

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

I.A. Nos. 20-33 in Writ Petition(Civil) No.72/1998

IN RE:NOISE POLLUTION -IMPLEMENTATION OF THE LAWS FOR RESTRICTING USE
OF LOUDSPEAKERS AND HIGH VOLUME PRODUCING SOUND SYSTEMS

(for impleadment party and directions and permission to file the
appln. and exemption from filing O.T. and office report)

WITH

I.A. No. 16/2005 in WP(C) No. 72/1998 (filed by the State of Maharashtra)

Date : 03/10/2005 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE ASHOK BHAN

For Petitioner (s)Mr. Jitendra Sharma, Sr. Adv. (A.C.)
in WP (C) 72/1998Mr. Sandeep Narain, Adv. (AC)
for S. Narain & Co., Advs.

For Respondent (s)Mr. G.E. Vahanvati, SG
For U.O.IMr. Gopal Subramaniam, ASG
Ms. Indra Sawhney, Adv.
Mrs. Anil Katiyar, adv.

Dr. A. Francis Julian, Adv.
for M/s Arputham, Aruna & Co., Advs.

For N.C.T. of Delhi Mr. Ashok Bhan, Adv.
Mrs. Anil Katiyar, Adv.

For CPCBMr. Vijay Panjwani, Adv.

Mr. K. R. Sasiprabhu, Adv. (NP)

Mr. Jagjit Singh Chhabra, Adv. (NP)

For State of AssamMs. Krishna Sarma, Adv.
Mr. V. K. Sidharthan, Adv.
Mr. Riku Sharma, Adv.
for M/s. Corporate Law Group, Adv.

For State of T.N.Mr. R.A. Perumal, Adv.
Mr. S. Vallinayagam, Adv.

For State of GoaMr. Bhavanishankar V. Gadnis, Adv.

For State of MaharashtraMr. G.E. Vahanvati, SG
& Applicant in I.A. No. 16/05Mr. Ravindra K. Adsure, adv.

For Applicant in IA Nos. 20,Mr. Arun Jaitley, Sr. Adv.
21 & 29Mr. Mukul Rohtagi, Sr. Adv.
Mr. Saurav Kirpal, Adv.
Ms. Hemantika Wahi, Adv.

...2/-

- 2 -

For Applicant in IA No.25-28 Mr. Anantbhushan Kanade, Adv.
Mr. Guneshwar Sharma, Adv.

Mr. S. Ravi Shankar, Adv.

For Applicant in IA 30-31 Mr. Yatin N. Oza, Sr. Adv.
Mr. Rashesh Sanjanwala, Adv.
Mr. SUK Sagar, Adv.
Ms. Bina Mahdavan, Adv.
Mrs. Pooja Nanekar, adv.
Ms. Susan Zachariah, Adv.
Mr. A. Venayagam, Adv.
Mr. Hemal K. Sheth, adv.
for M/s. Lawyer's Knit & Co., Adv.

For Applicant Mr. R.F. Nariman, Sr. Adv.
Mr. Mahesh Agarwal, Adv.
Mr. E.C. Agrawala, Adv.

For Applicant in IA 32-33 Mr. Yatin N. Oza, Sr. Adv.
Mr. Jaal Unwala, Adv.
Ms. Bina Mahdavan, Adv.
for M/s. Lawyer's Knit & Co., Adv.

Mr. M.A. Chinnasamy, Adv.

For Applicant in I.A. 22-24 Mr. Braj Kishore Mishra, Adv.

Mr. Jagjit Singh Chhabra, Adv.

Mr. P.V. Yogeswaran, Adv.

Mr. S. Ravi Shankar, Adv.

UPON hearing counsel the Court made the following

O R D E R

I.A. No. 16/2005 in WP(C) No. 72/1998 is taken on Board.
Hearing in C.A. No. 3735/2005 is reopened limited to the extent of examining the correctness or otherwise of the Division Bench judgment of the Kerala High Court impugned therein. List C.A. No. 3735/2005 for hearing on 24th October, 2005.
All the I.As. be treated as disposed of in terms of the signed order.

(Ajay Kr. Jain)

(Vijay Dhawan)

Court Master

Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

I.A. NOS. 20-33

IN

WRIT PETITION (C) NO. 72 OF 1998

IN RE : NOISE POLLUTION - IMPLEMENTATION OF THE
LAWS FOR RESTRICTING USE OF LOUDSPEAKERS AND
HIGH VOLUME PRODUCING SOUND SYSTEMS

WITH

I.A. No. 16/2005 in W.P.(C) No. 72/1998
(filed by the State of Maharashtra)

O R D E R

Heard.

Having heard the learned counsel for all the applicants in several applications, we are inclined to entertain a very limited grievance and that is made clear hereunder.
Our attention is invited to the Noise Pollution (Regulation and Control) Rules, 2000 (hereinaf

ter referred to as the Noise Rules for short) framed by the Central Government in exercise of the powers conferred by clause (ii) of sub-section (2) of Section 3, sub-section (1) and clause (b) of sub-section (2) Section 6 and Section 25 of the Environment (Protection) Act, 1986 read with Rule 5 of the Environment (Protection) Rules, 1986.

Vide S.O. 1088(E) dated 11.10.2002 sub-Rule 3 was inserted by the Central Government in Rule 5 of the Noise Rules. The text of Rule 5, as amended on 11.10.2002 reads as under :-
R. 5 Restrictions on the use of loud speakers/public address system. -

(1) A loud speaker or a public address system shall not be used except after obtaining written permission from the authority.

(2) A loud speaker or a public address system shall not be used at night (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.

(3) Notwithstanding any thing contained in sub-rule (2), the State Government may, subject to such terms and conditions as are necessary to reduce noise pollution, permit use of loud speakers or public address systems during night hours (between 10.00 p.m. to 12.00 midnight) on or during any cultural or religious festive occasion of a limited duration not exceeding fifteen days in all during a calendar year.

The constitutional validity of sub-Rule (3) abovesaid was put in issue by filing a writ petition in the High Court of Kerala registered as O.P. No. 38066/2003 disposed of on 14.3.2003. The Division Bench of the High Court turned down the challenge and upheld the constitutional validity of the said sub-Rule (3).

The writ petitioners before the Kerala High Court filed an appeal by special leave before this Court registered as C.A. No. 3735/2005 which was dealt with by this Court alongwith W.P.(C) No. 72/1998 and decided vide its judgment dated July 18, 2005, reported as (2005) 5 SCC, 733. It is contended that in the judgment this Court has not specifically upset the Division Bench judgment of the Kerala High Court and has also not even otherwise expressed and recorded any specific opinion on the constitutional validity or otherwise of sub-Rule (3) abovesaid. It is submitted that Rule 5, as amended, and as reproduced hereinabove continues to remain in operation but the State Governments are feeling difficulty in enforcing the Rule and also exercising the power conferred by sub-Rule (3) of Rule 5 of the Noise Rules in view of the judgment of this Court.

Prima facie we find merit in the submission so made. We feel that the Court should have specifically dealt with the plea as to the validity of sub-Rule (3) which was dealt with by the Division Bench of the Kerala High Court and expressed its opinion thereon. To this limited extent the case needs to be re-opened for hearing and heard afresh.

Hearing in C.A. No. 3735/2005 is re-opened limited to the extent of examining the correctness or otherwise of the Division Bench judgment of the Kerala High Court impugned therein. List the matter for hearing in that regard on 24.10.2005. The Registry may inform the counsel for the writ petitioners-appellants in that appeal.

Until further orders Rule 5 of the Noise Rules, as reproduced hereinabove, shall continue to remain in operation.

So far as other applications are concerned, Mr. Jitendra Sharma, learned senior counsel, appearing as Amicus Curiae in the writ petition has invited our attention to para 150 of the judgment, which is reproduced hereunder.

150. Several interlocutory applications have been filed in this Court, wherein it was pleaded that restriction on bursting of firecrackers in the night should be removed during the Diwali festival. Similar relaxation was demanded for other festivals. These applications highlighted practices prevalent in some of the western countries wherein such relaxation is allowed. We do not think that we will be justified in granting any such relaxation. Indian society is pluralistic. People of this great country belong to different casts and communities, have belief in different religious and customs and celebrate different festivals. We are tolerant of each other. There is unity in diversity. If relaxation is allowed to one there will be no justification for not permitting relaxation to others and if we do so the relaxation will become the rule. It will be difficult to enforce the restriction.

We are not inclined to re-open the hearing insofar as the above aspect of the case is concerned. All the issues covered by the judgment dated 18.7.2005 excepting the one relating to C.A. No. 3735/2005 stand concluded.

All the I.As. be treated as disposed of.

.....CJI.
(R.C. LAHOTI)

.....J.
(ASHOK BHAN)

New Delhi
October 3, 2005