



WEST BENGAL POLLUTION CONTROL BOARD

(Department of Environment, Government of West Bengal)

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Memo No./1594/3L/WPB-B(III)/2013 (PART)

Dated: 09/10/2013

ORDER

WHEREAS the Hon'ble National Green Tribunal, by consent of the parties, clubbed together five Appeals, namely Appeal No. 43 (Thc)/2013, Appeal No. 44 (Thc)/2013, Appeal No. 45 (Thc)/2013, Appeal No. 52 (Thc)/2013 and Appeal No. 53 (Thc)/2013, filed by the manufacturers/traders of firecrackers and disposed of the matter by a common judgement dated 21-08-2013 *inter-alia* holding that the West Bengal Pollution Control Board (WBPCB) is required to amend the order dated 03-10-1997 and reconcile the same in keeping with the Ministry of Environment & Forest (MOEF) Notification dated 05-10-1999 within one month, while giving the West Bengal Pollution Control Board “liberty to take independent decision in accordance with the powers available under the Air (Prevention & Control of Pollution) Act, 1981 in consultation with the CPCB if the reduction of the noise level emanating from firecrackers is found necessary for certain specific reasons, having regard to the recipient quality thereof”.

AND WHEREAS the Hon'ble National Green Tribunal considered the application of WBPCB for extension of time and *inter-alia* stated in its order dated 25.09.2013 that “while granting time and reiterating the final decision by this Tribunal, we make it very clear that it is appreciable that the WBPCB makes independent decision within a period of four (4) weeks from today.”

AND WHEREAS in pursuance of the said orders of the Hon'ble National Green Tribunal (NGT) giving the liberty to take independent decision, the State Board made consultations with the Central Pollution Control Board as per provision of Section 17(g) of the Air (Prevention & Control of Pollution) Act, 1981.

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AND WHEREAS besides consultations with Central Pollution Control Board (CPCB), West Bengal Pollution Control Board (WBPCB) took into consideration the following facts spread over a period of more than fifteen years in order to take a judicious decision in the matter.

(i) Increased population density, much higher traffic flow, increased ambient noise level that have been observed by the NGT in para 36 of the aforementioned order dated 21-08-2013.

(ii) Recommendation in the report of the expert committee constituted by the Hon'ble High Court Calcutta, 1997 that firecrackers creating more than 90 dB(A) impulse noise at 5 meter from the source should not be allowed to be used or sold in the State of West Bengal.

(iii) Resolutions of 102nd and 113th Board Meetings of the State Board held on 03.10.1997 and 02.11.1999 fixing a maximum of 90 dB(A) impulse noise of firecrackers burst at 5 meters distance.

(iv) Order of the Hon'ble Supreme Court of India passed on 12.01.1998 in connection with Special Leave to Appeal (Civil) No. 19469/97 [M/s Mohan Fireworks and Anr. –VS– State of West Bengal & Ors.] and Orders of the Hon'ble Supreme Court of India passed in connection with Writ Petition (Civil) No. 72/1998 [Re.: Noise pollution–implementation of the laws for restricting use of loudspeakers and high volume producing sound systems VS UOI].

(v) Acceptance of noise standards of bursting firecrackers i.e. 90 dB(A) (Impulse) from 5 metres in West Bengal by the Ministry of Environment and Forests vide their memo dated 26.09.2000.

(vi) Noise Monitoring Data for four years before and after the WBPCB order of 1997 indicating that the average noise level on the Kali Puja and Diwali days decreased substantially after the order of the West Bengal Pollution Control Board restricting the crackers noise was issued. The recent noise data on the Kali Puja and Diwali days indicate that the decrease in noise level that occurred after the WBPCB's order of 1997 has sustained.

(vii) The average population density of the State of West Bengal is 1029/KM² per kilometer square. In terms of the density of the population amongst the States and Union Territories of India, State of West Bengal stands in the front row.

(viii) Orders of the Hon'ble High Court and Hon'ble Supreme Court of India wherein grave concerns have been expressed on the impact of noise in densely populated regions and ill effects of noise pollution (W.P. (C) No. 72 of 1998 with civil Appeal No. 3735 of 2005, Forum, Prevention of Env. & Sound Pollution -Vs- Union of India & Another).

(ix) The recommendations of the Expert Committee constituted by the Department of Environment, Government of West Bengal vide memo dated July 06, 2011. The Expert Committee consisted of Scientists, ENT Specialist and members of the Civil Society.

(x) Strong protests from the Civil Society and NGO's against permitting the firecrackers noise level to 125 dB(A) at 4 metre distance which has amply been reflected through the print and electronic media.

(xi) Report of the Technical Committee constituted by the Central Pollution Control Board in 1989, wherein it was recommended to ban manufacture and sale of firecrackers generating noise level exceeding 90 dB(A) (Impulse) at 5 metres distance from the point of bursting.

(xii) The guidelines of the US Occupational Safety and Health Administration (OSHA) and the phenomenon of virtually continuous impulsive noise produced by the firecrackers during the time of Kali Puja and Diwali.

(xiii) Strong disapproval of holding the citizens captive listeners to unacceptable noise as pronounced by the Hon'ble High Court, Calcutta in connection with the Burrabazar Fireworks Dealers Association -VS- Commissioner of Police, Calcutta and reiterated by Hon'ble Supreme Court in its comprehensive judgement of 2005 [W.P. (C) No. 72 of 1998].

NOW THEREFORE under the circumstances, specific reasons and recipient quality described above and in exercise of the powers conferred under the Air (Prevention & Control of Pollution) Act, 1981, in obedience to and in conformity with the orders passed by the Hon'ble National Green Tribunal dated 21-08-2013 and 25-09-2013 in connection with aforementioned Appeals, it is hereby ordered that :

- a) The maximum permissible noise level of the firecrackers at the time of bursting within the State of West Bengal must not exceed 90 dB(A) impulse noise at five meters from the source;
- b) There shall be a complete ban on bursting sound emitting firecrackers between 10 P.M. & 6 P.M.;
- c) There shall be complete ban on bursting of any kind of firecrackers in silence zones;
- d) There shall be complete ban on sale and use of firecrackers generating noise more than 90 dB(A) impulse at a distance of five meters in the State of West Bengal.

This order shall take immediate effect.

Sd/-

Member Secretary
West Bengal Pollution Control Board