

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

**PIL WRIT PETITION NO. 85 OF 2007
ALONG WITH
PIL WRIT PETITION NOS. 2053/2003 AND 74/2007
AND
PUBLIC INTEREST LITIGATION NO.1 OF 2009 (A.S.)**

AWAAZ Foundation and another).. Petitioners

Versus

The State of Maharashtra and others).. Respondents

Mr D J Khambata a/w Ms Mallika Iyer i/b Nankani & Associates
for the Petitioners.

Mr U P Warunjikar for the Petitioners in PIL No.1/2009 (A.S.)

Mr S H Aney, Senior Advocate, a/w Mrs Uma Palsuledesai, Assistant
Government Pleader, for the State.

Mr P M Patil, Assistant Government Pleader, for the State.(A.S.)

Mrs S S Mahashabde for Maharashtra Pollution Control Board.

Ms A R Joshi for the Bombay Municipal Corporation.

Ms Kiran Bhagalia for MMRDA.

CORAM: SWATANTER KUMAR, C. J. &

DR. D.Y. CHANDRACHUD, J.

DATED : 26TH FEBRUARY 2009

P.C.

We have heard the learned Counsel appearing for the parties
at some length. This is a typical case where the concerned authorities
are shifting the burden and blame both to the other so as to escape their

responsibility for discharging their statutory and public law obligations. The Petitions relate to much wider aspects. However, today we had heard the matter only with regard to prescribing of standards relating to noise pollution, the control thereof and for laying down the criteria and notifying the silence zones in accordance with law.

2. We find it unnecessary to go into the question as to who is the competent authority to do what part of their duties. Suffice it to note that the Maharashtra Pollution Control Board, Commissioner of Police, the State Government and/or the Municipal Corporation are responsible for complying with and enforcing the law and they ought to perform their duties without unnecessary delay.

3. Various orders have been passed by this Court in relation to prevention and control of noise pollution and in furtherance to the Orders of the Court dated 10th July 2008 and 31st July 2008, a meeting was held by the Chief Secretary of the State of Maharashtra on 12th August 2008 and certain decisions were taken. This meeting was attended by high level officers from several organizations including, Municipal Corporation, Home Department, Police, MMRDA, MSRDC, etc. Relevant part of the decision taken is depicted under Item No.6 of

the said meeting, which reads as under :-

“In the earlier meeting, Mr. Rajeev, Addl. Commr. BMC stated that they are taking action for identifying areas to display boards in a silence zone and this will be done within two months. Similarly, they will initiate suitable action for reducing noise created due to industrial activities and other Urban Development Projects.”

4. This direction remained on the paper. Today, after a lapse of more than six months, the Court is informed that the Corporation is expected to follow the procedure of preparing the boards, which they are to place on the so-called Silence Zones, which still have to be identified. It is strange that the public authorities can take such a stand. Without issuing the Notification in compliance with the provisions of the Statute, there can hardly be any occasion for fixing the boards. This callous attitude on the part of the authorities must come to an end. They must realise that all the public officers are answerable to public and are controlled by doctrine of public accountability. It was expected of the Corporation to co-ordinate with the Commissioner of Police and Maharashtra Pollution Control Board and notify the Silence Zones, which it has failed to do. State Government is to be equally blamed for this non-compliance and non-performance. Mere holding of the meeting will

not serve any object. The action of the Government in performance of its duties are to be demonstrated on the field without which the decisions taken on the file are of illusory benefit to the public at large. It can hardly be disputed in the present day that control of noise pollution is of utmost importance keeping in view the public health and public interest.

5. It has also been brought to our notice that years back, meters to measure the noise pollution levels were stated to be purchased, but still the authorities hardly know where they are lying and for whose benefit.

6. Compelled by the above circumstances, we pass the following directions for compliance forthwith :-

- (a) A Committee comprising Officers from the Bombay Municipal Corporation, Commissioner of Police, Maharashtra Pollution Control Board and State Government be constituted for issuing Notification in relation to Silence Zones in accordance with law within one week from today. We make it clear

that the Principal Secretary (Home), Government of Maharashtra, shall be the Chairman of this Committee and shall hold the meeting in his Chamber for identifying and demarcating the Silence Zones and issuance of Notification thereof in the Gazette.

(b) This Committee shall also state whether the noise pollution levels have been prescribed in terms of the Noise Pollution (Regulation and Control) Rules, 2000 and what equipments have been provided to the enforcing agency to ensure that the noise level does not infringe the prescribed standards specially in the coming days of election where rallies are bound to be held.

(c) The Committee shall also identify and allocate the work to responsible officers from all the three bodies which are responsible for prevention and control of noise pollution i.e. The Maharashtra Pollution Control Board, Municipal Corporation and the Police.

7. Stand over to 2nd April 2009.

CHIEF JUSTICE

DR. D.Y. CHANDRACHUD, J.

Bombay High Court