

**BEFORE THE NATIONAL GREEN TRIBUNAL  
(WESTERN ZONE) BENCH, PUNE  
APPLICATION NO.48 OF 2014**

**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:**

**WIRELESS COLONY Co-OPERATIVE HOUSING  
SOCIETY,**

Through its Authorized Members  
Mr. Nilkanth Dixit & Mr. Arun Bhapkar  
Survey No.167/2B-168/2B,  
Aundh, Pune.

**.....APPLICANT**

**A N D**

- 1. CHAITRALI BUILDERS/SUMASHILP (P) LTD,**  
The Chief Engineer,  
93/5, Erandwane,  
Pune-411 004.
- 2. RELIANCE PROGRESSIVE TRADERS PVT LTD.**  
The Manager,  
Sr.No.167-B, Sector,  
Aundh, Pune-411 007.
- 3. RMZ CORP LTD.**  
The Manager,  
Rmz Westend,  
Surv.No.169/1,  
Aundh, Pune-411 007.
- 4. M/S SUNGUARD SOLUTIONS (INDIA) PVT LTD**  
The Manager,  
Upper Ground Floor to 7<sup>th</sup> Floor,  
Westend Centre I,  
Aundh, Pune 411 007.

**5. M/S CONVERGYS INDIA SERVICES PVT LTD**

The Manager,  
RMZ Westend, DP ROAD,  
Aundh, Pune-411 007.

**6. SEIMENS TECHNOLOGIES AND SERVICES PVT LTD**

The Manager,  
RMZ Westend, 4<sup>th</sup> Floor,  
Sr No.169/1, DP ROAD,  
Aundh, Pune-411 007.

**7. MAHARASHTRA POLLUTION CONTROL BOARD,**

2<sup>ND</sup> Floor, Jog Centre,  
Mumbai-Pune Road,  
Wakdewadi, Pune

**8. PUNE MUNICIPAL CORPORATION.**

Through the Commissioner,  
And the Health Officer  
(Health Dept),  
Aundh Kshetriya Karyalaya,  
Pune Municipal Corporation.

**9. THE SECRETARY,**

STATE ENVIRONMENT DEPARTMENT,  
Room No.217, 2<sup>nd</sup> Floor,  
Mantralaya Annex, Mumbai-32.

.....**RESPONDENTS**

**Counsel for Applicant(s):**

**Mr. S.R.Bhonsle Advocate a/w Ms. A.D. Bhonsle Advocate for  
the Applicant.**

**Counsel for Respondent(s):**

**Mr. Asim Sarode Advocate a/w Mr. Vikas Shinde, Mr. Pratap  
Vitankar, Alka Babaladi Advocates for the Respondent  
Nos.1,3,4,5,6.**

**Dr.S.Mahashabde Advocate a/w Mr. Makarand Rodge,  
Khanvilla Advocates for the Respondent No.2.**

**Mr. Saurabh Kulkanri Advocate a/w Mrs. Supriya Dangare  
Advocate for the Respondent No.7.**

**Mr. P.S. Suryawanshi Advocate a/w Mr. Chaudhari S.  
Mr. Mangesh Dighe Advocates for the Respondent No.8.**

**Mr. D.M.Gupte Advocate a/w Supriya Dangare Advocate for  
the Respondent No.9.**

**Date : January 27<sup>th</sup>, 2015**

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

**1.** The Applicant Society has filed this Application under Section 14 of the National Green Tribunal Act 2010, raising substantial question relating to environment, alleging that the operation/activities of Respondent Nos. 1 to 6 are causing continuous noise pollution, in the premises of Applicant Society, exceeding the norms. The Applicant submits that the Pune Municipal Corporation (Respondent No. 8) directed the Respondent Nos. 1 to 6 on 7-8-2013 to reduce the Noise levels of their activities within the prescribed limits on or before 31-10-2013. The Applicant claims that this order of the Authority i.e. PMC was not complied with by the Respondent 1 to 6, triggering the cause of action for filing this particular Application under Section 14 of NGT Act, 2010.

**2.** The Applicant submits that residential society of the Applicant is pre-existing and the developmental activities of Respondent Nos. 1 to 6 were initiated subsequently. The Applicant claims that various utilities of

Respondent 1 to 6 like; Air conditioners, Generator sets, Public Advertising Systems, Exhaust Fans, Chilling Towers etc. are resulting in outdoor Noise, causing Noise Pollution in their society which is adjoining the premises of Respondents Nos. 1 to 6. The Applicant further claims that since 2007, they are regularly complaining to the authorities and even in November 2012, MPCB conducted the Noise Monitoring and on finding that the noise levels are exceeding the standards, directed the PMC to take necessary action. The Applicant states that they have tried to mutually sort out the issue with Respondents by agreeing to certain noise abatement action plan with a hope that the problem of Noise pollution will be solved by such action plan. However, there is no improvement in the noise levels. The Applicant claims that the Noise Pollution is a serious health related issue and continuous high noise levels are affecting the health of the society members, particularly, children and old ones. The Respondents Nos. 1 to 6, by their inaction, in total disregard to comply noise related regulations, are collectively and continuously causing the Noise Pollution. Aggrieved by alleged inaction by the Respondent 1 to 6, and lack of effective action by Authorities i.e. Respondent Nos. 7 and 8, the Applicant has prayed for following reliefs :

*a. To direct Respondent No. 7 and 8 to issue a written order directing the prevention/prohibition of*

*the use the continuance appliances/apparatus or contrivance which is capable of producing sound in any manner used by the Respondents.*

*b. Pending the disposal of the present Application stay the operations of the activities carried out by the Respondents.*

*c. Pending the disposal of the present Application restrain the Respondents from carrying out any activity which may increase the noise levels affecting the members of the Applicant Society and the same be brought within permissible limits with immediate effect.*

**3.** Respondents Nos. 1, 3, 4, 5 & 6 filed common Affidavit through Shri Vikas Waghmare, on 17-7-2013 opposing the Application. The Respondents claim that they have taken all scientific measures to resolve the noise pollution problem and submit that they were in regular contact and discussions with the Applicant society to solve the problem of noise pollution. The Respondents submit that they have taken various measures like :

- Increase in the height of boundary wall.
- Extension of exhaust pipes on the back sides of premises by 6m along with proper installation and directing the exhaust towards terrace side.
- Installation of Variable Frequency Drives (VFDs) for speed control of exhaust blowers.
- Replacing the metallic exhaust duct with concrete duct .



- Regular monitoring of Noise and also testing of major sources of noise, like D G sets
- Acoustic treatment to the D G Set.
- Shifting of some AC outdoor units to the terrace with change of direction.
- Installation of rubber packing to cover the drainage grills on the roads. Installation of rubberized speed breakers etc.

**4.** Therefore, the Respondents submit that they have taken necessary measures for Noise Pollution control the sources within their control and are even ready to take further appropriate measures if the Tribunal directs them so. However Respondents submit that they do not have control on the road traffic which is a major source of noise and which is contributing significantly to the ambient noise levels in the area.

**5.** Respondent No. 2 filed separate affidavit on 28-8-2014 and submit that the Application is against the Respondent No. 2 only is to the limited extent related to noise caused by AC blowers, AC outdoor units, AC systems, Generator sets, untimely transportation activity, exhaust fans and chilling plant. Respondent No. 2 submits that after the meeting held by PMC on 23.7.2013, they have diligently stopped loading and unloading activities after 9.00 pm. There are 98 outdoor AC units and they are now covered with noise barriers. The exhaust from the Bakery

and Restaurant is also modified to achieve minimum vibrations. Two (2) number of DJ sets having capacity 1250 KVA are also acoustically enclosed though they are used for power supply only during power failure.

**6.** The Respondent No. 2 further submits that it is responsibility of Respondent No. 1 to comply the specific conditions under Environmental Clearance dated 17-12-2007, more particularly related to, Noise Pollution abatement and control. The Respondent No. 2, therefore, submits that they have taken necessary action to mitigate the Noise Pollution and resisted the Application.

**7.** The Respondent No. 7 i.e. Maharashtra Pollution control Board has filed four (4) Affidavits dated 26-5-2014, 16-7-2014, 4-9-2014 and 31-10-2014. The later three (3) Affidavits are mainly in compliance with the daily orders of the Tribunal wherein the MPCB submits that the Respondent No. 1 has obtained Environmental clearance dated 7-12-2007 for total plot area 29,500 Sq. M. and total built up area of 91,000 Sq. M. and had also applied for consent to establish on 19-8-2008 to the MPCB. MPCB informs that the MPCB has not granted consent to establish and operate to this project and the construction has been carried out without valid consent of the board and accordingly directions under Water and Air Acts, are issued on 26-3-2014.

**8.** MPCB further submits that they had received the complaint in this matter on 9-3-2012 and investigations were carried out on 16-11-2012 and subsequently, they have recommended the Pune Municipal Corporation to take further necessary action, in view of the observed higher noise levels, as per Government of Maharashtra GR dated 21-4-2009. MPCB further submits that the above GR identifies and notifies various authorities for regulating the Noise Pollution and accordingly, the Pune Municipal Corporation is the concerned 'Authority' for the zoning of areas under the Noise Rules and also, control of Noise Pollution due to construction and development projects Municipal areas.

**9.** MPCB further submits that the Applicants residential colony is just adjoining the premises of Respondent no. 1 and the distance between two structures is ranging from 6m to 20m. MPCB has carried out Noise Monitoring on 13-5-2014, 15-5-2014 and 16-5-2014 and observed that the permissible limits of noise level exceeded at the place of Applicant society, if considered as Residential zone.

**10.** MPCB further submits that as per the GR dated 21-4-2009 issued by Environment Department Government of Maharashtra, the Municipal Commissioner and the Police authorities have been



notified as 'prescribed authority' for enforcement of noise rules in the urban areas. It is the stand of MPCB that the MPCB is responsible for enforcement of noise standards as far as industrial plants are considered and is also expected to provide necessary assistance to the Municipal and Police authorities by conducting ambient noise monitoring and communicating the results to the respective authorities, if so desired. MPCB therefore submits that in accordance with this notification, they have conducted the ambient noise monitoring from time to time and communicated the findings to the concern authorities. MPCB further submits that the ambient noise levels need to be interpreted based on zoning of the areas such as residential, commercial or industrial zones and Pune Municipal Corporation is the competent authority for such zoning.

**11.** MPCB further submits that the construction project of the Respondent No. 1 was granted Environmental Clearance by Government of India on 7-12-2007. The Respondent No. 1 applied for consent to establish on 19-8-2008 which was not granted by the Board. The Board had subsequently issued show cause notice to the Respondents and based on the fact that they had started the construction activities without consent of the Board, the Board refused the consent on 7.7.2014

and Respondents have preferred an Appeal against such Refusal before the Appellate Authority which is pending.

**12.** The Tribunal had directed MPCB to conduct source-wise noise monitoring besides the ambient noise levels on May 27, 2014. According to MPCB has carried out a detail study and submitted the findings in its affidavit dated 16-7-2014. MPCB has concluded that the cumulative effect of various sources of Noise Pollution located at premises of Respondent 1 to 6, is that the ambient noise levels are found to be exceeded for the day and night time in the premises of Applicant. The average noise levels of sources which are mainly point sources range from 59.7 to 71.4 dB (A) during day time whereas 52.6 to 68.0 dB (A) during night time. On the other hand, the receptor i.e. Applicant's residential area show an average 60.8 dB (A) to 66.0dB (A) during day time whereas 53.0 to 54.5 dB (A) during night time. Thereafter MPCB again conducted ambient noise monitoring at the Applicant's premises and the results are submitted through affidavit dated 24-9-2014 which also indicate higher noise levels. MPCB further informs that they have suggested various noise control measures to the Respondents and also informed the Corporation to take necessary action. In summary, it is stand of MPCB that though the Pune Municipal Corporation is the authority

for enforcement of noise levels, MPCB has provided all the necessary technical assistance by conducting scientific monitoring and also provided technical guidance by suggesting noise abatement measures to the Respondents 1 to 6.

**13.** Considering the documents on record and also arguments advanced by Ld. Counsel for the parties, we are of the opinion that following issues need to be resolved for final adjudication of the present Application.

1. *Whether noise levels in premises of the Applicants are exceeding the norms? If so, whether it can be reliably attributed to the pollution sources located within the premises of Respondent No. 1 to 6.*
2. *Whether the prescribed statutory conditions for the noise control are being complied with by the Respondents?*
3. *Whether there is any scope for further mitigatory measures which can be adopted by the Respondent No. 1 to 6?*
4. *Whether the authorities are required to be issued any specific directions for control of the Noise Pollution.*

**14.** It is an admitted fact that the Respondent No. 1 has developed a construction project at plot no. 167 B and 169/1 of the D. P. Road, Aundh and as such has allowed the premises of respondent Nos. 2, 3, 4, and 5 for

their professional use after obtaining the composite environmental clearance from the MOEF on 7-12-2007. It is also admitted fact that though the Respondent-1 had applied for consent to establish on 19-8-2008 to the MPCB i.e. Respondent No. 7, the consent was not given by the Board. During the proceeding, MPCB has even issued refusal of consent to the Respondent No. 1 and the same has been challenged before the Appellant Authority. We do not wish to deal with question of grant of environmental clearance or extension or refusal of consent issues as it is a subject matter of separate Appeal.

**15.** Admittedly, MPCB had received the complaint from the Applicant regarding the noise pollution in 2012 and MPCB had carried out noise monitoring and had even requested PMC to take suitable action in view of the observed noise pollution. Similarly, MPCB has conducted noise monitoring on 13-5-2014 and 15-5-2014, and again the noise levels were found to be exceeding the limits. MPCB has submitted that on 13-5-2014 the noise levels observed at Bungalow No. 41 of Wireless colony are in the range of 84.2 to 67.5dB(A), similarly the noise levels at Bungalow No. 50 were reported to be in the range of 61.6 to 71.8dB(A). The PMC has also conducted the noise monitoring and the average values have been reported to

be exceeding the standards in the front side of the bungalow as well as back side of the bungalow. These values have been reported on aggregation of noise sampling done at seven (7) locations spread over day and night time on five (5) days. The PMC is on record that the area of the Applicant as well as Respondent is in the residence zone. The ambient noise level standards are 55 and 45 dB (A) for day and night time respectively. Considering this, it is abundantly clear that the ambient noise levels at the Applicant's premises are exceeding the standards.

**16.** It is admitted fact that the premises of Applicant society and Respondent No. 1 to 6 are adjoining to each other. The Report of MPCB is on record to show that the noise receptors i.e. bungalows in the Applicant colony and the sources of noise pollution in Respondent No. 1 to 6 premises are separated by distance of about 7 to 10m only. The map of the area placed on record also indicate that the buildings of Respondent No. 1 to 6 are along the D. P. Road which is in the east and the Applicant's colony is on the West of the premises of Respondent Nos.1 to 6. In other words, the Respondent Nos. 1 to 6 premises are located between the DP road and Applicant society. The building structures of the Respondent Nos. 1 to 6 serve as barrier for transmission/ propagation of noise from



the road to the Applicants society. Needless to say that considering the positioning of major point noise sources located on the backyard of the Respondent No. 1 to 6 premises/buildings, incidentally which is located towards Applicant society, they are expected to influence maximum impact on the noise levels in the Applicant premises, based on the principal of proximity. No doubt, the traffic on the road will also contribute in the ambient noise levels. However this contribution will be significantly reduced by the buildings of Respondent Nos. 1 to 6 and also, due to substantial distance between Applicant colony and the road. The equipments like chillers plants, D G sets, outdoor ACs, Exhaust fans and also, activities like transportation of vehicles and goods can create significant noise levels at sources and if unabated can cause serious noise pollution. In view of this, we are of the considered opinion that the activities of Respondent Nos. 1 to 6 are the major and significant contributor to the noise pollution observed at Applicant society.

**17.** Though neither Pune Municipal Corporation nor MPCB have come on record with the scientific analysis including frequency analysis or octave band frequency analysis which could have provided better co-relation between sources and the receptor noise values, such

uncertainty will not prevent from concluding as above, as Hon'ble Apex Court in "**AP Pollution control Board v/s Professor M. V. Naidu**" held that the uncertainty while dealing with the environmental issues should be dealt with on basis of the 'Precautionary principle'. And therefore, in the instant case, by applying precautionary principle, we are of the opinion that the activities of Respondent Nos. 1 to 6 are the major and significant contributors to the noise pollution at Applicant society. The Issue No.1 is accordingly answered in the 'Affirmative'.

**18.** The construction project of the Respondent No.1 obtained Environmental Clearance (EC), under the EIA Notification, 2006, from the Ministry of Environment and Forests (MoEF), on 7.12.2007. One of the specific conditions of the EC is in part-A -I-(i): "Consent to Establish, shall be obtained from the State Pollution Control Board (SPCB)/Pollution Control Board Committee, under the Air and Water Act and a copy of the same shall be submitted to the Ministry before starting of any construction work at the site". It appears from the record that the Respondent-1 applied for Consent to Establish to MPCB on 19.8.2008. However, the MPCB's affidavit reveals that such consent to establish has not been granted, but the affidavit is not

clear whether it was refused at that point of time or was just pending with Authority of MPCB. Needless to say that the Respondent No.1, has commenced the project activity in non-compliance of this specific condition and no action was apparently taken either by MoEF or MPCB for starting construction without Consent to Establish. The EC further stipulates specific conditions relating to the noise in different sections, which are reproduced below:

- A) *Ambient noise levels should conform to standards both during day and night when measured at boundary wall of the premises. Incremental pollution loads on the ambient air and noise quality should be closely monitored during construction phase.*
- B) *Diesel power generating sets proposed as source of backup power for lifts and common area illumination should be of “enclosed type” and conform to rules made under Environment (Protection) Act, 1986, prescribed for air and noise emission standards as per CPCB guidelines Exhausts should be discharged by stack, raised to 4 meters above the rooftop.*
- C) *During nighttime the noise levels measured at the boundary of the building shall be restricted to the permissible levels to comply with the prevalent regulations;*
- D) *Noise barriers should be provided at*

*appropriate locations so as to ensure that the noise levels do not exceed the prescribed standards.*

*E) The green belt design along the periphery of the plot shall achieve attenuation factor conforming to the day and night noise standards prescribed for residential land use. The open spaces inside the plot should be suitably landscaped and covered with vegetation of indigenous variety.*

**19.** It is abundantly clear from these specific conditions that MoEF while appraising the Application for EC had identified the noise pollution as an important and significant issue, and therefore, laid down such specific conditions. However, after grant of EC, no enforcement of these conditions has been ensured either by MoEF or MPCB.

**20.** Learned Advocate for the Applicant vehemently argued that local body i.e. Pune Municipal Corporation (PMC), should have exercised its powers under the Maharashtra Municipal Corporation Act read with the Govt. of Maharashtra G.R. dated 21<sup>st</sup> April, 2009, regarding noise pollution for effective intervention to reduce noise pollution and if the instructions of PMC are not adhered by the Respondent No.1, then by closure of activities of the Respondent No.1, under the relevant Regulations. He argued that entire area has been

declared as 'Residential Area' by the PMC as per their own documents and in any case, as per the G.R dated 21<sup>st</sup> April, 2009, in case overlapping zones, stringent standards will prevail, in that particular area.

**21.** Admittedly, the Respondent No.1, was required to take consent under the Air and Water Act, from the MPCB and therefore, activities of the Respondent No.1, falls within consent regime of MPCB. The Air (Prevention and Control of Pollution) Act, 1981 includes 'noise' as an air pollutant and CPCB/MoEF have notified ambient noise standards. A careful reading of Section 16 of the Air (Prevention and Control of Pollution) Act, 1981, indicates that the CPCB is required to lay down standards for quality air. Section 17, empowers the State Boards to lay down, in consultation with Central Board and having regard to the standards for quality of air laid down by the Central Board, standards for emission of air pollutants into the atmosphere from industrial plants and processes, and for discharge of any air pollutants into that atmosphere from any other source, whatsoever not being a ship or an aircraft. It is clearly evident from these provisions that ambient noise level standards will have a guiding position when multiple contributing sources of pollution are required to be regulated by the State Boards through the Consent Management. In fact, State Boards



are required to prescribe the specific standards for different sources in view of their cumulative effect, while keeping ambient noise standards at priority. It also indicates that once activities or process have been identified and are covered under the consent regime, the MPCB needs to exercise all its powers under the Air (Prevention and Control of Pollution) Act, 1981.

**22.** In the instant case, MPCB has conducted noise monitoring and observed that some of the equipment like Chilling Plant etc. are causing noise pollution. The MPCB also recorded that cumulative effect of large number of outdoor ACs, exposed towards the Applicant-society, are causing noise pollution. In view of the above, we are of the considered opinion that though MPCB has not granted consent with specific standards for activities of the Respondent No.1, general standards available are not being complied by the Respondent No.1. It is also observed from the affidavit of MPCB that specific conditions laid down in the EC related to noise barriers, green belt etc. are not complied by the Respondent No.1. In view of the above, we are of the opinion that the prescribed statutory conditions for noise control are not adhered by the Respondent Nos.1 to 6 and therefore, Issue No.2 is answered in the 'Negative'.

**Re: Issues (iii)**

**23.** The developmental activities of the Respondent Nos. 1 to 6, are located amidst the Residential Zone and are separated from the Applicant-society by about 7m to 10m. Activities of the Respondent No.1, are heterogeneous one, including IT Park, Commercial Centre, Mall, Hotels etc., which are experiencing large footfall and also, transportation activities. There are multiple sources of noise pollution mainly including DG Sets, Window Air Conditioners, Chilling Plants, Blowers, besides vehicle entry and exit, and loading and unloading activities. In this particular context, there is record that the Applicants and Respondents have interacted on several occasions and tried to identify the sources of noise pollution and possible mitigation measures. The Respondent Nos. 1 to 6, claim that they have carried out several measures to reduce noise from their activities. This is not disputed by the Applicants. In fact, the Applicants state that inspite of such efforts taken by the Respondent Nos.1 to 6, there is no significant improvement in the noise pollution levels. Learned Advocate for the Respondent Nos.1 and 2, submitted that they are open for any suggestions and in fact, have appointed an expert agency to suggest appropriate solutions. What we observe here that both the parties have tried to mutually sort out the issue, which is a

welcome effort. However, the project setting of the Respondent No.1, is a unique one where a large scale construction and development activities have been permitted by the Developmental Authorities, just next to a Residential Colony. This is a typical problem being faced by the urban areas of the country, where the Planning Authorities have not taken enough care to address the issue of noise pollution in the overall planning and permit granting process. In view of such conflicting activities located next to each other, we may refer to the Noise Rules, which has identified this complexity in the year 2000 and specifically provided a provision in Clause-3(4); “ *All developmental Authorities, local bodies and other concerned Authorities while planning development activity or carrying out functions relating to town and country planning, shall take into consideration all the aspects of noise pollution as a parameter of quality of life to avoid noise menace and to achieve objectives of maintaining ambient air quality standards in respect of noise* “. In this particular case, such a care seems to have not been taken. We are also surprised that such a critical aspect was not adequately considered while granting EC, where only stringent conditions have been specified, when provision of green belt in such a short distance of about 7m to 10m,

including the circulating road, makes the conditions rather impracticable.

**24.** The Respondents have submitted that they have engaged Expert Agency to further suggest noise abatement measures. While noting that formulating and implementing the noise mitigation measures, is a matter of detail technical exercise, including noise mapping and finding alternative arrangements, we are *prima facie* satisfied that certain immediate measures are required to be carried out to control the noise pollution. And accordingly, we will deal with this aspect in final directions being issued in the present matter. And therefore Issue No.3 is also answered in the 'Affirmative'.

**Re: Issues (iv)**

**25.** The project of Respondent No.1 is located in the Municipal Corporation area of Pune and therefore the Respondent No.8, is the planning and development Agency for the project. Activities of the Respondent No.1, requires consent from MPCB and have also obtained EC and therefore, MPCB is the Authority to implement provisions of the Air (Prevention and Control of Pollution) Act, 1981, and the Noise Rules. In the present case, the Applicants have complained to both these Authorities since year 2012 and regular investigation have been done by MPCB. In order to have administrative system in place for dealing

with noise pollution, the Govt. of Maharashtra has issued GR dated 21<sup>st</sup> April, 2009, delineating roles and responsibilities of various Authorities. Needless to say, PMC and MPCB are the concerned Authorities to deal with the issue of noise pollution in the instant case. Though PMC has been mandated to deal with such issue by the Govt. GR, no affidavit is placed on record by the Respondent No.7, PMC. Only after direction of the Tribunal, on September 29<sup>th</sup>, 2014, PMC has conducted noise monitoring in the disputed area. Though we have concerns about scientific correctness of noise monitoring carried out by PMC particularly, its procedure and interpretation of data, we are not inclined to comment on the same, but we can only say that the local bodies, particularly, Municipal Corporations need to be adequately trained to meet the challenges of noise monitoring and noise abatement measures. The ambient noise levels have been stipulated for day and night source. However, generally, source standards are of instantaneous nature and therefore, while dealing with complaints or to assess impact of a specific source on ambient noise level, a scientific co-relation study has to be carried out, as noise levels varies with sample time and frequency.

**26.** During argument when inquired, it was submitted on behalf of PMC as well as MPCB that there are no



specific guidelines, procedure or protocol for addressing this particular issue and therefore, it is left to independent agencies to deal with the issue. We, therefore, find it necessary that overall coordinating agency i.e. CPCB needs to notify guidelines/procedure/protocol for investigation of complaints particularly related to impact of identified source on ambient noise levels in a scientific manner, considering frequency analysis, frequency of monitoring and also duration of sampling. We hope that once such guidelines are notified, there will be consistent and scientific approach taken by various monitoring Agencies.

**27.** In view of the above, we are inclined to partly allow the Application, particularly in view of the prayers. Following directions are issued for compliance:

A) The Respondent Nos.1 to 6, shall complete following activities within next six (6) months;

- i) Comply with all the conditions of EC, particularly relating to Noise Barriers, acoustic covering of source and provision of green belt;
- ii) All the outdoor ACs located towards Applicant's Society, shall either be removed or realigned in front area or centralized air conditioning

system can be provide by locating the same on the terrace;

iii) The Respondent Nos.1 to 6, shall submit an action plan, including identification of source of noise pollution, intensity of noise generated by these sources and abatement measures etc. to the Commissioner of Pune Municipal Corporation and MPCB, within next one month and implement the action plan in the above timeframe.

I) The Commissioner of Pune Municipal Corporation shall ensure the compliance of above conditions and also take midterm review after three (3) months to verify adequacy of action plan, submitted by the Respondents.

II) Central Pollution Control Board, shall issue appropriate guidelines/procedure/protocol for bringing uniformity and also scientific reliability in noise monitoring to be carried out in case of complaints, within next six (6) months.

III) The Secretary, Urban Development Department, may consider to devise a suitable training program for all Local Bodies

and planning authorities in consultation with MPCB and 'YASHDA' for training on noise monitoring and also noise abatement measures, in order to effectively implement the Noise Rules, 2000.

IV) In case, the Respondent Nos.1 to 6, do not comply with above directions, the Commissioner of Pune Municipal Corporation, shall immediately stop all activities of the Respondent Nos.1 to 6, by giving advance Notice, without awaiting for further direction from the Tribunal and submit compliance report.

V) The Commissioner of Pune Municipal Corporation shall cause to improve condition of the road and traffic arrangements, including removal of encroachments, on the road adjoining to Respondent Nos.1 to 6, which will result in smooth traffic and less noise pollution, within next two (2) months.

VI) The Respondent Nos.1 to 6, shall pay costs of Rs.5 lakhs (Rs.five lakhs) for causing excessive noise pollution by its activities, which shall be deposited with Pune Municipal Corporation (PMC), and shall be spent on

environmental protection activities like  
plantation, awareness etc. in consultation  
with Applicant society.

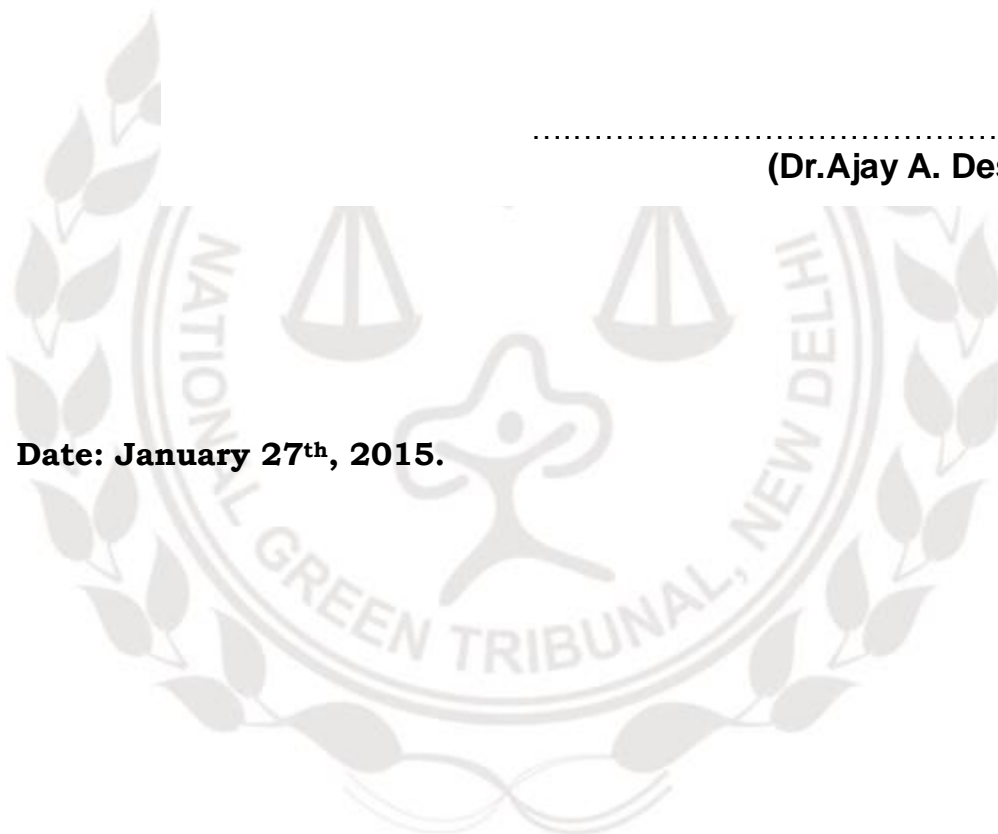
Application is disposed of. No costs.



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

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

**Date: January 27<sup>th</sup>, 2015.**



**NGT**