

Case No. 2741/4//26/2022

ORDER

15/5/03-06-2022

This proceeding is initiated on an application received from a 72 years old person, drawing attention of the State Commission towards noise pollution and traffic problems created by a marriage hall “PrakashVatikaShaadiBhawan”, Barh which is situated on a densely populated area and that too on a 10-12 feet wide road. He has also drawn attention towards throwing of garbage on the road which is becoming a health hazard and parking of vehicles, causing road blockage, and also much inconvenience to the public of the area.

He has also drawn attention towards indiscriminate playing of loudspeakers, DJ, amplifier and other electrical gadgets, causing noise pollution and also forcing the children to have sleepless nights, harming their education and also causing mental torture to old and sick person especially his 66 years old wife, you have become mentally sick due to noise pollution created by marriage hall. The applicant also complained that in spite of complaint to the DM, SSP, Rural SP and officer-in-charge, no action has been taken on his application.

The State Commission is also aware of noise pollution, traffic problems created by running of marriage halls in densely populated residential area and even on 10-12 feet wide road. Loudspeaker, D.J, and other electrical gadgets are played in full volume even till late night, barat processions are allowed on road, causing traffic problems and inconvenience to public in general. We are not aware as to whether any permission are sought from any Government Agency for running of the marriage hall, playing of loudspeaker, D.J etc. and controlling of sound by any Government Agency. Due to that public in general is suffering and feeling much inconvenience.

The problem of noise pollution created by playing of loudspeakers, DJ Mic, amplifier and other sources were under consideration before

Hon'ble Supreme court in case of "Restricting Use of Loudspeaker vs. Union of India". Hon'ble Supreme Court considered the scope of Article 19, 21, 25 of the Constitution of India, several judicial pronouncements in this regard and law prevailing in US, UK and Republic of China apart from others and is of the following view:-

"Not only the use of loudspeakers and playing of hi-fi amplifier system has to be regulated, even the playing of high sound instruments like drums, tom-toms, trumpets, bugles and the like which create noise beyond tolerable limits need to be regulated. The law enforcing agencies must be equipped with necessary instruments and facilities out of which sound level meters conforming to the Bureau of Indian Standards (BIS) code are a bare necessity. It is also of the view that loudspeakers and amplifiers or other equipment or gadgets which produce offending noise once detected, as violating the law, should be liable to be seized and confiscated by making provisions of law in that behalf.

Hon'ble Supreme Court has also issued several directions so far as the use of loudspeaker and other gadgets are involved. They are as follows :-

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 10 db (A) above the ambient noise standards for the area or 75 db (A) whichever is lower.
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 10pm and 6am) except in public emergencies.
3. The peripheral noise level of privately owned sound system shall not exceed by more than 5 db (A) than the ambient air quality standard specified for the area in which it is used, at the boundary of the private place.

Hon'ble Supreme Court is also of the view that there is need for creating general awareness towards hazardous effects of noise pollution. General directions were also issued to the states to make provision for seizure and confiscation of loudspeakers, amplifiers and such other equipment as are found to be creating noise beyond permissible limits. Apart from the other directions of Hon'ble Apex Court, of Central Government / State Governments shall take the steps for laying down such standards as per Rule 3 of Noise Pollution (Regulation and Control) Rules 2000 and notifying the authorities where it has not already been done.

It is relevant to mention here that to regulate the Noise / sound pollution, the Central Government has framed the Noise Pollution (Regulation and Control) Rules 2000 here in after to be referred as Noise Control Rules, 2000 and above Rules provide as follows:-

1. The State Government may categorize the areas into industrial, commercial, residential or silence areas / zones for the purpose of implementation of noise standards for different areas.
2. The ambient air quality standard in respect of noise for different areas / zones has been specified for in the Scheduled annexed to the Rules.
3. The State Government shall take measures for abatement of noise including noise emanating from vehicular movements and ensure that the existing noise levels do not exceed the ambient air quality standards specified under these rules.
4. An area comprising not less than 100 meters around hospitals, educational institutions and courts may be declared as silence area / zone for the purpose of these rules.
5. A loudspeaker or a public address system shall not be used except after obtaining written permission from the authority and the same shall not be used at night i.e. between 10 p.m. and 6 a.m.

6. A person found violating the provisions as to the maximum noise permissible in any particular area shall be liable to be punished for it as per the provisions of these rules and any other law in force.

The judgment of the Hon'ble Apex Court made it clear that under IPC noise pollution can be dealt under sections 268, 290 and 291 of IPC and a Magistrate has power to make conditional order requiring person causing nuisance to remove such nuisance under section 133 of criminal procedure code. It also appears that later on Rule 5 of the above rules has been amended which has come into force with effect from 14th February 2000 which reads as under Rule 5. Restrictions on the use of loud speakers / public address system:-

1. A loudspeaker or a public address system shall not be used except after obtaining written permission from the authority.
2. A loudspeaker or a public address system shall not be used at night (between 10 p.m. to 6 a.m.) except in closed premises for communication within e.g. auditoria, conference rooms, community halls and banquet halls.
3. Notwithstanding anything contained in sub rule (2), the State Government may, subject to such term and conditions as are necessary to reduce noise pollution, permit use of loud speakers or public address system during night hours (between 10 p.m. to 12 midnight) on or during any cultural or religious festive occasion of a limited duration not exceeding fifteen days in all during a calendar year.

The above amendments have been challenged before the Hon'ble Apex Court in case of "Forum, Prevention of Environment and Sound pollution Vs. Union of India and others". The Hon'ble Apex Court has passed the following order:-

"The above said passage appeals to us and in our opinion very correctly states the factual; position as to the objective of several religions and their underlying logic.

Looking at the diversity and cultures in India, we think that a limited power of exemption from the operation of the Noise Rules granted by the Central Government in exercise of its statutory power cannot be held to be unreasonable. The power to grant exemption is conferred upon the State Government. It cannot be further delegated. The power shall be exercised by reference to the State as a unit and not by reference to districts, so as to specify different dates for different districts. It can be reasonably expected that the State Government would exercise the power with due care and caution and in public interest. However, we make it clear that the scope of the exemption cannot be widened either by increasing the number of the days or by increasing the duration beyond two hours. If that is attempted to be done, then the said sub rule(3) conferring power to grant exemption may be liable to be struck down as violative of Article 14 and 21 of the Constitution. We also make it clear that the State Government should generally specify in advance, the number and particulars of the days on which such exemption will be operative. Such specification would exclude arbitrariness in the exercise of the power. The exemption, when granted shall not apply to silence zone areas. This is only as clarification as, this even otherwise, is the position of law.

Before parting, we would like to clarify further that we may not be understood as diluting in any manner our holding in Noise Pollution (V), in Re. (supra). We are also not granting any exemption or relaxation in favour of anyone by our verdict. We are only upholding the constitutional validity of the Noise Rule framed by the Central Government in exercise of its statutory powers.”

Considering the discussions made above it is clear that there are enough provisions under Noise Control Rules 2000 to control, regulate noise / sound pollution by use of loud speakers, DJ, mic and other gadgets.

1. It provides that the State Government shall ensure that existing noise levels do not exceed the ambient air quality standards specified under the Noise Control Rules, 2000.
2. There are also provisions that in area comprising not less than 100 meters near Hospitals, Educational Institutions and Courts may be declared as silence area or zone.
3. It is also provided that loudspeaker, public address systems etc. shall not be used except after obtaining written permission of the authority and the same shall not be used at the night between 10 p.m. to 6 a.m. which later on extended till 12 p.m. by an amendment in Rule 5.

There are directions of Hon'ble Supreme Court also, as discussed above for regulating noise / sound pollution by use of loudspeaker, D.J., amplifiers etc. It is also relevant to mention here that in the garb of protecting right of a person of free speech and expression, right of citizens in general cannot be curtailed and they cannot be put into inconvenience. State has to keep a balance between rights of citizens.

- I. However, it seems that no effective system has been developed for regulating noise pollution nor it appears that marriage halls are obtaining permission from District administration or any other competent authority for use of loud speaker, DJ, public address system and other electrical gadgets during marriage nor it appear that any permission has been sought for the use of the DJ and other gadgets during Baraat procession. It is also not clear that whether any competent authority have been declared under Noise Control Rules, 2000 to regulate the use of loudspeakers or other gadgets during marriage and baraat processions.
- II. Similarly, there are mushroom growth of marriage halls in densely populated residential area even in narrow lanes, causing much annoyance and traffic problems for general public but it is also not clear that prior to running a marriage hall permission have been taken from a competent authority, especially in densely populated area and in narrow

road. It is also not clear whether there is any regulation for establishment/running of marriage hall and who is the competent authority to grant permission and what are the conditions precedent for grant of permission. Whether license or permission can be granted to a marriage hall without having a sufficient space for parking.

Above queries has to be clarified by the state.

In view of the discussions made above so far point no. I, regarding question of regulating the use of noise pollution due to the use of loudspeakers, DJ, amplifier etc during marriage in marriage halls and baraat procession, and who is the regulating authority for strict compliance of Noise Control Rules 2000, who is the competent authority to grant permission. Addl. Chief Secretary, Home Government of Bihar is requested to submit a detailed report by next date.

So far question of issuance of license/permission to marriage hall as discussed in point no. II, who is the competent authority, what are the conditions precedent, granting license/permission it's compliance and as to whether "PrakashVatikaShadiBhawan" Barh has a valid license, on all those points, DM, Patna is directed to submit a detailed report by next date.

Put up on 04-08-2022 for submission of reports and for further action.

(Justice Vinod Kumar Sinha, Retd.)
Chairperson