

Anil Mehta vs State Of Rajasthan on 31 July, 2023

Item No.01

BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONAL BENCH, BHOPAL

(By Virtual Mode)

Original Application
No.102/2022(CZ)
(I.A.No.25/2023)

Anil Mehta

Application(s)

Versus

State of Rajasthan & Ors.

Respondent(s)

Date of hearing: 31.07.2023

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

For Applicant(s) : Mr. Maitreya Prithwiraj Ghorpade, Adv.
For Respondent(s) : Mr. Dharamvir Sharma, Adv. for MoEF&CC
Mr. Nishant Kesharwani, Adv. for Mr. Shoeb
Khan, Adv. for R-1
Mr. Sandeep Singh Baghel, Adv. for R-2 & 4
Mr. Om Prakash Srivastava, Adv for R-3

ORDER

1. This Original Application (herein after referred to as 'OA') under Section 14, 15 and 20 of National Green Tribunal Act, 2010 (herein after referred to as 'NGT Act, 2010') has been preferred by one Mr. Anil Mehta, resident of 2 Kharan Kuwa, New Bhopal Pura, Udaipur, State of Rajasthan, alleging that there is a water body/wetland i.e. Fatehsagar Lake at Udaipur, ecology whereof is being damaged on account of noise pollution in violation of Noise (Regulation and Control) Rules, 2000 (herein after referred to as 'Noise Pollution Rules 2000') as amended from time to time; due to unauthorised encroachment; by developing residential complexes in close proximity of the said wetland and also on account of light pollution by use of high intensity light in vicinity of wetland at various commercial complexes like hotels etc. It is also said that there is a notified wildlife sanctuary i.e. Sajjangarh Wildlife Sanctuary, in respect whereof an Eco-Sensitive Zone has also been notified and partially part of Fatehsagar Lake wetland falls in the Eco-

Sensitive Zone of Sajjangarh Wildlife Sanctuary, and activities prohibited in Eco Sensitive Zone cannot be allowed in such area.

2. This Tribunal noticed the complaint raised by applicant in its order dated 06.01.2023 and found it appropriate to obtain a factual report by constituting a Joint Committee comprising:

i. One Representative from MoEF&CC ii. One representative from Secretary, Environment, Rajasthan iii. Collector, Udaipur, Rajasthan iv. One representative from Rajasthan State Wetland Authority v. One representative from Udaipur Municipal Corporation vi. One representative from Rajasthan State Pollution Control Board

3. The committee has submitted report, (uploaded on 28.03.2023) after visiting site on 09.02.2023. It has discussed various provisions of Noise Pollution Rules 2000, as amended from time to time, and in particular amendment notification dated 10.08.2017 and has noted down the criteria to make a complaint to authority in respect of noise pollution, action taken by Rajasthan State Pollution Control Board (hereinafter referred to as 'RSPCB') with regard to noise complaints and also its own recommendations. The relevant extract of Committee's report reads as under:

"Existing Rules and Decisions in this matter:-

1. As per Rule No. 4 (2) of Noise Pollution (Regulation and Control Amendments Rules, 2017. 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 and definition of authority:-

"Authority" means and includes any authority or officer authorised by the Central Government, or as the case may be, the State Government in accordance with the laws in force and includes a District Magistrate, Police Commissioner, or any other officer not below the rank of the Deputy Superintendent of Police designated for the maintenance of the ambient air quality standards in respect of noise under any law for the time being in force.

2. Also Hon'ble National Green Tribunal, Principal Bench, Delhi in the Original Application No. 681/2018 (CZ) titled as News item published in "The Times of India" Authored by Shri Vishwa Mohan Titled "NCAP with multiple timelines to clean air in 102 cities to be released around August 15" passed an order on dated 15.03.2019; interalia reproduced as follows:-

"The State PCBs may undertake noise level monitoring in conjunction with the Police Department and take remedial action. The Police Departments of all the States/UTs may obtain the noise monitoring devices within a period of three months.

The Police Department of all the State/UTs may also train their staff regarding the use of such devices and develop a robust protocol for taking appropriate action against the defaulters".

3. Criteria for making Noise Complaints as described under Noise Rules:- Copy of The Noise Pollution (Regulation and Control) Rules 2000 (As amended till 10.08.2017 vide S.O. 2555 (E) annexed as Annexure-1 As per Rule No. 7 of Noise Pollution (Regulation and Control) Rules, 2000. 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.

Ambient Air Quality Standards in respect of Noise:-

Area Category of Limits in dB(A) Leq* Code Area/Zone Day Time Night time Criteria to make a complaint to the authority:-

Area Category of Complaint criteria in dB(A) Code Area/Zone Leq* exceeding 10 dB of standard Day Time Night Time Note:-

1. Day time shall mean from 6.00 a.m. to 10.00 p.m.
2. Night time shall mean from 10.00 p.m. to 6.00 a.m.
3. Mixed categories of areas may be declared as one of the four above mentioned categories by the competent authority.

8dB(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. Action at a glance taken by Rajasthan State Pollution Control Board w.r.t. Noise Complaints:-

1. On receiving complaints received from various sources RSPCB had conducted Noise Monitoring in the month of February-2022 at the following points and the brief details are as under:-

S. No. Point of Collection Date of Leq dB(A) Monitoring

1. Top of Ambavgarh road 11/2/2022 86.2(day)
2. PP Singhal Marg near to 11/2/2022 94.3 (night) Fatehsagar
3. At the end of Alkapuri 11/2/2022 94.8(day) Road Copy of analysis reports annexed as Annexure-2.

2. As the results exceeded the permissible limits of any area/ zone RSPCB contacted the Hotel association and conveyed to the members to strictly follow Noise pollution control rules and desist from playing music after 10.00 PM. Also R\$PCB had issued 29 notices to the hotels located around the lakes informing them about the Noise Pollution (Regulation and Control) Rules. Before the beginning of religious festivals/ marriages and as a result of this action the ambient quality noise monitoring results were significantly reduced. It may also be noted that the honking of horns also cause momentary increase in noise pollution load and continues honking on every road significantly increase noise pollution.

S. No. Point of Collection Date of Leq dB(A) Monitoring

1. Ambient noise monitoring 09/09/22 57.4(day) near to Lalit Laxmi Vilas 53.6(night) hotel
2. Ambient noise monitoring 09/09/22 62.4(day) at entrance gate of hotel 55.5(night) Hilltop
3. Ambient noise monitoring 12/09/22 63.1(day) in ESZ zone at location 56.1(night) latitude 24.588644 N, longitude 73.651751 E
4. Ambient noise monitoring 12/09/22 62.0(day) in ESZ zone at location 52.1(night) latitude 24.590882 N, longitude 73.652454 E
5. Ambient noise monitoring 12/09/22 63.4(day) near to Lalit Laxmi Vilas 59.6(night) hotel
6. Ambient noise monitoring 12/09/22 75.4(day) at main road P P Singhal 69.4(night) Marg in front of 1559 hotel
7. Ambient noise monitoring 12/09/22 66.9(day) near to hotel Hilltop 61.2(night)
8. Ambient noise monitoring 12/09/22 68.8(day) near to hotel Lakend 62.8(night)
9. Ambient noise monitoring 15/09/22 65.9(day) in ESZ zone at location 52.1(night) latitude 24.588644 N, longitude 73.651751 E
10. Ambient noise monitoring 15/09/22 62.0(day) in ESZ zone at location 52.1(night) latitude 24.590882 N, longitude 73.652454 E

11. Ambient noise monitoring 15/09/22 62.0(day) near to hotel lakend 52.1(night)
12. Ambient noise monitoring 15/09/22 62.0(day) near to hotel Hilltop 52.1(night)
13. Ambient noise monitoring 15/09/22 62.0(day) at main road P P Singhal 52.1(night) Marg in front of 1559 hotel
14. Ambient noise monitoring 15/09/22 62.0(day) near to Lalit Laxmi Vilas 52.1(night) hotel
15. Ambient noise monitoring 14/11/22 62.0(day) near to Lalit Laxmi Vilas 52.1(night) hotel
16. Ambient noise monitoring 14/11/22 62.0(day) at main road P P Singhal 52.1(night) Marg in front of 1559 hotel
17. Ambient noise monitoring 14/11/22 62.0(day) near to hotel Hilltop 52.1(night)
18. Ambient noise monitoring 14/11/22 62.0(day) near to hotel Lakend 52.1(night)
19. Ambient noise monitoring 14/11/22 62.0(day) in ESZ zone at location 52.1(night) latitude 24.588644 N, longitude 73.651751 E
20. Ambient noise monitoring 14/11/22 62.0(day) in ESZ zone at location 52.1(night) latitude 24.590882 N longitude 73.652454 E
21. Ambient noise monitoring 06/01/2023 62.0(day) near to hotel Hilltop 52.1(night)
22. Ambient noise monitoring 06/01/2023 62.0(day) near to hotel Lakend 52.1(night)
23. Ambient noise monitoring 06/01/2023 62.0(day) near to Lalit Laxmi Vilas 52.1(night) hotel wook
24. Ambient noise monitoring 25/01/2023 62.0(day) near to hotel Hilltop 52.1(night)
25. Ambient noise monitoring 25/01/2023 62.0(day) near to hotel Lakend 52.1(night)
26. Ambient noise monitoring 25/01/2023 62.0(day) in ESZ zone at location 52.1(night) latitude 24.590885 N, longitude 73.652454E
27. Ambient noise monitoring 26/01/2023 62.0(day) near to Lalit Laxmi Vilas 52.1(night) hotel wook
28. Ambient noise monitoring 26/01/2023 62.0(day) in ESZ zone at location 52.1(night) latitude 24.590882 N, longitude 73.652454E

29. Ambient noise monitoring 26/01/2023 62.0(day) in ESZ zone at location 52.1(night) latitude-24.588644 N, Longitude-73.651751 E

30. Ambient noise monitoring 06/02/2023 62.0(day) at PHED pump house. 52.1(night)

31. Ambient noise monitoring 06/02/2023 62.0(day) near main gate of the hotel 52.1(night) lakend.

Copy of analysis reports annexed as Annexure-3.

4. It is pertinent to mention here that in Noise monitoring of point source carried out by Noise Level Meter there is contribution of noise of activities going on in nearby area viz. Horn Honking by vehicles/ engine voices, noise of vehicle silencers, music playing in vehicles etc. and there is no mechanism to measure noise pollution caused by point source only.

Study conducted by Regional Office, RSPCB, Udaipur:-

- Earlier RSPCB also conducted a study on noise level by honking of horn from two wheelers, from four wheelers (4 seater) and four wheeler (8 seater) from three consecutive distance (5 Meter, 10 Meter & 15 Meter from the source) because the monitoring conducted as depicted in the above table were in the vicinity of busy traffic roads.

Observation are depicted below:-

1. Two wheeler-

S. Parameter 5 meter from 10 meter from noise 15 meter No. noise source source from noise source

1. LA eq dB 89.9 85.4 77.3

2. LA max dB 96.5 90.9 82.2

3. LA min dB 60.3 57.7 58.5

2. Four Wheeler (4-seater)-

S. Parameter 5 meter from 10 meter from noise 15 meter No. noise source source from noise source

1. LA eq dB 97.1 91.6 83.4

2. LA max dB 100.6 94.4 87.2

3. LA min dB 67.1 63.5 60.2

3. Four Wheeler (8-seater)-

S. Parameter 5 meter from 10 meter from noise 15 meter No. noise source source from noise source

1. LA eq dB 97.4 94.4 90.4

2. LA max dB 99.0 98.1 94.6

3. LA min dB 58.3 57.3 56.1 In continuation to the above study, noise monitoring was also carried out of DJ/Sound system at consecutive distance of 50 meter, 100 meter and 150 meter. Observation are depicted below:-

S. Parameter 50 meter from 100 meter from 150 meter No. noise source noise source from noise source

1. LA eq dB 65.6 58.2 55.7

2. LA max dB 73.3 69.3 65.7

3. LA min dB 51.7 47.4 59.3 However the volume was at optimum level (average) and not maximum. Copy of analysis reports annexed as Annexure-4.

In compliance of Hon'ble NGT order dated 06.01.2023 above said committee visited the places namely Fatehsagar, P.P. Singhal Marg (Alkapuri) and Eco sensitive zone of Sajjangarh Wild Life Sanctuary and observation's/ findings of Joint committee is as under :-

1. It may be concluded from the study conducted by RSPCB that the noise level in area for example Alkapuri, Ambavgarh, Fatehsagar road can exceed the prescribed standards of residential/ commercial area even when there was no noise from loud speaker or music system but due to plying of vehicles.

2. Moreover, as per the criteria for making complaint when the noise level exceed by 10 dB, complaint has to be made in any zone.

3. Out of 25 monitoring conducted during day time and 26 monitoring conducted during night time w.r.t. noise complaints near hotels in day time 24 and in night time 23 time have not exceeded complaint permissible limits i.e. more than 10 dB w.r.t. to commercial zone in day/ night time. However they have exceeded the noise level standard for residential area + 10 dB beyond which complaint can be made. The residential / commercial / silence zones have not been notified as yet by the Municipal Council Udaipur.

4. Committee visited the Lake Fatehsagar at morning time between 11:30 AM to 12:30 PM and during evening time between 8:30 to 9:30 PM Noise Monitoring was also conducted by Rajasthan

State Pollution Control Board in presence of joint committee and monitoring results are as under:-

Parameter Between 11:30 AM Between 8:30 to to 12:30 PM 9:30 LA eq dB 62.3 68.5
LA max dB 89.0 91.0 LA min dB 46.6 54.8 Copy of analysis reports annexed as
Annexure-5.

Comment:- Although during visit in morning/ evening time no music was plying but in evening time in half hour 165 times honking of horn was heard at site and results were more than morning. Hence, indicating contribution of plying vehicles in the noise pollution. The results did not exceed 10 dB of permissible standards above which complain can be made as prescribed under Noise Rules for commercial area.

5. After that committee was visited the P.P. Singhal Marg)Hotel Lakend Area) Noise Monitoring was also conducted by Rajasthan State Pollution Control Board and monitoring results are as under:-

Parameter	Day time
LA eq dB	69.9
LA max dB	100.3
LA min dB	57.7

Copy of analysis reports annexed as Annexure-6.

Comments:- During visit in morning time no music was playing The results did not exceed 10 dB of permissible standards above which complain can be made as prescribed under Noise Rules for commercial area.

6. The committee also visited the Eco sensitive area of Sajjangarh Wild Life Sanctuary between 11:30 AM to 12:30 PM Noise Monitoring was also conducted by Rajasthan State Pollution Control Board and monitoring results are as under:-

Parameter	Day time
LA eq dB	60.7
LA max dB	39.4
LA min dB	94.4

Comments:- During visit in morning time no music was playing The results did not exceed 10 dB of permissible standards above which complain can be made as prescribed under Noise Rules for commercial area.

7. During the visit it was found that there is chopati/food stalls operational at the bank of Lake Fatehsagar. There was no littering observed at the bank of lake Fatehsagar. Regular cleaning/ road sweeping and garbage collection is done by Nagar Nigam and bins are installed there for collection of solid waste generated and the waste collection tipper regularly collects the same and disposes at the designated site. Representative of Nagar Nigam informed that in compliance of Hon ble High Court order, Jodhpur a Lake Patrol Team has been constituted in city and they are carry out regular monitoring near the lakes and if anybody found throwing garbage or any waste material in lake on site challan / penalty imposed on them. No Bio Medical Waste disposal was found in any of the above area visited by the team.

8. As per information provided by the Forest Department at present Fatehsagar Lake is not a notified wetland and is also not included in the list of district wise wetland identified for notification and development by the State Government of Rajasthan. Hence, Wetland Rules 2017 will not be applicable.

Recommendations of the committee:-

1. It may be noted that the noise standards for fire-crackers were notified by the Environment (Protection) (Second Amendment) Rules, 1999 vide G.S.R.682(E), dated the 5th October, 1999 and inserted as serial no. 89 of Schedule I of the Environment (Protection) Rules, 1986. Subsequently these Rules were amended by the Environment (Protection) Second Amendment Rules, 2006 vide G.S.R. 640(E), dated the 16th October, 2006, under the Environment (Protection) Act, 1986) "The manufacture, sale or use of fire-crackers generating noise levels exceeding 125 dB(AI) or 145 dB(C) pk at 4 m distance from the point of bursting shall be prohibited." For individual fire-crackers constituting the series joined Fire Crackers), the above-mentioned limit may be reduced by $5 \log_{10}(N)$ dB, where N is the number of crackers joined together. It indicates that the use of the same is allowed if the noise pollution is less than 125 dB.

It can be easily visualized that the fire-crackers are used in residential as well as commercial areas then the ambient noise quality permissible limits are bound to be non-complied. Moreover, the effect of the same shall persist for a long distance thus violating the noise standards at a faraway place too.

In the same matter regarding the use of loudspeakers, in the report of CPCB on "Scale of compensation to be recovered for violation of noise pollution (Regulation and control) rules, 2000"

submitted in compliance to Hon'ble National Green Tribunal order dated 15.03.2019 and 06.08.2019 in the matter of O.A. No. 681/2018 titled "Time of India" authored by Shri Vishwa Mohan Titled "NCAP with multiple timelines to clean air in 102 cities to be released around August 15", in section no. 4(ii) it has been specifically mentioned under "Limitation of noise rules with respect to loudspeaker" that "In order to verify compliance, ambient noise monitoring is to be carried out for 16 hours (day time) and violation by specific source of noise cannot be identified due to background noise. Further, as impact of the noise source, duration of which mostly varies from a few seconds to few seconds to few minutes gets leveled when monitoring for long duration (16 hours) is carried out."

So it is evident that the CPCB has itself mentioned that the limitation of noise rules with respect to loud speakers and it is the need of the hour that specific guidelines be framed for same specifically mentioning the duration of noise pollution monitoring to be carried out in such circumstances. It is also submitted that operation of loudspeakers, bursting of fire-crackers, blowing of horns etc all are having noise level much more than the prescribed limit in day period and therefore, the ambient noise standard are bound to increase in such circumstances and CPCB should develop a special protocol for dealing with complaints of bursting of fire-crackers, barat processions, horns and loudspeakers which shall be mandatory to follow and shall be followed. CPCB should also take up a study of a model city which is free from noise pollution and recommend measures to be incorporated here too and should also give the comment regarding measurement of noise pollution from a point source eliminating other such sources.

2. Public grievance lodging App to control the menace of pollution due to Noise in the country may be prepared by CPCB with the provisions of following steps:-

- (i) Complaint lodging facility with uploading facility of video/GPS tagged photographs for the general complainant.
- (ii) The complaint to be automatically transferred to concerning area SHO.
- (iii) SHO mark complaint to concerning Beat Constable.
- (iv) Beat constable equipped with Noise Level Meter approach the location and measure the Noise.
- (v) If complaint found correct on site fine based on CPCB report scale of compensation for violation of Noise Rules as mentioned (Copy enclosed) in Original Application No. 681/2018 may be imposed with challan and uploaded on the same app marking disposal of complaint.
- (vi) The complainant may also receive copy of challan and complaint will be closed.

3. All the lake side hotels at Fatehsagar / Ambavgarh should be install a continuous ambient noise level meter with the consultation of RSPCB connected by online CCTV to the above app so that the information of noise level is in the public domain and the authority can check the levels as mentioned in the app at point no. 1 above.
4. All the hotels should install a display board depicting the ill effect of noise pollution and certifying that they do not increase the sound levels beyond permissible standards at their main gate.
5. The Municipal authorities/ UIT should install display boards in their areas indicating ill effect of noise pollution near Lakes of Udaipur in ESZ.
6. The Municipal authorities should complete the work of notifying area into commercial, residential and silence zone so that applicability of noise level standards can be ensured. In this regard, the Municipal Commissioner Udaipur has asked the Director ULB to appoint a technical consultant through the process of tender and the work is under process.
7. Every Police Thana shall be equipped with Noise Level Meter. It need be mentioned here that it was found by joint committee towards noise level meter reading and the officials carrying out monitoring should also take into account the above fact as the noise level meter measures a sum total noise present at any location from all sources.
8. Mobile DJ music systems/operating on four wheelers vehicles with Barat procession /religious procession to be banned and the ban to be enforced by Police / RTO.
9. In Eco sensitive zone of Sajjangarh Wild Life Sanctuary as wild animals are living there following activities shall be strictly prohibited:-
 - a) Prohibition for DJ sound system in marriage procession.
 - b) Bursting of fire crackers.
 - c) Hotels/ not allowed to play music in open area i.e. Garden. They shall ensure play music in sound proof / acoustic halls.
 - d) Dhol, Nagadas, tum-tum etc. should also be prohibited in hotels/ marriage gardens in open.
 - e) Use of Laser light / Spot light.
 - f) Marriage gardens with halls shall be allowed if music is played in enclosed halls. If there is no facility of hall then the same be closed.
10. CCTV cameras be installed all around the periphery of Fatehsagar Lake and in the eco sensitive zone at strategic places.

4. Applicant, in the meantime, also filed I.A. 04 of 2023 with the request to modify order dated 06.01.2023 by permitting his inclusion as member of Joint Committee constituted by Tribunal. This application was rejected by Tribunal vide order dated 06.04.2023.

5. In the meantime some of respondents also filed their reply.

6. Reply dated 20.03.2023 has been filed by respondent 3 i.e. Municipal Corporation Udaipur (hereinafter referred to as 'MCU') stating that lake Fatehsagar is an artificial lake constructed by Maharaja Jai Singh in year 1578 AD. Later on, it was reconstructed in the reign of Maaharana Fatah Singh. The lake is surrounded by hills, green zone, commercial and residential properties. Since long back, Fatehsagar lake and other water bodies in Udaipur have been main drinking water resource, hence placed under supervision and monitoring of Water Resources Department, Government of Rajasthan. By order dated 12.05.2017, passed by Water Resources Department, lake Fatehsagar was handed over to Urban Improvement Trust, Udaipur (hereinafter referred to as 'UIT') for further maintenance and care. With regard to noise pollution, it is said that RSPCB is the authority who must take action, necessary in the matter. With regard to light pollution, it is said that MCU is responsible for maintenance of street lights which is a statutory duty. Street lights installed by MCU are eco-friendly and not glaring. It is in public interest that street lights have been upgraded by using LED version and there is no high intensity lights placed by MCU on streets. With regard to Fatehsagar lake, it is being managed by UIT since 2017 under the order of Water Resources Department and MCU only cleans and brooms it in public interest, manually and in mechanized way, and garbage is collected on private site.

7. Ministry of Environment Forest and Climate Change (hereinafter referred to as 'MoEF&CC') i.e. respondent 6 has filed its reply dated 13.01.2023 stating that it has notified Noise Pollution Rules 2000 under provisions of Environment (Protection) Act, 1986 (hereinafter referred to as 'EP Act, 1986') to regulate and control increasing ambient noise level in public places from various sources inter alia industrial activity, construction activity, generator sets, speakers, public address systems, music systems, vehicular horns and other mechanical devices. Separate ambient levels are fixed for industrial, commercial, residential areas and silence zones. There is a restriction of use of loud speakers or a public address system which can be used only after obtaining written permission from the competent authority and shall not be used between 10.00 p.m. to 6.00 a.m. except in closed premises for communication, for example, auditorium, conference rooms, community halls and banquet halls. Under Rule 2(c) the authority empowered to take action is such as authorized by Central Government or State Government, as the case may be, and includes District Magistrate, Police Commissioner or any other officer not below the rank of Deputy Superintendent of Police, designated for maintenance of ambient air quality standards in respect of noise, under any law for the time being in force.

8. Central Pollution Control Board (hereinafter referred to as 'CPCB') has published list of authorities for implementation of Noise Rules, 2000 and in respect to Rajasthan, Sub Divisional Magistrates of respective Sub Divisions are concerned authorities responsible for implementation of Noise Rules, 2000. Under Schedule Note 3 of Noise Pollution Rules, 2000, power is given to Competent Authority to declare an area as silent zone which falls within a distance of not less than

100 meters from concerned Hospital, Educational institution or Court. The amendment notification dated 10.08.2017 of Noise Pollution Rules, 2000 declares by adding a proviso to Rules 3 (5) that unless and until an area is notified/declared a 'silence zone' by State Government, no area shall fall in the category of 'silence zone/area'.

9. Applicant has filed a detailed objection to Joint Committee report uploaded on 28.03.2023 stating that Committee has failed to undertake monitoring of noise for substantial duration; during night time proper monitoring has not been done and other issues raised by applicant like bursting of firecrackers, impact of helicopter ride on noise pollution, light pollution in and around wetland, conservation of wetland and effect of bass have not been examined and committee has also not correctly interpreted or understood the provision of Noise Pollution Rules, 2000.

10. Applicant has filed I.A. 25 of 2023 placing on record some additional facts regarding persisting and unfettered violations of Noise Pollution Rules, 2000 near Fatehsagar lake and also identification of Fatehsagar lake as 'wetland' under National Wetland Inventory and Assessment (NWIA) Project by the MoEF&CC and in the light of Supreme Court's order dated 08.02.2017 in M.K. Balakrishnan & Ors. Vs. Union of India & Ors., Writ Petition (Civil) No.230 of 2001.

11. Tribunal considered Joint Committee report on 06.04.2023 and directed to provide copy of report to Collector/Municipal Corporation/MCU with direction to enforce recommendations of Committee upto the strength of applicability and if there is any grievance, they (Collector and MCU), may file their response on those points. They were also directed to submit Action Taken Report.

12. Pursuant to the order dated 06.04.2013, an Action Taken Report has been submitted by District Collector, Udaipur (Respondent No. 5) in the form of a chart and relevant extract of report is reproduced as under:

Recom Joint committee recommendation Action taken by mendat RSPCB ion no.

of Joint Commit tee report dated 09.02.2

1. So it is evident that he CPCB has No action itself mentioned that the required at limitation of noise rules with District Level.

respect to loud speakers and it is Action may be the need of the hour that specific taken at CPCB guidelines be framed for same Level. Therefore, specifically mentioning the Regional Officer duration of noise pollution RSPCB, Udaipur monitoring to be carried out in was directed to such circumstances. It is also issued a request submitted that operation of letter to Regional loudspeakers, bursting of fire- Director, Central crackers, blowing of horns etc. all Pollution Control are having noise level much more Board, Bhopal than the prescribed limit in day vide letter no. period and therefore, the ambient 227 dated noise standard are bound to 12.05.2023(Copy increase in such circumstances enclosed as and CPCB should develop a annexure-I) special protocol for dealing with complaints of bursting of fire-

crackers, barat processions, horns and loudspeakers which shall be mandatory to follow and shall be followed. CPCB should also take up a study of a model city which is free from noise pollution and recommend measures to be incorporated here too and should also give the comment regarding measurement of noise pollution from a point source eliminating other such sources.

,

2. Public grievance lodging App to No action control the menace of pollution required at due to Noise in the country may District Level. be prepared by CPCB with the Action may be provisions of following steps:- taken at CPCB Level. Therefore,

(i) Complaint lodging facility with Regional Officer uploading facility of video/GPS RSPCB, Udaipur tagged photographs for the was directed to general complainant. issued a request letter to Regional

(ii) The complaint to be Director, Central automatically transferred to Pollution Control concerning area SHO. Board, Bhopal vide letter no.

(iii) SHO mark complaint to 227 dated concerning Beat Constable. 12.05.2023(Copy enclosed as

(iv) Beat constable equipped with Noise Level Meter approach the location and measure the Noise. annexure-I)

(v) If complaint found correct on site fine based on CPCB report scale of compensation for violation of Noise Rules as mentioned (Copy enclosed) in Original Application No. 681/2018 may be imposed with challan and uploaded on the same app marking disposal of complaint.

(vi) The complainant may also

3. receive copy of challan and complaint will be closed
- All the lake side hotels at Fatehsagar/Ambavgarh should be install a continuous ambient noise level meter with the consultation of RSPCB connected by online CCTV to the above app so that the information of noise level is in the public domain and
- Regional Officer RSPCB, Udaipur was directed to issue necessary directions to Hotels situated near lakes. In compliance of

the authority can check the levels as mentioned in the app at point no. 1 above.

direction RSPCB has issued letters to 31 Hotels situated near lakes regarding compliance vide this office letter no.RPCB/ROU/UDR/Hotel-353/126/1-29 dated 21.04.2023 (Copy of letter and list of hotels enclosed as annexure-II).

4. All the hotels should install a display board depicting the ill effect of noise pollution and certifying that they do not increase the sound levels beyond permissible standards at their main gate.

Regional Officer RSPCB, Udaipur was directed to issue necessary directions to Hotels situated near lakes. In compliance of direction RSPCB has issued letters to 31 Hotels situated near lakes regarding compliance vide this office letter no.RPCB/ROU/UDR/Hotel-353/126/1-29 dated 21.04.2023 (Copy of letter and list of hotels enclosed as annexure-II).

5. The Municipal authorities/ UIT should install display boards in

Regional Officer RSPCB, Udaipur

their areas indicating ill effect of was directed to noise pollution near Lakes of issue letter to Udaipur in ESZ. Municipal Commissioner regarding compliance. In compliance letter has been issued to Municipal Commissioner regarding compliance.

6. The Municipal authorities should

(Copy enclosed as annexure-III Regional Officer

complete the work of notifying area into commercial residential and silence zone so that applicability of noise level standards can be ensured. In this regard, the Municipal Commissioner Udaipur has asked the Director ULB to appoint a technical consultant through the process of tender and the work is under process.

RSPCB, Udaipur was directed to issue letter to Superintendent of Police. In compliance letter has been issued to Superintendent of Police regarding compliance vide this office letter no. RPCB/ROU/Legal-77/222 dated 11.05.2023 (Copy enclosed as annexure-IV) Superintendent of Police. In compliance letter has been issued to

7. Every Police Thana shall be equipped with Noise Level Meter. It need be mentioned here that it was found by joint committee towards noise level meter

reading and the officials carrying Superintendent out monitoring should also take of Police into account the above fact as the regarding noise level meter measures a compliance vide sum total noise present at any this office letter location from all sources. no. RPCB/ ROU/Legal-

8. Mobile DJ music systems/operating on four wheelers vehicles with Barat procession/religious procession to be banned and the ban to be enforced by Police/ RT0.

77/222 dated 11.05.2023. (Copy enclosed as annexure-IV) RSPCB has identified two vehicles those operating Mobile DJ music system on four wheelers and letter has been issued vide this office letter no. RPCB/ROU/

Legal-77/ 196 dated 04.05.2023 to Regional Transport officer for

9. In Eco sensitive zone of Sajjangarh Wild Life Sanctuary as wild animals are living there following activities shall be strictly prohibited:-
- (a.) Prohibition for DJ sound system in marriage procession.
 - (b.) Bursting of fire crackers.
 - (c.) Hotels/ not allowed to play music in open area i.e. Garden. They shall ensure play music in sound proof acoustic halls.
 - (d.) Dhol, Nagadas, tum-tum etc. should also be prohibited in hotels/ marriage gardens in open.
- cancelation of registration and seizure of these two vehicles and all such vehicles equipped with mobile DI music system/ operating on four wheelers. (Copy enclosed as annexure-V)
- Necessary directions issued to RSPCB and RSPCB has issued directions to 31 Hotels situated near lakes regarding compliance vide this office letter no. RPCB/ROU/UDR /Hotel- 353/126/1-29 dated

(e.) Use of Laser light/ Spot light. 21.04.2023. (f.) Marriage gardens with halls (Copy of letter shall be allowed if music is and list of hotels played in enclosed halls. If there enclosed as is no facility of hall then the annexure-1).

same be closed.

After issuance of letter United Hoteliers of Udaipur (Society) has submitted a representation (Copy enclosed as annexure-VI) and some key features is as under: -

1. They shall not allow the use of mobile DJ music system operating on

four wheelers
vehicle with
Barat or
religious
processions
within hotel
premises.

2. They will
install display
boards at the
main gate
outlining the
ill effect of
noise pollution
and certifying
that sound
level do not
exceed
permissible
standards.
3. They
committed to
install
continuous
ambient noise
level meters
within our
premises and
ensuring
regular
monitoring of
noise levels.
4. They
committed to
play sound
within
prescribed
limits as per
law.
5. For the
Sajjangarh
ESZ area, we
request a
reconsideratio
n of the
prohibition on
Dhol, Nagada
and Tum-
tum. We
suggest o
these

traditional
instruments
should be
allowed,
provided the
sound

generated is
within
prescribed
limits. These
instruments
are an
integral part
of our cultural
heritage and
traditions,
and their
responsible
use should be
permitted. As
this also
provides
livelihood to
the
underprivileged
artists,
performers
and their
families.

6. Also, that
some leverage
be given in the
enforcement
these
regulations,
considering
the ambient
sound levels
around their
properties.
Vehicular
traffic, human
movement,
and other
factors
beyond our
control
contribute to
increase in
noise levels.

We kindly
request that
these external
factors be
taken into
account while
assessing
their
compliance
with the noise
regulations.

7. In light of
recent

Honorable
Supreme
Court decision
on Writ
Petition (Civil)
No. 202 of
1995 in
Godavarman
Thirumulpad
vs Union of
India on 26th
April 2023
(para no. 57).
We request
that specific
ESZ
regulations
should not be
imposed until
new ESZ
regulations
are redefined
by the
Ministry of
Environment,
Forest and
Climate
Change
(MoEF).

8. CCTV cameras be installed all Necessary around the periphery of direction are Fatehsagar Lake and in the eco being issued to sensitive zone at strategic places. Municipal/UIT authorities at the earliest.

13. On most of the points, District Collector, Udaipur has said that the function has to be discharged by RSPCB or other but with regard to recommendations to control noise pollution in Eco-Sensitive

Zone of Sajjangarh Wildlife Sanctuary falling in wildlife sanctuary, Collector has said that these directions are basically in respect of 31 hotels situated near lake and it is said have been acted upon by directing concerned hotels to comply. In respect of some other matters, Collector has recommended reconsideration.

14. MCU i.e. respondent 3 has filed another reply dated 20.06.2023 but it is similar to reply dated 20.03.2023 filed by respondent 3.

15. Respondent 2 i.e. RSPCB has filed a separate reply giving parawise reply to averments made in OA. In para 14 it is however said that Fatehsagar lake is not a 'notified wetland' and not included in the list of District wise wetland identified for notification and development by State Government of Rajasthan, hence, Wetlands (Conservation and Management Rules) 2017 are not applicable; in the last one year, RSPCB has consistently monitored noise complaints. Out of 25 monitoring during day time 24 were found in permissible limits of commercial zone but exceeded in residential area. Similarly out of 26 monitored complaints during night time, 23 were found in permissible limit of commercial zone but exceeding in residential area; residential, commercial silence zones have not been notified by MCU; with regard to implementation of Noise Rules, 2000 as amended in 2017 it is stated that authorities competent to take action are District Magistrate or Police authorities hence, compliants were sent to concerned Station House Office of police to ensure compliance. With regard to light pollution it is said that Joint Committee in its report has recommended prohibition of laser lights/spot light in Eco Sensitive Zone of Sajjangarh Wildlife Sanctuary area.

16. Reply, similar to what has been submitted by respondent 2 has been filed on behalf of respondent 1 and 4 also, hence is not being repeated.

17. Applicant, has filed an objection/rejoinder to action taken report vide rejoinder dated 27.07.2023 and it is said that Collector, Udaipur has wrongly tried to wriggle out of his responsibility though he is the authority competent to take appropriate action preventing noise pollution, light pollution etc. but he has not taken effective steps or action in the matter.

18. We have heard learned counsel for parties and perused record.

19. First question up for consideration is "whether Fatehsagar lake is a wetland to which Rule 4 of Wetland Rule 2017, is applicable". It is not denied by respondents that 'Fatehsagar lake' is included in National Wetland Inventory and Assessment project by MoEF&CC whereby it has identified 201503 wetlands Supreme Court in the order dated 08.02.2017 in M.K. Balakrishnan & Ors. Vs. Union of India & Ors., Writ Petition (Civil) No.230 of 2001 has said:

"Accordingly, we direct the application of the principles of Rule 4 of the Wetlands (Conservation and Management) Rules, 2010 to these 2,01,503 wetlands that have been mapped by the Union of India. The Union of India will identify and inventorize all these 2,01,503 wetlands with the assistance of the State Governments and will also communicate our order to the State Governments which will also bind the State Governments to the effect that these identified 2,01,503 wetlands are subject to the

principles of Rule 4 of the Wetlands (Conservation and Management) Rules, 2010."

20. In view of Supreme Court's above direction even if 'Fatehsagar lake' is not a 'notified wetland', it has to be protected by application of Rule 4 of Wetland Rules of 2017. Rule 4 of Wetland Rules 2017 say as under:

"4. Restrictions of activities in wetlands.--(1) The wetlands shall be conserved and managed in accordance with the principle of 'wise use' as determined by the Wetlands Authority. (2) The following activities shall be prohibited within the wetlands, namely,-

(i) conversion for non-wetland uses including encroachment of any kind;

(ii) setting up of any industry and expansion of existing industries;

(iii) manufacture or handling or storage or disposal of construction and demolition waste covered under the Construction and Demolition Waste Management Rules, 2016; hazardous substances covered under the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 or the Rules for Manufacture, Use, Import, Export and Storage of Hazardous Micro-organisms Genetically engineered organisms or cells, 1989 or the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008; electronic waste covered under the E-Waste (Management) Rules, 2016;

(iv) solid waste dumping;

(v) discharge of untreated wastes and effluents from industries, cities, towns, villages and other human settlements;

(vi) any construction of a permanent nature except for boat jetties within fifty metres from the mean high flood level observed in the past ten years calculated from the date of commencement of these rules; and,

(vii) poaching.

Provided that the Central Government may consider proposals from the State Government or Union Territory Administration for omitting any of the activities on the recommendation of the Authority."

21. The restrictions of activities in wetlands and protection provided in Rule 4 has to be extended to 'Fatehsagar lake' and its 'Zone of Influence' area. It is the responsibility of Rajasthan State Wetland Authority i.e. respondent 4 to take appropriate action in the matter and do the needful.

First question is answered accordingly.

22. The second question is, "whether partially 'Zone of Influence' of Fatehsagar lake including lake area falls within the notified area of Eco Sensitive Zone of Sajjangarh of wildlife sanctuary", and if so "whether prohibition applicable to Eco Sensitive Zones have to be applied to said area or not".

23. Irrespective of the fact whether Eco Sensitive Zone of Sajjangarh Wildlife Sanctuary covers entire Fatehsagar lake area or its 'Zone of Influence', we are satisfied that area falls within notified area of Eco Sensitive Zone shall attract restrictions and prohibitions applicable to Eco Sensitive Zone and the same will have to be applied and implemented. On this aspect, we have no manner of doubt and also do not find any otherwise pleading or material on record to take a different view of the matter. In view of the matter, State of Rajasthan through Principal Secretary, Environment and Climate Change as also Principal Chief Conservator of Forest, Wildlife and all its assisting authorities are responsible to take appropriate action and enforce restrictions, prohibitions and regulations applicable to Eco Sensitive Zone of notified Wildlife Sanctuary to the area which falls within 'Fatehsagar lake' or its 'Zone of Influence' and take appropriate action to implement the same without any further delay.

24. Third question is regarding "noise pollution in area of Fatehsagar lake". It is not disputed by learned counsel of the applicant that no specific standards have been prescribed in respect of wetland regarding noise level or standard of noise. In absence of such standards having not been prescribed, it is difficult to assume that there is violation of Noise Pollution Rules, 2000 which refers to 4 categories of area i.e. Industrial, Commercial, Residential and Silence Zone. With regard to mixed area, Rules permit that such area can be declared by concerned authority but in the present case it is also not the case of applicant or respondent, that any such mixed area in the area of Fatehsagar lake or its 'Zone of Influence' has been declared. In absence of any such declaration, we find it difficult to issue any specific direction to take action by concerned authorities, particularly when neither any person is impleaded in OA who is allegedly violating Noise Pollution Rules 2000 nor in absence of any such person a general vague direction can be issued to authorities concerned to comply with law when no specific violation of law against any individual is demonstrated or shown by applicant.

25. Joint Committee report has found that in some areas, particularly in night time, noise standards even of highest level i.e. prescribed for industrial area or commercial area are being breached on account of the activities of marriage procession etc. undertaken in various hotels campus, inside and outside, which are located in the area of 'Fatehsagar lake' and its 'Zone of Influence' and recommendations have been made for taking several steps to mitigate such violation of noise pollution by directing hotels not to permit certain activities within area of 'Zone of Influence' of Fatehsagar lake or Eco Sensitive Zone of Sajjangarh Wildlife Forest which includes within its ambit the area of Fatehsagar lake. No serious objection has been raised by respondents with regard to the recommendations made by Joint Committee. Applicant though has filed objection to Joint Committee report but during course of the arguments stated that those recommendations be directed to be acted upon and should be implemented.

26. We are also of the view that by taking out processions like marriage processions etc. and by beating the drums or using bands, noise pollution levels cannot be breached particularly during

night hours. At least these activities cannot be permitted to go on in area falling within 'Zone of Influence' of Sajjangarh Wildlife Sanctuary. Therefore to that extent respondents shall ensure and impose complete prohibition on such activities. Concerned hotels etc. shall be notified of this prohibition so that they may not allow such activities to go on.

27. Fourth question is regarding "light pollution". Learned counsel for applicant drew our attention to annexure 23 and 24 to OA which are some articles published in different journals on the aspect of 'light pollution'. However, it is not disputed that till date no authenticated investigation or research with regard to light pollution has been conducted in the context of Indian conditions and at least none has been placed on record. It cannot be doubted that in certain circumstances high Intensity Lights may be detrimental to wildlife and other species of different categories and also to nature as such. But this aspect requires a detailed study on the matter, and if necessary, appropriate guidelines/regulations need be framed. On this aspect we find it appropriate to direct MoEF&CC, respondent 6, and Ministry of Science and Technology, Government of India to take up requisite study on the issue of 'light pollution' and take appropriate action to regulate such pollution in the context of Indian conditions and if necessary different provisions may be made for different areas depending on nature of flora, fauna and other relevant factors available in those areas.

28. In view of above discussion, we find it appropriate to accept report of Joint Committee to the extent it is consistent with the view taken above and, direct respondents to implement recommendations made therein which are consistent to our findings above, in words and spirit, without any further delay and in any case within a period of 3 months from today.

29. MoEF&CC, District Collector, RSPCB, MCU and Rajasthan State Wetland Authority shall file compliance reports with Registrar of Central Zone Bhopal Bench by 15.11.2023. If Registrar finds that any further order is necessary, he may place the matter before the Bench.

30. Subject to above directions, OA is disposed of. No costs.

Sudhir Agarwal, JM Dr. Afroz Ahmad, EM July 31, 2023 Original Application No.102/2022(CZ) (I.A.No.25/2023) N