

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

211 **CWP No. 23548 of 2017**

Court on its own motion

Vs.

Chandigarh Administration and others

Present: Mr. Anupam Gupta, Sr. Advocate, (Amicus Curiae) with
 Mr. Ashok Kumar, Advocate.

 Mr. Suvir Sehgal, Sr. Standing Counsel with
 Mr. Jaivir Chandail, Advocate
 for Chandigarh Administration.

 Mr. IPS Doabia, Addl. AG, Punjab with
 Mr. Shireesh Gupta, Sr. DAG, Punjab.

 Mr. Sandeep Moudgil, Addl. AG, Haryana with
 Mr. Apoorv Garg, DAG, Haryana.

 Mr. Vikas Bahl, Sr. Advocate with
 Ms. Anjali Bansal, Advocate and
 Ms. Rupa Pathania, Advocate
 for Punjab Registered Dealers.

 Mr. Prateek Gupta, Advocate for
 Mr. Archit Gupta, Advocate
 for Chandigarh Cracker Dealer Association.

 On *suo moto* notice having been taken by this Court expressing concern regarding pollution, use of explosive including the fireworks in Chandigarh, Mohali, Panchkula and in other parts of the States of Punjab and Haryana, CWP No. 23548 of 2017 was registered as Public Interest Litigation (PIL).

 On 12.10.2017, Mr. Anupam Gupta, Sr. Advocate, assisted by Mr. Ashok Kumar, Advocate was appointed as *Amicus Curiae* to assist the Court and simultaneously, notices were issued to the States of Punjab, Haryana and UT, Chandigarh through their respective Home Secretaries to be impleaded as respondents in the present writ petition.

 Accordingly, on the asking of the Court, Mr. IPS Doabia, Addl. AG, Punjab, Mr. Apoorv Garg, DAG, Haryana and Mr. Suvir

Sehgal, Sr. Standing Counsel assisted by Sh. Akshay Sethi, Advocate, accepted notices on behalf of the States of Punjab, Haryana and UT, Chandigarh, respectively. The case was adjourned for today.

Learned Sr. Standing Counsel for UT, Chandigarh has produced in court today a communication dated 12.10.2017 received from the District Magistrate, UT Chandigarh. It has been intimated that a total number of 361 applicants have applied for issuance of temporary licences in the City and all the applications have been processed, though few of them might have been issued temporary licences, whereas, only one person has been issued permanent licence. The aforesaid communication is taken on record, subject to all just exceptions. Office to tag the same at the appropriate place.

The learned *Amicus Curiae* Sh. Anupam Gupta, Sr. Advocate, has referred to the orders passed by the Apex Court in **IA No. 4 in Writ Petition (Civil) No. 728 of 2015, titled as 'Arjun gopal and others Vs. Union of India and others**, decided on **11.11.2016**, **IA No. 52448 of 2017 in Writ Petition (Civil) No. 728 of 2015**, titled as **'Arjun Gopal and others Vs. Union of India and others'** decided on **12.09.2017** and **IA No. 92862 of 2017 in Writ Petition (Civil) No. 728 of 2015**, titled as **'Arjun Gopal and others Vs. Union of India and others'** decided on **09.10.2017** and also the judgment rendered in **'Noise Pollution (V) Vs. Union of India and another' (2005) 5 SCC 733**, relating to the firecrackers.

Learned Addl. Advocate Generals, Punjab as well as Haryana, submitted that there are few permanent licenses which have been issued in their States, whereas, applications for temporary licences have been received and few of them might have been issued temporary licences. However, due to paucity of time, the

exact position could not be clarified.

After hearing learned *Amicus Curiae*, going through the record, perusing the various pronouncements and also hearing the learned counsel for the stakeholders, we at this stage consider it appropriate to issue the following directions for the ensuing Diwali falling on 19.10.2017:

1. The bursting of firecrackers within the territorial locations of UT, Chandigarh, States of Punjab and Haryana shall be between 06:30 PM to 09:30 PM on Diwali day i.e. 19th October, 2017 only. In other words, there shall be no bursting of firecrackers before 06:30 PM or after 09:30 PM regardless of territorial locations. It is further directed that there shall be no bursting of crackers even before and also after Diwali till the next date of hearing.
2. Learned *Amicus Curiae* has produced a letter dated 10.10.2017, issued by the Chairman, Punjab Pollution Control Board, Vatavaran Bhawan, Patiala to the Deputy Commissioners in the State of Punjab, wherein, instructions have been issued to ensure that the PCR Vans are deployed and to keep an eye on the persons bursting the firecrackers beyond the time limit prescribed hereinabove, for suitable action. It is also directed that PCR Vans shall be deployed by the UT, Chandigarh as well as the States of Punjab and Haryana to ensure the safety and keep an eye on the persons bursting the firecrackers beyond the time limit prescribed under this order. It shall be open for the NGOs to monitor the directions contained in the

present order. All the Deputy Commissioners, Police Commissioners/SSPs/SPs of the UT Chandigarh, States of Punjab and Haryana are also directed to ensure the meticulous compliance of the directions contained in this order.

3. The Union Territory, Chandigarh, the States of Punjab and Haryana shall be entitled to issue temporary licences upto 20% of the total number of temporary licences issued in the previous year i.e. in 2016 and the grant of issuance of temporary licences shall be on the basis of draw of lots to be held by the concerned Deputy Commissioners themselves and their power shall not be delegated to anybody else under any circumstances. The applications may be invited either through online or any other mode, after causing due publicity. The draw of lots made by all the Deputy Commissioners shall be videographed. It is, however, clarified that any temporary licence, which has already been issued hereinbefore for the ensuing Diwali falling on 19th October, 2017, shall be inoperative. The UT, Chandigarh and the States of Punjab and Haryana may call the applications for temporary licences till 16th October, 2017 upto 2:00 PM irrespective of the fact that 14th and 15th of October, 2017, happens to be Saturday and Sunday and the draw of lots shall be held on the same date at 5:00 PM. It is further clarified that no further permanent licenses shall be issued

henceforth without the prior permission of this Court in UT, Chandigarh and the States of Punjab and Haryana.

4. The sale of firecrackers by the temporary licensees, granted by the Deputy Commissioner concerned, shall only be in the areas, which would be designated by the respective Deputy Commissioner only. In other words, no temporary licensee shall be entitled to sell firecrackers or market them at any other place except the earmarked/designated area by the Deputy Commissioner concerned. The necessary safeguards shall be used by the licensees. The sale of firecrackers shall be subject to the other conditions in terms of the relevant necessary safeguards as may be determined by the Deputy Commissioner. Further, the sale or purchase of firecrackers by the temporary licensees shall be in compliance to the various statutory provisions under the Explosives Act, 1884 and Rules made thereunder. They shall also ensure the safety of the area concerned.

For further consideration, to come up on 26.10.2017.

(AJAY KUMAR MITTAL)
JUDGE

(AMIT RAWAL)
JUDGE

October 13, 2017

J.Ram

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After signing the order of even date, it has transpired that the orders dated 12.09.2017 and 09.10.2017 of the Apex Court not only pertained to Delhi but National Capital Region (NCR) also. Many cities/districts of Haryana also fall in the NCR. Our order is only confined to the cities/districts, which are not covered by the orders of the Apex Court, *ibid*, *i.e.*, which are outside the NCR.

Let this order be communicated to the respective counsel for the parties for strict compliance.

(AJAY KUMAR MITTAL)
JUDGE

(AMIT RAWAL)
JUDGE

October 13, 2017

J.Ram