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Smt. Sarada Muraleedharan IAS
Hon. Chief Secretary
Kerala State
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21.1.2025

Madam,

Sub:- Implementation of Environment Compensation Regime of Noise Pollution.

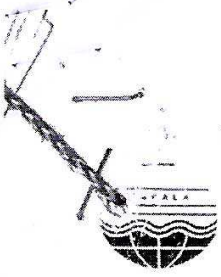
- Ref:
1. Direction under Sec-5 of EPA 1986 Regarding Implementation of Environment Compensation Regime of Noise Pollution dtd. 19.5.2021 of Kerala State Pollution Control Board upon CPCB vide letter No.A-14011/1/2021-MON dtd.27.04.2021 >> www.art-artist.in/np.htm >> Section-1 >> Link:4(g)
 2. Authorities for the Implementation of Noise Pollution (Regulation and Control) Rules, 2000 >> www.art-artist.in/np.htm >> Section-1 >> Link:4(h)
 3. Environment Protection Act. 1986, Sec-15 >> www.art-artist.in/np.htm >> Section-1 >> Link:4(a)
 4. Noise Pollution (Regulation and Control) Rules, 2000 >> www.art-artist.in/np.htm >> Link:4
 5. G.O.(P) No.64/02 dtd.20.4.2002 (S.R.O.No.289/2002) Categorizing different zones to implement Noise Pollution Rules, 2000 >> www.art-artist.in/np.htm >> Section-1 >> Link:8
 6. Kerala High Court Order W.A.No.235/1993 to implement NPR 2000 strictly without any Religious Discrimination >> www.art-artist.in/np.htm >> Link:12
 7. PCB/HO/EE3/NGT/O.A.No.681/2018/30/19 dtd.6.1.2023

1. Hon. National Green Tribunal ന്റെ ഉത്തരവ് പ്രകാരം Environment Compensation Regime for Noise Pollution നടപ്പാക്കാനായി Chief Secretary യുടെ chairmanship ൽ 17.3.2022, 23.5.2022, 19.9.2022 തീയതികളിൽ meeting നടത്തി, എന്നാൽ ആയത് നടപ്പാക്കാനായി യാതൊരു ശ്രമവും നടത്തിയതായി കാണുന്നില്ല.
2. ആയതിനാൽ ഇതോടൊപ്പം ഉൾപ്പെടുത്തിയിട്ടുള്ള Ref-7 ന്റെ നടപടിക്രമം പൂർത്തിയാക്കി, പൊതുജനങ്ങൾ ശബ്ദമലിനീകരണ ക്രിമിനലുകളിൽ നിന്ന് നേരിട്ടുകൊണ്ടിരിക്കുന്ന പീഡനങ്ങളിൽ നിന്ന് സംരക്ഷിക്കാൻ വേണ്ട നടപടികൾ അടിയന്തിരമായി സ്വീകരിക്കണമെന്ന് അപേക്ഷിക്കുന്നു.

Yours truly,



(Subhash S)



☎: General: 0471- 2312910, 2318153, 2318154, 2318155 Chairman: 2318150 Member Secretary: 2318151
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KERALA STATE POLLUTION CONTROL BOARD

കേരള സംസ്ഥാന മലിനീകരണ നിയന്ത്രണ ബോർഡ്

Pattom P.O., Thiruvananthapuram - 695 004
പട്ടം പി.ഒ., തിരുവനന്തപുരം - 695 004

PCB/HO/ EE3/NGT/O.A.NO.681/2018/30/19

Date: 06/01/2023

From

The Chairman

To

The Additional Chief Secretary
Environment Department
Government Secretariat
Thiruvananthapuram



Sub: - Implementation of Noise Pollution (Regulation and Control) Rules, 2000-reg.

Ref: - 1. Decision taken in the meeting convened on 25.11.2022

2. Government letter no A3/241/2019-ENVT dated 05.01.2023

Sir,

As per the decision under ref 1, a draft scheme regarding implementation of environmental compensation regime for noise pollution is submitted herewith.

Yours faithfully,

CHAIRMAN

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o/c

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**ENVIRONMENT DEPARTMENT - IMPLEMENTATION OF
ENVIRONMENT COMPENSATION REGIME FOR NOISE
POLLUTION AS ORDERED BY HON'BLE NATIONAL GREEN
TRIBUNAL(PZ)**

1. Order dated 11.08.2020 in OA Nos. 519/2016 (PZ), 496/2018 (PZ), 196/2018 (PZ) and 197/2018 (PZ) of the Hon'ble National Green Tribunal
2. Order dated 01.12.2020 in OA Nos. 249/2020 (PZ), 254/2020 (PZ), 255/2020 (PZ) and 93/2020 (CZ) of the Hon'ble National Green Tribunal
3. Judgment dated 18.07.2005 of the Hon'ble Supreme Court in WP(C) No. 72/1998
4. Direction No. A-14011/1/2021-MON dated 27/04/2021 issued by CPCB to KSPCB
5. Direction No. PCB/HO/EE3/NGT/O.A.NO.681/2018/24/19 (M) dated 19/05/2021 issued by KSPCB to Police Authority
6. Meetings held on 17/03/2022, 23/05/2022 & 19/09/2022 under the chairmanship of the Chief Secretary

A mindful reading of the landmark judgment dated 18.07.2005 delivered by the Hon'ble Supreme Court in the WP (C) No. 72 of 1998 would reveal that the Apex Court had emphasized clearly and categorically that noise being a nuisance, health hazard and environmental pollutant, shall be regulated for the physical and psychological wellbeing of citizens.

It is pertinent to recall that vide the above judgment it was also conveyed that it is well settled by repeated pronouncements of the Apex Court that right to life enshrined in

Article 21 is not of mere survival and existence, but, it guarantees right of persons to life with human dignity. Anyone who wishes to live in peace, comfort and quiet within his house has a right to prevent the noise as pollutant reaching him. The Court had further observed that the freedom of speech and right to expression are fundamental rights, but the rights are not absolute. While one has a right to speech, others have a right to listen or decline to listen and nobody can be compelled to listen and nobody can claim he has a right to make his voice trespass into the ears or mind of others. The States were directed to create awareness on the hazardous effects of noise pollution and to make provisions for seizure and confiscation of loud speakers, amplifiers and such other equipments as are found to be creating noise beyond the permissible limits.

The issue of noise pollution continues unabated due to various reasons. In India various laws are invoked for curbing the nuisance of noise pollution. The Environment (Protection) Act, 1986 and the Noise Pollution (Regulation and Control) Rules, 2000 (made under the provisions of said Act & Rules thereunder) also assume relevance in this context. Relevant clauses under the said Act / Rules are quoted below:

Regarding cognizance of offences as specified in the Environment (Protection) Act, 1986, section 19 of the Act reads as under:

"No court shall take cognizance of any offence under this Act except on a complaint made by-

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(a) the Central Government or any authority or officer authorised in this behalf by that Government; or

(b) any person who has given notice of not less than sixty days, in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the authority or officer authorized as aforesaid."

The section 15(1) of The Environment (Protection) Act, 1986 regarding penalty for contravention of the provisions of the Act, Rules, orders and directions states that:

"Whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall, in respect of each such failure or contravention, be punishable with imprisonment for a term which may extend to five years or with fine which may extend to one lakh rupees. or with both, and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention."

Also Section 9(3) of The Environment (Protection) Act, 1986 states that:

"The expenses, if any, incurred by any authority or agency with respect to the remedial measures referred to in sub-section (2), together with interest (at such reasonable rate as the Government may, by order, fix) from the date when a demand for the expenses is made until it is paid, may be recovered by such authority or agency from the person concerned as arrears of land revenue or of public demand."

Noise is defined as air pollutant under section 2(a) of Air (Prevention and Control of Pollution) Act, 1981. One of the functions of the State Pollution Control Boards (SPCBs) under Section 17 (1) (a) of the Air (Prevention and Control of Pollution) Act, 1981, is to plan a comprehensive programme for prevention, control or abatement of air pollution in the State and to secure the execution thereof.

Further as per the Noise Pollution (Regulation and Control) Rules, 2000 notified under the Environment (Protection) Act, 1986, following responsibility is vested with CPCB and SPCBs:

"The respective State Pollution Control Boards (SPCBs) or Pollution Control Committees (PCCs) in consultation with the Central Pollution Control Board shall collect, compile and publish technical and statistical data relating to noise pollution and measures devised for its effective prevention, control and abatement".

As specified in the rule 4(2) of the Noise Pollution (Regulation and Control) Rules, 2000 the designated authority is responsible for the enforcement of noise pollution control measures and the due compliance of the ambient air quality standards in respect of noise.

The Hon'ble National Green Tribunal while dealing with cases concerning noise pollution issues have given various orders to be complied by the States. In this context the most prominent common orders dated 1.08.2019 (in OA No. 519/2016, 496/2018, 196/2018, 197/2018), 11.08.2020 (in OA No. 519/2016, 496/2018, 196/2018,

197/2018) & 1.12.2020 (in OA No. 249/2020, 259/2020, 255/2020, 93/2020) are relevant in terms of the Tribunal's directions regarding implementation of compensatory regime for curbing noise pollution. Order dated 1.12.2020 issued in OA Nos. 249/2020 (PZ), 259/2020 (PZ), 255/2020 (PZ) and 93/2020 (CZ) is the final order detailing the levy of compensatory regime. This order directs the States to implement Compensatory Regime as accepted by the Tribunal for violation of Noise Rules 2000. Salient portions of the orders are extracted below.

In the matter of O.A NO 519/2016, 496/2018, 196/2018 and 197/2018 dated 01/08/2019, Hon'ble NGT directed CPCB as follows:

"The CPCB needs to devise the scale of compensation to be adopted as a measure to enforce the Rule 4(2) of the Noise Pollution (Regulation and Control) Rules, 2000 by the concerned authority on the basis of Polluter Pays' principle. Though violation of the rules like the Noise Rules here, is a criminal offence punishable under Section 15 of the Environment (Protection) Act, 1986 with imprisonment upto five years and fine upto Rs. 1 lakh, since prosecution of a non-cognizable offence may have its own limitations, civil liability on Polluter Pays' principle can be invoked by the enforcement regulatory authority as per the guidelines which may be laid down by the CPCB. The scale of compensation may have reference to the extent and severity of default and whether the default is a repeated offence."

In compliance to directions of Hon'ble NGT, CPCB prepared scale of compensation for Violation of the Noise Pollution (Regulation and Control) Rules, 2000 and submitted report to the Hon'ble National Green Tribunal on 14/11/2019.

Hon'ble NGT vide order dated 15.11.2019 directed CPCB as follows:

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- "a. Compensation for bursting of crackers at serial no 4 needs to be suitably revised and needs to be different for different class of defaulters and frequencies of default.*
- b. CPCB may lay down stringent compensation for tampering with sound limiters to ensures that same is not restored to."*

Further in compliance to directions of Hon'ble NGT CPCB prepared revised report on scale of compensation for Violation of the Noise Pollution (Regulation and Control) Rules, 2000 and submitted report to Hon'ble NGT on 12/06/2020.

In O.A NO 519/2016, 496/2018, 196/2018 and 197/2018 vide order dated 11/08/2020, the Hon'ble National Green Tribunal further directed CPCB as follows:

"While we find that certain steps have been taken by the Delhi Police, Delhi Government, DPCC and the CPCB, further steps are required to ensure that the noise pollution norms are enforced at the ground level for protection of public health and the environment in the light of orders already passed. We are of the view that the compensation scale laid down by the CPCB may be enforced throughout India. The CPCB may issue appropriate statutory orders for the purpose for being complied with in all the States/UTS,"

Further orders with respect to Compensatory Regime was issued in 1.12.2020 (order dated 01.12.2020 of the Hon'ble National Green Tribunal in OA Nos. 249/2020 (PZ), 259/2020 (PZ), 255/2020 (PZ) and 93/2020 (CZ)) wherein District Magistrates were assigned as authorities for levy of EC for violation in bursting fire crackers.

Further authorities for enforcing the Compensation was referred under para 22 of the same order

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"22. As per the Noise Control rules, the responsibility for enforcement of noise pollution control measures is of the 'authority', which includes authorized officers, District Magistrates, Police Commissioner or any officer not below the rank of Deputy Superintendent of Police designated for the maintenance of air quality standards in respect of noise. There is further provision that any loudspeaker or sound producing instrument /equipment can be used only after obtaining written permission. Festive occasions are defined as notified National or State functions, including the Republic Day, the Independence Day, State Day or other notified day."

The Hon'ble National Green Tribunal has further vide para 27 of order dated 01.12.2020 in OA Nos. 249/2020 (PZ), 259/2020 (PZ), 255/2020 (PZ) and 93/2020 (CZ) ordered that,

Para 27. *"Accordingly, the above needs to be followed against violation of prohibition/restriction on bursting of crackers. Apart from the scale of compensation, applicable for noise, equal amount of compensation is liable to be paid for violation of air norms. Thus, the rate of compensation has to be double of the above scale. The word 'fine' is infact compensation. Polluter pays principle is part of environmental law not only under section 20 of the NGT Act but also has to be applied by law enforcing agency to enforce environmental norms. For second violation and more than two violations, deterrent amount in the form of double compensation will be payable for cases covered by Para 4(1) & 4(2) of the above table also. Further, it is clarified that 'second' violation does not mean second day. Second violation includes violation on same day or continuous violation. The*

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amount of compensation collected may be credited to a separate account to be called 'District Environment Compensation Fund' to be maintained by the District Magistrate."

It has been ordered by the Hon'ble National Green Tribunal vide para 32. vi, vii, viii, ix & x of the order dated 01.12.2020 in OA Nos. 249/2020 (PZ), 259/2020 (PZ), 255/2020 (PZ) and 93/2020 (CZ) that,

"32. In view of above discussion, following directions are issued:

..vi. The District Magistrates in every district may take steps to ensure that banned fire crackers are not sold in terms of order of the Hon'ble Supreme Court dated 23.10.2018.

vii. The District Magistrate, on a complaint or otherwise, will recover compensation from violators of the above directions on the parameters already mentioned in Para 24 above.

viii. Any victim of pollution, apart from other remedies, can approach the District Magistrate for compensation, by showing evidence of individual damage and the person responsible for the damage. Such claim may be dealt with by a reasoned order.

ix. If no such claim is made for six months after collection of the compensation, the amount credited to the 'District Environment Compensation Fund' can be spent for restoration of the environment in the district.

x. The State PCBs/PCCs may compile data of compliance from all the Districts by 28.2.2021 and furnish the same to the CPCB by 15.3.2021. CPCB may file consolidated report in this regard in OA 681/2018 by 31.03.2021."

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In view of the above stated facts and to ensure compliance of the existing Rules and prevent further violation of noise levels with respect to prescribed standards/limit and in exercise of the powers delegated to the Chairman, CPCB under section 5 of Environment (Protection) Act, 1986, it was hereby directed vide letter no. A-14011/1/2021-MON dated 27.04.2021 that Chairman Kerala SPCB shall direct designated Authorities of the State to implement Scale of compensation for Violation of the Noise Pollution (Regulation and Control) Rules, 2000 as accepted by the Hon'ble National Green Tribunal.

In compliance to the above statutory directions received from the Central Pollution Control Board, directions were issued from Kerala State Pollution Control Board to State Inspector General of Police and the matter was informed to the Environment Department.

Meetings were held by the Chief Secretary on 17/03/2022, 23/05/2022 & 19/09/2022 with the Departments concerned, to discuss the implementation of Compensatory Regime for violation of noise pollution in the State in compliance to the directions of the Hon'ble National Green Tribunal, wherein it was decided to go ahead with implementing the scheme as directed by the National Green Tribunal to regulate noise pollution in the State.

As part of implementation of Noise Rules, 2000 in the State, the State Government had in accordance to the Rule 2 (C) provisions of Noise Rules issued Notification G.O. (P) No. 111/2002 (S.R.O.No.608/2002) dated 29.07.2002 from HOME (P) Department, designating the District Magistrates, the Commissioner of police/ the Superintendents of Police and the Deputy Superintendent of Police

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(Sub. divisional officers) as the authorities under the Noise Pollution(Regulation and Control)Rules,2000 for the maintenance of ambient air quality standards in respect of noise pollution within their respective jurisdiction in the State.

The orders of the Hon'ble National Green tribunal has to be complied with in both letter and spirit. It is further observed that as a result of rapid urbanization and development in multifarious sectors including transportation, electioneering, industrialization, communication, building & infrastructure etc. and emergence of new lifestyles, the ambient noise levels are on a rise which warrants strict enforcement of noise regulation. Further due to high population density in the State noise pollution assumes high significance. The urban-rural continuum as seen in the State of Kerala also calls for concerted efforts to streamline the causes of noise pollution and to devise deterrent steps to prevent pollution issues to guarantee a better/high quality of life for its citizens.

The State Government having seriously considered all the above matters is pleased to order the implementation of Compensatory Regime for violation of Noise Rules in the State in due compliance to the order dated 01.12.2020 of the Hon'ble National Green Tribunal in OA Nos. 249/2020 (PZ), 259/2020 (PZ), 255/2020 (PZ) and 93/2020 (CZ).It is hereby directed to implement the scale of compensation for violation of Noise Pollution(Regulation and Control)Rules, 2000 as accepted by the Hon'ble National Green Tribunal (Annexure- I attached), by the authorities concerned viz; Police Authorities & District Magistrates.

Mass awareness campaigns through visual, audio & social media may be imparted for the benefit and information of general public on the hazards of noise pollution and introduction of compensatory regime. Motor Vehicle Department may also conduct awareness campaigns on regulating the use of horns.

The status of the implementation shall be submitted to the Kerala State Pollution Control Board within 30 days of receipt of this Direction for submitting to the Central Pollution Control Board.

To,

Cc,

ANNEXURE**Enlistment of Violation of Noise Rules and their Respective Scale of Compensation**

SR. NO.	VIOLATION OF NOISE RULES	COMPENSATION (IN RUPEES) TO BE PAID BY DEFAULTER	ACTION TO BE TAKEN BY DESIGNATED AUTHORITY
1.	Use of loud speakers/public address system ¹ (Clause 5(1)-5(2), 6(i, ii, iii and v) ¹⁻⁵	₹ 10,000	Seizure
2.	Violation w.r.t generator sets norms		
a)	DG sets more than 1000 KVA	₹ 1,00,000/-	Sealing of DG sets (Sealing of DG sets shall be done by the Police Authorities based on direction issued by the Pollution Control Board who is the designated authority)
b)	DG sets 62.5 to 1000 KVA	₹ 25,000/-	
c)	DG sets upto 62.5 KVA	₹ 10,000/-	
3.	Violation of use of sound emitting construction equipments	₹ 50,000/-	Seizure/ Sealing of equipment
4.	Bursting of Firecrackers beyond the prescribed time limit prescribed (Hon'ble Supreme Court and Clause 5A (2) and 6(iv) ⁷⁻⁸)		
4(1)	Violation by individual/ household	Residential /Commercial/ Mixed zone	Silence Zone
a)	Violation by individual/ household (1 st violation)	₹ 1,000	₹ 3,000
b)	Violation by individual/ household (2 nd violation)	₹ 2000	₹ 6000

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4(2)	Violation during possession a) public rallies b) barat during marriage religious event	Residential /Commercial/ Mixed Zone	Silence Zone	Compensation to be paid by organizer
A)	Violation during possession a) public rallies b) barat during marriage Religious event (1st violation)	₹10,000	₹20,000	Compensation to be paid by organizer
B)	Violation during possession a) public rallies b) barat during marriage religious event (2nd violation)	₹20,000	₹40,000	Compensation to be paid by organizer
4(3)	First Violation within a fixed premises: a) Function organized by RWA b) Marriage Function c) Public Function d) Institution function e) Banquet Hall f) Open ground functions	₹20,000		Compensation to be paid by organizer and owner of the place.
4(4)	Second violation within a fixed premises: a) Function organized by RWA b) Marriage Function c) Public function d) Institution function e) Banquet hall f) Open ground function	₹40,000		Compensation to be paid by organizer and owner of the place.
4(5)	More than two violation within a fixed Premises: a) Function organized by RWA b) Marriage Function c) Public Function d) Institution function e) Banquet Hall f) Open ground function	₹1, 00, 000 and action under EP Act.		Sealing of premises

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Note:

1. Clause 5(1): A loud speaker or a public address system shall not be used except after obtaining written permission from the authority.
2. Clause 5(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. Clause 6 (i) Playing any music or uses any sound amplifiers in any place covered under the silence zone/area are prohibited.
4. Clause 6(ii): Beating a drum or tom-tom or blows a horn either musical or pressure, or trumpet or beats or sounds any instrument in any place covered under the silence zone/area are prohibited.
5. Clause 6(iii): Exhibits any mimetic, musical or other performances of a nature to attract crowds in any place covered under the silence zone/area are prohibited.
6. Clause 5(A) (3): Sound emitting construction equipment shall not be used or operated during-night time in residential areas and silence zones
7. Sound emitting fire crackers shall not be burst in silence zone or during' night time in each zone;
8. As per directions of Hon'ble Supreme court, following time limits are prescribed for bursting firecrackers:
 Diwali: 8 pm to 10 pm
 Gurupurb: - 4am to 5 am and 9 pm to 10 pm
 New Year and Christmas: 11.55 pm to 12.30am
9. It may be noted that imposition of compensation for notification of Rule 5A (1) falls within the purview of Motor Vehicle Rules, 2019
10. In case of compensation levied by District Magistrates the amount of compensation collected may be credited to a separate account to be called 'District Environment Compensation Fund' to be maintained by the District Magistrate.
11. The Government had vide GO(Rt) No. 653/2022/Finance dated 03/02/2022 of Finance (Budget Wing D) Department opened a new head of account for pooling compensation under noise rules. The Police Authorities may pool the compensation levied, under this head.

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