

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

Original Application No. 304/2023
(I.A. No. 313/2023)

Deepak Tripathi

Applicant

Versus

State of Haryana & Ors.

Respondent

Date of hearing: 22.08.2023

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, CHAIRPERSON
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Mr. S.A. Zaidi & Ms. Mansi Chahal, Advs. for Applicant
Respondent: Mr. Rahul Khurana, Adv.

ORDER

1. The grievance of the applicant is violation of Noise Pollution (Regulation and Control) Rules, 2000 in the area in Kapda Colony, Air Force Road, NIT, Faridabad, Haryana by industries in the residential area. The matter was taken up by this Tribunal on 03.05.2023 and a joint Committee was constituted to submit the factual and action taken report.

2. Joint Committee submitted the report with the fact that:

“3. That the units in question were inspected by the team consisting of representatives of CPCB, HSPCB, Deputy Commissioner-Faridabad and representative of Municipal Corporation of Faridabad. The report dated 08.08.2023 was submitted containing reply of Municipal Corporation Faridabad. The copy of complete report dated 08.08.2023 is annexed herewith as ANNEXURE R-2.

4. This report dated 08.08.2023 was considered by this Hon'ble tribunal on 10.08.2023. After considering the report this Hon'ble Tribunal disposed of the OA directing the Haryana State Pollution Control Board to periodically monitor the noise level and in case of exceeding the limit as prescribed, the State PCB has to take necessary remedial measures in addition to

penal provisions. Copy of order dated 10.08.2023 passed in OA no. 379/2023 is annexed as ANNEXURE R-3.

5. The report submitted in OA No.379/2023 passed is placed in present OA also alongwith order dated 10.08.2023 for kind consideration of this Hon'ble Court. It is undertaken to comply with the directions passed by this Hon'ble Tribunal in OA No.379/2023 and in present OA.”

3. The same matter was taken up by this Tribunal in O.A. 379/2023, Deepak Tripathi vs. State of Haryana and a report was called from the authorities concerned which was mentioned in the order dated 10.08.2023. Relevant portion of the report is quoted below:-

“2. Compliance of Hon’ble National Green Tribunal directions:-

In compliance of Hon’ble NGT directions issued vide order dated 30.05.2023, a committee of following officers undertook site visit along with the complainant, representatives of concerned project proponents and representative from Municipal Corporation Faridabad to look into the grievance:-

Sr. No.	Name of Officer & Designation	Representative
1	Smt. Gauri Midha, SDM, Badkhal	District Magistrate
2.	Sh Danish Meena, Sc-C, CPCB, Delhi	CPCB
3.	Sh. Dinesh Kumar, RO, Ballabgarh Region and Sh. Ujjwal Kumar, AEE, Ballabgarh Region	HSPCB

3. Observations:-

(i) Joint committee comprising of representative of District Magistrate, CPCB & State PCB alongwith the complainant and representatives of concerned project proponents visited the site on 25.07.2023. The factual details of the inspected units by the committee are given below:

Sr. No.	Name and Address of unit	Process	Categor y & Scale of Unit	Status of CTO	Remar ks
1.	M/s Crist Engg. Tools,B-258, Kapda Colony, Gali No.9, Faridabad	Engineering & Fabrication	White & Micro small	Not required	-
2.	M/s. Monu Engg. Works, B-109 Kapda Colony, Gali No.9, Faridabad	the unit is not existing as no plant & machinery was found at site			
3.	M/s. M.A. Engg. Works Kapda Colony, Gali No.9,	Engineering &	White & Micro	Not required	-

	<i>Faridabad</i>	<i>Fabrication</i>	<i>small</i>		
4.	<i>M/s S.K. Forge, E-75, Kapda Colony, Gali No. 8, Faridabad.</i>	<i>the unit is not existing as no plant & machinery was found at site</i>			
5.	<i>M/s Rashy Tools India, E-74, Kapda Colony, Gali No. 8, Faridabad.</i>	<i>Engineering & Fabrication</i>	<i>White & Micro small</i>	<i>Not required</i>	-
6.	<i>M/s Pee Kay Engineering, PO 22, Kapda Colony, Gali No. 8, Faridabad.</i>	<i>Engineering & Fabrication</i>	<i>White & Micro small</i>	<i>Not required</i>	-
7.	<i>M/s M.R. Engg. Works, B-14, Kapda Colony, Gali No. 7, Faridabad.</i>	<i>Engineering & Fabrication</i>	<i>White & Micro small</i>	<i>Not required</i>	-
8.	<i>M/s Rizvi Engineering & Components, Plot No. 19.</i>	<i>Engineering & Fabrication</i>	<i>White & Micro small</i>	<i>Not required</i>	-
9.	<i>M/s Bharat Sheet Components, B/ 153.</i>	<i>the unit is not existing as no plant & machinery was found at site</i>			
10.	<i>M/s M.K. Industries, B/ 140, Kapda Colony, Gali No. 10, Faridabad.</i>	<i>Engineering & Fabrication</i>	<i>White & Micro small</i>	<i>Not required</i>	-
11.	<i>M/s Jyoti Engineering Works, B- 0309, Kapda Colony, Faridabad</i>	<i>Engineering & Fabrication</i>	<i>White & Micro small</i>	<i>Not required</i>	-
12.	<i>M/s Bharat Switches, Plot no B-114, Air Force Road, Kapda Colony, Faridabad</i>	<i>Engineering & Fabrication</i>	<i>White & Micro small</i>	<i>Not required</i>	-
13.	<i>M/s Indian Press Tools, Plot no 14, Air Force Road, Kapda Colony, Faridabad</i>	<i>Engineering & Fabrication</i>	<i>White & Micro small</i>	<i>Not required</i>	-
14.	<i>M/s SKM & Sons, Plot no 8, Air Force Road, Kapda Colony, Faridabad</i>	<i>Engineering & Fabrication</i>	<i>White & Micro small</i>	<i>Not required</i>	-
15.	<i>M/s Vikas Engineers, Plot no 19, Kapda Colony, Faridabad</i>	<i>Engineering & Fabrication</i>	<i>White & Micro small</i>	<i>Not required</i>	-
16.	<i>Ms/ Malik & Sons Trading Pvt Ltd, Plot no 7, Air Force Road, Kapda Colony, Faridabad.</i>	<i>Engineering & Fabrication</i>	<i>White & Micro small</i>	<i>Not required</i>	-

(ii) The units were visited by the Joint Committee on 25.07.2023 and Joint Committee observed machines installed in units generate Noise. Ambient noise monitoring was done at site and noise levels are mentioned below:

<i>Location of monitoring</i>	<i>Noise Level (in dB/A) while unit in operation</i>	<i>Noise Level (in dB/A) while unit not in operation</i>
<i>Street outside the boundary of adjacent Respondent Unit M/s Crist Engineering Tools</i>	<i>70.2</i>	<i>69.8</i>
<i>Inside the residence of complainant</i>	<i>58.1</i>	<i>57.9</i>

The ambient Noise level standards for different category of the area/zone are tabulated below

	<i>Limits in dB(A) Leq</i>	
	<i>Day (6.00 a.m. to 10.00 p.m.)</i>	<i>Night (10.00 p.m. to 6.00 a.m)</i>
<i>Industrial area</i>	75	70
<i>Commercial area</i>	65	55
<i>Residential</i>	55	45
<i>Silence</i>	50	40

As per Rule 5(4) of the Noise Pollution (Regulation And Control) Rules, 2000"

The noise level at the boundary of the public place, where loud speaker or public address system or any other noise source is being used shall not exceed 10 dB (A) above the ambient noise standards for the area or 75 dB (A) whichever is lower.

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

As per Rule 7(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 4[or, if there is a violation of any provision of these rules regarding restrictions imposed during night time], make a complaint to the authority.

As per Rule 7(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 inforce.

In view of the above, action can not be taken by authority under Rule 7 of the Noise Pollution (Regulation And Control) Rules, 2000 as no violation of Rule 5(4) & 5 (5) was observed.

(iii) The said area falls under the jurisdiction of Municipal Corporation Faridabad, therefore, a letter regarding permissibility of operation of such industries in Kapada Colony has been sent to Municipal Corporation Faridabad. Accordingly as per reply received from Municipal Corporation Faridabad vide letter dated 07.08.2023 following facts are highlighted:

- a. Relocation Policy-2016 for shifting of industrial units operating from residential areas has been notified by Urban*

Local Bodies, Haryana vide Notification no. 2/29/2016-R-II dated 20.07.2016 which was circulated by DULB vide that office memo no. DULB/CTP/TP/A-2/2016/5534-40 dated 04.08.2016.

- b. For implementation of the policy as per Clause 10 thereof, a committee of officers of DTP Enforcement Faridabad, HSPCB office, EO HSIIDC/HSVP Faridabad, Office of Joint Commissioner MCF (Ballabgarh Zone), office of Joint Commissioner, MCF (Old Faridabad Zone) and Office of Joint Commissioner, MCF (NIT Zone) was constituted. In order to identify zones, a detailed survey has been conducted by Department of Industries & Commerce through M/s RSI Softech India Pvt Ltd. The agency submitted data of industries, in response of which reports were submitted by Committee Members intimating about discrepancies in the survey details submitted by the agency.*
- c. The Commissioner, Municipal Corporation Faridabad vide his order dated 04.08.2021 has decided to forward a request to Director, Industries & Commerce Department, Haryana to issue strict directions to the surveying agency to rectify all the discrepancies in the survey data and thereafter revert back the authentic survey data duly verified from site and super imposed on Final Development Plan of Faridabad- 2031 AD so that random verification shall be carried out which was communicated vide memo no. MCF/STP/2021/64-65 dated 11.08.2021 and subsequent reminders.*
- d. The Industries and Commerce Department has to provide rectified survey data submitted by surveying agency. After receipt of rectified survey data, the matter may be placed before the Committee aforesaid constituted for this purpose, for obtaining recommendations from the Committee Members. Thereafter this Corporation will initiate action accordingly. Copy of MCF letter dated 07.08.2023 along with Relocation Policy is annexed as Annexure-R/1.*

4. Findings: -

- I. During inspection it was found that all the inspected units in the said area i.e. Kapada Colony are small scale white category workshops/units mainly involved in Engineering & Fabrication. Such types of workshops/units do not require consent as per Consent Management Policy of HSPCB as white category industries are outside the purview of consent management of SPCB.*

There was no source of Water and Air Pollution from these units/workshops except small DG set in some units which were also found disconnected and not in use. It is relevant to place on record the copy of Direction No.73 issued by CAQM which is annexed as Annexure R/2.

- II. *It is concluded from the ambient noise monitoring results that noise levels are slightly higher for limits prescribed for residential area however within limits for Industrial area. The area in question has presence of both white category units and Residences. Further, it can be concluded that there is increase of 0.2dB (A) in noise level inside the complainant residence due to operation of adjoining industries.*

Recommendations:

- (i) *The units requiring operation of DG sets must ensure compliance of CAQM direction No 73.*
- (ii) *The Units located adjoining to residences should adopt best practices to control the noise from their units.*
- (iii) *Permissibility of operation of white category industries in area in question should be looked after by Municipal Corporation Faridabad.”*

4. The matter (O.A. No. 379/2023) was disposed of vide order dated 10.08.2023 with the following directions:-

“4. The small DG sets which were installed were disconnected and not in use at present as reported by the Joint Committee. The parameters of the noise pollutions are slightly higher for limits prescribed for residential area and directions have been issued to ensure compliance of the CAQM direction no.73.

5. Operation of industrial units in the residential area is the matter of policy which should be decided by the State as a matter of policy. So far as noise pollution is concerned, it is found slightly higher for which remedial measures shall be taken by the authority concerned.

6. In the view of the report, we direct the State PCB to periodically monitor the noise level and in case of exceeding the limit as prescribed, the State PCB has to take necessary remedial measures in addition to penal provisions.”

5. The grievance of the applicant is noise pollution in the residential areas for which several clauses are made in Noise Pollution (Regulation and Control) Rules, 2000 and Section 7 provides as follows:-

“7. Complaints to be made to the authority. (1) *A person may, if the noise level exceeds the ambient noise standards by 10 dB(A) or more given in the corresponding columns against any area/zone ¹[or, if there is a violation of any provision of these rules regarding*

¹ Inserted by S.O. 50 (E), dated 11-1-2010 (w.e.f. 11-1-2010).

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.”

6. The authority, as mentioned in Section 7 is provided in Definition clause as follows:-

“2[(c) "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;]”

7. Accordingly, we repeat the direction issued in O.A. No. 379/2023 and direct the State PCB to periodically monitor the noise level and in case of exceeding the limits as prescribed, the State PCB has to take necessary remedial measures in addition to primary causes.

8. The applicant is at liberty to move a complaint before the Competent authority as provided in Section 7 read with Definition (c) of the Noise Pollution (Regulation and Control) Rules, 2000 and the Competent Authority shall take necessary action and punitive action as provided in the Rules, in accordance with law.

9. With these observation, Original Application stands disposed of.

Sheo Kumar Singh, CP

Arun Kumar Tyagi, JM

Dr. A. Senthil Vel, EM

August 22, 2023
Original Application No. 304/2023
(I.A. No. 313/2023)
SN

² Substituted by S.O. 1046(E), dated 22-11-2000 (w.e.f. 24-11-2000),.