

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(Through Video Conferencing)**

Original Application No.98/2022/EZ

Amitabh Kejriwal

Applicant(s)

Versus

State of West Bengal & Ors.

Respondent(s)

Date of hearing: 05.08.2022

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER**

For Applicant(s) :Mr. Rajesh Upadhyay, Advocate and Mr. Chayan Gupta,
Advocate (in Virtual Mode)

ORDER

1. Mr. Rajesh Upadhyay, learned Counsel assisted by Mr. Chayan Gupta, learned Counsel, is present (in Virtual Mode) for the Applicant.
2. This Original Application has been filed by the Applicant on the allegation that the Respondent No.6, Dbar Code Restro Bar and Club LLP., which is operating a Disco, Bar-cum-Restaurant and Hookah Bar in the name and style of "Tram Deepo" is playing loud music in the premises of entire second floor portion of Premises No.45, Fazlul Huq Sarani (Jhawtala Road), Kolkata-700019, in violation of the Noise (Pollution and Control) Rules, 2000.
3. It is alleged that earlier also there were proceedings against the Respondent No.6 in which an order was passed on 26.04.2019, by West Bengal Pollution Control Board, directing the Respondent No.6, on the basis on an inspection carried out on 26.03.2019, to operate the sound level within permissible limit and operate its music system inside acoustically enclosed room only so that the

noise may not travel outside the Restaurant. Copy of the order has been filed as Annexure-E (Page No.64) to the Original Application.

4. We are surprised that this order does not even mention as to what was the decibel level recorded by the inspecting team which carried out the inspection on 26.03.2019. Such an order is no order on the face of it. The order dated 26.04.2019 is nothing more than a vague and generalized advisory which does not satisfy the complaint.
5. In our opinion, matter requires consideration.
6. Issue notice to the Respondents, returnable within three weeks.
7. Mr. Dipanjan Ghosh, learned Counsel who is present (in Virtual Mode) in court in another matter, is directed to take notice on behalf of the Respondent No.2, West Bengal Pollution Control Board who shall also file his counter-affidavit within three weeks.
8. Mr. Sibojyoti Chakraborty, learned Counsel who is present (in Virtual Mode), states that he has instructions to appear on behalf of the Respondent No.1, Department of Environment, Govt. of West Bengal.
9. Mr. Sudip Kumar Dutta, learned Counsel who is present (in Virtual Mode), states that he has instructions to appear on behalf of the State Respondents, Respondent Nos.3, 4 & 5. Mr. Dutta also files Vakalatnama on behalf of the State Respondents; the same is taken on record. When the case is next listed, the name of Mr. Sudip Kumar Dutta shall be printed in the cause list as counsel for State Respondents.
10. All the Respondents shall file their counter-affidavits within three weeks.
11. The Respondent No.2, West Bengal Pollution Control Board, is directed to inspect the site in question and do a noise pollution test

and submit its report along with counter-affidavit within three weeks.

12. Mr. Chayan Gupta, learned Assisting Counsel of Mr. Rajesh Upadhyay, shall serve e-copy/soft copy of the Original Application along with all its annexures upon Mr. Dipanjan Ghosh, Mr. Sibojyoti Chakraborty and Mr. Sudip Kumar Dutta, learned Counsel for Respondents within 24 hours.

13. **List on 14.09.2022.**

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B. Amit Sthalekar, JM

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Saibal Dasgupta, EM

Aug 05, 2022,
Original Application No.98/2022/EZ
AK&MN