

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.5135/2007

PETITIONER :- The Citizen Forum Maharashtra,
M-5 Premium Plaza, 242, Khare Town,
Dharampeth, Nagpur – 440010, Through
its Vice – President.

...Versus...

RESPONDENTS :

1. The Union of India, Through its Secretary,
Ministry of Environment,
Government of India, New Delhi.
2. The State of Maharashtra,
Through its Secretary,
Ministry of Environment, Mumbai.
3. The Secretary, Central Pollution Control
Board, Mumbai.
4. The Secretary,
Maharashtra Pollution Control Board,
Mumbai.
5. Chief Controller, Department of Explosive,
Nagpur.

[Shri Tiwari h/f Shri A.S. Kilor, Adv. for petitioner]
[Shri S.K. Mishra, Assistant Solicitor General for respdt. Nos.1 & 5]
[Smt. B.H. Dangre, Addl. G.P. for respdt. No.2]
[Shri S.M. Ukey, Adv. for respdt. No.4]

**CORAM :- S.A. BOBDE AND
A.B. CHAUDHARI, JJ.**

DATED :- 07.07.2010

O R A L J U D G M E N T (PER : S.A. BOBDE, J.)

1. Heard. Rule. Rule returnable forthwith. Heard finally by consent of learned Counsel for the rival parties.

2. The petitioner has by this Public Interest Litigation sought a direction to the respondents i.e. Union of India, State of Maharashtra, Central Pollution Control Board, Maharashtra Pollution Control Board and Department of Explosive to reduce the present permissible limits of noise emitted by firecrackers from 125 decibel to 85-90 decibel and further direction to the respondents to ban chain firecrackers between 100 to 10000 in numbers and other chain firecrackers which produce noise beyond permissible limits.

3. The permissible limit of noise which can be emitted by the firecrackers is presently 125 decibel under the Noise Pollution (Regulation and Control) Rules, 2000 and that there is a notification dated 15.10.1999, issued by the Central Government, which bans such firecrackers, which emit noise greater than 125 decibel and which are used in the chain, emitting a noise greater than the said limits.

4. The grievance made by the petitioner hardly needs any justification since during the festival time the use of firecrackers emit unbearable loud noise throughout the festival period causing irritation and agony to the residents of the localities where they are used

particularly to those who are aged and feeble with ill health. When attempts are made by the neighbours to restrict the use of firecrackers, unnecessary disputes and quarrels arise amongst the neighbours. Obviously, the noise limits have been imposed by Law to curb this situation. Before us, it is not disputed that such firecrackers are sold from retailers in the city and presumably stored in certain godowns in the city of Nagpur.

5. It appears from the affidavit of the respondents that some cases have been registered against various people for violation of noise limits imposed by the Rule in question. We are informed that apart from the issue of notification other measures have been taken by the Petroleum and Explosives Safety Organization (PESO) for the implementation of 'Noise Level Standards of Fireworks', which has imposed standards of the manufacturing process of firecrackers and thereby ensured the quality and uniformity in noise levels by developing environmental friendly chemical formula for the commonly used noise producing firecrackers such as Atom Bomb, Chinese Crackers etc. by the Petroleum and Explosives Safety Organization, which is the new name for the Department of Explosive. Further, during Diwali festival Officers of PESO draw samples of firework shops.

6. The State Government has also issued a Circular dated 16.10.2001, banning the use of firecrackers, which emit noise of 125 decibel up to distance of 4 meters and specifically banning the use of chain firecrackers, which has 50 to 100 and more firecrackers in it.

7. It, however, appears that all the regulative measures referred to above and enacted by the Central Government and followed by the State Government would not be useful in any manner unless steps are taken at the ground level to enforce the measures.

8. We, therefore, issue following directions.

(i) Respondent No.5 - Chief Controller, Department of Explosive, Nagpur, the Commissioner of Police, Nagpur, authorized representatives of the Petroleum and Explosives Safety Organization and the Maharashtra Pollution Control Board shall form a joint squad for carrying out search and operation of wholesalers and retailers of the firecrackers in the city of Nagpur and seize such firecrackers, which have been manufactured contrary to the Rules and notification referred to above.

(ii) The said authorities shall form a squad in the city during the festival time i.e. *Dussehra* and *Diwali* and enforce the implementation of the Rules and notification scrupulously.

(iii) Respondent No.5 - Chief Controller, Department of Explosive, Nagpur is directed to take steps to prevent the manufacturing of firecrackers, which are contrary to the notification and the Rules.

(iv) The petitioner shall be at liberty to make representation to the State Government in regard to the reduction of noise in future.

Rule is made absolute in the above terms.

JUDGE

JUDGE