

**NOISE POLLUTION CONTROL LAWS IN INDIA –  
AN ANALYSIS OF ‘COURT ON ITS OWN MOTION v. STATE OF TRIPURA’**

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**ABSTRACT**

Noise is a type of atmospheric pollution in the form of waves. Noise pollution like other pollutants is also by-product of industrialization, urbanization and modern civilization or technological advancement. Noise is a menace to human health and wellbeing. This paper makes a brief study on the measurement, sources, and factors of noise pollution. This paper aims at vivid analysis of various existing statutory provisions for control of noise pollution in the light of recent decision reported in Environment and Forest Law Times between Court On Its Own Motion and State Of Tripura dealing with control of noise pollution resulting from the use of loudspeakers in silence zone area with special mention of certain provisions under the Environment (Protection) Act, 1986, its rules and the provisions under the Noise Pollution (Regulation and Control) Rules, 2000 is also highlighted. Judicial intervention of relevant cases referred by the Court in deciding the above case along with the Courts directions to State Government and various authorities in controlling noise pollution is also discussed. This paper is analytical and descriptive in nature.

**Keywords: Noise, Noise Pollution, Ambient Air Quality Standards, Loudspeakers, Court On Its Own Motion v. State Of Tripura, etc.**

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**INTRODUCTION**

In a country like India, noise has become part and parcel of everyone’s life. It has become inevitable due to religious, political, social, cultural, economic and other reasons. Today it has become so vehement that people as a matter of right contribute noise unnecessarily. The rules and regulations go unheard due to lacuna in implementation part and also poor civic sense among people. This paper makes an attempt to analyze some aspects of noise pollution, control measures and its adequacy in the light of some of the cases reported in the Courts.

The term noise is derived from the Latin word ‘nausea’. According to Encyclopedia Britannica and Americana, noise is an unwanted or undesired sound. Noise is a type of atmospheric pollution in the form of waves. Noise pollution like other pollutants is also by-product of industrialization, urbanization and modern civilization or technological advancement. The term ‘noise pollution’ has not been defined anywhere in statutes but the Environment (Protection) Act, 1986 recognizes noise as an ‘environment pollution’. The Air (Prevention and Control of Pollution) Act, 1981 (by amendment in 1987) defines air pollution to include noise S. 2(e).

**MEASUREMENT:**

The measure of noise is known as decibel. The zero on the decibel scale is at the threshold of hearing, the lowest sound pressure that can be heard. The noise quantum of some of the cities in our country is indicated as eg. Delhi 80db, Kolkata 87db, Bombay 85, Chennai 89db etc (acceptable noise level prescribed by WHO is less than 45db).

**SOURCES OF NOISE POLLUTION:**

The sources of noise pollution can be classified as Industrial and non-industrial sources. Industrial sources includes the noise coming from the industrial operations like boilers, machineries, foundries, flour mills, cutting machines etc. Non-industrial sources may be categorized as noise from Loudspeakers, Traffic (from automobiles), Trains, Aircrafts, Radio, microphones, mining activities, consumable products, festivals and celebrations, agricultural activities etc.

**EFFECTS OF NOISE POLLUTION:**

Although a soft rhythmic sound in the form of music and dance stimulates brain activities, removes boredom and fatigue, but its excessive may prove detrimental to living things. Researchers have proved that a loud noise during peak marketing hours creates tiredness,

irritation, deafness, loss of efficiency, speech interference, blood pressure, head ache and impairs brain activities so as to reduce thinking and working abilities.

**NOISE POLLUTION AND THE EXISTING LEGAL FRAMEWORK IN INDIA:**

Apart from the Environment (Protection) Act, 1986, Environment (Protection) Rules, 1986 and the Noise Pollution (Regulation and Control) Rules, 2000, the Constitution of India contains various provision relating to noise pollution (though not explicitly) under Fundamental Rights, Directive Principles of State Policies etc, the other enactments which provides for provisions pertaining to noise pollution are Criminal Procedure Code, 1973; Indian Penal Code, 1860; Law of Torts – Tort of Nuisance; Factories Act, 1946; Motor Vehicles Act, 1988 and Rules 119 and 120 of the Central Motor Vehicles Rules; and the Air (Prevention and Control of Pollution) Act, 1981.

The Environment (Protection) Act, 1986 mainly aims to protect and improve environment. S. 6 of the Act empowers the government to make rules to regulate environmental pollution including noise pollution. Accordingly, the Central Government has enacted the Environment (Protection) Rules 1986 which provides for the maximum allowable units of various environmental pollutants including noise. The Noise Pollution (Regulation and Control) Rules 2000 was framed by the Central Government under the provisions of the Environment (Protection) Act, 1986 read with Rule 5 of the Environment (Protection) Rules, 1986. The above rules aims to regulate and control noise producing and generating sources such as industries, construction activities, generator sets, loudspeakers, public address system, music system, vehicular horns and other mechanical devices which have deleterious effects on human health and the psychological well being of the people. It also aims to establish and maintain the ambient air quality standards in respect of noise as given under in its Schedule:

<b>Ambient Air Quality Standard</b>			
<b>Area Code</b>	<b>Category of Area/Zone</b>	<b>Limits in db(A)Leq*</b>	
		<b>Day Time</b>	<b>Night Time</b>
(A)	Industrial Area	75	70
(B)	Commercial Area	65	55
(C)	Residential Area	55	45
(D)	Silence Zone	50	40
*db(A)Leq: db - decibel; (A) – Frequency weighing in measurement of noise (human ear); Leq – an energy mean of the noise level over a specified period;			
Day time: between 6am and 10pm; Night time: between 10pm and 6am;			
Silence Zone: An area not less than 100 meters around any hospital, educational institutions and Court.			

Any person found violating provisions as to the maximum noise permissible in a particular area shall be held liable, subject to penalty under this Rules or any other law for the time being in force. The State Government is empowered to take relevant measures for abatement of noise.

### **ANALYSIS OF COURT ON ITS OWN MOTION v. STATE OF TRIPURA<sup>1</sup>:**

The case is concerned with grievance of some students in their letter addressed to the former Chief Justice about unauthorized use of loudspeakers at night affecting their studies. The Court took it as writ petition in the public interest. The Court observed that any noise having effect of materially interfering with the ordinary comforts of life judged by standard of a reasonable man to nuisance. The Court held that it is the duty of the State Government to ensure strict compliance with law in this regard. In no circumstance use of loudspeakers be permitted within Silence Zone i.e. radius of 100 meters from school, college, hospital, Court or office and issued directions accordingly. For this purpose the State Government is empowered to seizure of equipment causing noise pollution and for its release by the authorities. Also the District Magistrate of each district were directed to constitute a committee for periodical review whether directions are being enforced. The Committee shall meet at least twice in a year. The Court while disposing the writ further held that any violation of the directions shall invite contempt action from the Court. In deciding the above case the Court made reference to a) Noise Pollution (V), In re(2005) 5 SCC 733; b) Church of God (Full Gospel) in India Vs. K.K. R Majestic Colony Welfare Association [(2000) 7 SCC 282]

#### **➤ STATUTORY PROVISION CONSIDERED BY THE COURT:**

The Court made mention of the existing statutory provisions for control of noise pollution such as Criminal Procedure Code, 1973 – S. 133 etc (Public Nuisance); Indian Penal Code, 1860 – Chapter IV (S. 268 etc); Law of Torts – Tort of Nuisance; Factories Act, 1946 – S. 89&90 and Schedule III; Motor Vehicles Act, 1988 and Rules 119 and 120 of the Central Motor Vehicles Rules – power of the government to frame rules relating to reduction of noise emitted by vehicles; S. 2(e) of the Air (Prevention and Control of Pollution) Act, 1981. While deciding the case he Court considered relevant provisions of the Noise Pollution (Regulation and Control) Rules 2000 framed under the Environment (Protection) Act, 1986 which are as follows:

- Rule 3 lays down the ambient air quality standards in respect of noise for different areas or zones of industrial, commercial, residential or silence zones for the purpose of implementation of noise-standards for different areas. But until this PIL was filed no notification existed in the State of Tripura in terms of Rule 3.
- Sub-rule (3) of Rule 3 casts a duty upon the State Government to take measures for combating of noise including the noise emanating from vehicular movements, blowing of horns, bursting of sound emitting from fire crackers, use of loud speakers or public address system or sound producing instruments.
- Sub-rule (4) of Rule 3 casts a duty upon all development authorities, local bodies and other concerned authorities while planning the development activities to ensure that the noise levels are maintained as prescribed under the rules.

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<sup>1</sup> 2016 (6) FLT 723 (TRI, H.C.)

- Sub-rule (5) of Rule 3 prescribes that an area comprising not less than 100 meters around any hospital, educational institutions and Court may be declared as silence area/zone for the purpose of these rules.

➤ **CASES REFERRED:**

**A) Noise Pollution (V), In re<sup>2</sup>:**

In this case, the apex Court observed that the right to life enshrined in Article 21 is not the mere survival or existence. It guarantees a right of persons to life with human dignity. Anyone who wishes to live in peace, comfort and quiet within his house has a right to prevent the noise as pollutant reaching him. The Court further observed that while one has a right to speech, others have a right to listen or decline to listen. Hence nobody can claim fundamental right to create noise by amplifying the sound of his speech with the help of loudspeakers. If anyone increases his volume of speech and that too with the assistance or artificial devices so as to compulsorily expose unwilling persons to hear as noise raised to unpleasant or obnoxious levels than the person speaking is violating the right of others to a peaceful, comfortable and pollution-free life guaranteed by Article 21.

The Court analyzed the various consequences of noise on human health as hereunder. Noise is more than just a nuisance. It constitutes a real and present danger to people's health. Noise has both auditory and non-auditory effects depending upon the intensity and the duration of the noise level. It affects sleep, hearing, communication, mental and physical health, sometimes may lead to madness. Noise can disturb our work, rest, sleep and communication. However, because of complexity, variability and the interaction of noise with other environmental factors, the adverse health effects of noise do not lend themselves to a straightforward analysis.

The Court further observed inadequacy of existing relevant Indian statutes and rules to deal with all the problems and issues related to noise pollution. The Court opined the requirement of one simple but specific and detailed legislation dealing with the several aspects referable to noise pollution and providing measures of control therefore. Also opined that for an effective implementation of noise pollution prevention programme, it is essential that such a method be devised whose enforcement shall not be problematic.

**B) Church of God (Full Gospel) in India v. K.K.R. Majestic Colony Welfare Association<sup>3</sup> ((2000) 7 SCC 282):**

The apex Court held that the noise pollution rules would apply even if such noise was a direct result of and was connected with religious activity. The Court observed that undisputedly, no religion prescribes that prayers to be performed by disturbing the peace of others nor does it preach that they should be through voice amplifiers or beating of drums. In this case, the Court further opined that in a civilized society in the name of religion, activities which disturb old or

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<sup>2</sup> (2005) 5 SCC 733

<sup>3</sup> (2000) 7 SCC 282

infirm persons, students or children having their sleep in the early hours or during daytime or other persons carrying on other activities cannot be permitted. The Court stressed the need to honour the rights of aged, sick, people afflicted with psychic disturbances as well as children up to 6 years of age as they are considered to be very sensitive to noise.

After visiting the entire gamut of law, the apex Court issued the following directions:

1. Firecrackers:
  - 1.1. Evaluation of firecrackers to be done on the basis of chemical composition unless and until replaced by a better system.
  - 1.2. The Department of Explosive (DOE) shall undertake necessary research activity for the purpose and come out with the chemical formula for each type or category or class of firecrackers. DOE may divide the firecrackers into two categories such as sound-emitting firecrackers and colour or light emitting firecrackers.
  - 1.3. Complete ban on bursting sound-emitting firecrackers between 10p.m. and 6a.m.
  - 1.4. Every manufacturer shall mention the details of its chemical contents on the box of each firecracker and also mention that it satisfies the requirement as laid down by DOE, in the event of failure to observe this direction, the manufacturer shall be held liable.
  - 1.5. Firecrackers for the purpose of export may be manufactured bearing higher noise levels subject to certain conditions.
2. Loudspeakers:
  - 2.1. The noise level at the boundary of the public place, where loudspeaker or public address system or any other noise source is being used shall not exceed 10dB(A) above the ambient noise standards for the area of 75dB(A).
  - 2.2. No one shall beat a drum or tom-tom or blow a trumpet or beat or sound any instrument or use any sound amplifier at night (between 10p.m. and 6a.m. except in public emergencies).
3. Vehicular Noise:
  - 3.1. No horn should be allowed to be used at night (between 10p.m. and 6a.m.) in residential area except in exceptional circumstances.
4. Awareness:
  - 4.1. There is a need for creating general awareness towards the hazardous effects of noise pollution like arranging special talks or lectures in schools and colleges, including suitable chapters in curriculum of early level education, thereby highlight the menace of noise pollution and role of children as younger generation to prevent noise pollution. Police and civil administration to be trained adequately to curb the problem.
  - 4.2. The State must play an active role in this process.
  - 4.3. Special public awareness campaigns in anticipation of festivals, events and ceremonial occasions to prevent noise pollution.
5. Generally:

- 5.1. The States shall make provision for seizure and confiscation of loudspeakers, amplifiers and such other equipment as are found to be creating noise beyond the permissible limits.
- 5.2. The Central and State Governments shall take necessary steps for laying down the standards of ambient air-quality standards under the provisions of Rule 3 of Noise Pollution (Regulation and Control) Rules, 2000 and notify it.

➤ **DIRECTIONS OF THE COURT:**

The Court gave the following directions in **Court on Its Own Motion v. State Of Tripura**:

- Until this PIL was filed no notification existed in the State of Tripura in terms of Rule 3, hence the Court directed the District Magistrate to ensure widespread publicity to the noise pollution rules and the notification.
- Also in this regard the Court directed the local TV channels to disseminate information as part of Corporate Social Responsibility.
- Further the State was directed to ensure that adequate steps are taken to ensure that there is no violation of the Rule 119 (which prohibits the use of multi-toned horns or any other sound producing device which gives unduly harsh, shrill, loud or alarming noise) of the Central Motor Vehicles Rules, 1989.
- The District Magistrates and the Superintendent of Police to ensure that no vehicle in State of Tripura ply with huge sound boxes and playing music at very high decibel levels (as observed by the Court in this case) and if such vehicles are found to take necessary penal action and even seize such vehicles.
- The Court further directed that in no circumstances will loudspeakers or other sound making instruments be permitted within a radius of 100 meters aerial distance from any school, college, government hospitals, Courts or office (Silence Zones). In this regard, until Rules are framed the authority shall take stern action also to cause seizure of the equipment; such seized equipment shall not be released without obtaining orders of the concerned Magistrate. Provided the Magistrate shall release the seized equipment only after obtaining an affidavit to comply with law in future.
- Further the Court directed the District Magistrate of each district to constitute a committee for periodical review to see whether the directions are being followed.
- In case of any violation of these directions by the District Magistrate, the Superintendent of Police or other authorities in this regard, shall invite the contempt action from the said Court and any citizen may approach the Court for this purpose naming the person who is responsible for such violation. In this regard, the Chief Secretary shall also oversee that the committees and the concerned authorities function in terms with this judgment.

**CONCLUSION:**

The above said cases bring an opportunity to analyze the problem of noise pollution in India. Although there are various laws and rules to control the menace of noise pollution in practice

they prove to be weak. In the above cases, the Courts have remarked that there is inadequacy of existing statutes and rules in India to deal with noise pollution, which means that there is a need for comprehensive legislation to deal with it. Apart from legislations and effective implementation by authorities, there is a need for promoting civic sense among public not to disturb the rights of others. In Church of God case, the Court then rightly remarked 'one fundamental right of a person may have to co-exist in harmony with the exercise of another fundamental right by others', which if realized will solve the entire problem.