

[MANU/MH/0536/2010](#)

Equivalent Citation: 2010(112)BomLR2695

IN THE HIGH COURT OF BOMBAY (AURANGABAD BENCH)

Writ Petition No. 1996 of 2010 and Civil Application No. 3289 of 2010 and Civil Application No. 3289 of 2010 in Writ Petition No. 1996 of 2010

Decided On: 10.06.2010

Appellants: **Anand S/o Bhimrao Salvi**
Vs.

Respondent: **The State of Maharashtra through Secretary, Environment Protection Dept. and Ors.**

AND

Appellants: **The Administrators, Aurangabad Premier League**
Vs.

Respondent: **Anand S/o Bhimrao Salvi and Ors.**

Hon'ble Judges:

[A.M. Khanwilkar](#) and [S.S. Shinde](#), JJ.

Counsels:

For Appellant/Petitioner/Plaintiff: [S.S. Thombre](#), Adv.

For Respondents/Defendant: [N.B. Khandare](#), G.P. for Respondent Nos. 1 to 3, [P.R. Patil](#) and [S.S. Ladda](#), Adv. for Respnd. No. 5

Subject: Civil

Catch Words

Mentioned IN

Acts/Rules/Orders:

Bombay Policy Act, 1951 - Sections 33, 36, 134 and 135; Environment (Protection) Act, 1986 - Section 2; Indian Penal Code - Sections 268, 290 and 291; Noise Pollution (Regulation and Control) Rules, 2000 - Rules 2, 3, 4, 5, 5(1), 5(2) and 6 to 8; Noise Pollution (Regulation and Control Amendment) Rules, 2010; Constitution of India - Articles 14, 21 and 226

Cases Referred:

In Re: Noise Pollution Board 2005 (5) SCC 733 : (2005) 8 SCC 796; Farhd K. Wadia v. Union of Inda (2009) 2 SCC 442; Om Birangana Religious Society v. State (1996) 100 CWN 617; Church of God (Full Gospel) in India v. K.K.R. Majestic Colony Welfare Assn. (2000) 7 SCC 282

Citing Reference:

Farhd K. Wadia v. Union of Inda	Mentioned
India v. K.K.R. Majestic Colony Welfare Assn. Mentioned	
Om Birangana Religious Society v. State	Discussed

Case Note:

Civil — Regularisation of event causing noise pollution in residential areas — Action against the organisers of APL sought — Held, the location, where the APL tournament was to be held, though earmarked and notified as stadium, is only an open play ground without any enclosures. The high volume sounds out of this event, that too beyond the permissible limits can be countenanced, more particularly at such a crucial time when the children residing in the neighbourhood were to appear for the final examinations. The tournament was bound to distract them not only by the high volume voice generated, but also because of the sporting activity held on such a large scale. The permission in such case can be granted only by the designated authority and cannot be delegated in absence of express rule to the Police Inspector. In the present case the permission was granted by the Police Inspector and not by the authority within the meaning of Rule 2(c) of Noise Pollution (Regulation & Control) Rules, 2000 (Rule). Merely granting permission and imposing terms and conditions provided by law does not extricate the Authority. The authority ought to consider the request made for organising such events, taking into account all factors including that if the event is to be held in an open ground and not in a stadium with enclosures and where entry would be allowed free of cost, coupled with the fact that on account of presence of several dignitaries and celebrities, it was likely to attract large gathering and the consequence of activity of such mega event would inevitably distract the students in the vicinity and in the neighborhood. Besides, even if permission as requested was to be granted, it should be on strict terms and conditions to play music within the permissible noise limits and during the ‘restricted hours’.

Ratio Decidendi:

“Right to life enshrined in Article 21 is not of mere survival or existence. It guarantees a right of a person to live with human dignity including all the aspects of life which may go to make a person's life meaningful, complete and worth living.”

JUDGMENT

A.M. Khanwilkar, J.

1. The Petitioner has approached this Court by way of Writ Petition, under Article 226 of the Constitution of India praying for direction against the Respondents 2-4 to take action against the organizers of the Aurangabad Premier League (T-20 Cricket Matches) (hereinafter referred to as APL) who have had held cricket tournament at ADCC Stadium on a large scale situated at N-2, CIDCO, Aurangabad and caused harm by creating noise pollution, by using high volume sound systems during the whole day when the tournament was in progress. Further, it is prayed that the Respondents 2-4 be directed to stop the high volume sound system used during the matches conducted for the purpose of APL Tournament. It is further prayed that the Respondents 2-4 be directed to call upon the Respondent No. 5-Organizers of APL Tournament, to shift the ongoing event to any other stadium.

2. The Petitioner asserts that he is residing at N-2, CIDCO nearby the said ADCC Stadium. The said area is a residential area. The stadium is essentially an open ground without any enclosures and is being used by the children staying in the said area for sports activities and also by the local residents for brisk walking. It is stated that the Respondent No. 5 decided to organize APL Tournament commencing from 2nd March, 2010 until 11th March, 2010, till the final match. The cricket matches were to be held on the said ground between 10.00 a.m. till 10.00 p.m. during the relevant period. It is stated that on 2nd March, 2010, the inauguration of APL Tournament was held in the presence of many politicians who were associated with the APL. Some of them were quite prominent personalities. As a result, the inaugural function was attended by large number of persons and which function continued till 11.00 p.m. on that day. It is stated that during the inaugural function, loudspeakers and other electronic sound systems were used causing severe noise pollution in the vicinity of the said ground. After the inaugural session, the tournament started from 3rd March, 2010 at 10.00 a.m. and continued till 10.00 p.m. During the whole day, the organizers used high volume sound systems and caused severe noise pollution. This was in complete disregard to the fact that the said stadium is in the thick of the residential colony; and more importantly at the relevant time the Board examination for Xth standard and XIIth standard had just commenced. Thus, causing distraction to the students appearing in the Board examination and in particular residing in the neighbourhood. Besides, the other school or college going students in Aurangabad and in particular in the neighbourhood of the stadium were to appear for their other final examinations during the same period. Since the nuisance caused on account of noise pollution was severe, the Petitioners and other persons residing in the

same locality approached the Organizing Committee of Respondent No. 5 and requested them to forbear from using high volume sound system and causing noise pollution and distraction to the residents and in particular students in the area. In spite of the said request since the offending activity continued unabated, the Petitioner approached the District Collector-Aurangabad, Police Commissioner- Aurangabad and Municipal Commissioner of Municipal Corporation-Aurangabad vide representation dated 3rd March, 2010 complaining about the nuisance caused on account of high volume sound system operated in the stadium throughout the day from 10.00 a.m. and continued till night time upto 11.00 p.m. The Petitioner called upon the said Authorities to immediately intervene-considering the fact that the students staying in the vicinity of the said stadium were to appear for their respective examinations and were being distracted by the music played in the stadium throughout the day at high volume. The Petitioner also invited the attention of the concerned Authorities to the decision of the Apex Court with regard to measures to be taken in relation to noise pollution.

3. It is stated that XIIth standard Board examination had already started from 23rd February, 2010 which was continuing during the relevant time and the Xth standard Board examination was to commence from 4th March, 2010. Besides, the children staying in the said locality were expected to appear for their Annual Examinations and were distracted by the mega event conducted in the said ground, which was an open stadium without any enclosures and access to the said event was open to all without payment of any charges. Since the complaint made by the Petitioner remained unaddressed, the Petitioner immediately rushed to this Court on 4th March, 2010 by way of present Writ Petition and has asked for the reliefs as referred to earlier.

4. The Petition was immediately moved before us on 5th March, 2010 when the Learned Government Pleader made statement on instructions that no music system will be operated in the stadium during the APL tournament and the same has already been stopped. Further, the Respondents and all concerned would strictly abide by the directions issued for discontinuing the use of music sound system during the tournament. Accordingly, the Writ Petition was made returnable on 11th March, 2010. In the meantime, the Respondent No. 5 took out Civil Application No. 3289/2010 praying for clarification/modification of our order dated 5th March, 2010 and to clarify that the Respondent No. 5 can use public sound system within the permissible limits specified by law. The said application was produced before us, when attention of the Counsel appearing for the Respondent No. 5-Applicant was invited to the fact that there was no Court's order, but the Court had merely recorded the statement made on behalf of the official Respondents represented by the Government Pleader. For that reason, there was no question of modification/clarification of the order and it was open to the Respondent No. 5-Applicant to pursue its request before the concerned Authorities, who in turn would be obliged to consider the said request in accordance with law. The Respondent No. 5-Applicant also submitted undertaking to the effect that during the entire tournament, the organizers would abide by Noise Pollution (Regulation & Control) Rules, 2000 and would welcome the Maharashtra Pollution Control Board to monitor the noise level at their cost until the entire tournament concludes. The matter thereafter

appeared before us on 11th March, 2010 when after considering the rival submissions, the Court passed the following order.

PER COURT

The issue raised in this Petition is essentially with regard to noise pollution caused on account of usage of Music System in the event which is being conducted at A.D.C.C. Stadium, N-2, CIDCO, Aurangabad. The grievance of the petitioner is that the Music System is operated at high volume, making it impossible for the nearby residents to carry on their day to day activities and moreso, for the children who are appearing for 10th and 12th Board Examinations which have commenced from 04-03-2010 and would continue till 17-03-2010. We were told by the Counsel for the petitioner that on an average not less than 5000 persons gather at the site during the event and besides, their participation in the Tournaments, contributing to the noise pollution music system is operated for the whole day at high volume resulting in great nuisance to the nearby residents.

2. The learned Government Pleader was called upon to take instructions from the Police Officers who were present in the Court to ascertain the correctness of this submission. P. I. Mr. Shamrao Gaikwad and A.P.I. Mr. Suresh Banduji Ambildhage of Mukundwadi Police Station, who are present in the Court stated that they have personal knowledge about the situation and according to them, the case made out by the petitioner is exaggeration of the situation. According to them, not more than 500 persons gather at the site for the ongoing Cricket Tournament. We called upon them to re-assure themselves about the correctness of this position. Both the Officers, who are quite senior Officers in the Police Department have reiterated their stand that on a given day and at any point of time, not more than 500 persons are seen at the place where tournament is being conducted. This statement is not only countered by the Counsel for the Petitioner but also by the Counsel for the Organizers. According to the Counsel for the Organizers, depending on the participating team, about atleast 5000 to 10,000 persons gather at the site to witness the tournament. One thing is certain that both the Counsel for the petitioner as well as the Organizers are ad-idem that large number of persons gather at the site, which fact belies the statement made by the two Senior Police Officers, who are present. We are shocked and pained to see the irresponsible attitude of this two Police Officers who are present in the Court, who have made the above statement for the reasons best known to them. Perhaps, the purpose of making such statement was only to mislead the Court to take a liberal view of the situation and reject the argument of the petitioner that large number of persons gather at the site, and also responsible for causing nuisance to the neighbouring residents. Besides, the nuisance caused by the Music System which is used throughout the day.

3. Learned Government Pleader on instructions states that at the moment the situation is very much under control and the authorities are taking utmost care to ensure that the noise level does not exceed 50 decibels at any point of time as stated in the communication issued under the signature of Police Commissioner, Aurangabad dated 10-03-2010 which was produced before us. Looking to the attitude of the Police Officials who claim that they are continuously monitoring the situation, we have our own doubts

about the correctness of even this stand. To reassure ourselves we hereby appoint Mr. R. S. Deshmukh, Advocate and Mr. S. S. Dande, Advocate, to act as Court Commissioners and to submit report about the situation arising out of the noise pollution at the place of Tournament. We direct that this matter be placed tomorrow as the final event is stated to be today.

4. However, we make it clear that the authorities shall ensure that the noise level of Music System or otherwise at the place of Tournament shall not exceed more than 50 decibels at any given point of time. If there is any breach of this condition, the Commissioner of Police as well as Commissioner of Municipal Corporation, shall be personally responsible for the situation. Ordinarily, the said officials ought to have acted with circumspection in granting permission for such event during the crucial period of Board Examination. Atleast in future they ought to consider this aspect.

5. We hope and trust that the authorities who are using devices to monitor the sound level are genuine, accurate and functional so as to record compliance of the above direction. Besides the above, it will be necessary to ensure that no Music System shall be operated beyond 22.00 hours and even Tournament cannot continue further after 22.00 hrs. This would not only ensure limit the noise pollution problem but also obviate other security and nuisance issues which have been brought before us.

6. Counsel for the Organizers initially stated that as per the norms prescribed by the Ministry of Environment, Union of India, the permissible decibel limit is upto 65 decibels during the day time and not above 45 decibels during the night time. Even so, the Organizers are willing to abide by the instructions issued by the Police Commissioner in his communication dated 10-03-2010. We accept this assurance. The observations made in the earlier part of this order is consistent with the said instructions issued by the Police Commissioner.

7. List the petition tomorrow i.e. on 12-03-2010 under caption 'directions'.

8. It is made clear that the parties to this proceedings including two appointed Court Commissioners who have graciously accepted the request made by us to visit the place of event, shall proceed without the copy of this order as order has been dictated in open Court in the presence of all concerned. In as much as, transcription of order may take some time and by the time, same is uploaded on the Court System, event may be over.

9. We direct the Organizers to provide all security and necessary logistical facilities to the Court Commissioners who would visit the place of Event. Government Officials who are supposed to supervise the noise level and are present at the scene with the devices, shall make themselves available to the Court Commissioners whenever required and provide them information that may be sought by them. Court Commissioners to submit their joint report tomorrow when the matter would be taken for further direction.

10. The Organizers besides providing logistical support to the Court Commissioners shall deposit amount of Rs. 20,000/- (Rs. Twenty Thousand only) in this Court towards the

costs to be paid to the Court Commissioners for their visit, in terms of this order forthwith.

11. Copy of this order be forwarded forthwith to the Secretary, Home Department, Government of Maharashtra, in the context of the observations made against the two Senior Police Officers for information and necessary action.

5. In terms of our above order, the matter appeared before us once again on 12th March, 2010. The Court Commissioners submitted their joint report regarding their experience during the visit while the final cricket match was being played. The said report makes an interesting reading. We think it apposite to reproduce the same in its entirety, which reads thus:

REPORT OF COURT COMMISSIONERS

1. In pursuant to Order dated 11/03/2010 passed by this Hon'ble High Court, both the undersigned Commissioners visited the place where Aurangabad Premier League (APL) Tournament - 2010 was organized by Lokmat and Aurangabad District Cricket Association. The said tournament seems to have been sponsored by Videocon. The place of tournament is known as ADCA Stadium, situated at N-2, CIDCO, Aurangabad.

2. The main entrance for the said stadium is towards Northern side where the office of ADCA is also situated and we are told that the capacity of the stadium is about 5000 to 6000. Except the Pavlian at the entrance, the stadium is open and there is no permanent construction. We were told by the organizers of the tournament that there are as many as eight temporary galleries so as to accommodate the spectators for the said tournament. On our personal visit at the stadium we ourselves could notice after inspection that the sitting capacity of each gallery is not more than 400 persons.

3. There were twelve towers (focus lights) erected at the stadium as it was day-night match. All the abovesaid towers are operated with the help of 125 KV generators (04 in Nos.) and those were mounted on mobile vehicles. The tournament was open to all and there was no entry ticket, but from the Pavlian side there was entry to officials, players, VIPs and pass holders. Opposite to the Pavalian, facility of entrance was provided for the public at large.

4. The said stadium is not bounded completely but there is only one compound wall towards Western side having a big Iron Gate opening on the main road and which is normally closed.

5. As far as yesterday's final match is concerned there was no DJ System installed. There were two 50 Watt speakers installed near the Pavalian i.e. on the Northern side. The final match commenced at 5.00 p.m. and at that time nearly 2000 to 2500 spectators were present in the stadium. To check the noise level and pollution, we could get the assistance initially from Shri S.P. Bansod - Heat Constable Wireless from Police Head Quarter, Aurangabad who has brought the device i.e. NLM Noise level Meter alongwith a separate

Printer. The said officer tried his level best to handle the said device and to demonstrate its functioning to both the Court Commissioners, but on his failure to do so, he told us that he is not a trained person and the other trained persons would come shortly from Police Head Quarter. It is thereafter that three police personnel namely (1) G.R. Tiwari, Radio Mechanic ASI Head Quarter, (2) A.V. Sadbhave, Radio Mechanic ASI Head Quarter and (3) D.M. Gadekar, Bakkal No. 2152, Mukundwadi Police Station arrived and inspite of their best possible efforts also printer which was not even charged could be made operational.

6. On personal enquiry, the afore-said officers told us that they are also not trained personnel and normally manage to operate the device with the help of a manual, the copy of which was shown to us. We were also told that there are seven such devices to check noise level/pollution in the Aurangabad Police Commissionerate area. The one which was brought was from Jawahar Nagar Police Station, Aurangabad. Thereafter the Deputy Commissioner (CIDCO) namely D.D. Jawalikar alongwith Dr. Deogaonkar, Health Officer, Aurangabad Municipal Corporation came over there. With the help of the manual, only the above said device and not the printer could be made operational and with the assistance of above-said officers, the noise level/pollution was tried to be checked by the Court Commissioners.

7. On our specific enquiry to Mr. Jawalikar regarding proper functioning of the said device he told us that he is also not the trained person but he is operating the said device with the help of the manual and further told that we could presume that the said device is properly functioning. On the said presumption, we proceeded further as till this time the half of the match was already over. The fact remains that there was no person available authorized from the office of the Maharashtra Pollution Control Board to monitor the noise level.

8. One of the Court Commissioners i.e. Advocate Dande personally took the round of the stadium with the above-said officers and recorded the noise level at different places inside as well as outside the stadium. It could be noticed that the noise level at the near the Pavalian where the running commentary was on and the speakers were installed, it was within the permissible limits, but whenever there was any occasion for the public at large to cheer-up, the noise level increased upto 70 to 75 decibels. It was also noticed that opposite to Pavalian i.e. at the far end, though the commentary and sound system was on, it was not audible. The noise level was personally checked at each of the twelve towers in the stadium, where again the noise level was found to be upto 80 decibels when huge cheer-up from spectators was going on.

9. The Court Commissioner also could personally experience that when he alongwith the above-said team was trying to check up the noise level, the spectators cheer-up was optimum and hence some time the noise level could be found even 90 decibels.

10. The Court Commissioner also took a round outside the stadium alongwith the above-said team and could find at one of the residential places i.e. of Advocate Santosh Dastgar, who was personally present for checking the noise level. The device shown noise level at

57.6 db. On personally, the Advocate Dastgar told the Court Commissioner that as far as the final match is concerned, except the cheer-up of public on occasions, there was no nuisance on account of sound system installed in the stadium. After taking complete round outside the stadium, it was noticed by the Court Commissioner that when in the stadium the final match was going on and it was in half way and when there were as many as 10000 to 15000 spectators, except their cheer-up on occasions, the noise level of the sound system was not exceeding beyond permissible limits. The Court Commissioner could also notice that even at a place i.e. end to Thackare Nagar which is towards the Southern side of the stadium, even the vehicular traffic, the device was showing the reading as 94.5. db.

11. The final match was concluded at 21.15 hrs.; and the price distribution was over by 21.35 hrs. The Court Commissioners on their above-said personal inspection and assistance could find that there was absolutely no trained person available with the proper device to check the noise level/pollution. The above-named officers who were present and assisted, were neither trained nor authorized. It would be worthwhile to note that whatever device was made available to the Court Commissioners, they could record the above-said factual position.

Hence this Report.

6. After perusing the said report and considering the arguments advanced before us by the Counsel appearing for the respective parties, we reserved recording of our reasons to dispose of this petition. As a matter of fact, the reliefs claimed in the Petition had virtually worked out when the matter was heard on 12th March, 2010. Nevertheless, we were convinced with the grievance made on behalf of the Petitioner that the problem is a recurring problem and even though the present tournament may be over, there is possibility that some other tournament will be held in the same manner or even on a larger scale which may give rise to the same issues raised in the present Petition. Further, we found force in the submission made on behalf of the Petitioner that the grievance made in this Petition is in the nature of public interest litigation as the Petitioner was espousing the cause not only for himself but for all the residents in the vicinity who were affected on account of noise pollution; and more particularly because the students who were supposed to appear for the ensuing final examinations either for Xth standard Board examination or XIIth standard Board examination and other final examinations which had already started or were to start and coincide with the dates of the tournament to be conducted until 11th March, 2010. In other words, we are of the opinion that the issue raised in the present Petition is a recurring one and deserved to be answered so that atleast in future appropriate corrective measures can be taken by the authorities to prevent causing of such nuisance on account of noise pollution as also distraction to the students during the examination period. Accordingly, we thought it appropriate to answer the grievance brought before us.

7. After having considered the rival submissions and going through the pleadings and more particularly the original record produced by the police officer of Mukundwadi, Aurangabad in respect of the APL tournament, it is noticed that primarily four broad

issues would arise for consideration. Firstly, whether the Respondent No. 5 had valid permission to operate the public sound system. Secondly, whether the officials be that of Police Department or of Pollution Control Board have discharged their obligation and statutory duty in ensuring that the noise caused on account of public sound system used by the Respondent No. 5 during the relevant period was in adherence to the permissible limits specified by law. Thirdly, whether the permission to conduct APL Tournament given by the Police Department can be said to be just and proper as it completely disregards the interests of the students in particular, who were at the sametime, preparing to appear for their final examinations including for Xth Board examination and XIIth Board examination. Fourthly, whether the Police Department ought to have permitted organizing the event such as APL Tournament, which was to attract large gathering of persons (estimated between 10,000-15,000), not only on account of sporting event but the presence of Ministers, Political Leaders, Dignitaries and Cinema Stars during such crucial examination period especially when it is admitted position that location where the tournament was to be conducted was not a regular stadium but an open ground situated in the thick of the residential colony, without any enclosures and entry to the said event was free for all without any charges.

8. In so far as the last issue is concerned, true it is that the location where the APL tournament was to be held has been earmarked and notified as stadium. However, it is admitted position that the same is only an open play ground without any enclosures. The said ground is ordinarily used by the children staying in the locality for sports activities and by residents in the locality for morning and evening walks. It cannot be termed as a stadium as such. This position is reinforced even from the report of the Court Commissioner which has been adverted to hereinbefore. The report gives graphic description of several aspects including the topography and facilities available at the said ground. Suffice it to observe that it is an open play ground without any enclosures and is accessible and approachable from any side by the residents in the locality. At the sametime, it is an admitted position that the event organised by the Respondent No. 5 was without any charges and free of cost. Such events have now become common and increasing in number. It appears that such events are organised by the local politicians with the sole intention of networking with the masses. It gives them opportunity to interact with the masses and also free publicity for them. Significantly, such events create opportunity for the politicians to interact with the younger generation which may turn out to be substantial prospective voters for them, so as to consolidate their goodwill. In the name of promoting sports, such events are being organized to consolidate one's political position. It is obvious that the organizers were least concerned about the fall out of such mega event on the students staying within the vicinity and for that matter even in the neighborhood who were likely to be distracted from studies.

9. Indeed, it is a fundamental right to organize such sports events, but that does not mean that the Organizers have absolute right in that behalf. That right is subject to grant of permission by the local authority including by the Police Department. The Organizers would be obliged to abide by the terms and conditions, even if such permission were to be granted. Considered thus, in our opinion, it would have been in the fitness of things for the Police Department to have kept in mind that during the same time all the final Board

examinations as also other examinations had either already started or overlapping with the dates of the proposed tournament. It cannot be gainsaid that the resource persons for making such tournament successful would be children within the age group who would be necessarily pursuing their studies and would be appearing for Board examination or the University examination, as the case may be. Since the ground where the event was to be organized was an open ground with no enclosures and was enveloped by the residential colony, this factor assumed significance. That ought to have been kept in mind by the Police Department. It would have been possible to refuse permission on that count, which decision would have been in the larger public interest. The organizers cannot insist for conducting such mega event at any place or time as they may like. It is open to the authorities to regulate such events in larger public interest and refusal to grant permission for such event can be justified on that basis.

10. Thus understood, there is substance in the grievance of the Petitioner that the Police authorities have completely glossed over this crucial aspect while granting permission to the Respondent No. 5 for conducting the APL Tournament for such long duration from 2nd March, 2010 till 11th March, 2010 coinciding with the final Board as well as University examinations which was likely to cause distraction to the students appearing for their final examination staying within the vicinity where the ground was located and in the neighborhood. However, in the present case since the event is already over on 11th March, 2010, we do not think it necessary to delve upon this aspect any further except to mention that the Police Inspector who has granted permission vide communication dated 2nd March, 2010 was conscious of the fact that the ground was situated in residential area and presently Secondary and Higher Secondary Examinations were in progress. In spite of this, he permitted the Respondent No. 5 to conduct the tournament and use of loud speaker on condition that the same should adhere to permissible limits specified by law and by the Supreme Court of India.

11. In so far as the question as to whether the such mega event should be permitted during the crucial period when the Secondary and Higher Secondary Board examinations or for that matter university examinations of colleges are in progress or are imminent and moreso because the ground on which such mega event was to be conducted was an open ground in the thick of residential colony without any enclosures and the entry thereto was free for all without any charges which was likely to attract substantial number of persons (anywhere in between 10000-15000 persons) to witness the tournament and also on account of presence of Ministers, Political Leaders, Dignitaries, Cinema Stars throughout this period. We have no hesitation in taking the view that grant of permission to such an event on the said ground during the examination period or when the Board and college examinations are imminent was bound to cause distraction to the students community staying within the vicinity and in the neighborhood. That would inevitably affect their academic performance in the examinations. As aforesaid, the participants as well as the supporters who would remain present for such mega event would be of such age group that they are either appearing for the Board examination or the university examination as the case may be. These aspects are germane. The same ought to have been reckoned by the authority granting permission for conducting such event. As aforesaid, although the permission does refer to the issue of Board examinations in progress, but is rested only in

the context of noise pollution and has not weighed as to whether such event would cause distraction to the students in the vicinity and in the neighborhood.

12. That takes us to the question as to whether the Respondent No. 5 has obtained valid permission to hold APL Tournament. From the original file which has been made available to us, it is noticed that the Respondent No. 5 made application to the Police Inspector of Police Station, Aurangabad (Mukundwadi City) on 25th February, 2010. On the said application, the Police Inspector granted permission on 2nd March, 2010. English translation thereof reads thus:

(Translation of a xerox copy of a letter written in Marathi.)

Outward -O. W. No. 385/2010
Office, P. Stn. Mukundwadi
Aurangabad (C)

Date: 2/3/2010

To,

Shri. Paramjeetsingh Sandhu,
General Manager, Lokmat Newspaper,
Aurangabad.

Reference: Your application dt. 25/2/2010.

Subject: Regarding having given permission for the cricket tournament and for playing Loud speaker at N-2 ground, from the date 2/3/2010 till 11/3/2010.

As regards aforesaid subject, I, Shamrao Gaikwad, Inspector of Police, Mukundwadi Police Station, Aurangabad, in exercise of the powers delegated to me under office order bearing O. W. No. S.B./Au./ Bando. - Powers/ 2003-8682 dated 21/10/03, of the Commissioner of Police, Aurangabad, hereby give the permission for cricket Tournament and for playing Loud speaker at N-2 ground from the date 2/3/10 till 11/3/10 on the following conditions.

Date: 2/3/2010 till 11/3/2010 Time 09.00 to 22.00

Place: N-2 CIDCO Ground

Leadership: Applicant

Conditions:

- 1) A large number of spectators is going to be gathered in a crowd and therefore in order to prevent any untoward incident at the said place, you should depute maximum private security guards.
- 2) You should avail bandobast to the extent of manpower required for bandobast at the said place, by paying fees as per the Government Rules to that effect.
- 3) As the said ground is in residential (locality) and as Secondary and Higher Secondary School Examinations are going on, you should keep the volume of the loud speaker within control (limit) subject to the orders issued by the Hon'ble Supreme Court as regards Loud speaker and in such a manner that no nuisance is caused to the public on account of your programme.
- 4) If any law and order problem arises at the venue of the aforesaid event, the organisers will be held responsible for the same.
- 5) If any of the aforesaid conditions is violated, then the action will be taken under Section 134/135 of B.P. Act.

(Signature illegible)
P. Stn. Mukundwadi,
Aurangabad (C)

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Chief Translator and) M 1694 A True Translation

Interpreter's Office) fs.

High Court, Bombay)

2010) For Chief Translator

SST.

13. The other documents in the file are essentially interdepartmental communications regarding the requisition sent by the Police Inspector for proper security arrangements in anticipation of large gathering during the event which was to be attended by Ministers, Political bigwigs, Film stars and celebrities. In so far as the question as to whether the above permission can be said to be valid in law, we will have to turn to the relevant provisions of the Act and the Rules. Before that, we may advert to the contents of the communication dated 21st October, 2003 which is referred to in the Permission letter issued under the signature of the Police Inspector, which according to him, empowered him to grant the subject permission. The English translation of the said circular issued under the signature of Police Commissioner, Aurangabad dated 21st October, 2003 reads thus:

(Translation of a circular printed in Marathi)

O. No. SB/Au/Bando.Powers/2003-8682
The Office of Police Commissioner,
Aurangabad

Date: 22/10/2003

Confidential

Circular:

Subject: Regarding powers to deploy different types of Bandobast.

There has been a practice since long to issue all types of Bandobast orders, within the Jurisdiction of Police Commissionerate, by Special branch. Owing to this practice, it has been prominently noticed that excess manpower is being used for Bandobast at many places of small events, whereas at some occasions it has also been noticed that though there was requirement of additional manpower, insufficient manpower was deployed as a result the situation was required to be handled by utilizing reserved force from control room at the eleventh hour. From this it becomes clear that either the assessment report of the in-charge officer of the concerned police station not used to be received or used to be received late, as a result, it could not be estimated as to exactly how much manpower would be required for Bandobast and as a result less or excess manpower was being used.

2. Considering all the abovementioned facts seriously, the Hon'ble Commissioner of Police, in the crime related meeting held on the date 16/10/03, after discussing with all the in-charge officers, declared that the powers to deploy Bandobast at the places of different events are being given to the concerned Police Station in-charge officers, Asst. Commissioner of Police of the concerned division and Dy. Commissioner of Police of the concerned zone.

3. Further, it has also been decided that Bandobast Orders, only for the below mentioned events, will be issued by the Special Branch.

3.1 Bandobast arrangement for the tours and programmes of very important/important personages.

3.2. Election Bandobast arrangement (Parliament, Assembly, Legislative Council, Municipal Corporation, Zilla Parishads, Panchayat Samitis, Grampanchayats.)

3.3 Most important festivals/Birth Anniversaries (Holi/Dhulivandan, Pola, Gokulashtami, Ganesh Utsav, Navratri Utsav, Dhammachakra Pravartan Din, Mohuram, Ramzan Id, Bakari-id, Id-E-Milad, Shivjayanti, Ambedkar Jayanti, Annabhau Sathe Jayanti, Guru Nanak Jayanti)

3.4 Bandobast arrangement for public flag hoisting programmes on 26th January, 1st May, 15th August and 17th September.

3.5 Bandobast for the 'BANDH' called by various parties-organisations as well as Bandobast on outbreaking of communal riots, natural calamity and Bandobast plan for Standardised Central Security arrangement.

4. Bandobast under the powers of police station incharge officers:

The police station in-charge officers should grant permission for small events viz- 'Dharana;s agitations, hunger strikes, self-immolations, gate meetings, public meetings, gatherings, area rallies, 'Urus', 'Sandal', various processions, 'Shobha Yatra', rallies, Morchas, various religious programmes, 'Jagaran Ratra' 'Marathwada Vidyapeeth Namvistar Din', 'Bouddha Pournima, rasta roko, Bandobast for all kinds of encroachment removal, municipal corporations general meeting, Municipal Corporation's Standing Committee meeting, minor elections (Eg. Various bank's elections, credit society's elections, college senate elections, Sarpanch/Dy-Sarpanch election etc) and should deploy necessary Bandobast of Police station at the time of such events.

4.1 Police Station in-charge officer/Asst. Police Commissioner/Dy. Police Commissioner:

For giving loudspeaker permission, time restriction should be imposed and fees should be charged for the use of loud speaker as per the directions given under this office's circular bearing O. No. Cell-6/rules/2003-1631, dt. 28.1.2003. Similarly, in order to provide Bandobast by charging fees, the Bandobast should be provided after charging fees as per the Govt. rules.

4.2 Moreover, if the aforesaid events are to be held within the limits of two or more police stations from the same division then, the Asst-Commissioner of Police of the concerned Division should grant permission to the event and should issue directions for such Bandobast arrangement. If the event is concerned with two Sub-Divisions then, Dy. Comomissioner of Police (Zone) should grant permission for such events and should issue directions for such Bandobast arrangement.

4.3 The Police Station in-charge officer, Asst. Police Commissioner and Dy. Police Commissioner (Zone) should immediately send a copy of permission given for such event and Bandobast (order) issued, to the Special Branch in the office of Police Commissioner and after the event is over, detailed report to that effect should be immediately submitted to the Special Branch. Moreover, the information about events to be held, should be furnished in advance to the special branch and control room.

4.5. If the Police Station in-charge officer requires additional force, then he should make a requisition to the Asst. Police Commissioner. If the required force could not be made available by the concerned division, the concerned Asst. Police Commissioner should make a requisition for additional force to the Dy. Commissioner of Police (Zone).

Similarly, for the Bandobast at the headquarters, the concerned should make a requisition for required additional force to the Dy. Commissioner of Police (Headquarters). (The Officers/staff at special branch, Crime branch, traffic branch, gas squad, BDDS, video cameraman, wireless message division, striking force, laathi holding staff of Police Headquarters Lady Police staff and well as the vehicles required from Motor Transport branch).

All the police officers should immediately implement the directions given in this circular. (With the approval of Commissioner of Police)

Sd/-
(Illegible)
21.10.03
(S.D.Waghmare)

For the Commissioner of Police, Aurangabad

Copy to: All Police Station in-charge officers, Aurangabad City

Control Room, traffic, Police Headquarters wireless message division, Crime branch, Special branch, Motor Vehicle branch, BDDS, Aurangabad City.

Copy to: All Asst. Commissioner of Police, Aurangabad City

Copy for information to: The Dy. Commissioner of Police, Headquarter/ Zone, Aurangabad City

Chief Translator &) M-1695
Interpreter's Office) Fs.
High Court, Bombay) 2010 ssc/-)

A true translation,

For Chief Translator

14. Reverting back to the question as to whether the permission granted by the Police Inspector is valid one, we may notice that the necessity of abiding by the permissible limits has been underscored in the decision of the Apex Court reported in

[MANU/SC/0415/2005](#) : 2005 (5) SCC 733 in the case of In re: Noise Pollution Board. The Apex Court has restated the legal position that freedom from noise pollution is part of right to life under Article 21 of the Constitution of India. It has also adverted to the statutory protection available in this regard under different legislations as also under the law of tort. It has then highlighted the problems in controlling noise pollution in India and offered solutions thereto. This decision unambiguously records that there is lack of will on the part of the Executive to implement the law. Besides, there is lack of infrastructure essential for attaining the enforcement of laws. It went on to observe that

there is a need of developing mechanism and infrastructure for enforcement of prevailing laws.

15. The Apex Court has held that Article 21 of the Constitution guarantees life and personal liberty to all persons. It has further observed that it is well settled that right to life enshrined in Article 21 is not of mere survival or existence. It guarantees a right of person to life with human dignity. That includes all the aspects of life which may go to make a person's life meaningful, complete and worth living. The human life has its charm and there is no reason why the life should not be enjoyed along with all permissible pleasures. It further observed that anyone who wishes to live in peace, comfort and quiet within his house has a right to prevent the noise as pollutant reaching him. No one can claim a right to create noise even in his own premises which would travel beyond his precincts and cause nuisance to neighbors or others. It thus proceeded to observe that any noise, which has the effect of materially interfering with the ordinary comforts of life judged by the standard of a reasonable man is nuisance. The Court went on to observe that nobody can claim a fundamental right to create noise by amplifying the sound of his speech with the help of loudspeakers. While one has a right to speech, others have a right to listen or decline to listen. Nobody can be compelled to listen and nobody can claim that he has a right to make his voice trespass into the ears or mind of others. Nobody can indulge into aural aggression. If anyone increases his volume of speech and that too with the assistance of artificial devices so as to compulsorily expose unwilling persons to hear a noise raised to unpleasant or obnoxious levels then the person speaking is violating the right of others to a peaceful, comfortable and pollution-free life guaranteed by Article 21.

16. Applying above stated principles enunciated by the Apex Court by no standard, the playing of sound system at high volume and that too beyond the permissible limits can be countenanced and more particularly at the crucial time when the children residing in the neighbourhood were to appear for the final examinations as it was bound to distract them not only by the high volume voice generated, but also because of the sporting activity held on such large scale on the ground to which access was free for all without payment of any charges.

17. The legal position has been restated in the recent decision of the Apex Court in the case of Farhd K. Wadia v. Union of India reported in [MANU/SC/8376/2008](#) : (2009) 2 SCC 442. Even this Judgment has adverted to all the relevant enactments and Rules including the earlier decisions of the Apex Court governing the issue of noise pollution. The Apex has observed that interference by the Court in respect of noise pollution is permitted on the basis that a citizen has certain rights being 'necessity of silence', 'necessity of sleep', 'process during sleep' and 'rest', which are biological necessities and essential for health. Further, silence is considered to be golden. It is one of the human rights as noise is injurious to human health which is required to be preserved at any cost. In this decision, the Apex Court has adverted to the Rules of 2000, which provide for ambient air quality standards. It has quoted with approval the directions given by the Calcutta High Court in the case of Om Birangana Religious Society v. State reported in (1996) 100 CWN 617. In paragraph 23 of the judgment, the same reads thus:

23. The Calcutta High Court in several judgments and in particular in *Om Birangana Religious Society v. State* issued various directions, some of them being:

(a) There will be complete ban on the use of horn type loudspeakers within city residential areas and also prohibition on the use of playback of pre-recorded music, etc. through such horn type loudspeakers unless use with sound limiter.

(b) In cultural functions which are live functions, use of such pre-recorded music should not be used excepting for the purpose of announcement and/or actual performance and placement of speaker boxes should be restricted within the area of performance facing the audience. No sound generating device should be placed outside the main area of performance.

(c) Cultural programmes in open air may be held excepting at least before three days of holding Board/Counsel Examinations to till examinations are completed in residential areas or areas where educational institutions are situated.

(d) The distance of holding such functions from the silence zones should be 100 metres and insofar as schools, colleges, universities, courts are concerned, they will be treated as silence zones till the end of the office hours and/or the teaching hours. Hospitals and some renowned and important nursing homes will be treated as silence zones round the clock.

(See Noise Pollution, Laws & Remedies by Justice Bhagabati Prosad Banerjee, pp. 327-28.)

In paragraph No. 24, the Court adverted to other decisions of the Apex Court pertaining to loudspeakers and amplifiers. In the case of Noise Pollution (V) Case reported in [MANU/SC/0415/2005](#) : (2005) 5 SCC 733 the Court directed that loudspeakers and amplifiers or other equipments or gadgets which produce offending noise once detected as violating the law, should be liable to be seized and confiscated by making provisions

in the law in that behalf. Reference is then made to another decision in the case of

Noise Pollution (VII) Case reported in (2005) 8 SCC 796 in which the Court has noted that the power to grant exemption is conferred on the State Government that cannot be further delegated. The power shall be exercised by the reference to the State as a unit and not by reference to districts, so as to specify different dates for different districts. The Court further observed that it can be reasonably expected that the State Government would exercise the power with due care and caution and in the public interest. It has also noted word of caution for the State Government to ensure that the exemption to be granted by the State Government is not violative of Articles 14 and 21 of the Constitution of India. In the case of *Church of God (Full Gospel) in India v. K.K.R. Majestic Colony Welfare Assn.* reported in [MANU/SC/0537/2000](#) : (2000) 7 SCC 282 the Apex Court observed that problem of noise pollution has become more serious with the increasing trend towards industrialization, urbanization and modernization and is having many evil

effects including danger to health. It may cause interruption to sleep, affect communication, loss of efficiency, hearing loss or deafness, high blood pressure, depression, irritability, fatigue, gastrointestinal problems, allergy, distraction, mental stress and annoyance etc. This also affects animals alike. The extent of damage depends upon the duration and intensity of noise. Sometimes, it leads to serious law and order problems. The Apex Court has observed that Article 21 of the Constitution of India guarantees life and personal liberty to all persons. It is not of mere survival or existence. It guarantees the right of life to persons with human dignity. Therein are included all aspects of life.

18. According to the Respondents, valid permission was issued in favour of the Respondent No. 5 for conducting the APL tournament commencing from 2nd March, 2010 till 11th March, 2010. For that, reliance is placed on the communication dated 2nd March, 2010 issued under the signature of Police Inspector, Mukundwadi Police Station, Aurangabad (City). Indeed, the Police Inspector has adverted to circular dated 21st October, 2003 which according to him empowered him to grant such permission. However, going by the provisions of the Noise Pollution (Regulation & Control) Rules, 2000 which have been amended with effect from 11th January, 2010 by virtue of Noise Pollution (Regulation & Control Amendment) Rules, 2010 it would appear that the authority who can grant permission is referred to in Rule 5(1). The same is defined in terms of Section 2(c) which reads thus:

(c) "authority" means and includes any authority or officer authorized by the Central Government, or as the case may be, the State Government in accordance with the laws in force and includes a District Magistrate, Police Commissioner, or any other officer not below the rank of the Deputy Superintendent of Police designated for the maintenance of the ambient air quality standards in respect of noise under any law for the time being in force;

19. The fact that location where the tournament was to be conducted is a place within the meaning of Rule 2(i) of the said Rules, is not in dispute. The said Rule reads thus:

(i) 'public place' means any place to which the public have access, whether as of right or not, and includes auditorium, hotels, public waiting rooms, convention centres, public offices, shopping malls, cinema halls, educational institutions, libraries, open grounds and the like which are visited by general public; and

Thus, for operating loud speaker or public address system, at such a place, the permission can be granted only by the designated authority. That power cannot be delegated in absence of express rule authorising such delegation of power to the Police Inspector. Admittedly, in the present case the permission is granted on 2nd March, 2010 by the Police Inspector and not by the authority within the meaning of Rule 2(c) of the said Rules. Notably, the permission does not refer to specific provisions of any enactment or the rules. However, the permission granted by the Police Inspector would be referable to Section 36(e) or 36(ea) of the Bombay Police Act, 1951. The said Section reads thus:

36. In areas under their respective charges the Commissioner, and subject to his orders every Police officer not inferior in rank to an Inspector, and the (Superintendent) and subject to his orders any Police officer of not lower than such rank as may be specified by the State Government in that behalf, may, from time to time as occasion may arise, but not so as to contravene any rule or order under Section 33 give all such orders either orally or in writing as may be necessary to-

(e) regulate and control the playing of music or singing, or the beating of drums, tom-toms and other instruments and the blowing or sounding of horns or other noisy instruments, in or near any street or public place;

{(ea) regulate and control the use of loud speakers in or near any public place or in any place of public entertainment;}

20. Grant of such permission by the Inspector does not result in compliance of the requirement of Rule-5 of the said Rules of 2000 as amended. Whereas, permission ascribable to this rule is to be granted by the authority within the meaning of Rule 2(c) of the said Rules. No such permission is forthcoming. It is fairly accepted by the Counsel for the Respondents that no application was made to the Authority under the Rules of 2000. In that sense the Respondent No. 5 did not possess valid permission for operating the loud speaker or public address system for the purpose of Rules of 2000 as amended. The said Rules have been introduced especially to deal with the mischief of increasing ambient noise levels in public places from various sources, inter alia, generator sets, loud speakers, public address system, music systems, other mechanical devices etc., which have deleterious effect on human health and the psychological well being of the people. The Rules are framed to regulate and control noise producing and generating sources with objective of maintaining of ambient air quality standards in respect of noise.

21. The next question is whether the officers have discharged their duty to regulate the usage of loudspeaker or public address system by the Respondent No. 5. As per Rule 3 the ambient air quality standards in respect of noise for different areas/zones is specified. Further, the primary obligation to regulate and control the noise pollution is on the State Government and in particular, the Designated Authority. That is evident from conjoint reading of Rules 3, 4 and 5 as amended. The same read thus:

3. Ambient air quality standards in respect of noise for different areas/zones (1) The ambient air quality standards in respect of noise for different areas/zones shall be such as specified in the Schedule annexed to these rules.

(2) The State Government shall categorize the areas into industrial, commercial, residential or silence areas/zones for the purpose of implementation of noise standards for different areas.

(3) The State Government shall take measures for abatement of noise including noise emanating from vehicular movements, blowing of horns, bursting of sound emitting fire crackers, use of loud speakers or public address system and sound producing instruments

and ensure that the existing noise levels do not exceed the ambient air quality standards specified under the rules.

(4) All development authorities, local bodies and other concerned authorities while planning developmental activity or carrying out functions relating to town and country planning shall take into consideration all aspects of noise pollution as a parameter of quality of life to avoid noise menace and to achieve the objective of maintaining the ambient air quality standards in respect of noise.

(5) An area comprising not less than 100 meters around hospitals, educational institutions and courts may be declared as silence area/zone for the purpose of these rules.

4. Responsibility as to enforcement of noise pollution control measures:

(1) The noise levels in any area/zone shall not exceed the ambient air quality standards in respect of noise as specified in the Schedule.

(2) The authority shall be responsible for the enforcement of noise pollution control measures and the due compliance of the ambient air quality standards in respect of noise.

As per Rule-5 as amended, it reads thus:

5. Restriction on the use of loud speakers/public address system and Sound producing instruments:

(1) A loud speaker or a public address system shall not be used except after obtaining written permission from the authority.

(2) A loud speaker or a public address system or any sound producing instrument or a musical instrument or a sound amplifier shall not be used at night time except in closed premises for communication within, like auditoria, conference rooms, community halls, banquet halls or during a public emergency;

(3) Notwithstanding any thing contained in Sub-rule (2). The State Government may

subject to such terms and conditions as are necessary to reduce noise pollution permit use of loud speakers or public address system and the like during night hours (between 10.00 p.m. to 12.00 midnight) on or during any cultural or religious festive occasion of a limited duration not exceeding fifteen days in all during a calendar year. The concerned State Government shall generally specify in advance, the number and particulars of the days on which such exemption would be operative.(Added vide S.O. No. 1088(E) dated 11th October, 2002)

(4) The noise level at the boundary of the public place, where loudspeaker or public address system or any other noise source is being used shall not exceed 10dB (A) above the ambient noise standards for the area or 75 dB (A) whichever is lower;

(5) The peripheral noise level of a privately owned sound system or a sound producing instrument shall not, at the boundary of the private place, exceed by more than 5 dB (A) the ambient noise standards specified for the area in which it is used.

5A. Restrictions on the use of horns, sound emitting construction equipments and bursting of fire crackers.

(1) No horn shall be used in silence zones or during night time in residential areas except during a public emergency.

(2) Sound emitting fire crackers shall not be burst in silence zone or during night time.

(3) Sound emitting construction equipments shall not be used or operated during night time in residential areas and silence zones.

22. From the joint report submitted by the Court Commissioners, it is more than evident that the officers failed to discharge their duty. Merely granting permission and imposing terms and conditions provided by law does not extricate the Authority. The obligation of the Authority would continue until the event is completed as is clear from the scheme of Rules 6 to 8 of the said Rules. For, Rule 6 provides for consequences of any violation in silence zone area. Rule 7 postulates that the aggrieved person can make a complaint to the Authority within the meaning of Rule 2(c). And on receipt of such complaint the Authority is obliged to take appropriate action. Rule 8 empowers the Authority to take action in order to prevent the mischief by issuing directions as he may consider necessary to any person for preventing, prohibiting, controlling or regulating the noise level. The power is coupled with the duty of the Authority to ensure that proper enforcement of noise level and due compliance of Rules in respect of noise level is being adhered to by all concerned during the event is in progress. Mere presence of police officials on the ground does not result in discharge of this obligation. The District Magistrate as well as other responsible officials including that of the State Pollution Control Board were duty bound to continuously supervise the event and to ensure that there is complete compliance of the specified noise level permissible as per the Rules. That could have been possible only if the concerned officials were to bring necessary devices to assess the situation and upon noticing that the permissible limit is being breached, take such instant corrective measures as would be required.

23. In the present case, the instruments or devices made available, as noticed by the Court Commissioner, were found to be defective. Besides, there was no trained person available to operate the said devices. In spite of the fact that the matter had received attention of the Court, the officials of the Pollution Control Board did not bother to remain present. We would proceed on the assumption that no intimation about the event was given to the concerned office of the Pollution Control Board. That, however, does not absolve the

Pollution Control Board from initiating action on its own inspite of the wide publicity given to the event. That could have been done by resorting to random checking to ensure that the noise pollution level was not exceeding the permissible limits. The officials of the Police Department as well as that of the Pollution Control Board have, therefore, failed to discharge their obligation.

24. The consequences of breach on account of using music sound system and public address system during the APL Tournament without valid permission and also on account of exceeding the permissible noise level limits during the said tournament on several occasions, the same is amenable to action under the Environment (Protection) Act, 1986. The authorities would be obliged to initiate action under the Act of 1986 and/or the Rules of 2000 and/or under Section 268, 290, 291 of Indian Penal Code (as observed by the Apex Court in Re: Noise Pollution (V)(supra)), on the basis of the information made available to them including from the position noted in the joint report of the Court Commissioners.

25. Indeed, our attention was invited to communication sent by the Police Commissioner dated 4th March, 2010 to the In charge Officers of concerned police stations informing them that hereafter they shall not directly grant permission regarding operating of DJ (Public Address System) at their level. However, such instructions cannot undo the lapse committed by the officials as well as by the Organizers of not taking prior permission of the authority specified within the meaning of Rule 2(c) of the said Rules.

26. During the course of hearing, the Counsel appearing for organizers in all fairness stated that having realized the implications of conducting such event which also results in causing distraction to the students residing in the vicinity of the ground and in the neighborhood, as it would inevitably dissuade them from focusing on the final examinations which are imminent, the Organizers henceforth shall ensure that such event is not held after 28th February, 2010 until the end of March 2010 when the Board and University examinations are coinciding. Even if we were to accept the said statement, the same would only bind the Respondent No. 5. In the circumstances, we thought it appropriate to express our concern as any such activity at the local level is bound to distract the students and children residing in the vicinity and neighborhood of the ground. Further, we hope and trust that hereafter the authorities dealing with request for permission may impose appropriate conditions so as to obviate the situation arising from such distraction.

27. We have noticed that inspite of the undertaking given by the Respondent No. 5 before us, no formal request was made to the Pollution Control Board by the Respondent No. 5 either for granting permission or for carrying out inspection to assess the situation and to take appropriate remedial action against the erring persons in the event of exceeding the permissible limits of noise level. Similarly, inspite of assurance given to the Court it appears that the organizers were not able to regulate the noise level on the ground below the permissible limits throughout the match, as is evident from the Court Commissioner's report.

28. According to the Petitioner, even if the permission given by the Police Inspector is to be treated as proper and valid, it was only for permitting use of loud speaker and not for operating music system throughout the day. We are not impressed by this submission. The permission, to operate loud speaker or public address system is inclusive and would take within its sweep using that system or device for relay of music, if granted by the designated Authority.

29. Accordingly, we are inclined to dispose of this Writ Petition with direction to the Respondents 2 & 3 in particular to take appropriate action as may warranted for the breaches committed by the Respondent No. 5 and/or all other persons responsible for such breaches in terms of the Act of 1986 and/or the Rules of 2000 and/or provisions of I.P.C. or any other law, as may be applicable and take those proceedings to its logical end in accordance with law.

30. While parting, we may observe that in future, the authority ought to consider the request made for organizing such events, taking into account all factors including that if the event is to be held in an open ground and not in a stadium with enclosures and where entry would be allowed free of cost, coupled with the fact that on account of presence of several dignitaries and celebrities, it was likely to attract large gathering. The consequence of activity of such mega event would inevitably distract the students in the vicinity and in the neighborhood who were expected to prepare for and appear in the final examinations including of the Board and Universities which were imminent. Besides, even if permission as requested was to be granted, it should be on strict terms and conditions to play music within the permissible noise limits and during the 'restricted hours'.

31. During the course of arguments, our attention was invited to the fact that hospitals and educational institutions are located in and around the ground where the APL Tournament was to be conducted. If it is so, the Authorities may have to consider as to whether the concerned area where such hospitals and educational institutions are located should be declared as silence zone and all necessary steps in that behalf will have to be taken to its logical end with utmost dispatch.

32. We express our gratitude to both the Court Commissioners for having offered their valuable services at short notice and having submitted report giving graphic description of the relevant aspects, which has been of immense help in deciding the controversy brought before us. We hope that the Respondent No. 5 organizers have already complied with their obligation to pay the amount to the Court Commissioners as per the court's order. If it is not paid so far, that be done forthwith and in any case not later than one week from today.

33. We also hope and trust that the Appropriate Authority will take necessary action against the two police officials referred to in our order dated 11th March, 2010 with utmost dispatch. Further, it is imperative to ensure that proper and sufficient number of devices are provided to the officials at the local level for monitoring the noise level.

Besides, the officials are also properly trained to handle those devices. In absence of which, the enforcement of the laws governing noise pollution will remain only a mirage.

34. We also want to impress upon the State Government, to take suitable measures as are recommended by the Apex Court (in the case of *In re: Noise Pollution (V)* (supra)) in addressing the problems in controlling noise pollution and solutions thereto and more particularly of spreading civic awareness amongst the youths in schools and colleges as well as in the police and civil administration.

35. Accordingly, the Writ Petition as well as Civil Application is disposed of with the above observations. We further direct that the original record made available to the Court by the Police Department be returned forthwith.