

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

Original Application No. 139/2023
(IA NO 855/2023)

Prayag Hospital & Research Center Pvt. Ltd. Applicant(s)

Versus

UNION OF INDIA Respondent

WITH

Execution Application No. 26/2024
In
Original Application No. 139/2023

Prayag Hospital & Research Center Pvt. Ltd. Applicant

Versus

UNION OF INDIA Respondent

Date of hearing: 06.09.2024

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

Applicant: Mr. Rishi Awasthi, Mr. Avinash Ankit and Mr. Kapil M. Kant, Advocates for Applicant.

Respondent: Ms. Bihu Sharma, Ms. Khushboo Hora, Advocates for Respondent No. 1
Mr. Bhanwar Pal Singh Jadon with Ms. Aditi Bhardwaj and Mr. Devesh Pratap Singh, Advocates for State of U.P.
Mr. Suvigya Awasthi and Mr. Deepesh Raj, Advocates for R-6 NOIDA (through VC)
Mr. Pradeep Misra, Advocate for UPPCB (through VC)

ORDER

1. Applicant-M/s Prayag Hospital & Research Center Pvt. Ltd has filed Original Application No. 139/2023 (hereinafter referred to as ‘**OA**’) stating that hospital is established and operating at J-206 A/1, Sector 41, New Okhla Industrial Development Authority (hereinafter referred to as ‘**NOIDA**’), District Gautam Budh Nagar, Uttar Pradesh since 1998. The

area in which hospital is operating falls in the category of 'Silence Zone' as per Noise Pollution (Regulation and Control) Rules, 2000 (hereinafter referred to as '**NPRC Rules, 2000**').

2. Grievance of applicant is that respondent 4 i.e. Community Center at sector 41, NOIDA is located within 100 meter radius of applicant's hospital and hence within ambit of 'Silence Zone'. Respondent 4 is engaged in organizing parties, wedding celebrations, dinner parties and other recreational activities. Loud music is played during above celebrations, functions, etc. on regular basis creating nuisance in the area and causing noise pollution in as much as noise level exceeds the permissible level under schedule I of NPRC Rules, 2000 which provides limit of 50 decibels in daytime and 40 decibels in nighttime in 'Silence Zone'. Applicant has written various letters to district authorities including, Senior Superintendent of Police, Gautam Budhnagar but no action has been taken and it appears that those authorities are hand in gloves with officials of respondent 4.

3. In para 7, applicant has stated that an email dated 20.01.2020 sent by applicant had requested CEO, NOIDA to take appropriate action for declaring area within 100 meters of applicant hospital to be a 'Silence Zone' in the light of Tribunal's judgment dated 26.05.2017 in OA No. 42 of 2016, *Rajiv Rai v. Union of India & Ors.*

4. Applicant has in the above backdrop prayed that appropriate direction be issued against respondent 4 for condemning their activities and penalizing their actions for violation of NPRC Rules, 2000 and to direct other authorities to have a check on activities of respondent 4 so as not to cause noise pollution.

5. Application was considered by Tribunal on 13.03.2023. Tribunal after being *prima facie* satisfied that averments made in the application raises a substantial question relating to environment arising out of the implementation of the enactments mentioned in schedule 1 to National Green Tribunal Act, 2010 (hereinafter referred to as '**NGT Act, 2010**'), issued notices to respondents giving them time to file their responses.

6. Tribunal also required a factual report for which it constituted a Joint Committee comprising CEO, NOIDA, Member Secretary, Uttar Pradesh Pollution Control Board (hereinafter referred to as '**UPPCB**') and District Magistrate, Gautam Buddha Nagar. Committee was required to submit its factual report within two months.

7. Joint Committee report has been filed through Regional Officer, UPPCB vide letter dated 23.05.2023. Report says that representative of applicant informed Joint Committee that DJ and music instruments are used in Community Center during events but music is not played after 10 pm in the premises. Noise monitoring in the area was conducted during inspection at three points. Observations are as under:-

“

S.No.	Sampling Location	Observed Value Day [dB(A)]
1	In front of Prayag Hospital Main Road	68.6
2	Near Back side of Hospital	57.1
3	RWA Gate Near Prayag Hospital	71.1

”

8. Report further said that Community Centre is property of NOIDA and operated by Resident Welfare Association of Sector 41, NOIDA. Operators of Community Centre were directed to abide by NPREC, Rules, 2000 so that no inconvenience is caused to nearby inhabitants.

9. In view of notices issued to respondents, Ministry of Environment, Forest, and Climate Change (hereinafter referred to as '**MoEF&CC**') submitted its reply vide affidavit dated 05.04.2023. Reply in general refers to various provisions of NPRC Rules, 2000 and states that role of MoEF&CC is limited to the extent of evolving/framing standards under the mandate of Environment Protection Act, 1986 (hereinafter referred to as '**EP Act, 1986**').

10. Report and response were considered by Tribunal 04.12.2023. It observed that proper monitoring has not been conducted by Statutory Regulator during night time particularly when functions are organized and therefore appropriate monitoring in the night time was required to be conducted and UPPCB was required to submit further report.

11. Regional Officer, UPPCB, NOIDA submitted report dated 02.02.2024 pursuant to order dated 04.12.2023 stating that two events were organized in Community Centre on 14.01.2024 and report is submitted after monitoring noise level during aforesaid period. Report refers to both events and noise level recorded on 14.01.2024 and 30.01.2024. Relevant extract of report is reproduced as under:-

“8. That the State Board has carried out monitoring at five locations on 14.01.2024 during Mata ki Chowki held at the Community Centre. The said event was held between 1900Hours to 2300Hours on 14.01.2024. The occupancy of the hospital on 14.01.2024 was reported to be on around 52 beds. Data of noise levels on said day has been presented in the Table below:

Ambient Noise Level Monitoring Prayag Hospital, Sector- 41 Noida

Sr. No.	Location	Date 14-01-2024			
		14:00 (Day Time)	17:00 (Day Time)	20:00 (Day Time)	23:00 (Night Time)
		Leq dB(A)	Leq dB(A)	Leq dB(A)	Leq dB(A)
1	Community Center Main Gate, Sector 41, Noida	<u>61.4</u>	<u>70.4</u>	<u>64.8</u>	<u>58.1</u>
2	Prayag Hospital, Main Gate (Emergency Gate)	<u>65.4</u>	<u>70.0</u>	<u>74.9</u>	<u>56.2</u>
3	Prayag Hospital, Near D.G. Set	<u>75.4</u>	<u>56.0</u>	<u>59.8</u>	<u>53.2</u>
4	Prayag Hospital, Near E.T.P. Gate	<u>62.5</u>	<u>58.0</u>	<u>64.8</u>	<u>54.9</u>
5	Prayag Hospital, 2 nd Floor Room no. 203	<u>52.5</u>	<u>55.9</u>	<u>54.6</u>	<u>48.9</u>

Ambient Air Quality Standards in Respect of Noise

Area Code	Category of Area/zone	Limit in dB(A) Leq	
D	Silence Zone	Day time	Night Time
		50	40

9. That the State Board has again carried out monitoring on the second floor in Room 203 (which is closest to the Community Centre) on 19.01.2024 to ascertain noise levels inside the rooms on a normal day. The occupancy of the hospital on 19.01.2024 was reported to be on around 65 beds and there were no patients in any of the rooms on the second floor. Data of noise levels on said day were within limit and same has been presented in the Table below:

Ambient Noise Level Monitoring Prayag Hospital, Sector- 41 Noida

Sr. No.	Location	Date 19-01-2024		
		19:00-20:00	20:00-21:00	21:00-22:00
		Leq dB(A)	Leq dB(A)	Leq dB(A)
1	Prayag Hospital, 2 nd Floor Room no. 203	48.5	46.5	41.4

Ambient Air Quality Standards in Respect of Noise

Area Code	Category of Area/zone	Limit in dB(A) Leq	
D	Silence Zone	Day time	Night Time
		50	40

10. That the State Board has again carried out monitoring at same five locations on 30.01.2024 during the ‘nikaah’ held at the Community Centre. The said event was held between 1900 Hours to 0000 Hours on 30.01.2024. No use of any DJ or noise enhancement equipment was done during the said event. The occupancy of the hospital on 30.01.2024 was reported to be on around 40 beds and there were no patients in any of the rooms on the second floor. Data of noise levels on said day has been presented in the Table below:

Sr. No.	Location	Date 30-01-2024			
		14:00 (Day Time)	17:00 (Day Time)	20:00 (Day Time)	23:00 (Night Time)
		Leq dB(A)	Leq dB(A)	Leq dB(A)	Leq dB(A)
1	Community Center Main Gate, Sector 41, Noida	61.9	60.7	63.5	61.8
2	Prayag Hospital, Main Gate (Emergency Gate)	67.3	74.8	70.2	60.4
3	Prayag Hospital, Near D.G. Set	60.3	55.6	55.5	54.2
4	Prayag Hospital, Near E.T.P. Gate	66.3	68.2	59.3	64.2
5	Prayag Hospital, 2nd Floor Room no. 203	56.4	54.6	53.5	48.5

11. That as presented in the Figure 1 below, the said Community Centre (in red) is sandwiched between a hospital (in yellow) and a school (in blue). Since an area of 100 meter around both school as well as hospital is a designated ‘Silence Zone’, use of any high decibel equipment is bound to be in violation of Noise Pollution Regulation and Control Rules, 2000 since the ambient air quality standard with respect to noise for a silence zone is 50 dB(A)Leq during day time and 40dB(A)Leq during night time.”

12. Report also says that area around hospital has been designated as a ‘Silence Zone’ and therefore noise level under NPRC Rules, 2000 is to be maintained. It also attempted to identify causes of noise pollution and made certain suggestions. The relevant extract of report is reproduced as under:-

“12. Identified Causes of Noise Pollution and Suggestions

Since area around the hospital has been designated as a Silence zone, the ambient air quality with respect to noise for has to be maintained within standards of 50 dB(A)Leq during day time and 40dB(A)Leq during night time. However, from the data presented above, it is evident that the noise levels at the periphery of the hospital premises are beyond the notified standards during day as well as night. It has been observed that the noise levels are beyond permissible limits even when there is no gathering at the community centre. Some of the major causes leading to high decibel values have been enlisted hereunder

a) The said Health Care Facility is located on a 45.0 meter wide road, this is the main trunk road which connects various sectors of Noida with Dadri road and eventually terminates at T-Junction of Sector 107, Noida. Since there is no buffer area or sound breaking wall between the hospital premises and the main road, noise due to vehicular movement and honking has adverse impact on the noise levels on the main gate and front region of the hospital. Health Care Facility may be directed to install noise barriers within the premises along the front boundary. Noida Authority has already planted species having good vertical growth outside the premises and they act as natural noise barriers.

Additional plantation of appropriate species may be carried out by the health care facility in consultation with horticulture division of Noida Authority for further reduction of contribution of noise due to regular movement of traffic on the main road.

b) A cut has been made on the median of 45.0-meter road right in front of the hospital, this is used as a U-turn and interrupts the smooth flow of vehicles on the 45.0 meter road which leads to honking in the region thereby causing high noise levels. Noida Authority and Traffic Police may carry out survey on the said stretch and design a U-turn further towards the Dadri Road to maintain smooth flow of traffic in line with road engineering principles.

c) The said Health Care Facility is a 100 bedded hospital and has five ambulances but there is no parking space within the premises for ambulances or the patients and their attendants. This leads to unauthorized parking on the main road in front of the hospital and leads to traffic snarls which again leads to higher noise levels. Besides this, the STP installed by the hospital has been installed outside the premises along the boundary wall which further reduces the area for parking. The Hospital Management should engage a valet parking agency for management of parking and get the vehicles parked in an

area earmarked for parking by Noida Authority. Area in front of the hospital should be for patients drop off and emergency services only.

d) The Community Centre should adhere to the guidelines issued by Noida Authority with regards to operation of the community centre. The space should not be leased out to residents outside the Sector.

e) Also, the events and activities where DJs and noise enhancing equipment are to be used should be held within the closed halls/rooms of the community centre and not in the open area adjacent to the rear end of the hospital. The responsibility of adhering to the timings of permitting DJs and noise enhancing equipment shall be of President, Secretary and office bearers of the RWA, Sector 41 and they should be held responsible for default henceforth.

f) The Community Centre should carry out engineering upgrades with regards to insulation of halls so that the ambient noise levels are not impacted when noise enhancing equipment is played within the halls.

g) The Health Care Facility should also carry out engineering upgrades with regards to insulation of windows and other such areas to ensure that noise levels are within limits inside the rooms for comfort of the patients as apart from external sources, noise is also created by compressors, DG sets and other equipments within the premises.

h) Auditorium of Sri Chaitanya Techno School is also adjacent to the open area of the Community Centre. Administration of the school should ensure that cultural events at the school should be held within the auditorium and no noise enhancing equipment/loudspeaker is used in the open area outside the auditorium.

i) The main entrance of Sri Chaitanya Techno School, Sector 41 is on a 9.0-meter road due to which traffic snarls in the area are bound to happen during early morning before the school commences and during after school hours. The school management should deploy private guards to ensure smooth movement of traffic in the area.

j) Regional Office of the State Board has written a letter to M/s Prayag Hospital and Research Centre (P) Ltd. on 19.01.2024 to provide a copy of the sanctioned map of the premises so that further noise management suggestions along the boundary adjacent to the Community Centre could be given in accordance with sanctioned map. Health Care Facility has not submitted a copy of same at the time of preparation of same. Noida Authority

may verify the status of the sanctioned map and recommend installation of noise barriers along the rear boundary wall of the HCF to further reduce the noise due to external factors. Copy of the said letter is annexed as Annexure III.

k) Site photographs taken at the time of inspection on 14-01-2024 and 30-01-2024 have been presented below.

l) Besides above-mentioned recommendations, in view of the location of the HCF on a 45.0 meter road, it is also advisable that M/s Prayag Hospital and Research Centre may consult a pioneer agency for providing inputs for negating the impact of all sources of noise-pollution.”

13. Applicant has filed objection dated 23.04.2024 to Joint Committee's report stating that in periphery of hospital premises, noise level is beyond permissible limit which is clearly in violation of NPRC Rules, 2000. With regard to noise level exceeding in hospital premises and near it, it is sought to be explained that same may be due to vehicular, traffic, road jams, etc.

14. A separate reply dated 04.09.2024 has been filed by Assistant Commissioner of Police, Gautam Budhnagar and District Magistrate, Gautam Budhnagar dated 05.05.2024 stating that they have instructed respondent 4 to comply with NPRC Rule, 2000 and direction of Tribunal.

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

16. Main grievance of applicant is that area in which hospital is situated and operating comes within 'Silence Zone' under NPRC Rules, 2000. Respondent 4 is within radius of 100 meters, during time of organizing various functions, causes noise pollution beyond permissible limit and therefore is violating NPRC Rules, 2000.

17. Stand of respondent State and UPPCB is that compliance of NPRC Rule, 2000 is mandatory.

18. However, Sh. Dhyani, learned counsel appearing for UPPCB drew our attention to report dated 02.02.2024 showing that at Community Centre, noise level was found lower than what it was in the premises and near gates of hospital itself and contended that the reason for louder noise is reflected on the part of applicant itself and not solely concerned with respondent 4.

19. In our view, to adjudicate this application, following issues need to be considered:

- (i) Whether area in question is a 'Silence Zone' under NPRC Rules, 2000;
- (ii) Whether respondent 4 is violating provisions of NPRC Rules, 2000 and;
- (iii) What relief applicant is entitled to in this application.

20. We propose to consider all the above three questions together.

21. Rule 3 deals with ambient air quality standards in respect of noise for different areas/zones and says that the ambient air quality standards in respect to different areas and zones shall be such as specified in the Schedule. However, Rule 3.2 provides that State government shall categorize the area into 'industrial', 'commercial' and 'residential' or 'silence areas/zones' for the purpose of implementation of noise standards for different areas.

22. We enquired from learned counsel for the parties as to when State government, in exercise of powers under Rule 3.2, categorized the area in question as a 'Silence Zone' to which no reply has been given by any of the counsels.

23. Mr. Bhanwar Pal Singh Jadon, Advocate appearing for State drew our attention to an office memorandum dated 12.01.2018 issued by District Magistrate, Gautam Budhnagar which declares that area around 100 meters of all hospitals, educational institutions, Courts and religious institutions in NOIDA, Greater Noida, Yamuna Industrial Development Authority and district including all local bodies and rural areas shall be ‘Silence Zone’, wherein prescribed noise level will be 50 decibel in daytime and 40 decibel in night time.

24. When questioned under which provision District Magistrate has any such power of categorization of silence zone or others, when rules contemplate such categorization to be declared by State government, Sh. Jadon stated that he has been handed over only this office memorandum by District Magistrate, Gautam Budhnagar and does not have any order issued by State government under Rule 3.2.

25. Sh. Dhyani, Advocate appearing for UPPCB also could not place any categorization or declaration dmade by State government under Rule 3.2.

26. When something is required to be done in a particular manner, all other methods are prohibited and things have to be done in the same manner as prescribed. The level of ambient air quality in respect of noise in different areas is provided in Schedule to the NPRC Rules, 2000 and reads as under:-

*“SCHEDULE
(see rule 3(l) and 4(l))
Ambient Air Quality Standards in respect of Noise*

Area Code	Category of Area/Zone	Limits in dB(A) Leq *	
(A)	Industrial area	Day Time	NightTime

(B)	Commercial area	75	70
(C)	Residential area	65	55
(D)	Silence Zone	55	45
		50	40

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.*

**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."*

27. Above standards has to be followed provided various areas and zones are categorized as ‘industrial’, ‘commercial’, ‘residential’ or ‘silence’ by authority competent under the rules in exercise of statutory powers. In the absence of any such power exercised by State government under Rule 3.2, we find that here is a case where there is no such categorization like ‘industrial’, ‘commercial’, ‘residential’ or ‘silence area/zones’, particularly in district Gautam Budhnagar. That being so, the very contention of applicant that hospital area of applicant is within ‘Silence Zone’ and noise standards prescribed under NPRC Rules, 2000 should be followed by respondent 4 has no substance and cannot be accepted.

28. We also find that applicant is also aware of the situation in as much as though in para 2 of the application, it has claimed that hospital falls in the area which is a ‘Silence Zone’ under NPRC Rules, 2000 but in Para 7, applicant himself has made a request to NOIDA Authority to declare area within 100 meters of the hospital to be ‘Silence Zone’.

29. Email sent by applicant to NOIDA Authority is annexure 6 which requests authority concerned to enforce 'Silence Zone' within 100 meters of Prayag Hospital and not limited to premises of Community Center Sector 41, NOIDA.

30. Be that as it may, even if we don't go by stand taken by any of the parties, implementation of Rules has to be observed on their own. When nothing has been brought before us to show that the area in question has been placed in the category of 'Silence Zone' or otherwise under Rule 3.2 by State government, factual position is that area in question presently is not categorized in any area or zone in compliance of rule 3.2 and therefore standards set out in Schedule to NPREC Rules, 2000 are inapplicable.

31. So far as District Magistrate is concerned, it is an 'authority' as defined under Rule 2 (c) of NPREC Rule, 2000 and has responsibility of enforcement of noise pollution control measures under Rule 4. It is not competent to make a declaration of areas/zones under Rule 3.2 of NPREC Rules, 2000.

32. Our attention is also drawn to Rule 3.5, which says that an area comprising not less than 100 meters around hospital, educational institutions and courts may be declared by tState government as 'Silence area or Zone' for the purpose of these Rules provided that an area shall not fall under 'silence area or zone' category unless notified by State government in accordance with sub Rule 2. We find that even under Rule 3 (5) also there is no such declaration by State government with regard to 100 meters from hospital as 'silence zone' and that too could not have

been done unless the entire area or zone category is notified under rule 3.2.

33. Moreover, NOIDA is an area developed under UP Industrial Development Act, 1976 (hereinafter referred to as '**UPID Act, 1976**') and entire area is an industrial area under statutory authority i.e. NOIDA who has developed this area. In absence of any categorization, entire area therefore comes within the category of 'industrial area' since entire area has been developed as "industrial area' under the UPID Act, 1976. Therefore, at the best, even if provisions of NPRC Rules, 2000 will apply by, implication the standards prescribed for industrial area would be attracted in the case in hand and it is not the case of applicant that noise level is violating the standards set out for industrial area under NPRC Rules, 2000.

34. In this view of the matter, we find that find that relief prayed for by the applicant cannot be granted.

35. Issues 1, 2 and 3 are answered accordingly and against the applicant.

36. However, before parting with the matter we find that in any case compliance of NPRC Rules, 2000 across the State is mandatory. State government is under an obligation to categorize different areas/zones in different categories. Rules having been framed almost 24 years back, it is not open to State to sit tight over the matter and fail to exercise its statutory power or duties or obligations as enshrined in various provisions of NPRC Rules, 2000. Accordingly, we direct State government to take note of Rule 3.2 of NPRC Rules, 2000 and issue appropriate order for categorization of different areas and zones in different categories so

that NPRC Rules, 2000 may effectively be enforced and implemented in respective areas by concerned authorities in accordance with law.

37. The above exercise shall be completed by State government within one month.

38. With the above observations/direction this O.A is disposed of.

39. A copy of this order be forwarded to Additional Chief Secretary, Forest, Environment and Climate Change, Principal Secretary, Forest, Environment and Climate Change, Lucknow by email for compliance.

40. **Execution Application No. 26/2024:** This is an application seeking execution of Tribunal's order dated 08.05.2024.

41. In view of order passed today in OA on merits and disposal thereof, this application is rendered infructuos and disposed of accordingly.

Sudhir Agarwal, JM

Dr. Afroz Ahmad, EM

September 06, 2024
Original Application No. 139/2023
(IA NO 855/2023)
With
Execution Application No. 26/2024
In Original Application No. 139/2023
AB