

Item No.3

**BEFORE THE NATIONAL GREEN TRIBUNAL  
CENTRAL ZONE BENCH, BHOPAL**  
(Through Video Conferencing)  
**Original Application No.79/2021 (CZ)**

Consumer Unity & Trust Society, Jaipur

Applicant(s)

Versus

State of Rajasthan & Ors

Respondent(s)

**Date of completion of hearing and reserving of order: 02.08.2022**

**Date of uploading of order on website: 23.08.2022**

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER  
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s):

Mr. Tarun Agarwal, Adv  
Mr. Bhaskar Agarwal, Adv

For Respondent(s):

Mr. Shoeb Hasan Khan, Adv

**ORDER**

1. Article 21 of the Constitution of India guarantees life and personal liberty to all persons. Right to life enshrined in Article 21 is not of mere survival or existence. It guarantees a right of person to life with human dignity. Therein are included, all the aspects of life which go to make a person's life meaningful, complete and worth living. The human life has its charm and there is no reason why the life should not be enjoyed along with all permissible pleasures. Anyone who wishes to live in peace, comfort and quiet within his house has a right to prevent the noise as pollutant reaching him. No one can claim a right to create noise even in his own premises which would travel beyond his precincts and cause nuisance to neighbours or others. Any noise which has the effect of materially interfering with the ordinary comforts of life judged by the standard of a reasonable man is nuisance. How and when a nuisance created by noise becomes actionable has to be answered by reference to its degree and the surrounding circumstances including the place and the time. Those who make noise often take shelter behind Article 19(1)a pleading freedom of speech and right to expression. Undoubtedly, the freedom of speech and

right to expression are fundamental rights but the rights are not absolute. Nobody can claim a fundamental right to create noise by amplifying the sound of his speech with the help of loudspeakers. While one has a right to speech, others have a right to listen or decline to listen. Nobody can be compelled to listen and nobody can claim that he has a right to make his voice trespass into the ears or mind of others. Nobody can indulge into aural aggression. If anyone increases his volume of speech and that too with the assistance of artificial devices so as to compulsorily expose unwilling persons to hear a noise raised to unpleasant or obnoxious levels then the person speaking is violating the right of others to a peaceful, comfortable and pollution-free life guaranteed by Article 21. Article 19(1)a cannot be pressed into service for defeating the fundamental right guaranteed by Article 21. We need not further dwell on this aspect. Two decisions in this regard delivered by High Courts have been brought to our notice wherein the right to live in an atmosphere free from noise pollution has been upheld as the one guaranteed by Article 21 of the Constitution. These decisions are Free Legal Aid Cell Shri Sugan Chand Aggarwal alias Bhagatji v. Govt. of NCT of Delhi and Ors., (D.B.) and P.A. Jacob v. Superintendent of Police, Kottayam. We have carefully gone through the reasoning adopted in the two decisions and the principle of law laid down therein, in particular, the exposition of Article 21 of the Constitution. We find ourselves in entire agreement therewith.

2. The grievance of the applicant is:

- (i) That the Applicant vide letter brought to the notice of the RSRTC, the agonizing effects of use of air pressure horns by the State-owned buses on daily basis in their normal course of commutation throughout the State which violate the existing applicable and governing laws on the noise pollution. The Applicant presented the Chairman and the Managing Director (CMD) of the RSRTC with the much-needed panoramic view of the problem at hand to make the Corporation realise as to how, by its own conduct it is liable

for the repeated violation of the law laid in statutes and the judgments passed by the Hon'ble Apex Court and this Ld. Tribunal.

- (ii) That the Executive Director (Mechanical) of the Corporation in receipt of the Applicant's letter dated 18.02.2021, after becoming cognizant of the impending dangers that the unbridled use of heavy pressure horns in the State owned and run buses in long term will cast on the state of welfare of the people in the State, directed the Chief Managers of all the Bus Depots under the Corporation vide its letter dated 23.02.2021 that peremptory actions should be taken to ensure that the horns should not be used unrestrictedly and without any just cause. That the Chief Managers of all the Bus Depots under the Corporation were obligated to report to the Executive Director with necessary proofs of the subsequent actions taken within 7 days of the receipt of the letter dated 23.02.2021, towards which, however till date i.e., 6 months from the intended date, there has been no positive action or response from the Chief Manager on record to the letter dated 23.02.2021 from the Executive Director (Mechanical) of the Corporation.
- (iii) That the nuisance of noise pollution has also been the concern of the Traffic Police Department of the State wherein the Traffic Police in the State Capital i.e., Jaipur as reported in the widely read and recognized newspaper in the State i.e., Dainik Bhaskar in its edition dated 03.09.2021 [annexed as ANNEXURE A- 8], has sought out to curb and control the menace through innovative efforts wherein the culprits would be identified and fined only after their 5th recorded default in declared silence zones. Additionally, the newspaper also recorded that as per the latest report of the State Pollution

Control Board released in 2021, the noise pollution standards as prescribed in letters of law have not been complied with.

- (iv) That in the light of the deplorable and ignorant state of affairs in the State, the Secretary General of the Applicant wrote to the Chairman and Managing Director of the Corporation vide letter dated 06.09.2021 [annexed as ANNEXURE A-9], wherein the attention was drawn towards the continuous representations that the Applicant has made to the Executive Director (Engineering) of the Corporation over the course of several months and the detailed report by the newspaper Dainik Bhaskar dated 03.09.2021 on the subject.
- (v) That on 29.09.2021, the daily newspaper Dainik Bhaskar [annexed as ANNEXURE A-10], made shocking revelations that, over 70% of the noise pollution in the capital of the State, Jaipur, is being caused by a single source i.e., vehicular noise pollution. Further, as per the report, the intensity of vehicular horns in some cases is well above 100 decibels which is much more in comparison to the safety standards of 55 decibels in Residential areas as prescribed by law thus, aggravating and worsening the situation in the face of rising vehicular and population numbers.
- (vi) That, since no action has been taken by the responsible State machineries/ Respondents on the issues raised by the Applicant from time to time, the Applicant was constrained to approach this Hon'ble Tribunal.
- (vii) **STATUTORY PROVISIONS**

**Constitution of India, 1950**

That Article 21 of the Constitution guarantees 'heart of fundamental rights' and is as follows:

“21. Protection of life and personal liberty.—No person shall be deprived of his life or personal liberty except according to procedure established by law.”

That the Hon'ble Apex Court in In Re: Noise Pollution-Implementation of the Laws for restricting use of loudspeakers and high volume producing sound systems, (2005) 5 SCC 733, has inter alia held that Article 21 is not of mere survival and include aspects which make a person's life meaningful, complete and worth living.

**Environment (Protection) Act, 1986**

That the Environment (Protection) Act, 1986 provides for the protection and improvement of environment and for matters connected therewith, with the sole objective of fostering and promoting policies and decisions which relate to the protection and improvement of environment and the prevention of hazards to human beings, other living beings including flora and the property.

MANU/SC/0647/2020, went to great lengths to discuss the importance and purpose of the Act and held as follows:

“9. Later, the Environment (Protection) Act, 1986 was enacted to provide for protection and improvement of environment and for matters connected therewith, with the view to implement the decision taken at the United Nations Conference on Human Environment at Stockholm in June, 1972, in which India had participated.

10. The Statement of Object and Reasons of the Environment (Protection) Act is set out herein below for convenience:

1. ...The world community's resolve to protect and enhance the environmental quality found expression in the decisions taken at the United Nations Conference on the Human Environment held in Stockholm in June 1972. The Government of India participated in the Conference and strongly voiced the environmental concerns. While several measures have been taken for environmental protection both before and after the Conference, the need for a general

legislation further to implement the decisions of the Conference has become increasingly evident.

2. Although there are existing laws dealing directly or indirectly with several environmental matters, it is necessary to have a general legislation for environmental protection. Existing laws generally focus on specific types of pollution or on specific categories of hazardous substances. Some major areas of environmental hazards are not covered. There also exist uncovered gaps in areas of major environmental hazards. There are inadequate linkages in handling matters of industrial and environmental safety. Control mechanisms to guard against slow, insidious build up of hazardous substances especially new chemicals in the environment, are weak. Because of a multiplicity of regulatory agencies, there is need for an authority which can assume the lead role for studying, planning and implementing long term requirements of environmental safety and to give direction to, and co-ordinate a system of speedy and adequate response to emergency situations threatening the environment.

3. In view of what has been stated above, there is urgent need for the enactment of a general legislation on environmental protection which inter alia, should enable co-ordination of activities of the various regulatory agencies, creation of an authority or authorities with adequate powers for environmental protection, Regulation of discharge of environmental pollutants and handling of hazardous substances, speedy response in the event of accidents threatening environment and deterrent punishment to those who endanger human environment, safety and health.

4. The Bill seeks to achieve the above objects.”

4.17.2.3. That the Act is applicable to the whole of India and defines 'environment', 'environment pollutant' and 'environmental pollution' as below in Section 2 of the Act:-

"2. Definitions.—In this Act, unless the context otherwise requires,—

(a) "environment" includes water, air and land and the inter-relationship which exists among and between water, air and land, and human beings, other living creatures, plants, microorganism and property;

(b) "Environmental pollutant" means any solid, liquid or gaseous substance present in such concentration as may be, or tend to be, injurious to environment;

(c) "Environmental pollution" means the presence in the environment of any environmental pollutant;

That according to the Act any substance in concentration which tends to be injurious to environment is an environment pollutant wherein environment includes but is not limited to any inter- relationship which exists among and between water, air and land, and human beings, other living creatures.

That as per the Section 7 of the Act no person in any operation or process should emit or be permitted to emit any environmental pollutant in excess or such standards as prescribed.

That Section 15 of the Act lays down that any violation or failure of compliance with provisions of this Act, or the rules made or orders or directions issued there under, shall, in respect of each such failure or contravention, be punishable with imprisonment for a term which may extend to five years or 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.

That by the combined reading of the above-mentioned provisions of the Act, no person in any operation or process should emit or be permitted to emit any environmental pollutant in excess or such standards as prescribed, in any form which tend to be injurious to any inter-relationship which exists among and between water, air and land, and human beings, other living creatures.

**Environment (Protection) Rules, 1986**

That in exercise of the powers conferred by sections 6 and 25 of the Act, the Central Government published the 'Environment (Protection) Rules, 1986, in the Gazette of India vide number S.O. 844(E), dated 19.11.1986.

That as per Rule 3(2) of the Protection Rules, Central Pollution Control Board or State Pollution Control Board may provide for more stringent standards as those already made by the Central Government by the force of the Act or the Protection Rules.

That the Central Government inserted Schedule III i.e., 'Ambient Air Quality Standards In Respect Of Noise' to the Rules vide GSR 1063(E), published in the Gazette No. 643 dated 26.12.1989. The relevant details of the abovementioned notification are being reproduced below:

Area code	Category of area	Limits in dB (A) Leq.	
		Date time	Night time
A	Industrial area	75	75
B	Commercial area	65	55
C	Residential area	55	45
D	Silence area	50	40

The Schedule Notes of Schedule III of the Protection Rules specifically banned any use of Vehicular horns in the Silence Zones. Thus, any violation of the above-mentioned limits violates the mandate of the Indian law. That as per the Rule 3(3) of the Rules, it is the State Government that is responsible to ensure that measures are taken for abatement of noise from vehicular movements and blowing of horns. The rule is as produced underneath:

“3. Ambient air quality standards in respect of noise for different areas/zones.

(3) The State Government shall take measures for abatement of noise including noise emanating from vehicular movements, blowing of horns, bursting of sound emitting fire crackers, use of loud speakers or public address system and sound producing instruments and ensure that the existing noise levels do not exceed the ambient air quality standards specified under these rules....”

Further, under Rule 4(3) of Rules, it is the obligation of the State Pollution Control Boards (hereinafter referred as ‘State Board’) to collect the data and devise measures to control the noise pollution. The rule is as underneath:

“4. Responsibility as to enforcement of noise pollution control measures.

...

(3) The respective State Pollution Control Boards or Pollution Control Committees in consultation with the Central Pollution Control Board shall collect, compile and publish technical and statistical data relating to noise pollution and measures devised for its effective prevention, control and abatement.”

“4. Responsibility as to enforcement of noise pollution control measures. ...

(3) The respective State Pollution Control Boards or Pollution Control Committees in consultation with the Central Pollution Control Board shall collect, compile and publish technical and statistical data relating to noise pollution and measures devised for its effective prevention, control and abatement.”

“4. Responsibility as to enforcement of noise pollution control measures.

(1) The noise levels in any area/zone shall not exceed the ambient air quality standards in respect of noise as specified in the Schedule.

(2) The authority shall be responsible for the enforcement of noise pollution control measures and the due compliance of the ambient air quality standards in respect of noise....”

3. The unchecked noise pollution levels and the resultant deleterious effects concern the upkeep, welfare, and protection of right to life of around nine crore citizens dwelling in the State of Rajasthan, thus impairing their right to life, health, and wellbeing at the hands of the State of Rajasthan/  
Respondent No.1.
4. Because as per the recent newspaper reports, over 70% of the noise pollution in the capital of the State, Jaipur, is being caused by a single source i.e., vehicular noise pollution. Further, as per the report, the intensity of vehicular horns in some cases is well above 100 decibels which is much more in comparison to the safety standards of 55 decibels in Residential areas as prescribed by law thus, aggravating and worsening the situation in the face of rising vehicular and population numbers.
5. No person in any operation or process should emit or be permitted to emit any environmental pollutant in excess or such standards as prescribed, in any form which tend to be injurious to any inter-relationship which exists among and between water, air and land, and human beings, other living creatures and such violator under Section 7 of the Environment Protection

Act, 1986 is liable for imprisonment of up to 5 years and fine of up to Rs. 1,00,000.

6. As per Rule 3(2) State Pollution Control Board may provide for more stringent standards as those already made by the Central Government by the force of the Act or the Protection Rules, thus Central Act, Rules and notifications should be followed strictly and thus punishment provide under them are the minimum standards that the State Government has to follow, above and over which it can bring out more stringent punishments or rules. Thus, mandating the State Governments to follow existing Central Acts and Rules.
7. It is the obligation of the State Board to collect the data regarding noise pollution and suggest a comprehensive plan for prevention, control, and abatement of noise pollution to secure the very mandate and purpose of the Rules. The State Board has failed utterly in fulfilling its abovementioned statutory and fiduciary duties which become evident if the comparison is drawn between the State Survey of January to June 2021 [and Central Board's Survey Report on 'Status of Ambient Noise Level in India 2017' wherein through the collected data regarding noise pollution, a comprehensive plan for prevention, control and abatement of noise pollution has been sufficiently provided.
8. This application has been filed with the relief to restrain the manufacturing of items increasing noise pollution, compliance of the noise pollution regulation and control rule, 2000 and to follow the principles as laid down the case Vardhaman Kaushik vs. UOI in O.A. No. 21 of 2014 and Hardeep Singh Vs. SDMC & Anr (O.A. No. 519 of 2016).
9. The present cases provide an opportunity for examining several questions, such as what is noise? What are its adverse effects? Whether noise pollution runs in conflict with the fundamental rights of the people? And what relief can be allowed by way of directions issued in public interest? The word noise is derived from the Latin term "nausea". It has been defined as "unwanted sound, a potential hazard to health and communication

dumped into the environment with regard to the adverse effect it may have on unwilling ears.”

10. Noise is defined as unwanted sound. Sound which pleases the listeners is music and that which causes pain and annoyance is noise. At times, what is music for some can be noise for others.

[Section 2](#)(a) of the Air (Prevention and [Control of Pollution](#)) [Act](#), 1981, includes noise in the definition of ‘air pollutant’.

2.(a) “air pollutant” means any solid, liquid or gaseous substance including noise present in the atmosphere in such concentration as may be or tend to be injurious to human beings or other living creatures or plants or property or environment.

According to Encyclopaedia Britannica : “In acoustics ‘noise’ is defined as ‘any undesired sound’.” According to Chambers 20<sup>th</sup> Century Dictionary, ‘noise’ means- sound especially of loud, harsh or confused kind; a sound of any kind; an over loud or disturbing sound; frequent or public talk. In Chambers 21<sup>st</sup> Century Dictionary, the definition of noise has undergone a change. Noise pollution stands carved out as a phrase separately from noise. The two are defined as under :

“Noise - a sound; a harsh disagreeable sound, or such sound; a din. pollution - an excessive or annoying degree of noise in a particular area, e.g. from traffic or aeroplane engines.”

“Pollution” is a noun derived from the verb “pollute”. [Section 2](#) (c) of the Environment (Protection) Act, 1986 defines “environmental pollution” to mean the presence in the environment of any environmental pollutant. [Section 2](#) (b) of the said Act defines “environmental pollutant” to mean any solid, liquid or gaseous substance present in such concentration as may be, or tends to be injurious to environment.

Thus, the disturbance produced in our environment by the undesirable sound of various kinds is called “noise pollution”.

11. Noise as nuisance and health hazard.

*Noise is more than just a nuisance. It constitutes a real and present danger to people’s health. Day and night, at home, at work, and at play, noise can produce serious physical and psychological stress. No one is immune to this stress. Though we seem to adjust to noise by ignoring it, the ear, in fact, never closes and the body still responds-sometimes with extreme tension, as to a strange sound in the night.*

*Noise is a type of atmospheric pollution. It is a shadowy public enemy whose growing menace has increased in the modern age of industrialization and technological advancement. Although a soft rhythmic sound in the form*

*of music and dance stimulates brain activities, removes boredom and fatigue, but its excessiveness may prove detrimental to living things. Researches have proved that a loud noise during peak marketing hours creates tiredness, irritation and impairs brain activities so as to reduce thinking and working abilities. Noise pollution was previously confined to a few special areas like factory or mill, but today it engulfs every nook and corner of the globe, reaching its peak in urban areas. Industries, automobiles, rail engines, aeroplanes, radios, loudspeakers, tape recorders, lottery ticket sellers, hawkers, pop singers, etc., are the main ear contaminators of the city area and its market place. The regular rattling of engines and intermittent blowing of horns emanating from the caravan of automobiles do not allow us to have any respite from irritant noise even in suburban zones.*

*In the modern days noise has become one of the major pollutants and it has serious effects on human health. Effects of noise depend upon sound's pitch, its frequency and time pattern and length of exposure. Noise has both auditory and non-auditory effects depending upon the intensity and the duration of the noise level. It affects sleep, hearing, communication, mental and physical health. It may even lead to the madness of people.*

*However, noises, which are melodious, whether natural or man-made, cannot always be considered as factors leading to pollution.*

12. Noise can disturb our work, rest, sleep, and communication. It can damage our hearing and evoke other psychological, and possibly pathological reactions. However, because of complexity, variability and the interaction of noise with other environmental factors, the adverse health effects of noise do not lend themselves to a straightforward analysis.

**(i) Hearing Loss**

*“Deafness, like poverty, stunts and deadens its victims.”- says Helen Keller. Hearing loss can be either temporary or permanent. Noise-induced temporary threshold shift (NITTS) is a temporary loss of hearing acuity experienced after a relatively short exposure to excessive noise. Pre-exposure hearing is recovered fairly rapidly after cessation of the noise. Noise induced permanent threshold shift (NIPTS) is an irreversible loss of hearing that is caused by prolonged noise exposure. Both kinds of loss together with presbycusis, the permanent hearing impairment that is attributable to the natural aging process, can be experienced simultaneously.*

*NIPTS occurs typically at high frequencies, usually with a maximum loss at around 4,000 Hz. It is now accepted that the risk of hearing loss is negligible at noise exposure levels of less than 75 dB(A) Leq (8-hr). Based on national judgments concerning acceptable risk, many countries have adopted industrial noise exposure*

limits of 85 dB(A)  $\pm$  5 dB(A) in their regulations and recommended practices.

**(ii) Interference with Communication**

The interference of noise with speech communication is a process in which one of two simultaneous sounds renders the other inaudible. An important aspect of communication interference in occupational situations is that the failure of workers to hear warning signals or shouts may lead to injury. In offices, schools and homes, speech interference is a major source of annoyance.

**(iii) Disturbance of sleep.**

Noise intrusion can cause difficulty in falling asleep and can awaken people who are asleep.

**(iv) Annoyance**

Noise annoyance may be defined as a feeling of displeasure evoked by noise. The annoyance inducing capacity of a noise depends upon many of its physical characteristics and variations of these with time. However, annoyance reactions are sensitive to many non-acoustic factors of a social, psychological, or economic nature and there are considerable differences in individual reactions to the same noise.

**(v) Effect on performance**

Noise can change the state of alertness of an individual and may increase or decrease efficiency. Performance of tasks involving motor or monotonous activities is not always degraded by noise. At the other extreme, mental activities involving vigilance, information gathering and analytical processes appear to be particularly sensitive to noise.

**(vi) Physiological Effects**

It has been determined that noise has an explicit effect on the blood vessels, especially the smaller ones known as pre-capillaries. Overall, noise makes these blood vessels narrower. Noise causes the peripheral blood vessels in the toes, fingers, skin and abdominal organs to constrict, thereby decreasing the amount of blood normally supplied to these areas.

Possible clinical manifestations of stress concomitant with noise are : (i) galvanic skin response, (ii) increased activity related to ulcer formation, (iii) changes in intestinal motility, (iv) changes in skeletal muscle tension, (v) subjective response irritability perception of loudness, (vi) increased sugar, cholesterol & adrenaline, (vii) changes in heart rate, (viii) increased blood pressure, (ix) increased adrenal hormones, (x) vasoconstriction. Not only might there be harmful consequences to health during the state of alertness, but research also suggests effects may occur when the body is unaware or asleep.

*The investigations have revealed that the blood vessels which feed the brain, dilate in the presence of noise. This is the reason why headaches result from listening to persistent high noise.*

*Field studies have also been conducted on various other groups such as people living near airports, and school children exposed to traffic noise, showing that there may be some risk for these people. In addition, laboratory studies on animals and humans have demonstrated a relationship between noise and high blood pressure. Other studies have shown that noise can induce heart attacks.*

*Prolonged chronic noise can also produce stomach ulcers as it may reduce the flow of gastric juice and change its acidity.*

*With what other stress effects can noise be associated? Stress can be manifested in any number of ways, including headaches, irritability, insomnia, digestive disorders, and psychological disorders. Workers who are exposed to excessive noise frequently complain that noise just makes them tired.*

*Quite a few field studies have been done on workers in Europe, examining the relationship between noise and illness. In these studies, noise has been related to the following:*

*General morbidity (illness); Neuropsychological disturbances-Headaches, Fatigue, Insomnia, Irritability, Neuroticism; Cardiovascular system disturbances-Hypertension, Hypotension, cardiac disease; Digestive disorders-Ulcers, Colitis; Endocrine and biochemical disorders;*

**(vii) Noise and the unborn**

*There is ample evidence that environment has a role in shaping the physique, behavior and function of animals, including men, from conception and not merely from birth. The fetus is capable of perceiving sounds and responding to them by motor activity and cardiac rate change*

**(viii) Special effects on unborn, children and human beings generally**

*The fetus is not fully protected from noise. Noise may threaten fetal development. Noise has been linked to low birth weights. Levels of noise which do not interfere with the perception of speech by adults may interfere significantly with the perception of speech by children as well as with the acquisition of speech, language, and language-related skills. Because they are just learning, children have more difficulty in understanding language in the presence of noise than adults do. Reading ability also may be seriously impaired by noise. Apart from children, the noise pollution causes several adverse effects on human beings generally. Some of these are: (i) hearing loss, (ii) nonauditory physiological response such as stress, arousal response, cardiovascular effects etc.,(iii) communication*

interference, (iv) performance interference, and (v) sleep disturbance and so on.

### **III Sources of Noise Pollution**

Noise pollution like other pollutants is also a by-product of industrialization, urbanization and modern civilization.

Broadly speaking, the noise pollution has two sources, i.e. industrial and non-industrial. The industrial source includes the noise from various industries and big machines working at a very high speed and high noise intensity. Non-industrial source of noise includes the noise created by transport/vehicular traffic and the neighbourhood noise generated by various noise pollution can also be divided into the categories, namely, natural and manmade.

13. Most leading noise sources will fall into the following categories: road traffic, aircraft, railroads, construction, industry, noise in buildings, and consumer products.

#### **(i) Road traffic noise**

Noise from the motors and exhaust systems of large trucks provides the major portion of highway noise impact, and provides a potential noise hazard to the driver as well. In addition, noise from the interaction of tyres with the roadway is generated by trucks, buses, and private autos.

In the city, the main sources of traffic noise are the motors and exhaust systems of autos, smaller trucks, buses, and motorcycles. This type of noise can be augmented by narrow streets and tall buildings, which produce a “canyon” in which traffic noise reverberates.

#### **(ii) Aircraft noise**

Nowadays, the problem of low-flying military aircraft has added a new dimension to community annoyance, as the nation seeks to improve its “nap-of-the-earth” warfare capabilities. In addition, the issue of aircraft operations over national parks, wilderness areas, and other areas previously unaffected by aircraft noise has claimed national attention over recent years.

#### **(iii) Noise from railroads**

The noise from locomotive engines, horns and whistles, and switching and shunting operations in rail yards can impact neighbouring communities and railroad workers. For example, rail car retarders can produce a high-frequency, high-level screech that can reach peak levels of 120 dB at a distance of 100 feet which translates to levels as high as 138 or 140 dB at the railroad worker’s ear.

#### **(iv) Construction noise**

*The noise from construction of highways, city streets, and buildings is a major contributor to the urban scene. Construction noise sources include pneumatic hammers, air compressors, bulldozers, loaders, dumptrucks (and their back-up signals), and pavement breakers.*

**(v) Noise in industry**

*Although industrial noise is one of the less prevalent community noise problems, neighbours of noisy manufacturing plants can be disturbed by sources such as fans, motors, and compressors mounted on the outside of buildings. Interior noise can also be transmitted to the community through open windows and doors, and even through building walls. These interior noise sources have significant impacts on industrial workers, among whom noise-induced hearing loss is unfortunately common.*

**(vi) Noise in buildings**

*Apartment dwellers are often annoyed by noise in their homes, especially when the building is not well designed and constructed. In this case, internal building noise from plumbing, boilers, generators, air conditioners, and fans, can be audible and annoying. Improperly insulated walls and ceilings can reveal the sound of amplified music, voices, footfalls, and noisy activities from neighbouring units. External noise from emergency vehicles, traffic, refuse collection, and other city noises can be a problem for urban residents, especially when windows are open or insufficiently glazed.*

**(vii) Noise from consumer products**

*Certain household equipment, such as vacuum cleaners and some kitchen appliances have been and continue to be noisemakers, although their contribution to the daily noise dose is usually not very large.*

14. Noise pollution in the special context of Fireworks.

*Fireworks are used all over the world to celebrate special occasions. In India, fireworks are burst on festivals like Dussehra, Diwali and on special occasions like social gatherings, marriages, Independence day, Republic day, New year day, etc. In other countries of the world, fireworks are generally burst either on the New Year day or on the birthday of their respective countries. However, bursting of firecrackers is a health hazard since it is responsible for both air pollution and noise pollution.*

*The use of Fireworks has led to air pollution in the form of noise and smoke. Their excessive use has started to be a public hazard and violation of their fundamental rights as enshrined in the Constitution of India.*

*It has been held in the case of "[Om Birangana Religious Society v. State](#)," that the "Freedom of speech*

and expression guaranteed under [Article 19](#) (1)(a) of the Constitution of India includes, by necessary implication, freedom not to listen and/or to remain silent. A citizen has a right to leisure, right to sleep, right not to hear and right to remain silent. He also has the right to read and speak with others". Because of the tremendous sound and noise, the citizens cannot exercise all these fundamental rights.

It has been seen that firecrackers noise is an impulsive noise and is hazardous. Bursting of a firecracker near the ear can lead sometimes to non-recoverable hearing loss.

Diwali is the most important festival of India. The bursting of firecrackers during this period is a wide spread practice. The unpredictable, intermittent and impulsive noise produced by bursting of crackers all around, turns the festival of lights into cacophony of noise. People are unable to even sleep due to this excessive noise pollution. Several people are injured due to the noise produced by firecrackers every year.

Firecrackers not only increase the ambient noise level but also contribute significantly in increasing the air pollution by means of toxic gases and particles due to their blast wave resulting from a rapid release of energy. In order to assess the situation of noise pollution caused by firecrackers at the time of Diwali the Central Pollution Control Board (CPCB) has been conducting ambient noise level monitoring during Diwali festival regularly at various locations in Delhi since 1993, to find increased ambient noise level caused by intensive burning of crackers. As in the past, the noise and air quality monitoring have been carried out in the years 1999, 2000, 2001, and 2002. The noise monitoring locations have been selected to cover almost all areas of Delhi .

An analysis of the Reports prepared in the years 1999, 2000, 2001, and 2002 reveals that the ambient noise level on Diwali day exceeded the limit at almost all the places during these years. The noise level was higher during Diwali-2000 as compared to the values recorded during Diwali festival in the years 1999, 2001, and 2002.

The percentage of violation in L.eq. noise level varied from 02 to 49% in the year 2002, 12 to 55% in the year 2001, 11 to 58% in the year 2000 and 22 to 47% in the year 1999 with respect to the day time standards at all the areas . The ambient noise level conducted during the years 1999 to 2002 on Diwali festival, exceeded the limit at all places in every year and the percentage of violation varies from 2% to 58%. Thus, the study does reveal that the noise levels that have been measured on all these occasions have been more than the prescribed norms. This is a point of worry as it has been discussed that noise pollution does tend to have adverse effects on a person. Thus immediate steps in this direction need to be taken.

*The problem of noise pollution due to firecrackers is not only limited to India. Similar problems are being experienced in other countries as well. In fact in United Kingdom, in Nottingham the “Be Safe Not Sorry” campaign was launched after the post was inundated with letters from readers to the newspaper saying they were fed up with the noise, nuisance and the distress that fireworks cause.*

15. Methodology adopted in other countries for noise pollution control.

*Different countries of the World have enacted different legislations to control the noise pollution. For Example, in England there is a Noise Abatement Act, 1960. [Section 2](#) of this Act provides that loudspeakers should not be operated between the hours of 9:00 in the evening and 8:00 in the following morning for any purpose and at any other time for purpose of advertisement and entertainment, trade or business. Control on [Pollution Act](#) of 1974, contains provisions for controlling noise pollution and it provides noise to be actionable must amount to nuisance in the ordinary legal sense. Section 62 of the English Control of Pollution Act, 1974, operates as perfect control for ‘Street Noise’. This provision has been defined as a highway and any other road, footway or square or court which is for the time being open to public. In Japan, there is Anti Pollution Basic Law which helps to control the pollution including noise pollution. A few of the notable legislations may be mentioned illustratively.*

(i) [Noise Act](#) 1996- U.K.

*[This Act](#) makes provision about noise emitted from dwellings at night; about the forfeiture and confiscation of equipment used to make noise unlawfully; and for connected purposes. The kind of complaint referred to is one made by any individual present in a dwelling during night hours that excessive noise is being emitted from another dwelling. “Night hours” means the period beginning with 11p.m. and ending with 7 a.m. [The Act](#) provides for the service of a notice on the offender by the prescribed officer if he thinks that the noise being emitted is more than the permissible limits. In cases where the noise level does not come down in spite of the notice being served, the officer can seize such equipments which in his opinion are the source of such noise.*

*Noise and Statutory Nuisance Act 1993*

*This is an Act to make provision for noise in a street to be a statutory nuisance; to make provision with respect to the operation of loudspeakers in a street; to make provision with respect to audible intruder alarms; to make provision for expenses incurred by local authorities in abating, or preventing the recurrence of, a statutory nuisance to be a charge on the premises to which they relate; and for connected purposes.*

(ii) *The US Noise Pollution and Abatement Act, 1970*

*This is an important legislation for regulating control and abatement of noise. Under this Law the environment protection agency, acting through the office*

*of Noise Abatement and Control, holds public meetings in selected cities to compile information on noise pollution.*

*The Public Health And Welfare:- Chapter 65- Noise Control(US)*

*The Congress declares that it is the policy of the United States to promote an environment for all Americans free from noise that jeopardizes their health or welfare. To that end, it is the purpose of this chapter to establish a means for effective coordination of Federal research and activities in noise control, to authorize the establishment of Federal noise emission standards for products distributed in commerce, and to provide information to the public respecting the noise emission and noise reduction characteristics of such products.*

*The Act further provides for -*

- 1. Identification of major noise sources*
- 2. Noise emission standards for products distributed in commerce*
- 3. Labelling*
- 4. Quiet communities, research, and public information*
- 5. Development of low-noise-emission products*
- 6. Motor carrier noise emission standards*

*Noise Regulation Law-Japan*

*The purpose of this Law is to preserve living environment and contribute to protection of the people's health by regulating noise generated by the operation of factories and other types of work sites as well as construction work affecting a considerable area, and by setting maximum permissible levels of motor vehicle noise. The Prefectural Governor shall designate concentrated residential areas, school and hospital zones, and other such areas in which it is deemed necessary to protect the living environment of the residents from noise, as areas subject to the regulation of noise produced by specified factories and specified construction work. The Prefectural Governor, while designating the areas pursuant to Paragraph 1 of the preceding Article, shall establish regulatory standards for specified hours and zones of said areas within the scope of the standards set forth by the Director General of the Environment Agency according to the necessary degree of noise control in regard to specified factories for specified hours and zones.*

*Persons installing specific facilities are liable to report the same to the Prefectural Governor within 30 days.*

*The Governor has the powers to order change in the outlay of the factory when they do not confer to the noise regulations.*

*Any party who plans to undertake construction projects which involve specified construction work in designated areas, shall file a report with the Prefectural Governor no later than seven (7) days prior to the beginning of the said construction.*

*The Prefectural Governor shall be responsible for the monitoring of noise levels in designated areas.*

*For the regulation on noise caused by announcement through the use of loudspeakers and noise emitted during the night time operation of bars and restaurants, local Government shall take measures necessary to protect the living environment, including restrictions on operating hours, in accordance with the local physical and social conditions.*

*The regulations also prescribe the permissible noise levels for the various areas, as well as the time periods between which noise- emitting machines can be used. Law of the People's Republic of China on Prevention and Control of Pollution From Environmental Noise (adopted on 29-10-1996)*

*Under [Section 133](#) of the Code of Criminal Procedure, 1973 the magistrate has the power to make conditional order requiring the person causing nuisance to remove such nuisance.*

[The Factories Act](#), 1948.

*[The Factories Act](#) does not contain any specific provision for noise control. However, under the Third Schedule ([Sections 89](#) and [90](#) of the Act), 'noise induced hearing loss', is mentioned as a notifiable disease. Under [Section 89](#) of the Act, any medical practitioner who detects any notifiable disease, including noise- induced hearing loss, in a worker, has to report the case to the Chief Inspector of Factories, along with all other relevant information. Failure to do so is a punishable offence.*

[Motor Vehicles Act](#), 1988, and Rules framed thereunder.

*Rules 119 and 120 of the Central Motor Vehicles Rules, 1989, deal with reduction of noise.*

*"119. Horns- (1) On and after expiry of one year from the date of commencement of the Central Motor Vehicles (Amendment) Rules, 1999, every motor vehicle including construction equipment vehicle and agricultural tractor manufactured shall be fitted with an electric horn or other devices conforming to the requirements of IS: 1884-1992, specified by the Bureau of Indian Standards for use by the driver of the vehicle and capable of giving audible and sufficient warning of the approach or position of the vehicle:*

*Provided that on and from 01-01-2003, the horn installation shall be as per AIS-014 specifications, as may be amended from time to time, till such time as corresponding Bureau of Indian Standards specifications are notified.*

*(2) No motor vehicle shall be fitted with any multi-toned horn giving a succession of different notes or with any other sound-producing device giving an unduly harsh, shrill, loud or alarming noise.*

*120. Silencers- (1) Every motor vehicle including agricultural tractor shall be fitted with a device*

*(hereinafter referred to as a silencer) which by means of an expansion chamber or otherwise reduces as far as practicable, the noise that would otherwise be made by the escape of exhaust gases from the engine.*

*(2) Noise standards- Every motor vehicle shall be constructed and maintained so as to conform to noise standards specified in Part E of the Schedule VI to the Environment (Protection) Rules, 1986, when tested as per IS: 3028-1998, as amended from time to time.*

## 16. Law of Torts

*Quietness and freedom from noise are indispensable to the full and free enjoyment of a dwelling-house. No proprietor has an absolute right to create noises upon his own land, because any right which the law gives is qualified by the condition that it must not be exercised to the nuisance of his neighbours or of the public. Noise will create an actionable nuisance only if it materially interferes with the ordinary comfort of life, judged by ordinary, plain and simple notions, and having regard to the locality; the question being one of degree in each case.*

*The Air (Prevention and [Control of Pollution](#)) Act, 1981*

*Noise was included in the definition of air pollutant in Air (Prevention and [Control of Pollution](#)) Act in 1987. Thus, the provisions of the [Air Act](#), became applicable in respect of noise pollution, also.*

*[The Environment \(Protection\) Act, 1986.](#)*

*Although there is no specific provision to deal with noise pollution, the Act confers powers on Government of India to take measures to deal with various types of pollution including noise pollution.*

*Fireworks*

*[The Explosives Act, 1884](#) regulates manufacture, possession, use, sale, transport, import & export of explosives. Firecrackers are governed by this Statute. Rule 87 of the [Explosives Rule, 1983](#) prohibits manufacture of any explosive at any place, except in factory or premises licensed under the Rules.*

*In India, there is no separate Act that regulates the manufacture, possession, use, sale, manufacture and transactions in firecrackers. All this is regulated by [The Explosives Act, 1884](#). The Noise that is produced by these fireworks is regulated by the [Environmental Protection Act, 1986](#) and [The Noise Pollution \(Regulation and Control\) Rules, 2000](#).*

## 17. Judicial opinion In India

*(a) [In Kirori Mal Bishambar Dayal v. The State](#) , accused/petitioner was convicted and sentenced*

under [Section 290](#) of Indian Penal Code, 1860 and was fined Rs. 50 for causing noise and emitting smoke and vibrations by operating of heavy machinery in the residential area. The order of the trial court was upheld by the District Magistrate in appeal. The High Court of Punjab & Haryana also upheld the decision of the courts below and dismissed the revision petition. In the case of [Bhuban Ram and Ors. v. Bibhuti Bhushan Biswas](#), it was held that working of a paddy husking machine at night causes nuisance by noise and the occupier was held liable to be punished under [Section 290](#) IPC. In *Ivour Heyden v. State of A.P.*, the High Court of Andhra Pradesh excused the act of playing radio loudly on the ground that it was a trivial act. Careful reading of [Section 95](#) of IPC shows that only that harm is excused which is not expected to be complained by the person of ordinary temper and sense.

(b) [In Rabin Mukherjee v. State of West Bengal](#) the use of air horns was prohibited by the court to prevent noise pollution. The Court observed: (AIR pp.23-24, para3)

“...it is found that the atmosphere and the environment is very much polluted from indiscriminating noise emitted from different quarters and on research it was found that persons who are staying near the Airport, are becoming victim of various ailments. Such persons even become victim of mental disease. On such research it was also found that workers in various factories even become deaf and hard of hearing. It was further found on such research that as a result of this excessive noise pollution, people suffer from loss of appetite, depression, mental restlessness and insomnia. People also suffer from complain of excessive blood pressure and heart trouble. It is not necessary to go into the question about direct effect of such noise pollution because of indiscriminate and illegal use of such electric and air horn as it is an admitted position that the same is injurious to health and amongst different causes of environmental pollution, sound pollution is one which is of grave concern.”

(c) In the case of *People United for better Living in Calcutta v. State of W. B.* the [Calcutta High Court](#) observed: (AIR pp.217, para2)

“In a developing country there shall have to be developments, but that development shall have to be in closest possible harmony with the environment, as otherwise there would be development but no environment, which would result in total devastation, though, however, may not be felt in present but at some future point of time, but then it would be too late in the day, however, to control and improve the environment. In fact, there should be a proper balance between the protection of environment and the development process. The society shall have to prosper, but not at the cost of the environment and in similar vein, the environment shall have to be protected but not

at the cost of the development of the society and as such a balance has to be found out and administrative actions ought to proceed accordingly.”

(d) In *Burrabazar Fireworks Dealers Association v. Commr. of Police*, it has been held: (AIR PP. 121-122)

“[Article 19\(1\)\(g\)](#) of the Constitution of India does not guarantee the fundamental right to carry on trade or business which creates pollution or which takes away that communities safety, health and peace. ...A citizen or people cannot be made a captive listener to hear the tremendous sounds caused by bursting out from a noisy fireworks. It may give pleasure to one or two persons who burst it but others have to be a captive listener whose fundamental rights guaranteed under [Article 19\(1\)\(a\)](#) and other provisions of the Constitution are taken away, suspended and made meaningless. ...Under [Article 19\(1\)\(a\)](#), read with [Article 21](#) of the Constitution of India, the citizens have a right of decent environment and they have a right to live peacefully, right to sleep at night and to have a right to leisure which are all necessary under [Article 21](#) of the Constitution.”(Headnote)

(e) In *Appa Rao, M.S. v. Govt. of T.N.*, the Madras High Court taking note of the serious health hazard and disturbance to public order and tranquility caused by the uncontrolled noise pollution prevailing in the State, issued a writ of mandamus directing State Government to impose strict conditions for issue of license for the use of amplifiers and loudspeakers and for directing Director-General, Police (Law and Order) to impose total ban on use of horn type loudspeakers and amplifiers and air horns of automobiles.

(f) In *P.A. Jacob v. the Superintendent of Police*, it was said - “The right to speech implies, the right to silence. It implies freedom, not to listen, and not to be forced to listen. The right comprehends freedom to be free from what one desires to be free from. Free speech is not to be treated as a promise to everyone with opinions and beliefs, to gather at any place and at any time and express their views in any manner. The right is subordinate to peace and order. A person can decline to read a publication, or switch off a radio or a television set. But, he cannot prevent the sound from a loudspeaker reaching him. He could be forced to hear what he wishes not to hear. That will be an invasion of his right to be let alone, to hear what he wants to hear, or not to hear, what he does not wish to hear. One may put his mind or hearing to his own uses, but not that of another. No one has a right to trespass on the mind or ear of another and commit auricular or visual aggression. A loudspeaker is mechanical device, and it has no mind or thought process in it. Recognition of the right of speech or expression is recognition accorded to a human faculty. A right

belongs to human personality, and not to a mechanical device. One may put his faculties to reasonable uses. But, he cannot put his machines to any use he likes. He cannot use his machines to injure others. Intervention with a machine, is not intervention with, or invasion of a human faculty or right. No mechanical device can be upgraded to a human faculty. A computer or a robot cannot be conceded the right under [Article 19 \(though they may be useful to man to express his faculties\)](#). No more, a loudspeaker. The use of a loudspeaker may be incidental to the exercise of the right. But, its use is not a matter of right, or part of the right”.

(g) In *Free Legal Aid Cell Shri Sujan Chand Aggarwal alias Bhagatji v. Govt. of NCT of Delhi and Ors.*, it was said that, (AIR p.462, para 24)  
“Pollution being wrongful contamination of the environment which causes material injury to the right of an individual, noise can well be regarded as a pollutant because it contaminates environment, causes nuisance and affects the health of a person and would therefore, offend [Article 21](#), if it exceeds a reasonable limit.”

(h) The Supreme Court in *Church of God (Full Gospel) in India v. K.K.R. Majestic Colony Welfare Assn.*, held that the Court may issue directions in respect of controlling noise pollution even if such noise was a direct result of and was connected with religious activities. It was further held:-(SCC pp.285-86 and 291, paras 2-3 & 14)  
“Undisputedly, no religion prescribes that prayers should be performed by disturbing the peace of others nor does it preach that they should be through voice amplifiers or beating of drums. In our view, in a civilized society in the name of religion, activities which disturb old or infirm persons, students or children having their sleep in the early hours or during daytime or other persons carrying on other activities cannot be permitted. It should not be forgotten that young babies in the neighbourhood are also entitled to enjoy their natural right of sleeping in a peaceful atmosphere. A student preparing for his examination is entitled to concentrate on his studies without there being any unnecessary disturbance by the neighbours. Similarly, the old and the infirm are entitled to enjoy reasonable quietness during their leisure hours without there being any nuisance of noise pollution. Aged, sick, people afflicted with psychic disturbances as well as children up to 6 years of age are considered to be very sensible (sic sensitive) to noise. Their rights are also required to be honoured.

“[Under the Environment \(Protection\) Act](#), 1986, rules for noise-pollution level are framed which prescribe permissible limits of noise in residential, commercial, industrial areas or silence zone. The question is - whether the appellant can be permitted to violate the said provisions and add to the noise pollution. In our view, to claim such a right itself

would be unjustifiable. In these days, the problem of noise pollution has become more serious with the increasing trend towards industrialisation, urbanization and modernisation and is having many evil effects including danger to health. It may cause interruption of sleep, affect communication, loss of efficiency, hearing loss or deafness, high blood pressure, depression, irritability, fatigue, gastrointestinal problems, allergy, distraction, mental stress and annoyance etc. This also affects animals alike. The extent of damage depends upon the duration and the intensity of noise. Sometimes it leads to serious law and order problem. Further, in an organized society, rights are related with duties towards others including neighbours.....

.....because of urbanization or industrialization the noise pollution may in some area of a city/town might be exceeding permissible limits prescribed under the Rules, but that would not be a ground for permitting others to increase the same by beating of drums or by use of voice amplifiers, loudspeakers or by such other musical instruments and, therefore, rules prescribing reasonable restrictions including the Rules for the use of loudspeakers and voice amplifiers framed under the Madras Town Nuisances Act, 1889 and also the Noise Pollution (Regulation and Control) Rules, 2000 are required to be enforced.”

(h) In Charan Lal Sahu v. Union of India the Supreme Court reiterated the need to create separate tribunals and asserted the need to appoint a body of experts to advise the Government on environmental issues.

(i) In M.C. Mehta v. Union of India this Court has emphasized the need for creating environmental awareness amongst students through education.

(j) We have referred to a few and not all available judgments. Suffice it to observe that Indian Judicial opinion has been uniform in recognizing right to live in freedom from noise pollution as a fundamental right protected by Article 21 of the Constitution and noise pollution beyond permissible limits as an in-road on that right.

18. Notification No. G.S.R. 682(E) dated 05-10-1999 whereby the Environment (Protection) Rules, 1986 framed under the Environment (Protection) Act, 1986 were amended. Amended Rule 89 of the said Rules, reads as follows:

“89. Noise standards for fire- crackers A.(i) The manufacture, sale or use of firecrackers generating noise level exceeding 125 dB(A) or 145 dB(C)<sub>pk</sub> at 4 meters distance from the point of bursting shall be prohibited.

(ii) For individual fire-cracker constituting the series (joined fire-crackers), the above mentioned limit be

*reduced by  $5 \log_{10} (N)$  dB, where  $N$  = number of crackers joined together.”*

*(2) The use of fireworks or fire-crackers shall not be permitted except between 6.00 a.m. and 10.00p.m. No firework or firecracker shall be allowed between 10.00 p.m. and 6.00 a.m. (3) Firecrackers shall not be used at any time in silence zones, as defined in S.O. 1046(E) issued on 22.11.2000 by the Ministry of Environment and Forests. In the said Notification Silence Zone has been defined as: “Silence Zone is an area comprising not less than 100 meters around hospitals, educational institutions, courts, religious places or any other area which is declared as such by the competent authority.”*

*(4) The State Education Resource Centers in all the States and the Union Territories as well as the management/principals of schools in all the States and Union Territories shall take appropriate steps to educate students about the ill effects of air and noise pollution and appraise them of directions (1) to (3) above.”*

19. Increasing noise levels in the urban areas, is posing a serious threat to health of the people in general and especially to the children and old, in particular. It is also an admitted fact that automobiles, due to its engine (auto mechanism) noise and also, noise generated by blowing of horns contribute significantly to ambient noise levels in urban areas. Needless to say that various reports available in the public domain, record that ambient noise levels in most of urban areas in the country are exceeding the ambient noise level standards as set out in the Noise Pollution (Regulation and Control) Rules, 2000. Noise pollution is a significant environmental problem in many urban areas. This problem has not been adequately addressed and remedied despite the fact that it is growing in developing countries. This widespread non- recognition of noise pollution problem, in a similar fashion as to air and water pollution problems, could be attributed to reasons such as; by the definition and perception of noise as a subjective experience, short decay time, and difficulty to associate cause with effect when it comes to health impacts. Depending on its duration and volume, the effects of noise on human health and comfort are divided into four categories; physical effects, such as hearing defects; physiological effects, such as increased blood pressure, irregularity of heart rhythms and ulcers; psychological effects, such as

disorders, sleeplessness and going to sleep late, irritability and stress; and finally, effects on work performance, such as reduction of productivity and misunderstanding what is heard.

20. The Motor vehicle rule 120 prescribes the noise standards for automobiles at manufacturing stage and are as under:

*“120. (2) Noise standards--Every motor vehicle shall be constructed and maintained so as to conform to noise standards specified in Part E of the Schedule VI to the Environment (Protection) Rules, 1986, when tested as per IS: 3028-1998, as amended from time to time. Similarly, Section 126 of the Central Motor Vehicles Rules, stipulate the requirement that prototype every motor vehicle to be subjected to test. The Rule is reproduced below:*

*126. Prototype of every motor vehicle to be subject to test--- On and from the date of 'Commencement' of Central Motor Vehicles (Amendment) Rules 1993, every [manufacturer or importer] of motor vehicles other than trailers and semi- trailers shall submit the prototype of the vehicle [to be manufactured or imported by him] for test by the Vehicle Research and Development Establishment of the Ministry of Defence of the Government of India or Automotive Research Association of India, Pune, [or the, Central Farm Machinery Testing and Training Institute, Budni (MP)] or the Indian Institute of Petroleum, Dehradun, [or the Central Institute of Road Transport, Pune, or the International Centre, for Automotive Technology, Manesar,] [or the Northern. Region Farm Machinery Training and Testing Institute, Hisartesting of combine harvester)] and such other agencies as may be specified by the Central Government or granting a certificate by that agency as to the compliance of provisions of the Act and these rules:*

*[Provided that the procedure for type approval and certification of motor vehicles of compliance to these rules shall be in accordance with the AIS; 017-2000, as amended from time to time:] [Provided further that in respect to the vehicles imported into India as completely built units (CBU), the importer shall submit a vehicle of that particular model and type to the testing agencies for granting a certificate by that agency as to the compliance to the provision of the Act and these rules.] [126A. The testing agencies referred to in rule 126 shall in accordance with the procedures laid down by the Central Government also conduct tests on vehicles drawn from the production line of the manufacturer to verify whether these vehicles conform to the provisions of [rules made under section 110 of the Act:] [Provided that in case the number of*

*vehicles sold in India for a given base model and its variants (manufactured in India or imported to India) are less than 250 in any consecutive period of six months in a year, then such base model and its variants need not be subjected to the above test, if at least one model or its variants manufactured or imported by that manufacturer or importer, as the case may be, is subjected to such tests at least once in a year:*

*Provided further that, in case the number of base models and its variants manufactured/imported is more than one and if the individual base model and its variants are less than 250 in any consecutive period of six months in a year, then the testing agencies can pick up one of the vehicle out of such models and their variants once in a year for carrying out such test.]”*

21. There is a need for creating general awareness towards the hazardous effects of noise pollution. Suitable chapters may be added in the text- books 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 civic administration should be trained to understand the various methods to curb the problem and also the laws on the subject.

*The State must play an active role in this process. Residents 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. Special public awareness campaigns in anticipation of festivals, events and ceremonial occasions whereat firecrackers are likely to be used, need to be carried out."*

22. The matter was previously raised before the Hon'ble Supreme Court of India in the case of M.C. Mehta Vs. Union of India & Ors., Writ Petition (Civil) No. 13029 of 1985 dated 24.08.2018 and Hon'ble Apex Court dealt with the matter as follows:

*16. It is an established principle of law that the right to life, as envisaged under Article 21 of the Constitution of India includes the right to a decent environment. It includes within its ambit the right*

of a citizen to live in a clean environment. With regard to vehicular traffic, this Court has issued a number of directions to ensure a clean environment and reduce pollution. It has been held that the right to clean environment is a fundamental rights. The right to live in an environment free from smoke and pollution follows from the "quality" of life which is an inherent part of Article 21 of the Constitution. The right to live with human dignity becomes illusory in the absence of a healthy environment. The right to life not only means leading a life with dignity but includes within its ambit the right to lead a healthy, robust life in a clean atmosphere free from pollution. Obviously, such rights are not absolute and have to co-exist with sustainable development. Therefore, if there is a conflict between health and wealth, obviously, health will have to be given precedence. When we are concerned with the health of not one citizen but the entire citizenry including the future citizens of the country, the larger public interest has to outweigh the much smaller pecuniary interest of the industry, in this case the automobile industry, especially when the entire where withal to introduce the cleaner technology exists."

23. CPCB has issued certain guidelines and rules are framed with regard to the noise pollution. The Noise Pollution (Regulation and Control) Rules, 2000 provides as follows:

***“(The Principal Rules were published in the Gazette of India, vide S.O. 123(E), dated 14.2.2000 and subsequently amended vide S.O. 1046(E), dated 22.11.2000, S.O. 1088(E), dated 11.10.2002, S.O. 1569 (E), dated 19.09.2006 and S.O. 50 (E) dated 11.01.2010 under the Environment (Protection) Act, 1986.)***

Whereas the increasing ambient noise levels in public places from various sources, inter-alia, industrial activity, construction activity, fire crackers, sound producing instruments, generator sets, loud speakers, public address systems, music systems, vehicular horns and other mechanical devices have deleterious effects on human health and the psychological well being of the people; it is considered necessary to regulate and control noise producing and generating sources with the objective of maintaining the ambient air quality standards in respect of noise. **The Noise Pollution (Regulation and Control) Rules, 2000 provides Ambient air quality standards in respect of noise for different areas/zones as under.-**

a. The ambient air quality standards in respect of noise for different areas / zones shall be such as specified in the Schedule annexed to these rules.

b. The State Government shall categorize the areas into industrial, commercial, residential or silence areas / zones for the purpose of implementation of noise standards for different areas.

c. The State Government shall take measures for abatement of noise including noise emanating from vehicular movements, blowing of horns, bursting of sound emitting firecrackers, use of loud speakers or public address system and sound producing instruments and ensure that the existing noise levels do not exceed the ambient air quality standards specified under these rules.

d. All development authorities, local bodies and other concerned authorities while planning developmental activity or carrying out functions relating to town and country planning shall take into consideration all aspects of noise pollution as a parameter of quality of life to avoid noise menace and to achieve the objective of maintaining the ambient air quality standards in respect of noise.

e. An area comprising not less than 100 metres around hospitals, educational institutions and courts may be declared as silence area / zone for the purpose of these rules.

#### **4. Responsibility as to enforcement of noise pollution control measures:**

(1) The noise levels in any area / zone shall not exceed the ambient air quality standards in respect of noise as specified in the Schedule.

(2) The authority shall be responsible for the enforcement of noise pollution control measures and the due compliance of the ambient air quality standards in respect of noise.

(3) The respective State Pollution Control Boards or Pollution Control Committees in consultation with the Central Pollution Control Board shall collect, compile and publish technical and statistical data relating to noise pollution and measures devised for its effective prevention, control and abatement.

#### **5. Restrictions on the use of loud speakers / public address system and sound producing instruments.-**

(1) 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.*

*(2) 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 system and the like 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 concerned State Government shall generally specify in advance, the number and particulars of the days on which such exemption would be operative.*

*(3) 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;*

*(4) The peripheral noise level of a privately owned sound system or a sound producing instrument shall not, at the boundary of the private place, exceed by more than 5 dB (A) the ambient noise standards specified for the area in which it is used.*

**5A. Restrictions on the use of horns, sound emitting construction equipments and bursting of fire crackers:-**

*(1) No horn shall be used in silence zones or during night time in residential areas except during a public emergency.*

*(2) Sound emitting fire crackers shall not be burst in silence zone or during night time.*

*(3) Sound emitting construction equipments shall not be used or operated during night time in residential areas and silence zones.*

**6. Consequences of any violation in silence zone / area.-**

*Whoever, in any place covered under the silence zone / area commits any of the following offence, he shall be liable for penalty under the provisions of the Act:-*

*(i) whoever, plays any music or uses any sound amplifiers,*

(ii) whoever, beats a drum or tom-tom or blows a horn either musical or pressure, or trumpet or beats or sounds any instrument, or

(iii) whoever, exhibits any mimetic, musical or other performances of a nature to attract crowds

(iv) whoever, bursts sound emitting fire crackers; or

(v) whoever, uses a loud speaker or a public address system.

#### **7. Complaints to be made to the authority.-**

(1) A person may, if the noise level exceeds the ambient noise standards by 10 dB (A) or more given in the corresponding columns against any area / zone or, if there is a violation of any provision of these rules regarding restrictions imposed during night time, make a complaint to the authority.

(2) The 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.

#### **8 Power to prohibit etc. continuance of music sound or noise.-**

(1) If the authority is satisfied from the report of an officer in charge of a police station or other information received by him including from the complainant that it is necessary to do so in order to prevent annoyance, disturbance, discomfort or injury or risk of annoyance, disturbance, discomfort or injury to the public or to any person who dwell or occupy property on the vicinity, he may, by a written order issue such directions as he may consider necessary to any person for preventing, prohibiting, controlling or regulating:-

(a) the incidence or continuance in or upon any premises of-

(i) any vocal or instrumental music,

(ii) sounds caused by playing, beating, clashing, blowing or use in any manner whatsoever of any instrument including loudspeakers, public address systems, horn, construction equipment, appliance or apparatus or contrivance which is capable of producing or re-producing sound, or

(iii) sound caused by bursting of sound emitting fire crackers, or,

(b) the carrying on in or upon, any premises of any trade, avocation or operation or process resulting in or attended with noise.

(2) The authority empowered under sub-rule (1) may, either on its own motion, or on the application of any person aggrieved by an order made under sub-rule (1), either rescind, modify or alter any such order:

Provided that before any such application is disposed of, the said authority shall afford to the applicant and to the original complainant, as the case may be, an opportunity of appearing before it either in person or by a person representing him and showing cause against the order and shall, if it rejects any such application either wholly or in part, record its reasons for such rejection.”

24. Similarly, the ambient noise standard in respect of noise is also laid down and necessary protocols are there which is as follows:

“

Area code	Category of Area / Zone	Limits in dB(A) Leq*	
		Day	Night Time
(A)	Industrial area	75	70
(B)	Commercial area	65	55
(C)	Residential area	55	45
(D)	Silence Zone	50	40

**Note:-**

- a. Day time shall mean from 6.00 a.m. to 10.00 p.m.
- b. Night time shall mean from 10.00 p.m. to 6.00 a.m.
- c. Silence zone is an area comprising not less than 100 metres around hospitals, educational institutions, courts, religious places or any other area which is declared as such by the competent authority.
- d. 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.

25. Similarly, ambient air quality standard in India is also fixed and that is in operation and the authorities concerned are legally bound to follow the protocol issued by the CPCB:

*“Ambient air quality refers to the condition or quality of air surrounding us in the outdoors. National Ambient Air Quality Standards are the standards for ambient air quality set by the Central Pollution Control Board (<http://cpcb.nic.in/>) (CPCB) that is applicable nationwide. The CPCB has been conferred this power by the Air (Prevention and Control of Pollution) Act, 1981.*

#### *Ambient Air Quality Standards in India*

*The Air (Prevention and Control of Pollution) Act 1981 (<http://www.envfor.nic.in/legis/air/air1.html>) was enacted by the Central Government with the objective of arresting the deterioration of air quality. The Air (Prevention and Control of Pollution) Act 1981 describes the main functions of the Central Pollution Control Board (CPCB) as follows:*

- *To advise the Central Government on any matter concerning the improvement of the quality of the air and the prevention, control and abatement of air pollution.*
- *To plan and cause to be executed a nationwide programme for the prevention, control and abatement of air pollution.*
- *To provide technical assistance and guidance to the State Pollution Control Board.*
- *To carry out and sponsor investigations and research related to prevention, control and abatement of air pollution.*
- *To collect, compile and publish technical and statistical data related to air pollution; and*
- *To lay down and annul standards for the quality of air.*

*The mandate provided to the CPCB under the Air (Prevention and Control of Pollution) Act empowers it to set standards for the quality of air.*

*The current National Ambient Air Quality Standards were notified on 18 November 2009 ([http://www.cpcb.nic.in/upload/Latest/Latest\\_48\\_FINAL\\_AIR\\_STANDARD.pdf](http://www.cpcb.nic.in/upload/Latest/Latest_48_FINAL_AIR_STANDARD.pdf)) by the Central Pollution Control Board.*

*Table 1: National Ambient Air Quality Standards*

<b>Pollutant</b>	<b>Time Weighted Average</b>	<b>Concentration in Ambient Air Industrial, Residential, Rural and Other Areas</b>	<b>Ecologically Sensitive Area (notified by Central Government)</b>
Sulphur Dioxide (SO <sub>2</sub> ), µg/m <sup>3</sup>	Annual* 24 hours**	50 80	20 80
Nitrogen Dioxide (NO <sub>2</sub> ), µg/m <sup>3</sup>	Annual* 24 hours**	40 80	30 80
Particulate Matter (size less than 10 µm) or PM <sub>10</sub> µg/m <sup>3</sup>	Annual* 24 hours**	60 100	60 100
Particulate Matter (size less than 2.5 µm) or PM <sub>2.5</sub> µg/m <sup>3</sup>	Annual* 24 hours**	40 60	40 60
Ozone (O <sub>3</sub> ) µg/m <sup>3</sup>	8 hours* 1 hour**	100 180	100 180
Lead (Pb) µg/m <sup>3</sup>	Annual* 24 hours**	0.50 1.0	0.50 1.0
Carbon Monoxide (CO) mg/m <sup>3</sup>	8 hours* 1 hour**	02 04	02 04
Ammonia (NH <sub>3</sub> ) µg/m <sup>3</sup>	Annual* 24 hours**	100 400	100 400
Benzene (C <sub>6</sub> H <sub>6</sub> ) µg/m <sup>3</sup>	Annual*	5	5
Benzo(a)Pyrene(BaP)- particulate phase only, ng/m <sup>3</sup>	Annual*	1	1
Arsenic(As), ng/m <sup>3</sup>	Annual*	6	60
Nickel (Ni), ng/m <sup>3</sup>	Annual*	20	20

\* Annual arithmetic mean of minimum 104 measurements in a year at a particular site taken twice a week 24 hourly at uniform intervals.

\*\* 24 hourly or 8 hourly or 1 hourly monitored values, as applicable, shall be complied with 98% of the time, they may exceed the limits but not on two consecutive days of monitoring.

Source: National Ambient Air Quality Standards, Central Pollution Control Board Notification in the Gazette of India, Extraordinary, New Delhi, 18th November, 2009

Prior to the November 2009 standards, India had set Air Quality standards on 11 April 1994, and this was later revised on 14 October 1998. The 2009 standards

*further lowered the maximum permissible limits for pollutants and made the standards uniform across the nation. Earlier, less stringent standards were prescribed for industrial zones as compared to residential areas.*

*Further, a new National Air Quality Index (AQI) ([http://www.arthapedia.in/index.php?title=National\\_Air\\_Quality\\_Index](http://www.arthapedia.in/index.php?title=National_Air_Quality_Index)) has been launched in October 2014 to disseminate information on air quality in an easily understandable form for the general public. The measurement of air quality is based on eight pollutants, namely, PM10, PM2.5, NO2, SO2, CO, O3, NH3, and Pb for which short-term (up to 24-hourly averaging period) National Ambient Air Quality Standards are prescribed and the worst reading in these pollutants represents the AQI for that city.”*

26. In light of above guidelines issued by the CPCB and the Noise Pollution (Regulation and Control) Rules, 2000, the authorities are legally bound to follow the guidelines and parameters as laid down by the CPCB and the Noise Pollution (Regulation and Control) Rules, 2000.

27. In the case of P.I.L. No. 570 of 2020, Afzal Ansari And 2 Others vs State Of U.P. And 2 Others decided on 15.05.2020, the Court dealt with the matter and distinguished the freedom of conscience and its limitation as follows:-

*It will be relevant to quote [Article 25](#) as well as [Article 19 \(1\)\(2\)](#)*

*25. Freedom of conscience and free profession, practice and propagation of religion (1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion (2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law*

*(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;*

*(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus*  
*Explanation I The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion*  
*Explanation II In sub clause (b) of*

clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

19. Protection of certain rights regarding freedom of speech, etc.--(1) All citizens shall have the right--  
(a) to freedom of speech and expression;  
(b) to assemble peaceably and without arms;  
(c) to form associations or unions <sup>2</sup> [or co-operative societies];  
(d) to move freely throughout the territory of India;  
(e) to reside and settle in any part of the territory of India; [and] \* \* \* \* \*  
(g) to practise any profession, or to carry on any occupation, trade or business.

[(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of <sup>6</sup>[the sovereignty and integrity of India,] the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.]

17. In this regard it may be noted that the issue of the use of sound amplifying devices for amplifying human voice and other sounds while offering daily pujas by a Hindu Organization arose before the Calcutta High Court in the case of *Om Birangana Religious Society Vs. The State and Ors.*, MANU/WB/0254/1996, wherein it was held as under:

"15. It is well-settled that the right to propagate one's religion means the right to communicate a person's belief to another or to expose the tenets of that faith. The question is whether the right to propagate religion includes the right to use loud-speakers and microphones for the purpose of chanting religious tenets or religious texts and/or the indiscriminate use of microphones or loud-speakers during religious performance in the society.

17. There cannot be any dispute that sound is a known source of pollution. The adverse and ill effect of sound on human body is also known. It has a tremendous impact on the nervous system of human being ....

20. The religion that has been performed by the petitioner and others, is nothing new, but the same is there for several centuries. It cannot be said that

*the religious teachers or the spiritual leaders who had laid down these tenets, had any way desired the use of microphones as a means of performance of religion. Undoubtedly, one can practise, profess and propagate religion, as guaranteed under [Article 25\(1\)](#) of the Constitution, but that is not an absolute right. The provisions of Article 25 is subject to the provisions of Article 19(1)(a) of the Constitution. On true and proper construction of the provisions of Article 25(1), read with Article 19(1)(a) of the Constitution, it cannot be said that a citizen should be coerced to hear anything which he does not like or which he does not require."*

19. The Apex Court in the case of *Church of God (Full Gospel) in India Vs. K.K.R. Majestic* reported in (2000) 7 SCC 282 has held as follows:

*"no religion or religious sect can claim that the use of loudspeakers or similar instruments for prayers or for worship or for celebrating religious festivals is an essential part of the religion which is protected under Article 25. We hold that there is no fundamental right to use loud-speakers or similar instruments under Article 19 (1) (a) of the Constitution. On the contrary, the use of such instruments contrary to the Noise Pollution Rules will be a violation of fundamental rights of citizens under Article 21 of the Constitution as well as fundamental right of citizens of not being forced to listen something which they do not desire to listen"*

20. In the case of *P.A. Jacob v. Supdt. of Police*, AIR 1993 Ker 1, it was held that right to speech implies the right to silence. It implies freedom, not to listen, and not to be forced to listen. The right comprehends freedom to be free from what one desires to be free from. A person cannot be forced to hear what, he wishes not, to hear. That will be an invasion of his right to be let alone, to hear what he wants to hear, or not to hear, what he does not wish to hear.

22. The apex court while dealing with the issue of privacy as part of Article 21 of Constitution of India held that right to sleep has always been treated to be a fundamental right like right to breath, to eat, to drink, to blink, etc. In the case of *Ramlila Maidan Incident, in re*, reported in 2012 (5) SCC 1 in paragraphs 318 and 327, the apex court held as follows:

*"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 breathe, to eat, to drink, to blink, etc."*

"327. An individual is entitled to sleep as comfortably and as freely as he 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."

23. There is catena of judicial decisions which recognizes the right to live in freedom from noise pollution as a fundamental right protected by Article 21 of the Constitution of India. Noise pollution beyond permissible limit is hazardous which violates the fundamental rights of citizens.

24. In the case of Church of God (Supra), the Supreme Court has held that no religion prescribes that prayers should be performed by disturbing the peace of others nor does it preach that they should be through voice amplifiers or beating of drums. In a civilized society in the name of religion, activities which disturb old or infirm persons, students or children having their sleep in the early hours or during daytime or other persons carrying on other activities cannot be permitted. A student preparing for his examination is entitled to concentrate on his studies without their being any unnecessary disturbance by the neighbours. Similarly, the old and the infirm are entitled to enjoy reasonable quietness during their leisure hours without there being any nuisance of noise pollution. Aged, sick, people afflicted with psychic disturbances as well as children up to 6 years of age are considered to be very sensitive to noise. Their rights are also required to be honoured.

26. It cannot be denied that sound is one of the recognised mode of creating pollution and thus sound pollution by means of using loud-speakers, without prior permission of authority, as prescribed in law, has to be controlled. A citizen has a right to leisure, right to sleep, right not to hear and right to remain silent. He has also the right to read and speak with others. Use of microphones certainly takes away the right of the

*citizens to speak with others, their right to read or think or the right to sleep. There may be heart patients or patients suffering from nervous disorder and they may be compelled to bear this serious impact of sound pollution which has had an adverse effect on them. It may create health problems.*

*27. No person has right to take away the right of others. There is no religious freedom in this country except the provisions of Art. 25 of the Constitution which is subject to public order, morality and health and other provisions of part III including Art. 19(1)(a) of the Constitution of India. Freedom of religion is subject to others' right as guaranteed under Article 19(1)(a) of the Constitution, namely, religious freedom cannot abridge or take away or suspend others' right under Article 19(1)(a) regarding their freedom of speech and expression. Use of loud-speakers is not an integral part of Azan or necessary for making Azan effective. Use of loud-speakers otherwise in accordance with law affects fundamental rights of the citizens under Article 19 (1)(a) of the Constitution of India. No one has got the right to make other persons captive listeners. One cannot disturb others' basic human rights and fundamental rights. Use of loud-speakers can cause hearing loss, disturbance of sleep, interference with communication, annoyance etc. and other diseases. Right to sleep is not only a fundamental right but it is to be conceded to be a basic human right.*

*29. At this juncture, it would be worthwhile to refer to Rule 4, 5, 5A and Section 6 of the Noise Pollution Rules as follows;*

*4. Responsibility as to enforcement of noise pollution control measures.*

*(1) The noise levels in any area/zone shall not exceed the ambient air quality standards in respect of noise as specified in the Schedule.*

*(2) The authority shall be responsible for the enforcement of noise pollution control measures and the due compliance of the ambient air quality standards in respect of noise.*

*[(3) The respective State Pollution Control Boards or Pollution Control Committees in consultation with the Central Pollution Control Board shall collect, compile and publish technical and statistical data relating to noise pollution and measures devised for its effective prevention, control and abatement.]*

5. Restrictions on the use of loud speakers/public address system (and sound producing instruments).

(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 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 or during a public emergency.] [(3) Notwithstanding anything 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 and the like during night hours (between 10.00 p.m. to 12.00 midnight) on or during any cultural, religious or festive occasion of a limited duration not exceeding fifteen days in all during a calendar year and the concerned State Government or District Authority in respect of its jurisdiction as authorized by the concerned State Government shall generally specify in advance, the number and particulars of the days on which such exemption should be operative. Explanation.- For the purposes of this sub-rule, the expressions-

(i) "festive occasion" shall include any National function or State function as notified by the Central Government or State Government; and

(ii) "National function or State function" shall include"-

(A) Republic Day;

(B) Independence Day;

(C) State Day; or (D) such other day as notified by the Central Government or the State Government.]<sup>15</sup> [(4) 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;

(5) The peripheral noise level of a privately owned sound system or a sound producing instrument shall not, at the boundary of the private place, exceed by more than 5dB (A) the ambient noise standards specified for the area on which it is used.] 5A. Restrictions on the use of horns, sound emitting construction equipments and bursting of

*fire crackers.*

(1) *No horn shall be used in silence zones or during night time in residential areas except during a public emergency.*

(2) *Sound emitting fire crackers shall not be burst in silence zone or during night time.*

(3) *Sound emitting construction equipments shall not be used or operated during night time in residential areas and silence zones.]*

6. *Consequences of any violation in silence zone/area. Whoever, in any place covered under the silence zone/area commits any of the following offence, he shall be liable for penalty under the provisions of the Act:*

(i) *whoever, plays any music or uses any sound amplifiers,*

(ii) *whoever, beats a drum or tom-tom or blows a horn either musical or pressure, or trumpet or beats or sounds any instrument, or*

(iii) *whoever, exhibits any mimetic, musical or other performances of a nature to attract crowds.*

*[(iv) whoever, bursts sound emitting fire crackers;  
or*

*(v) whoever, uses a loud speaker or a public address system.]*

30. *Rule 5 deals with not only use of loud-speakers/public address system but it also deals with sound producing instruments or a musical instrument or a sound amplifier. Under Sub-rule (1) of Rule 5, it is provided that a loud-speaker or a public address system shall not be used except after obtaining written permission from the Authority under the Noise Pollution Rules. Sub-rule (2) provides that a loudspeaker 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 such as auditorium, conference halls, banquet halls, community halls or during a public emergency. The Schedule under the Rules of 2000, defines night time to mean the period between 10.00*

*p.m. to 6.00 a.m. Day time is defined as 6.00 am to 10.00 pm. Thus, even if permission is granted under Sub-rule (1) of Rule*

*(5) to use loudspeakers or public address systems, the same cannot be used between 10.00 pm till 6.00 a.m. Then comes Sub-rule (3) which confers*

*power of relaxation on the State Government. It confers power on the State to permit the use of loudspeakers or public address system and the like during night hours (between 10.00 p.m. to 12.00 midnight) on or during any cultural or religious festive occasion not exceeding fifteen days in all during a calendar year. The said Sub-Rule requires the concerned State Government to specify in advance, the number and particulars of the days on which such exemption would be operative. Sub-rule (3) is an exception carved out which permits the State Government to relax the prohibition under Sub-rule (3) for a period of 15 days in a calendar year by permitting use of loudspeakers/public address systems or the like only between 10 pm to 12 midnight.*

31. *The challenge to Sub-rule (3) was negated by the Apex Court in the case of Noise Pollution (VII) Vs. Union of India and Ors. (2005) 8 SCC 796. In paragraph 8 of the said decision the Apex Court held thus:-*

*"8. Looking at the diversity of cultures and religions in India, we think that a limited power of exemption from the operation of the Noise Rules granted by the Central Government in exercise of its statutory power cannot be held to be unreasonable. The power to grant exemption is conferred on the State Government. It cannot be further delegated. The power shall be exercised by reference to the State as a unit and not by reference to districts, so as to specify different dates for different districts. It can be reasonably expected that the State Government would exercise the power with due care and caution and in the public interest. However, we make it clear that the scope of the exemption cannot be widened either by increasing the number of days or by increasing the duration beyond two hours. If that is attempted to be done, then the said Sub-rule (3) conferring power to grant exemption may be liable to be struck down as violative of Article 14 and 21 of the Constitution. We also make it clear that the State Government should generally specify in advance, the number and particulars of the days on which such exemption will be operative. Such specification would exclude arbitrariness in the exercise of power. The exemption, when granted, shall not apply to silence zone areas. This is only as a clarification as this even otherwise is the position of law."*

32. *Thus, under no circumstances loudspeakers or any public address system or musical system or sound amplifiers can be permitted to be*

*used between 12.00 p.m. to 6.00 a.m. As according to Noise Pollution Rules, night hours have been fixed between 10. p.m. to 6 a.m. For the period between 10pm to 12 midnight the power of relaxation has been conferred only upon the State Government under Sub Rule 3 of Rule 5.*

*37. xxx In this regard emphasis has been laid on Paragraphs 9 & 10 of the guidelines contained in order No. 40-3/2020-D dated 24.03.2020, issued by the Ministry of Home Affairs, Government of India for containing Covid-19 pandemic in the country, which are as follows:*

*“(9) All places of worship shall be closed for public. No religious congregations will be permitted, without any exception.*

*(10) All social /political/ sports/ entertainment/ academic/ cultural/ religious functions/ gathering shall be barred.”*

28. Noise pollution is an emerging environmental threat, prolonged exposure of which can cause annoyance, sleep disturbance, hypertension, psychiatric disorders, and also hormonal dysfunction. Among all the sources of noise pollution, the noise generated by road vehicle traffic significantly affects the quality of urban environments. Concerning the recent imposition of COVID- 19 societal lockdown, the average noise levels before lockdown and during lockdown were found to be in the range of 44.85 dB to 79.57 dB and 38.55 dB to 57.79 dB, respectively, for different zones. Although a significant reduction in the noise levels was observed during lockdown, except for commercial zone, all other monitoring stations had reported sound levels quite higher than the recommended noise limits set by the Central Pollution Control Board (CPCB) of India. Results further indicated that the impact of road traffic noise on risk of high annoyance and sleep disturbance was found to be lower during lockdown as compared to that of pre-lockdown and unlock phase. While the annoyance level in residential (86.23%), industrial (87.44%), and silence (84.47%) was higher in pre-lockdown period, it reduced to 41.25, 50.28, and 43.07% in the lockdown phase. Even the risk of sleep disturbance in the residential zone was found to reduce from 37.96% during pre-lockdown to 14.72% during lockdown.

The Central Pollution Control Board (CPCB) of India has recommended noise limits of 55 and 45 dB during day time and night time in residential areas; 75 and 70 dB in industrial areas; 65 and 55 dB in commercial; and 50 and 40 dB during the day and night time in silence zones. Considering the prescribed limits, the percentage of times the hourly equivalent sound level exceeds the threshold values in the pre-lockdown, lockdown, and unlock phase during day and night-time.

29. With the implementation of nationwide and state lockdown programs, there were travel restrictions causing reduction in traffic and number of honking incidents. Although essential and emergency services were operational during lockdown, there were restrictions in human mobility, social, economic, commercial and other industrial activities. Recognizing that transportation noise can adversely impact people's well-being, lifestyle, and local economy, many aspects of lockdown period can be considered further for devising new policies and guidelines towards noise pollution abatement. Although it is not feasible to impose lockdown or eliminate traffic from the cities, proper traffic management strategies can control the negative effects of noise pollution significant reduction in noise levels can be achieved through stringent traffic reduction strategies. Several interventions such as no honking policy, substitution of motorized private transport by active transport mode Such as walking and cycling for short trips, parking management, and restricting access for the noisiest vehicles can reduce noise pollution, improve road safety, provide recreational value to all the users, and improve health of the communities. While cycling and walking offer health benefits and reduce noise, emissions, and congestion, providing proper bicycle paths and walkways is equally important for the efficient mobility of cyclists and pedestrians.

30. Adoption of greener environment are characteristics of the built environment such as view or access to green spaces in the neighborhood or having access to a quiet area can reduce annoyance and the negative response to road traffic noise. The construction of green belts around roads, vegetation, and incorporation of green spaces in the cities or even green

roof installations can be considered as several measures to help attenuate noise exposure especially in the residential, silence, and industrial zones. Road infrastructure Consideration of noise-reducing pavements, traffic noise impedance walls, and quieter vehicles and installation of natural or artificial noise barriers, no-horn sign, and other traffic-calming measures can reduce noise level at high sound level zones. Implementation of such measures in residential, silence, and commercial zones can provide a livable, workable, and healthy environment for the people residing in nearby areas.

31. It is argued that due to complete neglect and apathy on part of the Respondents in failing to comply with strict compliance of Rule (115) sub-rule (7) of the Central Motor Vehicles Rules, 1989 and thereby failing to ensure that only those vehicles that carry valid "Pollution under control" (PUC) certificate issued by the authorized agency are permitted to ply in the State and thereby adversely affecting the health and lives of millions of people all over the State and to Limit the number of PUC centres, upgrade them and bring them under strong supervision and quality control, make quality audit of centres and calibration quarterly, Upgrade Testing Centres for high level of automatic emissions testing so that operators and vehicle drivers do not come in contact to influence the test results and credible and upgraded tests are conducted and Introduce well equipped mobile test centres and a programme to check visibly polluting vehicles."

32. It is further argued that the EPCA submitted its report no. 23 (July 2006) on audit of PUC centres and networking centres in Delhi, whereby making the following recommendations:-

- 1. The first third party audit of PUC centres has been effective in identifying operational problems in the PUC centres for corrective action. In view of this EPCA recommends that similar third party audits should be conducted every 6 months and the findings should be submitted to EPCA.*
- 2. Vigilance must be stepped up against fraud in the PUC by carrying out surprise checks. If any fraud is detected then in addition to the punitive action to be initiated by the transport department of Delhi the concerned oil*

*companies should also be made responsible and liable for taking action against the petrol pump dealer/owner who obtains the license for operating the PUC stations. The oil companies must be directed to proceed against the petrol pump dealer/owner (by suspending supplies of petroleum products and imposing strict fine), and ensure that publicity is given to this action to serve as a deterrent for other.*

- 3. To improve compliance and prevent fraudulent practices in PUC centres, a networking system be created to link all the PUC centres through a central server to a centralized databank of PUC test results and the database of vehicle registration. This will be used for remote auditing and tracking compliance. The networking should become operational and data auditing must begin by January 2007. Delhi government must ensure that this deadline is not violated.*
- 4. That despite the CMVR Rules being notified in the year 1989 and despite directions given in the year 2005 by Respondents to audit the PUC centres and network the same, over the next twelve years the Respondent No. 1 has only slept over these crucial issues of controlling automobile pollution, which is adversely affecting the healthy and lives of millions of persons in the State, since automobile pollution is the major cause of pollution in the urban and semi-urban areas.*
- 5. That even as on today, the few thousand authorised PUC centres operating in State are neither networked nor undergoing third party audits, as a result whereof a majority of the vehicles plying in the State do not regularly undergo PUC checks, as there is no procedure adopted by the Respondents to track these vehicles, despite there being an active database of vehicles in State available with Respondent No. 1 and its offices throughout the State. This has resulted in utter manipulation and malpractices in issuance of PUC certificates.*
- 6. False PUC certificates issued, without the vehicle actually visiting the PUC centre. This forms the bulk of the actual PUC certificates issued.*

33. The learned counsel for the applicant has argued the national auto policy and relied on the judgement of the Hon'ble Supreme Court of India in Writ Petition (Civil) No. 13029 of 1985 dated 24.08.2018 which is as follows:

*“3. In 2003, the Government of India announced the National Auto Policy based on the recommendations of the Mashelkar Committee constituted in 2001. BS-IV compliant vehicles were made compulsory for four wheelers in different parts of the country on different dates starting from 01.04.2005, from which date registration of only BS-IV compliant vehicles were permitted in the metropolises of Delhi, Ahmedabad, Bengaluru, Mumbai, Pune and Kolkata. Thereafter, it was made compulsory to have BS-IV compliant vehicles in some other cities from 01.04.2010. More cities were added on 21.05.2010 and on 14.07.2015. Finally, by amendment dated 19.08.2015 it was mandated that BS-IV norms would come into force throughout the country w.e.f. 01.04.2017.*

*4. As far as two and three wheelers are concerned, they were made subject to BS-III norms on and with effect from 01.04.2010 by insertion of sub-rule 16 in Rule 115 of the Central Motor Vehicle Rules, 1989 hereinafter referred to as ‘the Rules’. With effect from 04.07.2014, it was mandated that on and from 01.04.2016 all two wheeler vehicles will comply with BS-IV emission norms and all existing models will shift to BS-IV emission norms from 01.04.2017. Similarly, Rule 17 was inserted in Rule 115 of the Rules on 12.06.2015 in respect of three wheelers wherein BS-IV standard would be applicable to new models on or after 01.04.2016. Resultantly, only those vehicles which were BS-IV compliant would be sold after 01.04.2017.*

*10. On the other hand, Ms. Aparajita Singh, learned amicus curiae, has made a passionate plea that no non-BS-VI compliant*

*vehicle should be permitted to be sold in the entire country after 01.04.2020. She has drawn our attention to the Report of the Parliamentary Standing Committee (for short 'the Committee') dated 07.08.2018. This Report mainly deals with National Capital Region (NCR) of Delhi but there are some references to the entire country. Some of the observations made by the Committee need to be considered and taken note of. The Committee in Para 5.15 notes that the problem of air pollution is affecting all human beings and any leniency on the part of the Government in tackling it will have a cascading effect on the health of the citizens. These observations have been made with specific reference to vehicular pollution and the need to ensure compliance of BS-VI norms with effect from 0.1.04.2020. There can be no two views that air pollution is hazardous to health. We may, also take note of certain observations of the Report of the Committee which show that one out of three children in Delhi suffers from respiratory problems. This is almost twice as high as compared to the city of Kolkata or rural areas. We may note that the World Health Organization's (WHO) database of more than 4,300 cities showed Indian cities of Gwalior, Allahabad, Raipur, Delhi, Ludhiana, Khanna, Varanasi and Patna as being among the most polluted in the world<sup>1</sup>. Our attention has been drawn to various other documents which clearly show the deleterious effects of pollution on health. The hazards of pollution and its ill effect on the health of the citizens especially children are not limited to the city of Delhi or the NCR of Delhi but affect all the citizens of the country.*

13. *With regard to trucks and buses, from a news item published in the Financial*

*Express dated 06.07.2018, it is apparent that Eicher is already manufacturing trucks and buses which are not only BS-VI compliant but BS-VI CNG compliant. Another manufacturer of heavy vehicles i.e. Ashok Leyland had, in August, 2018 through its subsidiary Optare obtained an order to manufacture the world's first, electric double decker buses. The technology needed to manufacture such electric buses is much more advanced and difficult as compared to the technological changes required to manufacture petrol and diesel vehicles which are BS-VI compliant. Similarly, TVS Motors on 07.08.2018 has issued a press note that it will be manufacturing BS-VI compliant vehicles much ahead of the deadline of 2020. Many members of SIAM in the Auto Expo held in February, 2018 have exhibited vehicles which are technologically much more advanced than BS-VI compliant vehicles. These manufacturers have not only asserted that they can manufacture electric vehicles but also asserted that they are developing hydrogen cell fuel vehicles along with hybrid, electric and CNG vehicles.*

*14. We have mentioned these facts only to highlight that some of the manufacturers are not willing to comply with the 31.03.2020 deadline not because they do not have the technology but because the use of technology will lead to increase in the cost of the vehicles which may lead to reduction in sales of the vehicles and ultimately their profit. There can be no compromise with the health of the citizens and if one has to choose between health and wealth, keeping in view the expanded scope of Article 21 of the Constitution, health of the teeming millions of this country will have to take precedence over the greed of a few automobile*

manufacturers. The automobile manufacturers must behave responsibly. We expected that keeping in view our earlier order, they would have themselves volunteered to be BS-VI compliant by 31.03.2020. Unfortunately, this has not been the case with some of the manufacturers and they want to stretch on the timeline by a few days or months for no other reason but to make a little more money.

15. When we compare BS-VI fuel with BS-IV fuel, there is a massive improvement in environmental terms. Once BS-VI emission norms are enforced, there will be a 68% improvement in PM<sub>2.5</sub>. This is not a small change. It is a vast improvement and the faster it is brought, the better it is. The amicus curiae has strenuously urged that, at least, in the NCR of Delhi, the BS- VI norms be applied for sale of vehicles from 01.04.2020. We feel that it may not be practical to introduce BS-VI compliant vehicles region-wise or city-wise. In our view, the BS-IV experiment in this regard was not very successful. BS-VI compliant vehicles are going to be more expensive than BS-IV compliant vehicles. People have a tendency to buy cheaper vehicle(s) even from a neighboring city. We also strongly feel that the problem of pollution is not limited to the NCR of Delhi but it is a problem which has engulfed the entire country especially the major cities. India has the dubious distinction of having 15 out of the 20 most polluted cities in the world. The pollution in Gwalior, Raipur & Allahabad is worse than Delhi. The situation is alarming and critical. It brooks no delay.

16. It is an established principle of law that the right to life, as envisaged under Article 21

*of the Constitution of India includes the right to a decent environment. It includes within its ambit the right of a citizen to live in a clean environment. With regard to vehicular traffic, this Court has issued a number of directions to ensure a clean environment and reduce pollution. It has been held that the right to clean environment is a fundamental rights. The right to live in an environment free from smoke and pollution follows from the "quality" of life which is an inherent part of Article 21 of the Constitution. The right to live with human dignity becomes illusory in the absence of a healthy environment. The right to life not only means leading a life with dignity but includes within its ambit the right to lead a healthy, robust life in a clean atmosphere free from pollution. Obviously, such rights are not absolute and have to co-exist with sustainable development. Therefore, if there is a conflict between health and wealth, obviously, health will have to be given precedence. When we are concerned with the health of not one citizen but the entire citizenry including the future citizens of the country, the larger public interest has to outweigh the much smaller pecuniary interest of the industry, in this case the automobile industry, especially when the entire wherewithal to introduce the cleaner technology exists.*

*17. It is therefore necessary to ensure that BS-VI compliance is uniform throughout the country so that even those areas of the country which fortunately have not suffered the ills of extreme pollution are safe in the future. The sale of automobiles and other vehicles is rising exponentially and the number of vehicles on the road is increasing day by day. Therefore, even a day's delay in*

*enforcing BS-VI norms is going to harm the health of the people. We are dealing here with a situation where children and unborn children suffer from pollution and issues of inter-generational equity are involved. Do we as a society or as manufacturers of automobiles have a right to manufacture more polluting vehicles when we have the technology to manufacture less polluting vehicles? The answer is obviously a big NO. If we were to factor only economics even then it makes no economic sense to have more polluting vehicles on the roads. The effect of pollution on the environment and health is so huge that it cannot be compensated in the marginal extra profits that the manufacturers might make. The amount spent on countering the ills of pollution such as polluted air, damaged lungs and the cost of healthcare far outweigh the profits earned.*

*18. It was urged on behalf of the manufacturers that there are multiple sources of pollution and vehicles only contribute to 2% of the pollution. We are not in agreement with this submission because the Report of the Committee to which we have adverted hereinabove states that contribution of vehicles to ambient PM<sub>2.5</sub> concentration during winter season is 25% and in the summer season it contributes 9%. Even if we were to accept the figures submitted by SIAM, we are of the view that no step is too small when it comes to fighting pollution. Small steps to reduce pollution when taken together will lead to large scale reduction in pollution which will result in much cleaner air, which eventually will result in a cleaner and better environment, healthier citizens and most importantly a healthier generation to come.*

19. In view of the fact that these proceedings have been pending in court for a long time and also in view of the fact that it is because of orders of this Court that BS-IV and now BS-VI norms have been introduced from the dates which were not even thought of by the Government, we feel that we have to take *sup moto* notice of the Rules. At the outset, we may notice that sub- rule 21 of Rule 115 is very vague. It does not talk of sale of vehicles. It only mentions registration of vehicles and permits registration of vehicles conforming to BS-IV norms up to 30.06.2020 and in case of categories M & N, up to 30.09.2020. This rule, in our view, is violative of Article 21 of the Constitution in as much as it extends time for registration of vehicles beyond 31.03.2020 and must be accordingly read down. Any extension of time in introducing the new norms which is not absolutely necessary adversely impacts the health of the citizens and is, therefore, violative of Article 21 of the Constitution of India. This Rule goes against the spirit of all the orders passed earlier by this Court. In the month of March, 2017 we were dealing with a situation when BS-VI norms were to be made effective throughout the country with effect from 01.04.2020 and this Court had directed that non- BS-IV compliant vehicles shall not be registered on or after 01.04.2017. The situation in the present case is totally different. 31.03.2020 is almost 1 1/2 years away. There is sufficient time for the manufacturers to change over to the new system and, therefore, we see no reason why they should be given a window of three or six months for sale of accumulated vehicles. Every vehicle sold after the cut-off date of 01.04.2020 is bound to cause more pollution and, therefore, the manufacturers, in our considered view,

cannot be permitted to sell any non-BS-VI compliant vehicle on or after 01.04.2020. On the one hand, the Government has been proactive in spending huge amounts of money to move to the BS-VI technology, but on the other hand, the automobile industry is coming up with a variety of untenable excuses just to delay the introduction of BS-VI compliant vehicles by a few months. We, in our judgment dated 13.04.2017, had clearly held "when the health of millions of our countrymen is involved, notification relating to commercial activities ought not to be interpreted in a literal manner." We have to give a purposive interpretation to notifications specially those dealing with public health issues and even more so, when health not only of the citizens at present but also the citizens in the future is involved. There is more than sufficient time for the manufacturers to manufacture BS-VI compliant vehicles. They already have the technology to do so. The automobile industry must show the will, responsibility and urgency in this regard.

20. The Government has developed a policy of phasing out polluting vehicles and discouraging the manufacturers of polluting vehicles. This has been done in a gradual manner. Europe introduced Euro-IV fuel in the year 2009 and Euro-VI standards in 2015. We are already many years behind them. We cannot afford to fall back further even by a single day. The need of the hour is to move to a cleaner fuel as early as possible.

21. Therefore, in exercise of the power vested in this Court under Article 142 of the Constitution, we read down sub-rule 21 of Rule 115 and direct that sub-rule 21 of Rule

*115 shall be interpreted and understood to read that no motor vehicle conforming to the emission standard Bharat Stage-IV shall be sold or registered in the entire country with effect from 01.04.2020.”*

34. The Applicant submits that Schedule VI, in part E of the Environment (Protection) Rules, 1986 specify the noise limits relating to noise standards for vehicles at the manufacturing stage with effect from 1st July, 2005, which is to be monitored as per test method IS: 3028-1988,. The Applicant claims that he came to know recently that the Respondents are neither monitoring the noise levels of constructed vehicles at the manufacturing stage, in accordance with IS: 3028-1988 nor they are ensuring compliance of noise limits by these vehicles, as specified in Schedule VI, Part E, of the Environment (Protection) Rules, 1986. The Applicant further submits that the noise pollution caused by the moving vehicles is, by far the biggest contributor to the noise pollution all over the country and, therefore, it is necessary to enforce and monitor the compliance of noise standards for the vehicles at manufacturing stage, as prescribed under Schedule VI, Part E, of the Environment (Protection) Rules, 1986. The Applicant further submits that the Air (Prevention and Control of Pollution) Act, 1981, has defined the "air pollutants" as any solid, liquid or gaseous substance (including noise) in the atmosphere in such concentration as may be or tend to be injurious to human beings or other living creatures or plants or the property or environment. He further submits that by subsequent amendment the 'noise' has also been included as an 'air pollutant' in the said Act. The Applicant further submits that under Section 16 of the said Act, the Central Pollution Control Board has overall responsibility to improve quality of air and to prevent, control or abate air pollution in the country. Further, it is contended that as per Sub Section (2) (h) of Section 16

of this Act, the Respondent No.3, is required to lay down standards for the quality of air. The applicant also submits that State Pollution Control Board, i.e. Respondent No.4 is required under Section 17(i) (g) of this Act, to lay down, in consultation with the Central Board, and having regard to standards for quality of air, laid down by the Central Board, standards for emission of air pollutants into the atmosphere. The Applicant also submits that Maharashtra Pollution Control Board (MPCB), has powers to give instructions and directions under Section 31 A of the said Act for ensuring implementation of emissions standards discharged by automobiles, any vehicles or machinery in the atmosphere.

35. In the absence of an effective mechanism to enforce and implement the Noise standards prescribed under the EP Rules and Motor Vehicles Rules, the noise pollution mainly in urban areas cannot be effectively controlled. Hon'ble Apex Court and High Court decisions referred by Applicant in the Application have given significant impetus to the implementation of noise related regulations. The Apex Court in WP (c) No.72 of 1998 with CA No.3735 of 2005 (arising out of SLP (c) No.2185) (2005) 5 SCC 733 in "Re: Noise Pollution vs Unknown 18 July, 2005" observed that:

*"98. Not that the Legislature and the Executive in India are completely unmindful of the menace of noise pollution. Laws have been enacted and the Rules have been framed by the Executive for carrying on the purposes of the legislation. The real issue is with the implementation of the laws. What is needed is the will to implement the laws. It would be useful to have a brief resume of some of the laws which are already available on the Statute Book. Treatment of the problem of noise pollution can be dealt under the Law of Crimes and Civil Law. Civil law can be divided under two heads (i) The Law of Torts and (ii) The General Civil Law. The cases regarding noise have not come before the law courts in large quantity. The reason behind this is that many people in India did not consider noise as a sort of pollution and they are not very much conscious about the evil consequences of noise pollution. The level of noise pollution is relative and depends upon a person and a particular place.*

*The law will not take care of a super sensitive person but the standard is of an average and rational human being in the society."*

33. *The Apex Court further observed that:*

169. *The need for checking noise pollution as highlighted by the petitioners and several interveners deserves appreciation.*

170. *Need for specific legislation to control and prevent noise pollution still needs some emphasis. Undoubtedly, some laws have been enacted. Yet, compared with the legislation in developed countries India is still lagging behind in enacting adequate and scientific legislations. We need to have one simple but specific and detailed legislation dealing with several aspects referable to noise pollution and providing measures of control therefore.*

171. *There is an equal need of developing mechanism and infrastructure for enforcement of the prevalent laws. Those who are entrusted with the task of enforcing laws directed towards controlling noise pollution, must be so trained as to acquire expertise in the matter of fighting against noise pollution by taking preventive and deterrent measures both. They need to be equipped with the requisite equipments such as audio meters as would help them in detecting the level of noise pollution more so when it crosses the permissible limits and the source thereof.*

172. *Above all, there is need for creating general awareness towards the hazardous effects of noise pollution. "*

36. In substance, it can be observed that there is no effective mechanism for implementation of noise standards for automobiles. Though the Respondents have taken some steps, but they are pointing fingers towards others in the context of duty to perform the Rules. There is lack of synergy and coordination amongst the Respondents. This cannot be allowed to continue, in view of the serious impacts of noise pollution. The Apex court has clearly focused on implementation of existing regulations and also, need of specific regulations while dealing with noise pollution. The applicant submits that:

- (i) the maximum noise levels in relation to certain classes of motor vehicles and motor vehicle accessories, such that vehicles and accessories capable of emitting those noise levels cannot be

- sold,
- (ii) the use of motor vehicles on roads and other places,
  - (iii) the use of motor vehicle horns and motor vehicle intruder alarms,
  - (iv) the times during which it is not permissible to use certain motor vehicles if they emit noise that can be heard in other residential premises,
  - (v) the sounding of sirens and similar devices on vessels,
  - (vi) the emission of noise from the engines or exhausts of vessels,
  - (vii) the times during which it is not permissible to use certain sound systems on vessels if they emit noise that can be heard in any residential premises,
  - (viii) the maintenance of noise control equipment on motor vehicles and vessels,
  - (ix) the issue of defective vehicle notices and defective vessel notices.

37. Public awareness, education and information dissemination related to environmental issues have already been identified as important initiatives by various judgments of Apex court. Apex Court in Writ Petition (C) No. 72 of 1998 with Civil Appeal No. 3735 of 2005 [Arising out of SLP (C) No. 2185 (2005) 5 SCC 733 has issued directions as directed in para 179 of the judgment, issued in exercise of power conferred on Apex Court under Articles 141 and 142 of the Constitution of India, which would remain in force until modified by Court or superseded by an appropriate legislation, which are as under:

*"1. There is a need for creating general awareness towards the hazardous effects of noise pollution. Suitable chapters may be added in the text-books 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 civic 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. Residents 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."*

38. The provision of information on sound emissions due to automobile to consumers and public authorities has the potential to influence purchasing decisions and accelerate the transition to a quieter vehicle fleet. Accordingly, we hold that the automobile manufacturers should provide information on sound levels of vehicles at the point of sale and in technical promotional material, providing information to the consumers about the sound emissions of a vehicle and also the horns based on Precautionary Principle. It is also necessary that the certificate of compliance issued under rule 120 (2) or even that of horn/silencer etc. for each type approval shall also be provided to the automobile purchaser and also, the same shall be available on automobile manufacturer's website in public domain, for each prototype of vehicle. The PCB shall notify the noise emission standards for vehicles at manufacturing and in- use stage and thereafter issue necessary directions under Section 20 of the Air (Prevention and Control of Pollution) Act, 1981, to the concerned Authorities for enforcement of such standards.

39. In response to the notice in controlling noise pollution as per statutory mandate of Noise Pollution Regulation and Control Rules, 2000 the Rajasthan Pollution Control Board has filed the reply as follows:

*(i) The monthly Noise level monitoring has already been started by the State Board since 2017 in 13 cities of Rajasthan. Now, the State Board has started monthly noise level monitoring at 137 locations of 31 cities of Rajasthan.*

*(ii) The State Board has also carried out the noise level monitoring on the occasion of Deepawali festival. On the occasion of Deepawali festival 2021 Noise level monitoring on pre*

*deepawali day (29.10.2021) and Deepwali day ( 04.11.2021) was carried out at 54 locations of 24 cities. Collected data's of Noise Level Monitoring is regularly forwarded to the concerning district collectors for the effective forwarded to the concerning district collectors for the effective implementation of the provisions of Noise Pollution (Regulation and Control) Rules, 2000 being the authority designated for the aforesaid purpose.*

*(iii) The State board has been collecting noise level data monthly. Collected data's of Noise level monitoring is regularly forwarded to the concerning District collectors for the effective implementation of the provisions of Noise Pollution (Regulation & Control) Rules, 2000 being the authority designated for the aforesaid purpose. It is further submitted that the Monthly Noise level monitoring has been started by the State Board since 2017 in 13 cities of Rajasthan. Now, the State Board has started monthly noise level monitoring at 137 locations of 31 cities of Rajasthan.*

40. Rajasthan State Pollution Control Board has 58 Noise level meters. Noise monitoring at 137 locations in Rajasthan has been carried out by the State Board on monthly basis, which are as follows:

S.No.	District	Name of Location	Type of Location
1	Tonk	Near Main Gate of Sahadat Govt. Hospital Tonk,	Silence Area
2		In front of shop of M/s Mahesh Kumar Naresh Kemar Bhagat, Subhash Chok, Tonk	Commercial Area
3		In front of M/s Kamal Industries, G-44, RIICO Industrial Area, Tonk	Industrial Area
4		M/s Near Mahila Police Station, Barud Khana, Tonk, District- Tonk	Residential Area
5	Ajmer	In front of M/s Shri Balaji Machine tool, RIICO Industrial Area, parbatpura Makhupura, Ajmer	Industrial Area
6		Near Union Bank of India, Shrinagar Road, Ajmer	Commercial Area
7		In front of house of Mr. Tarachand Solonki, Anand Puri, Dholabhata, Ajmer	Residential Area

8		In the premises of Govt. Satellite Hospital, Adarsh Nagar, Ajmer	Silence Area
9	Nagaur	Commercial Area, at Gandhi Chok, Nagaur	Commercial Area
10		In front of house of Sh. Chetan Ram Choudhary, 2/485 Housing Board Colony, Nagaur	Residential Area
11		Near Gate of Jawahar Lal Nehru Govt. District Hospital Nagaur	Silence Area
12		In front of M/s Shubh Laxmi Oil Industries, Plot No. 40-44, RIICO Industrial Area, Nagaur	Industrial Area
13	Barmer	Govt. Hospital, Barmer	Silent Zone
14		Near Sabha Bhawan , Mahaveer Nagar Ward No.4, Barmer	Residential Zone
15		Near Railway Station Road	Commercial Zone
		Barmer	
16		Near RSMM Office , RIICO Ind. Area, Barmer	Industrial Zone
17	Alwar	M/s Regional Office RSPCB, D- Block, Ambedkar Nager, Tehsil & Distt- Alwar	Residential Zone
18		M/s Assistant Regional Office, RIICO Ltd., Matsya Industrial Area, Tehsil & Distt- Alwar	Industrial Area/ Zone
19		M/s Hope Circus, Tehsil 86 Distt- Alwar	Commercial Zone
20		M/s General Hospital (Rajiv Gandhi Hospital), Tehsil & Distt - Alwar	Silent Zone
21	Bharatpur	M/s. Regional Office RSPCB, SPM Nagar, Behind Jindal Hospital, Bharatpur	Residential Zone
22		M/s. Khadi Grammoday Samiti Office, Bharatpur	Commercial Zone
23		M/s. Govt. Hospital (Raj Bahadur Hospital), Bharatpur	Silence Zone
24		M/s. RIICO Regional Office, Brij Industrial Area, Bharatpur	Industrial Zone
25	Karauli	M/s Circuit House, Ganesh Colony, Teh 86 Distt.- Karauli	Residential Zone
26		M/s. District Industries Centre, Near Gadka ki Chowki, Teh 86 Distt.- Karauli	Industrial Zone
27		M/s Public Works Department Office, Near Collectrate Chauraha, Teh 86 Distt.- Karauli	Commercial Zone
28		M/s Govt. General Hospital, Teh & Distt.- Karauli	Silence Zone
29		M/s Circuit House, Near Mittal Colony, Teh & Distt.- Dholpur	Residential Zone

30		M/s. RIICO Office Building, Old Industrial Area, Odela Road, Teh 86 Distt.- Dholpur	Industrial Zone
31		M/s. Nagar Parishad Office, Ghantaghar Road, Teh 86 Distt.- Dholpur	Commercial Zone
32		M/s. Govt. General Hospital, Teh 86 Distt.- Dholpur	Silence Zone
33		M/s Circuit House, Near Housing Board Colony, Teh & Distt.- Madhopur	Residential Zone
34	Swai madhopur	M/s. RIICO Office Building, Kherda Industrial Area, Teh & Distt.- Sawai Madhopur	Industrial Zone
35		M/s. Head Post Office & Passport Sewa Kendra, Teh 86 Distt.- Sawai Madhopur	Commercial Zone
36		M/s. Govt. General Hospital, Teh & Distt.- Sawai Madhopur	Silence Zone
37	Bhilwara	Kumbha Circle(Commercial Zone)	Commercial Zone
38		Azad Nagar (Residential Zone), Bhilwara	Residential Zone
39		RIICO Industrial Area (Industrial Area), Near Shree Sulztex Spares Pvt.Ltd., Pur	Industrial Zone
40		Suchna Kendra, Bhilwara (Mix Zone)	Mix Zone
41		Mahatma Gandhi Hospital Bhilwara (Silence Zone), Bhilwara	Silence Zone
42	Kota	Regional Office, RSPCB, Indraprastha Industrial Area, Kota, Tesil-Ladpura, District-	Industrial Zone
43		Civil Lines,Nayaura, Kota, Tesil-Ladpura, District-Kota(ID-2969)	Residential Zone
44		Police Chowki,Gumanpura, Kota, Tesil-Ladpura, District-Kota(ID -2970)	Commercial Zone
45		New Medical College Hospital, Rama Krishna Puram, Kota, Tesil-Ladpura, District- Kota (ID-2971)	Silence Zone
46	Bundi	Civil Lines, Bundi, Tehsil-Bundi, District- Bundi (ID-3093)	Residential Zone
47		DIC Office, Bundi, Tehsil-Bundi, District- Bundi (ID-3094)	Industrial Zone
48		Government Hospital, Bundi, Tehsil- Bundi, District- Bundi (ID-3095)	Silence Zone

49		Nagar Parishad, Bundi, Tehsil- Bundi, District- Bundi (ID-3096)	Commercial Zone
50		RIICO Limited Industrial Area,	Industrial Zone
	Jhalawar	Mama Bhanja Phase-III, Jhalawar, Tehsil- Jhalrapatan, District- Jhalawar (ID-2964)	
51		Civil Line, Jhalawar, Tehsil- Jhalrapatan, District- Jhalawar (ID-2965)	Residential Zone
52		Medical College, Jhalawar, Tehsil- Jhalrapatan, District- Jhalawar (ID-2966)	Silence Zone
53		Veterinary Polyclinic, Jhalawar, Tehsil- Jhalrapatan, District- Jhalawar (ID-2967)	Commercial Zone
54	Bikaner	IGNP Colony, Ganganagar Road, Bikaner	Residential Zone
55		Near residential quarters of K.K.Colony, Bikaner	Residential Zone
56		Regional Office RSPCB, Plot No. SP-33, Bichhawal Industrial Area, Bikaner	Industrial Zone
57		Near Junagarh Circle, Near Junagarh Fort, Bikaner	Commercial Zone
58		PBM Hospital, Bikaner	Silence Zone
59	Hanumangarh	Children's Park Durga Colony, Ganganagar Road, Hanumangarh	Residential Zone
60		Govt. Girls Senior Sec. School, Sector 12, Ward No.13 Hanumangarh	Residential Zone
61		Near RIICO Office, RIICO Industrial Area, Hanumangarh	Industrial Zone
62		Bombay Hospital, Hanumangarh	Silence Zone
63		Near Main Bus Stand Hanumangarh Jn.	Commercial Zone
64	Shri Ganganagar	Gandhi Park, D Block, Shri Ganganagar	Residential Zone
65		Playground of Govt. Senior Sec.School (Multipurpose) Shri Ganganagar	Residential Zone

66		Near RIICO Office ,Udyog Vihar Industrial Area,Shri Ganganagar	Industrial Zone
67		Govt. Hospital Suratgarh Road, Shri Ganganagar	Silence Zone
68		Near Ambedkar Circle ,Shri Ganganagar	Commercial Zone
69	Sikar	Regional Office RSPCB,	Residential Zone
		Shivsinghpura, Housing board, Nawalgarh Road, Sikar	
70		Sri Kalayan Hospital	Silence Zone
71		Near Hotel Fortune Blue, Piprali Road	Commercial Zone
72		Near Muncipal Council Office	Commercial Zone
73		Near RIICO Office, RIICO Industrial Area	Industrial Zone
74	Jhunjhunu	Near Mandawa Mor	Commercial Zone
75		Housing Board	Residential Zone
76		BDK Hospital	Silence Zone
77		RIICO Industrial rea	Industrial Zone
78	Churu	Near Pankha Circle	Commercial Zone
79		Housing Board	Residential Zone
80		Govt D.B. General Hospital	Silence Zone
81		RIICO Industrila Area	Industrial Zone
82		Near Indramani Park	Silence Zone
83	Jaipur	Garden Behind Governor House, Civil Lines	Silence Zone
84		Santokba Durlabhji Memorial Hospital (near OPD)	Silence Zone
85		Nagar Nigam Office, Patel Marg, Mansarovar	Residential Zone

86		Science Park, Shastri Nagar	Residential Zone
87		Gali No. 3, Raja Park	Commercial Zone
88		Near Kotwali Thana, Chhoti Choupar	Commercial Zone
89	Bhiwadi	Ashiana Garden, Bhiwadi	Residential Zone
90		Central Market, Bhiwadi	Commercial Zone
91		Star Hospital, Bhiwadi	Silence Zone
92	Pali	Bangur Hospital, Pali	Silence Zone
93		Circuit House, PALI	Residential Zone
94		Town Hall, Pali	Commercial Zone
95		Regional Office, RSPCB, Pali	Industrial Zone
96		Bangur College, Pali	Mixed Zone
97	Sirohi	District Hospital, Sirohi	Silence Zone
98		Post Office, Sirohi	Residential Zone
99		Bus Stand, Sirohi	Commercial Zone
100		Near RIICO Office, RIICO Industrial Area, Sirohi	Industrial Zone
101		Govt. Sr. Sec. School, Sirohi	Mixed Zone
102	Jalore	District Hospital, Jalore	Silent Zone
103		Near senior citizen park, Shivaji Nagar, Jalore	Residential Zone
104		Bus Stand, Jalore	Commercial Zone
105		Near GSS, Phase-III, RIICO Industrial Area, Jalore	Industrial Zone
106		Govt. Sr. Sec. School, Near Mahila Police Thana, Jalore	Silent Zone

107	Udaipur	Nagar Nigam Office, Town Hall	Commercial Zone
108		MB Hospital	Silent Zone
109		Ambamata	Residential
110		BSNL Head Office, Sector-4, Hiran Magari	Residential
111		Regional Office, RPCB	Industrial
112	Rajsamand	R K Hospital	Silent Zone
113		Kalalwati, Rajnagar	Residential Zone
114		RIICO Industrial Area, Dhoinda	Industrial Zone
115		Bus stand, Rajsamand	Commercial Zone
116		Near Vidya Niketan, Secondary School, Krishna Nagar, Kankroli	Residential Zone
117	Dungarpur	Near Brahamasthali Colony	Residential Zone
118		RIICO Office	Industrial Zone
119		Near Jain Mandir, Pragatinagar, New Colony	Residential Zone
120		Sh. Haridev Joshi Hospital	Silent Zone
121		Gap sagar Pal	Commercial Zone
122	Jodhpur	Regional Office, SPCB Jodhpur SPL 2 MIA Bsni 1 st phase	Industrial Zone
123		Sojat Gate	Commercial Zone
124		ZBJS Colony, Near Soil Conversion Poata	Residential Zone
125		Mathura Das Mathur Hospital, Shastri Nagar, Jodhpur	Silent Zone
126	Chittorgarh	Chanderiya RIICO Area	Industrial
127		Gol Pyau Chauraha	Commercial

128		Kumbha Nagar, near Home Guard Office	Residential
129		District Hospital Chittorgarh	Silence
130	Pratapgarh	Bagwas Industrial Area	Industrial
131		Nagar Parishad Gate	Commercial
132		Bada Bagh Colony	Residential
133		District Hospital Pratapgarh	Silence
134	Banswara	Thikriya Ind. Area	Industrial
135		Kushalbagh Maidan, Near Police Thana	Commercial
136		Housing Board Colony Near Hotel RARA Avis	Residential
137		Mahatma Gandhi Hospital Banswara	Silence

41. Additional Superintendent of Police, Highway Traffic District Jaipur rural has submitted affidavit with the following facts:

*“That the Rajasthan Police has taken adequate steps to curb the noise pollution caused by the vehicles. In the Year 2021 and till May 2022 Rajasthan Police has fined 1590 Vehicles for causing noise pollution and for the violation of Motor Vehicle Act 1988, and violation of the notification passed by the State Government dated 24" February 2022 and collected 10.77 Lakh (Ten Lakh Seventy Seven Thousand Rupees ) as penalty. The Police Authorities has taken effective steps though out the state for enforcement of the provisions of the Motor Vehicle Act (District Wise report regarding the action taken by the Police Authorities throughout the State)*

*In order to aware the citizens of District Jaipur the Rajasthan Police along with Dainik Bhaskar news paper organized **a "no honking" awareness campaign for a period of three months, The Traffic Police conducted a counseling drive for the violators by giving***

them "pink slip' and encouraging them to reduce noise police through putting stickers of "no-honking" on their vehicles. About 6332 vehicle drivers were counseled by the Traffic authorities and more than 55194 "no-honking" stickers were provided to the violators. Motor Cycle rallies were also organized by the Traffic Police and Traffic police Jaipur also administered oath to the citizens of Jaipur to restrain themselves from honking unnecessary loud horns

The Rajasthan Police has organized 2276 awareness campaign in State of Rajasthan in the year 2021-22. In these campaigns the vehicle drivers were made aware by the police authorities regarding the repercussions of noise pollution caused by the vehicles.

That to control the noise pollution caused by the vehicles in the State of Rajasthan the Police Headquarters has distributed noise monitoring devices (Decibel Meters) to the offices of Superintendent of Police throughout the State.

In the view of the above submissions, it is stated that the Traffic Authorities is constantly taking adequate steps to curb the noise pollution caused through vehicles in the State of Rajasthan and also monitoring for the proper implementation of the relevant provisions of the Motor Vehicle Act 1988. It is therefore, most respectfully that the present original application may kindly be disposed with appropriate orders as deemed fit and proper in the interest of justice ”

42. The programme of no honking was organised by the Police Commissioner, Jaipur in the manner as enclosed as Annexure-2.

43. Respondent No.4 has further submitted the reply that:

“As per the Rule 126 to 126 B of the Central Motor Vehicle Rules 1988 it is mandatory for manufacturer or importer to issue approval certificate of each vehicle as per AIS 017:2000 as mentioned in the Rule 126 of the Central Motor Vehicle Rules 1988 and following which it is also mandatory for the vehicle manufacturers and importer to abide by all the rules of the

*Central Motor Vehicle Rules 1989 in which rule 119 and 120 is also included.*

*2. State Government has taken adequate steps to penalise the violators*

*That the answering respondents in the year 2020 has penalize 90366 vehicles for causing pollution and violating the provisions of the motor vehicle rules and collected 84300000/- as penalty.*

*3. State Government has authority to determine the penalty amount*

*That for violation of provisions of section 190 Motor Vehicle Act 1988 the State Government has authority under Section 200 of Motor Vehicle act to determine the penalty amount. The State Government vide through notification dated 24.02.2021 has determined the penalty amount,*

*4. That the judgment passed by Hon'ble Tribunal in Vardhman Kaushik vs Union of India OA No. 21 / 2014 has been passed with respect to National Capital Territory of Delhi*

*That the 5 judges Bench Judgement passed by the Hon'ble Tribunal in Vardhman Kaushik vs Union of India OA No. 21 / 2014 in which the Hon'ble Tribunal issued direction that 5000/- as environmental compensation to be collected from the vehicles which are active even after de-registration (Petrol Vehicle 15 years old and diesel vehicle 10 years old) the above judgement was passed in the region of National Capital Territory of Delhi and the answering respondents will comply with the necessary directions as directed by this Tribunal in view of directions passed in the above matter.*

*That for the recovery of environmental compensation in the State of Rajasthan the authorities will initiate proceedings as per the directions passed by the Hon'ble Tribunal and the authorities shall always comply so that the law is implemented in letter and spirit.”*

44. The applicant has submitted that following short and long term measures may be adopted by the State to control the pollution...

**“Short Term Measures:**

I. *The State can ensure that the horns or other sound producing device on vehicles should comply with Rule 119 of the Motor Vehicle Rules and no vehicle with sound boxex or modified exhaust should be permitted to ply Futher, requirement for complying with these sould be indicated on the licenses and looked into while issuing & renewing license.*

*Copy of the Action Plan by Department of Environment and Climate, Government of Goa is produced herewith,*

II. *The State of Rajasthan should take appropriate legal action against culprits and polluters for the first offense committed. In case of a repeated offense, heavier fine or route permit, wherever applicable of such vehicle/driver can be cancelled and sound creating device can be seized.?*

III. *The State can have a dedicated 24\*7 facility of mobile number with WhatsApp to receive the public complaints on the issue of noise pollution.*

*Copy of the Action Plan for Controlling Air Pollution, submitted by Delhi Pollution Control Board to Central Pollution Control Board in compliance of Hon’ble National Green Tribunal’s order dated 08.10.2018 in O.A. No. 681/2018.*

IV. *The State can have a dedicated WhatsApp No. or public platform wherein citizens can drop videographic proofs of noise Pollution. Citizens can be rewarded with a portion from the fine collected from the culprits as done under various Whistle blower schemes. This type of public surveillance will not only help the State to reach remotest parts of the State but will also incentivize citizens to be part of the enforcement drive and additionally would make them aware of their rights and need of nose free environment.*

V. *The State can remove encroachment on roads to clear roads for traffic so that there is minimal traffic congestion and noise pollution is avoided.*

VI. *The State can intensify checking of pollution vehicles. Further, it can identify the hotspots of noise pollution and have on-spot fines for the polluting vehicles.*

VII. *The State Government can develop one-way streets to smoothen the traffic flow at peak hours and restrict access to heavy vehicles in residential area so as to avoid bottlenecks of traffic flow and limit noise pollution caused due to congestion.*

- VIII. *The State can publish list of penalties that have been imposed and actions taken against people/industries found polluting. This information will provide deterrence and help improve enforcement.*
- IX. *The State can enforce lane driving through heavy fine as in Mumbai. This would ensure that traffic congestion and disruption cause due to undue lane changes is not cause and resultant honking is avoided and minimized.*
- X. *The State can adopt greening of flyovers and bridges in the form of vertical gardens which will act as sound absorbers to the excess noise produced.*
- XI. *The State can green the unpaved area/central verges, road berm and road sides so that the plantation can act as sound barrier to the excessive sound. The green cover alongside the roads can be an effective barrier to the transmission of noise.*
- XII. *The State can create a separate subdivision within department of environment (DOE) to curb & inspect noise pollution in hotspots (urban and forest) and enforce, noise pollution related orders under Principal Secretary of DoE.*
- XIII. *The State can establish an Air Quality Management Division at SPCB/PCC Head Quarters to oversee air quality management activities in the State and interact with CPCB*
- XIV. *The State can introduce car free days wherein the general public will be encouraged to use public transport system for commuting which will reduce private vehicle traffic on road and lead to lesser congestion which in turn would lead to lesser honking.*
- XV. *The State can set up and publicize helpline in each city/town as well as SPSB/PCC/HQ for complaints against reported non-compliance.*

**Long term Measures:**

- i. *The State may identify those vehicle manufacturers and vehicle models that employ the least amplitude in horns and may provide tax subsidy and incentives on their purchase. This will incentivize prospective customers to buy such models and promote such vehicle manufactures which will resultantly force other brands and vehicle manufacturers to follow the trail.*
- ii. *The State can enforce that horns in the vehicle shall be installed with noise limiter and noise level of any such horn installed in a vehicle shall not exceed 55 dB (A) at 2m distance from the vehicle.*

*iii. The State can mandate Car Manufacturers that battery size of the vehicles plying on roads should be reduced and is brought to the similar capacity as of their European and American counterparts, so that drivers become more cognizant and restrictive in use of their horns.*

*iv. the state can mandate Motor Vehicle manufacturers to program horns in such a way that for every honking action longer than 3 seconds, there should be a beeper in the car that activates. The driver who honked must press a button to shut it off. This action will cause deterrence and consciousness in drivers regarding their horn use*

*v. The State can also mandate car manufacturers to design horns and car cabins in such a way that a portion of the sound generated through honking is channelled towards driver too. This will raise emotional cost to use a horn on a driver.”*

45. After considering above points as raised by the applicant, we are of the view that the rules and regulation and notifications issued from time to time by the Govt. of India, or CPCB to improve the quality of the environment, including limiting the emission of vehicular pollutants, both in new and used vehicles should be applied in the State and the conditions as laid down in the affidavit must be complied in letter and spirit. In light of the report submitted by PCB, we further direct respondents to ensure strict compliance of Rule 115 sub Rule (7) of the Central Motor Vehicle Rules, 1989 stipulated that only vehicles that carry valid “PUC: Certificate issued by authorised agency are permitted to ply in the State so as to prevent air pollution due to vehicles do not having PUC certificate, to record the PUC data only so to automatically linked with the Central Server with uniform standardise software, to limit the number of PUC centres upgrade them under strong supervision and quality control, to ensure 100%compliance by linking annual vehicle insurance and vehicle registration with PUC certificate, to adopt uniform and standardised data recording and reporting format and uniform software and introduce automatic online network for transmission of PUC data to

the Central Server and to allow proper analysis of data for remote auditing of PUC centres, to strengthen inspection of PUC centres for quality control and strengthen the licensing programme to ensure proper calibration authentic test, annual maintenance contract for the maintenance of all testing equipment and accessories training of operators, calibration of equipment etc. are carried out, to upgrade testing centres for high level of automatic emission testing so that operators and vehicles drivers are prevented from manipulation of results and to introduce well equipped mobile test centres and a programme to check visibly polluting vehicles.

46. The contention that the Action Taken by the Government of Goa or the directions with regard to older vehicles are policy matters and is to be decided by the State through the experts and if applicable, the state may adopt the policy recommended by the Expert Committee in the district where applicable. It is for the State to follow the guidelines issued by the CPCB and the orders passed by the Hon'ble Supreme Court of India and the Tribunal and it also for the State to adopt a suitable mechanism. Learned counsel for the applicant has hammered the enforcement of Section 194 (F) of Motor Vehicle Act and Rule 119 (2) of Motor Vehicle Rules with compliance of the Rule of Noise Pollution (Regulation and Control Rules, 2000) and further to comply the guidelines issued in the case of Vardhaman Kaushik and Hardeep Singh as quoted above.

47. In Original Application No. 519 of 2016, the Principal bench of this Tribunal has already directed the Delhi Government to take necessary steps and we are of the view that the steps which are required to be taken may also be adopted by the State of Rajasthan to regulate noise pollution. The Central Pollution Control Board has also issued scale of compensation to be recovered for violation of Noise Pollution Regulation And Control Rules, 2000 which was published in June, 2020 and October, 2019 and we direct that the state authorities must follow the guidelines issued by the CPCB and ensure the

compliance of Motor Vehicle Act and the regulations to control the noise pollution in accordance with law and to take stringent action against the violators of law.

48. The **Original Application is disposed of accordingly.**

**Sheo Kumar Singh, JM**

**Dr. Arun Kumar Verma, EM**

23<sup>rd</sup> August, 2022  
O.A. No. 79/2021(CZ)  
PU