

# **HIGH-LEVEL PEOPLE'S INQUEST TEAM FINDS TN POLICE/THOOTHUKUDI DISTRICT ADMIN GUILTY AS ACCUSED**

**A team comprising two retired judges of the High Court, two retired IAS, three retired senior IPS officers in addition to senior advocates, journalists and social workers has completed its 2-day inquest. A preliminary report is below.**

## **PRESS RELEASE**

People's Inquest into Thoothukudi Firings

## **INTERIM OBSERVATION**

A coalition of civil society organisations in Tamil Nadu titled, 'Coordinating Committee for People's Inquest into Thoothukudi Police Firing' organised a People's Inquest (PI) on June 2-3, 2018 at Thoothukudi and its suburbs, into the targeted killings, arbitrary detentions and torture on May 22, 2018 and thereafter, in Thoothukudi. As per the latest records, 15 protestors were killed and more than a hundred severely injured in protests against the Sterlite Copper plant. May 22, 2018, marked the 100th day of protests against the Sterlite Copper plant.

The PI team composed of:

1. Justice (Retd.) B.G. Kolse Patil, Former Judge, Bombay High Court
2. Justice (Retd.) Hariparanthaman, Former Judge, Madras High Court
3. Mr. M.G. Devasahayam IAS (Retd.) Former Chief Secretary Haryana
4. Mr. Christudoss Gandhi IAS (Retd.), Former Additional Chief Secretary, Tamil Nadu
5. Mr. Kamal Kumar IPS (Retd.), Former Director, National Police Academy, Hyderabad

6. Mr. R.B.S. Sreekumar IPS (Retd.) Former Director General of Police, Gujarat
7. Mr. Jacob Punnose IPS (Retd.) Former Director General of Police, Kerala & Special Rapporteur NHRC
8. Prof. Dr. K. Mathiharan, Forensic medicine expert & formerly with University of Malaya, Malaysia
9. Ms. Geetha Ramaseshan, Advocate, Madras High Court
10. Dr. Usha Ramanathan, Legal Researcher, New Delhi
11. Ms. Maja Daruwala, Senior Advisor – Commonwealth Human Rights Initiative, New Delhi
12. Prof. Kalpana Kannabiran, Director – Council for Social Development, Hyderabad
13. Prof. Shiv Visvanathan, Professor, O.P. Jindal Global University, Sonipat, Haryana
14. Ms. Pamela Philipose, Senior Journalist, New Delhi
15. Mr. Amit Sengupta, Senior Journalist, New Delhi
16. Ms. Kavitha Muralidharan, Journalist, Chennai
17. Dr. Savior Suresh, Forensic Medicine Expert, Chennai
18. Dr. V.A. Ramesh Nathan, Advocate & General Secretary – National Dalit Movement for Justice, New Delhi
19. Mr. Tom Thomas, Convenor – Corporate Responsibility Watch
20. Ms. Kavitha Gajendran, Social Activist, Chennai
21. Dr. T.M.N. Deepak Nathan, President – December 3 Movement
22. Mr. T. Peter, National Fishworkers Forum, Trivandrum
23. Mr. Jasaiah Joseph, National Fishworkers Forum, Kanyakumari

**The objectives of PI were –**

To ascertain the facts that led to the continued protests in Tuticorin over the years and particularly in the last 100 days.

To ascertain the facts and circumstances of the incidents which lead to the police firing through gathering statements from eye-witnesses, family of the deceased, meeting the officials from Tuticorin district administration, Tuticorin district police department, representatives of the Anti-Sterlite protest committee and to ascertain who authorized the firing and under what circumstances.

To ascertain details of the police actions in Tuticorin immediately after the police firing on 22nd May

To ascertain and gather information about the actions taken by the Government of Tamil Nadu, Tuticorin district administration, police department to prevent the firing incident from happening.

To analyse the available documents, evidences from various government departments, Tamil Nadu Pollution Control Board, petitions, affidavits, evidences, and judgments in the High Court and Supreme Court regarding the firing incident and the Sterlite Copper plant in Tuticorin and compilation of the same.

To suggest ways for legal intervention in all the courts, national and state human rights institutions, and other relevant bodies nationally and the United Nations.

## **Brief Introduction**

Sterlite Copper started its operations in Tamil Nadu in 1996 by setting up a plant in Tuticorin district. Sterlite Copper known as Sterlite Industrial India Ltd. is a unit of Vedanta group that has setup smelter, refinery, acid plant, and copper road plant in the land allocated them in State Promotion Corporation of Tamil Nadu. There have been numerous complaints against the company of harming the environment and breaking the government environmental regulations. There are numerous reports which suggests that the company with help of its money power and political clout have gotten away with breaking laws.

The company carried its malpractices for many years but in 2013 the company was found releasing excessive sulphur dioxide. Many people who were living in the nearby area of the plant complained of health issues and even some women had the miscarriage due to gas leakage. Tamil Nadu Pollution Board who has been really supportive of the Sterlite Copper actions took an U-turn and ordered the company to shut down for two and half months and even set up an inquiry on the company. The National Green Tribunal allowed the factory to resume production in 2013 but the Supreme Court in a separate case fined Sterlite Copper company Rs.100 crore for polluting the environment. Since then protest against the company continued. In January 2018, the company had plans to double the capacity

of the smelter but people got scared for their health and started the protest in a small village of Kumarredyapuram.

In February 2018, the anti-Sterlite movement gained momentum and on March 24, 2018, mobilized around 2 lakh people for protest. In March 2018, the plant was shut down for 15 days due to maintenance as the plant owners wanted to expand the capacity of the plant. The plant was not granted operating license beyond March 2018, due to non-compliance with environmental regulations.

On May 22, 2018, to mark 100 days of the protest, over 50000 people marched towards the District Collectorate to demand the closure of the plant.

### **Events on May 20-21**

The Thoothukudi Administration called for a 'peace meeting', inviting the organisations and protesting villages' representatives on May 20, 2018, prior to the community rally (rally hereafter) on May 22, 2018. It has been learnt from people's testimonies that the administration used a selective approach in inviting the organisations and protesting villages' representatives for the said meeting. People with whom the PI team interacted in Thoothukudi allege this to be a deliberate attempt of the administration to divide the anti-Sterlite movement. It has also been brought to the notice of the PI team that invitation sent to one such organisation (Makkal Adhikaram) was done to an individual who had no association with that organisation. The administration didn't ensure that all organisations and individuals involved in anti-Sterlite movement are communicated with. The PI team observes that the district administration negotiating with only one set of the organisers made the bona fides of the administration suspect in the eyes of the people.

The district administration had assigned SAV School ground as the substitute rally assembling venue but with imposing 17 conditions. The SAV School ground is a small ground and the administration failed to get a grasp of the large number of people being part of the rally. Further, the SAV School ground is near the old bus stand and within the town which would have been more difficult administratively for the district administration. The District Collectorate and the surrounding areas are more spacious and would have accommodated more people. There were no public announcements stating the assigning of the substitute venue. The PI team observes that allowing assembly in one place and prohibiting it in another nearby place, despite knowing that the rally participants wanted to march towards the District Collectorate appears to be a strategic blunder which made Section 144 practically unenforceable. The PI team further observes that if the district administration was serious about imposing Section 144, it

would have prevented even small group formations in the district. Waiting for crowd to accumulate before thinking of dispersal was a gross error and led to avoidable loss of life.

The PI team observes with grave concerns about the absence of the District Collector (DC) in the above mentioned meeting. The meeting was led by the Thoothukudi Superintendent of Police (SP) along with the Sub Collector. As the head of the district administration, it was the DC who should have led the meeting and reached out to the people. This would have been more respectful to the people who have been protesting for close to 100 days. Role of the SP is solely towards maintaining law and order. Given that the protests were seen only as a law and order issue and the demands of the people overlooked, do raise doubts on the intentions of the district and state administration.

It has to be noted that the rally participants were on for 99 days on May 21 and May 22 was the 100th day of the same. It was a common knowledge, as announced during the protests on March 24, 2018, which was attended by close to 2 lakh people, that anti-Sterlite movement has called for a large public protest at District Collectorate in Tuticorin. It is appalling that during 100 days of peaceful and non-violent protests, none of the ministers from either the Tamil Nadu state government or the union government ever reached out to the anti-Sterlite movement. The administration also waited till the very end to reach out to the anti-Sterlite movement. Clearly this move on part of the administration was much delayed and provided limited space and time for the organisers to communicate with the rally participants of any developments. In little over 24 hours, it is practically impossible to reach out to and hold discussions with the lakhs of protesters across the district.

After the above mentioned meeting between the SP and anti-Sterlite movement representatives, Section 144 of the Criminal Procedure Code 1973 was imposed. It is to be noted that Section 144 was imposed in two police station (PS) jurisdictions only, i.e. South PS and SIPCOT PS covering largely the District Collectorate and Sterlite Industry. Sterlite had moved the Madurai Bench of the Madras High Court seeking imposition of Section 144. It didn't make the anti-Sterlite movement as a party to the case. The Madras High Court on May 18, 2018, passed directive to the district authorities to pass appropriate orders regarding imposition of Section 144. Executive magistrates were appointed to monitor the law and order situation on May 21, 2018. Nine revenue department officials were appointed as executive magistrates to work along with the police department and to monitor the law and order situation and to inform the higher officials. The order imposing Section 144 has never been made available to the public. The same hasn't been shared with the PI team despite several efforts.

Section 144 is declared when there is grave and imminent danger. If violence was anticipated so strongly as to warrant prior promulgation of Section 144, it is surprising that not even tahsildars were deployed as executive magistrates. The FIR version of deputy tahsildars ordering firing is highly unnatural in an anticipated law and order situation. This is specially so since the DC, Sub Collector,

Deputy Collector and Tahsildars have all failed to be at the spots. The DC, Revenue officer and Sub-Divisional Officer were not present on May 22 in Thoothukudi. If the DC had declared Section 144, he should have been in Thoothukudi to oversee its enforcement. Further, the PI team observes that the police claims about extremists infiltrating the anti-Sterlite movement. Had this been so, they had 100 days to isolate them, expose them or to take them into preventive custody. This further leads to questions over intelligence failure.

The PI team observes several gaps in Section 144 imposition. The administration was fully aware about the anti-Sterlite protests at District Collectorate on May 22, 2018 well in advance and despite that waited till its eve for imposing Section 144, which do appear only symbolic. Section 144 was imposed only at 8PM on May 21, 2018. As gathered from people's testimonies, after the Section 144 imposition, announcements were not made by the administration in most areas, to reach the information to the people. People got to know about the same only through television news around 9:30 PM on May 21, 2018 and in the newspapers the next day. It is evident that these channels were too late to communicate to the people and wouldn't have deterred the protesters who were entering into the 100th days of the peaceful anti-Sterlite protests. It is important to note, given that Section 144 was imposed in only two PS jurisdictions, there was no legal restriction on the protesters to walk for as many as 15 kilometres, to enable them to reach and assemble at the District Collectorate.

The PI team observes that there has been clear irregularity in the process through which Section 144 was imposed and implemented. The DC has abdicated all his responsibilities.

### **Events on May 22, as gathered from People's testimonies**

As mentioned in the above section, from the people's testimonies it seems evident that most participants in the rally were not aware about imposition of Section 144 and further, its limited imposition allowed people to march and gather towards the District Collectorate. Right opposite the District Collectorate on the other side of the main road, the lanes going towards the villages witnessed free movement and were not barricaded or controlled by police. These lanes connecting the main road to villages served as arteries for the protesters to march forward. People who were obstructed at certain spots which were barricaded, could easily use these lanes and reach the District Collectorate. According to the testimonies, even those who were moving towards the assigned SAV School ground for protests were stopped, thereby diverting them with crowds moving towards the District Collectorate.

People's testimonies consistently stated that women and children were participated in the rally in large numbers and even carried food and bedding with them, indicating that the rally was a peaceful protest carried out with an intention to petition to the Collectorate their grievances. It was also revealed that

inspite of presence of such large numbers of women and children, commensurate numbers of women police were not deployed.

As told to the PI team, the total police strength was around 1900 personnel and protestors were over 50,000. It is apparent that the strength of the police was not capable of controlling the large number of protestors. Most of the PS jurisdictions were not covered under Section 144 and allowed protestors to march forward legitimately and freely. Some of the testimonies from villages near the District Collectorate do mention about the limited use of tear gas but none confirms the use of water canons as means to restrict the protestors. No testimony confirmed about any public announcement or bugle call asking the protestors to disperse or move to the assigned protest area i.e. SAV School ground.

Testimonies state that when the protestors reached the District Collectorate, there were vehicles in the compound already on fire. Testimonies also reveal that some police men wearing white shirts with khakhi pants carrying stones posed as protestors and pelted stones and when they were identified by some of the protestors, the policemen swiftly ran away.

People's testimonies confirmed the use of lathi charge on protestors in certain parts of Thoothukudi, including brutal attacks on women and children. Many witnesses produced their medical records revealing the extent of their injuries and also showed their injuries to the PI team. By way of illustration, a woman victim, who's house the PI team visited, testified that she was badly assaulted with the butt of the rifle on her stomach, resulting in serious injury.

Several witnesses deposed on being beaten ruthlessly by the police. A polio-affected man who was beaten, testified that he had even informed the police of his disability, but was beaten on his legs inspite of the same by the police who stated that if you are disabled you should not have come for the protest.

Testimonies were also received which revealed that children who were part of the rally were ruthlessly attacked by the police and several children were illegally detained. Further these brutalities towards children continued in the aftermath of the firing during the searches being conducted by the police. Snowlin and other children. The PI team noted that inspite of such serious reported crimes and atrocities against children, the State Commission for Children did not take any immediate action.

People's testimonies alleged targeted firing at the District Collectorate state that gunmen with assault rifles climbed on top of the police vehicles and also from the upper floors of the District Collectorate and shot at the protestors. The images in the media also confirm the same. Some of the testimonies allege that those wearing black clothes were particularly targeted, identified as protest leaders. By way of illustration, killing was also undertaken in Terespuram of a woman at 2.30 p.m. on May 22.

Terespuram is 10-13 k.m. from the Collectorate, under the North PS where Section 144 was not imposed. She was one of the leaders of the movement but was not part of the protest on May 22. She was on her way to her daughter's house in the same vicinity to deliver fish. She was shot in her head in

such a manner that her face collapsed. Other killings were at Food Corporation of India Roundana and Third Mile.

It was reported by several witnesses that even after the firing and attacks on the people on May 22, when the injured people reached the Government Hospital for treatment, the police arrived there and attacked several injured and their families. People and families going to the mortuary to identify the dead were lathi charged by the police outside the mortuary. A testimony was also received by the PI team, alleging that payment of Rs. 500 was demanded by the Government Hospital for conducting CT scans on about 60 such injured people. PI team observed that families were prejudiced on account of the court order delaying the release of the bodies and dignity of the dead has been compromised.

Testimonies also revealed that 108 ambulance services were not made available. As per the accounts of the people, the 108 ambulance services were ordered by the police not to serve the people who were injured during the demonstration. Accordingly people had to avail ambulances from private hospitals such as Nalampalli and TMMK.

Testimonies received by the PI team revealed that the Government Hospital doctors provided support and treatment to the several injured. A great appreciation was noted for the role of the Bar Association, which stepped up its efforts providing free legal aid services and working round the clock to ensure release of detained and arrested persons.

It was reported in the newspapers that the protestors attacked the Sterlite residential quarters. The PI team visited the quarters and could see the car parks in the front section of the building were burnt and the vehicles parked in the ground floor of the buildings torched. The two respondents at the quarters stated that the protestors around 200 in number barged into the quarters' campus after the firing at the District Collectorate. According to them, the protestors were armed with petrol bombs. It was told that the CCTV cameras were destroyed before throwing petrol bombs on parked vehicles. It was added that the protestors were wearing helmets and the identities couldn't be ascertained. The PI team observed that the CCTV cameras were destroyed in the entire campus but the bombs were hurled at the vehicles only parked in the front section of the campus. The testimonies couldn't confirm injuries to the on duty guards and policemen.

Investigations of the PI team with the Fire Department revealed that Fire control room did not get any call when fire started during the rally and by the time they got the information everything was gutted. Meanwhile during the fire at Sterlite later in the day, the fire control room was provided immediate information and could arrive there and effectively control the fire.

During the visit of the PI team with the North Police Station, a sub-inspector, who was not on duty at the North Police Station on May 22, claimed that protestors / miscreants attacked the police station, however on being asked about the damage to the police station, she was unable to confirm the damage.



It was reported that the weapon used in firing is 7.62 Self Loading Rifle, which is not advisable to be used against unarmed people and should not have been used in crowd management. It is further reported that even the people who used the SLR were plainclothed men and hence cannot be said to be policemen. Law and order matter should not have plainclothed policemen, they should wear uniform, or else they are miscreants.

A fear of reprisals is reported across testimonies. Initially several injured did not visit the Government Hospital out of fear of arrest and many left immediately inspite of going there, on account of the increasing police presence. There are also cases reported of some injured later on not wanting to take discharge on account of fear of reprisals after being discharged from the hospital, considering the continuing police action. People are scared to go and collect their articles or visit the mortuary for fear of arrest. People have testified that the police is continuing harassment and the threat of being implicated in the open FIRS which have upto 2000 unnamed accused persons under various sections, has left them terrorized. Such omnibus FIRS are prone to being misused by the police.

### **Events May 23 Onwards**

Since the morning of May 23, 2018 there has been a sudden and huge deployment of police personnel in Tuticorin district consisting of an Additional Director General of Police, two Inspector General of Police, four Deputy Inspector Generals, 15 Superintendents of Police. This sudden increase lends credence to allegations of continuing reprisals and actions which appear to have no sanction in law.

Testimonies revealed that on the morning of May 23, 2018, groups of people along with the families of those who were dead and injured due to police firing and lathi charge, gathered in front of the Government Hospital, Tuticorin and demanded action against the police. The police resorted to lathi charge to disperse the crowd in front of the Government Hospital. The crowd in order to escape from the police brutality had to flee from that area and ran to the neighbourhood areas and sought refuge in Anna Nagar. Even the family members and patients inside the Government Hospital were attacked with lathis by police who were present on every floor and especially targeting those wearing black shirts or cross across their neck.

Immediately, a huge posse of police personnel were deployed in Anna Nagar who ransacked the houses and other properties in that area while searching for unknown persons. The residents of Anna Nagar were in great shock to see this sudden commotion and locked themselves inside their houses. The police also opened fire at residents of Anna Nagar, and many of them who were just standing near their houses received bullet injuries. One person Mr. Kaliappan, died on the spot from the police firing. Women were also beaten up when the police entered their houses and even a 5-year old boy was stomped on the stomach and his 2-year old sister was assaulted by the police.

The witnesses have confirmed that there was a massive and unwarranted door-to-door search in several areas. The police personnel forcefully entered into the houses, damaging the properties. According to the people's testimonies, mostly young men were targeted and were illegally arrested and taken into custody. Those who were picked up were neither taken to any police stations nor produced before Judicial Magistrates. All the testimonies corroborated that they have been beaten up mercilessly, tortured continuously, and were kept in the police hours hours for more than one and a half days without providing food, water or any medical relief. Some of the testimonies also stated these young men were then illegally detained at the Varusanadu Firing Range. 30 of them were later found to be minors. Many people have been rounded up and beaten by police. As late as 31st night at 3 a.m. in a village Meelavittan, which has a history of relentless struggle against Sterlite, which is just 1.5 km from the village, 3 young men were picked up by the police in Mufti. The women in this and other villages around the area who are in the forefront of the struggle, went the next day to the Collector to petition for their release. The Collector assured them that they will be released in one hour, however young men are still in Palayamkottai Central Prison.

From the testimonies, it is evident that the police had filed FIRs on unknown persons regarding various incidents on May 22-23, 2018, most of them being false and fabricated, they wanted some persons to be remanded in those cases. Hence, they picked up these people and forcefully made them to sign in statements stating they committed the said offences. As per one of the testimonies, a person who was already in police custody on May 23, 2018 since 1 PM has been falsely charged for torching a police bus in Anna Nagar, though that incident happened at 2.30 PM.

Many young men have been forced to leave from their homes, as they fear for arrest and torture by police even though they were not a part of anti-Sterlite protests on May 22, 2018 nor before. Those who took part in the protests are apprehending arrest as police have filed open FIRs against thousands of unnamed persons. There were even instances where, families altogether fleeing from their homes fearing false cases by police. The PI team witnessed a huge presence of police personnel and observed people still living in terror. Testimonies also stated that the CCTV cameras in Thoothukudi South Police Station were covered with cloth when the persons illegally detained were taken to that police station.

## **Health**

PI team feels that the health concerns faced by villagers surrounding the Plant has played a significant role in mobilising people and sustaining the campaign. PI has observed that there have been a very significant number of narratives in various testimonies, which clearly present the health hazard being central to this campaign. People have cited cases of cancer, lung and breathing related hazards, which they attribute to Sterlite. Similarly, there is, in fact, a kind of 'skin patch', which is now notoriously called as "sterlite patch". Even Doctors have started using this term at the time of diagnosis; and doctors are

asking patients to leave the region. The PI team observes that there requires a focussed health-based study in these villages. People also shared experiences that when they visit hospitals for cancer testing, the doctors would ask them whether they are from “Sterlite region”, clearly revealing their knowledge of such cases from the region. Some testimonies indicated that prospective grooms demanded health records of women prior to getting into marriage alliance. The PI observes that the local authorities have done nothing to organise a detailed health-based study(recommendation), which could either prove the same or at least be used to allay the fears of the people, if the health hazard theory were not true.

It is well known among villagers that Sterlite has been fined Rs 100 crore by Supreme Court for polluting the environment. For villagers, clearly environment pollution means immediate health concerns to them. It is about life and death of villagers. Protestors also cited how every successful order against Sterlite got overruled subsequently. They suspect that money is playing a significant role. PI feels that protestors sincerely believe this campaign as a positive campaign- to protect themselves and future generation from health hazards. Further, that Sterlite had to pay Rs 100 crores as fine, and yet they were allowed to continue functioning, was clearly seen as the State prioritising business interest over the public health interest.

## **Disability**

The PI team observes that police has violated principle of right to respect for inherent dignity individual autonomy including freedom to make one choice and independence of persons by resorting not only physical assault but also to denigrate the very presence of persons with disabilities and for taking part in the protest.

The deposition of persons with disability Mr. Pradeep during the inquest has been beaten up on both legs which suffer residual paralysis due to polio mylitis. Section 7 (1) of rights of persons with disabilities has become a complete failure as the state/police/executive magistrates for not securing the persons with disabilities from violence as it becomes inherent duty of the revenue department to protect rescue and rehabilitate victims with disabilities. The team also observes Mr. G. Princeton for having been amputated above the knee in right lower limb. Thereby inducing/precipitating permanent disability. It is again to be noted that despite the news having been published in the print and visual media. The disability department present in the district collectorate office has not taken cognizance and to provide requisite psychological, physical and other relieves liable to Princeton.

The PI team also observes that number of patients in the government hospital have atleast have one fold probability to develop functional disabilities ranging from temporary to permanent if not provided with proper medical and psychological reinforcement. Standard operating procedure in dealing with disability through rehabilitation department of the hospital to welfare of the differently abled persons absent either ways. Many fearing police action have not accessed hospital and by remaining in their homes without the awareness of higher probability of residual disability if not undergoing medical care.

India being a signatory to the international convention on rights of persons with disabilities, the police and state have failed in their obligation enshrined in article 11 (situations of risk and humanitarian emergencies); article 15 (freedom from torture or cruel, inhuman or degrading treatment or punishment); article 16 (4) (freedom from exploitation, violence and abuse)

### **Recommendations**

1. Sterlite should be banned with immediate effect.
2. The Sterlite plant should be dismantled and plant area should be cleared.
3. A memorial for those killed by the police should be created by the TN Government.
4. Establish who ordered the shooting and killing and make them accountable as per the law.
5. Take actions against those who were responsible for the killings, injuries and continuous unlawful search, assault and harassment of the people.