Operations”. I fail to comprehend why the HAL Airport has not revealed this fact till date and why is it in contradiction to its own statement published in newspapers.

The statement further read, “HAL Airport caters to VVIP/Non-Scheduled operations and training flights of all major civil scheduled airlines in the country. Through these activities, HAL supports the civil aviation growth of the country which is growing at an unprecedented rate under the able guidance & monitoring of the Civil Aviation Ministry and PMO. It is pertinent to mention that by accommodating the said operations throughout the year HAL is contributing to the GDP growth of the country.”

When these General Aviation Services are non-commercial, how is the HAL Airport able to contribute to the GDP growth of the country? Through what resources? Whatever it is, finally the secret behind tens of flights flying in our air space has come to light under the title – General Aviation Services. The Executive Order dated 16/05/2008 may not prohibit this activity, but what about KSPCB? It is a fact that must be accepted by the First Respondent that Civil Aviation – paid or unpaid – would generate the same excessive noise pollution in the residential zones under the flight paths. Moreover, I am sure that the Ministry of Defence will have no connection with this activity whatsoever. I have the following questions with respect the General Aviation Services, generously offered by the First Respondent.

- a) The HAL Airport is ‘predominantly’ used by various Defence Establishments and Agencies for projects of National importance. This is fine, HAL Airport being a Defence Aerodrome. “The HAL Airport is also being used for General Aviation Services ...” Being used by whom? ADA? ADE? DRDO? By whose order is this assignment taken up?
- b) What connection with General Aviation Services could the HAL Airport have, which was listed as a Defence Aerodrome under Schedule-V? These services are extended together with Defence Aircraft Operations. Whether or not an explicit permission has been obtained from MoD to carry out these activities simultaneously?
- c) The Chairman, HAL had written to the Central Government expressing concern over hazard to air safety on account of civil and military operations simultaneously from the same airfield. He had recommended that civil air operations be discontinued at HAL airport and relocated at some other airfield. Has the present Chairman accorded permission for offering these General Aviation Services simultaneously with Defence operations?
- d) Has the HAL Airport obtained Consent To Operate (CTO) from the KSPCB for extending its scope of activity to General Aviation Services?
- e) If yes, what was it the KSPCB said about noise pollution levels to be maintained for the General Aviation Services? Exemptions granted to HAL Airport as a Defence Aerodrome cannot be taken for granted for General Aviation Services, right?

Paragraphs-4&5: Let the First Respondent give any definition to “Commercial Air Transport Operation” but it cannot manipulate the definition of “General Aviation Operation” for its convenience. The definition given for this by ICAO (page-14 of the Additional Report) can be seen below:

General aviation operation. An aircraft operation other than a commercial air transport operation or an aerial work operation.

Where did the ICAO mention that General aviation operations include CIPs, Trainer Flights by various Airliners etc.? There is no mention of these CIPS and Training Flights even in the Civil Aviation Requirements stipulated by the DGCA (appended below):

2.3 The provisions of this CAR are not applicable to flights undertaken by Ministry of Defence in the national interest and for carrying VVIP, Head of States and other eminent personalities and under any emergency situation where it is not possible to follow noise abatement procedure due to technical reasons from safety point of view. Further, flights engaged in search & rescue, patrolling, fire-fighting, humanitarian missions, emergency medical service purposes are also exempted from the requirements mentioned in this CAR.

Just because the HAL Airport is determined to undertake “training flights of all major civil scheduled airlines in the country,” can it manipulate the definition of General Aviation Services to include whatever it wants to do? Let it work for General Aviation Operations if it so desires; but there will be restrictions on the noise levels (which should not exceed 55dB during day and 45dB in the nights).

Para-6: (Also para-6 of the Reply Statement) Here the First Respondent makes a clear mention that “presently also HAL Airport is operational 24*7 and supporting projects of National Importance and projects for sustainable growth of Civil Aviation.” Supporting projects of Ministry of Defence is what it has been ordained to do. On whose command is it venturing into Civil Aviation projects which KIAL is supposed to handle? Can it take up all this under the guise of Defence Airport? Who has assured the First Respondent that the concessions granted to it as a Defence Airport are applicable to all its non-Defence activities as well? May I request the Hon’ble Tribunal to examine what exactly are the responsibilities assigned to the HAL Airport by the MoD, what are those assigned by the HAL, and what activities has it undertaken out of scope?

Paragraphs-7&8: True, I am living within 5km of the Airport. But I do not have any complaint with the aircraft landing/take off noise or engine run-up. I live in the flight path; so, I am questioning the excessive noise pollution happening because of flights from HAL Airport in the Residential zones falling in the flight-paths. Even in that I am ready to take whatever noise generated while executing the activities of the Ministry of Defence. I do not see a reason why I should sacrifice my health for its General Aviation Operations. Let it restrict all such operations to daytime, following the CPCB guidelines and go by the “Polluter pays” principle in case of exceedances.

The HAL Airport beyond any doubt is violating the noise limits set for residential zones and polluting the environment with high levels of noise, thereby causing health hazard to the citizens. This is in violation of Noise Pollution (Regulation and Control) Rules 2000, and also the directions of W.H.O. This Airport proclaims itself to be a Defence Airport but operates other civilian flights and generates excessive noise levels indiscriminately, 24x7. This is a punishable offence. We do not allow even push-cart vendors to use mega-phones, complaining noise pollution; what to say about noise from flights passing overhead? For contributing to GDP-growth and for supporting civil aviation growth, whether permission has been accorded to HAL Airport to flout the limits of noise levels set by CPCB for residential zones?

Elaborate information has been provided in the rest of the report about the NOC to be obtained by builders. But not a single NOC or undertaking has been shown in the report. A lot has been explained about the BBMP Building Bylaws, 2003. After this, the BBMP Act, 2020 came into force. But, whatever be the rules, not a single line is being followed in reality and lots of illegal high-rise buildings are coming up about which neither the BBMP bothers nor the AAI. That’s the reason why we get occasional news like this.

High-rise buildings close to HAL airport have come under the scanner after the HAL police received a complaint that several such structures had come up “illegally” within a 5-km radius of the airport.

A special police team from Whitefield Division has been formed to probe into the complaint by Bharath Yadav, a resident of Virgo Nagar, who said that high-rise buildings were a threat to VVIP movement and Indian Air Force flights from the airport.

The Airport may be taking due measures to maintain the noise in the Airport premises but it has ignored the flight paths totally, neglecting the guidelines issued by DGCA in Section 10 of its Civil Aviation Requirements (CAR).

- DGCA required (page-22, para-7.3 of the Reply statement) installation of monitoring stations “for specific noise monitoring activity under the flight paths, where noise levels are expected to be higher.” Is the HAL Airport monitoring noise loads in flight paths? If yes, this is the data to be presented to verify the noise levels; not the Test Report of Sneha Test House which has limited its measurements to the Airport premises.
- As per page-23, para-13.1, “The noise monitoring data shall be regularly compiled, documented and published by the Authorities designated by the Ministry of Civil Aviation.” Is that being done? If yes, please provide the report to prove that HAL Airport is on the right track.
- As per the CAR issued by the DGCA (page-24, para-1.2), “Reducing the effect of aircraft noise on people and communities is one of the ICAO’s main priorities” and four pillars are suggested to achieve this through a balanced approach. Has anything been done by the HAL Airport following these four pillars, to reduce the effect of aircraft noise on people? If yes, let the the HAL Airport present the attempts made for containing the aircraft noise in the flight paths – and the results.
- Page-24, para-3.1.1 mandates that “Airport operators shall carry out a noise mapping study around their airports including the areas directly under the flight paths, to assess the existing noise loads and the population affected ...” Let the HAL Airport show what are the noise loads existing in the flight paths passing through Marathahalli, Brookefield etc.
- Page-26, para-3.1.7 directs that “The airport operators shall take necessary corrective action against any exceedances” to noise limits prescribed by CPCB. Has anything been done in this direction?

I am not raising any new controversies. Whatever I have asked in my O.A. is in regard of the DGCA-guidelines that are expected to be followed by Airports.

Since aircraft noise abatement procedures are not available for flight paths, the only solution existing for this problem is pausing the operations of the Airport at least in the nights for a marginal relief to the citizens living under flight paths. This is one of the solutions suggested by the DGCA (page-24, para-1.2) – “Operating Restrictions.” And it is the very same solution suggested by the Hon’ble NGT by questioning – “Why should there not be night flying restrictions at airports?”

Night-curfew alone can resolve the issue of excessive aircraft-noise and its associated health problems. The statement of the First Respondent declaring “there is no hazard evident that necessitates a night curfew” is absolutely meaningless. I also do not understand its statement – “Night curfew is not applicable in India.” Several airports in developed countries do not allow even regular commercial flights during the night to protect the rights of residents living nearby. A key example is London’s Heathrow Airport which comes to a total halt during night time. Then why the same cannot be applied to a Defence Airport if situation permits?

Let the HAL Airport get it clear that it shall not undertake, particularly in the nights, to operate the commercial/chartered flights emitting heavy noise and causing health hazard to citizens. Let such flights be diverted to the International Airport which is just 40km away. HAL Airport need not worry about sustainable growth of civil aviation any further since this task has been handed over to KIAL in 2008 itself.

What meaningful development HAL Airport wants to achieve by torturing citizens with its noise pollution, that too in the nights when the citizens are resting? Can the citizens actively participate in the day-time activities if their sleeping hours are ruined? Several Scientists, Engineers, Doctors and other professionals contributing for the development of nation are also living in these flight paths and suffering from the noise of night flights. Their life and health have no value? Safeguarding their health is not of any national interest? Why so much fuss to shift flight schedules by 3 hours plus or minus?

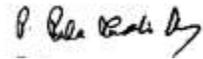
To sum up,

- a) Flights from HAL Airport are violating the noise pollution limits set for residential zones, causing health hazard to citizens living under flight paths.
- b) HAL Airport, as a Defence Airport, is granted certain exemptions and concessions. These exemptions cannot be taken for granted for every other activity it takes up.
- c) CAR mandates monitoring of noise loads in flight paths and initiation of corrective measures in case they are excessive. I do not see this being followed.
- d) CAR suggested “Operating Restrictions” to be considered as one of the options for areas where the Airport fails in noise management. Accordingly, night curfew should be implemented to avoid environmental noise pollution during nights in residential areas under flight paths. Occasional/essential night flights (only for MoD) can be allowed for night-flying practice purpose.
- e) This 7-hour pause in the nights requires advancing or postponing of flights by just 3½-hours.
- f) Prayer for imposing Night curfew for IGI Airport was declared ‘not practicable’ because it concerns the noise added up due to an additional runway, because it is handling heavy air traffic, and because noise abatement in a runway is possible by taking certain measures. But since HAL Airport has ended its commercial career, implementation of night curfew is not an issue.
- g) It is meaningless that the first respondent demands for scientific data as evidence to prove that ‘night flights cause health hazards.’
- h) The first respondent has stated that there is no evidence of any health hazard due to night flights. If so, what is the need to obtain undertaking from residents for not claiming any compensation against Aircraft noise? Why these two contradicting statements? Isn’t this making it clear that Aircraft noise poses health problems to people?
- i) Human life is not subservient to National interest (unless that human is guarding the borders). Human life assumes higher priority and cannot be put in risk on account of any developmental work. Bearing only this fact in mind, the Authorities from Organisations such as WHO, CPCB, DGCA, MoEFCC and NGT are trying to regulate the noise pollution from aircraft through several initiatives.
- j) Some abatement measures may possibly reduce noise in the airport premises but for controlling the noise pollution in residential zones (falling in flight paths), imposing a night curfew is the only solution available.

Prayer:

Sleep disrupted by aircraft noise can cause severe health problems to citizens. Hence it is binding on the HAL Airport to pause its operations in the nights in order to ensure that residents living near the Airport and along the flight paths can have undisturbed sleep during nights - which could enable them to lead a happy and healthy life for long. While the development and testing activities of the HAL Airport that can be done on ground can continue to go on even throughout the night, I only request a seven-hour pause for flying in the nights. I pray that the Hon'ble Tribunal may direct the HAL Airport to shut its gates in the nights for a complete curfew of 7 or 8 hours. Hoping for a favourable judgment in the interest of justice,

Sincerely,



**P. BALA MURALI KRISHNA
APPLICANT**