

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.98/2022/EZ

Amitabh Kejriwal

Applicant(s)

Versus

State of West Bengal & Ors.

Respondent(s)

Date of hearing: 08.12.2022

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

For Applicant(s) : Mr. Chayan Kumar Gupta, Adv. a/w
Mr. Rajesh Upadhyay, Adv. (In Virtual Mode)

For Respondent(s) : Mr. Dipanjan Ghosh, Adv. a/w
Mr. Pritwish Basu, Adv. for R-2,
Mr. Sudip Kumar Dutta, Adv. for R-1,3,4 & 5 (in Virtual Mode)
Ms. Manika Roy, Adv. for R-6 (in Virtual Mode),

ORDER

1. Mr. Chayan Kumar Gupta, learned Counsel and Mr. Rajesh Upadhyay, learned Counsel are present in (Virtual Mode) for the Applicant.
2. Affidavit-in-opposition dated 19.10.2022 has been filed on behalf of the Respondent No.6, M/s Dbar Code Restro Bar and Club LLP; same is taken on record.
3. One more affidavit dated 19.10.2022 has been filed on behalf of the Respondent No.6, M/s Dbar Code Restro Bar and Club LLP; same is taken on record.
4. Affidavit dated 02.11.2022 has been filed on behalf of Respondent No.2, West Bengal Pollution Control Board; same is taken on record.
5. Along with the affidavit dated 02.11.2022 an inspection report of an inspection conducted of the premises, in question, on 21.09.2022

has been filed. The Observations and the Remarks therein read as under:-

“Observations:

The unit M/s Tram Deepo Restro Bar & club is a restaurant with a bar and a night club facility having seating capacity 120 heads approx. During the inspection, the unit was in operation occupancy about 65 persons. The unit is located on the 2nd floor of a (G+3) storied building and Mr. Amitabh Kejriwal, a complainant, resides on the 3rd floor of the building. The ground floor of the said building is occupied by AU Bank, Yes Bank and Computer wizard (Shop). There is a Restaurant & Hookah Bar under the name of Hit Wicket at a portion of 1st floor and the remaining portion occupied by AU Bank. It is found that all the floors except the 3rd floor are used for commercial purposes. The unit consists of two rooms. In the right-hand room there are 5 no ordinary boxes and, in the left-hand room, 04 ordinary & 02 woofer boxes are used in music systems. During inspection it was also observed that the unit had an acoustic enclosure with acoustic walls. There are 7 nos of LPG fired ovens in the kitchen for carrying out cooking activity with fume extraction system. Kitchen effluent is directly discharged into KMC. Accordingly to the spokesperson of M/s Tram Deepo Restro Bar & club, the unit was operating daily from 1:00Pm to 12:00 AM and during festive season it is operates till late night with the permission from Kolkata Police. However, the complainant, Mr. Amitabh Kejriwal informed that he suffers from the noise and vibration due to operation of music system during late night. Noise level measured during inspection is listed below:- (Unit was In operation)

<i>Measuring Places</i>	<i>Noise Level in dB(A) when the sound system was in</i>
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	<i>operation at its optimum level on request (one non-functioning big woofer box out of two woofer box</i>
<i>From Complainant's residential floor (3rd floor) stairs</i>	<i>68.09</i>
<i>From in front of the Unit (main door was closed)</i>	<i>73.25</i>
<i>Inside the unit when the music system in operation</i>	<i>In left hand Room: 86.80 In right hand Room: 77.12</i>

However, no vibration and sound was felt at stairs during inspection and sound system was in operation at its optimum level.

Remarks:

As the unit has taken necessary measure to control the noise level within permissible limit, complaint may be disposed of with the following conditions:

- 1. The unit should always maintain noise level within permissible limit.*
 - 2. The unit may be directed not to use woofer boxes at night time to take extra precautions to control noise and vibration at the night time.*
 - 3. The nit should take care of maintenance of its exhaust fans so that these will not generate high noise.*
 - 4. The unit should follow the operation of Night Club as per permissible norms.*
 - 5. The unit should operate with all necessary valid licenses."*
6. We find that this affidavit does not indicate as to whether the premises in question is a commercial area or a residential area. It also does not state the requisite standards of sound level prescribed

for the area in question nor does inspection report state as to whether the decimal level recorded therein is within the permissible sound level or exceeds the permissible sound level.

7. In our view, this inspection report is absolutely vague on facts.
8. We, therefore, direct West Bengal Pollution Control Board to file a fresh affidavit furnishing the full particulars of the sound level as per rules.
9. Let the affidavit be filed within three weeks.
10. The learned Counsel for the Applicant shall serve copies of the affidavit dated 14.10.2022 upon Mr. Sudip Kumar Dutta, learned Counsel for the State Respondents in the course of the day.
11. **List on 04.01.2023.**

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B. Amit Sthalekar, JM

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Dr. Afroz Ahmad, EM

December 08, 2022
Original Application No.98/2022/EZ
BD