

**BEFORE THE NATIONAL GREEN TRIBUNAL  
(WESTERN ZONE) BENCH, PUNE  
MISC. APPLICATION No. 202/2013**

**CORAM:**

**Hon'ble Shri Justice V.R. Kingaonkar  
(Judicial Member)**

**Hon'ble Dr. Ajay.A.Deshpande  
(Expert Member)**

**B E T W E E N:**

**Dileep B. Nevatia**

Shashi Deep, 5-A, Worli Sea Face,  
Mumbai-400030.

....Applicant

**A N D**

- 1. State of Maharashtra,**  
Through its Chief Secretary, Mantralaya,  
Mumbai-400023.
- 2. Maharashtra Pollution Control Board**  
Through its Member Secretary  
Kalpatru Point, 3<sup>rd</sup> & 4<sup>th</sup> Floor,  
Sion Matunga Road, No.8  
Sion Circle, Sion (East), Mumbai-400026.
- 3. The Transport Commissioner**  
Government of Maharashtra  
Administrative Building, 4<sup>th</sup> Floor,  
Bandra East, Mumbai-400 051
- 4. Director General of Police**  
Maharashtra Police Headquarters  
Opposite Museum  
Mumbai-400001.
- 5. Union of India**  
Through the Secretary,  
Ministry of Environment & Forests,  
ParyavaranBhawan, CGO Complex,  
Lodhi Road, New Delhi-110002.

.....Respondents

**Counsel for Applicant**

Mr. Ritwick Dutta

Ms. Parul Gupta

**Counsel for Respondent(s):**

Mr. D.M.Gupte for R- 1 & 2.

Mr.Pravesh Thakur for Mr. Mukesh Verma

Adv.for Respondent Nos.2 and 3.

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**Date:11<sup>th</sup> October, 2013**

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**J U D G M E N T**

1. By this Application, the original Applicant, seeks indulgence of this Tribunal, under Sections 26 and 28 of the National Green Tribunal Act, 2010, (for short, 'NGT Act'), particularly, against the Secretary, Ministry of Road Transport and Highways and the Director General of Police (DGP), Maharashtra. His contention, inter alia, is that both these Authorities have failed to comply with the order passed by this Tribunal in the Original Application No.36 of 2011. In other words, the present Application is for implementation of the final order dated 9<sup>th</sup> January, 2013, passed by the National Green Tribunal (Principal Bench), New Delhi, in the Original Application No.36 of 2011.

2. It is not necessary to elaborately set out the pleadings of the parties. Suffice it to say that the Applicant pointed out that by order dated 9<sup>th</sup> January, 2013, the National Green Tribunal, (Principal Bench), Delhi, gave certain directions, while deciding Original Application No.36 of 2011. Those directions were as follows:

- (i) We direct the Ministry of Road Transport & Highways to notify the standards for sirens and multi-toned horns used by different vehicles either under Government duty or otherwise within a period of 3 months hence.
- (ii) Based upon the standards to be prescribed by the Ministry of Road Transport and Highways, Government of India, the State of Maharashtra and the Transport Commissioner, Government of Maharashtra, Respondent Nos. 1 and 3 respectively will take adequate step to notify the standards for sirens and multi-toned horns for different zone, within a period of one month from the date of the notification.
- (iii) The Transport Commissioner, Government of Maharashtra, is also directed to ensure the number of vehicles installed sirens and multi-toned sirens are limited to the bare minimum so as to comply with ambient air quality standards as specified in the Noise Pollution (Regulation & Control) Rules, 2000.
- (iv) The Police Commissioner of Maharashtra is also directed to ensure that no private vehicle should be allowed to use sirens or multi-toned horns in residential and silent zones and in the vicinity of educational institutions, hospitals

and other sensitive areas and also during night except emergencies and under exceptional circumstances. The Police Commissioner shall further ensure and take precaution to the effect that the residents and residential areas are not affected by indiscriminate use of loud speaker during night time in other words the use of loudspeaker should be strictly restricted to the prevailing Rules and Regulations.

3. According to the Applicant, the directions enumerated as above, have not been implemented by the Authorities, and, therefore, they are liable for penal action, as per Section 26 read with Section 28 of the National Green Tribunal Act, 2010. He made inquiry by filing Applications under the Right to Information (RTI) Act, 2005. The Ministry of Road Transport and Highways (MoRTH), informed him that the said Ministry was not impleaded as party in the Original Application No.36 of 2011, and hence, it had no legal obligation to comply with said directions. The MoRTH, averred that no steps were taken to comply with the directions indicated as Direction No.(i), because it was not a party to the Original Application No.36 of 2011, and was not informed by the National Green Tribunal, to take such steps. The Applicant has filed relevant communication dated 7-2-2013, issued by the MoRTH. He alleges that the MoRTH, has not issued any Notification, nor even draft Notification, has not been put on the website of the said Ministry.

So also, the Director General of Police, Maharashtra, has not complied with the direction No.(iv), as enumerated above.

4. The under Secretary of the MoRTH, has filed reply affidavit. It is pointed out that the MoRTH, was not given any opportunity for hearing and filing of the reply to the Original Application No.36 of 2011. Nor the copy of Judgment dated 9<sup>th</sup> January, 2013, was served on the MoRTH. It was only after the Application dated 21<sup>st</sup> January, 2013, was filed by the Applicant under the provisions of the RTI Act,2005 that the MoRTH gained knowledge about such directions passed by the National Green Tribunal. According to the MoRTH, Rule 119(2) of the Central Motor Vehicles Rules, 1989, provides for standards of sound signals, which are required to be approved and prescribed by the 'State Registering Authority' (SRA). So, it is within domain of the 'State Registering Authority' to approve the standards of sirens under Rule 119(3) of the Central Motor Vehicles Rules, 1989. The MoRTH, has clarified that the horns to be fitted in the Motor Vehicles, are already prescribed in Notification, as per Rule 119(2) of the Central Motor Vehicles Rules, 1989, in order to secure compliance of the provisions of the Noise Pollution (Regulation and Control) Rules, 2000. Thus, MoRTH, submits that it is not liable to any penal action for non-compliance of the directions issued by the National Green Tribunal (Principal Bench), Delhi and hence, sought dismissal of the Application.

5. The reply affidavit filed by the Respondent No.3, reveals that although, Rule 119(2) of the Central Motor Vehicles Rules,



1989, does not permit use of multi-toned horns giving a succession of different notes or with any other sound producing device, yet, Sub-Rule (3), thereof, permits use of multi-toned horns/sirens, which may be fitted on ambulance, firefighting vehicles, or vehicles used by the Police Officers etc. The Respondent No.3, further submits that the Government of India (GoI), was requested to carry out amendment in Sub-Rule (3), by fixing of standards of sound signals. A communication dated 10-3-2011, was sent for such purpose to the Secretary, GoI, the Ministry of Shipping, Road Transport and Highways. However, no such standards have been specified in Sub-Rule(3), for the standards of sound emanating from sirens fitted in the vehicles, as permitted under Sub-Rule (3) of Rule 119. It is further submitted that it will be practically difficult to measure the specific sound levels of sirens and other equipments, because such vehicles are moving. The implementation of directions issued by the Tribunal is, therefore, said to be impracticable.

6. No reply is filed by the Maharashtra Pollution Control Board (MPCB) and the MoEF. Of course, the directions were not given to the MoEF in particular, as well as to the MPCB as such. They have not presumably filed reply affidavits due to lack of such directions against them.

7. We have heard Learned Counsel Shri. Ritwick Dutta for the Applicant, Shri. D.M.Gupte for MPCB and Deputy Transport Commissioner, Maharashtra State in person. We have also gone through the affidavit filed by Smt. Dharkar R. Luikang, under Secretary attached to MoRTH.

8. Before we proceed to consider the rival submissions and the pleadings of the parties, it is important to note that the MoRTH, was not a party to the Original Application No.36 of 2011, that has been decided by the National Green Tribunal (Principal Bench), New Delhi. According to the Applicant, since UoI, through the Secretary of MoEF, was made a party, it was not necessary to separately add the MoRTH, as a party to the Original Application. We find it difficult to countenance this argument advanced on behalf of the Applicant. There are several Ministries working separately and independently under the umbrella of Central Government (UoI). It follows that responsibility is required to be fixed, in accordance with the subject, which falls within ambit of work of a particular Ministry. In absence of the MoRTH, as a party to the Original Application No.36 of 2011, it is difficult to say that there is willful non-compliance of the direction No.(i), which is issued by the National Green Tribunal, while deciding the Original Application No.36 of 2011. The MoRTH, was not required to issue Notification about standards of sound levels for sirens/multi-toned horns, used by the different vehicles under the government duty or otherwise. There is no escape from conclusion that such penal action will not be appropriate as against the MoRTH.

9. So far as the Director General of Police is concerned, when no standards have been prescribed for noise, in the context of the sirens/multi-toned horns, it is difficult to say that the Director General of Police, has intentionally failed to comply with the direction No.(iv), as enumerated above. Still, however, it was

expected from the Director General of Police to give response to the Application, with a view to examine as to what steps have been taken for the purpose of appropriate zoning of the areas in which such sirens or multi-toned horns could be prohibited and the silence hours also are required to be fixed.

10. We have been informed by Mr. Gupte, Learned Counsel for MPCB, that the Hon'ble High Court of Bombay, has given certain directions in the context of noise levels and zoning of the areas for implementation of ambient quality of noise. He has, however, failed to produce copy of such Judgment, as per the order dated 27<sup>th</sup> September, 2013. Obviously, we are unable to see the nature of such directions issues by the Hon'ble High Court of Bombay, and do not know the text thereof.

11. Coming to the question of fixing the standards of sirens and multi-toned horns fitted in the different vehicles, which fall within the category of Sub-Rule (3) of Rule 119 of the Central Motor Vehicles Rules, 1989, it is important to note that sound signals (levels) are required to be approved by the 'Registering Authority', in whose jurisdiction such vehicles are kept. We may reproduce Rule 119 (3) of the Central Motor Vehicles Rules, 1989.

Sub-Rule (3) reads as follows:

Rule 119: Horns:

- |     |     |     |     |     |
|-----|-----|-----|-----|-----|
| (1) | xxx | xxx | xxx | xxx |
| (2) | xxx | xxx | xxx | xxx |

(3) Nothing contained in sub-rule (2) shall prevent the use on vehicles used as ambulance, firefighting



or salvage purposes or on vehicles (used by police officers or operators of construction equipment vehicles or officers of the Motor Vehicles Department)(in course of their duties, or on construction equipment vehicles) of such sound signals as may be approved by the Registering Authority in whose jurisdiction such vehicles are kept.

(Emphasis Supplied)

12. A plain reading of Sub-Rule (3), would make it amply clear that the standards for sirens and multi-toned horns, are required to be approved by 'Registering Authority' of the concerned State. It goes without saying that the standards for sirens and multi-toned horns, ought to be specified and approved by the 'Registering Authority' i.e. the Transport Commissioner, Govt. of Maharashtra. It is the version of Additional Commissioner of Transport Authority of State that GoI was requested to issue amendment in Sub-Rule (3) of the Central Motor Vehicles Rules, 1989, vide letter dated 10-3-2011, and 13-9-2013 Still, however, no such amendment is effected. It is admitted, however, that by its nature, a simple horn is supposed to give temporary short duration warning, while siren or multi-toned horn, is supposed to give warning over a longer period of time and distance, by giving a succession of different notes.

13. There is no dispute about the fact that the use of sirens and multi-toned horns, will create a harsh, jarring and shrilling

sounds that may cover longer distance and may have somewhat deafening effect on the listeners. Most of them are the pedestrians or the inhabitants of roadside premises. By way of little diversion from the issue of liability for fixing of standards, it may be said that “Siren sounds are intended to alert the public that emergency vehicle is nearby and responding to an emergency. These sounds should be recognized as the call for the ‘right-of-way’ of the vehicle.”

14. Internationally, there has been significant work done on this subject. Some of the important documents, which specify test methods, performance requirements including noise emission standards and an installation practices for emergency siren vehicles are:

- (1) Section 3.14.6 of the Federal Specification KKK – A 1822 for Ambulance, produced by US General Services Administration (GSA)
- (2) Title 13, Article 8 of California Code of Regulations (CCR), produced by the California Highway Patrol (CHP)
- (3) ‘Emergency Vehicles Siren’ SAE J1849 2012, produced by the Society of Automobile Engineers (SAE),
- (4) Guide to Test Method specification requirements and Installation of practices for Electronic siren used on law enforcing vehicles, NIJ Code 500-00 by the National Institute of Justice, US Department of Justice.”

“The GSA document is comprehensive specification that describes Ambulance Authority to display ‘Star of Life’ system, ‘the minimum specifications, test parameter and essential criteria for

Ambulance design, performance, equipment and appearance are established in order to provide practical degree of standardization.

The California High Way Patrol developed the California Code of Regulation, Title 13 over many years. This document provides test methods and performance requirements that are still widely recommended in the Emergency Vehicle Siren Industry.

Society of Automobile Engineers J1849 document, is also a comprehensive document, which is currently active, deals with the specification for siren systems.

There are several other source studies on the noise pollution and particularly sound levels due to use of siren and similar noise emanating equipments used by emergency vehicles.

15. This takes us to the question of legal responsibility of the concerned 'Authority' to fix the norms of sound decibels that can be determined for the purpose of sirens and multi-toned horns. We find that the Respondents, including the MoRTH, have no uniform opinion about the 'Authority', which should fix such standards. We may point out that fixation of standards for ambient sound levels or the sound of regular horns, is quite different from that of fixing of the standards of sound levels and the horns and that also, by fixing certain zones and particular hours for use of such sirens/multi-toned horns, fitted to the vehicles, which come within ambit of Rule 119 (3) of the Central Motor Vehicles Rules, 1989. An approval of such standards by the 'Registering Authority of the State' in whose jurisdiction such vehicles are kept, is necessary. It goes without saying that standards are required to be approved by the 'State

Registering Authority', within territory of which such vehicles fitted with sirens/multi-toned horns are used. One cannot be oblivious of the fact that 'State Registering Authorities' are responsible for registration of the vehicles in the State. The Transport Officer, has to verify various things viz; whether the number plate is appropriately fixed, whether the vehicle is fitted with proper horn, or it is fitted with the horn of different nature, or tuning for reverse direction or forward direction, as the case may be. It is for such a reason that the 'Road Transport Authority' (RTO) , is assigned duty to ensure whether the sirens or multi-toned horns, are appropriately fitted only on the vehicles, which fall within category of Sub-rule (3) of Rule 119 of the Central Motor Vehicles Rules, 1989. The RTO, cannot allow sirens, which have shrilling effect and exceeds the decibels, than beyond prescribed approved limits.

16. Significantly, 'Noise' is included in the definition of "air pollutant", under Section 2(a) of the Air (Prevention & Control of Pollution) Act, 1981. The State Pollution Control Board (MPCB), is duty bound to control the air pollution, within territory of the State. The special enactment, namely, Air (Prevention & Control of Pollution) Act, 1981, has set out different functions of the State Board, under Section 17. It would be useful to reproduce the relevant part of Section 17 as follows:

"Section 17- Functions of State Boards--

(1) subject to the provisions of this Act, and without prejudice to the performance of its functions, if any, under the Water (Prevention and Control of Pollution)

Act, 1974 (Act 6 of 1974), the functions of a State Board shall be:-

(a) to plan a comprehensive programme for the prevention, control or abatement of air pollution and to secure the execution thereof-

- |     |     |     |     |     |
|-----|-----|-----|-----|-----|
| (b) | xxx | xxx | xxx | xxx |
| (c) | xxx | xxx | xxx | xxx |
| (d) | xxx | xxx | xxx | xxx |
| (e) | xxx | xxx | xxx | xxx |
| (f) | xxx | xxx | xxx | xxx |

(g) to lay down, in consultation with the Central Board and having regard to the standards for the quality of air laid down by the Central Board, standards for emission of air pollutions into the atmosphere from industrial plants and automobiles or for the discharge of any air pollution into the atmosphere from any other source whatsoever not being a ship or an aircraft:

Provided that different standards for emission may be laid down under this clause for different industrial plants having regard to the quantity and composition of emission of air pollutions into the atmosphere from such industrial plants.

- |     |     |     |     |     |
|-----|-----|-----|-----|-----|
| (h) | xxx | xxx | xxx | xxx |
| (i) | xxx | xxx | xxx | xxx |
| (j) | xxx | xxx | xxx | xxx |

17. So also, the State Government may declare air pollution and control areas, under Section 19 of the said Act. It is worthwhile to mention here that proviso appended to Sub-Rule (g) of Section 17, relates to only the standards pertaining to emission



of air pollutants from different industrial plants. The proviso is not for the purpose of emission of air pollutants from automobiles. The only deductible conclusion is that the State Pollution Control Board (MPCB), is required to fix the standards for quality of air pollution, discharged from the automobiles, in consultation with the Central Pollution Control Board (CPCB). What appears from the record is that the MPCB, has not taken such steps. In our opinion, the directions given by the National Green Tribunal, while deciding the Original Application No.36 of 2011, are required to be modified, in keeping with the provisions of the Noise Pollution (Regulation and Control ) Rules, 2000, the Central Motor Vehicles Rules, 1989, and the relevant provisions of the Air (Prevention & Control of Pollution) Act,1981. The settled legal position is that the provisions contained in the special enactment, will prevail over the general provisions and also the Rules. Consequently, we hold that the MPCB, is required to fix the standards in consultation with the CPCB, as per Section 17 (g) of the Air (Prevention & Control of Pollution) Act, 1981. Though the present Application is for taking steps to implement the earlier directions, yet, we are of the opinion that those directions require modification by way of clarification.

18. We make it clear that we are not reviewing the Judgment rendered by the Hon'ble Bench, in the Original Application No.36 of 2011, on merits thereof. We intend to modify the directions with a view to bring about clarity for the purpose of fixing liability and accountability, in order to specify the standards for sirens and multi-toned horns. The Hon'ble Bench in the Judgment dated 9<sup>th</sup>

January, 2012, ( In Original Application No.36 of 2011), observed in paragraph No.9, that

*“constant use of sirens and multi-tone horns much above noise standards under the provisions of the Noise Pollution (Regulation & Control) Rules, 2000 causes the immense hardship to common people and also poses serious affects on human health and as such there is urgent necessity to evolve source specific standards for sirens and multi-tone sirens used in different vehicles. “*

19. We have perused the Noise Pollution (Regulation & Control) Rules, 2000. These Rules deal with ambient air quality standards, in respect of noise for different areas/zones, responsibility as to enforcement of noise pollution control measures, restrictions on use of horns, sound emitting construction equipments and bursting of firecrackers. Still, however, those Rules do not prescribe the standards for noise in the context of sirens and multi-toned horns. As per Rule-4, the State Government, is under obligation to maintain the standards of ambient air quality in respect of noise. Beyond such kind of accountability of the State Government, the Rules do not give further directive to determine the standards for noise level qua sirens and multi-toned horns. It is for such reasons that the directions given by the Hon'ble Bench by this Tribunal, are required to be appropriately moulded and modified for the purpose of clarity.

20. Considering cumulative effect of foregoing discussion, we deem it proper to disallow the Application for taking action under

Sections 26 and 28 of the National Green Tribunal Act, 2010, as prayed for. We make it explicit that necessary action will be taken in case of non-compliance of the directions, which are now being modified as enumerated herein below:

1. We direct the Maharashtra Pollution Control Board (MPCB), to prescribe noise standards for use of sirens and multi-toned horns, in consultation with the Central Pollution Control Board (CPCB), as required under Section 17(g) of the Air (Prevention & Control of Pollution) Act, 1981. The prescribed standards shall be so fixed on the basis of area-wise requirement and time-wise use of the sirens. The minimum level of noise required be fixed only with a view to give alarm to the vehicles and public members on the road and to avoid any annoyance, due to excessive noise, which may unnecessarily cause nuisance to the residents of the residential buildings/colonies, situated on either side of the road. This entire exercise shall be completed in four (4) months. If required, the MoEF may take appropriate steps for fixing of such standards for all the States.
2. The prescribed standards so fixed by the MPCB, in consultation with the CPCB, shall be communicated to the Transport Commissioner, State of Maharashtra and with the approval of competent Authority (Transport Commissioner), the same shall be communicated to all the Sirens and Multi-toned Horns Manufacturing

Authorities and the 'Registering Authority' in the State of Maharashtra, and to all the concerned Authorities, who are required to implement the Law. such as, Police Authorities at each place, through the Director General of Police. This exercise shall be completed within a period of four (4) months.

3. The Police Authorities as well as the Regional Transport Officers (RTOs), shall ensure due compliance of the use of sirens and multi-toned horns, which shall be so used, as per the prescribed standards. In any case, the sirens/multi-toned horns, which will produce any sound in excess of the prescribed limits, shall be liable to be removed from the concerned vehicle and the owner/user/public authority, under which such vehicle is used, shall be appropriately dealt with for committing breach of the directions as required under various Laws, including Air (Prevention & Control of Pollution) Act, 1981, or under Section 188 of the Indian Penal Code, so on and so forth.
4. We further direct that use of the Government vehicles installed with sirens and multi-toned horns, shall not be allowed to use such equipments during night period between night and early morning i.e. between 10.00 p.m. till 6.00 a.m., in any locality, unless there is extreme public emergency situation, though it may be

so allowed on the public roads outside the limits of city/town.

5. The Police Commissioner, shall promulgate the sound standards allowed to be used for sirens and multi-toned horns, on the particular type of vehicles, having regard to the nature of use, utility and the manner of such use. The ambulances which are fitted with such sirens/multi-toned horns, shall be given appropriate stickers by the Regional Transport Offices, and the ambulances, be not allowed to use said sirens/multi-toned horns, without entry in the concerned hospital about specific requisition made by any patient, or his relatives for emergency purpose, or by any medical practitioner for the purpose of carrying of the patient, who may be in need of emergency treatment.
6. The remaining directions issued by the Hon'ble Tribunal in the Judgment dated 9<sup>th</sup> January, 2013, while deciding the Original Application No.36 of 2011, shall be complied with by the concerned Authorities.
7. We further direct that responsibility is fixed on the MPCB and CPCB, for compliance of fixing of standards, within a period of four(4) months and thereafter the same shall be immediately communicated to the Transport Commissioner and the Director General of Police, State of Maharashtra, without any delay. The Latter Authorities, shall comply with the directions



stated above, within a period of four (4) months from the receipt of communication pertaining to the standards fixed and approved by the Transport Commissioner.

8. We make it further clear that in case of non-compliance of the above directions, the Tribunal, may take appropriate steps either to hold the Authority in contempt or to prosecute them, as may be found necessary under the provisions of Law.
9. The Application is accordingly disposed of in above terms, with liberty to the Applicant to move an Application for implementation of above directions, if there is non-compliance. No costs.

.....,JM  
(V. R. Kingaonkar)

....., EM  
(Dr. Ajay.A. Deshpande)

NGT