

**IN THE HIGH COURT OF KARNATAKA AT
BENGALURU**

(ORIGINAL JURISDICTION)

WRIT PETITION NO: OF 2020(PIL)

BETWEEN:

SRI.GIRISH BHARADWAJ

...PETITIONER

AND:

1. THE STATE OF KARNATAKA
Rep. by its Chief Secretary
Vidhansoudha, Ambedkar Veedhi
Bengaluru-560001
 2. THE ADDL.CHIEF SECRETARY
Home Department
Government of Karnataka
Vidhan Soudha. Ambedkar Veedhi
Bengaluru-560001
 3. THE DIRECTOR GENERAL & I.G.P
KARNATAKA
Nrupathunga Road, Nunegundlapalli,
Ambedkar Veedhi, Bengaluru-01.
 4. The Chairman
Karnataka State Pollution control Board
Parisara Bhavan", #49, 4th & 5th Floor,
Church Street, Bangalore-560001
 5. THE COMMISSIONER OF POLICE, BENGALURU
Infantry Road, Vasanth Nagar
Bengaluru-560001
-RESPONDENTS**

MEMORANDUM OF WRIT PETITION UNDER ARTICLE 226

AND 227 OF THE CONSTITUTION OF INDIA

The Petitioner above named most respectfully submits as

1. In the present writ Petition the Petitioner seeks to invoke the writ jurisdiction of this Court in order to restricting the use of loudspeakers and other high volume noise-producing audio-video systems, by political parties, at religious places such as temples, mosques, churches, gurudwaras and other places and noise created by horns of engines, pressure horns in automobiles, loudspeakers, denting and painting of cars, particularly, in residential areas and from unauthorised premises being prohibited; and be directed to be rigorously enforced, and to implement the directions/ guidelines issued by the Hon'ble Apex Court in the case of *Noise Pollution (V), In re, (2005) 5 SCC 733* and also this Hon'ble Court be pleased to monitor the implementation.

FACTS OF THE CASE

2. The Petitioner herein is a public-spirited person and prefers this writ petition in the nature of public interest litigation for the reasons that the matter involves serious issues which are of public importance, Constitutional and fundamental rights of the Citizens. The Petitioner is a law abiding Citizen of the Nation and has got highest regard for the Constitution of the Country and Democratic System. He does not have any personal interest in the issue involved in the

cars, particularly in residential areas and from unauthorised premises is creating big nuisance loss of sleep, unable to communicate and this is also causing hardship to those suffering from chronic diseases.

5. It is submitted that, due to usage of these equipment has causes is health hazard then nuisance value. It constitutes a real and present danger to people health. The noise can produce serious physical and psychological stress.
6. It is submitted that the People usage of noise polluting instrument has resulted in grave threat to the health of innocent citizens and also resulted in violation of their fundamental right guaranteed under Article 21 of the Constitution of India.
7. It is submitted that in this regard the Petitioner wrote a letter dated 22.10.2020 to Respondent No1 to 4 requesting them to implement the order of the Hon'ble Apex Court and curb the nuisance of these sound pollution by various means. However, the Respondent have not taken appropriate steps in order to stop the usage of these sound polluting systems by way of loudspeakers, horns or other means. The Copy of the representation dated 22.10.2020 is produce herewith and marked as **ANNEXURE-A**.
8. In the above facts and circumstances, since the matter involves safeguarding huge public interest and their

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represented in the Public interest Litigations before this Hon'ble Court in W.P.No.6073/2020 seeking directions against the Respondent State on significant issue relating to, ambulances are not granted free passage and the delay in taking the patients to the hospitals due to congestion of the traffic results in loss of the golden hours, this Hon'ble Court after considering the plea of the Petitioner was pleased to issue notice and directions to the Respondents to come out with a solution/ mechanism to pave way for the free passage to the ambulance for pickup and taking the Patient to the hospital and the same is pending for further consideration.

3. The Petitioner has also represented in various Public Interested Litigation during Covid-19 for availability of beds. The Petitioner has also represented in Public Interested Litigation direction against the State on issue regarding identifying and deporting illegal migrants at Bengaluru and the same is pending consideration before this Hon'ble Court.
4. It is submitted that, entire Nation is fighting against the Novel-pandemic Covid-19 and most of the people are working from home and trying to cope up with the Pandemic various religious institution and noise

fundamental rights, the Petitioner having no other alternative and efficacious remedy has preferred the present Writ Petition under Article 226 and 227 of the Constitution of India.

9. The Petitioner has not filed any other Petition on the same cause of action before this Hon'ble Court or any other forum. The Petitioner has not challenged the Constitutional validity of any State or Central Act.

GROUND.

10. It is submitted that the various studies have proved that the usage of the noise polluting instrument such as loudspeaker in religious places at early morning and evening during the night beyond the permissible disable limits and without obtaining permission for usages of such loudspeakers, horns of engines, pressure horns in automobiles is creating huge health hazardous to people thereby violating the fundamental rights guaranteed under Article 21 of the Constitution of India.
11. It is submitted that science has developed so much that without using these loudspeaker the message can be communicated to people by various means if at it is essential to use the communication means.
12. It is submitted that the various study suggested that the noise can cause problems such as hearing loss,

interference with communication, disturbance of sleep, annoyance, effect on performance.

13. It is submitted that, the Hon'ble Apex Court in the case of *Noise Pollution (v), In re*, reported in (2005)5 SCC 733 had extensively dealt with the issue in hand and has laid down various direction with respect to noise from with respect to loudspeakers and Vehicular noise that,

175. 1. The noise level at the boundary of the public place, where loudspeaker or public address system or any other noise source is being used shall not exceed 10 dB(A) above the ambient noise standards for the area or 75 dB(A) whichever is lower.

2. No one shall beat a drum or tom-tom or blow a trumpet or beat or sound any instrument or use any sound amplifier at night (between 10.00 p.m. and 6 a.m.) except in public emergencies.

3. The peripheral noise level of privately-owned sound system shall not exceed by more than 5 dB(A) than the ambient air-quality standard specified for the area in which it is used, at the boundary of the private place.

176. No horn should be allowed to be used at night (between 10 p.m. and 6 a.m.) in residential

area except in exceptional circumstances

14. That the Hon'ble Apex Court also issued various direction to create awareness towards the hazardous effect of noise pollution. It has also directed that the Police and civil administration should be trained to understand the various methods to curb the problem and also the laws on the subject among the general public with respect to these issue.
15. That the Hon'ble Court also directed that the States shall make provision for seizure and confiscation of loudspeakers, amplifiers and such other equipment as are found to be creating noise beyond the permissible limits.
16. It is further submitted that various religious places uses loudspeakers on a daily basis violation the norms fixed by the rules and also the direction issued by the Ho'ble Apex Court but till date no action has been taken by the authority in seizure and confiscation of loudspeakers, amplifiers and such other equipment's.
17. It is further submitted that, the Rule 5 of the Noise Pollution (Regulation and Control) Rules-2000 also speaks about the restrictive usage of loud speakers. In spite of various regulation and the direction issued by the Hon'ble Apex Court the authorities are turned blind ears and eyes for the noise pollution in the city by using loud speak during the night and early morning

day and more particularly right.

18. It is submitted that having regard to the facts and circumstance of the case and in the interest of larger public, there is a need for direct the Respondent to implement the law and the direction issued by the Hon'ble Apex Court with respect to usage of loud speakers and other noise emitting instruments and also to proceed in accordance with law against the law breakers, in the interest of justice.

PRAYER

WHEREFORE, it is most respectfully prayed that this Hon'ble Court may kindly be pleased to;

- i. Issue a Writ in the nature of Mandamus or any other Writ or Order, directing the Respondent No.1 to 4 to consider the representation dated 22.10.2020 (Annexure-A) And direct the Respondent to properly implement the direction issued by the Hon'ble Apex Court.
- ii. Issue a Writ in the nature of Mandamus or any other writ directing to take step in order to seizure and confiscation of loudspeakers, amplifiers and such other equipment's installed in public/religious places

- iii. Issue any other Writ or Order and be pleased to monitor the entire process of implementation of the law, in the ends of justice.
- iv. Issue any other Writ or Order or Direction and Grant any such other and further reliefs as this Hon'ble Court may deem fit, in the facts and circumstance of the case to do completer justice.

INTERIM PRAYER

Wherefore, pending disposal of the main Petition, this Hon'ble Court may kindly be pleased to call for reports from the Respondents regarding the steps taken by the Respondent to implement the direction by issued by the Hon'ble Apex Court in the case of *Noise Pollution (v), In re*, reported in (2005)5 SCC 733 and monitor all such proceedings and issue necessary guidelines or Orders as deems fit in the fact and circumstance of the case.

Bengaluru
Date: 01/12/2020

Advocate for Petitioner