

Item No.8

(Court No. 2)

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

(Through Physical Hearing with Hybrid VC Option)

Original Application No. 270/2023

(I.A. No. 145/2024)

Shrankhla Mittal

...Applicant

Versus

Government of NCT of Delhi & Ors.

...Respondents

Date of hearing: 19.04.2024

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER.
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER.**

Applicant: Ms. Sushmita Chaudhary, Advocate for Applicant.

Respondents: Mr. Virender Singh Proxy Counsel for Ms. Puja Kalra
Standing Counsel for Respondent No. 2- MCD
(through VC)
Mr. Narender Pal Singh and Ms. Anjali, Advocates for
Respondent No. 3 - DPCC.
Ms. Aakansha, Advocate for Respondents No. 6 & 7.
Dr. Mukesh Kumar, SDM, Hauz Khas.
Mr. Narender, PHI, South Zone, MCD.

**Application Section 18 read with Sections 14 of the National Green
Tribunal Act, 2010.**

ORDER

1. The applicant has filed the present application under Section 18 read with Section 14 of the National Green Tribunal Act, 2010 seeking issuance of directions to the respondents no. 1 to 4 to take appropriate action against respondents no. 5 to 7 and other erring establishments for ensuring compliance with the statutory provisions and directions given by

Hon'ble Supreme Court and this Tribunal for abatement of noise pollution and protection of public health and the environment.

2. Vide order dated 20.04.2023 this Tribunal directed issuance of notices to the respondents and vide order dated 29.08.2023 also constituted a Joint Committee comprising of SDM (Hauz Khas) and representatives of DPCC and MCD.

3. Reports/replies have been filed by SDM (Hauz Khas) vide separate emails dated 27.05.2023 and 18.04.2024, by DPCC vide separate emails dated 25.08.2023, 07.12.2023, 02.04.2024 and 16.04.2024 and by MCD vide separate emails dated 05.10.2023, 03.11.2023 and 11.12.2023.

4. Reply has been filed by respondents no. 6 and 7 vide email dated 18.12.2023.

5. Supplementary affidavit has been filed by the applicant vide email dated 17.03.2024.

6. In action taken report filed on 27.05.2023 by SDM (Hauz Khas) it has mentioned that during inspection respondent no. 5 (Bootlegger Restro Bar) and respondent No. 7 (Mansion Bar and Global Kitchen) were found closed and respondent No. 6 (Strings Musical Bar) and other bars were found violating the noise pollution norms and that penalty of Rs. 10,000/- each was imposed on 10 Project Proponents/violators who had been directed to deposit the same with DPCC.

7. In their reply respondents no. 6 and 7 submitted that respondent no.6 is running a Cafe under the name of Strings Musical Bar and respondent no. 7, which was initially close, is running a cafe under the name of the Mansion Bar and Global and they are having all the valid

permissions required to run the cafe and sound proof systems have been installed by them in the premises and they are not causing any noise pollution.

8. Status reports were filed by MCD vide emails dated 05.10.2023 and 03.11.2023 which did not provide the complete information regarding the total number of restaurants, bars and eateries operating in the area. MCD was directed to file detailed status report giving requisite information in tabular format with respect to the total number of restaurants, bars and eateries operating in the area with their compliance status regarding obtaining of health trade license and action taken against them. MCD filed report dated 11.12.2023 that there are total 35 Eating Houses/Establishments in the area in question. Out of said 35 Eating Houses/ Establishments, 30 Eating Houses/Establishments are running with valid Health Trade License and 03 Eating Houses were found closed. As regards, remaining 02 Eating Houses, which had not obtained Health Trade License, the Department has sealed them under the relevant provisions of the DMC Act, 1957.

9. We have gone through the reports filed by DPCC and find that in the present case vague/contradictory reports have been filed by DPCC before this Tribunal. In its report dated 07.12.2023 DPCC has mentioned about 23 units which were inspected but in report dated 16.04.2024 DPCC has mentioned that there were 08 more units (besides 23 units) which had obtained online consent. In report dated 16.04.2024 DPCC did not mention anything about the compliance status of remaining 08 units and there is no explanation as to why said 08 units were not inspected. As per information furnished by MCD there are 35 units in the area. DPCC has not obtained and submitted any information regarding remaining 04 units. In its report dated 07.12.2023 DPCC mentioned that

out of 23 units inspected, 12 were compliant and 11 were non-compliant but in its report dated 16.04.2024 DPCC has mentioned that out of 23 units inspected 04 units were found to be non-compliant. In its report dated 25.08.2023, DPCC has mentioned that Mansion Bar and Global Kitchen was operating without CTO and notice dated 25.08.2023 was issued to the same but in report dated 16.04.2024 DPCC has not mentioned as to what action was taken on the basis of said notice although consent status of 31 units has been mentioned by it in Annexure -2.

10. It may also be observed there that SDM (Hauz Khas) had furnished copies of documents/receipts regarding payment of penalty of Rs. 10,000/- by all the 10 violators to DPCC. Vide order dated 04.04.2024 DPCC was directed to verify the same. In its report dated 16.04.2024 DPCC has mentioned that out of 10 documents/receipts 07 were verified but 03 receipts were not matching. Sufficient time was granted to DPCC to verify all 10 documents/receipts and we find no justification in DPCC filing incomplete report that only 07 receipts were verified and 03 receipts were not matching. The concerned officials ought to have obtained the requisite information and filed complete report.

11. We condemn filing of vague/contradictory and incomplete reports by DPCC in the present case and warn that in case of filing of such vague/contradictory and incomplete reports in future exemplary costs may be imposed on concerned officials/DPCC.

12. DPCC is directed to verify payment made vide the remaining 03 receipts and proceeding initiated for recovery of environmental compensation of Rs. 30 Lakhs imposed on the violators and file an affidavit in this regard within one week.

13. Vide order dated 14.12.2023 the designated authorities as provided in the Order issued by the Government of NCT of Delhi dated 29.11.2022 were directed to monitor and ensure compliance.

14. In compliance of order dated 04.04.2024 action taken report dated 18.04.2024 has been filed by SDM, Hauz Khas vide email dated 18.04.2024. The relevant part of the report is reproduced below:-

**“SUBMISSION / ACTION TAKEN REPORT ON BEHALF
OF SUB DIVISIONAL MAGISTRATE (HAUZ KHAS)
BEFORE THIS HON'BLE TRIBUNAL.**

X X X X
3. That in compliance of the order dated 04.04.2024 in this matter, undersigned has visited village Hauz Khas on 12.04.2024 in the night after 10 PM. During inspection total 05 units were found violating norms of noise pollution. Three out of these units were playing loud music on the open terrace. Challans worth Rs.10,000/- each have been imposed upon these units and local beat police personnels have been directed to keep strict vigil. Copy of challans imposed are annexed as Annexure "A" (Colly).

4. That, it is further humbly submitted that deposit receipt of previously imposed 10 challans have been forwarded to DPCC through email for further verification. Copy of mail forwarding along with receipts are annexed as Annexure "B" (Colly).

5. That, it is humbly submitted that Delhi Police has also taken action against the 08 violators units on 04.04.2024 under section 32 / 113 of the Delhi Police Act, 1978 and music instrument have been seized. Copy of General Diary Entries annexed as Annexure "C" (Colly).”

15. DPCC is directed to initiate appropriate proceedings for imposition of environmental compensation against the violators and to file action taken report mentioning in detail action taken against Project Proponent-the Mansion Bar and Kitchen on the basis of show cause notice dated 25.08.2023 issued against the same and also action taken against other violators.

16. The designated authorities as mentioned in the Order issued by the

Government of NCT of Delhi dated 29.11.2022 are directed to periodically inspect restaurants, bars and eateries operating in the area and ensure compliance of the noise pollution control norms.

17. I.A. No. 145/2024 has been filed by the applicant for issuance of directions to respondents no. 5 and 7 and Epic Restro Bar.

18. As per the material placed on record respondent no. 5-Bootlgger Restro Bar is closed. The applicant is directed to place on record material to show that respondent no. 5-Bootlgger Restro Bar is operating.

19. Respondent no. 7 is given opportunity to file reply to I.A. No. 145/2024.

20. In view of averments made, Epic Restro Bar is impleaded as respondent no. 8. Amended Memo of Parties be filed by the applicant.

21. The Registry is directed to issue notice to respondent no. 8 requiring it to file its reply to I.A. No. 145/2024.

22. Learned Counsel for the applicant has submitted that other restaurants/eating houses in the area are also violating the Noise Pollution (Regulation and Control) Rules, 2000 and creating noise pollution.

23. Rejoinder may be filed by the applicant along with copies of relevant documents in support of the allegations within two months.

24. Report by DPCC, Rejoinder by the applicant and replies by the respondents be filed within two months by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

25. List for further consideration on 12.07.2024.

26. A copy of this order be sent to Member Secretary, DPCC by email for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

April 19th 2024
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