



## Judicial examination on noise pollution: A critical analysis

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### Abstract

Noise being the major health hazard for human beings and therefore it is recognized as one of the component of Environment pollutant. Noise pollution from the industries, is considered as the major health hazards for the people living in the vicinity. In order to check this, legal and administrative measures shall be enforced effectively.

**Keywords:** Noise pollution, Public Interest litigation, use of Loud speakers, Public nuisance

### 1. Introduction

Noise Pollution is a big problem of our society. It is increasing day by day specially in urban and industrial areas. Airports, Industries, Highways, construction activity and railway station are considered to be high noise level area. Noise Pollution has been identified as “a slow agent of death.”

The American Jurisprudence<sup>[1]</sup> analyses noise as an unwanted sound that unwanted effects, a sound without value. The Encyclopedia Britannica defines noise as any undesired sound and the Encyclopedia Americana defined it as unwanted sound. According to environmental noise being major health hazard for human beings it is recognized as “Environmental Pollutant”. The Central Government has recently notified the noise Pollutant (Regulation and Control) Rules, 2000 on Feb. 19, 2000 for preventing adverse impact on human being including harmful psychological effects. It provides for ambient air quality standards in respect of noise for different areas/ zones.

Day time means from 6 a.m to 10.00 p.m. Silence zone means an area comprising not less than 100 meter around hospitals, educational institutions, religion places and Courts. They are to be declared by competent authority that which zone will be silence zone. It is unwanted because it lacks an agreeable amicable quality. It may be said that noise therefore sound but it is pollution when the effects of sound become undesirable.

### 2. Public Interest Litigation

Public Interest Litigation (PIL) can be filed by any public spirited person or institution under article 32 to the Supreme Court of India and under 226 to the High Court of any state. It is a new orientation of judicial discourse demonstrating collaborative effort on the part of the petitioner. State or Public authority and the court to secure observance of constitutional or legal rights conferred upon the vulnerable or weaker section of the society, workers or handicapped persons and to secure social justice to them. It also demonstrates the effect of public spirited person, journalists and social activists to ameliorate the suffering of the toiling masses, worker, and the weaker section of society. The seed of the concept of PIL, were initially sown in India by Justice Krishna Iyar in 1976 while disposing an industrial dispute *Mumbai Kamgar Sabha, Bombay v. Abdul Bhai*<sup>[2]</sup>

### 3. Judicial Discourse

In *Chairman, Guruvayur Devaswom Managing Committee, Guruvayur v. Sup. of Police*<sup>[3]</sup>, a writ was filed under Art. 226 of the Constitution of India against the order of Police officer to remove the loudspeaker which was installed for a festival season. The respondent alleged that such type of loudspeaker caused irreparable damage of ear and they were installed without obtaining sanction from any competent authority. After filing writ petition on which stay was granted by single judge; the Guruvayur temple authorities approached the Kerala State Pollution Control Board to get expert opinion regarding the use of horn type loudspeaker. Report of State Pollution Control Board found that there were no noise pollution if put at the height of 3 meter in temple premises. The court accepted the expert opinion of the Pollution Control Board and permitted the use of horn type loudspeakers and the police authorities were directed to give sanction to Management Committee of the temple to erect such loudspeakers<sup>[4]</sup>.

In *Bijayananda Patra v. Dist. Magistrate, Cuttack*<sup>[5]</sup> held that noise is considered as unwanted sound that may adversely affect the health and well being of the individuals. Noise Pollution connotes unwanted sound in the atmosphere. The Himachal Pradesh High Court in *Smt. Ved Kaur Chandel v. State of H.P*<sup>[6]</sup> accepting he PIL for threatened pollution of air, water and noise from the establishment of the tyre retreading unit observed that Pollution Control Board has a heavy responsibility to ensure that before starting the industry. It takes necessary precaution not to cause air, water and noise pollution.

In *Citizen Council Jamshedpur v. State of Bihar*<sup>[7]</sup>, PIL was rejected by the H.C of Patna. In this case, PIL was filed by the residents of the locality under Art. 226 praying to reject the permission granted to the Handloom and Khadi Board to organize exhibition in a public park. The petitioner submitted that park is used for morning walk and children of the locality play there. Besides this, the exhibition would cause air pollution and noise pollution. The Court after considering all the factors held that since the petitioner failed to produce any evidence that exhibition would be health hazard and cause noise pollution and that the exhibition had already started. So petition was not maintainable.

In the case, of *M.C. Mehta v. Union of India*<sup>[8]</sup>, the petitioner filed PIL under Art.32 seeking a direction against Haryana

Pollution Control Board to control air and noise pollution caused by stone crushers, pulverizes and mine operations in Faridabad within a radius of five Km. from tourist resort of Badkal lake and Surajkund.

The Court held that to preserve environment and control pollution within the vicinity of the two tourist resorts, it was necessary to stop mining in area. Further the Court directed to develop green belt of 200 meters at 1 Km. radius all around the boundary of two lakes and leaving another 800 meters as a cushion to absorb the air and noise pollution.

Noise pollution from the industries was also recognized as health hazard in *V.Lakhmi Pathy v. State of Karnataka* <sup>[9]</sup> by the H.C of Karnataka. In this case, it was found that industries were established in an area in development plan of the city. Polluted air, land and noise nuisance posed danger to health of residents of the area. So Court ordered for the closure of the industries of that area. The Court also held that pollution of air and noise is violative of Art. 21 of the Constitution of India.

Landmark decision made by the Supreme Court in *Church of God (Full Gospel) in Indian v. KKRMC Welfare Association* <sup>[10]</sup>. The question before the Court was whether right to practice any religion, profess and propagate it is in the form of use of loudspeakers and other instruments authorities a person/institution to violate the rules framed under the Environment (Protection). Act. 1986 regarding the noise pollution level. The Court answered in negative and denied the right of the Church of God to use amplifier and other noise making devices for prayer and observed that the noise rule are required to be enforced. It is high time when they should be implemented.

#### 4. Conclusion

The judiciary in India has done a commendable service towards combating noise pollution, which is considered as one of noticeable result of modern civilization. The above discussion amply proves that noise pollution has assumed threatening dimension and needs to be nipped in the bud. The Noise Pollution (Regulation and Control) Rules, 2000 is a welcome venture, but these rules are not sufficient to control this menace. Some immediate and efficient measures must be taken in this regard. Therefore, it is suggested that prescribed standards must be enforced effectively and strictly.

#### 5. References

1. Encyclopedia Americana, 2<sup>nd</sup> Edn 1969.
2. AIR 1976 SC 1455.
3. AIR 1998 Ker 122.
4. Ibid.
5. AIR 2000 Ori. 70.
6. AIR 1999 HP 59.
7. AIR 1999 Pat 1.
8. AIR 1996 SC 1977.
9. AIR 1992 Kant 57.
10. AIR 2000 SC 273.