

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

Principal Bench, New Delhi

Original Application No. 519/2016

With

Original Application No. 496/2018

In the matter of:-

Hardeep Singh & Ors.

Applicant(s)

VS.

SDMC & Ors.

Respondent(s)

With

Akhand Bharat Morcha

Applicant

VS.

Union of India & Ors.

Respondent(s)

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(N.K. Gupta)

Scientist -E

Central Pollution Control Board
Parivesh Bhawan, East Arjun Nagar,
Delhi-110032

Place: Delhi

Dated: 12.06.2020

REPORT ON

**“SCALE OF COMPENSATION TO BE RECOVERED FOR
VIOLATION OF NOISE POLLUTION (REGULATION AND
CONTROL) RULES, 2000”**

**SUBMITTED IN COMPLIANCE TO HON'BLE NATIONAL
GREEN TRIBUNAL (NGT) ORDER DATED 15.11.2019
(uploaded on 20.11.2019)**

**IN THE MATTER O.A NO. 519 OF 2016 TITLED; HARDEEP
SINGH & ORS VS SDMC & ORS**

WITH

**O.A NO. 496 OF 2018
Akhand Bharat Morcha**

Versus

Union of India & Ors.



**CENTRAL POLLUTION CONTROL BOARD
(Ministry of Environment, Forest & Climate Change)
Parivesh Bhawan East Arjun Nagar,
Delhi-110032**

June,2020

1.0 BACKGROUND

Hon'ble NGT vide order dated 01/08/2019 in the matter of O.A No. 519 of 2016 titled; Hardeep Singh &Ors Vs SDMC &Ors directed as:

"The CPCB needs to devise the scale of compensation to be adopted as a measure to enforce the Rule 4(2) of the Noise Pollution (Regulation and Control) Rules, 2000 by the concerned authority on the basis of 'Polluter Pays' principle. Though violation of the rules like the Noise Rules here, is a criminal offence punishable under Section 15 of the Environment (Protection) Act, 1986 with imprisonment upto five years and fine upto Rs. 1 lakh, since prosecution of a non-cognizable offence may have its own limitations, civil liability on 'Polluter Pays' principle can be invoked by the enforcement regulatory authority as per the guidelines which may be laid down by the CPCB. The scale of compensation may have reference to the extent and severity of default and whether the default is a repeated offence."

In compliance to above, CPCB submitted its report on 14/11/2019 Copy of report attached as Annexure-I. Hon'ble NGT vide order dated 15.11.2019 (uploaded on 20.11.2019) further directed CPCB as follows:

"We are of the view that compensation for bursting of crackers at serial No. 4 needs to be suitably revised and needs to be different for different classes of defaulters and frequencies of default. Further, the CPCB has suggested that compensation should be 2-3 times for second and third violations accompanied by withdrawal of permission for installation/operation for their equipment.

The CPCB may also lay down stringent compensation for tampering with the sound limiters to ensure that the same is not restored to. Let compliance reports be filed by CPCB, Department of Environment, DPCC and Special Commissioner of Police, Delhi by 31.03.2020 by email at judicial-ngt@gov.in."

2.0 COMPLIANCE

In compliance to Hon'ble NGT directions, meeting of the committee for compliance of NGT directions was held on 05th March 2020. Committee agreed for revising compensation for bursting of fire crackers for different classes of defaulters and frequencies of default as per directions of Hon'ble NGT. After detailed discussion modified scale of compensation for violation of Noise Rules, 2000 finalized by committee is tabulated in Table below:

Table 1: Enlistment of Violation of Noise Rules and their respective Scale of compensation.

Sl. No.	Violation of Noise Rules	Compensation (in Rupees) to be paid by defaulter	Action to be taken by designated authority	
1.	USE OF LOUD SPEAKERS / PUBLIC ADDRESS SYSTEM ¹ (Clause 5(1)- 5(2), 6(i, ii, iii and v)) ¹⁻⁵	₹ 10,000	Seizure	
2.	VIOLATION WRT GENERATOR SETS NORMS(Standards attached as Annexure -IV to VI)			
a)	DG sets more than 1000 KVA	₹ 1,00,000	Sealing of DG sets	
b)	DG sets 62.5 to 1000 KVA	₹ 25,000		
c)	DG sets up to 62.5 KVA	₹ 10,000		
3.	VIOLATION OF USE OF SOUND EMITTING CONSTRUCTION EQUIPMENTS ⁶	₹ 50,000	Seizure / Sealing of Equipment	
4.	Bursting of Firecrackers beyond the prescribed time limit prescribed (Hon'ble Supreme Court and Clause 5A (2) and 6 (iv) ⁷⁻⁸			
4(1)	Violation by Individual/Household	Residential/ Commercial/ Mixed Zone	Silence Zone	
		1,000	3,000	
4(2)	Violation during Possession a. Public Rallies b. Barat during marriage Religious event	10,000	20,000	Fine to be paid by Organizer
4(3)	First Violation within a fixed Premises: a. Function organized by RWA, b. Marriage Function c. Public Function d. Institution function e. Banquet Hall f. Open ground functions	20,000		Fine to be paid by Organizer and Owner of the place.

Sl. No.	Violation of Noise Rules	Compensation (in Rupees) to be paid by defaulter	Action to be taken by designated authority
4(4)	Second Violation within a fixed Premises: a. Function organized by RWA, b. Marriage Function c. Public Function d. Institution function e. Banquet Hall Open ground functions	40,000	
4(5)	More than Two Violation within a fixed Premises: a. Function organized by RWA, b. Marriage Function c. Public Function d. Institutional function e. Banquet Hall Open ground functions	1,00,000 and action under EP Act.	Sealing of Premises

Note:

1. Clause 5(1): A loud speaker or a public address system shall not be used except after obtaining written permission from the authority.
2. Clause 5(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. Clause 6 (i) Playing any music or uses any sound amplifiers in any place covered under the silence zone/area are prohibited.
4. Clause 6(ii): Beating a drum or tom-tom or blows a horn either musical or pressure, or trumpet or beats or sounds any instrumenting any place covered under the silence zone/area are prohibited.
5. Clause 6(iii): Exhibits any mimetic, musical or other performances of a nature to attract crowds in any place covered under the silence zone/area are prohibited.
6. Clause 5(A) (3): Sound emitting construction equipment shall not be used or operated during night time in residential areas and silence zones
7. Sound emitting fire crackers shall not be burst in silence zone or during night time in each zone;
8. As per directions of Hon'ble Supreme court, following time limits are prescribed for bursting fire crackers:
Diwali: 8pm to 10pm
Gurpurb: 4am to 5am and 9pm to 10pm
New Year and Christmas: 11.55 P.M to 12.30 A.M

Sl. No.	Violation of Noise Rules	Compensation (in Rupees) to be paid by defaulter	Action to be taken by designated authority
9. <i>It may be noted that imposition of fine for notification of Rule 5A(1) falls within the purview of Motor Vehicle Rules, 2019</i>			

CPCB also deliberated on the issue of compensation to be imposed for tampering of sound limiters. In view of the committee member's suggestions, it is concluded that:

1. Sound Limiter working is not full proof and it is additional unit in addition to Loudspeakers which can be easily Plug in or Plug Out, Sound limiters cannot be used for ensuring regulations.
2. Central Pollution Control Board is in process of framing source specific standards for regulations of Loud Speakers and Public Address System for specific uses.

REPORT ON

**“SCALE OF COMPENSATION TO BE RECOVERED FOR
VIOLATION OF NOISE POLLUTION (REGULATION AND
CONTROL) RULES, 2000”**

**SUBMITTED IN COMPLIANCE TO HON'BLE NATIONAL
GREEN TRIBUNAL (NGT) ORDER DATED 01.08.2019
IN THE MATTER O.A NO. 519 OF 2016 TITLED; HARDEEP
SINGH & ORS VS SDMC & ORS**



**CENTRAL POLLUTION CONTROL BOARD
(Ministry of Environment, Forest & Climate Change)
Parivesh Bhawan East Arjun Nagar,
Delhi-110032**

October, 2019

1.0 BACKGROUND

Hon'ble NGT vide order dated 01/08/2019 in the matter of O.A No. 519 of 2016 titled; Hardeep Singh &Ors Vs SDMC &Ors directed as:

"The CPCB needs to devise the scale of compensation to be adopted as a measure to enforce the Rule 4(2) of the Noise Pollution (Regulation and Control) Rules, 2000 by the concerned authority on the basis of 'Polluter Pays' principle. Though violation of the rules like the Noise Rules here, is a criminal offence punishable under Section 15 of the Environment (Protection) Act, 1986 with imprisonment upto five years and fine upto Rs. 1 lakh, since prosecution of a non-cognizable offence may have its own limitations, civil liability on 'Polluter Pays' principle can be invoked by the enforcement regulatory authority as per the guidelines which may be laid down by the CPCB. The scale of compensation may have reference to the extent and severity of default and whether the default is a repeated offence."

2.0 LEGAL FRAME WORK WITH RESPECT TO NOISE POLLUTION (REGULATION AND CONTROL) RULES, 2000

2.1 Existing rules and standards

- Noise pollution (Regulation and Control) Rules, 2000 are notified by MoEF & CC and responsibilities and restrictions are defined with authorities for further implementation.
- Standards have been fixed for most of the major sources of noise, as well as ambient noise level in different category areas such as Silence Zone, Commercial, Industrial and Residential Area. The maximum permissible levels of Ambient Noise in Indian Cities notified by Ministry of Environment & Forests vide its notification no. S.O. 123 (E), (14-02-2000), Noise Pollution (Regulation & Control) Rules, 2000 is as follows:

Area Code	Category of Area/Zone	Limit in dB (A) Leq	
		Day	Night
A	Industrial Area	75	70
B	Commercial Area	65	55
C	Residential Area	55	45
D	Silence Zone	50	40

Note:

1. Day time shall mean from 6 AM to 10 PM.
2. Night time shall mean from 10 PM to 6 AM.
3. Silence Zone is defined as areas up to 100 meters around such premises as hospitals, educational institutes and courts. The Silence Zones are to be declared by competent authority. Use of Vehicular horns, loudspeaker and bursting of crackers shall be banned in these

Area Code	Category of Area/Zone	Limit in dB (A) Leq	
		Day	Night
	zones.		
	4. Mixed categories of areas may be declared as one of the four above mentioned categories by the competent authority. *dB(A) Leq denotes the time weighted average of the level of sound in decibels on scale A which is relatable to human hearing. A "decibel" is a unit in which noise is measured. "A", in dB(A) Leq, denotes the frequency weighting in the measurement of noise and corresponds to frequency response characteristics of the human ear.		
	5. Leq: It is an energy mean of the noise level over a specific period		

- Under Noise Pollution (Regulation and Control) Rules, 2000, responsibilities are vested with State Governments, District Magistrate, Police Commissioner, or any other officer not below the rank of Deputy Superintendent of Police, as per detail given below:
 - i. Restriction on the use of Loud Speakers/Public Address system.
 - ii. Restriction on the use of Horns, Sound emitting construction equipment and bursting of Fire crackers.
 - iii. Prohibition of continuance Music Sound or Noise.

Noise limits are notified under EPA Rules, 1986 and other provisions of Noise Rules, 2000 are listed below:

- i. Noise limits for Automobiles (Free Field) at one meter in dB (A) at the Manufacturing Stage. Limits are attached as Annexure-I.
- ii. Noise rules for Domestic Appliances and construction Equipment's at the manufacturing stage. Standards are attached as Annexure-II.
- iii. Noise standards for Fire Crackers. Standards are attached as Annexure-III.
- iv. Noise Limit for Generator sets run with Petrol or Kerosene. Standards are attached as Annexure-IV
- v. Noise Limit for Generator Sets run with Diesel. Standards are attached as Annexure-V
- vi. Noise limit for CNG and or LPG dual fuel/biofuel/dedicated generator sets. Standards are attached as Annexure-VI

2.2 Penal provision for violation of Noise Rules

- As per rule 7 (2), it is mentioned that 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.

- Noise Rules are defined in Environment (Protection) Act, 1986. Section 15 of EPA, 1986 refersto penalty and action to be taken against violators and same is mentioned below:

Penalty for contravention of the provisions of the act and the rules, orders and directions -

1. Whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall, in respect of each such failure or contravention, be punishable with imprisonment for a term which may extend to five years with fine which may extend to one lakh rupees, or with both, and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention.
2. If the failure or contravention referred to in sub-section (1) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which may extend to seven years.

3.0 SCALE OF COMPENSATION FOR VIOLATION OF NOISE RULES

- Source of noise pollution have been identified based on provisions mentioned in section 2.1.
- 10-25 % of cost of instrument has been considered as compensation for violations of provisions of noise rules and repeated violators to be imposed fine which has deterrent effect.
- Accordingly, compensation to be paid by the defaulter and action to be taken by authority for violations of Noise Rules by usage of equipment like Public Address System, Construction Equipment, Generator Sets and Music DJ system are recommended as per details given in Table 1.

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1.	USE OF LOUD SPEAKERS / PUBLIC ADDRESS SYSTEM ¹	₹ 10,000	Seizure

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	(Clause 5(1)- 5(2), 6(i, ii, iii and v) ¹⁻⁵		
2.	VIOLATION WRT GENERATOR SETS NORMS(Standards attached as Annexure -IV to VI)		
a)	DG sets more than 1000 KVA	₹ 1,00,000	Sealing of DG sets
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3.	VIOLATION OF USE OF SOUND EMITTING CONSTRUCTION EQUIPMENTS⁶	₹ 50,000	Seizure / Sealing of Equipment
4.	Bursting of Firecrackers beyond the prescribed time limit prescribed (Hon'ble Supreme Court and Clause 5A (2) and 6 (iv) ⁷⁻⁸	₹ 1000	-

Note:

1. Clause 5(1): A loud speaker or a public address system shall not be used except after obtaining written permission from the authority.
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4. Clause 6(ii): Beating a drum or tom-tom or blows a horn either musical or pressure, or trumpet or beats or sounds any instrument in any place covered under the silence zone/area are prohibited.
5. Clause 6(iii): Exhibits any mimetic, musical or other performances of a nature to attract crowds in any place covered under the silence zone/area are prohibited.
6. Clause 5(A) (3): Sound emitting construction equipment shall not be used or operated during night time in residential areas and silence zones
7. Sound emitting fire crackers shall not be burst in silence zone or during night time in each zone;
8. As per directions of Hon'ble Supreme court, following time limits are prescribed for bursting fire crackers:

Sl. No.	Violation of Noise Rules	Compensation (in Rupees) to be paid by defaulter	Action to be taken by designated authority
<p><i>Diwali: 8pm to 10pm</i> <i>Gurpurb: 4am to 5am and 9pm to 10pm</i> <i>New Year and Christmas: 11.55 P.M to 12.30 A.M</i></p> <p>9. <i>It may be noted that imposition of fine for notification of Rule 5A(1) falls within the purview of Motor Vehicle Rules, 2019</i></p>			

4.0 LIMITATION OF NOISE RULES WITH RESPECT TO LOUDSPEAKER

- i. Existing standards for loud speaker defined under clause 5(4) of Noise Rules, 2000 states that 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.
- ii. In order to verify compliance, ambient noise monitoring is to be carried out for 16 hours (day time) and violation by specific source of noise can not be identified due to background noise. Further, as impact of the noise source; duration of which mostly varies from a few seconds to few minutes gets leveled when monitoring for long duration (16 hours) is carried out.
- iii. Recently, CPCB has carried out demonstration of Sound limiters and it was found that sound limiter is not a full proof system and same can easily tamper with. It is difficult for authorities to set limits for sound limiter in absence of source standards for loudspeaker while granting permission for public address system.
- iv. Source specific standards have been notified for firecrackers, Generator sets, construction equipments, vehicles etc. However, source specific standards for Loudspeakers and Public Address System (PAS) yet to be framed.

In view of (i-iv) above, it is suggested that source specific standards be framed for Loud speaker and Public Address System with specific usage type

5.0 RECOMMENDATIONS

1. Designated authorities defined as per clause 2 (c) of Noise Pollution (Regulation and Control) Rules, 2000 shall imposed penalty and take necessary action against the defaulters as per details given in Table 1.

2. The compensation to be paid shall be 02 times / 03 times the original fine for the second and third violation respectively and permission for installation / operation of the equipment shall be withdrawn thereafter.

Item No. 01 to 04

Court No. 1

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

Original Application No. 519/2016
WITH
Original Application No. 496/2018
(M.A. No. 1159/2018)
WITH
Original Application No. 196/2018
WITH
Original Application No. 197/2018

Hardeep Singh & Ors.

Applicant(s)

Versus

SDMC & Ors.

Respondent(s)

WITH

Akhand Bharat Morcha

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 15.11.2019

Date of uploading of order: 20.11.2019

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER

ORDER

1. This order may be read in continuation of order dated 01.08.2019. The subject matter for consideration is the failure of the statutory authorities in Delhi in controlling noise pollution as per statutory mandate of Noise Pollution (Regulation and Control) Rules, 2000 (Noise Rules). The matter has been dealt with earlier by this Tribunal in the light of judgment of Delhi High Court in *Free Legal Aid Cell Vs.*

*Government of NCT of Delhi*¹ and of the Hon'ble Supreme Court in *In Re: Noise Pollution - Implementation of the Laws for restricting use of loud speakers and high volume producing sound systems.*²

2. The grievance of the Applicants is that in spite of the above orders, unsatisfactory state of affairs continues. By use of DJ systems, music systems, public address systems etc. during weddings or other functions, noise was being created at odd hours adversely affecting the health of the citizens. Reference is made to the order of this Tribunal dated 18.12.2012 in *Supreme Court Group Housing Vs. All India Panchayat Parishad, Original Application No. 34/2011*, directing establishment of call centers, drawing up of Standard Operating Procedure (SOP) regarding control of noise pollution and banning the use of generator sets of capacity of 5 KVA and above in the residential areas between 10 pm to 6 am, apart from other directions.
3. The steps taken pursuant to the earlier orders of this Tribunal, included the issuance of orders by the Commissioner of Police, DCP (Traffic) and SDM (East Delhi). Action plans were placed before the Tribunal for setting up of call centers and drawing up of detailed SOP for controlling noise pollution. The Ministry of Environment, Forest and Climate Change (MoEF&CC) amended the Noise Rules on 10.01.2010 prohibiting loud speakers, public address systems at night time except in closed premises. The DCP (Traffic) filed a status report indicating the number of challans etc.
4. In *Original Application No. 519 of 2016*, the Tribunal, vide order dated 27.09.2018, held that steps taken were hardly effective on the

¹ AIR 2001 Delhi 455

² (2005) 5 SCC 733

ground. The problem of noise pollution continued. Directions in the order of the Hon'ble Supreme court in *In Re: Noise Pollution - Implementation of the Laws for restricting use of loud speakers and high volume producing sound systems*³ had not been fully complied with. Accordingly, the Tribunal directed the Chief Secretary, Delhi, the Commissioner of Police, Delhi and the Delhi Pollution Control Committee (DPCC) to take steps for enforcing the directions of the Hon'ble Supreme Court and the Noise Rules with regard to control of use of loud speakers, control of vehicular noise and creation of awareness. The Commissioner of Police was to nominate a DCP and the Chief Secretary was to nominate a SDM who were to meet once in every week to take stock of the situation. They were to set up an exclusive website and dedicated helpline, apart from other steps. Report of compliance was to be filed.

5. In *Original Application No. 496/2018*, *Original Application No. 196/2018* and *Original Applicant No. 197/2018* also, similar grievance against non-enforcement of the Noise Rules in Delhi have been raised. Vide order dated 10.08.2018 in O.A No. 496/2018, joint inspection was directed to be conducted and report was directed to be furnished. The report dated 31.10.2018 was considered on 14.02.2019 along with O.A No. 196/2018 and O.A No. 197/2018 and directions were issued to take remedial action. The Tribunal also directed the presence of DCP (East), DCP (Shahdara) and DCP (South) with action plans. O.A No. 496/ 2018, O.A No. 196/2018 and O.A No. 197/2018 were again taken up on 14.03.2019, along with O.A 519/2016 and after interaction with the officers who are to enforce the Noise Rules, further directions were issued to identify and map

³ *Supra* at 2 and (2005) 5 SCC 728

hotspots, install noise measuring device on the devices causing high noise level, conduct surveillance and monitoring and conduct awareness and coordination with RWAs. The Commissioner of Police, Delhi was also to monitor and furnish a report to this Tribunal.

6. Noise is an underestimated threat that can cause a number of short- and long-term health problems. It is increasingly becoming a potential hazard to health, physically and psychologically, and affects the general well-being of an individual. ⁴Excessive noise interferes with people's daily activities at school, at work, at home, and during leisure time. It can disturb sleep, cause cardiovascular and psychophysiological effects, reduce performance and provoke annoyance responses and changes in social behavior.⁵ Environmental noise exposure is responsible for a range of health effects, including increased risk of ischaemic heart disease as well as sleep disturbance, cognitive impairment among children, annoyance, stress-related mental health risks, and tinnitus.⁶ According to a 2007 WHO estimate, almost six per cent people in India suffer from hearing loss.⁷ WHO says that exposure to excessive noise is one of the causes for loss of hearing.⁸ Delhi was the second worst city for noise pollution, followed by Cairo, Mumbai, Istanbul and Beijing.⁹ Residents of Vienna, Austria have the least amount of hearing loss proportionate to their age whilst citizens of Delhi, India have the most.¹⁰

⁴Community Noise Pollution in Urban India: Need for Public Health Action, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3968587/>

⁵ <http://www.euro.who.int/en/health-topics/environment-and-health/noise/noise>

⁶ <https://www.who.int/sustainable-development/transport/health-risks/noise/en/>

⁷ https://www.who.int/healthinfo/statistics/bod_hearingloss.pdf, <https://www.downtoearth.org.in/news/health/not-just-air-level-of-noise-pollution-in-delhi-is-also-deadly-study-57273>

⁸ <https://www.who.int/en/news-room/fact-sheets/detail/deafness-and-hearing-loss>

⁹ <https://www.weforum.org/agenda/2017/03/these-are-the-cities-with-the-worst-noise-pollution/>

¹⁰ <https://www.mimi.io/en/blog/2017/3/8/worldwide-hearing-index-2017>,

<https://www.theguardian.com/cities/2018/mar/08/where-world-noisiest-city>

7. In *Re: Ramlila Maidan Incident*¹¹, it was observed:

“.....(301). Deprivation of sleep has tumultuous adverse effects. It causes a stir and disturbs the quiet and peace of an individual’s physical state. A natural process which is inherent in human being if disturbed obviously affects basic life. It is for this reason that if a person is deprived of sleep, the effect thereof, is treated to be torturous. To take away the right of natural rest is also therefore violation of a human right. It becomes a violation of a fundamental right when it is disturbed intentionally, unlawfully and for no justification. (318). Thus, it is evident that right of privacy and the right to sleep have always been treated to be a fundamental right like a right to breath, to eat, to drink, to blink, etc. (327). An individual is entitled to sleep as comfortably and as freely as e breathes. Sleep is essential for a human being to maintain the delicate balance of health necessary for its very existence and survival. Sleep is, therefore, a fundamental and basic requirement without which the existence of life itself would be in peril. To disturb sleep, therefore, would amount to torture which is now accepted as a violation of human right. It would be similar to a third-degree method which at times is sought to be justified as a necessary police action to extract the truth out of an accused involved in heinous and cold-blooded crimes. It is also a device adopted during warfare where prisoners of war and those involved in espionage are subjected to treatments depriving them of normal sleep.”

8. In the matter of *Farhd K. Wadia vs. Union of India & Ors.*¹², the Hon’ble Supreme Court observed:

“24. This Court has also taken suo motu cognizance as regards noise pollution. It passed various orders from time to time in noise pollution (I), *In re, Noise Pollution (II)*, *In re, Noise Pollution (III)*, *In re and Noise Pollution (IV)*, *In re*. A detailed judgment was rendered by a Division Bench of this Court in the said writ petition, which has since been reported in *Noise Pollution (V)*, *In re*. Several guidelines had been issued therein by this Court in exercise of its jurisdiction under Articles 141 and 142 of the Constitution of India. Therein, the decision of the Calcutta High Court in *Om Birangana Religious Society v. State* has been taken note of. As regards loudspeakers and amplifiers, it was directed: “171. Loudspeakers and amplifiers or other equipment or gadgets which produce offending noise once detected as violating the law should be liable to be seized and confiscated by making provision in the law in that behalf.”

9. It is thus clear that noise has auditory as well as non-auditory effects on sleep, hearing, communication, mental and physical health and may even lead to madness. It can disturb work, rest, sleep, communication and damage the hearing and cause psychological and

¹¹ (2012) 5 SCC 1

¹² (2009) 2 SCC 442

pathological reactions. Long noise exposure can cause irreversible loss of hearing. The Rules were framed in view of increasing ambient noise levels and noticing its adverse effects on the health. The Rules categorized areas as industrial, commercial, residential (for extent of noise level) and silence zones (to maintain silence near hospitals, educational institutions and courts). The Hon'ble Supreme Court laid down that noise pollution above the specified level affects right to life. Silence was required to be maintained between 10:00 pm to 06:00 am, except for emergencies. It was also directed that provision for seizure and confiscation of equipments used for creating noise should be made.

10. Taking note of the judgments of the Hon'ble Supreme Court in *In Re: Noise Pollution - Implementation of the Laws for restricting use of loud speakers and high volume producing sound systems*¹³, *Re: Ramlila Maidan Incident, supra*, and *Farhd K. Wadia vs. Union of India & Ors., supra*, and the rules on the subjects, the Tribunal further directed that requisite action be taken including setting up of a website and helpline, The concerned authorities were also required to acquire noise monitoring devices for effective monitoring.
11. The matter was thereafter reviewed on 01.08.2019 in the light of the earlier proceedings and report dated 15.04.2019 furnished by the Special Commissioner of Police (Operation), Delhi and further report dated 30.06.2019 filed by the DCP (Control Room).
12. The Tribunal heard the DCP (East), DCP (Shahadra) and DCP (South) who were present in person and furnished their action taken reports dated 01.07.2019 on the subject of coordination with the RWAs,

¹³ (2005) 5 SCC 733

Schools and enforcement action. The revised action plan filed by the Commissioner of Police on 28.06.2019 was also considered. The Tribunal recorded its dissatisfaction about the progress in terms of number of monitoring stations, procurement of necessary equipments and compliance of Rule 4(3) of the Rules on the subject of publishing of data with regard to noise pollution and abatement measures. The Tribunal also considered the report filed by the CPCB in O.A. No. 681/2018 with regard to the noise control measures throughout India to the effect that 46 metropolitan cities in 7 States and UTs were identified for carrying out noise mapping. 10 States / UTs had prepared action plans for setting up of National Ambient Noise Monitoring Network. The States of Tripura and West Bengal had made policies for mandatory use of sound systems which was required to be adopted by other States.

13. The Tribunal held that apart from taking other steps, compensation regime was required to be developed.

14. Accordingly following directions were issued:-

“(a) Further steps for meaningful enforcement of Noise Rules be taken by the DPCC and concerned authorities.

(b) Delhi Government may issue appropriate notification on the pattern of Notification issue by the Tripura Government for mandatory use of sound limiters in all sound systems¹⁴. Delhi Government may address the observations of CPCB finding deficiency in its action plan with regard to training for use of measurement devices and developing robust protocol for action against defaulters¹⁵. A compliance report be filed.

(c) Sound measuring devices as sought by the DCP East, Shahdara and South Districts be made

¹⁴ See para 9 above

¹⁵ See para 12 above

available by the DCP logistics¹⁶. Let the Special CP (Traffic), in-charge of the Apex Committee, file an affidavit about the methodology for assessing working of the Committees which are being overseen by the Apex Committee which may include compliance of directions issued to the DCP Logistics.

(d) DPCC may undertake gap analysis and set up sufficient number of monitoring stations and acquire requisite number of equipment¹⁷, compile and publish statistical data relating to noise pollution¹⁸, prescribe interim scale of compensation pending finalization of the same by CPCB¹⁹. Compliance report may be filed by DPCC.”

15. We have reviewed the progress on the subject in light of the action taken report filed by Special Commissioner of Police (Traffic) of Delhi filed on 31.10.2019, report dated 11.11.2019 filed by the DPCC and the report dated 14.11.2019 filed by the CPCB.

16. Compliance status may be noted as follows. With regard to direction Nos. (a) and (d), there is hardly any further progress even after three months in the report of Special Commissioner of Police (Traffic) Delhi. Requisite equipments have not been procured. Monitoring stations have not been set up in terms in observation of paragraph 9 of the earlier order. Only report is that tender process is going on. Locations have been identified. Technical specification are in the process of being finalized. Further progress is that a workshop was organized on 16.04.2019 (which is prior even to the earlier order). Another workshop was scheduled for 13.11.2019. Template has been prepared.

17. Likewise, progress by the DPCC can hardly be held to be adequate. We are sorry to record that DPCC has been wholly amiss in

¹⁶ See para 7 above

¹⁷ See para 9 & 12 above

¹⁸ See para 11 above

¹⁹ See para 13 above

performance of its duties. There is no satisfactory data about the action for violations though violations are rampant and widespread which is failure on the part of all the concerned statutory authorities entrusted with the enforcement of law. Dr. M.P. George representing DPCC has made a statement that the requisite equipment will be procured within 60 days and monitoring stations will be set up within the said time. In view of the long and continued failures in the past, it becomes necessary to direct that if this is not done even by 31.01.2020, Member Secretary, DPCC and Dr. M.P. George will not be entitled to draw salary till the direction of this Tribunal is complied with.

18. Special Commissioner of Police, has stated in para 4 of the status report that the requisite equipments will be required by March, 2020. Accordingly, the Special Commissioner of Police and Deputy Commissioner of Police (Provisioning and Logistics) will not be entitled to draw salary, if there is non compliance even upto 01.04.2020, till compliance.
19. With regard to (b), it is stated that Notification of Delhi Government is ready and will be issued within one week from today. We hope that the statements will be faithfully complied with, failing which appropriate coercive action may have to be taken. Let the Chief Secretary, Govt. of Delhi coordinate this matter.
20. Compliance of directions with regard to training for use of the devices, and robust protocol for action against defaulters may be ensured. As already directed vide order dated 27.09.2018, a dedicated telephone line with recording facility and a dedicated online grievance redressal portal for redressal of noise pollution related

grievances be developed by Delhi Police and public awareness in this regard created. A minimum grievance redressal timeframe be fixed and monitored by a supervisory authority. Action taken report may be accordingly filed before the next date.

21. We are informed that there are 2000 Eco-clubs in schools/ colleges. Awareness programme may be coordinated in such a way that at least one programme on the subject is held once a month in all such institutions. The present level of awareness activities by Department of Environment, Govt. of NCT Delhi, is inadequate in terms of quality and quantity. It needs to be properly planned and coordinated. Yearly action plan covering different thematic areas of environmental problems needs to be clearly identified, awareness activities planned and monitored. It would be appropriate if target groups are properly identified, logistic and personnel earmarked and action taken is monitored. This may be ensured jointly by the Department of Environment, DPCC and the Special Commissioner of Police in coordination with the Education Department of Delhi and a compliance report furnished by the DPCC before the next by e-mail at judicial-ngt@gov.in.
22. Report of CPCB is that compensation for violation by using equipments should be 10%-25% of cost of such equipment. Compensation suggested as follows:-

“

S. No.	Violation of Noise Rules	Compensation (in Rupees) to be paid by defaulter	Action to be taken by designated authority
1.	Use of loud speakers/ public address	Rs. 10,000	Seizure

	system (clause 5(1)-5(2), 6(i,ii,iii&iv)		
2.	Violation WRT Generator Sets Norms (standards attached as annexure – IV to VI)		
a)	DG sets more than 1000 KVA	Rs. 1,00,000/-	Sealing of DG sets
b)	DG sets 62.5 to 1000 KVA	Rs. 25,000/-	
c)	DG sets upto 62.5 KVA	Rs. 10,000/-	
3.	Violation of use of sound emitting construction equipment	Rs. 50,000/-	Seizure / Sealing of equipment”
4.	Bursting of Firecrackers beyond the prescribed time limit prescribed (Hon'ble Supreme Court and Clause 5A (2) and 6 (iv)	Rs. 1000/-	

23. We are of the view that compensation for bursting of crackers at serial No. 4 needs to be suitably revised and needs to be different for different classes of defaulters and frequencies of default. Further, the CPCB has suggested that compensation should be 2-3 times for second and third violations accompanied by withdrawal of permission for installation/operation for their equipment.

24. The CPCB may also lay down stringent compensation for tampering with the sound limiters to ensure that the same is not restored to. Let compliance reports be filed by CPCB, Department of Environment, DPCC and Special Commissioner of Police, Delhi by 31.03.2020 by email at judicial-ngt@gov.in.

List again on 14.04.2020.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

Saibal Dasgupta, EM

November 20, 2019
Original Application No. 519/2016
and other connected matters

