

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 7942/2011

MADHAV ROY Petitioner

Through: Mr. Jai Bansal, Advocate

versus

UOI AND AORS Respondent

Through: Ms. Anjana Gosain and S. Fatima for GNCTD, Mr. Sunil Kumar for R-4

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

06.01.2012

The petitioner is aggrieved by the noise pollution caused by the respondent Temple and Mosque in Ekta Vihar and surrounding areas due to the use of the loud speakers by these religious establishments/bodies on high volume.

Mr. Kamdeo Tiwari, Pradhan and Mr. Damodar Prasad, Secretary of Jai Mata Mandir situated at Ekta Vihar; and Mohd. Ragibul Islam, Imam of Goshiya Mosque situated at Sunder Nagri are present in Court today. The ACP Traffic is also present in court alongwith Mr. Lekh Singh, SHO, Nandnagri.

I have spoken to the aforesaid representatives of the Jai Mata Mandir as well as to the Imam of the Mosque.

I find from the photograph shown to the Court - and judicial notice can be taken of the fact, that in Temples, Masjids and other religious places, loud speakers are installed at nearly the highest point, facing outside, with the result that when the same are operated, the noise spreads in a large area around the religious place of worship. This causes unjustifiable interference in the peaceful life and existence of the persons, not only in the immediate neighbourhood, but also those who may be living at some distance from the religious place.

No person is entitled, on the pretext of practicing or propagating one's religion, to cause such nuisance in his/her neighbourhood, and disturb the peace in the area. Merely because one considers it beneficial for others to hear the Aarti, Aazan, Religious Prayers, or Sermons, one cannot thrust the same upon others, against their will, and at the cost of their peace and tranquility. The freedom to practice ones religion does not give a right to anyone to breach and trample upon the fundamental and civil rights of others in the community.

Religious tolerance in a secular State means the exercise of self-restraint and the

maintenance of self-discipline. It means that persons of all communities acknowledge, and exhibit sensitiveness and respect to the legitimate needs, comforts and rights of others. It does not mean the forcible stamping of one's religion or religious practices on others, whether one likes it or not, and even though the same may legitimately be considered by them as a source of nuisance or inconvenience, with the expectation that the other persons should quietly accept and tolerate such activities. Such acts cause irritation to persons who may not be interested in such practices and propagation? whether belonging to the same religious community or other religious communities. Such acts are likely to lead to simmering of ill-will and grievances, which, in turn, leads to communal tensions. Therefore, such practices and tendencies deserve to be curbed to preserve the rights of the citizens.

The Supreme Court in *Forum, Prevention of Environment and Sound Pollution v. Union of India and Anr.*, Civil Appeal No.3735/2005 decided on 28.10.2005, reported as AIR 2006 SC 348 has taken note of the Noise Pollution (Regulation and Control) Rules, 2000 which have come into force on 14.02.2000. The Supreme Court in its order has quoted with approval a passage from the Times of India (The Speaking Tree) dated 07.10.2005 which are appropriate to be taken note of and I, therefore, reproduce the same herein below:

“Those who favour the use of loudspeakers plead that it is a devotee's religious duty enjoined by the shastras to make others listen and enjoy the singing of bhajans. Azaan too is necessary to inform others that it is time for namaz, a job assigned to the muezzin of the mosque.

Wait a minute. There were no loudspeakers in the old days. When different civilisations developed or adopted different faiths or when holy books were written to guide devotees, they did not mention the use of loudspeakers as being vital to spread religious devotion. So the use of loudspeakers cannot be a must for performing any religious act. Some argue that every religion asks its followers to spread its teachings and the loudspeaker is a modern instrument that helps to do this more effectively. They cannot be more wrong. No religion ever says to force the unwilling to listen to expressions of religious beliefs.

In the Bhagavad Gita, Krishna says to Arjuna: “This secret gospel of the Gita should never be imparted to a man who lacks penance, nor to him who is wanting in devotion, nor even to him who lends not a willing ear; and in no case to him who finds fault with Me... He who, offering the highest love to Me, preaches the most profound gospel of the Gita among My devotees, shall come to Me alone; there is no doubt about it” (18.67-68).

The gospel should be delivered to only those who enjoy listening to it and who have the patience to do so. It shall never be forced upon those who do not want it. The holy Qur'an says, “Lakum Deenokum Walia Deen” - your religion and belief is for you and my religion and belief is for me. Each stay happy with her own religion and belief. It never says, make others listen to the gospel of your faith by using loudspeakers.

A similar instance is found in Biblical literature. The Gospel according to Saint Luke says: “When Jesus had called the Twelve together, he gave them power and authority to drive out all demons and to cure diseases, and he sent them out to preach the kingdom of God and to heal the sick.

He told them: 'Take nothing for the journey - no staff, no bag, no bread, no money, no extra tunic. Whatever house you enter, stay there until you leave that town. If people do not welcome you, shake the dust off your feet when you leave their town, as a testimony against them'. So they set out and went from village to village, preaching the gospel and healing people everywhere'' (9.1-10).

The earlier Supreme Court judgment banning the un-solicited use of loudspeakers at inconvenient times is in conformity with religious tenets.''

The aforesaid words of wisdom should not only remain as a part of newspaper articles or law reports, but should also be put into action.

I, therefore, direct that no religious establishment, or institution, or place of worship in Ekta Vihar and Sunder Nagri shall install the loud speakers at a high point, or close to the pinnacle of the religious place of worship. The same shall be installed at a height not more than eight feet from the ground. They should also not be facing outside. Their direction should be such that the sound waves are focused at the centre of the place of worship, so that only those devotees/ believers, who are interested in visiting the religious place of worship, and are interested in listening to the religious prayers, sermons etc. get to hear the sound waves, and noise pollution is not caused in the vicinity of the religious place of worship.

The aforesaid directions have been explained to the representatives, namely, Mr. Kamdeo Tiwari, Pradhan and Mr. Damodar Prasad, Secretary of Jai Mata Mandir and Mohd. Ragibul Islam, Imam of Goshiya Mosque, and they have undertaken to the Court to abide by these directions. They shall remain bound by their undertaking and the directions issued by the Court.

The ACP (Traffic), who has been designated as the authority by the notification dated 03.04.2008 for maintenance of the ambient air quality standards in respect of noise, under the Environment (Protection) Act, 1986 in the NCT of Delhi, as well as other officers who are so designated by notification dated 10.12.2001, shall ensure strict compliance of this order, the provisions of the Environment (Protection) Act, and the maintenance of the decibel levels around all religious places of worshi in the area in question.

List for compliance on 12.03.2012.

Dasti under the signatures of the Court Master.

VIPIN SANGHI, J

JANUARY 06, 2012

sr 13