

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

**(Through Video Conferencing)**

Execution Application No.04/2023(CZ)

In

Original Application No.78/2016(CZ)

Chhattisgarh Nagrik Sangharsh Samiti Applicant(s)

Versus

State of Chhattisgarh &Ors.

Respondent(s)

Date of hearing: 17.07.2023

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER  
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

For Applicant(s) : Mr. Gauranvit Jain, Advocate

For Respondent(s): Ms. Parul Bhadoria, Advocate for CECB

**ORDER**

1. Original Application (hereinafter referred to as 'OA')No. 78/2016(CZ) was filed under Sections 14 and 15 of National Green Tribunal Act, 2010 (hereinafter referred to as '**NGT Act, 2010**'), alleging noise and air pollution on account of various activities in District Raipur (State of Chhattisgarh). OA was disposed of vide judgment dated 27.09.2016 and operative part of the order reads as under:

*"7. Noise levels during festival season of Durga Puja Diwali & Ganesh Utsav though temporary but can be quite annoying and a cause of concern in this behalf. The directions issued by the Hon'ble Supreme Court and the Judgment of the Principal Bench NGT referred to above need to be implemented by the administration. Past experience has generally shown that people are reluctant to complaint for fear of internalising the people who resort to such use of loudspeakers etc. particularly in the name of religious functions and festivities. The District administration and police therefore, without waiting for formal complaints in this behalf need to act suo-moto promptly. Whenever, such complaints are filed or reported on telephone action must be initiated by the administration in accordance with law.*

*8. The issue with regard to the erection of pandals and welcome gates is something that needs to be viewed seriously by District administration and the local authorities and the local personnel. With high increase in the volume of traffic in the cities permission for erection of such gates and pandals on the roads should not be*

granted at all. Wherever, such pandals and welcome gates (toran) are erected without permission also immediate action should be taken by the local municipality and police and district administration for removal of the same as also for penalising persons responsible. Since, it is common administrative practice that without taking permission from the District administration and police no procession etc. can be taken out. The District administration must therefore, be vigilant to ensure that along the route there are no such pandals or welcome gates and even during the course of the procession no obstruction is caused to the smooth flow of traffic which may result in adding to the air and noise pollution. As far as, the noise pollution during festivities Durga Puja, Diwali & Ganesh Utsav is concerned the report submitted by the CECB confirms the fact that the air ambience quality during the times of such festivities is not satisfactory or within the prescribed norms. Similarly, due to vehicular pollution levels of PM 2.5 and PM 10 are also on the higher side. It has been stated by the CECB as also by the State in their reply that the State had undertaken a massive drive for checking the vehicular pollution and as issue notification on 10.09.2001 in exercise of the powers conferred under the Motor Vehicle Act 1989 and the rules framed there under particularly Rule 115 of the Motor Vehicle Rules. A statistics chart has also been provided by way of Annexure R5 which shows that there has been a two fold increase in the number of chalans in violation of the Motor Vehicle Rules in so far as the use of pressure horns is concerned. Use of pressure horns and checking for pollution under control certificates (PUC), this need to be done on a regular basis and at more places by establishing checkpoints. As regards the, festive season during the course of hearing in N. Yaidraj case a response had been filed by the Central Pollution Control Board (CPCB) which is as follows :

*“The CPCB to whom notices were also issued have filed their response. It has been submitted in the same as follows:*

*That, CPCB has not conducted any study related to health impacts due to air emissions from firecrackers as the same is not a domain in which the board exercises its statutory mandate. Ministry of Health and Family Welfare is the competent authority for the health impact issues. However, from online literature survey, it is evident that there are health impacts due to air emissions from firecrackers. The frequent use of fireworks in the Deepawali like events and /or in different celebration issues, may have potential and/or dangerous impact on air quality / health as a cumulative effect of pollution. The ingredients of fireworks have hazardous / toxic effects that is Aluminium causes contact dermatitis & bioaccumulation; Sulfur Dioxide causes acid rain from sulphuric acid affecting water resources, vegetation and property damage; potassium nitrate emits toxic dusts and carcinogenic sulphur-coal compounds; ammonium and potassium perchlorate can contaminate ground and surface water, and can cause thyroide in humans and animals; nitrogen dioxide is highly toxic by inhalation. Also, children breathe toxic air and suffer from nasal irritation and throat congestion. The smoke also irritates the eyes, cause tears and redness. Bursting crackers may increase blood pressure and aggravate heart disease. Nausea, headache and giddiness are common effects of bursting firecrackers. Lung infections such*

*as coughing, sneezing, respiratory disorders like asthma, wheezing often get severe during Diwali festival. The poisonous gas can also affect pregnant women adversely. It may also affect the mentally ill patients leading to depression, fear and stress. The submission on “Firecrackers — Air Emission and Health Impacts” has been prepared through the online literature survey.”*

9. *The administration therefore, needs to take effective steps in the light of the issues mentioned by the CPCB in its response quoted above. Even the general public needs to be apprised and made aware of the hazards as a result of use of such fire crackers during festivities. Awareness programmes by print and electronic media as also by pamphlets to be distributed by the Government and local authority can be carried out so that people are made aware about the harmful impact by such air and noise pollution. While deciding the case of N. Vaidraj in our order dated 18.04.2016 we had specifically directed the State Governments including that of Chhattisgarh to ensure strict compliance of the rules along with the directions issued by the Hon’ble Supreme Court as well as PB NGT contained in its judgment dated 18.12.2012. The researchers are in the continuous process of studying the impact of such air and noise pollution not only on humans but even on animals and birds and plants. There is a duty under Article 48 (A) of the Constitution as well as under Article 51 (A) clause (g) for the State and individual citizens for having compassion for all living creatures something that can be explained in educational institutions and elsewhere for younger generation to take note of.*
10. *We may also add here what we had said with respect to the need for the administration to take effective steps in so far as grant of permission under the explosive incenses and setting up of pataka shops etc. are concerned while still on the issue of noise pollution and air pollution as a result of the use of crackers. In N. Vaidraj case we had drawn the attention in the following terms:*

*“The second issue which requires our attention is with regard to the alleged availability of imported crackers in the market. Very often we find that on the packaging and the labels there is no caution appended on the same as decibel level of the crackers are not reflected, since under the Rules of 2006 the permissible decibel level have been prescribed. We would therefore, direct that the MoEF Government of India through the Home Ministry as well as the Commerce Ministry issue directives to the manufactures informing the prescribed decibel level of the crackers so that no cracker crossed the prescribed decibel levels as provided under the Rules.*

*Secondly, more importantly in our opinion, is the issue with regard to the composition of the compounds which are used in the manufacture of these crackers. There is need for all persons using such crackers to be aware of composition and their adverse impact on them individually on account of the air pollution and its adverse impact on the Air Ambient Quality. Since, the bursting of crackers during festivities most often take place on the streets which are very often very narrow and congested and in such places, the harmful impact last for a*

*longer duration because of the cumulative impact of large number of such crackers of various intensity and decibel levels being burst within the short span of 3 to 4 hours. Adverse health problems particularly with regard to the patients suffering from respiratory diseases and other ailments as noticed by the Hon'ble Supreme Court need to be considered and therefore, the directions of notifying the compound which are permissible in the manufacture of such crackers need to be regulated and whatever compounds are considered to be hazardous need to be banned.*

*We have been informed that till date no permissions have been granted by the Government of India for the import of crackers yet there is widespread belief that imported crackers are available in large quantities in the markets throughout the country. Their popularity has further risen on account of the fact that their cost in comparison to indigenous crackers is much lower and therefore, preferred by people. The District Administration that is the District Magistrate / Collector as well as the police Department therefore, have to be vigilant and ensure that such crackers whose compositions and decibel levels are not at all known and whose import has not been sanctioned should be impounded and vigil be kept in this behalf.*

- 11. The use of DJs during marriages and other ceremonies and parties may add to enjoyment and entertainment for those organising and participating in such functions but it adds to the noise to residents of the locality and need is, therefore, for the administration to ensure that these are not allowed to interfere with the rights of other citizens. In so far as their right to a peaceful environment and sleep are concerned, we have earlier in the case of Alankrita Mehra Vs Union of India O.A No. 21/2013 given detailed directions so also a similar matter in the case of Arjun Gopal Vs. Union of India is reported to be pending before the Hon'ble Supreme Court as such detailed directions in that behalf are not being given separately but the administration must take care that such DJs act in accordance with law and the rules framed there under for maintaining the decibel levels and the timings prescribed there under. Along with the DJs more often we find that there are diesel generators (DG sets) which are unlicensed and have not been approved under the EP Rules 1986, use of such DG sets should not be allowed as in order to overreach the noise levels of such DG sets the music etc. being played by the DJs reaches at level far beyond the prescribed ones. The DG sets are also a source of noise and air pollution and therefore, the CECB must undertake the task of effectively monitoring and implementing the rules in this behalf.*
- 12. Since the whole issue is of effective implementation of the rules and monitoring of the air and noise level, the administration needs to have effective monitoring mechanism and equipment's to deal with the issue. The prayer made by the Applicant, therefore, for directing the Respondents to equip themselves sufficiently with adequate number of such devices is a valid one. We would, therefore, direct the State of Chhattisgarh to ensure that sufficient number of monitoring stations in urban areas with specialized equipment's for monitoring air and noise pollution levels be installed with the data*

*being made available at the level of the CECB for taking effective steps in this behalf. During festivities and the marriage season the pollution authorities along with the District administration may also be provided with mobile units for the aforesaid periods.”*

2. Present Execution Application (hereinafter referred to as ‘**EA**’) has been filed alleging that Tribunal’s order dated 27.09.2016 has not been complied with. Taking note of EA, Tribunal by order dated 02.05.2023 while issuing notice, directed District Collector (representative), Raipur to submit action taken report and also in respect to the averments made in EA.

3. Neither any such report has been filed nor anyone has appeared on behalf of District Collector, Raipur nor any reason has been disclosed as to why report was not been submitted.

4. This conduct and attitude shown by District Collector cannot be appreciated as it amounts to disobedience on the part of District Collector with regard to compliance of Tribunal’s order. It is also an offence under Section 26 of NGT Act, 2010. However, before taking any further action including criminal proceedings against the defaulter, we find it appropriate to give a further opportunity.

5. We, therefore, direct District Collector, Raipur to appear in person before Tribunal on the next date to explain as to why Tribunal’s order dated 02.05.2023 has not been complied with and no report, as directed, has been submitted. If District Collector, Raipur also finds that the judgment dated 27.09.2016 passed by this Tribunal in OA No. 78/2016(CZ) has also not been complied with, he shall also give reasons for non-compliance thereof.

6. List the case on 08.08.2023.

7. Copy of order be forwarded to District Collector, Raipur for compliance.

Sudhir Agarwal, JM

Dr. Afroz Ahmad, EM

July 17, 2023  
Execution Application No.04/2023(CZ)  
In  
Original Application No.78/2016(CZ)  
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