

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP-3739-2024 (O&M) and
other connected cases
Reserved on: 18.12.2024/19.12.2024
Date of decision: 17.01.2025**

RESIDENTS WELFARE ASSOCIATION, CHANDIGARH

..Petitioner

Versus

CHANDIGARH ADMINISTRATION AND OTHERS

..Respondents

**CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Puneet Bali, Senior Advocate
with Ms. Supriya Garg, Advocate
Ms. Bhagyashree Setia, Advocate for the petitioner
in CWP-3739-2024.

Mr. D.S. Patwalia, Senior Advocate
with Mr. Kannan Malik, Advocate
for petitioners in CWP-18771-2023 & 21873-2023.

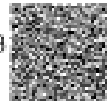
Mr. Sanjay Kaushal, Sr. Advocate
with Mr. Karan Nehra, Advocate
Mr. Abhay Josan, Advocate
for petitioners in CWP-34319-2024.

Mr. Amit Jhanji, Senior Advocate
with Mr. Sanjiv Ghai, Advocate
Ms. Sukhmani Patwalia, Advocate for respondent -UT, Chd.

Mr. J.S.Toor, Advocate and Mr. Adhiraj, Advocate
for respondent no.3- Chd. Pollution Control Board.

Mr. Manish Bansal, Public Prosecutor, UT, Chd.
Mr. Ankur Bali, Addl. PP, UT, Chd.
Mr. Navjot Singh, Advocate
for respondent no.5 in CWP-34305-2024, 34319-2024 &
CWP-34311-2024
and for respondent no.7 in CWP-3739-2024.

Mr. Gaurav Chopra, Sr. Advocate
with Mr. Anurag Chopra, Advocate
Ms. Gauri C. Kaushal, Advocate
Mr. Harpreet Multani, Advocate
for respondent no.8-14 in CWP-3739-2024.



Mr. Ivan Singh Khosa, Advocate
Mr. Shivam Grover, Advocate
Mr. Akshay Mittal, Advocate
for the petitioner in CWP-34311-2024, CWP-18798-2024 &
CWP-34305-2025.
for respondent in CWP-3739-2024.

Mr. N.S.Boparai, Advocate
Mr. Bikram Singh Dhillon, Advocate
Mr. Pradeep Singh, Advocate
respondent no.5-7 in CWP-21873-2023
respondent no.5 in CWP-18771-2023
respondent no.5-7 in CWP-18798-2024.

Ms. Supriya Garg, Advocate
for respondent no.8 in CWP-18771-2023.

ANIL KSHETARPAL, J.

1. Factual Compass:-

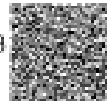
1.1 The substance of dispute in all these connected writ petitions pertains to complaints of noise pollution caused by the playing of loud music between 10:00 p.m. to 06:00 a.m. by clubs and discotheques sited in the backyards of SCO(s) located in Sector 7 and 26, Chandigarh.

1.2 With the consent of learned counsel for parties, various writ petitions detail whereof is given at the foot of judgment shall stand disposed of by this common order.

1.3 In CWP-1877-2023 & CWP-21873-2024, the petitioner challenges the show cause notice issued to them on 18.08.2018 & 25.09.2023 under Section 36 of the Punjab Excise Act, 1914 (hereinafter the Act of 1914), pursuant to withdrawal of No Objection Certificate by the Estate Office.

1.4 In CWP-3739-2024, the Resident Welfare Association prays for quashing of Clause 44 of the Excise Policy of Union Territory, Chandigarh, for the year 2024-2025 apart from complaining noise pollution while

praying for prohibition of playing of loud music after 10:00 p.m.



1.5 In CWP-18798-2024, mandamus to the respondents has been sought for directing issuance of license under the Excise Policy, 2024-2025 and to quash decision dated 16.07.2024 passed by the competent authority, refusing to grant liquor license. Prayer has also been made to read down Clause 8.5 of the Punjab Intoxicants License and Sales, 1956.

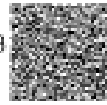
1.6 In CWP-34305, 24219 and 34311 of 2024, show cause notices issued on 06.12.2024 and recommendations made by Senior Superintendent of Police, Chandigarh, revoking 'consent to operate' and validity of Clause 80(c) of the Excise Policy, 2024-2025, have been challenged.

2. Submissions put forth on behalf of rival parties:-

2.1 This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

2.2 On the one hand, learned Senior counsel for the Resident Welfare Association has submitted that these clubs and discotheques are violating the noise pollution norms laid down by the Union Territory, Chandigarh, by playing loud music with the use of amplifiers and speakers. He has highlighted that one of the petitioners i.e. Kakuna Club has suffered conviction under Punjab Police Act, 2007, for causing noise pollution vide judgments dated 22.04.2022 and 18.08.2022 and committed building violation, which led to issuance of a show cause notice and subsequently the premises was sealed, against which the appeal was dismissed, however, in revision petition, conditional opportunity was given to the club to remove the violations. However, the club filed CWP-4096-2023 to challenge the order of resumption of showroom-cum-office for building violations. CWP-4096-2023 shall be dealt with and decided separately and not as a part of this bunch.

2.3 Similarly, the same club has also challenged another show

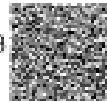


cause notice in CWP-1877-2023, in which a conditional interim order has been passed in favour of the club. It has also been highlighted that the same club has also filed CWP-2187-2023 and CWP-18798-2023, in which interim orders have been passed. He submitted that right to live in freedom from noise pollution under the Environment (Protection) Act, 1986, is recognized as 'Right to Life' as provided under Article 21 of the Constitution of India, which is at a higher pedestal than right to carry business under Article 19(1)(g) and members of the association have a fundamental right to live in a pollution free atmosphere at least during night time i.e. between 10:00 p.m. to 06:00 a.m. He submits that despite repeated challans and warnings, the clubs and discotheques are not adhering to the norms laid down by the U.T. Administration and Central Rules. Though, the prayer to quash Clause 44 of the Excise Policy has been made, which provides for grant of bar licenses to hotels, restaurant, however, since the major part of the year is already over and learned counsel for petitioner has not pressed the aforesaid issue, hence, this aspect has not been examined.

2.4 Per contra, the learned counsel representing the clubs and discotheques have submitted that the petitioner's fundamental right to carry business is being violated by issuing repeated notices. It was further submitted that the petitioners are running the club/discotheques after getting requisite permission from various departments.

2.5 The Union Territory's counsel has supported the Residents Welfare Association's case and submits that all steps are being taken by the U.T. Administration to enforce Noise Pollutions (Regulation and Control) Rules, 2000, read with Noise Pollution Regulation framed by U.T. Administration.

2.6 The learned counsel representing the clubs and discotheques



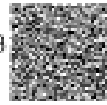
submits that the Senior Superintendent of Police's (hereinafter referred to as 'S.S.P.') order withdrawing 'consent to operate' is in violation of principles of *audi alteram partem* and this Court should exercise judicial review to set aside the show cause notices, which are arbitrary and not issued with an open mind. He while relying upon the judgment passed by the Supreme Court in **State of Madhya Pradesh and others Vs. Nandlal Jaiswal and others, 1986 (4) SCC 566**, submits that liquor license cannot be revoked arbitrarily.

3. **Discussion and Analyses:-**

3.1 This Court has considered the submissions of learned counsel for the parties.

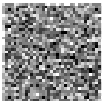
3.2 Before addressing the merits of the various writ petitions, it is necessary to consider the relevant provisions, the list of establishments found to be in violation of applicable rules, and to provide a general overview of the management of noise pollution in U.T. Chandigarh.

3.3 Chandigarh is a city known for its careful and structured planning. Madhya Marg is a main road dividing the city in two parts, connecting Panchkula on one side and New Chandigarh on the other, while linking both the cities to Chandigarh town. Sector 7 and 26 i.e. the sectors where the bars and discotheques are located are also linked to the aforesaid road. Along with the main road, there is a service road that provides access to a large parking area, established to accommodate public vehicles visiting the showrooms located along with main road, which open into the parking area. These showrooms were designed in such a manner that the front, facing Madhya Marg, features a box-style construction, whereas, the rear has been purposely left open for storing goods. On the back side also, there is an established parking space. The back opening is used for loading and



unloading of bulk material as the SCO(s) are of large size. Due to economic compulsions, these SCO(s) have converted themselves into profitable and much in demand business units such as hotels, clubs and discotheques. U.T. Administration has allowed additional covered area through partial coverage of rear courtyard, construction of basement etc. however, due to it being on a prime location and being visible along with the major road, there is constant pressure on the Administration to allow coverage of the entire back courtyard and to permit construction of box type building. However, such requests have been rejected by the Administration. Most of the clubs have covered the entire backyard by creating retraceable roofs/temporary structures. Recently, also on the recommendation of Heritage Committee, the demand of hoteliers to cover the remaining part of the courtyard through temporary/retraceable roofs has been rejected.

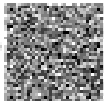
3.4 With regard to serving of liquor, the U.T. Administration on payment of an additional fee has permitted the clubs/discotheques to serve liquor upto 03:00 a.m. This has led to conflicts between the residents, business units and the Administration; as these clubs and discotheques/hotels play loud music; repeatedly violating the norms laid down in the Noise Pollution (Regulation and Control) Rules, 2000, which categorically declare that no noise should be emitted during night hours i.e. between 10:00 p.m. to 06:00 a.m. As per the Residents Welfare Organisation, certain establishments are alleged to be repeatedly violating these norms. Union Territory, Chandigarh, in its affidavit dated 12.12.2005 filed in CWP-3739-2024, has compiled a tabulated compilation highlighting instances where a particular club/discotheques has violated norms more than three times, which is extracted as under:-



S/N	DDR No.	Against
1.	DDR No.12 dated 10.02.24 U/s 61 Punjab Police Act-2007	Bargain Booze
2.	DDR No.5 dated 25.04.24 U/s 61 Punjab Police Act-2007	
3.	DDR No.07 dated 06.08.23 U/s 61 Punjab Police Act-2007	
4.	DDR No.05 dated 23.07.23 U/s 61 Punjab Police Act-2007	
5.	DDR No.05 dated 19.08.23 U/s 61 Punjab Police Act-2007	Hard Rock Café
6.	DDR No.05 dated 16.07.23 U/s 61 Punjab Police Act-2007	
7.	DDR No.09 dated 12.08.23 U/s 61 Punjab Police Act-2007	
8.	DDR No.04 dated 24.08.24 U/s 61 Punjab Police Act-2007	
9.	DDR No.46 dated 26.01.24 U/s 61 Punjab Police Act-2007	Kakuna Club
10.	DDR No.04 dated 03.03.24 U/s 61 Punjab Police Act-2007	
11.	DDR No.15 dated 24.03.24 U/s 61 Punjab Police Act-2007	
12.	DDR No.03 dated 08.09.24 U/s 61 Punjab Police Act-2007	
13.	DDR No.13 dated 31.10.24 U/s 61 Punjab Police Act-2007	
14.	DDR No.10 dated 13.08.22 U/s 61 Punjab Police Act-2007	
15.	DDR No.07 dated 21.04.22 U/s 61 Punjab Police Act-2007	
16.	DDR No.10 dated 16.03.23 U/s 61 Punjab Police Act-2007	
17.	DDR No.02 dated 15.09.24 U/s 61 Punjab Police Act-2007	Kala Ghoda Club
18.	DDR No.10 dated 06.08.23 U/s 61 Punjab Police Act-2007	
19.	DDR No.03 dated 12.06.23 U/s 61 Punjab Police Act-2007	Vault Club
20.	DDR No.07 dated 21.09.23 U/s 61 Punjab Police Act-2007	
21.	DDR No.13 dated 11.08.24 U/s 61 Punjab Police Act-2007	
22.	DDR No.03 dated 27.04.22 U/s 61 Punjab Police Act-2007	
23.	DDR No.11 dated 13.07.23 U/s 61 Punjab Police Act-2007	De'orra Club
24.	DDR No.06 dated 08.09.24 U/s 61 Punjab Police Act-2007	
25.	DDR No.73 dated 19.10.2024	
26.	DDR No.20 dated 19.10.2024	

3.5 Similarly, various establishments have violated the aforesaid rules less than three times. The said information is extracted as under:-

S/N	DDR No.	Against
1.	DDR No.09 dated 13.07.23 U/s 61 Punjab Police Act-2007	Culture Club
2.	DDR No.05 dated 18.08.24 U/s 61 Punjab Police Act-2007	Mobe Club
3.	DDR No.6 dated 21.11.2024 U/s 61 Punjab Police Act-2007	Mobe Club
4.	DDR No.13 dated 06.08.23 U/s 61 Punjab Police Act-2007	Prankster Club
5.	DDR No.15 dated 11.08.24 U/s 61 Punjab Police Act-2007	Qizo Club
6.	DDR No.7 dated 17.08.2024 U/s 61 Punjab Police Act-2007	Qizo Club
7.	DDR No.10 dated 05.03.23 U/s 61 Punjab Police Act-2007	Brew Estate
8.	DDR No.06 dated 11.08.24 U/s 61 Punjab Police Act-2007	Sante Club
9.	DDR No.07 dated 24.11.24 U/s 61 Punjab Police Act-2007	Sante Club
10.	DDR No.03 dated 12.06.2023 U/s 61 Punjab Police Act-2007	Wild Thyme, Sector 7
11.	DDR No.14 dated 11.08.24 U/s 61 Punjab Police Act-2007	Zeek Club



3.6 Chandigarh Police has withdrawn the ‘No Objection Certificate’ of the establishments that have violated the rules/norms more than three times. The list of aforesaid establishments is as follows:-

S/N	DDR No.	Against
1.	DDR No.09 dated 16.07.23 U/s 61 Punjab Police Act-2007	Boulevard Club Sector 26
2.	DDR No.10 dated 01.10.2023 U/s 61 Punjab Police Act-2007	
3.	DDR No.53 dated 12.12.2023 U/s 61 Punjab Police Act-2007	
4.	DDR No.53 dated 12.12.23 U/s 61 Punjab Police Act-2007	Ministry of Bar Exchange
5.	DDR No.04 dated 12.08.2024 U/s 61 Punjab Police Act-2007	
6.	DDR No.05 dated 18.08.2024 U/s 61 Punjab Police Act-2007	
7.	DDR No.06 dated 21.11.2024 U/s 61 Punjab Police Act-2007	

3.7 Every year, the Chandigarh Administration comes out with an excise policy in order to regulate allotment, operation and maintenance of liquor vends and terms relating to license for sale of liquor in the various establishments. For the year 2024-2025 (the period between 01.04.2024 to 31.03.2025), a similar policy was issued. Clause 75(b) and Clause 80(c) read as under:-

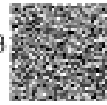
“75. (A) XXX XXX
(B) No license (Bottling plant, Wholesaler, Clubs/Bars etc.) will be renewed in case where adjudication of two breach cases have been finalized against the licensee in an Excise Policy year.”

3.8 Apart from this, Rule 25(i)(a) of Punjab Liquor License Rules, 1956, as enforced in Union Territory, Chandigarh, reads as under:-

“Provided that no license (Clubs Bars etc.) will be renewed in case where adjudication of two breach cases have been finalized against the licensee in an Excise Policy year.”

3.9 Section 36(c) of the Punjab Excise Act, 2014 (as applicable to Union Territory, Chandigarh) reads as under:-

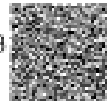
“The Section 36(c) of the Punjab Excise Act, 1914 (as applicable to UT Chandigarh) provides:
36. Power to cancel or suspend licenses, etc., subject to such restrictions as the State Government may prescribe, the authority granting any licence, permit or pass under this Act may cancel or suspend it.



...
(c) in the event of any breach by the holder of such licence, permit or pass or by his servants, or by any one acting on his behalf with his express or implied permission, of any of the terms or conditions of such licence, permit or pass.”

3.10 As is evident, the clubs and discotheques have filed CWP-18771-2023, CWP-21873-2023, CWP-34305-2024, CWP-34319-2024, CWP-34311-2024, challenging the show cause notices. All these notices have been issued by the Collector, Excise. It is not the case of clubs and discotheques that the Collector has no jurisdiction to issue such notices. The clubs and discotheques have been granted an opportunity to mend their ways, i.e. stop violating regulations and submit reply. These detailed show cause notices have been issued drawing the attention of the clubs and discotheques to various violations of the Act, Rules and Excise Policy for the year 2024-2025 issued by the Union Territory, Chandigarh. The reply has been sought from the violators.

3.11 CWP-18798-2024 has been filed for a direction to be issued to competent authority to issue license to the bar/discotheque under Excise Policy for the year 2024-2025, while quashing the order dated 16.07.2024, refusing to grant liquor license. Pursuant to the interim directions of the Court, liquor license has been granted to the petitioner. The matter is now pending with the Collector, Excise, who is seized of the matter, particularly, in view of various show cause notices. The petitioner has also prayed for reading down Clause 8.5 of the Punjab Intoxicants License and Sales Order, 1956, however, learned counsel for the petitioner failed to draw the attention of the Court to any provision, which requires harmonious construction by reading it down. Since major part of the period for which the policy for 2024-2025 was framed is over, hence, the license, which was renewed

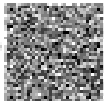


pursuant to the interim order passed by this Court shall not be revoked. However, it shall not debar the competent authority to revoke or cancel the license pursuant to other violations namely noise or other any clause of Excise Policy.

3.12 Keeping in view the aforesaid position, the writ petition is required to be disposed of by directing the Collector, Excise, to take a final decision.

3.13 Similarly, keeping in view the fact that the petitioners have pressed this writ petition only with respect to noise pollution caused during night time; remaining issues are left open to be decided in future if pressed once again by filing a fresh writ petition.

3.14 With respect to the challenge to the show cause notices, it may be noted that although the jurisdiction of a constitutional Court is plenary, however, there are certain well-settled self-imposed restrictions on the exercise of writ jurisdiction. Ordinarily, a writ petition is not entertained against a show cause notice unless it is for the enforcement of a fundamental right, a violation of principles of natural justice or if the show cause notice is wholly without jurisdiction or the vires of the act are challenged. In this batch of writ petitions, the clubs and discotheques allege that S.S.P. has withdrawn 'No Objection Certificate' without hearing them. It may be noted here that the effect of withdrawal of No Objection Certificate by S.S.P is required to be examined by the Collector, Excise, who has issued the show cause notice. It is significant to note that the S.S.P. wrote letter to the Collector, Excise, informing the factual position, which forced him to withdraw 'No Objection Certificate', thus, the S.S.P. was not required to grant opportunity of hearing to the clubs, particularly, when the clubs and discotheques have repeatedly caused noise pollution during night time i.e.



between 10.00 p.m. to 06:00 a.m. Moreover, the internal communication sent by S.S.P. to the Collector, Excise, is informative, hence, the petitioner’s submission alleging violation of principles of natural justice holds no significance and is insubstantial.

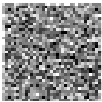
3.15 Similarly, it is not correct on the part of petitioners to allege that the show cause notices have not been issued with open mind. The Collector, Excise, has given notice to the clubs and discotheques to file their replies. Hence, it is not appropriate to contend that the notices are not issued with an open mind.

3.16 The last argument of learned counsel is premature, as the license issued to the petitioners has not been revoked. They have only been issued a show cause notice. In Nandlal Jaiswal’s case (supra), the facts were entirely different. A policy decision taken by State of Madhya Pradesh for issuance of license for construction of distilleries for manufacture and supply to the existing contractor was subject matter of issue before the Court. Hence, the aforesaid judgment is not applicable to the facts of the present case.

4. Decision:-

4.1 Keeping in view the aforesaid discussion, the writ petitions are disposed of with the following directions and observations:-

Sr. No.	Case No.	Petitioner	Respondent	Decision/ Observation
1.	CWP-3739-2024 (O&M)	Residents Welfare Association, Chandigarh	Chandigarh Administration and others	With respect to noise pollution between 10:00 p.m. to 06:00 a.m., the Collector to decide, whereas, remaining issues left open to be decided if



				pressed against by filing a fresh writ petition.
2.	CWP-18798-2024 (O&M)	M/s Rebel Hospitality	Chandigarh Administration and others	Direction to Collector, Excise to take a final decision. In case license is revoked again, it shall be open to file a fresh writ petition, after availing alternative statutory remedy, if any.
3.	CWP-18771-2023 (O&M)	M/S Rebel Hospitality	Chandigarh Administration and others	-do-
4.	CWP-21873-2023	M/S Rebel Hospitality	Chandigarh Administration and others	-do-
5.	CWP-34305-2024	M/S Rebel Hospitality	Chandigarh Administration and others	-do-
6.	CWP-34319-2024	M/S Gbs Hospitality Pvt. Ltd.	Chandigarh Administration and others	-do-
7.	CWP-34311-2024	Rakesh	Chandigarh Administration and others	-do-

(ANIL KSHETARPAL)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

17th January, 2025

Ayub

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No