



Right to life in Healthy Environment: Noise Pollution and Judicial Activism in India

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Abstract:

Noise pollution is increased by modernization, technology, population and become silent contaminate to destroy healthy, peaceful life.

Keywords: Noise Pollution, Pollutant, Peace, Health, Life.

Introduction:

In olden days not seen pollution because population was limited, not seen modern technology, urbanization is limited. At what time the Industrialization starts, growth of population leads, urbanization exceeds and human personality captured within the boundaries of pollution. Now it's not possible to live with polluted atmosphere which destroy right to life of human personality. Exceed pollution now a days become question mark for quality of life. Natural environment becomes unhealthy due to air pollutant; water pollutant and not only this but exceeds noise pollution also becomes toxic and unhealthy for the people at large. To give safeguard from unhealthy life some rights are provided in Indian Constitution and in that most important is right to life under Article 21 of the Indian Constitution. Right to quality and healthy life protected by state it is the duty of state

to give protection to quality of life. Environmental statutes are implemented in India like Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act, 1981, Environmental Protection Act, 1986. These statutes helpful for the judiciary to solve the problem of public at large mostly these litigations of filed in High Court and Supreme Court under Public Interest Litigation and judiciary always become protector of right to healthy life of human Personality. Today's date noise become toxic and unhealthy problem before the society and safeguard against this pollution is provided by judiciary through Constitution and various environmental and other legal statutes.

Research Problem:

Here in this research problem researcher wants to study whether noise pollution destroy the right to healthy life of

human personality and whether Constitution, Statute, and Regulation with the help of judiciary protect the right to healthy life of Human personality.

Research Objectives:

- 1) To study how noise Pollution affects the right to a healthy environment under Article 21 of the Constitution.
- 2) To examine the role of laws and courts in protecting people from noise pollution in India.
- 3) To understand public awareness and government efforts in controlling noise pollution.

Research Methodology and Plan:

Methodology is used for this research problem is doctrinal, mostly covered under statute, case laws and books on Environmental Law. Study starts from concept of noise pollution, sources of noise pollution, adverse effects of noise pollution on health of human personality, Constitutional and Environmental legal Provision regarding safeguard from noise pollution and active role of judiciary to safeguard of right to life from noise pollution.

Concept of Noise Pollution:

Noise word is derived from Latin term “nausea” which means that undesirable sound by listener ¹ David Hughes defines noise as, ‘an invisible but

insidious form of Pollution”² From the verb of ‘Pollute’ as noun ‘pollution’ is derived. Environmental Pollution means, ‘the presence in the environment of any environmental pollutant.’ ³ Environment Pollutant means, ‘any solid, liquid or gaseous substance present in such concentration as may be, or tend to be injurious to environment. ⁴ Thus disturbance causes from unwanted and undesirable sound is called as ‘noise pollution’.

Causes of Noise Pollution:

Broadly noise causes two broad sources are considered first one is natural and second is man-made. In Natural noise sources noise generates from nature like air noise, volcanoes, sea wave’s noise, and natural sound of man and animal also include in natural sound. This sound is beyond the power of human personality and not controlled by human personality. It seems that such noise is not that much harmful to human personality. Day by day technology, modernization, urbanization increased and manmade creation, production creates noise and that is become problematic for society and health of human personality. Such type of noise generates from industry, mills, printing press, construction sites, temples mosques Gurudwaras via loudspeaker or loud noise technology created by man, Airplane noise, rail noise, road traffic and horn

¹ S. Shanthakumar’s, Introduction to Environmental Law, 231 Second Edition, 2023, Lexis Nexis, Gurgaon, Haryana.

² David Hughes, Environmental Law (Butterworth, London) P.310.

³ Sec.2(c) of Environmental (Protection) Act, 1986.

⁴ Sec.2 (b) of Environmental (Protection) Act, 1986.

noise, rockets, Agricultural equipment like tractor, tube wells harvesters, generators domestic mixer, freeze, washing machine and other like nature equipment, Entertainment productions like television, radio, video player now days use of mobile and increased strategy to use video and audio player and many more manmade product generates different nature and different decibel limit sounds.⁵

No place is without sound apart from that sound is need of life to express one fillings of happiness, sadness, and nervousness sound is become part of life. This is not applicable to human personality only but animal through different types of sound share his filling to us or each other. To convey thoughts, feeling expression of that feeling is necessary. By way of Communication with each other the massage convey with each other and understanding and knowledge regarding of that communication generates. Each sound is harmful music, soft water sound, soft flute sound feels pleasant it's not considered as harmful effects and not come under noise pollution category. Like Air Pollution existing air contains oxygen which is important for inhalation of human being and not consider as pollutant again with water also important of life and not each water is come under pollutant category but these are necessary conditions, requirements of life.

At the time it change their nature and contaminants add other than these

observes, feels intolerable level then it's come under pollutant category, unwanted sound leads as environment noise pollutant. Noise is not considered separately as pollutant but in 1987, amendment to the Air (Prevention and Control of Pollution) Act 1981 expands and add noise as an air pollutant.⁶

Effects of Noise Pollutant:

Day by Day modernization, technology, urbanization, and population exceeds and become question mark before human personality. Now the situation is that man can't sleep peacefully in his own home due to exceed noise. This noise created adverse effects on human personality. If noise crosses tolerable limit then it losses humans' temporary hearing capacity and sometime leads to permanent hearing loss.

In Re noise pollution stated that noise is a type of atmospheric pollution. It is a shadowy public enemy whose growing menace has increased in the modern age due to rapid growth of urbanization, industrialization and development of science and technology. Considering as noise effects on human personality some are auditory effects and some are non-auditory. In auditory effects temporary side effect and permanent side effects are detected by noise pollution. As considering auditory effect of Temporary hearing loss is reversible but permanent hearing loss possible to reveres. It is observed that sudden noise is more harmful than continuous one. Generally

⁵ Dr. Paramjit S. Jaswal: Dr. Nishtha Jaswal; Vibhuti Jaswal, 464, fifth edition 2021, Allahabad Law Agency Law publishers, Faridabad Haryana.

⁶ Sec.2 (a) of the Air (Protection) Act, 1986.

man's hearing capacity is considered as 140 decibel limit. Human ears feel fatigue if noise exceeds over 80 dB for more than half an hour. It causes temporary deafness when noise is 100 dB and become painful when it leads 140dB. As considering non auditory side effects there are cardiovascular harm, effect on reproduction system. It seems that some effects are physiological and some effects are physiological. Like disturbance in Communication system disturb the fluency and mind set of human personality and increase nervous system. Noise Disturb sleep and its effect on Physical as well physiological side effect of human being. Bodily pain, headache, boredom type of feeling whole day is not new for us due to sleep disturbance or less of sleep. It is observed that due to noise nervous system destroys and many of the time leads anger and fatigue to human personality. Though noise is not seen but its hidden impact and feeling of human personality become harmful day by day to society and people at large.

Role of Laws and Courts in Protecting People from Noise Pollution:

In India various laws tackle the noise pollution Problem. Some statutes are general legal statutes some are environmental statutes and Indian Constitution always protective by its fundamental rights are judiciary always active towards these environmental cases through Public Interest Litigation.

Before Environmental laws there are general laws prevails and mostly noise pollution is treated as nuisance and civil

remedy under tort law considered by law. Some remedies under Indian Penal Code 1860 under section 290 and 291 was given as treating criminal nuisance and fine imposed extend to two hundred Indian Rupees. Apart from that Criminal Procedure Code 1973 Section 133 to 143 provide speedy remedy for preventing and controlling public nuisance. Apart from these laws there are Police Act 1861, Factories Act 1934, Workmen's Compensation Act, 1923 Acts are protective to noise nuisance.

In Environmental Law Environmental (Protection) Act, 1986 was enacted to prevent, control and abate environmental Pollution. Section 6 of the Act empowers the Government to make rules to regulate environmental pollution. Under Section 6(2) (b), the Central Government can make Rules providing for "the maximum allowable limits of concentration of various environmental pollutants (including noise) for different areas. Thus, the Central Government has the power to control the noise pollution by laying down the maximum allowable limit of noise in the environment. There is also general power of the Central Government under Section 3 of the Act to take measures to protect and improve the quality of environment and preventing, controlling and abating environmental Pollution. Accordingly, the Central Government has enacted the Environment (Protection) Rules, 1986, which provide for the maximum allowable limits of various environmental Pollutants including noise.

The Noise Pollution (Regulation and Control) Rules, 2000 came enforce on 24th July 2000 to provide rules increasing ambient noise levels in public places. This Noise Regulation includes eight rules and in third rule ambient air quality standards in respect of noise for different areas/ Zones includes in Rule 3.

Area Code	Category of Area/ Zone	Limits in dB(A) Leq Day Time and Night Time	
A	Industrial Area	75	70
B	Commercial Area	65	55
C	Residential Area	55	45
D	Silence Area	50	40

Here day time mean from 6.00 a.m. to 10 p.m. and Night time mean 10.00p.m. to 6.00 a.m. State Government categorize area and take measures for abatement of noise including noise from firecrackers, motor vehicles and horns, loudspeakers etc.

In Constitution of India right to life is protected by Article 21 which covers Right to live life in healthy and clean environment. In *Subhash Kumar v. State of Bihar*,⁷ stated that Right to live is fundamental right under article 21 of the Constitution and it includes the right to enjoyment of pollution –free water and air and full enjoyment of life. This indicates life considered in this Article as quality of life. In *P.A. Jacob vs Superintendent of Police*⁸ The Kerala High court held that

the Fundamental right to freedom of speech guaranteed under Article 19 (1) (a) freedom of speech did not include the right to use a loudspeaker. The court held that apart from the right to be let alone, freedom from auditory violent behavior, Article 21 of the Constitution of India Guarantees freedom from disturbing sounds. *Church of God (Full Gospel) vs. K.K. R. Majestic Colony welfare Association*⁹ Practice of loudspeaker for religious prayer is not include right to disturb the harmony and peace from public hence under Article 21 protection for the safety of peaceful life and health of public was taken into consideration by judiciary. In Re: *Noise Pollution*¹⁰ case Public Interest Litigation was filed for exceed noise from loudspeaker, Firecrackers noise especially festival occasions. Supreme Court held that there must be application of strict rules for loudspeaker and firecrackers noise and cannot be used between 10 p.m. to 6.00 p.m. and not to make disturb peace and sleep of human personality and protected by Article 21 of Indian Constitution.

Conclusion:

Noise pollution is alarming problem increased day by day and violate right to peaceful and healthy life of human personality. Constitution and Statutory remedies are provided still these are inadequate to stop noise pollution and need to implement and attentive by public awareness and policy and rule and regulation strictly implementation.

⁷ (1991)1 SCC 598.

⁸ AIR 1993 Ker 1.

⁹ (2000)7 SCC 282.

¹⁰ (2005) 5 SCC 733.