

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

ORIGINAL APPLICATION NO. 139 OF 2023

IN THE MATTER OF:

M/S PRAYAG HOSPITAL & RESERCH
CENTER PVT. LTD.

.... APPLICANT

Versus

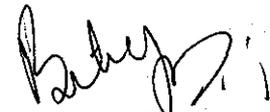
UNION OF INDIA & ORS.

... RESPONDENTS

N.D.O.H - 26-05-2023

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(BIHU SHARMA)

Advocate for Respondent No. 1

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Place: New Delhi

Dated: 05.04.2023

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT DELHI
O.A. NO. 139 OF 2023**

IN THE MATTER OF:

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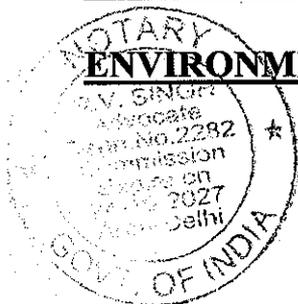
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**AFFIDAVIT ON BEHALF OF RESPONDENT - MINISTRY OF
ENVIRONMENT, FOREST AND CLIMATE CHANGE.**



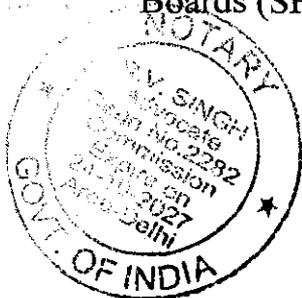
I, Ved Prakash Mishra S/o Sh. R.S. Mishra aged about 48 years,
presently working as Director with the Ministry of Environment, Forest
and Climate Change, Government of India (hereinafter referred to as


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 पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
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MoEF&CC) having office at Indira Paryavaran Bhawan, Jor Bagh Road,
New Delhi - 110003, do hereby solemnly affirm and state as under:

1. That, I am well acquainted with the facts and circumstances of the case and competent to swear this affidavit on behalf of MoEF&CC being the Respondent No. 1 in the present Original Application.
2. That, I have gone through each and every paragraph of the present Original Application and have understood the contents thereof. The averments contained in the Original Application are denied unless specifically admitted hereunder by the Answering Respondent.
3. That the Answering Respondent is engaged in, *inter alia*, policy formulation for abatement, control, and prevention of pollution and prescribing environmental standards to be implemented through the Central Pollution Control Board (CPCB) and State Pollution Control Boards (SPCBs)/ Pollution Control Committees (PCCs).





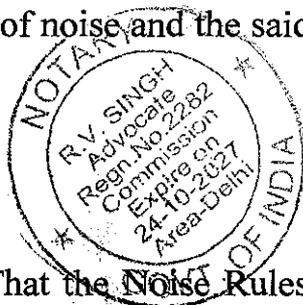
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Besides, the concerned State Pollution Control Boards/Pollution Control Committees are empowered to take all such measures as are deemed necessary or expedient for the purpose of protection and improving the quality of the environment as well as prevention, control, and abatement of environmental pollution.

4. That for addressing the menace of noise pollution, the Central Government, through the Answering Respondent Ministry, notified the Noise Pollution (Regulation and Control), Rules 2000 (hereinafter called the Noise Rules) under the Environment (Protection) Act, 1986 to regulate and control the increasing ambient noise level in public places from various sources, *inter alia*, industrial activity, construction activity, generator sets, loudspeakers, public address systems, music systems, vehicular horns, and other mechanical devices. It is submitted that to achieve the objective of maintaining the ambient air quality standards in respect of noise and the said Noise Rules have been amended from time to time.

5. That the Noise Rules, 2000 regulate noise levels during the day time in industrial, (75 decibels) commercial (65 decibels), and residential



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zones (55 decibels) and also establishes zones of silence (100 metres) near schools, courts, hospitals, etc. Separate ambient levels are fixed for industrial, commercial, and residential areas and silence zones. The prescribed daytime levels are typically ten decibels higher than the corresponding levels for night time except in industrial areas, where the difference is five decibels. The 24 hours in a day have been divided into two components, i.e. from 6.00 a.m. – 10.00 p.m., it is 'day time' and 10.00 p.m. to 6.00 a.m. it is 'night time' for the purpose of Noise Rules, 2000.

6. That as per section 5 of the Noise Pollution (Regulation and Control) Rules, 2000, there are restrictions on the use of loudspeakers or a public address system, or any sound-producing instrument. Further, as per Section 5A of the Noise Rules, 2000, there are restrictions on the use of horns in silence zones during the night time in residential areas except during a public emergency.

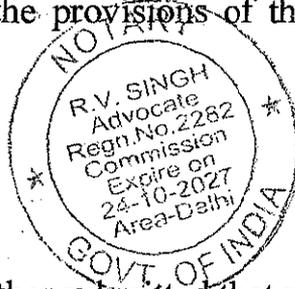
7. Further, a loudspeaker or a public address system shall not be used except after obtaining written permission from the authority. A loudspeaker or a public address system shall not be used at night



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(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.

8. That the Noise Rules, 2000 require the States to designate an 'Authority' or officer responsible for maintaining the ambient air quality standards in respect of noise. The designated 'Authority' could be the District Magistrate, or Police Commissioner or any other official. The authority is also empowered to issue directions to prohibit or control noise pollution. Any person violating the Noise Rules is liable to be prosecuted under the provisions of the Environment (Protection) Act, 1986.



9. That it is further submitted that under rule 2 (c) of the Noise Rules "the authority means and includes any authority or officer authorised by the Central Government, or as the case may be, the State Government in accordance with the 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

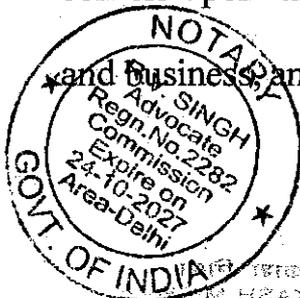

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ambient air quality standards in respect of noise under any law for the time being in force”.

10. That Rule 7 of the Noise Rules, 2000 further reads as under:

“...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 (or if is a violation of any provision of these rules regarding restrictions imposed during night time), may make a complaint to the Authority...”

11. It is most humbly submitted that the Amendment in the Noise Rules, 2000 was brought into force to balance the competing fundamental rights of the citizens by regulating it as per the ground realities. It may also be noted that Article 21 of the Constitution of India confers upon the citizens a right to live in a noise-free environment; however at the same time, Article 21, read with Articles 19 (1) (a), 19 (1) (g) and 25 also confers upon its citizens’ liberty to propagate one’s views, expressions, and business, and celebrate its festivals and other cherished occasions by



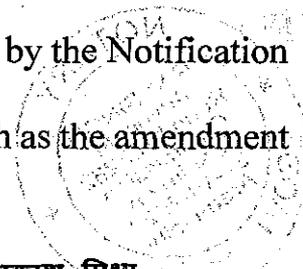
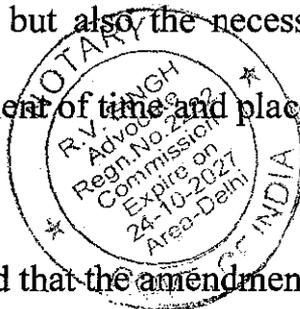
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using loudspeakers, public address systems, sound-producing instruments, musical instruments, sound amplifiers, and/or by burning firecrackers.

12. It is also pertinent to mention here that Under Note 3 of the Schedule of the Noise Rules, 2000, power is also conferred to the Competent Authority to declare an area as a silent zone that falls within a distance of not less than 100 meters from such Hospital, Educational Institutions or a Court.

13. It is respectfully submitted that the declaration of a zone as a silence zone is essentially a time and place restriction and in pith and substance falls within the realm of policy decision-making work, constitutionally conferred upon the Executive. It is also stated that Executives not only have discernible standards, material, and information on ground realities but also the necessary resources and expertise to decide the employment of time and place restrictions.

14. It is submitted that the amendments brought in by the Notification dated 10.08.2017 are clarificatory in nature in as much as the amendment



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proviso has been added to Sub Rule 5 of Rule 3 which provides that unless and until an area is notified/declared as silence zone by the State Government, any area will not fall in the silence zone/area.

15. It is relevant to mention here that as per the Environment (Protection) Rules, 1986 as amended till date, the Standards which have been specified in Schedule-I shall not exceed the relevant parameters and standards as specified in Schedule VI of the Environment (Protection) Rules, 1986.

16. That the present affidavit is being filed by the Respondent, however, the role of the Answering Respondent Ministry is limited to the extent with regard to evolving/ framing standards, under the mandate of the Environment (Protection) Act, 1986. The standards are revisited and revisions, modifications, or amendments are published in the gazette.



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17. The Answering Respondent craves leave of this Hon'ble Court to add, amend or alter the said Affidavit if so required.

DEPONENT

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VERIFICATION:

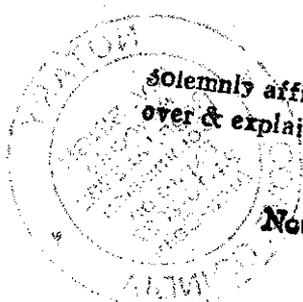
Verified at New Delhi on the 29 MAR 2023 that the contents of the above affidavit are true and correct to the best of my knowledge and belief and nothing material has been suppressed or concealed therein.



DEPONENT

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I identify the deponent as the person who has signed in my presence
29/3/23



solemnly affirmed before me, read over & explained to the deponent

Notary Public, DELHI
29 MAR 2023

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