
(2013) 03 MP CK 0072
In the Madhya Pradesh High Court
Case No : W.P. No. 5383/2011

Prem Kumar Dixit and Others

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 13-03-2013

Acts Referred:

Citation : (2013) 03 MP CK 0072

Hon'ble Judges : S.K. Gangele, J;G.D. Saxena, J

Bench : Division Bench

Judgement

1. Heard. The petitioners have filed this Public Interest Litigation against the noise pollution.

2. The petitioners pleaded in the petition that there is a high level noise pollution at the city of Gwalior and the authorities have not taken any care in regard to implementation of the directions issued by the Hon"ble Supreme Court in the case of In Re: Noise Pollution - Implementation of the Laws for restricting use of loudspeakers and high volume producing sound systems, .

3. The respondent/State in the return pleaded that the authorities have passed number of orders to stop the noise pollution. It is further submitted that the District Magistrate, Gwalior has taken effective measures to control the noise pollution. Copy of the orders passed by the District Magistrate Gwalior on 17.2.2012, 20.11.2012 and 20.11.2012 have been filed as Annexures R/1 to R/3 alongwith the reply of this petition.

4. Hon"ble Supreme Court in the case of Noise Pollution (V), In Re: Noise Pollution - Implementation of the Laws for restricting use of loudspeakers and high volume producing sound systems, has issued following directions to control the noise pollution:-

XII. Directors

It is hereby directed as under:-

(i) Firecrackers

174. 1. On a comparison of the two systems i.e. the present system of evaluating firecrackers on the basis of noise levels, and the other where the firecrackers shall be evaluated on the basis of chemical composition, we feel that the latter method is more practical and workable in Indian circumstances. It shall be followed unless and until replaced by a better system.

2. The Department of Explosives (DOE) shall undertake necessary research activity for the purpose and come out with the chemical formulae for each type or category or class of firecrackers. DOE shall specify the proportion/composition as well as the maximum permissible weight of every chemical used in manufacturing firecrackers.

3. The Department of Explosives divide the firecrackers into two categories - (I) sound-emitting firecrackers, and (ii) colour/light-emitting firecrackers.

4. There shall be a complete ban on bursting sound-emitting firecrackers between 10 p.m. and 6 a.m. It is not necessary to impose restrictions as to time on bursting of colour/light-emitting firecrackers.

5. Every manufacturer shall on the box of each firecracker mention details of its chemical contents and that it satisfies the requirement as laid down by DOE. In case of a failure on the part of the manufacture to mention the details or in cases where the contents of the box do not match the chemical formulae as stated on the box, the manufacture may be held liable.

6. Firecrackers for the purpose of export may be manufactured bearing higher noise levels subject to the following conditions: (i) the manufacture should be permitted to do so only when he has an export order with him and not otherwise; (ii) the noise levels for these firecrackers should conform to the noise standards prescribed in the country to which they are intended to be exported as per the export order; (iii) these firecrackers should have a different colour packing, from those intended to be sold in India; (iv) they must carry a declaration printed thereon something like "not for sale in India" or only for export to country AB" and so on.

(ii) Loudspeakers

175. 1. The 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.

2. No one shall beat a drum or tom-tom or blow a trumpet or beat or sound any instrument or use any sound amplifier at night (between 10.00 p.m. and 6 a.m.) except in public emergencies.

3. The peripheral noise level of privately-owned sound system shall not exceed by more than 5 dB(A) than the ambient air-quality standard specified for the

area in which it is used, at the boundary of the private place.

(iii) Vehicular noise

176. No horn should be allowed to be used at night (between 10 p.m. and 6 a.m.) in residential area except in exceptional circumstances.

(iv) Awareness

177. 1. There is a need for creating general awareness towards the hazardous effects of noise pollution. Suitable chapters may be added in the textbooks which teach civic sense to the children and youth at the initial/early-level of education. Special talks and lectures be organised in the schools to highlight the menace of noise pollution and the role of the children and younger generation in preventing it. Police and civil administration should be trained to understand the various methods to curb the problem and also the laws on the subject.

2. The State must play an active role in this process. Resident Welfare Associations, service clubs and societies engaged in preventing noise pollution as a part of their projects need to be encouraged and actively involved by the local administration.

3. Special public awareness campaigns in anticipation of festivals, events and ceremonial occasions whereat firecrackers are likely to be used, need to be carried out.

The abovesaid guidelines are issued in exercise of power conferred on this Court under Articles 141 and 142 of the Constitution. These would remain in force until modified by this Court or superseded by an appropriate legislation.

(v) Generally

178. 1. The States shall make provision for seizure and confiscation of loudspeakers, amplifiers and such other equipment as are found to be creating noise beyond the permissible limits.

2. Rule 3 of the Noise Pollution (Regulation and Control) Rules, 2000 makes provision for specifying ambient air-quality standards in respect of noise for different areas/zones, categorisation of the areas for the purpose of implementation of noise standards, authorising the authorities for enforcement and achievement of laid down standards. The Central Government/State Governments shall take steps for laying down such standards and notifying the authorities where it has not already been done.

179. Though, the matters are closed consistently with the directions as issued above in public interest, there will be liberty of seeking further directions as and when required and in particular in the event of any difficulty arising in implementing the directions.

180. CWP, CA and all pending IAs be treated as disposed of.

181. Before parting, we would like to place on record our deep appreciation of valuable assistance rendered by Shri Jitendra Sharma, Senior Advocate assisted by Shri Sandeep Narain, Advocate (and earlier by late Shri Pankaj Kalra, Advocate), who highlighted several relevant aspects of the issues before us and also helped in formulating the guidelines issued, as above.

5. Hon''ble Supreme Court issued directions and specially in regard to loudspeaker it is directed that no sound amplifier is permitted at night between 10 p.m. to 6 a.m. and noise level of privately owned sound system shall not exceed by more than 5 dB(A). Hon''ble Supreme Court has also issued directions in regard to Vehicular noise and noise of the firecrackers. In our opinion, the noise pollution by loud speakers is necessary to be controlled because it creates noise pollution in the city and the people in hotel, club, restaurant, public place, temples and religious places have been using loudspeakers without any control. Hence, this petition is disposed of with the following directions:-

(1) The authorities shall issue orders and implement the orders of the Hon''ble Supreme Court as quoted above and no loud speaker or amplifier shall be permitted to be used between 10 p.m. to 6 a.m.

(2) It is further directed that noise level of amplifier or loudspeaker between 10 p.m. to 6 a.m. should not be more than 5 dB(A). The authorities shall specifically observe the aforesaid directions and specific directions be issued to all the Police Stations and S.Ps.

(3) It is further directed that if any authority does not follow the directions, then he shall be liable to be prosecuted for criminal contempt of court personally and it is the duty of the Station House Officer - In charge of the Police Station to make sure that the directions issued by the court be complied with. The police is also at liberty to take appropriate steps including the prosecution of the concerned person or the agency, who would be found violating the order.

(4) The district administration is also directed to give wide publicity of these directions in the media so the people can make themselves aware about the directions and if there is any violation, they can lodge a complaint at appropriate police station in this regard.

6. The Collector is directed to file compliance report within a period of four weeks before the registry of this court. With the aforesaid directions, this petition is disposed of. No order as to costs.