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IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 02.12.2015

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Pronounced on: 08.02.2016

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W.P.(C) 4208/2015 & CM No.7613/2015

SHRI SHASHIKANT BAHL & ORS Petitioners

Through Mr. Ashim Vachher & Mr. Pawash
Piyush, Advocates

Versus

UNION OF INDIA AND ORS Respondents

Through Mr.Dev P.Bhardwaj, CGSC with
Mr.Sushil Kumar Pandey, Advocate for
Union of India /R-1

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JAYANT NATH

JUDGMENT

JAYANT NATH, J.

1. The present Public Interest Litigation is filed seeking a writ of mandamus directing the respondents to ensure a complete ban on use of un-licensed loudspeakers in Delhi which are violating the laid down norms. Directions are also sought to fix accountability of the concerned officers vested with the task to maintain ambient air quality of noise level in Delhi. A writ of mandamus is also sought to direct the concerned authorities to take immediate steps to remove un-licensed illegal loudspeakers used in Madina Masjid and other un-licensed loudspeakers being used at various shrines, mosques and temples in Delhi.

2. It is the contention of the petitioners who claim to be public spirited citizens, that uncontrolled noise pollution is spreading across Delhi despite various provisions of law and various circulars and office orders to control and regulate noise pollution.

3. The petitioners in the petition refer to Union Territory of Delhi Loudspeakers (Licensing & Controlling) Regulations, 1980; reference is also made to the judgment of the Supreme Court in ***“In Re: Noise Pollution” AIR 2005 SC 3136*** and, reference is also made to various Standing Orders issued by the Delhi Police, namely, Standing Order No.363 of 2009 dated 20.04.2009, Order dated 29.04.2009, Circulars dated 10.12.2010, 24.12.2010, 29.03.2011 & 22.05.2011. The petitioners further refer to various RTI applications and their replies received, including RTI applications dated 10.12.2014 and 09.02.2015. One of the issues on which information was sought was a list of licensed loudspeakers. The replies mostly state that no such information is available nor any such list is maintained.

4. Based on these statutes, orders and judgments, it is urged that loudspeakers are not permitted to be used in any public place without first obtaining written permission from the concerned authority. It is urged that no such permission has been taken in Delhi by anyone. To support this conclusion, reliance is placed on replies received under RTI queries sought by the petitioners.

5. The petitioners further state that they are residents of Yamuna Block, Vasant Kunj, New Delhi which is situated in the vicinity of Jai Hind Bengali Camp, Masoodpur, New Delhi. It is urged that there is a

shrine by the name of Madina Masjid situated in the Jai Hind Bengali Camp which is constantly using loudspeakers which are installed in the said shrine. The loudspeakers are used at a very high pitch/volume early in the morning. It is urged that children and citizens are disturbed due to use of loudspeakers at a very high volume. A complaint was lodged with SHO, Vasant Kunj (South) on 13.02.2015.

6. It is the submission of the petitioners that there is not a single licensed loudspeaker in Delhi and it is a matter of common knowledge that the loudspeakers at a very high volume are used at various public places, including shrines, i.e., temples, mosques etc. and also during marriage parties, jagrans and religious procession etc. This misuse of loudspeakers is totally illegal and against the rules and regulations. In these facts, the petitioners have filed the present writ petition and sought the stated relief.

7. Respondent No.3/Commissioner of Police has filed a status report. It is submitted in the report that a complaint was received regarding an un-licensed loudspeaker at Madina Masjid. On receipt of the complaint, the Maulvi of Madina Masjid was contacted and a meeting was organised between the petitioners and the Maulvi of the Masjid. The Maulvi agreed and assured to reduce the volume of the loudspeaker. Another meeting has also taken place on 07.05.2015. Regarding checking of the menace of loudspeakers details are provided of action taken by the police for illegal use of loudspeakers. Various such instances have been given which are for the period 28.01.2014 to 06.05.2015 pertaining to Vasant Kunj area. Necessary action has been taken against the offending parties.

8. We have heard the learned counsel for the parties and have gone through the records.

9. The learned counsel for the petitioners has strenuously urged that the police is not taking adequate steps to curb the menace of misuse of loudspeakers in Delhi. It is urged that appropriate direction be issued to the police to enforce the statutory framework and book the necessary offenders.

10. The necessary statutory framework to control the misuse of loudspeakers is in place, i.e. Noise Pollution (Regulation And Control) Rules, 2000 framed under the Environment (Protection) Act, 1986. To a similar effect is the Union Territory of Delhi Loudspeakers (Licensing & Controlling) Regulations, 1980 which provides restrictions on the use of loudspeakers. Some of the relevant restrictions as stated in the said regulation read as follows:

“3. No person shall use, operate or permit the use or operation of a loudspeakers in any public place or within distance of 200 meters from any public place or in any place of public entertainment, except under and in accordance with the conditions of license granted by the Commissioner of Police, Delhi or by any officer authorised by him in that behalf.

4. No loudspeaker shall be used or operated or permitted to be used or operated from a moving vehicle for any purpose except with the permission of the Commissioner of Police of Delhi, or any other officer so authorised.

5. No loudspeaker shall be installed or operated from a position which overlooks a public road, except with the previous permission of the Commissioner of Police, Delhi or any other officer so authorised.

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7. No loudspeaker shall be used or operated or permitted to be used or operated by any person holding license in such manner as to disturb or cause annoyance to any other person residing in or carrying on business in any building or premises adjoining the public place or place of public entertainment.”

11. To implement these rules, the Delhi Police has issued various directions and orders which have been referred to by the petitioners in the writ petition.

12. In our opinion, the facts placed on record by the petitioners do not warrant any conclusion, as is sought to be made out by the said petitioners, i.e. that all loudspeakers being used in public places are unlicensed. There is nothing on record to support this sweeping conclusion. Reliance placed on replies to RTI queries are misplaced as the queries do not state any such fact.

13. We may also note that in the status report which is filed by Deputy Commissioner of Police, District South, Delhi Police, steps taken by the said respondent to deal with the violation of provisions pertaining to use of loudspeakers is mentioned. This report belies the conclusions of the petitioners.

14. It would be useful to refer to the judgment of the Supreme Court in ***Balco Employees Union (Regd.) v. Union of India & Ors, AIR 2002 SCC 350***. In paras 79 and 87, it is held as follows:

“79. PIL is not a pill or a panacea for all wrongs. It was essentially meant to protect basic human rights of the weak and the disadvantaged and was a procedure which was innovated where a public spirited person files a petition in

effect on behalf of such person who on account of poverty, helplessness or economic and social disabilities could not approach the Court for relief. There have been, in recent times, increasingly instances of abuse of PIL. Therefore, there is a need to re-emphasize the parameters within which PIL can be resorted to by a Petitioner and entertained by the Court. This aspect has come up for consideration before this Court and all we need to be is to recapitulate and re-emphasize the same.

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87. It will be seen that whenever the Court has interfered and given directions while entertaining PIL it has mainly been where there has been an element of violation of Article 21 or of human rights or where the litigation has been initiated for the benefit of the poor and the underprivileged who are unable to come to Court due to some disadvantage. In those cases also it is the legal rights which are secured by the Courts. We may, however, add that Public Interest Litigation was not meant to be a weapon to challenge the financial or economic decisions which are taken by the Government in exercise of their administrative power. No doubt a person personally aggrieved by any such decision, which he regards as illegal, can impugn the same in a Court of law, but, a Public Interest Litigation at the behest of a stranger ought not to be entertained. Such a litigation cannot per se be on behalf of the poor and the downtrodden, unless the Court is satisfied that there has been violation of Article 21 and the persons adversely affected are unable to approach the Court.”

15. Hence, in our opinion, no order can be passed as sought by the petitioners in the facts as projected in the present case. We may observe, that our conclusions on the facts as stated in this petition do not relieve the respondents of their responsibility to deal with misuse of loud speakers, as per law.

16. The writ petition is accordingly dismissed. All the pending applications are also dismissed.

(JAYANT NATH)
JUDGE

FEBRUARY 08, 2016
v

(CHIEF JUSTICE)