

**HIGH COURT OF CHHATTISGARH, BILASPUR**

Order Sheet

**WPPIL No.88 of 2023**

In the Matter of Suo Moto Public Interest Litigation, Regarding Noise Pollution Based On News Item **Versus** The Chief Secretary and others

20/11/2023	<p>The present public interest litigation has been registered on suo moto cognizance taken by this Court on the basis of news item published in Dainik Bhaskar on 28.09.2023 and 29.09.2023, which is in relation to use of sound amplifiers during the current festive season.</p> <p>Mr.Chandresh Shrivastava, learned Additional Advocate General for the State/respondents No.1, 4 and 6.</p> <p>Mr.Trivikram Nayak, counsel for respondent No.2.</p> <p>Ms.Surya Kawalkar Dangi, counsel for intervener-Chhattisgarh Nagarik Sangharsh Samiti.</p> <p>Mr.Vinay Pandey &amp; Mr.Bhupendra Shrivastava, counsel for intervener-Ashish Dubey.</p> <p>Ms.Surya Kawalkar Dangi, learned counsel appearing for intervener-Chhattisgarh Nagarik Sangharsh Samiti submits that the intervenor is a society registered under the Chhattisgarh Society Registration Act, 1973 and is working on various social and environmental issues and has been working for welfare and development of people and society. The intervenor society has been working for curbing the menace of Noise Pollution in the city of Raipur and has been making several endeavours for the same. She further</p>

submits that apart from sound boxes and DJ music systems being used in the middle of the night in the center of the City, the organisers are using Trailer Trucks which are 40 feet long and further the map issued by the police showing the permitted route for Ganesh Visarjan procession shows that the same has been permitted to proceed from the center of the city instead of alternate routes which can be given from the outer region of the city. She also submits that certain photographs also show that during Ganesh Visarjan, trailer trucks were made to enter inside the city in Shankar Nagar area and the DJ was played after 10.30 PM at Shankar Nagar Square. This area is a residential area and there are hospitals within 100-200 metres from the area where the DJ was being played on the trailer truck for two hours. Another startling incidence is the organization of music festival in the premises of AIIMS Hospital in Raipur on 04.11.2022 wherein music systems and DJ sets were installed inside the campus of AIIMS Hospital, Raipur and were played in the middle of the night.

Mr.Vinay Pandey and Mr.Bhupendra Shrivastava, learned counsel appearing for intervenor-Ashish Dubey submits that he is co-owner of "Abhishek Sound and Light" and is running his small business within the periphery of Raipur City. They submit that when this Court took cognizance of the issue related to noise pollution on the basis of news report of Dainik Bhaskar and specially when the Chief Secretary of the State of Chhattisgarh was directed to file an affidavit with respect to the efforts taken by the State to take measures against the noise pollution created by the sound amplifiers, the police persons of the State without

any authority of law have started taking action against the owners of the sound amplifiers. The present intervenor / proposed respondent is victim of an illegal action taken by the police persons. The unauthorized police person from City Kotwali, Raipur on 02.10.2023 came into the shop of the present intervenor / proposed respondent and in his absence seized the vehicle having registration number CG04MY6503 alongwith music instrument assembled in the vehicle.

They also submit that in order to control the noise pollution, the State of Chhattisgarh has adopted the act of the Madhya Pradesh known as the Madhya Pradesh Kolahal Niyantran Adhiniyam, 1985 (in the State of Chhattisgarh it is the Chhattisgarh Kolahal Niyantran Adhiniyam, 1985, for short 'Act of 1985') and in this Act certain terms have been defined in Sections 4 and 5(1) which state as under:-

**“4. Prohibition of loud music.-**Loud music shall not be produced or caused to be produced in any place between the hours of 10 p.m. to 6 a.m.

**5. General restrictions against the use of loud-speaker.-**  
(1) Loud music shall not be operated or be caused to be operated between the hours of 10 p.m. and 6 a.m.”

They contended that the ambient air quality standards in respect of noise for different areas/zones shall be such as specified in the Schedule under Rule 3(1) and 4(1) of the Noise Pollution (Regulation and Control) Rules, 2000 (for short 'Rules of 2000') which states as under:-

Area Code	Category of Area/Zone	Limits in dB(A) Leq*
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		Day Time	Night Time
(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 6.00 to 10.00 p.m.
2. Night time shall mean from 10.00 p.m. to 6 a.m.
3. 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.

Leq: It is an energy mean of the noise level, over a specified period.

In the schedule to the said rules, for the note 3 and the entries thereto, “Silence zone” is earlier defined as an area comprising not less than 100 metres around hospitals, educational institutions and courts. The silence zones are zones which are declared as such by the competent authority” which has been substituted as above in note 3 vide S.O. 1046(E) dated 22/11/2000.

They further contended that exemption has also been defined in Section 13 of the Act of 1985 which states as under:-

**“13. Exemption.-**(1) Nothing in this Act shall apply to.-

(i) the occasions of National and Social functions and Religious Festivals mentioned below

1. Republic Day (26<sup>th</sup> January);
2. Basant Panchami;
3. Maha Shivratri;
4. Holi and Rangpanchami;
5. Guripadhva;
6. Chaiti Chand;
7. Ramnavami;
8. Baishakhi;
9. Mahavir Jayanti;
10. Dr. Ambedkar Jayanti;
11. Buddha Poomimi;
12. Nagpanchami;
13. Id-ul-Fitr;
14. Rakshabandhan;
15. Independence Day (15<sup>th</sup> August);
16. Shri Krishna Janmashtami;
17. Ganesh Chaturthi to Anant Choudas;
18. Sarva Pitrimiksha Amavasya;
19. Gandhi Jayanti (2<sup>nd</sup> October);
20. Durga Padhva to Dashhahara;
21. Deepavali;
22. Bhai Dooj;
23. Guru Nanak Jayanti;
24. Milad-un-nabi;
25. Guru Ghasidas Jayanti;

- 26. Christmas Day;
- 27. Moharraum from 1 to 10;
- 28. Id-uz-Zuha;
- 29. Good Friday; and

(ii) the use of loud speaker at any religious place or premises where it is being made as a tradition.

(2) The prescribed authority may, on application in writing made to him, grant exemption from the provisions of Section 4, 5, 6 and 7 for such period, on such occasions and in such areas as may be specified in the permission.”

They also contended that Section 18 of the Act of 1985 speaks about power to declare silence zones which states as under:-

**“18. Power to declare silence zones.-** the District Magistrate may, where he considers such a step necessary in public interest for reasons to be recorded in writing, specify zones of silence, prohibiting noises of all kinds for such period and hours as may be specified.”

Three different affidavits have been filed by the Chief Secretary, Government of Chhattisgarh on 10.11.2023 in relation to the reply to the contentions regarding the steps taken by the State towards prevention of noise pollution as well intervention applications filed by interveners- Ashish Dubey and Chhattisgarh Nagrik Sangharsh Samiti.

In response to the intervention application filed by Ashish Dubey, the Chief Secretary, Government of Chhattisgarh has filed affidavit in which it has been stated as under:-

“3. That, in compliance of the Hon’ble Court’s order dated 29/09/2023 an affidavit was filed by the Chief Secretary, Government of Chhattisgarh specifying the measure taken

by the State to curb the menace of noise pollution. The said affidavit was filed on 10/10/2023, however after hearing the parties on 10/10/2023 the Hon'ble Court has again directed the Chief Secretary, Government of Chhattisgarh to file an affidavit as regards the intervention application which has been filed in the said PIL. 4. The instant affidavit is being filed in view of the intervention application filed by Ashish Dubey who has filed an intervention application stating that he is the co-owner of "Abhishek Sound and Light" and the music instrument belonging to him has been seized without following the procedure as prescribed under the Chhattisgarh Kolahal Niyamtran Adhiniyam, 1985 and the Noise Pollution (Regulation and Control) Rules, 2000.

5. It is stated that as per the report received from Collector, District – Raipur regards the action initiated against the intervener it is submitted that the interveners vehicle bearing No.CG04MY6503 had a DJ system box along with generator light connected to it which was playing at a very loud volume causing Noise Pollution on 02.10.2023 at 10.20 pm thereby causing disturbance to locals in that area and therefore action was initiated against the intervener for violating the provisions of the Act of 1985, that at the said time when the loud music was being played it was asked by the authorities as to whether the interveners has the requisite permission for playing such loud music as no music instruments allowed to be played after 10 PM at loud volume in accordance with Section 5 of the Act of 1985 which specifically restricts that no loud music shall be operated or caused to be operated between the hours of 10 PM to 6 AM and since the music was being played after 10 PM the Police authorities have rightly taken the said action.

6. The intervener in his application has stated that the exact DB limit has not been specified and that no notice has been

served to him giving an opportunity of hearing before seizing his music instruments whereas the Istagasha report was registered bearing No. 7 of 2023 on 2<sup>nd</sup> October, 2023 at 10.20 PM against Shani Chhedaiya Son of Raju Chhedaiya for violating the provisions of the Act of 1985 specifically Sections 3, 5 and 15 and a notice was issued to Shani Chhedaiya to produce the permit for playing the music instrument as required under the provisions of the Act of 1985, specifically as per the proviso of Section 5 which states as under:

“Provided that the local authority or where there is no local authority, the prescribed authority may permit the use of loud speakers for any reasonable cost between the hours as may be specified by him for the aforesaid purposes on such terms and conditions as may be prescribed.”

Copy of Istagasha is attached as Annexure R/1.

7. However, Shani Chhedaiya who was found playing the music instrument could not produce the relevant permit and therefore proceedings of seizure of the music instrument were initiated and a Panchnama was drawn in presence of two witnesses namely Priyanshu Yadav and Bhim Baghel. Copy of Panchnama and witnesses statement is attached as Annexure R/2 (colly). Thus, the authorities have followed the procedure prescribed under law to maintain peace and tranquility as there has been violation of provision of law by the applicant.”

In response to the intervention application filed by Chhattisgarh Nagrik Sangharsh Samiti, the Chief Secretary, State of Chhattisgarh has filed affidavit in which it has been stated as under:-

“6. It is stated that as per the State instrumentalities have

always been taking proper and appropriate steps for curbing the menace of noise pollution throughout the State of Chhattisgarh. In district – Raipur total 404 cases have been booked for violations of the C.G. Kolahal Niyantran Adhiniyam, 1985, a total of 38 cases has been booked for violation of the sound limiter notification passed by the State Government on date 04.11.2019 and total 632 cases have been booked against persons using vehicles having modified silencer from the year 2017 to 2023. A list of the above-mentioned cases received from Collector Raipur is attached as Annexure R/1.

7. That, a meeting was convened on 16.10.2023 with the Director General of Police, all Divisional Commissioners, all Inspector Generals, Special Secretary, Housing and Environment and Member Secretary of Chhattisgarh Environment Conversation Board. A copy of the minutes of the meeting is attached as Annexure R/2.

8. That, in the meeting, it has been directed to all Divisional Commissioners and all Inspector Generals that they should take appropriate and proper action against the DJ system and the vehicles to which they are attached. The proceedings should be done as per the relevant rules and acts and should be videographed. The DJ system producing noise above the permitted levels mentioned in Noise Pollution (Regulation and Control) Rules, 2000 should be seized and if found necessary, proceedings shall be instituted against them under the Motor Vehicle Act, 1988 and the Environment (Protection) Act, 1986.

9. That, as SOP for taking action against the noise pollution is under preparation. The SOP is being prepared by the Housing and Environment Department, Law and Legislative Department and Director General of Police. The SOP will enable the officers in efficiently taking appropriate and strict

action against the violators of noise pollution rules and other relevant acts.

10. That, a letter was also sent to all the Divisional Commissioners, Inspector Generals, District Magistrates and Superintendents of Police on date 19.10.2023 whereby they have been directed to take appropriate action under the Noise Pollution (Regulation and Control) Rules, 2000 and C.G. Kolahal Niyantran Adhiniyam, 1985. Various directions were given by the letter, like no loudspeaker shall be used without the written permission of District Magistrate; no noise producing instrument shall be used in between 10 PM to 6 AM; no firecrackers shall be burst and no sound amplifier/pressure horn/musical horn shall be used within 100 meters from sensitive zones like hospital, education institutions, courts, religious institutions and the proceedings done by the relevant authorities in this regard shall also be shared to Special Secretary, Housing and Environment Department. Another letter has been sent to all the Divisional Commissioners, Inspector Generals, District Magistrates and Superintendents of Police on date 27.10.2023 whereby they have been informed about the ambient noise standards mentioned in the Noise Pollution (Regulation and Control) Rules, 2000 and have been directed to take action accordingly against persons causing noise pollution. A copy of the said letters is attached as Annexure R/3.

11. That to strengthen the collection of evidence against such noise producers, the Chhattisgarh Environment Conversation Board is procuring 18 more noise level meters, which will be distributed between the police personals of Raipur and Bilaspur. A letter has been sent to the Election Commission for obtaining permission to produce such noise level meters and once the permissions is received, the meters will be readily made available to the police personals.

A copy of the letter sent to the Election Commission is attached as Annexure R/4.

12. That, the Chhattisgarh Environment Conversation Board has also decided to install 4 Continuous Ambient Noise Monitoring Station (CANMS) in the State of Chhattisgarh. The said proposal has been passed in the 53<sup>rd</sup> Board Meeting and one of the bidders has also been verified and selected for installing the Continuous Ambient Noise Monitoring Station (CANMS) in the said meeting. The stations are proposed to be established in Raipur and Bilaspur and will provide live and continuous data of Noise Levels, which will ultimately help the state officers in readily identifying and apprehending the persons producing noise pollution in the vicinity of the station. A copy of the relevant portion of the minutes of 53<sup>rd</sup> Meeting of Chhattisgarh Environment Conservation Board has been attached as Annexure R/5.”

The Chief Secretary, State of Chhattisgarh has also filed an affidavit on 10.11.2023 in which he has stated as under:-

“5. It is stated that as the state instrumentalities have always been taking proper and appropriate steps for curbing the menace of noise pollution throughout the State of Chhattisgarh. A meeting was convened on date 16.10.2023 with the Director General of Police, all Divisional Commissioners, all Inspector Generals, Special Secretary, Housing and Environment and Member Secretary of Chhattisgarh Environment Conservation Board. A copy of the minutes of the meeting is attached as Annexure R/1.

6. That, in the meeting, it has been directed to create an SOP for taking action against DJ system users, pressure horns and vehicles without silencer. An SOP for taking action against the noise pollution is under preparation. The SOP is

being prepared by the Housing and Environment Department, Law and Legislative Department and Director General of Police. The SOP will enable the officers in efficiently taking appropriate and strict action against the violators of noise pollution rules and other relevant acts.

7. That, a letter was also sent all the Divisional Commissioners, Inspector Generals, District Magistrates and Superintendent of Police on dated 19.10.2023 whereby they have been directed to not let the use of pressure horns within 100 meters from sensitive areas like hospitals, educational institutions, religious institutions, courts and the proceeding done by the relevant authorities in this regard shall also be shared to Special Secretary, Housing and Environment Department. A copy of the said letter dated 19.10.2023 is attached as Annexure R/2.

8. That, further to strengthen the collection of evidence against such noise producers, the Chhattisgarh Environment Conservation Board is procuring 18 noise level meters, which will be distributed between the police personals of Raipur and Bilaspur. A letter has been sent to the Election Commission on date 31.10.2023 for obtaining permission to procure such noise level meters and once the permission is received, the meters will be readily made available to the police personals. A copy of the letter dated 31.10.2023 sent to the Election Commission is attached as Annexure R/3.

9. That, a letter has been sent to all Divisional Commissioners, Inspector Generals, District Magistrates and Superintendent of Police on 07.11.2023, whereby they have been asked to provide the information regarding the action taken against the use of pressure horns and vehicles plying without silencer from 2017 to 2023. As per the information received, total 33,833 cases have been booked against the use of pressure horns and total 1,049 cases have been

booked against the vehicles plying without silencers in the State of Chhattisgarh from 2017 to 2023. A copy of the letter dated 07.11.2023 and a chart detailing the action taken against pressure horns and vehicles plying without silencers is attached as Annexure R/4 (colly).”

When a pointed query was being made to the learned State Counsel with respect to the noise pollution which is created by special horns, speakers, loud-speakers etc. around the hospitals, educational institutions and Courts, the State Counsel referring to the letter dated 19.10.2023 stated that direction has already been issued to identify sensitive areas specifically prohibiting noise pollution and has further sought time to seek instruction pointing out that silence zones has to be declared by the competent authority in terms of the Act and the Rules which also might have been done from time to time.

In view of above, let the Chief Secretary, Government of Chhattisgarh file a detailed affidavit with regard to the steps taken by the State in terms of Section 18 of the Act of 1985 and the Rules of 2000 for declaring silence zones around hospitals, educational institutions and courts.

Learned State Counsel has assured the Court that silence zone would also be declared by the competent authority from the starting point till the ending point of the High Court area as per the Act and Rules, if not done earlier.

List this matter on **13.12.2023**.

Sd/-

**(Ravindra Kumar Agrawal)**  
**Judge**

Sd/-

**(Ramesh Sinha)**  
**Chief Justice**