

# Issue Brief

---

No. 9

---



## Governance by Fear in Tamil Nadu: A Template from Thoothukudi

**M.G. Devasahayam**

Former Army and IAS Officer



**THE HINDU CENTRE**

*for*

Politics and Public Policy

© The Hindu Centre for Politics & Public Policy, 2018

The Hindu Centre for Politics and Public Policy, Chennai, is an independent platform for exploration of ideas and public policies. As a public policy resource, our aim is to help the public increase its awareness of its political, social and moral choices. The Hindu Centre believes that informed citizens can exercise their democratic rights better.

In accordance with this mission, The Hindu Centre's publications are intended to explain and highlight issues and themes that are the subject of public debate, and aid the public in making informed judgments on issues of public importance.

Cover Photo: A Sub-Inspector of Police on patrol along Thoothukudi Palayamkottai Road in Thoothukudi on May 23, 2018, a day after police opened fire on protestors. Official figures placed the number of people killed in the police firing on two days at 13 people. Photo: A. Shaik-mohideen.

All rights reserved.

No part of this publication may be reproduced in any form  
without the written permission of the publisher.

## TABLE OF CONTENTS

I	Governance Failure and Collapse of State Functions	1
II	A Diktat on Section 144	4
III	Illegal Section 144 Order Ushers in Police Raj	6
IV	Autocracy in Thoothukudi	12
V	Smelting on Salt Land	21
VI	Neither Democracy nor Governance	26
VII	Redefining Tamil Nadu's Destiny	31
VIII	References	33
IX	Annexure I	35
X	Annexure II	38
XI	Annexure III	42
XII	Annexure IV	45
XIII	Annexure V	46

---

## Abstract

---

**T**hoothukudi, in southern Tamil Nadu, found its place in recorded history preceding even that of the State's capital, Chennai. Famed as one among the world's ancient seaports documented by the likes of Ptolemy, it is now in the news for all that can go wrong in the dynamic interplay of the state and citizenry, industrialisation and the environment, and governance and public interest.

On May 22, 2018, police opened fire on unarmed demonstrators who had been protesting against a copper smelter plant, which for close to two decades was mired in controversy over its impact on the environment, public health, and the manner in which the state was seen as siding with corporate interests overriding public concerns.

The police action on the 100<sup>th</sup> day of the protests went down as an emotive experience in which public voices were stilled by bullets, governance was all but abdicated by civil authorities, and, in a seeming response to the popular outcry, the smelter, run by Sterlite Copper, a subsidiary of Vedanta, a global mining conglomerate was shut down.

In this Issue Brief, **M.G. Devasahayam**, former Indian Army and Indian Administrative Service (IAS) officer, puts together the pieces and focusses the spotlight on the failure of state mechanisms, leading to the government resorting to "Governance by Fear." Drawing from his experience as an administrator and soldier he points out the serious flaws in the handling of the entire issue by the political leadership, executive and the judiciary. He dissects the order under Section 144 CrPC and exposes its illegality, draws attention to the procedural blunders and the disproportionate role played by the uniformed force of the State, and the manner in which what started out as an expression of collective dissent ended in a tragedy which claimed the lives of 13 people and the limbs of many more.

The Issue Brief also delves into the growing trend of the seemingly democratic state becoming brazenly autocratic to facilitate the "ruling oligarchy grow richer while their less fortunate brethren suffer and starve" a sure sign of the State not being governed as per the mandate of the Constitution of India.



---

## I. Governance Failure and Collapse of State Functions

---

In his seminal book, "When States Fail: Causes and Consequences", Robert Rotberg succinctly defines a 'failed state':

"Failed states offer unparalleled economic opportunity - but only for a privileged few. Those around the ruler or ruling oligarchy grow richer while their less fortunate brethren starve. Immense profits are available from an awareness of regulatory advantages and currency speculation and arbitrage. But the privilege of making real money when everything else is deteriorating is confined to clients of the ruling elite.... The nation-state's responsibility to maximize the well-being and prosperity of all its citizens is conspicuously absent, if it ever existed.... Corruption flourishes in many states, but in failed states it often does so on an unusually destructive scale. There is widespread petty or lubricating corruption as a matter of course, but escalating levels of venal corruption mark failed states."

Tamil Nadu may not be a 'failed state' yet, but it is certainly heading towards that. Such states do not have genuine democratic mandate or have lost the same due to acts of commission and omission, and therefore indulge in 'Governance by Fear'. This is what happened in Thoothukudi on the Sterlite issue and is now happening in Salem and adjoining districts on the issue of the proposed eight-lane Greenfield Expressway. There are serious attempts to do this in the pocket-sized district of Kanyakumari by pushing for a totally unnecessary ultra-mega transshipment port on its fragile and highly eco-sensitive coast. Similar is the case with the hydro-carbon project in the delta districts and many other policies, projects and programmes in the name of 'development.'

In all these cases the Union and State governments are seen in the popular mind as defending the privilege of the 'clients of the ruling elite to make real money' by promoting poisoning industries and predatory nature-killing projects. For the purpose the administrative machinery in general and police in particular is used as an instrument of fear to facilitate corruption and carpet-bagging in an 'unusually destructive scale.'



**Anti-Sterlite protesters at the Collectorate demanding the closure of copper manufacturing unit at Thoothukudi in Tamil Nadu on May 22, 2018.**  
Photo: N. Rajesh

The port town, Thoothukudi, in southern Tamil Nadu witnessed this since the fatal Tuesday: May 22, 2018. An international conglomerate dealing in mines and minerals, making 'immense profits', and commanding the ruling oligarchy--legislative, judicial, executive--of the day, has been bending the rules and trashing the constitutional rights

of the people for clean air and potable water for 20 long years. The cries and wailings of the multitude protesting against poisonous air and polluted water fell on deaf ears.

A 99-day peaceful public protest against the large, polluting, and poisonous Vedanta Limited, Copper Smelter Plant (Sterlite) at Thoothukudi turned into fire and fury on the 100<sup>th</sup> day resulting in a blood-bath of horrendous proportion. A massive turnout of men, women, and children (estimates vary from 20,000 to 200,000 persons) who converged on the roads/streets of this coastal town was made to run helter-skelter like headless chicken chased by baton charging, tear-gas firing, and gun-wielding policemen. Suddenly there was death--men, women, children--all 13 of them, going only by official figures, and injuries (major and minor) to over hundred caused by brutal lathi-charge and indiscriminate and aimed 'shoot to kill' indulged in by policemen. It was 'governance by fear' in full action!

One saw the chilling sight of trained sharp-shooters (probably snipers or commandos) in civilian clothes perched on a police van and public building shooting at the unarmed 'protestors' with self-loading, semi-automatic rifles with the pronounced intention (heard over audio) to kill. There are several versions on what happened on May 22 and thereafter: terror, massacre, pre-meditated murder, and what have you.

I visited some families of the dead, shot point-blank, who live in shanties on the edge of poverty and penury, one of them being a young girl of 17 aspiring to be a lawyer by profession. I was

---

**Thoothukudi is a clear case of state terror with no regard whatsoever for life, liberty or human rights embedded in the Constitution.**

---

extremely anguished when I heard them being described as "radicals", "anti-national/anti-social" and "extremists" "who deserved to be

taught a lesson". This is plain fascist vocabulary which is fast creeping into the Indian lexicon as a defensive mechanism to facilitate corruption and carpetbagging on an 'unusually destructive scale.' Call it what you may, but the fact remains that Thoothukudi is a clear case of state terror with no regard whatsoever for life, liberty or human rights embedded in the Constitution of India.

Resorting to fear tactic is sure sign of collapse of democratic governance and a 'failing state'. True to the adage that "a fish rots from the head down", governance in Tamil Nadu has been rotting for some decades and it has now reached the 'cutting edge'. Faced with the combined onslaught of caste, cinema-cult, and corruption, governance in Tamil Nadu has been sliding downhill for several years. This led to the emergence of 'mendicant and mesmerising politics' that spawned a 'pool of leaders' sans morality, knowledge and leadership quality.

**Governance by Fear in Tamil Nadu:  
A Template from Thoothukudi**

In the event, Democracy gave way to Kleptocracy which is "government of the thieves, by the thieves, for the thieves". From sovereign 'citizens' who create and therefore control governments, people have been reduced to cringing 'subjects' and then mendicants begging and petitioning the state even for safe water to drink and clean air to breath! When this was denied people protested only to be replied with bullets – a true manifestation of governance by fear and Tamil Nadu heading towards a 'failed state'!

---

## II. A Diktat on Section 144

---

The ‘Terror in Thoothukudi’ has its genesis not in this ‘pearl city’ of a bygone age, but in the chamber of the Madurai Bench of the Madras High Court. The episode kick starts with a strange and unusual order from a judge of this High Court. In the Order dated May 18, 2018, the Honourable Judge concedes that the decision to invoke Section 144 is within the scope and ambit of the District Collector who is District Magistrate. Yet, he entertains a petition from a private party (Sterlite) and issues an order to the Collector of Thoothukkudi **[Annexure I]**, the undertones of which construe a clear threat to India’s permanent executive: impose Section 144 as demanded by Sterlite and crush the protest...Or else....!

In view of the monstrosity of Section 144, the DM and the police are normally reticent in invoking this harsh provision. They normally hold talks with the leaders and or representatives of the protesting groups and find out a via media. They allow the crowd to gather at various places, shout slogans and sit in dharna for some time, and then disperse. If they do not then police resorts to the soft option of Section 129 CrPC and temporarily detain persons who form part of such assembly.

Due to High Court’s diktat this option was not available to the district authorities. Therefore, at about 8.00 p.m. on May 21, the District Collector issued a Press Release stating that prohibitory orders under Section 144 CrPC has been imposed in the Police Station areas of Thoothukudi South and SIPCOT from 10.00 p.m. that night up to 8.00 a.m. on 23 May (Press Release attached). Even seven weeks after the ‘Thoothkudi Terror’—a copy of what ought to have been a self-explanatory, speaking order of the DM imposing Section 144, which should be publicly proclaimed and exhibited was not made available by the district authorities. This, despite filing of RTI applications under Section 7(1) (emergency provision, requiring reply within 48 hours) on May 31, and the writer personally meeting the present District Collector, Thoothukudi (Sandeep Nandhuri, IAS) on June 1.

Mysteriously, a High Court judge sitting in a chamber at far away Madurai based on a pamphlet supplied by an offending party determines that there would be a serious law and order situation and therefore Section 144 should be imposed in Thoothukudi or the DM would be guilty of “dereliction of duty” and the “Court would be justified in invoking its powers under Article 226 of the Constitution of India.” This is serious distortion of justice and colourable exercise of power by the High Court to favour a private party against the liberty and fundamental rights of citizens.

This judicial diktat is all the more reprehensible because the public protest was to uphold their constitutional right to live a healthy disease-free life. What they were asking was only for the compliance of the Directive Principle of State Policy under Article 48A of the Constitution: “The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country”. In fact, it is the fundamental duty of every citizen to do so as per Article 51A(g) of the Constitution: “to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures.” In this case, instead of becoming protector of these constitutional rights, responsibilities and duties, the High Court has acted in favour of a private party to suppress these.

This is a clear case of role reversal. Actually, as there is no provision for appeal against a DM's order under Section 144, High Courts can exercise the power of revision and can either quash the order or ask the DM for the material facts, thereby ensuring his/her accountability. This is the duty of the High Court under Article 226 to protect and defend fundamental rights of the citizens from being abused by the executive. In this case the High Court has done just the opposite for reasons that need to be investigated.

And so, on May 22, Thoothukudi had become a police fortress with the District Collector/Magistrate (N. Venkatesh) reduced to irrelevance and absent from duty. All officials subordinate to the Collector - District Revenue Officer, Sub-Collector, and senior revenue officials – abdicated their positions of responsibility, albeit for a couple of days. It was a sea of policemen and policewomen everywhere and the force was led by the Additional Director General of Police (Law and Order) and had four Inspectors General (IGs), two Deputy Inspectors General (DIGs), 15 Superintendents of Police (SPs) and scores of Additional Superintendents of Police (ASPs), and Deputy Superintendents of Police (DSPs). Sure-enough the High Court ‘Diktat’ had brought ‘Police Raj’ in Thoothukudi.

---

### III. Illegal Section 144 Order Ushers in Police Raj

---

**T**his is what Section 144 (1) Criminal Procedure Code says:

“In cases where, in the opinion of a District Magistrate (DM) .....there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable, such Magistrate may, by a written order stating the material facts of the case and served in the manner provided by section 134, direct any person to abstain from a certain act.....if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquillity, or a riot, or an affray.”

A prohibitory order under this Section has a chilling and terrifying effect on the citizens by depriving them of their fundamental rights, particularly Article 19 (assembling peacefully and without arms and practicing or carrying on any occupation, trade or business) and Article 21 (life or personal liberty). Such a promulgation lets loose a chain of criminal liabilities on those participating in any assembly which has been declared unlawful even if peaceful. They commit cognisable offence and under Section 151 of Criminal Procedure Code (CrPC) and a police officer has powers to arrest, without orders from a Magistrate and without a warrant, any person who has a design to participate in unlawful assembly. Such participation attracts several sections (143, 145, 146, 1467, 149, 150, 151) of the Indian Penal Code some of which are punishable with two years rigorous imprisonment, even on innocent, unarmed men, women and children.

Therefore, this power should be exercised with utmost care, and such orders should be passed after gathering adequate material facts to justify the same. Actually, in this case ‘directing any person to abstain from a certain act’ would apply more to the Sterlite management than the public since it was the latter that was causing “danger to human life, health or safety” as clearly established in expert reports.

Before promulgating Section 144, the DM (in this case the District Collector) should be fully satisfied that there is sufficient ground for proceeding under this section and an immediate prevention or speedy remedy is desirable. The circumstances calling for an order must be that of an ‘emergency’ [in contrast to an issue that has been on the public radar for 99 days]. An order passed when there is no emergency is without jurisdiction. And, before proceeding under this section, the Magistrate should hold an enquiry and record the urgency of the matter. For the purposes of section 144, it is only the Magistrate issuing the order who should believe that

apprehension of nuisance or danger exists [emphasis by author]. This is subjective satisfaction based on the information, intelligence reports and other material that has been brought to his notice. Under this Section, a DM cannot pass an order on the complaint of any party. Neither can anybody—High Court, Government or Police—goad him/her into it.



**Riot control police in Thoothukudi. Photo: M. Lakshmiarun**

At long last I could get hold of a copy of the Section 144 Order on July 5, 2018. **(Annexure II)** from the Madurai High Court given to A.W.D. Tilak, the President of the Thoothukudi Bar Association, in response to a Writ Petition filed by him. A reading of the Order clearly indicates that it was at the behest of M/s Sterlite Smelter, the offending

Company which was the cause for all the unrest and protest in Thoothukudi. The Company initiated the application, filed a Petition in the High Court and obtained an Order without jurisdiction and cornered the DM by getting a strong recommendation from the Superintendent of Police to impose Section 144 CrPC. The Order does not satisfy any of the requirements of this Section and is not in accordance with the subjective satisfaction of the DM. Ironically, Sterlite (Vedanta) is virtually claiming credit for the imposition of Section 144 in their affidavit filed in National Green Tribunal (NGT), Delhi for reopening the plant!

Even a casual reading of the Order would reveal that it is based on two letters dated 09-04-2018 and 6-04-2018 written by Sterlite Company asking for imposition of Section 144, Madurai High Court Order dated 18-05-2018 passed on the petition filed by Sterlite and the Letter dated 21-05-2018 from SP, Thoothukudi strongly recommending imposition of Section of 144. All these are totally untenable.

It raises serious doubts and suspicion about the forces behind this Order and the purpose. It looks as if the objective was to carry out an act of ‘unusually destructive scale’ through ‘massacre of the innocents’ which is state terror in its rawest form. This suspicion is deepened and reinforced by the fact that on May 22, the District Collector/Magistrate (N. Venkatesh, IAS) who had ‘promulgated’ the ‘prohibitory order’ just vanished and was not traceable anywhere in Thoothukudi, leaving the field wide open for the police to run amuck and ‘shoot to kill’.



This is what the Sterlite Copper CEO, P. Ramnath, said on the day of the carnage: “I totally regret what happened today. It was totally uncalled for and is really unfortunate. We had, in fact, taken all the precautionary steps by getting the court order for section 144.... Although we expected it to be peaceful given Section 144 and considering the efforts made by the police and the collectorate.” [Sharma, E.K. 2018. Online Reference 9.] A CEO is talking as if he was the civil administrator and that the High Court, Police and the DM were doing his bidding!

It appears to be so. Look at the audacity of the Sterlite Company. First it demands from the District Magistrate to impose Section 144 to protect their personnel, plant and machinery. A private entity can certainly seek the protection of the state, but it has no right to ask for imposition of Section 144 which deprives citizens’ of their liberty and fundamental rights and exposes them to several criminal offences as we have already seen. And then they move the High Court for a Writ of Mandamus to direct the DM to impose Section 144.

---

**A private entity can certainly seek the protection of the state, but it has no right to ask for imposition of Section 144.**

---

Writ jurisdiction of High Court flows from Article 226 (1) of the Constitution:

“Notwithstanding anything in Article 32 every High Court shall have powers, throughout the territories in relation to which it exercise jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibitions, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.”

In this case the High Court has done just the opposite.

As if waiting for this High Court Order the Superintendent of Police writes a letter to the DM on 21<sup>st</sup> May virtually dictating the Section 144 Order as it was pronounced later. He has no business to do this and has obviously acted as part of a deep-rooted conspiracy to use this CrPC Section as an instrument of ‘Terror in Thoothukudi’. The circumstances mentioned in the Order does not constitute any emergency [the issue that has been on the public radar for 99 days] and therefore is invalid. Besides, while passing the Order the DM has not applied his mind and has merely relied on the letters written by the offending company, a direction of the High Court without jurisdiction and an unwarranted communication from the SP. In the event the Section 144 Order supposedly promulgated on the evening of May 21, 2018 is *ab initio* illegal and cannot be acted upon.

While so, a mere press release announcing the imposition of Section 144 sent the situation into a tailspin. As movement of public in groups of five and more at certain places becomes a criminal offence, police and magistracy has a huge responsibility to prevent that happening. And if that



happens, be prepared to deal with the situation without cruelty or bloodshed. This starts with preventive arrests of key leaders by detaining them or forcing them to go underground and set-up barricades to effectively block entry of people in the prohibited area. This could substantially reduce the crowds and its aggressiveness.

But once the crowd gathers, the steps needed are succinctly described by R. Natraj, IPS (Retd) former Director General of Police, Tamil Nadu, and presently an MLA:

“First, we engage the agitators in dialogue and once the crowd knows we are firm, they disperse or facilitate them to achieve some success like meeting the authorities or giving some assurance. If that doesn’t work, warn them to disperse. Slowly use hierarchy of force like teargas, water cannon and if that doesn’t work then lathi charge. Only if there is extreme violence and arson, police resort to firing, that too just to injure. We have rubber bullets and buck shots with pellets which disperse causing injury but not kill. Also aim below the knee to save vital organs.” [Venkataramakrishnan, R. 2018. Online Reference 6.]

None of this was adhered to. What actually happened was police brutality in its rawest form.

In this context it will be appropriate to refer to Chapter XXXIX of the Police Standing Order and PSO 703(2)(h)(i)(j), 703(3) and 703(4)(e) at **Annexure III** which was totally ignored.

### **Experiences from anti-Hindi imposition protest and internal Emergency**

This takes me to my days in the Army wherein I had the first-hand experience of combating armed insurgency in Nagaland and operation in aid of civil authority in Tamil Nadu (then Madras State). During the combat against armed insurgency by underground Naga Army we had fired semi-automatic weapons and resorted to “shoot to kill” when faced with Pakistani and Chinese arms and ammunition.

But never during our operation in aid of civil authority. On 11 February 1965, Delta Company of 17 Madras Regiment, then camping at Madhukarai near Coimbatore was called upon to quell the

---

**After continuously pelting stones the crowd had dispersed shouting that they will come back again early morning, set fire to the building and kill all occupants.**

---

mass violence (part of the anti-Hindi imposition agitation) in Tiruchengode in Salem district. The previous day morning a violent crowd of over 10,000 had set ablaze a police jeep killing all the four policemen including a Sub-Inspector. In

the resultant police firing 12 people were dead with many more injured. The dead bodies were lying in the hospital morgue. A much larger and more infuriated crowd had encircled the Sub-Collector’s Office wherein the District Collector and DIG, Police were trapped. After

continuously pelting stones the crowd had dispersed shouting that they will come back again early morning, set fire to the building and kill all occupants.

On reaching Tiruchengode about 3.00 AM, we quickly assessed the situation and decided on the psychological strategy of 'show of force' not 'use of force'. So before first-light three contingents of about 30 men each were loudly charging the arterial roads leading to Sub-Collector's Office with unsheathed bayonets menacingly gleaming. Soon the news spread like wild fire and the situation was quickly subdued and hardly any one came out on the streets. So, with just 90 men we brought such an inflaming situation under control without firing a shot.

---

**With just 90 men we brought an  
inflaming situation under control  
without firing a single shot.**

---

In command of the Army contingent was just a Captain and me a young Second Lieutenant. In contrast in Thoothukudi, the formidable force comprised of over 3000 policemen of all ranks 1 ADGP equivalent to Army Lieutenant General, 4 IGs equivalent to Major General, 2 DIGs equivalent to Brigadier, 15 SPs equivalent to Lieutenant Colonels, and dozens of ASPs DSPs equivalent to Major and Captain. Yet they indulged in ruthless killing of unarmed civilians!

In the IAS I had the experience of being the District Magistrate of Chandigarh during the draconian National Emergency in mid nineteen seventies. During the 21 months the law & order situation was controlled by imposing Section 144 CrPC and preventing any unlawful assembly by taking effective preventive measures. Not one shot was fired during the entire period.

All these were during a period when India had a functioning democracy though distorted in some ways. No doubt during Emergency, democracy was hijacked by the imperious Indira Gandhi and her coterie, but it came back in full strength through the collective will of the people exercised during the 1977 election. Since then there has been a continuous decay and now democracy is only a fig-leaf to cover a kleptocratic state ruled by corrupt oligarchs who have made it their fiefdom. Tragically all the institutions and instruments of the state—political, legislative, executive, and judicial are at their beck and call.

The reasons are not far to seek. Politicians and political parties are lawless entities who pander to the lowest common denominator of the majority of the people who follow them like herd of cattle. Legislature comprising of these very politicians have no use for democracy or democratic governance. Higher Judiciary, sans defining Rules and Regulations find it safe to be on the side of these powers-that-be rather than the common citizens who come under the battering ram of the

state almost on a daily base. Hence the severe erosion of Articles 32 and 226 of the Constitution meant to protect the fundamental rights and liberty of the people which the Chairman of the Constitution's Drafting Committee, Dr. B.R. Ambedkar, described as the very soul of our Republican democracy. Sandwiched between these two powerful pillars of the state civilian executive has considerably weakened while the uniformed force has ascended.

Be that as it may, since Section 144 was imposed without valid grounds, the police excesses and atrocities on May 22/23 May and subsequent days including the 'dance of death' all become virtual genocide or pogrom and the policemen who indulged in them and the authorities including magistrates and police higher-ups who ordered them would be liable for criminal prosecution and punishment under serious sections of IPC including:

Section 300. Murder - Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or-

2ndly. -If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused. or-

3rdly. -If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or-

4thly. -If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death, or such bodily injury as is likely to cause death and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid. And

Section 302. Punishment for murder—Whoever commits murder shall be punished with death, or [imprisonment for life], and shall also be liable to fine.

## IV. Autocracy in Thoothukudi

Section 144 CrPC is promulgated only when there is grave and imminent danger to public order and peace. There was no such situation in Thoothukudi and as we have seen the so-called order issued is illegal. However, following the Press Release on the imposition of Section 144, nine revenue department officials (Tehsildars/Deputy Tehsildars) were appointed as executive magistrates to work along with the police to monitor the law and order situation and keep the higher officials informed.

There are several gaps and flaws in this critical activity. It is reliably known that the district administration had no inclination to impose Section 144 and it was done under duress. Even then there was only a press release on this and there was hardly any public proclamation for the knowledge of the people at large. Given that ‘prohibitory order’ was in only two Police Station jurisdictions, there was no legal restriction on the protesters to walk for as many as 15 k.m. to enable them to reach and assemble at the District Collectorate area which is a vast expanse and lakhs of people could have assembled there and dispersed peacefully.

Most participants in the rally were not aware about ‘imposition’ of Section 144 and further, its limited imposition allowed people to gather and move towards the District Collectorate. Women and children 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 the purpose of petitioning the authorities with no intention to indulge in violence or riot. Despite the presence of such large numbers of women and children, commensurate numbers of women police were not deployed.



**A police van which was set on fire by the protestors.  
Photo: M. Lakshmiarun**

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 cannons to restrict the protestors. No testimony confirmed about any public announcement or bugle call asking the protestors to disperse. 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 khaki trousers carrying stones posed as protestors and pelted stones and when they were identified by some of the protestors, 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

---

**Some of the testimonies allege that those wearing black clothes were particularly targeted.**

---

medical records revealing the extent of their injuries and also showed their injuries. One women victim testified that she was badly assaulted with the butt of the rifle on her stomach,

resulting in serious injury. Testimonies also revealed that children were also ruthlessly attacked by the police and several of them were illegally detained. What is far worse and draconian is that there was targeted firing at the District Collectorate by gunmen with semi-automatic assault rifles perched on top of the police vehicles and also from the upper floors of the Collectorate building.

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. What is even worse, at about 2.30 p.m. on May 22, one woman was shot dead point-blank at Therespuram which is 10-12 k.m. from the Collectorate, under the North PS, where Section 144 was not imposed. She is stated to be one of the leaders of the movement but was not part of the protest on that day. She was on her way to her daughter's house in the same vicinity to deliver fish. Other killings were at the Food Corporation of India roundabout 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. Testimonies also revealed that 108 ambulance services were not made available. As per the accounts of the people, the ambulance services were ordered by the police not to serve the people who were injured during the demonstration.

#### **“As a last resort” says the Government**

In a written submission made on behalf of the DGP before the Madras High Court with respect to the firing that claimed 13 lives in Thoothukudi, the Police Department has provided graphic details of its version of the incidents.

A status report filed by the Assistant Inspector General (AIG) of Police (Law and Order), S. Maheshwaran, on behalf of the DGP, says that violence erupted at five different locations on May 22 and 23, forcing the police to use firearms at four of those places and resort to lathi charge alone in the fifth. The status report names only one Zonal Deputy Tahsildar who ordered the use of firepower to disperse the crowd in Therespuram at 3 p.m. on May 22, leading to the death of J. Jancy Rani, 37, and does not name officials who ordered firing at other locations.

According to the AIG, it was the villagers of Ayyareddiyurani alias A. Kumareddiapuram, led by Anti-Sterlite Movement president, Mahesh, who began a peaceful agitation from dawn to dusk, demanding the closure of the Sterlite Copper smelter owing to environmental concerns.

Days before the agitation was to reach its 100<sup>th</sup> day (May 22), representatives of various organisations passed a resolution to lay siege to the Collectorate on that day. Immediately, revenue and police officials called for a peace meeting wherein the participants agreed to hold peaceful protests.

---

**Officials called for a peace meeting  
and participants agreed to hold  
peaceful protests.**

---

On May 22, a huge crowd gathered near the Lady of Snow Church and it started moving towards the Collectorate. Similarly, villagers around the copper plant assembled at the Madathur junction and began marching towards the Collectorate. Around 20,000 people were present.

They indulged in “various violent activities and reached the Collectorate with a virulent face. Efforts to stop them at various places ended in vain. When they reached the Collectorate, the violent mob pelted stones, attacked police personnel and damaged police and public vehicles. All efforts to control and dispose [sic] the violent crowd failed,” the AIG said, and went on to state that a mob entered the residential quarters of Sterlite company employees adjacent to the Collectorate and set fire to a power generator and all vehicles parked in the apartments.

“The inmates, around 150 family members, were struggling for life. The mob in front of the Collectorate did not allow any fire engine or rescue team to enter the burning premises... As a last resort, to safeguard the lives of Collectorate staff, policemen and the 150 residents of Sterlite quarters, controlled use of fire [arms] was resorted to in and around the Collectorate complex,” the AIG said.

An Executive Engineer attached to the Public Works Department had assessed the damage caused to the Collectorate and allied government offices to be ₹28.12 lakh. Further, damage to vehicles, a police booth, and a government liquor shop was assessed to be ₹15.67 crore.

Thereafter, at 1 p.m. on the same day, a mob of around 3,000 people moved towards the Food Corporation of India roundabout and started pelting stones. The rioters did not retreat despite the use of tear gas and lathi charge. They, instead,

assaulted and attempted to kill policemen.

This time again, the police opened fire leading to the death of M. Karthik, 20. At about 1.35

p.m., the retreating mob as well as a crowd

from the other side attacked the policemen once again. Two government buses were burnt down.

The police managed to disperse the mob through lathi charge, and another case of rioting was booked in connection with this incident. At 3 p.m., Deputy Tahsildar Kannan issued orders for opening fire at Therespuram and it led to the death of one person, Rani. Further, three government-run liquor shops in Muthukrishnapuram, Ponnagaram and Sundaravelpuram were damaged during this bout of violence.

On May 23, a violent mob of around 1,000 people started rioting at Anna Nagar Main Road and damaged a liquor shop at Toovipuram, besides setting ablaze government properties around the area. The police opened fire once again killing S. Kaliappan, 22, of Mappillaiyurani.

The AIG also stated that the then Superintendent of Police P. Mahendran (since transferred) also sustained injuries during the violence.

This is the version of Tamil Nadu's head of police. The head of government, Chief Minister Edappadi K. Palaniswamy repeated it—both inside and outside the State assembly. Also, parrot-like, he added that the protest resulting in the massacre was the handiwork of extremists and anti-social elements.

### **An untenable version**

The DGP's affidavit claims 'imposition of Section 144' and does not mention anything about steps taken by the police to implement it effectively and prevent any untoward incident or violence happening. Instead, from the way the police handled the situation it looks as if a crowd comprising men, women, and children was deliberately 'herded' into a 'killing area' near the District Collectorate and shot by 'special sniper squad' with intention to kill. The affidavit itself admits killing of 9 persons at this spot to save the Collectorate staff and "inmates of the residential quarters of Sterlite company employees adjacent to the Collectorate." It does not mention of any shooting order given by the Executive Magistrate on duty. Even the FIR registered by Special



Deputy Tahsildar (Executive Magistrate) states that he gave order only for tear gas and it was the police who did the shooting on their own without any order or authority.

According to eve-witnesses, police deliberately channelled the gathering crowd towards the Collectorate. “It was the police that drew the crowds to the Collectorate campus. Had they wished to break up the rally, they could have done it easily, either at VVD Signal junction or at Madathur, in the 9-km stretch,” pointed out Vanchinathan, a legal adviser to the anti-Sterlite protest committee and a member of the Makkal Urimai Padukappu Maiyam against whom five cases have been registered under various sections.

Informed sources said the disturbances first started when the police led by Thoothukudi ASP Selvanagarathinam resorted to a lathi charge at VVD Signal junction around 11 a.m. The same

---

**I visited this place after the police action, and found no evidence to justify use of arms.**

---

officer, informed sources said, later in the afternoon led a posse of policemen who opened fire near Thereshpuram, 3 km from VVD Signal junction, in which one-woman resident identified as J. Jhansi Rani, 37, was killed. I visited this place after the police action, talked to people, and found no evidence of any provocation to justify use of arms, least of all, shoot to kill.

Around the same time, at the Tirunelveli bypass road, the police used tear gas against the rallyists and resorted to a lathi charge to disperse the crowd that was moving towards the collectorate. Even women and children were not spared, and many of them suffered injuries. Infuriated by this, a section of the protesters turned aggressive and started throwing stones. “Thus, a perfect setting was created to open fire near the collectorate,” said a lawyer-cum-activist, requesting anonymity. This gives credence to the citizen’s version that as soon the protesters gathered in front of the Collector office on that day the police resorted to violence. Civilians including women and children were brutally attacked by the hundreds of police men who were deployed on the spot. In what appears to be a planned operation, tear gas was first used to disperse the crowd and they were herded into an open ground and then shot at. A variant of a “Jallianwallabagh” style operation was carried out using sophisticated weapons. Chilling videos of police men in t-shirts, standing on top of the vans with semi-automatic rifles and aiming at the protesters to take a precise shot emerged in the media.

It was also reported in the newspapers that the protestors attacked the Sterlite residential quarters near the Collectorate. Indeed, some vehicles and a small section of the building were burnt, but doubts remain whether this was an insider job or the violent act of a mob! According to two



‘inmates’, protestors around 200 in number barged into the quarters’ campus only 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 and couldn’t be ascertained. This also raises doubts as to who the real miscreants were!

Serious suspicion has risen about the veracity of the police version because of the huge falsehood and deceit in the various FIRs ‘registered’ after the killings. Inspection of police records reveal that they were tweaked to change the location where police fired on protestors. A deputy tahsildar from a different area was made to sign the firing order after the incident because the local official had gone missing, and an accountant who had stepped out of office to return home was shot dead, allegedly by policemen patrolling on motor-bikes.

A significant detail to emerge from official records is that on May 21, a day before the police firing,

---

**There is no explanation for this whatever. All these tantamount to fraud and forgery.**

---

a government circular, signed by the DM, appointed Deputy Tahsildar Sekhar in charge of areas surrounding Fatima Nagar, Therespuram, Puthutheru, Lions’ Town and Matha Church, all about 12 km from the Collectorate complex. But the FIR filed on May 22 at SIPCOT police station on the killing of protestors shows it was Sekhar who signed the order, as per mandatory norms, for police firing at the Collectorate complex. Official sources inform me that Sekhar “was made to sign the firing order after Rajkumar Thangaseelan, a Special Tahsildar, who was originally deployed at the Collectorate complex, refused to do so”.

Records also show that M. Kannan, another tahsildar posted near the State Pollution Control Board in Tuticorin town, signed the orders for police to fire at protestors in Therespuram, 14 km away, which was under Sekhar’s charge. There is no explanation for this whatever. All these tantamount to fraud and forgery.

### **Terror that followed**

As we have seen, by May 22, Thoothukudi had become a police fortress with the District Collector/Magistrate (N. Venkatesh) relegated to the background. All officials subordinate to the Collector - District Revenue Officer, Sub-Collector, and senior revenue officials - also made themselves invisible. It was police everywhere and what followed was no-holds-barred police brutality.

Testimonies revealed that on the morning of May 23, groups of people along with the families of those who were dead and injured in police firing and lathi charge, gathered in front of the Government Hospital, Thoothukudi, 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 a cross.

Immediately, a huge posse of police personnel was 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, Kaliappan, died on the spot. Women were also beaten up when the police entered their houses and even a five-year old boy was stomped on the stomach and his two-year old sister was assaulted by the police.

At a public hearing held at Thoothukudi on June 2 and 3, 2018, witnesses confirmed that there was a massive and unwarranted door-to-door search in several areas. Police personnel forced themselves into houses and damaged 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 custody 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. Thirty of them were later found to be minors. Many people have been rounded up and beaten by police. As late as May 31 night at 3 a.m. in a village Meelavittan, which has a history of relentless struggle against Sterlite located barely 1.5 km away, three young men were picked up by the police "in mufti". An appeal to the Collector to intervene was in vain.

From the testimonies it is evident that the police had filed FIRs on unknown persons regarding various incidents on May 22-23, 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 statements admitting to the said offences. As per one of the testimonies, a person

who was already in police custody on May 23, 2018 since 1.00 p.m. has been falsely charged for torching a police bus in Anna Nagar, though that incident happened at 2.30 p.m.

Many young men have been forced to leave their homes for fear of arrest and torture by police even though they were not a part of anti-Sterlite protests on May 22, 2018 or 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 were fleeing from their homes fearing false cases by police. 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.

---

**Many young men have been forced to leave their homes for fear of arrest and torture by police.**

---

After wanton killing, the peak of state terror was reached when six of these arrested persons were later booked under the draconian National Security Act (NSA). These men - Kaleel Rahman, Mohammed Younis, Mohammed Ishraf, Velmurugan, Saravanan and Sottaiyan of the Makkal Adhigaram group - who had been arrested on May 22 and lodged in Palayamkottai Central Prison were detained under NSA on the orders of the State's Home Secretary, Niranjan Mardi, [Chand, V. 2004. Online Reference 12] based on recommendations made by the district superintendent of police and the district collector.

Thoothukudi Superintendent of Police Murali Ramba said that they have been involved in many cases of violence and therefore booked under provisions of NSA. Under the NSA, a person can be detained for up to 12 months to prevent him from acting in any manner prejudicial to national security. Makkal Adhigaram, however, said that the police have no proof to make such a charge and raised a very poignant poser – “So if protesting against Sterlite jeopardises national security, does it mean that the company is now the nation?”

In an affidavit filed in the Madurai High Court, advocate A.W.D. Tilak, President of Thoothukudi Bar Association, states that the arrests were not made in accordance with guidelines laid down by the Supreme Court and Sections 41A (Notice of appearance before police officer), 41D (Right of arrested person to meet an advocate of his choice during interrogation), and 42 (Arrest on refusal to give name and residence) of CrPC. According to him as many as 239 cases had been registered by the police in Thoothukudi this way.

### **An unprecedented cyber choking: an autocracy in action**

The State government rubbed things in and enacted a Kashmir-like scenario by ordering the suspension of internet services in three districts of Tamil Nadu—Thoothukudi, Tirunelveli and Kanyakumari—from May 23 to May 28, an act that has no precedent in the State. **(Annexure IV)**. The order was withdrawn on May 27.

The directive issued by the State's Home Secretary stated that it has been brought to the notice of the government that some people died in police action during the protest against Sterlite factory at Thoothukudi on May 22, which saw 20,000 people assemble and involve in violence and that this mass gathering of people was achieved mainly through the information passed via social media.

It further stated that provocative messages spread in social media with 'half-truth' and anti-social elements are trying to exploit the situation, leading to a public emergency situation, which necessitates immediate action and for public tranquillity. "...and it felt necessary that services of internet should be stopped/curtailed to prevent spreading of such information, rumours with half-truth."

This directive ordered telecom players to temporarily suspend 'any data related message or class of message to or from any person or class of persons or relating to any particular subject brought for transmission by or transmitted or received by any telegraph within the ambit of the Indian Telegraph Act, 1885, and the newly formed rule, Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017, in the interest of maintaining public order and preventing incitement to the commission of any offense passing through the internet'.

This is autocracy in action. Actually, it was the state and its agencies that were putting out all kind of lies and falsehoods even indulging in forgery and doctored documents like Section 144 and FIRs.

## V. Smelting on Salt Land

**T**hoothukudi (Tuticorin) is the largest salt producing district in Tamil Nadu, harvesting around 20 million tons of salt annually. Halite (salt) is one of the major mineral source for human consumption as well as industrial usages. In Tuticorin, the major units of thermal power plants and chemical industries are close to the salt pans. They discharge untreated waste into the ground and the nearest water bodies, which finally reach the ocean. Various disposable materials, fly ash, and some petroleum products are discharged onto the ground and they mix with groundwater and the sediment of salt pans.

Heavy metal can be introduced as a dissolved or particulate matter due to natural processes or anthropogenic contributions. Metal contamination of surface sediments can directly affect the seawater and groundwater quality, resulting in potential consequences to the sensitive lowest levels of the food chain and ultimately to human health. These heavy metals, if found in abnormal concentrations in salt, can lead to thyroid disorders, liver damage, and other harmful effects on consumers.



A jubilant public celebrating the closure of Sterlite Copper in Thoothukudi in Tamil Nadu on May 28, 2018. Photo: N. Rajesh

It is in this dreadful atmosphere came Sterlite Copper Smelter that not only further polluted land and groundwater but what is worse poisoned the air which became dangerous to breath. But these things do not seem to matter to corporate heads like the London-based Anil Aggarwal of the Vedanta Resources, now the parent company of Sterlite, is the embodiment of the

“privileged few around the ruler or ruling oligarchy who grow richer while their less fortunate brethren starve”, that marks a failed state.

The Vedanta Group has been the “client of India’s ruling elite” ever since the advent of the economic liberalisation programme in the early 1990s. Sterlite Industries was founded in 1976 much before the group took up its current name with its grand philosophical connotation. Vedanta

Resources was established in 1983 and listed in the London Stock Exchange in 2003. Today, while it is the largest non-ferrous metals company in India, it is also regarded as a global corporation by virtue of its operations in Australia and Zambia.

The company has interests in copper, aluminium, bauxite, zinc and lead, iron ore and pig iron, gold, metallurgical coke and crude oil. However, the most striking aspect of its rapid rise as a resources-based global entity lies in the manner in which it has bought—rather than built afresh—from existing private and public-sector companies in India. The group’s overall revenues in 2017 amounted to more than \$11 billion, with a net profit of \$880 million.

Vedanta has been a master of the art of Merger & Acquisitions, particularly India’s Public- Sector Undertakings at throwaway prices. Its Indian acquisitions started with the controversial privatisation of Bharat Aluminium Company (BALCO), the country’s pioneer in integrated aluminium production, during the tenure of Vajpayee (NDA) government in 2001. The following year, Sterlite acquired a controlling stake in India’s only integrated zinc producer, the public-sector Hindustan Zinc Ltd. Anil Agarwal is stated to have moved to “tears” at the prospect of acquiring the monopoly, which opened avenues for Sterlite to the zinc, lead and silver markets. In 2007, it acquired Sesa Goa (founded in 1954) to expand operations into ferrous metals. In 2017, Cairn India merged into the Vedanta Group, which gave it a presence in the oil and gas business through its fields in Rajasthan.

The company’s track record at Thoothukudi has been dismal right from the beginning. Sporadic

---

**The EIA was submitted before the company finalised the plant’s technical design and mitigation plans.**

---

protests erupted soon after the then Chief Minister, Jayalalithaa, laid the foundation stone for the plant in October 1994. But when the plant commenced trial production in 1997, the protests escalated and became

more unified and organised. Then, as now, the fisherfolk in and around Thoothukudi acted as the fulcrum for the protests. Even then the environmental clearances given to the company were suspect. The most shocking aspect of the clearances by the Tamil Nadu Pollution Control Board (TNPCB) was the fact that the company’s Environment Impact Assessment was submitted before it actually finalised the plant’s technical design and its environmental pollution mitigation plans. The Tamil Nadu government allotted 156 hectares of land, guarantees for water supply and several fiscal concessions, including ones on the then prevailing sales tax.

Sterlite’s operations started badly. Soon after the plant started operations, in July 1997, there was a gas leak that affected more than 100 workers and people outside the factory. After being shut

for 39 days because of this incident, it commenced operations again, only to be rocked by a major accident at its smelter that resulted in the death of two workers and serious injuries to two more. The accident happened because the smelter with molten copper fell on the workers. Sterlite attributed the accident to “sabotage” and possible “bomb blast” by ‘terrorist elements’ which was dismissed by the police.

Since then, local residents have complained of several accidents at the smelter. However, since the victims were mostly casual workers employed

---

**Since then, local residents have complained of several accidents at the smelter.**

---

by contractors, the company has never accepted liability and paid compensation [Ram, V. 2018. Online Reference 17]. The employment of casual workers is meant not

only to reduce the company’s wage bill but to escape liabilities arising from compensation claims following accidents at the plant.

Meanwhile, the company’s environmental track record has been repeatedly shown to be non-transparent. Sterlite’s culpability in Thoothukudi is only rivalled by the record of the Tamil Nadu government and its prime regulatory arm in this case, the TNPCB. There was evidence to show that the environmental balance in the town even before Sterlite entered the picture was shaky. The port, the thermal power generation plant, a large fertiliser plant and the fact that it was close to an ecologically fragile marine biosphere meant that the case against a copper place near the town was already a risky proposition. Allowing Sterlite to come to town with a highly polluting 4,00,000 tonne per annum copper smelter it appears, was the original sin, from which all other wrongdoing followed.

Initially the local public including the intellectuals were deceived. Fathima Babu, a professor and activist, was one of the many who initially believed the corporation was good for the town’s economy when it was first announced in the early 1990s. “We thought it might put Thoothukudi on the map and the place will be known for its industrial production and development.” Soon, however, the fishermen began alleging the company was disposing industrial waste in the water.

Then came the health woes. In villages within 5 km of the plant, there were reports of unexplained deaths, cancer, skin infections, eye irritation, respiratory illnesses and miscarriages. Kidney stones among children as young as two raised alarm, as did widespread infertility. Studies have repeatedly confirmed the residents here are victims of a two-pronged attack: from the poisoned air and from the polluted groundwater that is their primary source of drinking.



The main trigger for the present uprising is the fact that the State of Tamil Nadu has been acting just the opposite of what the people in Thoothukudi have been asking for: shutting down of the Sterlite factory that has polluted the water and poisoned the air. As if to rub it in, the government gave Sterlite permission to build another 4,00,000 tonnes per annum copper smelter, which is next to the existing smelter and also allotted large chunk of land for the purpose. So, now instead of one, people were to face a horrible thing twice the size. This sent shock-waves among the people of Thoothukudi who got united in their struggle against this monster spreading death and disease including cancer and infertility.

Internationally also the reputation of Vedanta has been dismal. At the height of the Dongria Kondh tribal people's protest against Vedanta's alumina refinery in Lanjigarh, Odisha, and its plans for a bauxite mine London's 'The Independent' newspaper ran a headline: "Vedanta Resources: the world's most hated company?" The piece was sharply critical of the apparently dismissive way in which the company treated the concerns of campaigners and those of investors such as the Church of England and state pension funds from Norway, the Netherlands and others.

What emboldens such a company to stridently confront a community that has made it abundantly clear that it is trespassing on their lives? The answer to this lies partly in the fact that Vedanta has been a regular contributor to not just the ruling

Bharatiya Janata Party (BJP) but to the Congress as well. Neither of the mainstream political parties has questioned or challenged

---

**Neither of the mainstream political parties has questioned the meteoric rise of the company.**

---

the meteoric rise of the company in its short history. This can only mean that they are willing to be partners, whatever the cost. Not only partner but also part of the company as was the case with Congress leader, P. Chidambaram, as Non-Executive Director in the company between November 14, 2003 and May 22, 2004, [**Vedanta Resources, 2004. Online Reference 18**] before assuming office as the Union Finance Minister in the United Progressive Alliance government.

As the 2G scandal and the coal scam demonstrated, the allocation of natural resources such as mines or airwaves to private players involves considerable discretionary powers to the state; this implies that this also allows for abuse without adequate checks and balances. On the other hand, when political power is compromised, regulatory arms of the state such as those enforcing environmental standards are compromised, too. Notably, the TNPCB's utter failure to obtain public approval through a transparent process of public consultation and enforcement has been the prime casualty of this utterly rotten nexus.



Even after all these and the ‘dance of death’ Sterlite is merely buying time. It has shown remarkable consideration in accommodating the delicate situation that political authority finds itself in after the murderous assault on an unarmed people. However, Vedanta officials maintain that the government had not “presented a single piece of evidence” against the company and indicated that it would mount a legal challenge at an opportune time.

For its part, the Tamil Nadu State government has erected a legal edifice that is bound to collapse at the slightest challenge. The closure of the plant ordered by the State government, ostensibly because it is against the “public interest”, (**Annexure V**) is so ridiculously weak that one may not be faulted for assuming that it was done at Sterlite’s bid! Sure enough fully exploiting this weakness, Vedanta Ltd has moved the National Green Tribunal at Delhi to quash this order and direct state government to reopen the poisonous plant. Let us see how this drama plays out!

That a government would manufacture prohibitory order under CrPC at the behest of an offending company for the purpose of spreading terror and would fire on its own people in order to stand by its “commitment” to a private conglomerate is but an indicator of the stranglehold such conglomerates enjoy over the state. This is true hallmark of a ‘failed state’.

## VI. Neither Democracy nor Governance

**T**he term governance refers to the decision-making and implementation processes in the administration of a country, State or organisation. At the country/State level, governance is the exercise of political, economic and administrative authority in the management of multifarious affairs. Governance comprises the complex mechanisms, processes, and institutions through which citizens and groups articulate their interests, mediate their differences, and exercise their legal rights and obligations. Good Governance is participatory, transparent and accountable. It is effective in making the best use of resources and personnel and is equitable. Basically, it promotes justice and the rule of law. In the Indian context it should be in accordance with the Constitution which is the Charter of Governance.



**Anti-Sterlite protesters set fire to two wheelers parked on the roadside at the Thoothukudi-Palayamkottai bypass road demanding the closure of the copper manufacturing unit at Thoothukudi in Tamil Nadu on May 22, 2018.**

**Photo: N. Rajesh**

In a democracy - as distinct from an autocracy - governance should be society-centred. It would include the government, which is its dominant part, but also transcend it by taking in the private sector and civil society. All three are critical to sustain and foster human, economic, and social development.

Governments, represented by the ruling establishments in the centre and the States, create a conducive political, administrative, legal and living environment. The private sector, represented by agriculture, trade, commerce and industry, promotes enterprise and generates jobs and income. Civil society, represented by the voluntary sector, facilitates interaction by mobilising groups to participate in economic, social and political activities. It also resolves conflicts. Because each has weaknesses and strengths, governance is brought about through constructive interaction among all three. In short, while governments in India have been reduced to politico-bureaucratic proprietorships, governance is a joint venture.

Being a joint venture, governance should adhere to certain functional norms and principles such as involvement of stake-holders in the decision-making process; transparency and accountability

at all governmental and societal levels; citizen-participation in the processes of social and public welfare and economic growth and development; a balanced relationship between all bodies of government and civil society; social auditing of government programmes and policies; mandatory establishment of ombudsman institutions and their fearless functioning; civil supremacy over the uniformed forces and an efficient and non-discriminatory judicial system. Most important of all there should be enough space for the civil society represented by the voluntary sector to freely express its views and opinions on the development agenda of the governments without fear or favour.

Instead, the Union and State governments have chosen the arbitrary and confrontational path not only with the voluntary sector but the people themselves. This is being done to offer and facilitate unparalleled economic opportunity to a privileged few to make immense profits by wilful plunder of nature's resources and public funds. This is at the core of the predatory and centralised 'development' model being touted by the Prime Minister downwards in the ruling establishment.

While people at large suffer from economic, social, environmental and democratic deprivation, the select few who are close to the ruling oligarchy grow richer and richer. And, dishonourably, a pliable section of members of the constitutionally covenanted All India Services (IAS and IPS) chose to be vassals of this oligarchy rather than servants of the people in a democratic polity that the constitution has created. Corruption is the fuel and in failed states it assumes venal proportions leading to collapse of governance.

The way things are, it looks as if Tamil Nadu is gasping for both democracy and governance. With the State Assembly becoming *functus officio* and comparably close to one that is in 'suspended animation' there is an abysmal lack of adherence to democratic sensitivities in the running of the government. As it is the democratic polity is severely eroded in Tamil Nadu with a substantial portion of the electorate falling prey to the corrupt culture of 'freebies' and 'Vote for Note'. Electoral corruption is the mother of all corruption and Tamil Nadu tops the country in this despicable phenomenon. When there is no democracy how can there be democratic governance? All that is left is some semblance of civil administration carried out by the government officials some of whom are still honest and competent.

---

**Tamil Nadu is gasping for  
both democracy and  
governance.**

---

This fall of democratic governance as per the constitution is all the more painful because some from the All India Services who are themselves creatures of this very Constitution (Article 312) are the ones complicit in disregarding it. They have failed to protect the basic and fundamental

rights of “We the People” who created the Constitution. They have also failed to uphold the Directive Principle of State Policy under Article 48A: “The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country”. What is equally bad they have prevented the citizens from performing their fundamental duty as per Article 51A(g): “to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures.”

All this indicate that civil administration in Tamil Nadu is heading towards cancerous decay.

### **Civil servants in a cleft-stick**

A Report titled “Tamil Nadu-Governance Challenges” prepared by World Bank in October, 2004 has this to say:

“Tamil Nadu has traditionally possessed a highly capable civil service. More recently, it has registered some of the best human development indicators in India after Kerala. Tamil Nadu has also done well in delivering key services: A recent survey conducted by the Public Affairs Center (PAC) reveals that it possesses the country’s best public distribution and school education systems, and the second best public drinking water and road transport services. Yet, despite this impressive record, Tamil Nadu faces several critical governance-related challenges that need to be addressed....”

That was in the past. Today, in Tamil Nadu, the greatest challenge is the severe decay that has set into its civil servants, particularly at the cutting edge of administration. This poses serious threat to democracy and governance or in other words democratic governance. The question is whether the administrative structure as it exists in Tamil Nadu today can meet this challenge. The state’s major administrative units constitute 32 districts, 85 revenue divisions, 290 taluks, 10 municipal corporations, 125 municipalities, 385 Panchayat unions, 561 town Panchayat, and 12, 618 village panchayats. The State government departments are controlled by 33 ministries headed by a separate minister for each ministry. At district level District Collectors head or coordinate all the departments and they are the face of the state Government.

This means the State administration is skewed in the field putting a heavy load on the office of the Collector (of the IAS cadre) who is also District Magistrate and responsible for maintenance of Law & Order in the district [except in metropolitan cities]. This disproportionate load and expectation on a relatively young civil servant, with barely seven or eight years of experience, is the main reason for the bungling in Thoothukudi leading to state terror.

A clear example was on display on the fateful day of May 22. As against the lone District Collector in Thoothukudi, there was a full regiment of officers belonging to the IPS. Combined with the massive assembly of other police officials and constabulary equipped with lethal weapons, this had

---

**There was no magisterial control or oversight at any point of time. Claiming so is white lie!**

---

a terrifying effect on the civil officials and the populace. This police leviathan, mysteriously remote-controlled by some invisible hand, forced out the Collector and commandeered

the entire town charging and shooting at will. There was no magisterial control or oversight at any point of time. Claiming so is white lie!

The young Collector (N. Venkatesh) also did not have the benefit of worthy advise from any senior well-versant with Law & Order management. Faced with public fury, the State government removed him from the scene and replaced him with an equally young officer who was district collector of Tirunelveli. All he could do was some fire-fighting with the help of two senior civil servants sent from Chennai. Though their task was to build confidence and restore normalcy police continued to run riot by intimidating the victims and witnesses and indulging in midnight raids and arrests without any rhyme or reason. Even when I visited Thoothukudi 10 days after the firing, the town looked like a uniformed bastion with policemen and policewomen at every street and corner and residents of the town living in fear. Obviously, civil administration had descended into police raj.

Way back in 1922 C. Rajagopalachari, then a freedom fighter who later became India's first Governor General and Tamil Nadu's Chief Minister said these prophetic words: "Elections and corruption, injustice and the power and tyranny of wealth and inefficiency of administration will make hell of life as soon as freedom is given to us" (**Rajagopalachari, C. 1922. A Jail Diary**). The tragedy is that such hell has descended on his own land!

Perhaps this dire prediction was at the back of Sardar Vallabhbhai Patel's mind when he wrote to Prime Minister Nehru in April 1948, advocating the formation of independent civil service in the functioning of which "political considerations, either in its recruitment or in its discipline and control, are reduced to the minimum, if not eliminated altogether." This was strongly opposed by the Chief Ministers of the States and many members of the Constituent Assembly. In his speech to this Assembly in October 1949, the Sardar said: "The Indian Union will go. You will not have a united India if you do not have a good All India Services which has independence to speak out its advice-if you do not adopt this course, then do not follow the present system, substitute something else."

Sardar Patel had his way and AIS (IAS and IPS) was established to "give a fair and just administration to the country and manage it on an even keel". To ensure this and safeguard the civil servants from the "vicissitudes of political convulsions", these services were covenanted in the constitution (Article 312).

Set up under such challenges, civil services had the basic philosophy of delivering de-centralised and democratic governance to all citizens and uplift the poor and the downtrodden. Such governance would pursue an equitable, small-is-beautiful, need-based, human-scale, balanced development while conserving nature and livelihoods. But most of today's IAS officials are pursuing the MNC agenda of turning the country into some 300-million rich/middle-class market through FDI-funded big-ticket projects by mortgaging the resources of the nation, leaving the 1,000 million 'laggards' in the lurch!

Civil servants have been dragged into the "vicissitudes of convulsive politics, scams and scandals" against which they were supposed to be a bulwark.

They have become accessories to the colossal corruption that is pervading all aspects of government!

Due to the collective failure of civil servants in living up to the covenant of the Constitution, India's

democracy has diminished, giving place to 'kleptocracy', a 'government of the thieves, by the thieves, for the thieves'! And shamefully among the States, Tamil Nadu is in the lead.

---

**Many civil servants have become willing pawns of ruling politicians.**

---

India conscientiously adopted the permanent civil service system. But, over a period of time it has descended into a spoils system, imbibing the worst of both. In the event, despite constitutional protection, many civil servants have abdicated their independence and political neutrality and have become willing pawns in the hands of ruling politicians. Many of them have compromised and some have become their joint-venture partners to enjoy prized postings while in service, grab coveted post-retirement sinecures, acquire properties and set-up benami outfits to run business and corner lucrative contracts. Serving corrupt oligarchs has become their mantra, let the common citizen be damned. This is a crisis situation for the civil servants.

It is this crisis situation that has led to the IAS and IPS officers abdicating their constitutional and legal/duties and clinging on to the coat tails of the powers-that-be and their henchmen. Result is the 'Terror in Thoothukudi' which is the outcome of 'Governance by Fear' and a regrettable pointer that Tamil Nadu is fast sliding into a failed state.

---

## VII. Redefining Tamil Nadu's Destiny

---

**O**ver a century ago poet-patriot Subramania Bharati thundered: “*Thamilan endru sollada thalai nimirnthu nillada*” (Say you’re a Tamil and stand tall and proud). As it is turning out, now it could as well be: “*Thamilan endru sollada thalai kuninthu sellada*”. (Say you’re a Tamil and walk low in shame).

With a proud, hoary and ancient history, legacy and heritage when and why did the decline and degeneration of the Tamil race start? When is difficult to determine but why is easier. It all started when some elements of the Tamil race in their greed for money and avarice for power discarded the noble tenets of honour, dignity and valour and in their place adopted slavery, selfishness and sycophancy as way of life. They were willing to barter their pride for humiliation and self-respect for indignity just to obtain material benefits and petty favours in cash and kind.

Things came to such a pass that they started to sell their vote, the most sacred of their democratic rights, for a few wads of currency, bottles of liquor, and packets of biriyani. In fact, they sold the government itself because in a democracy people in general and voting public in particular are the government. Since then it has been a continuous slide into decay and degeneration of every aspect of society, politics, governance, culture and education. Tamils, once known for excellence in every sphere compromised with mediocrity and then descended to sub-mediocrity.

The only race in the world that has dignity and integrity written into its literature (Thirukkural), social movement (Periyar), and political script (DMK-Arignar Anna) is today bereft of these very virtues that had made it stand tall and proud! With the weakening of these values that nurtured and sustained the Tamil pride, men bereft of honour, valour and integrity have taken over the reins of power in all spheres. The wise among the Tamils have been banished from the public councils for their honesty and integrity, and the profligates rewarded because they are venal, corrupt and servile. The process of a ‘failed state’ had commenced!

The last time “Governance by Fear” was let loose on the people was during the Emergency 43 years ago. Being out of Delhi’s hegemony at that time this did not impact Tamil Nadu much. But now with a State government which is subservient to Delhi there is “Governance by Fear” even when there is no formal Emergency rigour. This is also truly a sign of a ‘failing state’.

The worst victims in this ‘failing state’ are the children and youth of Tamil Nadu today. Insensitive governance is stealing their future by ravaging and looting nature’s resources and endowments,



and merit sacrificed at the altar of avarice. This must change and it is a task of dedication, of creation, of self-discovery.

It is a task that will define Tamil Nadu's destiny. It spells a challenge to her sons and daughters! The "Terror of Thoothukudi", if were to serve a purpose for the future of the State, should trigger the response to this challenge and take it forward.

### Suggestions

If this rot is to be stemmed and the slide towards a 'failed state' is to be halted the following measures become urgent and imperative:

1. Dismantling of the Sterlite plant in Thoothukudi that has become the symbol of a failing state indulging in 'governance by fear'. Not doing so would also seriously jeopardise the health and wellbeing of a large population of Thoothukudi.
2. Thorough investigation in to the Madurai High Court entertaining a non-maintainable petition from the offending Sterlite company and directing Thoothukudi Collector to impose Section 144 CrPC and the DM issuing an illegal order and keeping it a closely guarded secret. Sterlite's role in this whole episode also needs to be investigated.
3. Treating the Thoothukudi killings as 'culpable homicide amounting to murder' and prosecuting those who fired the weapons, those who ordered the firing and those involved in its abetment and conspiracy under the stringent provisions of the IPC.
4. Strict disciplinary action against all officials who have been responsible for the poisonous and polluting Sterlite industry breaking all laws and growing like a monster.
5. Civil Servants (IAS & IPS officers) of Tamil Nadu should serve with allegiance to Constitution of India and not to the oligarchs and carpetbaggers flaunting predatory 'development' agenda.
6. Overburdened and without mentoring the institution of 'District Collector' in Tamil Nadu is collapsing. State government should reform and streamline its administrative structure to deliver corruption-free and people-friendly governance with proper mentoring, monitoring and control over district administration and police.
7. State should abandon the alien, centralised, predatory and jobless 'growth' model and instead adopt grassroots-based decentralised and distributed development model.
8. Higher Judiciary, particularly Supreme Court should seriously address the issue of restoring the sanctity of Articles 32 and 226 as powerful instruments to protect people's fundamental rights and not the power of the state.
9. Instead of waiting for the meaningless and endless Commissions and Committees Government of Tamil Nadu should immediately release a full report on the happenings in Thoothukudi starting from March 2018 that should include Sterlite seeking prohibitory order under Section 144; Madurai High Court judge obliging the company; non-availability of this public document even under RTI Act and also why 'Police Raj' is being let loose on the people struggling for their basic, constitutional and fundamental rights.
10. **Government of Tamil Nadu should be run on the principles of democratic governance as per the Constitution and not as an autocratic state trampling on the rights and liberties of "We, The People" [Emphasis by Author].**



---

## References

---

### Source Material

1. Writer's visit to Thoothukudi and meeting with the victim's families and the witnesses.
2. Writer's meeting with District Collector, Thoothukudi and interaction with senior State Government officials.
3. Testimonies received from victim's families and the witnesses by the Public Inquest Team of which writer is a member.
4. **Rajagopalachari, C. 1922.** *Jail Diary: Being Notes Made by Him in Vellore Jail from December 1921 to March 1922*, Swarajya.

### Online references:

1. **The Hindu, 2018.** "[Anti-Sterlite protests: In Thoothukudi, how copper came a cropper](http://www.thehindu.com/news/national/tamil-nadu/how-copper-came-a-cropper/article24003304.ece?homepage=true)", May 27. [http://www.thehindu.com/news/national/tamil-nadu/how-copper-came-a-cropper/article24003304.ece?homepage=true].
2. **Goel, K. 2018.** "[Sterlite Has Seen Brewing Protests for 22 Years: Nityanand Jayaram](https://www.thequint.com/news/india/thoothukudi-anti-sterlite-for-22-years-nityanand-jayaram-tuticorin)", *The Quint*, May 23. [https://www.thequint.com/news/india/thoothukudi-anti-sterlite-for-22-years-nityanand-jayaram-tuticorin].
3. **Thirumurthy, P. 2018.** "[Thoothukudi killings: FIR reveals who ordered firing, and a possible cover-up](https://www.thenewsminute.com/article/thoothukudi-killings-fir-reveals-who-ordered-firing-and-possible-cover-82060)", *The News Minute*, May 28. [https://www.thenewsminute.com/article/thoothukudi-killings-fir-reveals-who-ordered-firing-and-possible-cover-82060].
4. **J Sam Daniel Stalin. 2018.** "[Amid Tamil Nadu Anti-Sterlite Protests, A Village Has Many Homes Battling Cancer](https://www.ndtv.com/india-news/in-a-village-3-km-from-sterlite-plant-every-other-house-has-a-cancer-patient-1858630)", *NDTV*, May 28. [https://www.ndtv.com/india-news/in-a-village-3-km-from-sterlite-plant-every-other-house-has-a-cancer-patient-1858630].
5. **Raja, A.K. 2018.** "[Tamil Nadu's General Dyer Moment](https://countercurrents.org/2018/05/23/tamil-nadus-general-dyer-moment/)", May 23. Countercurrents.org, May 23. [https://countercurrents.org/2018/05/23/tamil-nadus-general-dyer-moment/].
6. **Venkataramakrishnan, R. 2018.** "[The Daily Fix: Why were police shooting to kill anti-Sterlite protestors in Thoothukudi?](https://scroll.in/article/880076/the-daily-fix-why-were-police-shooting-to-kill-anti-sterlite-protestors-in-thoothukudi)", *Scroll.in*, May 29. [https://scroll.in/article/880076/the-daily-fix-why-were-police-shooting-to-kill-anti-sterlite-protestors-in-thoothukudi].
7. **Mohamed Imranullah S. 2018.** "[Violence at five locations led to Thoothukudi firing: DGP](http://www.thehindu.com/news/national/tamil-nadu/violence-at-five-locations-led-to-thoothukudi-firing-dgp/article24050895.ece)", *The Hindu*, June 1. [http://www.thehindu.com/news/national/tamil-nadu/violence-at-five-locations-led-to-thoothukudi-firing-dgp/article24050895.ece].
8. **Janardhanan, A. 2018.** "[Tuticorin firing: FIR, witnesses contradict police version](http://indianexpress.com/article/india/tuticorin-firing-fir-witnesses-contradict-police-version-5210221/)", *The Indian Express*, June 9. [http://indianexpress.com/article/india/tuticorin-firing-fir-witnesses-contradict-police-version-5210221/].
9. **Sharma, E.K. 2018.** "[What happened today is unfortunate, people were clearly misled, says Sterlite Copper CEO P Ramnath](https://www.businesstoday.in/story/what-happened-today-is-unfortunate-people-were-clearly-misled-says-sterlite-copper-ceo-p-ramnath/70711)", *Business Today*, May 24.

- [<https://www.businessday.in/opinion/interviews/sterlite-copper-protests-tuticorin-tamil-nadu-vedanta-ceo/story/277475.html>].
10. **Scroll.in. 2018.** “[Tamil Nadu: Six arrested for violence during anti-Sterlite stir booked under National Security Act](#)”, June 11. [<https://scroll.in/latest/882260/tamil-nadu-six-arrested-for-violence-during-anti-sterlite-stir-booked-under-national-security-act>].
  11. **Chand, V. 2004.** “[Tamil Nadu Governance Challenges](#)”, October 11. [<http://siteresources.worldbank.org/INTINDIA/Resources/TamilNadu-GovernanceChallenges.pdf>].
  12. **Ranipeta, S.S. 2018.** “[As Thoothukudi simmers, TN asks internet providers to cut data services in 3 districts](#)”, *The News Minute*, May 23. [<https://www.thenewsminute.com/article/thoothukudi-simmers-tn-asks-internet-providers-cut-data-services-3-districts-81813>].
  13. **Rajasekaran, I. 2018.** “[Gunning down a protest](#)”, *Frontline*, June 22. [<https://www.frontline.in/cover-story/gunning-down-a-protest/article10108705.ece>].
  14. **Venkatesan, V. 2018.** “[Arbitrary act](#)”, *Frontline*, June 22. [<https://www.frontline.in/cover-story/arbitrary-act/article10108734.ece>].
  15. **Sridhar, V. 2018.** “[Serial offender](#)”, *Frontline*, June 22. [<https://www.frontline.in/cover-story/serial-offender/article10108727.ece>].
  16. **Ram, V. 2018.** “[Pressure in London](#)”, *Frontline*, June 22. [<https://www.frontline.in/cover-story/pressure-in-london/article10108646.ece>].
  17. **Vedanta Resources plc. 2004.** “[Annual Report 2004](#)”, Vedanta. [<http://www.vedantaresources.com/media/11678/vedantaannualreport2004.pdf>].
  18. **Rajasekaran, I. 2018.** “[Violation of Police Standing Orders](#)”, *Frontline*, June 22. [<https://www.frontline.in/cover-story/violation-of-police-standing-orders/article10108717.ece>].
  19. **The Hindu. 2018.** “[Guidelines were not followed in Thoothukudi arrests](#)”, June 27. [<http://www.thehindu.com/news/cities/Madurai/guidelines-were-not-followed-in-thoothukudi-arrests/article24268179.ece>].
  20. **Shetty, D. 2018.** “[Thoothukudi's Villages Are Paying a Price That No One Is Counting](#)”, *The Wire*, June 27. [<https://thewire.in/health/thoothukudis-villages-are-paying-a-price-that-no-one-is-counting>].
  21. **Santhanakrishnan, T, Lakshmanan, C, et. al., 2016.** “[Heavy Metal Distribution in the Salt Pans of Tuticorin, Tamil Nadu, India](#)”, ResearchGate, Journal of Applied Geochemistry, Vol. 18 No. 3 (2016). pp. 251-257. July 14. [[https://www.researchgate.net/publication/305317347\\_HEAVY\\_METAL\\_DISTRIBUTION\\_IN\\_THE\\_SALT\\_PANS\\_OF\\_TUTICORIN\\_TAMIL\\_NADU\\_INDIA](https://www.researchgate.net/publication/305317347_HEAVY_METAL_DISTRIBUTION_IN_THE_SALT_PANS_OF_TUTICORIN_TAMIL_NADU_INDIA)].
  22. **Mines and Communities, 2009.** “[Sixteen years of fraud?](#)”, November 30. [<http://www.minesandcommunities.org/article.php?a=9685>].

## Annexure I

---

**“Sterlite case the Honourable Mr. Justice M.S. Ramesh W.P.(MD) No.11190 of 2018**

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.05.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.(MD) No.11190 of 2018

and

W.M.P.(MD)Nos.10218 and 10219 of 2018

Vedanta Limited, Unit: Sterlite Copper,

Represented by its Authorized Signatory,

SIPCOT Industrial Complex,

Madurai Bypass Road, Thoothukudi District,

Tamil Nadu-628 002. ... Petitioner

Vs.

1.The District Collector,

Thoothukudi District, Thoothukudi.

2.The Superintendent of Police,

Thoothukudi District, Thoothukudi. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents herein to consider the representations dated 09.04.2018 and 16.04.2018 and pass appropriate orders to declare the area to the radius up to one kilometer from the periphery around the petitioner’s factor premises (Copper Smelter Complex and Thermal Power Plant) and residential quarters premises (Thamira-I and Thamira-II) and warehouse as “Protest Free Zone”/”No Protest Zone” within a time stipulated by this Court.

For Petitioner: Mr. J. Subramanian, Senior Counsel

Assisted by K.P. Anantha Krishnan

For Respondents : Mr. M. Murugan, Government Advocate

O R D E R

Pursuant to the distribution of pamphlets and messages in the social media by a faction claiming as “Makkal Athikaram” calling for protest on 22.05.2018 for closure of the petitioner’s factory, the petitioner herein had given representations to the respondents herein on 09.04.2018 and 16.04.2018 seeking for invoking the provision under Section 144 of Cr.P.C. Since the representations has not been considered till date, the present Writ petition has been filed.

2. The learned Senior Counsel relying upon the pamphlets and various cases filed against the persons for indulging in unlawful assembly and other crimes affecting the petitioner’s business, he submitted that this is a fit case, where the first respondent ought to have invoked Section 144 Cr.P.C., particularly, in the light of the proposed protest on 22.05.2018.

3. The learned Additional Government Pleader on instructions submitted that as on date, none of the section of the public have approached the police seeking for permission of any protest and that if there is any illegal protest, the stringent action would be taken against such violators in order to safeguard the general public. According to the learned Additional Government Pleader, they have so far registered 38 cases against violators, in which 21 persons have already been arrested and remanded.

4. It is needless to point out that the freedom of expression and speech is subject to reasonable subordination of social interest and preservation of public order and rule of law would be the primary consideration in cases of an illegal protest or an unlawful assembly. In the instant case, the second respondent police have not till date granted any permission for the protest. It is not in dispute that the pamphlets calling upon the general public to protest on 22.05.2018 for closing the factory, has been widely circulated. The wordings in the pamphlets also indicate that the protestors do not have any intention to conduct a peaceful protest.

5. On an overall reading of the pamphlets as well as taking into consideration of the various disturbances and untoward incidents happening in an around the petitioner factory, the proposed protest is likely to trigger a law and order situation and, in this scenario, invoking Section 144 of Cr.P.C would be highly recommended in public interest. This recommendation is being consciously made in view of the earlier antecedents where several cases have been registered

against violators and the present pamphlet also indicates the possibility of an unlawful assembly and an illegal protest.

6. Nevertheless, this Court is also conscious of the fact that such a decision is within the scope and ambit of the first respondent herein. However, when a representation has already been made to the first respondent seeking for invoking Section 144 Cr.P.C, such a representation cannot be kept pending indefinitely, particularly, when there are sufficient materials to show that there is a possibility of a protest on 22.05.2018. Non-consideration of the representation would amount to a dereliction of the ordinary duties of the first respondent and in such circumstances, this Court would be justified in invoking its powers under Article 226 of the Constitution of India and direct the first respondent to consider the representation.

7. Under these circumstances and in the light of the above observations, there shall be a direction to the first respondent to consider the petitioner's representation dated 09.04.2018 and the subsequent reminder dated 16.04.2018, on its own merits with due consideration of the observation made in this order and pass appropriate orders on or before 21.05.2018.

8. The Writ petition stands ordered accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

18.05.2018

Note: Issue Order copy on 18.05.2018.

---

## Annexure II

### Promulgation of Order under Section 144 by the District Magistrate of Thoothukudi (May 21, 2018)

---

**In the Court of the District Magistrate and District Collector,  
Thoothukudi.**

**Present: Thiru. N. Venkatesh, I.A.S.,**

Roc.No. C2/8196/2018

Dated: 21.05.2018

Sub: PROMULGATION OF ORDER U/S 144 Cr.P.C-  
Thoothukudi District - Protest by Sterlite Ethirppu  
Thoothukudi Maavatta Makkal Koottamaippu on  
22.05.2018 - Law and Order - Order under Sec.144  
of Cr.P.C issued.

- Ref: 1) Representation dated: 09.04.2018 and 16.04.2018  
given by General Manager, (Legal) Sterlite Copper ,  
Thoothukudi.
- 2) The order of Hon'ble Madurai bench of the Madras  
High Court in W.P(MD) No. 11190 of 2018 and W.P.  
(MD) Nos. 10218 and 10219 of 2018 dated  
18.05.2018.
- 3) Letter No. C. No. 194- 8/X/SB/TUT/2018 dated  
21.05.2018 from SP, Thoothukudi.

-----

WHEREAS in the reference 1<sup>st</sup> cited, the General Manager(Legal), Sterlite Copper, Thoothukudi had given a representation stating that inflammatory messages have been circulating in various social media platforms against the Sterlite Copper Industries (P) Ltd., Thoothukudi. This may lead to unrest and disturb the peace and tranquillity in the area and endanger the safety of the industry and its employees. And that there have been instances of violence and unlawful gatherings right in front of the factory premises. It was also stated that the company also received information from several reliable sources that plans to sabotage the company as well as to create insecurity in the minds of the employees are underway;

2) WHEREAS it was also stated that, in light of the above mentioned incidents and occurrences, they apprehend grave physical harm to their employees and the factory premises by instigation through inflammatory messages and propaganda. He further stated that their factory premises have several sophisticated and very expensive equipment and machinery and any mishandling or disruption of these equipment and machinery has the potential of causing irreparable loss and damage;

3) WHEREAS in view of the above, in their representation, she has requested for the imposition of prohibitory orders under Section 144 of the Cr.P.C for 500 meters around Copper Smelter and Thermal Power Plant factory premises including Tamira - 1 and Tamira 2 (Residential Complexes) for a period of 2 months;



4) WHEREAS further the company approached the Hon'ble Madurai Bench of the Madras High Court seeking a direction to the District Collector to impose Prohibitory orders u/s 144 of CrPC. The Hon'ble Court in its order in W.P.(MD) Nos. 11190, 10218 and 10219 of 2018 dated 18.05.2018 stated that "the proposed protest on 22.05.2018 is likely to trigger a law and order situation and invoking section 144 of CrPC would be highly recommended in public interest". The Hon'ble Court also directed the District Collector to pass appropriate orders considering the representations of the company dated 9th and 16th of April 2018;

5) WHEREAS the Superintendent of Police, Thoothukudi in his Letter No. C. No. 194- 8/X/SB/TUT/2018 dated 21.05.2018 stated the following:

*"Urging to ban Sterlite Industry etc., the members of Anti Sterlite Movement, inhabitants of Sterlite surrounding villages, Thoothukudi Town, various Political Parties, Merchant's Assn., Fishermen Assn., Students and other organizations have proposed to stage siege agitations on 22.05.2018 at District Collector Office, Thoothukudi which will severely affect the functioning of District Headquarters and further they are planning to continue the agitation until the closure of the plant.";*

6) WHEREAS the following was also stated in the letter.

*"Apart from this, villagers of 13 surrounding villages/ areas around Sterlite Industries and in Thoothukudi Town viz., are resorting to 'Indefinite Waiting Agitations' in this regard.";*

7) WHEREAS the following was further stated in the letter from Superintendent of Police, Thoothukudi.

*"Further, it is reliably learnt that some miscreants are planning to utilize the opportunity to instigate violence and create Law and Order problem. Under such circumstances, even a minor incident may snowball into a major clash with serious impact on the law and order situation in Thoothukudi and nearby Districts. Moreover, this will not be limited to this District alone as the past experience suggests.*

*Therefore, considering the above facts, in order to maintain public peace and tranquility, it is requested to promulgate orders under section 144 Cr.P.C., prohibiting the assembly of 5 or more persons or processions or Bicycle/ two wheeler/ four wheeler rallies coming with objectionable materials like sword / lathi / knives / stones/ Party or Communal flags etc., entering into Thoothukudi District from other districts in all types of vehicles carrying volunteers intending to participate in the agitation, except with the prior permission of the District Magistrate from 0800 PM on 21.05.2018 to 0800 AM on 23.05.2018. Regular stage carriages, Tourist vehicles that ply to other places through the district, Goods carriages, vehicles carrying essential*



commodities, regular omni buses may be expressly exempted.

Hence, it is requested that these prohibitory orders may be promulgated throughout the District in the interests of maintenance of public order, peace and tranquility from 0800 PM on 21.05.2018 to 0800 AM on 23.05.2018.”;

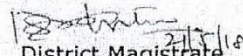
8) WHEREAS the 'Muttrukai Porattam' has been proposed to be conducted within SIPCOT Police Station Limits. It is reliably learned that most of the mobilization for the agitation will happen in SIPCOT police station and Thoothukudi South police station limit;

9) AND WHEREAS emergent circumstances do not permit the serving of notice to the parties concerned, necessitating this order to be passed ex-parte as per proviso 144(2) CrPC;

10) NOW THEREFORE with a view to maintain law and order, and to avoid disturbance of public tranquility, I do hereby, promulgate an order under Section 144 Cr.P.C., in SIPCOT and Thoothukudi South police station limits prohibiting any public meeting or assembly of five or more persons or processions, for a period from 2200 hrs on 21.05.2018 to 0800 hrs on 23.05.2018 and also prohibit entry of all type of vehicles carrying persons intending to participate in 'Muttrukai Porattam' on 22.05.2018 to, and within, SIPCOT and Thoothukudi South police station limits. This order does not apply to regular stage carriages, tourist vehicles plying to other places, goods carriages, vehicles carrying students to schools/colleges, vehicles carrying essential commodities, regular omni buses, etc. This order does not apply to public gatherings that are taking place with the permission of competent Police authorities and if anyone requires special exemption, they may apply to Superintendent of Police, Thoothukudi with required details.

11) This order u/s 144 CrPC will be in force in the entire jurisdictions of Thoothukudi South and SIPCOT police stations.

Given under my hand and seal on this day of 21st May 2018 at Thoothukudi.

  
District Magistrate  
and  
District Collector,  
Thoothukudi


To

1. The concerned (Through the Superintendent of Police, Thoothukudi.)
2. The Superintendent of Police, Thoothukudi.
3. The Sub Divisional Magistrate and Sub Collector, Thoothukudi
4. The Sub Divisional Magistrate and Revenue Divisional Officer, Kovilpatti and Tiruchendur

5. All Taluk Executive Magistrate and Tahsildar, Thoothukudi District (for necessary action)
6. All Deputy Superintendent of Police, Thoothukudi District. (Through the Superintendent of Police, Thoothukudi)

Copy submitted to:  
The Principal Secretary to Government,  
Public (L&O-C) Department,  
Secretariat, Chennai-9

*|| True Copy ||*

  
28/6/18  
PERSONAL ASSISTANT  
(General) TO COLLECTOR  
THOOTHUKUDI DISTRICT  
THOOTHUKUDI

*D*  
*28/6/18*

---

## Annexure III

---

PSO 703. Dispersal of Unlawful Assemblies: (1) \*\*\* (2) (h) If the members of the unlawful assembly do not disperse, the Executive Magistrate or the senior most Police Officer present in the absence of the Executive Magistrate shall direct the Police to use force, that is necessary for the purpose. The nature of force to be used, tear gas, lathi cane charge or water jet and the method of quantum of force to be used should be decided by the senior most Police Officer present on the spot.

- (i) If the crowd refuses to follow the lawful instructions to disperse, the riot flag should be raised, the attention of the mob drawn through a bugle call with long blast and a clear warning that force would be used to disperse them will be given through megaphone. The operation will commence if the mob refuses to heed to the warning.
  - (j) Officers commanding police parties will on every occasion when employed in the suppression of a riot or enforcement of the law, ensure that the fullest warning is given to the mob in a clear and distinct manner before any order is given to use tear gas or lathi/cane or fire arms and to use the most effectual means to explain before hand to the people opposed to them, in the event of the Police party ordered to fire that the fire will be effective.
- (3) If the crowd becomes defiant tear gas should be used effectively. If this becomes infructuous then lathi cane charge can be made. If the crowd is still defiant resort, may be had to the use of fire arms.
- (4) (e) If water jets or tear gas fail to disperse the mob, lathi cane charge should be ordered. Lathi/Cane charges should not be attempted if the strength of the Police force is not adequate to create an effect on the crowd and the crowd is likely to overwhelm the Police party easily. The personnel engaged in the lathi/cane charge should be under the proper control and the charging should cease as soon as the desired objective is achieved. The procedure laid down in the Drill and Training Manual will be followed. Care should be taken to prevent the lathi/cane sections getting separated from the main party and the Commander.”
- (5) (a) If lathi charge also fails and when it is certain that nothing short of firing can disperse the mob a distinct and clear warning that firing would be resorted to resulting in loss of life

should be given. Bugles will be used to draw the attention of the crowd. Riot flag will be raised and the warning administered through mega phones.

- (b) The cardinal principles in mob firing are:
- (i) firing should be resorted to only when all other means of mob dispersal fails.
  - (ii) firing should be selective and controlled. The senior most officer will watch the reaction of the crowd after each round or set of rounds is fired. As soon as the mob shows signs of dispersal he should order cease fire.
  - (iii) under no circumstances should blank rounds be used or rounds fired in the air warning shots. Once Firing is decided upon it should be effective.
  - (iv) Aim should be kept low preferably well below the waist level and directed against the most threatening part of the mob, and
  - (v) The police force should exercise strict restraint and self-control even under the gravest provocation and it must under no circumstances take action in a retaliatory or revengeful spirit.
- (c) The officer in charge over the Arms Squad get the squad ready for mob firing. But it is the senior most officer who should give all the commands relating to firing.
- (d) If the senior – most officer is of opinion that it will suffice he will give the fire order to one or two individuals only. If, however, he considers that this will be insufficient and the mob will over power the police party he will give the word of command to one or two files being held in reserve. Normally firing will commence with buck shots, the fire of each person or file will be given by the regular word of command by the officer in charge of the party.
- (e) If the crowd does not disperse after buckshots are fired ball ammunition (410 or 303) will be used. But if the crowd is in a very violent mood and has come too close to the police party, buck shots with their limited stopping power will be useless. In such circumstances ball ammunition will be used straightaway.
- (f) An Armed force should however be brought so close to a large and dangerous mob as to risk its either being overwhelmed by number or being forced to inflict heavy casualties.

- 6 (a) After making sure that the mob will not be unreasonable the operation will be closed. But sufficient strength will be left behind till normalcy returns.
- (b) Immediate steps should be taken to give First Aid to the injured and rush them to the hospital. Armed guards should be posted to watch the dead bodies till inquest is completed.
- (c) It should be the endeavour of the police to arrest as many rioters as feasible from the spot itself. Special parties should be kept in reserve for this purpose.
- (d) Police photographers should photograph every incident of mob dispersal. They should, wherever available, carry movie or video cameras to capture the sequence of events of events and to record the identification of the rioters.
- (e) Soon after the operation is over, the senior most police officer will flash message and prepare situation reports with details of the operation, time and sequence, of events, details of force used, ammunition spent, casualties on either side etc.

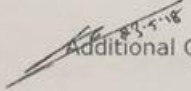
## Annexure IV

AND WHEREAS a public emergency has arisen which necessitates immediate action and speedy remedy for the public tranquility and it felt necessary that services of internet should be stopped/curtailed to prevent spreading of such information, rumours with half truth;

AND WHEREAS, the undersigned is satisfied that, it is necessary to issue an order under sub-rule (1) of the Rule 2 of the Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017.

NOW, THEREFORE, in exercise of the powers conferred under the sub-rule (1) of Rule 2 of the Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017, the undersigned hereby direct that any data related message or class of messages to or from any person or class of persons, or relating to any particular subject brought for transmission by or transmitted or received by any telegraph within the ambit of the Indian Telegraph Act, 1885 and newly formed Rule Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017 shall temporarily not be transmitted in the interest of maintaining public order and preventing incitement to the Commission of any offence passing through the internet services should be stopped for a period of five (5) days from 23.5.2018 to 27.5.2018 throughout Thoothukudi, Tirunelveli and Kanniyakumari districts.

Yours faithfully

  
Additional Chief Secretary to Government

Copy to  
The Director General of Police, Chennai-4.  
The Inspector General of Police,  
Intelligence (Internal Security), Chennai-4



## Annexure V



### Abstract

Environment Control – M/s. Vedanta Limited, Copper Smelter Plant, SIPCOT Industrial Complex, Thoothukudi District – Directions issued by Tamil Nadu Pollution Control Board for closure and disconnection of power supply to the Unit under section 33A of Water (Prevention and Control of Pollution) Act, 1974 as amended and under Section 31A of air (Prevention and Control of Pollution) Act, 1981 as amended – Endorsement of closure and direction to seal the Plant permanently – Orders – Issued.

### Environment and Forests (EC.3) DEpartment

G.O. (Ms) No.72

Dated : 28.5.2018

விளம்பி, வைகாசி-14

திருவள்ளூர் ஆண்டு-2049

Read:

Proceeding of the Tamil Nadu Pollution Control Board  
No.TS1/TNPCB/F0212/TTN/RL/W&A/2018, dated 23.5.2018.

### **ORDER:**

It is brought to the notice of the Government that Tamil Nadu Pollution Control Board did not renew the Consent to Operate to M/s. Vedanta Limited, Copper Smelter Plant, SIPCOT Industrial Complex, Thoothukudi District in its order dated 9.4.2018. Subsequently, on 23.5.2018, Tamil Nadu Pollution Control Board has also issued directions for closure and disconnection of power supply to the Unit. The power supply has been disconnected on 24.5.2018.

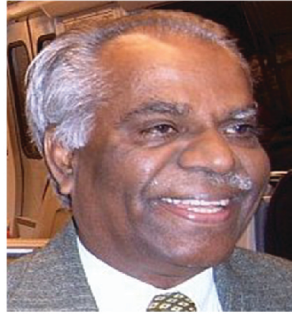
2. Under Article 48-A of the Constitution,  
"the State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country".

3. Under sections, 18(1)(b) of the Water Act, 1974 in the larger public interest, the Government endorse the closure direction of the Tamil Nadu Pollution Control Board and also direct the Tamil Nadu Pollution Control Board to seal the unit and close the plant permanently.

**(BY ORDER OF THE GOVERNOR)**

**MD. NASIMMUDDIN**  
Principal Secretary to Government





## About the Author

**M.G. Devasahayam**, a former Army and Indian Administrative Service officer, is an economist, soldier, and administrator, with a distinguished career spanning over five decades and direct and first-hand experience in the working and ethos of the Indian Army, the IAS, the public and private sectors, the political system, and Non-Government Organisations.

Devasahayam holds an MA degree in Economics from Loyola College, Madras, and taught there for one year. Commissioned in the Indian Army in 1964. Participated in Aid to Civil Authority in Tamil Nadu (1965), the Indo-Pak War (1965), and Counter-Insurgency operations in Nagaland (1967-68).

He moved to IAS in 1968 (Haryana cadre) and worked in several senior positions in government including District Collector/Magistrate of two Districts, Divisional Commissioner, Head of Departments (Transport, Urban Development, Excise & Taxation), Chairman, Electricity Board, and Secretary to Government.

In the Corporate/Institutional area has been Advisor, Ashok Leyland Ltd; Director, Sterling Holiday Resorts; Advisor, PSEG (Global) and Chief Consultant, IIT Madras Research Park.

In the Voluntary Sector has been Managing Trustee, Citizens' Alliance for Sustainable Living (SUSTAIN); Associate, Alliance to Save Energy (USA); National Consultant, Sustainable Chennai Project; National Consultant, City Development Plan, Chennai; Faculty for Power Sector Training Programmes and Convener, Forum for Electoral Integrity.

Devasahayam is a prolific writer, contributing Op-Eds, lead articles, articles and columns to many newspapers and magazines on a range of topics including Governance, Civil Services, Urban development, Environment, and Politics.

He is author of the following books: India's Second Freedom - An Untold Saga; JP in Jail-An Uncensored Account; JP Movement, Emergency and India's Second Freedom, and A Drop of Love-Memoir of Saint Teresa.

He was closely associated with the leader of the anti-Emergency movement, the late Jayaprakash Narayan (JP), and Mother (now Saint) Teresa. As District Magistrate, Chandigarh, he was JP's custodian during his Emergency imprisonment [1975]. By keeping JP safe and alive during detention he had played a small part in restoring India to democracy in 1977.

While at Chandigarh, Devasahayam had worked closely with Mother Teresa for about 6 years and was instrumental in the setting up of the 'Home for orphans, abandoned infants, dying destitute and mentally retarded' [Shanti-Dan] within the city and a sanctuary for lepers outside.

Devasahayam is presently settled in Nagercoil and is Convener, Forum for Electoral Integrity, Chairman of the Pan-India People's Parliament for Unity & Development, and Chairman of Naam Kumari Makkal, mentoring the ReBuild Kanyakumari Movement.

Awards:

Military: Samar Seva (War Service) Star; General Service Medal with Bar

Civil: Loyola Alumni Lifetime Achiever Award. (Platinum Jubilee-2010)

He can be contacted at [deva1940@gmail.com](mailto:deva1940@gmail.com)



**THE HINDU CENTRE**

for

Politics and Public Policy